



IRF 23/2891

## Gateway determination report – PP-2023-2105

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Application of building heights to various allotments in  
South West Rocks

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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  |
|---|
| Kempsey Shire Council Planning Proposal Version 4   |
| Council report 10.2 Planning Proposal PP2300005 – SWR Structure Plan Building Heights 17 October 2023 |
| Kempsey Shire Council Local Growth Management Strategy 2041   |
| Kempsey Shire Council South West Rocks Structure Plan June 2023                                       |

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

|                                 |   |
|---------------------------------|---|
| <b>LGA</b>                      | <b>Kempsey Shire</b>  |
| <b>PPA</b>                      | Kempsey Shire Council   |
| <b>NAME</b>                     | Application of building heights to various allotments in South West Rocks (0 jobs, 0 homes)           |
| <b>NUMBER</b>                   | PP-2023-2105  |
| <b>LEP TO BE AMENDED</b>        | Kempsey LEP 2013  |
| <b>ADDRESS</b>                  | Various allotments  |
| <b>DESCRIPTION</b>              | Various allotments  |
| <b>RECEIVED</b>                 | 25/10/2023  |
| <b>FILE NO.</b>                 | IRF23/2891  |
| <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 planning proposal is to amend the Kempsey LEP 2013 to implement a building height standard to various allotments in South West Rocks that currently have no height limits in accordance with the South West Rocks Structure Plan 2023.

Additional information lodged by Council during the assessment of the application indicates that adequate capacity exists within South West Rocks to accommodate any loss of potential housing in the area as a result of the planning proposal. Prior to exhibition, the planning proposal is to be updated to include details regarding the capacity of existing and proposed zoned land in South West Rocks as detailed in the Local Growth Management Strategy 2041 and South West Rocks Structure Plan 2023.

It is noted that the proposal will not prohibit any future land use or development. The proposed building height standards can be varied at the development application stage by the relevant consent authority if sufficient merit and justification can be provided.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Kempsey LEP 2013 per the changes below:

**Table 3 Current and proposed controls**

| Control                        | Current | Proposed   |
|--------------------------------|---------|--|
| Maximum height of the building | N/A     | 8.5m & 11m to various allotments as detailed in Figure 1 |

Allotments subject to this planning proposal are as follows:

| Item No. | Lot and DP          | Street Address           | Building Height Change |          |
|----------|---------------------|--------------------------|------------------------|----------|
|          |                     |                          | Current                | Proposed |
| (i)      | Lot 2 DP 1091323    | Phillip Drive            | -                      | 8.5m     |
| (ii)     | Lot 364 DP754396    | 2 Sportsmans Way         | -                      | 8.5m     |
|          | Lot 367 DP754396    |                          | -                      | 8.5m     |
|          | Lot 4 DP 1032643    |                          | -                      | 8.5m     |
|          | Lot 5 DP 1032643    |                          | -                      | 8.5m     |
|          | Lot 6 DP 1032643    |                          | -                      | 8.5m     |
|          | Lot 7 DP 1032643    |                          | -                      | 8.5m     |
| (iii)    | Lot 7001 DP 1073214 | 2A Livingstone Street    | -                      | 8.5m     |
|          | Lot 7002 DP 1073215 |                          | -                      | 8.5m     |
|          | Lot 7041 DP 1120754 |                          | -                      | 8.5m     |
|          | Lot 7042 DP 1120754 |                          | -                      | 8.5m     |
|          | Lot 7308 DP 1138202 |                          | -                      | 8.5m     |
|          | Lot 372 DP 704869   | Buchanan Drive           | -                      | 8.5m     |
|          | Lot 1 DP 778105     | Livingstone Street       | -                      | 8.5m     |
|          | Lot 337 DP 754396   | Livingstone Street       | -                      | 8.5m     |
|          | Lot 7305 DP 1127502 | Livingstone Street       | -                      | 8.5m     |
|          | SP62275             | 1 Ocean Drive            | -                      | 8.5m     |
|          | Lot 375 DP 822657   | 3 Ocean Drive            | -                      | 8.5m     |
|          | Lot 374 DP 822657   | 9 Ocean Drive            | -                      | 8.5m     |
|          | Lot 373 DP 822657   | Ocean Drive              | -                      | 8.5m     |
|          | Lot 286 DP 754396   |                          | -                      | 8.5m     |
|          | Lot 235 DP 754396   | 1 Gregory Street         | -                      | 8.5m     |
|          | Lot 269 DP 754396   |                          | -                      | 8.5m     |
|          | Lot 341 DP 754396   |                          | -                      | 8.5m     |
|          | Lot 2331 DP 1196964 | 19A Gregory Street       | -                      | 8.5m     |
|          | SP 100324           | 17 Gregory Street        | -                      | 8.5m     |
| (iv)     | Lot 377 DP 823789   | Gordon Young Drive       | -                      | 8.5m     |
|          | Lot 376 DP 823789   | 39-89 Gordon Young Drive | -                      | 8.5m     |
|          | Lot 379 DP 823785   | 91 Gordon Young Drive    | -                      | 8.5m     |
| (v)      | Lot 3 DP 20188      | 98 Gregory Street        | -                      | 11m      |
|          | Lot 2031 DP 579067  | 102 Gregory Street       | -                      | 11m      |
| (vi)     | Lot 231 DP 754396   | 255-279 Gregory Street   | -                      | 11m      |

