



Planning Proposal
KLEP 2013 Amendment -22
“Housekeeping”
Amendments

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1. INTRODUCTION

This planning proposal has been prepared by Kempsey Shire Council (Council) as an amendment to the Kempsey Local Environmental Plan 2013. This planning proposal comprises 'housekeeping' amendments to:

- incorporate the Schedule 1 provisions of *SEPP (Integration & Repeals) 2016* into the Kempsey Local Environmental Plan (KLEP) 2013;
- correct a *Lot Size Map* anomaly at Loftus Road, Crescent Head; and
- Rezone a 'habitat offset area' for a Belmore River sand quarry in fulfilment of a condition within the Notice of Determination issued by Council for the site.

The planning proposal will be submitted to the Department of Planning and Environment (DP&E) for a gateway determination.

1.1 Background

1.1.1 History

Kempsey Shire Council prepared the KLEP 2013 as part of the review of the Kempsey Local Environmental Plan 1987 (KLEP 1987) to bring it into conformity with the provisions of the *Standard Instrument - Principal Local Environmental Plan*. This process involved the transfer of planning controls from the previous KLEP 1987 to the new KLEP 2013.

The proposed housekeeping amendments encompass:

Rural Landsharing Communities

The incorporation of the relevant provisions from Schedule 1 of the SEPP (Integration & Repeals) 2016 into the KLEP 2013, to provide for the assessment of rural landsharing communities previously provided through the now superseded *SEPP 15 – Rural Landsharing Communities*.

Loftus Road, Crescent Head

Under the KLEP 1987, clause 54 permitted a one-into-five lot subdivision with a minimum lot size of 1ha at this locality. The subdivision was completed, however the relevant Lot Size Map within KLEP 2013 incorrectly states that the minimum lot size is 40ha rather than 1ha. It was the intention of Council that the referred minimum lot size be assigned to the sites through the LEP review process, however this did not occur.

Sand Quarry Belmore River

Condition C6(a) of the Notice of Determination issued for an Extractive Industry at Belmore River on 28 April 2016 states that the applicant is to request Council to rezone the 'habitat offset area' from RU1 – Primary Production to E2 – Environmental Protection, prior to the commencement of operations. A formal request from the applicant has now been provided.

1.2 Land to which the planning proposal applies

Rural Landsharing Communities:

In accordance with the provisions of Schedule 1 of the SEPP (Integration & Repeals) 2016:

"3 Land to which Schedule applies

This Schedule applies to land in any rural zone but not to the following land:

- a) land in an environmentally sensitive area for exempt or complying development within the meaning of clause 3.3 of the standard instrument prescribed by the Standard Instrument (Local Environmental Plans) Order 2006,*
- b) land to which a wilderness protection agreement under the Wilderness Act 1987 relates,*
- c) land that is a forestry area within the meaning of the Forestry Act 2012,*
- d) land that is within a special area or a controlled area under the Hunter Water Act 1991, the Sydney Water Act 1994 or the Water NSW Act 2014."*

Loftus Road, Crescent Head:

The proposed Lot Size Map amendments apply to the following allotments:

- Lot 1 DP882231;
- Lot 2 DP882231;
- Lot 4 DP882231; and
- Lot 5 DP882231.

The abovementioned allotments are located on Loftus Road, Crescent Head and shown in Figure 1 below. The proposed Lot Size Map amendments will not apply to Lot 3 DP882231 (the larger lot comprising 6.23ha, marked by yellow dashes in Figure 1), to prevent further subdivision.



Figure 1: Loftus Road, Crescent Head - five subject lots delineated in yellow

Belmore River

The 'habitat offset area' proposed to be rezoned from RU1 – Primary Production to E2 – Environmental Protection is identified by green diagonal lines in Figure 2 below. The affected land parcels are:

- Part Lot 1324 DP785874;
- Part Lot 323 DP855616; and
- Part Lot 2 DP1121920.

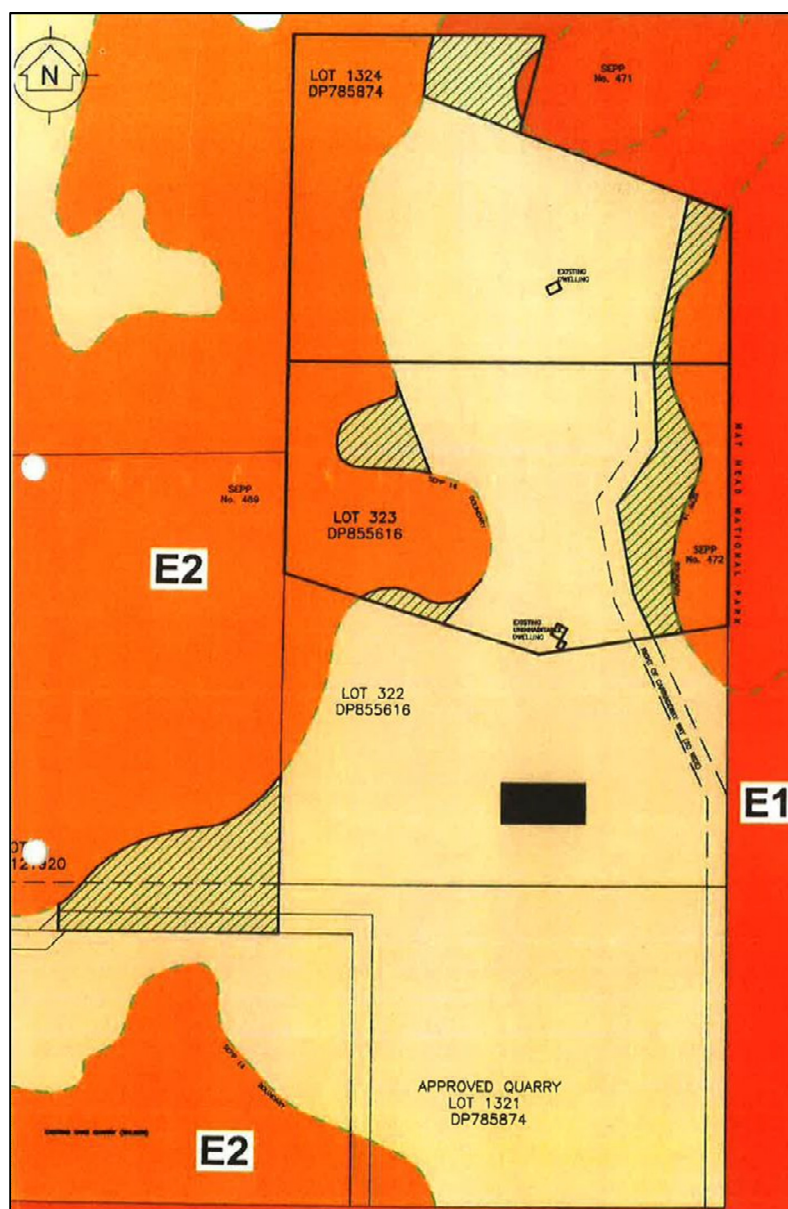


Figure 2: Belmore River - extent of land to be rezoned (identified by green diagonal lines)

1.3 Site context and setting

Loftus Road, Crescent Head:

The subject lots (lots 1,2,4 and 5, DP882231) are located on Loftus Road, approximately 5km north of the village of Crescent Head. Loftus Road is sealed. The subject lots are partially cleared and Lot 1 and Lot 2 have dwellings erected. The coastline is located approximately 700m east of the property frontages.

Sand Quarry Belmore River

This site is adjacent the southwestern boundary of Hat Head National Park and located approximately 5.4km southwest of the village of Hat Head (with access via Belmore River Road). The site consists of native vegetation, extractive activities and informal vehicle tracks.

1.4 Existing planning controls

1.4.1 Zoning

Loftus Road, Crescent Head:

The referred Crescent Head lots are all located within the RU2 – Rural Landscape zone under the provisions of the KLEP 2013 (refer Figure 3 below).

