

Planning Proposal

Proposed 2 Lot Subdivision of Lot 1 DP 842144 – Beranghi Road, Crescent Head



Prepared by
Brickwood Planning Services
for
Les Madigan and Belinda Halls
November 2022
(REV1 December 2022)
(REV2 March 2023)
(REV3 April 2023)



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| Revision | Date | Description |
|-------------------|---------------|---|
| Planning Proposal | November 2022 | |
| REV1 | December 2022 | <p>Amendments requested by Council (2 December 2022):</p> <ul style="list-style-type: none"> • Updated S9.1 Directions (13 December 2022) • Replicate Question 12 and include additional comments • Complete Project Timeline |
| REV2 | March 2023 | <p>Amendments as per Gateway Determination (17 March 2023):</p> <ul style="list-style-type: none"> • Revised Minimum Lot Size Map to identify the land as part of larger “Z3” footprint • Include assessment against the North Coast Regional Plan 2041 • Delete reference to North Coast Regional Plan 2036 and Draft North Coast Regional Plan 2041 throughout • Amend project timeline |
| REV3 | April 2023 | <p>By emails of 6 and 12 April 2023, Council conveyed advice received from DPE:</p> <ul style="list-style-type: none"> • Colours to match ‘lot size’ standards for Z3 • Boundaries to indicate clearly both the existing extent, proposed extent and showing the change to the new extent of Z3 in that area <p>NOTE: Figures 4, 5, 17 and 18 have been amended to reflect these requirements to ensure that the colours match, whilst noting that the maps will not be used as the final approval KLEP 2013 maps and are for the purposes of public exhibition of the Planning Proposal.</p> <p>In a subsequent telephone conversation, Council also requested deletion of the comment under Strategy 11.3 of North Coast Regional Plan 2014.</p> |



This Planning Proposal has been prepared with due skill, care and diligence by BRICKWOOD PLANNING SERVICES based on information provided by the client, other specialists research and investigation undertaken by BRICKWOOD PLANNING SERVICES. Independent verification of the specialist reports that support this Planning Proposal has not been undertaken and for which BRICKWOOD PLANNING SERVICES accepts no responsibility.

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(REV2 28 March 2023)

(REV3 19 April 2023)



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- Ecological Assessment for Proposed Subdivision – Lot 1 DP842144 Beranghi Road – WolfPeak (October 2022)
- Aboriginal Cultural Heritage Assessment Report - Kempsey Local Aboriginal Land Council (September 2022)
- Aboriginal Heritage AHIMS Report (September 2022)
- Bushfire Assessment Report – 2 Lot Subdivision - Lot 1 DP842144 Beranghi Road, Crescent Head - Midcoast Building and Environmental (October 2022)
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1.0 Introduction

This Planning Proposal has been prepared pursuant to Division 3.4 of the *Environmental Planning and Assessment Act, 1979* in accordance with the requirements of the NSW Department of Planning and Environment '*Local Environmental Plan Making Guideline – December 2021*'.

This Planning Proposal includes an assessment against all relevant statutory requirements, including merit considerations, seeking an amendment to *Kempsey Local Environmental Plan 2013* to permit a proposed two lot subdivision, which concludes that there no statutory or physical impediments that would prevent a favourable consideration of the Planning Proposal.

1.1 Land to which this Planning Proposal Applies

The subject land is a vacant allotment known as Lot 1 DP842144 – Beranghi Road, Crescent Head located on the corner of Crescent Head Road and Beranghi Road, which has an area of approximately 7.938ha.

Figure 1: Locality Plan

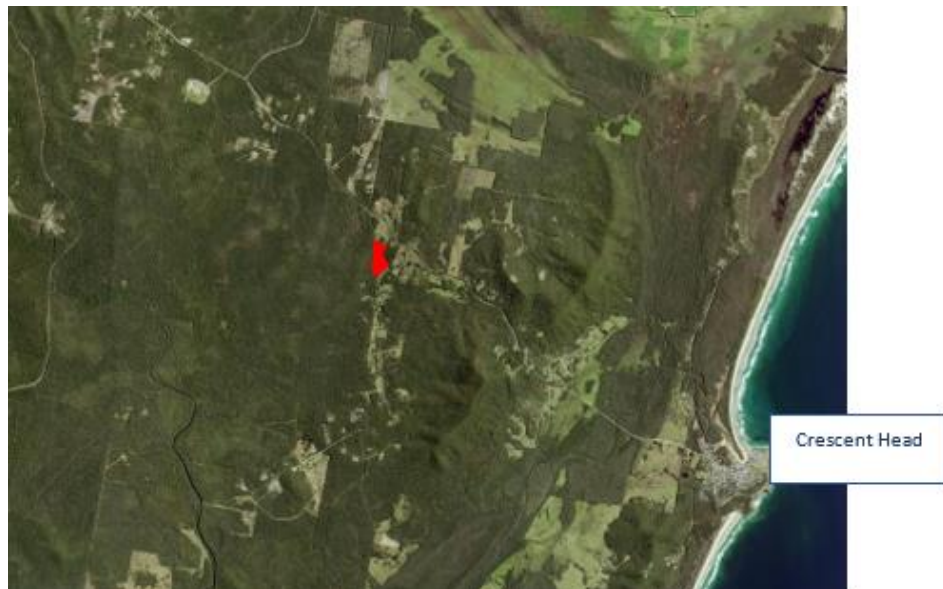
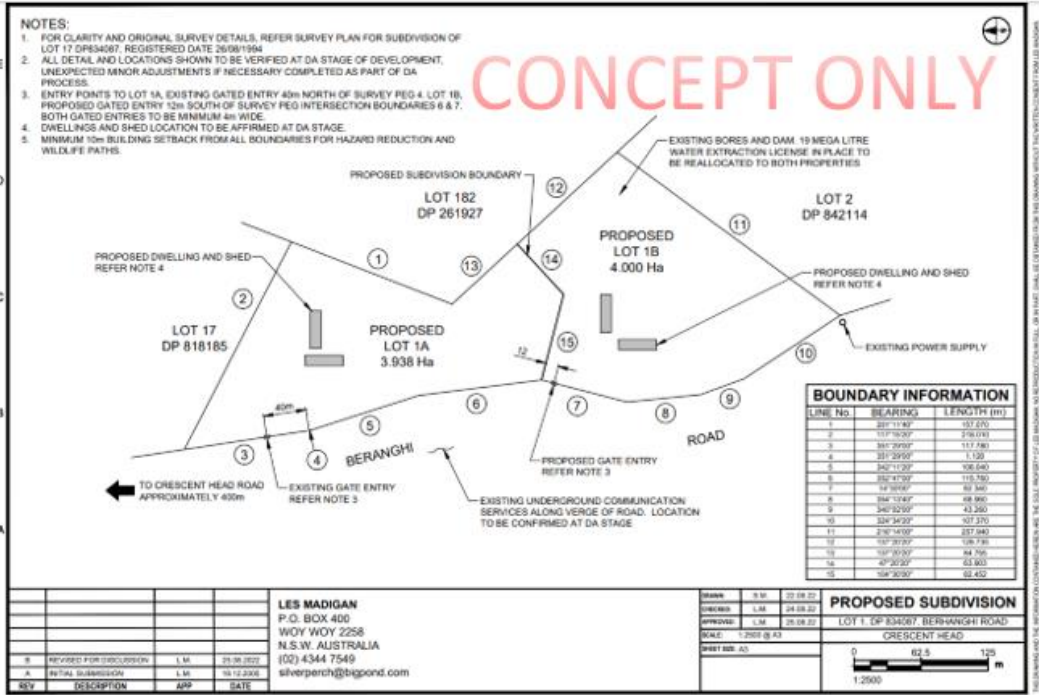


Figure 2: Site Plan



Figure 3: Subdivision Concept Plan



2.0 Objectives and Intended Outcomes 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 *Kempsey Local Environmental Plan 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 *Kempsey Local Environmental Plan 2013*. The size of the subject land is 7.938ha, thereby necessitating consideration of a minor Clause 4.6 variation at DA stage for one of the proposed lots. Although subject to a future DA, it is noted that the proposed variation:

- Represents only a 1.5% reduction to the proposed minimum lot size standard.
- Is consistent with the relevant aims of *Kempsey Local Environmental Plan 2013* contained in clause 1.2 as:
 - The lot layout represents an orderly and economic use of the land, without creating any potential conflict with existing and expected adjoining land uses.
 - No clearing is required to establish the identified building envelopes.
 - No impact on any cultural heritage values will result from the subdivision.
- Is consistent with the relevant objectives of the RU4 zone that applies to the land as:
 - The lots are large enough to facilitate potential primary enterprises without conflicting with neighbours.
 - The proposal is consistent with the existing and planned pattern of development for the locality.
- Is consistent with the relevant objectives of the proposed minimum lot size contained in clause 4.1 as:
 - The proposed lots do not contain any prime agricultural land.
 - The subdivision represents a more efficient use of existing road, electricity and telecommunications infrastructure.
- Is consistent with the relevant objectives contained in clause 4.2A related to the future erection of dwellings, being consistent with the *Kempsey Shire Rural Residential Land Release Strategy*.



