

Mr D Rawlings
General Manager
Kempsey Shire Council
PO Box 3078
West Kempsey NSW 2440

Our ref: PP_2017_KEMPS_005_00 (17/07539)
Your ref: KLEP2013-AM-20

Dear Mr Rawlings

Planning proposal to amend Kempsey Local Environmental Plan 2013

I am writing in response to your Council's letter dated 19 May 2017 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 (the Act) in respect of the planning proposal to rezone Lot 7 DP 255922, 145 Old Station Road, Verges Creek from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 40 hectares to 1 hectare.

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

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with S117 Direction 4.1 Acid Sulfate Soils is of minor significance. No further approval is required in relation to this Direction.

Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant S117 Directions including 1.2 Rural Zones, 1.5 Rural Land, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans. Council should ensure this occurs prior to the plan being made. Many of the inconsistencies have arisen due to the inclusion of regionally significant farmland and flood prone land in the proposal outside of Council's Department approved local strategy. Until after relevant public authorities have had the opportunity to review and comment on the proposal, it is not considered appropriate to determine whether these inconsistencies have been adequately justified and or can be supported.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Jenna McNabb of the Department's regional office to assist you. Ms McNabb can be contacted on (02) 6641 6600.

Yours sincerely



7 June 2017

Craig Diss
Acting Director Regions, Northern
Planning Services

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2017_KEMPS_005_00): to rezone Lot 7 DP 255922, 145 Old Station Road, Verges Creek from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 40 hectares to 1 hectare.

I, the Acting Director Regions, Northern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kempsey Local Environmental Plan (LEP) 2013 to rezone Lot 7 DP 255922, 145 Old Station Road, Verges Creek from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 40 hectares to 1 hectare should proceed subject to the following conditions:

1. Prior to public authority or community consultation the planning proposal is to be updated to:
 - (a) include a discussion of the proposal's consistency with s117 direction 5.10 Implementation of Regional Plans and remove references to direction 5.1 Implementation of Regional Strategies and the Mid North Coast Regional Strategy; and
 - (b) include an updated project timeline.
2. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions prior to community consultation:
 - NSW Rural Fire Service
 - Office of Environment and Heritage
 - NSW Department of Primary Industries – Agriculture
 - the Local Aboriginal Land Council

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

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning and Environment 2016)* and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Environment 2016)*.



4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 7 day of June 2017

Craig Diss
Acting Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Kempsey Shire Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2017_KEMPS_005_00	Planning proposal to rezone Lot 7 DP 255922, 145 Old Station Road, Verges Creek from RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 40 hectares to 1 hectare.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 7 June 2017

Craig Diss
Acting Director Regions, Northern
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2017_KEMPS_005_00
Date Sent to DoP&E under s56	25 May 2017
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	7 June 2017

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: