

EXTRACT FROM MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL HELD 21 JUNE 2016

ITEM 3 KLEP 2013 AMENDMENT – NATIONAL PARKS

Contact Person: Robert Pitt– Director Sustainable Environment

File: KLEP2013-AM-12 LAS 33166, 16872, 9098 and 16873

PURPOSE

Reporting that the NSW National Parks and Wildlife Service has requested a Planning Proposal be prepared to amend Kempsey Local Environmental Plan 2013 (KLEP 2013) to rezone four land parcels in the Maria River Road area to E1 (National Parks and Reserves).

2016.131 RESOLVED

*Moved: Cl. Shields
Seconded: Cl. Morris*

That the Draft Planning Proposal and associated documentation be submitted to the Minister for Planning for consideration of issuing a “gateway determination” pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979*.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	McGinn	F	Morris	F
Patterson	F	Saul	F	Shields	F	Williams	F

BACKGROUND

Subject Land

The subject land comprises Lots 8, 108 and 186 DP754441 which are located on the southern extent of the Shire adjacent to the eastern side of Maria River Road and are accessed via a road from Maria River Road through Limeburners Creek Nature Reserve. Lot 1 DP1191860 is located on Illa Langhi Road which is accessed via Maria River Road.



Figure 1 Site Location Lots 8, 108 and 186 DP754441

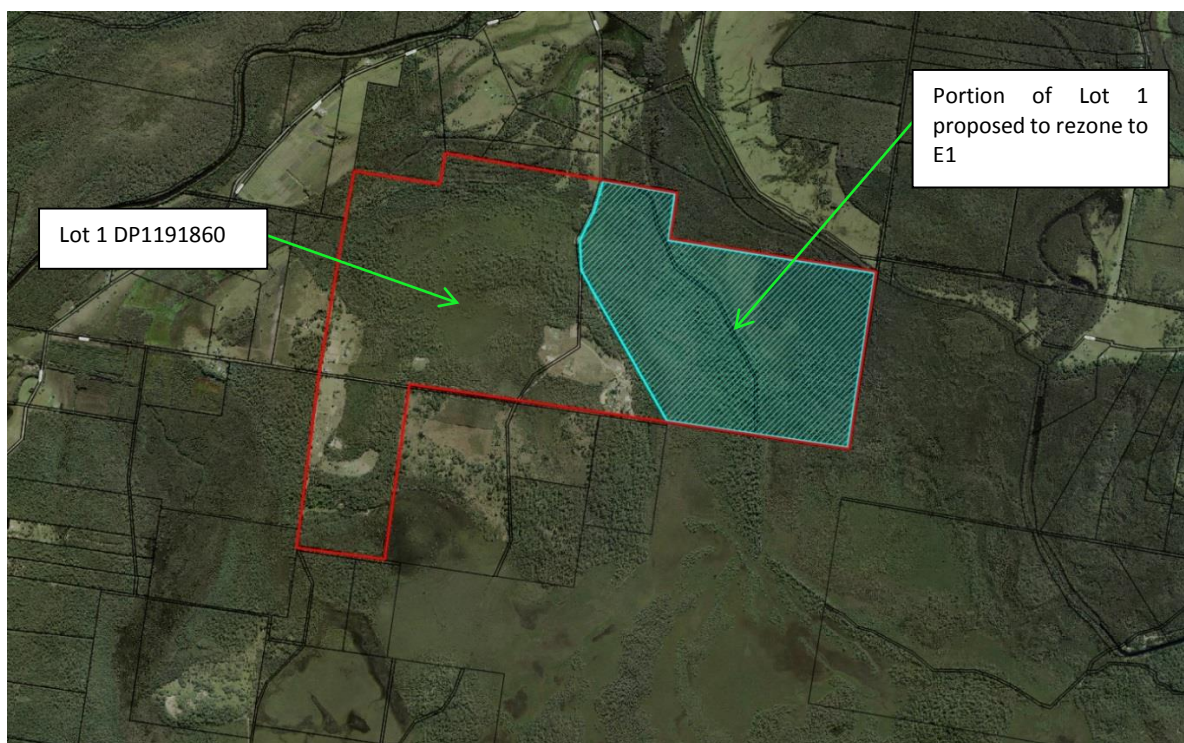


Figure 2 Site Location Lot 1 DP1191860

COMMENTARY

Rationale for Planning Proposal

Lots 8, 108 and 186 DP754441 are zoned E2 *Environmental Conservation* and RU2 *Rural Landscape* and have been acquired by NSW National Parks and Wildlife Service for possible future addition to Limeburners Creek Nature Reserve.

Lot 1 DP1191860 is zoned RU1 *Primary Production*, RU2 *Rural Landscape* and E2 *Environmental Conservation*. In the previous 1987 LEP a portion of this lot in the eastern section was zoned 8(a) *Existing National Parks, Nature Reserves and Land Available for Recreation*. An error occurred in the KLEP 2013 and the portion of land that was zoned 8(a) in LEP 1987 was inadvertently zoned E2 *Environmental Conservation*. This portion of the land should have been zoned E1 *National Parks and Reserves* in the KLEP 2013.

Objectives and Aims of the Planning Proposal

The objectives of the planning proposal are to:

- Amend the zoning of Lots 8, 108 and 186 DP754441 Crescent Head from E2 *Environmental Conservation* and RU2 *Rural Landscape* to E1 *National Parks and Reserves* and a portion of Lot 1 DP1191860, Illa Langhi Road Crescent Head from E2 *Environmental Conservation* to E1 *National Parks and Reserves*.

The aims of the planning proposal are to:

- Re-zone Lots 8, 108 and 186 DP754441 Crescent Head from E2 *Environmental Conservation* and RU2 *Rural Landscape* to E1 *National Parks and Reserves* and rezone a portion of Lot 1 DP1191860, Illa Langhi Road Crescent Head from E2 *Environmental Conservation* to E1 *National Parks and Reserves*.
- Amend the Land Reservation Acquisition Map by adding Lots 8, 108 and 186 DP754441 and adding a portion of Lot 1 DP1191860 to the map. In addition to this it will be necessary to amend the Land Zoning Map Sheet to indicate Lots 8, 108 and 186 DP754441 and a portion of Lot 1 DP1191860 as being zoned E1 *National Parks and Reserves*.

