

Planning Services

Gateway Determination Report

LGA	Kempsey
PPA	Kempsey Shire Council
NAME	To rezone land at Great North Road, Flanagan Street and Yarrabandinni Road, Frederickton, to R1 General Residential and amend the associated minimum lot size and height of buildings standards. (120 homes, 0 jobs)
NUMBER	PP_2018_KEMPS_001_00
LEP TO BE AMENDED	Kempsey LEP 2013
ADDRESS	Kempsey LGA
DESCRIPTION	Rezoning of land from RU1 Primary Production, RU2 Rural Landscape and RU5 Village to R1 General Residential at Frederickton and amend the associated minimum lot size and Height of Buildings standards applicable to the land
RECEIVED	10/07/2018
FILE NO.	IRF18/4487
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal aims to extend the existing urban area of the Frederickton village to the north by rezoning approximately 7.5 hectares of rural and 5.5 hectares of existing village land to R1 General Residential. The village is located 6 km north-east of Kempsey (Figure 1).

Site description, Existing Planning Controls and Surrounding Area

The subject land, along with its current and proposed zoning, minimum lot size and building height is detailed and shown in Table 1 and Figures 1-8.

Seven of the subject lots are zoned RU5 and form part of the existing Frederickton village zoning footprint. The most southern part of these lots has been developed and currently contain residential dwellings in line with the village nature of the area. The remainder of the subject land contains some residential dwellings and is used mainly for small scale agricultural purposes/rural lifestyle purposes.

The Frederickton village directly adjoins the land to the south and a local cemetery is located directly to the east. Agricultural land surrounds the remainder of the site. The Eversons Food Processing Abattoir is approximately 300m west, while the Pacific Highway and Council's sewer treatment plant are located to the east.

Land Description (Lot/DP)	Current LZN & MLS	Proposed LZN & MLS	Existing HoB	Proposed HoB
Part of 228 /752437	RU1 - 40ha	R1 – 500m ²	Nil	8.5m
Part of 227 /752437	RU1 - 40ha	R1 – 500m ²	Nil	8.5m
Part of 1 /857721	RU1 - 40ha	R1 – 500m ²	Nil	8.5m
4 /657556	RU5 - 500m ²	R1 – 500m ²	8.5m	8.5m
4 /748840	RU5 - 500m ²	R1 – 500m ²	8.5m	8.5m
3 /545586	RU5 - 500m ²	R1 – 500m ²	8.5m	8.5m
4 /418001	RU5 - 500m ²	R1 – 500m ²	8.5m	8.5m
3 /748840	RU5 - 500m ²	R1 – 500m ²	8.5m	8.5m
2 /748840	RU5 - 500m ²	R1 – 500m ²	8.5m	8.5m
1 /748840	RU5 - 500m ²	R1 – 500m ²	8.5m	8.5m
1 /657659	RU2 - 40ha	R1 – 500m ²	Nil	8.5m
7844 (RR)	RU1 - 40ha	R1 – 500m ²	40ha	8.5m
7845 (RR)	RU1 - 40ha	R1 – 500m ²	500 m ²	8.5m
3114 (RR)	RU1 - 40ha	R1 – 500m ²	40ha	8.5m
1980 (RR)	RU1 - 40ha	R1 – 500m ²	40ha	8.5m
1967 (RR)	RU1 - 40ha	R1 – 500m ²	40ha	8.5m
3746 (RR)	RU2 - 40ha RU5 - 500m ²	R1 – 500m ²	40ha	8.5m

