



**Planning Proposal**

**KLEP 2013 Amendment No. 14**

**Administrative Amendment – Part 4 – Principle Development Standards**

Contents

[1. PART 1 – OBJECTIVES OR INTENDED OUTCOMES 3](#_Toc461192056)

[1.1 INTRODUCTION 3](#_Toc461192057)

[1.2 Aims and Objectives 3](#_Toc461192058)

[1.3 Background 3](#_Toc461192059)

[1.4 Land to which the planning proposal applies 3](#_Toc461192060)

[2. PART 2 – EXPLANATION OF PROVISIONS 4](#_Toc461192061)

[2.1 Existing Planning Controls 4](#_Toc461192062)

[2.2 Proposed Planning Provisions 4](#_Toc461192063)

[3. PART 3 – JUSTIFICATION 7](#_Toc461192064)

[3.1 Section A – Need for the Planning Proposal 7](#_Toc461192065)

[3.1.1 Is the planning proposal a result of any strategic study or report? 7](#_Toc461192066)

[3.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way? 7](#_Toc461192067)

[3.2 Section B Relationship to strategic planning framework 7](#_Toc461192068)

[3.2.1 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy? 7](#_Toc461192069)

[Mid North Coast Regional Strategy 7](#_Toc461192070)

[3.2.2 Is the planning proposal consistent with the local council’s Community Strategic Plan or other local strategic plan? 8](#_Toc461192071)

[3.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies? 8](#_Toc461192072)

[3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (S 117 directions)? 8](#_Toc461192073)

[3.3 Section C – Environmental, Social and Economic Impact 8](#_Toc461192074)

[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? 8](#_Toc461192075)

[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? 8](#_Toc461192076)

[3.3.3 How has the planning proposal adequately addressed any social and economic effects? 8](#_Toc461192077)

[3.4 Section D – State and Commonwealth interests 9](#_Toc461192078)

[3.4.1 Is there adequate public infrastructure for the planning proposal? 9](#_Toc461192079)

[3.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination? 9](#_Toc461192080)

[4. PART 5 - COMMUNITY CONSULTATION 10](#_Toc461192081)

[5. PART 6 – PROJECT TIMELINE 11](#_Toc461192082)

Appendices

**Appendix A – Potential amendments to clause 4.2C**

**Appendix B - Consistency with State Environmental Planning Policies**

**Appendix C - Consistency with Section 117 Directions**

# PART 1 – OBJECTIVES OR INTENDED OUTCOMES

## INTRODUCTION

This planning proposal has been prepared by Kempsey Shire Council (‘Council’) and is Draft Kempsey Local Environmental Plan (KLEP) 2013 Amendment No. 14.

This proposal relates to a number of inconsistencies identified within the boundary adjustment and dwelling entitlement provisions contained in Part 4 Principal development standards of the KLEP 2013.

## Aims and Objectives

The aim of this planning proposal is:

* To clarify the KLEP 2013 development standards in regard to ‘boundary adjustments’ and the recognition of dwelling entitlements on the reconfigured lots created.
* To recognise dwelling entitlements on lots created under clause 4.6 and State Environmental Planning Policy No. 1.

The objectives of the planning proposal are:

* To address a number of issues/inconsistencies identified in the KLEP 2013, through the assessment of development applications for boundary adjustments in the affected zones;
* To amend identified clauses within *Part 4 Principal development standards* of the KLEP 2013 to facilitate and achieve consistency with regard to the reconfiguration of property boundaries and the recognition of dwelling entitlements. The respective clauses are 4.2C and clause 4.2A of KLEP 2013; and
* To enable appropriate subdivision for the purposes of reconfiguring property boundaries in the identified zones which do not adversely impact on the preferred and predominant land uses in the vicinity.

