



IRF22/510

## Gateway determination report – PP-2022-529

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To schedule additional permitted uses on part of Lots 1 and 2 DP 1144474, off Old Aerodrome Road, Aldavilla to support the development of the Macleay Valley Adventure and Recreation Park

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## Acknowledgment of Country

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

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal – Version 3 and dated February 2022
Traffic Impact Assessment dated 26 November 2020
Acoustic Report dated 15 March 2022
Bushfire Assessment dated June 2020 amended December 2020
Geotechnical Assessment dated 13 August 2021
Aboriginal Cultural Heritage Assessment dated February 2022

# 1 Planning proposal

## 1.1 Overview

Table 2 Planning proposal details

<b>LGA</b>	Kempsey
<b>PPA</b>	Kempsey Shire Council
<b>NAME</b>	To schedule additional permitted uses on part of Lots 1 and 2 DP 1144474, off Old Aerodrome Road, Aldavilla to support the development of the Macleay Valley Adventure and Recreation Park
<b>NUMBER</b>	PP-2022-529
<b>LEP TO BE AMENDED</b>	Kempsey LEP 2013
<b>ADDRESS</b>	off Old Aerodrome Road, Aldavilla
<b>DESCRIPTION</b>	Part of Lots 1 and 2 DP 1144474
<b>RECEIVED</b>	18/02/2022
<b>FILE NO.</b>	IRF21/510
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

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

The objective of the proposal is to permit with consent, recreation facilities (indoor), serviced apartments, hotel and motel accommodation and backpackers accommodation on part of Lots 1 and Lot 2 DP 1144474, off Old Aerodrome Road, Aldavilla to support the development of the Macleay Valley Adventure and Recreation Park.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The objectives of the planning proposal will be achieved by amending the Kempsey LEP 2013 as follows:

- Schedule 1 Additional permitted uses to permit recreation facilities (indoor), serviced apartments, hotel and motel accommodation and backpackers accommodation with consent on part of Lots 1 and Lot 2 DP 1144474, off Old Aerodrome Road, Aldavilla; and
- Additional Permitted Uses Map (new map sheet APU\_011) to identify the parts of Lots 1 and 2 DP 1144474 ,off Old Aerodrome Road, Aldavilla.

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

There are no proposed changes to the land zoning or development controls applicable to the land.

## 1.4 Site description and surrounding area

The planning proposal relates to part of Lot 1 and part of Lot 2 DP 1144474, off Old Aerodrome Road, Aldavilla. The land comprises part of the Kempsey Airport, and is located approximately 6kms west of Kempsey (Figure 1). The Macleay River is approximately 1km to the east of the subject site and is predominantly cleared of vegetation.

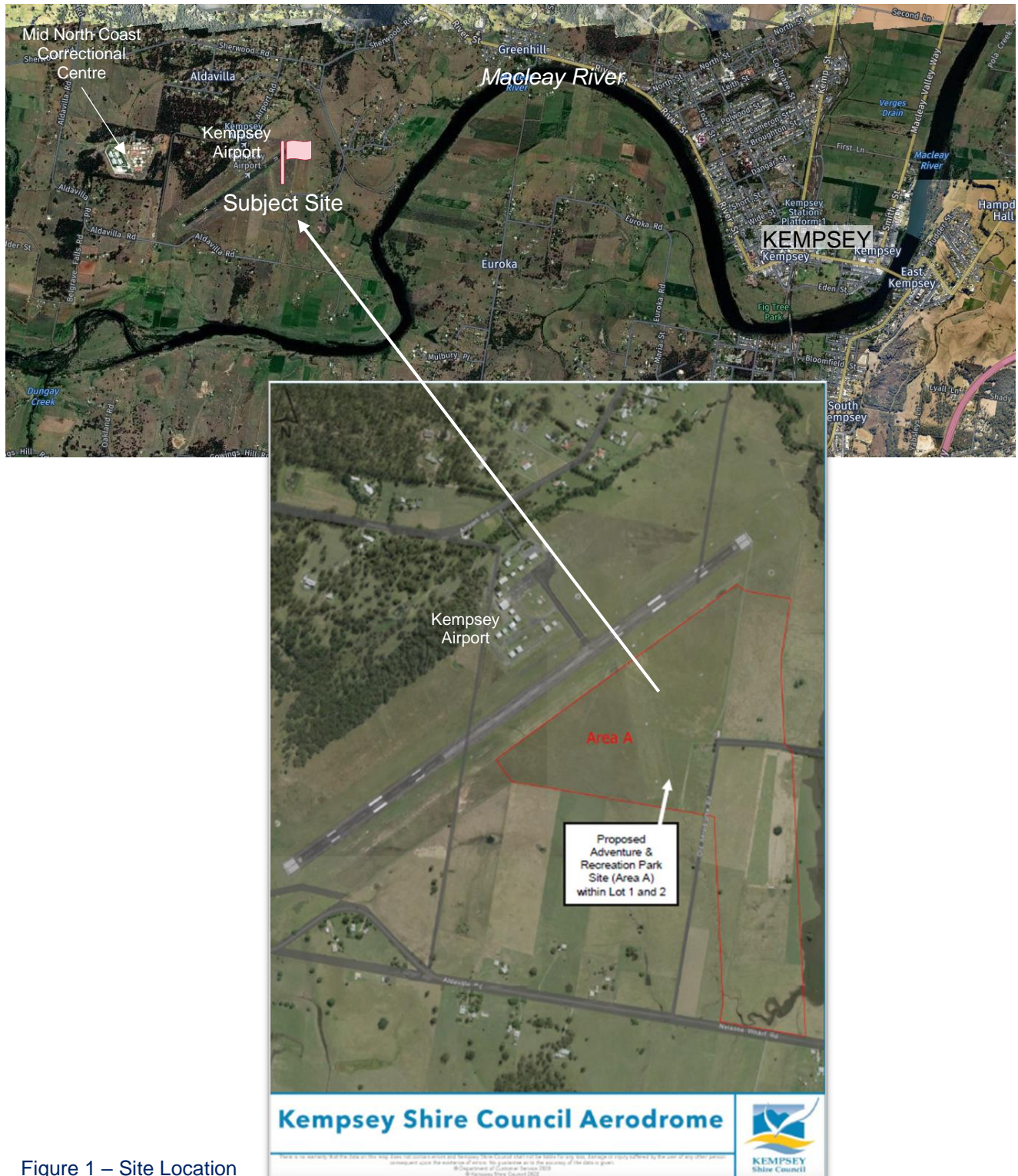


Figure 1 – Site Location  
Source – NearMap & Planning Proposal



## 1.5 Existing Planning Controls

The land is zoned part RU1 Primary Production and part RU2 Rural Landscape pursuant to the Kempsey LEP 2013. The minimum lot size specified by the Lot Size Map is 40 hectares (Figure 2)

The land is mapped as bushfire prone (Figure 2).

