

## PLANNING PROPOSAL

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### Proposed Infill E4 General Industrial Part of Lot 3 DP1231274, 476 Macleay Valley Way, South Kempsey

PURPOSE OF AMENDMENT:

Change of zoning from RU2 Rural Landscape to E4 General Industrial - Kempsey Local Environmental Plan 2013

SITE Part of Lot 3 DP1231274, 476 Macleay Valley Way, South Kempsey

BY: Griffin Superannuation Fund

DATE 4 April 2025

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## Revision Schedule

Revision Number	Date	Description	Staff
A	11 October 2024	For submission NSW Planning Portal	DM/AJT
B	14 November 2024	Post NSW Planning Portal Submission Update	DM/CC
C	3 February 2025	Updated Planning Proposal to address RFI from Kempsey Shire Council in respect to: <ul style="list-style-type: none"> <li>• KSC HEV Mapping</li> <li>• KSC TEC Mapping</li> <li>• Flood Mapping</li> </ul>	DM/CC/AJT
D	4 April 2025	Post Gateway Determination <ul style="list-style-type: none"> <li>• Reference to the address and legal description of the planning area throughout the proposal has been changed to "part of Lot 3 DP1231274, 476 Macleay Valley Way, South Kempsey.</li> <li>• "Appendix B - Concept Subdivision" removed and Planning Proposal adjusted in accordance with Item 1.(b) of the Gateway Determination.</li> </ul>	DM/CC

### Disclaimer

This report was prepared in accordance with the scope of works set out in the contract between King & Campbell Pty Ltd and the Client. To the best of King & Campbell Pty Ltd's knowledge, the proposal presented herein accurately reflects the Client's intentions when the report was printed.

King & Campbell Pty Ltd used information and documentation provided by external persons, companies and authorities. Whilst checks were completed by King & Campbell Pty Ltd to ensure that this information and/or documentation was accurate, it has been taken on good faith and has not been independently verified. It is therefore advised that all information and conclusions presented in this report apply to the subject land at the time of assessment, and the subject proposal only.



# Executive Summary

This Planning Proposal has been prepared under Section 3.33(2) of the Environmental Planning and Assessment Act 1979 (EPA Act), in accordance with Local Environmental Plan Making Guideline (August 2023) (Guideline), as published by the NSW Department of Planning and Environment (DPE) at the time, and now known as Department of Planning, Housing and Infrastructure (DPHI) and Kempsey Shire Council (Council) Procedure 1.1.9 Rezoning Applications.

The Guideline provides that there are six (6) stages to the Planning Proposal process, which has been reproduced in Figure 1.



Figure 1 - Copy of Planning Proposal Stages from Local Environmental Plan Making Guideline (August 2023)

This Planning Proposal represents Stages 4 and 5 in the timeline and has been initiated by the proponent Griffin Superannuation Fund in relation to their land known as Part of Lot 3 DP 1231274, 476 Macleay Valley Way, South Kempsey (Subject Property).

The Planning Proposal is considered to be a Standard Planning Proposal, in accordance with the Categories described on p.14 of the Guideline, and is seeking to amend the Kempsey Local Environmental Plan 2013 (KLEP 2013) as follows:

1. Amendment to the KLEP 2013 Land Zoning Map (sheet LZN\_011B) to:
  - a. Convert the existing RU2 Rural Landscape zone part of the Site to E4 General Industrial.
2. Amendment to KLEP 2013 Lot Size Map (sheet LSZ\_011B) to:
  - a. Remove the existing 40ha minimum lot size development control applicable to the part of the Subject Property currently zoned RU2 Rural Landscape ensuring consistency with the minimum lot size development control on the existing adjoining land zoned E4 General Industrial
3. Amendment to the KLEP 2013 Floor Space Ratio Map (sheet FSR\_011B) to:
  - a. Convert the unspecified floor space ratio part of the Site to have a maximum floor space ratio of 0.5:1.

This Planning Proposal and supporting studies and reports demonstrate that the amendments sought to KLEP 2013 are consistent with:

- North Coast Regional Strategy 2041
- Local Planning Strategy (LSPS) - Future Macleay (July 2020)
- Kempsey Local Growth Management Strategy 2041
- All State Environmental Planning Policies; and
- Local Planning Directions under Section 9.1(2)

This Planning Proposal is therefore commended to Council for review and referral to the DPHI for Gateway Determination.

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## Abbreviations and Definitions

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This Planning Proposal uses the following abbreviations and definitions:

BC Act: Biodiversity Conservation Act 2016

Council: means Kempsey Shire Council

DPE: NSW Department of Planning and Environment (up to 31 December 2023)

DPHI: NSW Department of Planning, Housing and Infrastructure (from 1 January 2024)

EPA Act: Environmental Planning and Assessment Act 1979

EPA Regulation: Environmental Planning and Assessment Regulation 2021

EPBC Act: Environmental Protection and Biodiversity Conservation Act 1999

EPI: Environmental planning instrument

FM Act: Fisheries Management Act 1994

HEV: High Environmental Value

KPoM: Kempsey Council Koala Plan of Management

KLEP: Kempsey Local Environmental Plan 2013

LGMS: Kempsey Local Growth Management Strategy 2041

LGA: Local Government Area (Kempsey)

LSPS: Local Strategic Planning Statement

NCRP: North Coast Regional Plan 2041

SSD: State significant development



# Introduction

This Planning Proposal has been prepared under Section 3.33(2) of the Environmental Planning and Assessment Act 1979 (EPA Act), in accordance with Local Environmental Plan Making Guideline (August 2023) (Guideline), as published by the NSW Department of Planning and Environment (DPE) at the time and now known as Department of Planning, Housing and Infrastructure (DPHI) and Kempsey Shire Council (Council) Procedure 1.1.9 Rezoning Applications.

This Planning Proposal seeks to amend Kempsey Local Environmental Plan 2013 (KLEP 2013) as set out in Table 1:

Table 1 - Summary of Planning Proposal

Purpose	To change part of the Subject Property from RU2 Rural Landscape to E4 General Industrial zone to enable industrial, warehouse, logistics and related land uses in accordance with the Kempsey Local Environment Plan 2013.
Legal Description	Part of Lot 3 DP 1231274
Property Address	Part of 476 Macleay Valley Way, South Kempsey, NSW 2440
Subject Property Area Site Area subject to LEP Amendment	7.481ha 3.589ha
Current KLEP 2013	Part RU2 Rural Landscape Part E4 General Industrial Part Lot Size Map 40 hectare and part unspecified Part Maximum FSR of 0.5:1 and part unspecified
Proposed KLEP 2013	E4 General Industrial No Lot Size Development Control Maximum FSR of 0.5:1
Applicant details	Griffin Superannuation Fund, c/- King and Campbell Pty Ltd, PO Box 243, Port Macquarie NSW 2444
Landowner	Griffin Superannuation Fund

The proposed KLEP 2013 Map amendments described in Table 1 are included in Appendix A.

The locality of the subject property, Part of Lot 3 DP 1231274, 476 Macleay Valley Way, South Kempsey (Subject Property), is identified in Figure 2 & 3.

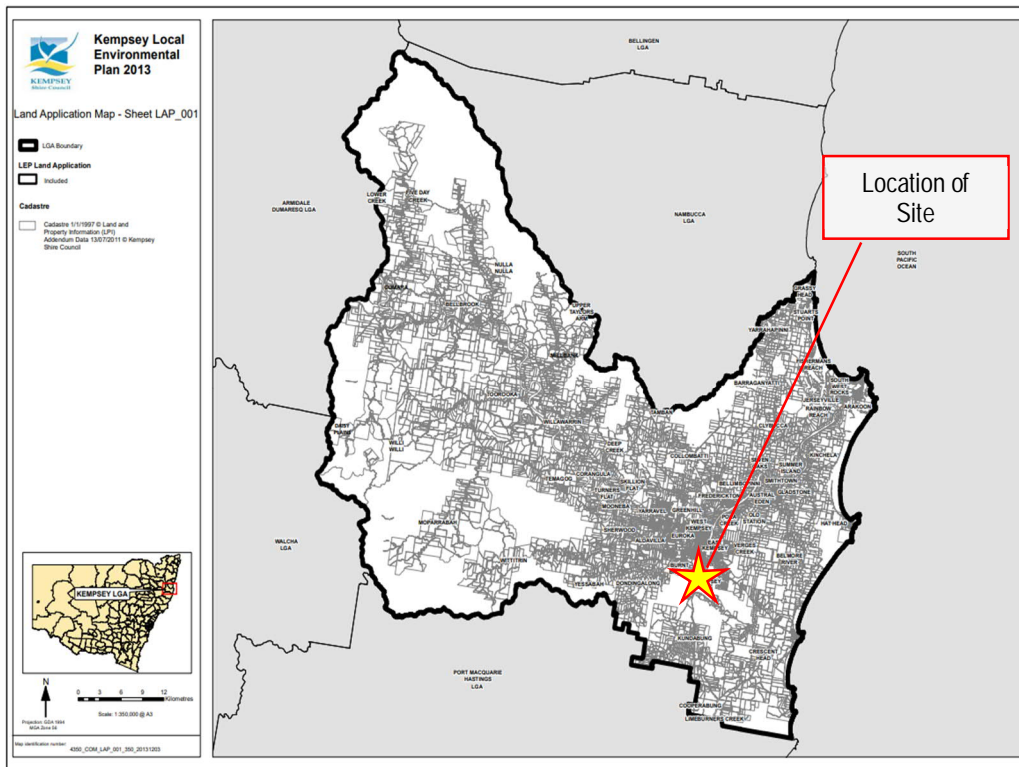


Figure 2 - KLEP Land Application Map and location of Site

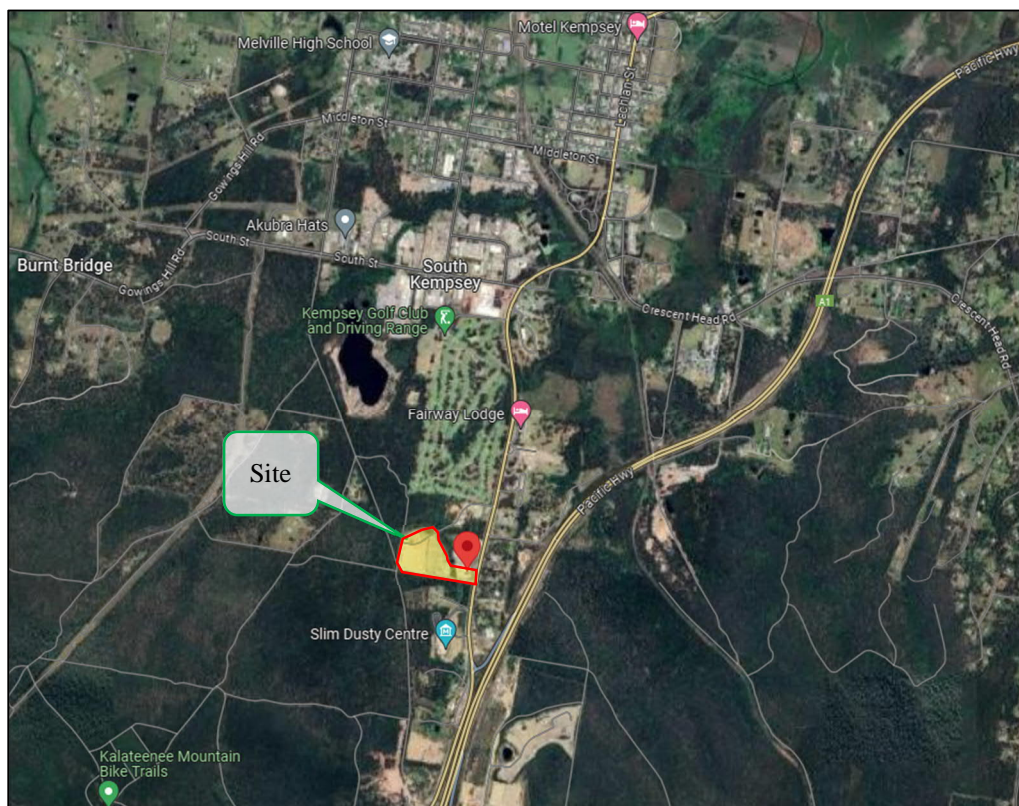


Figure 3 - Site approx. within South Kempsey Locality (Source: Google Maps 20 May 2024)

# PART 1 - Objectives & Intended Outcomes of the Planning Proposal

## Objective

The objective of the Planning Proposal is to permit future infill industrial development on the western part of the Site that is compatible with the current general industrial land uses on the eastern part of the Site and the adjoining northern properties. The Site is identified within the Urban Growth Area Boundary of the North Coast Regional Plan as shown in the Kempsey Local Growth Management Strategy (LGMS) for South Kempsey (p.44 – Map 7), an extract of which is provided in Figure 4.

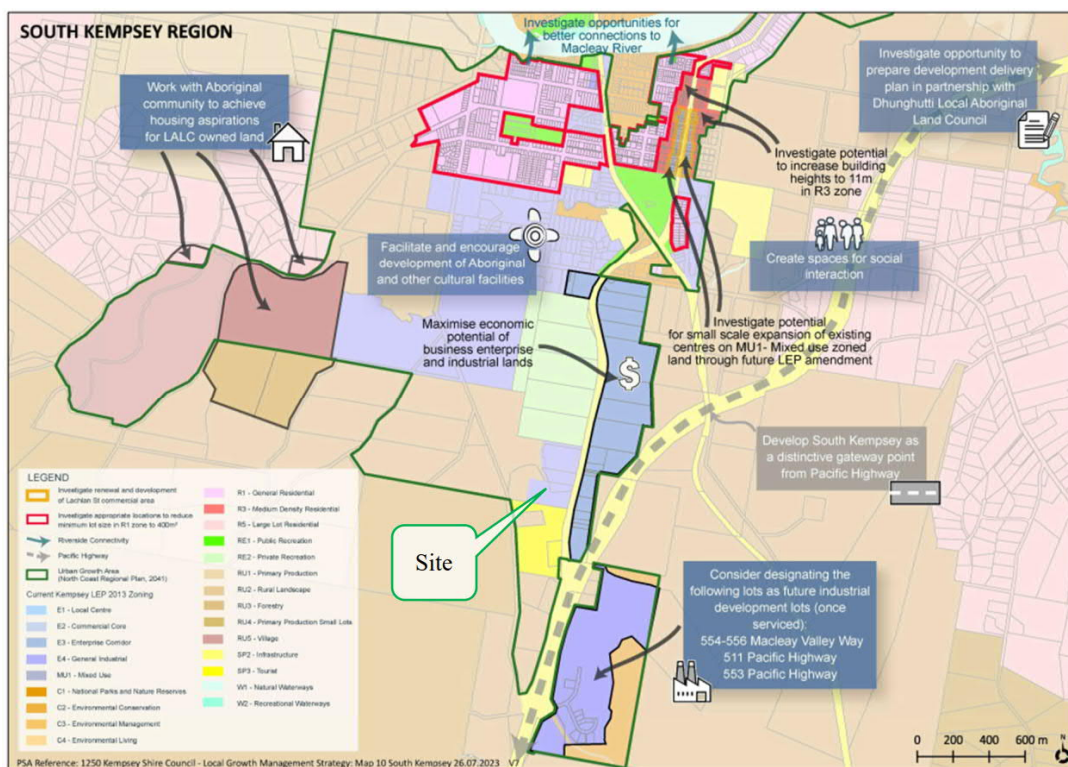


Figure 4 - Extract of Map 7 from Kempsey Local Growth Strategy (2023)

## Intended Outcomes

The intended outcomes of the Planning Proposal are to:

- Provide for additional infill industrial land within the subject property which is compatible with the existing E4 General Industrial zoned land on the eastern half of the subject property and the adjoining northern properties.
- Contribute to the growth in suitably zoned employment land identified within the South Kempsey Region of the Kempsey Local Growth Strategy



# PART 2 - Explanation of the Provisions

## Intended Provisions

To achieve the intended outcomes of the Planning Proposal the following amendments to the KLEP 2013 instrument will be required:

1. Amendment to the KLEP 2013 Land Zoning Map to:
  - a. Rezone the existing RU2 Rural Landscape zone part of the Subject Property to E4 General Industrial

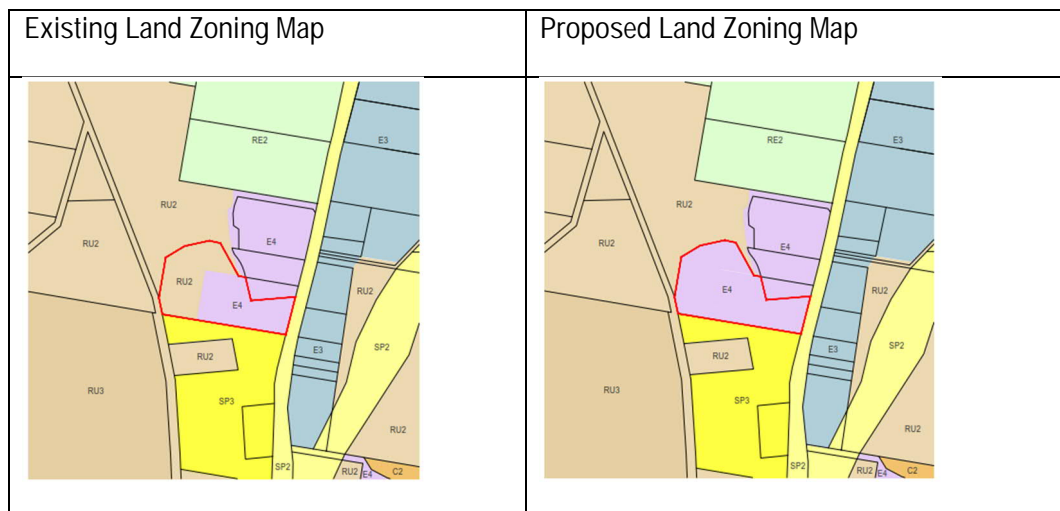


Figure 5 – Extract of Proposed Land Zoning Map Amendment (refer Appendix A)

2. Amendment to KLEP 2013 Lot Size Map to:
  - a. Remove the existing 40ha lot size from the land proposed to be zoned E4 General Industrial.

