

PLANNING PROPOSAL

1466 CRESCENT HEAD ROAD
CRESCENT HEAD

MR C & MRS C MOODY

JULY 2015



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1. Introduction

Planning Proposal

Proposal: Rezone land from RU2 Rural Landscape to R5 Large Lot Residential

Property Details:

1466 Crescent Head Road,
Crescent Head

Lot 280 DP 1098732 & Lot 1 DP 1205619

131.1 Ha including unused road reserves

Applicant & Owner: Mr C.A.H & Mrs C.T. Moody

2. Subject Site

The subject land is located on the corner of Crescent Head Road and Maria River Road, Crescent Head, approximately 2km west of the town of Crescent Head and approximately 14.5 km south east of Kempsey. The area is characterized by rural and rural residential holdings.

This planning proposal is consistent with the Kempsey Shire Rural Residential Land Release Strategy (dated December 2014) which identifies this portion of land for potential rural residential land supply.



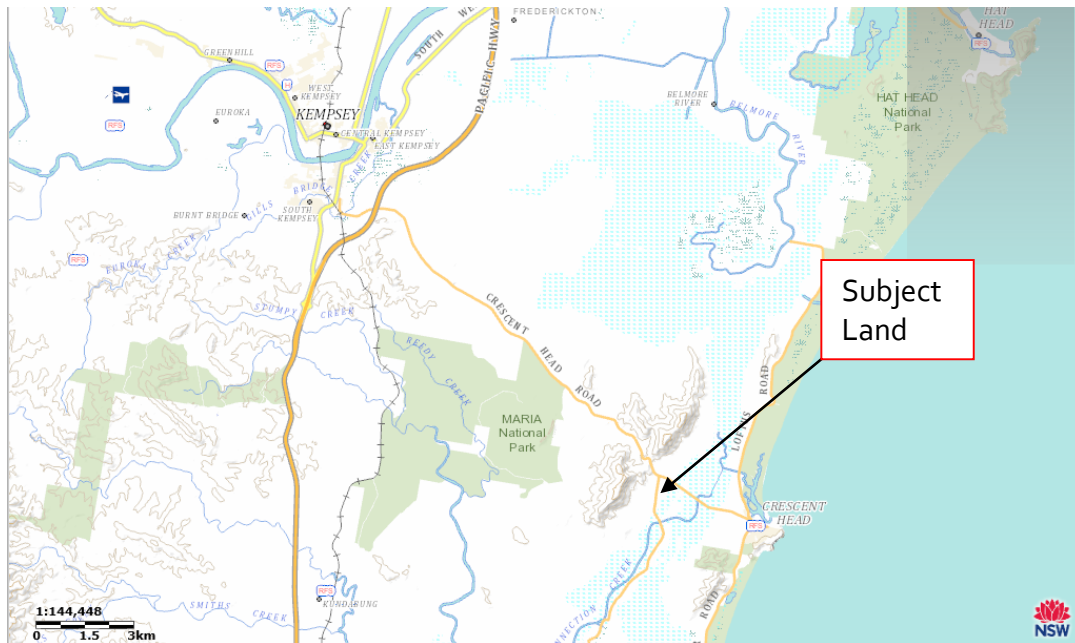


Figure 1: Locality Kempsey context

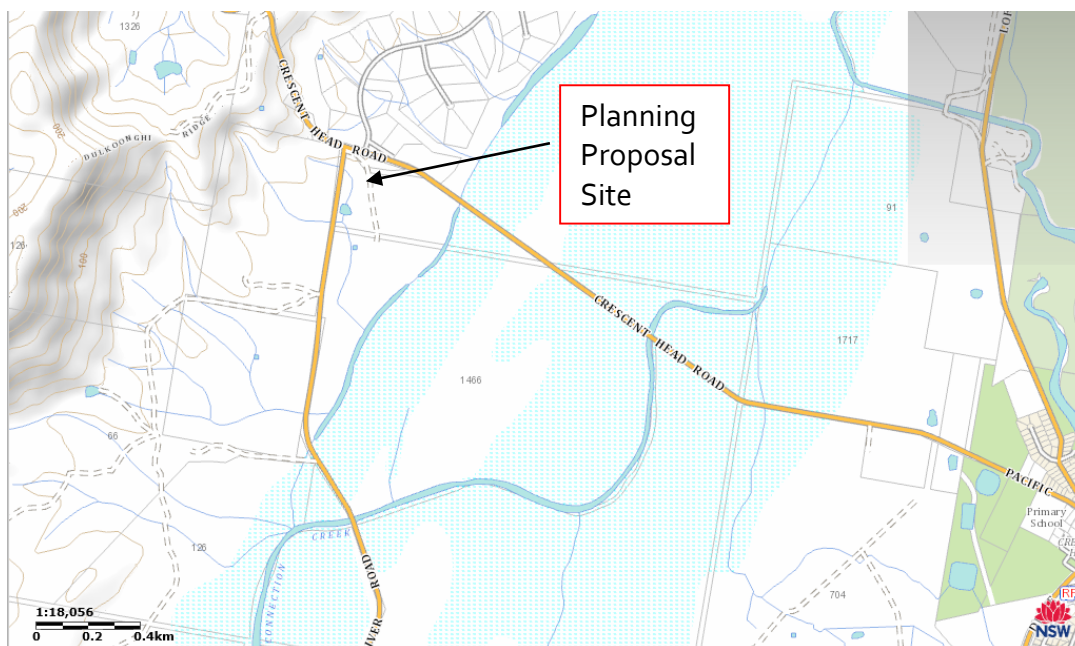


Figure 2: Locality Crescent Head context

The subject land has a total area of 131.1 ha including closed roads and has sealed road frontage to both Crescent Head Road and Maria River Road. This Planning Proposal relates only to the North-Western corner of the site, which is approximately 14ha in size.

The land has been used for cattle grazing, contains three dams and is mostly cleared. The area subject of this Planning Proposal contains a dwelling house and scattered vegetation which predominantly consists of derived grassland, with very sparse scattered trees, a small area of mostly regrowth dry sclerophyll forest, some patches of swamp forest and part of a billabong.



Figure 3: Aerial of Planning Proposal site with existing Large Lot Residential to North

A dam is located along the western boundary of the site in the project area. The remainder of the property generally consists of a mosaic of derived pasture/wet meadow and swamp forest with aquatic vegetation in a linear billabong and Connection Creek.

Power supply is available to the site. There is an electricity easement which traverses the subject portion of the site.

The north-western corner of the site is located on a ridgeline and is not flood affected. There is an upwards slope from Crescent Head Road and Maria River Road towards the ridgeline, which gently slopes downwards towards the east and south. Site contours are shown in Figure 4 below.

An unformed Crown road reserve traverses the site from East to West from Maria River Road through to Crescent Head Road. This reserve has been closed and is now registered as Lot 1 DP 1205619. A second piece of unused Council road reserve is in the process of being closed.

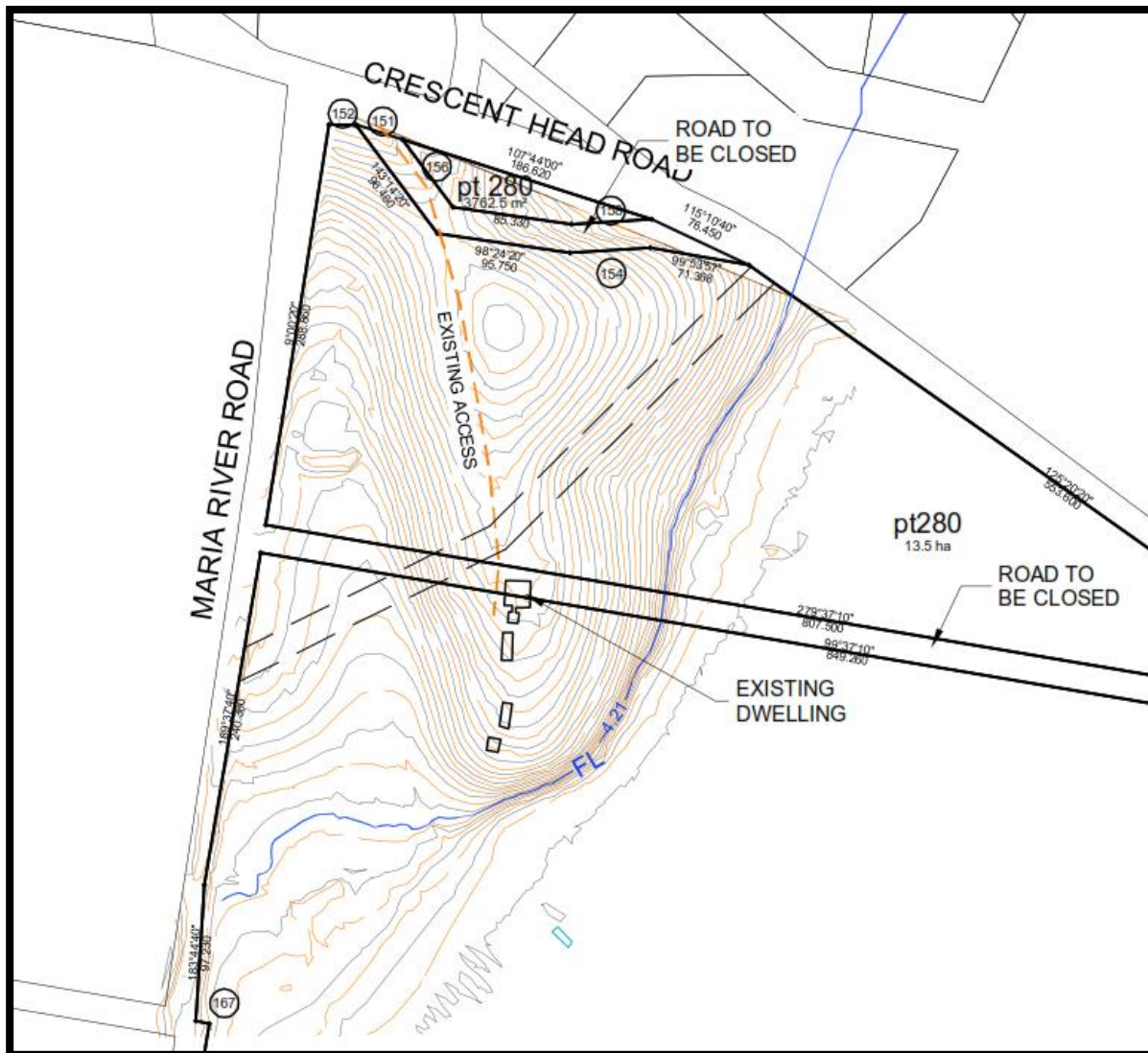


Figure 4: Survey detail of Planning Proposal area (source Dennis Partners)

Pursuant to the provisions of Kempsey Local Environmental Plan 2013 the subject land is presently zoned RU2 Rural Landscape.

A Planning Proposal is necessary to rezone the flood free land to R5 Large Lot Residential to facilitate a proposed subdivision for 11 x 1 ha allotments and 3 x 40 ha lots each with a flood free area for a residence. A concept plan demonstrating the intended outcome for the subject land is provided at **Appendix A**.

3. Planning Proposal

3.1 PART 1: Objectives or Intended Outcomes

To rezone land at the corner of Crescent Head Road and Maria River Road for Rural Residential purposes.

The intended outcome is large lot residential subdivision utilising the flood free portion of land for dwelling sites, retention of scattered trees within the Planning Proposal area and ensuring appropriate stormwater and water quality controls.

Rezoning of Lot 280 DP 1098732 & Lot 1 DP 1205619, being No. 1466 Crescent Head Road, Crescent Head is consistent with the Kempsey Shire Rural Residential Land Release Strategy (Rural Res Strategy) and the Mid North Coast Regional Strategy 2009.

3.2 PART 2: Explanation of Provisions

The desired future use of the site would be best served by the application of the R5 Large Lot Residential zone to part of Lot 280 DP 1098732 & part of Lot 1 DP 1205619, Crescent Head Road, Crescent Head. The identified area is in the north-west corner of the site and is approximately 14 ha in area. The zoning of the remainder of the site is not proposed to change.

An amendment to the Kempsey Local Environmental Plan 2013 is required to achieve the Large Lot Residential zoning over the identified portion of land.

The R5 Large Lot Residential zone is expressed in the Kempsey Local Environmental Plan 2013 as follows:

Zone R5 Large Lot Residential

1 Objectives of zone

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations.

3 Permitted with consent



Dual occupancies (attached); Dwelling houses; Extensive agriculture; Farm stay accommodation; Group homes; Home industries; Horticulture; Neighbourhood shops; Roads; Roadside stalls; Viticulture; Any other development not specified in item 2 or 4.

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Car parks; Caravan parks; Commercial premises; Correctional centres; Crematoria; Dairies (pasture-based); Depots; Eco-tourist facilities; Emergency services facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Mortuaries; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Rural industries; Service stations; Sex services premises; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste or resource management facilities; Wholesale supplies

The proposed zone provisions would enable the owners of Lot 280 to proceed with their vision for the land, subject to Kempsey Council's consideration of a suitable development application for subdivision.

The identified zoning for the Planning Proposal site as R5 is consistent with the zoning of land immediately North of Crescent Head Road. The LEP maps relating to the land North & opposite this site indicates a minimum lot size of 1ha and the same control is to proposed to be applied to the subject site by way of an amendment to the Lot Size Map – Sheet 12B.

3.3 PART 3: Justification

The Planning Proposal seeks to rezone land at Crescent Head, on the corner of Crescent Head Road and Maria River Road, to allow large lot residential development, consistent with the area immediately to north of the site.

The portion of the subject site identified for the rezoning is generally free of flooding and ecological constraints, is already serviced by sealed public road, electricity and telecommunication services. The proposal will provide additional housing stock for the area. The land proposed for future dwelling sites is above the flood level and ample room is available for building envelopes having regard to bushfire asset protection zones and protection of a small number of identified koala food trees and hollow bearing trees.



3.3.1 Section A: Need for the planning proposal

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

Yes - The Planning Proposal is consistent with the Kempsey Local Growth Management Strategy (LGMS) Rural Residential Component and the Mid North Coast Regional Strategy 2009.

Kempsey Local Growth Management Strategy – Rural Residential Component

The purpose of the Kempsey Local Growth Management Strategy (LGMS) is to meet Council's obligations to manage population and housing growth, consistent with relevant regional policies. With respect to Crescent Head, the strategy identified the subject area as having good accessibility, strong market demand, moderate infrastructure availability. The constraints of the area were also identified as bushfire, koala habitat and flooding (in some locations). These constraints have been reviewed in detail by experts and addressed within this report.

Map 6 within the Strategy identifies the subject site specifically for rural residential potential, as shown below in Figure 5 below. A revised yield of 44 lots for Crescent Head is identified, with a 1ha minimum and R5 Large Lot Residential. This rezoning is only a portion of the area identified and would yield 11 x 1ha lots and 3 residue lots of approximately 40 ha. The proposed subdivision is consistent with the land release yields indicated within the Strategy, with the site identified for stage 1 (refer to figure 6 below).

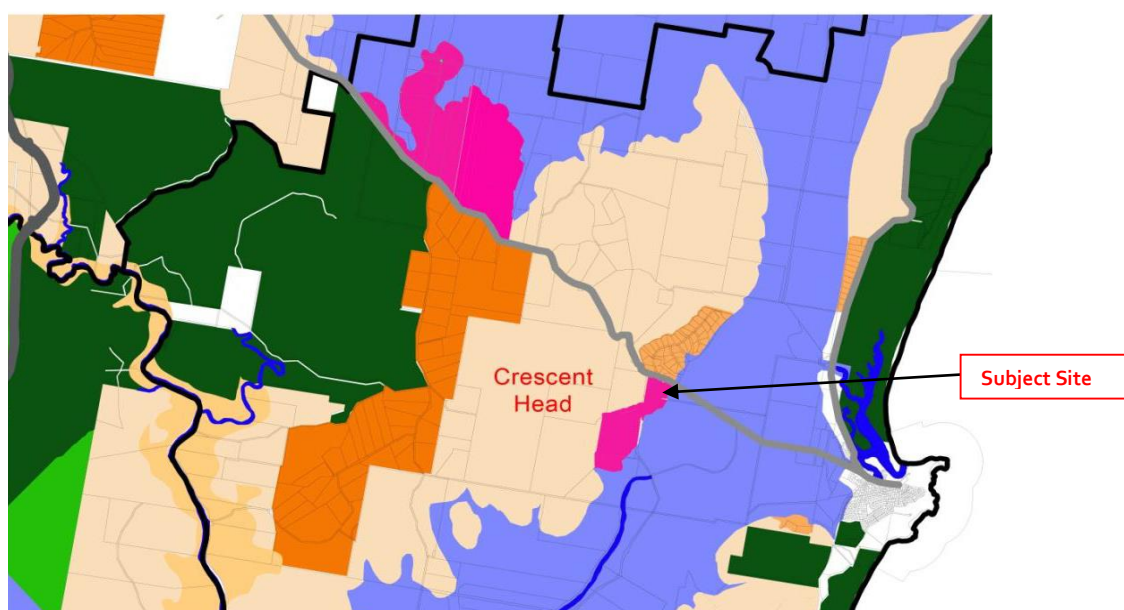


Figure 5: Extract Kempsey LGMS Map 6

This Planning Proposal is generally consistent with the area identified in Figure 6 of the Kempsey Local Growth Management Strategy.

The Strategy identifies the presence of Koala habitat south of the Maria River Road and Crescent Head Road intersection. The strategy further indicates that flooding, habitat and fire hazard would need to be adequately addressed prior to any rezoning and subdivision proceeding.

The Strategy identifies the following issues of relevance for consideration in the preparation of subsequent Planning Proposals including:

- minimising access points to Crescent Head Road;
- potential fauna corridor linkages; and
- vegetation retention maximised, whilst satisfying bushfire requirements.

Studies and reports addressing the above issues and included as part of the Planning Proposal include:

- *Kempsey Local Aboriginal Land Council* Cultural Heritage field assessment & archaeology report (Mar 2015)
- *Naturecall Environmental* Statutory Ecological Assessment (Sept 2014) and Addendum report (June 2015) for Rural Residential Subdivision of Lot 280 DP 1098732, Cnr Maria River Road and crescent Head Road, Crescent Head.
- *Midcoast Building and Environmental* Bushfire Hazard Assessment 14 x Lot Subdivision (June 2015)
- *Midcoast Building and Environmental* Onsite Sewage Management Assessment
- *Dennis partners* Rural Residential Layout Plans and Stormwater Management Strategy (July 15)
- *NSW Crown Lands* Confirmation of crown road reserve closure (June 2015)

Copies of the assessment reports are provided at **Appendix B**.

Access

The number of access points onto Maria River Road can be minimised utilising shared access handles as demonstrated by the concept subdivision plan at **Appendix A**.

Cultural Heritage

The Cultural Heritage field assessment by a representative of Kempsey Local Aboriginal Land Council did not identify any sites or relics within the Planning Proposal area.

Ecology

The ecological field surveys and statutory assessment has identified the location of all Koala Food Trees within the rezoning site and a concept subdivision plan has confirmed that all trees can be retained outside generous building envelopes, with the exception of 6 trees to be removed to achieve bushfire asset protection zones. The addendum to the ecological assessment dated June 2015 specifically addresses the removal of these trees. They are a small fig growing on a stump, a Bloodwood and 4 Blackbutts. None of the trees nominated to be removed are Koala Food trees listed in the Kempsey Shire Comprehensive Koala Plan of Management and as such, no offset planting is required.

The September 2014 ecological assessment also identified a small number of Hollow Bearing Trees to be retained outside the building envelopes.



It is concluded that there will be ample room for building envelopes based on the example given in the concept subdivision plan, whilst retaining the koala food trees and hollow bearing trees and taking into account the required bushfire APZ.

The ecological report concluded that there are no endangered ecological communities and recommended retention of koala food trees and hollow bearing trees outside building envelopes within the proposed lots.

Bushfire

The bushfire hazard assessment concluded that existing cleared areas within the site provide for suitable building envelopes and compliant asset protection zones and BAL levels, subject to the minor vegetation removal referred to above and described in the *Naturecall Environmental* addendum of June 2015.

Onsite Waste Water Management

The Onsite Sewage Management Assessment by *Midcoast Building and Environmental* recommends that wastewater for all lots be treated by Aerated Wastewater Treatment System and further recommends that Lots 7 & 14 (40ha lots) have Advanced Secondary Treatment systems in consideration of the adjoining sensitive areas within those allotments, as well as specific recommendations for Lots 10 & 14. Provision for a 100% reserve area is available for each future lot and additional mitigation measures are recommended including:

- Installation of up-slope surface water (and subsurface) drainage to divert run-on and seepage water from the land application area.
- The soils within the effluent disposal area to be rotary hoed or ripped to a depth of 200mm to improve moisture retention.
- Irrigation areas are to be planted with suitable vegetation to assist in nutrient uptake and improve effluent disposal through evapo-transpiration.

Stormwater

Upstream Stormwater flows across Maria River Road and through the subject land have been analysed by *Dennis Partners* and a stormwater management strategy prepared accordingly. The Stormwater Strategy Plan is included in **Appendix B**.

Crown Road

Correspondence from NSW Crown lands dated 18 June 2015 is included in **Appendix B**, confirming that the crown road was closed and assigned its own title as Lot 1 DP 1205619. As mentioned above, closure of the unused Council road reserve closure is underway.

Mid North Coast Regional Strategy 2009

The Planning Proposal is consistent with the Mid North Coast Regional Strategy 2009 as it provides for new housing for the expanding population and proposes new rural-residential development within proximity of an existing settlement.



The Mid North Coast Regional Strategy identifies the site within the Crescent Head Growth Area and states:

“However any new planning for rural residential settlement should focus on land close to an existing urban settlement, away from the coast, away from areas that may in the future have value as urban expansion areas, where significant vegetation clearing would not be required and where current or potential future primary production will not be affected. Protection of primary production and biodiversity values of rural areas will be achieved by limiting settlement and controlling subdivision.”

The identified area is consistent with that above in that:

- It is close to the existing settlement of Crescent Head, away from the coast and not sufficiently proximate or connected to be an urban expansion area.
- The site is separated from Crescent Head Village by ecologically significant flood prone land.
- The Planning Proposal will not result in the loss of significant vegetation, biodiversity values or primary production.

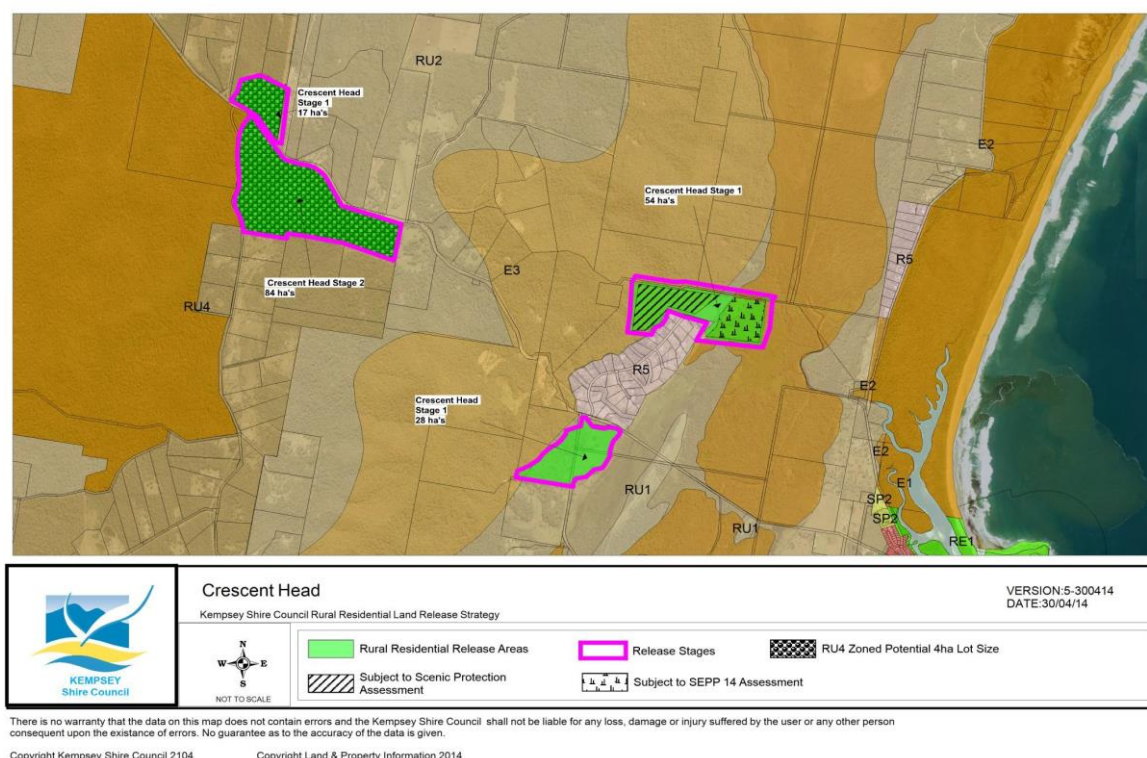


Figure 6: Extract from Kempsey Local Growth Management Strategy
Crescent Head Land Release Staging

3.3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes?

Yes – there is no other mechanism available to achieve the objective of rural-residential development in relation to the subject site. Council has not indicated a timeframe for a shire wide rezoning to reflect the recommendations of the Strategy and in the interim will consider site specific Planning Proposals consistent with the LGM Strategy.

3.4 Section B: Relationship to strategic planning framework

3.4.1 Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

a. Does the proposal have strategic merit and

- *Is consistent with a relevant local strategy endorsed by the Director –General or*
- *Is consistent with the relevant regional strategy or Metropolitan Plan or*
- *Can it otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc.).*

(i) Local Strategy

Yes – Kempsey Shire Rural Residential Land Release Strategy dated December 2014. The site is identified for rural residential potential and within Stage 1 implementation phase. Refer to Section 3.1.1 above.

(ii) Regional Strategy

Yes - Mid North Coast Regional Strategy. The site is identified within the Crescent Head Growth Area. Refer to Section 3.1.1 above.

(iii) 117 Directions

Of the current Section 117 Directions the following are directly relevant to the proposal and/or the subject land and require specific comment.

117 Direction No. 1.2 Rural Zones
 117 Direction No. 1.5 Rural Lands
 117 Direction No. 2.1 Environment Protection Zones
 117 Directive No. 2.2 Coastal Protection
 117 Direction No. 3.1 Residential Zones
 117 Direction No. 3.4 Integrating Land Use and Transport
 117 Direction No. 4.1 Acid Sulphate Soils
 117 Direction No. 4.3 Flood Prone Lands
 117 Direction No. 4.3 Planning for Bushfire Protection
 117 Direction No. 5.1 Implementation of Regional Strategies
 117 Direction No. 6.1 Approval and Referral Requirements



117 Direction No. 6.3 Site Specific Provisions

The table at **Appendix C** provides a summary of the relevant S117 directions and where relevant justifies any inconsistencies.

The key considerations under the S117 Directions for the site and the proposed zone are:

- The Planning Proposal seeks to rezone part of the land from Rural to Large Lot Residential to facilitate new housing stock of a rural-residential nature, consistent with Kempsey Council's adopted Growth Strategy.
- A large portion of Lot 280 & Lot 1 is affected by flooding and provides limited opportunity for rezoning for rural residential purposes. As such, the north-west corner of the site (approximately 14ha) is the only part proposed for a change of zoning from Rural to Large Lot Residential.
- The site is adequately serviced and considered to be appropriate with regard to utilising existing road networks, bus services, and proximity to village services and community facilities at Crescent Head.
- The provisions with respect to minimum lot size which apply to the proposed R5 zone do not unreasonably restrict future large lot residential development on the site, nor do the constraints and characteristics of the site.
- The Planning Proposal is consistent with the Kempsey Local Growth Management Strategy (2014).

b. Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following:

- *The natural environment (including known significant environmental values, resources or hazards) and*
- *The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*
- *The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure.*

Yes - The natural environment of the site is limited due to a long history of use for cattle grazing. The flood free area subject to this planning proposal contains a dwelling house and vegetation predominantly consists of derived grassland with very sparse scattered trees, a small area of mostly regrowth dry sclerophyll forest, some minor patches of swamp forest and part of a billabong. A dam is located along the western boundary of the site in the proposal area. The remainder of the property (not subject to rezoning) generally consists of a mosaic of derived pasture/wet meadow and swamp forest with aquatic vegetation in a linear billabong and Connection Creek.



Comprehensive ecological assessment has been undertaken including investigation of potential Koala habitat and statutory assessment of flora and fauna on the site. The *Naturecall Environmental* reports dated September 2014 and June 2015 are provided as part of the Planning Proposal documentation.

It was concluded that all trees identified as being koala food trees and hollow bearing trees can be retained. The scattered nature of vegetation in the Planning Proposal area is such that any resultant development for large lot residential with a minimum of 1ha in size has ample room to accommodate a dwelling and APZ on each site whilst also retaining the identified trees.

Selected tree removal to achieve APZ fuel loadings has been identified and involves the removal of three Blackbutt trees, a Bloodwood and a small fig growing on a stump.

The site is already serviced by sealed public road, electricity & telecommunications. Reticulated water pressure investigations indicate that each resulting residence should allow for self supply.

The Planning Proposal area is flood free with the outer edges subject to fringe flooding. All future lots have a reasonable flood free dwelling site and the remainder of the property will remain as rural land and is suitable for that purpose.

Examination of Crescent Head Road and Maria River Road reveals that the current standard of construction and road network capacity appears adequate for the likely additional traffic generation from a future likely 14 lot rural and rural residential subdivision of the site. Discussions with Council have identified the need to minimize access points onto Maria River road and encourage consolidated access points where possible. This has been incorporated into the concept plan by way of shared accesses and battle-axe access to rear lots.

On site soil sampling and assessment has been undertaken to ensure that any resultant 1 ha allotments would have capacity to dispose of treated wastewater on site. The assessment recommended the use of Aerated Wastewater Treatment Systems for future allotments.

3.4.2 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Yes - As explain in Section 3.1.3 above.

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

Yes - The proposal is consistent with or justifiable as inconsistent with the relevant State Environmental Planning Policies. Refer to **Appendix D** for details.



3.5 Section C: Environmental, social and economic impact

3.5.1 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 subject land has been used for cattle grazing and is mostly cleared in the area the subject of the Planning Proposal.

Critical habitat, threatened species populations and ecological communities were targeted in the ecological assessment have not been found likely to occur within the Planning Proposal area.

The Ecological Assessment was undertaken by *Naturecall Environmental* (dated September 2014), which concluded as follows:

“The study site and property overall has evidently been subject to a significant disturbance history, which has seen the majority of the site and property cleared at some time. The site and much of the study area has subsequently been regularly maintained via slashing, effectively preventing regeneration and reducing habitat support values. Despite this, a number of mostly wide ranging threatened fauna species were considered to potentially occur to various degrees on the property, and three Coastal Floodplain EECs are present.

Overall, due to the current and future management of the site and property; ecology of the subject species; habitat limitations of the site; lack of any substantial impact on the EECs; and that all the subject species would depend on habitat well beyond the site/study area (and property) for their viability: the proposal is not considered likely to result in impacts of sufficient order of magnitude to place a local viable population or EEC at risk of extinction.”

The report also identified all Koala food trees (Tallowwood and Forest Red Gum) on the site and has recommended that they are protected on title. This would be addressed in the assessment of the development application submitted for subdivision and can be achieved through relevant conditions of consent.



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

Access, Transport & Traffic	Access & traffic have been identified as matters which will require specific analysis with any subsequent development proposal.
Public Domain	No public domain issues have been identified at this juncture.
Utilities	The site has benefit of existing utilities and preliminary investigations indicate there is capacity to extend/increase these services as needed. Whilst the site is serviced by water, the subdivision concept proposed seeks to require on site water capture& storage.
Waste (Garbage Service)	The locality is within Council's waste removal service area and any resultant development would be incorporated into that service.
Heritage & Archaeology	No recorded sites on AHIMS register. Correspondence from the Local Aboriginal Land Council has been provided.
Soils / Acid Sulphate Soils	The land subject to the planning proposal is mapped as Class 5 ASS. Other parts of the wider land are mapped as Class 2 ASS. Specific development proposals would need to identify areas of potential excavation and address how soils are to be managed in those locations.
Air & Microclimate	The change of zoning to allow large lot residential is unlikely to create air or microclimate impacts.
Flora & Fauna	Refer Ecological Assessment was undertaken by <i>Naturecall Environmental</i> (dated September 2014) and addendum dated June 2015.
Noise & Vibration	There will be an increase in population as a result of the change of zoning. However, the noise generated from 14 rural residential homes occupancies would be negligible.
Natural Hazards Including:	
Bushfire	Bushfire hazard has been assessed and provision for building envelopes and APZ can be achieved.
Flooding	Flooding is a consideration for the site. The flood level has been used as a guide for the proposed R5 zoned boundary and informed the subdivision concept plan.
Slip and Subsidence	No identified subsidence issues.



3.5.3 Has the planning proposal adequately addressed any social and economic effects?

A positive economic benefit is anticipated both in the short term, during construction and longer term, with respect to the local economy and social vibrancy. The residents of the future lots and dwellings are likely to utilise the services and shops within Crescent Head as well as children attending the local primary school, surf club membership and the like.

The social benefits providing additional local housing stock is considered positive both locally & regionally. The style of housing being large lot rural-residential properties satisfies the need for additional housing whilst limiting pressure of existing infrastructure and resources and amenity impacts with respect to the remaining rural land.

3.6 Section D: State and Commonwealth Interests

3.6.1 Is there adequate public infrastructure for the planning proposal?

Yes – adequate public infrastructure is in place as part of the existing environment, as discussed in previous sections.

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

This section is completed following consultation with the State and Commonwealth authorities should the Director General determine to proceed with the Planning Proposal and identifies which authorities are to be consulted with.



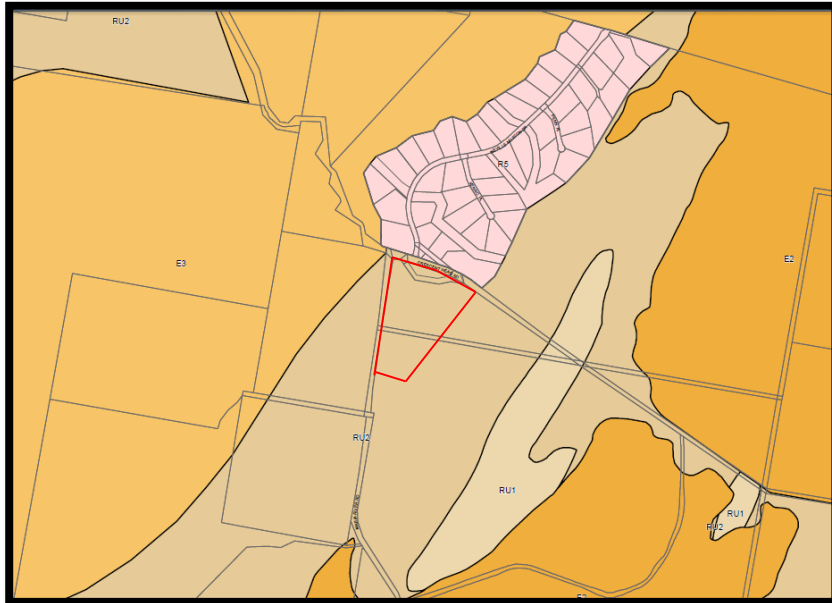
Part 4: Mapping

4.1 The land subject to the planning proposal



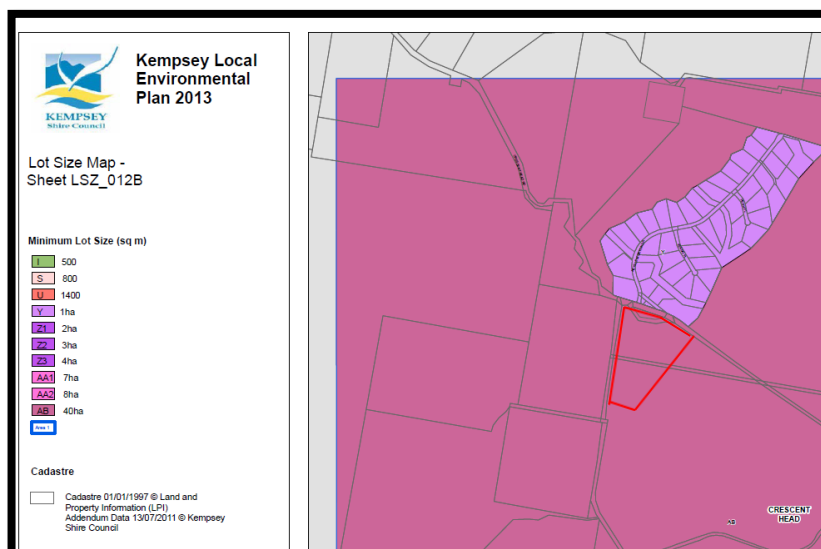
4.2 Current land use zone

RU2 Rural Landscape



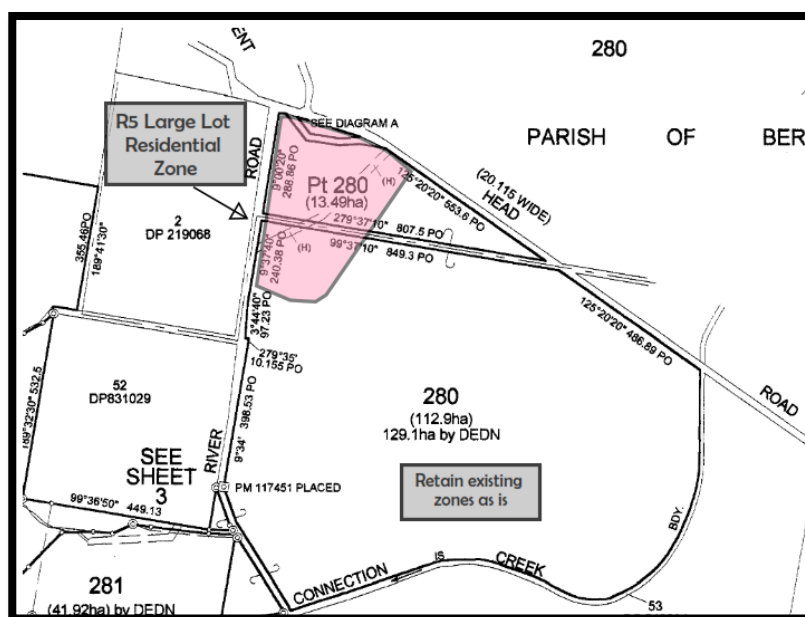
4.3 Current development standards

40ha minimum lot size for subdivision and dwellings.

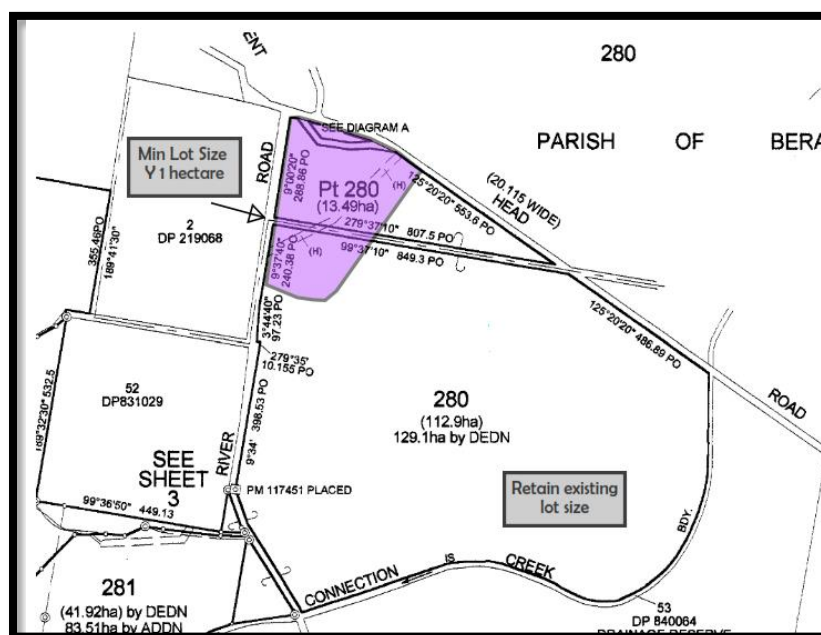


4.4 Suggested alternative zone(s)

R5 Large Lot Residential applying to that part of the land above flood level considered suitable for the use and incorporating all potential dwelling sites. The Proposal would result in two split zone allotments, concept lots 7 & 11 of 40 ha in area. In light of the difference in permissible land uses between the RU1 Primary Production zone and the R5 Large Lot Residential zone it is preferred to have a consistent zoning across that part of the lots under residential usage.



4.5 Suggested alternative minimum lot size



Part 5: Community Consultation

Community Consultation will be undertaken in accordance with any conditions specified in the Gateway Determination and Kempsey Shire Council's Rezoning Policy & Procedure 1.1.9, Section 3 Public Notification and Consultation.

Part 6: Project Timeline

This section to be completed in consultation with Council & NSW Planning & Environment.

Yours faithfully



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APPENDIX A – CONCEPT PLAN INTENDED OUTCOME



(INSERT SUBN PLAN 1 HA LOTS



(INSERT SUBN PLAN SUBN PLAN OVERALL)



APPENDIX B – ENVIRONMENTAL ASSESSMENTS

*CULTURAL HERITAGE, ECOLOGICAL, BUSHFIRE, ON SITE WASTE WATER,
STORMWATER & ROAD CLOSURE*

<i>Kempsey Local Aboriginal Land Council</i>	Cultural Heritage field assessment & archaeology report (Mar 2015)
<i>Naturecall Environmental</i>	Statutory Ecological Assessment (Sept 2014) and Addendum report (June 2015) for Rural Residential Subdivision of Lot 280 DP 1098732, Cnr Maria River Road and crescent Head Road, Crescent Head.
<i>Midcoast Building and Environmental</i>	Bushfire Hazard Assessment 14 x Lot Subdivision (June 2015)
<i>Midcoast Building and Environmental</i>	Onsite Sewage Management Assessment
<i>Dennis partners</i>	Rural Residential Layout Plans and Stormwater Management Strategy (July 15)
<i>NSW Crown Lands</i>	Confirmation of crown road reserve closure (June 2015)

(Note: Reports provided as separate pdfs due to file size)



APPENDIX C – SECTION 117 DIRECTIONS

COMPLIANCE AND JUSTIFICATIONS



Table of Relevant 117 Directives		
Directive	Key requirement	Complies or Justification
1.2 Rural Zones The objective of this direction is to protect the agricultural production value of rural land. A planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	May be inconsistent if: (a) justified by a strategy which: (i) gives consideration to the objectives of this direction, (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) is approved by the Director-General of the Department of Planning, or (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or (d) is of minor significance.	Justification The planning proposal seeks to rezone the land from a rural zone to R5 Large Lot Residential and therefore is inconsistent with (a) of 117 Direction 1.2. This inconsistency is justified by the Mid North Coast Regional Strategy and Kempsey Shire Council's adopted Rural Residential Strategy as follows: The Mid North Coast Regional Strategy 2009 proposes new rural-residential development within proximity of an existing settlement and states: <i>"However any new planning for rural residential settlement should focus on land close to an existing urban settlement, away from the coast, away from areas that may in the future have value as urban expansion areas, where significant vegetation clearing would not be required and where current or potential future primary production will not be affected. Protection of primary production and biodiversity values of rural areas will be achieved by limiting settlement and controlling subdivision."</i>



		The identified area is consistent with that above in that: • It is close to the existing settlements of Crescent Head, away from the coast and not sufficiently proximate or connected to be an urban expansion area. • The site is separated from Crescent Head Village by ecologically significant flood prone land. • The Planning Proposal will not result in the loss of significant vegetation, biodiversity values or primary production. The Kempsey Shire Council's adopted Rural Residential Strategy is also an adopted strategy which gave consideration to the objectives of this directive , is approved by the Director General and considered the subject land within the Environmental Sustainability Criteria assessment for Crescent Head Rural Residential areas.
1.5 Rural Lands The objectives of this direction are to:	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the	Justification The Kempsey Shire Rural Residential Strategy specifically seeks to facilitate the orderly and economic development for rural residential



(a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes. A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.	Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are: (a) justified by a strategy which: i. gives consideration to the objectives of this direction, ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites, and iii. is approved by the Director-General of the Department of Planning and is in force, or (b) is of minor significance.	purposes and in doing so, must relate to adjacent rural lands and rural land uses. The Rural Planning Principles of SEPP (Rural Lands) 2008 are <i>(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i> Comment: The planning proposal does not impinge upon the current agricultural capacity of the residue lands. <i>(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,</i> Comment: The adopted Rural Residential Strategy for Crescent Head road area, avoids areas of prime agricultural land and recognises that changing nature of agriculture in this area. <i>(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,</i> Comment: The planning proposal will result in additional economic benefits to the rural area
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		and still retain the open grazing land in the flood plain areas. <i>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,</i> Comment: The adopted Rural Residential Strategy assesses the subject land under specific Environmental Sustainability Criteria, including economic and environmental interests. Refer Appendix 5 of the Background Report to the Rural Residential Strategy. <i>(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</i> Comment: The Background Studies supporting the adopted Rural Residential Strategy assesses the natural resources of the subject area and include reference to a range of ecological assessments. Regard has been had to maintaining biodiversity, protection of native vegetation, water resources and avoiding constrained lands. <i>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i>
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		The planning proposal for approximately 14 ha of R5 land would result in 11 x 1 ha lots and 3 x 40 ha lots which would support rural lifestyle settlements already established in the immediate area. <i>(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i> The site is already serviced by sealed public road, electricity & telecommunications. Reticulated water pressure investigations indicate that each resulting residence should allow for self supply. Road network capacity is also adequate. <i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i> The Mid North Coast Regional Strategy is the applicable regional strategy and the Kempsey Rural Residential Strategy is the relevant local strategy. The planning proposal is consistent with both those strategies. In particular, the planning proposal is in direct response to the KSC Rural Residential strategy which identifies this land as having Rural Residential Potential
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		(Map 6) and section 4.2 (p24) identifies a 1ha minimum lot size of 1ha and Map 18 includes the subject land as part of Stage 1 release areas. In considering the above Rural Planning Principles, principle (h) is most relevant to the subject Planning Proposal. The Planning Proposal is consistent with an applicable local strategy endorsed by the Director-General. Inconsistency with S117 Direction 1.5 is acceptable under Clause 6 of the Directive.
2.1 Environment Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas.	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 <i>"Rural Lands"</i>.	Complies: The site contains a designated SEPP 14 wetland #479. However it is contained within that portion of the site which will remain unchanged, zoned E2 Environmental Conservation. The mapped boundary of the SEPP 14 wetland is over 700 m from the closest potential dwelling site to arise from the Planning Proposal or subsequent subdivision of the land. Further, it is not proposed to clear, construct a level, drain or fill, or others disturb any part of the designated SEPP 14 wetland area. The planning proposal would not reduce the environmental protection standards that currently apply to the land.



2.2 Coastal Protection The objective of this direction is to implement the principles in the NSW Coastal Policy.	This direction applies to the coastal zone, as defined in the <i>Coastal Protection Act 1979</i>.	Not Applicable. Council GIS mapping indicates that the subject land is not mapped as part of the Coastal Zone mapping under SEPP 71.
3.1 Residential Zones The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands. This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed residential zone (including the alteration of any existing residential zone boundary).	A planning proposal must, in relation to land to which this direction applies: (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land.	Consistent The land is proposed to be zoned R5 Large Lot Residential and has a suitable level of services available including sealed road frontage, electricity and telecommunications. Sustainability provisions for the site include on site water capture and re-use and on site waste water treatment and disposal systems.
3.4 Integrating Land Use and Transport	A planning proposal must locate zones for urban purposes and include provisions that give effect to	Consistent with Council's Rural Residential strategy.



The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	and are consistent with the aims, objectives and principles of: (a) <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001), and (b) <i>The Right Place for Business and Services – Planning Policy</i> (DUAP 2001).	Land has proximity to local bus services which pass the intersection of the site and Crescent Head Road on regular basis and Crescent Head Village less than 2 km to the east. Bus and sealed road services to Kempsey then link to rail station at Kempsey and national coach services on the Pacific Highway. Public primary school available at Crescent Head village as well as Primary and Secondary school campuses in Kempsey. Tertiary education by way of various Tafe campuses and University linked educational services at Port Macquarie.
4.1 Acid Sulphate Soils The objective of this direction is to avoid significant adverse environmental impacts	A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulphate soils on the	Justified Kempsey LEP 2013 ASS map Sheet 12B identifies the land the subject of this planning proposal as within Class 5 potential Acid Sulphate Soils(ASS). The



from the use of land that has a probability of containing acid sulphate soils.	Acid Sulphate Soils Planning Maps unless the relevant planning authority has considered an acid sulphate soils study assessing the appropriateness of the change of land use given the presence of acid sulphate soils.	objective of the LEP provisions applying to ASS is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. Clause 7.1 of the LEP requires development consent for works which in relation to Class 5 ASS land within 500metres of adjacent Class 1,2,3 or 4 land that is below 5 m AHD and by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 1,2 3 or 4 land. It further requires preparation of an ASS management plan prior to Council granting any consent, subject to a number of exemptions. Exemptions relevant to this planning proposal and future subdivision application are: “(6) Despite subclause (2), development consent is not required under this clause to carry out any works if: (a) the works involve the disturbance of less than 1 tonne of soil, and (b) the works are not likely to lower the watertable. The intended outcome of the planning proposal and subdivision satisfies the exemption criteria (a) & (b) above.
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4.3 Flood Prone Land The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. (4) A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> (including the <i>Guideline on Development Controls on Low Flood Risk Areas</i>). (5) A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.	A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that: (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or (b) the provisions of the planning proposal that are inconsistent are of minor significance. Note: "flood planning area", "flood planning level", "flood prone land" and "floodway area" have the same meaning as in the <i>Floodplain Development Manual 2005</i>.	Justified The planning proposal is in accordance with the requirements of Kempsey Shire floodplain risk management plan, prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005. One of the principal objectives of the policy is: <i>To ensure that new development in flood prone lands is compatible with the degree of flood hazard and that adequate flood risk management measures are incorporated in the design of the development thereby minimising the possibility of loss of life and damage to property</i> The policy defines Flood Prone land. Land which is inundated by a 1 in 100 year flood event. The Flood Planning Levels are the combination of the 1 in 100 flood levels and 0.5m freeboard and within the Policy are shown as minimum floor levels. Kempsey Shire Council has further adopted revised flood levels for the Lower Macleay Floodplain and coastal estuaries as an Interim Policy pending completion of the review of its Flood Risk Management Strategy Policy. The revised flood level for Crescent Head West is from 3.75 mAHD to 4.21 (assume rise of 0.46m based upon updated flood
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		modelling undertaken for Killick Creek but at Ocean Boundary Level of 2.6m AHD) The policy also states Council will not support the re-zoning of land for urban development unless it is shown to be at or above the flood planning level. The subject land is 2 km west of Crescent Head village. The area to be rezoned under the Planning Proposal is located at and above the 4.21 m AHD other than some narrow fringe edges. The proposal is for an R5 Large Lot Residential zone which is residential by nomenclature but is rural residential in character due to the 1 ha minimum lot size. Compliance with the rural flood free land area requirement of 1000 square metres is achieved. The Residential requirement is 500 square metres of flood free land. The concept subdivision plan provided at Appendix A demonstrates that all proposed 1 ha lots have the required 1,000 square metres of land more than 500mm above the 1 in 100 year flood level. Similarly the residue 40 ha lots each have an area of flood free land adjacent their closest access road. The smallest of which is 1,500 square metres for Lot 14. In addition, the land has benefit of largely flood free access to Kempsey.
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4.4 Planning for Bushfire Protection The objectives of this direction are: (a) 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 (b) to encourage sound management of bush fire prone areas.	A planning proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ.	Complies: The Bushfire Hazard Assessment by Midcoast Building and Environmental June 2014 (the report) has been prepared to meet the aims and objections of the NSW Rural Fire Service's <i>Planning for Bushfire Protection 2006</i> and Section 2 of AS 3959-2009 and has measures sufficient to minimise the impact of bushfire. Recommendations made in the report include: 1. Asset Protection Zones as detailed in Section 3.1.1 of the report. 2. Access and Egress is to be provided as detailed in Section 3.1.2. 3. A water supply (including gas bottle supply) is to be provided as detailed in Section 3.1.3. 4. Landscape principles in accordance with Section 3.1.4. 5. All new buildings are to be constructed to the requirements of AS 3959 (2009) and Planning for Bushfire Protection, 2006. 6. Requirement for a bushfire survival plan to be developed and implemented for the site. A full copy of the Bushfire Hazard Assessment is provided at Appendix B.
5.1 Implementation of Regional Strategies	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning	Consistent:



The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies. Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the extent of inconsistency with the regional strategy: (a) is of minor significance, and (b) the planning proposal achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.	The planning proposal is consistent with the Mid North Coast Regional Strategy 2009 which identifies requirement for new rural-residential development within proximity of an existing settlement and states: <i>“However any new planning for rural residential settlement should focus on land close to an existing urban settlement, away from the coast, away from areas that may in the future have value as urban expansion areas, where significant vegetation clearing would not be required and where current or potential future primary production will not be affected. Protection of primary production and biodiversity values of rural areas will be achieved by limiting settlement and controlling subdivision.”</i> The identified area is consistent with that above in that: • It is close to the existing settlements of Crescent Head, away from the coast and not sufficiently proximate or connected to be an urban expansion area. • The site is separated from Crescent Head Village by ecologically significant flood prone land.
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		The Planning Proposal will not result in the loss of significant vegetation, biodiversity values or primary production. The planning proposal achieves the overall intent of the Regional Strategy, in relation to rural residential development.
6.1 Approval and Referral Requirements Objective The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	A planning proposal must: (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of: (i) the appropriate Minister or public authority, and (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and	Complies: The planning proposal does not include any provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, other than those already required by existing “Integrated Development provisions and State Environmental Planning Policies.



	(c) not identify development as designated development unless the relevant planning authority: (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.	
6.3 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or	Complies: The planning proposal seeks to rezone the site to an existing zone already applying in the environmental planning instrument consistent with item 4(b) of the 117 Direction and does not propose any additional development standards or requirements to those already contained in the relevant zone.



Planning Proposal 1466 Crescent Hd Rd

	c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended. A planning proposal must not contain or refer to drawings that show details of the development proposal.	



APPENDIX D – STATE ENVIRONMENTAL PLANNING POLICIES



D1. State Environmental Planning Policy (Rural Lands) 2008

The proposal to rezone rural land to Large Lot Residential requires consideration of the provisions of the SEPP for Rural Lands and flags the mid north coast farmland mapping for consideration.

The Planning Proposal is consistent with a Kempsey Council's Local Growth Management Strategy which has been prepared by Council in consideration of the SEPP for Rural Lands 2008 and has been approved by the Director- General.

Therefore inconsistency with the SEPP and S117 Directive 1.5 Rural Lands is acceptable.

Clause 7 of the SEPP for Rural Lands is addressed as follows.

Part 2 Rural Planning Principles

7 Rural Planning Principles

The Rural Planning Principles of SEPP (Rural Lands) 2008 are

(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,

Comment: The planning proposal does not impinge upon the current agricultural capacity of the residue lands.

(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,

Comment: The adopted Rural Residential Strategy for Crescent Head road area, avoids areas of prime agricultural land and recognises that changing nature of agriculture in this area.

(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

Comment: The planning proposal will result in additional economic benefits to the rural area and still retain the open grazing land in the flood plain areas.

(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,

Comment: The adopted Rural Residential Strategy assesses the subject land under specific Environmental Sustainability Criteria, including economic and environmental interests. Refer Appendix 5 of the Background Report to the Rural Residential Strategy.

(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,



Comment: The Background Studies supporting the adopted Rural Residential Strategy assesses the natural resources of the subject area and include reference to a range of ecological assessments. Regard has been had to maintaining biodiversity, protection of native vegetation, water resources and avoiding constrained lands.

(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

The planning proposal for approximately 14 ha of R5 land would result in 11 x 1 ha lots and 3 x 40 ha lots which would support rural lifestyle settlements already established in the immediate area.

(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,

The site is already serviced by sealed public road, electricity & telecommunications. Reticulated water pressure investigations indicate that each resulting residence should allow for self supply. Road network capacity is also adequate.

(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The Mid North Coast Regional Strategy is the applicable regional strategy and the Kempsey Rural Residential Strategy is the relevant local strategy. The planning proposal is consistent with both those strategies. In particular, the planning proposal is in direct response to the KSC Rural Residential strategy which identifies this land as having Rural Residential Potential (Map 6) and section 4.2 (p24) identifies a 1ha minimum lot size of 1ha and Map 18 includes the subject land as part of Stage 1 release areas.

In considering the above Rural Planning Principles, principle (h) is most relevant to the subject Planning Proposal. The Planning Proposal is consistent with an applicable local strategy endorsed by the Director-General. Inconsistency with S117 Direction 1.5 is acceptable under Clause 6 of the Directive.

D.2 State Environmental Planning Policy No. 14 – Coastal Wetlands

The site contains a designated SEPP 14 wetland #479. However it is contained within that portion of the site which will remain unchanged, zoned E2 Environmental Conservation. The mapped boundary of the SEPP 14 wetland is over 700 m from the closest potential dwelling site to arise from the Planning Proposal or subsequent subdivision of the land.

Further, it is not proposed to clear, construct a level, drain or fill, or others disturb any part of the designated SEPP 14 wetland area.



D.3 State Environmental Planning Policy No. 44 – Koala Habitat

The site identified as part of the area mapped under the Kempsey Comprehensive Koala Plan of Management. This KPOM was prepared under the provisions of SEPP 44 and has been approved by the Department of Planning.

Sections 4.1.2 & 5.0, pages 39 & 63, respectively of the ecological assessment by *Naturecall Environmental* dated September 2014 addresses the provisions of SEPP 44 and the Kempsey Comprehensive Koala Plan of Management.

D.4 State Environmental Planning Policy No. 55 – Remediation of Land

Clause 6 of the *SEPP 55 – Remediation of Land* requires a planning authority to consider whether the land is contaminated and if the land is contaminated, to be satisfied that the land will be suitable for the proposed use or appropriately remediated.

In accordance with Clause 6(2) a preliminary investigation of the land in accordance with the contaminated land guidelines has been undertaken and the land has not been used for any of the purposes referred to in Table 1 of the contaminated land planning guidelines.

Enquiries of the current owners and a third party person familiar with the land described wholly as Lot 280 DP 1098732 indicate that:

- All previous and current land use has been cattle grazing with a single dwelling occupancy.
- There is no on site cattle tick dip or former tick dip site.
- The land has not been used for Market Gardens or Orchards.
- There are no oil storage depots or former fuel depots associated with the past or present uses.
- There are no refuse or garbage land fill areas

Searches of the land contamination register, record of notices and contaminated sites notified to EPA have not identified the subject land Lot 280 DP 1098732, nor its prior descriptions of Lot 51 DP 840064 and Lot 51 DP 831029.

Table 1 - List of Potentially Contaminating Activities

Acid/alkali plant and formation	Metal treatment
Agricultural/horticultural activities	Mining and extractive industries
Airports	Pesticide manufacture and formulation
Asbestos production and disposal	Pharmaceutical formulation and
Chemicals manufacture and formation	manufacture
Defence works	Oil production and storage
Drum re-conditioning works	Paint formulation and manufacture
Dry cleaning establishments	Power stations
Electrical manufacturing (transformers)	Railway yards
Electroplating and heat treatment premise	Scrap yards
Engine works	Service stations



Explosive industry	Sheep and cattle dips
Gas works	Smelting and refining
Iron and steel works	Tanning and associated trades
Landfill sites	Waste storage and treatment
	Wood preservation

Source: ANZECC & NHMRC 1992 The Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites, From DUAP & EPA 1998 Managing Land Contamination.

D.5 State Environmental Planning Policy No. 71 – Coastal Protection

Council GIS mapping indicates that the subject land is not mapped as part of the Coastal Zone mapping under SEPP 71.

D.6 State Environmental Planning Policy (Infrastructure) 2007

The subject land is accessed from Maria River Road and has frontage to Crescent Head. Both roads are sealed public roads.

Clause 93 of the SEPP Infrastructure defines **classified road** has the same meaning as it has in the Standard Instrument. The Standard Instrument defines **classified road** (by reference to the [Roads Act 1993](#)) to mean any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

Crescent Head Road is listed by the RMS as an Unclassified Regional Road RMS Ref 7737. However, Kempsey Shire Council considers Crescent Head Road to be a Classified Road.

In relation to Division 17 of the SEPP (Infrastructure) 2007

101 Development with frontage to classified road

(1) *The objectives of this clause are:*

- (a) *to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) *to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

(2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:*



- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Comment: Clause 101(a) is satisfied because access is off Maria River Road, not Crescent Head Road and utilises an existing Council intersection of Crescent Head Road with Maria River Road. The first driveway /access into the land, as demonstrated by the intended outcome subdivision concept, at appendix A, is more than 90 m from the intersection of Maria River Road and Crescent Head Road.

Clause 101(b) is satisfied because the design of vehicular access to the land will not compromise the safety efficiency or operation of Crescent Head Road and there will be no smoke or dust air emissions from the future subdivision, nor will the volume or frequency of traffic from 14 occupied rural allotments generate any significant impact.

Clause 101(c) is satisfied because the future dwelling sites associated with the planning proposal are located many hundreds of meters from Crescent Head road and the subject road does not have traffic volumes sufficient to cause traffic noise or vehicle emissions nuisance to the new residents.

102 Impact of road noise or vibration on non-road development

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers is likely to be adversely affected by road noise or vibration.*

Comment: Clause 102 is not applicable as Crescent Head road is not a freeway, a tollway or a transitway, nor is it a road with AADT >40,000.

103 Excavation in or immediately adjacent to corridors

Comment: Clause 103 is not applicable to Crescent Head road.



104 Traffic-generating development

The provisions of this clause do not refer to rezonings. However, the intended outcome of the Planning Proposal is a subdivision. Column 1 of the Table to Schedule 3 in the SEPP (Infrastructure) refers to subdivisions of more than 200 lots. Column 2 of the same table refers to subdivisions of more than 50 lots. The intended outcome is a rural residential/rural subdivision of only 14 lots.

The referral provisions of the SEPP for Infrastructure under this clause are not triggered by the planning proposal or the intended outcome.

