



Mr Craig Milburn  
General Manager  
Kempsey Shire Council  
PO Box 3078  
WEST KEMPSEY NSW 2440

Dear Mr Milburn

**Planning proposal PP\_2018\_KEMPS\_004\_00 to amend Kempsey Local Environmental Plan 2013**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to make various housekeeping amendments to the Kempsey Local Environmental Plan 2013, including rezoning and amending the minimum lot size and height of buildings controls for various parcels of land and changing the urban release area map.

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

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistencies with section 9.1 Directions 1.5 Rural Lands, 2.1 Environment Protection Zones, 4.1 Acid Sulfate Soils, 5.10 Implementation of Regional Plans and 6.2 Reserving Land for Public Purposes are justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

In relation to section 9.1 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the reduction and creation of land for public purposes as the changes will more accurately reflect the current NSW National Parks estate across the local government area.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of section 9.1 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.


It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within nine months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Melissa Thomson to assist you. Ms Thomson can be contacted on 5778 1486.

Yours sincerely

 20 February 2019  
**Stephen Murray**  
**Executive Director, Regions**  
**Planning Services**

Encl: Gateway determination  
Authorised plan-making reporting template



## Gateway Determination

***Planning proposal (Department Ref: PP\_2018\_KEMPS\_004\_00): to make various housekeeping amendments to the Kempsey Local Environmental Plan 2013.***

I, the Executive Director, Regions at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kempsey Local Environmental Plan (LEP) 2013 to make various housekeeping amendments, including rezoning and amending the minimum lot size and height of buildings controls for various parcels of land and changing the urban release area map, should proceed subject to the following conditions:

1. Prior to agency or community consultation, the planning proposal should be amended to update Part 6 – Project Timeline to reflect a more accurate time frame based on the Gateway determination date.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **14 days**; and
  - (b) the planning proposal 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* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities/organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
  - NSW Rural Fire Service; and
  - NSW Office of Environment and Heritage – National Parks and Wildlife Service.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
  - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **nine months** following the date of the Gateway determination.

Dated 20<sup>th</sup> day of February 2019.

  
Stephen Murray  
Executive Director, Regions  
Planning Services  
Department of Planning and  
Environment

Delegate of the Minister for Planning