

Mr Craig Milburn  
General Manager  
Kempsey Shire Council  
22 Tozer Street  
West Kempsey NSW 2440

Our ref: IRF24/192

Via email: [ksc@kempsey.nsw.gov.au](mailto:ksc@kempsey.nsw.gov.au)

Dear Mr Milburn

**Planning proposal (PP-2023-2403) to amend Kempsey Local Environmental Plan 2013**

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to rezone part of 322 Stuarts Point Road, Yarrahapinni to R5 Large Lot Residential, C2 Environmental Conservation and C3 Environmental Management and amend the minimum lot size map.

As delegate of the Minister for Planning and Public Spaces, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

I have also agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the Act 3.1 Conservation Zones, 4.5 Acid Sulfate Soils, 5.1 Integrating Land Use and Transport, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands is justified in accordance with the terms of the Direction. No further approval is required in relation to the Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements the section 9.1 Ministerial Direction 4.3 Planning for Bushfire Protection. Council should ensure this occurs prior to the LEP being made.

Considering the nature of the planning proposal I have determined that Council may exercise local plan-making authority functions in relation to the planning proposal.

The proposed local environmental plan (LEP) is to be finalised on or before seven months from the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible.

Parliamentary Counsel's Office is not responsible for the drafting of map-only amendments to LEPs. Requests for legal drafting for map-only amendments must instead be sent to [mapinstrument.drafting@dpie.nsw.gov.au](mailto:mapinstrument.drafting@dpie.nsw.gov.au). The relevant Department of Planning, Housing and Infrastructure team contact should be copied into the request. The request must include the drafting instruction template, planning proposal and gateway determination.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure, August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and

Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Sam Tarrant, Planning Officer, Northern Region to assist you. Mr Tarrant can be contacted on 6643 6410.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Gray', is positioned above the date.

26/2/2024

**Jeremy Gray**  
**Director, Northern Region**  
**Local and Regional Planning**

Encl: Gateway determination