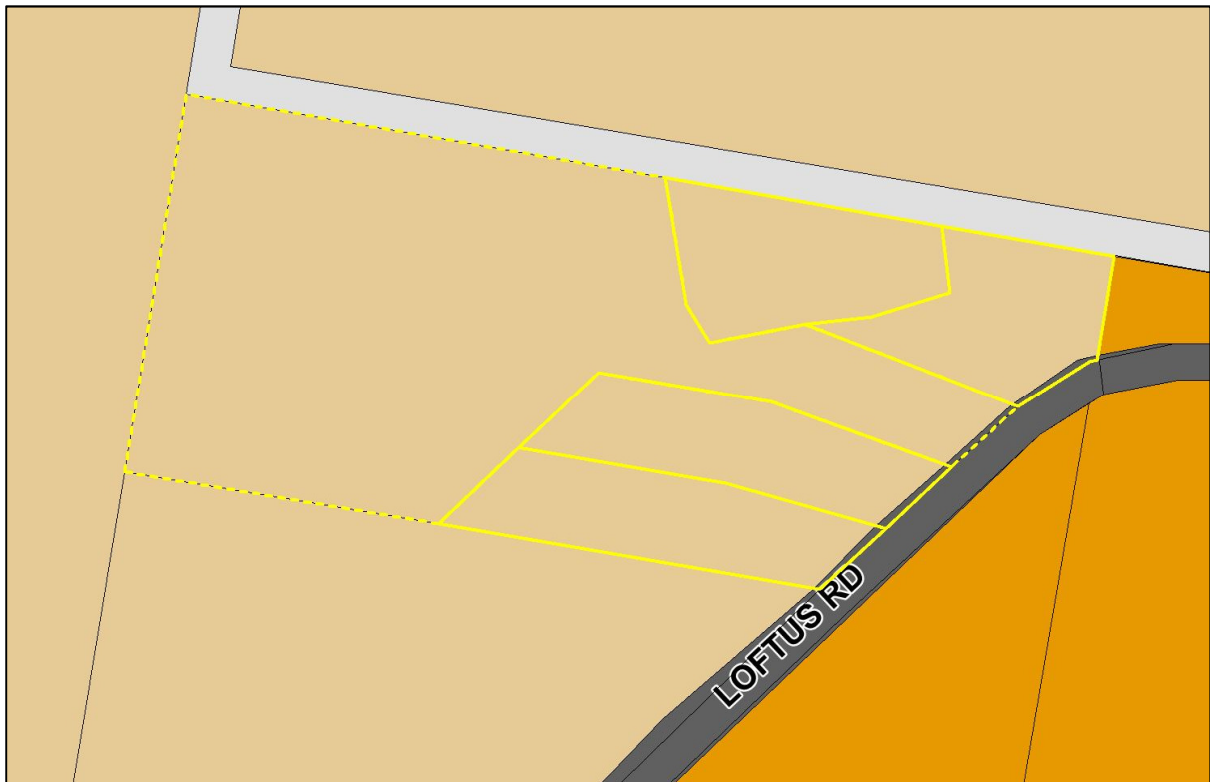


Figure 3: Subject lots (within yellow outlines) are in the RU2 Rural Landscape zone.

Sand Quarry Belmore River

The site comprises a mix of RU1 – Primary Production and E2 – Environmental Conservation zones (refer Figure 4 below).

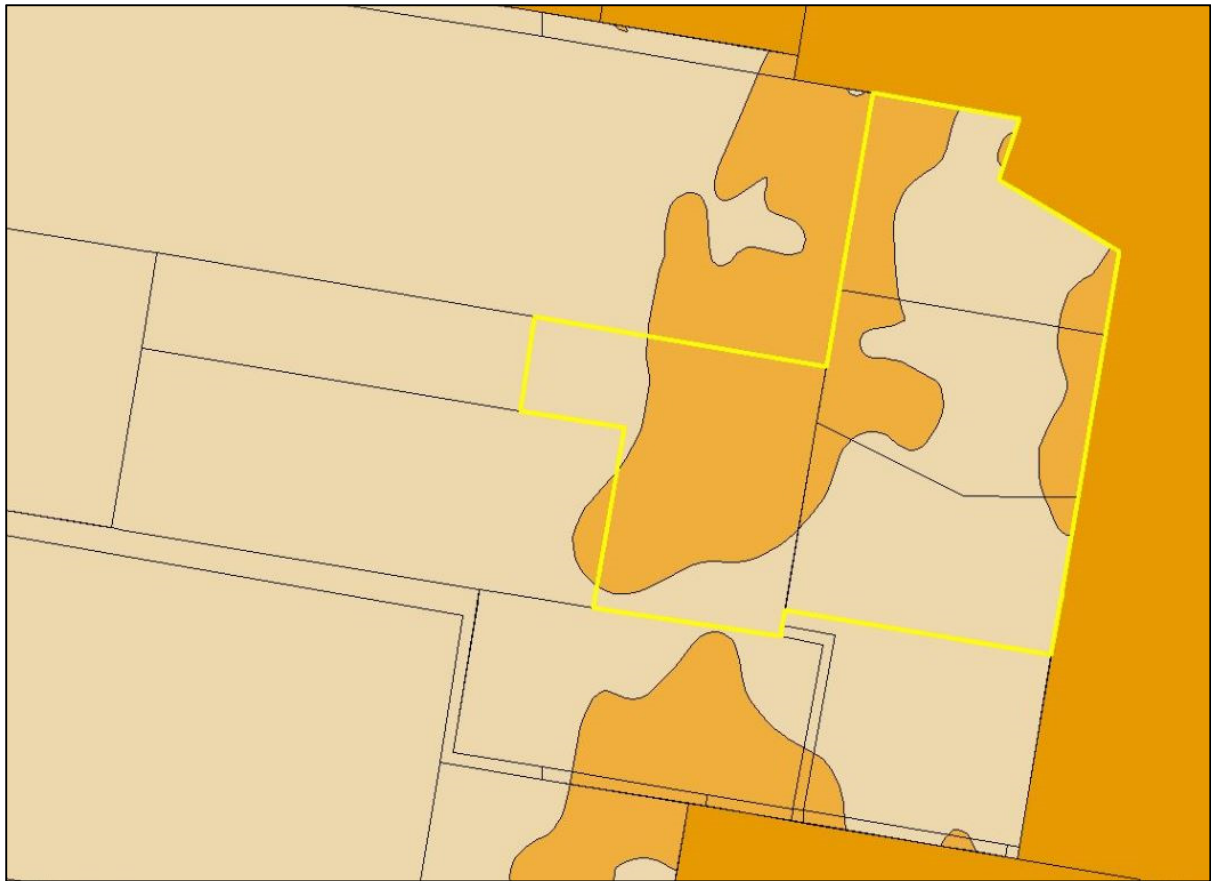


Figure 4: Subject lots (within yellow outline) comprising RU1 – Primary Production and E2 – Environmental Conservation zones

1.4.2 Minimum Lot Size

Loftus Road, Crescent Head:

The existing *Lot Size Map* for this site is a minimum of 40ha as per Figure 5 below.

