

Under section 3.33 of the EP & A Act

Amendment to  
Kempsey Local Environmental Plan 2013

322 Stuarts Point Road, Yarrahapinni  
LOT 333 DP 805299

May 2023  
Amended September 2023  
Amended May 2024



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This planning proposal and impacts assessment has been undertaken with skill, care and diligence by the staff of GEM Planning Project Pty Ltd. This assessment is based on information provided by the client, third party sources and investigations by GEM Planning Projects Pty Ltd. Independent verification of the documents relied upon has not been undertaken.

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A handwritten signature in black ink, appearing to read 'GHaigh', with a stylized, cursive script.

Geraldine Haigh

GEM Planning Projects Pty Ltd

Date: .....May 2024..... Ref: 169 Elliott PP V6

## 1. INTRODUCTION

The planning proposal is to amend the maps supporting Kempsey Local Environmental Plan 2013 (KLEP) to rezone land for Environmental and Large Lot Residential purposes.

The subject land address is 322 Stuarts Point Road, Yarrahapinni and lot description is Lot 333 DP 805299. The land comprises 47.05 ha and has a history of agricultural and rural residential usage. Research indicates that the area has been cleared and used for agricultural purposes from at least 1967. The current owner's family initially used it for dairy farming and subsequently beef cattle. The existing residence continues to be occupied by the owners.

This planning proposal seeks to zone the subject land part C2 Environmental Conservation, part C3 Environmental Management and part R5 Large Lot Residential. The Eastern end of the land is to remain its current zone, RU1 Primary Production.

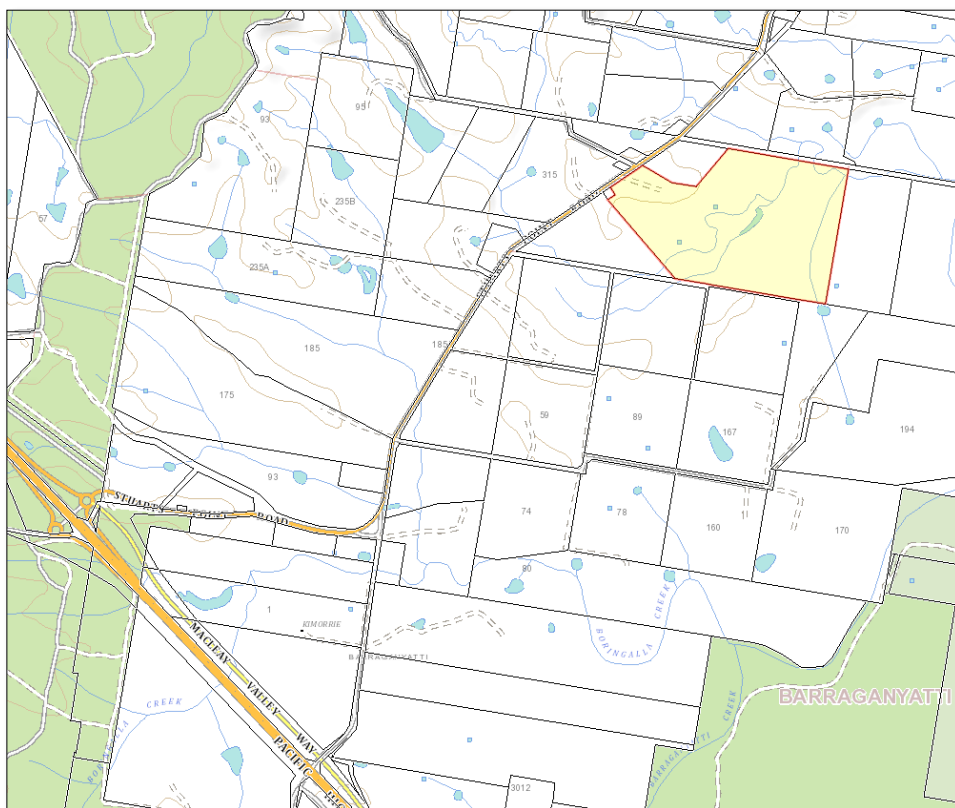


Figure 1: Locality Plan Lot 333 DP 805299 (Source: Six Maps)

Specialist studies into the site characteristics were undertaken to determine appropriate zones and inform the concept plan intended outcome. Initially studies investigated the suitability of both Lot 333 & Lot 136 because both allotments are partly mapped within Council's Rural Residential Land Release Strategy. However, it became clear that Lot 136 would not be suitable for Rural Residential purposes, and it was removed from the proposal.



Site specific investigations undertaken include Aboriginal cultural heritage, Ecology, Bushfire, Flooding and On-site sewage management capacity.

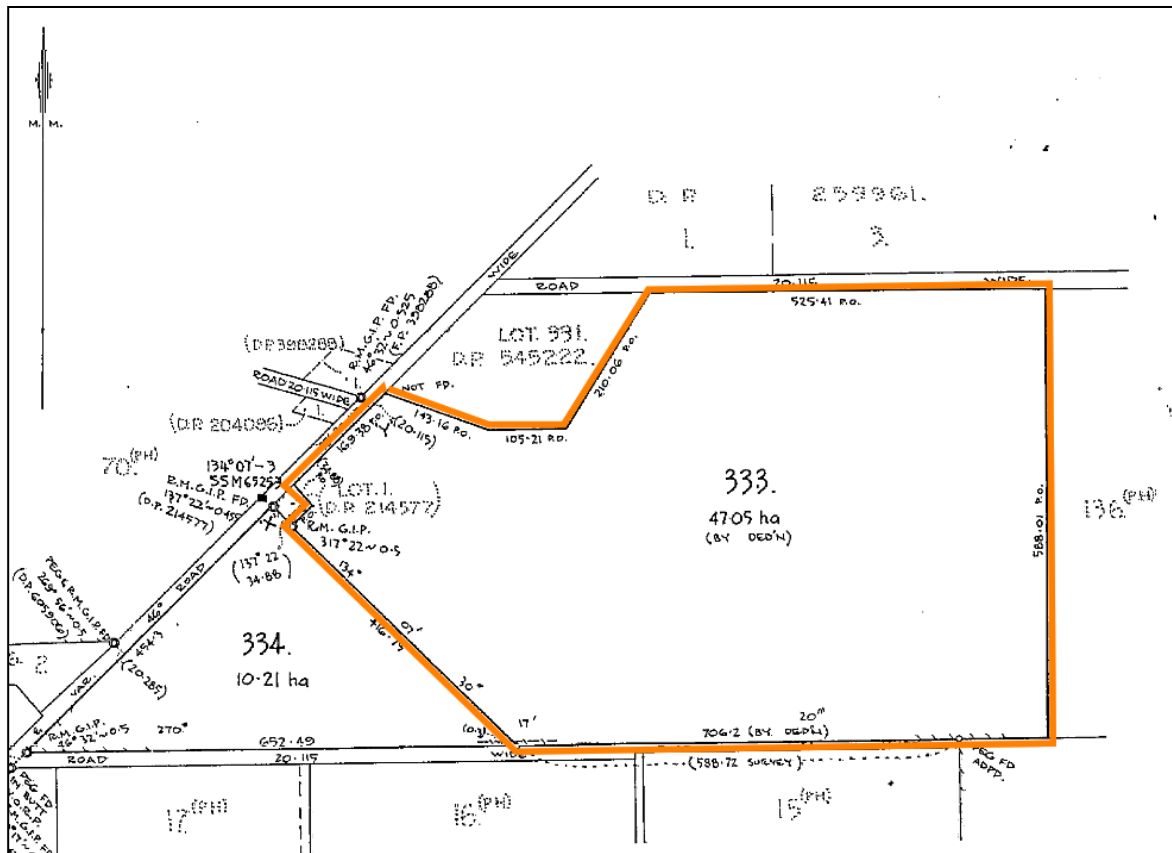


Figure 2: Land the subject of the planning proposal Lot 333 DP 805299

## 1.1 SCOPE OF THE REPORT

This planning proposal has been prepared in accordance with section 3.33 of the Environmental Planning and Assessment Act 1979 (the Act) and the Department of Planning and Environment's (DPE) advisory documents *A Guide to Preparing Local Environmental Plans* and *A Guide to Preparing Proposal*.

A planning proposal is required to be provided in five (5) parts, these being:

- Part 1 – A statement of the objectives of intended outcomes of the proposed LEP amendment.
- Part 2- An explanation of the provisions that are to be included.
- Part 3- Justification for the objectives, outcomes and provisions together with the process for their implementation.
- Part 4 – Mapping changes necessary to give effect to the amendment.
- Part 5 – Details of the community consultation to be undertaken on the planning proposal.

This planning proposal is consistent with the DPE Guidelines *Planning Proposal Category*:  
 “Standard – That is consistent with an endorsed District/Regional Strategic Plan and/or LSPS.



## 2. PLANNING PROPOSAL

## PART 1: Objectives or Intended Outcomes

The objective is to amend Kempsey Local Environmental Plan 2013 to give effect to part of Kempsey Shire Council's *Rural Residential Land Release Strategy 2014*.

The intended outcome for the site is an environmentally sensitive rural residential subdivision resulting in sixteen (16) x 1 ha allotments and one residual allotment (lot 17). Following pre lodgment consultation with BCD the intended outcome will:

- avoid property boundaries through the watercourse and riparian vegetation areas and limits access to a single road at an existing crossing point;
- retains and protects the watercourse and riparian vegetation through application of a conservation zoning, which includes buffers;
- provide for asset protection zones for bushfire protection without impacting the protected vegetation;
- protects identified TECs and 4 threatened flora species in the conservation protection zone and retains residual stands of mature trees in the conservation management zone; i
- consolidates the conservation protection area and residue farm land into one allotment to support long-term management of the conserved areas.

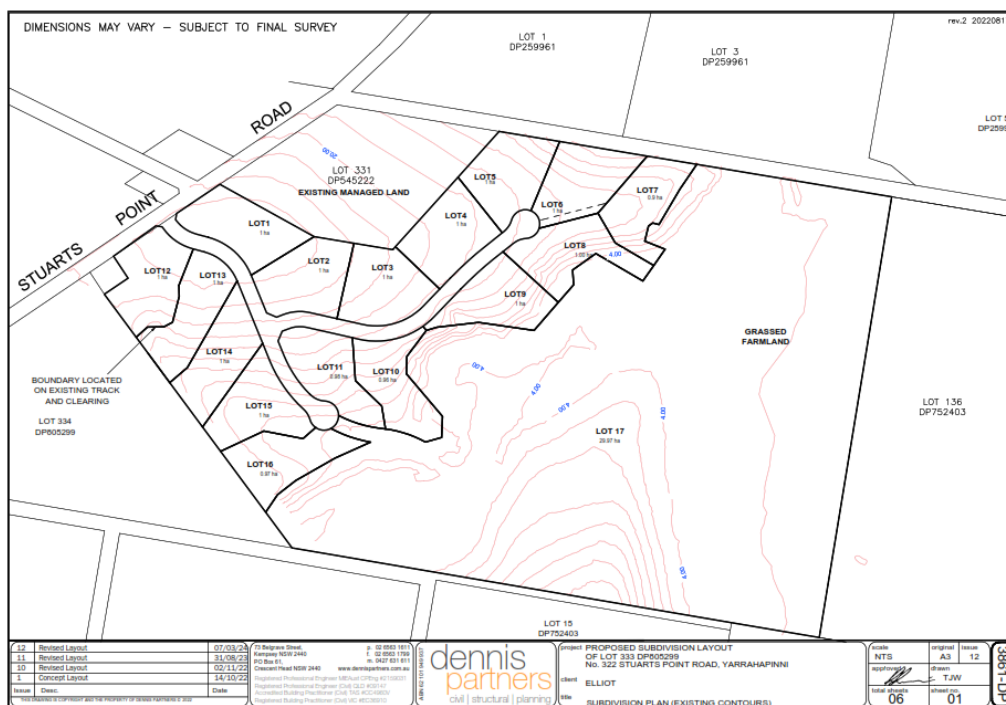


Figure 3: *Intended outcome (Source: Dennis Partners)*

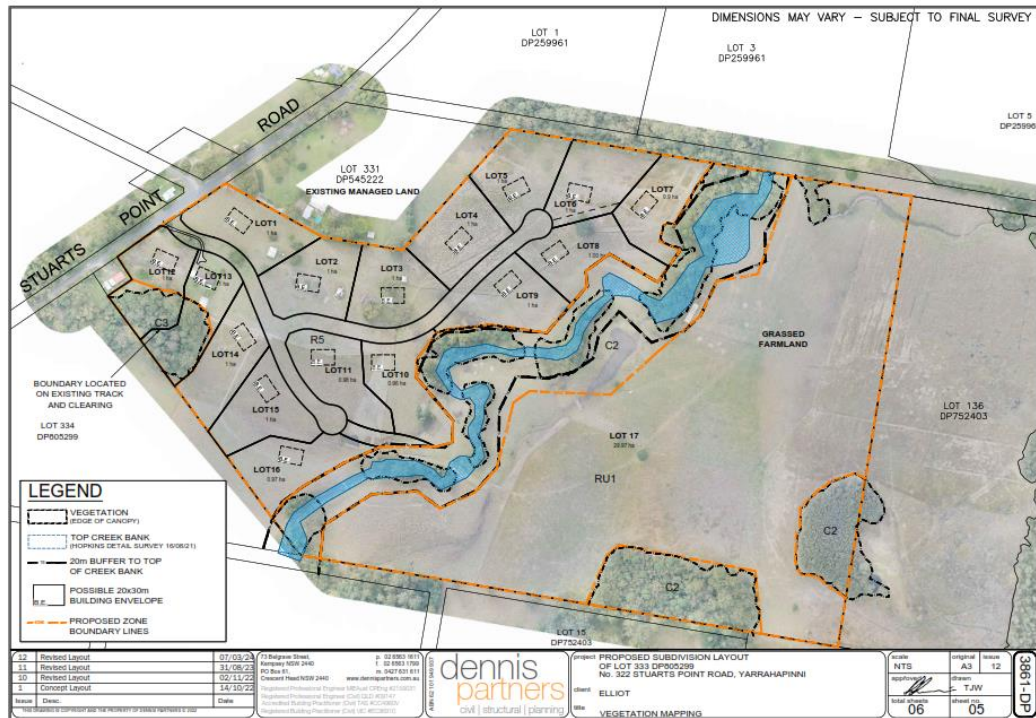


Figure 4: Intended Outcome & Conservation zones (source Dennis Partners)

## PART 2: Explanation of Provisions

The planning proposal seeks to amend the following maps under Kempsey Local Environmental Plan 2013 (KLEP), as they apply to Lot 333.