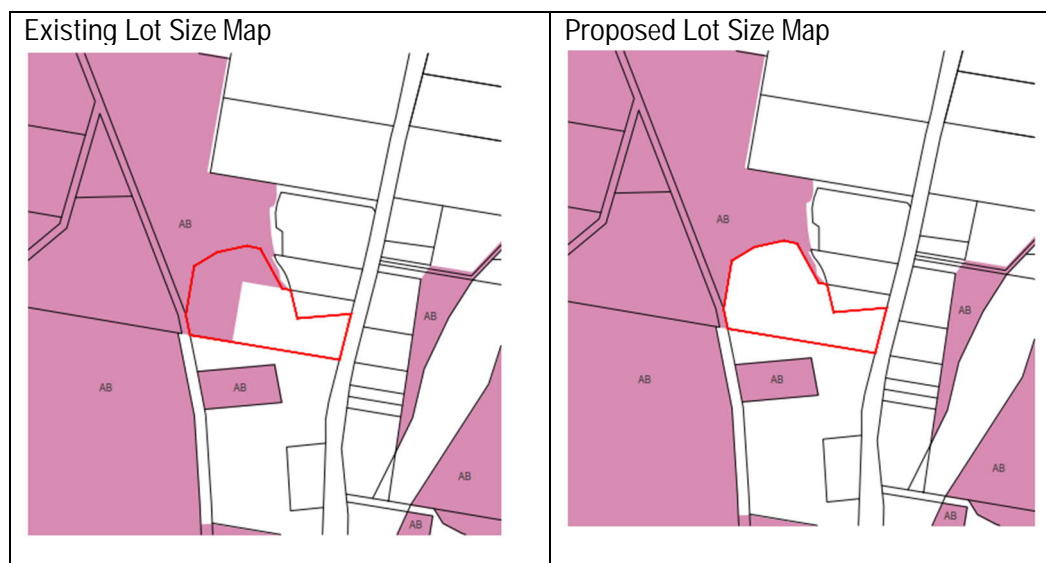


Figure 6 - Extract of Proposed Lot Size Map Amendment (refer to Appendix A)

3. Amendment to the KLEP 2013 Floor Space Ratio Map (sheet FSR\_011B) to:
- a. Convert the unspecified floor space ratio part of the Site to have a maximum floor space ratio of 0.5:1.

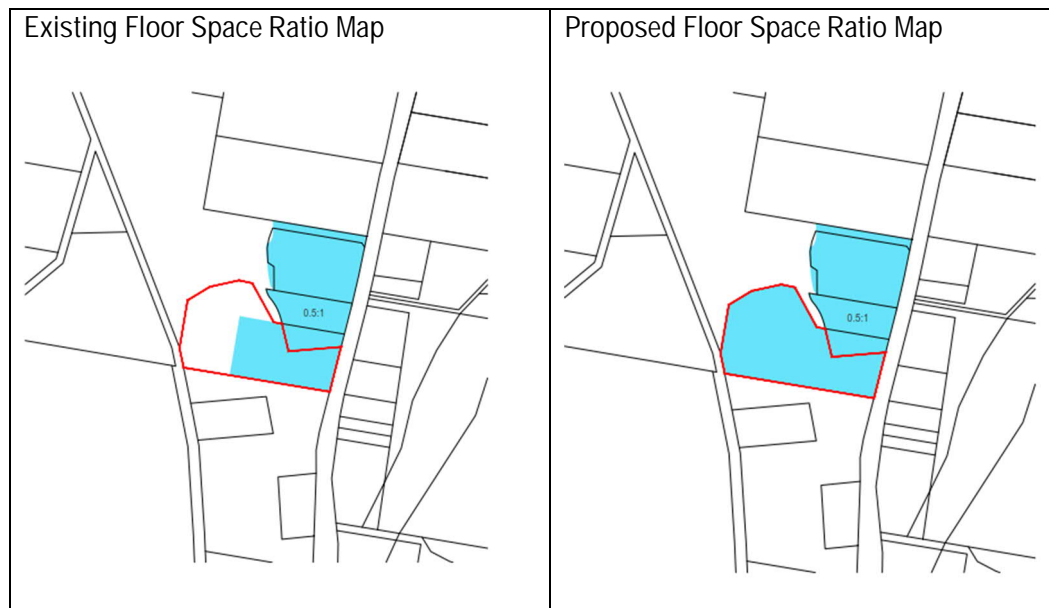


Figure 7 – Extract of proposed Floor Space Ratio Map Amendment (refer to Appendix A)

# PART 3 - Justification of Strategic & Site-Specific Merit

## Strategic Merit:

### Section A - Need for the Planning Proposal

Question 1 – Is the Planning Proposal a result of an endorsed LSPS, strategic study or report?

The LSPS for the Kempsey LGA is Future Macleay (July 2020). The LSPS sets four (4) themes to identify Planning Priorities for growth in the Kempsey LGA which are reproduced below:

#### 6.2. Themes and planning priorities

<b>THEME 1 HEALTHY ENVIRONMENT</b>	<p><i>Planning priority H1:</i> Deliver growth that does not compromise the Shire's rich biodiversity</p> <p><i>Planning priority H2:</i> Rehabilitate and enhance biodiversity, coastal and aquatic habitats, and water catchments</p> <p><i>Planning priority H3:</i> Manage natural hazards and climate change</p>
<b>THEME 2 WEALTHY ECONOMY</b>	<p><i>Planning priority W1:</i> Develop successful centres of employment and increase formal education opportunities within the community</p> <p><i>Planning priority W2:</i> Enable the growth of tourism</p> <p><i>Planning priority W3:</i> Strengthen regionally significant transport corridors</p> <p><i>Planning priority W4:</i> Facilitate air, rail and public transport infrastructure</p> <p><i>Planning priority W5:</i> Enable sustainable resource extraction, protect and enhance productive agricultural lands and grow agribusiness across the Shire</p> <p><i>Planning priority W6:</i> Enable the economic self-determination of our local Aboriginal communities</p> <p><i>Planning priority W7:</i> Coordinate local infrastructure delivery</p>
<b>THEME 3 CONNECTED COMMUNITIES</b>	<p><i>Planning priority C1:</i> Strengthen cross-regional relationships</p> <p><i>Planning priority C2:</i> Provide great places to live and work</p> <p><i>Planning priority C3:</i> Develop healthy, safe, socially engaged and well-connected communities</p> <p><i>Planning priority C4:</i> Collaborate and partner with Aboriginal communities</p> <p><i>Planning priority C5:</i> Respect and protect the Shire's heritage</p> <p><i>Planning priority C6:</i> Maintain the Shire's distinctive built character</p>
<b>THEME 4 SAFE &amp; SUITABLE HOUSING</b>	<p><i>Planning priority S1:</i> Plan for housing demand</p> <p><i>Planning priority S2:</i> Increase housing diversity and choice</p> <p><i>Planning priority S3:</i> Deliver more opportunities for affordable housing</p> <p><i>Planning priority S4:</i> Deliver well-planned rural residential housing areas</p>

Figure 8 - Extract of Section 6.2 Themes and planning priorities from the LSPS

This Planning Proposal aligns with Theme 2 – Wealth and Economy, as it seeks to contribute to the development of the South Kempsey Employment lands.

Further to the themes and planning priorities identified in Figure 8, the identified 'Action' under the LSPS is the review of 'growth strategies' for the Kempsey LGA. In response to this action Council adopted the Kempsey Local Growth Management Strategy 2041 (LGMS) in August 2023. Section 1.1. of the LGMS states:

This Strategy provides a guide for future development areas for housing and employment lands ensuring alignment with key infrastructure.

It contains proposals for future steps including potential LEP and DCP amendments, which will be subject to separate statutory processes under the Environmental Planning and Assessment Act 1979. It also includes implementation strategies to support the growth of Kempsey Shire.

It builds on the work of the Local Strategic Planning Statement 2020 (LSPS) and aligns with both the North Coast Regional Plan 2041 and other Council strategies, including the recently adopted Community Strategic Plan 2042.

In terms of growth and employment in South Kempsey, the LGMS states the following (p.42) :

**"11.4.3 Employment**

The South Kempsey Enterprise Precinct along Macleay Valley Way makes an important employment contribution. This area will be consolidated and enhanced by maximising future development opportunities. Continued implementation of essential water and sewer services to the South Kempsey Enterprise Precinct will be provided, with opportunities to investigate increasing the amount of larger industrial allotments, should the need arise to accommodate these uses in the medium to longer term."

Further Section 11.4.5 of the LGMS identified the following Action, amongst others, for South Kempsey:

- Development maximises opportunities for the South Kempsey Enterprise Precinct along Macleay Valley Way;

This Planning Proposal for infill E4 General Industrial land contributes to both consolidation of employment lands within the South Kempsey Enterprise Precinct and maximising future development opportunities in the Precinct while making use existing water and sewer services. The Planning Proposal is consistent with the recommendations and actions of both the adopted LSPS – Future Macleay and the supporting and adopted LGMS.

Question 2 – Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal for the Site is the best means of achieving the desired outcomes.

There are no other planning pathways available under the EPA Act and EPA Regulation to achieve the intended outcomes for the Site, which are to change part of the subject Site from RU2 Rural Landscape, to match the E4 General Industrial zone part of the Site, and to enable formalised industrial uses on the land in accordance with the Kempsey Local Environment Plan 2013, LSPS and LGMS.

Considering the Planning Proposal pathway is endorsed by the most recent strategies prepared by the Council for the locality and that there are no other identifiable legislated pathways available, the best means of moving forward to achieve the intended outcomes for the Site are via a Planning Proposal.

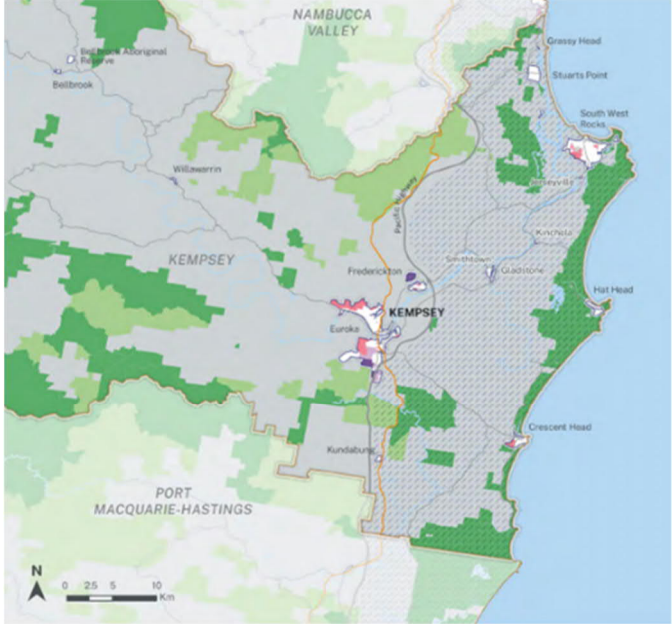
## Section B – Relationship to the strategic planning framework

Question 3 – Will the Planning Proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any draft plans or strategies)?

The North Coast Regional Plan 2041 (NCRP) is the relevant regional plan applying to the Kempsey LGA and therefore, South Kempsey. The NCRP sets a 20-year strategic land use planning framework for the north coast region and was published by the DPE in December 2022. The NCRP aims to protect and enhance the north coast region's assets and plan for a sustainable future by providing an overarching framework to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions at a regional, subregional and local level.

The NCRP is structured with overarching Goals containing several Objectives to achieve the Goals. These Goals and Objectives are addressed in Table 2:

Table 2 - North Coast Regional Plan 2041 Goals and Objectives

Goal – Liveable, sustainable and resilient	
Objective	Comment
Objective 1 – Provide well and located homes to meet demand	<p>The Subject Property is located within an existing employment precinct and is also identified as an Investigation area – employment land in the NCRP (Refer Figure 9). The site is therefore not suitable for the location of homes. The intent of the Planning Proposal is to provide suitable infill industrial land within an existing employment precinct.</p>  <p><b>Figure 9 - Extract of Figure 17 from NCRP - Urban Growth area map for Kempsey LGA</b></p> <p>Legend:</p> <ul style="list-style-type: none"> <li>— LGA boundary</li> <li>— Road</li> <li>— Highway</li> <li>— Railway</li> <li>■ National parks and nature reserves</li> <li>■ State forest</li> <li>■ Water body</li> <li>□ Urban growth area</li> <li>■ Investigation area-urban land</li> <li>■ Investigation area-employment land</li> <li>■ Existing employment land</li> <li>--- Coastal strip</li> </ul> <p>Growth areas show the boundaries of urban areas and as such, identify both existing and proposed urban lands. Not all land identified within the growth area can be developed for urban uses. All sites will be subject to more detailed investigations to determine capacity and future yield. Land that is subject to significant natural hazards, environmental constraints and/or servicing constraints will be excluded from development.</p>
Objective 2 – Provide for more affordable and low	<p>As discussed above the Site is located within an existing employment precinct and is not suitable for low-cost housing. The intent of the Planning Proposal is to provide suitable infill</p>




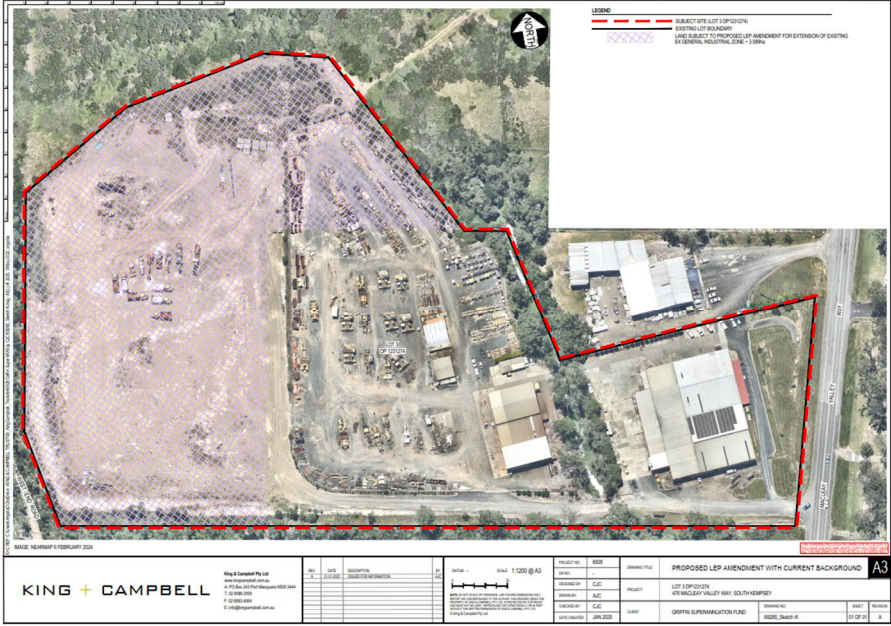
cost housing	industrial land within an existing employment precinct, which has the potential to support workers living in low-cost housing.
Objective 3 – Protect regional biodiversity and areas of high environmental value	<p>According to Council’s mapping the Site contains high environmental value (HEV) land, as shown in Figure 10.</p> <div data-bbox="488 380 1265 813"></div> <p>Figure 10 - HEV mapping (Source: Kempsey Shire Council)</p> <p>However, as can be seen in Figure 11, the Site is mostly clear of vegetation.</p> <div data-bbox="488 974 1383 1597"></div> <p>Figure 11 - Current Aerial Image of Site with proposed zone overlay</p> <p>The vegetation removal on the Site was approved by Council under Development Consent T6-13-137. Ecological assessments were undertaken for T6-13-137 and found that there was no HEV on the Site, hence vegetation clearing and earthworks were approved under the consent subject a Vegetation Management Plan (VMP).</p> <p>A copy of the plan from the VMP shows the extent of the approved works is provided in Figure 12. The orange broken line shows the extent of the approved clearing and earthworks, which is consistent with the current use and condition of the Site as shown in Figure 11.</p>



Figure 12 - Copy of Plan from VMP under Development Consent T6-13-137

Therefore, whilst Council's mapping identified the Site as containing HEV, earthworks and vegetation clearing were approved by Council under Development Consent T6-13-137, which is consistent with the current use and condition of the Site.

