

Gateway Determination

Planning proposal (Department Ref: PP_2015_KEMPS_003_00: to permit with consent dual occupancy (detached) and secondary dwellings in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones and apply development controls relating to their location.

I, the General Manager, Northern Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kempsey Local Environmental Plan (LEP) 2013 to permit with consent dual occupancy (detached) and secondary dwellings in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones and apply development controls relating to their location should proceed subject to the following conditions:

1. Prior to community consultation, Council is to amend the Planning Proposal to replace the proposed development control clause with a plain english explanation.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **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 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).
3. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the Act. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated **2** day of **September** 2015



Craig Diss
Acting General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



Mr David Rawlings
General Manager
Kempsey Shire Council
P O BOX 3078
WEST KEMPSEY NSW 2440

Our ref: PP_2015_KEMPS_003_00 (15/11731)
Your ref: KLEP2013-AM-4 GLR:GLR

Dear Mr Rawlings

Planning proposal to amend Kempsey Local Environmental Plan 2013

I am writing in response to your Council's letter dated 24 July 2015 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 (the Act) in respect of the planning proposal to permit with consent dual occupancy (detached) and secondary dwellings in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones and apply development controls relating to their location.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with S117 Directions 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions.

Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

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 section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Jon Stone of the Department's regional office to assist you. Mr Stone can be contacted on (02) 6701 9688

Yours sincerely



2 September 2015

Craig Diss
Acting General Manager, Northern Region
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Kempsey Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_KEMPS_003_00	Planning proposal to permit with consent dual occupancy (detached) and secondary dwellings in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and R5 Large Lot Residential zones and apply development controls relating to their location.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 2 September 2015

Craig Diss
Acting General Manager, Northern Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning