

PLANNING PROPOSAL

622 BERANGHI ROAD
CRESCENT HEAD

LOT 1 DP 196559, PARISH OF PALMERSTON

MR M CORBETT

SEPTEMBER 2015
UPDATED MARCH 2017



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1. Introduction

Planning Proposal

Proposal: Rezone land from part RU2 Rural Landscape & part E2 Environmental Conservation to part E3 Environmental Management & E2 Environmental Conservation

Property Details:

622 Beranghi Road,
Crescent Head

Lot 1 DP 196559, Parish of Palmerston

469.4 ha

Applicant : Mr J Phillips & Mr M Corbett

Owner : Mr M Corbett

2. Subject Site

The subject land fronts Beranghi Road approximately 6 km down Beranghi Road, from the intersection with Crescent Head Road. Beranghi Road is approximately 6.5 km west of the town of Crescent Head and approximately 8 km south east of Kempsey. The area is characterized by rural and rural residential holdings.

This planning proposal seeks a site specific rezoning consistent with the environment and natural resources objectives of the Mid North Coast Regional Strategy, as the *Local environmental plan will protect and zone land with high environmental, vegetation, habitat, riparian, aquatic, coastal or corridor values for environmental protection.*

This Planning Proposal relates to the whole of the site and will result in a lesser intensity of development on the site than currently zoned for and would result in surrender of a previously approved 11 lot Community Title Subdivision.



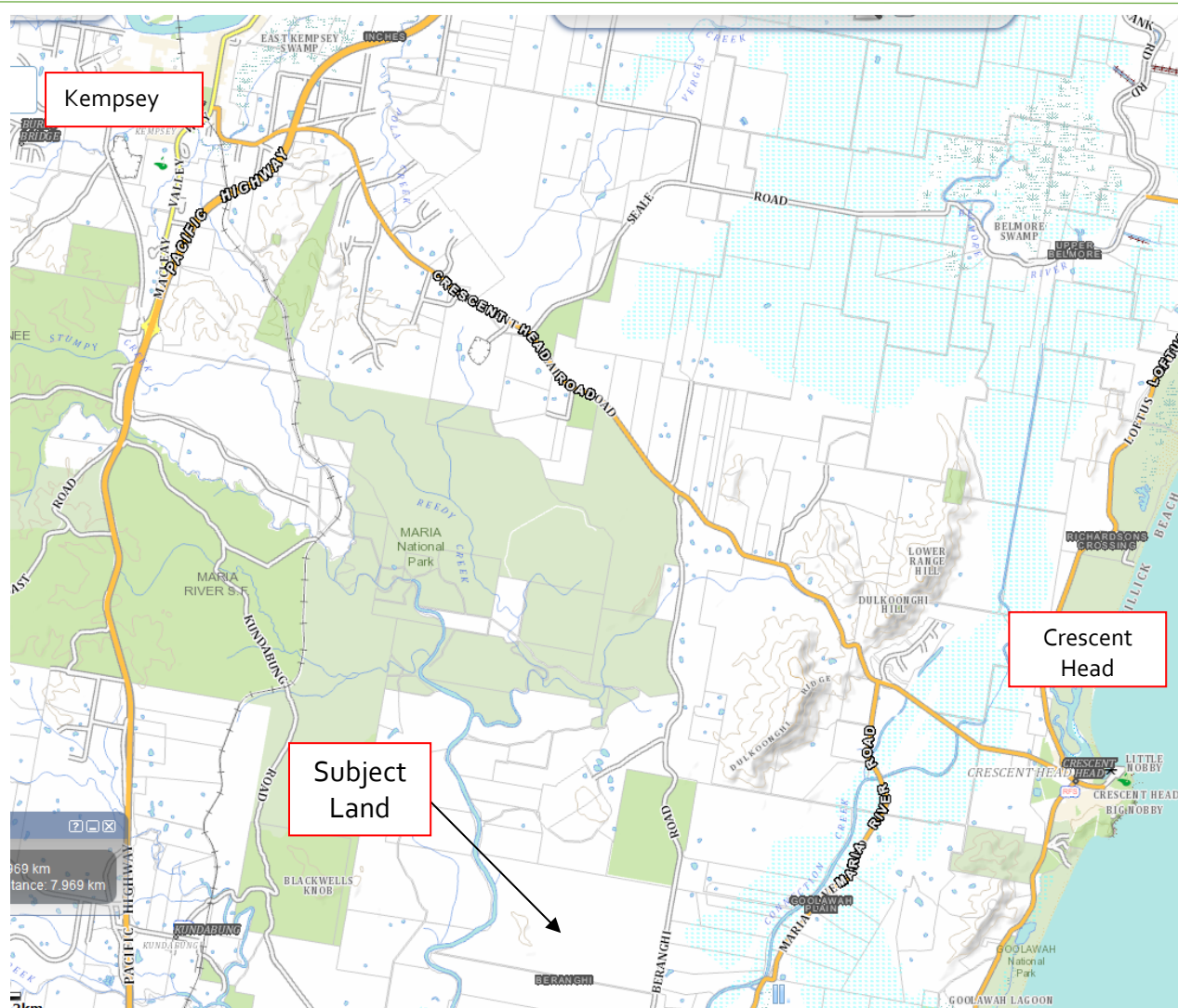


Figure 1: Locality

The subject land has a total area of 469.4 ha and has public frontage to Beranghi Road, a local Council maintained Road.

The land has a history of use for timber getting and cattle grazing. Historically logs were transported down Maria River and onto Port Macquarie. Subsequently Oxen and tractor haulage along Beranghi Road. (source Archaeological assessment, J Appleton, 2002).

There is no dwelling on the site or other farm infrastructure improvements. The land contains a European local heritage site known as *Ruins of Gordon's Gaol huts, remains of graves and Gordon's Jetty*. Aboriginal Cultural Heritage investigations undertaken in 2002 and did not make any findings but did recommend supervision during any ground disturbance works.



Figure 2: Aerial of Planning Proposal site in local context (source LPI SIX view)

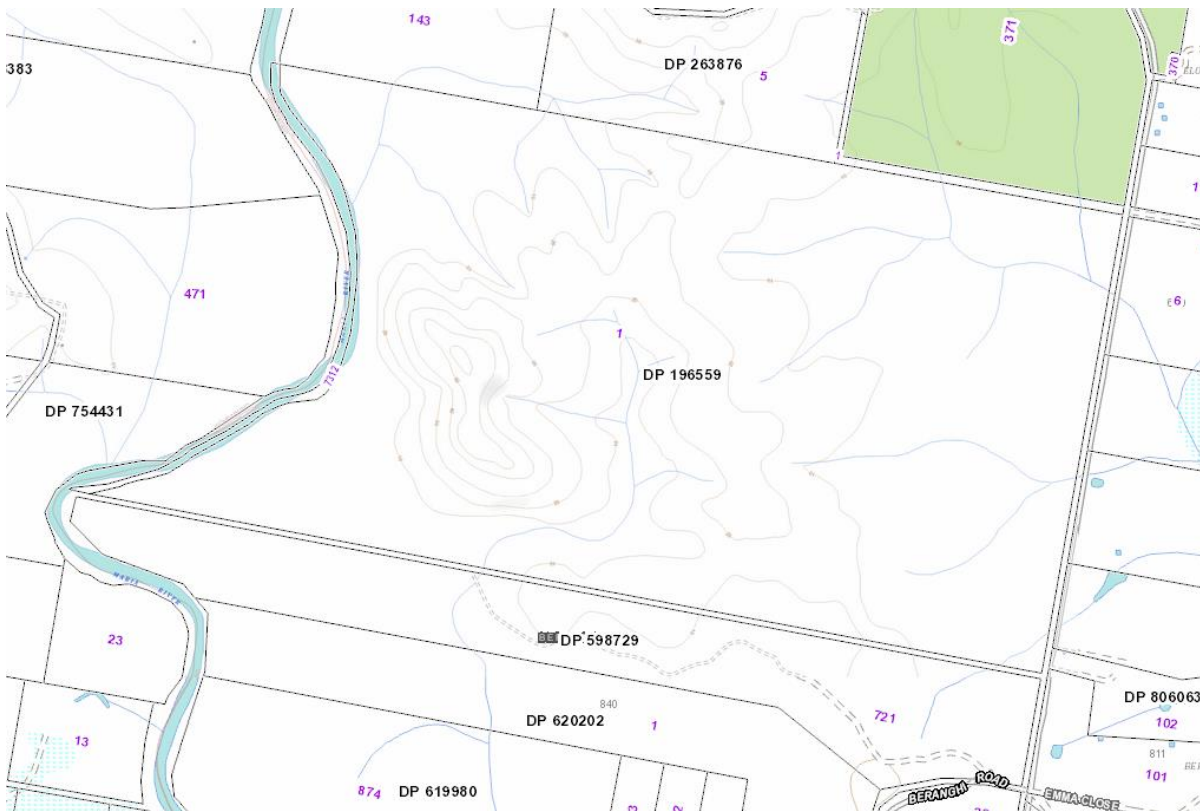


Figure 3: Site topography (source LPI SIX view)

Pursuant to the provisions of Kempsey Local Environmental Plan 2013 the subject land is presently zoned part RU2 Rural Landscape and part E2 Environmental Conservation.

