Planning Team Report

Kempsey LEP 2013 – Crescent Head Rural Residential Rezoning

Proposal Title:

Kempsey LEP 2013 - Crescent Head Rural Residential Rezoning

Proposal Summary:

The proposal seeks to amend Kempsey LEP 2013 by rezoning land at Crescent Head from RU2

Rural Landscape to R5 Large Lot Residential. The rezoning will enable the R5 zoned land to

be developed for rural residential purposes.

PP Number

PP_2015_KEMPS_004_00

Dop File No:

15/14661

Proposal Details

Date Planning

06-Oct-2015

LGA covered :

Kempsey

Proposal Received

Northern

RPA:

Kempsey Shire Council

State Electorate:

OXLEY

Section of the Act :

55 - Planning Proposal

LEP Type:

Region:

Spot Rezoning

Location Details

Street:

1466 Crescent Head Road

Suburb:

Crescent Head

City:

Postcode:

Land Parcel:

Lot 280 DP 1098732

Street:

Suburb:

City:

Postcode:

Land Parcel:

Unnamed Road Reseve

Street:

1466 Crescent Head Road

Suburb:

Crescent Head

City:

Postcode:

Land Parcel:

Lot 1 DP 1205619

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre:

N/A

Release Area Name:

N/A

Regional / Sub

Mid North Coast Regional

Consistent with Strategy :

Yes

Regional Strategy:

Area of Release (Ha)

Strategy

Date of Release

MDP Number :

14.00

Type of Release (eg

Residential

Residential /

Employment land):

No. of Lots

0

No. of Dwellings (where relevant):

14

Gross Floor Area

0

No of Jobs Created

0

The NSW Government Yes

Lobbyists Code of Conduct has been complied with:

If No, comment:

The Department of Planning and Environment's Code of Practice in relation to

communications and meetings with lobbyists has been complied with to the best of the

Region's knowledge.

Have there been

meetings or

communications with registered lobbyists?

If Yes, comment:

No

The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists

concerning this proposal.

Supporting notes

Internal Supporting

Notes:

External Supporting

Notes:

The Kempsey Shire Rural Residential Land Release Strategy 2014 identifies this land

within an investigation area for potential rural residential development.

The Planning Proposal has been informed by a number of site investigations/studies to confirm the suitability of the site for rural residential development. The proposed rezoning

footprint, land use and minimum lot size provisions respond directly to the recommendations of these studies.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment:

The 'Statement of Objectives' adequately describes the intention of the Planning Proposal.

The proposal intends to rezone suitable land at Crescent Head from RU2 Rural Landscape to R5 Large Lot Residential to enable rural residential development.

The site description in the Planning Proposal includes Lot 280 DP 1098732 and Lot 1 DP 1205619. Only parts of these allotments are sought to be rezoned however. There is an unclosed paper road reserve (Council owned) that traverses Lot 280. This paper road is located within the northern portion of the site, off Crescent Head Road. The landowner is currently pursuing the closure of this road reserve and acquisition of the land. The Planning Proposal includes maps and references that indicate that this unclosed road will be rezoned under this proposed LEP Amendment. This will allow all land within the rezoning footprint to be consolidated and used for future rural residential purposes.

In this regard the proposal will need to be updated prior to community consultation to list that it seeks to the rezone 'part of Lot 280 DP 1098732, part of Lot 1 DP 1205619 and an unnamed paper road reserve (Council owned)'.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment :

The explanation of provisions explains that the intent of the proposal will be implemented through an amendment to the Kempsey LEP 2013, including an amendment to the Land Zoning and Lot Size Maps.

The proposal seeks to apply the R5 Rural Landscape Zone and a 1 hectare minimum lot size standard to land that will facilitate rural residential development. The parts of Lot 280 DP 1098732 and Lot 1 DP 1205619, which are not subject to this proposal, will remain zoned RU1 Primary Production and E2 Environmental Conservation and will retain a 40 hectare minimum lot size.

Justification - s55 (2)(c)

- a) Has Council's strategy been agreed to by the Director General? Yes
- b) S.117 directions identified by RPA:
- 1.2 Rural Zones
- * May need the Director General's agreement
- 1.5 Rural Lands
 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Is the Director General's agreement required? Yes

- c) Consistent with Standard Instrument (LEPs) Order 2006: Yes
- d) Which SEPPs have the RPA identified?

