



Gateway Planning Proposal

Lot 13 DP 878784
Seams Road, Kundabung



Gavan Landini

November 2017



HOPKINS CONSULTANTS

DEVELOPMENT MANAGERS • SURVEYORS • ENGINEERS • PLANNERS



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1 INTRODUCTION

Proposal:	Change minimum lot size of subject land from 40Ha to 10Ha and 20Ha
Property Details:	Lot 13 DP 878784, Seams Road, Kundabung
Applicant:	Mr Gavan Landini C/-Hopkins Consultants P O Box 1556 Port Macquarie NSW 2444
Owner:	Mr Gavan Landini

Executive Summary

Hopkins Consultants have been engaged by Gavan Landini to prepare a Planning Proposal for a change to the minimum lot size from 40ha to 10ha and 20Ha on Lot 13 DP 878784, Seams Road, Kundabung.

The Planning Proposal seeks amendment of the Kempsey Local Environmental Plan 2013 (KLEP2013) by amendment of the Lot Size Map – Sheet LSZ_012.

This planning proposal is consistent with the recently adopted Kempsey Shire Rural Residential Land Release Strategy (December 2014) which identifies this portion of land for potential rural residential land supply. The proposed changes to minimum lot size will allow for future subdivision opportunity, creating parcels appropriate for rural residential land uses.

This Planning Proposal has been prepared in accordance with the Department of Planning's Gateway process and addresses the requirements of the Department of Planning's Guide to Preparing Planning Proposals and Guide to Preparing Local Environmental Plans.



2 SUBJECT SITE

The site is located within the established rural community of Kundabung, approximately 1.5km west of the Pacific Highway. The site is approximately 12km south of Kempsey and 30kms north of Port Macquarie.

The area is characterised by rural holdings. To the south of the site, Pipers Creek traverses the boundary, although the site is not flood affected. A smaller subsidiary off the creek is located within the site, linked by a series of farm dams.

The site does not currently have formal access or a road frontage. The site is currently accessed via a right of way over neighbouring properties to the north and forestry roads connecting to Old Coast Road and the Pacific Highway. Future subdivision of the site will gain access over a right of way over the neighbouring lot to the west onto Old Coast Road whilst an internal reciprocal right of carriageway within the subject lot along its western boundary will connect all future lots to the right of way. Legal arrangements to facilitate this access have already commenced, with a copy of the agreement attached at **Appendix G** for reference. It intended that these measures will be implemented prior to the planning proposal amendment taking effect.

The subject land has a total area of approximately 58.18ha.

The site has been used for rural purposes, including the grazing of livestock (cattle and horses). The site contains 3 dams and is predominantly cleared. The site contains a dwelling house and scattered vegetation which consists of sparse scattered trees through the central portion. Improvements to the site include boundary and paddock fencing and stockyards. The site is mapped as bushfire affected.

Reticulated power is provided to the site from the South and the existing dwelling on site is serviced by an onsite wastewater system. Water to the existing dwelling is provided via onsite water tanks.

The subject land adjoins existing rural land, including agricultural land uses and vegetated land parcels. The surrounding area is a mixture of rural zonings, which respond to the constraints of the land. Land uses on surrounding parcels range from rural residential to agricultural.

Photographs of the site and surrounding land are provided in figures below.

Pursuant to the provisions of Kempsey Local Environmental Plan 2013 the subject land is predominantly zoned RU2 Rural Landscape, with 3 small portions along the southern boundary of the site zoned RU1 – Primary Production. The entire site has a prescribed minimum lot size of 40ha pursuant to the Kempsey Local Environmental Plan 2013.



A Planning Proposal is necessary to modify the minimum lot size prescribed for the subject site from 40ha to 10ha and 20Ha.



Figure 1: Location within Kempsey Shire and proximity to Kempsey and Port Macquarie

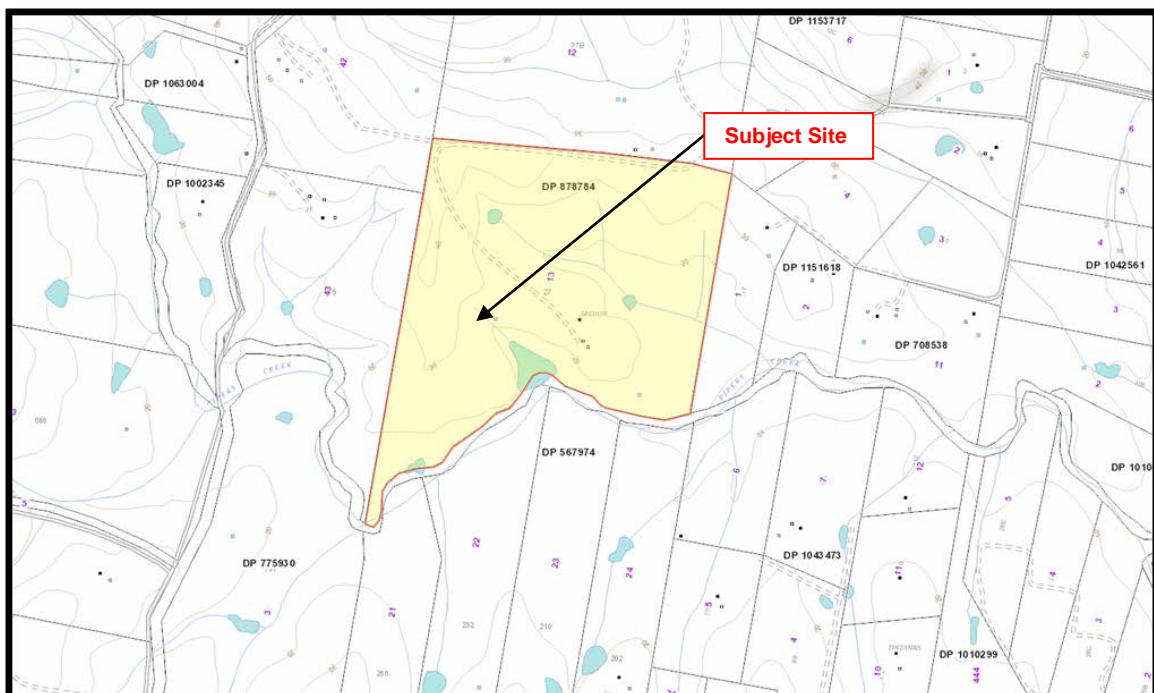


Figure 2: Location of Site



Figure 3: Aerial Photograph



Figure 4.1: View from western boundary looking north



Figure 4.2: View from western boundary looking east



Figure 4.3: View from western boundary looking south



3. PLANNING PROPOSAL

After consultation with Kempsey Shire Council, the following planning proposal has been prepared in accordance with Council's advice and the Department of Planning's *"A Guide to preparing planning proposals"*

PART 1: OBJECTIVES OR INTENDED OUTCOMES

To amend the Kempsey Local Environmental Plan 2013 as it applies to the subject land to enable the subdivision of land at Lot 13 DP 878784, Seams Road, Kundabung into three parcels.

