



IRF24/1810

Gateway determination report – PP-2024-829

To rezone Lot 9 DP 1219664, 157 Arakoon Road, South West Rocks from R5 Large Lot Residential to R1 General Residential and amend the associated development controls

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Acknowledgment of Country

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

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Ordinary Council Meeting Report – 17 July 2024
Ordinary Council Meeting Minutes – 17 July 2024
High Environmental Values Report – Biodiversity Australia – March 2024

Vegetation Management Plan – Biodiversity Australia – February 2024

Traffic Engineering Report – TPS Group – 21 December 2023

Aboriginal Heritage Due Diligence Assessment Report – Heritage Now – 15 March 2023

Bushfire Hazard Assessment – David Pensini Building Certification and Environmental Services – June 2022

Concept Subdivision Layout (Rev C) – King & Campbell – 19 October 2023

Concept Sewer and Water Servicing Strategy (Rev D) – King & Campbell – 8 March 2024

Stormwater Catchment Plan (Rev B) – King & Campbell – 31 January 2024

Stormwater Basin Detail (Rev B) – King & Campbell – 31 January 2024

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Kempsey
PPA	Kempsey Shire Council
NAME	To rezone Lot 9 DP 1219664, 157 Arakoon Road, South West Rocks from R5 Large Lot Residential to R1 General Residential and amend the associated development controls
NUMBER	PP-2024-829
LEP TO BE AMENDED	Kempsey LEP 2013
ADDRESS	157 Arakoon Road, South West Rocks
DESCRIPTION	Lot 9 DP 1219664
RECEIVED	26/07/2024
FILE NO.	IRF24/1810
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

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

The objective of the planning proposal is to rezone Lot 9 DP 1219664, 157 Arakoon Road, South West Rocks from R5 Large Lot Residential to R1 General Residential and amend the associated development controls. The proposal will provide additional housing opportunities within South West Rocks and deliver the recommendations of the Kempsey Local Growth Management Strategy (LGMS).

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

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

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	R5 Large Lot Residential	R1 General Residential
Maximum height of buildings	N/A	8.5
Minimum lot size	1 hectare	500m ²
Number of dwellings	23	181

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

The planning proposal notes that the amendments include the Athena Parade road reserve for the length of the site adjoining the northern boundary. This will ensure consistency with the existing adjoining R1 zoned land to the north. It is not intended to include the road reserve to the east of the site, given this adjoins existing R5 zoned land.

1.4 Site description and surrounding area

The subject land is described as Lot 9 DP 1219664, 157 Arakoon Road, South West Rocks (Figure 1). The site is 23.97 hectares in area and is zoned R5 Large Lot Residential under the Kempsey LEP 2013. The site is approximately 2km south-east of the South West Rocks town centre (Figure 2).



Figure 1 Subject site (source: NSW Spatial Viewer)

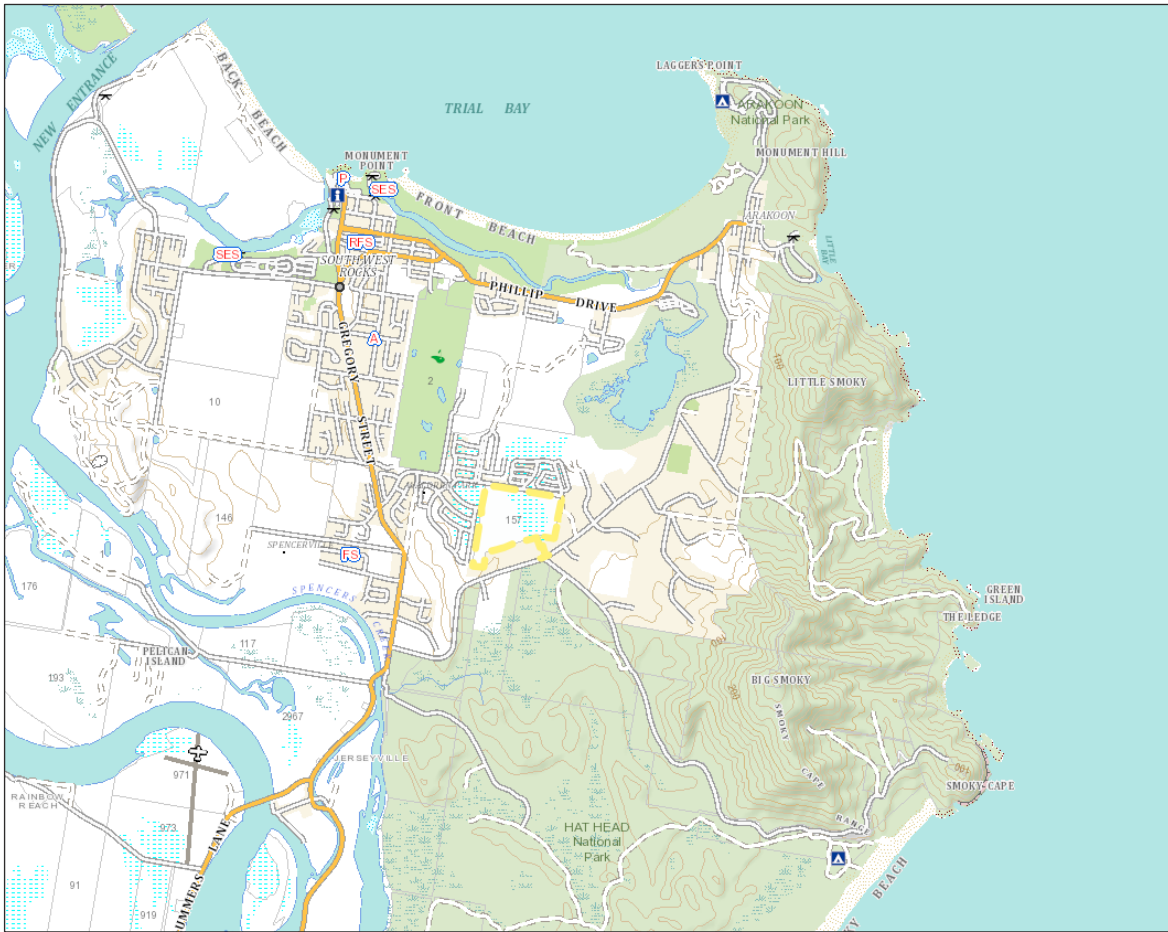


Figure 2 Site context (source: NSW Spatial Viewer)

In accordance with the flood mapping contained within the Kempsey Development Control Plan (DCP) 2013, the subject land is not identified as being subject to the 1% AEP flood event (Figure 3).

