



**Planning Proposal**

**KLEP 2013 Amendment No. 25**

**Neville Morton Drive, Crescent Head**

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# **1. PART 1 – OBJECTIVES OR INTENDED OUTCOMES**

## **1.1 Introduction**

This planning proposal has been prepared by Kempsey Shire Council ('Council') and is draft Kempsey Local Environmental Plan (KLEP) 2013 Amendment No. 25.

This proposal is to correct the gazetted zone and minimum lot size mapping for KLEP 2013 (Amendment No 8) which was published on 28 July 2017. While the intention was to provide for a future 1 into 14 subdivision; unintended deviations between the planning proposal and the adopted mapping has provided a reduced development footprint and extinguished 4 potential lots.

## **1.2 Aim and Objectives**

The aim of this planning proposal is:

- To rectify the original intent of planning proposal KLEP 2013 (Amendment No 8) to enable a future 1 into 14 (R5 – Large Lot Residential) subdivision with a minimum lot size of 1ha.

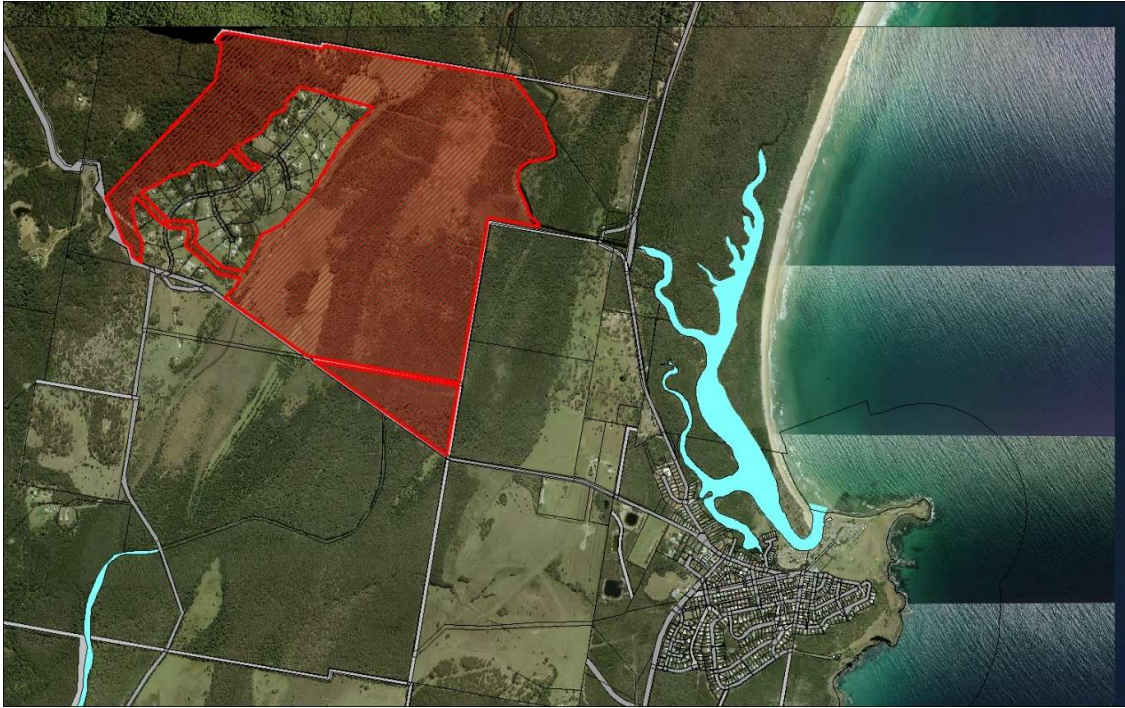
The objectives of the planning proposal are:

- Extend a portion of the sites R5 – Large Lot Residential zone along the zone's eastern boundary;
- Move the shared boundary of E2 – Environmental Conservation zone eastward (for this portion of the site) to reflect the extent of the Coastal Wetlands boundary as identified in the *SEPP (Coastal Management) 2018* mapping; and
- Amend the area within the enlarged R5 – Large Lot Residential zone to a minimum lot size of 1ha.

## **1.3 Background**

## **1.4 Land to which the planning proposal applies**

This proposal refers to a portion of Lot 3 DP1164661, Neville Morton Drive, Crescent Head. The site is located approximately 5 km west of the coastal township of Crescent Head and comprises an area of some 231ha (refer to Figure 1. Below).

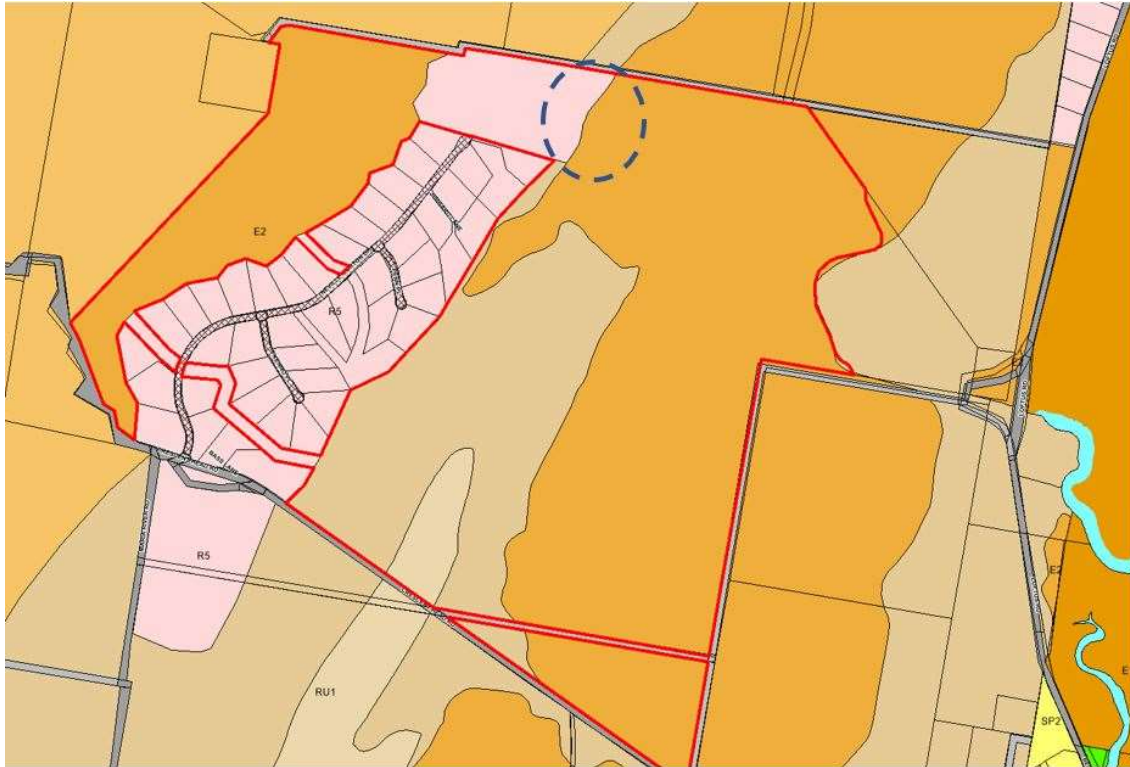


**Figure 1. The site (boundaries in red (and site area hatching)) in proximity to the coastal township of Crescent Head**

### **1.5 Site context and setting**

The site and immediate surrounds are identified as Dulconghi Heights (in reference to its location on the eastern margin of Dulconghi Hill which is a prominent local landscape feature). The site has an easterly aspect and comprises dry open forest to the west with pastoral land and coastal wetlands to the east. These values are reflected in the current zoning of the site (refer to Figure 2 below) with E2 – Environmental Conservation zone along the western and eastern boundaries, R5 – Large Lot Residential zone to the north and RU1 – Primary Production and RU2 – Rural Landscape zones to the south.