The Planning Proposal is consistent with the Kempsey Shire Rural Residential Land Release Strategy and the North Coast Regional Plan 2036.

The intended outcome is to enable development of the identified portion of land in a subdivision pattern which will be the subject of a Development Application to be lodged following conclusion of this planning proposal. A subdivision concept plan is included at **Appendix B**.

PART 2: EXPLANATION OF PROVISIONS

The desired future use of the site would be best served by the application of a minimum lot size of 10ha and 20ha to Lot 13 DP 878784, Kundabung.

The proposed outcome will be achieved by:

- Amending the Kempsey Local Environmental Plan 2013 Minimum Lot Size Map Sheet LSZ_012 to indicate a maximum permissible lot size of 10ha and 20ha for the subject site.

The proposed amendment to the minimum lot size will enable the owners of the site to proceed with their vision for the land, subject to Kempsey Council's consideration of a future development application for subdivision. The proposed amendment will also provide an additional supply of land for rural residential land use in accordance with the Kempsey Shire Rural Residential Land Release Strategy and the North Coast Regional Plan 2036.

PART 3: JUSTIFICATION

The planning proposal seeks to alter the minimum lot size of a single lot of land at Kundabung to allow subdivision to 10ha and 20ha sized allotments.



The subject site identified for the change to minimum lot size is generally free of flooding and ecological constraints and is already serviced adequately for its rural setting.

There will be positive social and economic benefits from the proposed rezoning, by way of additional housing stock. The economic boost to the local economy is provided by the additional housing and all areas of the community which are involved in construction and selling. The site is well positioned to easily access both Kempsey and Port Macquarie town centres and should be prioritised in terms of timing due to its key location and good access via the Pacific Highway.

The proposed change to minimum lot size will provide the ability for the subject site to be divided into three portions, which will be appropriate for large scale rural residential development at this stage and will have the potential for further rezoning and subdivision to smaller portions in the future should further demand arise.

SECTION A: NEED FOR THE PLANNING PROPOSAL

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

Yes - The planning proposal is consistent with the Kempsey Shire Rural Residential Land Release Strategy (dated December 2014) and the North Coast Regional Plan 2036.

Kempsey Local Growth Management Strategy Rural Residential Component

The purpose of the Kempsey Local Growth Management Strategy – Rural Residential Component is to meet Council’s obligations to manage population and housing growth, consistent with relevant regional policies. With respect to Kundabung, it has been identified there is good accessibility, proximity to and support of Kempsey’s businesses and services and the locality has good cleared areas that reduce potential for habitat impacts.

The Strategy identified 12 areas within the LGA for investigation and granted each location a “score” based on its ability to deliver economically sustainable development outcomes. Kundabung achieved a B grade, indicating that:

“High contribution to sustainable development expected. Area should be developed, subject to resolution of outstanding issues or further investigation.”

Each investigation area was also assessed for its land capability and staging timeframes under the categories of Infrastructure, Environmental, Town Access, Demand and Density Capabilities. In this respect, Kundabung was assessed as shown in **Figure 5** below.



Rural Residential Areas*	ESD Ranking	Accessibility	Market Demand	Infrastructure Availability	Density	Comments or Further Study
9 Kundabung	B	Good	Weak	Good	Good	Market demand is possibly poor due to the large (8ha) lot sizes available under current zoning. Cleared land near the village could be rezoned to allow 1ha lots, subject to flooding and habitat studies. Scope to rationalise the area zoned for 8ha lots, subject to habitat studies.

Figure 5: Extract from Kempsey Local Growth Management Strategy - Kundabung First Capability Assessment

Map 7 within the Strategy identifies the site the subject of this planning proposal as located within the investigation area with rural residential potential, as shown below in **Figure 6**.

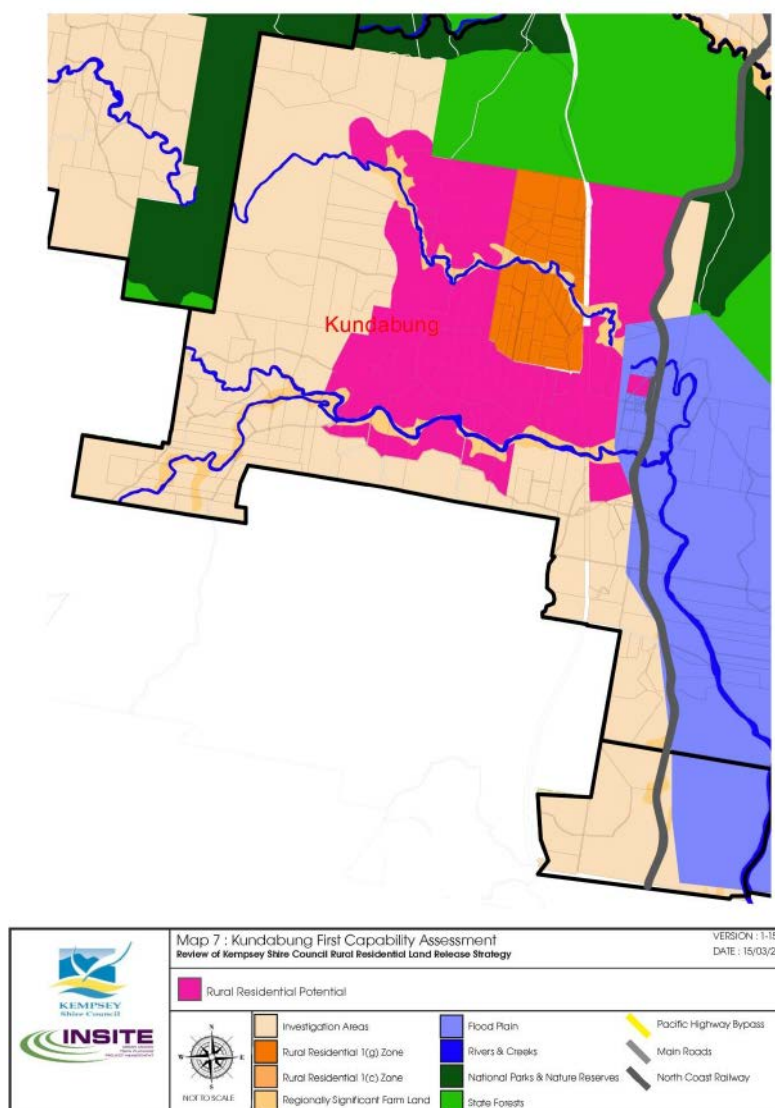


Figure 6: Extract from Kempsey Local Growth Management Strategy - Kundabung First Capability Assessment

Further comments on the rural residential potential of Kundabung and its inclusion in the strategy are included as follows:



“Rural residential potential for Kundabung was re-evaluated having regard to extensive forest cover and Koala habitat, which has potential to link with Koala habitat in National Parks and State Forests to the east, south and west and result in less exposure to bushfire risk. The land currently zoned RU4 is viable for intensification to permit lots down to 4ha, subject to further detailed analysis, including provision of access to the western-most parts via Smith Creek Road.