The southern corner of the site contains important farmland and areas of potential High Environmental Value (HEV) as mapped in the North Coast Regional Plan (NCRP) 2036 (Figure 3).

Warnes Creek runs in a north/south direction approximately 250m from the eastern side of the site and is identified on the Biodiversity Values Map (Figure 3).

The land is flood prone (Figure 3).

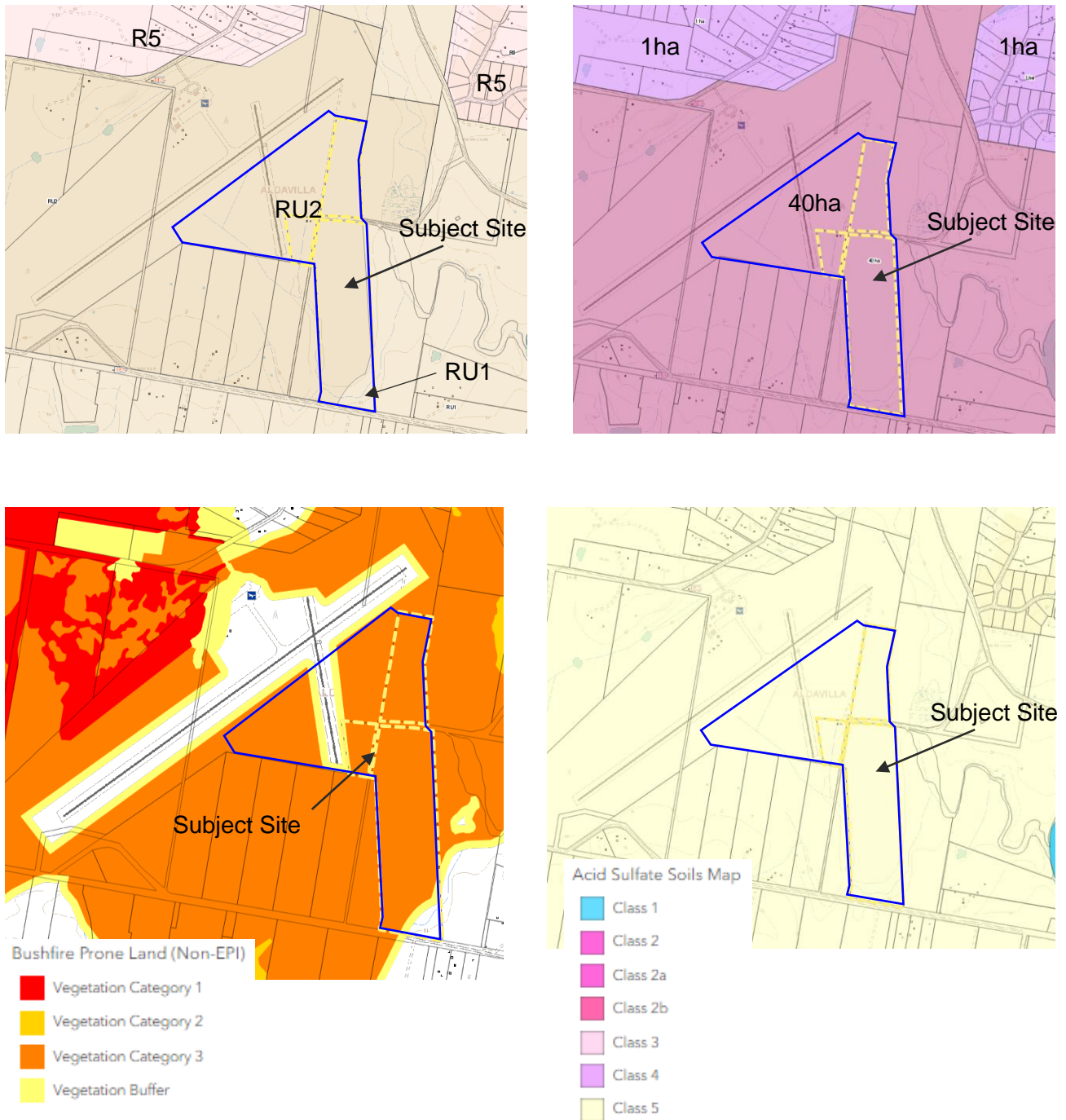
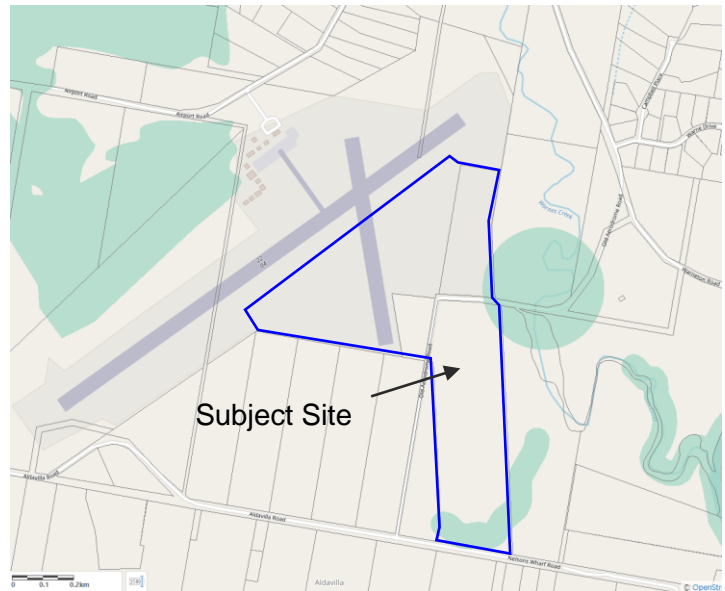
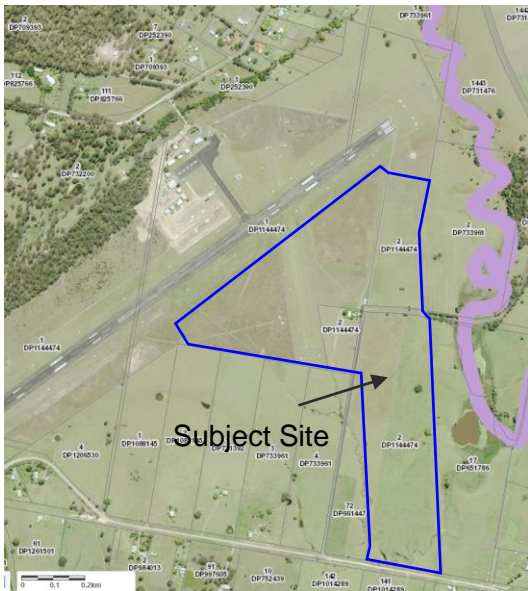