As identified in Figure 1 above, the surrounded lots in the middle centre of the aerial comprise an established R5 rural - residential subdivision through which the principle access road (Neville Morton Drive) travels.



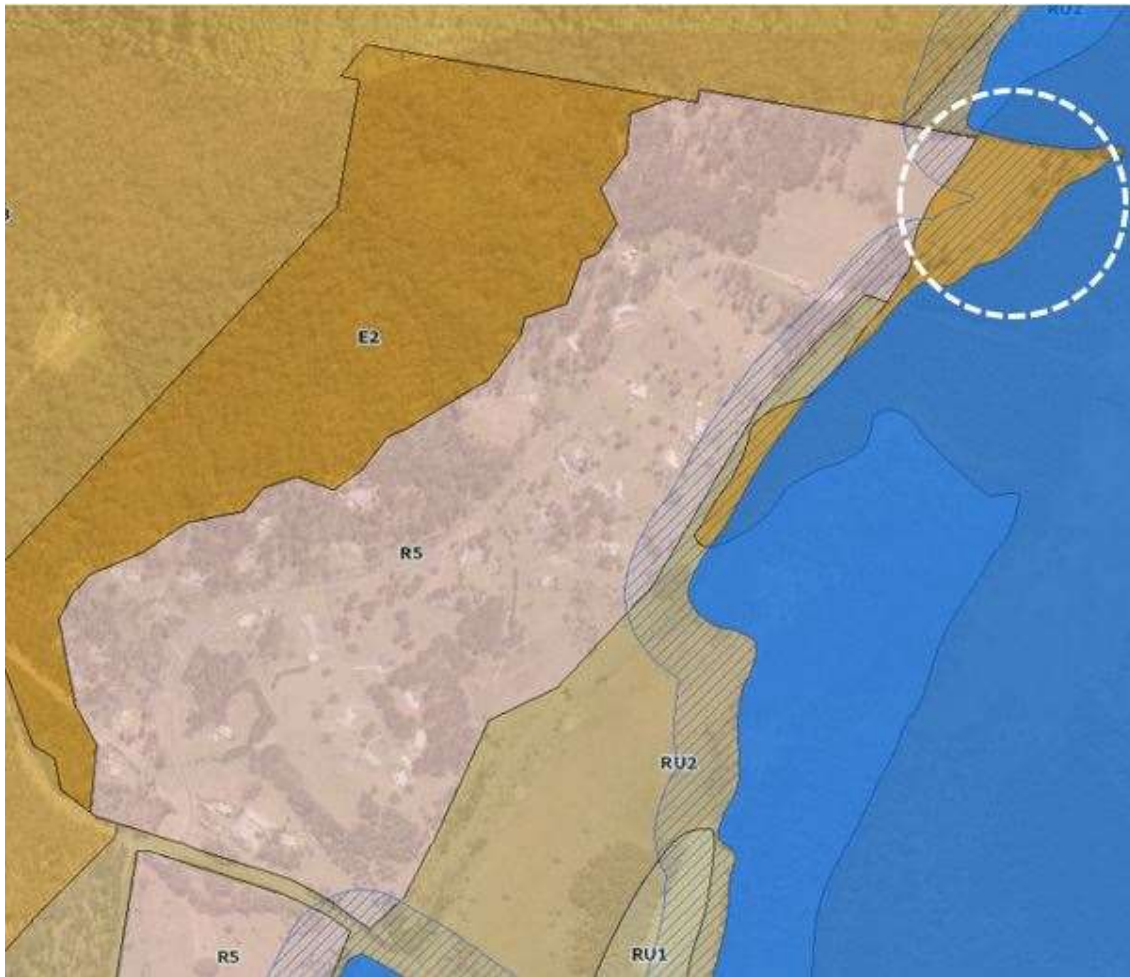
**Figure 2. Current zones at the site. Area subject of this planning proposal is circled with a dashed line**



## 2. PART 2 – EXPLANATION OF PROVISIONS

### 2.1 Existing Planning Controls

Figure 2 above identifies the extent of R5 – Large Lot Residential zone that applies to the site and the proximity of E2 – Environmental Conservation zone on the eastern and western boundaries. With the recent commencement of *SEPP (Coastal Management) 2018* and the accompanying mapping changes, the coastal wetland boundary map is no longer in alignment with the E2 – Environmental Conservation zone on the eastern boundary (refer Figure 3 below).



**Figure 3. Current land use zones and new coastal wetland boundaries (solid blue with hatched buffer). The area subject of this planning proposal is circled with a white dotted line.**

## 2.2 Proposed Planning Provisions

This planning proposal is to correct the earlier mapping gazetted for KLEP 2013 (Amendment No 8) which was published on 28 July 2017. Figure 4 below illustrates the current extent of R5 – Large Lot Residential zone/ 1ha minimum lot size and the proposed eastward extension of these attributes to accommodate this indicative 1ha rural - residential subdivision layout. This will result in a reduction to the extent of E2 – Environmental Conservation zone but will realign this portion of the R5/E2 zone boundary without traversing with the western extent of the new coastal wetlands mapping for this area (as identified in Figure 3). This was the intended outcome of the original planning proposal (which was poorly conveyed), to enable a 1 into 14 lot subdivision.



**Figure 4. Proposed extent of eastward extension of R5 – Large Lot Residential zone (and 1ha minimum lot size) footprint**



### 3. PART 3 – JUSTIFICATION

#### 3.1 Section A – Need for the Planning Proposal

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

The site is identified as a potential Stage 1 Rural Residential Release Area for the Crescent Head locality in Map 18 of the *Kempsey Shire Rural Residential Land Release Strategy December 2014* (refer Figure 5 below).