- o Land Zoning Map from RU1 Primary Production to part zone C2 Environmental Conservation, part Zone C3 Environmental Management and part zone R5 Large Lot Residential.
- o Lot Size Map to permit minimum lot size of 1 ha for land zoned R5 Large Lot Residential and zoned C3 Environmental Management. Retain the existing 40 ha minimum lot size for areas to be zoned C2 Environmental Conservation and RU1 Primary Production.

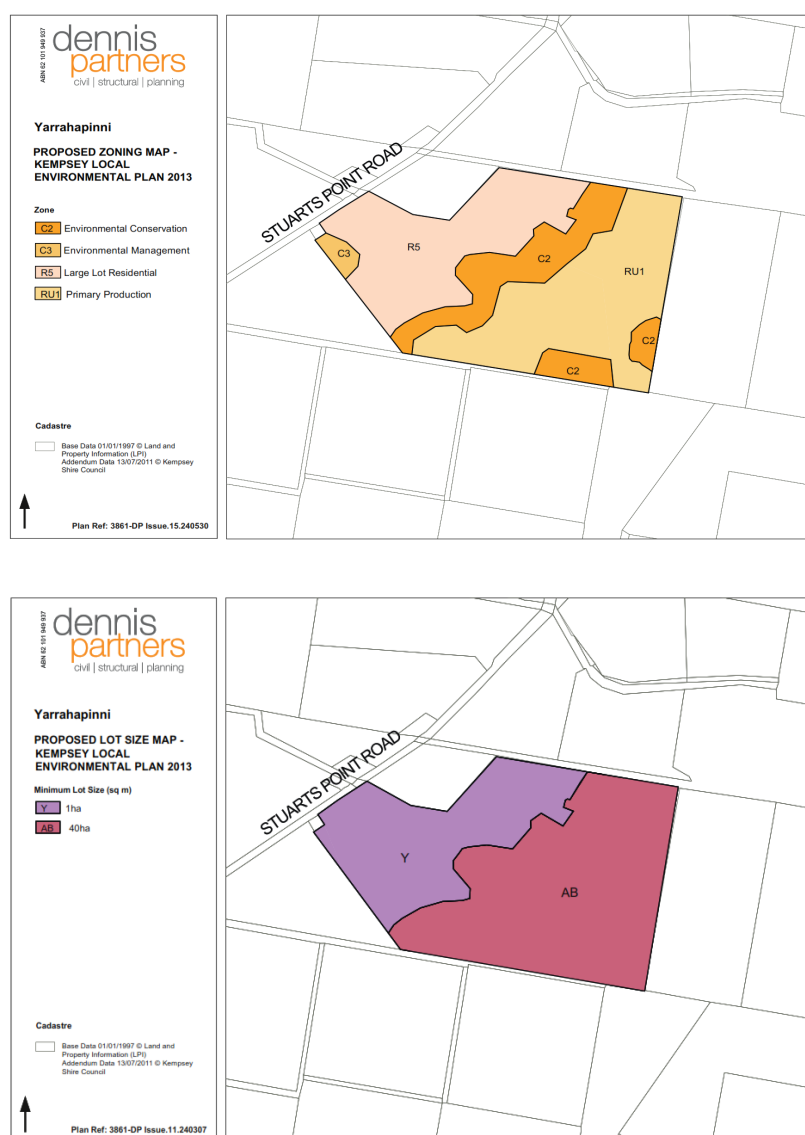


Figure 5: Thumbnail sketches of proposed zones and minimum lot sizes

The objectives and land use provisions of the proposed zoning are consistent with achieving the intended outcome.



### PART 3: Justification

In accordance with the Department of Planning and Environment's *Local Environmental Plan Making Guideline 2021*, Matters for Consideration set out in Table 3 of the Guideline are addressed as follows:

Section A:	Need for the planning proposal
Section B:	Relationship to strategic planning framework
Section C:	Environmental, social and economic impact
Section D:	State and Commonwealth Interests.

#### Section A: Need for the Planning Proposal

**Q1: Is the planning proposal a result of an endorsed local strategic planning statement, strategic study, or report ?**

Yes: The Planning Proposal is a result of the Kempsey Shire Council Rural Residential Land Release Strategy, December 2014. This strategy is recognized in Kempsey Shire Council's more recent Local Strategic Planning Statement (LSPS) 2020-2040 titled *Future Macleay - Growth & Character*. The LSPS states that future growth within the Kempsey LGA will be guided by the LSPS, local growth strategies, the Macleay Valley 2036: Community Strategic Plan (June 2017) and the North Coast Regional Plan 2041 (December 2022). Existing local growth strategies include:

- o Kempsey and South West Rocks: Industrial Land Review (June 2004), and
- o Kempsey Shire Council Rural Residential Land Release Strategy (December 2014).

The subject land, Lot 333 DP 805299 is identified in Map 20 of the Rural Residential Land Release Strategy, as shown in Figure 6 below. The planning proposal would result in the provision of Rural Residential land for housing supply, consistent with the strategy and would provide for better long-term protection of the site's environmental qualities.