Figure 13 - Proposed zones in relation to vegetation and approved VMP Figure 13 overlays the details from Figure 12 with Figure 12 and demonstrates that the existing vegetation in the central drainage corridor on the Site and mapped by Council as HEV, is outside the area of the Planning Proposal, i.e. not affected by the proposed change in zoning, minimum lot size and floor space ratio maps. The Planning Proposal does not seek any change to this vegetation.

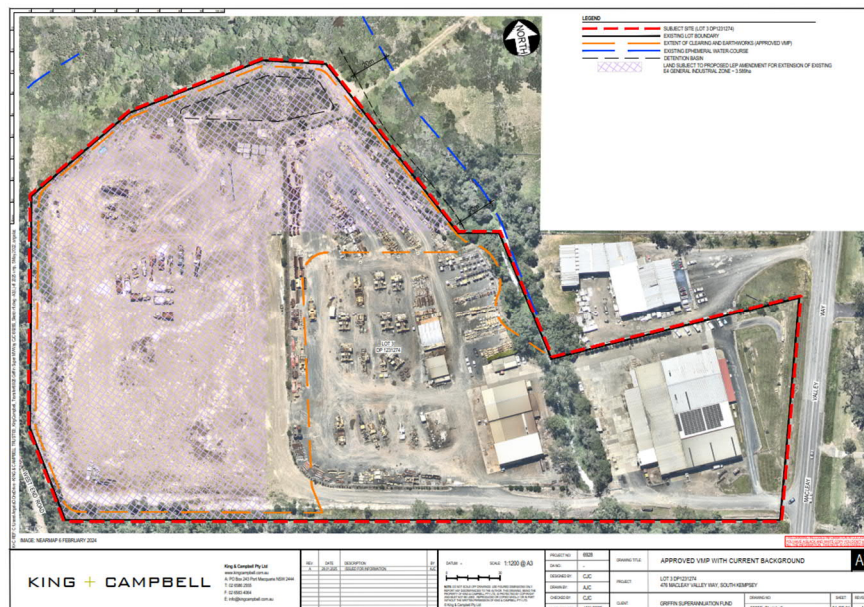


Figure 13 - Proposed zones in relation to vegetation and approved VMP

Further, the vegetation on the Site's southern and western boundaries is predominantly revegetation as part of the compensatory planting in accordance with the VMP. Other minor regeneration has occurred naturally or as part of landscaping for the detention basin at the

north of the Site.

The Biodiversity Values Mapping, as shown in Figure 14 demonstrates there is no significant biodiversity values on the Site.



Figure 14 - Extract of Biodiversity Values Map, Site in yellow outline (Source: DPE Spatial Viewer)

Nevertheless, in respect to this objective, the criteria for HEV Land as contained in the NCRP are addressed as follows:

Table 3 - NCRP HEV Assessment Criteria

HEV Criteria	Comment
Littoral Rainforest, Coastal Wetlands and proximity areas mapped by the Resilience and Hazards SEPP.	The Site is not mapped under the Resilience and Hazards SEPP as containing any of these features.
Areas of Outstanding Biodiversity Value (AOBV)	As shown in Figure 14 the Site is not mapped as containing any biodiversity values and is not on the Register of AOBV <sup>1</sup> .
Nationally Important Wetlands (NIW) and 50m buffer	No NIW listed on the Site.
Riparian zones of 3 <sup>rd</sup> order streams, including Vegetated Riparian Buffer consistent with Appendix 3 of the BAM (2020)	The stream traversing through the existing E4 zoned part of the Site is a 2 <sup>nd</sup> order stream only, with intermittent flows.
Native vegetation in over-cleared (Mitchell) landscapes (i.e. >70%)	The Site is not mapped as being within Mitchell Landscapes V3.1 Over Cleared Land Status (Source: NSW SEED).
Over-cleared vegetation types in Vegetation Information System (VIS)	The Ecological Assessment by Flora Fauna Consulting undertaken for

<sup>1</sup> Register of AOBV: <https://www2.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/areas-of-outstanding-biodiversity-value/area-of-outstanding-biodiversity-value-register>

	<table><tr><td>Database</td><td><p>Development Application T6-13-137 (April 2013) identified three vegetation types on the land as:</p><ul style="list-style-type: none"><li>• PCT ID: NR1092 – Red Mahogany Open Forest</li><li>• PCT ID: 690 – Tallowood dry grassy open forest</li><li>• PCT ID: 1064 – Paperbark swamp forest</li></ul><p>All of these PCTs were cleared under Development Consent T6-13-137. On that basis there are no existing over cleared vegetation types in the footprint of the proposed E4 zone.</p></td></tr><tr><td>Threatened Ecological Communities (TEC)</td><td>No TEC exists on the Site as the vegetation was cleared under Development Consent T6-13-137, as approved by Council</td></tr></table>	Database	<p>Development Application T6-13-137 (April 2013) identified three vegetation types on the land as:</p> <ul style="list-style-type: none"><li>• PCT ID: NR1092 – Red Mahogany Open Forest</li><li>• PCT ID: 690 – Tallowood dry grassy open forest</li><li>• PCT ID: 1064 – Paperbark swamp forest</li></ul> <p>All of these PCTs were cleared under Development Consent T6-13-137. On that basis there are no existing over cleared vegetation types in the footprint of the proposed E4 zone.</p>	Threatened Ecological Communities (TEC)	No TEC exists on the Site as the vegetation was cleared under Development Consent T6-13-137, as approved by Council
Database	<p>Development Application T6-13-137 (April 2013) identified three vegetation types on the land as:</p> <ul style="list-style-type: none"><li>• PCT ID: NR1092 – Red Mahogany Open Forest</li><li>• PCT ID: 690 – Tallowood dry grassy open forest</li><li>• PCT ID: 1064 – Paperbark swamp forest</li></ul> <p>All of these PCTs were cleared under Development Consent T6-13-137. On that basis there are no existing over cleared vegetation types in the footprint of the proposed E4 zone.</p>				
Threatened Ecological Communities (TEC)	No TEC exists on the Site as the vegetation was cleared under Development Consent T6-13-137, as approved by Council				
	<p>Considering the HEV assessment in Table 3, the Site does not qualify as HEV land and is therefore consistent with the provisions of this objective, as no HEV land will be affected by the Planning Proposal.</p>				
Objective 4 – Understand, celebrate and integrate Aboriginal culture	<p>This Objective discusses how councils can prepare cultural heritage mapping with an accompanying Aboriginal cultural management plan in collaboration with Aboriginal communities to protect culturally important sites. This Objective also discusses the prioritization of applying dual names in local Aboriginal language to important places, features or infrastructure in collaboration with local Aboriginal communities.</p> <p>The LGMS identifies the need to investigate opportunity to prepare development delivery plan in partnership with Dunghutti Local Aboriginal Land Council. As this Planning Proposal is standard, site specific and infill in nature, it is not considered a ‘complex’ or ‘principal’ Planning Proposal where consultation and partnership with the Dunghutti Local Aboriginal Land Council is considered necessary.</p> <p>Notwithstanding, an AHIMS search was undertaken and provided in Appendix C. The AHIMS search revealed that there are no known Aboriginal sites recorded in or near the Site and that no Aboriginal places have been declared in or near the Site’s location.</p>				
Objective 5 – Manage and improve resilience to shocks and stresses, natural hazards and climate change	<p>This objective aims to ensure that when strategic plans are prepared, Councils should be consistent with and adopt the principles outlined in the Strategic Guide to Planning for Natural Hazards, as published by the DPE in December 2021. An assessment using the guide is provided as Appendix D.</p> <p>Other strategies under this objective are to:</p> <ul style="list-style-type: none"><li>• Update land use strategies where risks are known in consultation with Local Emergency Management Committees,</li><li>• Use local strategic plans to adapt to climate change and reduce exposure to</li></ul>				



natural hazards,

- Create resilience and adaptation plans, and
- Partner with local Aboriginal communities to develop land management agreements and to support cultural management practices.

### Bushfire

It is to be noted that the Site is Bushfire affected, as mapped by the NSW RFS. A Strategic Bushfire Study (August 2024), by David Pensini (BCES) has been prepared in respect to this Planning Proposal and is provided as Appendix E. In summary the report concluded (p.63):

- (i) it is considered that the proposed rezoning of the western portion of Lot 3 DP 1231274, 476 Macleay Valley Way, South Kempsey is at risk of bushfire attack; however, it is in our opinion that with the development and implementation of specific bushfire threat reduction measures, the bushfire risk is manageable for the proposed rezoning of land albeit that the design and construction of any future industrial development within the subject site will need to demonstrate compliance with the relevant requirements of NSW Rural Fire Service, Planning for Bushfire Protection, 2019.
- (ii) There would be no apparent impediments or restrictions on the future industrial development of the area of land which is the subject of this report being able to comply with the bushfire threat management requirements of NSW Rural Fire Services, Planning for Bushfire Protection, 2019 which are assessed as being relevant to future development.

It is considered that it will be possible for future development of the Site to meet the applicable performance objectives and acceptable solutions as provided for in NSW Rural Fire Service, Planning for Bushfire Protection, 2019, relevant to industrial development.

### Flooding

The land the subject of this Planning Proposal is not mapped as being impacted by the 1% AEP with SLR & CC flood as shown in Council's Flood Planning Mapping and detailed in the Civil Engineering Report (Appendix I). An extract of the mapping showing the 1% AEP with SLR & CC flood is provided in Figure 15.



Figure 15 - Extract of KSC 1% AEP with SLR & CC (2100) Flood Mapping

Council have confirmed the 1% AEP with SLR & CC Flood Planning Level (FPL) is 12.30m AHD. It is to be noted that the lowest level on the Site, as determined by survey is 13.5m

AHD and is located at the most northern boundary edge.

The Site is mapped as being partially impacted by the Probable Maximum Flood (PMF), as shown in Figure 16.

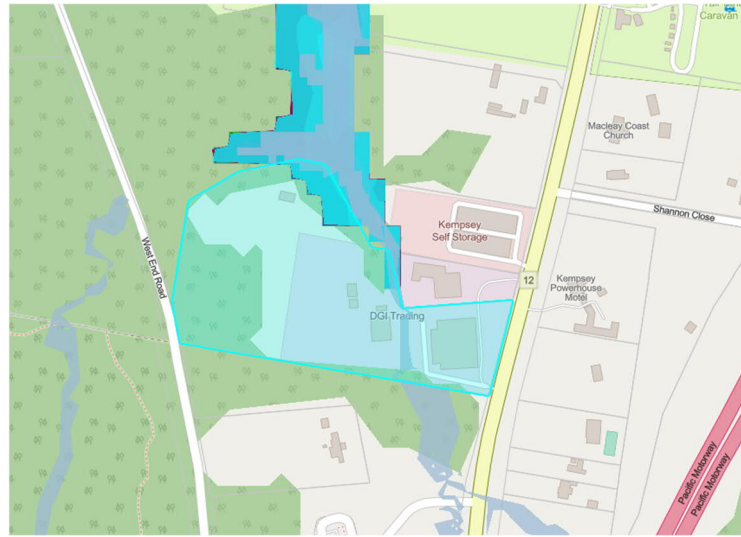


Figure 16 - Mapped PMF affection on the Site (Source: Kempsey Shire Council)

Council have confirmed the PMF level at the subject site is 14.30m AHD. The PMF level of 14.30m AHD affection on the Site is shown in Figure 17.

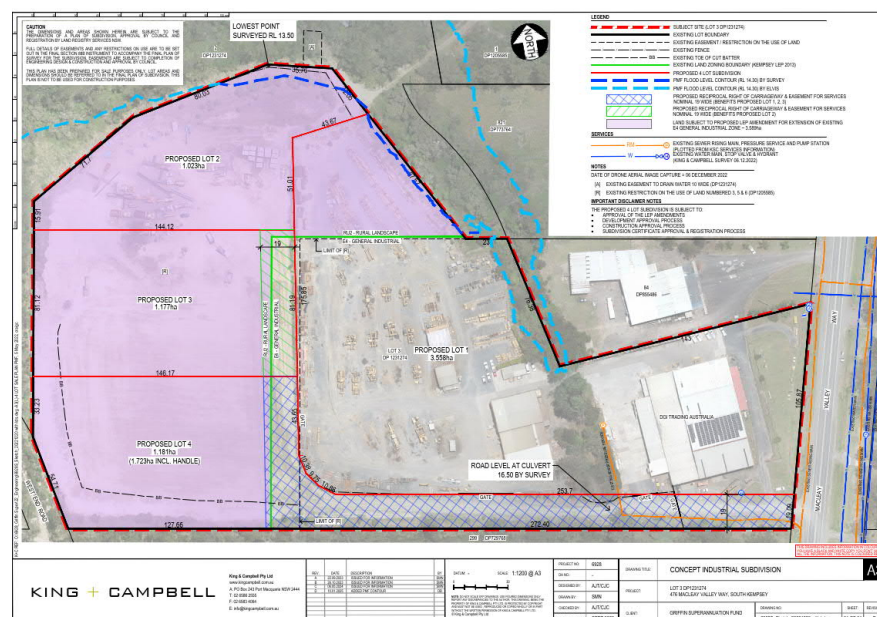


Figure 17 - Concept Layout (suitability subject to future Development Application) with PMF of 14.3m AHD Affectionation Shown

The PMF affection only extends to a very minor portion of the proposed E4 zone immediately adjacent to the northern and north-eastern boundaries of the subject property.

Considering the FPL and PMF the Planning Proposal is considered satisfactory as the Site is entirely above the FPL. Council's FPL, is defined as:

	<p>"...the maximum value of {1% AEP flood level and 0.5m freeboard} or {1% AEP flood level including 2100 Climate Change (2100CC)}"</p> <p>In accordance with the Ministerial Direction 4.1, the FPL is the same as the Flood Planning Area (FPA). Therefore, no part of the land is within the FPA and can be rezoned from a Rural purpose to an Employment purpose, consistent with the Minister's Direction.</p> <p>The access to the Site has a minimum level of 16.5m AHD, whilst Council have confirmed the PMF level for the subject property is 14.30m AHD. Hence, flood free access and egress is available to the Site should the PMF ever occur. Therefore, the Site would not become isolated in the event of a PMF and Rising Road Access<sup>2</sup> (RRA) is available directly to the Site.</p> <p>Further, the proposed E4 General Industrial zone is unlikely to result in any sensitive land uses as identified in Table 12 of the document Support for Emergency Management Planning – Flood Risk Management Guide EM01, as published by Department of Planning and Environment NSW, Feb 2022.</p> <p>The Planning Proposal is considered consistent with this objective of the NCRP, as the Site is not at risk during a 1% AEP flood level including 2100 Climate Change (2100CC), is entirely above the currently adopted FPL, has RRA in the event of a PMF and the proposed E4 zone is unlikely to contain sensitive land uses.</p> <p><u>Coastal Hazards</u></p> <p>In respect to coastal hazards, the Site is not mapped as being within the Coastal Use Area Map, Coastal Environment Area Map or as being within a Coastal Vulnerability Area Map under the SEPP (Resilience and Hazards) 2021, which is discussed in more detail in the body of this Planning Proposal.</p> <p>To conclude, the Site's main hazard will be bushfire risk, which is addressed in Appendix E, but nevertheless, will require the Planning Proposal to be referred to the NSW RFS for comment.</p>
Objective 6 – Create a circular economy	This objective aims to create a circular economy for disposal of, and reuse of waste products. The Planning Proposal in itself will not create any waste, however, subsequent development of the land will need to be carried out in accordance with the current best practices and requirements of any development consent issued by the Council.
Objective 7 – Promote renewable energy opportunities	This objective aims to promote renewable energy opportunities. Should the Planning Proposal be supported and a subsequent development application approved for industrial development, there will be opportunity for industrial development to harness solar energy. It is to be noted that energy supply is beyond the purview of a Planning Proposal and any such promotion of solar energy is the result of State and Federal Government incentives to be taken up by individuals.
Objective 8 – Support the productivity of agricultural land	<p>This objective aims to protect and enhance agricultural land and production. The Planning Proposal will not reduce or result in the reduction of any agricultural land. The Planning Proposal seeks to rezone RU2 Rural Landscape zone part of the Site to E4 General Industrial zoned land.</p> <p>The Rural Landscape zoned part of the land is currently used as an extension of the E4 General Industrial zoned part of the land and has no landscape value, rural or otherwise.</p>

<sup>2</sup> As per Support for Emergency Management Planning – Flood Risk Management Guide EM01, as published by Department of Planning and Environment NSW, Feb 2022.