Figure 4: Existing Minimum Lot Size – Source: ePlanning Spatial Viewer

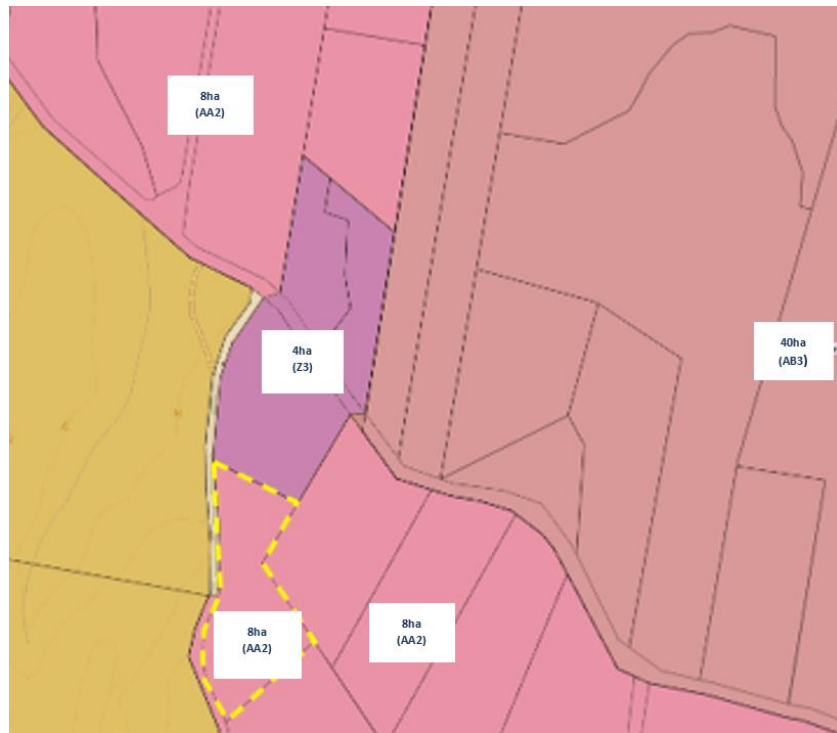


Figure 5: Proposed Minimum Lot Size



4.0 Justification of Strategic and Site-Specific Merit 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* that has been duly endorsed by the Department of Planning and Environment. The subject land is located in an area identified for Stage 2 release as being suitable for subdivision into allotments of 4ha. The basis for inclusion of the area containing the subject land is to rationalise the minimum lot size that applies to other land zoned RU4 within the Shire without compromising any environmental values. (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 *Kempsey Local Environmental Plan 2013* is the primary mechanism for identifying the minimum permissible allotment sizes in different areas across the Shire.
- 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.
- Amendment of the Minimum Lot Size Map lends itself more readily to digital mapping which is the most common method for accessing information relating to land parcels.

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 2041*.