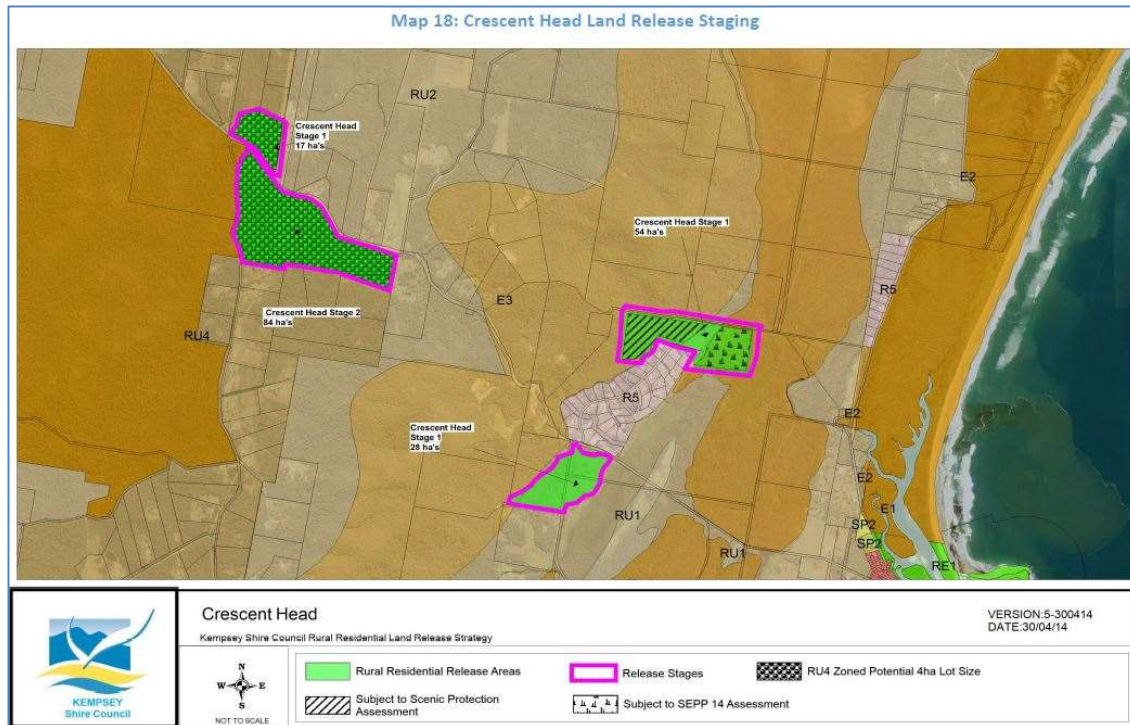


Figure 5. Subject site within Map 18 from the *Kempsey Shire Rural Residential Land Release Strategy*

The previous planning proposal for this site (KLEP 2013 (Amendment No 8)) enabled the rezoning of a portion of the Stage 1 Rural Residential Release Area identified for this site to R5 – Large Lot Residential. The extension to the R5 – Large Lot Residential zone recommended for this Planning Proposal is also within the boundaries of the Stage 1 Rural Residential Release Area identified for this site.

The eastern side of the Stage 1 Rural Residential Release Area for this site is identified as being subject to assessment against the repealed SEPP 14 – Coastal Wetlands. This Planning Proposal includes an assessment against the provisions of SEPP (Coastal Management) 2018, which repealed SEPP 14.

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

This Planning Proposal is the only means of achieving the intended zoning and minimum lot size amendments proposed.

## **3.2 Section B - Relationship to strategic planning framework**

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

#### ***North Coast Regional Plan 2036***

In fulfilment of Direction 23 of the North Coast Regional Plan 2036, while the site is located within the coastal strip, new rural residential housing areas are permitted if the site is within a rural residential land release strategy endorsed by the Department. In this instance the site is identified in a Rural Residential Release Area within the *Kempsey Shire Rural Residential Land Release Strategy – December 2014*.

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

#### ***Macleay Valley 2036 Community Strategic Plan June 2017***

The following core values are identified in the *Macleay Valley 2036 Community Strategic Plan June 2017* (Macleay Valley 2036 CSP).

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

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

The proposal is considered to be consistent with the core values of the Macleay Valley 2036 CSP.

### **3.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The planning proposal is consistent with all applicable State Environmental Planning Policies (SEPPs). Comments are provided in *Appendix A* in regard to each SEPP.

### **3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (S 117 directions)?**

The planning proposal is potentially inconsistent with s117 Directions 2.1 Environment Protection Zones, 4.1 Acid Sulphate Soils, 4.3 Flood Prone Land, and 4.4 Planning for Bushfire Protection. These inconsistencies are considered to be of minor significance. A detailed evaluation of the consistency of the planning proposal in relation to the s117 directions is provided in *Appendix B*.

## **3.3 Section C – Environmental, Social and Economic Impact**

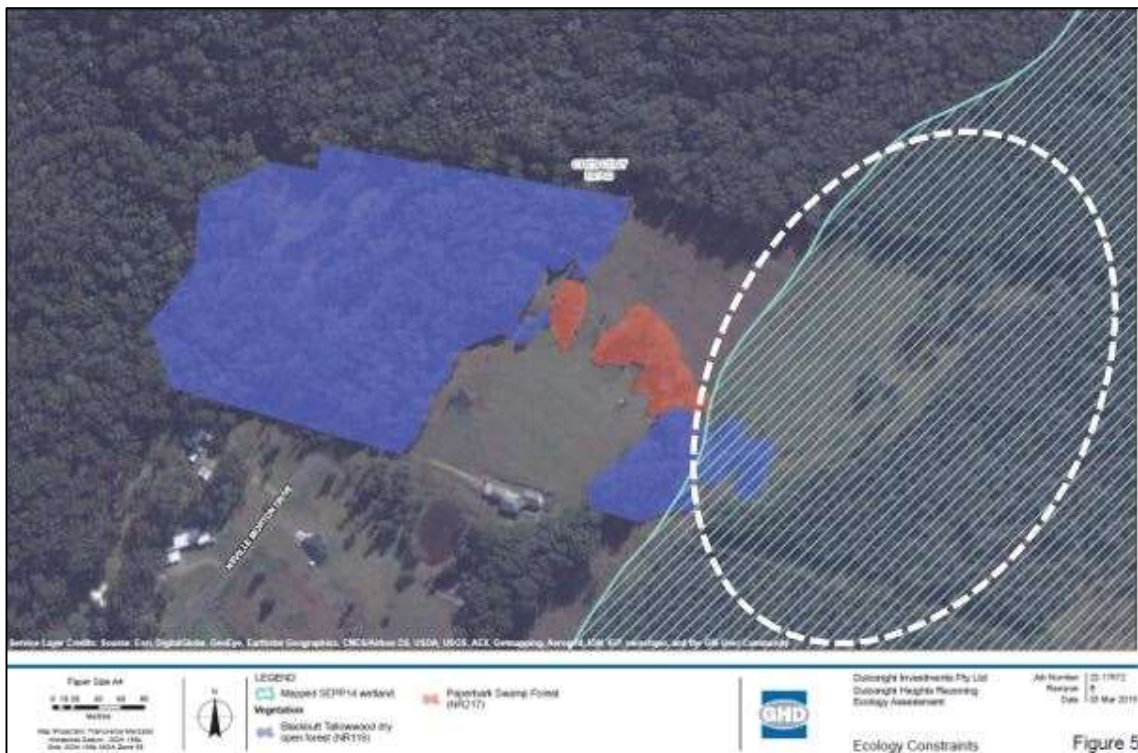
### **3.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The area subject of this planning proposal is included in the attached ecology report (refer Attachment C). Figure 6 (below), taken from the ecology report, shows the vegetation values identified at the site.

The vegetation in the identified area substantially comprises cleared grazing land with a patch of dispersed and modified remnant Blackbutt Tallowood dry open forest surrounding a farm dam. This vegetation type is identified as not being an endangered ecological community (EEC).

The report identifies (on page 22) that in regard to threatened environmental communities “the Paperbark Swamp Forest community (NR217) identified in the eastern portion of the site in association with the minor drainage line, is not considered to be indicative of the Swamp Sclerophyll Forest on Coastal Floodplains which is a listed as an EEC under the TSC Act”.

No Koala feed trees are identified as being located within the area covered by this Planning Proposal; no vegetation clearing is required to accommodate the indicative subdivision layout provided; and no ‘significant impact’ on any threatened biota is identified as likely to occur.