Remaining areas are largely cleared, with reasonable access via local roads to the Highway. Further data and risk assessment relating to flooding, and Koala habitat will be necessary before land is rezoned.

Significant farmland has been identified as excluded land from the release areas.”

The Background Paper also notes that Kundabung is an area where there is no supply but demand exists. Areas within the RU4 zone and with a minimum lot size of 8ha are identified as having the potential for further reduction to the minimum lot size applicable to those areas. This planning proposal and the subject site (which adjoins the RU4, 8ha minimum zone) would have no impact on the ability of that area to pursue the recommendations of the Rural Residential Land Release Strategy. The proposed changes to minimum lot size under this planning proposal do not seek to reduce the minimum lot size to its smallest potential area but instead seeks to reduce the minimum lot size to an appropriate level which will allow for the orderly change to lot size to occur in the Kundabung area and will avoid leapfrogging areas closer to the town centre. Further changes to minimum lot sizes to smaller areas may be proposed in the future, should demand arise and in line with change and growth of the broader Kundabung township.

Figure 7 below shows the site as “*Post Exhibition Rural Residential Release Area*” and “*RU4 Zoned Potential 4ha lot size*”. This Planning Proposal applies to a site indicated within the release area, **identified as** Stage 3 and as **an area for potential rezoning** subject to access via Smiths Creek Road.

Figure 7: Extract from Kempsey Local Growth Management Strategy - Kundabung Land Release Staging

It is noted that the land release staging plan identifies the site as being within a later stage of the release of Kundabung. Discussions have been undertaken with Council which indicated that a change to the minimum lot size of the subject site would be supported given market demand but it was considered that a proposal for a larger minimum lot size which would facilitate a 3 lot subdivision only would be most appropriate at this stage and would provide opportunity for a further reduction in minimum lot size and rational subdivision in the future, should demand increase.

Despite being identified as “Stage 3”, the area subject of this planning proposal is still shown in the figure as an area of potential. The proposal to reduce the



minimum lot size to 10Ha and 20Ha rather than the potential future proposal to rezone the land or the reduce the minimum lot size to a smaller rural residential lot area is reflective of preparation for future development of the area in accordance with the strategy, whilst not “leap frogging” stages 1 and 2 of the strategy for Kundabung.

The Kempsey Rural Land Release Strategy 2014 outlines that planning proposals in the Kundabung area must consider the provision of access to Stage 3 via Smiths Creek Road. As part of Stage 3, the subject site will ultimately require access to Smiths Creek Road. This proposal has been designed to ensure that the subject site will not be developed to its full Stage 3 rural residential potential at this point and instead proposes a larger lot size with access proposed via a right of way to Old Coast Road and then onto Smiths Creek Road. In that regard, this site still ultimately gains access to Smiths Creek Road, albeit without a direct road frontage. The proposed means of access via right of way is the only available point of access during this pre-Stage 3 phase, and hence why the full Stage 3 potential for this block is not being proposed at this point in time.

This has been done specifically to avoid the leapfrogging of earlier stages and to ensure the proposed site will be able to be appropriately integrated into Stage 3 once development of Stage 2 has reached the area. The proposal will not detrimentally affect the site's or the remainder of Stage 3's ability to obtain direct access to Smiths Creek Road when appropriate linkages have been developed through Stage 2 to the east of the subject site. It is expected that when Stage 3 is activated in full, the subject site will be subject to a further planning proposal to bring about its full Stage 3 yield, and will then connect to rationalised access roads through Stage 2 which connect to Smiths Creek Road as per the strategy's requirements.

The strategy further indicates that habitat and fire hazard would need to be adequately addressed prior to any rezoning and subdivision proceeding. The subject site is considered favourable with regards to these constraints, and reports indicating their suitability in these areas are attached at **Appendix C** (Ecological Assessment Report) and **Appendix D** (Bushfire Assessment Report) and are addressed below.

Ecological/Habitat Considerations

Whilst the planning proposal does not include any development, an ecological report was prepared to demonstrate that the future subdivision of the land (which the planning proposal would facilitate) would have minimal impact on flora or fauna within the subject site and in the surrounding area. The Ecological Assessment Report, prepared by **Echo Ecology** concluded:

“The study area contains large areas of cleared pasture, with some remnant native vegetation occurring, mostly in the form of canopy trees. A total of 32 threatened fauna species have the potential to occur within the study area and remnant vegetation within low-lying floodplain areas is likely to



represent Subtropical Coastal Floodplain Forest EEC. Remnant vegetation within the study area is also likely to constitute Primary and Secondary (Class A) koala habitat. The proposal is for subdivision into three rural lots, with no rezoning or vegetation clearing required. The proposed new lots appear to contain sufficient cleared areas to allow the future construction of new houses (one per lot) without further vegetation clearing. Providing the recommendations outlined in Section 5 are adopted, we consider it unlikely that the subdivision proposal will significantly impact on any threatened species, populations or communities listed under TSC Act or EPBC Act.”

Bushfire Hazard Considerations

A Bushfire Assessment Report has been prepared to address the future development of the land under a 3 lot Torrens title subdivision. The Bushfire Assessment Report concluded:

“This application and report is unique in that there is no proposed construction nor is there any predicted future construction works; it is for the subdivision of rural lands only.

These works however, are still captured under Planning for Bushfire Protection 2006 and as such have been assessed for a subdivision as is required. Developments of this type have to meet the ‘specific objectives for subdivisions’ and the ‘standards for meeting the Bush Fire Protection Measures’ as outlined in PPBP2006.

This report has identified that these objectives and measures can be met. This report has also identified 2 potential construction areas, one on each proposed new lot, where future dwellings may be constructed with little to no construction standards required given the existing nature of clearance on the vegetation clearance and other bushfire protection measures.

Given that there is limited vegetation on site, the most important factor in assessing the threat for the proposed 3 lots is access. Access must be carefully planned in order to meet the requirements of PBP2006 and achieve a suitable “acceptable solution” under that document.”

It is considered that whilst this planning proposal does not propose subdivision, it is the planning proposal’s purpose to facilitate the future subdivision of the land. It has been adequately demonstrated that a future subdivision would be acceptable and appropriate in terms of ecology and bushfire and adverse impacts could be mitigated through the implementation of the recommendations of the reports. The Bushfire Assessment Report demonstrates that appropriate access arrangements pursuant to PFBP2006 for a future rural subdivision will be established as part of the planning proposal process.