| NORTH COAST REGIONAL PLAN 2041 | COMMENT |
|---|---------|
| Goal 1: Liveable, Sustainable and Resilient | |
| Objective 1: Provide well located homes to meet demand | |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|--|--|---|
| Strategy 1.1 | A 10 year supply of zoned and developable residential land is to be provided and maintained in Local Council Plans endorsed by the Department of Planning and Environment | N/A |
| Action 1 | Establish the North Coast urban housing program | N/A |
| Strategy 1.2 | Local Council plans are to encourage and facilitate a range of housing options | N/A |
| Strategy 1.3 | Undertake infrastructure service planning to establish land can be feasibly serviced prior to rezoning | N/A |
| Strategy 1.4 | Councils to prioritise infill development in local housing strategies to achieve 40% target for region, including subregional collaboration | N/A |
| Strategy 1.5 | New rural residential housing is to be located on land which has been approved in an existing strategy endorsed by the Department of Planning and Environment and is to be directed away from the coastal strip. | The Planning Proposal is consistent with the <i>Kempsey Shire Rural Residential Land Release Strategy</i> which has been endorsed by the Department of Planning and Environment and the land is not located in the Coastal Zone. (See 'Section 4.2.2 - Question 4') |
| Strategy 1.6 | Council's and LALCs can partner to facilitate rural land sharing | N/A |
| Action 2 | Provide guidance to help councils plan for and manage accommodation options for seasonal and itinerant workers | N/A |
| Objective 2: Provide for more affordable and low cost housing | | |
| Action 3 | Establish Housing Affordability roundtables for Mid Northern Coast and Northern Rivers subregions | N/A |
| Objective 3: Protect regional biodiversity and areas of high conservation value | | |
| Strategy 3.1 | Strategic planning and local plans must consider opportunities to protect biodiversity values by: | |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|--------------------------------|--|--|
| | Focusing landuse intensification away from HEV land | Areas of the subject land with HEV (a non-EEC Scribbly Gum forest) are proposed to be protected by a restrictive covenant with no clearing required to establish the identified building envelopes. (See 'Section 4.3.1 – Question 8') |
| | Ensuring any impacts from proposed land use intensification on adjoining reserved lands or land that is subject to a conservation agreement are assessed and avoided. | Given the proximity of the Scribbly Gum forest, which is not an EEC, to the adjoining Maria National Park, a restrictive covenant is the most effective protective mechanism as Council does not favour the creation of C2 zoned 'islands' with the nearest C2 zoned land located approximately 3.5km to the east that is separated by rural zoned land. |
| | Encouraging and facilitating biodiversity certification by Councils at the precinct level scale for high growth areas and by individual land holders at the site scale, where appropriate. | Protection of existing vegetation by means of a restrictive covenant is the most appropriate means of protecting the environmental values of the land in the circumstances. |
| | Updating existing biodiversity mapping with new mapping in LEPs where appropriate. | There are no identified biodiversity values of the subject land that would require Council's biodiversity mapping to be amended. |
| | Identify HEV assets within the planning area and planning proposal stage through site investigations. | The site investigation undertaken indicates that subject land does not contain any EECs, however, an area of Scribbly Gum forest will be protected by a restrictive covenant. (See 'Section 4.3.1 – Question 8') |
| | Applying appropriate mechanisms to protect HEV land within a rezoning footprint. | No amendment to the RU4 zone is proposed. The restrictive covenant that may be in the form of a Section 88E Public Positive Covenant would be the most appropriate mechanism to be considered at DA stage. (See 'Section 4.3.1 – Question 8') |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|--|---|---|
| | Developing or upgrading koala habitat maps to strategically conserve koala habitat | The ecological assessment prepared in support of this planning proposal recommends protecting a small area of forest by means of a protective covenant, which is in accordance with the requirements of Council's koala plan of management. |
| | Consider marine environments, water catchment areas and groundwater sources to avoid potential development impacts. | N/A |
| Strategy 3.2 | Local plans and strategic plans should embed climate change knowledge and actions and consider climate change refuges for threatened and other key species. | The Scribbly Gum forest is well represented in the adjoining Maria National Park that represents a more strategic approach to this issue. |
| Objective 4: Understand, celebrate and integrate aboriginal culture | | |
| Strategy 4.1 | Council's to undertake cultural heritage mapping to protect culturally important sites. | The assessment carried out by the Kempsey Local Aboriginal Land Council indicates that the subject land does not contain any culturally important sites. (See 'Section 4.3.2 – Question 9 - Aboriginal Archaeology') |
| Strategy 4.2 | Consider dual names for important features | N/A |
| Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and Climate Change | | |
| Strategy 5.1 | Strategic plans to adopt principals in <i>Strategic Guide to Planning for Natural Hazards</i> | N/A |
| Strategy 5.2 | Complete hazard strategy where significant risk from natural hazard is known. | N/A |
| Strategy 5.3 | Use local strategic planning to adapt to climate change and associated natural hazards | N/A |
| Strategy 5.4 | Considerations for resilience and adaptation plans | N/A |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|---|--|--|
| Strategy 5.5 | Support Cultural Land Management practices | N/A |
| Action 4 | Work with councils to provide tools for risk management approach to natural hazard management | N/A |
| Objective 6: Create a circular economy | | |
| Strategy 6.1 | Support the development of a circular economy hubs, infrastructure and activities | N/A |
| Strategy 6.2 | Use strategic planning and waste management strategies to support a circular economy | N/A |
| Objective 7: Promote renewable energy opportunities | | |
| Strategy 7.1 | LEPs and strategic planning statements to support renewable energy infrastructure and identify and mitigate visual, local character and heritage impacts | N/A |
| Objective 8: Support the productivity of agricultural land | | |
| Strategy 8.1 | Local planning should protect and maintain the productive capacity of Important Agricultural Land in the region by directing urban, rural residential and other incompatible development away from important farmland. | The subject land has been identified in the <i>Kempsey Shire Rural Residential Land Release Strategy</i> for subdivision down to lots of 4ha, partly on the basis that the land is not mapped as containing Important Agricultural Land. |
| Objective 9: Sustainably manage and conserve water resources | | |
| Strategy 9.1 | Strategic planning and local plans should consider: | |
| | Opportunities to encourage riparian and coastal floodplain restoration | N/A |
| | Impacts to water quality from land use change | N/A |
| | Water supply availability | N/A |
| | Partnering with Aboriginal community | N/A |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|---|--|---|
| | Minimise impacts of development on water catchments | N/A |
| | Diversify town water sources | N/A |
| | Promote integrated water cycle management | N/A |
| | Encourage water reuse | N/A |
| | Improve stormwater management | N/A |
| | Ensure sustainability of high water use industries | N/A |
| | Protect drinking water | N/A |
| | Align local plans with certified Coastal Management Programs | N/A |
| Strategy 9.2 | Protect Marine Parks and coastal estuaries | N/A |
| Strategy 9.3 | Encourage whole of catchment management | N/A |
| Objective 10: Sustainably manage the productivity of our natural resources | | |
| Strategy 10.1 | Enable the development of the regions natural, mineral and forestry resources by avoiding interfaces with land uses that are sensitive to impacts from noise, dust and light interference. | The subject land is located adjacent to the Maria National Park and is not within proximity to any extractive industries or another other type of land use likely to generate dust, noise or light. |
| Strategy 10.2 | Plan for the ongoing productive use of lands with regionally significant construction material resources. | The subject land is not located within proximity to any lands with regionally significant construction material resources. |
| Goal 2: Productive and Connected | | |
| Objective 11: Support cities and centres and coordinate the supply of well-located employment land | | |
| Strategy 11.1 | Local council plans to reinforce cities and centres | N/A |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|---|--|---------|
| Strategy 11.2 | Strategic planning and land use plans to reinforce commercial centres | |
| | Simplify planning controls | N/A |
| | Developing active city streets | N/A |
| | Respond to changing retail environment | N/A |
| | Maximise transport and community facilities | N/A |
| Strategy 11.3 | Support existing and new economic activities by ensuring local strategic planning and local plans: | |
| | Protect significant employment lands | N/A |
| | Respond to characteristics of workforce in the LGA and neighbouring LGAs | N/A |
| | Identify local and subregional specialisations | N/A |
| | Address freight, service and delivery | N/A |
| | Identify future employment lands and align infrastructure | N/A |
| | Identify and service future employment lands | N/A |
| | Provide flexibility in local planning controls | N/A |
| | Respond to changes in industry | N/A |
| | Provide flexibility for commercial centres | N/A |
| | Focus future commercial and retail activity in existing centres | N/A |
| | Ensure feasibility of infrastructure for new employment lands | N/A |
| Strategy 11.4 | New employment areas strategy to be endorsed by Department of Planning and Environment | N/A |
| Objective 12: Create a diverse visitor economy | | |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|---|--|---|
| Strategy 12.1 | Council strategic planning and local plans to consider: | |
| | Enhance town centre precincts | N/A |
| | Create green spaces | N/A |
| | Support cultural activities | N/A |
| | Identify areas for tourist accommodation | N/A |
| | Protect heritage, biodiversity and agriculture to enhance cultural tourism, agritourism and ecotourism | The Planning Proposal demonstrates that these values will be protected. |
| | Partner with Aboriginal communities | N/A |
| | Support night time economy | N/A |
| | Provide flexibility for agritourism and ecotourism | N/A |
| | Improve connection to heritage | N/A |
| | Incorporate transport planning | N/A |
| Objective 13: Champion Aboriginal self-determination | | |
| Strategy 13.1 | Provide opportunities for LALCs to utilise the planning system | N/A |
| Strategy 13.2 | Prioritise unresolved land claims | N/A |
| Strategy 13.3 | Partner with Aboriginal community to align aspirations with strategic planning | N/A |
| Strategy 13.4 | Planning teams to engage with Aboriginal community | N/A |
| Strategy 13.5 | Councils to establish formal relationship with Aboriginal organisations | N/A |
| Action 5 | Department of Planning and Environment to work with LALCs, Native Title holders and councils. | N/A |
| Objective 14: Deliver new industries of the future | | |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|---|--|--|
| Strategy 14.1 | Facilitate agribusiness employment | N/A |
| Strategy 14.2 | Protect existing agricultural clusters from residential and rural residential land uses. | There are no agricultural clusters in proximity to the subject land. |
| Objective 15: Improve state and regional connectivity | | |
| Strategy 15.1 | Protect existing and proposed transport infrastructure from conflicting land uses | N/A |
| Objective 16: Increase active and public transport usage | | |
| Strategy 16.1 | Encourage active and public transport by: | |
| | Prioritising pedestrian amenity | N/A |
| | Provide network of pedestrian and cycle facilities | N/A |
| | Deliver accessible transit stops | N/A |
| | Incorporate new areas in bus contracts | N/A |
| | New development to include end of trip facilities | N/A |
| | Integrate active and public transport facilities | N/A |
| | Prioritise infill housing | N/A |
| Strategy 16.2 | Local plans to integrate land use and transport planning | N/A |
| Objective 17: Utilise new transport technology | | |
| Strategy 17.1 | Support new transport technology in local plans | N/A |
| Goal 3: Growth Change and Opportunity | | |
| Objective 18: Plan for sustainable communities | | |
| Action 6 | Undertake housing and employment land review | N/A |
| Objective 19: Public spaces and green infrastructure support connected and healthy communities | | |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|--|---|---------|
| Strategy 19.1 | Undertake public space needs analysis, including: | |
| | Seek community feedback on needs | N/A |
| | Prioritise new open space areas based on need | N/A |
| | Consider future needs | N/A |
| | Identify walkable connectivity improvements | N/A |
| | Link and enhance open space areas | N/A |
| | Work in partnership with local Aboriginal community | N/A |
| Strategy 19.2 | Public open space improvements to consider local conditions | N/A |
| Strategy 19.3 | Encourage use of council land for community events | N/A |
| Strategy 19.4 | LEP amendments to reclassify public open space to consider: | |
| | Role of land in network | N/A |
| | Strategic context | N/A |
| | Detail where proceeds of any land sales to be spent | N/A |
| | Net benefit or gain to open space | N/A |
| Objective 20: Celebrate local character | | |
| Strategy 20.1 | Ensure strategies and local plans recognise local character in accordance with guidelines | N/A |
| Strategy 20.2 | Celebrate buildings of local heritage significance by: | |
| | Retaining the existing use where possible | N/A |
| | Establish appropriate reuses | N/A |
| | Exploring history and significance | N/A |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|--------------------------------|--|--|
| | Consider temporary uses | N/A |
| | Design for future uses | N/A |
| Local Government Narratives | | |
| Regional Priorities | Support the growth and diversification of the Shire's agricultural base and encourage new opportunities for agribusiness and associated manufacturing and transport. | The Planning Proposal is not inconsistent with this priority |
| | Promote enterprising business and country lifestyle | N/A |
| | Promote indigenous cultural heritage. | N/A |
| Liveable and Resilient | Support environmentally sustainable development | The Planning Proposal is consistent with these priorities. |
| | Retain and protect biodiversity | |
| Productive and Connected | Support job opportunities in the West Kempsey Health and Education precincts. | N/A |
| | Develop enterprise corridor South Kempsey to Frederickton and employment land options for South West Rocks | N/A |
| | Support the sustainable use of farmland | N/A |
| | Expand nature-based tourism | N/A |
| Housing and Place | Deliver housing at South West Rocks, West Kempsey and South Kempsey | N/A |
| | Maintain character of towns and villages | N/A |