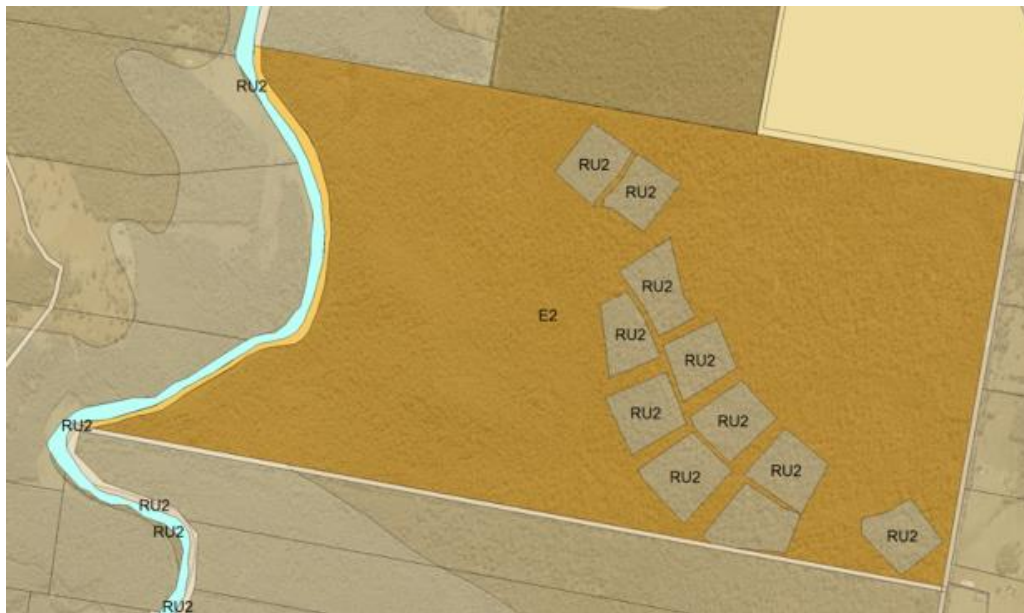


Figure 4: Current Land Use Zones (source: Kempsey Shire Council)

A Planning Proposal is necessary to rezone the RU2 components of the land back to E2 Environmental Conservation and include an area of land within zone E3 Environmental Management in less environmentally sensitive part of the site.

A concept plan demonstrating the intended outcome for the subject land is provided at **Appendix A**.

3. Planning Proposal

3.1 PART 1: Objectives or Intended Outcomes

To rezone land at Beranghi Road for Environmental Protection and Environmental Management purposes.

The intended outcome of rezoning Lot 1 DP 196559, known as No. 622 Beranghi Rd, Crescent Head is to supersede the previously approved 11 lot Community Title development with an environmentally sustainable outcome by protecting environmentally sensitive areas of the land within 3 x 150 ha rural lots.

3.2 PART 2: Explanation of Provisions

The desired future use of the site would be best served by the application of the E2 Environmental Conservation and E3 Environmental Management zone over the 469.4 ha holding. The intended outcome is 3 large rural allotments of 150ha in area or greater with provision for a dwelling at the front of the lots.

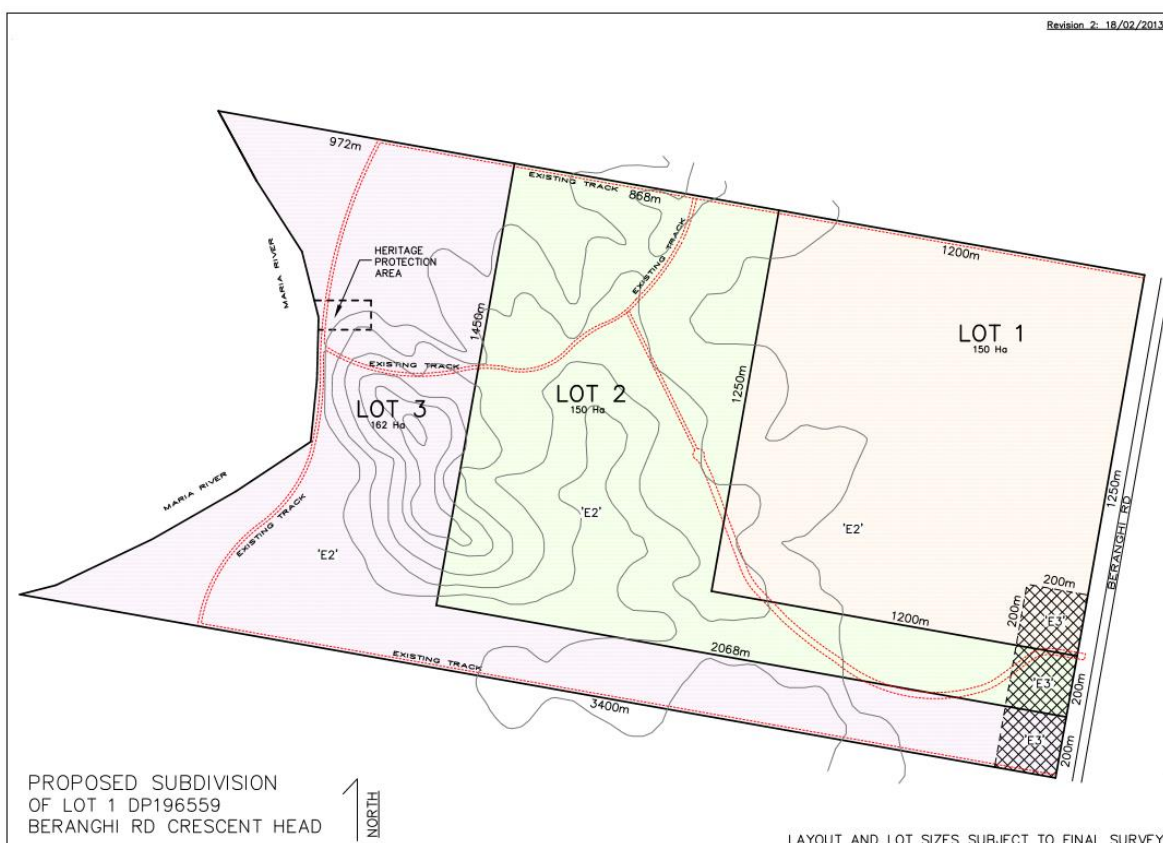


Figure 5: Intended outcome – 150 ha lots

The area identified for inclusion in the E3 Environmental Management zone is that part of the site fronting Beranghi Road, flood free and of lesser ecological value than other parts of the site.

The area proposed as suitable for future dwellings and their curtilage has been chosen in consultation with the project ecologist and bushfire consultants.

The minimum lot size would mapped at 150ha minimum with the majority of the site zoned E2 Environmental Conservation.

The E2 Environmental Conservation zone is expressed in the Kempsey Local Environmental Plan 2013 as follows:

Zone E2 Environmental Conservation

1 Objectives of zone

- *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.*

2 Permitted without consent

Environmental protection works; Home occupations

3 Permitted with consent

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

4 Prohibited

Business premises; Dairies (pasture-based); Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

The E3 Environmental Management zone is expressed in the Kempsey Local Environmental Plan 2013 as follows:

Zone E3 Environmental Management

1 Objectives of zone

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To conserve the scenic quality and natural characteristics of foreshore land.*
- *To conserve the environmental and scenic quality of visually significant land.*
- *To conserve items and areas of historic significance.*



2 Permitted without consent

Environmental protection works; Home-based child care; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Camping grounds; Cellar door premises; Charter tourism and boating facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Eco-tourist facilities; Electricity generating works; Emergency services facilities; Environmental facilities; Extensive agriculture; Farm buildings; Farm stay accommodation; Flood mitigation works; Group homes; Home businesses; Home industries; Home occupations (sex services); Jetties; Kiosks; Moorings; Recreation areas; Roads; Roadside stalls; Rural workers' dwellings; Viticulture; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities

4 Prohibited

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

The proposed zone provisions would enable the owners of Lot 1 DP 196559 to surrender the previous approval for 11 x 1ha lot community title development and achieve a sustainable low impact development of the land and protect the vast majority of the site ecology.

3.3 PART 3: Justification

The Planning Proposal seeks to rezone land at Crescent Head, fronting Beranghi Road to allow removal of the existing 11 x 1ha RU2 Rural Landscape zoned areas scattered through the centre of the land and instead provide for a contiguous E2 Environmental Conservation zoning and modest area zoned E3 Environmental Management to facilitate an environmentally sustainable 3 lot land subdivision.

The portions of the subject site identified for the rezoning from RU2 Rural Landscape to E2 Environmental Consultation correlate with the previous approved 11 x 1 ha house sites. The proposal to replace the 11 house sites with 3 more appropriately located dwelling envelopes is considered a significantly improved environmental outcome.

3.3.1 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 any local strategy or wider Council planning study. However, it is the result of a series of site specific investigations including the following reports:

- *Naturecall Environmental* Statutory Ecological Assessment (2014)
- *Bolwarra Environmental Services* Kempsey Comprehensive Koala Plan of Management compliance report



- *Midcoast Building and Environmental* Bushfire Hazard Assessment (September 2015)
- *The archaeological investigation for sites of indigenous cultural significance, Lot 1 DP 196559, Beranghi Rd, Crescent Head, Mid North Coast NSW.* By Mr John Appleton, July 2002.

Copies of the assessment reports are provided at **Appendix B**.

Access

The site has access to a public road, maintained by Council and the number of new accesses along the frontage of this site will be limited to three. The planning proposal will not have a significant impact on the road network capacity or traffic movements in the locality.

Cultural Heritage

The Indigenous Cultural Heritage assessment by Mr John Appleton, included consultation with Local Land Council representative of Kempsey Local Aboriginal Land Council and did not identify any sites or relics within the Planning Proposal area.

The recommendations of the 2002 report remain relevant, as it states:

No Indigenous relics or sites were identified in the survey area, however, the Kempsey LALC have recommended that any excavations associated with the proposed subdivision should be monitored.

Ecology & Comprehensive Koala Plan of Management

The 2006 ecological field surveys and statutory assessment from the application for a community title subdivision was referred to as part of preparing the current ecological assessment for this planning proposal.

The intended outcome is to protect the vast majority of the site vegetation and facilitate 3 rural dwelling sites at the front of the land. A specific ecological assessment for the current planning proposal has been prepared by Mr Jason Berrigan, who was the author of the original 2006 assessments.

As part of subsequent field work and reporting by *Bolwarra Environmental Services*, all Koala Food Trees & Hollow Bearing Trees within the proposed E3 Environmental Management zone area have been identified and the concept subdivision plan has confirmed that all Koala Food trees can be retained outside potential building envelopes and still achieve compliant Bushfire Asset Protection Zones.

Figure 6 below demonstrates suitable unconstrained areas within the proposed E3 zone at the front of the site such that 3 rural dwellings could each be located with minimal environmental impact.



Figure 1: KFTs and lot layout

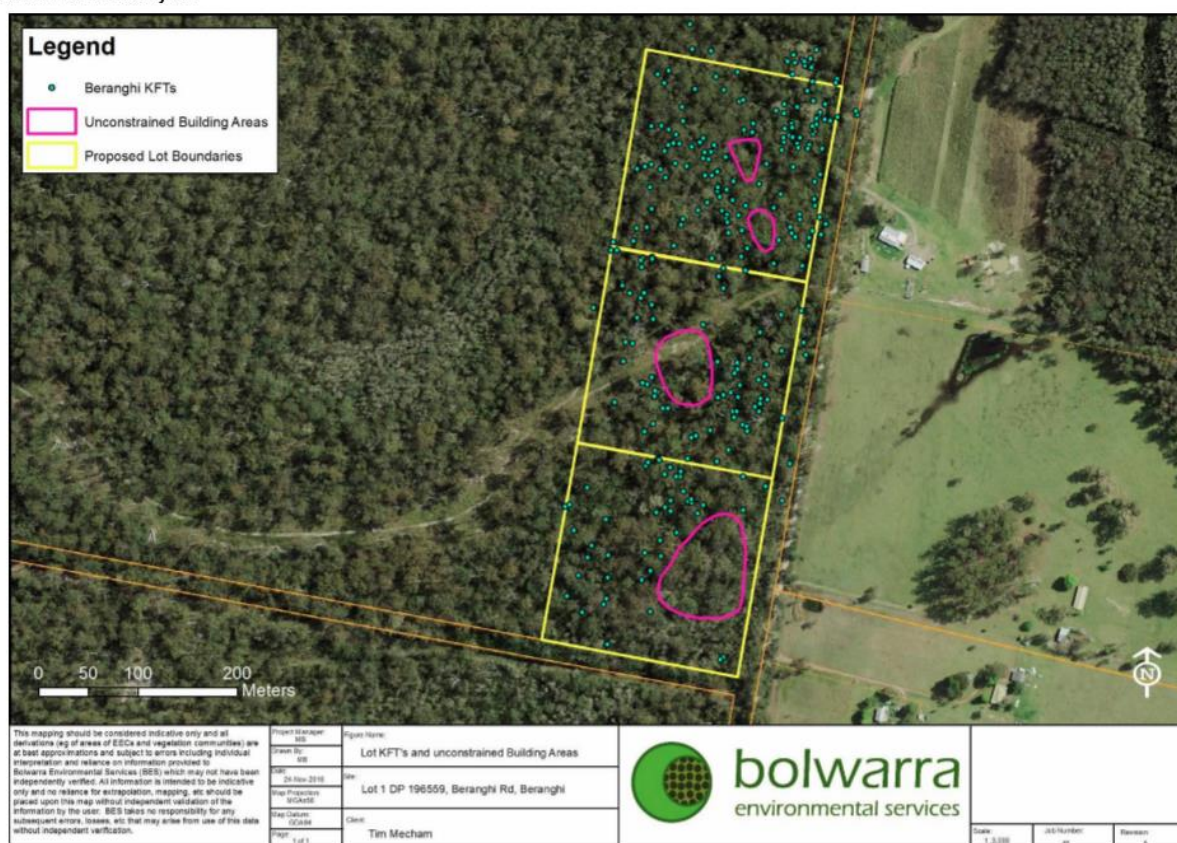


Figure 6: Proposed E3 area and unconstrained future dwelling sites

The area of the proposed E3 Environmental Management zone does not contain any Endangered Ecological Community and no Hollow Bearing Trees are proposed to be removed in order to achieve the concept shown at **Appendix A**.

The ecological report concluded that the proposal would not impact upon any endangered ecological communities and recommended retention of koala food trees and hollow bearing trees outside building envelopes within the proposed lots.

The *Naturecall Environmental* assessment addendum of 2015 identifies the following characteristics of the site and considers the potential impact of the proposal as follows:

No threatened flora species were detected, and none were considered likely potential occurrences. Portions of the property fall under the 1:100 ARI and are mapped as having alluvial soils. The supported vegetation was considered to qualify as the Coastal Floodplain EECs – Swamp Sclerophyll Forest (parts of the east and west) and River-flat Eucalypt Forest (adjacent to Maria River).

A comprehensive ecological survey over the entire property recorded 6 threatened species (3 mammals, 2 bird and 1 frog), with tentative call identification of two species of threatened bats. Based on potential habitat on the property, local records and excellent connectivity to large areas of habitat, another 22 threatened fauna species were considered potential occurrences.

Previous survey determined the property contained Core Koala Habitat, but a Koala Plan of Management approved for a previous development is no longer proceeding. Hence the proposal was assessed under the Core Koala Habitat development provisions of the Kempsey Shire Council Koala Plan of Management, and deemed to be able to comply.

The assessment concluded the proposal was unlikely to have a significant impact, and hence did not warrant referral to the Department of Environment under the EPBC Act or a Species Impact Statement, particularly due to the fact that over 450ha of the 459ha property would be protected under the E2 zoning.

Bushfire

The bushfire hazard assessment concluded that each dwelling site has sufficient area for a dwelling, on site waste water, asset protection zone and typical rural dwelling curtilage. This would not require extensive clearing and assuming a disturbance of approximately 1 ha per dwelling, then the proposal would impact less than 2% of the entire land holding.

Onsite Waste Water Management

The Onsite Sewage Management Assessment will be undertaken by *Midcoast Building and Environmental* and preliminary recommendations are that wastewater for all 3 lots be treated by Aerated Wastewater Treatment System Provision and provide for a 100% reserve area. This is readily accommodated within the area identified as future Zone E3 Environmental Management. Recommendations include:

- Installation of up-slope surface water (and subsurface) drainage to divert run-on and seepage water from the land application area.
- The soils within the effluent disposal area to be rotary hoed or ripped to a depth of 200mm to improve moisture retention.
- Irrigation areas are to be planted with suitable vegetation to assist in nutrient uptake and improve effluent disposal through evapo-transpiration.

3.3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes?

Yes – there is no other mechanism available to achieve the objective of removing the 11 x 1 ha dwelling sites zoned RU2 Rural Landscape and instead provide for 3 large rural holdings, with designated building envelopes located away from environmentally sensitive areas and clustered closer to the Beranghi Road frontage.



3.4 Section B: Relationship to strategic planning framework

3.4.1 Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Planning Proposal is consistent with objectives of the Mid North Coast Regional Strategy 2009 to *“protects high value environments, including coastal lakes, estuaries, aquifers and threatened species, vegetation communities and habitat corridors by ensuring that new development avoids these important areas and their catchments.”*

It further satisfies the desired outcomes expressed in the Mid North Coast Regional Strategy *Environment and natural resources* that a *Local environmental plan will protect and zone land with high environmental, vegetation, habitat, riparian, aquatic, coastal or corridor values for environmental protection.*

3.4.2 Is the planning proposal consistent with a council’s local strategy or other local strategic plan?

The proposal is a site specific rezoning aimed at improving the environmental sustainability of the land.

Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following:

- *The natural environment (including known significant environmental values, resources or hazards) and*
- *The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and*
- *The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure.*

The natural environment of the site includes areas of high environmental value and the planning proposal will ensure the long term protection of these areas.

The existing approved use for the land is an 11 x 1 ha lot Community Title subdivision. The planning proposal would in a more environmentally sustainable outcome for the property. The intended outcome for the land is three (3) large rural allotments with dwelling sites clustered near the Beranghi Road frontage, rather than the current approved 11 building envelopes spread through the centre of the site.

Comprehensive ecological assessment has been undertaken including investigation of potential Koala habitat, statutory assessment of flora and fauna on the site and compliance assessment with Kempsey Council’s Comprehensive Koala Plan of Management. It is evident there will be ample room for building envelopes, whilst retaining the koala food trees and hollow bearing trees and taking into account the required bushfire APZ.



The subject land has frontage to Beranghi Road, a Council owned and maintained road. In keeping with the sustainability principles it is not proposed to extend power services to the allotments.

The current standard of construction of Beranghi Road is a local rural road and the planning proposal is not likely to result in any measurable impact on local road network capacity.

On site soil sampling and assessment has been undertaken to ensure that any resultant building envelopes would have long term capacity to dispose of treated wastewater on site. The assessment recommended the use of Aerated Wastewater Treatment Systems for future allotments.

3.4.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is consistent with or justifiable as inconsistent with the relevant State Environmental Planning Policies. Refer to **Appendix C** for details.

3.4.3 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Of the current Section 117 Directions the following are directly relevant to the proposal and/or the subject land and require specific comment.

117 Direction No. 1.2 Rural Zones

117 Direction No. 1.5 Rural Lands

117 Direction No. 2.1 Environment Protection Zones

117 Directive No. 2.2 Coastal Protection

117 Direction No. 4.1 Acid Sulphate Soils

117 Direction No. 4.3 Flood Prone Lands

117 Direction No. 4.3 Planning for Bushfire Protection

117 Direction No. 5.1 Implementation of Regional Strategies

117 Direction No. 6.1 Approval and Referral Requirements

117 Direction No. 6.3 Site Specific Provisions

The table at **Appendix D** provides a summary of the relevant S117 directions and where relevant justifies any inconsistencies.

The key considerations under the S117 Directions for the site and the proposed zone boundary amendments are:

- The Planning Proposal seeks to establish Environmental Conservation and Environmental Management zones over the land and omit the Rural Landscape zoning from the site. This will rationalise the areas currently under an RU2 Rural Landscape zoning into contiguous and appropriate Environmental zones.
- Existing Local Heritage provisions in the Kempsey Local Environmental Plan 2013 would remain in place and continue to protect the identified European heritage site.



- Existing Acid Sulphate Soils and Flood Prone Lands provisions in the Kempsey Local Environmental Plan 2013 are to remain in place and continue to apply.
- Existing Bushfire provisions in the Kempsey Local Environmental Plan 2013 and Integrated Development provisions under the Environmental Planning & Assessment Act for the Rural Fires Act and associated Planning for Bushfire Guidelines 2006 are to remain in place and continue to apply.
- The proposed Minimum Lot Size provisions and mapping are to be changed from 40 hectares to 150 hectares.
- No site specific provisions are considered necessary.

3.5 Section C: Environmental, social and economic impact

3.5.1 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?

The Planning Proposal would result in a lesser impact on species and their habitat than the current zone provisions and existing development consent permit.

Critical habitat, threatened species populations and ecological communities were targeted in the both the earlier (2006) and more recent (2014) ecological field surveys and statutory assessment as reported by *Darkheart Ecological* and subsequently, *Naturecall Environmental* dated September 2014, addendum dated 2015 and the Comprehensive Koala Plan of Management compliance assessment by *Bolwarra Environmental Services*.