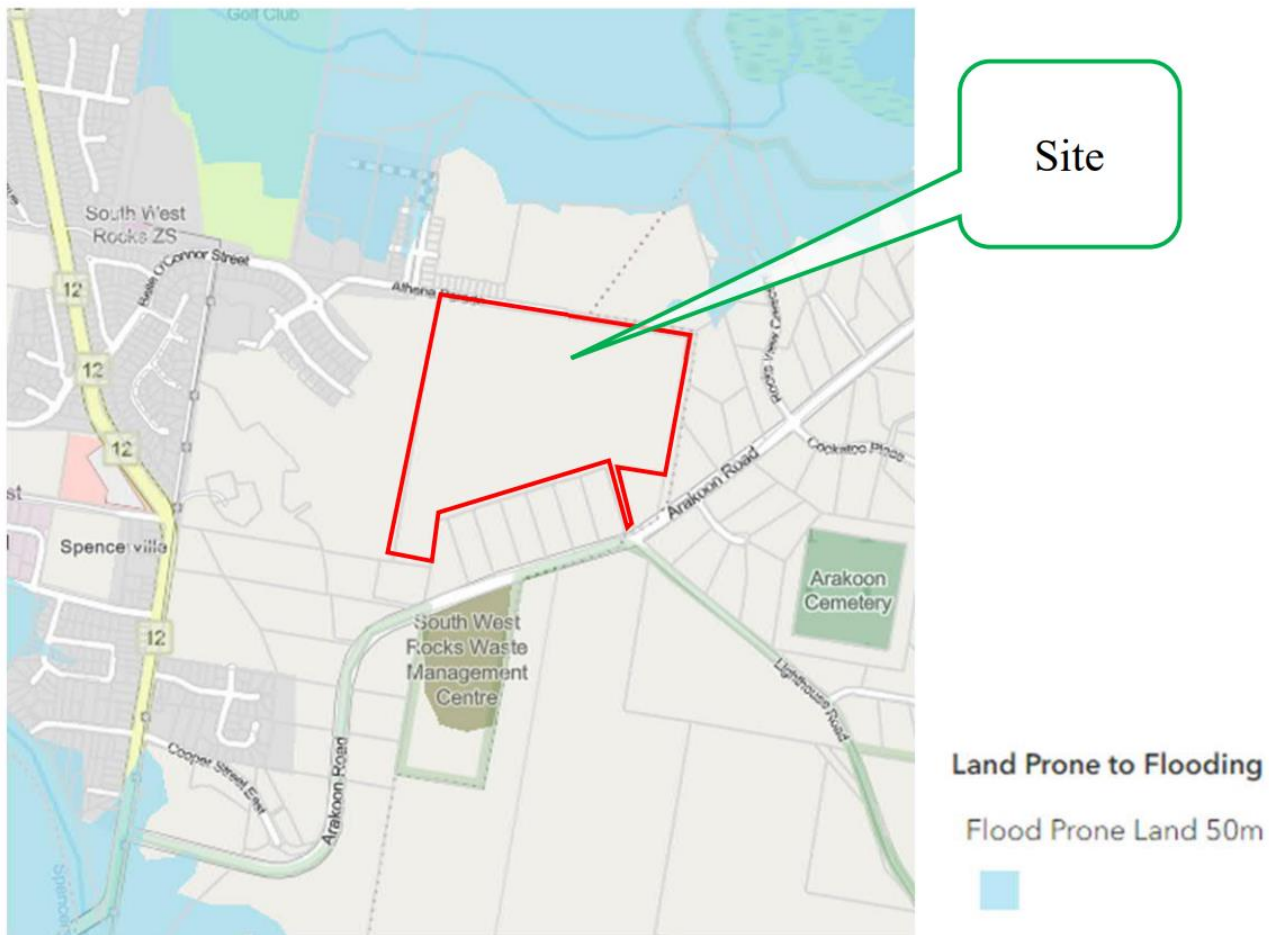


Figure 3 Kempsey DCP 2013 flood mapping (source: Planning Proposal)

However, it is recommended consultation occurs with Biodiversity, Conservation and Science to confirm the suitability of the proposal in relation to potential flood risk. A condition is recommended on the Gateway determination in this regard.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning, Lot Size and Height of Buildings maps (Figures 4 to 6), which are suitable for community consultation.

Maps consistent with the Standard Technical Requirements will need to be prepared before the making of the LEP amendment.