Figure 2 – Existing Planning Controls  
Source – ePlanning Spatial Viewer

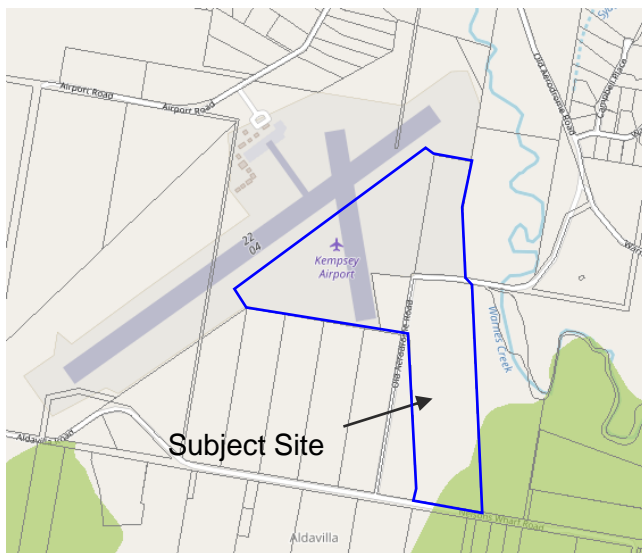


#### Biodiversity Values

Clause 7.3(3) of the Biodiversity Conservation Regulation 2017

#### High Environmental Value Land

North Coast Regional Plan 2036



#### Important Farmland

North Coast Regional Plan 2036



### Figure 3 – Environmental constraints

Source – NCRP 2036 & Biodiversity Values Map Viewer

- ☒ Kempsey CBD 1% AEP Flood
- ☒ Kempsey CBD Probable Maximum Flood
- ☒ Land Prone to Flooding
- ☒ Flood Prone Land

## 1.6 Mapping

The planning proposal includes a draft Additional Permitted Uses Map (Figure 4) which is considered to be suitable for consultation.

An Additional Permitted Uses Map consistent with the Standard Technical Requirements will need to be prepared prior the making of the LEP amendment.



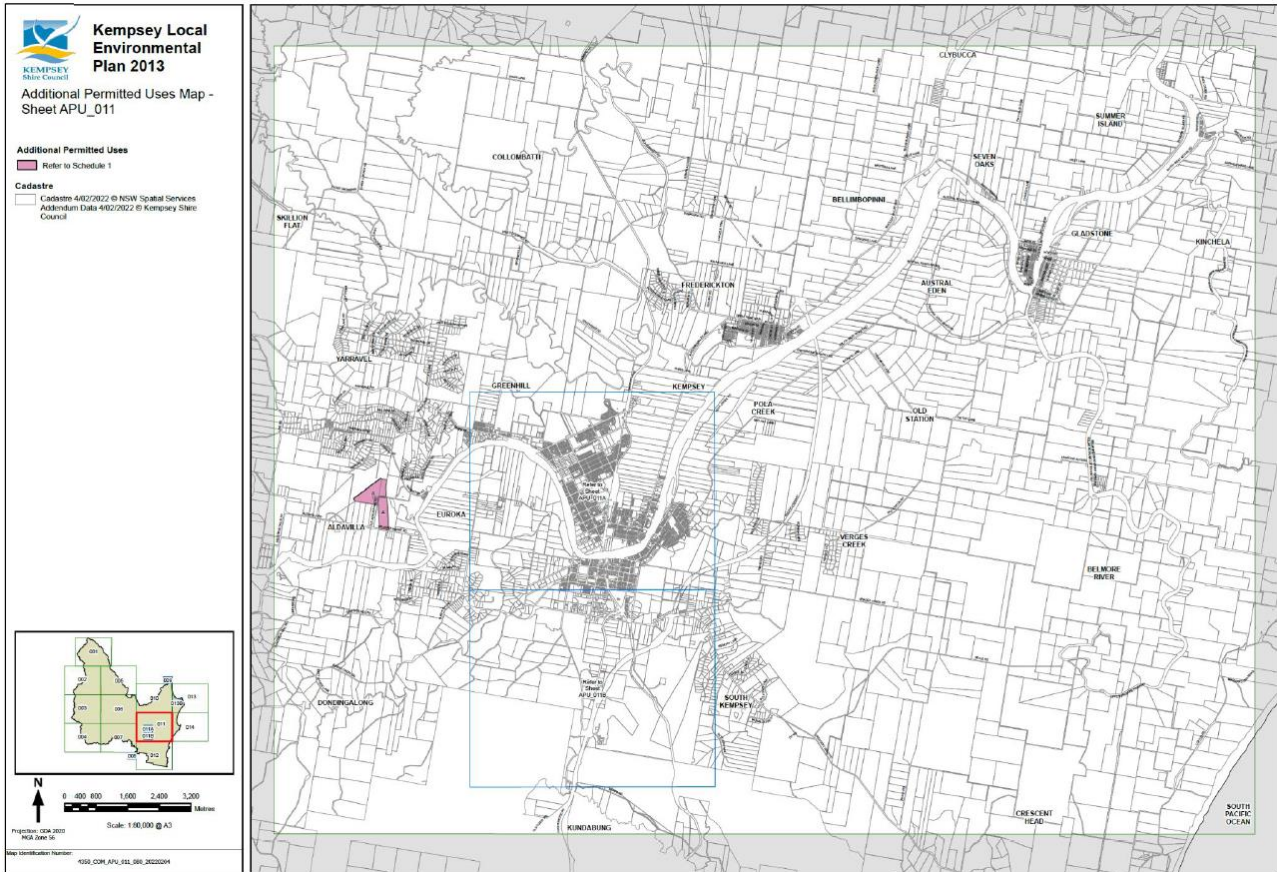


Figure 4 – Additional Permitted Uses Map  
Source –Planning Proposal

## 1.7 Background

Kempsey Shire Council has received \$11 million in State and Federal Government funding to construct the Macleay Valley Recreation and Adventure Park.

## 2 Need for the planning proposal

Council has identified the Macleay Valley Recreation and Adventure Park as a 'Game Changer Project' in the Macleay Valley Coast Destination Management Plan 2019-2029 and the Horizon 2030 Economic Development and Tourism Strategy Action Plan. The proposal also aligns with the Kempsey Local Strategic Planning Statement which contains a planning priority which aims to enable tourism.

The airport is zoned part RU1 Primary Production and part RU2 Rural Landscape which permit some of components of the Macleay Valley Recreation and Adventure Park with consent. However, other components such as recreation facilities (indoor), serviced apartments, hotel and motel accommodation and backpackers accommodation are prohibited in these zones.

To include recreation facilities (indoor), serviced apartments, hotel and motel accommodation and backpackers accommodation in Schedule 1 as additional permitted uses (APU) will support the development of the land for the Macleay Valley Recreation and Adventure Park without compromising the objectives of the rural zones or impacting the balance of the lots. It is also considered that no other alternate zone for the proposal is suitable in the circumstances, and that the proposal and an APU is the best means of achieving the objectives and intended outcomes of the proposal.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan (NCRP) 2036.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Direction 3: Manage natural hazards and climate change	The proposal is potentially inconsistent with this Direction as the land is flood prone and further consideration is required in relation to the flood hazard. The planning proposal indicates that consultants have been engaged to prepare a Flood Impact Assessment. It is recommended that the Gateway determination be conditioned to require that a report be prepared in relation to flooding and that consultation is undertaken with the State Emergency Service (SES) and the Division of Biodiversity and Conservation (BCD) to confirm the suitability of the proposal.
Direction 6: Develop successful centres of employment	The planning proposal is consistent with this Direction. Action 6.1 is to facilitate economic activity around industry anchors such as health, education, and airport facilities by considering new infrastructure needs and introducing planning controls that encourage clusters of related activity. The facility is to be located at Kempsey Airport and will be the only one of its kind in the country. As there are no commercial flights operating from this airport, Kempsey has a competitive advantage to provide opportunities for activities such as canopy swooping.
Direction 8: Promote the Growth of Tourism	<p>The planning proposal is consistent with this Direction. The Macleay Valley Recreation and Adventure Park is intended to be a multi-functional, integrated facility that is proposed to incorporate skydiving and indoor rock climbing, along with canopy piloting, a BMX pump track, tourist accommodation and training facilities. The canopy swoop pond is also intended to be used to teach flat water kayaking, small craft sailing and kids' fun water-based activities. The facility will be designed to host State, National and International Sporting Competitions and cater to a wide demographic of participants from around the country and internationally.</p> <p>The planning proposal indicates that the Macleay Valley Recreation Adventure Park will be a major attraction in the region and will help promote the Macleay Valley to tourists as an adventure sports capital in regional New South Wales, as well as creating jobs and providing a fun and safe place for the local community.</p>
Direction 11: Protect and enhance productive agricultural lands	<p>The planning proposal is not inconsistent with this Direction. The subject site is zoned part RU1 Primary Production (approximately 1.8ha) and part RU2 Rural Landscape. The site contains a small pocket of Regionally Significant Farmland (Figure 5) which was identified in the Mid North Coast Farmland Mapping Project (2008) (MNCFMP) and subsequently mapped in the NCRP as important farmland.</p> <p>The NCRP recognises that agricultural production may not be suitable on some small pockets of important farmland due to non-biophysical factors that make the land more suited to other uses. The interim important farmland variation criteria contained in Appendix B of the NCRP must be used to assess the suitability of these pockets of land for non-agricultural land use.</p>

Regional Plan Objectives	Justification
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Appendix B Important Farmland Interim Variation Criteria

**Agricultural capability:** The planning proposal applies to an area of land which is predominantly zoned RU2 Rural Landscape with a small section zoned RU1 Primary Production (1.8ha). The area of land zoned RU1 is mapped as regionally significant farmland and adjoins areas of important farmland to the south. However, due to the small size and location within the Kempsey Airport, it is considered that the important farmland is unlikely to be capable of sustaining agricultural production. It is recommended that consultation is undertaken with the Department of Primary Industries- Agriculture (DPI).

**Land use conflict:** The proposal is unlikely to increase the likelihood of conflict or impact on current or future agricultural activities in the locality. The proposal aims to help facilitate recreation facilities (indoor), serviced apartments, hotel and motel accommodation and backpackers accommodation which will be used on a temporary or short term basis.