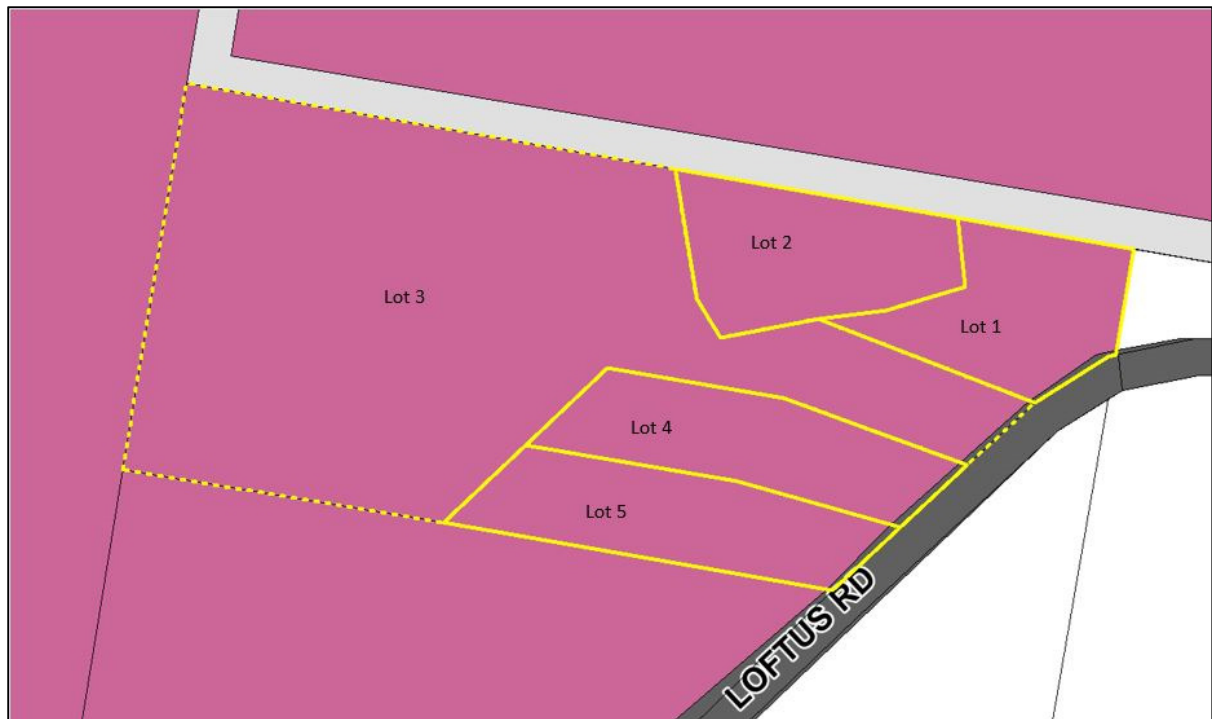


Figure 5: Identified Lots 1-5 are all within the minimum 40ha lot size area

Sand Quarry Belmore River

The existing *Lot Size Map* for this site is a minimum of 40ha as per Figure 6 below.

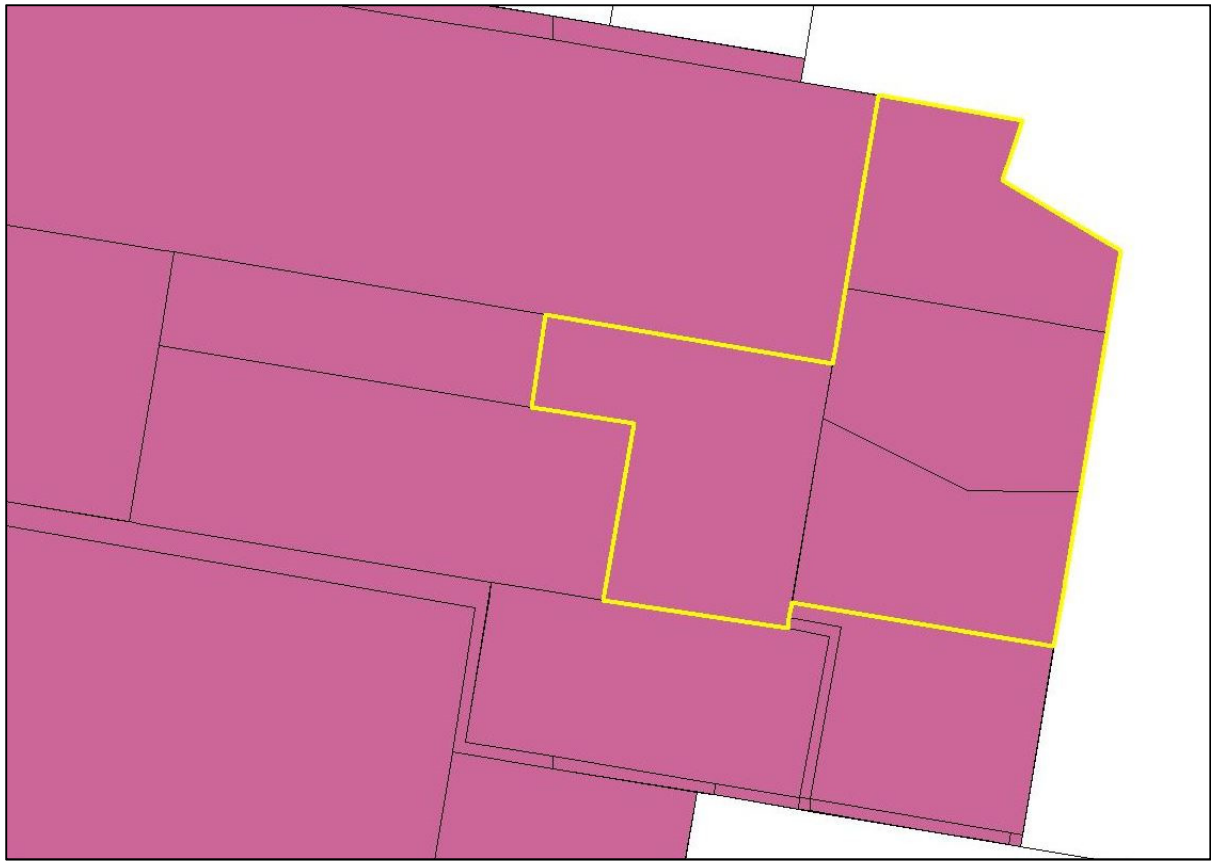


Figure 6: Identified lots (within yellow border) are all within the minimum 40ha lot size area

2. PART 1 – OBJECTIVES OR INTENDED OUTCOMES

The objectives or intended outcome of the planning proposal is to:

- amend the KLEP 2013 to enable the assessment of Rural Landsharing Communities development;
- correct the minimum lot size for lots 1,2,4 and 5, DP882231 through the reinstatement of the provisions of KLEP 1987 Amendment No. 49 which was not brought across to KLEP 2013; and
- facilitate environmental outcomes (through a zone amendment) required by a condition of consent within the Notice of Determination issued for an extractive industry land use.

3. PART 2 – EXPLANATION OF PROVISIONS

Rural Landsharing Communities:

Amend the KLEP 2013 to provide for the assessment of Rural Landsharing Communities in the Shire through the incorporation of the Schedule 1 provisions within SEPP (Integration & Repeals) 2016.

Loftus Road, Crescent Head:

To amend the KLEP 2013 *Lot Size Map* (Sheet LSZ_012) for lots 1, 2, 4 and 5, DP882231 from 40ha to 1ha.

The amendment is to correct the minimum lot size for the above lots through the reinstatement of the provisions of KLEP 1987 Amendment No. 49 which was not brought across to KLEP 2013.

Under the KLEP 1987 clause 54 permitted a one into five lot subdivision at this site, with a minimum lot size of 1ha. The subdivision was completed in the required period, however the relevant Lot Size Map within KLEP 2013 incorrectly states that the minimum lot size is 40ha (refer Figure 3 above) rather than 1ha. It was the intention of Council that the referred minimum lot size be assigned to the sites through the LEP review process, however this did not occur.

The referred KLEP 1987 clause 54 states:

54 Development of land at Loftus Road, Crescent Head

(1) This clause applies to land being Lot 521, DP 587923, Loftus Road, Crescent Head, as shown edged heavy black on the map marked "Kempsey Local Environmental Plan 1987 (Amendment No 49)".

(2) Nothing in this plan prevents the Council from consenting to the subdivision of the land to which this clause applies into 5 lots and the erection of a dwelling-house on each of the resulting vacant allotments if the area of each allotment created by the subdivision is not less than 1 hectare.

(3) The Council must not grant consent to a subdivision of land pursuant to this clause after the expiration of 2 years from the day Kempsey Local Environmental Plan 1987 (Amendment No 49) took effect, or after such day occurring after the expiration of that period of 2 years as the Minister may, before the expiration of that period, notify by order in the Gazette.

A copy of the KLEP 1987 Amendment No. 49 is contained in the **Appendix D**

Sand Quarry Belmore River

To amend the KLEP 2013 *Land Zoning Map* (Sheet LZN_011 and Sheet LZN_014) for part Lot 1324 DP785874, part Lot 323 DP855616 and part Lot 2 DP1121920.