The proposed change to minimum lot size over the site is considered consistent with the aims and objectives of the Kempsey Local Growth Management Strategy



– Rural Residential Component and will contribute to the realisation of the rural residential development of the Kundabung area as projected by the strategy.

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

Yes – The planning proposal is the only legal method of amending Kempsey Local Environmental Plan 2013 and there is no other mechanism available to achieve the objective of rural-residential development in relation to the subject site. Kempsey Shire Council adopted the Standard Instrument in the creation of the Kempsey Shire Council Local Environmental Plan 2013 so inclusion in this process is not an option in the facilitation of the objectives or intended outcomes of this planning proposal.

Council has not indicated a timeframe for a shire wide rezoning or changes to minimum lot sizes to reflect the recommendations of the Strategy. However the proposed change to minimum lot size is considered appropriate in facilitating the longer term goals of the strategy whilst maintaining a controlled and steady transition of the Kundabung Land Release Area.



SECTION B: RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3.1.3 Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

Yes – The planning proposal is consistent with the objectives and actions of the North Coast Regional Plan 2036.

The North Coast Regional Plan 2036 applies to the subject site. The plan outlines the opportunities and constraints to growth in the region and sets directions and actions to control and guide development in a strategically and environmentally sound manner. Whilst the plan applies more generally to plan making and strategy development on a local and regional scale, directions and actions of general relevance to the subject site and planning proposal are outlined in the table below:

Direction and Actions	Response
Direction 11: Protect and enhance productive agricultural land	
Actions 11.1 Enable the growth of the agricultural sector by directing urban and rural residential development away from important farmland and identifying locations to support existing and small-lot primary production, such as horticulture in Coffs Harbour.	<p>Through the development of the Kempsey Shire Rural Residential Land Release Strategy, Council has sought to achieve the outcomes of this action by identifying areas appropriate for rural residential growth and development whilst excluding and protecting productive farmland. The subject site falls within the area identified appropriate for rural residential land use in the Kundabung locality.</p> <p>It is noted that three small isolated pockets of regionally significant farmland are mapped on the subject site. The planning proposal does not include a variation to the zoning of the land and will not prevent the use of these pockets for agricultural uses in conjunction with the larger portions of unmapped farmland that makes up the site. The boundaries of the proposed changes to minimum lot size and the future subdivision this would facilitate have been designed to ensure that fragmentation of the individual pockets does not occur.</p>



Direction 24: Deliver well-planned rural residential housing areas	
<p>Action 24.1 Facilitate the delivery of well-planned rural residential housing areas by:</p> <ul style="list-style-type: none"> • identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and • ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised). 	<p>The Kempsey Shire Rural Residential Land Release Strategy has been adopted prior to the release of the North Coast Regional Plan but was nevertheless developed in accordance with the previous Mid-North Coast Regional Strategy and the Settlement Planning Guidelines for the North Coast Region. The subject site falls within the identified rural residential release area in the Kundabung township and is consistent with the strategy, as outlined elsewhere in this report.</p>
<p>Action 24.2 Enable sustainable use of the region's sensitive coastal strip by ensuring new rural residential areas are located outside the coastal strip, unless already identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment.</p>	<p>The Kundabung rural residential release area is located outside of the coastal strip.</p>

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

Yes – Kempsey Shire Rural Residential Land Release Strategy (dated December 2014) identifies Kundabung and the subject site as an area suitable for future rural residential land development. The proposed change to the minimum lot size of the subject site is consistent with the aims and objectives of the rural residential land release strategy but does not represent a leap frogging of surrounding areas also earmarked for rural residential development. Refer to discussion above in Section 3.1.1.

3.1.5 Is the planning proposal consistent with applicable State environmental planning policies?

Yes - In assessment against the relevant State Environmental Planning Policies (SEPP) is shown in the following table.

SEPP	Comment
No. 44 – Koala Habitat Protection	The <i>State Environmental Planning Policy No. 44 – Koala Habitat Protection</i> (SEPP 44) applies to all LGAs listed on Schedule 2 of the policy, except land dedicated under the <i>National Parks and Wildlife Act 1974</i> or the <i>Forestry Act 1916</i> .



