

Kempsey LEP 2013 Amendment No 12 to rezone certain land at Crescent Head to E1 National Parks and Nature Reserves

Proposal Title : Kempsey LEP 2013 Amendment No 12 to rezone certain land at Crescent Head to E1 National Parks and Nature Reserves

Proposal Summary : Kempsey LEP 2012 Amendment No 12 aims to:

- * rezone Lots 8, 108 and 186 DP 754441, Crescent Head from E2 Environmental Conservation and RU2 Rural Landscape to E1 National Parks and Nature Reserves;
- * rezone part of Lot 1 DP 1191860, Illa Langhi Road, Crescent Head from RU2 Rural Landscape and E2 Environmental Conservation to E1 National Parks and Nature Reserves;
- * amend the Land Reservation Acquisition Map by adding the part of Lot 1 DP 1191860 being rezoned; and
- * amend the Minimum Lot Size Map to show no minimum lot size applies to Lots 8, 108 and 186 DP 754441 and part of Lot 1 DP 1191860.

PP Number : PP_2016_KEMPS_003_00 **Dop File No :** 16/09421

Proposal Details

Date Planning Proposal Received :	21-Jul-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 :		City :	Postcode :
Suburb :	Crescent Head		
Land Parcel :	Lots 8, 108 & 186 DP 754441		
Street :	Illia Langhi Road		
Suburb :	Crescent Head	City :	Postcode :
Land Parcel :	part of Lot 1 DP 1191860		

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha)	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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. The Northern Region has not met with any lobbyists in relation to this
proposal, nor has the Northern Region been advised of any meeting between other
Departmental Officers and lobbyists concerning the proposal.**

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

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **The Planning Proposal seeks to rezone Lots 8, 108 and 186 DP 754441 from E2
Environmental Conservation and RU2 Rural Landscape to E1 National Parks and Nature
Reserves as this land has been acquired by NSW National Parks and Wildlife Service
(NPWS) for possible future addition to Limeburners Creek Nature Reserve. The rezoning of**

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part of Lot 1 DP 1191860 from RU2 Rural Landscape and E2 Environmental Conservation to E1 National Parks and Nature Reserves has also been requested by OEH to reserve the land for future acquisition to the National Park estate.

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.**

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

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

Comment : **The Planning Proposal provides an adequate explanation of the intended provisions to achieve the objectives and intended outcomes subject to:**
- removal of 2.1 existing planning controls (which consists only of a description of the current RU1, RU2 and E2 Zone tables); and
- addition of further explanation of the intended changes to the lot size and land reservation acquisition maps as outlined in the statement of objectives.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

5.4 Commercial and Retail Development along the Pacific Highway, North Coast

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

* May need the Director General's agreement

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 15—Rural Landsharing Communities

SEPP No 33—Hazardous and Offensive Development

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 62—Sustainable Aquaculture

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.

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Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The Planning Proposal includes maps that include the site and the current and proposed zonings and minimum lot size standards. A proposed LRA (Land Reservation Map) has also been included. For the purposes of exhibition it is recommended that additional current and proposed zoning and lot size maps that clearly highlight the subject land also be included.

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

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : The Planning Proposal has indicated a 14 day timeframe for community consultation. This public exhibition/community consultation period is considered appropriate given the low impact nature of the proposal.

Consultation with the OEH (NPWS), NSW Rural Fire Service and DPI (Mineral Resources) will be required in accordance with the relevant Section 117 Directions.

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 and accompanying documentation are considered to satisfy the adequacy criteria by:

1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program; and
5. Providing a project time line.

Council is seeking an authorisation to exercise its plan making delegations. As the Planning Proposal deals only with matters of local significance, it is considered appropriate that an authorisation to exercise plan making delegations be issued to Council.

The RPA has provided a project time line which estimates that the LEP will be ready for submission to the Department for notification in May/June 2017. This is considered adequate and as such a 12 month time frame is recommended.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Kempsey LEP 2013 commenced on 3 February 2014.

Assessment Criteria

Need for planning
proposal :

The planning proposal is not the result of a strategy but a direct request from OEH to rezone Lots 8, 108 and 186 DP 754441 from E2 Environmental Conservation and RU2 Rural Landscape to E1 National Parks and Nature Reserves as this land has been acquired by NSW National Parks and Wildlife Service (NPWS) for possible future addition to Limeburners Creek Nature Reserve. OEH have also requested that part of Lot 1 DP 1191860 be rezoned from RU2 Rural Landscape and E2 Environmental Conservation to E1 National Parks and Nature Reserves to facilitate its future acquisition and addition to the National Park estate.