**Infrastructure:** The provision and funding of State infrastructure is not necessary for this proposal. With respect to local infrastructure, Council has indicated that the infrastructure required to service the proposal is in place. A Traffic Impact Assessment was prepared to support the proposal and includes recommendations for the upgrade of the local road network. The report also identifies that major event planning will determine if temporary traffic management will be required to manage increased traffic volumes and queueing, and overflow parking over and above the numbers required for the normal operation. It is recommended that as a condition of the Gateway determination that consultation is undertaken with Transport for NSW to confirm the suitability of the proposal.

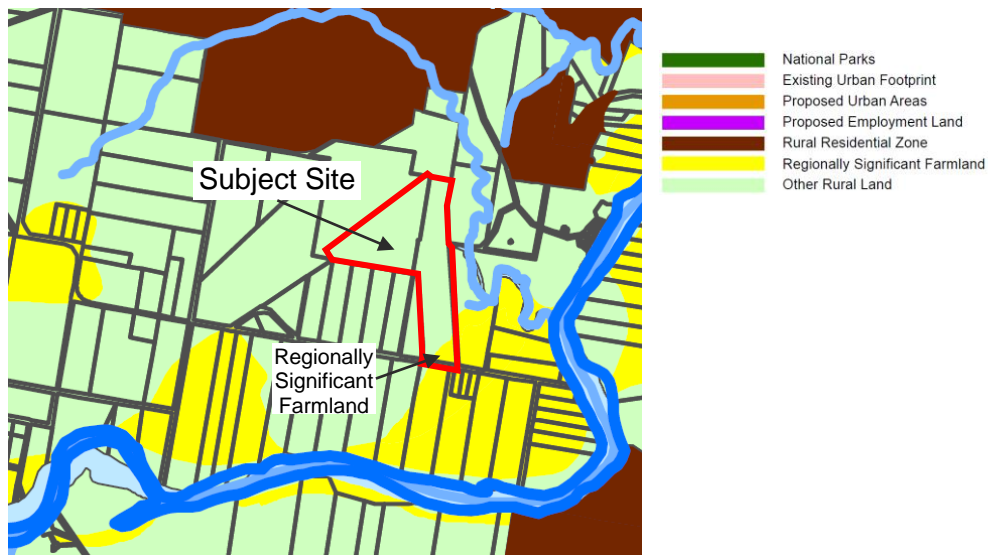


Figure 5 – Mid North Coast Farmland Mapping Project (2008)

**Environment and heritage:** These matters are discussed in sections 3.1 and 4 of this report. It is recommended that consultation is undertaken with the BCD and the Local Aboriginal Land Council (LALC) to confirm the suitability of the proposal.

**Avoiding risk:** The risks associated with the land are discussed in sections 3.1 and 4 of this report. It is recommended that consultation is undertaken with the Rural Fire Service (RFS), SES and BCD to confirm the suitability of the proposal.

Regional Plan Objectives	Justification
Direction 14: Provide great places to live and work	The planning proposal is consistent with this Direction. The proposal identifies the benefits of an uplift in the value of economic activity generated by increased visitation and expenditure to the region and associated employment generation, with an estimated 39 new full time equivalent jobs.
Direction 15: Develop healthy, safe, socially engaged, and well-connected communities	The planning proposal is consistent with this Direction. The Macleay Valley Recreation and Adventure Park will offer the local community an opportunity for involvement in outdoor and indoor recreational activities.
Direction 18: Respect and protect the North Coast's Aboriginal Heritage	<p>The proposal is potentially inconsistent with this Direction as further investigation is required in relation to Aboriginal cultural heritage. Action 18.1 seeks to ensure that Aboriginal objects and places are protected, managed and respected.</p> <p>The proposal includes an Aboriginal Cultural Heritage Assessment which concludes that ground disturbing works within the project area are unlikely to impact on Aboriginal objects and will not impact on any known places or sites of cultural significance to the Aboriginal community. It also includes recommendations as a precautionary measure to mitigate impacts to potential Aboriginal heritage values during construction. However, the report does not address the whole of the planning proposal area. As such, the report will need to be updated prior to agency and community consultation. It is also recommended that consultation is undertaken with Heritage NSW and the LALC to confirm the suitability of the proposal.</p>
Local Government Narratives	The proposal is consistent with the economy and employment narrative which nominates that opportunities should be identified to expand nature based, adventure and cultural tourism.

## 3.2 Local

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

Table 4 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement (LSPS)	The planning proposal is consistent with the Your Future Macleay – Growth & Character Local Strategic Planning Statement. Planning Priority W2 is to enable the growth of tourism. Action W2.2 is to regularly review Council's local planning controls to ensure that it enables a variety of tourism opportunities that value and preserve the unique character and environment of the Shire.



Macleay Valley Economic Development and Tourism Strategy	The planning proposal is consistent with the Macleay Valley Economic Development and Tourism Strategy and in particular. The Macleay Valley Recreation and Adventure Park has been identified as a 'Game Changer Project'. Theme 3 is to Support the Development of the Macleay Valley as a Premier Regional Visitor Destination. Action 3.3 is to prepare the Macleay Valley Adventure Sports Strategy with a focus on skydiving and canopy piloting at Kempsey Airport as the first priority. Tasks include preparation of a project concept design; preparation of a business case; community consultation and engagement; and determination of project and asset management and funding options (including commercial operator and investment options).
Macleay Valley Coast Destination Management Plan 2019-2029	The planning proposal is consistent with the Macleay Valley Coast Destination Management Plan 2019-2029. The Macleay Valley Recreation and Adventure Park is identified as a priority initiative of the Macleay Valley Adventure Sports Strategy, and the Macleay Valley Skydiving Adventure Park project has been fully assessed and prioritised within three years.
Community Strategic Plan (CSP)	<p>The planning proposal is consistent with the Kempsey Community Strategic Plan - Macleay Valley 2036. Relevant priorities include:</p> <ul style="list-style-type: none"> <li>• HS-01 - Plan for and provide infrastructure that encourages and allows for active lifestyles</li> <li>• WS-03 - Improve employment opportunities</li> <li>• SOS-01- Create a range of meeting places for the community</li> <li>• SAS-01 - Build community resilience for, during and after emergencies</li> </ul>