SEPP No 14-Coastal Wetlands

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered: An assessment of the applicable directions and SEPPs is provided within the

'Assessment' section of this planning team report.

Have inconsistencies with items a), b) and d) being adequately justified? Yes

If No, explain:

See the 'Assessment' section of this planning team report.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment:

The Planning Proposal includes thumbnail maps that identify the site, current and proposed zones and minimum lot size standards. These maps are considered suitable for community consultation, however A3 copies of the plans should be made available when exhibited the proposal.

Revised maps which comply with the Department's 'Standard Technical Requirements for LEP Maps' would need to be prepared for the making of the LEP.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

The Planning Proposal has not indicated a set timeframe for community consultation. A 28 day public exhibition/community consultation period is considered appropriate given the proposal relates to the rezoning of a new release area.

Consultation with the NSW Rural Fire Service will be required in accordance with the relevant Section 117 Directions (discussed further below).

Consultation with the Office of Environment and Heritage could be made a requirement on the Gateway determination given that the land includes Koala habitat and other importnat natural resources (discussed further below).

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons:

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment:

Noting the amendments required to the Planning Proposal to adequately describe all of the land proposed to be rezoned, the Planning Proposal generally satisfies the adequacy criteria. It does this by:

- 1. Providing appropriate objectives and intended outcomes
- 2. Providing a suitable explanation of the provisions proposed by the Planning proposal to achieve the outcomes
- 3. Providing an adequate justification for the proposal;
- 4. Providing maps which suitably identify the site and intended outcomes;
- 5. Indicating that public exhibition of the proposal will be undertaken; and
- Providing a project timeframe which suggests completion within 12 months.

Timeline:

An addendum to the Planning Proposal has been provided which includes a project timeline. The timeline estimates the completion of the Planning Proposal by October

2016 (12 months). It is considered that a 12 month time frame would be appropriate. This timeline should be exhibited together with the Planning Proposal.

Delegation:

Council has requested delegation to finalise the proposal and an evaluation checklist has been provided. It is considered that these functions should be delegated to Council given that the proposal relates to a spot rezoning that is consistent with the endorsed Regional and Local Growth Strategies (see below).

Proposal Assessment

Principal LEP:

Due Date:

Comments in relation to Principal LEP:

The Kempsey LEP 2013 is a Principal LEP and came into effect on 20 December 2013. The Planning Proposal seeks to amend this planning instrument.

Assessment Criteria

Need for planning proposal:

The proposal implements the recommendations of the Kempsey Shire Rural Residential Land Release Strategy 2014. The Strategy identifies candidate areas to be further investigated for rural residential development. The site forms part of the candidate area for Crescent Head, being a potential extension of the existing R5 zoned rural residential estate. This particular candidate area amounts to approximately 82 hectares in total, with a potential yield of 57 lots.

It is noted that the proposed zoning boundaries are marginally different to the growth boundaries under the Strategy. This would be a result of further site specific studies (discussed further below) and not considered a significant variation that would result in any inconsistency with the Strategy or strategic framework.

The Strategy was endorsed by the Department on 17 December 2014. In this letter, Council was advised that each of the candidate areas would need to be investigated further through the Planning Proposal process, to confirm the suitability of the land for intensification and rezoning.

The Planning Proposal is supported by a number of specialist site investigation studies, including:

- Archaeological Study
- Ecological Assessment
- Bushfire Hazard Assessment
- Onsite Waste Water Capability Assessment
- Stormwater Management Assessment

The Planning Proposal and these investigation studies adequately confirm that the land subject to this proposal is suitable for rezoning (discussed further below).

The proposal to rezone the land to R5 and apply a minimum lot size of 1 hectare is the most appropriate means for achieving the intent of the planning proposal.

The rezoning will facilitate the creation of up to 14 allotments, being 11 x 1 hectare lots and 3 x 40 hectare lots. Future rezoning proposals within this candidate area will contribute to achieving the intended additional 57 allotments for the Crescent Head rural residential area.

Consistency with strategic planning framework:

MID NORTH COAST REGIONAL STRATEGY

The Mid North Coast Regional Strategy (MNCRS) in actions related to 'Rural Residential Development' requires that "land will only be zoned for release if it is in accordance with a local growth management strategy agreed to between council and the Department of Planning". The proposal is consistent with Council's Rural Residential Land Release Strategy that has been endorsed by the Department.