The proposal to rezone the subject lands is the best means of achieving the intent of the proposal.

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Consistency with
strategic planning
framework :

Mid North Coast Regional Strategy (MNCRS).

The proposed amendments to the Kempsey LEP 2013 are not inconsistent with the MNCRS.

Draft North Coast Regional Plan

The proposal is not inconsistent with the Draft North Coast Regional Plan.

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

All of the subject lots either are mapped as either wholly containing SEPP 14 wetland or a large part of the site has been mapped as such. It is not anticipated that the rezoning of the lots will have any detrimental impact on the wetlands and will only assist in their long term protection. The planning proposal is therefore considered to be consistent with the provisions of the SEPP.

SEPP 15 - Rural Landsharing Communities

Lot 1 DP 1191860 contains an existing rural land sharing community. As the rezoning will only affect currently vacant land not utilised by the community, the planning proposal is considered to be consistent with the provisions of the SEPP.

SEPP 44 - Koala Habitat Protection:

The proposal is not considered to be inconsistent with the Kempsey Comprehensive Koala Plan of Management (CKPOM) as no clearing of vegetation will occur.

SECTION 117 DIRECTIONS

The following directions are applicable to the proposal:

1.2 Rural Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 6.2 Reserving Land for Public Purposes.

Of the above s117 Directions the proposal is considered to be inconsistent with only Directions 1.3 and 6.2.

1.3 Mining, Petroleum Production and Extractive Industries

This Direction applies as the rezoning of the subject lands to E1 National Parks and Nature Reserves will mean that such activities will be prohibited. Despite this, Lots 8, 108 & 186 DP 754441 have been identified on the NSW Trade and Investment Mineral resource Audit Map due to an abandoned quarry on the site. Any inconsistency with this direction however can be considered to be of minor significance as the land has been acquired by NPWS and any future mining would be likely to be incompatible with its future likely use. It is recommended however that Council consult with NSW Department of Industry (Mineral Resources) following gateway determination.

4.4 Planning for Bushfire Protection

This Direction applies as the subject lots have been mapped as bushfire prone land. 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.

6.2 Reserving Land for Public Purposes

This Direction applies as the proposal will increase the amount of land zoned and reserved for public purposes without the Secretary's approval having been obtained. The inconsistency is considered to be of minor significance as OEH has requested. the change as the relevant acquiring authority.

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Environmental social
economic impacts :

The subject land does contain some potential acid sulfate soils and floodprone land as mapped by Council. The proposal will not lead to any intensification of use however with the development of E1 zoned land being severely restricted to only that authorised under the National Parks and Wildlife Act 1974.

In regard to general environmental impacts, the planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats and will only assist there long term protection by inclusion in the National Park Estate.

In regards to potential socio-economic impacts, the relevant amendments will have the potential to provide positive impacts by ensuring the future protection of environmentally sensitive land that is able to be enjoyed by the wider community as a whole. National parks and nature reserves also provide a tourist destination that ultimately benefit the local economy and the wider community.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Minerals and Petroleum Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service		
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
KLEP 2013 A#12 Council report.pdf	Proposal	Yes
KLEP2013-AM-12 Letter to Pand E requesting gateway.pdf	Proposal Covering Letter	Yes

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KLEP2013-AM-12 Planning Proposal E2 Land to E1
Limeburners Ck Nature Res.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
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

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 12 months;
4. The planning proposal is to be updated prior to exhibition to:
 - remove section '2.1 Existing Planning Controls';
 - add further explanation of the intended changes to the lot size and land reservation acquisition map as outlined in the statement of objectives;
 - include additional current and proposed zoning and lot size maps that clearly highlight the subject land;
5. That the Secretary (or her delegate) agree that the inconsistencies with section 117 Directions 1.3 and 6.2 are of minor significance;
6. That the Secretary (or her delegate) note the current inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection;
7. That the RPA consult with the Commissioner of the NSW Rural Fire Service in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection;
8. That consultation be undertaken with the following agencies:
 - Office of Environment and Heritage (NSW National Parks and Wildlife Service);
 - NSW Department of Industry (Mineral Resources); and
9. A written authorisation to exercise delegation is issued to Kempsey Shire Council in this instance.

Supporting Reasons : The reasons for the recommendation is that the proposed amendments to KLEP 2013 are the direct result of a request from the Office of Environment and Heritage to identify existing and future land that will be added to the National Park estate in the locality.

Signature:



Printed Name:

Craig Diss

Date:

26 July 2016