

(Amended) Planning Proposal

Proposed 2 Lot Subdivision of Lot 17 DP 818185 – 1022 Crescent Head Road, Crescent Head



Prepared by Brickwood Planning Services

for

Ariane and Paul Brose

December 2021 (Amended March 2022)



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- Bushfire Assessment Report – Midcoast Building and Environmental (November 2021)
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1.0 Introduction

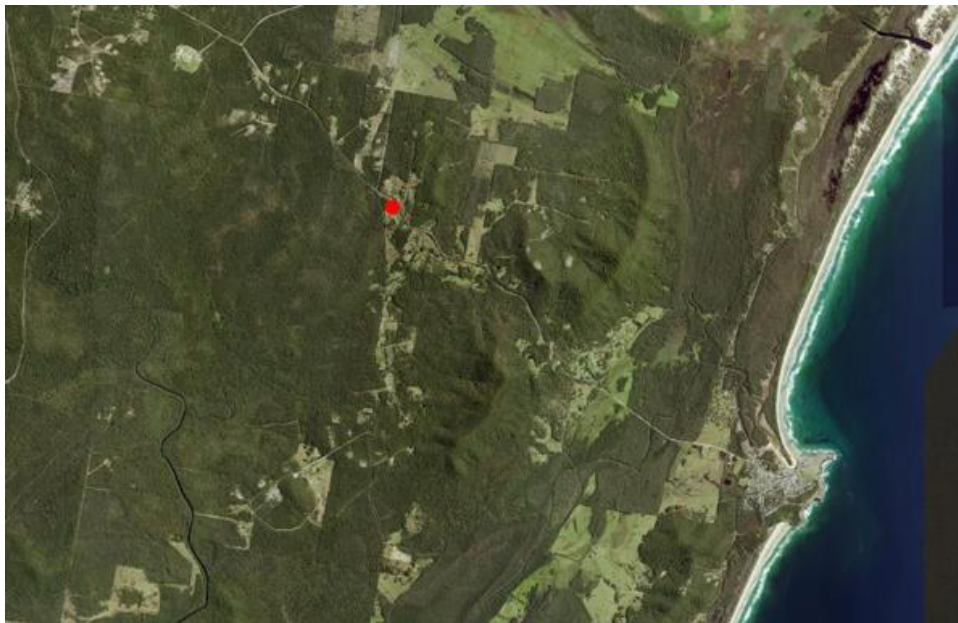
This Planning Proposal has been prepared pursuant to Division 3.4, Section 33 of the *Environmental Planning and Assessment Act, 1979* in accordance with the requirements of the NSW Department of Planning, Industry and Environment *A Guide to Preparing Planning Proposals (2018)* and *A Guide to Preparing Local Environmental Plans (2018)*.

This planning proposal includes an assessment against all relevant statutory requirements, including merit considerations for a proposed two lot subdivision which concludes that there no statutory or physical impediments that would prevent Council from favourably considering the proposed subdivision.

1.1 Land to which this Planning Proposal Applies

The subject land known as Lot 17 DP 818185 – 1022 Crescent Head Road, Crescent Head is located on the corner of Crescent Head Road and Beranghi Road and has an area of approximately 8.6ha.

Figure 1: Locality Plan



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Figure 2: Site Plan

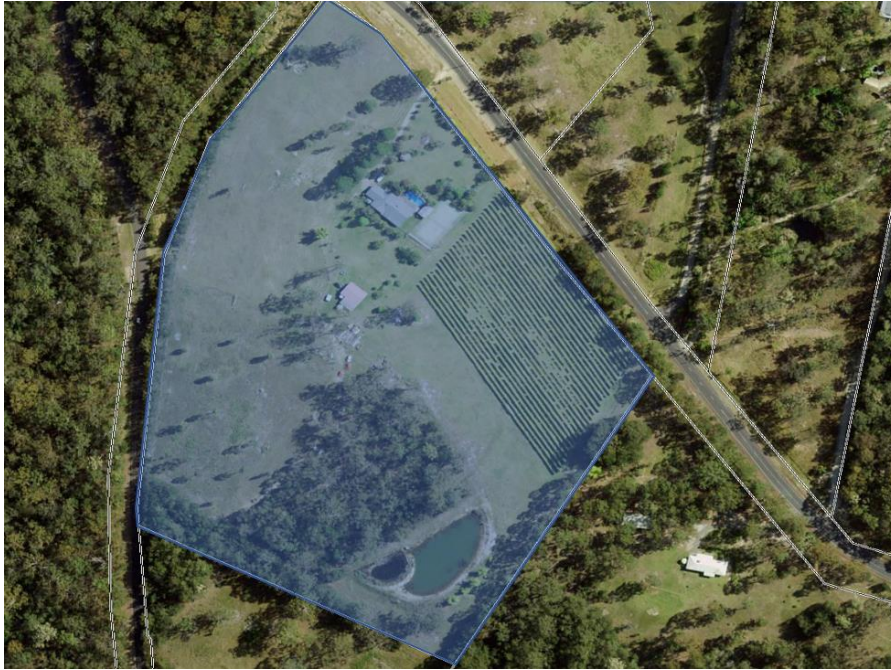


Figure 3: Subdivision Concept Plan



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2.0 Objectives of this Planning Proposal

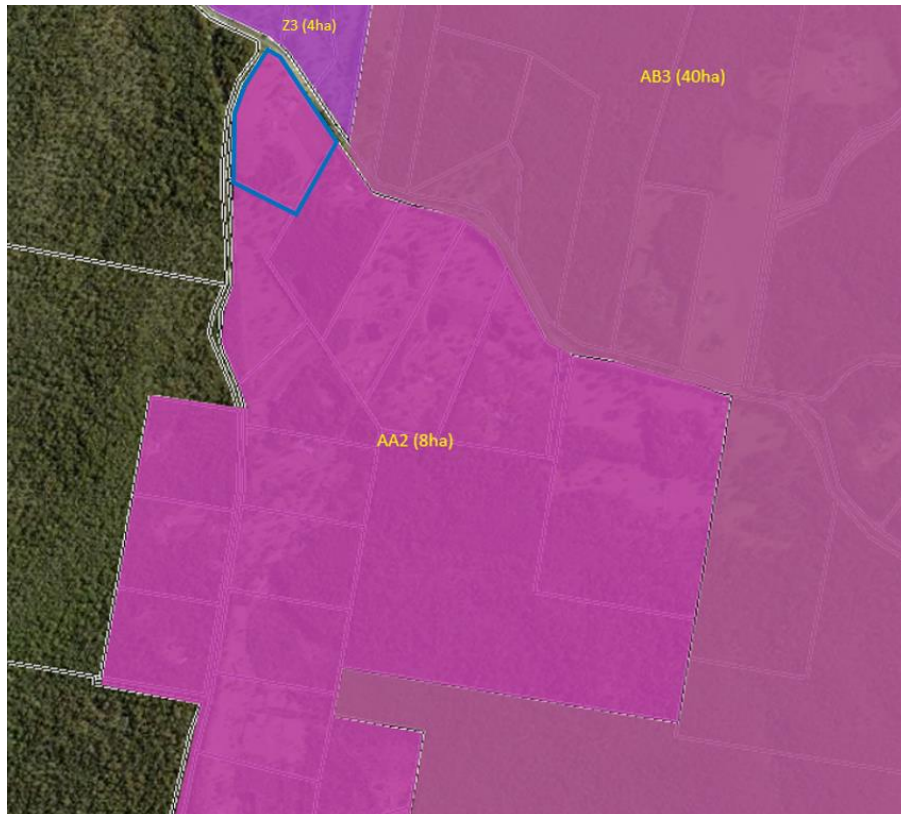
To amend Kempsey Local Environmental Plan 2013 to enable subdivision of the land into two allotments.

3.0 Explanation of Proposed Provisions

The intent of this Planning Proposal is to amend KLEP 2013 to reduce the minimum allowable lot size that applies to the subject land from 8ha to 4ha.

The proposed outcome will be achieved by amending the applicable Minimum Lot Size Map that forms part of KLEP 2013.

Figure 4: Existing Minimum Lot Size

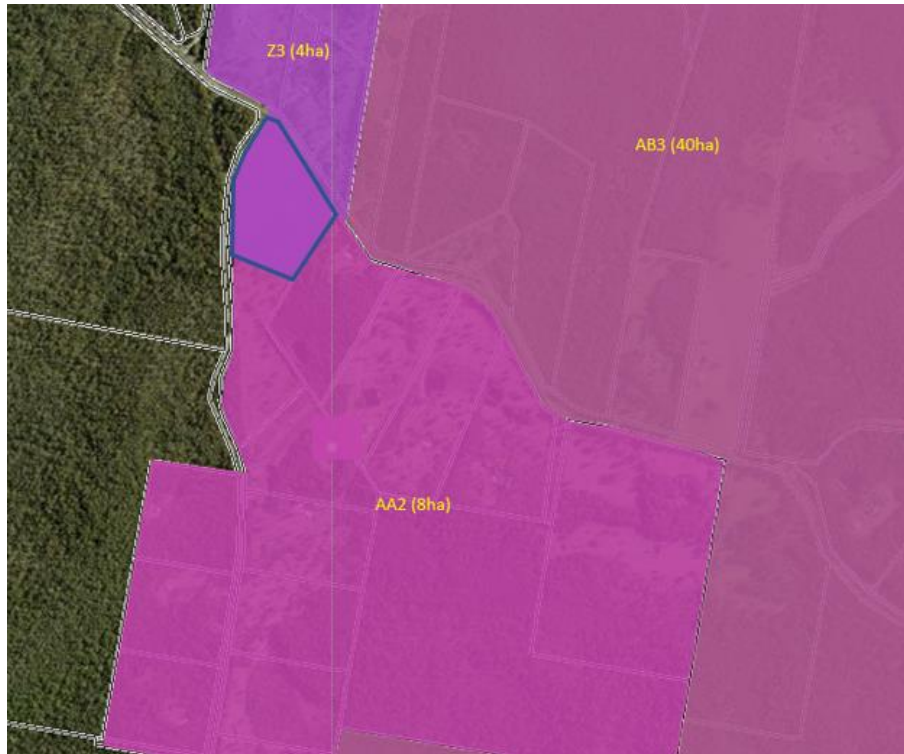


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Figure 5: Proposed Minimum Lot Size



4.0 Justification for this Planning Proposal

4.1 - Need for this Planning Proposal

4.1.1 - Question 1 – Is the PP a result of an endorsed local strategic planning statement, strategic study or report?