| NORTH COAST REGIONAL PLAN 2041 | | COMMENT |
|---|---|--|
| | Deliver rural residential housing opportunities across the LGA at Collombatti, Frederickton, Yarravel, Euroka, Dondingalong, Verges Creek, Crescent Head, South Kempsey, Yarrahapinni and Kundabung | The Planning Proposal is consistent with this priority being in accordance with the <i>Kempsey Shire Rural Residential Land Release Strategy</i> . |
| | Provide diverse housing opportunities. | N/A |
| Smart, Connected and Accessible (Infrastructure) | Foster a stronger subregional identity. | N/A |
| | Provide opportunities for jobs at Frederickton, Stuarts Point and south Kempsey by increasing connectivity | N/A |
| | Coordinate infrastructure delivery | N/A |

4.2.2 - Question 4 – *Is the planning proposal consistent with a council local strategic planning statement that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?*

Future Macleay Growth and Character - Local Strategic Planning Statement (July 2020)

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* as being suitable for subdivision into allotments of not 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).

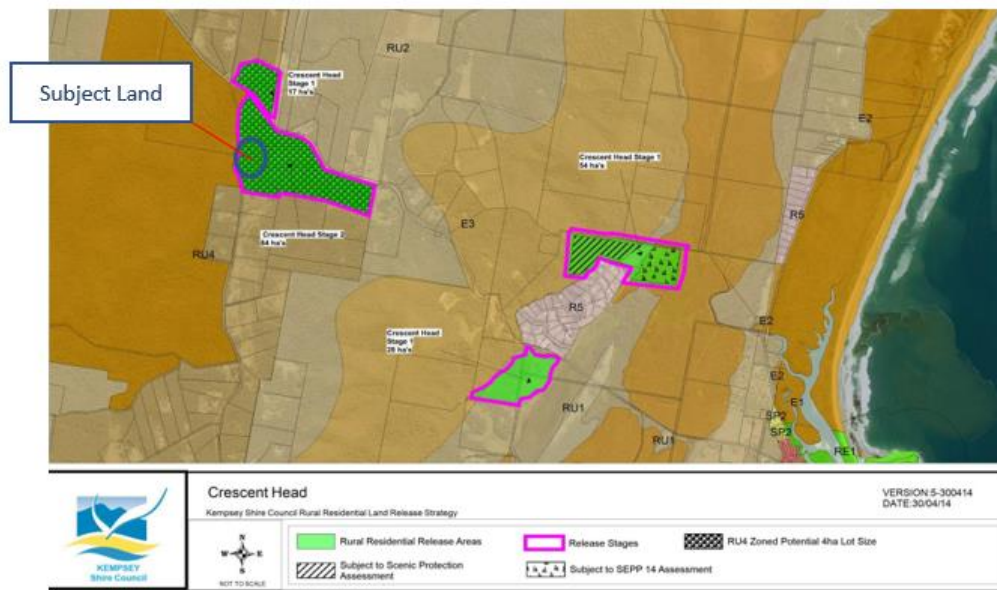


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Figure 6: Extract: Kempsey Shire Rural Residential Land Release Strategy



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

- The allotment immediately to the north of the subject land is the subject of a recently approved Planning Proposal (PP-2021-7144 – Notified as completed – epi2022-661 Map Amendment 3 – 2 November 2022) for a similar proposed 2 lot subdivision.

Figure 7: No. 1022 Crescent Head Road



- The area immediately to the north of the intersection of Beranghi Road and Crescent Head Road identified in *Kempsey Shire Rural Residential Land Release Strategy* as having an area of 17ha has potential for 1 additional lot on which a dwelling exists.



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Figure 8: Crescent Head Road North of Beranghi Road Release Area



- The subdivision known as the ‘Dulconghi Estate’ identified in *Kempsey Shire Rural Residential Land Release Strategy* 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 9: Dulconghi Estate Release Area

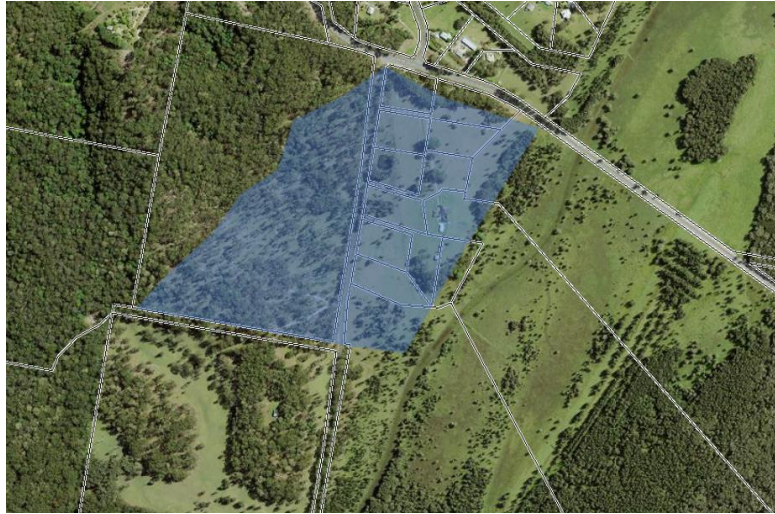


- The area on the corner of Maria River Road and Crescent Head Road identified in *Kempsey Shire Rural Residential Land Release Strategy* as having an area of 28ha has been subdivided into 14 allotments east of Maria River Road. The area west of Maria



River Road is likely to result in a reduced lot yield, having regard to vegetation and bushfire constraints.

Figure 10: Maria River Road Release Area



Although the Planning Proposal is consistent with the release staging of the *Kempsey Shire Rural Residential Land Release Strategy*, Clause 7.1 also provides criteria that are relevant to the consideration of the Planning Proposal.

| 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 potential for one additional 4ha lot and the area north of the Beranghi Road/ Crescent Head Road intersection, 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, extending from Crescent Head Road southward along Beranghi Road. 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 Beranghi Road that is 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. | Adjoining uses include Maria National Park to the west and rural residential allotments to the north, south and east, to which the proposed subdivision is compatible. |
| 4. The proposal will not result in any significant oversupply of land within the locality, having | Except for the potential for reducing the minimum lot size in the area serviced by Beranghi Road from 8ha to 4ha, the land at |



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| regard to any existing zoned land or approved subdivisions. | Crescent Head identified for Stage 1 release has largely been taken up. The contribution of the proposed two lot subdivision to the overall 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 attributes upon which the community relies. | The subject land contains ample cleared areas to facilitate the erection of additional dwellings in compliance with relevant bushfire guidelines and wastewater management requirements without the need for any clearing. (See 'Section 4.3.2 – Question 9') |
| 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 road, electricity and telecommunications 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 as:</p> <ul style="list-style-type: none"> • Rationalisation of access off Beranghi Road is achieved • 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 any other applicable State and regional studies or strategies?

The planning proposal is consistent with the *North Coast Regional Plan 2041*, as detailed in section 4.2.1 above. An assessment of the consistency with State strategies is detailed in section 4.2.4 below.

4.2.4 – Question 6 – Is the planning proposal consistent with applicable SEPPs?

The Planning Proposal has been assessed against the requirements of applicable State Environmental Planning Policies as follows:

| STATE ENVIRONMENTAL PLANNING POLICIES | | |
|--|---|--|
| Applicable State Environmental Planning Policy | | Comments |
| Biodiversity and Conservation (2021) | | |
| | Chapter 2 – Vegetation in Non-Rural Areas | N/A |
| | Chapter 3 – Koala Habitat Protection 2020 | N/A |
| | Chapter 4 - 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 all relevant requirements, noting that, with the exception of one tree, no clearing is required to facilitate the erection of future dwellings and an existing Scribbly Gum forest area will be protected by an appropriate title restriction. (See 'Section 4.3.1 – Question 8') |
| | Chapter 5 – River Murray Lands | N/A |
| | Chapter 6 – Bushland in Urban Areas | N/A |
| | Chapter 7 – Canal Estate Development | N/A |
| | Chapter 8 – Sydney Drinking Water Catchment | N/A |
| | Chapter 9 – Hawkesbury-Nepean River | N/A |
| | Chapter 10 – Sydney Harbour Catchment | N/A |
| | Chapter 11 – Georges River Catchment | N/A |
| | Chapter 12 – Willandra Lakes Region World Heritage Property | N/A |



| STATE ENVIRONMENTAL PLANNING POLICIES | | |
|--|--|--|
| | Chapter 13 – Strategic Conservation Planning | N/A |
| Resilience and Hazards (2021) | | |
| | Chapter 2 – Coastal Management | N/A |
| | Chapter 3 – Hazardous and Offensive Development | N/A |
| | Chapter 4 - Remediation of Land | To the best knowledge of the owner who has held the land since 1995, 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> . |
| Transport and Infrastructure (2021) | | |
| | Chapter 2 - Infrastructure | The proposed 2 lot subdivision is not a matter that is required to be referred to Transport for NSW. |
| | Chapter 3 – Educational Establishments and Child Care Facilities | N/A |
| | Chapter 4 – Major Infrastructure Corridors | N/A |
| | Chapter 5 – Three Ports – Port Botany, Port Kembla and Port of Newcastle | N/A |
| | Chapter 6 – Moorebank Freight Intermodal Precinct | N/A |
| Primary Production (2021) | | |
| | Chapter 2 - Primary Production and Rural Development | The provisions of Schedule 4 that apply to Planning Proposals involving subdivision and any subsequent dwelling that will be facilitated by the Planning Proposal do not apply to <i>Kempsey Local Environmental Plan 2013</i> . |
| | Chapter 3 – Central Coast Plateau Areas | N/A |



4.2.5 - Question 7 - 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(2) directions (issued on 21 October 2022) with the following matters being of relevance.

| Section 9.1(2) Ministerial Directions | | |
|---------------------------------------|---|---|
| Directions | | Comments |
| Focus Area 1: Planning Systems | | |
| 1.1 | 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. | |
| | Application This direction applies to a relevant planning authority when preparing a planning proposal for land to which a Regional Plan has been released by the Minister for Planning. | |
| | (1) 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 2041</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 Planning Secretary (or an officer of the Department nominated by the Secretary), that: | |
| | (a) the extent of inconsistency with the Regional Plan 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 the Regional Plan's 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 2041</i> . (See 'Section 4.2.1 – Question 3') |
| 1.2 | Development of Aboriginal Land Council Land – N/A | |
| 1.3 | Approval and Referral Requirements | |
| | Objective The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development. | |
| | Application This direction applies to all relevant planning authorities when preparing a planning proposal. | |
| | (1) A planning proposal to which this direction applies must: | |
| | (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 |



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| | | | Service, such that no specific provision is required. |
| | | (i) the appropriate Minister or public authority, and | N/A |
| | | (ii) the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A 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 Planning Secretary (or an officer of the Department nominated by the Secretary) 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 Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act. | N/A |
| | | Consistency A planning proposal must be substantially consistent with the terms of this direction. | This Planning Proposal is consistent with this Direction. |
| 1.4 | Site Specific Provisions | | |
| | Objective The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls. | | |
| | Application This direction applies to all relevant planning authorities when preparing a planning proposal that will allow a particular development to be carried out. | | |
| | (1) 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 <i>Kempsey Local Environmental Plan 2013</i> are required to facilitate this Planning Proposal. |
| | | (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use | No amendment of the existing RU4 zone is required to facilitate this Planning Proposal. |



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| | without imposing any development standards or requirements in addition to those already contained in that zone, or | |
| | (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 <i>Kempsey Local Environmental Plan 2013</i> without the need to include any site-specific development standard. |
| | (2) 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 <i>Kempsey Local Environmental Plan 2013</i> and is intended to be indicative of how relevant requirements can be met at DA stage. |
| | Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are of minor significance. | Although the Planning Proposal is consistent with this Direction, the proposed 2 lot subdivision is also of minor significance. |
| Focus Area 1: Planning Systems – Place-based | | |
| 1.5 | Parramatta Road Corridor Urban Transformation Strategy – N/A | |
| 1.6 | Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Strategy – N/A | |
| 1.7 | Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan – N/A | |
| 1.8 | Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan – N/A | |
| 1.9 | Implementation of Glenfield to Macarthur Urban Renewal Corridor – N/A | |
| 1.10 | Implementation of Western Sydney Aerotropolis Plan – N/A | |
| 1.11 | Implementation of Bayside West Precincts 2036 Plan – N/A | |
| 1.12 | Implementation of Planning Principles for Cooks Cove Precinct – N/A | |
| 1.13 | Implementation of St Leonards and Crows Nest 2036 Plan – N/A | |
| 1.14 | Implementation of Greater Macarthur 2040 Plan – N/A | |
| 1.15 | Implementation of the Pyrmont Peninsula Place Strategy – N/A | |
| 1.16 | North West Link Corridor Strategy – N/A | |
| 1.17 | Implementation of the Bays West Place Strategy – N/A | |
| 1.18 | Implementation of Macquarie Park Innovations Precinct – N/A | |
| 1.19 | Implementation of Westmead Place Strategy – N/A | |
| 1.20 | Implementation of the Camellia-Rosehill Place Strategy – N/A | |
| 1.21 | Implementation of the South West Growth Area Structure Plan | |
| Focus Area 2: Design and Place (Blank) | | |
| Focus Area 3: Biodiversity and Conservation | | |
| 3.1 | Conservation Zones | |



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| Objective The objective of this direction is to protect and conserve environmentally sensitive areas. | | |
| Application This direction applies when a relevant planning authority prepares a planning proposal. | | |
| | (1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. | <p>An assessment of the ecological impacts of the proposed 2 lot subdivision concludes that, with the exception of a single tree, no clearing is required to facilitate future dwellings, such that no impacts on any environmentally sensitive areas will result.</p> <p>Having regard to the size and isolation of the vegetation to be retained, zoning to an environmental protection zone is not justified in this instance and would result in poor planning outcomes by creating a C2 zoned 'island' that is incompatible with Council's Rural Residential Strategy. The identification of building envelopes that can be reinforced by an appropriate 88E Instrument through the DA process is the best means of protecting existing approximately 1.4 ha of Scribbly Gum forest that is intended to be retained. (See 'Section 4.3.1 – Question 8')</p> |
| | (2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation 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 Direction 9.2(2) "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 and is consistent with <i>Kempsey Shire Rural Residential Land Release Strategy</i> and Direction 9.2 'Rural Lands'. |
| Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (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 approved by the Planning Secretary 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. |



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| | | (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 subject land is specifically identified in the <i>Kempsey Shire Rural Residential Land Release Strategy</i> as being suitable for rationalising subdivision within the RU4 zoned land to permit subdivision into 4ha allotments. |
| | | (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or | Notwithstanding 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 9') |
| | | (c) in accordance with the relevant Regional Strategy, Regional Plan or District Plan prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or | This Planning Proposal is consistent with the relevant provisions of the <i>North Coast Regional Strategy 2041</i> . (See 'Section 4.2.1 – Question 3') |
| | | (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. |
| 3.2 | Heritage Conservation | | |
| | Objective The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. | | |
| | Application This direction applies to all relevant planning authorities when preparing a planning proposal. | | |
| | (1) 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 'Section 4.3.2 – Question 9 – Aboriginal Archaeology') | |
| | (c) Aboriginal areas, Aboriginal objects, Aboriginal places or | The site survey undertaken by the Kempsey Local Aboriginal Land Council confirms that | |



