

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

Our ref: PP_2017_KEMPS_006_00 (17/07802)
Your ref: KLEP2013-AM-21; RZ-17-2

Dear Mr Rawlings

Planning proposal to amend Kempsey Local Environmental Plan 2013

I am writing in response to Council's letter dated 31 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 reduce the minimum lot size at 15 Felton's Lane, Hampden Hall (Lot 424 DP 710381) to facilitate a two lot rural residential subdivision.

As delegate of the Minister for Planning, I have now determined the planning proposal should not proceed for the reasons outlined in the attached Gateway determination.

The existing rural planning framework established by State Environmental Planning Policy (Rural Land) 2008, Section 117 Direction 1.5 Rural Lands and the North Coast Regional Plan 2036 seek to prevent the fragmentation of rural land, protect future opportunities for primary production and restrict unplanned rural subdivision. I note the proposal is not within an identified rural residential release area under Council's local growth management strategy.

The principle of permitting ad hoc and unplanned rural residential subdivision and dwellings based on a physical constraint (such as the location of a sealed road) is not supported. Such proposals are more appropriately addressed at a strategic level through a review of Council's local growth management strategy which would consider the full range of issues within the locality and identify appropriate future rural residential lands within these areas. I understand that Council's existing local growth management strategy has already identified sufficient rural residential land in the Verges Creek locality to ensure an appropriate future supply to meet expected demand.

I also note that the land is predominantly mapped as regionally significant farmland, as being within a floodway and isolated during flood events. These constraints make the proposal inconsistent with Section 117 Directions 4.3 Flood Prone Land and 5.10 Implementation of Regional Plans.

Should Council wish to pursue additional rural residential subdivision and housing opportunities on undersized rural lots such as the current site, it should be within the context of appropriately located and serviced rural residential areas identified in its local strategy.

If management of the existing lot proves too onerous for the current owners, there is an opportunity for this land to be split with the creation of a primary production lot under Clause 9 of the State Environmental Planning Policy (Rural Land) 2008). I would encourage Council to discuss this option with the landowner.

Should you have any queries in regard to this matter, I have arranged for Ms Tamara Prentice of the Department's Grafton regional office to assist you. Ms Prentice can be contacted on (02) 6641 6610.

Yours sincerely

 6/7/17
Oliver Holm
Acting Deputy Secretary
Planning Services

Encl:
Gateway Determination

Gateway Determination

Planning proposal (Department Ref: PP_2017_KEMPS_006_00): to reduce the minimum lot size 15 Felton's Lane, Hampden Hall (Lot 424 DP 710381) to facilitate a two lot rural residential subdivision.

I, the Acting Deputy Secretary, Planning Services 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 reduce the minimum lot size of 15 Felton's Lane, Hampden Hall (Lot 424 DP 710381) to facilitate a two lot rural residential subdivision should not proceed for the following reasons:

1. The proposal is inconsistent with the State Environmental Planning Policy (Rural Land) 2008, Section 117 Directions 1.5 Rural Lands, 4.3 Flood Prone Land and 5.10 Implementation of Regional Plans and the North Coast Regional Plan 2036 as it does not adequately address the flooding issues associated with the land, proposes rural residential development on regionally significant farmland and is not in accordance with Council's Department approved local growth management strategy.

Dated

6th day of July

2017



**Oliver Holm
Acting Deputy Secretary
Planning Services
Department of Planning and
Environment**

Delegate of the Minister for Planning