	Further, the Site is not adjacent any primary production or rural/agriculture land uses and, as a result, will not create any conflicts between industrial land uses and agricultural land uses.
Objective 9 – Sustainably manage and conserve water resources	<p>This objective aims to protect and improve the Region's water supply through reducing impacts on water quality, freshwater flows and ecological function from land use change.</p> <p>The Site is not located within a Riparian corridor. Future industrial subdivision on the Site, should the Planning Proposal be supported, will need to be constructed in accordance with current water sensitive urban design practices for the management of stormwater drainage.</p> <p>Details of how this is to be achieved are provided in Appendix I – Civil Engineering Report.</p>
Objective 10 – Sustainably manage the productivity or our natural resources	The Site is not identified as having value in terms of agriculture, mining, or forestry. The Site's highest and best use has been identified in its current use, supporting industrial and employment lands.
<b>Goal 2 – Productive and connected</b>	
<b>Objective</b>	<b>Comment</b>
Objective 11 – Support cities and centres and coordinate the supply of well-located employment land	<p>The aim of this objective is to support and reinforce cities and town centres in the North Coast region as well as ensuring other employment lands are also maintained and managed through strategic planning processes. Another goal is to protect the unique character of some town centres that have heritage and/or tourism value.</p> <p>The Planning Proposal is consistent with this object and seeks to formalise the part of the Site zoned RU2 Rural landscape to E4 General Industrial zone, to reflect the current use of the land and enable its future development as infill industrial land uses that will support the South Kempsey employment land precinct.</p>
Objective 12 – Create a diverse visitor economy	<p>This objective states that Council's strategic planning and local plans should consider opportunities to enhance the amenity, vibrancy and safety of centres and township precincts as well as create green and open spaces that are accessible and well connected amongst other things to promote tourism.</p> <p>The Planning Proposal does not have any adverse impact upon the tourism economy of South Kempsey.</p>
Objective 13 – Champion Aboriginal self determination	The Site is not subject to any aboriginal land claims.
Objective 14 – Deliver new industries of the future	<p>The strategies resulting from this objective are to:</p> <ul style="list-style-type: none"> <li>Facilitate agribusiness employment and income-generating opportunities through the regular review of council planning and development controls, including suitable locations for intensive agriculture and agribusiness; and</li> <li>Protect established agriculture clusters and identify expansion opportunities in local plans that avoid land use conflicts, particularly with residential and rural residential land uses.</li> </ul> <p>The Planning Proposal will not result in the reduction of any agribusiness or related income generating activities. The Planning Proposal seeks to rezone the RU2 Rural landscape part of the Site to E4 General Industrial zone, matching that zoning on the eastern half of the Subject Property. The direct effect of this proposed infill rezoning on the Site will be an increase in employment land within the South Kempsey employment precinct, which is</p>



	consistent with the aim of creating future employment opportunities of this goal.
Objective 15 – improve state and regional connectivity	<p>The aim of this objective is to protect proposed and existing transport infrastructure and corridors to ensure network opportunities are not sterilised by incompatible land uses or land fragmentation. Much of this objective discusses regional (State) transport corridors and infrastructure. This Planning Proposal will not sterilise or conflict with any regional transport corridors.</p> <p>Further comments regarding this are included within the Traffic Impact Assessment contained in Appendix F.</p>
Objective 16 – Increase active public transport usage	The aim of this objective is to encourage active and public transport use and reduce the reliance on private car usage. The creation of infill industrial land as a result of the Planning Proposal, within an existing employment precinct, supports the use of current public transport services without the need to create new services.
Objective 17 – Utilise new transport technology	<p>The main strategy identified by this objective is for Councils to consider how new transport technology can be supported in local strategic plans, where appropriate.</p> <p>In terms of the small scale infill nature of this Planning Proposal, consideration of such technologies will need to be undertaken at the broader precinct and LGA wide strategic planning.</p>
<b>Goal 3 – Growth Change and Opportunity</b>	
<b>Objective</b>	<b>Comment</b>
Objective 18 – Plan for sustainable communities	<p>This objective outlines the aims and strategies for councils to follow when creating local land use planning strategies and statements that identify the location of future settlement.</p> <p>This Planning Proposal seeks the infill of E4 General Industrial zoned land on part of the Site that is currently zoned RU2 Rural Landscape. As such the Planning Proposal will not impact upon any proposed future residential areas as described in the LGMS. The subject Property is located with an existing employment precinct of South Kempsey and the land the subject of this Planning Proposal is identified for investigation as employment lands. The Subject Property will be able to utilise and consolidate existing transport nodes and infrastructure, in keeping with sustainability ethos.</p>
Objective 19 – Public spaces and green infrastructure support connected and healthy communities	<p>The aim of this objective is to ensure that when Councils are creating local land use strategies and statements, they take into consideration planning for both public and open spaces for the enjoyment of current and future communities.</p> <p>The Planning Proposal being infill industrial within an existing employment lands precinct on land identified for investigation as employment land, does not impact upon any land reserved or identified under the LGMS for public spaces and green infrastructure.</p>
Objective 20 – Celebrate local character <ul style="list-style-type: none"> <li>Kempsey (Local Narrative)</li> </ul>	<p>This objective contains the following strategies:</p> <ul style="list-style-type: none"> <li>Ensure strategic planning and local plans recognise and enhance local character through use of local character statements in local plans and in accordance with the NSW Government's Local Character and Place Guideline.</li> <li>Celebrate buildings of local heritage significance by:               <ul style="list-style-type: none"> <li>retaining the existing use where possible</li> <li>establishing a common understanding of appropriate reuses</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ exploring history and significance</li> <li>○ considering temporary uses</li> <li>○ designing for future change of use options.</li> </ul> <p>A narrative for each LGA is also provided in the North Coast Regional Plan. For the purposes of this Planning Proposal, Kempsey LGA will be the focus narrative.</p> <p>This Planning Proposal fits within the Kempsey LGA narratives of Regional Priorities, Productive and Connected and Smart, Connected and Accessible (Infrastructure), with the following goals sitting within those narratives:</p> <ul style="list-style-type: none"> <li>• Promote the shire as an enterprising business and country lifestyle destination for investment, learning and employment.</li> <li>• Develop the enterprise corridor between South Kempsey and Frederickton and investigate employment land options for South West Rocks.</li> <li>• Develop opportunities to grow local jobs associated with increased connectivity with a focus on Frederickton, Stuarts Point, West and South Kempsey.</li> </ul> <p>The rezoning of the RU2 Rural Landscape part of the Subject Property to match the existing E4 General Industrial part, will enable the formalization of industrial land uses and potential future subdivision, which is consistent with creating opportunities for investment in business, and employment growth in the South Kempsey precinct.</p>
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Question 4 Is the Planning Proposal consistent with a Council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local or strategic plan?

The relationship of this Planning Proposal to a LSPS is in detailed in Question 1, Section A of this Part. Notwithstanding, the relevant LSPS is the Future Macleay (July 2020).

At Council's Ordinary Meeting of 15 September, 2020 Council made the following resolution in respect of the Future Macleay (July 2020):

**RESOLVED:**

**MOVED: CI McGinn**  
**SECONDED: CI Patterson**

**That Council:**

1. **Adopt by resolution, the *Your Future Macleay – Growth & Character Local Strategic Planning Statement*.**
2. **Authorise Council staff to request the Department of Planning, Industry and Environment to endorse the adopted *Your Future Macleay – Growth & Character Local Strategic Planning Statement* (LSPS) and upload the LSPS to the NSW Planning Portal.**
3. **Acknowledges the matters within the report to be considered for amendment when the LSPS is reviewed.**
4. **Supports the conduct of a review of the LSPS in conjunction with the development of the new Community Strategic Plan.**

**FOR:** CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Shields, CI Williams  
**AGAINST:** CI Saul

Item 2 of Council's resolution was to seek endorsement of the LSPS. However, following consultation with DPHI, the DPHI has made the following statement on 9 November 2023:

The Department does not have an endorsement role in relation to Local Strategic Planning Statements (LSPSs). However, LSPSs are published on the Department's Planning Portal, satisfying section 3.9(5) of the Environmental Planning and Assessment Act 1979. A link to the relevant portal page is below:

[Local Strategic Planning Statements | Planning Portal - Department of Planning and Environment \(nsw.gov.au\)](https://www.planning.nsw.gov.au/planning-portal/local-strategic-planning-statements)

Council has also adopted a new LGMS which has been endorsed by the Department subject to conditions. The LGMS is also discussed in Question 1, Section A of this Part. The endorsement letter is provided as Appendix G.

As outlined in the response to Question 1, Section A of this Part, this Planning Proposal is consistent with the recommendations and actions of both the adopted LSPS – Future Macleay and the supporting and adopted LGS.

**Question 5** Is the Planning Proposal consistent with any other applicable State and Regional studies or strategies?

There are no other state and/or regional strategies applying to the Site, that have not already been addressed in the body of this Planning Proposal.

**Question 6** Is the Planning Proposal Consistent with Applicable SEPPs?

The applicable State Environmental Planning Policies (SEPPs) are addressed as follows:

SEPP (Transport and Infrastructure) 2021	<p>The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use</p> <p><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>Assessment – Consistent</p> <p>The aims of this SEPP include:</p> <ul style="list-style-type: none"> <li>(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</li> <li>(b) providing greater flexibility in the location of infrastructure and service facilities, and</li> <li>(c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</li> <li>(d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</li> <li>(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</li> <li>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</li> <li>(g) providing opportunities for infrastructure to demonstrate good design outcomes.</li> </ul> <p>Comment:</p> <p>Noting the above aims of this SEPP, the main function of the SEPP is to set out for public authorities, what development/work/activity can be conducted without consent, and what development/work/activity may be exempt</p>	

development. In circumstances where development/work/activity can be conducted without consent, the provisions of Part 5 of the EPA Act are activated and Division 5.1 assessment is required in accordance with the Guidelines for Division 5.1 assessments (June 2022), published by the DPE.

This Planning Proposal does not involve any development/work/activity on behalf of a public authority. Should the Planning Proposal be supported, any subsequent development application to subdivide the land will be assessed under Part 4 of the EPA Act, as development that requires consent. Therefore, the Planning Proposal is not considered inconsistent with this SEPP in this regard.

Regarding Part 4 of the EPA Act, the Planning Proposal, if successful, will likely result in a subsequent Development Application for the use of the land for an industrial purpose and/or subdivision of the land. The SEPP contains provisions under Subdivision 2 of Division 17 that must be considered for proposed development on land with frontage to a classified road or that has access to a road within 90m of an intersection with a classified road.

Macleay Valley Way is listed as a Regional Road on TfNSW's Road Network Classifications Map. It is not listed on the TfNSW Schedule of Classified Roads and Unclassified Regional Roads dated February 2023.

Notwithstanding, the proposed E4 General Industrial zone, the subject of this Planning Proposal, is large enough in size to enable Traffic Generating Development identified under Schedule 2 of the SEPP. The Traffic Impact Assessment (TIA) by Fernway Engineering (Appendix F) provides recommended improvements to the existing driveway access from Macleay Valley Way into the Subject Property which will provide for turning movement treatments to and from the Site in accordance with Austroads Guide.

#### SEPP (Primary Production)

The intent of this SEPP is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729>

#### Assessment – Consistent

The key aims of this SEPP are:

- (a) to facilitate the orderly economic use and development of lands for primary production,
- (b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) to encourage sustainable agriculture, including sustainable aquaculture,
- (f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,
- (g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

Comment:

The Planning Proposal is considered consistent with this SEPP because the Site does not involve land used for primary production, nor is the land located adjacent rural land used or identified for primary production. Therefore, any current and resulting land use of the Site will not create any conflict with rural uses and primary production activities.

#### SEPP (Biodiversity and Conservation) 2021

The intent of this SEPP is to preserve, conserve and manage NSW's natural environment & heritage

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0722>

#### Assessment – Consistent

The aims of this SEPP are:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

Further to the above aims, this SEPP incorporates provisions as follows:

Chapter 2 Vegetation in non-rural areas – this chapter sets out if permits or development consent is required for removal of vegetation in non-rural areas; and is therefore not applicable to this Planning Proposal.

Chapter 3 Koala habitat protection 2020 - this chapter sets out to protect koalas and their habitat in land use zones, or their equivalent, RU1 Primary Production, RU2 Rural Landscape and RU3 Forestry; and is therefore applicable to this Planning Proposal and is addressed below

Chapter 4 Koala habitat protection 2021 – this chapter sets out to protect koalas and their habitat in land use zones other than those identified in Chapter 3 and applies to the Kempsey LGA. This Chapter therefore applies to the Planning Proposal due to part of the Site being zoned E4 general Industrial and is addressed below.

Chapter 5 River Murray lands – this chapter sets out requirements for development with or without consent in the following local government areas - City of Albury and the areas of Balranald, Berrigan, Conargo, Corowa, Deniliquin, Hume, Murray, Wakool, Wentworth and Windouran; and is therefore not applicable to this Planning Proposal.

Chapter 6 Water catchments – this chapter sets out sets out requirements for development in the following catchments – the Sydney Drinking Water Catchment, the Sydney Harbour Catchment, the Georges River Catchment and the Hawkesbury-Nepean Catchment; and is therefore not applicable to this Planning Proposal.

#### Chapter 7-12 – Repealed

Chapter 13 Strategic conservation planning – this chapter sets out to facilitate appropriate development on biodiversity certified areas and to identify and protect areas with high biodiversity value in accordance with the Biodiversity Conservation Act 2016. The Site is not mapped as containing any areas of high biodiversity value, refer Figure 9.

#### Comment:

The above summary of the SEPP confirms that Chapters 3 and 4 are relevant to this Planning Proposal.

The Comprehensive Koala Plan of Management (CKPoM) for the Eastern portion of Kempsey Shire LGA also applies to the Subject Property.

Notwithstanding the Site proposed to be rezoned E4 General Industrial is devoid of native vegetation, is the location of a former extractive industry and has been used for ancillary storage of earthmoving equipment associated with the existing operations of DGI on the subject property, Map 1 of the CKPoM maps the Subject Property as a combination of non-

vegetation, unknown vegetation (predominantly cleared or partially cleared) and secondary (Class B).

Page 16 of the CKPoM provides the Rezoning Assessment Pathway as follows

Is the land within the CKPoM boundary? - Yes

Does the proposal involve the removal of native vegetation – No - consideration should still be given to other impacts on koalas i.e. roads, dogs, fire where the land is mapped as PKH or CKH.

Chapter 3 applies to this Planning Proposal as the Site is currently zoned RU2 Rural Landscape. Noting the Site proposed to be rezoned E4 General Industrial is location of a former extractive industry and contains no native vegetation and therefore no potential koala habitat or core koala habitat as defined in the SEPP. Accordingly, no further consideration of Chapter 3 is necessary.

Once the infill site is zoned E4 General Industrial, Chapter 4 of the SEPP will apply to future development applications for industrial uses for subdivision. Given there is no native vegetation existing on the part of the Subject Property proposed to be rezoned E4 General Industrial, future development applications for industrial uses on the Site will be consistent with the CKPoM and will include information confirming that the land the subject of the development application does not include any native vegetation including trees belonging to the koala use tree species listed in Schedule 3 of the SEPP.

As such it can be concluded that the Planning Proposal is consistent with the SEPP in that no Koalas, or their habitat will be affected and that no areas of high biodiversity value will be impacted from the current and subsequent used of the land for industrial purposes, should the RU2 zoned part of the Site be rezoned as E4 General Industrial.



Figure 18 - Extract of Biodiversity Values Map, Site in yellow outline (Source: DPE Spatial Viewer)

SEPP (Resilience and Hazards) 2021

The intent of this SEPP is to manage risks and building resilience in the face of hazards

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730>

Assessment – Consistent

There are three (3) particular chapters of this SEPP that may pertain to the Planning Proposal:

- Chapter 2 Coastal Management – in summary the aims of this chapter are to manage development in the coastal zone, protect environmental assets; establish a framework for land use planning to guide decision



making in the coastal zone; and map four (4) coastal management areas that comprise the NSW coastal zone. The Site is not located in the Coastal Use Area, Coastal Environmental Area or Coastal Vulnerability Area, and does not contain any mapped Coastal Wetlands or Littoral rainforest areas. Therefore, the provisions of this Chapter do not apply to the Planning Proposal.