Table 1 – Subject Land to be Rezoned

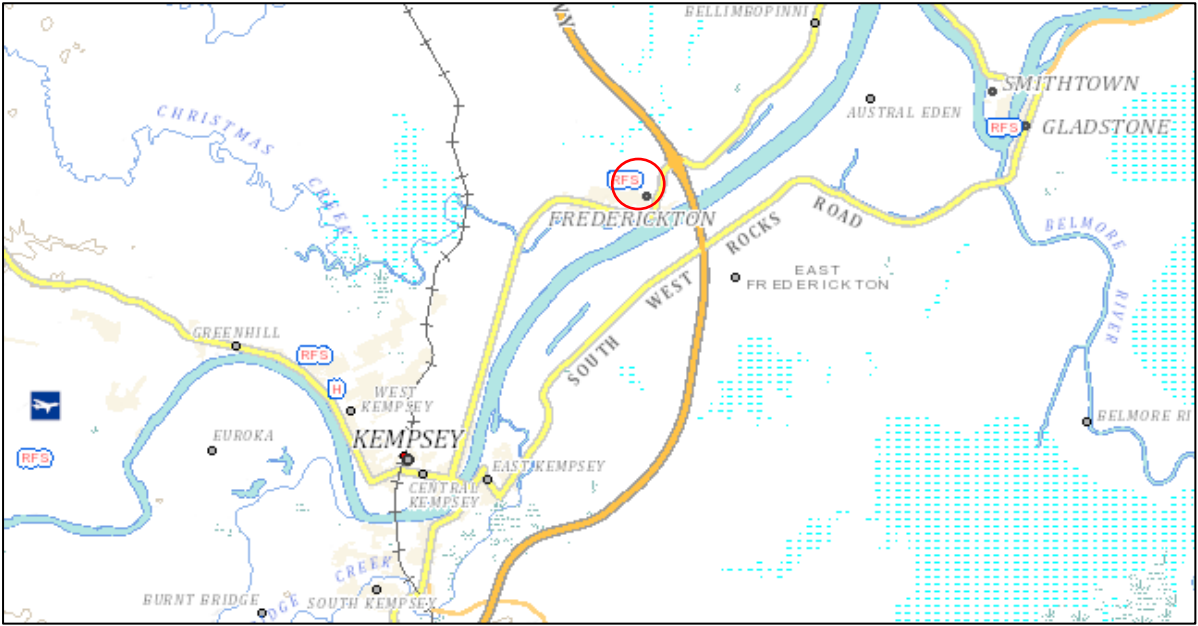


Figure 1 - Location



Figure 2 - subject land

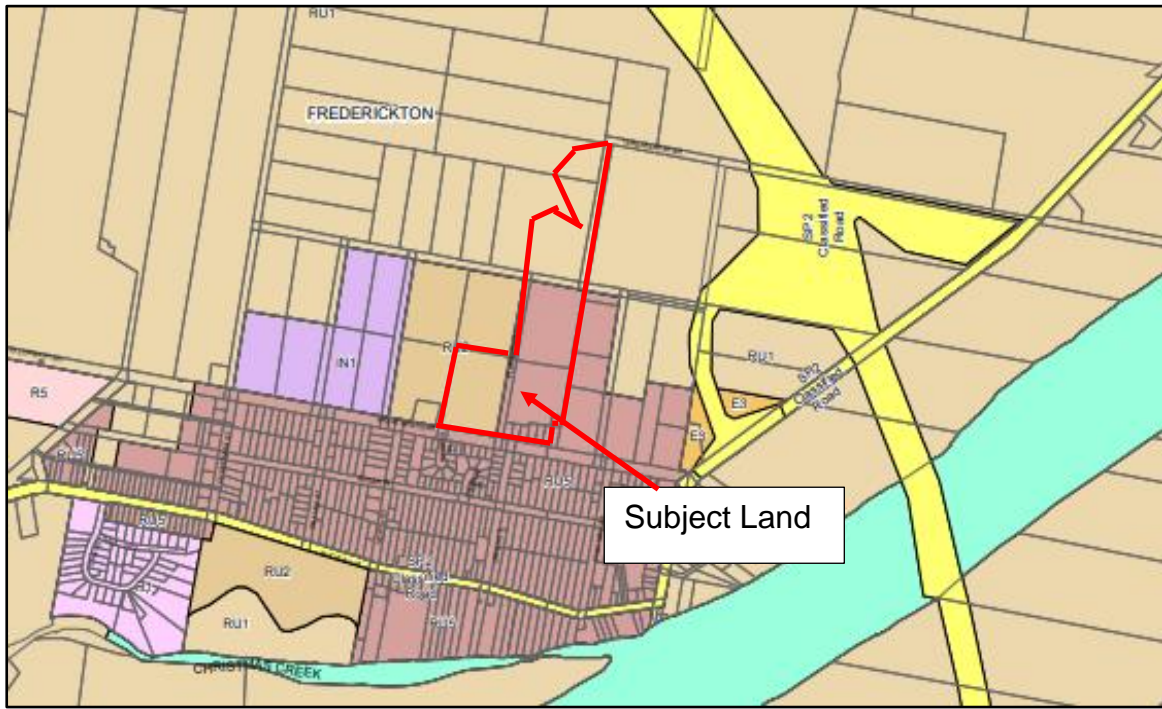


Figure 3 - Existing Zoning



Figure 4 - Proposed Zoning

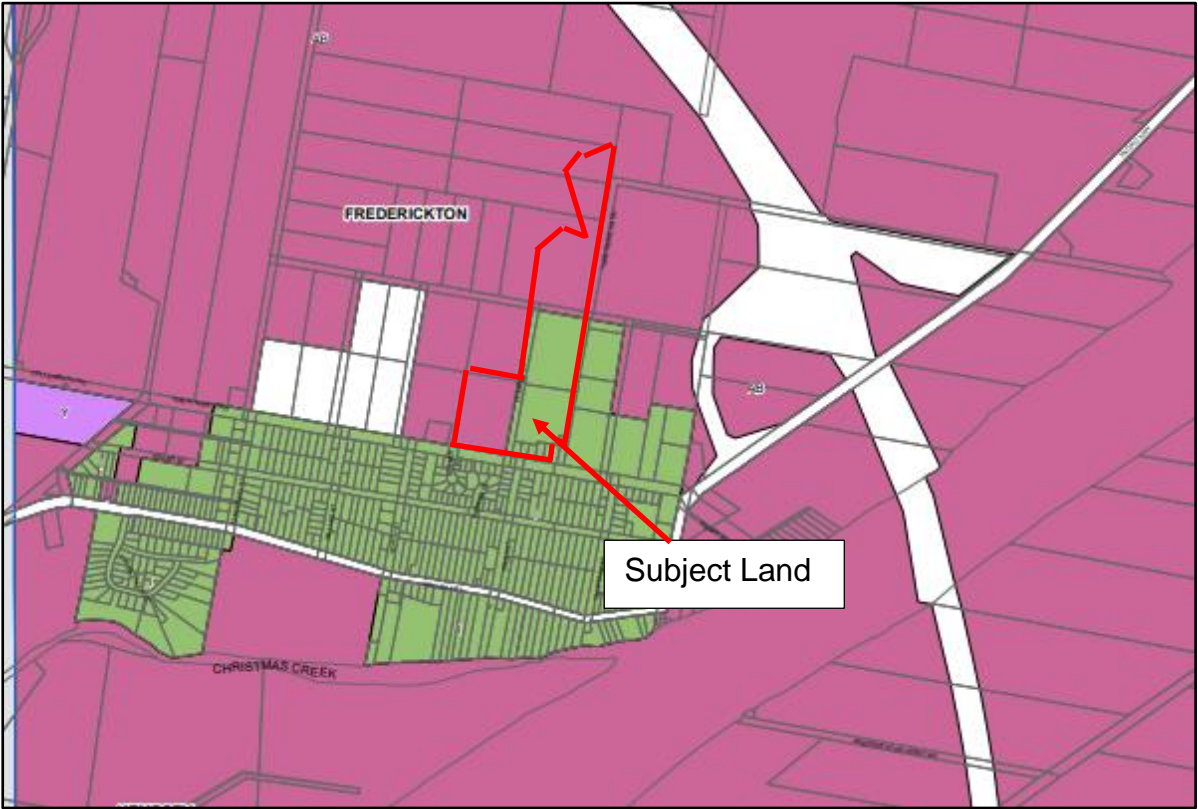


Figure 5 – Existing Minimum Lot Size (AB – 40ha, I – 500m²)



Figure 6 - Proposed Minimum Lot Size (I - 500m²)



Figure 7 - Existing Height of Building (1 – 8.5m)



Figure 8 - Proposed Height of Building (1 - 8.5m)

Summary of recommendation

It is recommended that the planning proposal be approved subject to conditions.

PROPOSAL

Objectives or intended outcomes

The planning proposal has adequately outlined the objectives and intended outcomes. The overall intent of the planning proposal to rezone the subject lots to:

- make provision for residential housing opportunities;
- assist in expanding the social and cultural demographic of Frederickton by providing for affordable housing in close proximity to the Pacific Highway;
- increase the residential population of Frederickton to assist in longer term sustainability of existing services and businesses; and
- make the most environmental and cost-effective use of existing water and sewer infrastructure.

Explanation of provisions

The planning proposal appropriately outlines the following changes required to Kempsey LEP 2013:

- rezoning all the subject land to R1 General Residential;
- amending the minimum lot size for the land not currently zoned village to 500m²; and
- amending the building height for land not currently zoned village to 8.5m

Mapping

The planning proposal has included mapping that clearly identifies the location of the subject lots as well as the existing and proposed zoning, lot size and building height maps. It is considered that these maps are adequate for exhibition purposes subject to the inclusion of appropriate labels and colours consistent with the Department's technical mapping standards.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is an outcome of the Frederickton Planning Review (FPR) 2015 undertaken by Council. The review was prompted by the deviation of the Pacific Highway in 2013 which bypassed South Kempsey, Kempsey and Frederickton. The review aimed to alleviate any negative impacts of the bypass by identifying potential future residential, rural residential and employment land to support these areas.

Since endorsing the review in 2015, Council has been undertaking further investigations to assess the suitability of the proposed areas. This included assessing possible constraints such as flora and fauna, Aboriginal cultural heritage, flooding, noise, odour and issues associated with the location of the Eversons meat processing plant, Frederickton Sewerage Treatment Plant and the Pacific Highway (Figure 9). This process found that the subject land was relatively unconstrained by environmental, social or cultural issues (Figure 10).