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| | 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. | there are no listed or identified items that are required to be protected. (See 'Section 4.3.2 – Question 9 – Aboriginal Archaeology') |
| Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) 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 | This Planning Proposal is consistent with this direction. |
| | (b) the provisions of the planning proposal that are inconsistent are of minor significance. | Although consistent with this direction, this Planning Proposal is also of minor significance. |
| 3.3 | Sydney Drinking Water Catchments – N/A | |
| 3.4 | Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs – N/A | |
| 3.5 | Recreation Vehicle Areas - N/A | |
| 3.6 | Strategic Conservation Planning – N/A | |
| 3.7 | Public Bushland | |
| 3.8 | Willandra Lakes Region | |
| 3.9 | Sydney Harbour Foreshores and Waterways Area | |
| 3.10 | Water Catchment Protection | |
| Focus Area 4: Resilience and Hazards | | |
| 4.1 | Flooding – N/A | |
| 4.2 | Coastal Management – N/A | |
| 4.3 | 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. | |
| | Application 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. This applies when the relevant planning authority is required to prepare a bush fire prone land map under section 10.3 of 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. | |
| | (1) 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 | |



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| consultation in satisfaction of clause 4, Schedule 1 of the EP&A Act, and take into account any comments so made. | | |
| (2) 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 9 – Bushfire Hazard’) |
| | (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and | The Bushfire Assessment Report indicates that the identified building envelopes for future dwellings, will comply with <i>Planning for Bushfire Protection 2019</i> . (See – ‘Section 4.3.2 Question 9 – Bushfire Hazard’) |
| | (c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ). | It is not intended to alter the existing RU4 zone which permits bushfire hazard reduction under clause 5.11 of Kempsey Local Environmental Plan 2013. |
| (3) 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 inner APZs with ample setback to Beranghi Road that can be incorporated within the identified building envelopes located wholly within the property. (See – ‘Section 4.3.2 Question 9 – Bushfire Hazard’) |
| | (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, | The Bushfire Assessment Report indicates that the required Outer Protection Areas can be achieved for the identified building envelopes without the need for any clearing, except for the maintenance of an existing grass covered area. (See – ‘Section 4.3.2 Question 9 – Bushfire Hazard’) |
| | (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, | N/A |



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| | (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, | The Bushfire Assessment Report indicates that this requirement is not applicable in this instance and includes the specifications for any internal driveways, noting that larger than required APZs are proposed with internal driveways to be constructed to the required standard, such that 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 9 – Bushfire Hazard') |
| | (d) contain provisions for adequate water supply for firefighting purposes, | 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 9 – Bushfire Hazard') |
| | (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, | The bushfire hazard perimeter is confined to the existing allotment for which building envelopes have been identified that comply with NSW Rural Fire Service requirements. (See – 'Section 4.3.2 Question 9 – Bushfire Hazard') |
| | (f) introduce controls on the placement of combustible materials in the Inner Protection Area. | The Bushfire Assessment Report includes the specifications for APZ establishment and maintenance 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 9 – Bushfire Hazard') |
| | Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) 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. | This Planning Proposal is consistent with relevant provisions of this direction and the advice of the Commissioner is therefore not required. A Bushfire Safety Authority is also required to be obtained at DA stage. |
| 4.4 | 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. | |



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| Application This direction applies when a planning proposal authority prepares a planning proposal that 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 has held the subject land since 1995 and advises that the land has not been used for any purpose listed in Table 1 of <i>Managing Land Contamination – Planning Guidelines</i> . |
| | (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 two dwellings for which building envelopes have been identified. (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 guidelines has been carried out, and | See above. |
| | (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). | The subject land has been selectively cleared and is suitable for low intensity grazing only, however, the land has not been used for such purposes since at least 1995. There is no obvious signs of any infrastructure or remnants of any development that indicates the land as having been used for any purposes listed 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 since 1995. 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. |
| (1) A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless: | | |



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| | (a) the planning proposal authority has considered whether the land is contaminated, and | No further investigations are required as the land has not been used for any uses listed in Table 1. |
| | (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 | N/A |
| | (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 (1)(c), the planning proposal authority may need to include certain provisions in the local environmental plan. | N/A |
| | (2) Before including any land specified 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 |
| 4.5 | 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. | |
| | Application This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils when preparing a planning proposal that will apply to land identified on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment. | |
| | (1) The relevant planning authority must consider the <i>Acid Sulfate Soils Planning Guidelines</i> adopted by the Planning Secretary 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. | |
| | (2) 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 <i>Acid Sulfate Soils Planning Guidelines</i> adopted by the Planning Secretary, or | The subject land is mapped as potentially containing Class 5 acid sulfate soils. The building envelopes identified to address bushfire and ecological constraints is well |



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| | | | clear of the areas that potentially contain acid sulfate soils and no lowering of the water table of affected soils will occur. (See' <i>Section 4.3.2 – Question 9 - Acid Sulfate Soils'</i>) |
| | | (b) other such provisions provided by the Planning Secretary that are consistent with the <i>Acid Sulfate Soils Planning Guidelines</i> . | 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 envelopes through the DA process. |
| | (3) | 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 Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 of the Act. | 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 9 – Acid Sulfate Soils') |
| | (4) | Where provisions referred to in 2(a) and 2(b) above 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 2(a) and 2(b). | N/A |
| | Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (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 study prepared in support of the planning proposal which gives consideration to the objective of this direction, or | This Planning Proposal is consistent with this direction. |
| | | (b) of minor significance. | Although the Planning Proposal is consistent with this Direction, the proposed 2 lot subdivision is of minor significance in respect |



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| | | | 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. |
| 4.6 | Mine Subsidence and Unstable Land – N/A | | |
| Focus Area 5: Transport and Infrastructure | | | |
| 5.1 | Integrated Land Use and Transport – N/A | | |
| 5.2 | Reserving Land for Public Purposes – N/A | | |
| 5.3 | Development Near Regulated Airports and Defence Airfields – N/A | | |
| 5.4 | Shooting Ranges – N/A | | |
| Focus Area 6: Housing | | | |
| 6.1 | Residential Zones – N/A | | |
| 6.2 | Caravan Parks and Manufactured Home Estates – N/A | | |
| Focus Area 7: Industry and Employment | | | |
| 7.1 | Business and Industrial Zones – N/A | | |
| 7.2 | Reduction in Non-hosted Short-term Rental Accommodation Period | | |
| 7.3 | Commercial and Retail Development Along the Pacific Highway, North Coast | | |
| Focus Area 8: Resources and Energy | | | |
| 8.1 | 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. | | |
| | Application This direction applies when a relevant planning authority prepares a planning proposal that would have the effect of: | | |
| | | (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. |
| | (1) In the preparation of a planning proposal affected by this direction, the relevant planning authority must: | | |
| | | (a) consult the Secretary of the Department of Primary Industries (DPI) to identify any: | |
| | | i. resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, and | There are no identified resources in proximity to the subject land. |
| | | ii. existing mines, petroleum production operations or extractive industries occurring in the area | There are no such operations in immediate proximity to the subject land. |



