

Mr Craig Milburn
General Manager
Kempsey Shire Council
PO Box 3078
KEMPSEY NSW 2440

Attention: Bruce Potts

Dear Mr Milburn

Planning Proposal PP_2018_KEMPS_001_00 to amend Kempsey Local Environmental Plan 2013

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal 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.

As delegate of the Minister for Planning, I have now determined the Planning Proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department of Planning and Environment's Secretary to comply with the requirements of section 9.1 Directions 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to Councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any further enquiries about this matter, I have arranged for Ms Gina Davis to assist you. Ms Davis can be contacted on (02) 6701 9687.

Yours sincerely



24-8-2018

Jeremy Gray
Director Regions, Northern
Planning Services

Encl: Gateway Determination
Delegated Plan Making Reporting Template



Gateway Determination

Planning proposal (Department Ref: PP_2018_KEMPS_001_00): 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.

I, the Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kempsey Local Environmental Plan (LEP) 2013 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 should proceed subject to the following conditions:

1. Prior to agency or community consultation, the planning proposal is to be amended to:
 - (a) include a preliminary potential contamination assessment of the land to be rezoned;
 - (b) include mapping that contains appropriate labels and colours consistent with the Department's technical mapping standards;
 - (c) include Council's North Coast Regional Plan 2036 urban growth area variation assessment for the proposal; and
 - (d) clarify whether the proposal seeks to rezone any flood prone land.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).



4. Consultation is required with the following public authorities / organisations under section 3.34(2)(d) of the Act and/or to comply with the requirements of relevant section 9.1 Directions:
- NSW Rural Fire Service
 - Environment Protection Authority
 - Office of Environment and Heritage
 - Department of Primary Industries
 - Office of Water
 - Roads and Maritime Services

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
- (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.
6. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 24 day of August 2018.

Jeremy Gray
Director Regions, Northern
Planning Services
Department of Planning and
Environment

Delegate of the Minister for Planning