## Background

## Land to which the planning proposal applies

This proposal applies to land within the RU1 Primary Production, RU2 Rural Landscape, RU2 Rural Landscape, RU4 Primary Production Small Lots, RU5 Village, R5 Large Lot Residential, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living zones (being the identified zones in clause 4.2C of the KLEP 2013).

# PART 2 – EXPLANATION OF PROVISIONS

## Existing Planning Controls

The planning proposal applies to the clauses *4.2A* *Erection of dwelling houses on land in certain rural and environmental protection zones* and *4.2C* *Boundary adjustments of land in certain rural, residential and environment protection zoned,* both contained within the *Part 4 Principle development standards* of the KLEP 2013.

Table 1 below summarises the matters identified within the identified development standards.

**Table 1: Existing Planning Controls**

|  |  |
| --- | --- |
| Amendment applies to | Matters for consideration |
| **Part 4 – Principal development standards** |
| **Clause 4.2C – Boundary adjustments of land in certain rural, residential and environment protection zones** **Clause 4.2A – Erection of dwelling houses on land in certain rural and environment protection zones** | A recurrent issue identified in the KLEP 2013 is the matter of how boundary adjustments are facilitated through the existing scheme provisions.As such, Council proposes minor amendments to the principal development standards within the KLEP 2013 to remove the potential for inconsistencies and unintended outcomes that have been identified through the assessment of boundary adjustment development proposals.The intended amendments proposed can be summarised as follows:* The phrase *boundary adjustments* is undefined and the word ‘adjustment’ suggests a magnitude of variation which potentially restricts the scope by which changes to boundaries may be made. The word ‘adjustment’ should be replaced;
* The boundary adjustment provisions should provide more flexibility than that currently provided for and enable a broader range of changes to the boundaries between lots, provided that:
* Existing dwelling entitlements are maintained;
* No new/additional dwelling entitlements are created; and
* No new/additional lots are created.
* Recognition is needed for dwelling entitlements within legitimate subdivisions where lots are created through:
* An exception to a development standard;
* An objection to a development standard under the former SEPP1;
* As the result of a *boundary adjustment*; or
* The Split Zone provisions (clause 4.1B)
 |

## Proposed Planning Provisions

As identified above, the existing provisions within (and the clause heading for) clause 4.2C remain problematic in regard to determining the practical implementation and outcomes sought by this clause. Council considers that the title and intent of this clause could be reframed from boundary ‘adjustment’ to boundary ‘changes’ or similar language that shifts the focus from the extent/scale of the reconfiguration/subdivision to the enabling of compatible subdivision outcomes that avoids adverse impacts on the agricultural viability and/or environmental values of the site and surrounds.

Council has reviewed a selection of LEPs to compare the approach taken by other local governments to the matters raised above. In particular, it is noted that the Nambucca LEP 2010 (clause 4.1C) and the Wingecarribee LEP 2010 (clause 4.2B) both utilise the phrase boundary ‘changes’ rather than boundary ‘adjustments’.

In reference to the above LEPs, a suggestion as to potential amendments to the referred clauses of the KLEP 2013 is provided in Table 2 below (and is provided in full at Appendix A). However, Council is seeking the assistance and expertise of the Parliamentary Counsel’s Office for an appraisal of the matters identified in this planning proposal and the formulation of revised clauses 4.2A and 4.2C.

**Table 2: Proposed Planning Control Amendments**

|  |  |
| --- | --- |
| Amendment applies to | Proposed amendments |
| **Part 4 – Principal development standards** |
| **Clause 4.2C – Boundary adjustments of land in certain rural, residential and environment protection zones** **Clause 4.2A – Erection of dwelling houses on land in certain rural and environment protection zones** | Proposed amendments for consideration **Clause 4.2C*** It is proposed to replace KLEP 2013 clause 4.2C(1) & (3)(a)&(b) with the shared provisions contained in the Bellingen LEP 2010 (cl 4.1B(1) & (3)(a)&(b)) and Nambucca LEP 2010 (cl 4.1C(1) & 3(a)&(b)).