Existing planning controls

The subject lands are zoned RU1 *Primary Production*, RU2 *Rural Landscape* and E2 *Environmental Conservation*. The extract of land use tables are provided in Section 2.1 of the Planning Proposal [\(Appendix D - Page 289\)](#). The minimum lot size for all the subject land is 40ha.

Proposed planning controls

It is proposed to rezone Lots 8, 108 and 186 DP754441 and a portion of Lot 1 DP1191860 to E1. The objectives of Zone E1 *National Parks and Reserves* are as follows:

- to enable the management and appropriate use of the land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act.
- to enable uses authorised under the *National Parks and Wildlife Act 1974*.

- to identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and protect the environmental significance of that land.

No development is permitted with consent with uses authorised under the National Parks and Wildlife Act 1974 permitted without development consent.

Mapping Amendments

The following table describes proposed Map Amendments:

Map Sheet	Current	Proposed
Land Zoning Map Sheet LZN_012	Land zoning map indicates the subject land as zoned E2 and RU2	Change map to indicate land zoned as E1
Lot Size Map - Sheet LSZ_012	Minimum lot size of 40ha shown on map	Remove from Lots Size Map
Land Reservation Map Sheet LRA_012	No current map for this area	Create new LRA map for this area and add subject land to map.

A copy of the updated maps can be seen in Figures 4, 6 and 7 of the Planning Proposal [\(Appendix D - Page 289\)](#).

Consistency with relevant State Environmental Planning Policies (SEPPs) and s117 Ministerial Directions

Council is required to ensure that any planning proposal is consistent with relevant SEPPs, and S117 Direction. See the Planning Proposal for full assessment of consistency of s117 directions [Appendix D - Page 289](#)

The Planning Proposal is considered consistent with all relevant SEPPs. See the Planning Proposal for full assessment of consistency with the relevant SEPPs [Appendix D - Page 289](#).

The Planning Proposal is considered inconsistent with the relevant 117 directions, with the exception of three directions considered to be of minor significance.

Summary of s117 Direction Inconsistencies

1.3 Mining, Petroleum Production and Extractive Industries Issued 1 July 2009	Inconsistent but of minor significance By rezoning the land to E1 to which the planning proposal applies, minerals, petroleum and extractive industries will be prohibited uses. The land on Lots 8, 108 and 186 has been identified on the NSW Trade and Investment Mineral Resource Audit Map due to an abandoned quarry on the site. This land has been acquired by NSW National Parks and Wildlife Service and is considered of minor significance. Consultation with DPI is proposed after gateway determination is received.
1.5 Rural Lands Issued 1 July 2009	Inconsistent but of minor significance The planning proposal will effect land within an existing rural and environmental protection zone, however the land on all the land parcels

	is constrained by environmental factors and not suitable for agricultural production.
4.4 Planning for Bushfire Protection Issued 1 July 2009	Inconsistent but of minor significance The planning proposal is for land that has been mapped as bushfire prone. This would be considered as part of the development application process for any proposed development on the site. There has been no consultation with the NSW Rural Fire Service. Consultation will be undertaken with the NSW RFS regarding this planning proposal following the Gateway determination and prior to community consultation (if it is supported by DP&E).

A full copy of the Planning Proposal is appended [Appendix D - Page 289](#)



Planning Proposal

KLEP 2013 Amendment No 12

Rezone land from RU1, RU2 and E2 to

E1

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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 12.

This proposal refers to Lots 8, 108 and 186 DP754441, Crescent Head and Lot 1 DP1191860 Illanghi Road, Crescent Head. Council is seeking to amend the zoning of Lots 8, 108 and 186 DP754441 and a portion of Lot 1 DP1191860 to E1 *National Parks and Reserves*.

1.2 Objectives and Aims

The objectives of this planning proposal are:

- Amend the zoning of Lots 8, 108 and 186 DP754441 Crescent Head from E2 *Environmental Conservation* and RU2 *Rural Landscape* to E1 *National Parks and Reserves* and a portion of Lot 1 DP1191860, Illa Langhi Road Crescent Head from E2 *Environmental Conservation* to E1 *National Parks and Reserves*.

The aims of the planning proposal are:

- Re-zone Lots 8, 108 and 186 DP754441 Crescent Head from E2 *Environmental Conservation* and RU2 *Rural Landscape* to E1 *National Parks and Reserves* and rezone a portion of Lot 1 DP1191860, Illa Langhi Road Crescent Head from E2 *Environmental Conservation* to E1 *National Parks and Reserves*.
- Amend the Land Reservation Acquisition Map by adding Lots 8, 108 and 186 DP754441 and adding a portion of Lot 1 DP1191860 to the map. In addition to this it will be necessary to amend the Land Zoning Map Sheet to indicate Lots 8, 108 and 186 DP754441 and a portion of Lot 1 DP1191860 as being zoned E1 *National Parks and Reserves*.

1.3 Land to which the planning proposal applies

The land to which this proposal refers to is Lots 8, 108 and 186 DP754441 Crescent Head and Lot 1 DP1191860, Illa Langhi Road Crescent Head.

1.4 Site context and setting

Lots 8, 108 and 186 DP754441 are positioned on the southern extent of the Shire adjacent to the eastern side of Maria River Road and are accessed via a road from Maria River Road through Limeburners Creek Nature Reserve. Lot 1 DP1191860 is positioned on Illa Langhi Road which is accessed via Maria River Road. All lots are in the location of Crescent Head.

Lots 8, 108 and 186 DP754441 are zoned E2 *Environmental Conservation* and RU2 *Rural Landscape* and have been acquired by NSW national Parks and Wildlife Service for possible future addition to Limeburners Creek Nature Reserve.

Lot 1 DP1191860 is zoned RU1 Primary Production, RU2 *Rural Landscape* and E2 *Environmental Conservation*. In the previous 1987 LEP the a portion of this lot in the eastern section was zoned 8(a) *Existing National Parks, Nature Reserves and Land Available for Recreation*. An error occurred in the KLEP 2013 and the portion of land that was zoned 8(a) in LEP 1987 was zoned E2 *Environmental Conservation*. This portion of the land should have been zoned E1 *National Parks and Reserves* in the KLEP 2013.

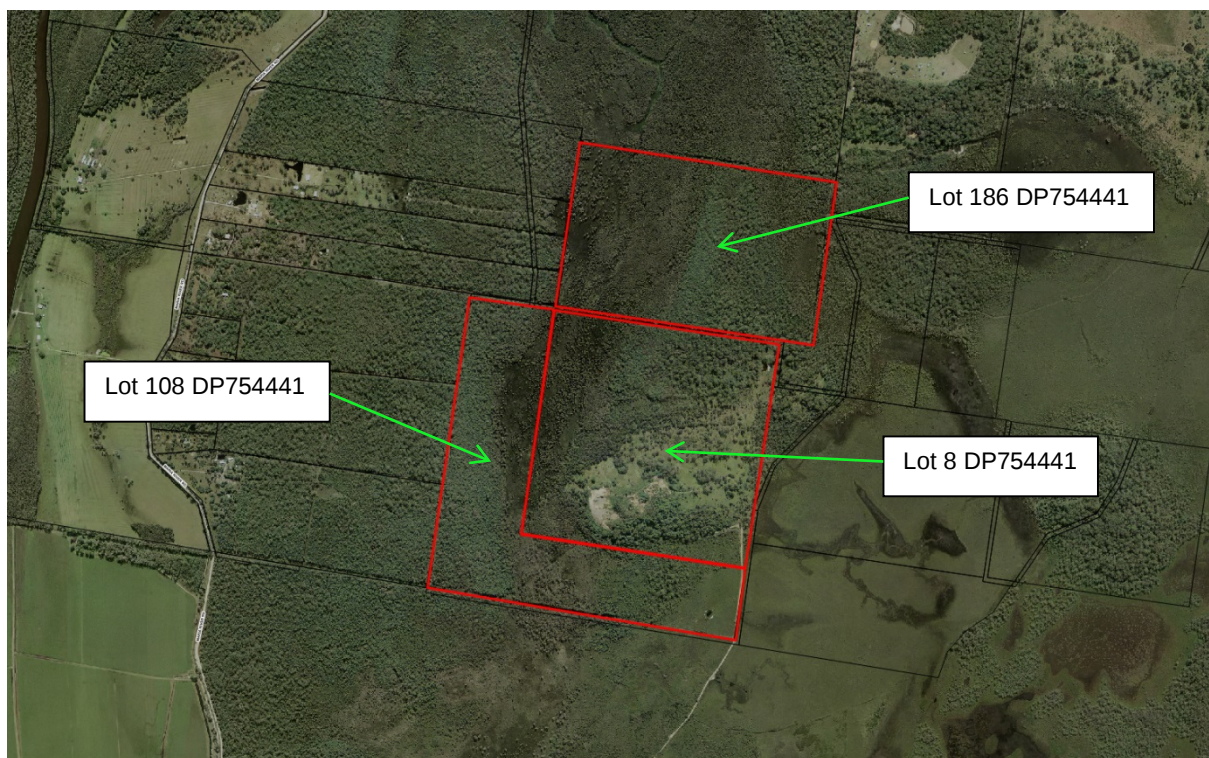


Figure 1 Site Location Lots 8, 108 and 186 DP754441

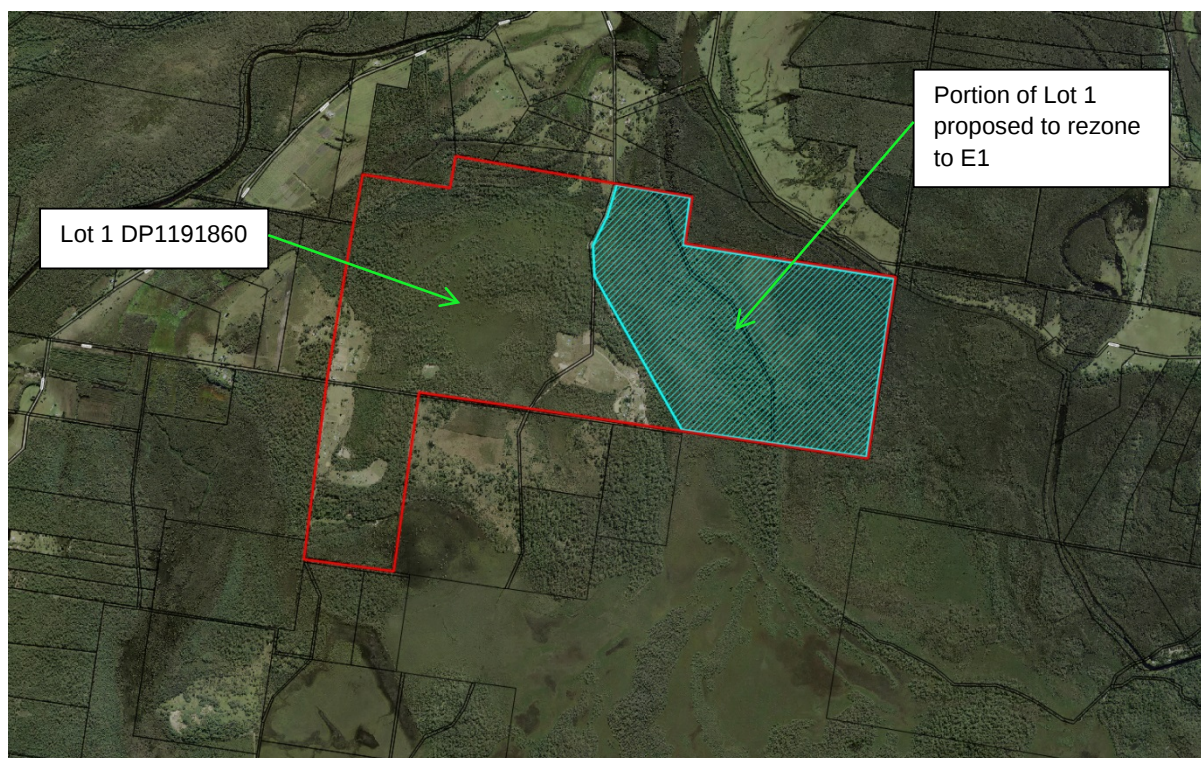


Figure 2 Site Location Lot 1 DP1191860

2. PART 2 – EXPLANATION OF PROVISIONS

2.1 Existing Planning Controls

The objectives of Zone RU1 *Primary Production* of KLEP 2013 are;

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural and scenic character of the zone.
- To encourage eco-tourist facilities and tourist and visitor accommodation that minimise any adverse effect on primary industry production and scenic amenity of the area.
- To enable agricultural support activities to be carried out on land within the zone in a manner that does not significantly reduce the agricultural and horticultural production potential of land in the locality.
- To encourage development that is compatible with the character of the zone.

The types of development permitted with consent within the RU1 zone of the KLEP 2013 are as follows; Air transport facilities; Airstrips; Animal boarding or training establishments; Aquaculture; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Crematoria; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Educational establishments; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Freight transport facilities; Group homes; Helipads; Home businesses; Home industries; Hospitals; Industrial training facilities; Intensive livestock agriculture; intensive plant agriculture; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Places of public worship; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers dwellings; Signage; Transport depots; Truck depots; Veterinary hospitals; Water recreation structures; Water supply systems; wharf or boating facilities.

The objectives of Zone RU2 *Rural Landscape* of KLEP 2013 are;

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.

The types of development permitted with consent within the RU2 zone of the KLEP 2013 are as follows; Agriculture, Air transport facilities; Airstrips; Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Charter and tourism boating facilities; Community facilities; Crematoria; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Freight transport facilities; Group homes; Heavy industries; Helipads; Home businesses; Home industries; Hospitals; Industrial training facilities; Jetties; Liquid fuel depots; Marinas; Mooring pens; Moorings; Places of public worship; Recreation areas; Recreation facilities (major); Recreation facilities (outdoor); Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers dwellings; Signage; Transport depots; Truck depots; Veterinary hospitals; Water recreation structures; Water supply systems; wharf or boating facilities.

The objectives of Zone E2 *Environmental Conservation* of KLEP 2013 are;

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.

- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect wetland ecosystems from development that could adversely affect water quality, water supply and biodiversity.
- To keep floodways free of development liable to be damaged by flood waters.
- To keep floodways free of development which is likely to adversely affect the flow of flood waters.

The types of development permitted with consent within the E2 zone of the KLEP 2013 are as follows; Boat launching ramps; Environmental facilities; Extensive agriculture; Flood mitigation works; Home-based child care; Home businesses; Home occupations (sex services); Jetties; Moorings; Roads; Water recreation structures; Wharf or boating facilities.

2.2 Proposed Planning Provisions

It is proposed to rezone Lots 8, 108 and 186 DP754441 and a portion of Lot 1 DP1191860 to E1. The objectives of Zone E1 National Parks and Reserves are as follows;

- To enable the management and appropriate use of the land that is reserved under the *National Parks and Wildlife Act 1974* or that is acquired under Part 11 of that Act.
- To enable uses authorised under the *National Parks and Wildlife Act 1974*.
- To identify land that is to be reserved under the *National Parks and Wildlife Act 1974* and protect the environmental significance of that land.

No types of development permitted with consent within the E1 zone of the KLEP 2013.

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 planning proposal is not a result of any specific strategic study or report.

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 that the land that has been acquired by National Parks and Wildlife Service (Lots 8, 108 and 186 DP754441) can be rezoned. The planning proposal is also the only means in which amend an error in the KLEP 2013 and rezone a portion of Lot 1 DP1191860.

3.1.3 Is there a net community benefit?

There is neither a net community disadvantage nor benefit from allowing the rezoning of Lots 8, 108 and 186 DP754441 and a portion of Lot 1 DP1191860 to E1.

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?

The planning proposal is not relevant to any actions contained within any regional or sub-regional strategy.

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

The planning proposal is not relevant to any actions contained within the Macleay Valley 2036 Community Strategic Plan, June 2013.

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 regards to each SEPP.

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

The planning proposal is inconsistent with s117 Directions 1.3 Mining Petroleum and Extractive Industries, 1.5 Rural Lands 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?

Any critical habitat or threatened species, populations or ecological communities situated on the subject lots will be better protected by the re-zoning.

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 are expected as a result of the planning proposal.

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

It is considered that the planning proposal will not have any negative social and economic impacts.

3.4 Section D – State and Commonwealth interests

3.4.2 Is there adequate public infrastructure for the planning proposal?

The planning proposal does not result in the lots requiring any further availability of public infrastructure.

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

State Government authorities have been involved in this planning proposal as it is was a request by Office of Environment and Heritage to rezone Lots 8, 108 and 186 DP754441 to E1 and amend the error in the KLEP 2013 and re-zone a portion of Lot 1 DP1191860 to E1.

There are no issues associated with this planning proposal of interest to Commonwealth Authorities.