- Chapter 3 Hazardous and offensive development – this chapter, in summary, aims to identify the types of development that are considered potentially hazardous or offensive development. This Planning Proposal seeks to rezone the RU2 Rural Landscape zone part of the Site to match the E4 General Industrial zoned part of the Site. This will subsequently allow the formalisation of current industrial uses on that part of the land and potential industrial subdivision. Neither of these outcomes permit development that could be considered to be potentially hazardous industry or potential offensive industry in accordance with the definitions under Section 3.2 of the SEPP. Notwithstanding, any proposal for potentially hazardous industry or potential offensive industry on the Site in the future would be subject to a separate Development Application under Part 4 of the EPA Act and the provisions of this SEPP.
- Chapter 4 Remediation of Land – this chapter's purpose is to provide a Statewide planning approach to the remediation of contaminated land. The Site is not mapped or known to have any past land uses that could result in the Site being contaminated. Nevertheless, should the Planning Proposal be supported and any subsequent development application for the subdivision of the land for industrial purposes will require a geotechnical investigation that would identify any potential contamination. If any contamination was identified, the land would require remediation in accordance with the provisions of the SEPP prior to development occurring.

Comment:

Considering the commentary on the above listed chapters under this SEPP, the Planning Proposal is considered consistent, as it is not within a Coastal zone (as mapped), does not contain any mapped Coastal Wetlands or Littoral Rainforest areas, does not involve hazardous or offensive industry and is not considered to be contaminated land.

SEPP (Industry and Employment) 2021

The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs:

<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723>

Assessment – Consistent

This SEPP contains the following two (2) chapters:

- Chapter 2 Western Sydney employment area – this chapter, as it is titled, applies to the Western Sydney employment area and is not applicable to this Planning Proposal.
- Chapter 3 Advertising and signage – this chapter relates to advertising and signage that needs development consent throughout the state. The Planning Proposal does not involve advertising and signage. As such this chapter is not applicable to the Planning Proposal.

Comment:

Considering the above applicability of these chapters to the Planning Proposal, the Site is not within the Western Sydney employment area and any future signage on the Site will be subject to the provisions of this SEPP.

SEPP (Planning Systems) 2021

The intent of this SEPP is to provide a strategic and inclusive

	<p>planning system for the community &amp; the environment:</p> <p><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></p>
<p>Assessment – Consistent</p> <p>Comment:</p> <p>The provisions of this SEPP address State Significant Development (SSD) and land owned by an Aboriginal Land Council. Any proposed future land use on the Site will require consideration under this Policy. This Planning Proposal does not propose any changes to this Policy.</p>	

### Question 7 Is the Planning Proposal Consistent with Applicable s9.1 Ministerial Directions?

The Ministerial Directions are addressed as follows:

Focus Area 1 - Planning Systems	The intent of this Focus Area is to support the broader NSW planning framework, including its processes and collaborative approaches to strategic and land use planning and decision making. They seek to achieve long-term, evidence-based, strategically led planning that is inclusive, democratic, responsive to the community and the environment, and ensures decisions are transparent and prompt.
<b>1.1 Implementation of Regional Plans</b>	
<p>Assessment – Consistent</p> <p>Objective</p> <p>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>Application</p> <p>This direction applies to a relevant planning authority when preparing a planning proposal for land to which a Regional Plan has been released by the Minister for Planning.</p> <p>Direction 1.1:</p> <p>(1) Planning proposal must be consistent with a Regional Plan released by the Minister for Planning</p> <p>Comment:</p> <p>The relevant Regional Plan released by the Minister applying to the Kempsey LGA and the Site is the North Coast Regional Plan 2041. The Planning Proposal's consistency with the NCRP 2041 being land identified within the Urban growth area boundary for investigation as employment lands is detailed in Question 3, Section B of this Part of this Planning Proposal.</p>	
<b>1.2 Development of Aboriginal Land Council land</b>	
<p>Assessment – Consistent</p> <p>The objective of this direction is to provide for the consideration of development delivery plans prepared under Chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.</p> <p>Comment:</p> <p>The Planning Proposal is considered consistent with this Direction because no Aboriginal Land Council land is involved. Further, the provisions of SEPP (Planning Systems) 2021 are addressed in Question 6, Section B of this Part of this</p>	



## Planning Proposal.

**1.3 Approval and Referral Requirements**Assessment – Consistent  
Objective

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

## Application

This direction applies to all relevant planning authorities when preparing a planning proposal.

## Direction 1.3

- (1) A planning proposal to which this direction applies must:
- (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and
  - (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:
    - i. the appropriate Minister or public authority, and
    - ii. the Planning Secretary (or an officer of the Department nominated by the Secretary), prior to undertaking community consultation in satisfaction of Schedule 1 to the EPA Act, and
  - (c) not identify development as designated development unless the relevant planning authority:
    - i. can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the class of development is likely to have a significant impact on the environment, and
    - ii. has obtained the approval of the Planning Secretary (or an officer of the Department nominated by the Secretary) prior to undertaking community consultation in satisfaction of Schedule 1 to the EPA Act.

## Comment:

This Planning Proposal is considered consistent with this Direction as it does not propose any additional provisions over and above the provisions already contained in the KLEP that would require development applications to seek concurrence, consultation or referral to a Minister or public authority. Further, the Planning Proposal does not seek to declare any development as designated development in the KLEP.

**1.4 Site Specific Provisions**Assessment – Consistent  
Objective

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.

## Comment:

The Planning Proposal is considered consistent with this Direction because it does not involve the creation of any site-specific provisions in relation to the Site under Schedule 1 of KLEP. The land is to be rezoned to E4 General Industrial to permit land uses with development consent, as per the current provisions for this zone in the KLEP.

1.5 – 1.22 – Planning Systems Place Based
Assessment – Not Applicable to Kempsey LGA

Focus Area 2 - Design & Place	The intent of this Focus Area is to establish quality design approaches for new development, public spaces and the environment. They promote the design of places that are healthy, sustainable, prosperous, and supportive of people, the community and Country.
NB: This Focus Area is not included in the current Ministerial Directions.	

Focus Area 3 - Biodiversity & Conservation	The intent of this Focus Area is to recognise the fundamental importance of protecting, conserving and managing NSW's natural environment and heritage. They help balance the needs of built and natural environments, respecting both the innate and economic value of the state's biodiversity and natural assets.
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3.1 Conservation Zones (previously 2.1 Environment Protection Zones)	
Assessment – Consistent Objective	
The objective of this direction is to protect and conserve environmentally sensitive areas.	
Application	
This direction applies to all relevant planning authorities when preparing a planning proposal.	
Direction 3.1:	
<p>(1) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>(2) A planning proposal that applies to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands".</p>	
Consistency	
A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary that the provisions of the planning proposal that are inconsistent are:	
<p>(a) justified by a strategy approved by the Planning Secretary which:</p> <ul style="list-style-type: none"> <li>i. gives consideration to the objectives of this direction, and</li> <li>ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), or</li> </ul> <p>(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or</p> <p>(c) in accordance with the relevant Regional Strategy, Regional Plan or District Plan prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or</p>	

(d) is of minor significance.

Comment:

This Planning Proposal is consistent with this direction as it does not apply to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in the KLEP, nor does it reduce conservation standards in KLEP applying to any land. Further, this Planning Proposal discusses HEV and TEC in detail under Section B, Question 3, Table 2, Objective 3 of NCRP, and concludes that the Site contains no HEV, TEC or AOBV.

### 3.2 Heritage Conservation

Assessment – Consistent  
Objective

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

Application

This direction applies to all relevant planning authorities when preparing a planning proposal.

Direction 3.2:

- (1) A planning proposal must contain provisions that facilitate the conservation of:
- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
  - (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and
  - (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that:

- (a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or
- (b) the provisions of the planning proposal that are inconsistent are of minor significance.

Comment:

This Planning Proposal is consistent with this Direction as it does not contain provisions that facilitate amendments to Clause 5.10 Heritage Conservation, of the KLEP. This existing Clause facilitates the objectives of this Direction.

Further, supporting this Planning Proposal is the AHIMS assessment at Appendix C.

### 3.3 Sydney Drinking Water Catchments

Assessment – Not Applicable to Kempsey LGA

### 3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs

Assessment – Not Applicable to Kempsey LGA

### 3.5 Recreation Vehicle Areas

Assessment – Not Applicable

<b>3.6 Strategic Conservation Planning</b>
Assessment – Consistent
Objective
The objective of this direction is to protect, conserve or enhance areas with high biodiversity value.
Application
This direction applies to all relevant planning authorities when preparing a planning proposal that relates to land that, under the State Environmental Planning Policy (Biodiversity and Conservation) 2021, is identified as avoided land or a strategic conservation area.
Comment:
The Site the subject of this Planning Proposal is not mapped as 'avoided land' or as a 'strategic conservation area' under the provisions of the SEPP (Biodiversity and Conversation) 2021. Hence this Planning Proposal is considered consistent with this Direction.
<b>3.7 Public Bushland</b>
Assessment – Not Applicable to Kempsey LGA
<b>3.8 Willandra Lakes Region</b>
Assessment – Not Applicable to Kempsey LGA
<b>3.9 Sydney Harbour Foreshores and Waterways Area</b>
Assessment – Not Applicable to Kempsey LGA
<b>3.10 Water Catchment Protection</b>
Assessment – Not Applicable to Kempsey LGA

<b>Focus Area 4 - Resilience &amp; Hazards</b>	The intent of this Focus Area is to improve responses to natural and development-related hazards, and climate change. They support methods to consider and reduce risk. The principles promote healthy, resilient and adaptive communities, urban areas and natural environments.
<b>4.1 Flooding</b>	
Assessment – Consistent	
Objective	
(a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and	
(b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	
Application	
This direction applies to all relevant planning authorities that are responsible for flood prone land when preparing a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.	
Direction 4.1	
(1) A planning proposal must include provisions that give effect to and are consistent with:	
(a) the NSW Flood Prone Land Policy,	

- (b) the principles of the Floodplain Development Manual 2005,
  - (c) the Considering flooding in land use planning guideline 2021, and
  - (d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.
- (2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones.
- (3) A planning proposal must not contain provisions that apply to the flood planning area which:
- (a) permit development in floodway areas,
  - (b) permit development that will result in significant flood impacts to other properties,
  - (c) permit development for the purposes of residential accommodation in high hazard areas,
  - (d) permit a significant increase in the development and/or dwelling density of that land,
  - (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,
  - (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,
  - (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or
  - (h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.
- (4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:
- (a) permit development in floodway areas,
  - (b) permit development that will result in significant flood impacts to other properties,
  - (c) permit a significant increase in the dwelling density of that land,
  - (d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,
  - (e) are likely to affect the safe occupation of and efficient evacuation of the lot, or
  - (f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.
- (5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.

### Consistency

A planning proposal may be inconsistent with this direction only if the planning proposal authority can satisfy the Planning Secretary (or their nominee) that:

- (a) the planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
- (b) where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005 or
- (c) the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or
- (d) the provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.

Note: In this direction:

- (a) "flood prone land" "flood storage" "floodway" and "high hazard" have the same meaning as in the Floodplain Development Manual 2005.
- (b) "flood planning level" "flood behaviour" and "flood planning area" has the same meaning as in the Considering flooding in land use planning guideline 2021.
- (c) Special flood considerations are outlined in the Considering flooding in land use planning guideline 2021 and an optional clause in the Standard Instrument (Local Environmental Plans) Order 2006.
- (d) Under the floodplain risk management process outlined in the NSW Government's Floodplain Development Manual 2005, councils may produce a flood study followed by a floodplain risk management study and floodplain risk management plan.

Date commenced: 20 February 2023

#### Comment:

The land the subject of this Planning Proposal is not mapped as being impacted by the 1% AEP with SLR & CC flood as shown in Council's Flood Planning Mapping and detailed in the Civil Engineering Report (Appendix I). An extract of the mapping showing the 1% AEP with SLR & CC flood is provided below in Figure 19.



Figure 7 – 1% AEP with SLR & CC (2100) Kempsey Flood Planning Extract

Figure 19 - Extract of KSC 1% AEP with SLR & CC (2100) Flood Mapping

Council have confirmed the 1% AEP with SLR & CC Flood Planning Level (FPL) is 12.30m AHD. It is to be noted that the lowest level on the Site, as determined by survey is 13.5m AHD and is located at the most northern boundary edge.

The Site is mapped as being partially impacted by the Probable Maximum Flood (PMF), as shown in Figure 20.

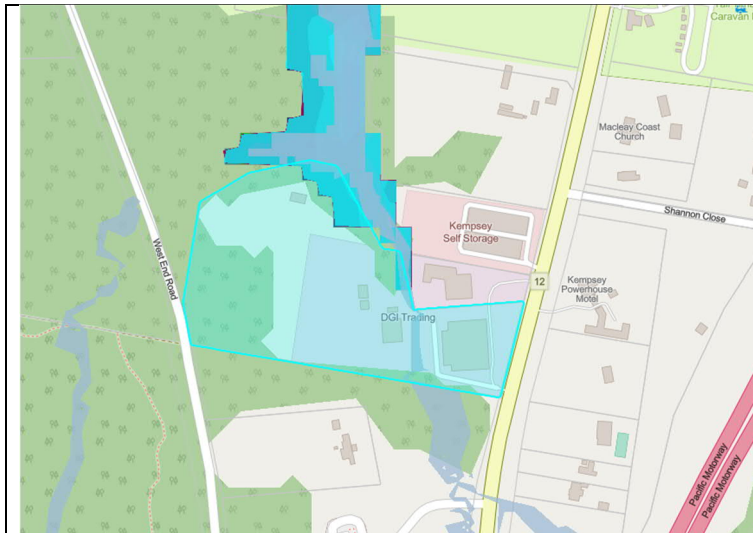


Figure 20 - Mapped PMF affectation on the Site (Source: Kempsey Shire Council)

Council have confirmed the PMF level at the subject site is 14.30m AHD. The PMF level of 14.30m AHD affectation on the Site is shown below in

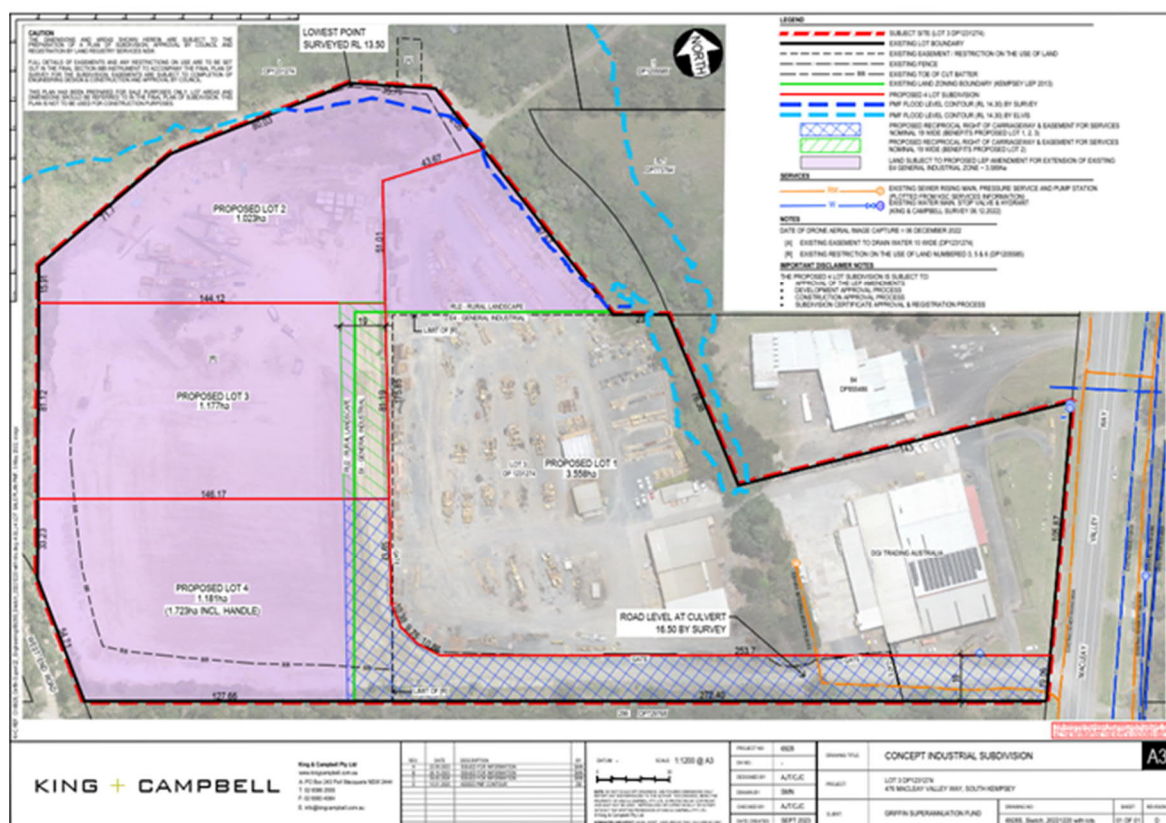


Figure 21 - Concept Layout (suitability subject to future Development Application) with PMF of 14.3m AHD Affectation

The PMF affectation only extends to a very minor portion of the proposed E4 zone immediately adjacent to the northern and north-eastern boundaries of the subject property.