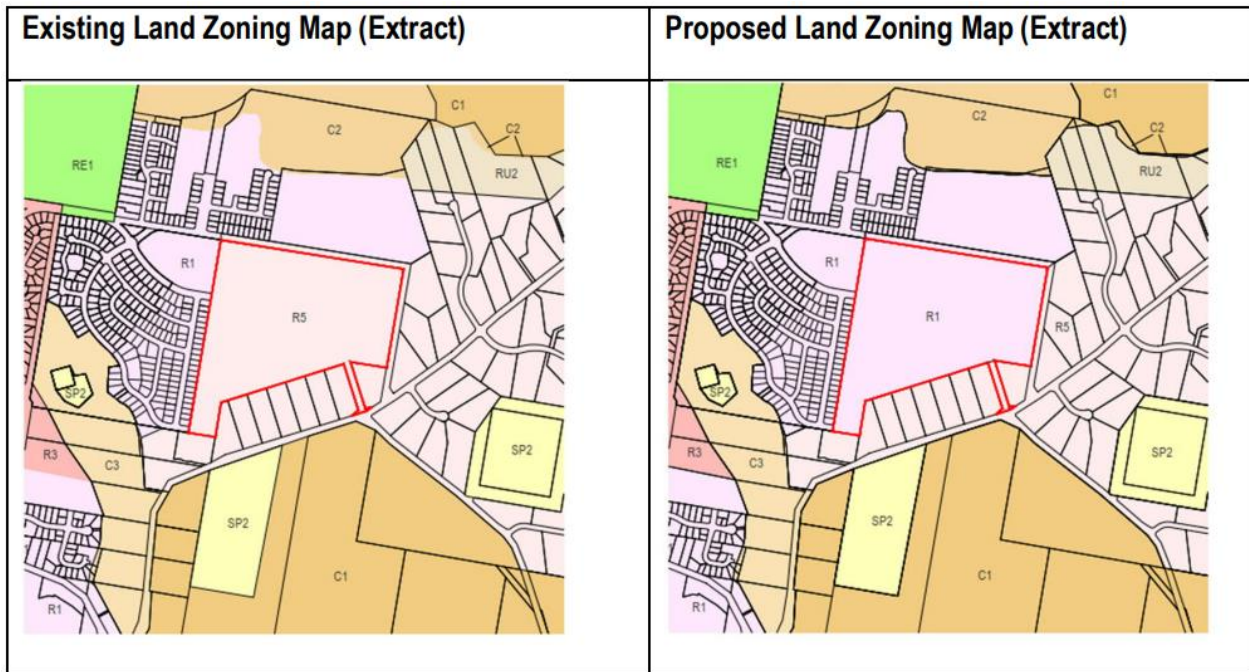


Figure 4 Existing and proposed zoning map

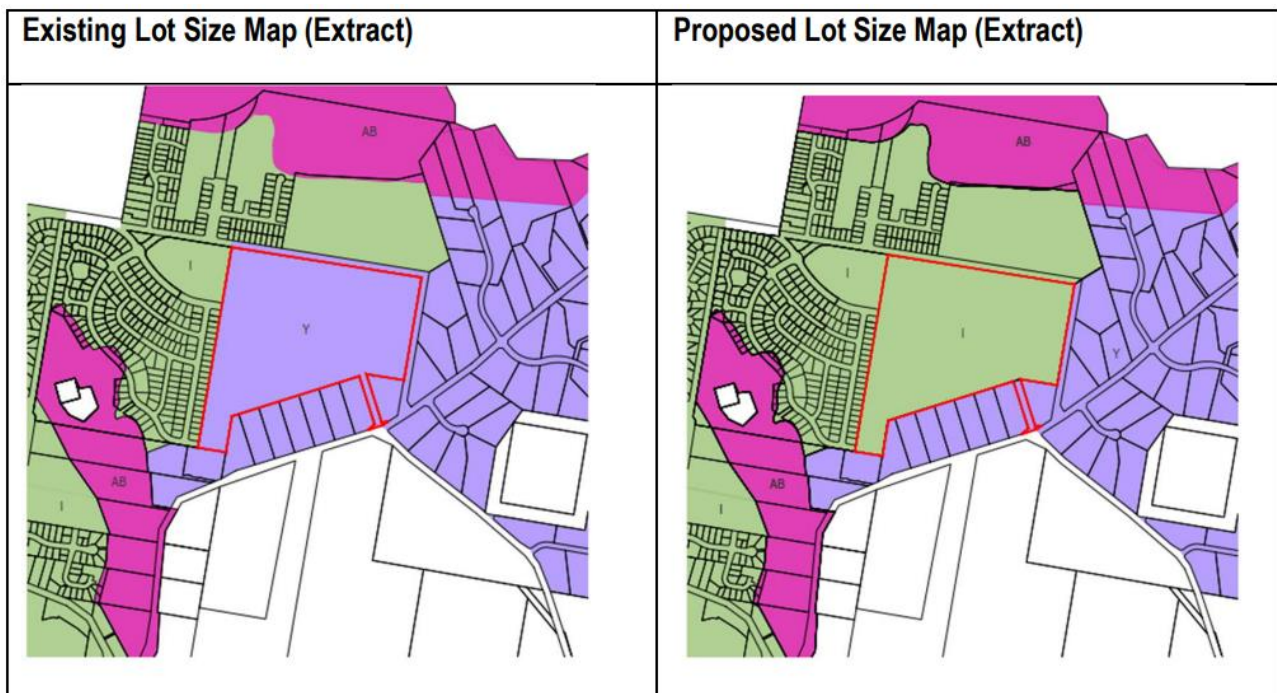


Figure 5 Existing and proposed lot size map

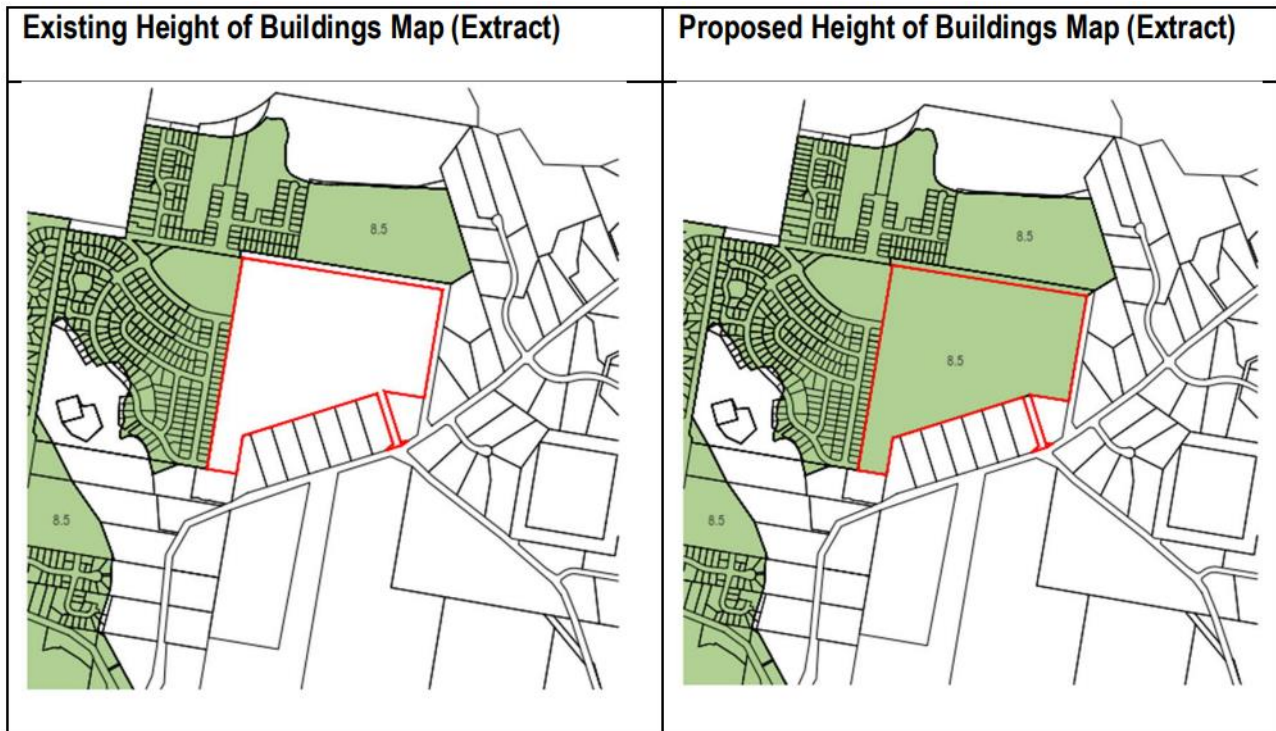


Figure 6 Existing and proposed height of buildings map

2 Need for the planning proposal

The subject land is identified for potential rezoning to R1 General Residential within the Kempsey Local Growth Management Strategy (LGMS) 2041. The LGMS was adopted by Council on 27 June 2023 and endorsed by the Department on 23 August 2023. The LGMS states the South West Rocks Structure Plan will address the ability for South West Rocks to accommodate an additional 1,580 dwellings to 2041.

The South West Rocks Structure Plan (SWRSP) 2023 was adopted by Council on 18 July 2023. The Department does not have a formal endorsement role in relation to structure plans. The site is identified in the SWRSP as a future residential growth area and within the 'Saltwater' neighbourhood of South West Rocks, which has been identified as an area to accommodate residential development.

The planning proposal has been prepared in accordance with the LGMS to support the proposed amendment to the Kempsey LEP 2013 to rezone the land to R1 General Residential and amend the minimum lot size.

The planning proposal has been accompanied by the following plans and technical reports:

- High Environmental Values Report – Biodiversity Australia – March 2024
- Vegetation Management Plan – Biodiversity Australia – February 2024
- Traffic Engineering Report – TPS Group – 21 December 2023
- Aboriginal Heritage Due Diligence Assessment Report – Heritage Now – 15 March 2023
- Bushfire Hazard Assessment – David Pensini Building Certification and Environmental Services – June 2022
- Concept Subdivision Layout (Rev C) – King & Campbell – 19 October 2023
- Concept Sewer and Water Servicing Strategy (Rev D) – King & Campbell – 8 March 2024
- Stormwater Catchment Plan (Rev B) – King & Campbell – 31 January 2024

- Stormwater Basin Detail (Rev B) – King & Campbell – 31 January 2024

It is considered the planning proposal is the best means to achieve the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