As discussed above, the proposed zoning boundaries are marginally different to the growth boundaries for the Crescent Head candidate area under Council's endorsed growth strategy. This minor variation to the Strategy is a result of further site specific investigations and not considered to be inconsistent with the intent of the MNCRS or Council's growth strategy.

An action of the MNCRS is to protect regionally significant farmland. There is land within the subject property boundary that is mapped as regionally significant farmland, however this is not within the proposed rezoning footprint. The proposal in this regard will not impact regionally significant farmland.

The proposal is consistent with the aims, objectives and intent of the Strategy.

LOCAL STRATEGIES - KEMPSEY SHIRE RURAL RESIDENTIAL LAND RELEASE STRATEGY 2014

The Strategy identifies approximately 82 hectares of land in Crescent Head, adjoining the existing R5 zoned rural residential estate. This additional land is identified as potentially being suitable for rural residential development, yielding up to 57 additional lots. The proposed rezoning footprint (14ha) forms part of this mapped release area and has been investigated further to determine its suitability for residential release. Future rezoning proposals within this release area will contribute to achieving the intended additional 57 allotments for the area.

STATE ENVIRONMENTAL PLANNING POLICIES

The proposal is consistent with the provisions of all applicable SEPPs relevant to the site. Comments are provided below regarding key relevant SEPPs for the proposed rezoning.

- SEPP 14 Coastal Wetlands
 - The south western parts of the site is mapped under SEPP 14. The rezoning footprint does not encompass any mapped wetland area. The concept development plan that has been prepared to inform the proposal, indicates that no future works would be required within any mapped wetland area. The provisions of the SEPP do not directly apply.
- SEPP 44 Koala Habitat Protection:
 The site is greater than 1 hectare in area and contains preferred Koala Food
 Trees. The site is also mapped to contain Potential Koala Habitat (Secondary)
 under the Kempsey Comprehensive Koala Plan of Management (CKPOM).

A concept development plan for the site has been prepared which indicates that minimal vegetation clearing will be required. No preferred food trees are required to be removed under this concept design.

It is considered that the information submitted justifies the proposal's consistency with SEPP 44 and the Kempsey CKPOM and that no site specific plan of management is required. Further review at Development Application stage will be required to ensure compliance with the CKPOM.

SEPP 55 – Remediation of Land:
 This SEPP requires a RPA to appropriately consider the potential for contamination prior to rezoning land.

The land has historically been used for agricultural purposes (grazing). A historical investigation into land uses across the site and a search of the contaminated land register has not indicated that any potentially contaminating activities have been undertaken on the site. This review is considered appropriate in determining that the land is suitable for rezoning.

Further site testing could be undertaken prior to development occurring on the site. This should not preclude consideration of the site for rezoning.

- SEPP (Rural Lands):

SEPP (Rural Lands) is applicable as the land is currently zoned rural. The proposal is not inconsistent with the SEPP given that it is consistent with the Mid North Coast Regional Strategy and Council's local growth strategy. The proposal is consistent with the Rural Planning Principles under the SEPP.

Land within the site that will remain zoned rural, can continue to be used for rural purposes.

SECTION 117 DIRECTIONS

The following directions are applicable to the proposal:

1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements and 6.2 Reserving Land for Public Purposes.

Of the above s117 Directions the proposal is considered to be inconsistent with Direction 1.2, 3.4 and 4.4.

- 1.2 Rural Zones:

The Planning Proposal is inconsistent with this Direction as it seeks to rezone land from Rural to Residential. The inconsistency is justified as the land is included in the endorsed Kempsey Shire Rural Residential Land Release Strategy.

- 3.4 Integrating Land Use and Transport:

The Proposal is inconsistent with this Direction as it does not reduce travel demand including the number of trips generated by the development and the distances travelled, especially by car. The inconsistency is justified as the land is included in the endorsed Kempsey Shire Rural Residential Land Release Strategy.

4.4 Planning for Bushfire Protection:

Consistency with the Direction is currently unresolved. Consultation with the NSW Rural Fire Service would be required post Gateway to satisfy the requirements of the Direction.

Despite the subject allotments containing environmentally zoned land and flood prone land, the proposal is not considered inconsistent with Directions 2.1 Environmental Protection Zones and 4.3 Flood Prone Land. This is because the land within the proposed rezoning footprint does not comprise an environmental protection zone or flood prone land.