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

Access, Transport & Traffic	No specific access & traffic issues have been identified.
Public Domain	The land to which the planning proposal applies includes a local heritage item at the western end of the holding. The specific area of the item is already zoned E2 Environmental Conservation and there is no alteration proposed to the existing zones or protection provisions.
Utilities	The land is not currently connected to overhead power supply, water, land line telecommunications or the like. The intended outcome of planning proposal is for a more environmentally sustainable occupation of the land. As such it is not proposed to extend for



	connect Council infrastructure services.
Waste (Garbage Service)	Council's garbage services does not currently extend to this property.
Heritage & Archaeology	No recorded sites on AHIMS register. A comprehensive Indigenous Archaeological assessment undertaken in 2002 did not identify any sites, relics or matters of cultural significance. The 2002 report includes recommendations for supervision of any future ground disturbance works in relation to the land. A full copy of the Indigenous Archaeological Assessment is provided at Appendix B .
Soils / Acid Sulphate Soils	The land subject to the planning proposal is mapped as containing Class 5 ASS in the vicinity of the proposed E3 Environmental Management zone area and a mix of Class 2, 3 & 5 ASS in the rest of the site proposed to be zoned E2 Environmental Conservation. This is addressed in further detail in the S117 Tables at Appendix C.
Air & Microclimate	Not relevant
Flora & Fauna	Comprehensive Ecological Assessment was undertaken by <i>Darkheart Ecological Pty Ltd</i> , subsequently <i>Naturecall Environmental</i> and <i>Bolwarra Environmental Services</i> .
Noise & Vibration	Not relevant
Natural Hazards Including:	
Bushfire	Bushfire hazard has been assessed and provision for building envelopes and APZ can be achieved. A full copy of the Bushfire Assessment, consistent with the requirements of Planning for Bushfire 2006 is provided at Appendix B .
Flooding	Flooding is a consideration for the site. The flood level and corresponding vegetation mapping has been used as a guide for the proposed E3 Environmental Zone boundary at the front of the site.
Slip and Subsidence	No identified subsidence issues.



3.5.3 Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is assessed as providing a small but positive social and economic effect. The primary benefit of the proposal is the long term environmental sustainability benefits.

3.6 Section D: State and Commonwealth Interests

3.6.1 Is there adequate public infrastructure for the planning proposal?

No additional public infrastructure is expected to be required.

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

This section is completed following consultation with the State and Commonwealth authorities should the Director General determine to proceed with the planning proposal and identifies which authorities are to be consulted with.



Part 4: Mapping

4.1 The land subject to the planning proposal

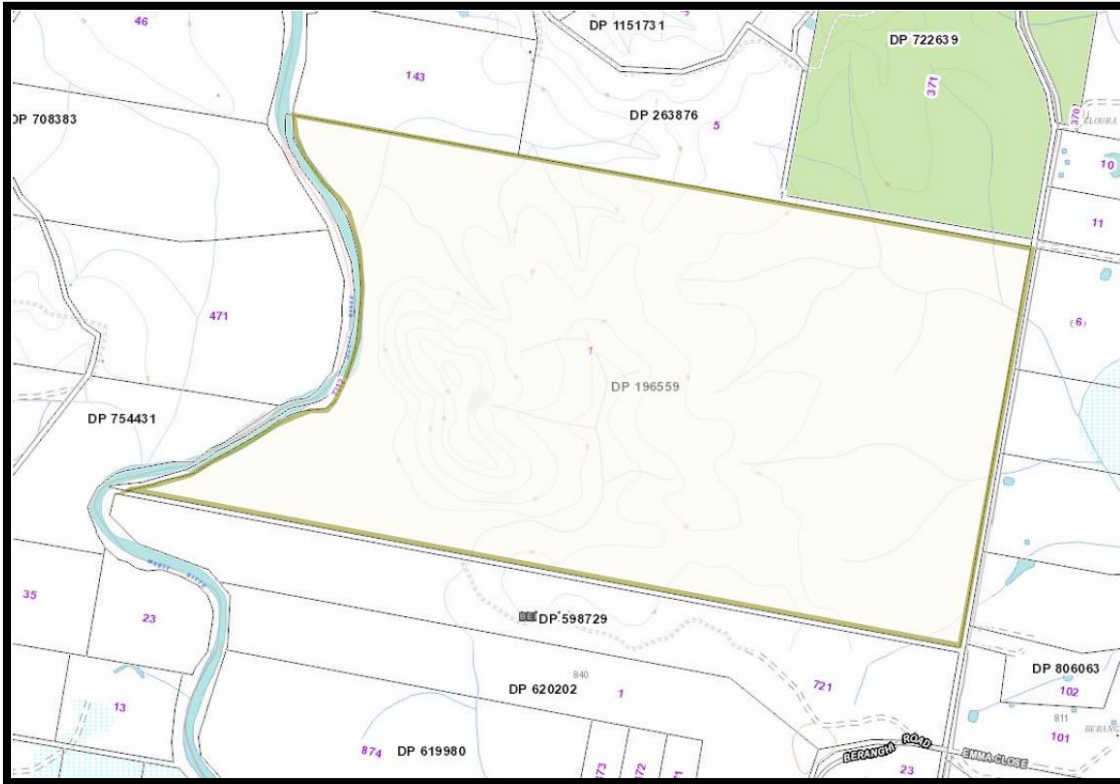


Figure 7: Land subject of planning proposal

It is proposed to amend the minimum lot size mapping to 150ha for the whole site.

4.2 Current land use zone

RU2 Rural Landscape & E2 Environmental Conservation

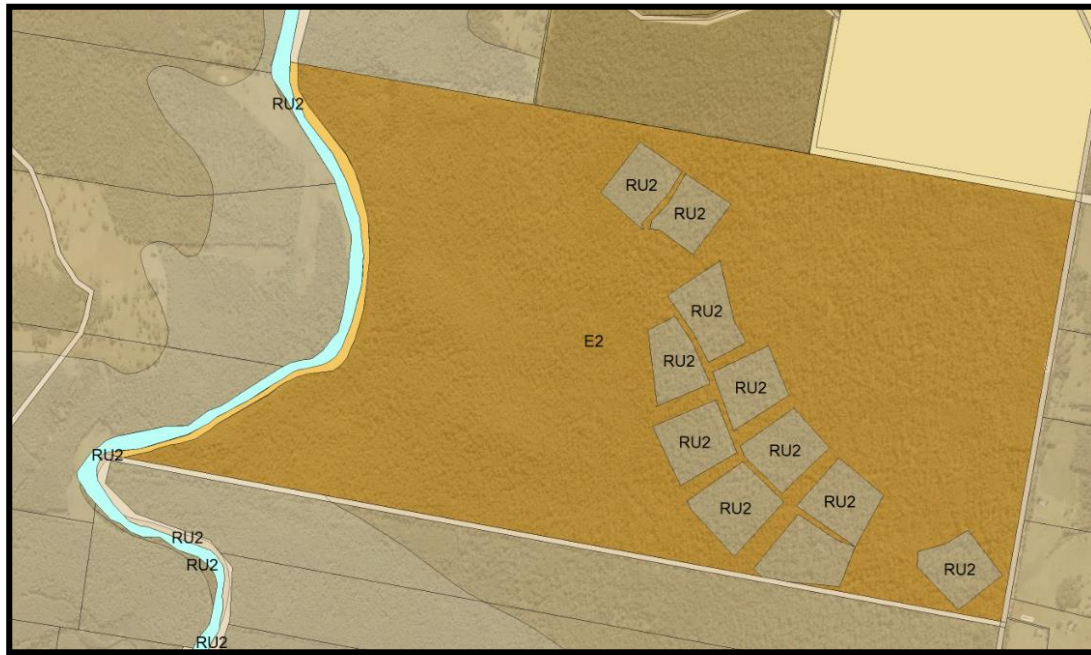


Figure 8: Existing Land Use Zone configuration

4.3 Suggested alternative zone(s)

The Planning Proposal is to omit the RU2 zone from the subject land and insert the E3 zone in combination with adjustments to the current E2 zone boundaries, as illustrated below.



Figure 9: Proposed Land Use Zones

4.4 Current mapped minimum lot sizes



Figure 10: Existing 40ha mapped minimum lot size

4.4 Suggested minimum lot size

The Planning Proposal is to change the mapped minimum lot size from 40ha to 150ha as illustrated below.

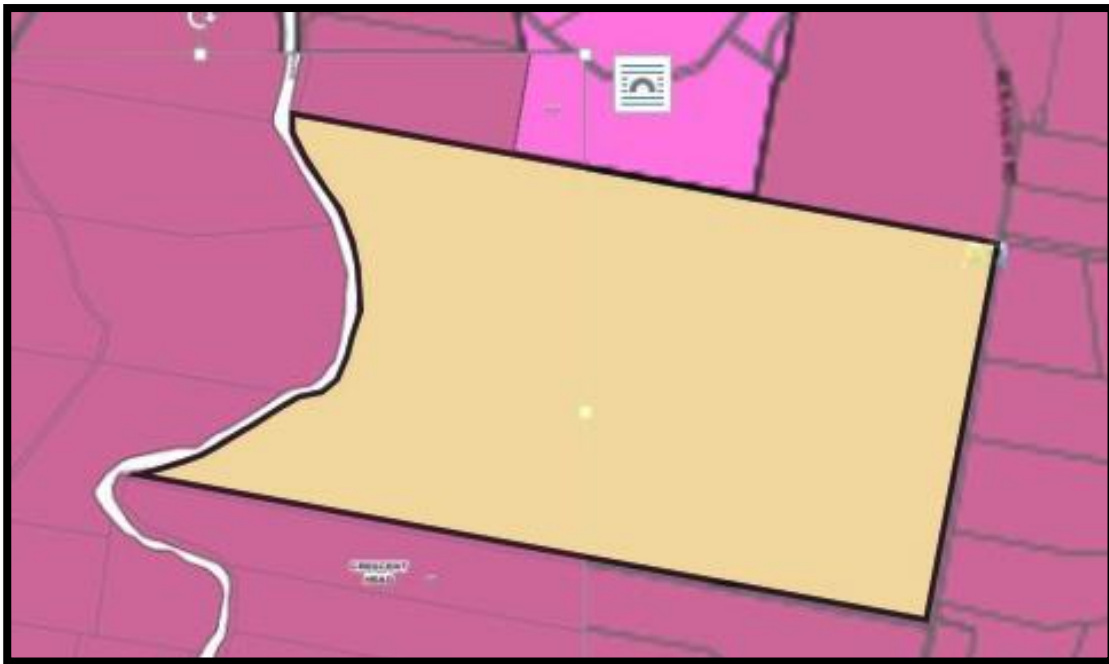


Figure 11: Proposed Land Use Zones AD1 150 ha

Part 5: Community Consultation

Community Consultation will be undertaken in accordance with any conditions specified in the Gateway Determination and Kempsey Shire Council's Rezoning Policy & Procedure 1.1.9, Section 3 Public Notification and Consultation.

Part 6: Project Timeline

This section to be completed in consultation with Council & NSW Planning & Environment.

Yours faithfully



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