### 3.3 Section 9.1 Ministerial Directions

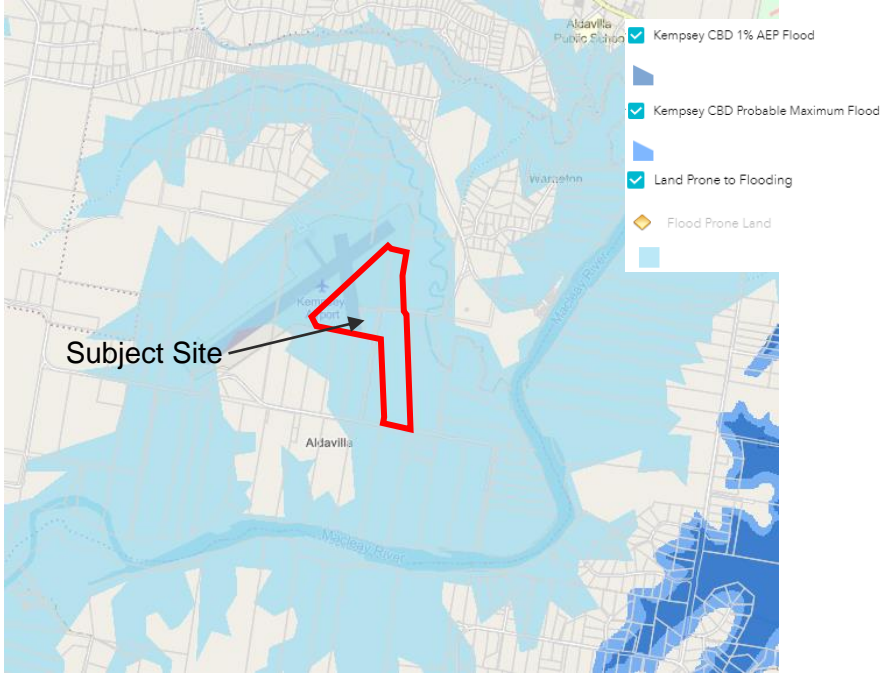
The planning proposal is consistent with relevant section 9.1 Directions except for the following as discussed below.

Table 5 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Unresolved	The proposal is potentially inconsistent with Direction 3: Manage natural hazards and climate change and Direction 18: Respect and protect the North Coast's Aboriginal Heritage of the NCRP. These inconsistencies are discussed in section 3 of the report. Until the required reports and agency consultation have been undertaken, this Direction remains unresolved.
3.1 Conservation Zones	No-Justifiably inconsistent	The proposal is inconsistent with this Direction because the site contains an area of potential HEV and does not include provisions that facilitate its protection and conservation. The inconsistency is considered to be of minor significance as the site comprises part of the Kempsey Airport and has been highly disturbed by regular land maintenance, including mowing and slashing which is required to minimise the risk of bird strike.
3.1 Heritage Conservation	Unresolved	The proposal is inconsistent with this Direction because further investigation is required in relation to Aboriginal cultural heritage to ensure that any Aboriginal areas, objects and places are conserved. The proposal includes an Aboriginal Cultural Heritage Assessment, but this report does not cover the whole planning proposal area. As such,



Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		the report will need to be updated prior to agency and community consultation. It recommended that consultation is undertaken with Heritage NSW and the LALC to confirm the suitability of the proposal
4.1 Flooding	Unresolved	<p>The proposal is inconsistent with this Direction as it alters a provision which affects land that is flood prone (Figure 6) and does address all of the requirements of the Direction.</p> <p>The planning proposal has the potential to increase development by allowing for recreation facilities (indoor) and serviced apartments, hotel and motel accommodation and backpackers accommodation.</p> <p>The planning proposal indicates that consultants have been engaged to prepare a Flood Impact Assessment which will be based on advice provided by Shire Council that:</p> <ul style="list-style-type: none"> <li>the 1% AEP (1 in 100 year) flood level of the site is 14.50m AHD;</li> <li>the proposed ground floor of the main facility (not including the separate accommodation cabins) will be subject to inundation during the 1% AEP flood and that flood controls / freeboard requirements will not apply as this facility is not considered a habitable space; and</li> <li>the structural engineering design will account for flood impacts (immersion and impact of debris) to avoid risk of structural failure. All structural elements will be designed of flood compatible material.</li> </ul> <p>It is recommended that as a condition of the Gateway determination the requirement for a report in relation to flooding is reinforced, and the recommendations of the report be included in the planning proposal prior to public exhibition.</p> <p>As the proposal will provide for temporary and short term accommodation on the site, it is considered that consultation should be undertaken with the SES and BCD. The Direction will remain unresolved until consultation has been undertaken and a report in relation to flooding has been completed.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		 <p><b>Figure 6 – Flood Prone Land</b>  Source -  <a href="https://kempsey.maps.arcgis.com/apps/webappviewer/index.html?id=1e06f4bc67744a36961b6886b010d296">https://kempsey.maps.arcgis.com/apps/webappviewer/index.html?id=1e06f4bc67744a36961b6886b010d296</a></p>
4.3 Planning for Bushfire Protection	Unresolved	The planning proposal is inconsistent with this Direction as it affects land that is identified as bushfire prone. The Direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) following the issue of a Gateway determination and prior to community consultation. Until this consultation has occurred the inconsistency with the Direction will remain unresolved.
4.5 Acid Sulfate Soils	No – Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as it will allow an intensification of land use on acid sulfate soils (Figure 2) and it is not supported by an acid sulfate soils study. The inconsistency is considered to be of minor significance as Class 5 acid sulfate soils are considered a low risk class and Kempsey LEP 2013 contains suitable provisions (Clause 7.1) to ensure that this matter can be appropriately considered and addressed at the development application stage. It is noted that a Geotechnical Report dated 13 August 2021 has been prepared which considers surface and subsurface conditions at the site and includes recommendations and advice in relation to foundation conditions. However, this report does not cover the whole planning proposal area and will need to be updated.
5.3 Development Near Regulated Airports and	Unresolved	This Direction applies to the planning proposal as the subject site is located within the Kempsey Airport. The Direction provides that the Council must consult with the lessee/operator of the airport and the Civil Aviation Safety Authority (CASA). Until this consultation has occurred the inconsistency with the Direction will remain unresolved. It

