



IRF22/1059

Gateway determination report – PP-2021-7403

Map amendment to realign zoning and development control boundaries - Lots 800 and 801 DP 1270742 Rosedale Avenue & Burrawong Drive, South West Rocks

April 22

Published by NSW Department of Planning and Environment

dpie.nsw.gov.au

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Attachment A – Planning Proposal
Attachment B – Gateway Determination
Attachment C – Letter to Council
Attachment D – Department Approval – MP 05 0018
Attachment E – Department Approval – MP 07 0129

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Kempsey
PPA	Kempsey Shire Council
NAME	Map amendment to realign zoning and development control boundaries - Lots 800 and 801 DP 1270742 Rosedale Avenue & Burrawong Drive, South West Rocks
NUMBER	PP-2021-7403
LEP TO BE AMENDED	Kempsey LEP 2013
ADDRESS	Rosedale Avenue and Burrawong Drive, South West Rocks
DESCRIPTION	Lots 800 and 801 DP 1270742
RECEIVED	18/03/2022
FILE NO.	IRF22/1059
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The purpose of the planning proposal (**Attachment A**) is to amend the LEP mapping to align zoning and other development control boundaries with the cadastral boundaries and land uses approved for the Seascapes Grove Estate, pursuant to development approvals MP 05 0018 (**Attachment D**) and MP 07 0129 (**Attachment E**) issued by the Department (refer section 1.6 background).

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

1. re-align the existing zone boundary between the R1 General Residential and C3 Environmental Management zones to be consistent with the approved residential and environmental protection and management uses within Lot 800;
2. ensure that the approved residential lots are wholly located within the R1 General Residential zone and thereby permit development that is appropriate with respect to minimum lot size and height of building development standards; and

- ensure that the approved environmental management areas within Lot 800 pursuant to MP are wholly located within the C3 Environmental Management zone.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the following maps within the Kempsey LEP 2013 to match existing cadastral boundaries and give effect to the approved development uses for the site:

- Amend the Zoning Map to re-align the existing zone boundary between the R1 General Residential and C3 Environment Management zones (**Figure 4**);
- Amend the Lot Size Map to re-align the existing boundary between the 500m² minimum lot size (R1 General Residential zone) and the 40ha minimum lot size (C3 Environment Management zone) (**Figure 5**); and
- Amend the Height of Buildings Map to ensure a consistent maximum height of building development standard of 8.5m across all approved residential lots (**Figure 6**).

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

It is noted however that the Scenic Protection Land Map in the LEP (**Figure 1**) also utilises the current zone boundary. It is recommended that the Gateway should require that this map be included and updated to be consistent with the amended zoning boundary.

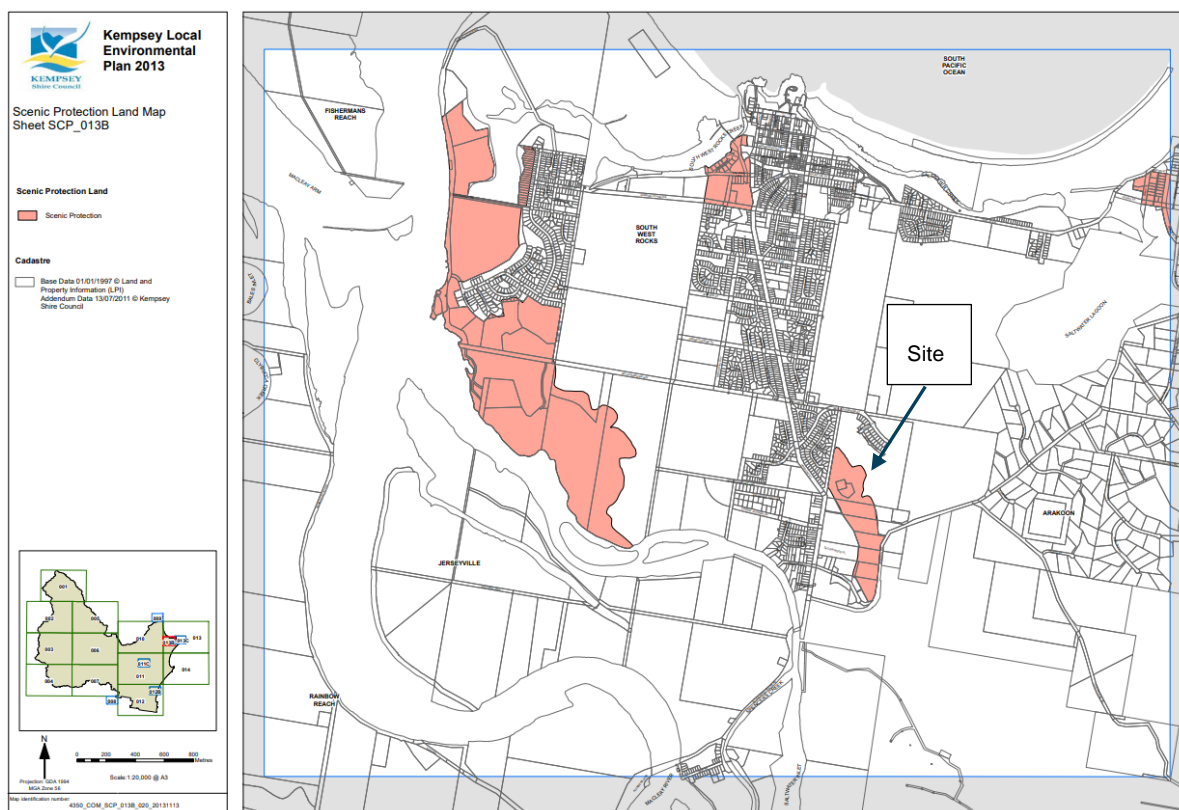


Figure 1 Kempsey LEP 2013 Scenic Protection Land Map

1.4 Site description and surrounding area

The site is Lot 800 (5.7ha) and Lot 801 (18.1ha) DP 1270742, Rosedale Avenue and Burrawong Drive, South West Rocks (**Figure 1**). The site forms part of the residential subdivision known as Seascape Grove Estate, located within the southern urban fringe of South West Rocks (**Figure 2**).



Figure 2 Subject site with mapping realignment section shown in yellow (source: Council report)

