

Planning Proposal
Rocks Central Shopping Centre
Lot 231 DP 754396,
255-279 Gregory Street
and part Spencers Creek Road,
South West Rocks

Prepared for:

MPG Property

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Date: January, 2019 v1
 March, 2019 v2

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EXECUTIVE SUMMARY

This Planning Proposal (PP) has been prepared on behalf of MPG Property, being the land owner of the existing *Rocks Central* shopping centre at South West Rocks.

This Planning Proposal explains the intended effect of, and justification for, the proposed amendment to the Kempsey Local Environmental Plan 2013, to change the land zone from B1 Neighbourhood centre to B2 Local centre.

Rocks Central shopping centre is the largest single complex shopping centre in South West Rocks and is anchored by a 2,500m² Coles. The complex includes a range of tenancies and on-site parking for approximately 230 vehicles within one allotment.

The scale of the existing centre is greater than that generally found within a B1 Neighbourhood centre zone, noting that clause 5.4 of the Kempsey Local Environmental Plan 2013 (LEP 2013) limits the gross floor area of a neighbourhood shopping centre to 1,000m².

Following a review of the zone objectives for a B1 zone and a B2 zone, consideration of the intent of Clause 5.4 of the LEP 2013 and the existing scale of *Rocks Central*, it is submitted that a B2 Local centre zone would be more suitable and will provide for a range of uses that could be expected to be found within a town of the scale of South West Rocks.

This Planning Proposal is consistent with the priorities, actions and values identified in Councils engagement programs with the community (*Local Community Plan 2009 – South West Rocks* and *Macleay Valley 2036 Community Strategic Plan, June 2017*).

This Planning Proposal will provide the opportunity to achieve a wide range of social and economic benefit for the community, through:

- Permitting a broader range of uses at a location that is easily accessible;
- Providing the potential for uses that will engage with the local youth;
- Enabling the local community to access a broader range of services in close proximity to their place of residence; and
- Creating job opportunities for the existing and future residents of South West Rocks.

This Planning Proposal was considered by Council at its meeting of 19 February, 2019, where Council resolved as follows:

That the Planning Proposal and associated documentation be submitted to the Minister for Planning to seek a Gateway determination pursuant to Sections 3.33 and 3.34 of the Environmental Planning and Assessment Act 1979 and seek delegation to exercise the functions of a local plan-making authority pursuant to Section 3.31 of the Act.

This Planning Proposal together with the Council report and resolution was forwarded to the NSW Department of Planning & Environment, Northern Region, on the 4 March, 2019, seeking a Gateway Determination.

On the 19 March, 2019, the Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, determined that the Planning Proposal should proceed (see Appendix D).

This Planning Proposal has been updated in accordance with the conditions of the Gateway Determination to:

1. Identify that part of Spencers Creek Road immediately adjacent Lot 231 is proposed to be rezoned from B1 Neighbourhood centre to B2 Local centre;
2. Include a complete list of all uses that will become permitted with consent or prohibited on the land due to the change in zoning; and
3. Include maps that clearly show the current land zoning and the proposed land zoning, including the part of Spencers Creek Road to be rezoned.

SECTION 1 - BACKGROUND AND CONSULTATION

1.1 Introduction

This submission has been prepared to support a proposed amendment to the Kempsey Local Environmental Plan 2013 (LEP 2013) with respect to the *Rocks Central* shopping centre, Gregory Street, South West Rocks.

The site is currently zoned B1 Neighbourhood Centre pursuant to the Kempsey Local Environmental Plan 2013 (LEP 2013). This submission seeks an amendment to the zone map to provide for a B2 Local Centre Zone.

SECTION 1 of this submission provides an introduction to the site, relevant background information and the outcome of consultation with Kempsey Shire Council planning officers.

SECTION 2 of this submission is consistent with Section 3.33 of the Environmental Planning and Assessment Act 1979 and the Department of Planning and Environment's *A guide to preparing planning proposals* and provides for:

PART 1 – Objectives or intended outcomes

PART 2 – Explanation of provisions

PART 3 – Justification, including:

Section A – Need for the planning proposal

Section B – Relationship to strategic planning framework;

Section C – Environmental, social and economic impact

Section D – State and Commonwealth interests

PART 4 – Mapping

PART 5 – Community consultation

PART 6 – Project timeline

1.2 The site

The site is identified as Lot 231 DP 754396, 255-279 Gregory Street, South West Rocks and part Spencers Creek Road. Lot 231 has an existing site area of approximately 2.37ha.

A copy of the DP is included at Appendix A.

Rocks Central is one of three shopping centres in South West Rocks and is the largest single complex shopping centre. The centre includes the following configuration:

- one (1) single level building with internal mall and adjacent parking for approximately 230 vehicles;
- rear loading dock access and tenant parking for approximately 52 cars;
- Coles supermarket (and liquor land) are the primary tenant, with a GFA of approximately 2,500m²;
- A discount store is the second largest tenancy, with a GFA of approximately 600m²;
- The current lease plan includes an additional 14 specialty shops, with a GFA of approximately 2,500m².

Rocks Central is located approximately 2.6km from the South West Rocks town centre. The town centre is located on Prince of Wales Avenue, between Gregory Street to the north and Memorial Avenue to the south and includes a range of traditional style shops. A smaller centre anchored by an IGA supermarket is located approximately 1.2km from the town centre and is zoned B1 Neighbourhood Centre.