The amendment comprises the rezoning of identified portions of the site (refer to Figure 2 above) from RU1- Primary Production to E2 – Environmental Protection being the 'habitat offset area' stipulated by consent condition C6(a) (refer **Appendix E** for a copy of Notice of Determination issued on the 28 April 2016).

4. PART 3 – JUSTIFICATION

4.1 Section A – Need for the Planning Proposal

4.1.1 Is the planning proposal a result of any strategic study or report?

The planning proposal is not a result of any specific strategic study or report.

4.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This planning proposal is the best way to achieve the objectives and intended outcomes for the 'housekeeping' amendments proposed.

4.1.3 Is there a net community benefit?

There is a net community benefit to:

- providing for the assessment of rural landsharing communities in the KLEP 2013, to provide for greater housing choice in the region;
- correct lot size map inaccuracies that should have been brought over from the Council's previous LEP (KLEP 1987); and
- To achieve intended environmental outcomes (through zone amendment) as prescribed by a condition of consent for an Extractive Industry land use.

4.2 Section B Relationship to strategic planning framework

4.2.1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

North Coast Regional Plan 2036

In March 2017 the NSW Government published the *North Coast Regional Plan 2036* (NCRP). Consistency with the NCRP is discussed below.

The NCRP is a State Government strategic document that outlines a vision for the North Coast area over next two decades. It identifies opportunities and priorities for the Kempsey LGA, including a projected population of 30,850 by 2036.

In responding to these opportunities and priorities, the NCRP sets out nine specific goals:

Regional priorities

- *Foster stronger strategic relationships with Port Macquarie and the Nambucca Valley.*
- *Develop opportunities to grow local jobs associated with increased connectivity provided by the upgraded Pacific Highway.*
- *Support the growth and diversification of the shire's agricultural base by leveraging the strength of the dairy and cattle sector to encourage new opportunities for agribusiness and associated manufacturing and transport.*

Economy and employment

- *Support new and emerging job opportunities associated with Kempsey District Hospital and the Kempsey TAFE campus.*
- *Develop employment land at South Kempsey and Frederickton.*
- *Protect important farmland in the Macleay Valley.*

- *Identify opportunities to expand nature-based, adventure and cultural tourism by leveraging the area's environmental and iconic assets such as Trial Bay Gaol and Smoky Cape Lighthouse.*

Housing

- *Deliver housing in Kempsey, Crescent Head and South West Rocks.*
- *Support the unique character of the area's towns and villages, and deliver rural residential housing opportunities at Collombatti, Frederickton, Yarravel, Euroka, Dondingalong, Verges Creek, Crescent Head, South Kempsey, Kundabung and Yarrahapinni.*

The planning proposal is considered to be consistent with the relevant opportunities and priorities of the plan, including the support for rural residential housing opportunity through the incorporation of the rural landsharing community provisions into the KLEP 2013 and the delivery of housing opportunities in Crescent Head through the Loftus Road, Crescent Head Lot Size Map corrections.

4.2.2 Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Macleay Valley 2036 Community Strategic Plan

The following core values are identified in the *Macleay Valley 2036 Community Strategic Plan June 2013* (Macleay Valley 2036 CSP):

- being healthy;
- being safe;
- being wealthy; and
- being sociable.

Under each of the above core values the Macleay Valley 2036 CSP identifies matters that impact upon the core values, such as education, biodiversity, environment, earnings and self-esteem. The Macleay Valley 2036 CSP provides strategies and goals to be used to achieve the core values of the plan in the Kempsey LGA.

The proposed 'housekeeping' amendments are not inconsistent with the *Macleay Valley 2036 Community Strategic Plan June 2013* and will not impact on the community achieving the core values of the Macleay Valley 2036 CSP.

4.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning proposal is consistent with all applicable State Environmental Planning Policies (SEPPs). Comments are provided in the table within **Appendix B** in regards to each SEPP.

4.2.4 Is the planning proposal consistent with applicable Ministerial Directions (S 117 directions)?

The planning proposal is consistent with the s117 Directions. An evaluation of the consistency of the planning proposal in relation to the s117 directions is provided in **Appendix C**.

4.3 Section C – Environmental, Social and Economic Impact

4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The planning proposal will provide for better environmental outcomes through the provision of a 'habitat offset area' adjacent an extractive industry use where portions of the land will be rezoned from RU1 – Primary Production to E2 – Environmental Protection. Under this planning proposal no critical habitat or threatened species, populations or ecological communities, or their habitats, is likely to be adversely impacted.

4.3.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

This planning proposal is unlikely to have any adverse environmental effects which cannot be readily controlled.

4.3.3 How has the planning proposal adequately addressed any social and economic effects?

No negative social and economic effects have been identified for this planning proposal. The amendments proposed will provide certainty for current and future landholders in the shire and at the specific sites identified.

4.4 Section D – State and Commonwealth interests

4.4.1 Is there adequate public infrastructure for the planning proposal?

The planning proposal is unlikely to directly result in any substantial demand for public infrastructure.

4.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Appropriate consultation will be conducted in accordance with any requirements contained in the Gateway determination. No formal consultation has yet been undertaken.

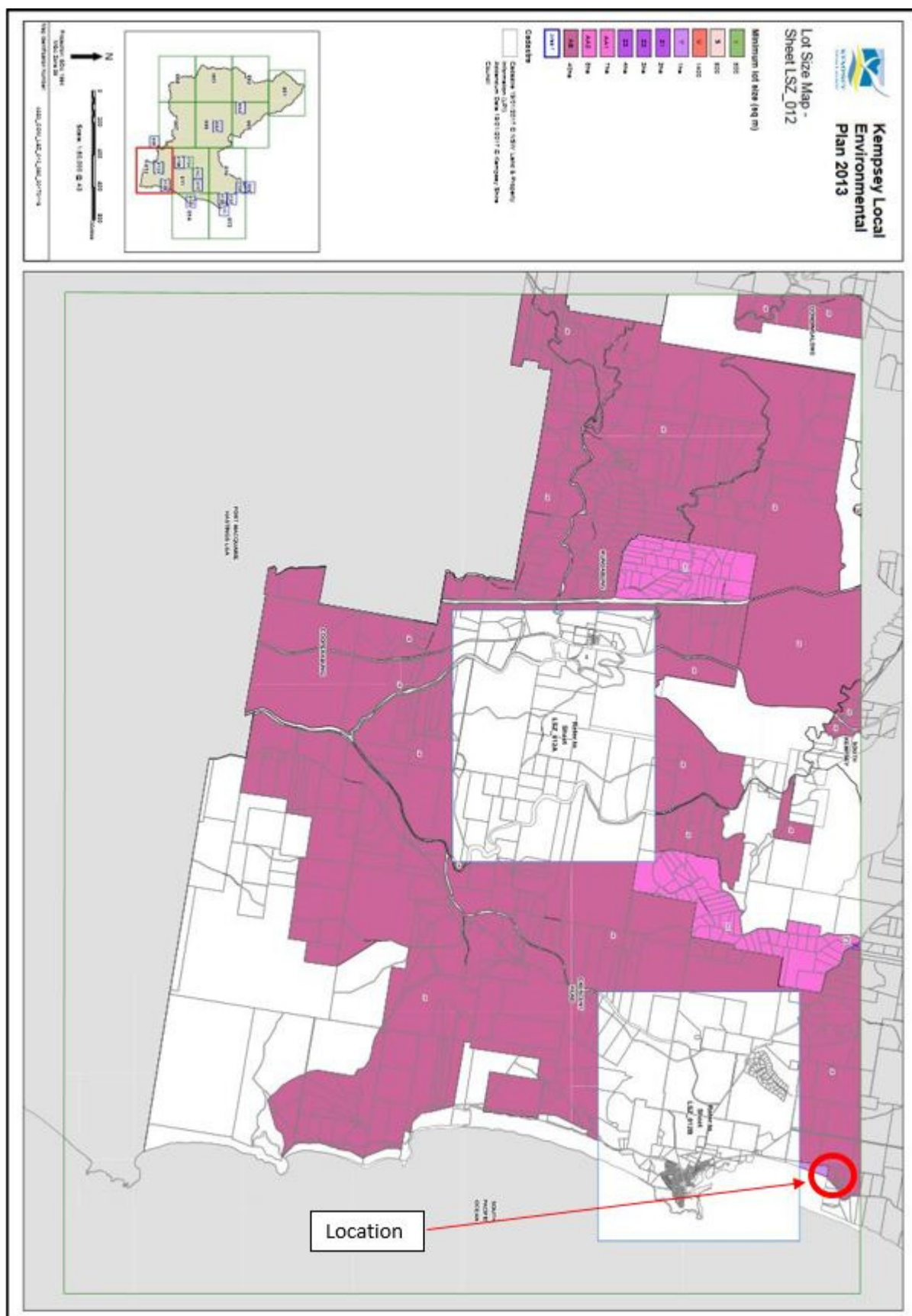
5. PART 4 – COMMUNITY CONSULTATION

The Gateway determination will specify the community consultation that must be undertaken for the planning proposal. However, Council considers this planning proposal should be exhibited for 28 days. Council will notify the relevant government agencies as required by the Gateway determination during the public exhibition period. The wider community will also be informed of the exhibition period through Council notices and Council's website.