	<p>Potential Koala Habitat is defined as areas where koala feed tree species listed under Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component. An area of land to which the policy applies must be at least one hectare in area (includes the total area of adjoining land in the same ownership). If potential koala habitat is present then it must be further assessed to determine whether it represents core koala habitat.</p> <p>Core Koala habitat is defined as ‘an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population’.</p> <p>The policy requires the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, encourages the identification of areas of core koala habitat, and encourages the inclusion of areas of core koala habitat in environment protection zones.</p> <p>The subject site is mapped as within the Kempsey Shire Council Comprehensive Koala Plan of Management for the Eastern Portion of Kempsey Shire LGA and therefore is subject to the working provisions of the CKPoM. Future development of the site will be subject to the CKPoM and an individual site based Koala Plan of Management will not be required.</p> <p>The CKPoM provides planning provisions in the case of a proposed development application or rezoning applications. As the changes to the minimum lot size proposed under this planning proposal constitute neither a development application nor a rezoning proposal, no further planning provisions are applicable under the CKPoM.</p> <p>With respect to the future development (subdivision) of the site, an Ecological Report has been commissioned which concluded:</p> <p><i>”The Kempsey CKPoM (Kempsey Shire Council 2011) maps most of the study area as Unknown (cleared or partly cleared) and remnant vegetation as Secondary (Class B) Koala Habitat. We found that the study area contained three Preferred Koala Food Tree species being Eucalyptus tereticornis (Forest Red Gum), Eucalyptus microcorys (Tallowwood) and Eucalyptus propinqua (Small-fruited Grey Gum). Eucalyptus microcorys (Tallowwood) and Eucalyptus propinqua (Small-fruited Grey Gum) were common in the west and eastern patches of remnant vegetation. Scattered Eucalyptus tereticornis (Forest Red Gum) occurred mostly in low-lying areas of the study area on alluvial soils.</i></p> <p><i>The Kempsey CKPoM resource study (Biolink 2009) found</i></p>
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	<p><i>that koala use of Eucalyptus microcorys (Tallowwood) on erosional and residual soil landscapes was significantly lower than alluvial soil landscapes and strongly size class dependent (larger trees being used more frequently). In classifying vegetation communities as Koala habitat, Biolink (2009) treated Eucalyptus microcorys as a Primary Food Tree on alluvial, transferral and estuarinesoil landscapes and as a Secondary Food Tree on erosional and residual soil landscapes. Biolink (2009) also found that Eucalyptus tereticornis (Forest Red Gum) was unlikely to be a Preferred Food Tree when growing on erosional and residual soil landscapes.</i></p> <p><i>As preferred koala food trees were generally dominant or co-dominant within the Lowland Red Gum and Dry Grassy Tallowwood-Grey Gum vegetation communities within the study area, we consider it unlikely that these areas are Secondary (Class B) Koala habitat as mapped by the CKPoM. Some areas of these vegetation communities on alluvial soils are likely to fall into the Primary Koala Habitat category. Where these vegetation communities occur on the erosional Euroka soil landscape, they are likely to be classified as Secondary (Class A) koala Habitat due to the lower ranking of Eucalyptus microcorys (Tallowwood) and Eucalyptus tereticornis (Forest Red Gum) as koala feed trees in erosional soil landscapes.</i></p> <p><i>The remainder of the study area should be classified as Other Habitat as it is predominantly cleared, with no Koala feed trees present.</i></p> <p><i>It is highly likely that koalas are active within the study area and any future Development Application for proposals within the newly created lots will require detailed koala surveys and habitat mapping in accordance with the Kempsey CKPoM. Future developments will be subject to the development control provisions of the Kempsey CKPoM which are likely to restrict development within or adjacent to remnant vegetation in the low-lying areas of alluvial soils and place other restrictions on koala food tree removal or require offsetting. However, it appears that the new lots of the proposed subdivision will contain sufficient cleared areas outside of the floodplain to permit a building envelope without further vegetation clearing.”</i></p> <p><i>The planning proposal cannot impose conditions or restrictions on title to ensure the retention of the identified koala tree food trees. However, a future development application for subdivision could be restricted by way of conditions of consent providing a restriction of title to prevent their removal and would be subject to the planning provisions outlined in the CKPoM.</i></p>
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	The Ecological Report is attached at Appendix C .
No. 71 - Coastal Protection	<p><i>SEPP 71 aims to protect the natural, cultural, recreational, economic and aesthetic attributes of the NSW coast; to encourage a strategic approach to coastal management; and to further the implementation of the 1997 NSW Coastal Policy.</i></p> <p>The subject site lies beyond the mapped Coastal Zone. SEPP 71 does not apply to the site.</p>
Rural Lands 2008	<p><i>The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The SEPP contains a number of "Rural Planning Principles" that must be considered in preparing any planning proposals affecting rural lands.</i></p> <p>The proposal does not seek to alter the existing rural zoning of the land and will facilitate the creation of future lots (through a subsequent subdivision development application) which will remain conducive to rural land uses.</p> <p>Clause 7 Rural Planning Principles</p> <p>The Rural Planning Principles are as follows:</p> <ul style="list-style-type: none"> <i>(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i> <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> <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> <i>(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,</i> <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> <i>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i> <i>(g) the consideration of impacts on services and infrastructure and appropriate location when providing</i>



	<p><i>for rural housing,</i></p> <p><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></p> <p>The subject land has historically been cleared and maintained in such a state by the rural use of the land. This planning proposal does not seek to rezone the land from RU1 – Primary Production or RU2 – Rural Landscape but seeks only to allow for the creation of smaller rural parcels, which will continue to be viable for rural purposes should future land owners wish to pursue this.</p> <p>Whilst the site is largely cleared, the change to minimum lot size and future subdivision of the site for large lot rural residential purposes with a minimum site area of 10ha and 20ha will still allow for the retention of the limited vegetation thereby preventing impacts upon the creek to the south.</p> <p>The provision of new rural housing within close proximity to the town of Kempsey will result in positive economic and social benefits with the use of the local facilities by the new residents.</p> <p>The existing infrastructure is suitable to withstand the additional housing stock, which is likely to be an increase of only 2 households. The area has been identified to yield housing well above this number and this proposal will retain the subject land as viable rural land until a time comes in the future where further subdivision is considered appropriate.</p>
BASIX 2004	This SEPP will apply to any future development application for a dwelling on the land.
No. 55 - Remediation of Land	SEPP 55 requires consideration to be given prior to rezoning land, as to whether or not the site is contaminated. Whilst it is not proposed to rezone the subject site from its current RU1 and RU2 zoning, potential contamination of land has been considered. There is no historical evidence of site use which would lead to soil contamination as the site has only been used for grazing of livestock. A soil analysis of the site has also been conducted and is attached at Appendix E .

3.1.6 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The key considerations under the S117 Directions for this site and planning proposal are:



- The planning proposal seeks to modify the minimum lot size applicable to the land from 40ha to 10ha and 20ha. The proposal does not seek rezoning of the site from the current RU1 and RU2 zoning.
- The site is adequately serviced and the site is considered to be appropriate with regard to utilising existing road networks and being in close proximity to services in Kundabung.
- The planning proposal is consistent with the Kempsey Local Growth Management Strategy, which earmarks the site and surrounds for rural residential development.

Below is a review of the proposal against the relevant S.117 Ministerial Directions.

Direction	Comment
1. Employment and Resources 1.1 Business and Industrial Zones 1.2 Rural Zones 1.3 Mining, Petroleum Production and Extractive Industries 1.4 Oyster Aquaculture 1.5 Rural Lands	<p><i>1.2 - Rural Zones</i></p> <p>The proposal is consistent with the direction as it does not seek to rezone land from rural to residential. The proposal merely seeks to modify the minimum lot size for the subject lot from 40Ha to 10Ha and 20Ha to facilitate a future 3 lot subdivision of the land. Future lots will remain zoned RU1 Primary Production and RU2 – Rural Landscape and will be of sufficient size to facilitate their uses in accordance with the aims and objectives of each zone.</p> <p><i>1.5 - Rural Lands</i></p> <p>The purpose of this SEPP (Rural Lands) is to prevent the loss of rural lands and maintain the rural settlements and lifestyle. The site, forms part of the rural settlement of Kundabung and contributes to the rural lifestyle.</p> <p>The objective of this direction is to:</p> <ul style="list-style-type: none"> a) Protect the agricultural production value of rural land. b) Facilitate the orderly and economic development of rural lands for rural and related purposes. <p>As discussed above, the agricultural production value of rural land is maintained and could continue on the smaller allotments on a lesser scale. The site is not currently used for large scale agriculture.</p> <p>It is noted that three small portions of mapped Regionally Significant Farmland exist over the subject site. The proposed change to minimum lot size and any subsequent subdivision will have no impact on</p>