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Defence Airfields		is also recommended that consultation is undertaken with Air Services Australia.
9.2 Rural Lands	No – Justifiably Inconsistent	The planning proposal is inconsistent with this Direction as it affects land that is within the RU1 and RU2 zones and is mapped as containing areas of potential HEV and important farmland in the NCRP (Figure 3). The inconsistency is considered to be of minor significance as the area of important farmland is around 1.8ha in size and due to the site being part of the Kempsey Airport, is unlikely to be suitable for sustainable agricultural production. The remainder of the site is zoned RU2 Rural landscape, however again it comprises part of the airport lands and is also unlikely to be suitable for primary production. It is recommended that Council consult with DPI.

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

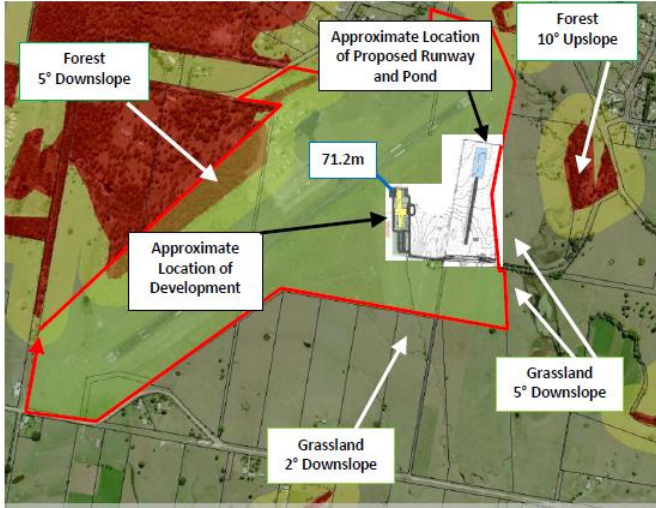
## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 6 Environmental impact assessment

Environmental Impact	Assessment
Regionally Significant Farmland	As discussed under in section 3 of this report, the planning proposal applies to a small pocket of land in the south western corner of the site which is identified as Regionally Significant Farmland. Due to its size and location within the Kempsey Airport, it is unlikely that the land is suitable for sustainable agricultural production. It is noted that as a condition of the Gateway determination, the proposal will be referred to DPI.
Flooding	As discussed in section 3 of this report, the land is flood prone and a consultant has been engaged to prepare a Flood Impact Assessment. It is recommended that the requirement for this report be confirmed as a condition of the Gateway determination. It is also recommended that consultation should be undertaken with the SES and BCD in relation to the flood hazard.
Bushfire	As discussed in Section 3 of this report, the planning proposal applies to bushfire prone land. A Bushfire Assessment Report has been prepared which highlights there are hazards located to the south, east and west of the proposed accommodation building (Figure 8). The report includes a number of recommendations but does not cover the whole of the planning proposal area and will need to be updated. Consultation is required with the RFS in accordance with Ministerial Direction 4.3 Planning for Bushfire Protection.

Environmental Impact	Assessment
	 <p><b>Figure 7 – Bushfire hazards</b>  Source – Special Protection Bushfire Assessment Report  Macleay Valley Adventure Recreation Park</p>
Acoustic Noise	<p>An Acoustic Assessment dated 15 March 2021 was prepared to determine the potential noise impacts of the proposed development, and to provide recommendations for noise amelioration (where necessary).</p> <p>Noise levels from patron noise, amplified speaker use and traffic noise generated were considered to be the major outdoor noise sources associated with the proposed development.</p> <p>The assessment concluded that:</p> <ul style="list-style-type: none"> <li>• noise impact from the proposed indoor use is not expected to cause any major noise impact on to the surrounding residential receivers;</li> <li>• the total daily take off aircraft noise will increase but is still expected to be lower than the touch and go aircraft noise. It is recommended that further noise modelling is conducted within specific areas;</li> <li>• cumulative noise impact from outdoor activities is predicted to comply with project specific noise limits;</li> <li>• recommendations are made in relation to the use of amplified speakers; and</li> <li>• recommendations are made in relation to mechanical plant selection and design.</li> </ul> <p>The Acoustic Assessment has not raised any significant issues for the planning proposal. However, it does not accurately reflect the land to which the planning proposal applies, and as a result it should be updated prior to agency and community consultation.</p>
Contamination	<p>The land has been used for a purpose referred to in Table 1 of the contaminated land planning guidelines. The planning proposal nominates that the site has not been identified in Council's contaminated land register and the airport's old fuel tanks have been removed and the site remediated and validated. However, a Phase 1 Site Contamination Assessment is being prepared. It is recommended that as a condition of the Gateway determination that the requirement for a contamination assessment is reinforced, and the</p>

Environmental Impact	Assessment
	recommendations of the report be included in the planning proposal prior to public exhibition.