The proposal is also not considered to be inconsistent with Direction 1.5 Rural Lands, as the proposal is consistent with the Rural Planning Principles under SEPP Rural Lands. It will provide opportunities for rural lifestyle and housing, is consistent with the Regional Strategy and Council's endorsed local strategy.

Environmental social economic impacts :

The Planning Proposal has been informed by a number of site investigations/studies, to an extent that the proposed land use and minimum lot size provisions respond directly to the recommendations of these studies. These site specific studies satisfy the strategic and statutory considerations for the land at this stage in the development process.

Biodiversity

The rezoning footprint generally comprises open grassland, with some copses of regrowth dry sclerophyll and swamp forest vegetation and a dam.

Significant natural resources within proposed rezoning footprint, such as preferred koala food trees, can be retained through appropriate residential subdivision design. The proposal includes a concept design for the site which confirms that all preferred Koala food trees and significant resources can be retained.

Referring the Planning Proposal to OEH during the public exhibition period will provide additional public agency review regarding ecological significance and management.

- Topography & Flooding

The site is undulating with slope angles varying from below 0-10 degrees. The rezoning footprint is located at a higher grade then the land to the south and east and is above the flood plain.

Land Contamination

The land has historically been used for agricultural purposes (grazing). A historical investigation into land uses across the site and a search of the contaminated land register has not indicated that any potentially contaminating activities have been undertaken on the site. This review is considered suitable to determine that the land is suitable for rezoning.

Bushfire

The site is identified as Bushfire Prone. Lot size provisions have been applied across the site to ensure APZs can be provided in the future subdivision design.

- Aboriginal and Cultural Heritage

The site has not been identified to potentially contain items or places of cultural heritage by the Kempsey Local Aboriginal Land Council, nor are there any records of previously identified items in this area. This has been confirmed through an AHIMS database search.

Further testing and unexpected finds protocols could be required under any future development consent.

The referral of the Planning Proposal to the Office of Environment and Heritage, as recommended above, will provide opportunity for additional public agency review on matters relating to heritage.

Utility Services

The proposal indicates that the site has access to electrical and telecommunication services. It is also supported by an onsite waste water management assessment that confirms onsite sewer is suitable for the site and future allotments.

Council has indicated that it will be seeking additional information regarding the provision of reticulated water to the site and have requested that the Gateway determination include a condition that requires this additional review.

Given the proposal will only facilitate the creation of up to 14 rural residential allotments, the potential suitability of tank water and the provisions under the Kempsey LEP 2013 (Clause 7.9 Essential Services), it is

considered that there is suitable justification for the proposal to proceed without a Water Servicing Strategy being made a requirement at rezoning stage.

However, considering that Council has indicated that it does require this strategy to be prepared as part of the rezoning process, it may be determined appropriate to include this requirement as a condition on the Gateway determination. A recommendation will be made under this 'Planning Team Report' that the Gateway consider including the requirement for preparing a Water Servicing Strategy for the site on the determination.

The preparation and completion of this Water Servicing Strategy should not delay the timeframe prescribed by the Gateway for completing the LEP.

Traffic and Access

The proposed concept layout confirms that access to future allotments on the site can be achieved from Maria River Road, removing any requirement for access off Crescent Head Road. This is consistent with the Rural Residential Release Strategy. No issues of existing or future road capacity have been raised. Given that the proposal will potentially yield an addition 14 lots, no further traffic review is considered necessary as part of the rezoning process.

Social & Economic Considerations
 The existing Crescent Head rural residential estate adjoins the site to the north and comprises less than 16 residential allotments.

Development of the site for rural residential purposes would yield approximately 14 additional allotments, contributing to housing and lifestyle choice within the area.

Assessment Process

Proposal type:

Routine

Community Consultation

14 Days

Period:

Timeframe to make

12 months

Delegation:

RPA -

LEP:

Public Authority

Office of Environment and Heritage

Consultation - 56(2)(d)

NSW Rural Fire Service

Is Public Hearing by the PAC required?

No

(2)(a) Should the matter proceed?

Yes

If no, provide reasons:

Resubmission - s56(2)(b): No

If Yes, reasons:

Identify any additional studies, if required.

