

1.7 Development Approvals & Regulatory Planning Functions

1.7.1 Planning Proposal for Northbound South Kempsey Highway Service Centre

File: T5-118 RZ-11-3 {Folio No. 465083} ✓

1211	RBP
------	-----

SUMMARY

Reporting that Council has received a Planning Proposal seeking to amend Kempsey Local Environmental Plan (KLEP) 1987, to enable a Highway Service Centre at South Kempsey.

011. 521 RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Green*

- A That planning proposal T5-118 be forwarded to the Department of Planning and Infrastructure for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.**
- B That Lot2452 DP532345 be included in the request to the Department of Planning and Infrastructure for a Gateway Determination.**

A Division resulted in the following votes.

**F = Voted For
A = Voted Against**

Bowell	F	Campbell	F	Green	F	Gribbin	F	Saul	F	Snowsill	F
Sproule	F	Walker	F								

RECOMMENDATION IMPLICATIONS

Environmental: Preliminary investigations and studies indicate that the land could accommodate a Highway Service and mitigation of negative environmental impacts is possible. The environmental implications of adjoining additional land to the south of the subject land in the planning proposal have not been assessed.

Social: A positive social outcome is envisaged from the development of a Highway Service Centre for the northbound side of the Southern Interchange. It will contribute to the social wellbeing of the shire by creating local employment options. This will assist with maintaining the vitality of the community in Kempsey Shire.

Economic (Financial): It is considered that a Highway Service Centre in this location will have a positive economic impact, not only in the job creation prospects. The location on the northbound side, near the Slim Dusty Centre, adds to the opportunities for drivers to continue on through Kempsey and the corridor through to Frederickton.

Policy or Statutory: *The proposed rezoning is consistent with relevant statutory and policy considerations.*

REPORT DETAILS

Council, as a Relevant Planning Authority (RPA), has received a planning proposal, prepared by Wakefield Planning, seeking an amendment to the Kempsey Local Environmental Plan (KLEP) 1987. The proposal is to amend Schedule 2 of Clause 35 of the KLEP 1987, to permit a Highway Service Centre with consent on Lot2454 DP610363 (subject land) [\(Appendix D - Page SE4\)](#).

The subject land is zoned 1(d) Rural Investigation zone, which currently prohibits service stations, tourist facilities, commercial premises, recreation facilities and refreshment rooms, all of which are landuses that may be associated with a Highway Service Centre.

Background

Need for a Planning Proposal

The South Kempsey Interchange has been identified in Section 117 Ministerial Planning Direction 5.4 *Commercial and Retail Development along the Pacific Highway*. The subject land is zoned 1(d) Rural Investigation zone, which currently prohibits a range of landuses which encompass the scope of a Highway Service Centre, as defined within the Standard Instrument Order 2006.

Stage 1 South Kempsey to Frederickton, of the Pacific Highway Bypass is due for completion in 2013. An essential component of the Kempsey Shire Council Pacific Highway Bypass Strategy (2010) is the establishment of a Highway Service Centre at the South Kempsey Interchange. While the amendment could be incorporated into the Comprehensive Standard LEP which is currently being prepared by Council, the uncertain timeframes associated with that process, and the urgency of Council being prepared for the consequences of the Bypass, justify a separate rezoning.

Adjoining land to the South and North of the Subject Land

The subject land is located within a finger of land which stretches from the Southern Interchange of the future Pacific Highway alignment, up to and including the Slim Dusty Centre along the existing Pacific Highway Alignment [\(Appendix E - Page SE5\)](#). It is considered that the land to the south of the subject land which currently contains a recycling business (also zoned 1(d) Rural Investigation zone) should be included in this proposed LEP Amendment to make a Highway Service Centre permissible with consent on that land as well. The incorporation of this land is critical in consolidating a Gateway for the South Kempsey Area, as well as achieving the potential for a better outcome for a suitable Highway Service Centre space.

In the longer term, it is considered that all the land indicated on the attached plan extending northwards from the Southern Interchange north to the Slim Dusty Site, be rezoned to SP3 Special Purpose Tourist in the Standard LEP currently being prepared [\(Appendix F - Page SE6\)](#).