Rocks Central is well patronised, as illustrated in the following photographic images:



1.3 Background and Consultation

MPG Property, being the owners of *Rocks Central*, have expressed concern in relation to the number of tenancies that remain vacant, not through disinterest but rather that the businesses seeking to occupy the centre are not currently permissible in the existing B1 Neighbourhood Centre zone.

A recent example of an unsuccessful potential tenant is that for a gymnasium. This use is defined as a *recreation facility (indoor)* under the

Kempsey Local Environmental Plan 2013 (LEP 2013) and is a prohibited use within the existing B1 Neighbourhood Centre zone that applies to the site. An indoor recreation facility is an appropriate use that has a proven record within other LGA's of co-existing within a shopping complex. Generally a shopping complex remains well-lit at night and residential premises are not immediately adjacent.

Rocks Central is well patronised and is anchored by a Coles supermarket with a gross floor area of approximately 2,500m². The scale of the existing centre is greater than that generally found within a B1 Neighbourhood zone, noting the Kempsey Local Environmental Plan 2013 (LEP 2013) includes the following clause with respect to neighbourhood shopping centres:

Clause 5.4 Controls relating to miscellaneous permissible uses

...

(7AA) Neighbourhood supermarkets

If development for the purposes of a neighbourhood supermarket is permitted under this Plan, the gross floor area must not exceed 1,000 square metres

Following a review of the zone objectives for a B1 zone and a B2 zone, consideration of the intent of Clause 5.4 of the LEP 2013 and the scale of *Rocks Central* shopping centre, it is considered that a B2 Local Centre zone would be more suitable and will provide for a range of uses that could be expected to be found within a town of the scale of South West Rocks. On this basis consultation was undertaken with planning officers at Kempsey Shire Council.

By email correspondence of 14 December, 2018, Councils Coordinator Strategic and Environmental Planning has advised the following:

Thanks for coming in to discuss this proposal today. Here's my quick summary of the things we discussed relating to the strategic side of things:

The general intent to change the zone from B1 Neighbourhood Centre to B2 Local Centre is supported. The scale of the existing shopping centre no longer fits with the zone objective set out in the KLEP 2013. In particular the term 'small scale' does not reflect the actual scale of the centre with a major supermarket anchor and a range of associated tenancies of varying sizes. I also note the centre seems to provide general shopping opportunities to tourists. In my opinion, the B2 zone objectives accurately reflect the scale and function of the existing centre and will allow it to better serve the needs of the growing population and local workforce, as well as the considerable number of visitors to the area.

To confirm, at this stage we do not need specialist reports to support the planning proposal. However, these may be required from the Gateway and is out of our control.

As agreed, we will aim for the February Council meeting, meaning we will need the draft planning proposal by the end of January.

My estimated timeframe for completion is as follows:

January – draft planning proposal lodged, fees paid – note the proposal as discussed appears to fit the definition of Minor LEP Amendment in our Fees & Charges document (extract attached), i.e. “minor zoning change where no significant additional studies are required to be arranged or likely to be required under the Gateway process. Flat rate \$3,500 inclusive. This would need to be amended if Gateway requires additional studies to be prepared and assessed.

February – Council resolution to submit for Gateway Determination

March – Gateway Determination received and public exhibition commenced

April – Public exhibition concludes and submissions report prepared

May – Council consideration of submissions and resolution to proceed

June – Liaison with Dept of Planning and Office of Parliamentary Counsel to make the LEP

July – the LEP is made and notified, changes come into effect

1.4 Council resolution of 19 February, 2019

This Planning Proposal was considered by Council at its meeting of 19 February, 2019, where Council resolved as follows:

That the Planning Proposal and associated documentation be submitted to the Minister for Planning to seek a Gateway determination pursuant to Sections 3.33 and 3.34 of the Environmental Planning and Assessment Act 1979 and seek delegation to exercise the functions of a local plan-making authority pursuant to Section 3.31 of the Act.

This Planning Proposal, together with the Council report and resolution, was forwarded to the NSW Department of Planning & Environment, Northern Region, on the 4 March, 2019, seeking a Gateway Determination.

1.5 Gateway Determination of 19 March, 2019

On the 19 March, 2019, the Director Regions, Northern at the Department of Planning and Environment, as delegate of the Minister for Planning, determined that the Planning Proposal should proceed (see Appendix D).

This Planning Proposal has been updated in accordance with the conditions of the Gateway Determination to:

1. Identify that part of Spencers Creek Road immediately adjacent Lot 231 is proposed to be rezoned from B1 Neighbourhood Centre to B2 Local Centre;
2. Include a complete list of all uses that will become permitted with consent or prohibited on the land due to the change in zoning; and
3. Include maps that clearly show the current land zoning and the proposed land zoning, including the part of Spencers Creek Road to be rezoned.

SECTION 2 - PLANNING PROPOSAL

This is a Planning Proposal prepared under Section 3.33 of the Environmental Planning and Assessment Act 1979, in accordance with the Department of Planning and Environment's *A guide to preparing planning proposals 2016* and *A guide to preparing local environmental plans 2016*.