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

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Goal 1: Liveable, Sustainable and Resilient	<p><i>Objective 1 – Provide well located homes to meet demand</i></p> <p>The planning proposal is not inconsistent with this objective as it will provide for housing in a well located area within the Shire. The proposal states that the change of zoning to R1 General Residential will enable more cost-effective development of land, infrastructure connection and reinstatement of degraded vegetation.</p> <p><i>Objective 2 – Provide for more affordable and low cost housing</i></p> <p>The proposal states that the subject site is not identified as a potential site for affordable housing and incentive provisions, however the R1 zoning of the land could cater for a greater number of low cost housing options such as secondary dwellings.</p> <p><i>Objective 3 – Protect regional biodiversity and areas of high environmental value</i></p> <p>The subject site is mapped as containing potential High Environmental Value (HEV) land (Figure 7).</p> <p>As the proposal does not avoid impacts on identified HEV land at the planning proposal stage, the proposal is inconsistent with this Objective. This is further discussed in Parts 3 and 4.</p> <p><i>Objective 4 – Understand, celebrate and integrate Aboriginal culture</i></p> <p>The proposal is not inconsistent with this objective. An Aboriginal Heritage Due Diligence Assessment was prepared by Heritage Now Pty Ltd which identified no Aboriginal objects, places or areas of potential archaeological deposit in the project area. The assessment recommended a number of general mitigation measures which can be considered as part of any future development application lodged.</p> <p>The site is not adjacent to any rural zoned land and adjoins existing residential land (R1 and R5). It is not considered the proposal will result in any adverse impacts with respect to potential land use conflict.</p>

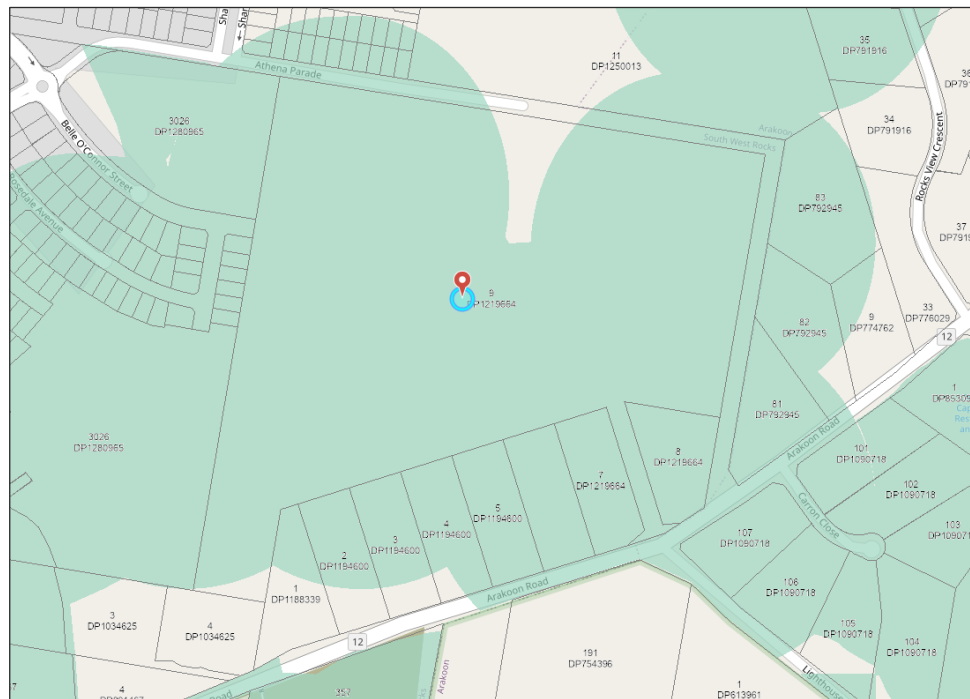


Figure 7 High Environmental Value land (Source: Northern Region Viewer)