Thus, in respect to Direction 4.1(2) the Planning Proposal is considered satisfactory as the Site is entirely above the FPL. Council's FPL is defined as:



"...the maximum value of {1% AEP flood level and 0.5m freeboard} or {1% AEP flood level including 2100 Climate Change (2100CC)}"

In accordance with the "notes" at the end of the Ministerial Direction 4.1, the Council's adopted FPL is the same as the Flood Planning Area (FPA). Therefore, no part of the land is within the FPA and can be rezoned from a Rural purpose to an Employment purpose, consistent with the Minister's Direction 4.1(2).

The access to the Site has a minimum level of 16.5m AHD whilst Council have confirmed the PMF level for the subject site is 14.30m AHD. Hence, flood free access and egress is available to the Site should the PMF ever occur. In the event of a PMF the Site would not become isolated and would maintain Rising Road Access<sup>3</sup> (RRA).

Further, the proposed E4 General Industrial zone is unlikely to result in any sensitive land uses as identified in Table 12 of the document Support for Emergency Management Planning – Flood Risk Management Guide EM01, as published by Department of Planning and Environment NSW, Feb 2022.

The Planning Proposal is considered consistent with this objective of this Direction, as the Site is not at risk during a 1% AEP flood level including 2100 Climate Change (2100CC), is entirely above the adopted FPL/FPA, has RRA in the event of a PMF and the proposed E4 zone is unlikely to result in sensitive land uses.

#### 4.2 Coastal Management

Assessment – Consistent  
Objective

The objective of this direction is to protect and manage coastal areas of NSW.

Application

This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 – comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Comment:

The Planning Proposal is considered consistent with this Direction because the Site is not identified as being within the coastal zone. The Site does not contain coastal wetlands and/or littoral rainforest; and is not located in a coastal vulnerability area, coastal environment area or coastal use area. Refer to the relevant part of this Planning Proposal addressing SEPP (Resilience and Hazards) 2021.

#### 4.3 Planning for Bushfire Protection

Assessment – Consistent  
Objectives

The objectives of this direction are to:

- (a) protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) encourage sound management of bush fire prone areas.

Application

This direction applies to all local government areas when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to, land mapped as bushfire prone land.

<sup>3</sup> As per Support for Emergency Management Planning – Flood Risk Management Guide EM01, as published by Department of Planning and Environment NSW, Feb 2022.



This applies where the relevant planning authority is required to prepare a bush fire prone land map under section 10.3 of the EPA Act, or, until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act.

**Direction 4.3:**

- (1) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 3.34 of the Act, and prior to undertaking community consultation in satisfaction of clause 4, Schedule 1 to the EPA Act, and take into account any comments so made.
- (2) A planning proposal must:
  - (a) have regard to Planning for Bushfire Protection 2019,
  - (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
  - (c) ensure that bushfire hazard reduction is not prohibited within the Asset Protection Zone (APZ).
- (3) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:
  - (a) provide an Asset Protection Zone (APZ) incorporating at a minimum:
    - i. an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and
    - ii. an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,
  - (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,
  - (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,
  - (d) contain provisions for adequate water supply for firefighting purposes,
  - (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,
  - (f) introduce controls on the placement of combustible materials in the Inner Protection Area.

**Consistency**

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service to the effect that, notwithstanding the non-compliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.

**Comment:**

The Planning Proposal is consistent with Direction 4.3 as follows:

- It is considered Council will consult with the NSW RFS following receipt of a Gateway Determination prior to public exhibition.
- The Planning Proposal has had regard to Planning for Bushfire Protection 2019 (PfPB) based on the conclusions and recommendations of the Strategic Bushfire Study (refer Appendix E).
- The Planning Proposal avoids placing inappropriate development in hazardous areas and ensures bushfire hazard reduction is not prohibited within the APZ

- The proposed E4 General Industrial Land can relatively easily provide APZs, road access, and access to services to ensure future compliance with PFPB.

Appendix E includes the Strategic Bushfire Study (SBS) prepared by David Pensini – Building Certification and Environmental Services, which has considered this Planning Proposal with respect to bushfire risk and the requirements of PFPB. The SBS concludes:

- (i) It is considered that the proposed rezoning of the western portion of Lot 3 DP 1231274, 476 Macleay Valley Way, South Kempsey is at risk of bushfire attack; however, it is in our opinion that with the development and implementation of specific bushfire threat reduction measures, the bushfire risk is manageable for the proposed rezoning of land albeit that the design and construction of any future industrial development within the subject site will need to demonstrate compliance with the relevant requirements of NSW Rural Fire Service, Planning for Bushfire Protection, 2019.
- (ii) There would be no apparent impediments or restrictions on the future industrial development of the area of land which is the subject of this report being able to comply with the bushfire threat management requirements of NSW Rural Fire Services, Planning for Bushfire Protection, 2019 which are assessed as being relevant to future development.

It is considered that it will be possible for future development of the subject site to meet the applicable performance objectives and acceptable solutions as provided for in NSW Rural Fire Service, Planning for Bushfire Protection, 2019 as relevant to industrial development.

#### 4.4 Remediation of Contaminated Land

##### Assessment – Consistent Objective

The objective of this Direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

##### Application

This direction applies when a planning authority prepares a planning proposal that applies to:

- a. Land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997.

##### Comment:

The Site is not within an investigation area within the meaning of the Contaminated Land Management Act 1997. Therefore, this Planning Proposal cannot be considered inconsistent with this Direction.

#### 4.5 Acid Sulphate Soils

##### Assessment – Consistent Objective

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

##### Application

This direction applies to all relevant planning authorities that are responsible for land having a probability of containing acid sulfate soils when preparing a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps held by the Department of Planning and Environment.

##### Direction 4.5

- (1) The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.
- (2) When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:
  - (a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Planning Secretary, or
  - (b) other such provisions provided by the Planning Secretary that are consistent with the Acid Sulfate Soils Planning Guidelines.
- (3) A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Planning Secretary prior to undertaking community consultation in satisfaction of clause 4 of Schedule 1 to the Act.
- (4) Where provisions referred to under 2(a) and 2(b) above of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with 2(a) and 2(b).

#### Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- (b) of minor significance.

#### Comment:

The Site is mapped as being potentially subject to Class 5 potential Acid Sulfate Soils, as is the majority of the land surrounding it. The part of the land subject to infill rezoning from RU2 Rural Landscape to E4 General Industrial zoning is highly disturbed and is currently utilised for ancillary uses to the existing industrial development on the Subject Property. Further, any intensification of the use of the Site subsequent to the proposed rezoning will require a development application under Part 4 of the EPA Act.

The KLEP already contains Clause 7.1 which outlines the requirements for development where Acid Sulfate Soils maybe present and this Planning Proposal does not seek to make any changes to that clause.

The land the subject of this Planning Proposal has a minimum level of approximately RL 12m AHD and not within 500 m of class 1, 2, 3 or 4 land that is below RL 5m AHD.

Therefore, the Planning Proposal is considered consistent with this Direction.

#### 4.6 Mine Subsidence & Unstable Land

Assessment – Not Applicable to Kempsey LGA

#### Focus Area 5 - Transport & Infrastructure

The intent of this Focus Area is to support innovative, integrated and coordinated transport and infrastructure, that is well-designed, accessible and enduring. They seek to optimise public benefit and value by planning for modern transport and infrastructure in the right location and at the right time.

#### 5.1 Integrating Land Use and Transport

## Assessment –Consistent Objectives

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

## Application

This direction applies to all relevant planning authorities when preparing a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, employment, village or tourist purposes.

## Direction 5.1

- (1) A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:
  - (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
  - (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

## Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy approved by the Planning Secretary which:
  - i. gives consideration to the objective of this direction, and
  - ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), or
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- (c) in accordance with the relevant Regional Strategy, Regional Plan or District Plan prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, or
- (d) of minor significance.

## Comment:

The subject Planning Proposal for infill employment lands is consistent with the planning intent of the objectives of this direction as the additional employment lands are:

- within an established employment precinct located adjacent to a local regional Road thereby reducing distances travelled by car compared to other potential employment investigation areas located more distant from existing urban areas.
- Located on a local regional Road thereby supporting the future establishment of public transport services to South Kempsey.
- Located 1.3 km north of the South Kempsey Pacific Motorway interchange thereby providing for efficient movement of freight.
- Within the Urban Growth Area Boundary and the employment lands Investigation Area of the North Coast Regional Plan.
- Consistent with the Kempsey LSPS and the LGMS.

It is noted that the Improving Transport Choice - Guidelines for planning and development and The Right Place for Business and Services - Planning Policy are focused on a metropolitan or city context.

The proposed infill employment lands is located within an existing employment land cluster within which regional and local strategic planning documents have planned for future consolidation of employment land use. To that extent the subject Planning Proposal is consistent with the intent of the objectives and principles of the Improving Transport Choice - Guidelines for planning and development and The Right Place for Business and Services - Planning Policy.

The Planning Proposal is also supported by a Traffic Impact Assessment (TIA), Appendix F. The Traffic Study concludes that the Planning Proposal would have limited impact and that an upgraded intersection treatment would be required for the concept industrial subdivision.

The Planning Proposal is considered to be consistent with the planning intent of the objectives of this direction.

#### 5.2 Reserving Land for Public Purposes

Assessment – Consistent  
Objectives

The objectives of this direction are to:

- (a) facilitate the provision of public services and facilities by reserving land for public purposes, and
- (b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

Application

This direction applies to all relevant planning authorities when preparing a planning proposal.

Comment:

This Planning Proposal is considered consistent with this Direction as it does not seek to create, alter or reduce existing zonings or reservations of land for public purposes.

#### 5.3 Development Near Regulated Airports and Defence Airfields

Assessment – Not Applicable

#### 5.4 Shooting Ranges

Assessment – Not Applicable

#### Focus Area 6 - Housing

The intent of this Focus Area is to foster long-term, strategic-led and evidence-based approaches to guide a strong supply of well-located homes. They support the delivery of safe, diverse, affordable and quality designed housing that meets the needs of Aboriginal and local communities.

#### 6.1 Residential Zones

Assessment – Not Applicable

This Direction is not applicable as the Planning Proposal does not seek to make changes to residentially zoned land.

#### 6.2 Caravan Parks and Manufactured Home Estates

Assessment – Not Applicable

This Planning Proposal does not seek to identify suitable zones, locations and provisions for caravan parks, nor does it seek to reduce such. Therefore, this Direction is not applicable.

Focus Area 7 - Resilient Economies	The intent of this Focus Area is to support diverse, inclusive and productive employment opportunities across the state to make NSW more economically competitive. They promote the supply of strategic employment lands, innovative industries and centres as a focus for activity and accessibility.
7.1 Business and Industrial Zones	
<p>Assessment – Consistent Objectives</p> <p>The objectives of this direction are to:</p> <ol 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> </ol> <p>Application</p> <p>This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed Employment zone (including the alteration of any existing Employment zone boundary). For the purpose of this Direction, Employment zones means the following zones</p> <ul style="list-style-type: none"> <li>• Employment</li> <li>• Mixed Use</li> <li>• W4 Working Waterfront</li> <li>• SP4 Enterprise</li> <li>• SP5 Metropolitan Centre</li> </ul> <p>Direction 7.1:</p> <ol style="list-style-type: none"> <li>A planning proposal must: <ol style="list-style-type: none"> <li>give effect to the objectives of this direction,</li> <li>retain the areas and locations of Employment zones,</li> <li>not reduce the total potential floor space for employment uses and related public services in Employment Zones</li> <li>not reduce the total potential floor space area for industrial uses in E4, E5 and W4 zones, and</li> <li>ensure that proposed employment areas are in accordance with a strategy that is approved by the Planning Secretary.</li> </ol> </li> </ol> <p>Comment:</p> <p>The Planning Proposal is considered consistent with this Direction as it involves increasing the area of E4 General Industrial zone land within the existing South Kempsey Employment Precinct. The increase in the E4 zoned land is infill in nature and is limited to the Site as per Error! Reference source not found.. The proposed increase in E4 zoned land, does not reduce any other Employment Lands and is likely to result in subsequent increases in potential floor space for industrial uses in the proposed E4 zone.</p> <p>The proposed infill E4 zone land is also consistent with the objectives of the LGMS's objectives for South Kempsey and the North Coast Regional Plan 2041 in relation to the location for future employment land and job creation.</p>	



7.2 Reduction in non-hosted short-term rental accommodation period	
Assessment – Not Applicable to Kempsey LGA	
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	
Assessment – Consistent	
Objectives	
<p>The objectives for managing commercial and retail development along the Pacific Highway are to:</p> <ul style="list-style-type: none"> <li>(a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route,</li> <li>(b) prevent inappropriate development fronting the highway,</li> <li>(c) protect public expenditure invested in the Pacific Highway,</li> <li>(d) protect and improve highway safety and highway efficiency,</li> <li>(e) provide for the food, vehicle service and rest needs of travellers on the highway, and</li> <li>(f) reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.</li> </ul>	
Application	
<p>This direction applies when a relevant planning authority prepares a planning proposal for land within those council areas on the North Coast that the Pacific Highway traverses, being those council areas between Port Stephens Shire Council and Tweed Shire Council, inclusive, and that applies to land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.</p>	
Comment:	
<p>Although Kempsey LGA is located within the section of the Pacific Highway that this Direction refers to, the Site that the Planning Proposal applies is located on the Macleay Valley Way, which is the former alignment of the Pacific Hwy before dual carriage way bypassed Kempsey to the East of the Site. In this regard the Site is 1.3km north of the Slim Dusty (South Kempsey) Interchange and only 460 metres north of a north-bound only slip lane connecting Macleay Valley Way to the Pacific Hwy.</p>	
<p>Therefore, the Site is within the vicinity of the Pacific Hwy and the South Kempsey Interchange, the latter of which is consistent with Table 1 of this Direction. As such the Planning Proposal must be consistent with this Direction. The TIA by Fernway Engineering (Appendix F), concludes that the concept subdivision (suitability subject to future Development Application) resulting from the rezoning would have minimal impact upon traffic and only requires an upgrade to the existing driveway for the egress and ingress to the Site.</p>	
<p>Hence the Planning Proposal is considered consistent with this Direction as it does not affect the function of the Pacific Hwy and reinforces the South Kempsey employment precinct that serves the Kempsey LGA and its communities.</p>	

Focus Area 8 - Resources & Energy	The intent of this Focus Area is to promote the sustainable development of resources in strategic areas and a transition to low carbon industries and energy. They support positive environmental outcomes and work towards the net zero emissions target and continued energy security, while also promoting diversified activity in regional economies.
8.1 Mining, Petroleum Production & Extractive Industries	
Assessment – Not Applicable to Kempsey LGA	

Focus Area 9 - Primary Production	The intent of this Focus Area is to support and protect the productivity of important agricultural lands. They enhance rural and regional economies through a sustainable, diverse and dynamic primary production sector that can meet the changing needs of a growing NSW.
9.1 Rural Zones	
Assessment – Inconsistent – Justified	
Objective	

The objective of this direction is to protect the agricultural production value of rural land.

#### Application

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

#### Direction 9.1:

(1) A Planning Proposal must:

- (a) not rezone land from a rural zone to a residential zone, employment, mixed use, SP4 Enterprise, SP5 Metropolitan Centre, W4 Working Waterfront, village or tourist zone.
- (b) (Does not apply to Kempsey LGA)

#### Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy approved by the Planning Secretary which:
  - (i) give consideration to the objectives of this direction, and
  - (ii) identified the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), or
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
- (c) in accordance with the relevant Regional Strategy, Regional Plan or District Plan prepared by the Department of Planning and Environment which gives consideration to the objective of this direction, Or
- (d) is of minor significance

#### Comment:

This Planning Proposal is inconsistent with this Direction as it:

- Rezones land from RU2 Rural Landscape zone to E4 General Industrial zone.

However, the inconsistency is justified for the following reasons:

- The current RU2 Rural Landscape zoned land is clear of vegetation, is the site of a previous extractive industry and does not contain any 'rural landscape' or 'agricultural production' values.
- The current use of the RU2 Rural Landscape zone is ancillary to the E4 General Industrial land uses part of the Site.
- The growth of South Kempsey Employment Lands is supported by the North Coast Regional Plan 2041 and the LGMS. The Planning Proposal represents the infilling of E4 zoned land from RU2, in this precinct that will subsequently enable an increase in employment floor area within the precinct.
- The proposed rezoning is of minor significance and represents formalising land already used in an ancillary nature to the existing E4 zoned part of the land.

**9.2 Rural Lands****Assessment – Consistent Objective**

The objectives of this direction are to:

- (a) protect the agricultural production value of rural land,
- (b) facilitate the orderly and economic use and development of rural lands for rural and related purposes,
- (c) assist in the proper management, development and protection of rural lands to promote the social, economic and environmental welfare of the State,
- (d) minimise the potential for land fragmentation and land use conflict in rural areas, particularly between residential and other rural land uses,
- (e) encourage sustainable land use practices and ensure the ongoing viability of agriculture on rural land,
- (f) support the delivery of the actions outlined in the NSW Right to Farm Policy.