Relationship to Strategic Planning Framework

The following is the relevant strategic planning framework applicable to the planning proposal.

North Coast Regional Environmental Plan 1998 (NCREP)

Section 39 of the NCREP States:

39 Plan preparation—retail, commercial or business activities

A draft local environmental plan should not provide for the establishment of significant retail, commercial or business development unless:

- (a) the expansion is adjacent to or adjoins the existing commercial centre, or*
- (b) If the expansion is not adjacent to or adjoining the existing centre, that development is in accordance with a commercial/retail expansion strategy prepared by the council, published for public discussion and:
 - (i) be available, without charge, for public inspection and comment at the office of the council during normal office hours, and*
 - (ii) be forwarded by the council for their information to such public authorities as, in the opinion of the council, have responsibilities reasonably requiring them to be aware of the strategy.**

This LEP amendment has been prepared as a direct result of the South Kempsey Interchange being identified as a suitable location for a Highway Service Centre under Ministerial 117 Direction 5.4. In addition, the *Kempsey Shire Council Bypass Strategy and Background Issues Paper*, identifies the establishment of a Highway Service Centre as an action to mitigate negative impacts of the Bypass in Kempsey. It is considered that the proposal is consistent with that Ministerial Direction, which overrides the provisions of the NCREP in this instance.

Mid North Coast Regional Strategy

The *Mid North Coast Regional Strategy* (MNCRS) outlines the general principals and objectives for the management of sustainable growth in the region to 2031. The Planning Proposal is located within the identified Growth Areas Map 6, and is identified as proposed employment lands. The additional land to the south of the subject land is also identified as being within this area.

Section 117 Ministerial Directions

The planning proposal considers the relevant 117 directions.

Direction No 1.1 Business and Industrial Zones - No business or industrial zones are proposed or affected. Overall the proposal is considered of minor significance with respect to existing business or industrial lands within Kempsey. Any inconsistency with this direction is therefore justified, by inclusion of South Kempsey Interchange as a suitable location for a Highway Service Centre.

Direction No 1.2 Rural Zones - The proposal would not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. It would not increase the permissible density of land within a rural zone. The use proposed would be of a commercial nature however the use of rural land for a Highway Service Centre is supported by the Mid-North Coast Regional Strategy and the Section 117 Directions. Inconsistency with this specific direction is therefore justified.

Direction No 1.3 Mining, Petroleum Production and Extractive Industries - No existing mines, petroleum production operations or extractive industries are affected by the planning proposal.

Direction No 1.5 Rural Lands - The proposal is consistent with this Direction as the proposal is consistent with the relevant regional strategy.

Direction No 2.1 Environment Protection Zones - No environmental protection zones or land identified for environmental protection in a LEP are affected. The proposal is not inconsistent with this direction.

Direction No 2.3 Heritage Conservation - Heritage conservation matters are addressed in the principal LEP applying to the land. No changes to heritage conservation provisions are proposed. An archaeological review of the land has been conducted (attached to this proposal) which indicates that the land is not sensitive with respect to likely Aboriginal objects and development can proceed. The site has not been identified as being of heritage significance to Aboriginal culture and people.

Direction No 3.4 Integrating Land Use and Transport - The development is adjacent to a main transport route on the current Pacific Highway and, located at the South Kempsey Interchange of the new Pacific Highway alignment. The proposal would facilitate the efficient movement of freight. It is therefore considered consistent with this direction.

Direction No 4.3 Flood Prone Land - The land is not within a flood planning area identified within Kempsey. The preliminary engineering appraisal conducted for the land identifies the 1% AEP event. The concept design for the proposal takes this event and an appropriate freeboard into consideration. Detailed site planning following a positive Gateway Determination would ensure that the 1% AEP event is satisfactorily managed. This approach would ensure consistency with the Floodplain Development Manual 2005.

Direction No 4.4 Planning for Bushfire Protection - The land is partially affected by bushfire prone land as shown on the relevant map. The Direction requires consultation with the Commissioner of the NSW Rural Fire Service following receipt of the Gateway Determination.