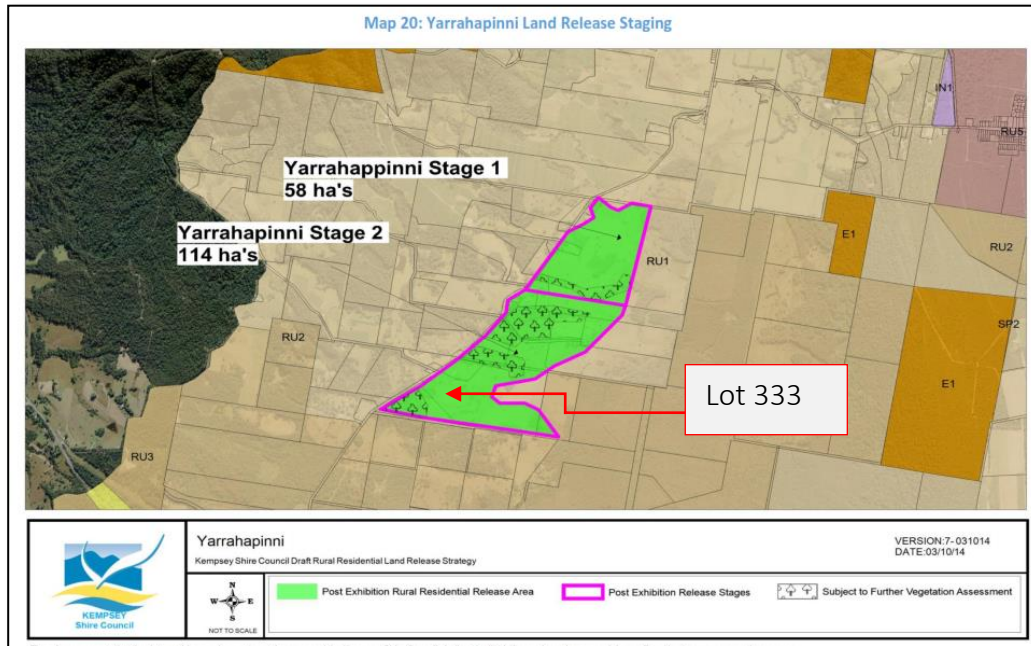


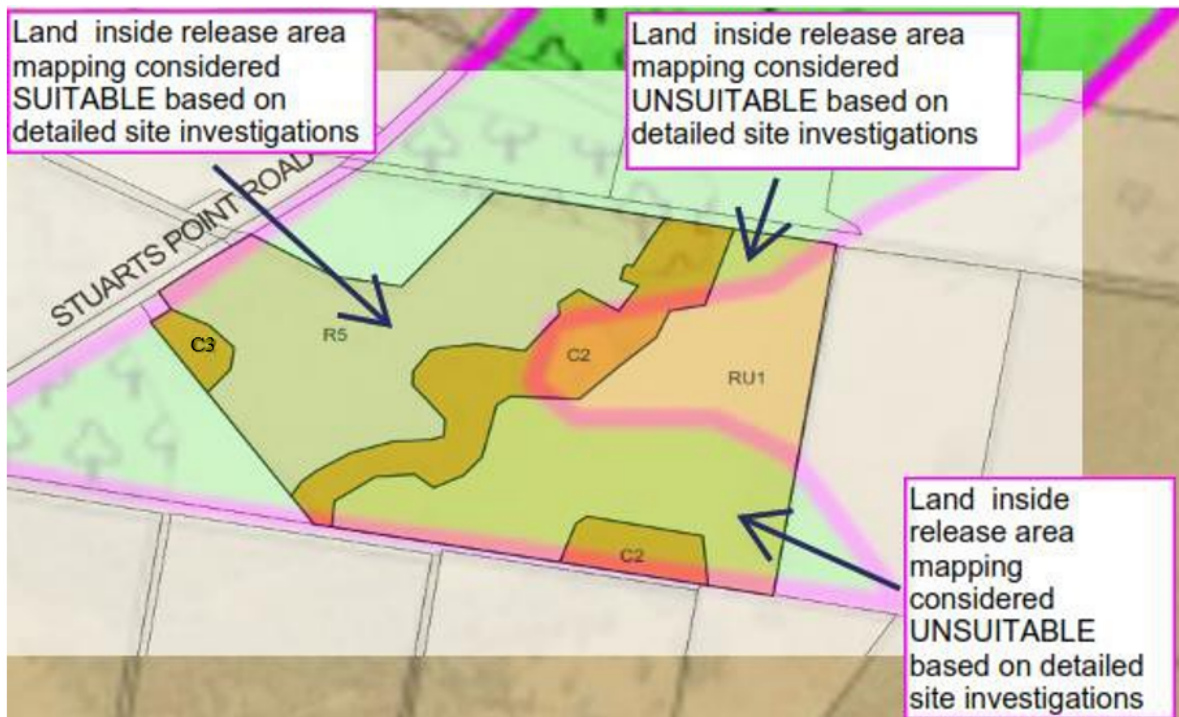
Figure 6: Extract KSC Rural Residential Land Release Strategy (Dec 2014) Map 20 Yarrahapinni

**Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes?**

Yes. The planning proposal is the only means available of giving effect to the objectives of the Kempsey Shire Council Rural Residential Land Release Strategy (December 2014) and the LSPS.

The site-specific investigations carried out to date support the use of a smaller extent of land for Large Lot Residential than indicated in the Rural Residential Strategy Map 20 Yarrahapinni.

The eastern extent of the release area in Map 20 proximate to Lot 333 extends into flood prone land and beyond into Lot 136, which is also flood prone. The figure below illustrates the map 20 boundary over the revised concept for the site, which is designed to respond to the site characteristics more sensitively. The revised proposal protects vegetation of environmental value, reduces the extent of R5 Large Lot Residential land to ensure ample flood free area on each proposed allotment and provides a flood free R5 zoned, dwelling site for the residual farmland Lot 17.



The intended outcome for the land is a combination of environmental protection zone and large lot residential development with the residual rural land retained for continuation of the existing farming activities.



## Section B: Relationship to Strategic Planning Framework

### Q3: Will the planning proposal give effect to the objectives and actions of the North Coast Regional Plan 2041

Yes. The planning proposal presents an opportunity to meet the regionally focused goals of the North Coast Regional Plan 2041 (NCRP):

*Liveable, sustainable, and resilient*

*Productive and connected*

*Growth Change and Opportunity*

The vision of the NCRP is to have *Healthy and thriving communities, supported by a vibrant and dynamic economy that builds on the region's strengths and natural environment.*

in relation to growth on the North Coast objectives and strategy directions, include:

Objective 1: Provide well located homes to meet demand.

Objective 3: Protect regional biodiversity and areas of high environmental value.

Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change.

Objective 1: The proposal would be consistent with strategy direction 1.5. Strategy 1.5 states that "New rural residential housing is to be located on land which has been approved in a strategy endorsed by the Department of Planning and Environment and is directed away from the coastal strip. The land is part of the identified Yarrahappini Rural Residential Release area as shown in Map 20 under the adopted Rural residential land release strategy. The subject land is outside the coastal strip.

Objective 3: The proposal has avoided vegetation identified through on-site ecological survey as being of high environmental value and ensures that these lands are protected within C2 environmental conservation zone. These areas comprise riparian vegetation on both sides of an internal watercourse and protection of retained stands of trees along the southern boundary.

Objective 5: The proposal meets this principle through the integration of bushfire hazard management measures such as asset protection zones accommodated for in the size and shape of each allotment and through ensuring each lot has flood free access to Stuarts Point Road and ample flood free building area for each lot.



**Q4 Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?**

Yes. The planning proposal is consistent with Kempsey Shire Council's adopted Local Strategic Planning Statement (LSPS) 2020-2040 titled *Future Macleay - Growth & Character*. The aims are expressed as:

*Healthy environment*

*Wealthy economy*

*Connected communities*

*Safe & Suitable Housing*

*H1.1 Identify and map environmentally sensitive areas and land with high ecological values within the Shire.*

Detailed site investigations have identified and mapped the environmentally sensitive areas within the property and proposed environmental protection zonings for them.

*W5.2 Planning proposals to subdivide rural land for rural residential purposes are restricted to the identified localities within the Kempsey Shire Rural Residential Land Release Strategy (December 2014) and the Local Growth Management Strategy: Residential Component (October 2010).*

The land the subject of this planning proposal is identified as one of the localities for rural residential purposes, via Map 20 of the Kempsey Shire Rural Residential Land Release Strategy (December 2014).

*C2 Provide great places to live and work*

*C2.1 Prepare a local growth strategy for the Shire which will outline how Council will plan for population growth over the next 20 years.*

The planning proposal is part of a current local growth strategy for the Shire.

*S4 Deliver well-planned rural residential housing areas*

*S4.1 Planning proposals for the residential subdivision of rural land are restricted to the identified localities within the Kempsey Shire Rural Residential Land Release Strategy.*

The land the subject of this planning proposal is within the Kempsey Shire Council Rural Residential Land Release Strategy, Map 20. Site specific investigations have identified that some parts of the release area in Map 20 is not suitable for rural residential development. The planning proposal is considered a better outcome, that responds sensitively to the site characteristics and constraints and ensuring the riparian values of the site are retained and protected in one parcel.



*Timing of Release*

Map 20 Yarrahapinni Release identifies the subject land as part of a Stage 2 release. The Rural Residential Strategy has been in place since 2014, and to date there has been no other release of land in the Yarrahapinni release area. The Strategy does not express why this part of the release area is identified as “Stage 2”. After consideration of the Yarrahapinni Locality Specific Issues and the absence of any rezonings within the ‘Stage 1’ area, it has been determined that the planning proposal may proceed. Locality Specific Issue are addressed in Q9 below.

### Q5: Is the planning proposal consistent with any other applicable State or regional studies or strategies?

Table 1: Other applicable State or regional studies or strategies

<i>Title</i>	<i>Objective</i>	<i>Consistency</i>
Future Transport Strategy 2056	This wide-ranging strategy provides the following goal for the North Coast, within which this planning proposal site is located.	Not applicable. The planning proposal is not a major transport infrastructure project and utilises the existing road network.
Cumberland Conservation Plan	The objective(s) of this plan is to protect the biodiversity of flora and fauna across the <i>Western Parkland City</i>	Not applicable.
Net Zero Plan Stage 1 2020 - 2030	The NSW Governments objectives under this plan are expressed across 4 priorities: 1. Drive uptake of proven emissions reduction technologies. 2. Empower consumers and businesses to make sustainable choices 3. Invest in the next wave of emissions reduction innovation 4. Ensure the NSW Government leads by example	Government proposals to support roof top solar panels are in place.  The 1 ha MLS enables residents to make sustainable choices for recycling waste water, growing their own food, larger solar arrays that follow the sun and no overshadowing by adjoining buildings, providing design opportunities for thermally efficient housing.
Water Resource Plan	Water Resource Plans are submitted as part of the Murrumbidgee-Darling Basins Authority.	Not applicable. The planning proposal site is not within the MDB authority areas.
State Infrastructure Strategy	The State Infrastructure Strategy (SIS) is a 20-year infrastructure investment plan for the NSW Government that places strategic fit and economic merit at the centre of investment	Not applicable.



	decisions. The strategy assesses infrastructure problems and solutions, and provides recommendations to best grow the State's economy, enhance productivity and improve living standards for our NSW community. It is updated every five year	
A 20 year Economic Vision of Regional NSW	<p>This 20-Year Economic Vision for Regional NSW is the NSW Government's plan to drive sustainable, long-term economic growth in regional NSW. It is the roadmap to unlock significant economic potential in regional NSW. This vision is about going above and beyond 'business as usual' – the NSW Government's objective is to leave a lasting legacy for regional NSW. It sets out a long-term plan and a framework for how the NSW Government will provide the foundations for businesses to invest in our regions with confidence.</p>	Consistent. The proposed subdivision and resultant housing would help local and regionally based business activity.



## Q6: Is the planning proposal consistent with applicable State Environmental Planning Policies?

Table 2 below considers the range of State Environmental Planning Policies (SEPPs) relevant to this planning proposal.

Table 2: *State Environmental Planning Policies*

<i>Name of SEPP</i>	<i>Application of the SEPP or otherwise</i>	<i>Consistency</i>
State Environmental Planning Policy (Planning Systems) 2021  <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724</a>	Chapter 2 State and regional development.  The intended outcome for 16 rural residential lots with on site wastewater systems, is not within the coastal zone nor is it within a sensitive coastal location.  The subject land is not within the area mapped under the SEPP Coastal Management provisions. It is more than 1 km outside the Land Application Area (source: planning portal),  The land is more than 500 m from other closest mapped HEV area on the Biodiversity Vales Map (source: planning portal).	N/A
State Environmental Planning Policy (Biodiversity and Conservation) 2021 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722</a>	Chapter 3 Koala habitat protection 2020. The subject land is under an existing plan of management – the Kempsey Shire Comprehensive Koala Plan of Management. (CKPoM). The CKPoM maps areas of the subject land as non-koala habitat. The areas mapped as potential secondary Class A PKH are included in Environmental Protection zones. This is consistent with Section 3.14 (1) of this SEPP.	Refer to section Q8 of the planning proposal & the biodiversity assessment by GHD at Appendix B
State Environmental Planning Policy (Resilience and Hazards) 2021 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730</a>	Chapter 2 Coastal management. This SEPP is not applicable to this planning proposal.  The subject land is not within the area mapped under the SEPP Coastal Management provisions. It is more than 1	Consistent Ch 2 – N/A Ch 3 – N/A  Ch 4 –Refer Q9 & Appendix G for discussion.





	<p>km outside the Land Application Area (source: planning portal),</p> <p>The land is more than 500 m from other closest mapped HEV area on the Biodiversity Vales Map (source: planning portal).</p> <p>Chapter 3- Hazardous and offensive development. The intended outcome of the rezoning would not enable hazardous or offensive development.</p> <p>Chapter 4 – Remediation of Land Searches have not identified the land as being on the registered of contaminated sites. Investigation of past land uses has not identified any cattle tick dips or intensive horticultural use that would be likely to leave contaminated materials in the soil or at the property.</p>	
<p>State Environmental Planning Policy (Transport and Infrastructure) 2021 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732</a></p>	<p>Stuarts Point Road is classed as a Regional Road.</p> <p>Part 3.1, Division 17 of the SEPP applies where Traffic Generating Development thresholds are triggered.</p> <p>Schedule 3 of the SEPP requires referral to TfNSW where 50 or more allotments are proposed. The intended outcome is for less than half of that, 17 allotments.</p> <p>The intended outcome would result in a new local road intersection onto Stuarts Point Road, most likely in the same location as the existing driveway intersection. Council's AUS-Roads intersection design requirements would apply to any subsequent subdivision application for this location.</p>	Consistent
<p>State Environmental Planning Policy (Industry and Employment) 2021 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-</a></p>	<p>No signage beyond standard Council road name signboard.</p>	N/A



0723#		
State Environmental Planning Policy (Resources and Energy) 2021 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731</a>	Not applicable	N/A
State Environmental Planning Policy (Primary Production) 2021 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729</a>	The subject land is identified for rural residential land release under Kempsey Council's adopted 2014 RR Land Release Strategy.  The land is not identified as part of any State significant agricultural land.  Lot 333 is not mapped as Regionally Significant Farmland in the Mid North Coast 2008 Farmland Mapping Project.	Consistent
State Environmental Planning Policy (Housing).2021 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714</a>	The planning proposal does not seek to amend the application of the SEPP on the subject land.	Consistent
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572</a>	The planning proposal does not seek to amend the application of the Codes SEPP on the subject land.	Consistent
State Environmental Planning Policy (BASIX) 2004 <a href="https://legislation.nsw.gov.au/view/html/inforce/current/epi-2004-0396">https://legislation.nsw.gov.au/view/html/inforce/current/epi-2004-0396</a>	The planning proposal does not seek to amend the application of the BASIX SEPP on the subject land.  It would apply to all new dwellings on the resultant rural residential subdivision.	Consistent



## Q7: Is the planning proposal consistent with applicable Ministerial Directions (s.9.1directions)?

Assessment of the planning proposal against the s9.1 Ministerial Directions is provided below.

