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Our ref: PP\_2012\_KEMPS\_001\_00 (12/01332)  
Your ref: T5-118, RZ-00003

Mr David Rawlings  
General Manager  
Kempsey Shire Council  
PO Box 78  
WEST KEMPSEY NSW 2440

Dear Mr Rawlings,

**Re: Planning Proposal to include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the Kempsey LEP 1987**

I am writing in response to your Council's letter dated 10 January 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Kempsey Local Environmental Plan 1987 to include to include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the LEP.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones and 1.5 Rural Lands are of minor significance. No further approval is required in relation to these Directions.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of the Local Planning Direction.

In regards to the planning proposal's inconsistencies with the provisions of SEPP 44 Koala Habitat Protection, Council is to undertake a stage 2 additional Ecological Review and provide a copy to the Department's Regional Office prior to the finalisation of the amending LEP.

The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Jenny Johnson of the Regional Office of the Department on 02 6641 6600.

Yours sincerely,



Handwritten signature of Tom Gellibrand in blue ink, with the date 2/2/12 written below it.

**Tom Gellibrand**  
**Deputy Director General**  
**Plan Making & Urban Renewal**

## Gateway Determination

**Planning Proposal (Department Ref: PP\_2012\_KEMPS\_001\_00):** to include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the Kempsey LEP 1987

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Kempsey Local Environmental Plan 1987 to include 'highway service centres' as a definition in Clause 5 and as an additional permitted use for land at Lot 2454 DP 610363 under Schedule 2 of the LEP should proceed subject to the following conditions:

1. In regards to the planning proposal's inconsistencies with the provisions of SEPP 44 Koala Habitat Protection, Council is to undertake a stage 2 additional Ecological Review and provide a copy to the Department's Regional Office prior to the finalisation of the amending LEP.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal must be made publicly available for **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
  - Roads and Maritime Services
  - Office of Environment and Heritage
  - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. Further to Condition 3 above, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **6 months** from the week following the date of the Gateway determination.



**Planning &  
Infrastructure**

Dated 2nd day of February 2012.

A handwritten signature in blue ink, appearing to read 'Tom Gellibrand'.

**Tom Gellibrand  
Deputy Director General  
Plan Making & Urban Renewal  
Delegate of the Minister for Planning and  
Infrastructure**