Appendix A

Existing mapping – Kempsey Local Environmental Plan 2013



KLEP 2013 *Lot Size Map* Sheet LSZ_012 – Loftus Road, Crescent Head site location



Appendix B

Consistency with State Environmental Planning Policies

No.	SEPP Title	Summary	Consistency
1	Development Standards	Seeks to provide flexibility in the application of planning controls where strict compliance of development standards would be unreasonable, unnecessary or hinder the attainment of specified objectives of the Act.	Not applicable. Clause 4.6 of the KLEP 2013 replaces SEPP 1.
14	Coastal Wetlands	Seeks to ensure the State's coastal wetlands are preserved and protected.	Applicable. Coastal wetlands protected under SEPP 14 exist on the site of the sand quarry at Belmore River. However the full extent of the demarcated SEPP 14 area is already zoned E2 – Environmental Conservation and the proposed amendment will provide additional environmental protection through the incorporation of a 'habitat offset area' which will be rezoned from RU1 – Primary Production to E2 – Environmental Protection.
19	Bushland in Urban Areas	Seeks to protect bushland within urban areas. Specific attention to bushland, remnant and endangered vegetation and bushland zoned or reserved for public open space.	Not applicable. SEPP 19 does not apply to the Kempsey LGA.

No.	SEPP Title	Summary	Consistency
21	Caravan Parks	Seeks to facilitate the proper management and development of land used for caravan parks catering to the provision of accommodation to short and long term residents.	Consistent. The planning proposal is not for a caravan park and will not impact on any existing caravan parks.
26	Littoral Rainforests	Seeks to protect littoral rainforests from development.	Not applicable. No littoral rainforest protected under SEPP 26 exists on the sites.
29	Western Sydney Recreation Area	To enable the carrying out of development for recreational, sporting and cultural purposes within the Western Sydney Recreation Area	Not applicable. SEPP 29 does not apply to the Kempsey LGA.
30	Intensive Agriculture	Requires development consent and additional requirements for cattle feedlots and piggeries.	Not applicable. The planning proposal does not provide for cattle feedlots or piggeries.
32	Urban Consolidation	Seeks to facilitate surplus urban land redevelopment for multi-unit housing and related development in a timely manner.	Consistent. The planning proposal will not alter any sites ability to be consolidated for urban renewal in the future.

No.	SEPP Title	Summary	Consistency
33	Hazardous and Offensive Development	Seeks to provide additional support and requirements for hazardous and offensive development	Consistent. The planning proposal will not facilitate hazardous or offensive development.
36	Manufactured Home Estates	Seeks to facilitate the establishment of manufactured home estates as a contemporary form of residential housing.	Consistent. The planning proposal does not seek to amend the application of the Manufactured Home Estates SEPP on the sites.
39	Spit Island Bird Habitat	Seeks to enable development for the purposes of creating and protecting bird habitat.	Not applicable. SEPP 39 does not apply to the Kempsey LGA.
41	Casino Entertainment Complex	Seeks to further the development of Sydney area as a world class tourist destination	Not applicable. SEPP 41 does not apply to the Kempsey LGA.
44	Koala Habitat Protection	Seeks to encourage proper conservation and management of areas of natural vegetation that provide habitat for koalas	Consistent. The planning proposal will not result in development that impacts Koala habitat.

No.	SEPP Title	Summary	Consistency
47	Moore Park Showground	Seeks to enable redevelopment of Moore Park Showground consistent with its status as being of State and regional planning importance.	Not applicable. SEPP 47 does not apply to the Kempsey LGA.
50	Canal Estate Development	Prohibits canal estate development	Not applicable. The planning proposal does not facilitate canal estate development.
52	Farm Dams and other works in land management areas	Requires environmental assessment under Part 4 of the EPA for artificial water bodies carried out under farm plans that implement land and water management plans.	Not applicable. SEPP 52 does not apply to the Kempsey LGA.
55	Remediation of Land	Provides a State-wide planning approach for the remediation of contaminated land.	Consistent. None of the sites are known to be contaminated.
59	Central Western Sydney Regional Open Space and Residential	To provide for residential development on suitable land as identified in the Policy to assist in accommodating the projected population growth of Western Sydney	Not applicable. SEPP 59 does not apply to the Kempsey LGA.

No.	SEPP Title	Summary	Consistency
62	Sustainable Aquaculture	Seeks to encourage and regulate sustainable aquaculture development	Not applicable. The planning proposal does not seek aquaculture land uses.
64	Advertising and Signage	Seeks to regulate signage (but not content) and ensure signage is compatible with desired amenity and visual character of the area.	Not applicable
65	Design Quality of Residential Flat Development	Seeks to improve the design qualities of residential flat building development in New South Wales.	Not applicable
70	Affordable Housing (Revised Schemes)	Seeks to insert affordable housing provisions into EPIs and to address expiry of savings made by EP&A Amendment (Affordable Housing) Act 2000.	Not applicable. SEPP 70 does not apply to the Kempsey LGA.
71	Coastal Protection	Seeks to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.	Consistent. The Loftus Road, Crescent Head site is the only location for this planning proposal which is within the coastal zone. The proposal will not result in the creation of any additional lots but will formalise a minimum lot size of 1ha as provided for under clause 54 of KLEP 1987.

No.	SEPP Title	Summary	Consistency
	Affordable Rental Housing	To provide a consistent planning regime for the provision of affordable rental housing and facilitate the effective delivery of affordable housing	Consistent. The planning proposal does not seek to amend the application of the Affordable Rental Housing SEPP on the sites.
	Building Sustainability Index: BASIX 2004	The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State	Consistent. The planning proposal does not seek to amend the application of the BASIX SEPP on the sites.
	Exempt and Complying Development Codes 2008	Seeks to provide streamlined assessment process for development that complies with specified development standards.	Consistent. The planning proposal does not seek to amend the application of the Exempt and Complying Development Codes SEPP on the sites.
	Housing for Seniors or People with a Disability 2004	Seeks to encourage the provision of housing to meet the needs of seniors or people with a disability.	Consistent. The planning proposal does not seek to amend the application of the SEPP Housing for Seniors or People with a Disability on the sites.

No.	SEPP Title	Summary	Consistency
	Infrastructure 2007	The aim of this policy is to facilitate the effective delivery of infrastructure across the State. Specifies exempt and complying development controls to apply to the range of development types listed in the SEPP.	Consistent. The planning proposal does not seek to amend the application of the Infrastructure SEPP on the sites.
	Integration and Repeals 2016	Amongst other things, this SEPP provides Council with an opportunity to include local provisions for rural landsharing communities in the LEP.	Consistent. This planning proposal is to incorporate the Schedule 1 provisions within this SEPP into the LEP to enable the assessment of rural landsharing communities proposals.
	Kosciuszko National Park – Alpine Resorts 2007	Seeks to protect and enhance the natural environment of the alpine resorts area.	Not applicable. The Kosciuszko National Park – Alpine Resorts SEPP does not apply to the Kempsey LGA.
	Kurnell Peninsula 1989		Not applicable. The Kurnell Peninsula SEPP does not apply to the Kempsey LGA.