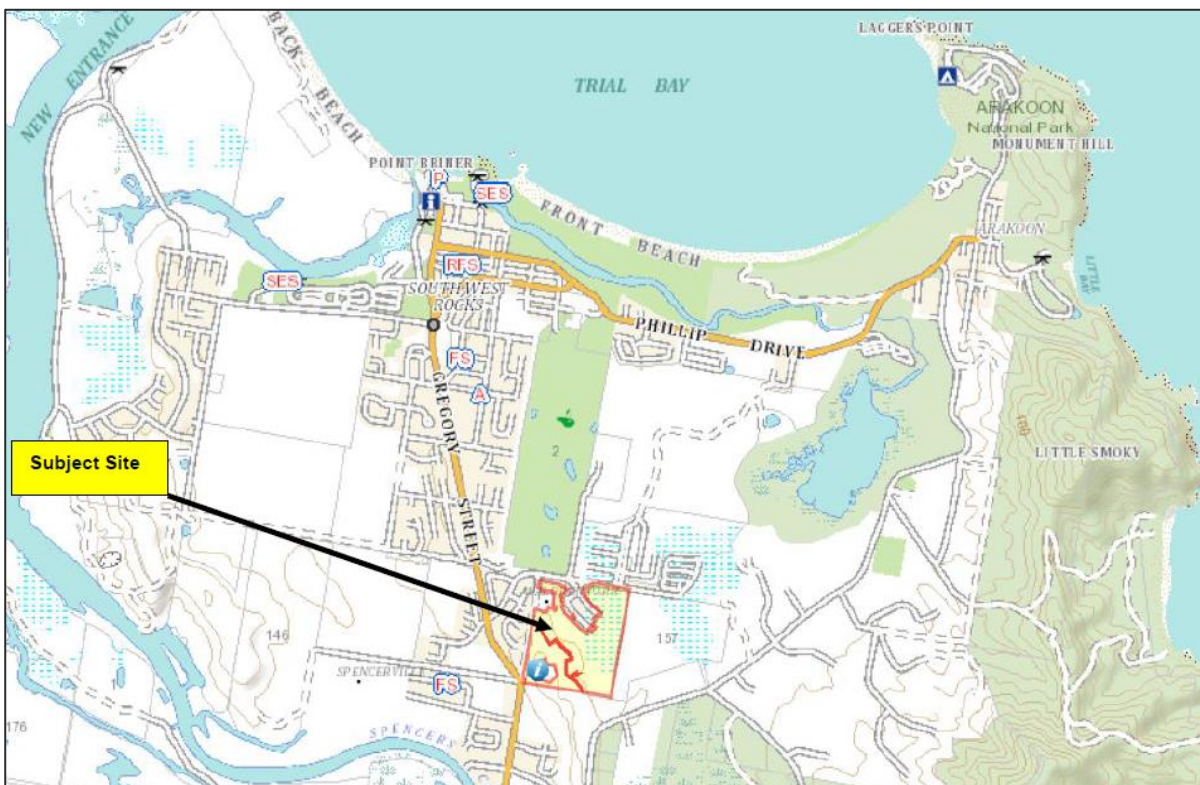


Figure 3 Site context (source: PP Bushfire Report)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning, Lot Size and Height of Buildings maps, which are suitable for community consultation. Final maps will need to be prepared to the Department's Standard Technical Requirements prior to the plan being made, including the amended scenic protection land map as discussed above.



Figure 4 Current and proposed zoning map

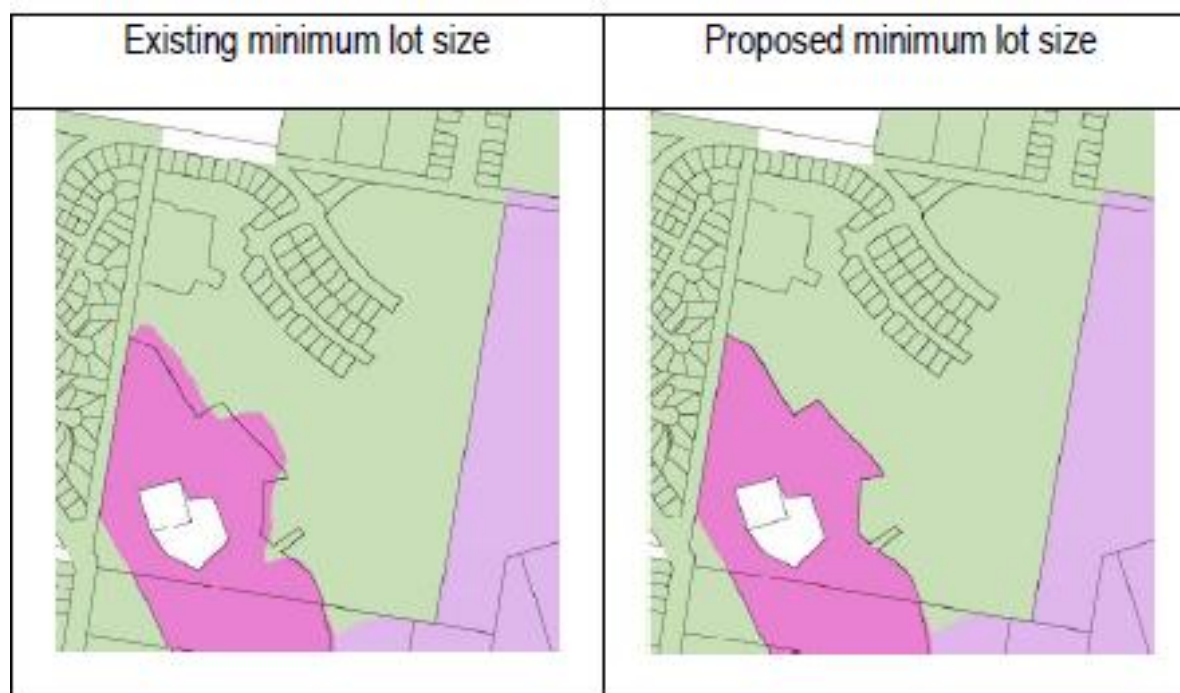


Figure 5 Current and proposed minimum lot size map



Figure 6 Current and proposed height of building map

1.6 Background

Seascope Grove Estate was approved via two (2) development consents:

1. MP 05_0018 was issued by the Department of Planning on 20 June 2007 for a 108 residential lot subdivision. The Subdivision Works Construction Certificate for the roads and services for 28 lots within this consent was issued by Kempsey Shire Council on 8 November 2021. Construction of the approved works commenced in December 2021.
2. MP 07_0129 was issued by the Department of Planning on 2 March 2010 for a 56 lot subdivision (including 54 residential lots, one environmental protection lot {Lot 800} and one future development lot). This approval included the creation of Lot 800 with a total land area of 5.7ha. The Subdivision Works Construction Certificate for the roads and services for 28 lots within this consent was issued by Kempsey Shire Council on 8 November 2021. Construction of the approved works commenced in December 2021.

2 Need for the planning proposal

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

Residential lots 605 to 622 approved in MP 07_0129 and Lots 512 to 516 approved in MP 05_0018 are currently zoned part R1 General Residential and part C3 Environmental Management (**Figure 6**).

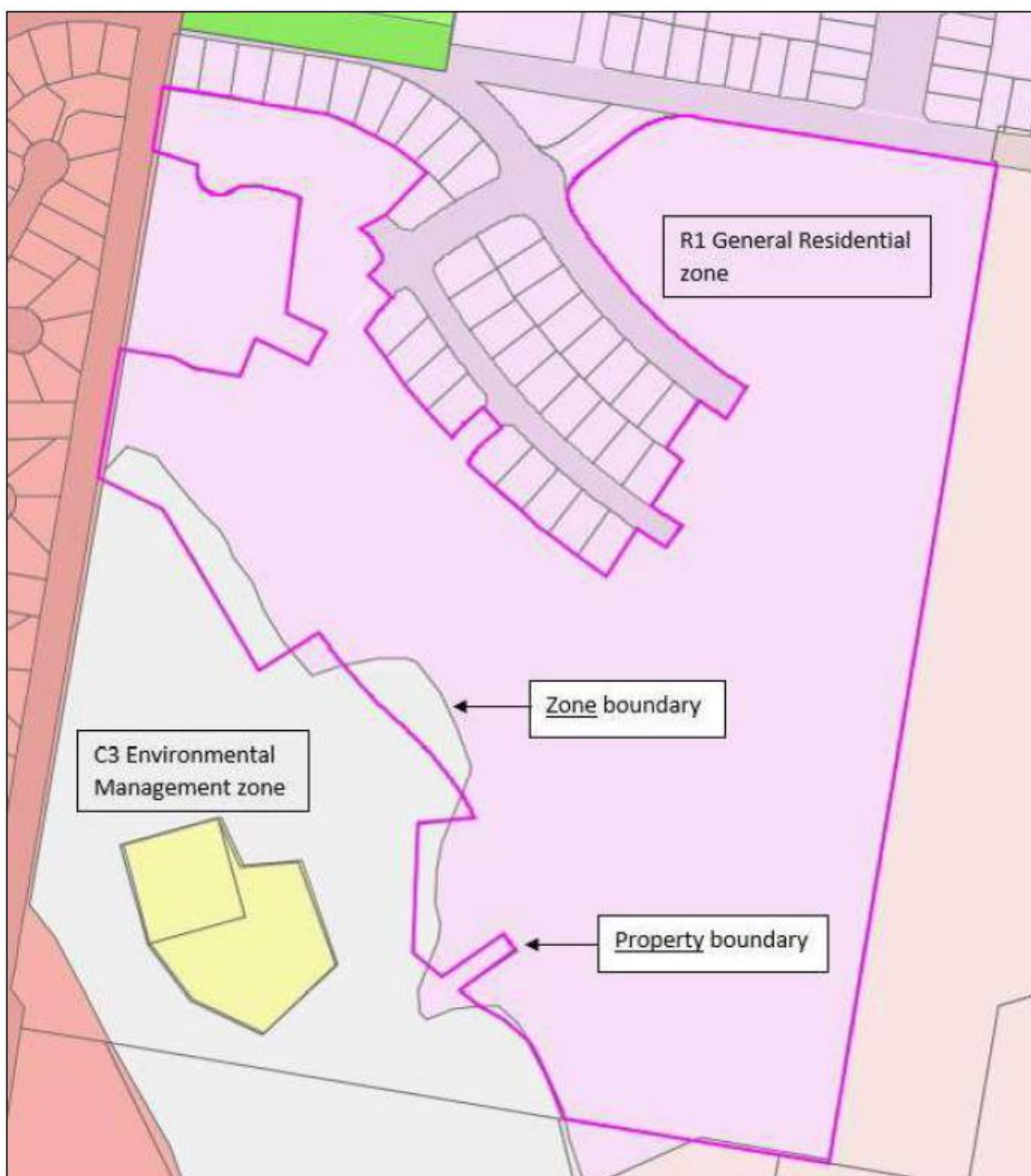


Figure 6 Current zoning and boundary misalignment

The current development standards for the C3 zone, being the 40ha minimum lot size and no height of building requirements, are not suitable for the approved residential lots and result in unnecessary restrictions on their future residential use including future boundary adjustments and/or subdivisions and some forms of residential housing.

Additionally, Lot 800, which includes the environmental protection lands, is currently zoned Part C3 Environmental Management and Part R1 General Residential on its north-eastern boundary and the current development standards for the R1 zone are not suitable for the environmental protection lands.

A split R1/C3 zone within a traditional residential allotment is not considered desirable, particularly given that the minimum lot size provisions of 500m² and 40ha will not provide for future flexibility to undertake some forms of residential development on the residential lots and will significantly limit the location of future dwellings on some lots. The split zone also prohibits further subdivision or boundary adjustments of the affected residential lots.

The proposed map amendments to the KLEP 2013 will ensure that all affected residential lots are afforded the residential zone and built form development standards that typically apply to residential lots within the LGA.