The planning proposal has had regard to *Planning for Bushfire Protection 2006*, as outlined in the attached Preliminary Bushfire Review. A perimeter road outside the site traverses the western edge of the site. Internal site design provides for appropriate asset protection zones noting the type of development proposed and the relevant bushfire risk.

Water supply for fire fighting purposes would be provided as set out in the servicing report.

Preliminary consultation has been undertaken with the NSW Rural Fire Service that has advised of matters to be addressed in the preliminary bushfires study.

Direction No 5.1 Implementation of Regional Strategies- The proposal is consistent with the *Mid-North Coast Regional Strategy* and is subsequently consistent with this direction.

Direction No 5.4 Commercial and Retail Development along the Pacific Highway, North Coast - The proposal is consistent with this Direction, as it provides for a Highway Service Centre in a location identified in the Direction. Preliminary consultations have been held with the NSW RTA regarding the proposal and appropriate access. Further discussions will be held as part of the consultation, and this may be directed by the Gateway Determination.

Direction No 6.1 Approval and Referral Requirements - The Plan is consistent with recent State policy regarding concurrence, consultation or referral. No additional concurrence, consultation or referral is proposed. No additional development has been identified as designated development. The draft plan is therefore consistent

with this Direction.

Direction No 6.3 Site Specific Provisions - Consideration was given to proceeding by way of an alternative zone. This would, however, unduly and unnecessarily open up the range of uses that could occur on the land. The area has been identified as suitable for a Highway Service Centre in the Section 117 Directions and the relevant Regional Strategy. The planning proposal, by making a Highway Service Centre a permissible use on the land without changing the zone is consistent with these policy directions. At this point, no additional development standards or requirements in addition to those already contained in the principal environmental planning instrument would be applied. The proposal is therefore considered to be consistent with this Direction.

Kempsey Shire Council Pacific Highway Bypass Strategy 2011

The placement of a Highway Service Centre at the South Kempsey Interchange, the development of new LEPs for South Kempsey and associated Development Control Plans are all recommended as part of the strategy. The future intention is to incorporate the subject land and others indicated in the attached map into the one zone, possibly an SP3 (Special Purpose Tourist) Zone.

Environmental, Social and Economic Impact

Critical Habitat or Threatened Species

An ecological constraints assessment has been undertaken as part of the planning proposal.

The majority of the site is cleared, however there are three areas of environmental significance identified in the report. An area on the northern part of the subject land which is identified as potential koala habitat and unknown Koala habitat, and a small portion of Swamp Sclerophyll Forest (Endangered Ecological Community). Dependent upon the final concept plan for the site the report indicates a number of management options to address issues arising in relation to these areas.

Bushfire

The site is mapped as being bushfire prone land. The preliminary bushfire assessment has demonstrated that the development proposal is achievable within the parameters of NSW RFS Planning for Bushfire Protection 2006, however a comprehensive Bushfire Assessment is required to accompany the Development Application.

Topography

The site is sloping, and there will be a need for earthworks on the site in order to accommodate the various components of a Highway Service Centre. This will be addressed in detail as part of any Development Application lodged on the land for a service centre.

Traffic and Access

A Draft Traffic Report has been provided with the planning proposal. Overall the report estimates the potential overall traffic as follows:

AM Peak – 220 per hour
Midday Peak – 360 per hour
Evening Peak – 50 per hour

It is noted that these figures are preliminary and that further refinement will be undertaken at the Development Application stage. It is unlikely that there will be any restrictive traffic considerations at the site.

Public Infrastructure

South Kempsey has servicing limitations with respect to water and sewer. The Planning Proposal considers a range of servicing options. In the short term the scale of any Highway Service Centre in the area, will be limited by the services available to the site. It is likely that onsite servicing options will permit some development of a Highway Service Centre on the site in the short term, including on-site water harvesting and disposal.

Further development is likely to require augmentation to the water supply and sewerage system in South Kempsey.