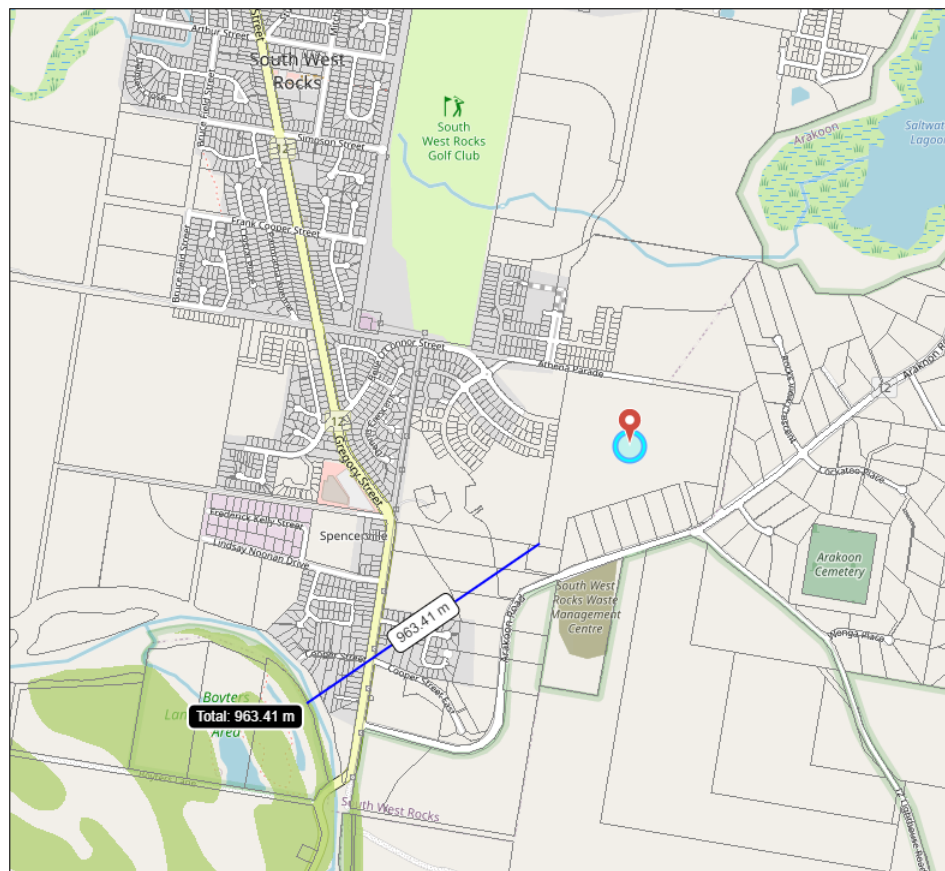


Figure 8 Proximity to Mid North Coast Farmland (Source: Northern Region Viewer)

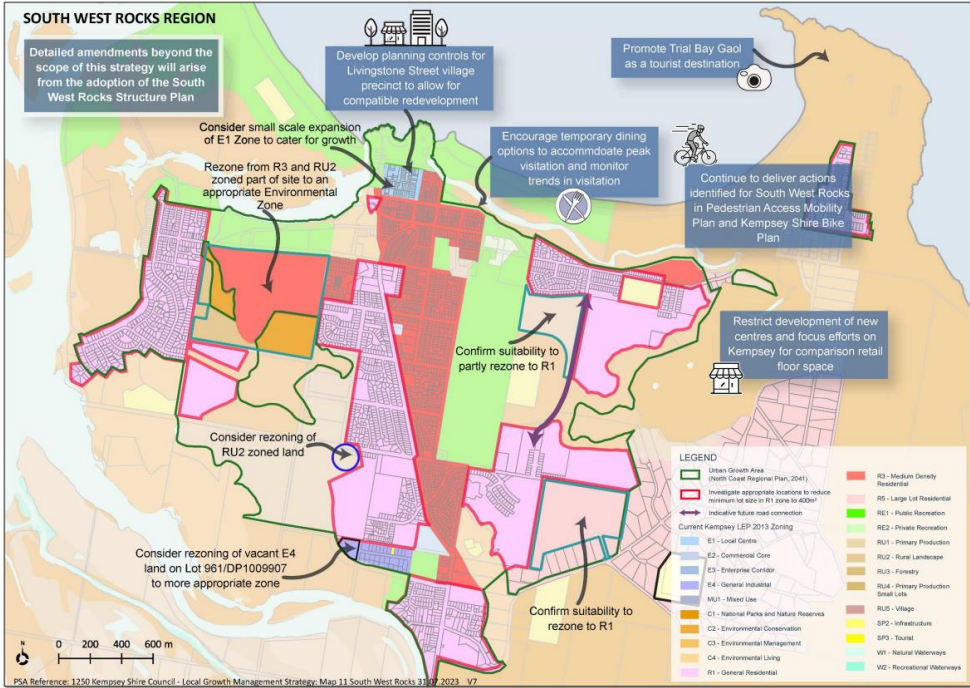
	<p><i>Objective 9 – Sustainably manage and conserve water resources</i></p> <p>The planning proposal is not inconsistent with this objective. The proposal states that the future residential subdivision of the site will need to be constructed in accordance with current water sensitive urban design practices for stormwater. Future dwelling houses will need to meet current BASIX standards and capture rainwater for non-drinking water purposes, in household use.</p> <p><i>Objective 10 – Sustainably manage the productivity of our natural resources</i></p> <p>The proposal is not inconsistent with this objective as the subject site has been identified in local planning strategies as an urban (residential) expansion area.</p>
Local Government Narrative – Kempsey	The planning proposal is not inconsistent with the Local Government Narrative as it will deliver housing opportunities at South West Rocks.