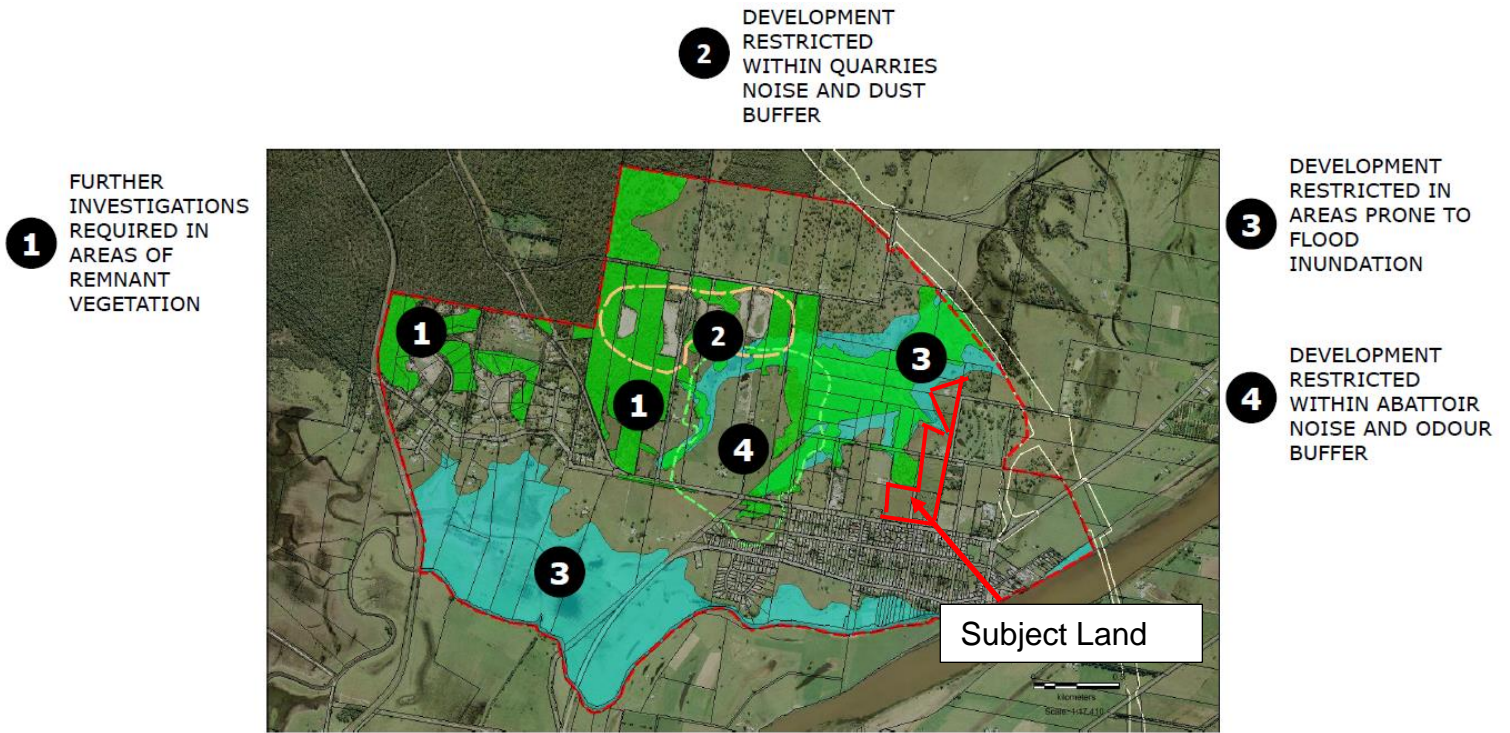


Figure 9 - Constrained Areas

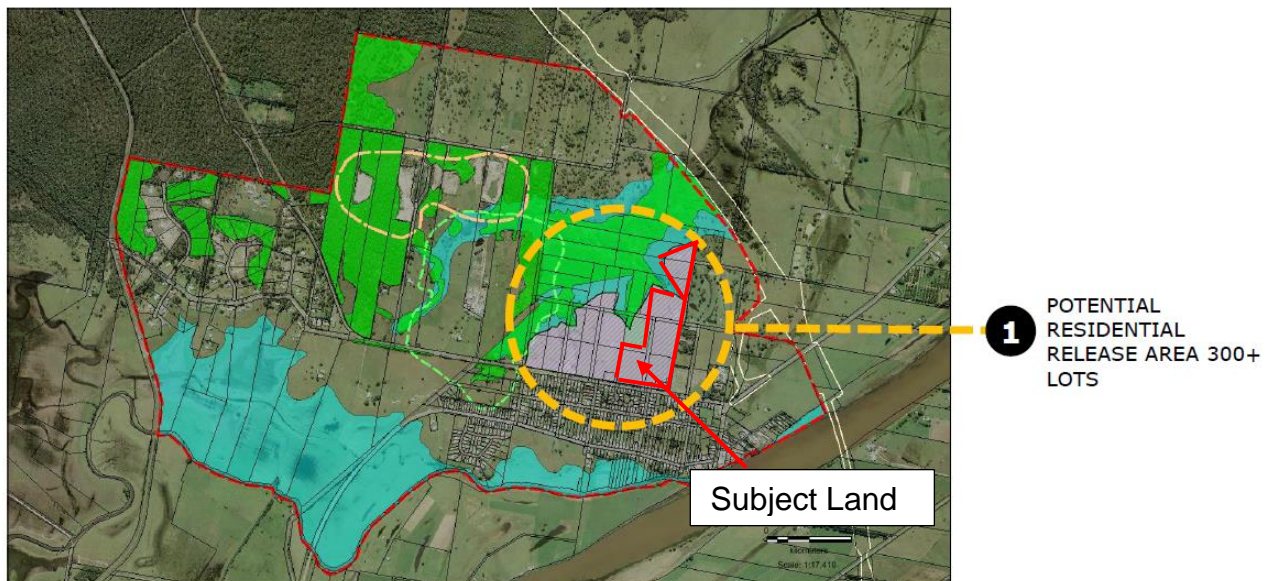


Figure 10 - Fredericton Planning Review 2015

The planning proposal is the most suitable method for amending the LEP to undertake the proposed rezoning of land.

STRATEGIC ASSESSMENT

State

The planning proposal does not contain any matters of state or regional significance.

Regional / District

North Coast Regional Plan (NENWRP) 2036

Part of the subject land is zoned RU5 Village and is within the urban growth area boundary for Frederickton identified under the regional plan. The remainder of the subject land is outside the urban growth boundary but is considered to be consistent with the urban growth area variation principles within the plan and as detailed in Council's supporting information. It is considered appropriate however that the proposal be amended prior to consultation to include Council's urban growth area variation assessment.