**Figure 1 - Land subject to the planning proposal (Source: Planning proposal version 4)**

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

## 1.4 Site description and surrounding area

The planning proposal relates to various allotments in South West Rocks zoned RE1 Public Recreation, RE2 Private Recreation, C2 Environmental Conservation, C3 Environmental Management, R3 Medium Density Residential and E1 Local Centre. Council has provided the following advice regarding the subject lands:

- RE1 Public Recreation (Horseshoe Bay Reserve and Gordon Young Drive) – the majority of this land is located along the coastal and estuary foreshores and includes the Maritime Precinct on Ocean Drive. The 8.5m height of buildings on this land is proposed to preserve the character of the natural setting and coastal landforms as well as the heritage items in the Maritime Precinct.
- RE2 Private Recreation (Sportsman Way) – this land contains the South West Rocks Country Club. The 8.5m height of buildings is proposed to maintain minimal visual impact from prominent locations, such as from Trial Bay Goal.
- R3 Medium Density –
  - One parcel of R3 zoned land is currently undeveloped (Lot 2 DP 1091323, Phillip Drive). There are existing approvals on this site for multi-dwelling housing (30 x 2 storey townhouse style dwellings) and 6 commercial tenancies approved in 2023 OR a resort complex comprising 180 residential units, commercial and administration complex comprising shops, bar areas, conference auditoriums, restaurant / dining areas and administrative areas together with support car parking, recreation facilities and landscaping approved in 1993. It is understood that the 1993 consent is required to be surrendered in order to activate the 2023 consent. The 8.5m height of buildings is to be introduced to this site to align with the existing height controls on other R3 zoned land.
  - R3 zoned land at 17-21 Gregory Street (SP 100324) which contains an existing residential flat building comprising 29 dwellings. The 8.5m height of buildings is to be introduced to this site to ensure no additional overshadowing of public foreshore land occurs.
- E1 Local Centre (98 – 102 Gregory Street, 255 – 279 Gregory Street) – these allotments contain existing commercial developments and the 11m height of buildings will align with the current E1 zoned land referred to as the CBD.

Existing building heights of 8.5m and 11m apply across South West Rocks as detailed in Figure 2. Areas subject to this planning proposal are contiguous with those lands already subject to Clause 4.3 'Height of buildings' in the LEP and the corresponding Height of Buildings Map as detailed in Figure 3.

## 1.5 Mapping

This planning proposal constitutes a map only amendment and includes mapping showing the proposed changes to the Height of Buildings Map which are suitable for community consultation.

Should the proposal proceed, mapping that complies with the Standard Technical Requirements for Standard Instrument LEP Maps will need to be prepared prior to finalisation of the LEP amendment.

Mapping showing the existing and proposed height of building controls for South West Rocks and the individual sites affected are shown below.