3.2 Local

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

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement 2020-2040 – Future Macleay	<p>The Local Strategic Planning Statement (LSPS) 2020-2040 – Future Macleay was adopted by Council in 2020 and provides a 20-year vision for land use planning in the Kempsey Local Government Area (LGA).</p> <p>The LSPS states greenfield residential housing opportunities are identified in Council's Local Growth Management Strategy: Residential Component, and these urban investigation areas include localities within South West Rocks. This Strategy has since been replaced by the Kempsey Local Growth Management Strategy (LGMS) 2041 in 2023, which is discussed in detail below.</p> <p>The planning proposal is not inconsistent with Theme 4 – Safe and Suitable Housing as it will assist in delivering greenfield residential subdivision opportunities.</p>
Kempsey Local Growth Management Strategy 2041	<p>The Kempsey Local Growth Management Strategy (LGMS) 2041 was adopted by Council on 27 June 2023 and endorsed by the Department on 23 August 2023. The LGMS was developed to guide and deliver upon the priorities and actions contained in the LSPS and replaces the Kempsey Shire Council Local Growth Management Strategy – Residential Component (2010) and the Kempsey and South West Rocks Industrial Land Review (2004).</p> <p>The LGMS sets the direction for future population growth and development within Kempsey Shire to 2041. South West Rocks is expected to cater for the majority of this projected growth.</p>

Local Strategies	Justification
	<p>The rezoning of the subject land to R1 General Residential is identified as an action for South West Rocks within the LGMS (Figure 9).</p> <p>The planning proposal is therefore not inconsistent with the actions of the LGMS.</p>  <p>Figure 9 South West Rocks LGMS Strategies and Actions (Source: Kempsey LGMS)</p>
Community Strategic Plan 2042: Your Future	<p>The Community Strategic Plan outlines a 20-year plan for the Kempsey Shire Community. The proposal is not inconsistent with the following priorities within ‘Your Future Environment’:</p> <ul style="list-style-type: none"> • changes to our towns and villages balance the needs of built and natural environments; and • the risks of natural hazards and climate change are recognised and acted on.
Comprehensive Koala Plan of Management (CKPoM)	<p>The High Environmental Values Report submitted with the proposal states that the vegetation on the subject land does not conform to the CKPoM definition of Secondary ‘A’ or Secondary ‘B’ habitat. Four dedicated koala surveys using the Spot Assessment Technique (SAT) were conducted and no evidence of koala activity was found. As surveys determined that koalas were absent from the subject land and there were no preferred koala food trees present, the report concludes that as the CKPoM assessment pathway states that land mapped as ‘Other’ within the subject land, no further assessment is required.</p>

Local Strategies	Justification
	However, it is recommended consultation by undertaken with Biodiversity, Conservation and Science (BCS) to confirm the suitability of the planning proposal. This requirement forms part of the conditions of the Gateway determination.

3.3 Section 9.1 Ministerial Directions

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

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Inconsistent – Unresolved	<p>The planning proposal is inconsistent with this Direction as the proposal is considered to be potentially inconsistent with Objectives 1, 3 and 5 of the North Coast Regional Plan 2041.</p> <p>Consistency with this Direction will remain unresolved until consultation with BCS and the NSW Rural Fire Service (RFS) is undertaken.</p>
3.1 Conservation Zones	Inconsistent – Unresolved	<p>The planning proposal is inconsistent with this Direction as it does not include provisions that facilitate the protection and conservation of environmentally sensitive areas (potential HEV land).</p> <p>Consistency with this Direction will remain unresolved until consultation with BCS occurs.</p>
4.3 Planning for Bushfire Protection	Inconsistent – Unresolved	<p>The land is identified as bushfire prone and the planning proposal has included a Bushfire Hazard Assessment prepared by David Pensini Building Certification and Environmental Services which includes a number of recommendations to be considered as part of the future subdivision of the land.</p> <p>The Direction requires that Council must consult with the Commissioner of the NSW Rural Fire Service (RFS) after a Gateway determination has been issued.</p> <p>Until consultation has occurred, consistency with this Direction remains unresolved.</p>

4.4 Remediation of Contaminated Land	Inconsistent – Unresolved	<p>The planning proposal states only that the land is not within an investigation area and does not address all criteria for the application of this Direction. It is stated separately in the planning proposal that the site is not mapped or known to have any past land uses that could result in the site being contaminated.</p> <p>To achieve consistency with this Direction, a preliminary contamination assessment report is to be undertaken for the site and the recommendations of the assessment are to be included in the planning proposal prior to public exhibition. This requirement forms part of the Gateway determination. A condition is also included requiring this section to be updated to fully address the requirements of this Direction.</p> <p>The inconsistency with the Direction will remain unresolved until a preliminary contamination assessment has been completed for the current subject site and the relevant findings updated in the planning proposal prior to community consultation.</p>
4.5 Acid Sulfate Soils	Inconsistent – Minor significance	<p>This Direction applies as the land is mapped as potentially containing Class 4 and 5 acid sulfate soils.</p> <p>The planning proposal states that Regional Geotechnical Solutions have been engaged to carry out an Acid Sulfate Soils report, which will be provided to Council prior to public exhibition.</p> <p>A condition is recommended on the Gateway determination requiring the report to be completed and included within the planning proposal prior to public exhibition.</p> <p>A condition is also recommended requiring the planning proposal to be updated to reference the potential presence of both Class 4 and 5 acid sulfate soils.</p> <p>Given the requirement for a report has been included as a condition of the Gateway determination and issues relating to acid sulfate soils can be suitably addressed at the development application stage, the inconsistency with this Direction is considered to be of minor significance.</p>

5.1 Integrating Land Use and Transport	Inconsistent – Minor significance	<p>This Direction applies as the planning proposal will alter a provision relating to urban land.</p> <p>The planning proposal is inconsistent with this Direction as it does not include provisions that give effect to the guidelines listed in the Direction.</p> <p>Given the site is identified for rezoning to R1 under the Kempsey Local Growth Management Strategy, it is considered the inconsistency with this Direction is of minor significance.</p> <p>It is recommended consultation with Transport for NSW (TfNSW) occurs to confirm the suitability of the proposal. A condition is included on the Gateway determination in this regard.</p>
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3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