The proposal is considered to be consistent with the aims and goals of the regional except in relation to:

- not all of the land is identified within Council's Department approved local strategy; and
- inclusion of appropriate buffer areas to regionally significant transport infrastructure such as the Pacific Highway (a small area at the northern end of the subject rezoning is affected by noise from the Pacific Highway).

The inconsistency of not being identified in a Department approved local strategy is of minor significance as the proposal is considered to be consistent with the Regional Plan's urban growth area variation principles. While the supporting information indicates that suitable measures can be included at the development stage to meet the specific noise requirements for residential development, it is recommended that consistency with the regional plan in terms of this issue remain unresolved until after consultation with NSW Roads and Maritime Services, and the Environment Protection Authority, and they have confirmed that the land is suitable for rezoning and also won't impact on the operation of the Pacific Highway.

Local

The planning proposal is inconsistent with Council's Department approved Kempsey Local Growth Management Strategy – Residential Component as part of the subject land is outside the identified 'Growth Area' (Figure 11).

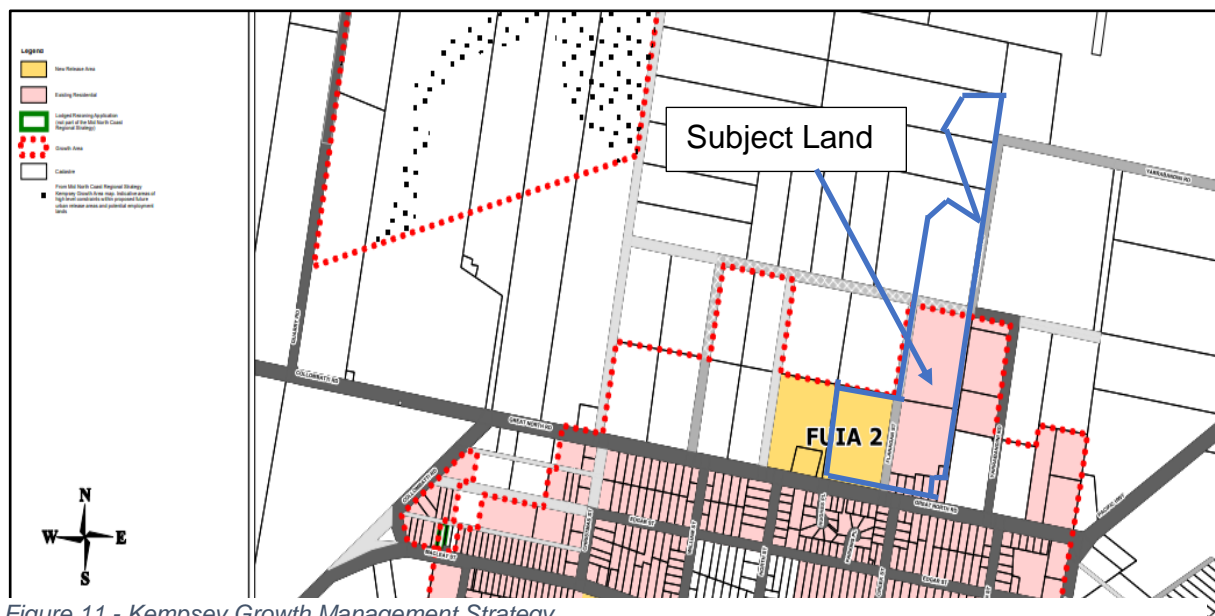


Figure 11 - Kempsey Growth Management Strategy

The inconsistency with Council's local strategy is considered to be of minor significance due to:

- the proposal's compliance with the North Coast Regional Plan's urban growth area variation principles; and
- the Frederickton Planning Review and supporting studies undertaken by Council which demonstrate the land is relatively unconstrained and suitable for residential use. These studies included flora and fauna, noise, odour, flooding, bushfire risk and Aboriginal and cultural heritage assessment.

Section 9.1 Ministerial Directions

The proposal is considered to be consistent with all applicable section 9.1 Directions except in relation to the following:

1.2 Rural Zones

The proposal is inconsistent with this Direction as it rezones rural land to residential. The inconsistency with this Direction is considered to be of minor significance as the land is not identified as important farmland under the North Coast Regional Plan and the variation to the urban growth boundary is consistent with the regional plan's urban growth area variation principles. Consultation with the Department of Primary Industries is recommended due to the proposed change in land use.

1.5 Rural Lands

The proposal is inconsistent with this Direction as it affects land within an existing rural zone and is not consistent with all of the rural planning principles listed in SEPP (Rural Lands) 2008. This inconsistency is considered to be of minor significance as the land is not identified as important farmland under the North Coast Regional Plan and the variation to the urban growth boundary is consistent with the regional plan's urban growth area variation principles.

4.1 Acid Sulfate Soils

The proposal is inconsistent with this Direction as it proposes an intensification of land uses on class 5 acid sulfate soils and is not supported by an acid sulfate soils study. The inconsistency is considered to be of minor significance as Kempsey LEP 2013 contains appropriate provisions that allow this matter to be considered and appropriately addressed at the development application stage.

4.3 Flood Prone Land

The proposal currently indicates that approximately 1500m² of flood prone land is to be rezoned for residential purposes despite Council's flood mapping indicating that the subject land is located above the 1% AEP flood event. The proposal would be inconsistent with this Direction if it seeks to rezone flood prone land for residential purposes. The planning proposal should be amended prior to consultation to clarify this issue. Until the proposal is amended, consistency with this Direction remains unresolved.

