

PLANNING PROPOSAL

Proposed Infill Residential Lot 9 DP1219664, 157 Arakoon Road, South West Rocks

PURPOSE OF AMENDMENT:

Change of zoning from R5 Large Lot Residential to R1 General Residential to Kempsey Local Environmental Plan 2013

Change of Lot Size Map from 1 hectare to 500m²

Change of Height of Buildings Map from unspecified to 8.5 metres

SITE Lot 9 DP1219664

BY: Sam and Margaret Walls

DATE 27 February 2025

PREPARED BY

King & Campbell Pty Ltd
25-27 Hay Street
Port Macquarie 2444

CONTACT

Craig Campbell / Terrance Stafford / David Matthews
Tel. (02) 6586 2555
E. info@kingcampbell.com.au

Job No. 6584

Revision Schedule

Revision Number	Date	Description	Staff
A	Nov 2023	Draft	DM/TS
B	Apr 2024	Final, issued to Client	DM/TS
C	Feb 2025	Post Gateway	DM/TS/CC

Site Inspection completed: 4 September 2023
Officer: Craig Campbell
Organisation: King and Campbell

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 (EP&A 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.

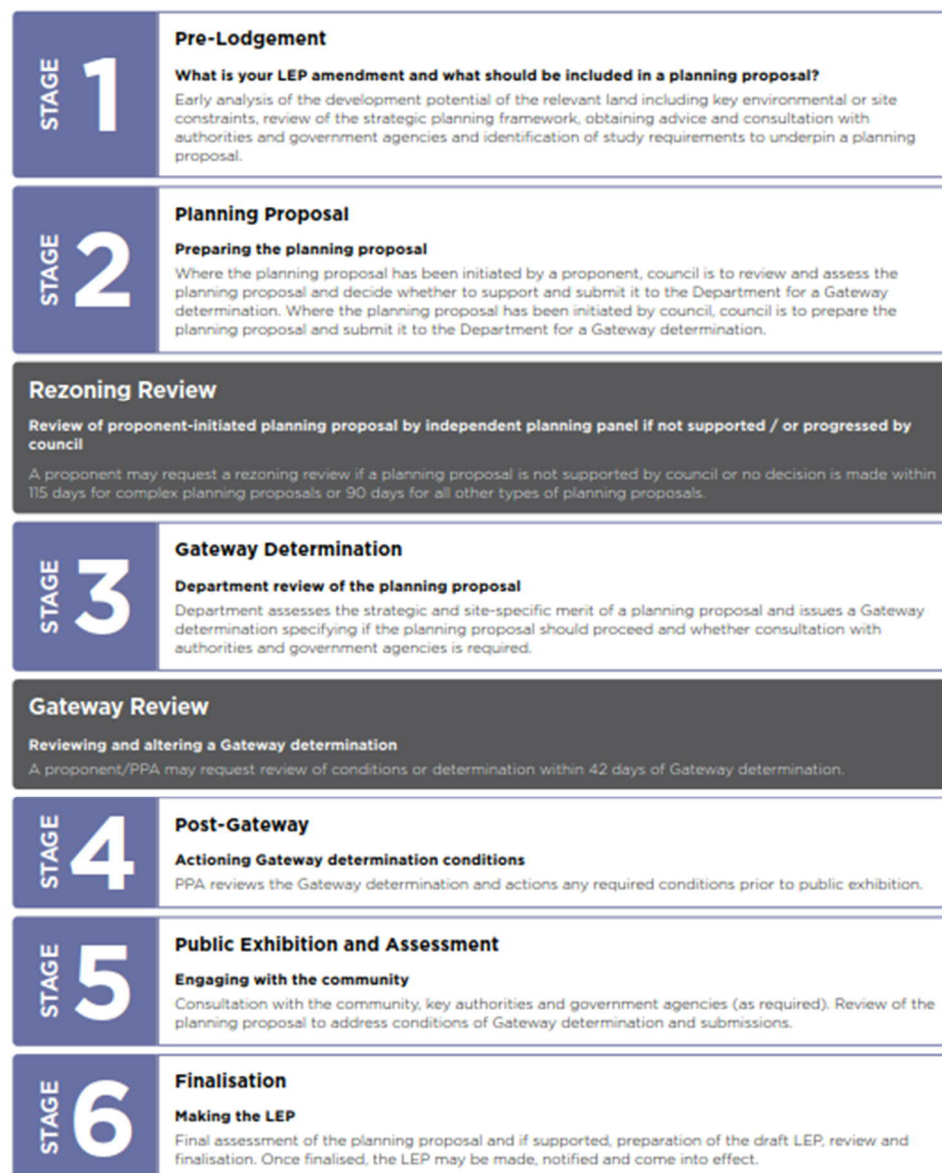


Figure 1 - Copy of Planning Proposal Stages from Local Environmental Plan Making Guideline (August 2023)