4. PART 4 – MAPPING

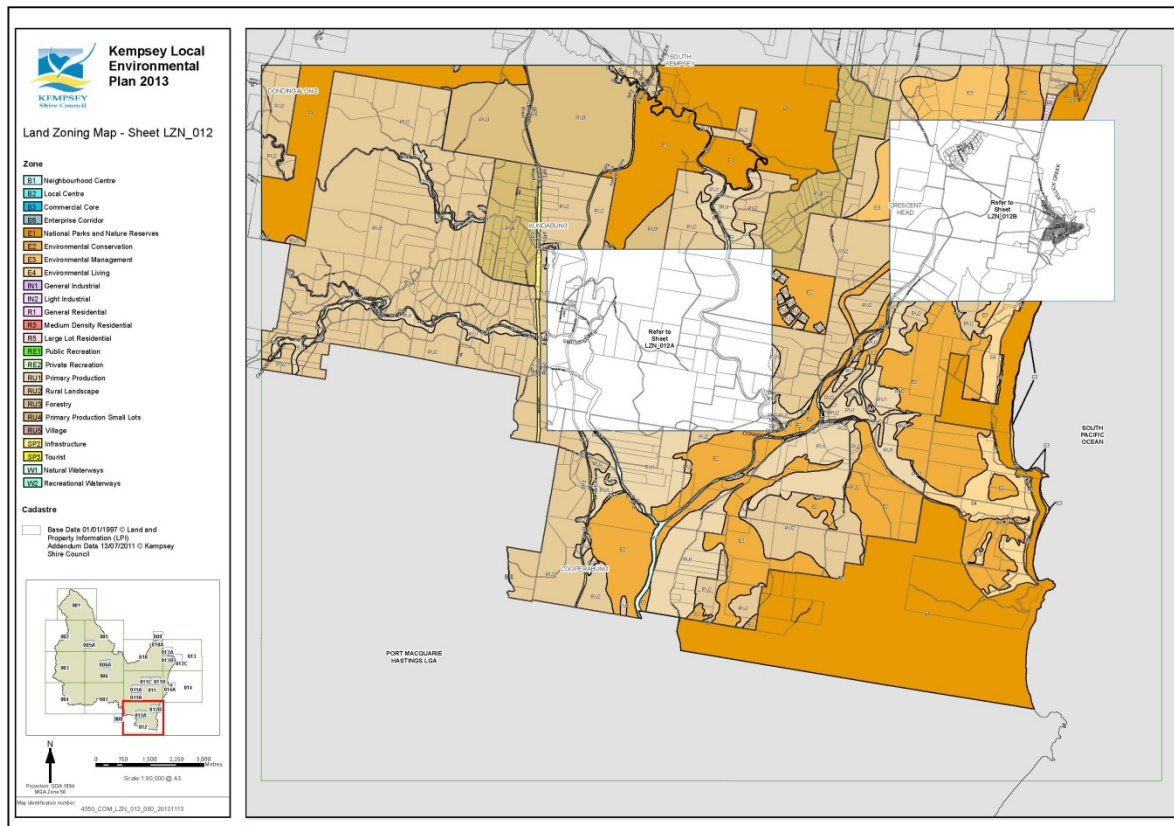


Figure 3 Current KLEP 2013 LZN Map

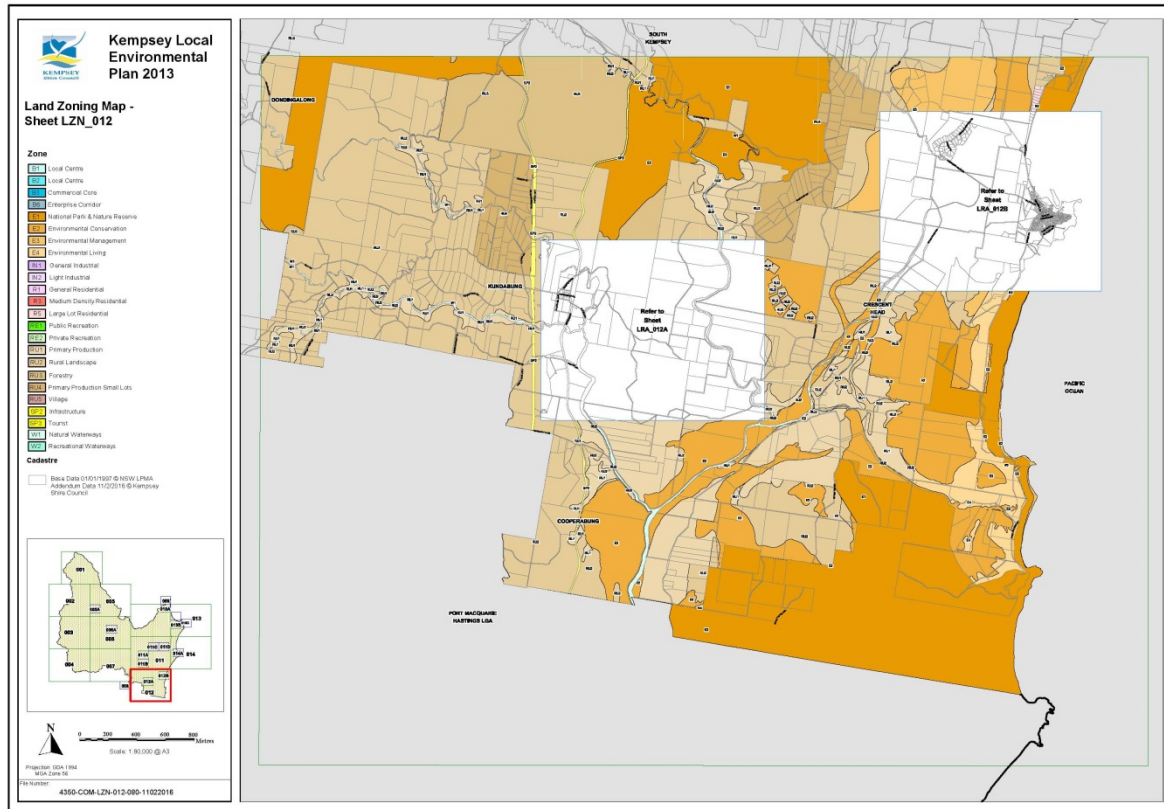


Figure 4 Proposed LZN Map



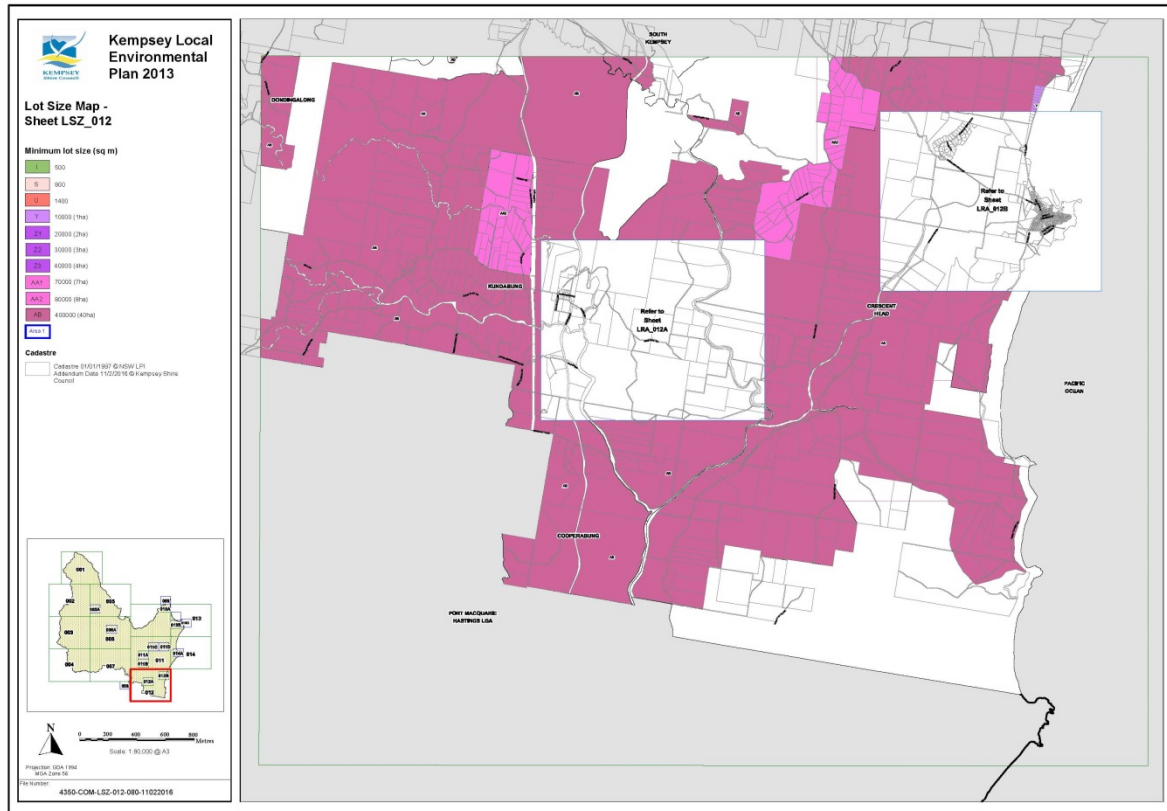
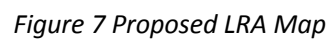


Figure 6 Proposed LSZ Map



5. PART 5 - COMMUNITY CONSULTATION

Community consultation will be undertaken following the Gateway determination. Any consultation will be undertaken in accordance with the conditions specified in the Gateway Determination, as well as Kempsey Shire Councils Public Notification Policy.

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

Information relating to the Planning Proposal would also be displayed at Kempsey Shire Council 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 as *Table 6.1* below. It is estimated that this amendment to the KLEP 2013 will be complete by June 2017

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

Table 6.1 – Project Timeline

LEP Amendment Steps	Estimated Project Timing
Submit Planning Proposal to DP&E	June/July 2016
Receive Gateway determination	August/September 2016
Authority consultation - pre-exhibition*	September/October 2016
Preparation of materials for public exhibition & authority consultation	October/November 2016
Public exhibition of Planning Proposal & government authority consultation	November/December 2016
Review and consideration of submissions	December/January 2016/2017
Council report preparation	January/February 2017
Public submissions report and draft LEP amendment to Council for adoption	February/March 2017
Submission to the department to finalise the LEP	March/April 2017
Submit request for drafting of LEP to Parliamentary Counsel's Office^	April/May 2017
Forward to the department for notification	May/June 2017
* If required	
^ If delegated	

Appendix A

Consistency with State Environmental Planning Policies

No.	SEPP Title	Summary	Consistency
14	Coastal Wetlands	Seeks to ensure the State's coastal wetlands are preserved and protected.	Consistent The majority of Lot 186 DP754441 is mapped SEPP 14 wetland and large areas of Lots 8 and 108 DP754441 are mapped SEPP 14 wetland. The entire portion of Lot 1 DP1191860 that is proposed to be re-zoned to E1 is mapped SEPP 14 wetland. The re-zoning of land in this planning proposal to E1 will further preserve and protect these areas of mapped SEPP 14 wetland.