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

Table 7 Environmental impact assessment

Environmental Impact	Assessment
Flora and fauna	<p>The subject land is mapped as containing potential High Environmental Value (HEV) land. A High Environmental Values Report and Vegetation Management Plan (VMP) have been prepared by Biodiversity Australia to support the proposal.</p> <p><u>High Environmental Values Report</u></p> <p>The report included an assessment of ecological values which concluded these values are absent from the subject land and do not meet key consideration criteria for HEV land (as described within Attachment 2 of the BCD NE Branch Steps for Assessing Biodiversity in Planning Proposals). However, consultation with BCS is required to confirm the suitability of the site. This requirement forms part of the conditions of the Gateway determination.</p>

Flora and fauna	<p>The following Plant Community Types (PCTs) have been identified on the subject land:</p> <ul style="list-style-type: none"> • PCT 3573 – Northern Lowland Scribbly Gum – Bloodwood Forest • PCT 4004 – Northern Melaleuca quinquenervia Swamp Forest <p>PCT 4004 is the distinct planning community present on the land and is associated with the Threatened Ecological Community (TEC) Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) and the Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions Endangered Ecological Community (EEC) under the Biodiversity Conservation Act 2016 (BC Act). The report states that this community does not conform to the state listed EEC or the federally listed TEC as it falls outside of the 1 in 100 year flood level.</p> <p>The majority of the vegetation within the site is to be cleared, however the sections around the basins are to be rehabilitated and converted into artificial wetlands with vegetation conforming to the species description associated with PCT 4004. The report recommends that where possible, large trees existing on site be retained to enhance the habitat value around the artificial wetlands.</p> <p>One threatened species has been recorded on the subject land (Brush-tailed Phascogale). The report concludes it is unlikely the vegetation in the rezoning area constitutes key breeding habitat for this species as it is considered likely that the key habitat for the species exists within the higher integrity vegetation adjoining the subject land.</p> <p>Four dedicated koala surveys using the Spot Assessment Technique (SAT) were conducted and no evidence of koala activity was found.</p> <p><u>Vegetation Management Plan</u></p> <p>The VMP has been prepared to guide vegetation management associated with the proposed development including any native vegetation that is to be retained within the development, as well as revegetation to return basin areas to augmented forested wetland habitat as previously existed. These basins will operate as ephemeral wetlands and will have natural wet/dry phases as would occur within this environment.</p> <p>The VMP includes several management actions and an implementation plan to guide the timing and completion of the required actions.</p> <p>It is recommended consultation by undertaken with BCS to confirm the suitability of the planning proposal. This requirement forms part of the conditions of the Gateway determination.</p>
Contamination	<p>As discussed previously, a preliminary contamination assessment report is to be undertaken for the site and the recommendations of the assessment are to be included in the planning proposal prior to public exhibition. This requirement forms part of the Gateway determination.</p>
Land use conflict	<p>The planning proposal states that the subject land is not used for primary production purposes, nor is the land located adjacent to rural zoned land.</p> <p>It is not considered the proposal will result in any adverse impacts with respect to potential land use conflict.</p>

Bushfire	<p>The subject land is bushfire prone.</p> <p>A Bushfire Hazard Assessment prepared by David Pensini Building Certification and Environmental Services which recommends a number of matters for consideration for the proposed subdivision of the land to achieve compliance with Planning for Bushfire Protection (PBP) 2019. It is considered these matters can be suitably addressed at the development application stage.</p> <p>However, consultation is required with the NSW Rural Fire Service in accordance with Ministerial Direction 4.3 and to confirm the suitability of the proposal. This requirement is included as a condition of the Gateway determination.</p>
Acid sulfate soils	<p>As discussed previously, an Acid Sulfate Soils report is to be undertaken for the site and the recommendations of the assessment are to be included in the planning proposal prior to public exhibition. This requirement forms part of the Gateway determination.</p>

4.2 Social and economic

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

Table 8 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The proposal would result in 181 residential lots. It is considered the proposal would result in positive social impacts in contributing to a range of housing options in South West Rocks and being located immediately adjacent to existing R1 zoned land, the future residential subdivision of the site will achieve physical integration with this area.</p>
Economic	<p>No negative economic effects are anticipated from the intended outcomes of the proposal.</p>
Heritage	<p><i>European heritage</i></p> <p>The allotment does not contain any items listed as Heritage items in Schedule 5 of the Kempsey LEP 2013 or the State Heritage Register. The nearest heritage items (I1 – Arakoon Cemetery and I4 – Gap Beach Cemetery) are over 370m and 800m from the site respectively. The proposal is unlikely to impact upon the scheduled items or curtilage.</p> <p><i>Aboriginal heritage</i></p> <p>An Aboriginal Due Diligence Assessment Report prepared by Heritage Now Pty Ltd was submitted with the proposal.</p>

The report identified that no Aboriginal objects, places or areas of potential archaeological deposit were found on the site. The report included an assessment by the Kempsey Local Aboriginal Land Council (LALC) which confirmed no survey assessment follow up was required. It was recommended Kempsey LALC be contacted in the event of detection of artefacts during the process of soil disturbance.

It is considered Aboriginal cultural heritage can be suitably addressed at the development application stage.

4.3 Infrastructure

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

Table 9 Infrastructure assessment

Infrastructure	Assessment
	<p><i>Vehicular access</i></p> <p>The planning proposal has been supported by a Traffic Engineering Report prepared by TPS Group in relation to traffic and pedestrian movement.</p> <p>The planning proposal states that initial access to the site will be via Belle O'Connor Street, which will not conflict with Council's intention to ultimately establish a connection road between Belle O'Connor Street and Phillip Drive. It was commented that this is to be explored further in the development of the Structure Plan for South West Rocks.</p> <p>The pre-lodgement discussions involved the requirement for a Voluntary Planning Agreement (VPA) to ensure that a second access point through to Arakoon Road is also provided at a stage agreed to with Council. The existing dwelling on the site currently enjoys access to Arakoon Road between Lots 7 and 8 in DP1219664. The proposal states that this access may be suitable for such a connection, however there is also opportunity to explore the use of an unformed road reserve directly adjacent to the site's eastern boundary. This would be determined at the development application stage.</p> <p>The pre-lodgement minutes note that intersection works will be required at the development application stage for the future subdivision of the land.</p> <p><i>Traffic</i></p> <p>The submitted Traffic Engineering Report concludes there is sufficient capacity in the network to cater for the development and that a roundabout is recommended for the future connection to Arakoon Road, as volumes do not qualify for traffic lights.</p> <p>The report includes estimates which demonstrate all intersections which will directly service the proposed development will operate satisfactorily in 2035, including consideration of the effects of locality wide traffic growth and other developments expected to occur in the location.</p>

