

**Kempsey LEP 2013 Amendment 10 - Alter the minimum lot size map for land at 1023  
Crescent Head Road, Crescent Head**

Proposal Title : **Kempsey LEP 2013 Amendment 10 - Alter the minimum lot size map for land at 1023 Crescent Head Road, Crescent Head**

Proposal Summary : **This Planning Proposal seeks to amend the Kempsey LEP 2013 by altering the minimum lot size for Lot 41, DP 1098163, Crescent Head Road, Crescent Head from 8ha to 4ha. This will enable the subdivision of the land into 2 lots.**

PP Number : **PP\_2016\_KEMPS\_001\_00**      Dop File No : **16/07687**

**Proposal Details**

Date Planning Proposal Received : **01-Jun-2016**      LGA covered : **Kempsey**

Region : **Northern**      RPA : **Kempsey Shire Council**

State Electorate : **OXLEY**      Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

**Location Details**

Street :

Suburb :      City :      Postcode :

Land Parcel : **Lot 41 DP 1098163, Crescent Head Road, Crescent Head**

**DoP Planning Officer Contact Details**

Contact Name : **Jon Stone**

Contact Number : **0267019688**

Contact Email : **jon.stone@planning.nsw.gov.au**

**RPA Contact Details**

Contact Name : **Peter Orr**

Contact Number : **0265663200**

Contact Email : **peter.orr@kempsey.nsw.gov.au**

**DoP Project Manager Contact Details**

Contact Name :

Contact Number :

Contact Email :

**Land Release Data**

Growth Centre :      Release Area Name :

Regional / Sub      Consistent with Strategy :

Regional Strategy :

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|                             |                                                            |            |
|-----------------------------|------------------------------------------------------------|------------|
| MDP Number :                | Date of Release :                                          |            |
| Area of Release (Ha)<br>:   | Type of Release (eg<br>Residential /<br>Employment land) : | <b>N/A</b> |
| No. of Lots : <b>0</b>      | No. of Dwellings<br>(where relevant) :                     | <b>1</b>   |
| Gross Floor Area : <b>0</b> | No of Jobs Created :                                       | <b>0</b>   |

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to communications and meetings with lobbyists has been complied with to the best of the Region's knowledge.**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment : **The Northern Region office has not met any lobbyists in relation to this proposal, nor has the Region been advised of any meeting between other officers within the agency and lobbyists concerning this proposal.**

**Supporting notes**

Internal Supporting  
Notes :

External Supporting  
Notes : **This Planning Proposal intends to facilitate the subdivision of the subject land into two rural residential lots. The land is zoned RU4 Primary Production Small Lots but it is not proposed to change the zoning of the site. The reduction in the minimum lot size will enable the land to be subdivided into two lots. The land has an existing dwelling on it.**

**Adequacy Assessment**

**Statement of the objectives - s55(2)(a)**

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives adequately describes the intention of the Planning Proposal, which is to amend the Kempsey LEP 2013 to permit further rural residential development on the subject land.**

**Explanation of provisions provided - s55(2)(b)**

Is an explanation of provisions provided? **Yes**

Comment : **The Planning Proposal provides an explanation of the intended provisions to achieve the objectives and intended outcomes, namely a change to the minimum lot size map of the Kempsey LEP 2013,**

**Justification - s55 (2)(c)**

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

\* May need the Director General's agreement

**1.2 Rural Zones**

**1.5 Rural Lands**

**2.1 Environment Protection Zones**

**2.2 Coastal Protection**

**4.1 Acid Sulfate Soils**

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- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 14—Coastal Wetlands  
SEPP No 44—Koala Habitat Protection  
SEPP No 55—Remediation of Land  
SEPP (Infrastructure) 2007  
SEPP (Rural Lands) 2008**

e) List any other matters that need to be considered :

**An assessment of the applicable directions and SEPPs is provided within the 'Assessment' section of this planning team report.**

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

**See the 'Assessment' section of this planning team report.**

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment :

**The Planning Proposal includes maps that identify the site and the current and proposed minimum lot size standards. These maps are considered suitable for community consultation.**

**Revised maps which comply with the Department's 'Standard Technical Requirements for LEP Maps' will need to be prepared prior to the making of the LEP.**

**Community consultation - s55(2)(e)**

Has community consultation been proposed?