15	Rural Landsharing Communities	Seeks to facilitate the development of rural landsharing communities committed to environmentally sensitive and sustainable land use practices.	Consistent Lots 8, 108 and 186 DP754441 are not part of a rural land sharing community. Lot 1 DP1191860 contains a rural land sharing community development, however the eastern portion of the site was previously zoned 8(a) under the 1987 LEP and an error occurred with the KLEP 2013 and the same portion of land was made E2 rather than E1. The planning proposal to correct this error will not impact on the existing rural land sharing community on this lot.
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.	Not applicable Lots 8, 108 and 186 DP754441 have been acquired by National Parks and Wildlife Service and are proposed to be re-zoned E1 which uses which are authorised under the National Parks and Wildlife Act 1974 are permitted. The area proposed to be rezoned from E2 to E1 on Lot 1 DP1191860 is entirely mapped SEPP 14 wetland.
26	Littoral Rainforests	Seeks to protect littoral rainforests from development.	Not applicable None of the land parcels in this planning proposal contain any mapped SEPP26 littoral rainforest
30	Intensive Agriculture	Requires development consent and additional requirements for cattle feedlots and piggeries.	Not applicable The planning proposal does not provide for cattle feedlots and piggeries
32	Urban Consolidation	Seeks to facilitate surplus urban land redevelopment for multi-unit housing and related development in a timely manner.	Not applicable SEPP 32 Urban Consolidation does not apply to the planning proposal
33	Hazardous and Offensive Development	Seeks to provide additional support and requirements for hazardous and offensive development	Consistent The planning proposal will not facilitate hazardous or offensive development
36	Manufactured Home Estates	Seeks to facilitate the establishment of manufactured home estates as a	Not applicable