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 7 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The planning proposal identifies that the Macleay Valley Recreation and Adventure Park will enable increased social events for the local community to interact in outdoor and indoor activities, enabling a variety of healthy lifestyle choices, as well as bring the social benefits of tourism to Kempsey. Social benefits will also be provided for with employment opportunities for the local community.</p>
Economic	<p>The planning proposal suggests that development will revitalise an under-utilised airport. It will also have positive economic benefits as a result of increased tourism and associated employment opportunities. Council advises the regional economic and employment benefit analysis shows that from a direct investment of \$11.2 million it is estimated there will be:</p> <ul style="list-style-type: none"> <li>• an uplift in total economic output of approximately \$20.47million</li> <li>• an uplift in value-added to Macleay Valley and NSW economy of \$6.21 million; and</li> <li>• the creation of 64 jobs.</li> </ul> <p>Ongoing benefits once the Macleay Valley Recreation and Adventure Park is operational, and allowing for a growth period will be:</p> <ul style="list-style-type: none"> <li>• an uplift in added in visitor expenditure in the Macleay Valley of approximately \$3.9 million, generating a total increase in output throughout the Macleay Valley economy of \$6.47 million;</li> <li>• a corresponding uplift in value-added to the Macleay Valley economy of \$2.51 million;</li> <li>• the creation of 39 new full-time equivalent jobs; and</li> <li>• promotion of the region through broadcasting of national and international events.</li> </ul>

## 4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.



Table 8 Infrastructure assessment

Infrastructure	Assessment
Traffic	<p>The planning proposal includes a Traffic Impact Assessment dated 26 November 2020. The report has been assessed using the Austroads Guide to Road Design and the Austroads Guide to Traffic Management.</p> <p>The report states that as there were no formal design plans completed or provided for the proposal at the time the assessment was completed, most of the assessment is based on like operations and what design considerations are required into the future for the proposal.</p> <p>The assessment did find the existing local road formations do not conform to the AUSTROADS Guide to Road Design requirements and included recommendations for upgrades to cater for the increase in future traffic flows and to improve road safety in the area as a result of this development. It is recommended that consultation is undertaken with Transport for NSW to confirm the suitability of the proposal.</p>
Water and Sewer	<p>The planning proposal nominates that Kempsey Shire Council has advised there is suitable capacity in the water and sewer systems for the area to cater for the requirements of the Macleay Valley Recreation and Adventure Park.</p>

## 5 Consultation

### 5.1 Community

The planning proposal does not nominate a community consultation period.

In accordance with the Local Environmental Plan Making Guideline (December 2021) the maximum period of public exhibition for the standard category of planning proposal is 20 working days. This requirement forms part of the conditions of the Gateway determination.

### 5.2 Agencies

The planning proposal nominates that consultation will be undertaken with:

- NSW Rural Fire Service
- Civil Aviation Safety Authority

It is recommended the following additional agencies are also consulted on the planning proposal and given 30 working days to comment:

- NSW State Emergency Services
- Biodiversity and Conservation Division
- Kempsey Local Aboriginal Land Council
- Transport for NSW
- Air Services Australia
- Kempsey Airport Operator
- Department of Primary Industries – Agriculture
- Heritage NSW

## 6 Timeframe

Council proposes a 9 month time frame to complete the LEP from the date of the Gateway determination.

The Department supports a time frame of 9 months to ensure it is completed in line with its commitment to reduce processing times, and a condition has been imposed on the Gateway determination to this effect. It is also recommended that the Gateway determination include conditions requiring council to exhibit and report on the proposal by specified milestone dates. In accordance with the LEP Making Guidelines (Department of Planning and Environment, December 2021) the timeframe for completion of a standard planning proposal is 255 working days following receipt of a referral for a Gateway determination. Council's proposed timeframe is within the target set by the LEP Making Guidelines for finalisation of a standard planning proposal.

As Council has nominated a period of 9 months to complete the LEP from the issue of a Gateway determination, the benchmark timeframes nominated to exhibit, report on and complete the LEP have been calculated as a percentage of the maximum benchmark timeframes.

## 7 Local plan-making authority

Council has not requested delegation to be the Local Plan-Making authority .

As the planning proposal deals only with matters of local significance the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

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

- the planning proposal is not inconsistent with the North Coast Regional Plan 2036;
- the planning proposal will help deliver a project which is identified in the Macleay Valley Economic Development and Tourism Strategy and the Macleay Valley Coast Destination Management Plan 2019-2029;
- the proposal will have social and economic benefits for the Kempsey local government area.

## 9 Recommendation

It is recommended the Acting Director, as delegate of the Secretary:

- **agree** that any inconsistencies with section 9.1 Directions 3.1 Conservation Zones; 4.5 Acid Sulfate Soils; and 9.2 Rural Lands are minor or justified; and
- **note** that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans; 3.2 Heritage Conservation; 4.1 Flooding; 4.3 Planning for Bushfire Protection and 5.3 Development Near Regulated Airports and Defence Airfields are unresolved and will require justification.

It is recommended the Acting Director as delegate of the Minister:

- **note** the planning proposal (Attachment A)
- **determine** that the planning proposal should proceed subject to the following conditions:

1. Prior to community and agency consultation, Council is to:

(a) prepare reports in relation to:

- (i) flooding; and
- (ii) site contamination.

(b) update the following reports to accurately reflect area to which the planning proposal applies:


- (i) Aboriginal cultural heritage assessment;
- (ii) Bushfire assessment;

- (iii) Geotechnical assessment; and
- (iv) Acoustic report.
- (c) update the planning proposal to:
  - (i) include the recommendations of the reports required by conditions 1(a) and 1(b); and
  - (ii) amend the proposed Project Timeline to correspond with the date of the Gateway determination.

2. Consultation is required with the following public authorities:

- NSW State Emergency Service
- NSW Rural Fire Service
- Biodiversity and Conservation Division
- Kempsey Local Aboriginal Land Council
- Transport for NSW
- Civil Aviation Safety Authority
- Air Services Australia
- Kempsey Airport Operator
- Department of Primary Industries – Agriculture
- Heritage NSW

- 3. The planning proposal should be made available for community consultation for a maximum of 20 days.
  - 4. Exhibition must commence within 3 months following the date of the Gateway determination.
  - 5. The planning proposal must be reported to council for a final recommendation within 7 months from the date of the Gateway determination.
  - 6. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
  - 7. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
- **sign** the Gateway Determination (**Attachment B**) and the attached letter to Council (**Attachment C**).



17/03/2022

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Lucy Walker**  
**Specialist Planning Officer, Local and Regional Planning**  
**Northern Region**



18/3/22

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**Craig Diss**  
**Acting Director, Northern Region**  
**Local and Regional Planning**

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