	<p>these areas, and care has been taken to ensure that the proposed minimum lot size boundaries will not result in the fragmentation of these portions. Future agricultural uses on site will have the potential to utilise these portions as part of any broader primary production land uses undertaken on site.</p> <p>A future development application for the site will have a subdivision layout of approximately 3 allotments and provides for an orderly distribution of rural land. It is noted that lots adjoining the site to the south and east and lots between the subject site and the Pacific Highway are of a similar size to those proposed on the subject site in the future. Neighbouring lots are utilised for a range of rural purposes and a future subdivision of the site will provide land consistent with the prevailing lot pattern and rural land uses in the area.</p>
2. Environment and Heritage 2.1 Environment Protection Zones 2.2 Coastal Protection 2.3 Heritage Conservation 2.4 Recreation Vehicle Areas	<p><i>2.2 Coastal Protection</i> The subject site is not mapped as part of the Coastal Zone.</p> <p><i>2.3 Heritage Conservation</i> No recorded sites on AHIMS register. The site is not identified as a heritage item or conservation area pursuant to the Kempsey Local Environmental Plan 2013.</p>
3. Housing, Infrastructure and Urban Development 3.1 Residential Zones 3.2 Caravan Parks and Manufactured Home Estates 3.3 Home Occupations 3.4 Integrating Land Use and Transport 3.5 Development Near Licensed Aerodromes 3.6 Shooting Ranges	<p><i>3.1 Residential Zones</i> This direction does not apply as the planning proposal does not seek to create new residential zoned land.</p>
4. Hazard and Risk 4.1 Acid Sulfate Soils 4.2 Mine Subsidence and Unstable Land 4.3 Flood Prone Land 4.4 Planning for Bushfire Protection	<p><i>4.1 Acid Sulfate Soils</i> The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.</p> <p>The subject land is mapped by Council as being Class 5 acid sulphate soils. Any use or construction activity proposed as part of a future a development application would need to identify the likely areas and depth of disturbance proposed supported by geotechnical soil sampling and incorporation of effective soil treatment and water quality protection measures.</p>



	<p>4.4 Planning for Bushfire Protection</p> <p>The property is identified as partially bushfire affected. A Bushfire Assessment Report has been prepared to address this impact.</p> <p>The direction requests:</p> <p><i>(4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,</i></p> <p><i>(5) A planning proposal must: (a) have regard to Planning for Bushfire Protection 2006, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (6)</i></p> <p>Comment: The attached bushfire assessment report demonstrates the compliance of the future intended development proposal with the required measures of Planning for Bushfire Protection 2006 and indicates that future development can occur on the site without placing inappropriate developments in hazardous areas and would not result in the prohibition of bushfire hazard reduction within future APZs.</p> <p><i>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads</i></p>
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	<p>and/or to fire trail networks, <i>LOCAL PLANNING DIRECTIONS</i> Section 117(2) of the <i>Environmental Planning and Assessment Act 1979</i> (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p> <p>Comment: The planning proposal does not involve development and no development application has been lodged concurrently with this planning proposal. Notwithstanding this, compliance of future development facilitated by the planning proposal is demonstrated in the attached bushfire hazard assessment.</p>
<p>5. Regional Planning</p> <p>5.1 Implementation of Regional Strategies</p> <p>5.2 Sydney Drinking Water Catchments</p> <p>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</p> <p>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</p> <p>5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)</p> <p>5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)</p> <p>5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)</p> <p>5.8 Second Sydney Airport: Badgerys Creek</p> <p>5.9 North West Rail Link Corridor Strategy</p> <p>5.10 Implementation of Regional Plans</p>	<p><i>5.10 Implementation of Regional Plans</i></p> <p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The North Coast Regional Plan 2036 has been released by the Minister for Planning and applies to the subject site.</p> <p>As demonstrated in Section 3.1.1 of this report, the proposed planning proposal is generally consistent with all relevant directions and actions of the North Coast Regional Plan 2036.</p>
<p>6. Local Plan Making</p> <p>6.1 Approval and Referral Requirements</p> <p>6.2 Reserving Land for Public Purposes</p> <p>6.3 Site Specific Provisions</p>	<p><i>6.1 Approval and Referral Requirements</i></p> <p>The proposal is consistent with the provisions of Clause 6.1.</p> <p><i>6.3 Site Specific Provisions</i></p> <p>The draft LEP proposes to amend the minimum lot size of the site to 10Ha and 20Ha to allow for subdivision. There is no proposed change to the</p>



	zoning of the site and subdivision is permissible, with consent within the site's current zoning pursuant to KLEP 2013.
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SECTION C: ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

3.1.7 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, contains three dams and is mostly cleared in the area identified for the change in minimum lot size provisions. The area the subject of this planning proposal contains a dwelling house and scattered vegetation. Critical habitat, threatened species populations and ecological communities do not occur on the site.

An ecological assessment was undertaken by Echo Ecology which addresses the potential ecological impacts of future development (subdivision) on the site, which will be facilitated by the outcome of this planning proposal. The report concludes:

“The study area contains large areas of cleared pasture, with some remnant native vegetation occurring, mostly in the form of canopy trees. A total of 32 threatened fauna species have the potential to occur within the study area and remnant vegetation within low-lying floodplain areas is likely to represent Subtropical Coastal Floodplain Forest EEC. Remnant vegetation within the study area is also likely to constitute Primary and Secondary (Class A) koala habitat. The proposal is for subdivision into three rural lots, with no rezoning or vegetation clearing required. The proposed new lots appear to contain sufficient cleared areas to allow the future construction of new houses (one per lot) without further vegetation clearing. Providing the recommendations outlined in Section 5 are adopted, we consider it unlikely that the subdivision proposal will significantly impact on any threatened species, populations or communities listed under TSC Act or EPBC Act..”

It is considered that future development of the site as facilitated by the proposed changes to the minimum lot size of the site is not likely to have an adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

3.1.8 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	<p>Access & traffic have been identified as matters which will require detailed analysis of any specific development proposal. The current access arrangements to the site are informal, however the owner has negotiated a future access option over the adjoining property to the west via an easement.</p> <p>The proposed change to a 10ha and 20ha minimum lot size for the subject site is intended to facilitate the future three lot subdivision of the site. This future development would be adequately serviced by the proposed right of way over the neighbouring site and would not require the</p>
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	creation of a public road due to the small number of lots to be created.
Public Domain	No public domain issues have been identified at this juncture.
Utilities	<p>The site has benefit of existing utilities and preliminary investigations indicate there is capacity to extend/increase these services as needed. The site is currently serviced by onsite water supplies and it is considered that similar arrangements will be made for future development on the site.</p> <p>A review has been undertaken to ensure there is the ability to dispose of wastewater onsite for future allotments. Details of this are included in the attached Wastewater and Soils report at Appendix E</p>
Waste (Garbage Service)	Commercial waste removal services would be part of any future development application lodged for the site. Currently, the landowner carts all household waste from the site to Council's Waste Management Centre.
Heritage & Archaeology	No recorded sites on AHIMS register. The site is not identified as a heritage item or conservation area pursuant to the Kempsey Local Environmental Plan 2013.
Soils / Acid Sulphate Soils	Land subject to ASS constraint – class 5. 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 minimum lot size to allow large lot rural residential development is unlikely to create air or microclimate impacts.
Flora & Fauna	See section 3.1.7 above.
Noise & Vibration	There will be an increase in population as a result of the change of zoning. However, the noise generated from 3 rural allotments is insignificant.
Natural Hazards Including:	
Bushfire	Bushfire impacts have been reviewed and given there has been extensive on-going clearing of the site for grazing activities, it is expected the future siting of dwellings could be accommodated within already cleared areas. Bushfire risk assessment would be part of any specific development proposal resulting from the planning proposal.
Flooding	Flooding is not a consideration for the site.
Slip and Subsidence	No subsidence issues exist on site or would be created due to future development of the site facilitated by the changes proposed under this planning proposal.