4.4 Planning for Bushfire Protection

The planning proposal applies to land which has been mapped as either containing bushfire prone land or within a vegetation buffer. The Direction requires Council to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

5.10 Implementation of Regional Plans

The proposal is inconsistent with this Direction due to its inconsistency with the North Coast Regional Plan 2036 as discussed above. The inconsistency remains unresolved for the reasons also discussed above.

State environmental planning policies

The planning proposal is considered to be consistent with all relevant SEPPs except SEPP (Rural Lands) 2008. The inconsistency of the proposal with this SEPP is considered to be of minor significance as discussed above in relation to section 9.1 Direction 1.5 Rural Lands.

SITE-SPECIFIC ASSESSMENT

Social/Economic

The planning proposal is unlikely to result in any detrimental socio-economic impacts within the LGA. It is considered that the proposal will have the potential to create positive social and economic outcomes by providing greater housing choice and affordability and will help maintain and support services within Frederickton post Pacific Highway bypass.

The subject land has also been investigated for Aboriginal and shared cultural heritage items and consultation has taken place with the Local Aboriginal Land Council regarding the significance of the landscape and place. No issues of significance have been identified. While this matter can be appropriately addressed further if required at development application stage, and no adverse impact is anticipated, it is still considered appropriate that the Office of Environment be consulted in regard to this issue.

Environmental

A number of environmental studies have been prepared to support the proposal including flora and fauna, noise, odour, flooding and bushfire. These studies have identified that the land is relatively unconstrained by environmental issues (Figure 12, 13, 14 & 15). The land is also not identified as potential high environmental value under the regional plan.

Council's flood mapping indicates that the subject land is located above the 1% AEP flood event despite the proposal stating that approximately 1500m² is flood prone land. The planning proposal should be amended prior to consultation to clarify this issue. Consultation on this matter is also recommended with the Office of Environment and Heritage.

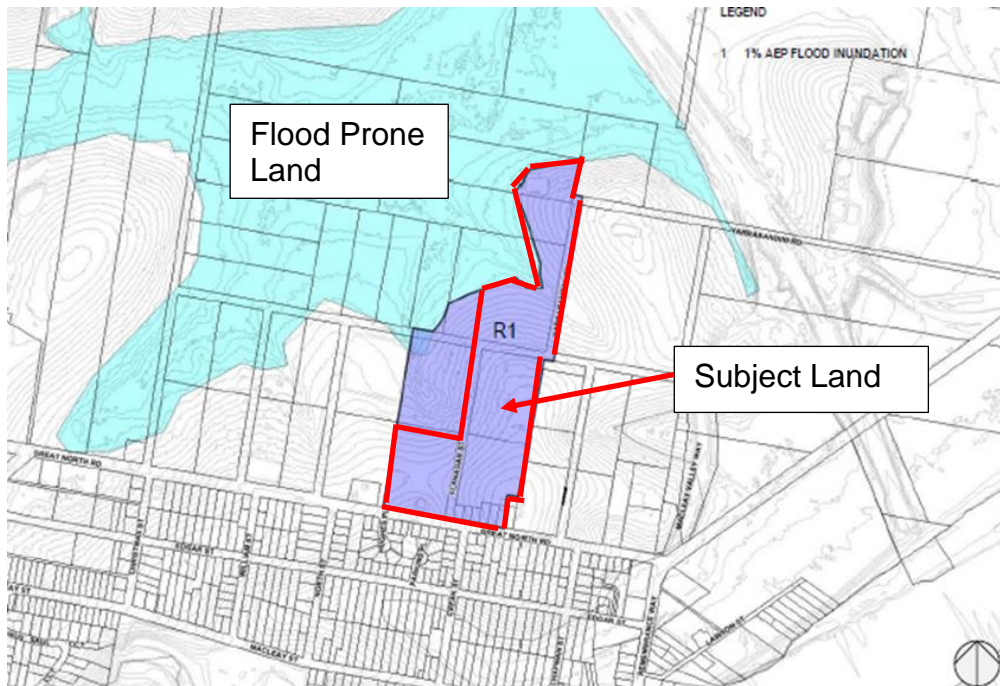


Figure 12 - Flood Prone Land

The planning proposal identifies that the subject land has been used for agricultural purposes including an orchard. Table 1 of the *Managing Land Contamination Planning Guidelines SEPP 55 Remediation of Land* identifies agriculture / horticulture as an activity that may cause contamination. Due to the presence of a former orchard, it is considered appropriate that a preliminary contamination investigation be undertaken to demonstrate the suitability of the land for residential purposes prior to consultation.

The flora and fauna assessment concluded that the subject land was relatively unconstrained, contained no endangered ecological communities or core koala habitat, and was generally suitable for the proposed rezoning. It is noted that a watercourse and hollow bearing tree was identified in the northern part of the site to be rezoned to R1 General Residential (Figure 13). While it is considered that these matters can be appropriately addressed at the development application, along with other issues such as adopting a water sensitive urban design to avoid any adverse impacts to the endangered ecological community to the north east, it is considered appropriate that consultation be undertaken with the Office of Environment and Office of Water in regard to the proposal.