Table 3: Ministerial Directions

<i>Ministerial Direction</i>	<i>Consistency</i>
<i>Focus Area 1: Planning Systems</i>	
Direction 1.1 Regional Plans	Consistent: The planning proposal is consistent with the NC Regional Plan 2041.
Direction 1.2 Aboriginal LC Land Development	Not applicable
Direction 1.3 Approval and Referral requirements	Not applicable: The planning proposal does not alter any existing approval or referral requirements.
Direction 1.4 Site Specific Provisions	Consistent: The planning proposal utilises the standard Zone and Minimum Lot Size provisions of the Kempsey LEP 2013 to achieve the intended outcome.
Directions 1.5 to 1.20: Not applicable	
Focus Area 2: No Directions	
<i>Focus Area 3: Biodiversity &amp; Conservation</i>	
Direction 3.1 Conservation Zones	Consistent. The planning proposal includes the use of the C2 Environmental Conservation zone for the purpose of protecting and conserving environmental sensitive areas such as the watercourse riparian areas and retained mature vegetation.
Direction 3.2 Heritage Conservation	Consistent: The planning proposal would not result in provisions that impact Aboriginal Heritage or environmental heritage buildings or works.
<i>Focus Area 4: Resilience and Hazards</i>	
Direction 4.1 Flooding	Consistent: The planning proposal and intended outcome demonstrates compliance with KSC flood policy and adopted Floodplain Risk Management Plan, which is prepared in accordance with the principles of the Floodplain Development Manual 2005. Appendix E provides further detail.
Direction 4.2 Coastal Management	Not applicable: Lot 333 is not subject to the Coastal provisions of the SEPP (Resilience & Hazards)
Direction 4.3 Planning for Bushfire Protection	Consistent. The planning proposal includes an assessment having regard to <i>Planning for Bushfire Protection 2019</i> and identifies appropriate measures



	for the intended outcome.
Direction 4.4 Remediation of Contaminated Soil	Consistent: The planning proposal does not involve land within an <i>investigation area</i> , nor has there been any land use referred to in Table 1. Appendix G provides more detail on the history of use of the land.
Direction 4.5 Acid Sulphate Soils	Consistent: the planning proposal would not alter the existing KLEP 2013 provisions addressing acid sulphate soils.
Direction 4.6 Mine Subsidence & Unstable Land	Not applicable.
<i>Focus 5: Area Transport and Infrastructure</i>	
Direction 5.1 Integrating Land Use & Transport	Not applicable: Not an urban zone
Directions 5.2 & 5.3	Not applicable.
Direction 5.4 Shooting Ranges	Not applicable.
Focus Area 6: Housing: Not Applicable Focus Area 7: Industry & Employment – Not Applicable	
<i>Focus Area 8: Resources &amp; Energy:</i>	
Direction 8.1 Mining, Petroleum production and Extractive Industries.	Not applicable.
<i>Focus Area 9: Primary Production</i>	
Direction 9.1 Rural Zones	Justified: The subject land is identified within Council's endorsed UGMS Rural Residential Strategy for the purpose of Large Lot Residential development.
Direction 9.2 Rural Lands	Justified: As above.
Direction 9.3 & 9.4:	Not applicable.



## Section C: Environmental, Social and Economic Impact

**Q8: 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?**

No. The preliminary ecological assessment has identified areas of vegetation on site to be avoided and protected through the application of C2 Environmental Protection zone. The proposed C2 zone will provide significantly more protection than the current RU1 Primary Production zone, together with exclusion of cattle, weed control and ecological restoration.

The development concept has been specifically designed with consideration for areas of sensitive habitat are to be protected within an C2 Environmental Conservation zone.

As a result of this planning proposal 7.83 ha of the watercourse land will be zoned C2 Environmental Protection in addition to 2.67 ha of retained Forest vegetation. An appropriate Vegetation Management Plan (VMP) would be required as part of any future development approval for development of the site.

**Q9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Council's strategy identifies a suite of locality specific issues to be addressed as part of rezoning land in each identified release area. The Yarrahapinni locality specific matters have been addressed in relation to this planning proposal as follows:

*Table 4"Locality Specific Issues for the Yarrahapinni Land Release Area.*

The means of rationalizing access to facilitate an efficient pattern of subdivision, whilst minimizing access points to Stuarts Point Road.	The proposal seeks to upgrade an existing access onto Stuarts Point Road with appropriate intersection treatment requirements to be specified by Council at development application stage.
The relationship of the area to potential fauna corridor linkages	The entire creek line and ecological buffers as determined by the project ecologist are retained within one title and to be protected under the C2 Environmental Conservation zone. This ensures any fauna corridor role associated with it is retained.
The means by which vegetation retention can be maximized, whilst satisfying bushfire requirements	Vegetation has been retained in C2 Environmental Conservation zone, consistent with advice from BCD & refined with the benefit of knowledge obtained through detailed ecological assessment, site surveys and evaluation by the project ecologists.
The extent of the 1 in 100 year flood	The 1 in 100 year flood mapping obtained from Kempsey Shire Council has been applied to the site survey data to ensure all proposed allotments and access are comfortably above the 1in 100 year flood level. Refer Appendix E. Some lots have minor flood fringe areas, well clear of any building envelope.



Impacts from adjacent horticultural enterprises	There are no horticultural uses adjacent the subject land. Adjacent lots are primarily used as rural residential lifestyle lots.
Secondary (Class A) & Unknown Vegetation	<p>Under KSC CKPoM Map 1, the subject land is located within KMA1:Eungai Rail, Stuarts Point-Grassy Head. The land the subject of the planning proposal is described as a combination of Secondary (Class A) and Unknown Vegetation.</p> <p>The Ecological Assessment (EA) states that the site is not considered to be core Koala habitat but rather is representative (in part) of Potential Koala habitat (PKH). The EA applied the Performance Criteria for Potential Koala Habitat as per Section 4.10 of the CKPoM to the concept plan and determined that it would be compliant with the PKH criteria.</p> <p>Any existing native vegetation has been avoided along the creek line and retained forest areas are to be retained zoned c2 conservation.</p> <p>It is anticipated that at development application state a vegetation management plan would be required.</p>
Bushfire prone land	The Bushfire Prone Lands mapping shows Category 3 vegetation with Category 1 vegetation applying to the watercourse and separated forested areas. A bushfire hazard assessment has been undertaken in accordance with <i>Planning for Bushfire Protection Guidelines 2019</i> and which demonstrates adequate and appropriate bushfire protection measures are available and can be implemented, to facilitate the proposal. Refer Appendix D.
Class 4 and Class 5 Acid Sulfate Soil	<p>The subject land is mapped part Class 4 &amp; Part Class 5 ASS pursuant to the KLEP 2013. That part of Lot 333 that is mapped as Class 4 ASS, is excluded from rezoning and will be beyond any area of potential disturbance for associated with the future development of the land.</p> <p>That part of Lot 333 proposed to be zoned R5 Large Lot Residential is Class 5 ASS and in considering the requirements of Clause 7.1(6) of KLEP 2013, the intended outcome is appropriate and able to be managed through the requirements of clause 7.16.</p>



**Q10. Has the planning proposal adequately addressed any social and economic effects?**

*Aboriginal Cultural Heritage*

Aboriginal Cultural Heritage investigations were undertaken in April 2022, including pedestrian survey by Senior Sites officer of Kempsey LALC and Archaeologists from Everick Heritage. No Aboriginal sites or areas of Potential Archaeological Deposit were identified and in accordance with the Due Diligence Code of Practice, the proposed activity can proceed with caution, with no further Aboriginal Archaeological investigation, assessment or mitigation measures required. Kempsey LALC have required that a sites officer is present during the initial ground disturbance works for the elevated areas and road location inside the Project Area. The assessment report is provided in full at Appendix C including recommendations for the subdivision development stage.

*Social & Economic benefit*

The proposal would ultimately result in additional homes (16) as the preceding economic activity associated with construction of the subdivision infrastructure and vegetation management works.