**Figure 6. Vegetation mapping - with area covered by Planning Proposal circled with a white dotted line.**

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

No other likely environmental effects, as a result of this planning proposal, have been identified or are required to be mitigated.

### **3.3.3 How has the planning proposal adequately addressed any social and economic effects?**

Positive economic benefits are 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 schools, shops and other services available in nearby Crescent Head and Kempsey.

The social benefits of providing additional local housing stock is considered positive both locally and regionally. The style of housing being rural-residential properties, satisfies the need for additional housing and utilises the capacity of existing infrastructure such as reticulated water supply and public roading.

### **3.4 Section D – State and Commonwealth interests**

#### **3.4.2 Is there adequate public infrastructure for the planning proposal?**

The Kempsey LGA has varying levels of public infrastructure services available depending on the location. This site is in close proximity to the urban centres of Crescent Head (4km) and Kempsey (17km) which are both accessed via sealed public roads. The adequacy of available public infrastructure services for any future subdivision at this site is considered adequate.

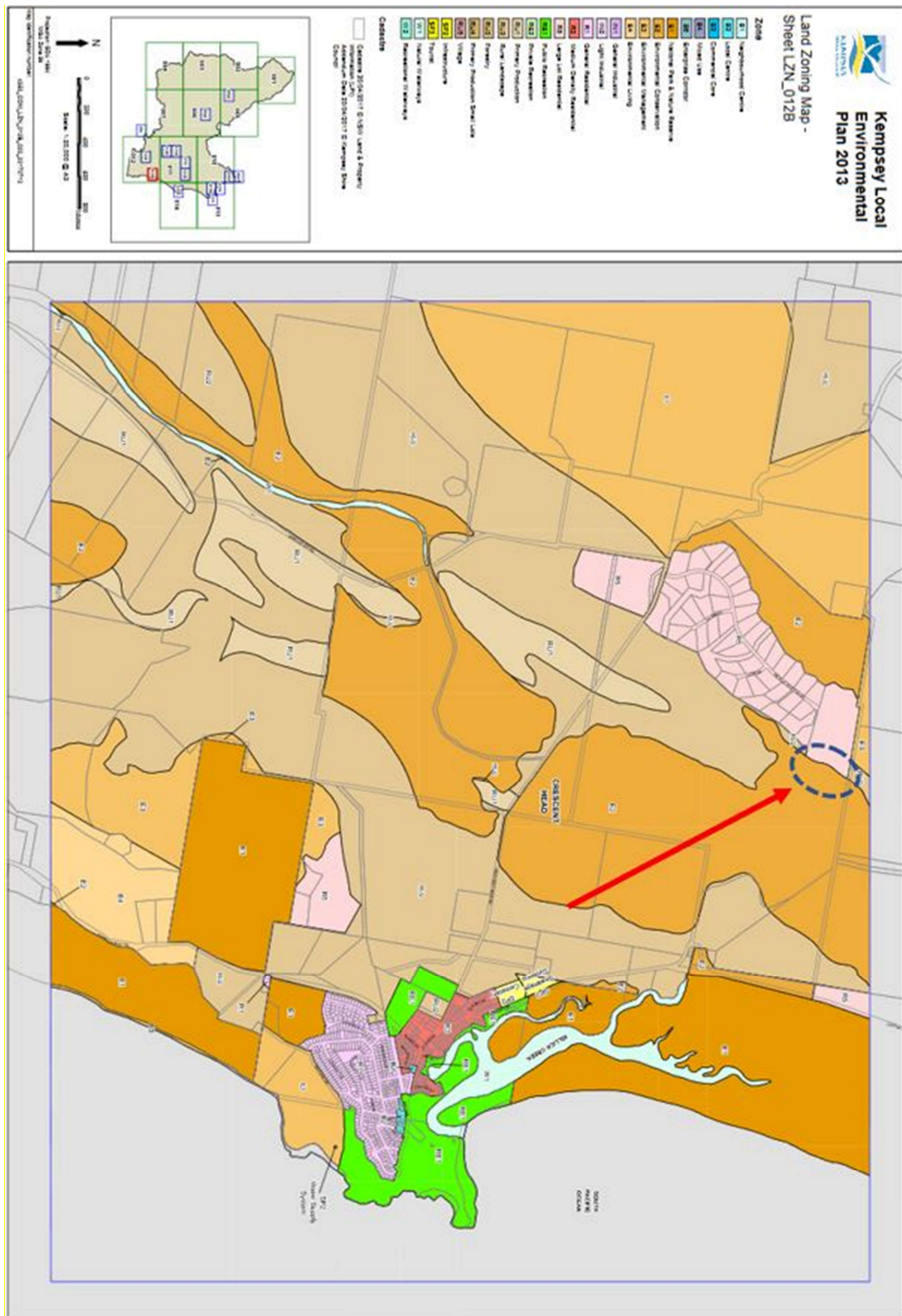
#### **3.4.3 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

State and Commonwealth public authorities have not been formally involved in this planning proposal as it is yet to receive Gateway approval. Relevant public authorities will be consulted during formal consultation and exhibition of the planning proposal, and as directed by the Gateway determination, should Planning and Environment issue a determination to proceed.

There are no identified issues associated with this planning proposal that are likely to be of interest to Commonwealth Authorities.