Figure 2 - Existing height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)

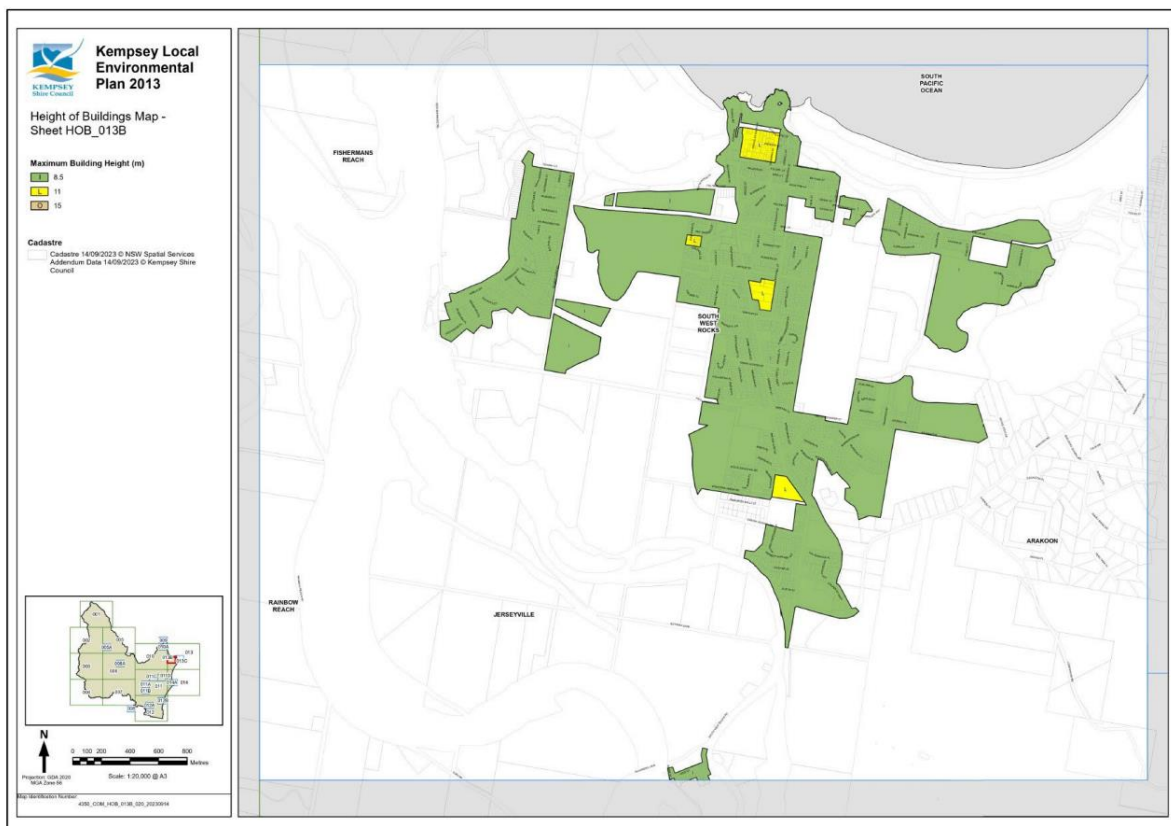
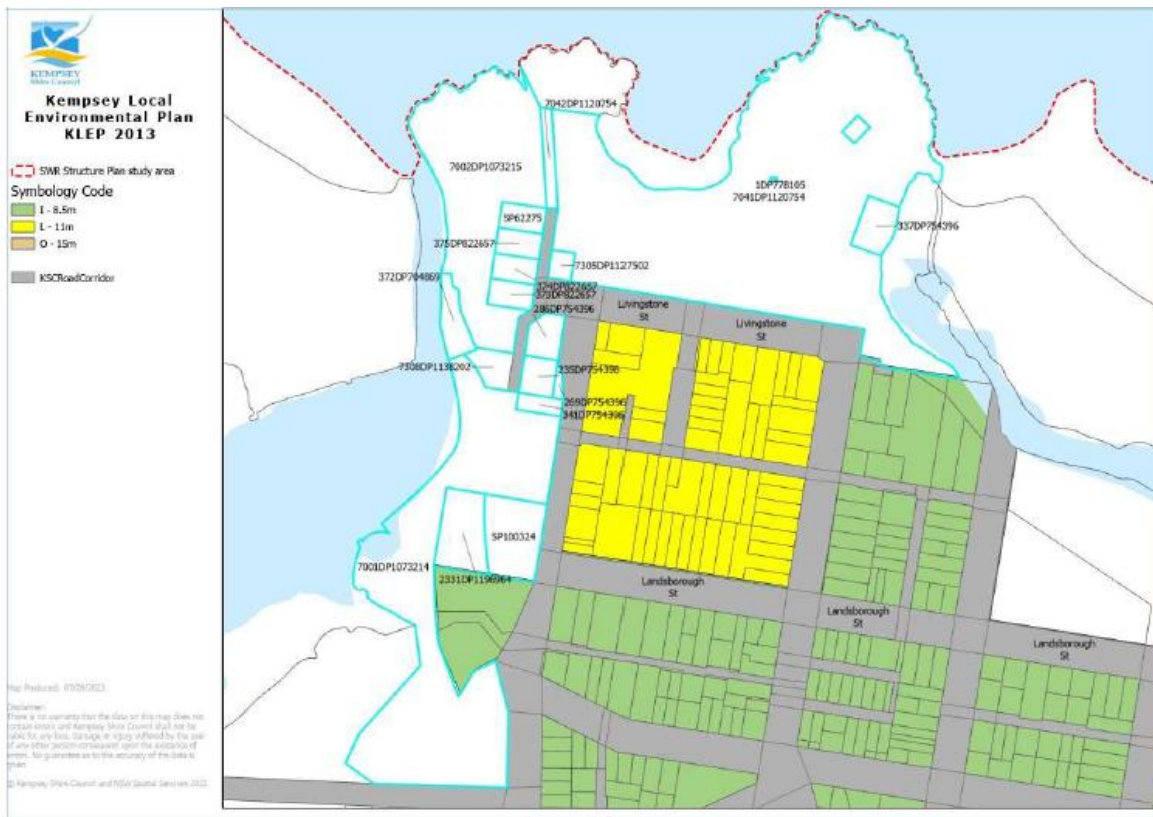
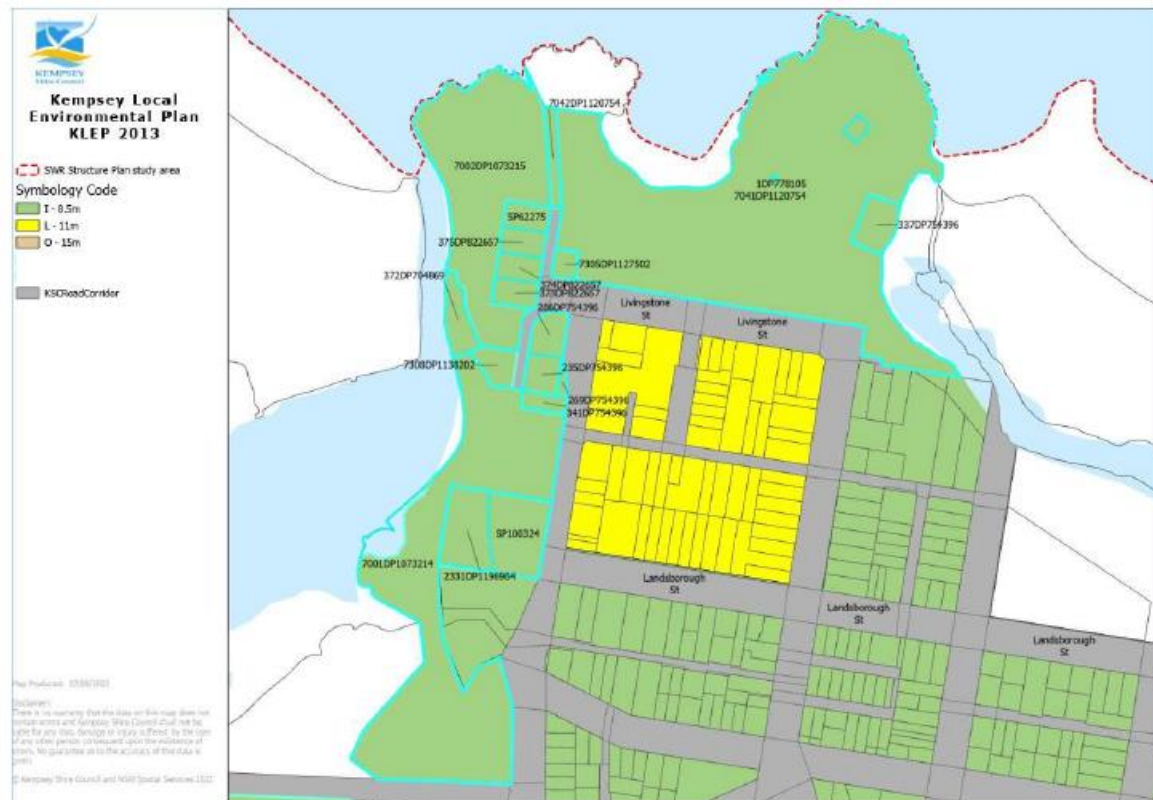