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| | | subject to the planning proposal, and | |
| | | (b) seek advice from the Secretary of DPI on the development potential of resources identified under (1)(a)(i), and | Noted. |
| | | (c) identify and take into consideration issues likely to lead to land use conflict between other land uses and: | |
| | | i. development of resources identified under (1)(a)(i), or | There are no identified resources in proximity to the subject land. |
| | | ii. existing development identified under (1)(a)(ii). | There are no such operations in immediate proximity to the subject land. |
| | (2) Where a planning proposal prohibits or restricts development of resources identified under (1)(a)(i), or proposes land uses that may create land use conflicts identified under (1)(c), the relevant planning authority must: | | |
| | | (a) provide the Secretary of DPI with a copy of the planning proposal and notification of the relevant provisions, | The planning proposal does not seek to prohibit or restrict development of resources and there are no identified resources or existing operations in proximity to the subject land. |
| | | (b) allow the Secretary of DPI a period of 40 days from the date of notification to provide in writing any objections to the terms of the planning proposal, and | Not required. |
| | | (c) include a copy of any objection and supporting information received from the Secretary of DPI with the statement to the Planning Secretary (or an officer of the Department nominated by the Secretary before undertaking community consultation in satisfaction of Schedule 1 to the Act. | Not required. |
| | Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary), that the provisions of the planning proposal that are inconsistent are of minor significance. | | Although this Planning Proposal is consistent with this direction, the proposed 2 lot subdivision is also of minor significance. |
| Focus Area 9: Primary Production | | | |
| 9.1 | Rural Zones | | |
| | Objective The objective of this direction is to protect the agricultural production value of rural land. | | |
| | Application 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). | | |
| | (1) A planning proposal must: | | |



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| | | (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 Planning Proposal will reduce the minimum lot size from 8ha to 4ha. |
| | Consistency A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (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 approved by the Planning Secretary which: | |
| | | (i) gives consideration to the objectives of this direction, | The Planning Proposal is consistent with the <i>Kempsey Shire Rural Residential Land Release Strategy</i> that was endorsed by the Planning Secretary. The subject land is consistent with the objective of this Direction as it does not contain any Important Agricultural Land. |
| | | (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and | This Planning Proposal identifies a particular parcel of land. |
| | | (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 District Plan prepared by the Department of Planning which gives consideration to the objective of this direction, or | N/A |
| | | (d) is of minor significance. | 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. |
| | | | |
| 9.2 | Rural Lands | | |
| | Objectives The objectives of this direction are to: <ul style="list-style-type: none"> (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, (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses, | | |



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| <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>Application</p> <p>This direction applies when a relevant planning authority prepares a planning proposal for land outside the local government areas of Lake Macquarie, Newcastle, Wollongong and LGAs in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury, 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, C1, C2, C3, C4</p> | | |
| (1) A planning proposal must: | | |
| | (a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement | This Planning Proposal is consistent with the relevant requirements of <i>North Coast Regional Plan 2041, Future Macleay Growth and Character Local Strategic Planning Statement (July 2020) and Kempsey Shire Rural Residential Land Release Strategy</i> . (See 'Section 4.2.1 – Question 3' and Section 4.2.2 – Question 4') |
| | (b) consider the significance of agriculture and primary production to the State and rural communities | 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. |
| | (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 | 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 8') |
| | (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 | The existing lot, which is approximately 8ha in area, is gently undulating and partly cleared with unconstrained building envelopes identified for any future dwellings. Specialist reports are provided in support of the Planning Proposal relating to bushfire, effluent disposal, Aboriginal archaeology and ecology that demonstrate the subject land is not subject to any physical 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, | The proposed 4ha allotments are large enough to provide for innovative rural |



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| | innovative and sustainable rural economic activities | activities that do not require highly productive agricultural land. |
| | (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, Maria 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 Chapter 2 of <i>State Environmental Planning Policy (Primary Production) 2021</i> 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. |
| | (2) A planning proposal that changes the existing minimum lot size on land within a rural of conservation zone 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 | <p>Council has adopted a strategic approach to allowing smaller lot subdivision of rural lands identified in the <i>Kempsey Shire Rural Residential Land Release Strategy</i>.</p> <p>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.</p> |
| | (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 | 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 |



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| | essential to rural industries or supply chains. | 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 Beranghi Road that is constructed and maintained by Council to bitumen sealed standard. 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') |
| 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 of the relevant Local Environmental Plan. Relevant principles include: | | |
| | (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 the <i>Kempsey Shire Rural Residential Land Release Strategy</i> . (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 dwellings can be located on the proposed allotments without impacting on any adjoining rural land uses, whilst complying with bushfire, effluent disposal and ecological 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 envelopes, that can be incorporated in any future plan of subdivision at DA stage, demonstrate 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 9 – 'Bushfire Hazard' and 'Effluent Disposal') |
| Consistency | | |



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| | A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (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 approved by the Planning Secretary and is in force which: | |
| | (i) gives consideration to the objectives of this direction, | The Planning Proposal is consistent with the <i>Kempsey Shire Rural Residential Land Release Strategy</i> that was endorsed by the Planning Secretary. The subject land is consistent with the objective of this Direction as it is consistent with the Rural Subdivision Principles. |
| | (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and | This Planning Proposal identifies a particular parcel of land. |
| | (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. |
| 9.3 | Oyster Aquaculture – N/A | |
| 9.4 | Farmland of State or Regional Significance on the NSW Far North Coast – N/A | |

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

4.3.1 - Question 8 - *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 (October 2022) that addresses all relevant requirements is attached to this Planning Proposal, that addresses the requirements of the:

- *Biodiversity Conservation Act, 2016* Test of Significance
- *Biodiversity Regulation 2017*
- *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 Concept Plan of Subdivision provided at *Figure 3* was determined, in part, by the need to consider the potential impacts of any future clearing, including clearing under the NSW RFS *Rural Boundary Clearing Code*. A primary objective of this Planning Proposal is to minimise potential impacts by avoidance, including the placement of the proposed subdivision boundary so as to avoid any potential for clearing incidental clearing adjacent to the boundary.

The report concludes that on the basis that the proposed building envelopes have previously been cleared and are vegetated with a mix of native and exotic grassland, with one(1) only Scribbly Gum impacted, minimal required clearing to provide for driveway crossings and an area proposed to be set aside via a protective covenant as koala habitat, the proposed subdivision:



- 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.
- Will not result in any significant impact on any threatened fauna species.
- Will not have any significant impact on any Matter of National Environmental Significance.
- Will not require referral to DEECW or a BDAR.

It is intended to submit the report in support of a DA for subdivision following amendment to KLEP 2013, including implementation of all recommendations contained in the report.

Figure 11: View towards the east across proposed Lot 1A



Figure 12: View towards south-east across proposed Lot 1B



(See Attachment – ‘*Ecological Assessment for Proposed Subdivision – Lot 1 DP842144 Beranghi Road – WolfPeak (October 2022)*’)

4.3.2 - Question 9 - 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 supports the proposed subdivision, subject to:

- A KLALC Site Officer being notified of any proposed disturbance of the higher section of the ridge.
- All work is to cease if any Aboriginal artefact is detected following soil disturbance, including the specified process for notification which reflects the requirements of the National Parks and Wildlife Act, 1974

(See attachment – ‘*Aboriginal Cultural Heritage Assessment Report - Kempsey Local Aboriginal Land Council (September 2022)*’ and ‘*Aboriginal Heritage AHIMS Report (September 2022)*’)

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 (PBP 2019)*.

The report demonstrates that all requirements can readily be achieved to support both identified building envelopes 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, subject to:

- Adoption of the requirements of Isolated Subdivision 5.1.1 of PBP 2019.
 - Larger APZs as specified
 - Building to BAL 29
 - Firefighting water supply and equipment as specified
- Road access to comply with Table 3b of PBP 2019:
 - Roads to cater for 23,000 tonne firefighting vehicles
 - 4m carriageway
 - 4m vertical clearance
 - Suitable turning areas as specified
 - Minimum 6m radius curves
 - Minimum distance between inner and outer curves of 6m
 - Not more than 10 degrees crossfall
 - Maximum grade of unsealed road of 10 degrees
- 30,000L water supply
 - All external above ground service pipes to be metal
 - Water for firefighting purposes to be as per Table 5.3d of PBP 2019 to be located within the IPA as specified



- Metal ball-valves and supply pipes as specified
- Underground tanks to have 200mm opening and marked
- Hardstand area within 4m to firefighting trucks
- Above ground water storage tanks to be concrete or metal
- Tank stands to be of non-combustible material
- Unobstructed access
- Water pumps as specified
- Fire hose reels as specified
- Electricity supply, either underground or overhead as specified
- Any gas supply to be as per AS1569:2014
- Landscaping as per Appendix 4 of PBP 2019
- Dwellings to be constructed to BAL 29
- Fencing to be hardwood or non-combustible material
- Development of an Emergency Evacuation Plan

(See attachment – ‘*Bushfire Assessment Report – Midcoast Building and Environmental (October 2022)*’)

Onsite Wastewater Management

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, subject to:

- Primary Treatment by 3000L septic tank and evapotranspiration beds (ETA beds)
- ETA beds constructed as specified
- Excavate techniques as specified
- ETA beds buffers from boundaries, dams and drainage channels as specified
- Identification of a reserved area to duplicate the ETA beds.