Comment :

**The Planning Proposal has not indicated a set timeframe for community consultation. A 14 day public exhibition/community consultation period is considered appropriate given the proposal relates to a minor variation in the minimum lot size provision for the site.**

**Consultation with the NSW Rural Fire Service will be required in accordance with the relevant Section 117 Directions.**

**Consultation with the other Government Agencies is not warranted in the circumstances of this Planning Proposal.**

**Additional Director General's requirements**

Are there any additional Director General's requirements? **No**

If Yes, reasons :

**Overall adequacy of the proposal**

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

**The Planning Proposal generally satisfies the adequacy criteria. It does this by:**

- 1. Providing appropriate objectives and intended outcomes**
- 2. Providing a suitable explanation of the provisions proposed by the Planning proposal to achieve the outcomes**
- 3. Providing an adequate justification for the proposal;**
- 4. Providing maps which suitably identify the site and intended outcomes;**

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5. Indicating that public exhibition of the proposal will be undertaken; and
6. Providing a project timeframe which suggests completion within 4 months.

**Timeline:**

The project timeline has been included in Council's cover letter seeking the Gateway Determination. It identifies the LEP Amendment will be completed by October 2016. It is considered appropriate to provide a 6 month timeframe to complete this Planning Proposal.

**Delegation:**

Council has requested delegation to finalise the proposal and an evaluation checklist has been provided. It is considered that these functions should be delegated to Council given that the proposal relates to a minor change to the development provisions of one lot that is consistent with the endorsed Regional and Local Growth Strategies (see below).

**Proposal Assessment**

**Principal LEP:**

Due Date :

Comments in relation  
to Principal LEP :

The Kempsey LEP 2013 is a Principal LEP and came into effect on 20 December 2013. The Planning Proposal seeks to amend this planning instrument.

**Assessment Criteria**

Need for planning  
proposal :

This Planning Proposal is required to enable the subdivision of the land into two lots. The Planning Proposal is a result of the Kempsey Shire Local Growth Management Strategy (Rural Residential Component) identifying this land and surrounding land as having potential to be subdivided further for rural residential development.

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Consistency with  
strategic planning  
framework :

**MID NORTH COAST REGIONAL STRATEGY (MNCRS)**

With regards to 'Rural Residential Development', The MNCRS requires that "land will only be zoned for release if it is in accordance with a local growth management strategy agreed to between council and the Department of Planning". although this PP is not 'releasing' the land for development, it is considered that as the proposal is consistent with Council's Rural Residential Land Release Strategy that has been endorsed by the Department, it is therefore consistent with the MNCRS. Another action of the MNCRS is to protect regionally significant farmland. There is no land within the subject property boundary that is mapped as regionally significant farmland.

The Planning Proposal incorrectly states that the Mid North Coast Regional Strategy (MNCRS) identifies the site within the Crescent Head Growth Area. It is recommended that this error be corrected prior to public exhibition. Despite this error, the proposal is consistent with the aims, objectives and intent of the Strategy.

**KEMPSEY LOCAL GROWTH MANAGEMENT STRATEGY**

The Rural Residential Component of the Kempsey Local Growth Management Strategy identifies the site within its Stage 1 of the Crescent Head Land Release Staging specifically as having a minimum lot size of 4ha. The local strategy identifies the area as having constraints of bushfire, koalas habitat, flooding and landscape values whilst also having good accessibility, moderate infrastructure availability and market demand for rural residential housing. The constraints on this site are minimal and this Planning Proposal is consistent with the local strategy.

**STATE ENVIRONMENTAL PLANNING POLICIES**

The proposal is consistent with the provisions of all applicable SEPPs relevant to the site. Comments are provided below regarding key relevant SEPPs for the proposed rezoning.

**SEPP 14 - Coastal Wetlands**

The site does not contain any land identified as SEPP 14 Coastal Wetland. The provisions of the SEPP do not directly apply.

**SEPP 44 - Koala Habitat Protection:**

The proposal is consistent with the Kempsey Comprehensive Koala Plan of Management (CKPOM). The site has areas of cleared land that provide opportunity to erect a dwelling with minimal vegetation clearing. It is unlikely that preferred food trees would be required to be removed for the construction of a dwelling.

**SEPP 55 – Remediation of Land:**

This SEPP requires a RPA to appropriately consider the potential for contamination prior to rezoning land. Although no land is being rezoned by this Planning Proposal a historical investigation into land uses across the site and a search of the contaminated land register has not indicated that any potentially contaminating activities have been undertaken on the site. This review is considered appropriate in determining that the land is suitable for further development.