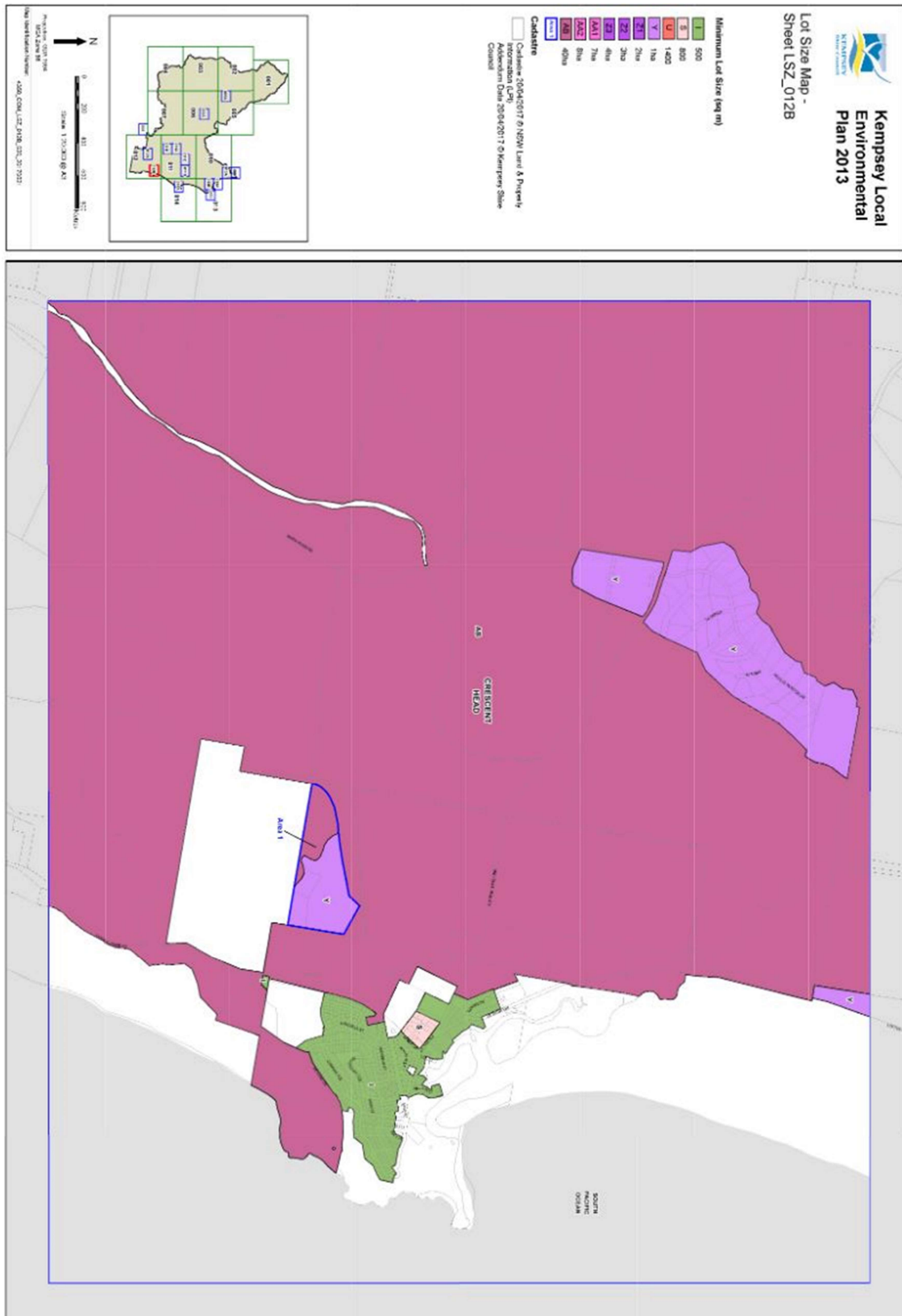
## **4. PART 4 – MAPPING**







Kempsey Shire Council Planning Proposal – KLEP2013-AM-25



**Kempsey Local Environmental Plan 2013**

Lot Size Map -  
Sheet LSZ\_012B

**Minimum Lot Size (sq m)**

500
600
800
1400
1ha
2ha
3ha
4ha
7ha
10ha
40ha

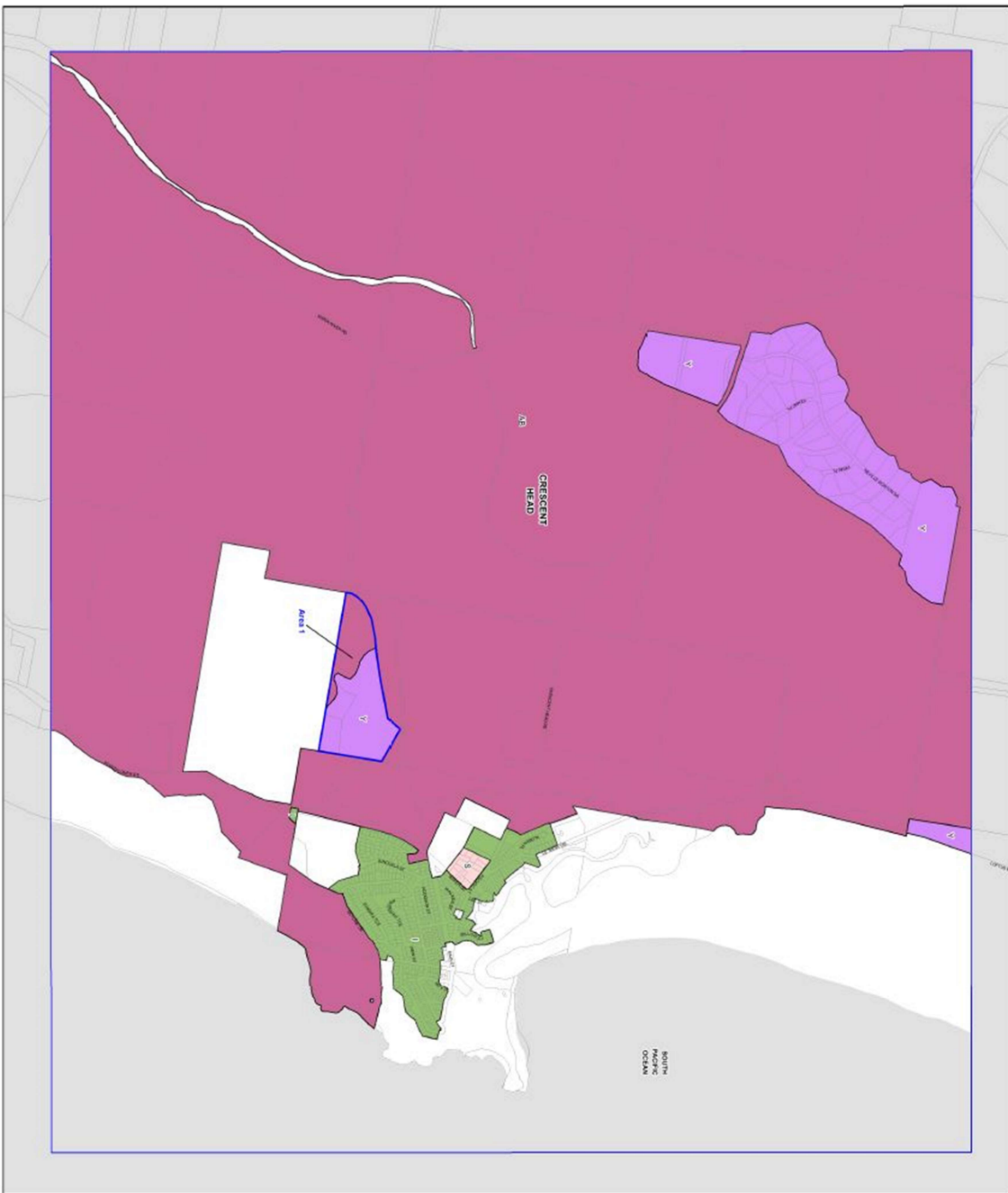
**Cadastre**

☐ Cadastre 2004/2013 & UNPA Spatial Database  
☐ Cadastre 2004/2013 & UNPA Spatial Database  
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☐ Cadastre 2004/2013 & UNPA Spatial Database

**DRAFT**

Inset map showing the location of the main map area within the local government area.

North arrow and scale bar (0 to 1000 metres).  
Scale 1:20,000 @ A3



Draft amendment proposed to KLEP 2013 Lot Size Map LSZ\_012B

## **5. PART 5 - COMMUNITY CONSULTATION**

Community consultation will be undertaken following the Gateway determination. Community consultation will be carried-out in accordance with the conditions specified in the Gateway Determination, as well as Kempsey Shire Council's Public Notification Policy.

Public exhibition of the Planning Proposal would include notification on the Kempsey Shire Council website, Department of Planning and Environment website and a public notice in the newspapers that circulate in the LGA.

Information relating to the Planning Proposal would also be displayed at Kempsey Shire Council's Customer Service Centre located on Tozer Street, West Kempsey and Libraries within the Shire.

## 6. PART 6 – PROJECT TIMELINE

An approximate project timeline is provided at *Table 6.1* below. It is estimated that this amendment to the KLEP 2013 will be complete by January 2019.