The Planning Proposal is in relation to a proposed amendment to Kempsey Local Environmental Plan 2013 (LEP 2013), as set out below:

| | |
|--------------------|---|
| Proposal | Rezoning of land |
| Property details | Lot 231 DP 754396, 255-279 Gregory Street and part of Spencers Creek Road, South West Rocks |
| Current land zone | B1 Neighbourhood centre |
| Proposed land zone | B2 Local centre |
| Applicant details | MPG Property c/- King and Campbell Pty Ltd |
| Land owner | MPG Property |

This Planning Proposal explains the intended effects of a proposed amendment to the Kempsey Local Environmental Plan 2013 (LEP 2013), which will provide for a B2 Local Centre zone for *Rocks Central*, which will provide for the following:

1 Objectives of zone

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent

Environmental protection works; Home-based child care

3 Permitted with consent

Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home industries; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Mortuaries; Recreation facilities (major); Recreation facilities (outdoor); Residential accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Wholesale supplies

PART 1 - Objectives or Intended Outcomes

The objectives of this Planning Proposal are:

1. To permit uses that are appropriate and compatible with the location of *Rocks Central* within an established urban area of South West Rocks, which will provide local services and employment opportunities for existing and future residents; and
2. To ensure that the retail hierarchy within South West Rocks and across the broader LGA will be supported.

The site is positioned on the main entry road into South West Rocks (Gregory Street), with residential properties to the east of Gregory Street and to the north.

A site context plan is included at Appendix B.

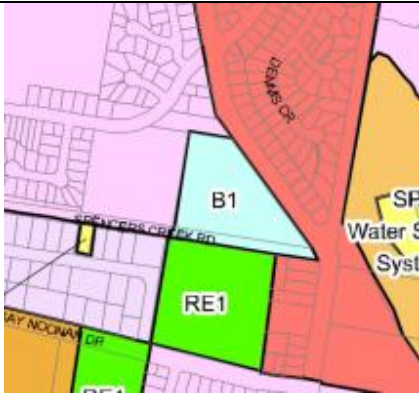

This Planning Proposal will provide for the following land uses, which are currently prohibited in the existing B1 Neighbourhood centre zone, to become permissible with the consent of Council in the proposed B2 Local centre zone:

| Additional permitted uses |
|--|
| Amusement centres, Commercial premises, Educational establishments; Entertainment facilities; Function centres, Hospitals, Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Restricted premises, Service stations, Specialised retail premises, Tourist and visitor accommodation; Veterinary hospitals; Waste or resource transfer station. |

PART 2 - Explanation of Provisions

The intended outcomes are proposed to be achieved by making the following changes to Council's principle planning instrument, Kempsey Local Environmental Plan:

- Amendment to the KSC LEP 2013 Land Zoning Map to change the zoning of the site from B1 Neighbourhood centre to B2 Local centre.

| Existing Land Zone | Proposed Land Zone |
|--|---|
| B1 Neighbourhood centre | B2 Local centre |
|  |  |

| | Existing B1 Neighbourhood centre | Proposed B2 Local centre | Comments |
|-------------------------|---|--|---|
| 1 Objectives of zone | - To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood. | <p>- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.</p> <p>- To encourage employment opportunities in accessible locations.</p> <p>- To maximise public transport patronage and encourage walking and cycling.</p> | The existing <i>Rocks Central</i> provides a scale of neighbourhood shop that exceeds that permitted in the LEP 2013. The objectives for a B2 Local Centre align with the existing development of the site. |

| | Existing B1 Neighbourhood centre | Proposed B2 Local centre | Comments |
|--------------------------------|---|---|---|
| 2 Permitted without consent | Environmental protection works; Home-based child care | Environmental protection works; Home-based child care | - |
| 3 Permitted with consent | Bed and breakfast accommodation; Boarding houses; Business premises; Centre-based child care facilities; Community facilities; Home industries; Medical centres; Neighbourhood shops; Neighbourhood supermarkets; Respite day care centres; Roads; Shop top housing; Any other development not specified in item 2 or 4 | Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Home industries; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Roads; Service stations; Shop top housing; Tourist and visitor accommodation; Any other development not specified in item 2 or 4 | <p>The proposed B2 Local Centre zone will permit with Council consent a broader range of services and opportunities for entertainment and education uses that will serve the local community, including for example:</p> <p>- Educational establishments; entertainment facilities; function centres; and recreation facilities (indoor).</p> <p>Access to uses and services that fall within these land use definitions is consistent with the feedback received by Council through the local community engagement programs in South West Rocks.</p> |
| 4 Prohibited | Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Garden centres; Hardware and building supplies; Heavy industrial storage establishments; Helipads; Highway service centres; | Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Industrial retail outlets; Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Mortuaries; Recreation facilities (major); Recreation facilities (outdoor); Residential | As above |

| | Existing B1 Neighbourhood centre | Proposed B2 Local centre | Comments |
|--|---|--|----------|
| | Hospitals; Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Landscaping material supplies; Marinas; Mooring pens; Mortuaries; Passenger transport facilities; Plant nurseries; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Restricted premises; Rural industries; Rural supplies; Service stations; Sewage treatment plants; Sex services premises; Specialised retail premises; Storage premises; Timber yards; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Wholesale supplies | accommodation; Resource recovery facilities; Rural industries; Sewage treatment plants; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures; Wholesale supplies | |

PART 3 - Justification

Section A – Need for the planning proposal

Q1. Is the planning proposal a result of any strategic study or report?

This Planning Proposal has not been prepared in response to any strategic study prepared by Council.

The justification is based on a need to provide services and facilities that are appropriate to the needs of the growing local residential population and that can also cater for the influx of tourists throughout the year. *Rocks Central* is well positioned to provide for this growing need, being located on the main entry road into South West Rocks and in close proximity to local bus routes and the new residential growth areas within the town.