**Application**

This direction applies when a relevant planning authority prepares a planning proposal for land outside the local government areas of Lake Macquarie, Newcastle, Wollongong and LGAs in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury, that:

- (a) will affect land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation zone boundary) or
- (b) changes the existing minimum lot size on land within a rural or conservation zone.

Note: Reference to a rural or conservation zone means any of the following zones or their equivalent in a non-Standard LEP: RU1, RU2, RU3, RU4, RU6, C1, C2, C3, C4.

**Direction 9.2**

(1) A planning proposal must:

- (a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement
- (b) consider the significance of agriculture and primary production to the State and rural communities
- (c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources
- (d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions
- (e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities
- (f) support farmers in exercising their right to farm
- (g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use
- (h) consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land

(i) consider the social, economic and environmental interests of the community.

(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:

- (a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses
- (b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains
- (c) where it is for rural residential purposes:
  - i. is appropriately located taking account of the availability of human services, utility infrastructure, transport and proximity to existing centres
  - ii. is necessary taking account of existing and future demand and supply of rural residential land.

Note: where a planning authority seeks to vary an existing minimum lot size within a rural or conservation zone, it must also do so in accordance with the Rural Subdivision Principles in clause 5.16 of the relevant Local Environmental Plan.

#### Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy approved by the Planning Secretary and is in force which:
  - i. gives consideration to the objectives of this direction, and ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), or
- (b) is of minor significance.

#### Comment:

The Planning Proposal is considered consistent with this Direction as it:

- Is consistent with the North Coast Regional Plan 2041 and the LGMS in terms of facilitating growth of the South Kempsey Employment precinct.
- Recognises the part of the Site currently zoned RU2 Rural Landscape is highly modified and used in an ancillary nature to the existing E4 zoned part of the Site and that the proposed rezoning is essentially infill in nature to formalise and support other compatible employment based land uses.
- The RU2 zoned part of the Site has no agricultural or primary production value and is not located adjacent to or within the vicinity of any land with such value.
- Has negligible to no impact on farmers right to farm given the current use of the land and that it is not adjacent to or within the vicinity of any land used for farming purposes.
- Given the current split zoning of the Site, does not result in any fragmentation of rural land and will resolve current and future industrial land uses on the Site.
- Does not apply to land identified as State Significant Agricultural Land.
- Is consistent with the positive social, economic and environmental interests of the local community, in particular through the formalisation of the land for industrial and employment purposes in the South Kempsey

Employment Precinct, as identified in the North Coast Regional Plan 2041 and the LGMS.
<ul style="list-style-type: none"> <li>Does not propose any change to the minimum lot size within a rural or conservation zone.</li> </ul>
<b>9.3 Oyster Aquaculture</b>
<p>Assessment – Consistent Objectives</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> <li>(a) ensure that 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and</li> <li>(b) protect 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.</li> </ul> <p>Application</p> <p>This direction applies to any relevant planning authority when preparing a planning proposal in 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006) ("the Strategy"), when proposing a change in land use which could result in:</p> <ul style="list-style-type: none"> <li>(a) adverse impacts on a 'Priority Oyster Aquaculture Area' or a "current oyster aquaculture lease in the national parks estate," or</li> <li>(b) incompatible use of land between oyster aquaculture in a 'Priority Oyster Aquaculture Area' or a "current oyster aquaculture lease in the national parks estate" and other land uses.</li> </ul> <p>Comment:</p> <p>The Planning Proposal does not involve land within 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area as identified in the NSW Oyster Industry Sustainable Aquaculture Strategy (2006). Therefore, the Planning Proposal cannot be considered to be inconsistent with this Direction.</p>
<b>9.4 Farmland of State &amp; Regional Significance on the NSW Far North Coast</b>
Assessment – Not Applicable to the Kempsey LGA

## Site-Specific Merit:

### Section C – Environmental, Social & Economic Impacts

Question 8 - Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the Proposal?

It is unlikely that any critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected by the Planning Proposal for the following reasons:

- The Site is highly modified and the RU2 Rural landscaped zone part of the land is devoid of vegetation, refer to Figure 22. As previously discussed in the body of this Planning Proposal, Development Consent T6-13-137 approved earthworks and vegetation clearing on the Site, as shown in Figure 12, which is consistent with the current use and condition of the Site as shown in Figure 22.
- The land is not mapped as having any biodiversity values, refer to Figure 18

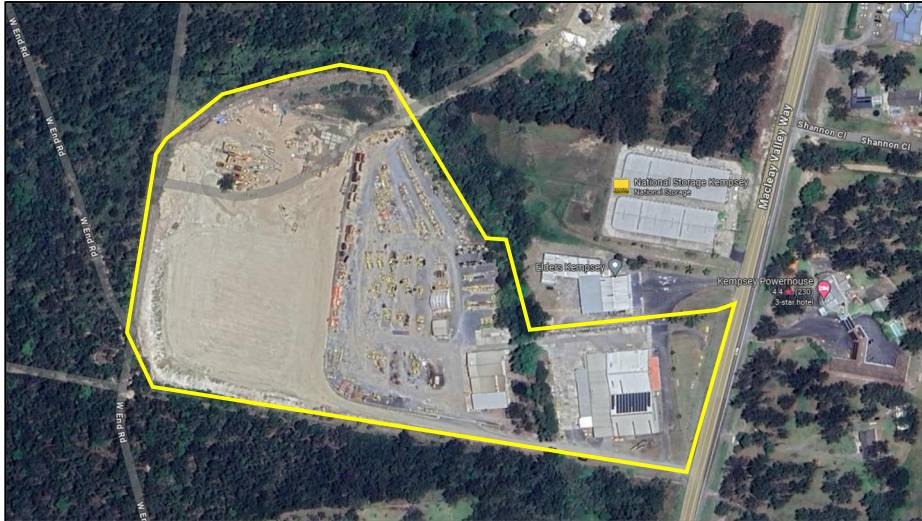


Figure 22 - Aerial Image of Site showing extent of modification. Yellow boundary line approximately only. (Source: Google Map 2024)

According to Council's mapping, as shown in Figure 23, Threatened Ecological Communities (TEC) were mapped on the Site. However, as previously discussed in the body of this report, Development Consent T6-13-137 permitted clearing and earthworks on the Site in accordance with an approved Vegetation Management Plan (VMP) by Rupert G.H. Milne Home, Landscape Consulting.

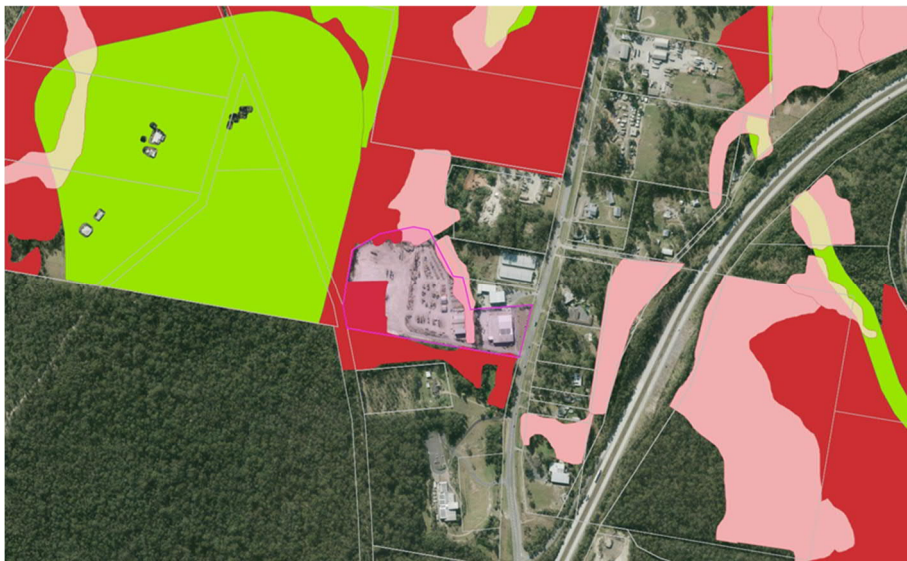


Figure 23 - Threatened Ecological Communities (TEC) Map (Source: Kempsey Shire Council)

Thus, the Site no longer contains any vegetation and is used by DGI Trading for storage of heavy machinery parts. Figure 24 demonstrates the proposed E4 general Industrial zone is located within land cleared under Development Consent T6-13-137 and so will not result in adverse impact upon critical habitat or threatened species, populations or ecological communities, or their habitats.



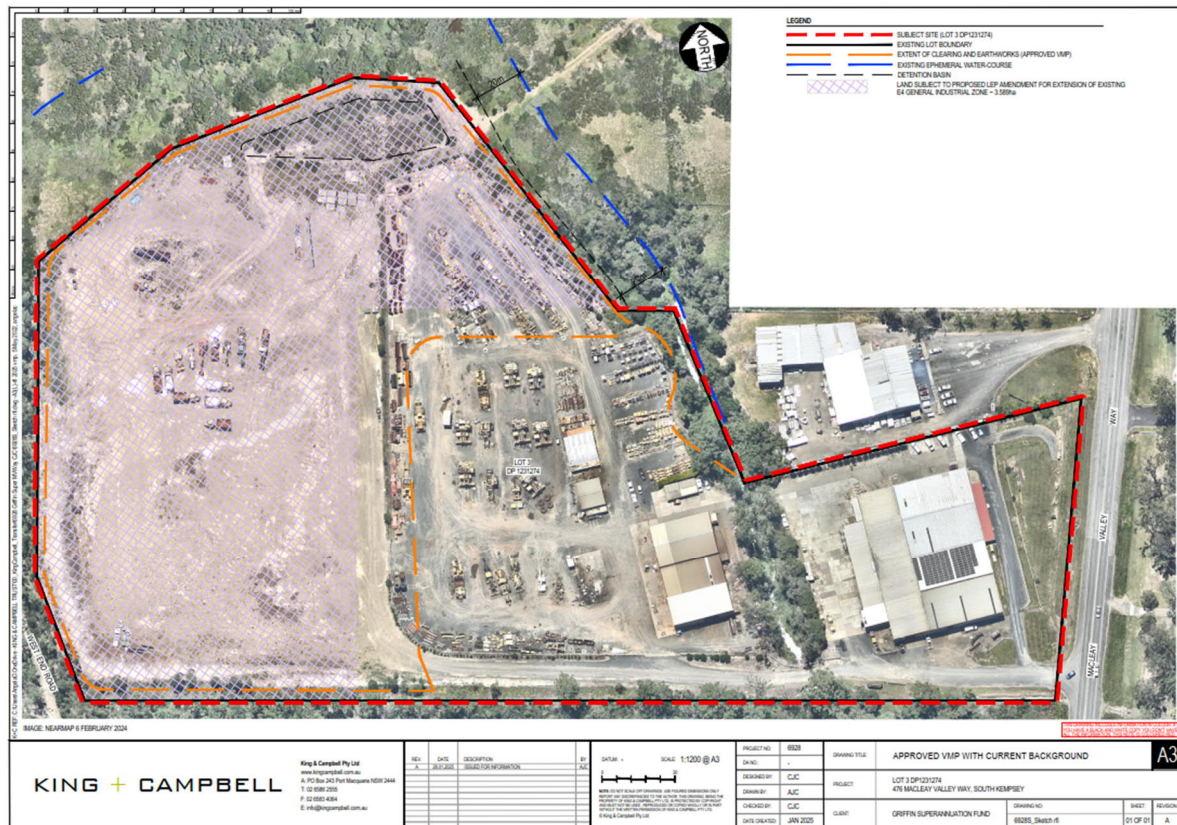


Figure 24 - Proposed E4 General Industrial Zone

Question 9 - Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

There are no other likely environmental effects to result from the Planning Proposal that have not already been considered throughout the body of this report. It is to be noted that the Planning Proposal only results to an 'on paper' change to KLEP Maps. Any proposed development on the Site will be subject to a Development Application under Part 4 of the EPA Act. Such an assessment will consider likely environmental effects of that development and determine the application accordingly.

Question 10 - Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal's purpose is to change the RU2 zoned part of the Site to E4 General Industrial, as per Error! Reference source not found., to formalise the current use of the land and allow for potential future industrial subdivision, which may result in future employment GFA. The Site is within the South Kempsey Employment Precinct as described in the LGMS. Figure 25 shows that the South Kempsey industry sector of employment closely matches the profile of the Kempsey LGA.

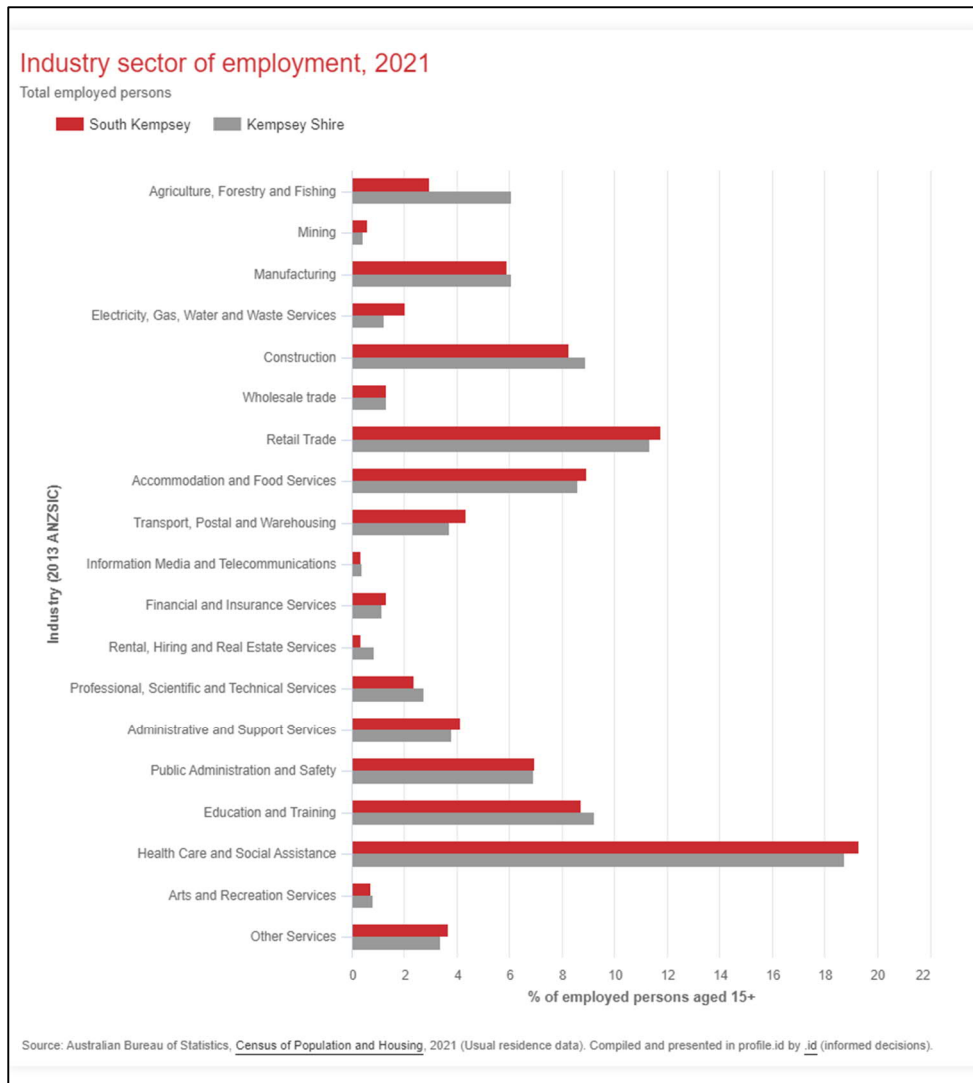


Figure 25 - South Kempsey Industry Sector of Employment 2021 (Source: Profile Id)

The economic profile for Kempsey (<https://economy.id.com.au/kempsey/employment-locations?Indkey=23000>), and as reproduced in Figure 26, indicates that there are 1,232 to 5,687 local workers in the Kempsey and South Kempsey Precincts, making the South Kempsey locality part of the largest employment areas within the Kempsey LGA, other than South West Rocks. The LGMS supports appropriate growth in employment lands within the South Kempsey Precinct.

Therefore, securing the RU2 zoned part of the Site as infill E4 General Industrial into the future will enhance the South Kempsey Precincts' potential to grow and provide further employment.

Augmentation of current infrastructure servicing the E4 zoned part of the land will suffice to support the proposed industrial land, highlighting its infill nature and the minor investment required to realise the employment potential of the land.