The clauses (and clause headings) referred above will address identified terminology issues, remove the phrase “opportunities for dwellings” from clause 4.2C(3)(b) (which was identified as being problematic in legal advice sought by Council) and clarify that the number of dwellings permitted after a boundary change will not increase.* Insertion of a new subclause (4.2C(5)) requiring consideration of the natural and physical land constraints for any boundary change.
* Insertion of a new subclause into 4.2C which will ensure that boundary changes will not facilitate new lots which can be further subdivided.

**Clause 4.2A*** It is proposed to include an additional subclause in KLEP 2013 4.2A(3) being 3(f). Based on the Tweed LEP 2014 subclause 4.2B(3)(b), the bracketed exclusions would be expanded upon. The amendments to clause 4.2A above are to ensure that lots created by a boundary change; a split - zoned lot subdivision; under the provisions of Kempsey LEP 1987 or SEPP1; or a variation of development standards, will have dwelling entitlements.

It is also proposed to remove the word “minor” from clause 4.2A(3)(e)(i) which is deemed unnecessarily restrictive as dwellings should be permissible on any allotment approved for the intended purpose of erecting a dwelling.  |

# PART 3 – JUSTIFICATION

## Section A – Need for the Planning Proposal

### Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of a strategic study or report. The proposed amendments are administrative and have been identified through the assessment of development applications.

### Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This planning proposal to amend the KLEP 2013 is the best and only way to address the matters identified.

## Section B Relationship to strategic planning framework

### Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

### Mid North Coast Regional Strategy

Relevant chapters of the Mid North Coast Regional Strategy (MNCRS) are addressed below.

#### Mid North Coast Regional Strategy – Settlement and Housing

The relevant section is *Subdivision, houses and other uses in rural zones* which includes the following relevant strategies:

*Councils will maintain appropriate subdivision standards for rural zones consistent with the principles of the State Environmental Planning Policy (Rural Lands) 2008.*

This planning proposal is to facilitate appropriate rural boundary changes consistent with SEPP (Rural Lands) 2008, through clear and unambiguous wording of the relevant clauses in the KLEP 2013.

*Local environmental plans will include minimum subdivision standards for rural and environment protection zones.*

The amendments sought to the principle development standards within the KLEP 2013 are to clarify the objectives and intent of the boundary change clauses and not to undermine or modify the intended policy outcomes.

*Local environmental plans will include provisions to limit dwellings in rural and environmental zones.*

The planning proposal is to clarify the objectives and ambiguous language in relation to boundary changes and will not facilitate additional inappropriate dwelling opportunities in rural and environmental zones.

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

***Macleay Valley 2036 Community Strategic Plan* *June 2013***

The following core values are identified in the *Macleay Valley 2036 Community Strategic Plan* *June 2013* (Macleay Valley 2036 CSP).

* being healthy;
* being safe;
* being wealthy; and
* being sociable.

Under each of the above core values the Macleay Valley 2036 CSP identifies matters that impact upon the core values, such as education, biodiversity, environment, earnings and self-esteem. The Macleay Valley 2036 CSP provides strategies and goals to be used to achieve the core values of the plan in the Kempsey LGA.

The planning proposal will not impact on the community achieving the core values of the Macleay Valley 2036 CSP.

### 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 B* in regards to each SEPP.

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

 The planning proposal is inconsistent with the s117 Directions. An evaluation of the consistency of the planning proposal in relation to the s117 Directions is provided in *Appendix C*.

## Section C – Environmental, Social and Economic Impact

### 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?

No. The planning proposal addresses identified ambiguities within a development standard. As such, the proposal will not adversely impact critical habitat or threatened species.

### Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The planning proposal is to clarify a development standard and as such will aid in a consistent interpretation and implementation of the standard and thus eliminate unintended environmental outcomes.

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

The planning proposal will refine the wording of a development standard and therefore provide certainty to current and future landholders in terms of boundary changes in the relevant zones.

## Section D – State and Commonwealth interests

### Is there adequate public infrastructure for the planning proposal?

The planning proposal is an administrative amendment and as such will not create any additional demand for public infrastructure in the Kempsey LGA.

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

State and Commonwealth public authorities have not been formally involved in this planning proposal as it is yet to receive Gateway approval. Relevant public authorities will be consulted during formal consultation and exhibition of the planning proposal, and as directed by the Gateway determination, should Planning and Environment issue a determination to proceed.

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

# PART 5 - COMMUNITY CONSULTATION

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

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

Information relating to the Planning Proposal would also be displayed at the Kempsey Shire Council Customer Service Centre located on Tozer Street, West Kempsey and Libraries within the Shire.

# PART 6 – PROJECT TIMELINE

An approximate project timeline is provided in *Table 6.1* below. It is estimated that this amendment to the KLEP 2013 will be complete by March 2017.

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

***Table 5.1 – Project Timeline***

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

**Appendix A**

Potential amendments to clause 4.2C and 4.2A

While the final wording for the amendment of clause 4.2C and 4.2A of the KLEP 2013 will be prepared by Parliamentary Counsel, the changes below have been put forward as a suggested alternative to the existing clause.

**Potential amendments to Clause 4.2C**

**Baker Drive**

**4.2C**   **~~Boundary adjustments~~ Boundary changes between lots ~~of land~~ in certain rural, residential and environment protection zones**

(1)  ~~The objective of this clause is to facilitate boundary adjustments between lots if one or more lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land and the objectives of the relevant zone can be achieved.~~

(1) The objective of this clause is to permit the boundary between 2 or more lots to be **changed** in certain circumstances, to give landowners a greater opportunity to achieve the objectives of the zone.

(2)  This clause applies to land in the following zones:

(a)  Zone RU1 Primary Production,

(b)  Zone RU2 Rural Landscape,

(c)  Zone RU4 Primary Production Small Lots,

(d)  Zone RU5 Village,

(e)  Zone R5 Large Lot Residential,

(f)  Zone E2 Environmental Conservation,

(g)  Zone E3 Environmental Management,

(h)  Zone E4 Environmental Living.

(3)  ~~Despite clause 4.1, development consent may be granted to subdivide land by adjusting the boundary between adjoining lots if one or more lots do not meet the minimum lot size shown on the Lot Size Map in relation to that land, and the consent authority is satisfied that:~~

~~(a)  the subdivision will not create additional lots or the opportunity for additional dwellings, and~~

~~(b)  the number of dwellings or opportunities for dwellings on each lot after subdivision will be the same as not be greater than before the subdivision, and~~

~~(c)  the potential for land use conflict will not be increased as a result of the subdivision, and~~

~~(d)  if the land is in Zone RU1 Primary Production or Zone RU2 Rural Landscape, the agricultural viability of the land will not be adversely affected as a result of the subdivision.~~

 (3) Despite clause 4.1 (3), development consent may be granted to the subdivision of 2 or more adjoining lots, being land to which this clause applies, if the subdivision will not result in any of the following:

(a)  an increase in the number of lots,

(b)  an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots.

(4)  Before granting consent to development to which this clause applies, the consent authority must be satisfied that:

(a) the subdivision will result in the continued protection and long term maintenance of any land in Zone E2 Environmental Conservation~~,~~ and

(b)the potential for land use conflict will not be increased as a result of the subdivision, and

(c)  if the land is in Zone RU1 Primary Production or Zone RU2 Rural Landscape, the agricultural viability of the land will not be adversely affected as a result of the subdivision, and

(d) (new subclause from Bellingen LEP 2010 cl. 4.1AB(4)(f)) *whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,*

(5) (new clause from Bellingen LEP 2010 cl. 4.1AB(5)(b)) *This clause does not apply if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.*