This version of the Planning Proposal represents Stage 4 in the timeline, as Gateway Determination was issued in August 2024. Post Gateway requirements are addressed toward the end of this Executive Summary.

The Planning Proposal has been initiated by a proponent – King and Campbell Pty Ltd on behalf of Sam and Margaret Walls in relation to their land known as 157 Arakoon Road, South West Rocks, which is legally described as Lot 9, DP 1219664 (Site).

The Planning Proposal 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_013B) to:
 - a. Convert the existing R5 Large Lot Residential to R1 General Residential in respect to the Site
2. Amendment to KLEP 2013 Lot Size Map (sheet LSZ_013B) to:
 - a. Convert the existing 1ha minimum lot size to 500m² minimum lot size
3. Amendment to the KLEP 2013 Height of Buildings Map (sheet HOB_013B) to:
 - a. Include the Site in the 8.5 metre building height limit.

This Planning Proposal and supporting studies and reports demonstrate that the amendments sought to KLEP 2023 are consistent with:

- North Coast Regional Strategy 2041
- Local Planning Strategy (LSPS) - Future Macleay (July 2020)
- Kempsey Local Growth Management Strategy 2041
- South West Rocks Structure Plan 2023
- All State Environmental Planning Policies; and
- Local Planning Directions under Section 9.1(2)

Post Gateway

The Gateway Determination was issued by Department of Planning, Housing and Infrastructure (DPHI) on 20 August 2024, Ref: PP-2024-829. The Gateway Determination is provided at Appendix J. Condition 1 of the Gateway Determination required a number of updates which have been reproduced and addressed in the following table:

Condition	Comment
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	The amendments made as part of addressing the Gateway Determination conditions do not affect the previously estimated number of dwellings. The estimate remains at approximately 225 dwellings, which is informed by the 181 lot indicative subdivision plan (Appendix C).
ii) amend the discussion under Objective 3 of the North Coast Regional Plan 2041 to identify the	Amendment has been made to Objective 3 of the North Coast Regional Plan 2041 in reference to High Environmental Land (HEV) on p.22. The discussion has been

land is mapped as containing potential High Environmental Value;	amended to more appropriately address the HEV assessment contained in the Ecological Report by Biodiversity Australia at Appendix B.
(iii) reference the site is mapped as potentially containing both Class 4 and 5 Acid Sulfate Soils;	Amendment has been made to Direction 4.5 Acid Sulfate Soils on p.45.
(iv) update the project timeline to reflect the date of the Gateway determination;	Amendments to the timeline have been made on p.69 to reflect the timeline stated by the Gateway Determination and taking into consideration the period of time that has passed to obtain the relevant investigations in condition 1(b) of the Gateway Determination.
(v) incorporate the outcomes and recommendations of the reports required by condition 1(b).	The outcomes and recommendations of the reports required by condition 1(b) have been addressed in Direction 4.4, p. 44 and Direction 4.5, p.45 to 49.
(b) prepare reports in relation to:	
(i) contamination; and	Provided at Appendix K – Preliminary Site Investigation by Hunter Geotechnical Services
(ii) acid sulfate soils.	Provided at Appendix L – Acid Sulfate Soils Assessment by Hunter Geotechnical Services

In respect to item 1(b)(i), Hunter Geotechnical Services made the following conclusion:

In summary, this assessment supports the proposed rezoning from R5 Large Lot Residential to R1 General Residential. Based on the desktop study and limited intrusive sampling conducted on the Site, no indication of gross contamination has been identified which would restrict the Site of redevelopment under the proposed residential land use. HGS does not consider further investigation necessary in context of the proposed development.