The current site of 2.37 ha has not been developed to its full potential and a zone that allows for a broader range of uses to that currently permitted will enable further expansion to service the community.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This Planning Proposal is considered the best means of achieving the intended outcome. The South West Rocks township has undeveloped residentially zoned lands and the services that can be provided within a B2 zone will support this growth.

Section B – Relationship to strategic planning framework

- Q3. Is the planning proposal consistent with the objectives and actions of the North Coast Regional Plan 2036 (NCRP)?

The NCRP was introduced by the NSW Government in March 2017. The Plan outlines the vision for the North Coast area over the next two decades and identifies opportunities and priorities for the Kempsey LGA.

The Planning Proposal is generally consistent with the objectives and actions of the NCRP, noting that additional permitted uses within the shopping centre will provide local jobs and services in an area that is experiencing growth and new residential development. Additionally, the site is well located to existing transport infrastructure and urban services.

- Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan

Local Community Plan 2009 – South West Rocks

In 2009 Council undertook a local action planning program to engage with local communities to identify priorities and actions for improvements. This was followed in 2017 by a program of Community Catch-Ups to engage with towns and villages to understand their current needs and future visions.

Access to services (Council, health, medical, community, cultural etc) and inadequate youth infrastructure (leading to anti-social behaviour) were two of the themes noted during this consultation program.

This Planning Proposal will enable uses within an existing centrally located shopping centre that will permit with Council consent, a broader range of services and opportunities for entertainment and education uses that will serve the local community.

Macleay Valley 2036 Community Strategic Plan, June 2017

This Plan has identified four (4) core values that are important to the broader Macleay Valley community, including health, safety, wealth and social. This Planning Proposal is not inconsistent with these values as a B2 Local Centre zone can assist in achieving the identified strategies for each value through the following:

- Enabling uses that will assist in living an active lifestyle (*recreation facility (indoor), entertainment facility*);
- Providing opportunities for learning and education (*information and education facilities*);
- Providing opportunities for social interaction (*amusement centres*); and

- Creating job opportunities through allowing a broader range of uses in close proximity to existing and future residential area of South West Rocks.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

An assessment of consistency with State Environmental Planning Policies (SEPPs) of relevance is below.

| SEPP | Consistent | Reason for inconsistency/consistency |
|-----------------------------|------------|---|
| 44 Koala Habitat Protection | Yes | <p>Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.</p> <p>The site is mapped as subject to Koala Management Plan on the LEP 2013 Koala Management Plan Map (sheet KMP_013B). The Planning Proposal will not result in any modification to the existing site conditions or vegetation (landscape plantings) and is therefore consistent with the management actions.</p> |
| 55 Remediation of Land | Yes | <p>Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated.</p> <p>The site has been developed for the purpose of a shopping complex and the Planning Proposal will not result in a more sensitive land use on the site.</p> |
| 64 Advertising and Signage | Yes | <p>The Policy regulates signage (not content) to ensure compatibility with the amenity and character of the area and to ensure a high quality design and finish.</p> <p>The Planning Proposal does not contain provisions that would be inconsistent with, or hinder, the application of the Policy. The Policy may apply to future development.</p> |
| (Coastal Management) 2018 | Yes | <p>The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016</p> <p>The site is partially mapped as within the <i>Coastal Environment Area</i>. Clause 13 must be considered by Council in their assessment of any development application for the site. The site is developed and includes extensive areas of hard stand. Consideration will be required for extensions to the existing premises and potential impact on downstream environments from stormwater run-off.</p> |

| SEPP | Consistent | Reason for inconsistency/consistency |
|---|------------|--|
| | | Given the separation distance from the water-way to the south and west, potential impacts from development of the site will be negligible. |
| (Exempt and Complying Development Codes) 2008 | Yes | <p><i>This Policy aims to provide streamlined assessment processes for development that complies with specified development standards.</i></p> <p>The Planning Proposal does not contain provisions that would be inconsistent with, or hinder, the application of the Policy. The Policy may apply to future development.</p> |
| (Infrastructure) 2007 | Yes | <p><i>The aim of this Policy is to facilitate the effective delivery of infrastructure across the State</i></p> <p>The Planning Proposal does not contain provisions that would be inconsistent with, or hinder, the application of the Policy. The SEPP may apply to future development.</p> |

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

An assessment of consistency with Ministerial Directions of relevance is below (as of 2 April, 2018).

| Section 9.1 Direction | Consistent | Reason for inconsistency/consistency |
|------------------------------------|------------|--|
| 1. Employment and Resources | | |
| 1.1 Business and Industrial Zones | Yes | The proposal is consistent with this direction as the Planning Proposal will not result in a reduction of employment lands. |
| 2. Environment and Heritage | | |
| 2.2 – Coastal Management | Yes | <p>The site is partially mapped as within the Coastal Environment Area. Clause 13 must be considered by Council in their assessment of any development application for the site. The site is developed and includes extensive areas of hard stand. Consideration will be required for extensions to the existing premises and potential impact on downstream environments from stormwater run-off.</p> <p>Given the separation distance from the water-way to the south and west, potential impacts from development of the site will be negligible.</p> |
| 2.3 - Heritage Conservation | Yes | The site is developed and includes significant area of hard stand. Should redevelopment that includes excavation be undertaken, this will be a consideration in Council's assessment process. |

| 4. Hazard and Risk | | |
|---|-----|---|
| 4.1 - Acid Sulfate Soils | Yes | <p>The site is mapped as Class 5 Land, meaning works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land will require consent.</p> <p>Should redevelopment that includes excavation be undertaken, this will be a consideration in Council's assessment process.</p> |
| 4.4 - Planning for Bushfire Protection | Yes | <p>The site is mapped as a buffer to the adjoining category 1 bushfire prone land. Any redevelopment of the existing shopping centre will need to be considered under Planning for Bushfire Protection 2006.</p> |
| 5. Regional Planning | | |
| 5.10 - Implementation of Regional Plans | Yes | <p>As noted, the Planning Proposal is generally consistent with the objectives and actions of the NCRP. Additional permitted uses within the shopping centre will provide local jobs and services in an area that is experiencing growth and new residential development. Additionally, the site is well located to existing transport infrastructure and urban services.</p> |
| 6. Local Plan Making | | |
| No 6.1 - Approval and Referral Requirements | Yes | <p>The Planning Proposal will not introduce any concurrence requirements for other Government bodies.</p> |