**Potential amendments to Clause 4.2A(3)**

**Baker Drive**

**“4.2A**   **Erection of dwelling houses on land in certain rural and environment protection zones**

(3)  Development consent must not be granted for the erection of a dwelling house on land to which this clause applies unless the land:

(a)  is a lot that is at least the minimum lot size shown on the Lot Size Map in relation to that land, or

(b)  is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or

(c)  is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or

(d)  is an existing holding, or

(e)  would have been a lot or a holding referred to in paragraph (a), (b), (c) or (d) had it not been affected by:

(i)  a ~~minor~~ realignment of its boundaries that did not create an additional lot, or (remove “minor”)

(ii)  a subdivision creating or widening a public road or public reserve or for another public purpose, or

(iii)  a consolidation with an adjoining public road or public reserve or for another public purpose, or

(f) (new clause based on Tweed LEP 2014 cl. 4.2B(3)(b)) *is* *a lot created under the following provisions of this Plan (other than* *under clause 4.2):*

*(i) clause*  4.1B (this will cover split zone lots),

*(ii) clause* 4.2C (this will cover boundary change lots), *or*

(iii) *clause 4.6* *(or its equivalent)* (this will cover the exceptions lots, KLEP 1987 and SEPP1 lots)

**Note.** A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.”

**Appendix B**

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 amendment will not conflict with or undermine the protections afforded by the SEPP. |
| 15 | Rural Landsharing Communities | Seeks to facilitate the development of rural landsharing communities committed to environmentally sensitive and sustainable land use practices. |  **Not applicable.**The amendment will have no material impact on Rural Landsharing Communities. |
| 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.**The amendment has no specific application to Caravan Parks. |
| 26 | Littoral Rainforests | Seeks to protect littoral rainforests from development. | **Consistent.**The amendment will not conflict with or undermine the protections afforded by the SEPP. |
| 30 | Intensive Agriculture | Requires development consent and additional requirements for cattle feedlots and piggeries. | **Consistent.**This is an administrative amendments to refine the intent and the wording of a development standard. The amendment ensures the viability of and/or protections for existing agricultural uses in the locality.  |
| 32 | Urban Consolidation | Seeks to facilitate surplus urban land redevelopment for multi-unit housing and related development in a timely manner. | **Not applicable.**The amendment has no specific application to the Urban Consolidation SEPP. |
| 33 | Hazardous and OffensiveDevelopment | Seeks to provide additional support and requirements for hazardous and offensive development | **Not applicable.**The amendment has no specific application to the Hazardous and Offensive Development SEPP. |
| 36 | Manufactured Home Estates | Seeks to facilitate the establishment of manufactured home estates as a contemporary form of residential housing. | **Not applicable.**The amendment has no specific application to the Manufactured Home Estates SEPP. |
| 44 | Koala Habitat Protection | Seeks to encourage proper conservation and management of areas of natural vegetation that provide habitat for koalas | **Consistent.**This is an administrative amendments to refine the intent and the wording of a development standard. The amendment will not impact the operation of this SEPP. |
| 50 | Canal Estate Development | Prohibits canal estate development | **Not applicable.**The amendment has no specific application to this SEPP. |
| 55 | Remediation of Land | Provides a State-wide planning approach for the remediation of contaminated land. | **Not applicable.**The amendment has no specific application to this SEPP. |
| 62 | Sustainable Aquaculture | Seeks to encourage and regulate sustainable aquaculture development | **Consistent.**This is an administrative amendments to refine the intent and the wording of a development standard. The amendment ensures the viability of and/or protections for existing agricultural uses in the locality.  |
| 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 amendment has no specific application to this SEPP. |
| 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 amendment has no specific application to this SEPP. |
| 71 | Coastal Protection | Seeks to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast. | **Consistent.**This is an administrative amendments to refine the intent and the wording of a development standard. The amendment is minor in nature and will not affect coastal protections. |
|  | 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 administrative amendment will not impact on the operation of this SEPP. |
|  | 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 administrative amendment will not impact on the operation of this SEPP. |
|  | Exempt and Complying Development Codes 2008 | Seeks to provide streamlined assessment process for development that complies with specified development standards. | **Consistent.**While the Exempt and Complying Development Codes 2008 SEPP provides for restricted levels of subdivision, this administrative amendment is not in conflict the operation of this SEPP. |
|  | 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 administrative amendment will not impact on the operation of this SEPP. |
|  | 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 administrative amendment will not impact on the operation of this SEPP. |
|  | 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 administrative amendment will not impact on the operation of this SEPP. |
|  | 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 administrative amendment will not impact on the operation of this SEPP. |
|  | Rural Lands 2008 | Seeks to facilitate the orderly and economic use and development of rural lands for rural and related purposes | **Consistent.**This is an administrative amendments to refine the intent and the wording of a development standard. The amendment ensures the viability of and/or protections for existing agricultural uses in the locality.  |
|  | 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. | **Consistent.**The amendment will not conflict with or undermine the outcomes afforded by this SEPP. |