The planning proposal is considered the best means of achieving the intended outcome. The proposed map amendments will support the future residential growth of the South West Rocks township in accordance with the adopted local growth strategy and will ensure consistency with the approved residential subdivision and environmental management land uses under MP 05_0018 and MP 07_0129.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan (NCRP).

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 1: Deliver environmentally sustainable growth	The planning proposal aligns with Action 1.1 to focus future urban development to mapped urban growth areas. The subject site is identified as being within the NCRP Urban Growth Area boundary.
Direction 22: Deliver greater housing supply	The planning proposal is consistent with the NCRP 2036. It aligns with Direction 22 of the Plan to increase housing diversity and choice.
Direction 25: Deliver more opportunities for affordable housing	The planning proposal is consistent with the NCRP 2036. It aligns with Direction 25 of the Plan to deliver more opportunities for affordable housing.
Local Government Narratives	The proposal aligns with the Local Government Narratives for Kempsey, particularly the Housing priority to deliver housing at South West Rocks.

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	<p>The planning proposal's objectives are not inconsistent with the strategic directions of the LSPS.</p> <p>The planning proposal is also consistent with maintaining the desired future character of South West Rocks and is within an identified urban growth area.</p>
Kempsey Local Growth Management Strategy (LGMS) – Residential Component 2010	<p>The LGMS Residential Component states that South West Rocks is identified as a town in the Mid North Coast Regional Strategy which will cater for 50% of the total new dwellings in the Shire from 2006 to 2031. In addition, approximately 40% of these dwellings are expected to be attached or medium to medium high density, to suit the small household size that is typical of the older demographic profile.</p> <p>The LGMS Residential Component also predicts the medium term demand will be provided through the Seascope Grove area. The planning proposal is therefore not inconsistent with the LGMS.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant Ministerial Directions except as discussed below. It is also recommended that prior to agency and community consultation that the proposal be updated to reference the current s9.1 Direction numbering.