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

An economic benefit is anticipated both in the short term during construction and in the longer term with respect to the sustained and strategic growth of Kundabung. The residents of the future dwellings are likely to utilise the services and shops within Kempsey, as well as Port Macquarie further to the south, which will boost the local economy all year round.

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.

SECTION D: STATE AND COMMONWEALTH INTERESTS

3.10 Is there adequate public infrastructure for the planning proposal?

Yes – adequate public infrastructure is in place as part of the existing environment.

Road access is required to be formally arranged through the adjoining site to the west, with access to Old Coast Road. It is considered this access will be achieved via a right of carriageway over a neighbouring lot, which will be sufficient in accommodating the future access requirements of three lots on the site.

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

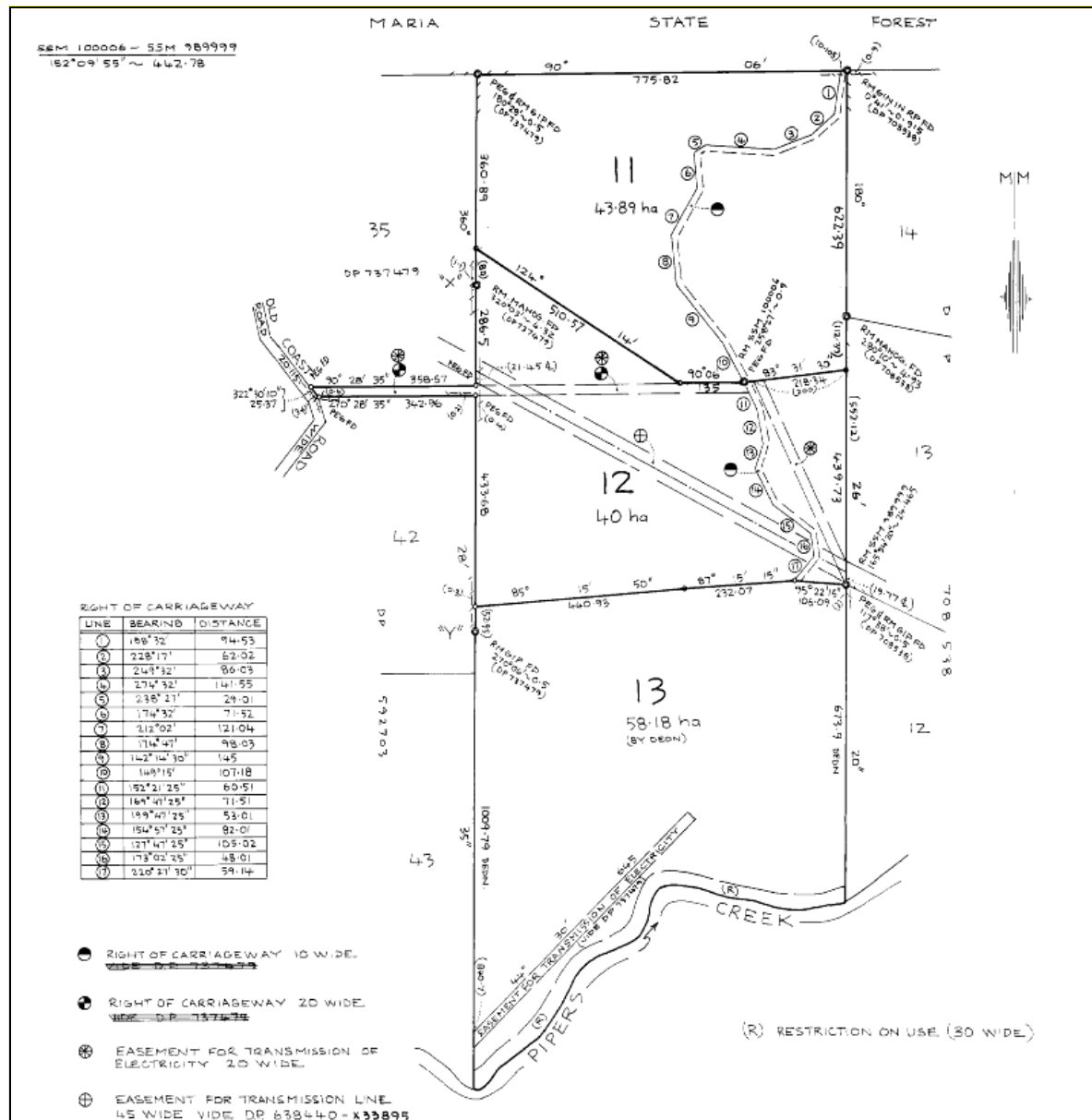
This section is to be completed following consultation with the State and Commonwealth authorities should the Director General determine to proceed with the Planning Proposal and identifies which authorities are to be consulted with.