The Planning Proposal is consistent with the Kempsey Shire Rural Residential Land Release Strategy. The subject land is located in an area identified for Stage 2 release as being suitable for subdivision into allotments of not less than 4ha. The basis for inclusion of the area containing the subject land in the strategy is to rationalise the minimum lot size that applies to other land zoned RU4 within the Shire. (See Section 4.2.2 - 'Kempsey Shire Rural Residential Land Release Strategy')

4.1.2 - Question 2 – Is the Planning Proposal the best means of achieving the objectives or intended outcome, or is there a better way?

An alternative means of achieving the intent of this Planning Proposal would be to include a 2 lot subdivision under Clause 2.5, Schedule 1 – Additional Permitted Uses which is less favoured over the proposed amendment to the Minimum Lot Size Map for the following reasons:-

- The Minimum Lot Size Map under KLEP 2013 is the primary mechanism for identifying the minimum permissible allotment sizes in different areas across the entire Shire.



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- Amendment of the Minimum Lot Size Map is the simplest mechanism available.
- The alternative of including a 2 lot subdivision of the subject land as an additional permitted use requires the drafting of a separate text amendment which increases the potential for error or misinterpretation.

4.2 - Relationship of this Planning Proposal to the Strategic Planning Framework

4.2.1 - Question 3 - Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The Planning Proposal has been assessed against the following relevant implementation actions and directions of the *North Coast Regional Plan 2036*.

NORTH COAST REGIONAL PLAN 2036		COMMENT
2	Direction 2: Enhance Biodiversity, coastal and aquatic habitats and water catchments	
2.1	Focus Development in areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value	The Planning Proposal will facilitate the subdivision of the subject land that is consistent with the existing and planned pattern of development in the locality. The subject land does not contain any land of high conservation value and no clearing to facilitate a future dwelling is required. (See 'Section 4.3.1 – Question 7')
2.2	Ensure local plans manage marine environments, water catchment areas and groundwater sources to avoid potential development impacts	A preliminary On-site Effluent Disposal report has been prepared which demonstrates that effluent generated by any future dwelling can be disposed of wholly on site so as not to impact on pre-development discharge of water from the subject land. A preliminary assessment of the potential occurrence of Acid Sulfate Soils (ASS) demonstrates that potential ASS will not be affected of any future development. (See 'Section 4.3.2 – Question 8 - On-site Effluent Disposal and Acid Sulfate Soils')
3	Direction 3: Manage natural hazards and climate change	



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NORTH COAST REGIONAL PLAN 2036		COMMENT
3.1	Reduce the risk from natural hazards, including the projected effects of climate change, by identifying and managing vulnerable areas and hazards	The subject land is located outside of the Coastal Land Application Area as mapped under <i>State Environmental Planning Policy (Coastal Management) 2018</i> and, with the possible indirect exception of bushfire, is not subject to any hazards likely to be exacerbated by Climate Change. (See 'Section 4.2.3 – Question 5')
3.2	Review and update floodplain risk, bushfire and coastal management mapping to manage risk, particularly where urban growth is being investigated	The subject land is mapped as being bushfire prone, thereby requiring consideration of potential associated risks. The subject land is not identified as being affected by any flooding or coastal hazards. (See 'Section 4.3.2 – Question 8 - Bushfire Management')
11	Direction 11: Protect and enhance productive agricultural lands	
11.1	Enable the growth of the agricultural sector by directing urban and RR development away from important farmland across the region and identifying locations to support existing and small lot-primary production, such as horticulture in Coffs Harbour	The subject land lies within an identified rural residential land release area partly on the basis that the land does not comprise any important farmland.
11.2	Deliver a consistent management approach to important farmland across the region by updating the ... Mid North Coast Farmland Mapping Project (2008).	The land is not identified as containing any regionally significant farmland.
11.3	Identify and protect intensive agriculture clusters in local plans to avoid land use conflicts, particularly with residential and rural residential expansion.	The subject land is not located in proximity to any existing or likely future intensive agricultural land uses or clusters.
16	Direction 16: Collaborate and partner with aboriginal communities	
16.1	Develop partnerships with Aboriginal communities to facilitate engagement during the planning process, including the development of engagement plans	The local aboriginal community has been engaged directly via the Kempsey Local Aboriginal Land Council in the preparation of this Planning Proposal. (See 'Section 4.3.2 – Question 8 - Aboriginal Archaeology')



NORTH COAST REGIONAL PLAN 2036		COMMENT
18	Direction 18: Respect and protect the North Coast’s Aboriginal Heritage	
18.1	Ensure Aboriginal objects and places are protected, managed and respected in accordance with legislative requirements and the wishes of local Aboriginal communities	An archaeological assessment, including site survey was undertaken by the Kempsey Local Aboriginal Land Council in the preparation of this Planning Proposal with no items identified of significance to the local aboriginal community. (See ‘Section 4.3.2 – Question 8 - Aboriginal Archaeology’)
18.2	Undertake Aboriginal cultural heritage assessment to inform the design of planning and development proposals so that impacts to Aboriginal cultural heritage are minimised and appropriate heritage management mechanism are identified.	As above
19	Direction 19: Protect historic heritage	
19.1	Ensure best practice guidelines are considered such as the Australia International Council on Monument and Sites (ICOMOS) charter for Places of Cultural significance and the NSW Heritage Manual when assessing significance.	The subject land does not contain, or is within the vicinity of any identified or listed Items of Environmental Heritage.
21	Direction 21: Coordinate local infrastructure delivery	
21.2	Maximise the cost-effective and efficient use of infrastructure by directing development towards existing infrastructure or promoting the co-location of new infrastructure	The proposed subdivision gains access via Crescent Head Road and Beranghi Road which are constructed and maintained by Council to bitumen sealed standard.
22	Direction 22: Deliver greater housing supply	
22.1	Deliver an appropriate supply of residential land within local growth management strategies and local plans to meet the regions projected housing needs	Rural residential development in identified release areas is expected to accommodate a significant proportion of the anticipated population growth for Kempsey Shire, to which the proposed development will contribute consistent with the <i>Kempsey Shire Rural Residential Land Release Strategy</i> .
23	Direction 23: Increase housing diversity and choice	



NORTH COAST REGIONAL PLAN 2036		COMMENT
23.2	Develop local growth management strategies to respond to changing housing needs, including household and demographic changes, and support initiatives to increase ageing in place.	As above
24	Direction 24: Deliver well-planned rural residential housing areas	
24.1	Facilitate the delivery of well-planned rural residential areas by: <ul style="list-style-type: none"> identifying new rural residential areas in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment; and ensure that such proposals are consistent with the Settlement Planning Guidelines: Mid and Far North Coast Regional Strategies (2007) or land release criteria (once finalised). 	<p>The subject land lies within an identified land release area and this Planning Proposal will increase the supply of land for rural residential purposes that is in accordance with the duly endorsed <i>Kempsey Shire Rural Residential Land Release Strategy</i>. (See 'Section 4.2.2 - Question 4')</p> <p>The Planning Proposal is consistent with the locality-specific issues identified for the Crescent Head release areas. (See 'Section 4.2.2 – Question 4')</p>
24.2	Enable sustainable use of the region's sensitive coastal strip by ensuring new rural residential areas are located outside the coastal strip, unless already identified in a local growth management strategy or rural residential land release strategy endorsed by the Department of Planning and Environment.	The subject land is not within any area affected by State Environmental Planning Policy (Coastal Management) 2018. (See 'Section 4.2.3 – Question 5')

[4.2.2 - Question 4 - Will the planning proposal give effect to a council endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?](#)

Future Macleay Growth and Character - Local Strategic Planning Statement

The Planning Proposal is consistent with the Statement as it will:

- contribute to an adequate land supply
- support the effective and efficient use of infrastructure
- avoid the potential for land-use conflict with rural land uses
- utilise the land for its most suitable purpose
- not affect any areas with environmental values, natural hazards or which are part of a water supply area.