No.	SEPP Title	Summary	Consistency
	Major Development 2005	Aims to facilitate the development or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State. Also to facilitate service delivery outcomes for a range of public services.	Consistent. The planning proposal does not seek to amend the application of the Major Development SEPP on the sites.
	Mining, Petroleum and Extractive Industries 2007	Seeks to provide for the proper management and development of mineral, petroleum and extractive material resources	Consistent. The planning proposal does not seek to amend the application of the Mining, Petroleum and Extractive Industries SEPP on the sites.
	Penrith Lakes Scheme 1989	Permits development of the Penrith Lakes Scheme.	Not applicable. SEPP Penrith Lakes scheme does not apply to the Kempsey LGA.
	Rural Lands 2008	Seeks to facilitate the orderly and economic use and development of rural lands for rural and related purposes	Consistent. The sites at Loftus Road, Crescent Head and the sand quarry at Belmore River both involve rural land (RU2 and RU1 zones respectively). The Loftus Road land has already been subdivided; the planning proposal is to correct the minimum lot size mapping (which will not enable further subdivision). In regard to the quarry site at Belmore River, the proposal will rezone a limited portion of RU2 land to E2 in recognition of the lands environmental values. On this basis, the planning proposal is considered to be consistent with the SEPP.

No.	SEPP Title	Summary	Consistency
	State and Regional Development 2011	Aims to identify State significant development and State significant infrastructure. Also to confer functions on joint regional planning panels to determine development applications.	Consistent. The planning proposal does not seek to amend the application of the SEPP State and Regional Development on the sites.
	SEPP 53 Transitional Provisions 2011	Enacts transitional provisions consequent on the repeal of State Environmental Planning Policy No 53—Metropolitan Residential Development	Not applicable. SEPP 53 Transitional Provisions 2011 does not apply to the Kempsey LGA.
	Sydney Drinking Water Catchment 2011	Aims to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal.	Not applicable. SEPP Sydney Drinking Water Catchment does not apply to the Kempsey LGA.
	Sydney Region Growth Centres 2006	Aims to co-ordinate the release of land for development in the North West and South West Growth Centres.	Not applicable. SEPP Sydney Region Growth Centres does not apply to the Kempsey LGA.

No.	SEPP Title	Summary	Consistency
	Three Ports 2013	Seeks to provide a planning regime for efficient development, redevelopment and protection of land at Port Kembla, Port Botany and Port of Newcastle for port purposes.	Not applicable. SEPP Three Ports does not apply to the Kempsey LGA.
	Urban Renewal	To facilitate the orderly and economic development and redevelopment of sites in and around urban renewal precincts	Not applicable. SEPP Urban Renewal does not apply to the Kempsey LGA.
	Western Sydney Employment Area 2009	To promote economic development and the creation of employment in the Western Sydney Employment Area by providing for development	Not applicable. SEPP Western Sydney Employment Area does not apply to the Kempsey LGA.
	Western Sydney Parklands	Seeks to ensure the Western Sydney Parkland can be developed as urban parkland to serve the Western Sydney Region.	Not applicable. SEPP Western Sydney Parklands does not apply to the Kempsey LGA.
	North Coast Regional Environmental Plan (Deemed SEPP)		Not applicable. The North Coast Regional Environmental Plan (Deemed SEPP) does not apply to the Kempsey LGA.



Appendix C

Consistency with Section 117 Directions

Direction	Objectives	Application	Consistency
1. Employment and Resources			
1.1 Business and Industrial Zones Issued 1 July 2009	- To encourage employment growth in suitable locations - To protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Applies when a planning proposal is prepared that affects land within an existing or proposed business or industrial zone (includes alteration of boundary of any existing business or industrial zone)	Not applicable. The planning proposal is not for land in a business or industrial zone.
1.2 Rural Zones Issued 1 July 2009	To protect the agricultural production value of rural land.	Applies when a planning proposal is prepared that affects land within an existing or proposal rural zone (includes alteration of any existing rural zone boundary)	Consistent. While the planning proposal will reduce the Lot Size Map for RU2 land at Loftus Road, Crescent Head, the site has already been subdivided to the extent that further subdivision (and therefore increased permissible density) is not permitted.
1.3 Mining, Petroleum Production and Extractive Industries Issued 1 July 2009	To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by	Applies when planning proposal is prepared that would prohibit or restrict the mining or potential development of coal, other minerals, petroleum production or obtaining extractive minerals of State or regional significance	Consistent. The planning proposal will not prohibit or restrict the mining or future extraction of State or regionally significant coal, other minerals, petroleum and extractive materials (in this instance a condition of consent for the creation of a 'habitat offset area' is being fulfilled to enable the commencement of operations for a sand quarry at Belmore River).

Direction	Objectives	Application	Consistency
	inappropriate development.	permitting incompatible land use.	
1.4 Oyster Aquaculture Issued 1 July 2009	To protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	Applies to Priority Oyster Aquaculture Areas as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006)	Not applicable. The planning proposal is not for land located in a Priority Oyster Aquaculture Area as identified in the <i>NSW Oyster Industry Sustainable Aquaculture Strategy Second Edition</i> (NSW Department of Primary Industries, 2014).
1.5 Rural Lands Issued 1 July 2009	To protect the agricultural production value of rural land and facilitate the orderly and economic development of rural land.	Applies to all planning proposals to which State Environmental Planning Policy (Rural Lands) 2008 applies	Consistent. The planning proposal applies to rural sites where an alteration to an existing rural/environment zone boundary is being amended to permit the commencement of an extractive industry at Belmore River. Minimum lot size mapping for rural land in Loftus Road, Crescent head is proposed to reflect previous approvals and a subdivision that has already been completed. These amendments are consistent with the State Environmental Planning Policy (Rural Lands) 2008.

Direction	Objectives	Application	Consistency
2. Environment and Heritage			
2.1 Environment Protection Zones Issued 1 July 2009	To protect and conserve environmentally sensitive areas.	Applies when a planning proposal is prepared.	Consistent. The planning proposal will facilitate a 'habitat offset area' which will be rezoned from RU1 to E2 to protect an environmentally sensitive area and enable the commencement of an Extractive Industry use at Belmore River.
2.2 Coastal protection Issued 1 July 2009	To implement the principles of the NSW Coastal Policy.	Applies to the Coastal Zone as defined in the Coastal Protection Act 1979.	Consistent. The component of the planning proposal for Loftus Road, Crescent Head is on land located within the Coastal Zone as defined in the <i>Coastal Protection Act 1979</i> . The proposal is considered to be consistent as it merely corrects the lot size map details that were erroneously not brought across from KLEP 1987 to the KLEP 2013. As the site has already been subdivided to the maximum extent permissible, the amendment will not provide for greater densities in this locality.
2.3 Heritage Conservation Issued 1 July 2009	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. There are no items, areas, objects or places of environmental heritage significance or indigenous heritage significance identified at the sites included in this planning proposal.

Direction	Objectives	Application	Consistency
2.4 Recreation Vehicle Areas Issued 1 July 2009	To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Limits the development of land for the purpose of a recreational vehicle area.	Not applicable. The planning proposal does not relate to development of land for the purpose of a recreational vehicle area.
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones Issued 1 July 2009	- To encourage a variety and choice of housing types to provide for existing and future housing needs - To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and - To minimise the impact of residential development on the environment and resource lands.	Applies when a planning proposal affects land within an existing or proposed residential zone (including the alteration of any existing zone boundary) or any other zone in which significant residential development is permitted or proposed to be permitted.	Not applicable. The planning proposal does not relate to land within an existing or proposed residential zone.

Direction	Objectives	Application	Consistency
3.2 Caravan Parks and Manufactured Home Estates Issued 1 July 2009	To provide for a variety of housing types and opportunities for caravan parks and manufactured home estates	Applies when a planning proposal is prepared. Does not apply to Crown land reserved or dedicated for any purposes under the Crown Lands Act 1989 (except Crown land reserved for accommodation purposes) or land dedicated or reserved under the NP&W Act 1974.	Consistent. The planning proposal does not relate to any existing or proposed caravan parks or manufactured home estates.
3.3 Home Occupations Issued 1 July 2009	To encourage the carrying out of low-impact small businesses in dwelling houses.	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	Consistent. The planning proposal does not relate to the operation of small businesses in dwelling houses.
3.4 Integrating Land Use and Transport Issued 1 July 2009	- To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts: - improve access to housing, jobs and	Applies to planning proposals that create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial,	Consistent. The planning proposal will not impact access, transport, car travel, public transport or the movement of freight.