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.1 Conservation Zones	No	<p>The proposal is inconsistent with this direction as it reduces the conservation standards that apply to land by re-aligning the zoning with the cadastre and approved subdivision. This inconsistency is considered to be of minor significance as it only seeks to reflect the outcomes of the approved development which took in account environmental matters and the need for their protection in its determination.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>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.</p> <p>A Strategic Bushfire Report has been prepared which confirms that the approved residential lots can satisfy the requirements of Planning for Bushfire Protection 2019. However, consultation with the Rural Fire Service is yet to be undertaken in accordance with the Direction.</p>

4.5 Acid Sulfate Soils	No	The proposal is inconsistent with this direction as it affects Class 5 acid sulfate soils and is not supported by an acid sulfate soils study. This inconsistency is considered to be of minor significance as it is understood that an assessment of acid sulfate soils was undertaken as part of the residential subdivision approvals and as Kempsey LEP 2013 contains adequate development control clauses in relation to any potential future development on acid sulfate soils.
9.2 Rural Lands	No	The proposal is inconsistent with this direction as it affects a conservation zone, and changes the minimum lot size, and is unable to satisfy all the requirements of the direction such as supporting farmers in exercising their right to farm. The inconsistency is considered to be of minor significance as it only seeks to reflect the outcomes of the approved development on the land.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs. It is also recommended that prior to agency and community consultation that the proposal be updated to reference the current SEPP names.

4 Site-specific assessment

4.1 Environmental

The site area for this proposal does include lands of potential high environmental value as mapped under the North Coast Regional Plan 2036. The proposed realignment of the existing zone boundary to match the approved residential subdivision footprint of Seascope Grove Estate will not require the removal of any native vegetation or create any adverse environmental outcome.

There will be no likelihood of adverse affectation on critical habitat, threatened species, populations or ecological communities as a result of the proposed zone boundary realignment to match the existing development consent footprints.

4.2 Social and economic

There are no anticipated negative social and economic impacts as a result of the proposal. There are positive social and economic benefits generated from aligning development standards and controls with the approved residential and environmental protection land uses for the land.

4.3 Infrastructure

The Planning Proposal will not result in an increased demand for public infrastructure beyond that already approved under MP 05_0018 and MP 07_0129.

5 Consultation

5.1 Community

Council proposes a community consultation period of 10 days.

The exhibition period proposed is considered appropriate, and forms part of the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 21 days to comment:

- NSW Rural Fire Service

6 Timeframe

Council proposes an 8 month time frame to complete the LEP.

The Department recommends a time frame of 6 months to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is consistent with the State, regional and local planning framework and deals with matters of local significance, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it does not undermine the vision, land use strategies, goals, directions or actions of the North Coast Regional Plan 2036;
- it aligns with the actions in the Kempsey Local Strategic Planning Statement;
- it responds to the Kempsey Local Growth Management Strategy; and
- it allows for a variety of housing opportunities in the approved subdivision.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones, 4.5 Acid Sulfate Soils and 9.2 Rural Lands are minor or justified; and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved until consultation with the Rural Fire Service has been undertaken.

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

1. Prior to agency and community consultation, the proposal is to be amended to:
 - Update all references to s9.1 Directions and State Environmental Planning Policies to the current titles and numbering;
 - Include an existing and proposed Kempsey LEP 2013 Scenic Protection Land Map that aligns with the amended zone boundary.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
3. The planning proposal should be made available for community consultation for a minimum of 10 days.
4. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



8 April 2022

(Signature)_____
(Date)

Craig Diss

Manager, Local and Regional Planning, Northern Region



13/4/2022

(Signature)_____
(Date)

Jeremy Gray

Director, Northern Region

Assessment officer

Carlie Boyd

Senior Planner, Northern Region

6643 6404