Nearby social infrastructure which future residents would utilize, and support includes:

**Stuarts Point** village, 7km east with a population 766, post office, branch library, primary convenience supermarket, takeaway & cafe, liquor and fuel store, hardware store, tennis courts, playing fields, recreation and bowling club, Rural Fire Brigade, small shopping centre, caravan park, and public primary school.

**Macksville** 24km north with a population of 2780. Macksville provides higher order services including the District Hospital, railway station for North Coast Rail line, State run primary school and high school; pre-school & childcare centre, Church based primary school and aged care, vibrant “Main Street” shopping centre & Woolworths shopping centre, Industrial area, Services stations, Golf Course/Country Club, medical centre, town swimming pool aquatic centre and a range of sporting facilities and the Nambucca Shire Council chambers.

**Frederickton** 38 km south and **Coffs Harbour Regional centre** 85 km north, which has a major airport supporting national and some international flights.



**Section D: Infrastructure (Local, State and Commonwealth)****Q11. Is there adequate public infrastructure for the planning proposal?***Waste water*

The site geotechnical investigation demonstrates that each 1 ha allotment has capacity for safe long term on-site sewage wastewater treatment & disposal. The assessment makes recommendations for certain allotments, adjacent the internal watercourse. Refer Appendix F for details.

*Traffic*

The intended outcome would result in a new local road intersection onto Stuarts Point Road, most likely in the same location as the existing driveway intersection. The Council's AUS-Roads intersection design requirements would apply to any subsequent subdivision application for this location. Kempsey Shire Council pre-lodgment advice flags that details of intersection works will be required at the development application stage and that engineering drawings and traffic report are not required at the planning proposal stage.

**Q12. What are the views of State and Federal public authorities consulted in order to inform the Gateway determination?**

The applicant has consulted with Biodiversity Conservation Division (BCD) of DPIE in accordance with Council's early advice. This took the form of an on -site attendance by an officer of the BCD and subsequent email advice as to areas to be avoided. The subsequent ecological field survey by GeoLink confirmed and refined the avoid areas, which are proposed for inclusion in the C2 Environmental Protection zone.

Formal consultation would occur with all agencies nominated in the Gateway Determination.



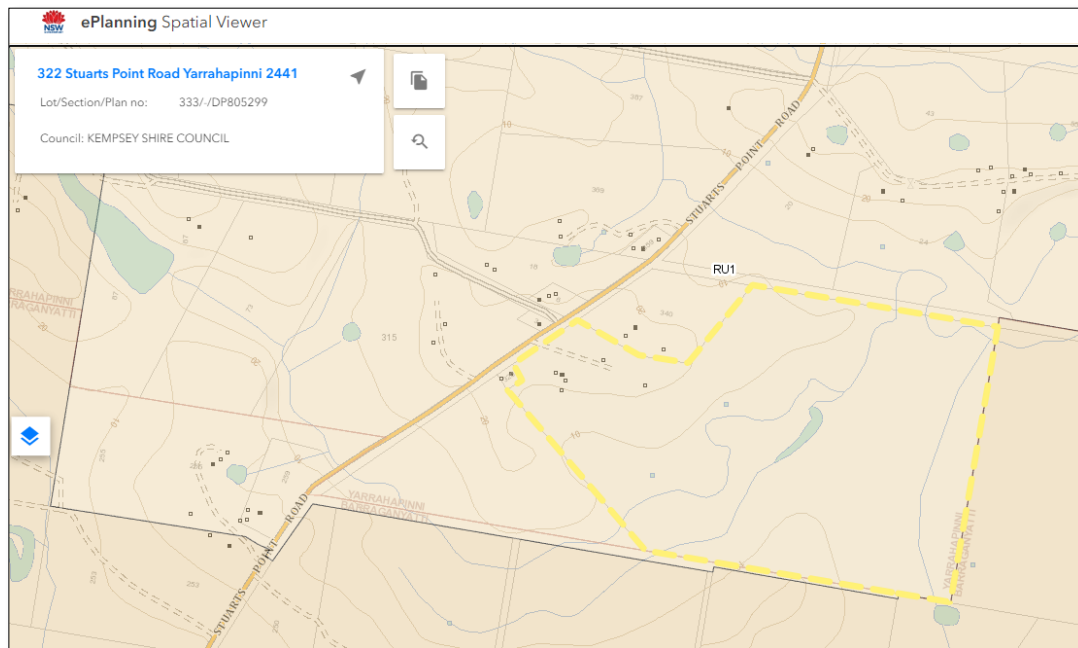


## PART 4: Mapping

Proposed map amendments to the Kempsey LEP 2013 as outlined in Part 2 of this planning proposal are illustrated below.