Direction	Objectives	Application	Consistency
	services by walking, cycling and public transport, • increase transport choice and reduce travel demand and reducing dependence on cars, • reduce travel demand including distances travelled, especially by car, • support the efficient and viable operation of public transport services, and • provide for the efficient movement of freight.	village or tourist purposes.	
3.5 Development Near Licensed Aerodromes Issued 1 July 2009	• To ensure the effective and safe operation of aerodromes • To ensure that the operation of aerodromes is not compromised by development that constitutes an	Applies to a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.	Not applicable. The planning proposal does not relate to land located in the vicinity of an aerodrome.

Direction	Objectives	Application	Consistency
	obstruction, hazard or potential hazard to aircraft flying in the vicinity. To ensure development for residential purposes or human occupation incorporates appropriate mitigation measures		
3.6 Shooting Ranges Issued 16 February 2011	To maintain appropriate levels of public safety and amenity and reduce land use conflict when rezoning land adjacent to an existing shooting range.	Applies to a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.	Not applicable. The planning proposal does not relate to land adjacent to and/ or adjoining an existing shooting range.
4. Hazard and Risk			
4.1 Acid Sulfate Soils Issued 1 July 2009	To avoid significant adverse environmental impacts from the use of land that has a probability of	Applies to planning proposals on land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	Not applicable. As the planning proposal is merely to reinstate a previously approved minimum lot size at Loftus Road, Crescent Head and to enable the fulfilment of a condition of consent for an approved extractive industry use, the provisions of this S117 Direction, is considered not to apply.

Direction	Objectives	Application	Consistency
	containing acid sulfate soils.		
4. 2 Mine Subsidence and Unstable Land Issued 1 July 2009	To prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Applies to planning proposals on land within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment	Not applicable. The planning proposal does not relate to land within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment.
4.3 Flood Prone Land Issued 1 July 2009	- To ensure that development of flood prone land is consistent with the <i>NSW Government's Flood Prone Land Policy</i> and the principles of the <i>Floodplain Development Manual 2005</i>; and - To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood	Applies to a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	Consistent. The identified sites are not flood prone.

Direction	Objectives	Application	Consistency
	impacts both on and off the subject land.		
4.4 Planning for Bushfire Protection Issued 1 July 2009	To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and encourage sound management of bush fire prone areas.	Applies when Council prepares a draft LEP that affects, or is in proximity to land mapped as bushfire prone land.	Consistent. The planning proposal is for land that is identified as bushfire prone. Notwithstanding, the approved development has already been assessed for compliance with the provisions of Planning for Bushfire Protection.
5. Regional planning			
5.1 Implementation of Regional Strategies Issued 1 July 2009	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	Applies to: Far North Coast, Lower Hunter, Illawarra, South Coast, Sydney–Canberra Corridor, Central Coast and Mid North Coast	Consistent. As identified earlier, this planning proposal is consistent with the North Coast Regional Plan 2036.
5.2 Sydney Drinking Water Catchments Issued 3 March 2011	To protect water quality in the Sydney drinking water catchment.	Applies to; Blue Mountains, Campbelltown, Cooma Monaro, Eurobodalla, Goulburn, Mulwaree,	Not applicable. The planning proposal does not relate to land within the Sydney drinking water catchment.

Direction	Objectives	Application	Consistency
		Kiama, Lithgow, Oberon, Palerang, Shoalhaven, Sutherland, Wingecarribee, Wollondilly, Wollongong.	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast Issued 1 July 2009	To protect, provide certainty and reduce land use conflict associated with agricultural land	Applies to: Ballina, Byron Shire Council, Kyogle, Lismore City Council, Richmond and Tweed.	Not applicable. Does not apply to the Kempsey LGA.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast Issued 29 November 2009	To manage commercial and retail development along the Pacific Highway	Applies to council areas on the North Coast that the Pacific Highway traverses between Port Stephens Shire Council and Tweed Shire Council, inclusive.	Consistent. The planning proposal does not apply to land adjacent to the Pacific Highway.
5.8 Second Sydney Airport: Badgerys Creek Issued 1 July 2009	To avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.	Applies to land shown within the boundaries of the proposed Badgerys Creek airport site.	Not applicable. Does not apply to the Kempsey LGA.

Direction	Objectives	Application	Consistency
6. Local Plan Making			
6.1 Approval and Referral Requirements Issued 1 July 2009	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Applies when a planning proposal is prepared. A planning proposal must minimise or prohibit provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority or the nomination of designated development.	Consistent. The planning proposal does not introduce any additional requirements for concurrence with other Government agencies.
6.2 Reserving of Land for Public Purposes Issued 1 July 2009	To facilitate the provision of public services and facilities by reserving land for public purposes and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Applies when a planning proposal is prepared. A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority.	Consistent. The planning proposal does not create or remove any land dedicated for a public purpose.

Direction	Objectives	Application	Consistency
6.3 Site Specific Provisions Issued 1 July 2009	To discourage unnecessarily restrictive site specific planning controls.	A planning proposal to amend an environmental planning instrument must either: - allow that land use to be carried out in the zone the land is situated on, or - rezone the site to an existing zone that allows that land use without imposing any development standards, or - allow that land use on the relevant land without imposing any development standards in addition to those already contained in the principal environmental planning instrument being amended.	Consistent.

Direction	Objectives	Application	Consistency
7. Metropolitan planning			
7.1 Implementation of the Metropolitan Plan for Sydney 2036 Issued 1 February 2011	To give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	Does not apply to the Kempsey local government area.	Not applicable. The planning proposal does not relate to land identified in the Metropolitan Plan for Sydney 2036.