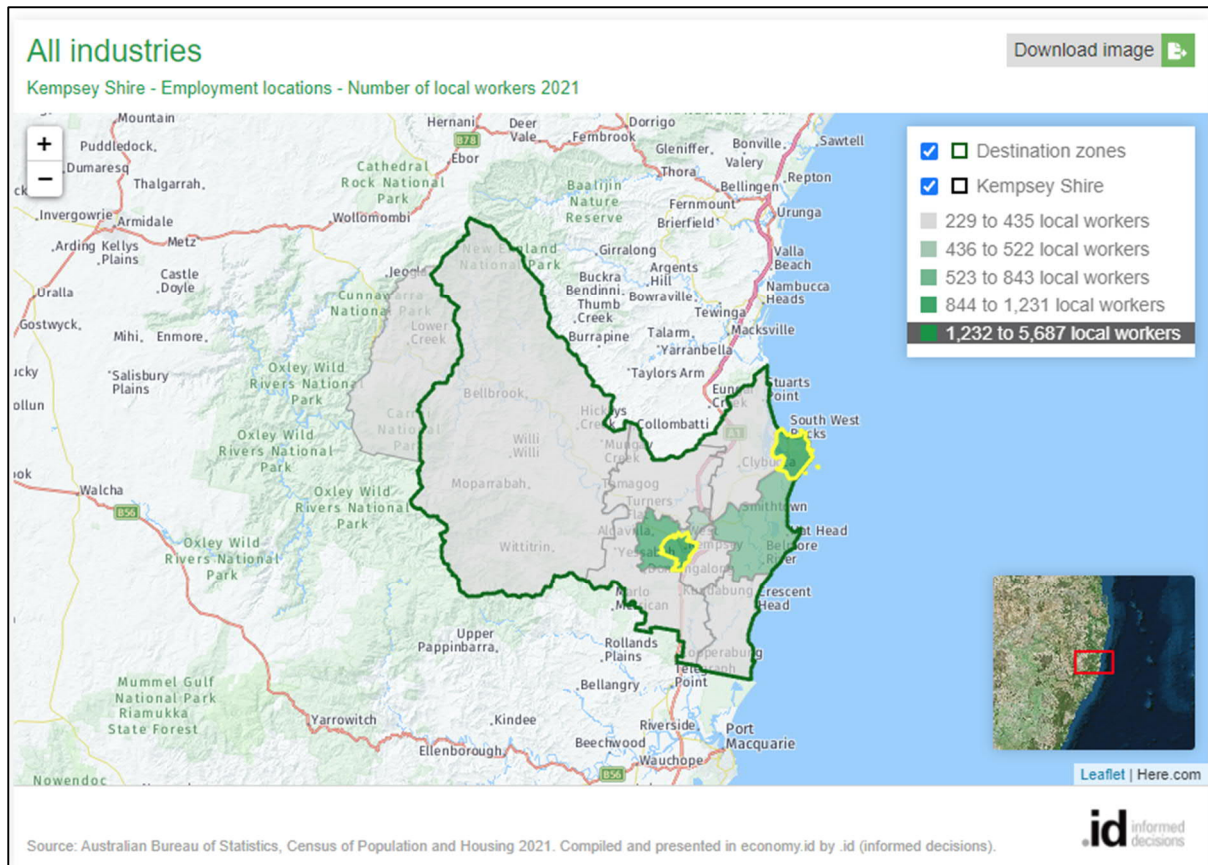


Figure 26 - Kempsey Shire Employment Locations (Source: Economy Id)

## Section D – Infrastructure (Local, State & Commonwealth)

Question 11- Is there adequate public infrastructure for the Planning Proposal?

Pre-lodgement discussions with Council identified water, sewer, electrical and telecommunication facilities can be augmented from the services currently connected to the Site, noting any subsequent subdivision for industrial land uses will require the creation of separate connection for each of the proposed allotments. Servicing strategies for the management of stormwater, sewerage services water supply, electricity and telecommunications are contained in the Civil Engineering Report (Refer Appendix I)

## Section E – State and Commonwealth Interests

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

The Department of Planning and Environment's Gateway Determination will specify consultation requirements either pre-exhibition or during public exhibition.

Consultation with the following State agencies is expected to occur with:

- Department of Planning, Housing and Infrastructure
- NSW Rural Fire Service

- Kempsey Local Aboriginal Land Council
- Essential Energy
- NBN Co.
- Other (as required by Gateway determination)

This part of the Planning Proposal will be updated post Gateway Determination and as required prior to public exhibition.

# PART 4 - Maps

## Proposed KLEP 2013 Mapping Amendments

Proposed Map Amendments to KLEP are described in Part 2 of this Planning Proposal as well as being detailed in Appendix A.

Extracts of the proposed Map amendments including proposed changes to the relevant development standards are provided below in Table 4, Table 5 and Table 6.

Table 4 - Proposed Amendment to KLEP 2013 Land Zoning Map

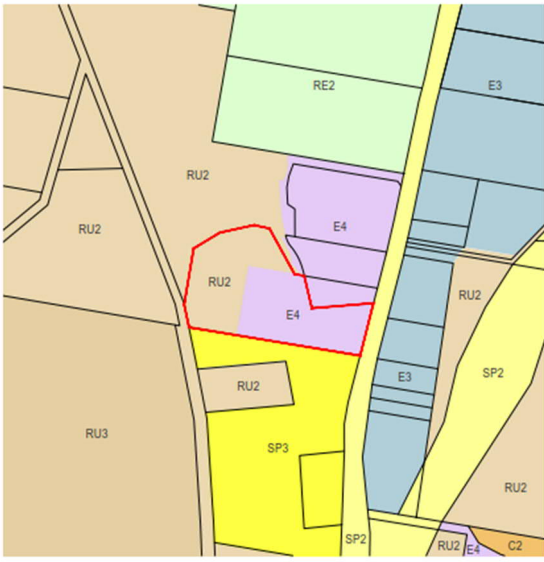
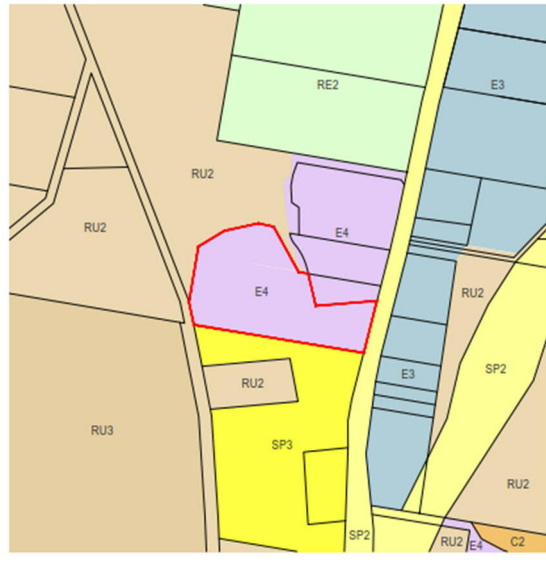
Existing Land Zoning Map (Extract)	Proposed Land Zoning Map (Extract)
	



Table 5 - Proposed Amendment to KLEP 2013 Lot Size Maps

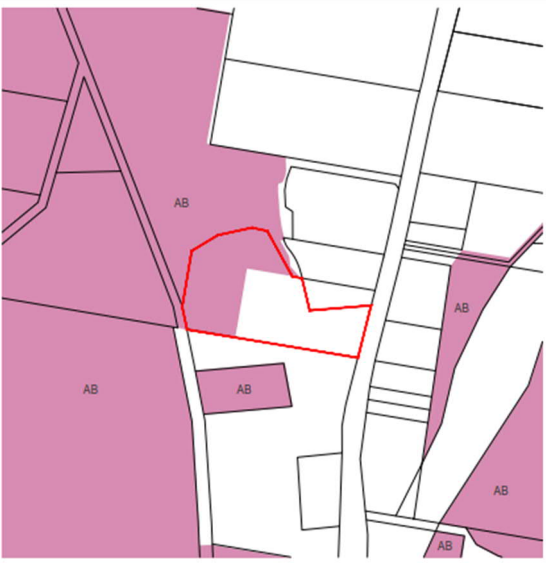
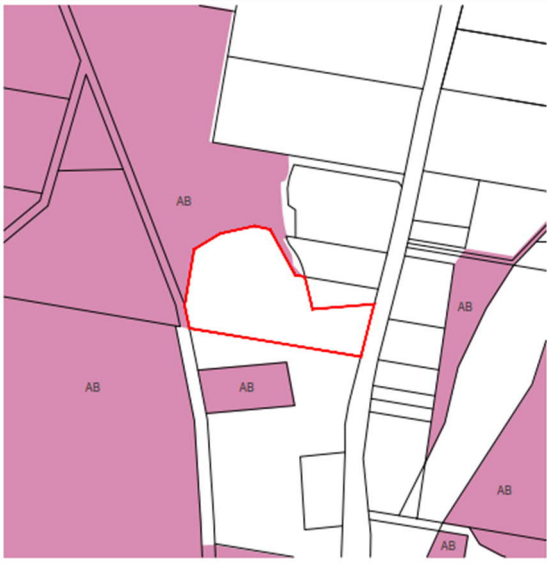
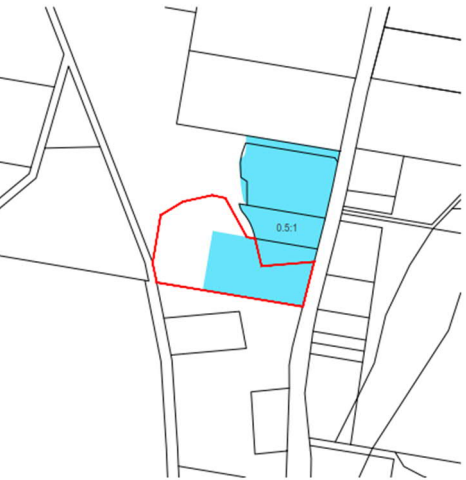

Existing Lot Size Map (Extract)	Proposed Lot Size Map (Extract)
	

Table 6 – Proposed Amendment to KLEP 2013 Floor Space Ratio Maps

Existing Floor Space Ratio Map	Proposed Floor Space Ratio Map
	



# PART 5 - Community Consultation

## Pre-lodgement – Kempsey Shire Council

A pre-lodgement meeting was held with Council on 17 May 2024. The Meeting Notes by Council are provided as Appendix H.

Table 7 reproduces the matters discussed in respect of the pre-lodgement meeting and also contains commentary about how these matters have been addressed in this Planning Proposal.

Table 7 - Pre-lodgement consultation

Matter	Pre-lodgement notes	Comments
Proposed Amendment Description	Amend the KLEP 2013 for part of the subject site zoning from RU2 to E4 to enable a future subdivision permitting infill industrial development.	Agreed
Strategy Supported?  Details:	The land falls within the North Coast Regional Plan's (NCRP 2041) urban growth area and the part of Lot 3 DP1231274 is highlighted as investigation area – employment land.	Agreed
Identified Issues / Constraints	<p>Industrial Development:</p> <p>The planning proposal if successful provides the right and potential for future complying infill land development by subdivision for industrial/employment purposes. There are constraints identified for this site, including but not limited to the following;</p> <p>Bushfire:</p> <p>Whilst the portion of the site is largely cleared and levelled already the boundary condition on three (3) sides; south, west and north present adjacent vegetated bushland with future bushfire risk.</p> <p>Aboriginal cultural heritage:</p> <p>The site is highly modified, however an appropriate search should be undertaken to ascertain if there is any Aboriginal cultural heritage record relating to the site.</p>	<p>Discussed under Question 7, in relation to Ministerial Direction 4.3, and a Strategic Bushfire Report is provided at Appendix E. The SBS concludes:</p> <p>It is considered that it will be possible for future development of the subject site to meet the applicable performance objectives and acceptable solutions as provided for in NSW Rural Fire Service, Planning for Bushfire Protection, 2019 as relevant to industrial development.</p> <p>AHIMS Search Result provided at Appendix C.</p> <p>Concept details of proposed easements have been provided to</p>

	<p>Services easement(s):</p> <p>Infill subdivision will necessitate the provision of utility services to the proposed rear lots. Indication of how, where and what configuration (easement direct to each/all lots has been indicated as the Authority's preference) should be outlined.</p> <p>Transport Access:</p> <p>Industrial subdivision and subsequent development will likely increase traffic movements and heavy vehicle usage. Therefore, access to and from Macleay Valley Way (both directions) and movements within the intended subdivision would need to be conveyed. Implications for Macleay Valley Way roadway, junction and site ingress/egress need to be addressed (works proposed/required). Internal vehicle/traffic circulation within the site and intended subdivision (lots) to achieve "front in-front out" vehicle movement should be indicated.</p> <p>Section 9.1 Ministerial Directions:</p> <p>- The Planning Proposal will need to address all relevant s9.1 directions.</p>	<p>Council as part of a Concept Subdivision Layout prepared. This layout has been removed from this Planning Proposal as required by the Gateway Determination conditions, as the layout suitability will be subject to a future Development Application.</p> <p>A TIA is provided at Appendix F and provides details of recommended improvements to the existing driveway access at Macleay Valley Way.</p> <p>Refer Pages 32-56.</p>
Additional Studies Required:	<p>In addition to the provision of a planning proposal prepared in accordance with clause 3.33(2) of the Environmental Planning and Assessment Act 1979, please provide the following checks and information:</p> <p>Aboriginal Heritage reporting: initially AHIMS search and result indicating what/if any status or discovery. Additional reporting will be required if the site or location within the site is identified to be of Aboriginal cultural heritage significance.</p> <p>Conceptual site plan for the subdivision proposed with;</p> <ul style="list-style-type: none"> <li>Utility services easement(s)</li> <li>Access/circulation traffic explanation and</li> <li>Outline road/junction configuration.</li> </ul>	<p>AHIMS Search Result provided at Appendix C.</p> <p>Concept details have been provided to Council as part of a Concept Subdivision Layout prepared. This layout has been removed from this Planning Proposal as required by the Gateway Determination conditions, as the layout suitability will be subject to a future Development Application.</p> <p>Servicing strategies provided in Appendix I Civil Engineering Report.</p> <p>A TIA is provided at Appendix F and provides details of traffic generation and the configuration of recommended improvements to the existing driveway access at its intersection with Macleay</p>

		Valley Way.
Summary of information provided – including Fees etc:	<p>All planning proposals go through an administrative process for submissions, evaluation and consideration. A guideline on each step of this process is available from the NSW Government Planning Department website:</p> <p><a href="https://www.planning.nsw.gov.au/sites/default/files/2023-03/lep-making-guideline.pdf">https://www.planning.nsw.gov.au/sites/default/files/2023-03/lep-making-guideline.pdf</a></p> <p>Council's own Application to Amend Kempsey LEP 2013 form can be downloaded through Council's website:</p> <p><a href="http://www.kempsey.nsw.gov.au/pdfsForms/applic_rezoning_and.Pdf">http://www.kempsey.nsw.gov.au/pdfsForms/applic_rezoning_and.Pdf</a></p> <p>Council's fees (from July 1st, 2023) for a major LEP amendment comprise two payments as follows (only the Stage 1 payment is to accompany lodgement of the planning proposal):</p> <p>Stage 1 – Includes initial assessment of Planning Proposal and report to Council:</p> <ul style="list-style-type: none"> <li>• For consideration and Council resolution to proceed,</li> <li>• Forwarding the Planning Proposal to the NSW Department of Planning (DPE)</li> <li>• Liaising with DPE and LEP Review Panel (where required) to obtain Gateway Determination regarding further progress of the proposed LEP Amendment.</li> </ul> <p>\$8,000</p> <p>Stage 2 – Gateway Determination to proceed. Includes the following:</p> <ul style="list-style-type: none"> <li>• Consultation (as directed by the DPE), State/Commonwealth Authorities, agencies and/or community consultation,</li> <li>• Consideration and reporting to Council of amendments,</li> <li>• Referral to DPE for final determination, and</li> <li>• All advertising/ public exhibition and/or notification.</li> </ul> <p>\$8,000</p>	<p>Noted</p> <p>Noted</p>

## Public exhibition of the Planning Proposal

Public exhibition of the Planning Proposal will occur post Gateway determination. The timeframe for public exhibition will be prescribed in the Gateway determination. The Gateway determination will also prescribe what matters, such as referrals or other additional information is required prior to public exhibition.

## PART 6 - Project Timeline

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This project timeline is based on anticipated dates and timeframes for a Standard Planning Proposal as per the Department's LEP Making Guideline 2023. This table can be updated from time to time as the Planning Proposal progresses.

Table 8 - Planning Proposal Timeline

Stage	Timeframe and/or date
Consideration by Council	February 2025
Council decision	February 2025
Gateway determination	March/April 2025
Pre-exhibition	April 2025
Public Exhibition	April/May 2025
Consideration of submissions	June/July 2025
Post-exhibition review & additional studies	August/September 2025
Submission to Department for finalisation (where applicable)	October 2025
Gazettal of LEP amendment	November 2025

END OF PLANNING PROPOSAL