Kempsey Shire Rural Residential Land Release Strategy

The subject land is located in an area identified for Stage 2 release under *Kempsey Shire Rural Residential Land Release Strategy* (KSRRLRS) as being suitable for subdivision into allotments of not



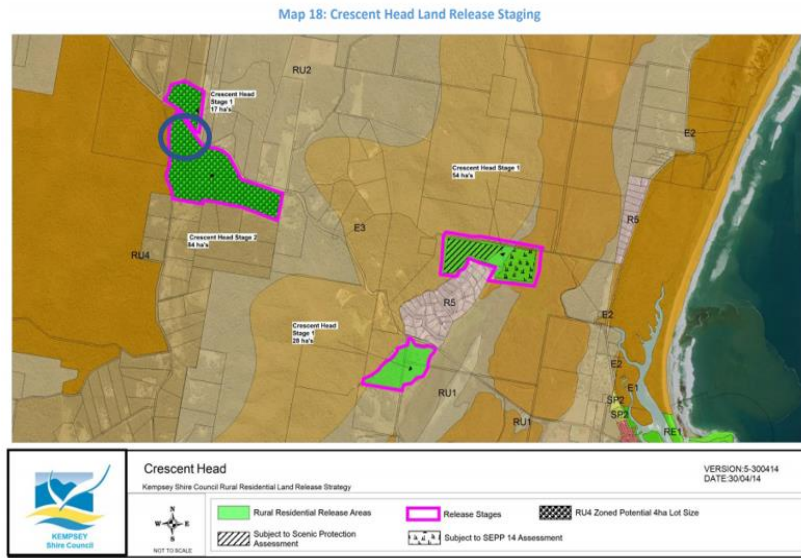
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less than 4ha. The timing of release is described as 2019 to 2023 and is subject to the rate of take-up of land identified for Stage 1 release (2014 to 2018).

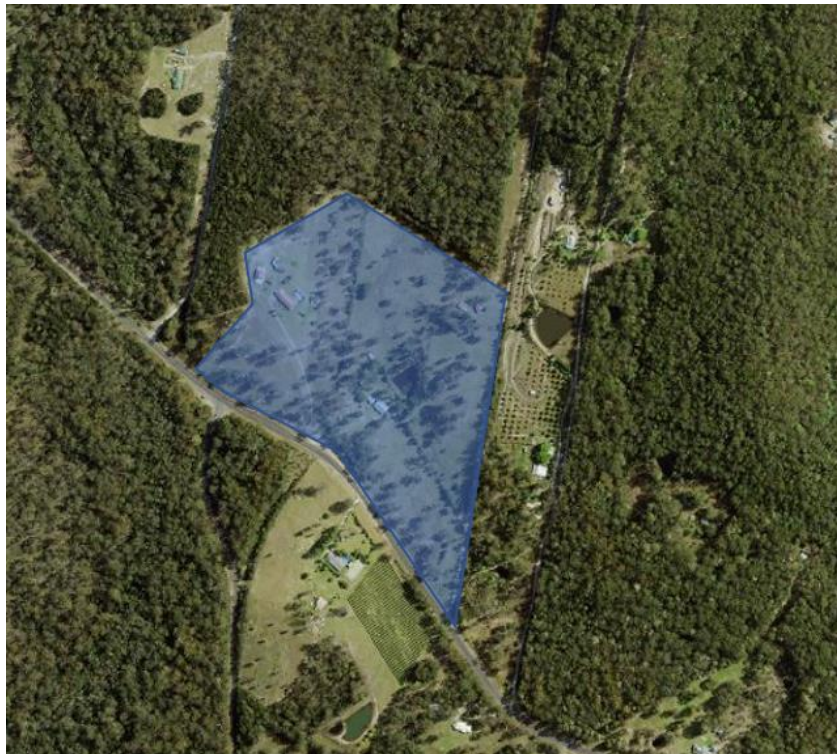
Figure 6: Extract: KSRRLRS



In respect to the Stage 1 release areas for Crescent Head:

- The area immediately to the north of the subject land identified in KSRRLRS as having an area of 17ha has potential for 1 additional lot on which a dwelling exists.

Figure 7: Crescent Head Road North of Beranghi Road Release Area



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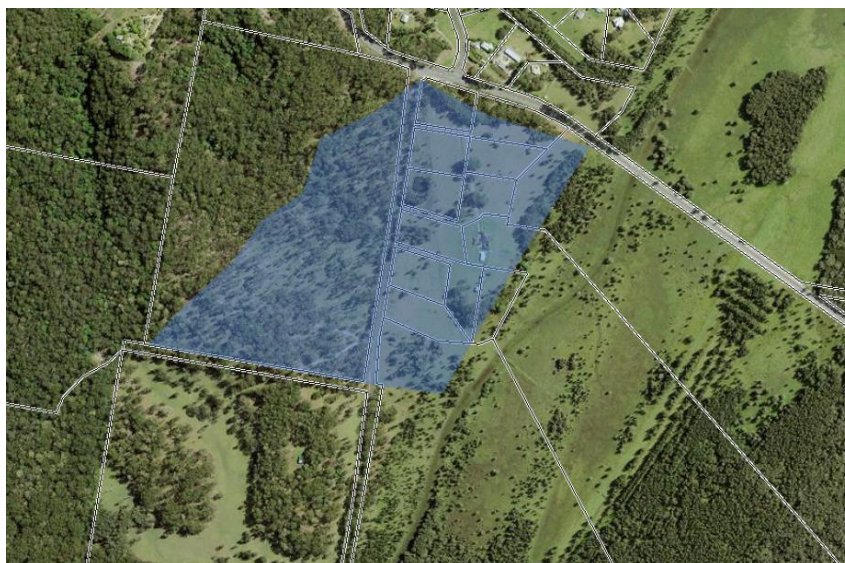
- The subdivision known as the '*Dulconghi Estate*' identified in KSRRLRS as having an area of 54ha has largely been subdivided to its potential with few, if any, additional lots likely to be created, having regard to flooding and bushfire constraints.

Figure 8: Dulconghi Estate Release Area



- The area on the corner of Maria River Road and Crescent Head Road identified in KSRRLRS as having an area of 28ha has been subdivided into 14 allotments east of Maria River Road. The area west of Maria River Road is likely to result in a reduced lot yield, having regard to vegetation and bushfire constraints.

Figure 9: Maria River Road Release Area



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Clause 7.1 of the *Kempsey Shire Rural Residential Land Release Strategy* provides the criteria that apply when considering variations to land release staging provided it can be demonstrated that:

Criteria	Comments
1. The premature subdivision of the land will not result in the uneconomic provision of public infrastructure, including, but not limited to road access.	Apart from the area immediately north of the subject land which has limited potential for subdivision into 4ha lots, the other Stage 1 areas provide for subdivision into 1ha allotments that have largely either been taken up or are subject to constraints. The subject land represents a logical extension of the 4ha minimal allotment size area. Bitumen sealed road access, electricity and telecommunications infrastructure are also available.
2. The land will be serviced by a bitumen sealed road in accordance with <i>Kempsey DCP 2013</i> .	The subject land is located on the corner of Crescent Head Road and Beranghi Road that are constructed and maintained by Council to bitumen sealed standard.
3. The land will not result in any unacceptable potential conflict with existing agricultural, commercial or industrial land uses.	The subject land contains a low intensity Lemon-Scented Myrtle plantation with no intensive agricultural uses. Adjoining uses include National Park to the west and rural residential allotments to the south and east.
4. The proposal will not result in any significant oversupply of land within the locality, having regard to any existing zoned land or approved subdivisions.	Except for the potential for reducing the minimum lot size in the area serviced by Beranghi Road from 8ha to 4ha, the land at Crescent Head identified for Stage 1 release has largely been taken up. The contribution of the proposed two lot subdivision to local supply is insignificant.
5. The proposal is consistent with the objectives of this strategy as referred to in Section 1.1	
To review Council's <i>Rural Residential Land Development Strategy 1990</i> to meet the requirements of the <i>Mid-North Coast Regional Strategy</i> and <i>Settlement Planning Guidelines for the North Coast Region</i> .	Not inconsistent
To provide for locality-specific demand for rural residential development through the staged release of suitable land over the short, medium and longer term.	The proposed variation will permit subdivision in an economic and orderly manner in an area identified for subdivision into 4ha allotments.
To ensure that rural residential development is undertaken in an ecologically sustainable manner to increase investment and economic activity within the Shire without diminishing the important physical and environmental	The subject land contains ample cleared areas to facilitate the erection of an additional dwelling in compliance with relevant bushfire guidelines without the need for any clearing.



	attributes upon which the community relies.	
	To avoid unsustainable rural residential development that is likely to result in costs being borne by the community associated with provision of infrastructure or in response to bushfire or flooding.	All required infrastructure is available, the land is flood free and bushfire risk can readily be controlled without the need for additional clearing.
	To rationalise the minimum lot size within the <i>RU4 Rural Primary Production Small Lots</i> (Formerly 1(g)) zone, commensurate with the social, economic, environmental and governance constraints applying to the relevant locality.	<p>The Planning Proposal would permit the rationalisation of the minimum lot size to 4ha commensurate with existing constraints and available infrastructure.</p> <p>The proposed subdivision is not subject to any of the locality-specific constraints identified for Crescent Head including:</p> <ul style="list-style-type: none"> • Rationalisation of access to be off Beranghi Road • Potential fauna corridor linkages would be maintained or enhanced • Clearing is not required to satisfy bushfire requirements • The subject land is not affected by other identified constraints related to visual impacts, flooding, proximity to wetlands and acid sulfate soils.

4.2.3 - Question 5 - Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal has been assessed against the requirements of applicable State Environmental Planning Policies with the following matters being of relevance.