		contemporary form of residential housing.	The planning proposal does not seek to amend the application of the Manufactured Homes Estate SEPP
44	Koala Habitat Protection	Seeks to encourage proper conservation and management of areas of natural vegetation that provide habitat for koalas	Consistent SEPP 44 and the Kempsey Comprehensive Koala Plan of Management applies to the land in the planning proposal, however the proposal is to rezone the land to E1 and all the vegetation will be protected under that zoning.
50	Canal Estate Development	Prohibits canal estate development	Not applicable The planning proposal does not facilitate canal estate development
55	Remediation of Land	Provides a State-wide planning approach for the remediation of contaminated land.	Consistent The planning proposal would not alter the requirements for remediation of land in accordance with SEPP 55. Council is not aware of past land uses which may have led to contamination.
62	Sustainable Aquaculture	Seeks to encourage and regulate sustainable aquaculture development	Consistent The planning proposal will not be impacting aquaculture developments
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.	Not applicable The planning proposal seeks to re-zone the land to E1 which will only permit uses under the National Parks and Wildlife Act 1974.
65	Design Quality of Residential Flat Development	Seeks to improve the design qualities of residential flat building development in New South Wales.	Not applicable The Design Quality of Residential Flat Development SEPP does not apply to this planning proposal
71	Coastal Protection	Seeks to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast.	Not applicable The planning proposal is not situated within the coastal zone
	Affordable Rental Housing	To provide a consistent planning regime for the provision of affordable rental housing and facilitate the effective delivery of affordable housing	Not applicable The Affordable Rental Housing SEPP does not apply to this planning proposal

	Building Sustainability Index: BASIX 2004	The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme throughout the State	Not applicable The Building Sustainability Index BASIX does not apply to this planning proposal.
	Exempt and Complying Development Codes 2008	Seeks to provide streamlined assessment process for development that complies with specified development standards.	Not applicable The exempt and complying development code does not apply to this planning proposal.
	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.	Not applicable The Housing for Seniors or People with Disability SEPP does not apply to this planning proposal.
	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.	Not applicable The Infrastructure SEPP does not apply to this planning proposal
	Major Development 2005	Aims to facilitate the development or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State. Also to facilitate service delivery outcomes for a range of public services.	Not applicable The Major Development SEPP does not apply to this planning proposal
	Mining, Petroleum and Extractive Industries 2007	Seeks to provide for the proper management and development of mineral, petroleum and extractive material resources	Not applicable The Mining, Petroleum and Extractive Industries SEPP does not apply to this planning proposal
	Rural Lands 2008	Seeks to facilitate the orderly and economic use and development of rural lands for rural and related purposes	Not applicable The Rural Lands SEPP does not apply to this planning proposal

	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.	Not applicable The State and Regional Development SEPP does not apply to this planning proposal
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Appendix B

Consistency with Section 117 Directions

Direction	Objectives	Application	Consistency
1. Employment and Resources			
1.1 Business and Industrial Zones Issued 1 July 2009	- To encourage employment growth in suitable locations - To protect employment land in business and industrial zones, and support the viability of identified strategic centres.	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)	Not applicable The planning proposal is not for Business and industrial zones.
1.2 Rural Zones Issued 1 July 2009	To protect the agricultural production value of rural land.	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)	Consistent The planning proposal is not rezoning land from a rural zone to residential, business, industrial, village or tourist zone. The planning proposal does not contain provisions that will increase the permissible density of land within a rural zone.
1.3 Mining, Petroleum Production and Extractive Industries Issued 1 July 2009	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.	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.	Inconsistent but of minor significance By rezoning the land to E1 in which the planning proposal applies minerals, petroleum and extractive materials will be prohibited. The land on Lots 8, 108 and 186 has been identified on the NSW Trade and Investment Mineral Resource Audit Map due to an abandoned quarry on the site. This land has been acquired by NSW National Parks and Wildlife Service and is considered of minor significance. Consultation with DPI is proposed after gateway determination.

APPENDIX D

1.4 Oyster Aquaculture Issued 1 July 2009	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.	Applies to Priority Oyster Aquaculture Areas as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006)	Not applicable The planning proposal is not for land located in a priority Oyster Aquaculture Area as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy Second Edition (NSW Department of Primary Industries, 2014)
1.5 Rural Lands Issued 1 July 2009	To protect the agricultural production value of rural land and facilitate the orderly and economic development of rural land.	Applies to all planning proposals to which State Environmental Planning Policy (Rural Lands) 2008 applies	Inconsistent but of minor significance The planning proposal will effect land within an existing rural and environmental protection zone, however the land on all the land parcels is constrained by environmental factors and not suitable for agricultural production.
2. Environment and Heritage			
2.1 Environment Protection Zones Issued 1 July 2009	To protect and conserve environmentally sensitive areas.	Applies when a planning proposal is prepared.	Consistent The planning proposal will further protect and conserve environmentally sensitive areas.
2.2 Coastal protection Issued 1 July 2009	To implement the principles of the NSW Coastal Policy.	Applies to the Coastal Zone as defined in the Coastal Protection Act 1979.	Not applicable The planning proposal is not for land within the coastal zone.
2.3 Heritage Conservation Issued 1 July 2009	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	To conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent The planning proposal is to re-zone the land to E1 which will (by nature of the zoning) conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance that may be present on the sites.