Figure 3 - Proposed height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)



**Horseshoe Bay Reserve & 17-21 Gregory Street (SP 100324)****Figure 4 - Existing height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)****Figure 5 - Proposed height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)**

## Gordon Young Drive



Figure 6 - Existing height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)



Figure 7 - Proposed height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)

## Sportsman Way



Figure 8 - Existing height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)



Figure 9 - Proposed height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)



## Phillip Drive



Figure 10 - Existing height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)



Figure 11 - Proposed height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)

**98-102 Gregory Street****Figure 12 - Existing height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)****Figure 13 - Proposed height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)**

**255-279 Gregory Street****Figure 14 - Existing height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)****Figure 15 - Proposed height of buildings map, Kempsey LEP 2013 (Source: Planning proposal)**

## 2 Need for the planning proposal

The planning proposal is a result of a Department-approved local growth management strategy and Council-endorsed structure plan. These documents identified the importance of supporting and maintaining the existing built character of South West Rocks, including applying a building height to a small number of sites consistent with surrounding sites and zonings.

The introduction of building heights is considered to be an appropriate mechanism to assist in achieving the intended outcomes.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant objectives of the North Coast Regional Plan 2041.

**Table 4 Regional Plan assessment**

| Regional Plan Objectives                                  | Justification   |
|---|---|
| Objective 1:<br>Provide well located homes to meet demand | <p>This objective encourages delivery of a mix of well-located homes to support the region's future growth. Based on the Department's 2022 population and housing projections, it is expected that an additional 1,352 dwellings will be required in the Kempsey local government area to 2041 with 1,013 dwellings to be provided in South West Rocks.</p> <p>Strategy 1.2 of the Regional Plan requires that council's local plans facilitate a range of housing options in well located areas. Strategy 1.4 requires that in preparing local housing strategies, councils prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling/small lot housing target to 2036.</p> <p>Council's LGMS was endorsed by the Department in August 2023 and the South West Rocks Structure Plan was adopted by Council in July 2023. The LGMS and the Structure Plan adopt aspirational population projections and anticipate an additional 1,582 dwellings in South West Rocks to 2041, comprising approximately 200 semi-detached dwellings and 360 flats / apartments. The LGMS states that existing urban growth area boundaries are capable of accommodating anticipated housing growth in the local government area to 2041 without variation.</p> <p>While the planning proposal to reduce building heights in South West Rocks may result in a small loss of housing and development potential for a few sites, Council has demonstrated that there is adequate capacity in existing and proposed zoned land to accommodate anticipated housing growth to 2041 including:</p> <ul style="list-style-type: none"> <li>• a substantial amount of under-utilised R3 Medium Density land;</li> <li>• new R1 General Residential subdivisions currently under development and recently registered, which have the capacity to provide approximately 911 residential lots;</li> <li>• a 23.9ha parcel of land (Lot 9 DP 1219664) identified by the Structure Plan as being suitable for rezoning from R5 Large Lot residential to R1 General Residential, which has the potential to deliver approximately 400 lots.</li> </ul> |



|   |  |
|---|--|
|   | <p>Consistent with this objective, it is considered that adequate capacity exists in South West Rocks to provide well located homes to meet demand despite the application of the proposed building heights. Prior to exhibition, the planning proposal is to be updated to articulate this matter.</p>  |
| <p>Objective 2:<br/>Provide for more affordable and low cost housing</p>                                      | <p>This objective encourages opportunities to increase housing supply to provide for greater housing diversity, choice, and affordability to help meet the needs of an ageing population and to support liveable homes that are responsive to changing needs and household size.</p> <p>The proposal seeks to regulate the built environment through building height development standards that are considered to suit the unique character of South West Rocks as detailed in the Structure Plan.</p> <p>Council anticipates that there is opportunity for diverse housing types such as semi-detached dwellings, flats or apartments to be delivered on the existing R3 zoned land within the existing and proposed 8.5m height of building. Furthermore, new residential subdivisions are also considered capable of accommodating varying dwelling types, dual occupancies and secondary dwellings.</p>                |
| <p>Objective 11:<br/>Support cities and centres and coordinate the supply of well-located employment land</p> | <p>This objective details the employment goals of the Regional Plan and, in particular, encourages retention and protection of employment land through flexible planning and development controls that will enable communities to respond to new opportunities and technologies.</p> <p>Strategy 11.1 requires that local council plans support and reinforce cities and centres as a focal point for economic growth and activity while Strategy 11.2 requires that land use planning maintain and enhance the function of established commercial centres.</p> <p>The LGMS and Structure Plan consider the intent of this objective. The proposal aims to retain local character commensurate with the scale of development permitted on other E1 zoned land in the town. The application of an 11m building height is not expected to unduly restrict the range of land uses on employment land in South West Rocks.</p> |
| <p>Objective 18: Plan for sustainable communities</p>   | <p>This objective outlines matters for consideration in land use planning documents, including local growth management strategies and structure plans. It states that a character analysis should be included in structure plans to ensure future development is consistent with preserving the individual character of places.</p> <p>This planning proposal is a response to a recommendation of the South West Rocks Structure Plan 2023 which aims to protect the key qualities of the town that are important to the community, consistent with this objective.</p>   |



Objective 20:  
Celebrate local  
character

This objective is based on the premise that places that evolve in repose to an identified local character and agreed future character are likely to be more sustainable, contribute to good quality of life and attract investment. Building heights are identified as one local planning tool that can help to preserve what makes a place or asset special.

The LGMS and Structure Plan are underpinned by character statements to ensure that Council and community values and expectations for South West Rocks are achieved. Accommodating growth while retaining the existing character of the place is a key challenge identified by Council, and the introduction of a height of buildings standard on the subject lands is one identified mechanism to recognise the character of the town as well as preserve its natural amenity and cultural assets.

## 3.2 Local

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

**Table 5 Local strategic planning assessment**

| Local Strategies                      | Justification  |
|---------------------------------------|--|
| Local Strategic Planning Statement    | <p>The LSPS notes that future growth over the next 20 years is expected to be concentrated in Kempsey, South West Rocks, Frederickton, Stuarts Point and Crescent Head. It states that the Shire's towns and villages each have their own unique and individual characteristics that their respective communities expect will be retained and enhanced through any future development. To achieve residents' priorities in South West Rocks, Council included a LSPS priority to prepare a structure plan for the entire South West Rocks area to guide development over the next 20 years.</p>  |
| Local Growth Management Strategy 2041 | <p>The LGMS was endorsed by the Department in August 2023 and includes localised growth management strategies for the cities, towns and settlements located within the Kempsey Shire.</p> <p>The LGMS anticipates that South West Rocks will experience ongoing steady growth pressure as it caters for the majority of projected growth within the Kempsey Shire between now and 2041. Part of the vision for South West Rocks includes the maintenance of its picturesque coastal setting through the management of development height, scale and density and protection of significant vegetation and key scenic view corridors.</p> <p>The LGMS notes that a structure plan for South West Rocks was prepared concurrently and addresses the ability for the town to accommodate an additional 1,580 dwellings to 2041. The LGMS also notes changes to the Kempsey LEP building heights as an outcome of the Structure Plan.</p> |

## South West Rocks Structure Plan

The Structure Plan was adopted by Council in July 2023 and aims to address development, services and amenity needs to secure positive community benefits when planning for growth and anticipated changes in the area. Among other things, the Structure Plan aims to:

- provide a planning approach that supports the community's long-term vision for the town;
- provide specific design principles to enhance the character and environment of the town;
- inform LEP updates that regulate future development.

The Structure Plan is based on background investigations and community consultation and acknowledges that balancing growth with the retention of the town's existing character will be a key challenge.