(See attachment – ‘*Onsite Wastewater Management Assessment Report - Midcoast Building and Environmental (October 2022)*’)

Traffic

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

It is proposed that all access to the identified building envelopes will be via driveway crossings to Beranghi Road. The proposed access points that were chosen, in part, to minimise the need for clearing, provide excellent sight distances in both a northerly and southerly direction of approximately 150m to 250m.



Figure 13: Northern frontage to Beranghi Road



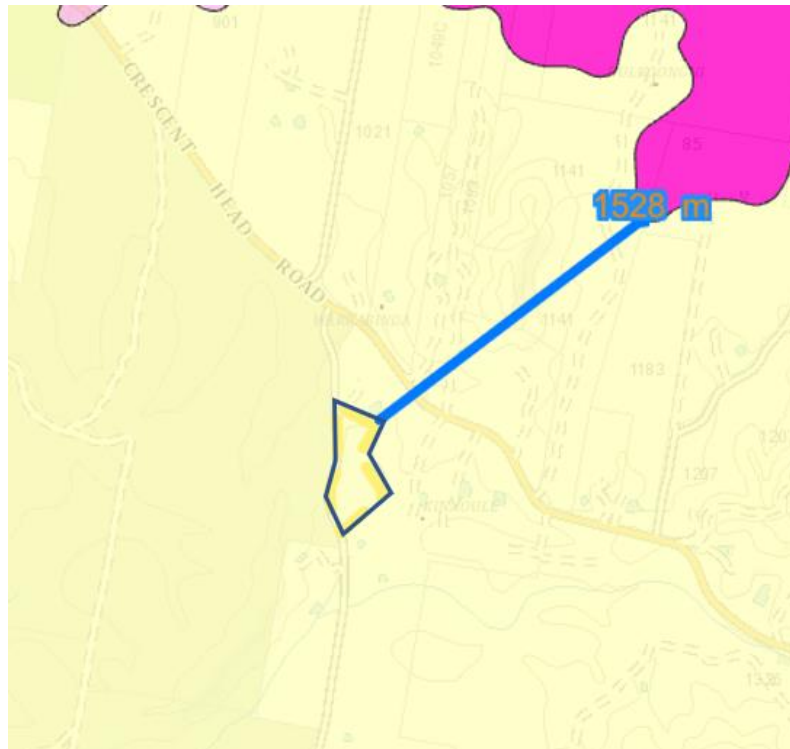
Figure 14: Southern frontage to Beranghi Road



Acid Sulfate Soils

The subject land is mapped under KLEP 2013 as potentially containing Class 5 Acid Sulfate Soils (ASS).

Figure 15: 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 20mAH
- No works are required either at subdivision or future dwelling stage that would lower the water table.

Therefore, the proposed subdivision and subsequent future dwellings 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 1mAH.

Visual Impacts

The subject land does not occupy any prominent ridgeline and is surrounded by Scribbly Gum forest that provides an effective visual screen to the identified building envelopes from Beranghi Road and from existing adjoining dwellings. The subject land is not visible from any public places or viewing areas and future dwellings will result in minimal visual impacts.



4.3.3 - Question 10 - 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 11 - 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
- Reticulated electricity
- telecommunications

4.4.2 - Question 12 - What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway Determination?

Although it is noted that this will be determined following referral by Council to relevant agencies, early scoping investigations determined that referral to agencies prior to submitting the Planning Proposal was not necessary in this instance for the following reasons:

- The lack of any required clearing (except for 1 only Scribbly Gum) to be more than compensated by retention of the forest area and general findings of the Wolf Peak report as reasons for determining that pre-referral to Biodiversity and Conservation is not required. (See Attachment – ‘*Ecological Assessment for Proposed Subdivision – Lot 1 DP842144 Beranghi Road – WolfPeak (October 2022)*’)
- Being for 1 additional lot only and as the bushfire assessment was prepared by an accredited bushfire consultant, pre-referral to the NSW RFS is unnecessary. (See attachment – ‘*Bushfire Assessment Report – Midcoast Building and Environmental (October 2022)*’)
- The lack of any identified Aboriginal relics, as confirmed by the Kempsey Local Aboriginal Land Council report. (See attachment – ‘*Aboriginal Cultural Heritage Assessment Report - Kempsey Local Aboriginal Land Council (September 2022)*’ and ‘*Aboriginal Heritage AHIMS Report (September 2022)*’)
- Council did not identify any pre-referral requirements in its Pre-lodgement Advice to the owner.
- Consideration of referral requirements contained in relevant State Environmental Planning Policies indicating that the proposed development is below referral thresholds.
- Consideration of the requirements and comments of the two agencies Biodiversity and Conservation and NSW Rural Fire Service in respect to an almost identical Planning Proposal involving very similar issues for a recently approved Planning Proposal on the adjoining lot.

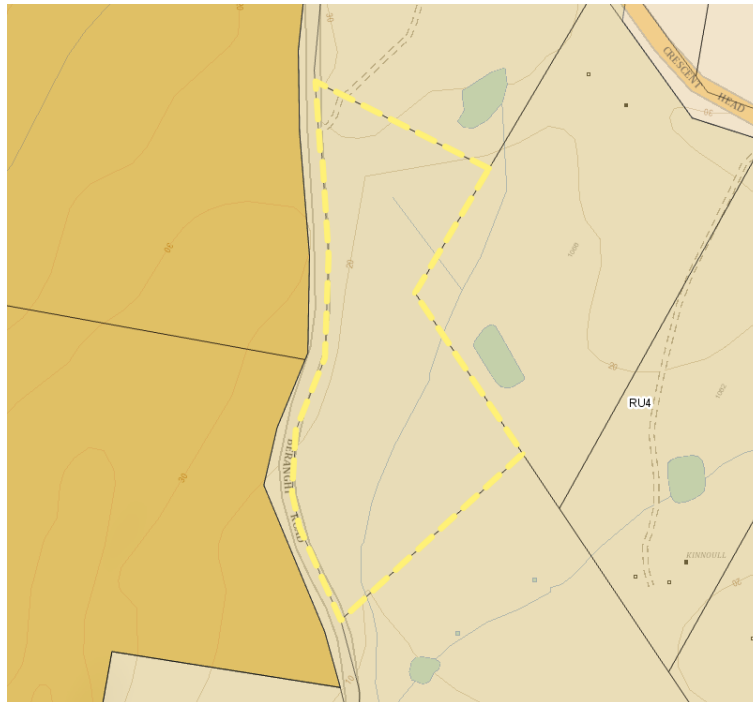


5.0 Maps

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 16: Source ePlanning Spatial Viewer KLEP 2013 Land Zoning Map



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.



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Figure 17: Source ePlanning Spatial Viewer- Lot Size Map 12 KLEP 2013



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

The development standard proposed to be changed relates to the minimum permissible lot size from 8ha to 4ha to be achieved by an amendment to Lot Size Map 12.

Figure 18: Proposed Revised Lot Size Map 12



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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
- 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 Benchmarking Timeframes contained in the guidelines and Council Procedure 1.1.9 Rezoning Applications.

| Task | Responsibility | Expected Period |
|--|----------------|-----------------|
| Pre-lodgement | Applicant | Completed |
| Planning Proposal submitted to Council | Applicant | Completed |
| Planning Proposal | Council | Completed |
| Gateway Determination | DPE | Completed |
| Post-Gateway | Council | 20 days |
| Revised Planning Proposal | Applicant | 19 April 2023 |
| dates for public hearing (if required) | Council | N/A |
| Public Exhibition and Assessment | Council | 30 days |
| Consultation and Assessment | Council | 40 days |
| Finalisation | Council | 25 days |
| Expected Completion | | 19 October 2023 |