Council requests delegation to carry out certain plan making functions in relation to this planning proposal. Delegation would be exercised by Council's General Manager or Director Operations.

***Table 6.1 – Project Timeline***

<b>LEP Amendment Steps</b>	<b>Estimated Project Timing</b>
Submit Planning Proposal to DP&E	July 2018
Receive Gateway determination	September 2018
Authority consultation - pre-exhibition*	October 2018
Preparation of materials for public exhibition & authority consultation	
Public exhibition of Planning Proposal & government authority consultation	November 2018
Review and consideration of submissions	
Council report preparation	
Public submissions report and draft LEP amendment to Council for adoption	December 2018
Submission to the department to finalise the LEP	
Submit request for drafting of LEP to Parliamentary Counsel's Office^	
Forward to the department for notification	January 2019
* If required	
^ If delegated	


# Appendix A

## Consistency with State Environmental Planning Policies



No.	SEPP Title	Summary	Consistency
19	Bushland in Urban Areas	Policy is to protect and preserve bushland within the urban areas referred to in Schedule 1	Kempsey Shire Council is not identified in Schedule 1 (areas to which the policy applies)
21	Caravan Parks	Seeks to facilitate the proper management and development of land used for caravan parks catering to the provision of accommodation to short and long-term residents.	No caravan park land use forms part of this planning proposal
30	Intensive Agriculture	Requires development consent and additional requirements for cattle feedlots and piggeries.	Proposal does not provide for Intensive Agricultural uses
33	Hazardous and Offensive Development	Seeks to provide additional support and requirements for hazardous and offensive development	No hazardous or offensive development proposed
36	Manufactured Home Estates	Seeks to facilitate the establishment of manufactured home estates as a contemporary form of residential housing.	The proposal does not involve a manufactured home estate
44	Koala Habitat Protection	Seeks to encourage proper conservation and management of areas of natural vegetation that provide habitat for koalas	The proposal does not include any additional Koala habitat and no Koala feed trees are proposed to be removed
50	Canal Estate Development	Prohibits canal estate development	No canal estate development is proposed
55	Remediation of Land	Provides a State-wide planning approach for the remediation of contaminated land.	No potential or contaminated land has been identified at the site
62	Sustainable Aquaculture	Seeks to encourage and regulate sustainable aquaculture development	Aquaculture land uses do not form part of this proposal

64	Advertising and Signage	Seeks to regulate signage (but not content) and ensure signage is compatible with desired amenity and visual character of the area.	Neither advertising nor signage forms part of this planning proposal
65	Design Quality of Residential Flat Development	Seeks to improve the design qualities of residential flat building development in New South Wales.	The proposal is for low scale rural-residential type development and will not involve residential flat building development
	Affordable Rental Housing 2009	To provide a consistent planning regime for the provision of affordable rental housing and facilitate the effective delivery of affordable housing	This proposal is to facilitate a rural residential type subdivision which is a land use not identified in this SEPP.
	Building Sustainability Index: BASIX 2004	The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State	The considerations of BASIX will only apply to future development applications for the erection of dwellings etcetera at this site
	Coastal Management 2018	The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area	<p>The eastern expansion of R5 – Large Lot Residential zoned land proposed will displace land currently zoned E2 - Environmental Conservation which was the previous western extent of the superseded SEPP 14 – Coastal Wetlands mapping at this location.</p> <p>The proposal site is not within the Coastal Management area but is largely within the <i>Proximity Area for Coastal Wetlands</i> (refer Figure 3 above). Clause 11 of <i>State Environmental Planning Policy (Coastal Management) 2018</i> states that development is not to be granted to land within the proximity area unless the development will not “significantly impact on”:</p> <p>(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or</p> <p>(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</p> <p>The indicative future subdivision layout, shown below, for the site (and previously approved planning proposal immediately to the west) proposes that future dwellings, infrastructure and APZ's will be located within the existing R5 – Large Lot Residential zone and as such will have no material impact on the site area identified as <i>Proximity Area for Coastal Wetlands</i> which is to be retained as highly modified pasture land.</p>

			 <p><b>Indicative subdivision layout provided with current E2 – Environmental Conservation zone boundary indicated by red arrows</b></p>
	Educational Establishments and Child Care Facilities 2017	The aim of this Policy is to facilitate the effective delivery of educational establishments and early education and care facilities across the State	The planning proposal does not propose educational establishments or early education and care facilities.
	Exempt and Complying Development Codes 2008	Seeks to provide streamlined assessment processes for development that complies with specified development standards.	The proposal is not inconsistent with the intent of this SEPP.
	Housing for Seniors or People with a Disability 2004	Seeks to encourage the provision of housing to meet the needs of seniors or people with a disability.	The housing design and end user envisaged are not stipulated. These considerations will form part of any future development application for subdivision
	Infrastructure 2007	The aim of this policy is to facilitate the effective delivery of infrastructure across the State. Specifies exempt and complying development controls to apply to the range of development types listed in the SEPP.	The proposal is not of a type nor will impact on the identified land uses identified within this SEPP

	Mining, Petroleum and Extractive Industries 2007	Seeks to provide for the proper management and development of mineral, petroleum and extractive material resources	The stated land uses/activities covered by this SEPP are not identified at the site or immediate surrounds for this planning proposal.
	Rural Lands 2008	Seeks to facilitate the orderly and economic use and development of rural lands for rural and related purposes	The planning proposal is consistent with the stated rural planning principles within Clause 7 of the SEPP in that the site is a small residual strip of land between a residential and an environmental protection zone which is not economically viable in terms of rural production. However, the site does provide the opportunity for rural lifestyle housing while also acknowledging and protecting significant environmental values located elsewhere on this lot.
	State and Regional Development 2011	Aims to identify State significant development and State significant infrastructure. Also to confer functions on joint regional planning panels to determine development applications.	The development identified in this planning proposal is neither of state or regional significance and therefore this SEPP is not applicable
	Vegetation in Non-Rural Areas 2017	The aims of this Policy are: (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.	The site is currently zoned E2 – Environmental Conservation and therefore the considerations of this SEPP apply to this planning proposal. As the planning proposal applies to a specific area within the site which is already highly modified grazing land, there is no identified need to remove further vegetation generally or specifically vegetation of significant environmental value. An ecological report is provided which expands on the sites environmental values and the likely impacts of the development proposed. The planning proposal is consistent with the intent of this SEPP.

## **Appendix B**

### **Consistency with Section 117 Directions**

Direction	Objectives	Application	Consistency
<b>1. Employment and Resources</b>			
<b>1.1 Business and Industrial Zones</b> Issued 1 May 2017	<ul style="list-style-type: none"> <li>To encourage employment growth in suitable locations</li> <li>To protect employment land in business and industrial zones, and support the viability of identified strategic centres.</li> </ul>	Applies when a planning proposal is prepared that affects land within an existing or proposed business or industrial zone (includes alteration of boundary of any existing business or industrial zone)	N/A - this planning proposal does not apply to land with an existing or proposed business or industrial land zoning.
<b>1.2 Rural Zones</b> Issued 14 April 2016	<ul style="list-style-type: none"> <li>To protect the agricultural production value of rural land.</li> </ul>	Applies when a planning proposal is prepared that affects land within an existing or proposal rural zone (includes alteration of any existing rural zone boundary)	The area of the lot to which this planning proposal applies is zoned E2-Environmental Conservation - which is not identified as a Rural Zone in Council's LEP. Notwithstanding the site is identified as a Rural Residential Release Area in the <i>Kempsey Shire Rural Residential Land Release Strategy – December 2014</i> as being appropriate for future rural residential subdivision.
<b>1.3 Mining, Petroleum Production and Extractive Industries</b> Issued 1 July 2009	<ul style="list-style-type: none"> <li>To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</li> </ul>	Applies when planning proposal is prepared that would prohibit or restrict the mining or potential development of coal, other minerals, petroleum production or obtaining extractive minerals of State or regional significance permitting incompatible land use.	This planning proposal will have no material impact on the quality, function or extraction of any significant resource reserve.