To preserve the coastal setting of South West Rocks, the Structure Plan recommends a range of provisions to protect significant vegetation and key scenic view corridors. The imposition of building heights as proposed by the planning proposal is one such recommendation included as a means of updating development controls to reflect community sentiment more accurately.

The key observations noted in the Structure Plan in relation to building heights relevant to the planning proposal are that:

- a limit of 8.5m should apply generally across all residential areas;
- a limit of 11m should generally be applied to business and commercial areas.

This planning proposal has been prepared in response to the recommendations of the Structure Plan and will regularise these building heights for the allotments listed in Figure 1 of this report.

## 3.3 Section 9.1 Ministerial Directions

The planning proposal's inconsistency with relevant section 9.1 Directions is discussed below:

**Table 6 Section 9.1 Ministerial Direction assessment**

| Directions                           | Consistent/ Not Applicable | Reasons for Consistency or Inconsistency  |
|--------------------------------------|----------------------------|---|
| 4.3 Planning for Bushfire Protection | Unresolved                 | <p>This direction is relevant as part of the land to which the proposal applies is identified as bushfire prone land.</p> <p>The direction requires the planning proposal authority to consult with the Commissioner of the NSW Rural Fire Service (RFS) after a Gateway determination is issued. Until this consultation has occurred, the inconsistency of the proposal with this direction remains unresolved.</p> |

6.1 Residential  
Zones

## Justifiably inconsistent

The objectives of this direction are to:

- encourage a variety and choice of housing types to provide for existing and future housing needs,
- make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and
- minimise the impact of residential development on the environment and resource lands.

The direction aims to broaden the choice of building types and locations available in the housing market, make more efficient use of existing infrastructure and services and reduce the consumption of land for housing and associated urban development on the urban fringe.

The planning proposal is inconsistent with this direction as it affects and potentially reduces the permissible residential density on a small number of sites.

It is considered that the inconsistency with the terms of the direction is justified as the proposal is a result of the LGMS which considers the objectives of the direction. Existing urban growth area boundaries are capable of accommodating anticipated housing growth in the local government area to 2041 and sufficient land is available for infill development to accommodate the multi dwelling / small lot density target to 2036 as set by the North Coast Regional Plan 2041.

Furthermore, the planning proposal will not result in the prohibition of a certain land use. A development application that exceeds the prescribed height of buildings could still be lodged and approved subject to clause 4.6 of the Kempsey LEP 2013, providing that the application can demonstrate that the development standard is unreasonable or unnecessary in the circumstances of the case and that sufficient environmental grounds are maintained to justify the variation.

|                      |                          |  |
|----------------------|--------------------------|--|
| 7.1 Employment Zones | Justifiably inconsistent | <p>This direction aims to:</p> <ul style="list-style-type: none"> <li>• encourage employment growth in suitable locations,</li> <li>• protect employment land in employment zones, and</li> <li>• support the viability of identified centres.</li> </ul> <p>The direction states that a planning proposal must not reduce the total potential floor space area for employment uses and related public services in Employment Zones.</p> <p>The planning proposal is inconsistent with this direction as it includes the introduction of an 11m height of buildings to land zoned E1 and therefore could potentially reduce total floor space area available in South West Rocks.</p> <p>It is considered that the inconsistency with the terms of the direction is justified as the proposal is a result of the LGMS which considers the objectives of the direction. Additionally, a development application could still be lodged and approved subject to clause 4.6 of the Kempsey LEP 2013 (as detailed above) if the building height variation can be justified as having merit.</p> |
|----------------------|--------------------------|--|

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is considered to be generally consistent with all relevant SEPPs.

## 4 Site-specific assessment

### 4.1 Environmental

The planning proposal constitutes the introduction of a building height development standard to certain land within South West Rocks. While no direct environmental impacts are anticipated as a result of the proposal, the imposition of building heights may result in lower density development and therefore larger building footprints to achieve economically viable yields across the subject sites. Environmental impacts of specific proposals are to be assessed at the development application stage and, if warranted, a variation to the height of buildings development standard can be considered in accordance with clause 4.6 of the Kempsey LEP 2013.

### 4.2 Social and economic

The planning proposal has been prepared in response to the LGMS and Structure Plan recommendations which were subject to significant community input. The proposed building height changes have been identified as one mechanism to retain the preferred local character determined by the community. This is considered appropriate noting that Council has completed extensive analysis which indicates that there is sufficient capacity of existing and proposed zoned land within South West Rocks to meet anticipated growth rates to 2041, despite the reduction in building heights for the subject sites.