Appendix D

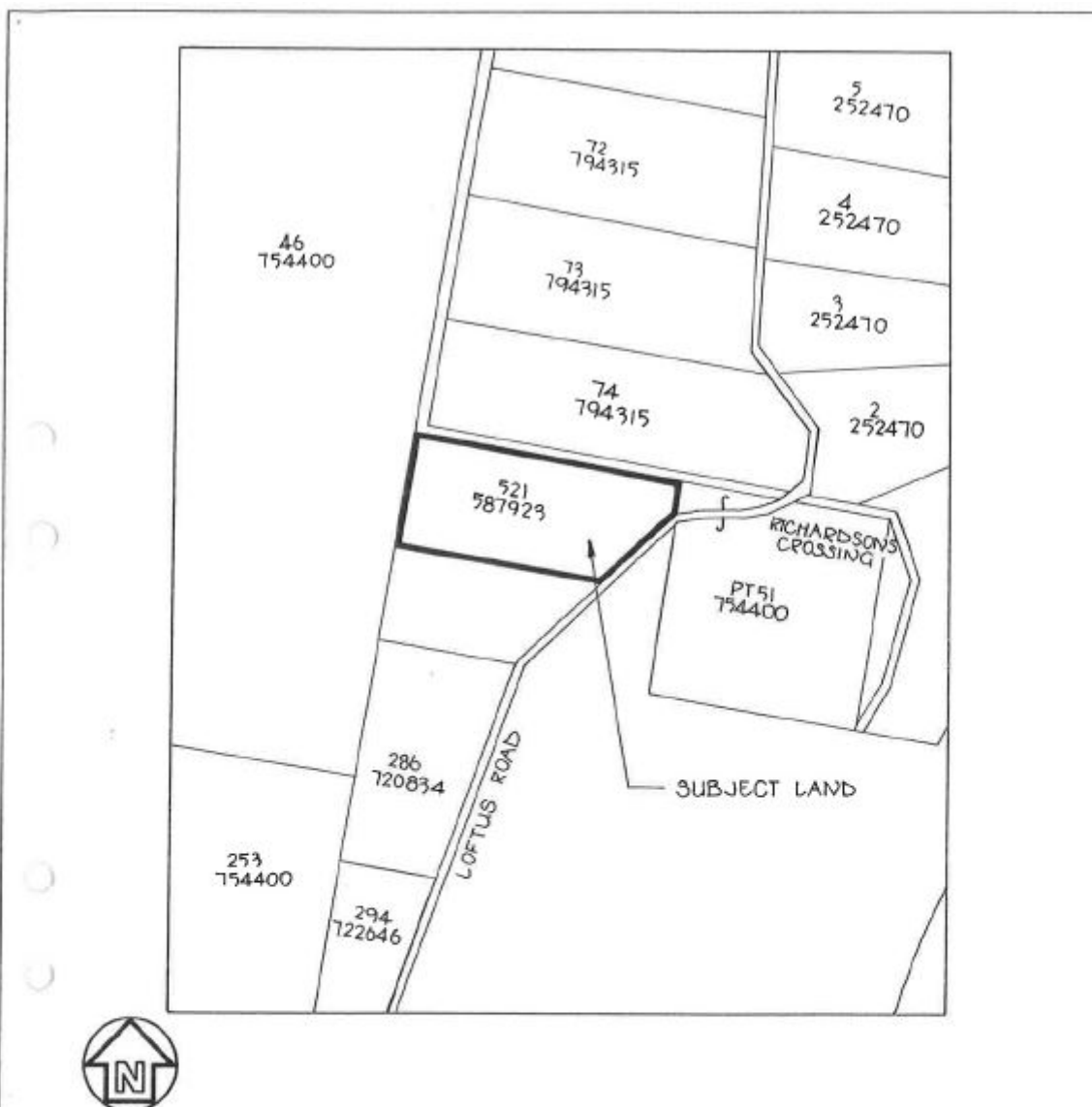
KLEP 1987 Amendment No. 49

KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 - REG 54

Development of land at Loftus Road, Crescent Head

54 Development of land at Loftus Road, Crescent Head

- 1) This clause applies to land being Lot 521, DP 587923, Loftus Road, Crescent Head, as shown edged heavy black on the map marked " Kempsey Local Environmental Plan 1987 (Amendment No 49) ".*
- 2) Nothing in this plan prevents the Council from consenting to the subdivision of the land to which this clause applies into 5 lots and the erection of a dwelling-house on each of the resulting vacant allotments if the area of each allotment created by the subdivision is not less than 1 hectare.*
- 3) The Council must not grant consent to a subdivision of land pursuant to this clause after the expiration of 2 years from the day Kempsey Local Environmental Plan 1987 (Amendment No 49) took effect, or after such day occurring after the expiration of that period of 2 years as the Minister may, before the expiration of that period, notify by order in the Gazette.*



SCALE 1:1000

LOCATION CRESCENT HEAD

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 SHIRE OF KEMPSEY

KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 (AMENDMENT No. 49)

DRAWN BY TAK	DATE MAY '97	STATEMENT OF RELATIONSHIP WITH OTHER PLANS
PLANNING OFFICER TJD		
CERTIFICATE PLAN NUMBER		
COUNCIL FILE NUMBER T5-49		
DEPT FILE NUMBER		AMENDS KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 & REGULATIONS <i>[Signature]</i> DATE 13.6.97
CERTIFICATE ISSUED UNDER SEC 65 E.P.A. ACT	DATE	
GOVT GAZETTE OF		



Appendix E

Notice of Determination – Extractive Industry – Belmore River & Request to Rezone

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Issued under the *Environmental Planning and Assessment Act 1979* Section 81 (1)(a)

DEVELOPMENT APPLICATION

Development Application Number: T6-14-122 LA16289, LA20144
Date lodged with Council: 22 April 2014

Applicants Name:	TOWNPLANNING CONSULTANTS & DRAFTING SERVICES PTY LTD
Applicants Address:	PO BOX 464 SANTUARY COVE QLD 4212
Owners Name:	GRANDIA INVESTMENTS PTY LTD & CRESCENT HEAD SANDS PTY LTD
Owners Address:	C/- PO BOX 611 KEMPSEY NSW 2440
Land to be Developed - address:	LOT 1324 DP785874 & LOT 323 DP855616 TEA TREE LANE BELMORE RIVER
Proposed Development:	EXTRACTIVE INDUSTRY

Determination made on:	28 April 2016
Determination made by:	Northern Joint Regional Planning Panel
Determination:	Consent granted subject to conditions described below
Consent to operate from:	8 June 2016
Consent to lapse on:	8 June 2021

The Planning and Assessment Commission did not conduct a public hearing in respect of the application.

Have General Terms of Approval been granted by an Approval Body pursuant to Section 93 of the *Environmental Planning and Assessment Act 1979*:-

Yes – Granted by NSW Department of Primary Industries - Water – Conditions in Section D of Development Consent.

The following conditions have been imposed in accordance with the requirements of Section 80A of the *Environmental Planning and Assessment Act 1979* having regard to the relevant matters identified under Section 79C of the Act.

Biodiversity Offset

C5. There shall be no vegetation removal at the site until:

- a. A Biodiversity Offset Strategy in accordance with Chapter 7.0 and Figure 18 of the Ecological Report (Naturecall, 2016) and OEH's 'Principles for the use of biodiversity offsets in NSW', has been submitted to and approved by Council;
- b. The Biodiversity Offset Strategy shall include a Biodiversity Monitoring and Adaptive Management Program;
- c. Council is satisfied that there is a legally binding agreement that ensures the protection in perpetuity of the biodiversity offset referred to in Condition C5a.

C6. The agreement referred to in condition C5c shall:

- a. Require the Applicant to request Council to rezone the habitat offset area E2 Environmental Protection when Council next undertakes a general review of the Kempsey Local Environmental Plan 2013 and the owner and Applicant shall not object to the rezoning,
- b. Require the Applicant to register on the title of the land, at its cost, positive covenants for the implementation and maintenance of the Biodiversity Offset Strategy referred to in condition C5.

**Attention: Mr. Robert Pitt,
Director Sustainable Environment**

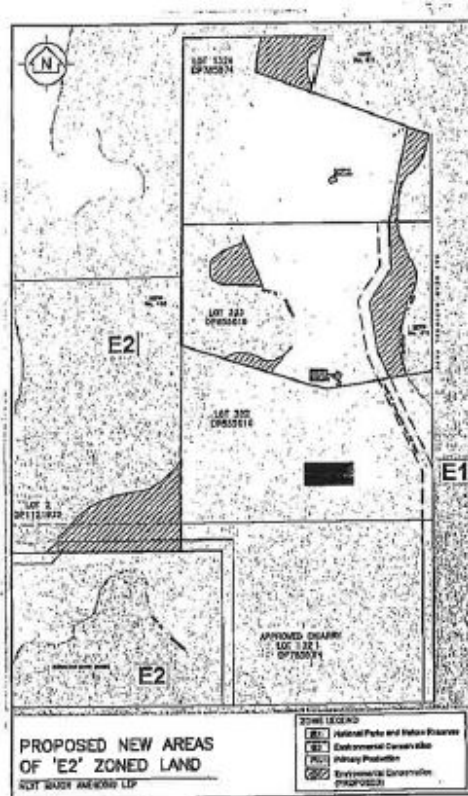
The General Manager,
Kempsey Shire Council,
P.O. Box 3078,
WEST KEMPSEY. N.S.W. 2440.

Dear Sir,

**RE: REQUEST FOR REZONING TO E2 - ENVIRONMENT PROTECTION
AS PER CONSENT FOR D.A. T6-14-122
CONDITION C6(a)**

In accordance with the above Condition, the Owners of Lot 1324 D.P. 785874, Lot 323 D.P. 855616 and Lot 2 D.P. 1121920 are seeking Council's agreement to rezone parts of each lot to E2 - Environment Protection when Council next undertakes a general review of Kempsey Local Environmental Plan 2013.

The area is identified as the Biodiversity Offset for the approved quarry. The additional E2 zoning area is identified on the Plan below: -



Paul Cooney
PAUL COONEY

John Phillips
JOHN PHILLIPS