Other - provide details below

If Other, provide reasons:

As discussed previously, the Planning Proposal has been informed by a number of specialist site investigations and studies. These studies are sufficient to determine that the proposal is consistent with the relevant strategic and statutory requirements at this stage of the development process. A copy of each of these studies should be exhibited with the Planning Proposal to allow review by the community and any public referral agency.

Council has indicated that it will require a Water Servicing Strategy to be prepared for the site as part of the rezoning process. As discussed previously, the Gateway could include this requirement as a determination condition.

Identify any internal consultations, if required:

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? No

If Yes, reasons:

Document File Name	DocumentType Name	Is Public
Gateway Request - Cover Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
App A - 1 20150714 final 0024-DP-05 MOODY-C02 noimage (00000002).pdf	Drawing .	Yes
App A - 2 20150714 final 0024-DP-05 MOODY-C01 (00000002).pdf	Drawing	Yes
Pt App B - 1 Archaeology 20150310 KLALC Archaeological survey Crescent Head Road CH	Study	Yes
Moody opt.pdf		
Pt App B - 2 Ecology Stat Asst Crescent Head Road CH EC806-BEC-REP-0001-CampbellMoodyRRSEA-rev2 0.pdf	Study	Yes
Pt App B - 3 Ecology Addendum	Study	Yes
EC806-BEC-REP-0002-CampbellMoodyRRSEAA-rev1.0.pd f		
Pt App B - 4 Bushfire Hazard Assessment Crescent Head Road Crescent Head Lot 280 Moody June 15 opt.pdf	Study	Yes
Pt App B - 5 OSWW Report - Crescent Head Road Crescent Head Lot 280 Moody.pdf	Study	Yes
Pt App B - 6 Stormwater 20150714 SW-01 0024 DP MOODY CATCHMENTS.pdf	Study	Yes
Pt App B - 7 Crown Rd closure 20150713 confirmation.pdf	Study	Yes
Information Checklist.pdf	Proposal	No
Evaluation Criteria for the Delegation of Plan Making	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage: Recommended with Conditions

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Additional Information:

It is RECOMMENDED that the General Manager, as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Kempsey Local Environmental Plan 2013 to rezone land at Crescent Head for rural residential purposes

should proceed subject to the following conditions:

- 1. Prior to the commencement of public exhibition, Council is to:
- (a) amend the property description in the planning proposal to indicate that the rezoning footprint includes part of Lot 280 DP 1098732, part of Lot 1 DP 1205619 and an unnamed road reserve.
- (b) ensure that Council's timeline for completing the LEP amendment is incorporated into the body of the Planning Proposal;
- (c) Prepare A3 copies of the maps included in the proposal that identify the site and the current and proposed zones and minimum lot size standards.

(Optional Condition) 2. Additional information regarding potable water servicing is to be placed on exhibition with the Planning Proposal.

The completion of any further site specific studies as required should not delay the finalisation of the LEP beyond the 12 month timeframe specified by the Gateway determination.

- 3. 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;
- (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 local environmental plans (Planning and Infrastructure, 2013)'.
- 4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
- (a) NSW Rural Fire Service
- (b) Office of Environment and Heritage
- 5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
- 6. Section 117 Directions It is recommended that:
- (a) Consultation is required in relation to s117 Direction 4.4 Planning for Bushfire Protection with the NSW Rural Fire Service.
- (b) The Secretary's Delegate determine that inconsistencies with s117 Directions 1.2 Rural Lands and 3.4 Integrated Land Use and Transport are justified by the endorsed Kempsey Shire Rural Residential Land Release Strategy 2014.
- 7. Plan making functions should be delegated to Council, given that the proposal relates to a spot rezoning that is consistent with the strategic planning framework.

Supporting Reasons:

The reasons for the above recommendations for the Planning Proposal are as follows:

- Release of the land for rural residential purposes will provide housing opportunity in line with the RPA's Rural Land Release Strategy.
- 2. The inconsistencies with the s117 Directions are justified by the endorsed Rural Land Release Strategy.
- Consistency with s117 4.4 Planning for Bushfire Protection is currently unresolved until consultation has occurred with the NSW Rural Fire Service.
- 4. The proposal is otherwise consistent with all relevant local and regional planning strategies, s117 Directions and SEPPs.
- 5. The recommended conditions to the Gateway are required to provide adequate consultation, accountability and progression.

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rinted Name:	JIM CLARK Date: 16 October 20	2/5