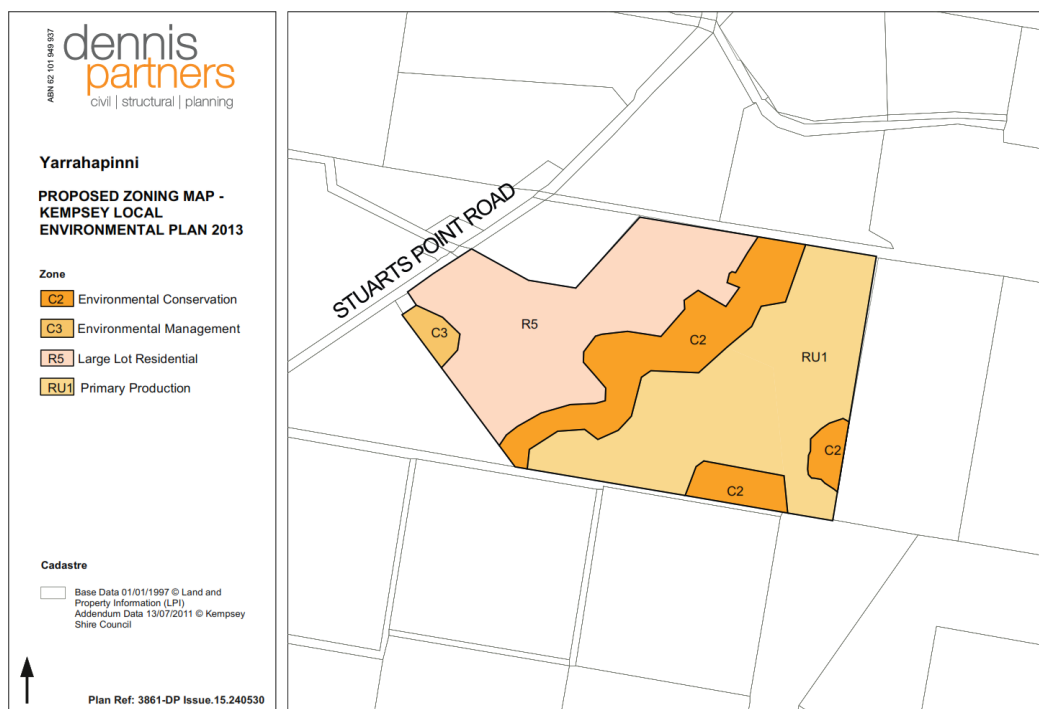
### Zones

#### *Current Land Zone - RU1 Primary Production*



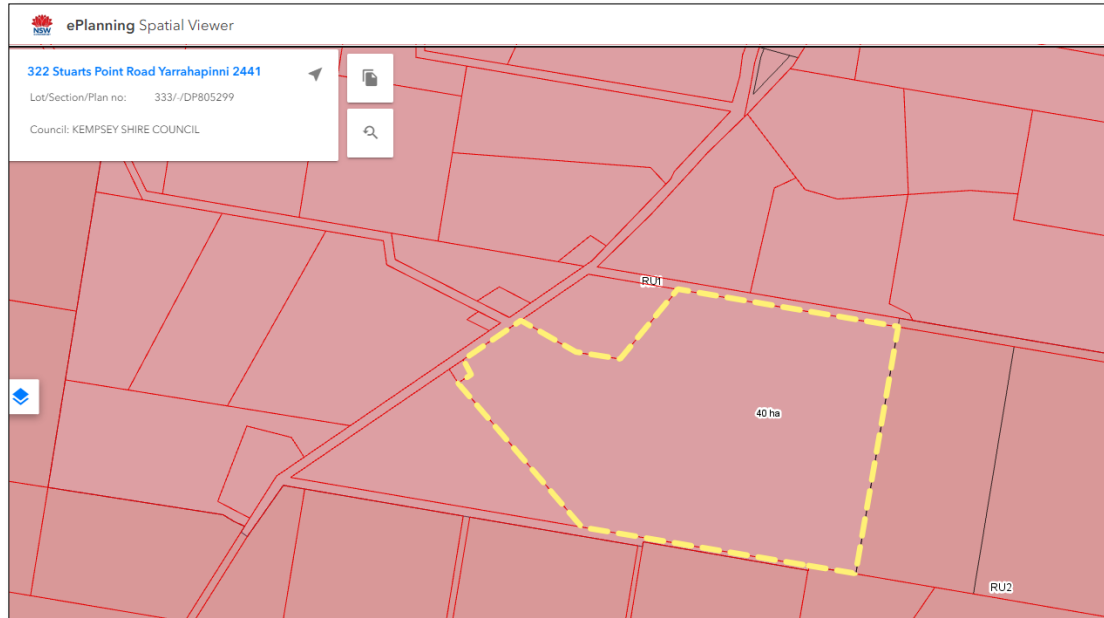
#### *Proposed Land Zones -*

*C2 Environmental Conservation, C3 Environmental Management and R5 Large Lot Residential.*

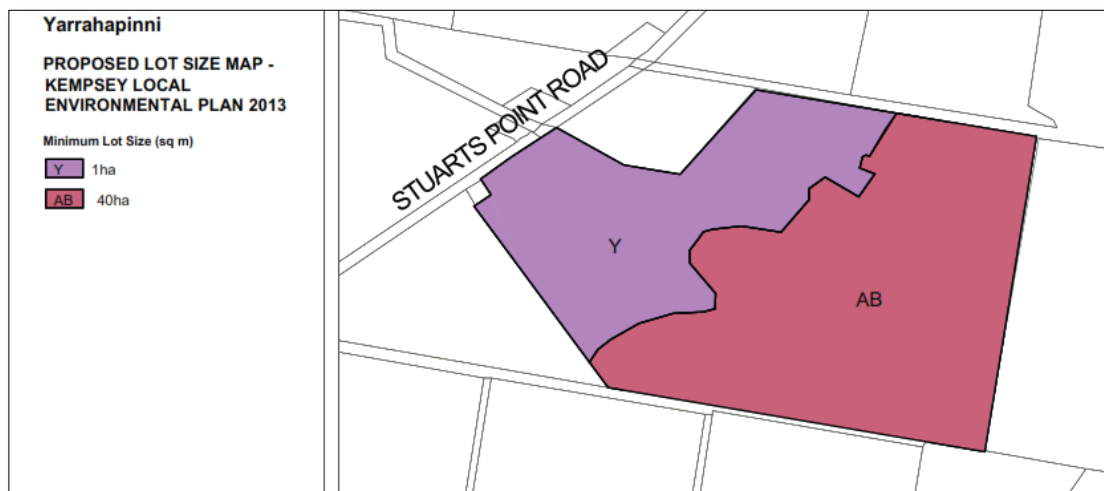


## Minimum Lot Size

*Current Minimum Lot Size - 40 ha*



*Proposed Minimum Lot Sizes - 1ha (Y) and 40 ha (AB)*



## PART 5: Community Consultation

The Gateway determination will specify that the planning proposal is exhibited for at least 28 days with a minimum of 21 days provided for consultation with state agencies.

It is proposed that exhibition would include:

### *Advertisement via Council On-Line Public Notices*

Due to COVID-19 public notices, including notice of planning proposals are published on Council's webpage at <https://www.kempsey.nsw.gov.au/Your-Council/Council-news-public-notices/Public-notices-items-on-exhibition>

### *Consultation with affected owners and adjoining landowners*

A letter will be sent to the landowner and adjoining landowners as part of the public exhibition. People who make a written submission as part of the public exhibition will be contacted as the planning proposal progresses.

### *Consultation with State Agencies*

Consultation with the following agencies is anticipated under any Gateway determination:

- NSW Rural Fire Service
- Environment & Heritage Division of DP&E.
- Department of Primary Industries, including Fisheries (DPI)
- NSW Office of Water Division of (DP&E)

### *Displays at the Council offices*

The planning proposal will be available at the Kempsey Shire Council offices in Kempsey.

### *Direct contact*

The contact officers for this planning proposal are Peter Orr and Marnie Jeffery.



## PART 6: Project Timeline

The project timeline is based on the Benchmark Timeframes in Section 1 of the DPIE LEP making guidelines 2021. The planning proposal fits within the 'Standard' category, being consistent with an endorsed District/Regional Strategic Plan and/or LSPS.

This planning proposal for Lot 333 DP 805299 known as 322 Stuarts Point Road, Yarrahapinni is consistent with the endorsed Regional Plan, *North Coast Regional Plan 2041* and with Council's endorsed Local Strategic Planning Statement *Future Macleay - Growth & Character*.

Stage	Maximum Benchmark Timeframes (working days)			
	Basic	Standard	Complex	Principal
<b>Stage 1 - Pre-lodgement</b>	30 days	50 days	60 days	20-30 days
<b>Stage 2 - Planning Proposal</b>	80 days	95 days	120 days	40 days
<b>Stage 3 - Gateway determination</b>	25 days	25 days	45 days	45 days
<b>Stage 4 - Post-Gateway</b>	20 days	50 days	70 days	160 days
<b>Stage 5 - Public Exhibition &amp; Assessment</b>	70 days	95 days	115 days	95 days
<b>Stage 6 - Finalisation</b>	25 days	55 days	70 days	80 days
<b>Sub-total (Department target)</b>	140 working days	225 working days	300 working days	380 working days
<b>Total (end to end)</b>	220 days	320 days	420 days	420 days

Note: Department target of 380 working days is measured from Stage 3 – Stage 6 (inclusive).

Figure 8: Benchmark Timeframes (source LEP Making Guidelines DPIE 2021)

Project Timeline	Estimated Project Timing
Report to Council to support planning proposal to DPIE	19 December 2023
Date of Gateway Determination	26 February 2023
Timeframe for completion of required infrastructure studies/plans and additional technical information	March – April 2024
Timeframe for public agency consultation	April – May 2024
Anticipated dates of public exhibition	May – June 2024
Timeframe for submissions to be considered	June 2024
Timeframe for the consideration of a proposal after the exhibition	July 2024
Date the plan will be made (where council is the LPMA) or date of submission to the Department to finalise the LEP	August 2024
Anticipated date of notification	September 2024