**SEPP (Rural Lands)**

This SEPP is applicable as the land is currently zoned rural (RU4 Primary Production Small Holdings). The proposal is not inconsistent with the SEPP given that it is consistent with the Mid North Coast Regional Strategy and Council's local growth strategy. The proposal is consistent with the Rural Planning Principles under the SEPP. Land within the site that will remain zoned rural, can continue to be used for rural purposes.

**SECTION 117 DIRECTIONS**

The following directions are applicable to the proposal:

1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 4.1 Acid Sulfate

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Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, and 5.1 Implementation of Regional Strategies.

Of the above s117 Directions the proposal is considered to be inconsistent with Direction 1.2, 4.1 and 4.4.

**1.2 Rural Zones**

The Planning Proposal is inconsistent with this Direction as it seeks to increase permissible density of land within a rural zone. The inconsistency is justified as the land is included in the endorsed Kempsey Shire Rural Residential Land Release Strategy.

**4.1 Acid Sulfate Soils**

The proposal is inconsistent with this Direction as the land is mapped as potentially containing acid sulfate soils and an acid sulfate soils assessment and/or management plan has not been prepared to support the rezoning. The inconsistency is considered to be of minor significance as the land is identified to potentially contain Class 5 acid sulfate soils and Clause 7.1 Acid sulfate soils of Council's LEP applies to the land and ensures that acid sulfate soils and water table issues are appropriately considered and addressed at the development application stage.

**4.4 Planning for Bushfire Protection**

Consistency with the Direction is currently unresolved. Consultation with the NSW Rural Fire Service would be required after a Gateway Determination is issued to satisfy the requirements of the Direction.

The proposal is also not considered to be inconsistent with Direction 1.5 Rural Lands, as the proposal is consistent with the Rural Planning Principles under SEPP Rural Lands. It will provide opportunities for rural lifestyle and housing, is consistent with the Regional Strategy and Council's endorsed local strategy.

Environmental social  
economic impacts :

The Planning Proposal is considered to have a negligible social or economic impacts due to the minor nature of new development potential on the land.

It is considered that the site is unlikely to contain critical habitat, threatened species, populations or ecological communities or habitats due to the nature of the land and previous land uses for cattle grazing. The land is significantly altered and cleared with only small patches of vegetation present on the site. Due to the primarily cleared nature of the site preferred red koala food trees can be retained through appropriate subdivision design.

The land is not flood prone.

**Assessment Process**

|                                             |                        |                                    |         |
|---------------------------------------------|------------------------|------------------------------------|---------|
| Proposal type :                             | Routine                | Community Consultation<br>Period : | 14 Days |
| Timeframe to make<br>LEP :                  | 6 months               | Delegation :                       | RPA     |
| Public Authority<br>Consultation - 56(2)(d) | NSW Rural Fire Service |                                    |         |

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

**No internal consultation required**

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

**Documents**

| Document File Name                          | DocumentType Name        | Is Public |
|---------------------------------------------|--------------------------|-----------|
| 2016-06-01 Cover Letter.pdf                 | Proposal Covering Letter | Yes       |
| 2016-06-01 Planning Proposal.pdf            | Proposal                 | Yes       |
| 2016-06-01 Extract from Council Minutes.pdf | Proposal                 | Yes       |

**Planning Team Recommendation**

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**

Additional Information : **It is recommended that:**

- 1. The Planning Proposal be supported;**
- 2. The Planning Proposal be exhibited for 14 days;**
- 3. The Planning Proposal be completed within 6 months;**
- 4. That prior to community consultation the Planning Proposal be amended to**
  - a) remove the reference that "The Mid North Coast Regional Strategy identifies the site within the Crescent Head Growth Area"; and**
  - b) include an updated Project Timeline in the Planning Proposal.**
- 5. That the Secretary's delegate notes that the inconsistency with s117 Directions 4.4 Planning for Bushfire Protection is outstanding until consultation with the NSW Rural Fire Service has been completed;**

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6. That the Secretary's delegate determines that the inconsistency with s117 Direction 1.2 Rural Zones and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the direction;

7. That State agency consultation be undertaken with the Rural Fire Service; and

8. That a written authorisation for Council to exercise its plan making delegations be granted for this matter.

Supporting Reasons :

This Proposal is supported as it will facilitate the subdivision of the subject land in accordance with the Kempsey Shire Growth Management Strategy and have minimal impact on surrounding land.

Signature:



Printed Name:

Craig Diss

Date:

10 June 2016