<b>1.4 Oyster Aquaculture</b> Issued 1 July 2009	<ul style="list-style-type: none"> <li>To protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</li> </ul>	Applies to Priority Oyster Aquaculture Areas as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006)	The site is located inland and not in proximity of, nor will it impact on, any identified Priority Oyster Aquaculture Areas.
<b>1.5 Rural Lands</b> Issued 1 July 2009	<ul style="list-style-type: none"> <li>To protect the agricultural production value of rural land and facilitate the orderly and economic development of rural land.</li> </ul>	Applies to all planning proposals to which State Environmental Planning Policy (Rural Lands) 2008 applies	<p>As identified in <i>Appendix A - Consistency with State Environmental Planning Policies</i> under the response for SEPP Rural Lands 2008:</p> <p><i>The planning proposal is consistent with the stated rural planning principles within Clause 7 of the SEPP in that the site is a small residual strip of land between a residential and an environmental protection zone which is not economically viable in terms of rural production. However, the site does provide the opportunity for rural lifestyle housing while also acknowledging and protecting significant environmental values located elsewhere on this lot.</i></p>
<b>2. Environment and Heritage</b>			
<b>2.1 Environment Protection Zones</b> Issued 14 April 2016	<ul style="list-style-type: none"> <li>To protect and conserve environmentally sensitive areas.</li> </ul>	Applies when a planning proposal is prepared.	The site is identified as a Rural Residential Release Area in the <i>Kempsey Shire Rural Residential Land Release Strategy – December 2014</i> . The proposal is to amend the zoning for a small area from E2-Environmental Conservation to R5-Large Lot Residential. Justification includes the revised coastal wetland extent identified in the new Coastal Management SEPP mapping, whereby the boundary has moved westward at the site and therefore the rationale for the E2 zone in this locality is no longer a function of the applicable wetland mapping. As identified in the ecological study attached, this area of the site is highly modified grazing land, no significant vegetation is proposed to be removed and the extension of the R5 zone proposed is simply to address an oversight in the previous planning proposal for this site (which should have extended to the boundary now proposed to provide the necessary residential land area to enable the subdivision proposed to comply with Council's LEP requirements). Overall the amendment is considered to be of minor significance in relation to the provisions of this S117 direction.
<b>2.2 Coastal Management</b> Issued 3 April 2018	<ul style="list-style-type: none"> <li>To protect and manage coastal areas of NSW</li> </ul>	Applies to the Coastal Zone as defined in the Coastal Management Act 2016	<p>The <i>Coastal Zone</i> is defined in the <i>Coastal Management Act 2016</i> as comprising of the following coastal management areas:</p> <p>(a) the coastal wetlands and littoral rainforests area,</p>

			<p>(b) the coastal vulnerability area, (c) the coastal environment area, (d) the coastal use area.</p> <p><i>Coastal Wetlands</i> is identified as land mapped as such under the SEPP (including the adjoining land).</p> <p>The objects of the Coastal Management Act 2016 include the promotion of sustainable development; protecting and enhancing natural processes; supporting social and cultural values and access; and mitigating risk from coastal hazards. This proposal is consistent with these values in that while a portion of the site to be rezoned to a residential zone is within the mapped <i>Proximity Area for Coastal Wetlands</i>, it is not intended that dwellings (refer to the indicative subdivision layout in Appendix A), APZ's or infrastructure will encroach into this portion of the site. Additionally, as identified earlier, this additional portion of residential rezoning is merely to correct an oversight with the previous planning proposal for this lot wherein the minimum lot size for the proposed subdivision is not currently achievable. Finally, the land within the identified buffer area is highly modified pasture land and no clearing of any significant vegetation is proposed or necessary.</p> <p>The proposal is not within an area identified within the Coastal Vulnerability Area Map (no map is available at this stage).</p> <p>The site is identified as a Rural Residential Release Area in the <i>Kempsey Shire Rural Residential Land Release Strategy – December 2014</i>.</p>
<b>2.3 Heritage Conservation</b> Issued 1 July 2009	<ul style="list-style-type: none"> <li>To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</li> </ul>	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	The site is not identified as containing any objects or places of environmental, historical or indigenous heritage significance.
<b>2.4 Recreation Vehicle Areas</b> Issued 14 April 2016	<ul style="list-style-type: none"> <li>To protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.</li> </ul>	Limits the development of land for the purpose of a recreational vehicle area.	The land the subject of this planning proposal is not proposed to be developed for the purpose of a recreational vehicle area.
<b>3. Housing, Infrastructure and Urban Development</b>			

<b>3.1 Residential Zones</b> Issued 14 April 2016	<ul style="list-style-type: none"> <li>To encourage a variety and choice of housing types to provide for existing and future housing needs</li> <li>To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</li> <li>To minimise the impact of residential development on the environment and resource lands.</li> </ul>	Applies when a planning proposal affects land within an existing or proposed residential zone (including the alteration of any existing zone boundary) or any other zone in which significant residential development is permitted or proposed to be permitted.	<p>This planning proposal will alter an existing residential zone boundary (increasing the area of land zoned R5). As stated by the proponents in the previous (and related) planning proposal for this lot:</p> <p><i>The Planning Proposal if supported and gazetted would allow for the development of residential dwellings within a rural setting consistent with the existing development along Neville Morton Drive. As such it will broaden the choice of building types and locations available in the housing market and make more efficient use of existing infrastructure and services in the area. Any future development of the land can be controlled via Council's existing DCP to ensure quality design. As Kempsey LEP 2013 contains provisions that ensure 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). The Planning Proposal is therefore considered to be consistent with this direction.</i></p>
<b>3.2 Caravan Parks and Manufactured Home Estates</b> Issued 14 April 2016	<ul style="list-style-type: none"> <li>To provide for a variety of housing</li> <li>types and opportunities for caravan parks and manufactured home estates</li> </ul>	Applies when a planning proposal is prepared. Does not apply to Crown land reserved or dedicated for any purposes under the Crown Lands Act 1989 (except Crown land reserved for accommodation purposes) or land dedicated or reserved under the NP&W Act 1974.	N/A – the planning proposal is not to develop a caravan park or a manufactured home estate
<b>3.3 Home Occupations</b> Issued 1 July 2009	<ul style="list-style-type: none"> <li>To encourage the carrying out of low-impact small businesses in dwelling houses.</li> </ul>	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	There has been no indication that home occupation uses are proposed in any future subdivision of the site
<b>3.4 Integrating Land Use and Transport</b> Issued 14 April 2016	To ensure that urban structures, building forms, land use locations, development designs, subdivision	Applies to planning proposals that create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business,	<p>The Planning Proposal will facilitate large lot residential development. As the subject land is located adjacent to an existing rural residential estate near Crescent Head, it is considered to be consistent with the aims, objectives and principles of:</p> <p>(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).</p>