STATE ENVIRONMENTAL PLANNING POLICIES	
Applicable State Environmental Planning Policy	Comments
Koala Habitat Protection (2021)	The Planning Proposal has been assessed under the current requirements of the SEPP, including Council’s Koala Comprehensive Plan of Management. The Planning Proposal is consistent with relevant requirements, noting that no clearing is required to facilitate the erection of a future dwelling. (See ‘Section 4.3.1 – Question 7’)



STATE ENVIRONMENTAL PLANNING POLICIES		
55	Remediation of Land	The owner who has occupied the subject land for over 30 years advises that the land has not been used for any purpose listed in Table 1 of <i>Managing Land Contamination – Planning Guidelines – SEPP 55 Remediation of Land</i> with the exception of a Lemon-scented Myrtle plantation. The plantation is an endemic species that does not involve the use of any chemicals specified in Table 1 and will not affect the proposed new allotment.
	(Infrastructure) 2007	The proposed 2 lot subdivision is not a matter that is required to be referred to Transport for NSW
	(Primary Production and Rural Development) 2019	The provisions of Schedule 4 that apply to PPs involving subdivision and any subsequent dwelling that will be facilitated by the Planning Proposal do not apply to Kempsey Local Environmental Plan.
	(Coastal Management) 2018	The subject land is not identified as lying within any area affected by the: <ul style="list-style-type: none"> • Coastal Vulnerability Map; • Coastal Environment Map; • Coastal Use Area Map; or • Land Application Map

4.2.4 - Question 6 - Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The Planning Proposal has been assessed against the requirements of applicable Section 9.1 directions with the following matters being of relevance.

Section 9.1(2) Ministerial Directions	
Directions	Comments
1 - Employment and Resources	
1.1	Business and Industrial Zones – N/A
1.2	Rural Zones
	Objective The objective of this direction is to protect the agricultural production value of rural land.
	Where this direction applies Clause 4(a) of this direction applies to all relevant planning authorities



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When this direction applies	
This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).	
What a relevant planning authority must do if this direction applies	
A planning proposal must:	
(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	No change to the RU4 zone or permissible uses is proposed.
(b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	The proposed reduction in the minimum permissible allotment size is inconsistent with this direction, however the inconsistency is justified as detailed below.
Consistency	
A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:	
(a) justified by a strategy which:	
(i) gives consideration to the objectives of this direction,	This Planning Proposal is consistent with the objectives of this direction as the subject land: <ul style="list-style-type: none"> is identified for release to permit 4ha allotments under <i>Kempsey Shire Rural Residential Land Release Strategy</i>, has low potential for agricultural production and is not mapped as containing any regionally significant farmland.
(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and	The Planning Proposal identifies Lot 17 DP818185 as being the subject of this Planning Proposal. (See 'Section 1.1 - Land to which this Planning Proposal Applies')
(iii) is approved by the Director-General of the Department of Planning, or	The <i>Kempsey Shire Rural Residential Land Release Strategy</i> has been duly endorsed by the DG of the Department.
(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or	N/A
(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or	This Planning Proposal and <i>Kempsey Shire Rural Residential Land Release Strategy</i> are consistent with the relevant provisions of <i>North Coast Regional Environmental Plan 2036</i> (See Section 4.2.1 – Question 3)



	(d) is of minor significance.	Notwithstanding the inconsistency with this direction which is clearly justified, the intended outcome of this Planning Proposal is to facilitate a 2 lot subdivision which is of minor significance, both locally and across the Shire.
1.3	Mining, Petroleum Production and Extractive Industries	
	Objective The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	
	Where this direction applies This direction applies to all relevant planning authorities.	
	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of:	
	What a relevant planning authority must do if this direction applies In the preparation of a planning proposal affected by this direction, the relevant planning authority must:	
	(a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or	This Planning Proposal does not involve any change to the RU4 zone or permissible uses.
	(b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.	The nearest existing gravel quarry is located approximately 3km east of the subject land with access off Crescent Head Road. Although not of Regional or State significance, no reduction in the potential development of the quarry will result from any subsequent dwelling erected on the proposed allotment.
Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), that the provisions of the planning proposal that are inconsistent are of minor significance.	This Planning Proposal is consistent with this direction.	
1.4	Oyster Aquaculture – N/A	
1.5	Rural Lands	
	Objectives The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes, (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,	



<p>(d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,</p> <p>(e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land</p> <p>(f) support the delivery of the actions outlined in the New South Wales Right to Farm Policy.</p>	
<p>Where this direction applies</p> <p>This direction applies to all local government areas in the State except for:</p> <p>(a) Lake Macquarie,</p> <p>(b) Newcastle,</p> <p>(c) Wollongong, and</p> <p>(d) local government areas in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury.</p>	
<p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that:</p> <p>(a) will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or</p> <p>(b) changes the existing minimum lot size on land within a rural or environment protection zone.</p> <p>Note: Reference to a rural or environment protection zone means any of the following zones or their equivalent in a non-Standard LEP: RU1, RU2, RU3, RU4, RU6, E1, E2, E3, E4</p>	
<p>What a relevant planning authority must do if this direction applies</p> <p>A planning proposal to which clauses 3(a) or 3(b) apply must:</p>	
<p>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement</p>	<p>This Planning Proposal is consistent with the relevant requirements of <i>North Coast Regional Plan 2036</i>. (See Section 4.2.1 – Question 3)</p>
<p>(b) consider the significance of agriculture and primary production to the State and rural communities</p>	<p>The land is not identified as containing any regionally significant farmland. The total area of the existing allotment is only 8ha, such that any impact on potential primary production will be negligible.</p>
<p>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</p>	<p>No clearing of any vegetation is required to establish APZs for bushfire protection with a small area of forest to be retained. (See 'Section 4.3.1 – Question 7')</p>
<p>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</p>	<p>The existing lot is approximately 8ha in area, is gently undulating and partly cleared with an unconstrained building envelope identified for any future dwelling. Specialist reports are provided in support of the Planning Proposal relating to bushfire, effluent disposal, Aboriginal archaeology and ecology demonstrate that the subject land is not subject to any physical</p>



		constraints that would prevent future development of the proposed lot. (See 'Section 1.1 – Subdivision Concept Plan')
	(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities	The proposed 4ha allotments are large enough to provide for innovative rural activities that do not require highly productive agricultural land, such as the existing Lemon-scented myrtle plantation, without impacting on adjoining owners.
	(f) support farmers in exercising their right to farm	There are no existing commercial agricultural activities in immediate proximity to the subject land. The proposed lots provide ample separation of any future dwelling to any potential adjoining agricultural activities.
	(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land	The subject land lies within an existing area zoned RU4 for small lot subdivisions that is surrounded by rural residential allotments, National Park, forestry and low intensity grazing activities and will not result in the fragmentation of any commercial rural holding.
	(h) consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land	The subject land is not mapped as containing any State significant agricultural land and is not within proximity to any such land.
	(i) consider the social, economic and environmental interests of the community.	The Planning Proposal will facilitate subdivision that will provide direct and indirect capital and recurrence expenditure that will support the local economy, schools and social groups without diminishing any ecological values of the subject land and locality.
A planning proposal to which clause 3(b) applies must demonstrate that it:		
	(a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses	Council has adopted a strategic approach to allowing smaller lot subdivision of identified rural lands. The subject land lies within an area zoned RU4 that currently permits subdivision into allotments of not less than 8ha. This Planning Proposal seeks to implement Council's desire to rationalise the minimum allotment size applying to other RU4 zoned land across the Shire into allotments of not less than 4ha without resulting in any increased potential for land



		use conflicts between residential and rural land uses.
	(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains.	There are no existing or likely future rural land uses that will be affected by the proposed subdivision. The proposed lots are large enough to facilitate the establishment of future rural industries that may support rural agricultural industries within the Shire without conflicting with rural residential development.
	(c) where it is for rural residential purposes:	
	(i) is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres	The subject land lends itself to rural residential subdivision being located on the corner of Crescent Head Road and Beranghi Road that are constructed and maintained by Council to bitumen sealed standard with Crescent Head Road being an arterial road. The subject land is located in close proximity to Crescent Head and Kempsey that provide educational, commercial and medical services that will be accessed by future residents.
	(ii) is necessary taking account of existing and future demand and supply of rural residential land.	The subdivision is necessary to meet demand due to the take up of Stage 1 land identified by the <i>Kempsey Shire Rural Residential Land Release Strategy</i> with the subject land identified for Stage 2 release (2019 to 2023). (See 'Section 4.2.2 Question 4')
<p>Note: where a planning authority seeks to vary an existing minimum lot size within a rural or environment protection zone, it must also do so in accordance with the Rural Subdivision Principles in clause 5.16(4) of the relevant Local Environmental Plan. Relevant principles include:</p>		
	(a) the existing uses and approved uses of land in the vicinity of the development,	The proposed subdivision is consistent with the existing and planned pattern of development in the locality and will not conflict with any existing adjoining uses.
	(b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,	Rural residential subdivision into allotments of 4ha of the type facilitated by this Planning Proposal is the preferred and dominant land use in the vicinity of the subject land, as expressed by Council's land release strategy. See 'Section 4.2.2 – Question 4')
	(c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),	Any future dwelling can be located on the proposed allotment without impacting on any adjoining rural land uses, whilst complying with bushfire and effluent disposal



			requirements. (See 'Section 1.1 – Subdivision Concept Plan')
		(d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).	The identified building envelope, that can be incorporated in any future plan of subdivision at DA stage, demonstrates that potential land use conflicts can be avoided by maximising the separation to existing and likely future adjoining development. (See 'Section 4.3.2 – Question 8 – 'Bushfire Hazard' and 'Effluent Disposal')
Consistency			
A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning & Environment (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:			
		(a) justified by a strategy which:	
		(i) gives consideration to the objectives of this direction,	This Planning Proposal is consistent with this direction as it is consistent with the <i>Kempsey Shire Rural Residential Land Release Strategy</i> that was duly approved by the Secretary.
		(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and	The <i>Kempsey Shire Rural Residential Land Release Strategy</i> identifies the subject land as being suitable for subdivision into 4ha allotments.
		(iii) is approved by the Secretary of the Department of Planning & Environment and is in force, or	As above
		(b) is of minor significance.	Notwithstanding that the Planning Proposal is consistent with this direction, the proposed 2 lot subdivision is also of minor significance.
2 – Environment and Heritage			
2.1	Environment Protection Zones		
	Objective		
	The objective of this direction is to protect and conserve environmentally sensitive areas.		
	Where this direction applies		
	This direction applies to all relevant planning authorities.		
	When this direction applies		
	This direction applies when a relevant planning authority prepares a planning proposal.		
	What a relevant planning authority must do if this direction applies	An assessment of the ecological impacts of the proposed 2 lot subdivision concludes that as no clearing is required to facilitate a future dwelling, no impacts on any environmentally sensitive areas will result. The identification of a building envelope that can be reinforced by an appropriate 88B Instrument through the DA process is the best means of protecting existing	
	A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.		



		approximately 1.3ha of vegetation that is intended to be retained. Having regard to the size and isolation of the vegetation, zoning of the vegetation to an environmental protection zone is not justified in this instance and would result in poor planning outcomes that are incompatible with Council’s strategy. (See ‘Section 4.3.1 – Question 7’)
	A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.	The land is not zoned for environmental protection purposes and this requirement does not apply as the Planning Proposal seeks to reduce the minimum lot size, consistent with <i>Kempsey Shire Rural Residential Land Release Strategy</i> and the requirements of Direction 1.5 ‘Rural Lands’.
<p>Consistency</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</p>		
	(a) justified by a strategy which:	
	(i) gives consideration to the objectives of this direction,	This Planning Proposal is consistent with this direction and is also consistent with the <i>Kempsey Shire Rural Residential Land Release Strategy</i> that was duly approved by the Secretary.
	(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and	As above
	(iii) is approved by the Director-General of the Department of Planning, or	As above
	(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or	Notwithstanding the compliance with this Direction, this planning proposal is supported by specialist bushfire, effluent disposal, Aboriginal archaeology and ecological reports that justify the proposed subdivision based on merit. (See ‘Section 4.3.2 – Question 8’)
	(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by	This Planning Proposal is consistent with the relevant provisions of the <i>North Coast</i>



	the Department of Planning which gives consideration to the objective of this direction, or	<i>Regional Strategy 2036. (See 'Section 4.2.1 – Question 3')</i>
	(d) is of minor significance	Notwithstanding that this Planning Proposal is consistent with this Direction, the proposed 2 lot subdivision is also of minor significance.
2.2	Coastal Management – N/A	
2.3	Heritage Conservation	
	Objective The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	
	Where this direction applies This direction applies to all relevant planning authorities.	
	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal.	
	What a relevant planning authority must do if this direction applies A planning proposal must contain provisions that facilitate the conservation of:	
	(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,	There are no identified items of environmental heritage located on or in the vicinity of the subject land.
	(b) Aboriginal objects or Aboriginal places that are protected under the <i>National Parks and Wildlife Act 1974</i> , and	There are no AHIMS listed or identified items that are required to be protected, as confirmed by an assessment and site survey undertaken by the Kempsey Local Aboriginal Land Council. (See ' <i>Section 4.3.2 – Question 8 – Aboriginal Archaeology</i> ')
	(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	The site survey undertaken by the Kempsey Local Aboriginal Land Council confirmed that there are no listed or identified items that are required to be protected. (See ' <i>Section 4.3.2 – Question 8 – Aboriginal Archaeology</i> ')
	Consistency	



	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:	
	(a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or	There is no inconsistency with this Direction.
	(b) the provisions of the planning proposal that are inconsistent are of minor significance.	There is no inconsistency with this Direction.
2.4	Recreation Vehicle Areas - N/A	
2.5	Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs – N/A	
2.6	Remediation of Contaminated Land	
	Objective The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.	
	Where this direction applies This direction applies to:	
	(a) land that is within an investigation area within the meaning of the <i>Contaminated Land Management Act 1997</i> ,	The land does not lie within any identified investigation area.
	(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,	The owner who has also occupied the subject land for over 30 years advises that the land has not been used for any purpose listed in Table 1 of Managing Land Contamination – Planning Guidelines – SEPP 55 Remediation of Land. An existing Lemon-scented Myrtle plantation, which is an endemic species, does not involve the use of chemicals and will not affect the proposed new allotment. The plantation does not use any of the chemicals specified in Table 1.
	(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:	The proposed subdivision will facilitate the erection of a dwelling for which a building envelope has been identified that is at a higher elevation and well separated from the plantation. (See ‘Section 1.1 – Subdivision Concept Plan’)
	(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning	See above



		<p>guidelines has been carried out, and</p>	
		<p>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p>	<p>The owner, who has occupied the subject land for over 30 years, has no knowledge of any previous uses referred to in Table 1. The lack of any intensive agriculture in the locality and location of the subject land make it unlikely that the land has ever been used for the uses listed in Table 1 and certainly not within the last 30 years. Dwellings became a permissible use (both with and without consent) since August 1969 under <i>Interim Development Order No.1 – Shire of Macleay</i>. The subject land was previously zoned 1(g) Rural Enterprises under <i>Kempsey Local Environmental Plan 1987</i> which permitted subdivision into allotments of 8ha on which dwellings were permissible, during which time the land was held by the current owner.</p>
<p>When this direction applies This direction applies when a planning proposal authority prepares a planning proposal applying to land specified in paragraph (2).</p>			
<p>What a relevant planning authority must do if this direction applies A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:</p>			
		<p>(a) the planning proposal authority has considered whether the land is contaminated, and</p>	<p>No further investigations are required as the land has not been used for any uses listed in Table 1.</p>
		<p>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</p>	<p>N/A</p>
		<p>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose. In order to satisfy itself as to paragraph (4)(c), the planning proposal authority may need to</p>	<p>N/A</p>



	include certain provisions in the local environmental plan.	
	Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.	N/A
	Consistency (No advice provided)	N/A
3 – Housing, Infrastructure and Urban Development		
3.1	Residential Zones – N/A	
3.2	Caravan Parks and Manufactured Home Estates – N/A	
3.3	Home Occupations (Revoked)	
3.4	Integrated Land Use and Transport – N/A	
3.5	Development Near Regulated Airports and Defence Airfields – N/A	
3.6	Shooting Ranges – N/A	
3.7	Reduction in Non-hosted Short Term Rental Accommodation Period – N/A	
4 – Hazard and Risk		
4.1	Acid Sulfate Soils	
	Objective The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	
	Where this direction applies This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils, as shown on Acid Sulfate Soils Planning Maps held by the Department of Planning.	
	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.	
	What a relevant planning authority must do if this direction applies The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.	
	When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:	
	(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or	The subject land is mapped as potentially containing Class 5 acid sulfate soils. The building envelope identified to address bushfire and ecological constraints is well clear of the areas that potentially contain acid sulfate soils and no lowering of the water table of affected soils will occur. (See' Section 4.3.2 – Question 8 - Acid Sulfate Soils')



	(b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.	Avoidance of acid sulfate soils, where possible, is the most effective management strategy identified in the guidelines that can be achieved by the use of the identified building envelope through the DA process.
	A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.	Council has advised that in the context of the subject land and the proposed 2 lot subdivision, the issue of potential acid sulfate soils is best dealt with at DA stage. In this instance, an acid sulfate soils study is unnecessary as areas containing Class 1-4 acid sulfate soils are located approximately 1,500 metres from the proposed building envelope. (See – ‘Section 4.3.2 - Question 8 – Acid Sulfate Soils’)
	Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with paragraph (5).	N/A
<p>Consistency</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</p>		
	(a) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or	An acid sulfate soils study is unnecessary as areas containing potential acid sulfate soils will not be affected. (See – ‘Section 4.3.2 - Question 8 – Acid Sulfate Soils’)
	(b) of minor significance.	Although the Planning Proposal is consistent with this Direction, the proposed 2 lot subdivision is of minor significance in respect to the area of land potentially affected by ASS and the minor increase in development potential that is located well away from any Class 1-4 ASS.
4.2	Mine Subsidence and Unstable Land – N/A	
4.3	Flood Prone Land – N/A	



4.4	Planning for Bushfire Protection	
	Objectives	
	The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	
	Where this direction applies	
	This direction applies to all local government areas in which the responsible Council is required to prepare a bush fire prone land map under section 10.3 of the <i>Environmental Planning and Assessment Act 1979</i> (the EP&A Act), or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.	
	When this direction applies	
	This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.	
	What a relevant planning authority must do if this direction applies	
	In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of Schedule 1, clause 4 of the Act, and take into account any comments so made,	
	A planning proposal must:	
	(a) have regard to <i>Planning for Bushfire Protection 2019</i> ,	A Bushfire Assessment Report has been prepared in support of this Planning Proposal that addresses the requirements of <i>Bushfire Protection 2019</i> . (See – ‘Section 4.3.2 - Question 8 – Bushfire Hazard’)
	(b) introduce controls that avoid placing inappropriate developments in hazardous areas, and	The Bushfire Assessment Report indicates that the identified building envelope for a future dwelling, will comply with <i>Planning for Bushfire Protection 2019</i> . (See – ‘Section 4.3.2 Question 8 – Bushfire Hazard’)
	(c) ensure that bushfire hazard reduction is not prohibited within the APZ.	It is not intended to alter the existing RU4 zone which permits bushfire hazard reduction under clause 5.11 of KLEP 2013.
A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:		
	(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:	
	(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and	The Bushfire Assessment Report includes an inner APZ with ample setback to Beranghi Road that can be incorporated in a building envelope with an appropriate 88b Instrument to be dealt with at DA stage for the subdivision. (See – ‘Section 4.3.2 Question 8 – Bushfire Hazard’)
	(ii) an Outer Protection Area managed for hazard reduction and	The Bushfire Assessment Report indicates that the required Outer Protection Area



		<p>located on the bushland side of the perimeter road,</p>	<p>ranging from 0 – 10metres (total APZ 11 metres to 31 metres) can be achieved for the identified building envelope without the need for any clearing, except for the maintenance of an existing grass covered area. (See – ‘Section 4.3.2 Question 8 – Bushfire Hazard’)</p>
		<p>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with,</p>	<p>N/A</p>
		<p>(c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</p>	<p>The Bushfire Assessment Report includes the specifications for any internal driveway, including two-way passing bays and turning areas that comply with NSW Rural Fire Service requirements that can readily be achieved and dealt with at DA stage for the subdivision and future dwelling. (See – ‘Section 4.3.2 Question 8 – Bushfire Hazard’)</p>
		<p>(d) contain provisions for adequate water supply for firefighting purposes,</p>	<p>The Bushfire Assessment Report includes the specifications for water supply requirements that comply with NSW Rural Fire Service requirements that can be dealt with at DA stage for any future dwelling. (See – ‘Section 4.3.2 Question 8 – Bushfire Hazard’)</p>
		<p>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p>	<p>The bushfire hazard perimeter is confined to a single allotment for which a building envelope has been identified that complies with NSW Rural Fire Service requirements. (See – ‘Section 4.3.2 Question 8 – Bushfire Hazard’)</p>
		<p>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</p>	<p>The Bushfire Assessment Report includes the specifications for APZ establishment and maintenance requirements that comply with NSW Rural Fire Service requirements that can be dealt with at DA stage for any future dwelling. (See – ‘Section 4.3.2 Question 8 – Bushfire Hazard’)</p>
		<p>Consistency A planning proposal may be inconsistent with the terms of this direction only if the</p>	<p>This Planning Proposal is consistent with this direction and the advice of the Commissioner is therefore not required. A</p>



	relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.	Bushfire Safety Authority is also required to be obtained at DA stage.
5 – Regional Planning		
5.1	Implementation of Regional Strategies (Revoked)	
5.2	Sydney Drinking Water Catchment – N/A	
5.3	Farmland of State and Regional Significance on the NSW Far North Coast – N/A	
5.4	Commercial and Retail Development Along the Pacific Highway, North Coast – N/A	
5.5	Development in the Vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked)	
5.6	Sydney to Canberra Corridor (Revoked)	
5.7	Central Coast (Revoked)	
5.8	Second Sydney Airport: Badgerys Creek (Revoked)	
5.9	North West Rail Corridor Strategy – N/A	
5.10	Implementation of Regional Plans	
	Objective The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	
	Where this direction applies This direction applies to land to which a Regional Plan has been released by the Minister for Planning.	
	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal.	
	What a relevant planning authority must do if this direction applies Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.	This Planning Proposal is consistent with the relevant provisions of <i>North Coast Regional Plan 2036</i> . (See 'Section 4.2.1 – Question 3')
	Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:	
	(a) is of minor significance, and	Although the Planning Proposal is consistent with this Direction, the proposed 2 lot subdivision is also of minor significance.
	(b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.	This Planning Proposal is consistent with the relevant vision, land use strategies, goals, directions and actions of <i>North Coast Regional Plan 2036</i> . (See 'Section 4.2.1 – Question 3')
5.11	Development of Aboriginal Land Council Land – N/A	



6 – Local Plan Making															
6.1	Approval and Referral Requirements														
	<p>Objective The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>														
	<p>Where this direction applies This direction applies to all relevant planning authorities.</p>														
	<p>When this direction applies This direction applies when a relevant planning authority prepares a planning proposal.</p>														
	<p>What a relevant planning authority must do if this direction applies A planning proposal must:</p>														
	<table border="1"> <tr> <td style="width: 50%; vertical-align: top;">(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</td> <td style="width: 50%; vertical-align: top;">No concurrence provisions are required for this Planning Proposal.</td> </tr> <tr> <td style="width: 50%; vertical-align: top;">(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</td> <td style="width: 50%; vertical-align: top;">The proposed subdivision is required to be dealt with as <i>'integrated development'</i> at DA stage, including the issuing of a Bushfire Safety Authority by the NSW Rural Fire Service, such that no specific provision is required.</td> </tr> <tr> <td style="width: 50%; vertical-align: top;">(i) the appropriate Minister or public authority, and</td> <td style="width: 50%; vertical-align: top;">N/A</td> </tr> <tr> <td style="width: 50%; vertical-align: top;">(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and</td> <td style="width: 50%; vertical-align: top;">N/A</td> </tr> <tr> <td style="width: 50%; vertical-align: top;">(c) not identify development as designated development unless the relevant planning authority:</td> <td style="width: 50%; vertical-align: top;">This Planning Proposal does not identify the 2 lot subdivision as designated development and there is no thresholds under Schedule 3 of the <i>Environmental Planning and Assessment Regulation 2000</i> that would trigger designated development.</td> </tr> <tr> <td style="width: 50%; vertical-align: top;">(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</td> <td style="width: 50%; vertical-align: top;">N/A</td> </tr> <tr> <td style="width: 50%; vertical-align: top;">(ii) has obtained the approval of the Director-General of the</td> <td style="width: 50%; vertical-align: top;">N/A</td> </tr> </table>	(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and	No concurrence provisions are required for this Planning Proposal.	(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:	The proposed subdivision is required to be dealt with as <i>'integrated development'</i> at DA stage, including the issuing of a Bushfire Safety Authority by the NSW Rural Fire Service, such that no specific provision is required.	(i) the appropriate Minister or public authority, and	N/A	(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and	N/A	(c) not identify development as designated development unless the relevant planning authority:	This Planning Proposal does not identify the 2 lot subdivision as designated development and there is no thresholds under Schedule 3 of the <i>Environmental Planning and Assessment Regulation 2000</i> that would trigger designated development.	(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and	N/A	(ii) has obtained the approval of the Director-General of the	N/A
(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and	No concurrence provisions are required for this Planning Proposal.														
(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:	The proposed subdivision is required to be dealt with as <i>'integrated development'</i> at DA stage, including the issuing of a Bushfire Safety Authority by the NSW Rural Fire Service, such that no specific provision is required.														
(i) the appropriate Minister or public authority, and	N/A														
(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and	N/A														
(c) not identify development as designated development unless the relevant planning authority:	This Planning Proposal does not identify the 2 lot subdivision as designated development and there is no thresholds under Schedule 3 of the <i>Environmental Planning and Assessment Regulation 2000</i> that would trigger designated development.														
(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and	N/A														
(ii) has obtained the approval of the Director-General of the	N/A														



	Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.	
	Consistency A planning proposal must be substantially consistent with the terms of this direction.	This Planning Proposal is consistent with this Direction.
6.2	Reserving Land for Public Purposes – N/A	
6.3	Site Specific Provisions	
	Objective The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.	
	Where this direction applies This direction applies to all relevant planning authorities.	
	When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out.	
	What a relevant planning authority must do if this direction applies A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:	
	(a) allow that land use to be carried out in the zone the land is situated on, or	No amendment to the subdivision provisions or permissible uses of KLEP 2013 are required to facilitate this Planning Proposal.
	(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or	No amendment of the existing RU4 zone is required to facilitate this Planning Proposal.
	(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	This Planning Proposal seeks to amend the Minimum Lot Size Map under KLEP 2013 without the need to include any site-specific development standard.
	A planning proposal must not contain or refer to drawings that show details of the development proposal.	The Subdivision Concept Plan provided in support of this Planning Proposal does not form part of the requested amendment to KLEP 2013 and is intended to be indicative of how relevant requirements can be met at DA stage.



	<p>Consistency</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are of minor significance.</p>	<p>Although the Planning Proposal is consistent with this Direction, the proposed 2 lot subdivision is also of minor significance.</p>
7 – Metropolitan Planning – N/A		

4.3 - Environmental, Social and Economic Impacts of this Planning Proposal

4.3.1 - Question 7 - 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?

A report prepared by Wolf Peak (November 2021) that addresses all relevant requirements is attached to this PP including the requirements of the:

- Biodiversity Conservation Act, 2016
- Environment Protection and Biodiversity Act, 1999
- Environmental Planning and Assessment Act, 1979, including relevant State Environmental Planning Policies
- Comprehensive Koala Plan of Management for the Eastern Portion of Kempsey Shire

The report concludes that on the basis that the proposed building envelope does not require any clearing, the proposed development:

- Will not result in any significant impacts on any threatened species of Endangered Ecological communities or trigger the need for a Biodiversity Assessment Report or Species Impact Statement.
- Does not contain any preferred Koala habitat requiring any further assessment under the CKPoM
- Will not have any significant impact on any Matter of National Environmental Significance

(See Attachment – ‘Ecological Assessment for Proposed Subdivision – Lot 17 Crescent Head Road – WolfPeak (November 2021)’)

4.3.2 - Question 8 - Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Aboriginal Archaeology

An Aboriginal Cultural Heritage Assessment Report was prepared by the Kempsey Local Aboriginal Land Council which indicates that there are no AHIMS listed sites or any unrecorded sites as determined by a site survey located on the subject land.

The report recommends that all works are to cease and NSW Police, KLALC and NPWS notified if any artefacts or skeletal remains are discovered which may be imposed as a condition of development consent at subdivision or dwelling construction DA phase.