Section C – Environmental, social and economic impact

- Q7. 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?

This Planning Proposal is in relation to a site that is developed and does not retain any remnant vegetation that will require further consideration.

- Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no other likely environmental effects that require consideration and the Planning Proposal is unlikely to have any adverse environmental effects.

- Q9. Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal is consistent with the priorities, actions and values identified in Councils engagement programs with the community (*Local Community Plan 2009 – South West Rocks* and *Macleay Valley 2036 Community Strategic Plan, June 2017*).

This Planning Proposal will provide the opportunity to achieve a wide range of social and economic benefit for the community, through:

- Permitting a broader range of uses at a location that is easily accessible;
- Providing the potential for uses that will engage with the local youth;
- Enabling the local community to access a broader range of services in close proximity to their place of residence; and
- Creating job opportunities for the existing and future residents of South West Rocks.

Accordingly, social and economic impacts are expected to be negligible.

Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

The Planning Proposal will not result in an increased demand for public infrastructure.

The site itself is centrally located to the growing residential areas of South West Rocks and located on the main road into South West Rocks which includes a public bus service.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

Should the proposal be supported, the Department of Planning and Environment's gateway determination will specify consultation requirements.

PART 4 - Mapping

Proposed map amendments to LEP 2013 are described in Part 2 of this planning proposal and a extract from the proposed zone plan at Appendix 2 is provided below:



PART 5 - Community consultation

Community consultation will be undertaken for 14 days, in accordance with the Gateway Determination and include notification in a local newspaper and written notification to adjoining landowners.

PART 6 - Project timeline

This project timeline is based on anticipated dates and timeframes and an indicative timeframe is provided below.

| Amendment steps | 2019 | | | | | |
|---|------|---|---|---|---|---|
| | F | M | A | M | J | J |
| Council resolution to submit for Gateway Determination | X | | | | | |
| Gateway Determination received and public exhibition commenced | | X | | | | |
| Public exhibition concludes and submissions report prepared | | | X | | | |
| Council consideration of submissions and resolution to proceed | | | | X | | |
| Liaison with DoPE and Office of Parliamentary Counsel to make the LEP | | | | | X | |
| LEP is made | | | | | | X |

L D KEMPSEY

PLAN

OF PORTIONS Nos 223, 224, 225 & 226 TO 231

Within the Suburban boundary of the
TOWN OF ARAKOOON
Parish of Arakoon County of Macquarie

South West Rocks

Sale at (Arakoon) 30th August 1902. vide Gaz. 21st June 1902, fol. 4511.

| Port. | Purchaser | Result | Ex ^{pt} for desc ⁿ | Deed issued |
|-------|----------------------|------------------------------------|--|-------------|
| 223 | | | | |
| 224 | | | | |
| 225 | John Henry Dennis | Sale completed | | |
| 226 | do | do | | |
| 227 | George Robinson | Sale completed vide Aln. 02. 17463 | | |
| 228 | | | | |
| 229 | Robert John Jamieson | Sale completed Aln. 02. 17463 | | |
| 230 | John Arthur | Sale completed Aln. 02. 17463 | | |
| 231 | | | | |

Sale at Kempsey 5th July 1911. Pors 223, 224 & 229 Gaz. 62. Folio 2531. (10-5-11)

| Port ⁿ | Purchaser | Result |
|-------------------|---------------------------|---|
| 223 | Christopher Vincent White | D.P. Sale completed Aln. 12. 8123 |
| 224 | Ilma O'Halloran | D.P. Sale annulled Gaz. 7 th May 1913 Res ^d fr. S&L-Rev. K. 8-3-13. |
| 229 | Lena White | D.P. |

Within the boundaries of the
Orara Gold Field.

Proclaimed 12th August, 1881, partly
open to Conditional Purchase.

Part R. 54 embracing these portions. Revoked 8th Feb. 1902
Pors 223 to 231 within Suburban Lands Sale at Arakoon. Gaz. 8. 2. 02.

Pors 226 & 227. AAP by John Henry Dennis, 18. 02. 7069, approved 15. 10. 02.
Pors 225 & 226. AAP by William Henry Boyler, LB 03-7351 (also vide LB 03. 7483) approved 10. 12. 02.
Sale comp^d vide Aln. 03. 14457
Sale comp^d Aln. 06. 12508

(Now see M. 7889. 666)

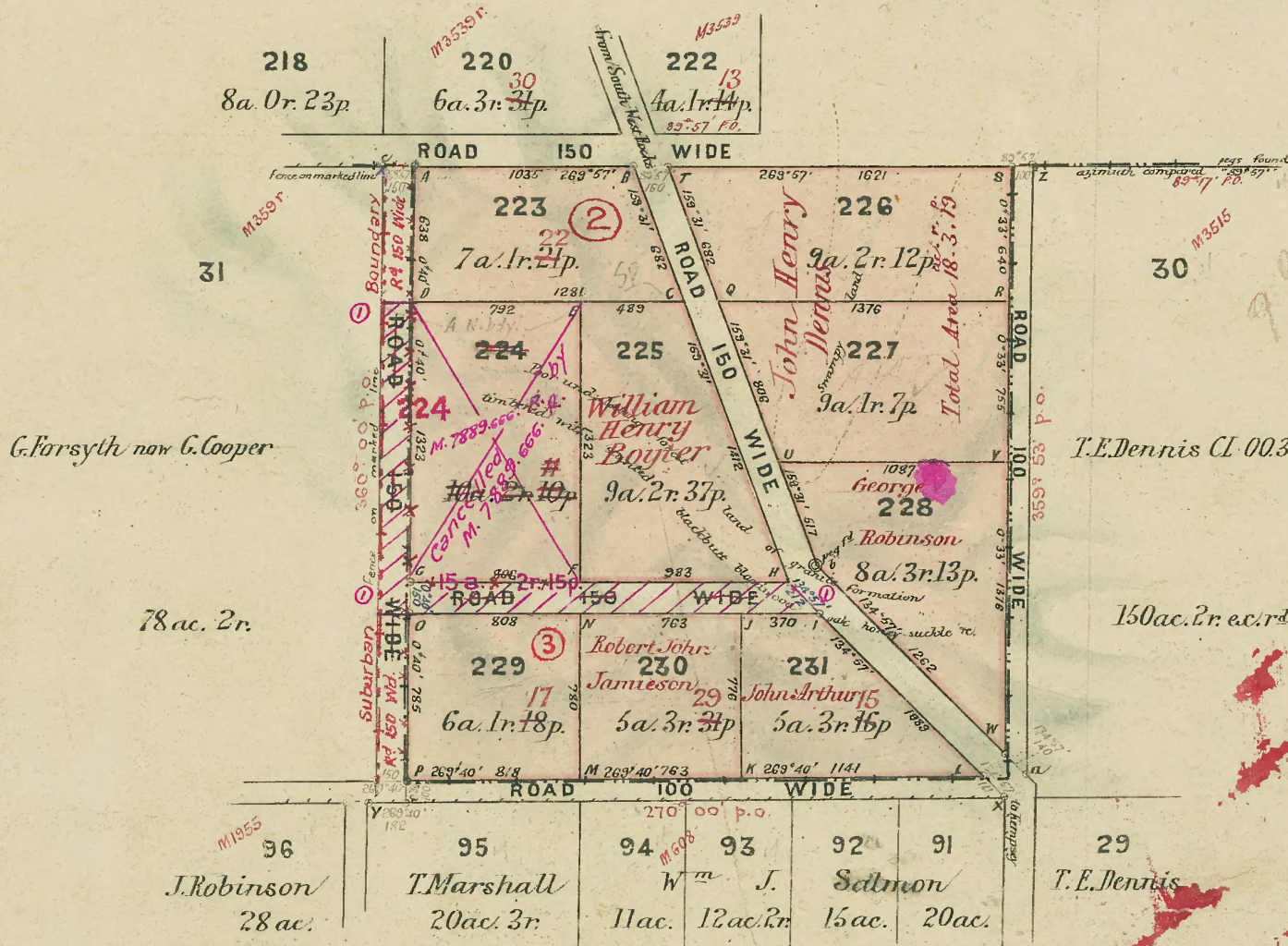
For 224. CP 42. 7 A.H. Marriott (includes roads on West & South of Por 224, on West of Por 223 & on Por 223) for grazing term 1.6.29 to 31.12.42. Gaz. 10. 5. 29.

For 224. CP 42. 7 A.H. Marriott.

For 229. Sold to Ralph Bruce Dash, Phyllis Anne Dash, David Bruce Fry & Daphne Fitzroy Fry under Sec 602 Local Government Act 1919. Grant issued. D70-2421

PLAN MICROFILMED

NO ADDITIONS OR AMENDMENTS TO BE MADE



Reference to Corners

| Corner | Bearing | From | Links | N ^o on Tree | Corner | Bearing | From | Links | N ^o on Tree |
|--------|----------|----------------------|--------|------------------------|--------|--|---------------------|--------|------------------------|
| A | 102° 30' | Black st | 45 3/4 | 223 | O | 16° 20' | Oak | 3 1/2 | 229 |
| B | 115° 10' | " | 67 | 223 | P | 262° 50' | Wahogany | 2 1/2 | 229 |
| C | 99° 35' | " | 43 1/2 | 223 | Q | 185° 30' | Blood st | 9 3/4 | 226 |
| D | 265° 15' | " | 53 1/2 | 223 | R | 201° 30' | Oak | 3 1/2 | 227 |
| E | 310° 30' | " | 32 1/2 | 224 | S | 30° 50' | Black st | 3 1/2 | 226 |
| F | 173° 25' | Gum | 27 1/2 | 224 | T | 250° 50' | Black st | 5 1/2 | 226 |
| G | 218° 0' | Black st | 69 1/2 | 224 | U | 313° 50' | Blood st | 6 1/2 | 227 |
| H | 4° 40' | Black st | 42 1/2 | 225 | V | 57° 50' | Gum | 20 1/2 | 227 |
| I | 245° 50' | Oak | 48 1/2 | 230 | W | 57° 50' | Gum | 20 1/2 | 228 |
| J | 48° 10' | Yellow nd | 42 1/2 | 230 | X | 57° 50' | Gum | 20 1/2 | 228 |
| K | 151° 40' | Tea-tree | 46 | 230 | Y | 42° 40' | Wahogany | 2 1/2 | 95 |
| L | 191° 40' | Gum | 17 1/2 | 231 | Z | 354° 46' | SG st | 17 1/2 | 30 |
| M | 202° 10' | " | 48 | 229 | a | 206° 30' | Wahogany | 5 1/2 | 30 |
| N | 233° 40' | Black st | 92 | 229 | c | (Intersection of fences on marked lines) | | | |

Voucher N^o 22 Passed 130. 11. 7 Aln. 20. 9. 01.

Calculation Book 1954 Fo. 41

Checked and Charted 18. 3. 01: H. 0000

Examined and

Plan Approved 20 September 1901

Approved

Transmitted to the District Surveyor with my letter of

Scale of 8 Chains to 1 Inch

M3541. 666

Agimuth taken from South West Rocks to Kempsey Road survey

Field Book Vol. 7260 Folio 608

Iron tube permanent mark bearing 339° 31' distant 5 links from road peg 6 shown thus ©

I hereby certify that I in person made and on the 5th July 1901 completed the survey represented on this plan on which are written the bearings and lengths of lines measured by me and I do declare that the survey has been executed in accordance with the regulations published for the guidance of Licensed Surveyors and the practice of the Department of Lands

31st

20



LEGEND

LOT 231 DP 754396

CAUTION

THIS PLAN HAS BEEN PREPARED FOR THE PURPOSE OF INFORMATION. THE INFORMATION SHOWN HEREIN IS ONLY RELIABLE FOR THE ABOVE PURPOSE. IT SHOULD NOT THEREFORE BE USED FOR ANY OTHER PURPOSE WITHOUT VERIFICATION.

K:\C-REF: 0\0262_MPG Property Mgmt\21_Planning\0262P_Rezoning.dwg - A3\1-Context_25-Jan-2019.dwg

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T: 02 6586 2555
F: 02 6583 4064
E: info@kingcampbell.com.au

| REV. | DATE | DESCRIPTION | BY |
|------|------------|-------------------|-----|
| A | 29.01.2019 | ISSUED TO COUNCIL | AJC |
| | | | |
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DATUM: AHD SCALE: 1:15000 @ A3

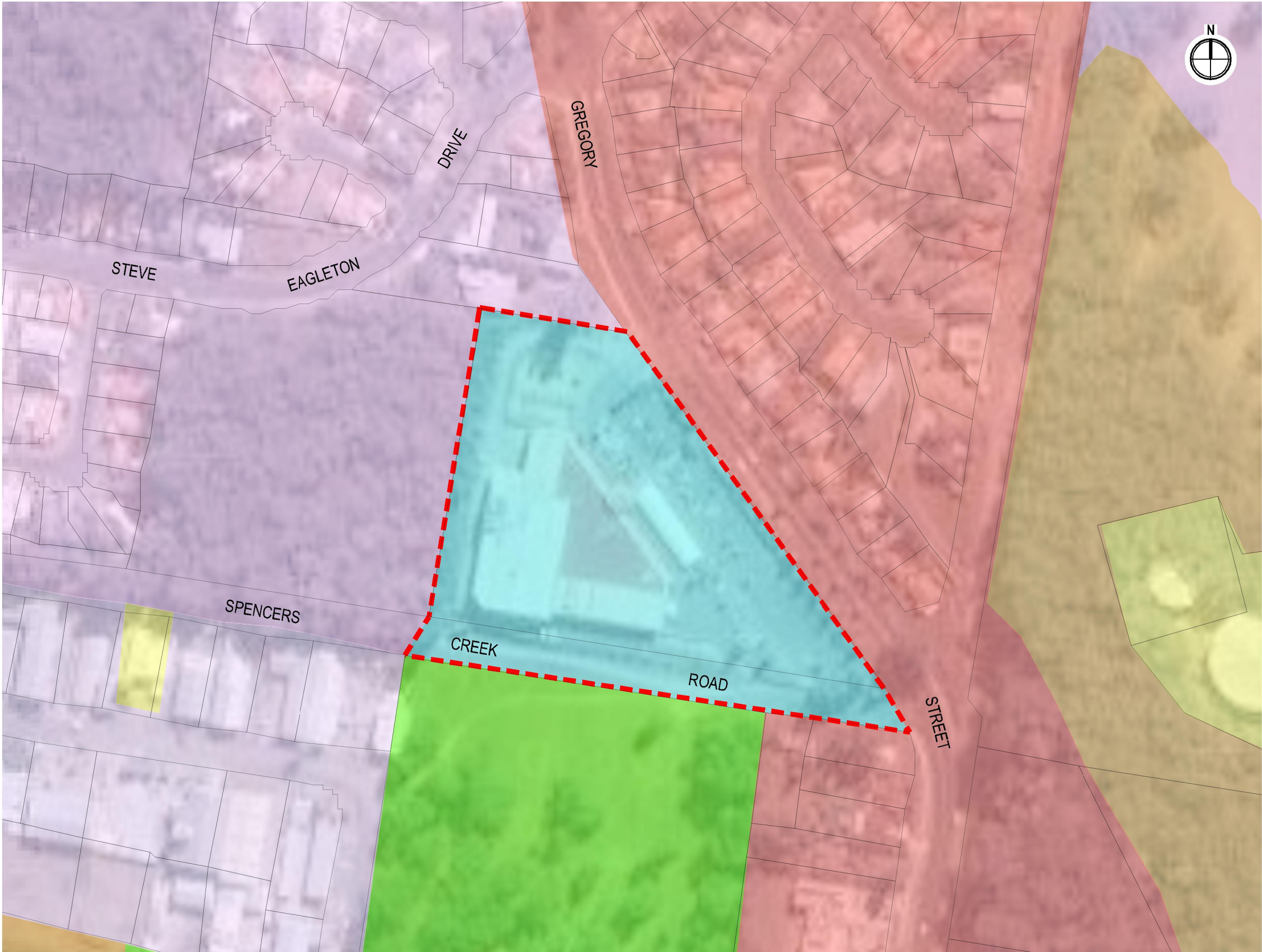
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375.0

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| | | | | | | |
|---------------|---------|----------------|--|----------------|--------|-----------|
| PROJECT NO: | 6262 | DRAWING TITLE: | EXHIBIT 01 - SITE CONTEXT | | | |
| DA NO.: | - | | | | | |
| DESIGNED BY: | KM | PROJECT: | LOT 231, DP 754396 255-279 GREGORY STREET, SOUTH WEST ROCKS | | | |
| DRAWN BY: | AJC | | | | | |
| CHECKED BY: | KM | CLIENT: | MPG PROPERTY | DRAWING NO: | SHEET: | REVISION: |
| DATE CREATED: | 01.2019 | | | 6262P_Rezoning | 01 | A |

A3



| LEGEND | |
|---|---------------------------------|
| --- | LOT 231 DP 754396 |
| | B2 - LOCAL CENTRE |
| | E2 - ENVIRONMENTAL CONSERVATION |
| | E3 - ENVIRONMENTAL MANAGEMENT |
| | IN2 - LIGHT INDUSTRIAL |
| | R1 - GENERAL RESIDENTIAL |
| | R3 - MEDIUM DENSITY RESIDENTIAL |
| | RE1 - PUBLIC RECREATION |
| | SP2 - INFRASTRUCTURE |

CAUTION

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K:\CREF: 016262_MP6 Property Mgmt\21_Planning\6262P_Rezoning.dwg - A3(L)-Prop Zoning, 26-Mar-2019, alamb

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T: 02 6586 2555
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E: info@kingcampbell.com.au

| REV. | DATE | DESCRIPTION | BY |
|------|------------|-----------------------------|-----|
| A | 29.01.2019 | ISSUED TO COUNCIL | AJC |
| B | 26.03.2019 | INCLUDE SPENCERS CREEK ROAD | AB |
| | | | |
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| | | | |
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| | | | |
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DATUM: AHD SCALE: 1:2000 @ A3

0 50.0

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| | | | | | | |
|---------------|---------|----------------|--|----------------|--------|-----------|
| PROJECT NO: | 6262 | DRAWING TITLE: | EXHIBIT 02 - PROPOSED ZONING | | | |
| DA NO.: | - | | | | | |
| DESIGNED BY: | KM | PROJECT: | LOT 231, DP 754396 | | | |
| DRAWN BY: | AJC | | 255-279 GREGORY STREET, SOUTH WEST ROCKS | | | |
| CHECKED BY: | KM | CLIENT: | MPG PROPERTY | DRAWING NO: | SHEET: | REVISION: |
| DATE CREATED: | 01.2019 | | | 6262P_Rezoning | 02 | B |

A3

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

Dear Mr Milburn

Planning proposal PP_2019_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 Lot 231 DP 754396 and part of Spencers Creek Road, South West Rocks, from B1 Neighbourhood Centre to B2 Local Centre.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions 2.2 Coastal Management, 3.4 Integrating Land Use and Transport and 4.4 Acid Sulfate Soils are justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

Council will still need to obtain the agreement of the Secretary to comply with the requirements of relevant section 9.1 Directions 4.4 Bushfire Protection. Council should ensure this occurs prior to the plan being made.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within nine 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 six 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 enquiries about this matter, I have arranged for Mr Jon Stone to assist you. Mr Stone can be contacted on 5778 1488.

Yours sincerely



19-3-2019

Jeremy Gray
Director Regions, Northern
Planning Services

Encl: Gateway determination
Authorised plan-making reporting template

Gateway Determination

Planning proposal (Department Ref: PP_2019_KEMPS_001_00): to rezone Lot 231 DP 754396 and part of Spencers Creek Road, South West Rocks, from B1 Neighbourhood Centre to B2 Local Centre.

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 Lot 231 DP 754396 and part of Spencers Creek Road, South West Rocks, from B1 Neighbourhood Centre to B2 Local Centre should proceed subject to the following conditions:

1. Prior to public authority and community consultation, the proposal is to be amended to:
 - (a) correctly identify that part of Spencers Creek Road is proposed to be rezoned from B1 Neighbourhood Centre to B2 Local Centre;
 - (b) include a complete list of all uses that will become permitted with consent or prohibited on the land due to the change in zoning; and
 - (c) include maps clearly showing the current land zoning and the proposed land zoning, including the part of Spencers Creek Road to be rezoned.
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 is classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016) and must be made publicly available for a minimum of **14 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. Consultation is required with the NSW Rural Fire Service under section 3.34(2)(d) of the Act. The NSW Rural Fire Service 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.
4. 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).

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 **9 months** following the date of the Gateway determination.

Dated 19 day of March 2019.



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

Delegate of the Minister for Planning