PART 4: MAPPING

4.1 The land subject to the planning proposal

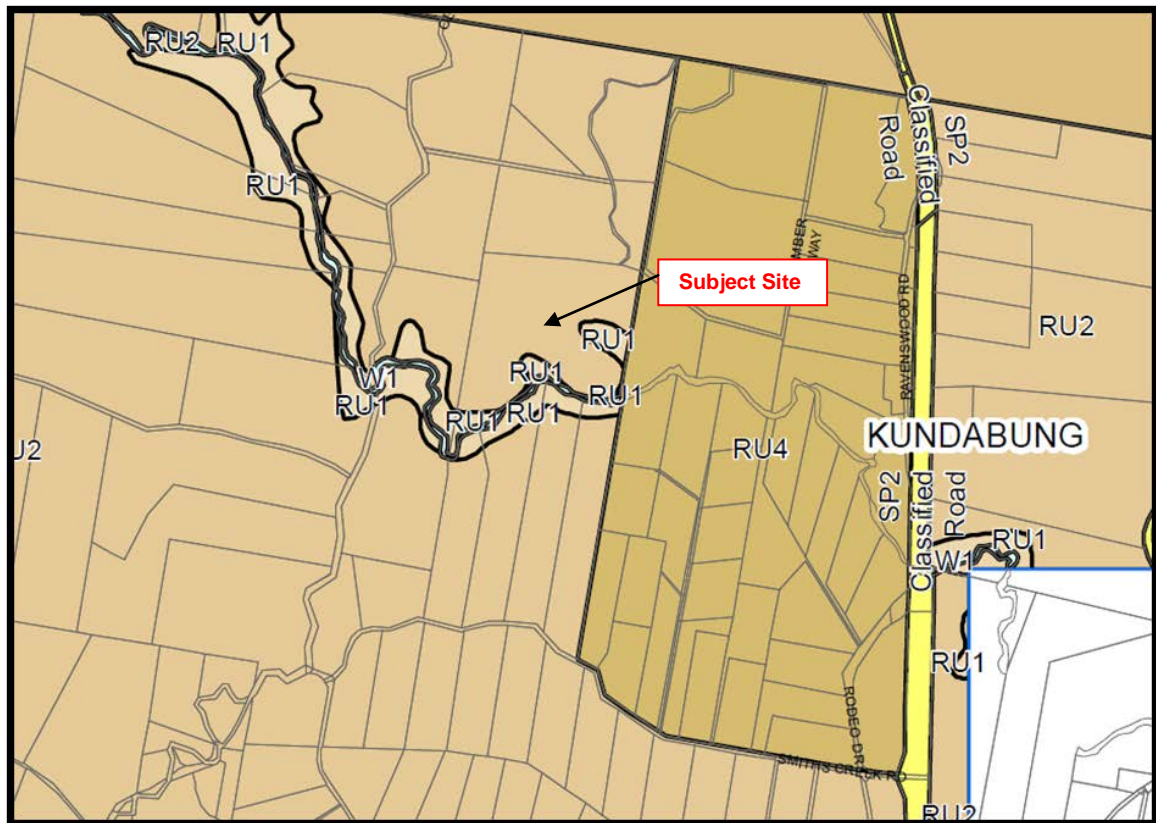
The land the subject of this planning proposal is identified as Lot 13 DP 878784, Seams Road, Kundabung.



4.2 Current land use zone

RU2 Rural Landscape and RU1 Primary production (southern portion).

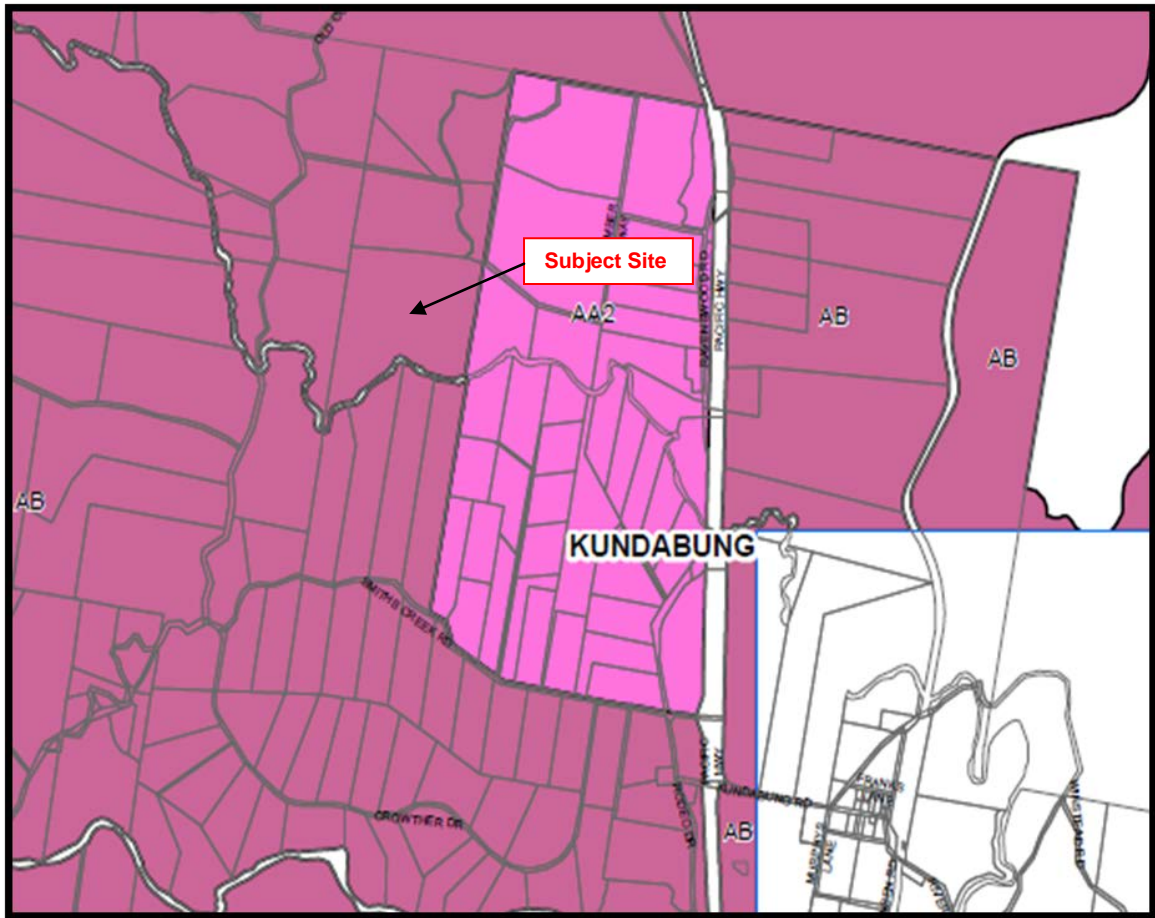
No change is proposed to the RU1 or RU2 zoning.



- RU1 Primary Production
- RU2 Rural Landscape
- RU3 Forestry
- RU4 Primary Production Small Lots

4.3 Current development standards

40ha minimum lot size for subdivision and dwellings.



4.4 Suggested alternative zone(s)

Hopkins Consultants, Job Ref: 7025 Planning Proposal
Lot 13 DP 878784, Seams Road, Kundabung



PART 5: COMMUNITY CONSULTATION

Community Consultation will be undertaken in full compliance with Council's policy and will include all relevant referrals to NSW State agencies in accordance with directions given by the Gateway Determination.



PART 6: PROJECT TIMELINE

The Project Timeline provided with the Gateway determination will be adhered to.



APPENDIX A

Deposited Plan and Site Plan



APPENDIX B

Concept Subdivision Plan



APPENDIX C

Ecological Assessment



APPENDIX D

Bushfire Hazard Assessment



APPENDIX E

Wastewater and Soils Report



APPENDIX F

Proposed Minimum Lot Size Plan for Subject Site



APPENDIX G

Copy of Legal Agreement for
Right Of Way