	<p>and street layouts achieve the following planning objectives:</p> <ul style="list-style-type: none"> <li>• improve access to housing, jobs and services by walking, cycling and public transport,</li> <li>• increase transport choice and reduce travel demand and reducing dependence on cars,</li> <li>• reduce travel demand including distances travelled, especially by car,</li> <li>• support the efficient and viable operation of public transport services, and</li> <li>• Provide for the efficient movement of freight.</li> </ul>	<p>industrial, village or tourist purposes.</p>	<p>The Planning Proposal is therefore considered to be consistent with this direction.</p>
<p><b>3.5 Development Near Licensed Aerodromes</b> Issued 14 April 2016</p>	<ul style="list-style-type: none"> <li>• To ensure the effective and safe operation of aerodromes</li> <li>• To ensure that the operation of aerodromes is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity.</li> </ul>	<p>Applies to a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome.</p>	<p>The planning proposal site is not in close proximity to any licensed aerodrome nor is it impacted by any OLS restrictions.</p>

	<ul style="list-style-type: none"> <li>To ensure development for residential purposes or human occupation incorporates appropriate mitigation measures</li> </ul>		
<b>3.6 Shooting Ranges</b> Issued 16 February 2011	<ul style="list-style-type: none"> <li>To maintain appropriate levels of public safety and amenity and reduce land use conflict when rezoning land adjacent to an existing shooting range.</li> </ul>	Applies to a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/or adjoining an existing shooting range.	The planning proposal is not located in proximity of any existing shooting ranges.
<b>4. Hazard and Risk</b>			
<b>4.1 Acid Sulfate Soils</b> Issued 1 July 2009	<ul style="list-style-type: none"> <li>To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</li> </ul>	Applies to planning proposal on land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	<p>The site for this planning proposal is identified as containing Class 2 and Class 5 ASS.</p> <p>Land mapped Class 2 ASS is located to the east of the proposed extension to the R5-Large Lot Residential zone and will remain within the E2-Environmental Conservation zone.</p> <p>Portions of land mapped Class 5 ASS is proposed to be rezoned to R5-Large Lot Residential (consistent with land recently rezoned to R5 immediately to the west). No significant excavation work is anticipated which would impact the natural groundwater level in this area. Appropriate conditions regarding the ASS in this locality will be applied to any consent for future subdivision of this site.</p> <p>While this may be inconsistent with the direction, the inconsistency is of minor significance.</p>
<b>4.2 Mine Subsidence and Unstable Land</b> Issued 14 April 2016	<ul style="list-style-type: none"> <li>To prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</li> </ul>	Applies to planning proposal on land within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment	N/A – the site and surrounds are not identified as being unstable land nor in a Mine Subsidence District.
<b>4.3 Flood Prone Land</b> Issued 1 July 2009	<ul style="list-style-type: none"> <li>To ensure that development of flood prone land is consistent with the</li> </ul>	Applies to a planning proposal that creates, removes or alters a	The western boundary of the E2-Environmental Conservation zone for the site is identified by red arrows in the indicative subdivision layout contained in Appendix A. This boundary also reflects the western extent of 1:100 flood level. As also identified, there is ample flood

	<p><i>NSW Government's Flood Prone Land Policy</i> and the principles of the <i>Floodplain Development Manual</i> 2005; and</p> <ul style="list-style-type: none"> <li>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.</li> </ul>	zone or a provision that affects flood prone land.	<p>free land area where future dwellings, APZ's and infrastructure can be established as well as suitable flood-free access.</p> <p>As identified earlier, the purpose of this planning proposal is to correct an oversight with the previous planning proposal for this lot which incorrectly created an area of R5-Large Lot Residential zone insufficient to enable the future subdivision proposed (due to the limitations imposed by a specific provision of KLEP 2013 (namely Clause 4.1B – <i>Minimum subdivision lot sizes for certain split zones</i>).</p> <p>The planning proposal will rezone a portion of E2-Environmental Conservation zone (within the 1:100 flood area) to R5-Large Lot Residential zone. The land area subject to the planning proposal is the minimum possible to enable the referred rural residential subdivision to proceed.</p> <p>While this proposal is inconsistent with Direction 4.3, Council and the Department have agreed in principal that the proposal is reasonable given the circumstances in this particular instance.</p>
<p><b>4.4 Planning for Bushfire Protection</b> Issued 1 July 2009</p>	To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas and encourage sound management of bush fire prone areas.	Applies when Council prepares draft LEP that affects or is in proximity to land mapped as bushfire prone land.	Under the previous planning proposal for this site (KLEP2013-AM-8) NSW RFS advised on 3 March 2017 (as an agency response during the exhibition period for the planning proposal) that they had no objection to the planning proposal, subject to compliance with the regulations and other considerations that would be part of any future development application for subdivision (refer Attachment C). The changes proposed by this planning proposal are considered minimal and unlikely to vary the NSW RFS response.
<b>5. Regional planning</b>			
<p><b>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</b> Issued 21 August 2015</p>	To manage commercial and retail development along the Pacific Highway.	Applies to council areas on the North Coast that the Pacific Highway traverses between Port Stephens Shire Council and Tweed Shire Council, inclusive	N/A – the site for the planning proposal is not in the vicinity of the existing or proposed alignment of the Pacific Highway.



<b>5.10 Implementation of Regional Plans</b> Issued 14 April 2016	This direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	Applies to land to which a Regional Plan has been released by the Minister for Planning.	The site is identified as a Rural Residential Release Area in the <i>Kempsey Shire Rural Residential Land Release Strategy – December 2014</i> and is consistent with the <i>North Coast Regional Plan 2036</i> .
<b>6. Local Plan Making</b>			
<b>6.1 Approval and Referral Requirements</b> Issued 1 July 2009	To ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Applies when planning proposal prepared. A planning proposal must minimise or prohibit provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority or the nomination of designated development.	This planning proposal will not impose any restrictions that would be inconsistent with this direction.
<b>6.2 Reserving of Land for Public Purposes</b> Issued 1 July 2009	To facilitate the provision of public services and facilities by reserving land for public purposes and the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Applies when a planning proposal is prepared. A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority.	N/A – the planning proposal will not facilitate or remove the reservation of land for public purposes.
<b>6.3 Site Specific Provisions</b> Issued 1 July 2009	To discourage unnecessarily restrictive site specific planning controls.	A planning proposal to amend an environmental planning instrument must either: <ul style="list-style-type: none"> <li>allow that land use to be carried out in the zone the land is situated on, or</li> <li>rezone the site to an existing zone that allows that land use without</li> </ul>	This planning proposal is consistent with the Direction as it will amend the zone and minimum lot size mapping within the KLEP 2013 to enable land at the identified site to be utilised for a future rural residential subdivision.

		<p>imposing any development standards, or</p> <ul style="list-style-type: none"> <li>• allow that land use on the relevant land without imposing any development standards in addition to those already contained in the principal environmental planning instrument being amended.</li> </ul>	
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## Appendix C

KLEP2013-AM-8 Planning Proposal  
(including Ecological Assessment,  
Bushfire Assessment,  
Indigenous Cultural Heritage)