2.4 Recreation Vehicle Areas Issued 1 July 2009	To protect sensitive land or land with Significant conservation values from adverse impacts from recreation vehicles.	Limits the development of land for the purpose of a recreational vehicle area.	Consistent The planning proposal will rezone the land to E1 which will protect sensitive land or land with Significant conservation values from adverse impacts from recreation vehicles.
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones Issued 1 July 2009	- To encourage a variety and choice of housing types to provide for existing and future housing needs - To make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and - To minimise the impact of residential development on the environment and resource lands.	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.	Not applicable The planning proposal is not for land within a residential zone.

3.2 Caravan Parks and Manufactured Home Estates Issued 1 July 2009	- To provide for a variety of housing - types and opportunities for caravan parks and manufactured home estates	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.	Not applicable The planning proposal does not relate to any existing or proposed caravan park or manufactured home estates.
3.3 Home Occupations Issued 1 July 2009	To encourage the carrying out of low-impact small businesses in dwelling houses.	Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.	Not applicable The planning proposal is to rezone the subject land parcels to E1 and dwelling houses are not permissible in the E1 zone and therefore does not relate to home occupation businesses.
3.4 Integrating Land Use and Transport Issued 1 July 2009	- To ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts: - improve access to housing, jobs and services by walking, cycling and public transport, - increase transport choice and reduce travel demand and reducing dependence on cars, - reduce travel demand including distances travelled, especially by car, - support the efficient and viable operation of public transport services, and	Applies to planning proposals that create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Not applicable The planning proposal does not create, alter or remove a zone or a provision relating to urban land.

	Provide for the efficient movement of freight.		
3.5 Development Near Licensed Aerodromes Issued 1 July 2009	- To ensure the effective and safe operation of aerodromes - 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. - To ensure development for residential purposes or human occupation incorporates appropriate mitigation measures	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.	Consistent The planning proposal is not for land which is in the vicinity of the Kempsey Airport.
3.6 Shooting Ranges Issued 16 February 2011	- To maintain appropriate levels of public safety and amenity and reduce land use conflict when rezoning land adjacent to an existing shooting range. - To identify issues that must be addressed when giving consideration to rezoning land adjacent to a shooting range.	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.	Consistent The planning proposal is not for land that is situated near the Kempsey Clay Target Club site (191 Armidale Road) or the Macleay Valley Regional Shooting Complex (Rifle Range Road).

4. Hazard and Risk

4.1 Acid Sulfate Soils Issued 1 July 2009	To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	Applies to planning proposal on land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	Consistent The planning proposal is positioned on land that is classified in the KLEP 2013 containing potential Acid Sulfate Soils. However the planning proposal is to rezone the land to E1 which prohibits any development or activity that would disturb, expose or drain acid sulphate soils and cause environmental damage.
4. 2 Mine Subsidence and Unstable Land Issued 1 July 2009	To prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment	Not applicable The planning proposal does not relate to land within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment.
4.3 Flood Prone Land Issued 1 July 2009	- To ensure that development of flood prone land is consistent with the <i>NSW Government's Flood Prone Land Policy</i> and the principles of the <i>Floodplain Development Manual</i> 2005; and - 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.	Applies to a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	Consistent Some of the land subject of the planning proposal is situated on flood prone land, however the planning proposal proposes to re-zone the land to E1 which will prohibit development on the land.

4.4 Planning for Bushfire Protection Issued 1 July 2009	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.	Inconsistent but of minor significance The planning proposal is for land that has been mapped as bushfire prone. However the proposal is to re-zone the land to E1 which would prohibit development on the land. There has been no consultation with the NSW Rural Fire Service. Consultation will be undertaken with the NSW RFS regarding this planning proposal following the Gateway determination and prior to community consultation (if it is supported by DP&E).
5. Regional planning			
5.1 Implementation of Regional Strategies Issued 1 July 2009	To give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	Applies to: Far North Coast, Lower Hunter, Illawarra, South Coast, Sydney–Canberra Corridor, Central Coast and Mid North Coast	Consistent The planning proposal is not for land that has been identified in the Mid North Coast Regional Strategy as a growth area or employment land.
5.2 Sydney Drinking Water Catchments Issued 3 March 2011	To protect water quality in the Sydney drinking water catchment.	Applies to; Blue Mountains, Campbelltown, Cooma Monaro, Eurobodalla, Goulburn, Mulwaree, Kiama. Lithgow, Oberon, Palerang, Shoalhaven, Sutherland, Wingecarribee, Wollondilly, Wollongong.	Not applicable The planning proposal does not relate to land within the Sydney drinking water catchment.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	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	Consistent The planning proposal does not affect commercial or retail uses along the Pacific Highway.
5.10 Implementation of Regional Plans	To give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans	Applies when a relevant planning authority prepares a planning proposal	Consistent The planning proposal is not inconsistent with the current Mid North Coast Regional Strategy and the Draft North Coast Regional Strategy.
6. Local Plan Making			

6.1 Approval and Referral Requirements 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.	Consistent The planning proposal does not introduce any additional requirements for concurrence with other Government agencies.
6.2 Reserving of Land for Public Purposes 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.	Consistent The planning proposal is to re-zone the land to E1 in accordance with the request from NSW National Parks and Wildlife Service.
6.3 Site Specific Provisions Issued 1 July 2009	To discourage unnecessarily restrictive site specific planning controls.	A planning proposal to amend an environmental planning instrument must either: • allow that land use to be carried out in the zone the land is situated on, or • rezone the site to an existing zone that allows that land use without imposing any development standards, or • 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.	Not applicable The planning proposal does not contain site specific controls.

7. Metropolitan planning

7.1 Implementation of the Metropolitan Plan for Sydney 2036 Issued 1 February 2011	To give legal effect to the vision, transport and land use strategy, policies, outcomes and actions contained in the Metropolitan Plan for Sydney 2036.	Does not apply to the Kempsey local government area.	Not applicable The planning proposal does not relate to land identified in the Metropolitan Plan for Sydney.
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