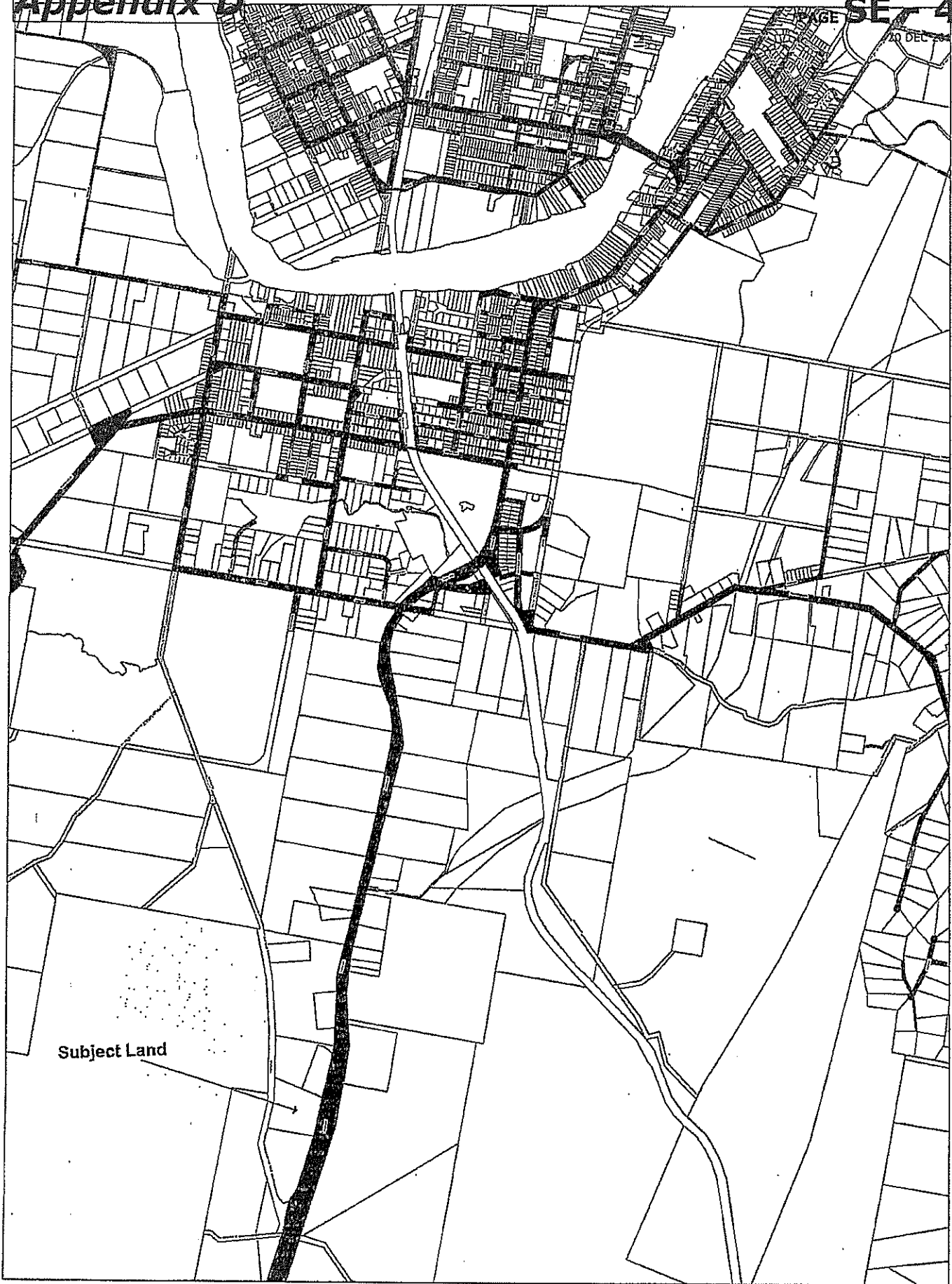
Archaeology

A report has been supplied with the planning proposal. Consultation with Aboriginal Elders within the area has been undertaken, however the applicant has been asked to provide further advice regarding compliance in accordance with due diligence requirements under the relevant Office of Environment and Heritage (OEH) guidelines.

Community Consultation

In accordance with section 56(2)(c) of the *Environmental Planning and Assessment Act 1979*, a Gateway Determination will specify the community consultation to be undertaken for the planning proposal. Community consultation must occur in accordance with the Gateway Determination.