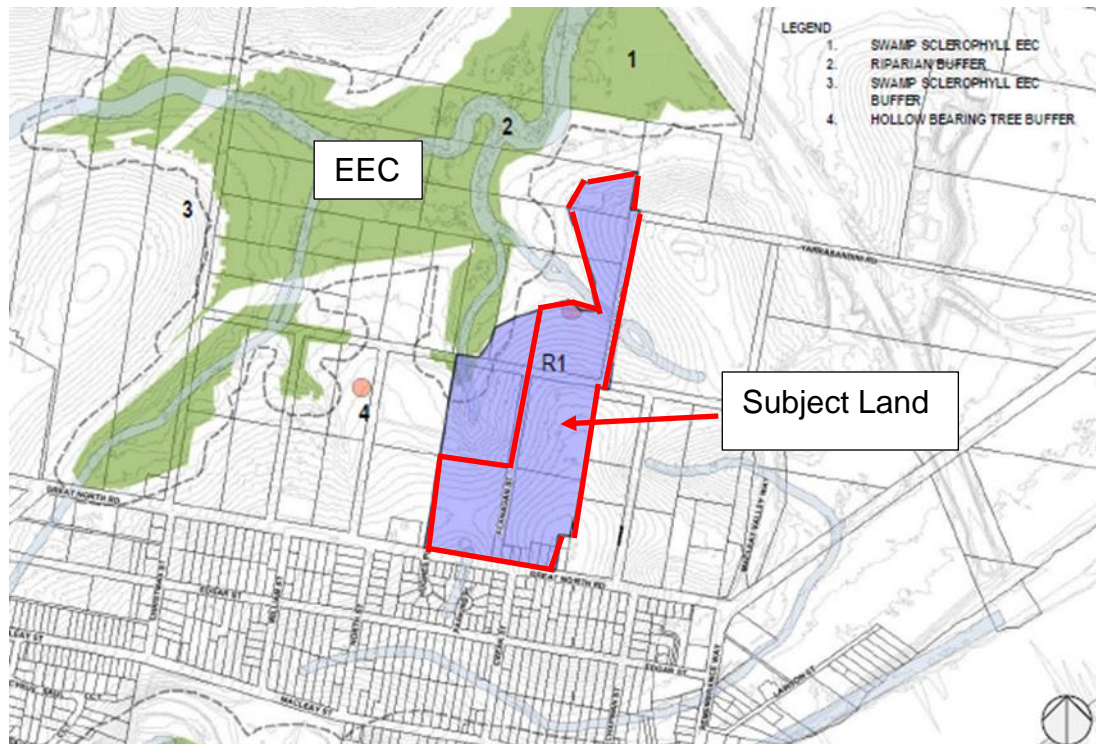


Figure 13 – Environmental Constraints

The land is mapped as containing either bushfire prone land or within a vegetation buffer. A bushfire hazard assessment has been prepared that concludes that the bushfire risk area is manageable and will be consistent with the acceptable bushfire protection measure solutions provided for in the NSW Rural Fire Service 'Planning for Bushfire Protection 2006'. Consultation with the NSW Rural Fire Service in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection is required post Gateway as discussed above to confirm the suitability of the land.

The subject land is located in the proximity of the Frederickton sewerage treatment plant and the Eversons meat processing plant. An odour impact assessment has been prepared that confirms that the subject land is located outside the recommended buffer distances (Figure 13), in particular from the Everson meat processing plant, and that no adverse impact will result. While no adverse impact is anticipated, it is still considered appropriate that consultation with the NSW Environment Protection Authority in regard to this issue be undertaken.

A noise study has also been undertaken to support the proposal which identifies that part of the site is within the recommended noise buffer area to the Pacific Highway (Figure 14). The study identifies that suitable measures can be included at the development stage to ensure compliance with relevant residential noise standards. Due to the potential impacts on future residents, and the operation of the Pacific Highway, it is considered appropriate that the NSW Roads and Maritime Services and the Environment Protection Authority be consulted to confirm the suitability of the land for rezoning.