	<p>However, it is recommended consultation occurs with Transport for NSW (TfNSW) to confirm the suitability of the proposal. This requirement is included as a condition of the Gateway determination.</p> <p><i>Water servicing</i></p> <p>The LGMS indicates that South West Rocks is serviced by the South West Rocks Water Supply Scheme, comprising two Water Reservoirs and a 72 km network of water reticulation and trunk mains. The water supply scheme source is the South West Rocks borefield, drawing groundwater from the Macleay Coastal Sands aquifer.</p> <p>The planning proposal states that pre-lodgement discussions with Council identified that water supply infrastructure can be extended to service the proposed development. Infrastructure provision will be further considered as part of a future development application for subdivision.</p> <p><i>Sewer servicing</i></p> <p>The LGMS indicates that South West Rocks is serviced by the South West Rocks Sewage Treatment Plant (STP) Scheme, comprising 26 sewage pumping stations and 58km of sewer gravity mains.</p> <p>The planning proposal states that pre-lodgement discussions with Council identified that sewer infrastructure can be extended to service the proposed development. Infrastructure provision will be further considered as part of a future development application for subdivision.</p> <p><i>Telecommunications and electricity</i></p> <p>Existing telecommunication and electricity infrastructure will need to be extended to service the planning proposal site. The provision of services will be considered by Council as part of a development application for the subdivision of the land.</p> <p><i>Waste management</i></p> <p>Council has an existing waste management facility with capacity to service the current and any additional demand generated by future residential development on the site.</p> <p>All of these issues can be suitably addressed as part of any future development application lodged.</p>
State	<p>The proposal has not addressed the potential need for State public infrastructure however it is not anticipated that there will be any impact on State or regional infrastructure or the requirement for additional funding as the result of this proposal.</p>

5 Consultation

5.1 Community

The planning proposal states that community consultation will occur following Gateway determination but does not specify the length of the consultation period.

The planning proposal is categorised as a standard under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The planning proposal has nominated the public agencies to be consulted about the planning proposal:

- Department of Planning and Environment (including Planning and Biodiversity Conservation Divisions),
- Office of Environment and Heritage
- Environmental Protection Authority
- NSW Rural Fire Service
- Kempsey Local Aboriginal Land Council
- Essential Energy
- NBN Co

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

- NSW Rural Fire Service
- Department of Climate Change, Energy, the Environment and Water - Biodiversity, Conservation and Science Directorate
- Transport for NSW
- Kempsey Local Aboriginal Land Council

6 Timeframe

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

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard.

To allow the recommended Gateway conditions to be addressed, the Department recommends an LEP completion date within nine months of the date of the Gateway determination in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

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

As the site/planning proposal is consistent or justifiably inconsistent with the State, regional and local planning framework and deals only with matters of local significance, it is considered appropriate that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

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

- it is consistent with the actions for South West Rocks within the Local Growth Management Strategy (LGMS);

- it will deliver new dwellings which will assist with boosting both local and regional housing supply; and
- it will result in positive socio-economic outcomes for the Kempsey Shire LGA.

Based on the assessment outlined in this report, prior to community and agency consultation:

- (a) the planning proposal is to be updated to:
 - (i) confirm the number of dwellings resulting from the proposed amendment;
 - (ii) amend the discussion under Objective 3 of the North Coast Regional Plan 2041 to identify the land is mapped as containing potential High Environmental Value (HEV);
 - (iii) reference the site is mapped as potentially containing both Class 4 and 5 Acid Sulfate Soils;
 - (iv) update the project timeline to reflect the date of the Gateway determination;
 - (v) incorporate the outcomes and recommendations of the reports in relation to contamination and acid sulfate soils.
- (b) prepare reports in relation to:
 - (i) contamination; and
 - (ii) acid sulfate soils.

9 Recommendation

It is recommended the delegate of the Secretary:

- **agree** the inconsistency with section 9.1 Directions 4.5 Acid Sulfate Soils and 5.1 Integrating Land Use and Transport is of minor significance; and
- **note** that the consistency with section 9.1 Directions 1.1 Implementation of Regional Plans, 3.1 Conservation Zones, 4.3 Planning for Bushfire Protection and 4.4 Remediation of Contaminated Land is unresolved and will require justification.

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

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community and agency consultation:
 - (a) the planning proposal is to be updated to:
 - (i) confirm the number of dwellings resulting from the proposed amendment;
 - (ii) amend the discussion under Objective 3 of the North Coast Regional Plan 2041 to identify the land is mapped as containing potential High Environmental Value;
 - (iii) reference the site is mapped as potentially containing both Class 4 and 5 Acid Sulfate Soils;
 - (iv) update the project timeline to reflect the date of the Gateway determination;
 - (v) incorporate the outcomes and recommendations of the reports required by condition 1(b).
 - (b) prepare reports in relation to:
 - (i) contamination; and
 - (ii) acid sulfate soils.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
 - Department of Climate Change, Energy, the Environment and Water - Biodiversity, Conservation and Science Directorate

- Transport for NSW
 - Kempsey Local Aboriginal Land Council
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.
 4. The timeframe for completing the LEP is to be nine months from the date of the Gateway determination.
 5. Given the nature of the planning proposal, Council should be authorised to be the local plan-making authority.



14-08-2024

(Signature)_____
(Date)

Lucy Walker
Manager, Hunter and Northern Region
Local Planning and Council Support



20/08/24

(Signature)_____
(Date)

Jeremy Gray
Director, Hunter and Northern Region
Local Planning and Council Support

Assessment officer

Georgia Weallans
Planning Officer, Hunter and Northern Region
5778 1413