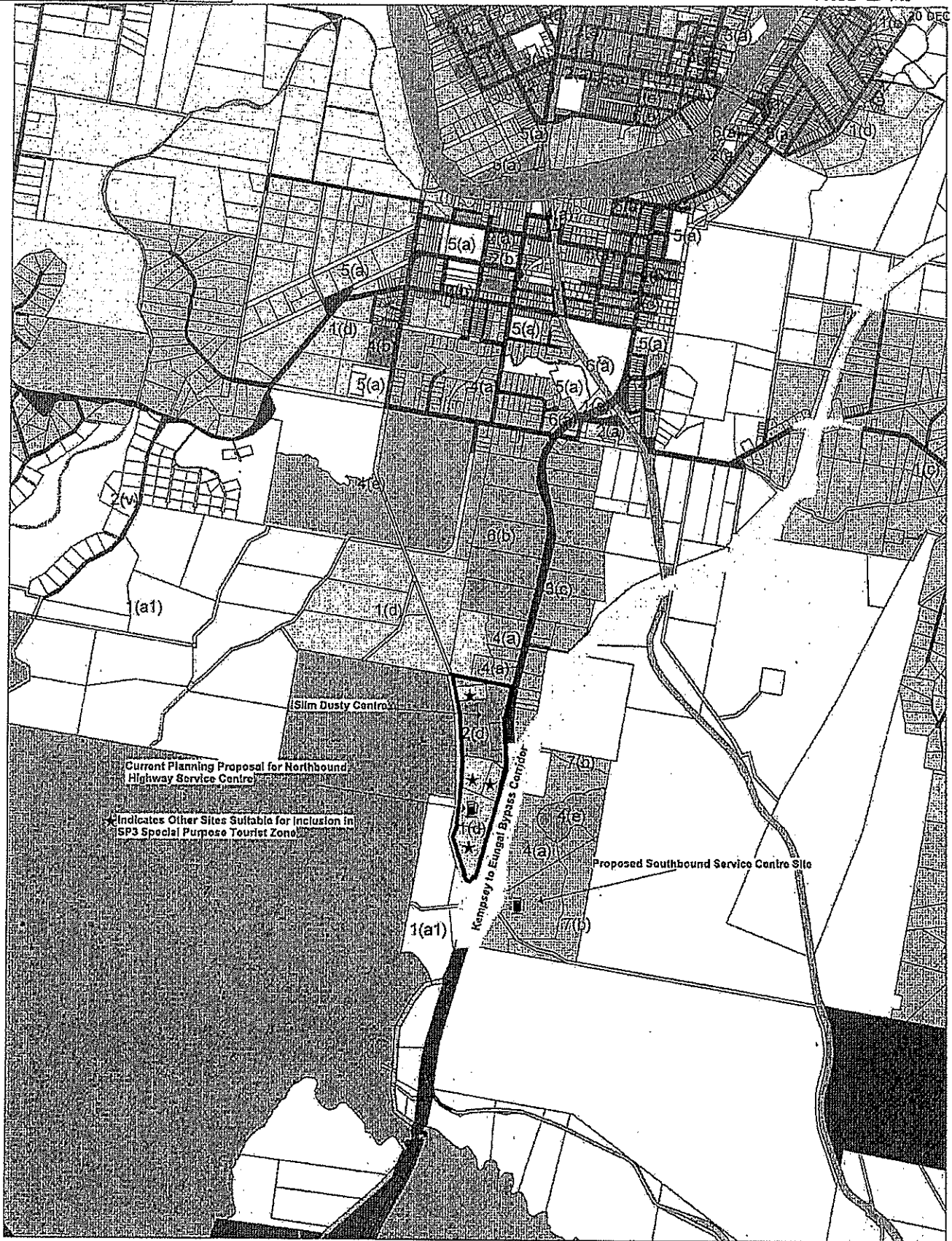
Upon completion of the consultation with agencies, the draft LEP will be reported to Council to endorse for the purposes of public exhibition. In accordance with Council's Rezoning Applications Policy, the method for notifying the public exhibition will also be advised at the time for Councils endorsement.



Locality Map

A





C