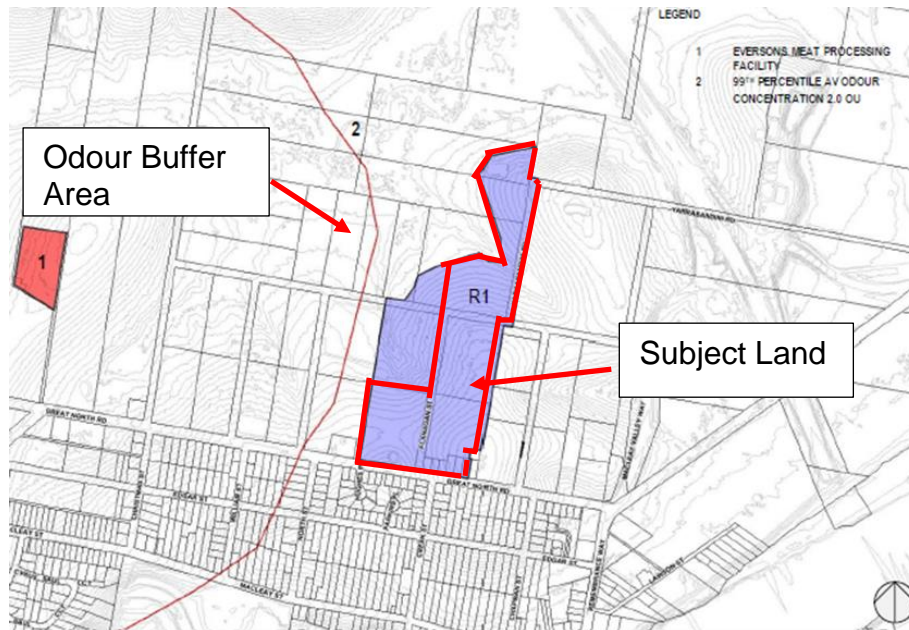


Figure 13 – Odour Buffer

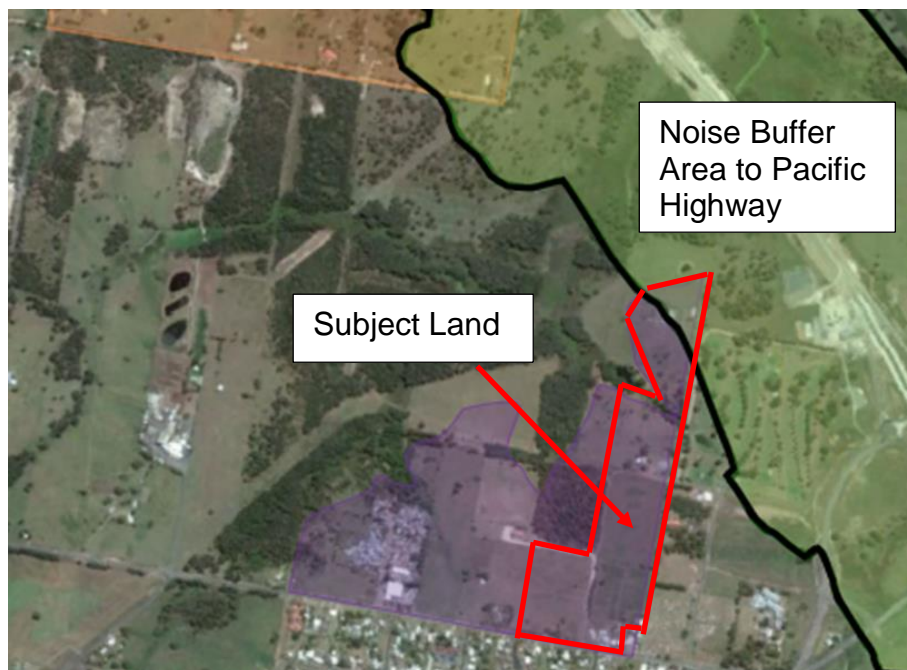


Figure 14 – Noise Buffer

It is also noted that adjoining the site to the east is the Frederickton cemetery which is an identified local heritage item under the Kempsey LEP 2013. It is considered that any potential heritage issues associated with the cemetery can be appropriately considered and addressed at the development application stage to ensure no adverse impacts to the heritage item.

Infrastructure

The provision and funding of State infrastructure is not necessary for this proposal.

The development of the subject land for residential purposes will form a natural extension of the existing Frederickton village. Local infrastructure in the form of roads, water, sewer, electricity and internet will be required and can be adequately catered for at the development stage of the proposal. Council considers the existing village infrastructure has the capacity to meet potential infrastructure demands.

CONSULTATION

Community

Council has not specified a timeframe for public exhibition of the proposal. As the proposal is not consistent with Council's local strategy, a 28 day community consultation period is considered appropriate.

Agencies

Council have not specifically identified any government agency for consultation. Given the nature and specific issues of the planning proposal, it is considered that consultation with the following agencies would be appropriate:

- NSW Rural Fire Service
- Environment Protection Authority
- Office of Environment and Heritage
- Department of Primary Industries
- Office of Water
- Roads and Maritime Services

TIME FRAME

The planning proposal has included a nine (9) month timeline that indicates completion in April 2019. A 12 month time frame is recommended to ensure appropriate period to finalise the proposal.

LOCAL PLAN-MAKING AUTHORITY

Council has requested an authorisation to exercise delegation for this proposal. It is recommended that an authorisation be issued in this instance as the proposal does not contain matters of State or regional significance.

CONCLUSION

The proposal seeks to rezone land adjoining the village of Frederickton for residential development. Having consideration for the location of the site, the nature of current landuse and the relevant goals and directions of the regional plan to deliver greater housing supply and greater diversity and choice, the proposal is considered reasonable and is supported subject to conditions.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.1 Acid Sulfate Soils is justified in accordance with the terms of the Directions; and
2. note that the consistency with section 9.1 Directions 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for public exhibition for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Environment Protection Authority
 - Office of Environment and Heritage
 - Department of Primary Industries
 - Office of Water
 - Roads and Maritime Services
3. The time frame for completing the LEP is to be twelve (12) months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Prior to agency or community consultation, the planning proposal is to be amended to:
 - include a preliminary potential contamination assessment of the land to be rezoned;
 - include updated mapping that utilises appropriate labels and colours consistent with the Department's technical mapping standards;
 - includes Council's North Coast Regional Plan 2036 urban growth area variation assessment for the proposal; and
 - clarify whether the proposal seeks to rezone any flood prone land.



23/8/18

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24-8-2018

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