**Appendix C**

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 land in a business or industrial zone. |
| **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.**As an administrative amendment, the planning proposal is to remove ambiguity identified in a development standard without undermining controls which protect the right to farm in rural localities. |
| **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 cool, other minerals, petroleum production or obtaining extractive minerals of State or regional significance permitting incompatible land use. | **Consistent.**The planning proposal will not prohibit or restrict the mining or future extraction of State or regionally significant coal, other minerals, petroleum and extractive materials. |
| **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 | **Consistent.**As an administrative amendment, the planning proposal is to remove ambiguity identified in a development standard without undermining controls which protect the right to farm in rural localities. |
| **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 development standard to be amended does apply to environmental zones, however controls relating to the preservation of environmental values have been retained.  |
| **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. | **Consistent.**The coastal zone is not impacted by the amendments proposed. |
| **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 proposal does not impact on existing or future heritage items. |
| **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 does not relate to development of land for the purpose of a recreational vehicle area. |
| **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. | **Consistent.**The planning proposal applies to non-urban land but includes the R5 Large Lot Residential zone. The amendment is administrative and will clarify the operation of a development standard rather than impose additional restrictions on development.  |
| **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 parks 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. | **Consistent.**The planning proposal does not relate to the operation of small businesses in dwelling houses. |
| **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
* Provide for the efficient movement of freight.
 | 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. | **Consistent.**The planning proposal will not impact access, transport, car travel, public transport or the 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 will not impact on the operation of licensed aerodromes. |
| **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,
 | 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 will not impact on the operation of existing shooting ranges. |
| **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 will not undermine the consideration of acid sulfate soils in the determination of development/planning proposals. |
| **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 to planning proposal on land within a mine subsidence district or that has been identified as unstable in a study, strategy or other assessment | **Consistent.**The planning proposal will not undermine the consideration of land identified as unstable or potentially subject to mine subsidence in the determination of development/planning proposals. |
| **4.3 Flood Prone Land**Issued 1 July 2009 | * To ensure that development of flood prone land is consistent with the *NSW Government’s Flood Prone Land Policy* and the principles of the *Floodplain Development Manual* 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.**The planning proposal will not undermine the consideration of flood prone land in the determination of development/planning proposals. |
| **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. | **Consistent.**The planning proposal is an administrative amendment which does not directly impact on bushfire prone land. |
| **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.** This planning proposal is consistent with the Mid North Coast Regional Strategy as it will provide consistency in Council’s development standards.  |
| **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**Issued 29 November 2009 | 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 | **Not applicable.**The planning proposal does not apply to commercial and retail development adjacent to the Pacific Highway. |
| **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 does not create or remove any land dedicated for a public purpose. |
| **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.
 | **Consistent.**The planning proposal does not impose any unnecessarily restrictive site specific planning 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 2036. |