As outlined above, the planning proposal may have implications for the economic viability of development on the subject lands. This issue would have been a consideration of Council during the compilation of the Structure Plan, which aims to balance development and growth with the preservation of local character and the overall public interest. Allowing the proposal to proceed to community consultation will also provide the affected land owners the opportunity to review and comment on the proposed building heights and to provide alternate suggestions and justification for consideration before any changes are made.

## 4.3 Infrastructure

There is not expected to be any significant change in demand for public infrastructure as a result of this planning proposal. While the building height standard may result in decreased density on a small number of sites, it is anticipated that the existing urban growth area boundaries will still be able to accommodate the anticipated population projections to 2041.

## 5 Consultation

### 5.1 Community

Council does not specify a community consultation period. Should the proposal proceed, a period of 20 working days is considered appropriate consistent with the Department's LEP Making Guideline for a standard LEP.

It is noted that under Division 3 of the Environmental Planning and Assessment Act 1979, the period between 20 December and 10 January (inclusive) is excluded from the calculation of a period of public exhibition.

### 5.2 Agencies

Council has nominated on the NSW Planning Portal that the following public agencies be consulted about the planning proposal:

- Aboriginal Land Council
- Department of Planning – DPE
- Department of Planning – Biodiversity Conservation Division
- DPE – Crown Lands
- DPE – Heritage NSW
- NSW Police.

While Council can undertake consultation with the abovementioned agencies regarding the planning proposal, it is recommended that the Gateway determination include a condition only requiring consultation with the NSW RFS. The RFS should be provided with 30 working days to comment.

## 6 Timeframe

Council proposes a six month time frame to complete the LEP.

The LEP Plan Making Guideline establishes maximum benchmark timeframes for a planning proposal by category. This planning proposal is categorised as standard as it relates to altering the principal development standards of the Kempsey LEP 2013.

A LEP completion date of six months is therefore recommended in line with the Department's commitment to reducing processing times.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

The Department has however been made aware of significant concerns by some of the landowners affected by the planning proposal. Allowing the proposal to proceed to community consultation will provide the affected land owners the opportunity to review and comment on the proposed building heights and to provide alternate suggestions and justification for consideration before any changes are made.

It is therefore recommended that Council not be authorised to be the local plan-making authority for this proposal so that the Department can undertake a final, impartial review of the proposal and the submissions prior to finalisation.

In the interests of procedural fairness and natural justice, should any development application/s be lodged but not finally determined over any of the land subject to this planning proposal after the Gateway determination has been issued, but prior to finalisation of the LEP, the imposition of a savings provision to ensure that such application/s be determined as if the plan has not commenced can be considered at the finalisation stage.

## 8 Assessment summary

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

- it is consistent with relevant SEPPs;
- it is consistent with the North Coast Regional Plan 2041;
- it is consistent with the Kempsey Local Strategic Planning Statement; and
- it is a direct response to the Department-endorsed Local Growth Management Strategy 2041 and Council-adopted South West Rocks Structure Plan 2023.

Based on the assessment outlined in this report, the proposal is to be updated before exhibition to include details regarding the capacity of existing and proposed zoned land in South West Rocks as detailed in the LGMS and Structure Plan, thereby demonstrating that any loss of potential housing in the area as a result of the planning proposal can be adequately accommodated elsewhere within the town.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 6.1 Residential Zones and 7.1 Employment Zones are justified, and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

1. Prior to exhibition, the planning proposal is to be updated to include details regarding the capacity of existing and proposed zoned land in South West Rocks as detailed in the Local Growth Management Strategy 2041 and South West Rocks Structure Plan 2023, thereby demonstrating that any loss of potential housing in the area as a result of the planning proposal can be adequately accommodated elsewhere within the town.
2. Consultation is required with the NSW Rural Fire Service.

3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority.

The LEP should be completed within six months from the date of the Gateway determination.



8/11/23

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

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

Craig Diss

Manager, Northern Region



13/11/2023

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

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

Jeremy Gray

Director, Northern Region

Assessment officer

Kate Campbell

Senior Planning Officer, Northern Region

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