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(See attachment - *Aboriginal Cultural Heritage Assessment Report - Kempsey Local Aboriginal Land Council (16 September 2021)*)

Bushfire Hazard

A Bushfire Assessment Report has been prepared by Midcoast Building and Environmental which includes an assessment of the requirements of the NSW Rural Fire Service *Planning for Bushfire Protection, 2019* in respect to:

- Slope, vegetation type, distance from hazard, access and fire weather
- Bushfire hazard mapping
- Asset Protection Zone requirements (inner and outer protection areas)
- Operational access/egress
- Utility services
- Landscaping/maintenance
- Bushfire Attack Level building construction
- Emergency evacuation

The report demonstrates that all requirements can readily be achieved to support an identified building envelope on the proposed lot that is consistent with the specified acceptable bushfire protection measure solutions provided for in the guidelines. It is noted that the required APZs can be achieved without the need to undertake any clearing.

(See attachment – ‘*Bushfire Assessment Report – Midcoast Building and Environmental (November 2021)*’)

Effluent Disposal

A report has been prepared by Midcoast Building and Environmental which demonstrates that effluent generated by the existing and future dwelling on the proposed lot will comply with the requirements of *AS/NZS 1547-2012 Onsite Domestic Wastewater Management* and the *NSW Environment and Health Protection Guidelines – Onsite Wastewater Management for Single Households*, as incorporated in Chapter B8 of KDCP 2013.

(See attachment – ‘*Onsite Wastewater Management Assessment Report - Midcoast Building and Environmental (November 2021)*’)

Traffic

Council’s requirements for assessing the potential traffic impacts of development are contained in Chapter B2: Parking, Access and Traffic Management of KDCP 2013.

It is proposed that all access to the identified building envelope on the proposed lot will be via Beranghi Road. As a single lot subdivision is proposed, access in accordance with Council’s requirements for rural dwellings can readily be achieved without the need for any tree removal within the road reserve and ample sight distances in both directions are available.

Acid Sulfate Soils

The subject land is mapped as potentially containing Class 5 Acid Sulfate Soils (ASS).

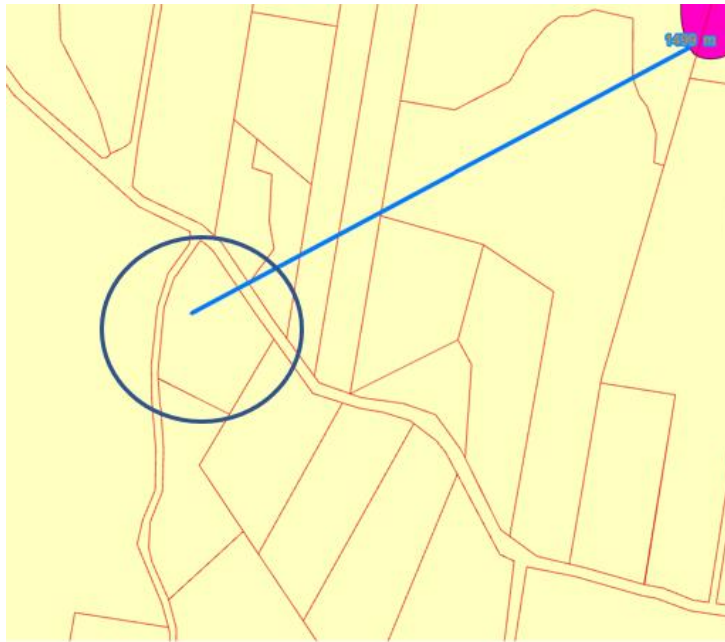


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Figure 10: Source: ePlanning Spatial Viewer (KLEP 2013 - Acid Sulfate Soils Map)



Clause 7.1 - Acid Sulfate Soils provides that in respect to Class 5 ASS, development consent is required for any works located 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.

It is noted that:

- The site of the identified building envelop on the proposed lot is approximately 1,500 metres from the nearest Class 1, 2, 3 or 4 land
- The subject land is at an elevation of approximately 30m AHD
- No works are required either at subdivision or future dwelling stage that would lower the water table.

Therefore, this Planning Proposal will not result in any works that would trigger the need for any further assessment as no ASS would be disturbed or be in proximity to any ASS below 1m AHD.

4.3.3 - Question 9 - Has the planning proposal adequately addressed any social and economic effects?

Although of minor significance, the Planning Proposal will facilitate subdivision that will provide direct and indirect capital and recurrence expenditure that will support the local economy, schools and social groups without diminishing any ecological values of the land and locality.

4.4 - State and Commonwealth Interests

4.4.1 - Question 10 - Is there adequate public infrastructure for the planning proposal?

Being located in a rural area, adequate infrastructure is available to service the proposed subdivision, including:

- Bitumen sealed road access via Crescent Head Road and Beranghi Road



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- Reticulated electricity
- telecommunications

4.4.2 - Question 11 - What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

5.0 Mapping

5.1 Current Land Use Zone Applying to the Land

The subject land is currently zoned RU4 Primary Production Small Lots under Kempsey Local Environmental Plan 2013 (KLEP 2013).

Figure 11: MAP 1a – Extract KLEP 2013

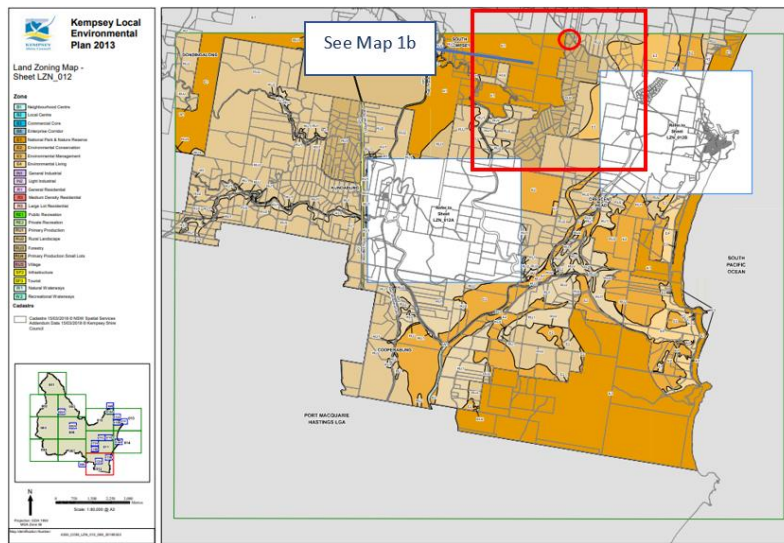
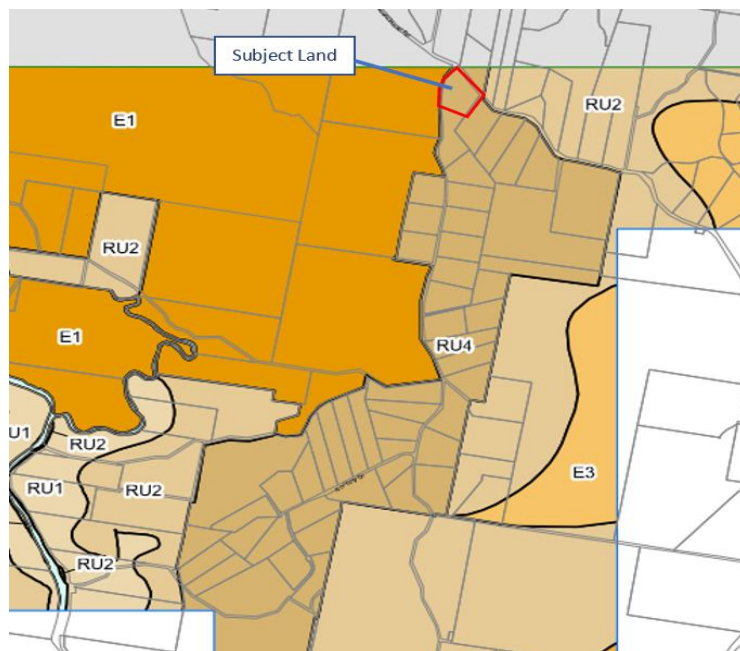


Figure 12: MAP 1b: Extract KLEP 2013



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5.2 Current Development Standards Relating to the Land (i.e. FSR, building height, minimum lot size)

KLEP 2013 maps relating to development standards that apply to the subject land is restricted to the Lot Size Map.

Figure 13: Map 2a: Extract Lot Size Map 12 KLEP 2013

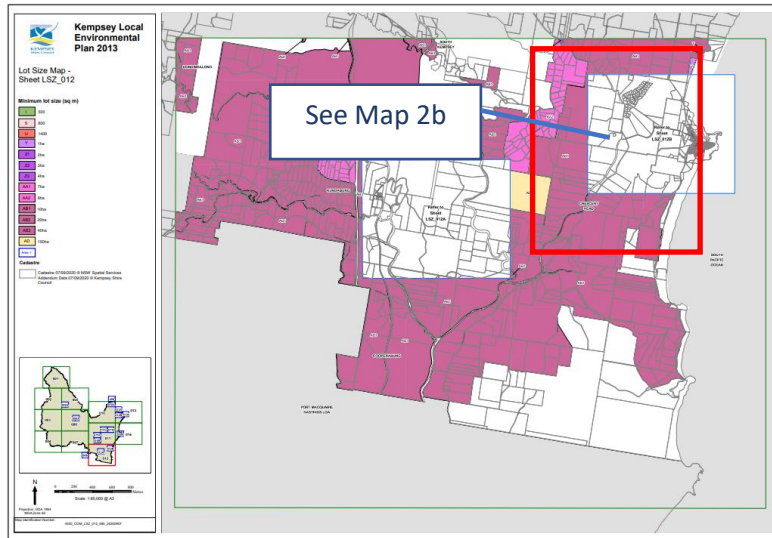
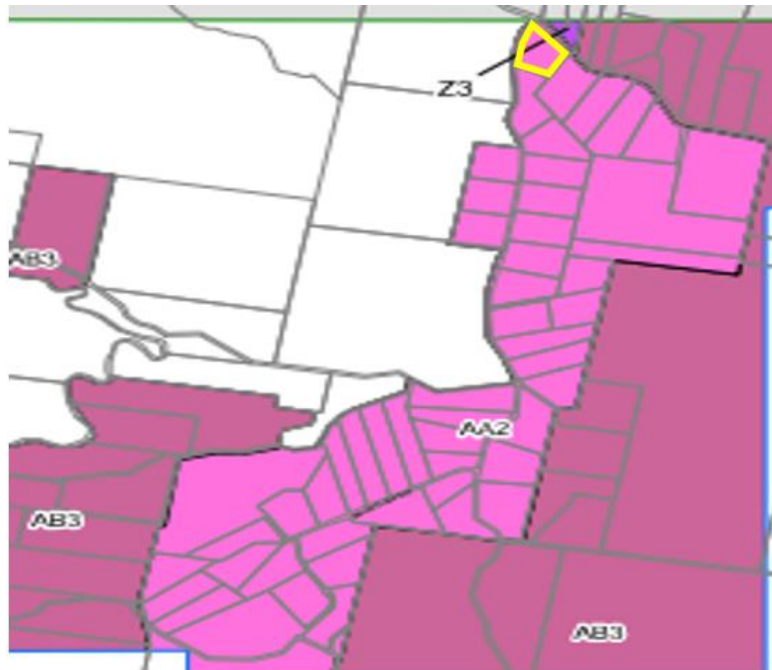


Figure 14: Map 2b: Extract Lot Size Map 12 KLEP 2013



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5.3 A Map Illustrating the Extent of the Proposed Revised Development Standard, if a Change to a Development Standard is Proposed

Figure 15: Map 3a: Revised Lot Size Map 12

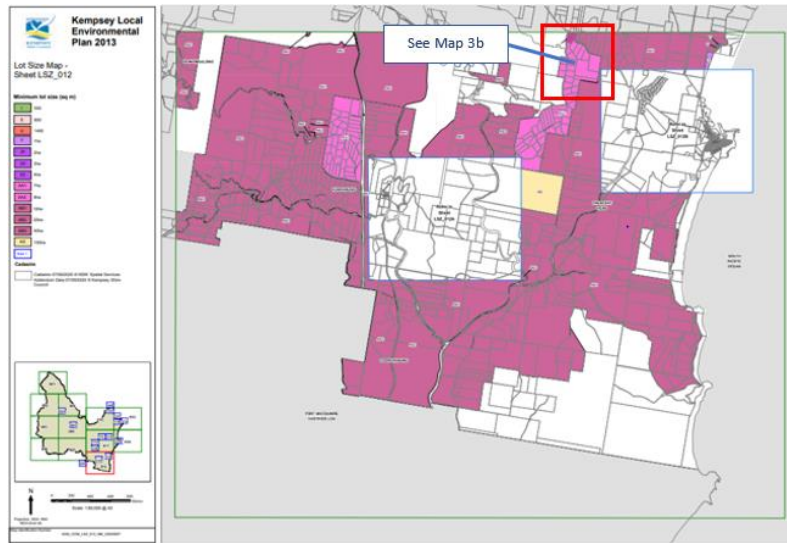
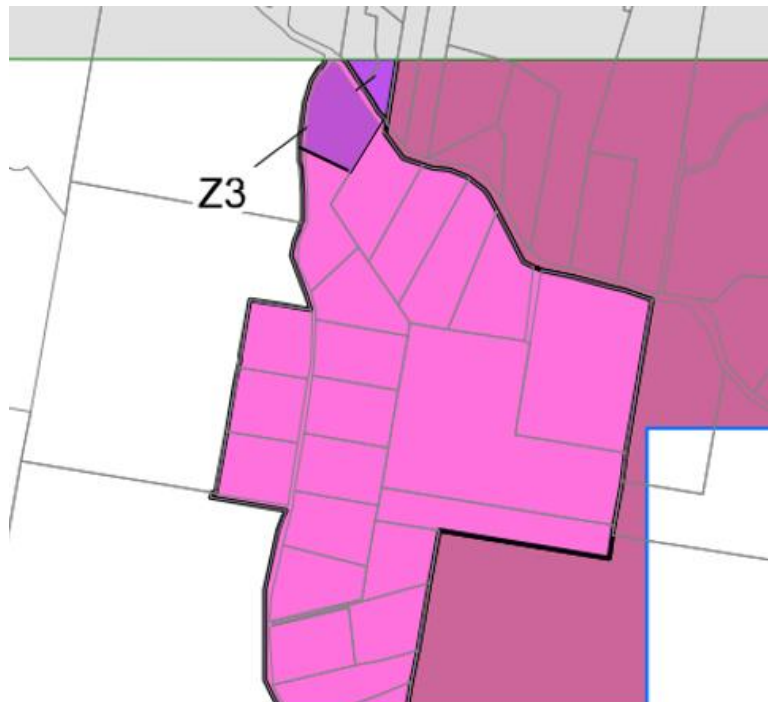


Figure 16: Map 3b: Revised Lot Size Map 12



6.0 Community Consultation

Community consultation will be undertaken in accordance with Council's *Procedure 1.1.9 – Rezoning Applications* which provides for a process that includes:

- public notification with a public notice being placed in the local newspaper



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- a copy of the planning proposal being placed on Council’s website
- separate letters may also be sent to landowners adjoining the planning proposal site (as appropriate)
- public notification of a housekeeping or major amendment will be for a minimum period of 28 days.

The Gateway Determination also identifies State agencies that are to be notified (by Council) during the consultation period.

7.0 Project Timeline

The following project timeline has been prepared having regard to the details contained in the guidelines, to be modified and completed by Council, having regard to the limited scope of this Planning Proposal and following Council’s determination as to whether to seek a Gateway Determination. Provisional time frames have been included as per Council Procedure 1.1.9 Rezoning Applications.

Task	Responsibility	Expected Completion Date
Planning Proposal submitted to Council	Applicant	
Initial assessment	Council	< 90 days
Anticipated commencement date (date of Gateway Determination)		
anticipated timeframe for the completion of required technical information		
timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)		
dates for public hearing (if required)		
timeframe for consideration of submissions		
timeframe for the consideration of a proposal post exhibition		
date of submission to the Department to finalise the LEP		
anticipated date the local plan-making authority will make the plan (if authorised)		
anticipated date the local plan-making authority will forward to the PCO for publication.		



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8.0 Addendum - Description of amendments to Planning Proposal (December 2021)

The following is a description of the amendments to the Planning Proposal submitted to Council in December 2021 to amend KLEP 2013 to permit a two lot subdivision of the subject land.

The amendment is submitted in response to Council's advice of 18 February 2022 relating to concerns raised by the Biodiversity and Conservation Division of the DPIE (BCD) as to the effects of potential incidental clearing that may be undertaken under the Rural Boundary Clearing Code. Options put forward by the BCD for investigation included:

- Reconfiguring the lot layout so as to avoid potential clearing to protect native vegetation identified as potential koala habitat
- Using the C2 Environmental Conservation zone, which is excluded from the operation of the Clearing Code

Council has expressed preliminary concerns with using the C2 due to the practicalities of creating a small 'island' surrounded by rural zoned land immediately adjacent to a large National Park.

This Addendum lists the amendments to the Planning Proposal to provide for a reconfigured lot layout which addresses the concerns raised by BCD.

NOTE*: Pursuant to *Ministerial Direction 6.3 – Site Specific Provisions* and as stated in the Planning Proposal, the Subdivision Concept Plan provided in support of the Planning Proposal does not form part of the requested amendment to KLEP 2013 and is intended to be indicative of how relevant requirements can be met at DA stage.

NOTE:** By way of a general comment and in support of the amended concept layout provided, it should be kept in mind that the two lot subdivision that would result from this Planning Proposal is of minor significance, which is recognised in all relevant Ministerial Directions as a factor that needs to be taken into account. The fact that Council is required to consider a subsequent DA on its merits by an assessment that is independent of the Planning Proposal process also needs to be considered.

List of required Amendments to the Planning Proposal

- Covering Page – Replace image with the amended concept layout image
- Figure 3: Replace image with the amended Subdivision Concept Plan (building envelope unaltered)

Supporting Information

It is noted that the identified building envelope on which the supporting specialist reports are based remains unaltered and therefore revised assessments are unnecessary. Specifically:

- As any incidental potential clearing under the Rural Boundary Clearing Code has been avoided, the findings and recommendations of the *Ecological Assessment for Proposed Subdivision – Lot 17 Crescent Head Road – WolfPeak (November 2021)* remains relevant.
- The amended boundary does not give rise to any issues that affect the *Aboriginal Cultural Heritage Assessment Report - Kempsey Local Aboriginal Land Council (16 September 2021)*



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- The APZs and other bushfire related management measures recommended in *Bushfire Assessment Report – Midcoast Building and Environmental (November 2021)* are unaltered without the need for any clearing.
- The recommended sub-surface irrigation area for effluent disposal in the *Onsite Wastewater Management Assessment Report - Midcoast Building and Environmental (November 2021)* is located adjacent to Beranghi Road and downslope of the vegetated area.

These specialist reports that will be required to support the required DA for subdivision may require minor amendment, depending on the final location of the boundary following survey.

Subdivision Concept Plan



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