In respect to item 1(b)(ii), Hunter Geotechnical Services made the following conclusion:

The geotechnical assessment supports the proposed rezoning from R5 Large Lot Residential to R1 General Residential, provided the recommendations in this report are followed. The presence of acid sulfate soils within the Site is manageable with appropriate treatment and mitigation measures.

This Planning Proposal is therefore recommended to Council for public exhibition in accordance with condition 2 of the Gateway Determination, and consultation with various authorities in accordance with condition 3 of the Gateway Determination prior to Council exercising its functions as the local plan-making authority under section 3.36(2) of the Environmental Planning and Assessment Act 1979.

Table of Contents

Revision Schedule	2
Executive Summary	3
Introduction.....	10
Introduction	10
PART 1 - Objectives & Intended Outcomes of the Planning Proposal.....	13
Objective	13
Intended Outcomes	14
PART 2 - Explanation of the Provisions	15
Intended Provisions	15
PART 3 - Justification of Strategic & Site-Specific Merit.....	18
Strategic Merit:	18
Section A - Need for the Planning Proposal	18
Section B – Relationship to the strategic planning framework	21
Site-Specific Merit:	60
SECTION C – Environmental, Social & Economic Impacts	60
SECTION D – Infrastructure (Local, State & Commonwealth)	62
SECTION E – State and Commonwealth Interests	63
PART 4 - Maps.....	64
Proposed KLEP 2013 Mapping Amendments	64
PART 5 - Community Consultation.....	66
Prelodgement – Kempsey Shire Council	66
Public exhibition of the Planning Proposal	68
PART 6 - Project Timeline	69

List of Figures

Figure 1 - Copy of Planning Proposal Stages from Local Environmental Plan Making Guideline (August 2023)	3
Figure 2 - KLEP 2013 Land Application Map and location of Site	11
Figure 3 - Site (approx.) red outline/yellow fill within South West Rocks Locality (Source: Google Maps 19 October 2023)	11
Figure 4 – Extract of Site Context Plan (Appendix C) and edge of Urban Investigation Area	12
Figure 5 - Extract of Figure 27 from South West Rocks Structure Plan (June 2023)	13
Figure 6 - Extract of Urban Built Form - South West Rocks Structure Plan 2023	14
Figure 7 - Extract of Map 11 KLGMS 2041	19
Figure 8 - Extract of Table 2 SWRSP 2023	19
Figure 9 - Extract of Figure 46 SWRSP 2023	20
Figure 10 - Extract Kempsey DCP Flood Map	24
Figure 11 - Extract of Biodiversity Values Map, Site in yellow outline (Source: DPE Spatial Viewer)	32
Figure 12 - Extract of Coastal Use Area and Coastal Environmental Area Maps, Site in Yellow outline (Source: DEP Spatial Viewer)	33
Figure 13 - Extract of Bushfire Risk Map (Source: DPE Spatial Viewer)	44
Figure 14-Extract of Acid Sulfate Soils Maps - Site in yellow outline (Source: DPE Spatial Viewer)	47
Figure 15 - Local Workers Employment Locations (economy.id.com.au)	61
Figure 16 - Change in age structure - five-year age groups, 2016 - 2021 (Source: Profile Id)	62

List of Tables

Table 1 - Summary of Planning Proposal	10
Table 2 - North Coast Regional Plan 2041 Goals and Objectives	21
Table 3 - Local Workers South West Rocks (economy.id.com.au/kempsey/)	61
Table 4 Proposed Amendment to KLEP 2013 Land Zoning Map (sheet LZN_013B)	64
Table 5 Proposed Amendment to KLEP 2013 Lot Size Maps (sheet LSZ_013B)	65
Table 6 Proposed Amendment to the KLEP 2013 Height of Buildings Map (sheet HOB_013B)	65
Table 7 - Pre-lodgement consultation	66

List of Appendices

Appendix A – Proposed Kempsey Local Environmental Plan 2013 Map Amendments

Appendix B – Ecological Impact Assessment (Biodiversity Australia)

Appendix C – Indicative Subdivision Layout

Appendix D – Vegetation Management Plan (Biodiversity Australia)

Appendix E – Aboriginal Heritage Due Diligence Assessment (Heritage Now)

Appendix F – Assessment of the Strategic Guide to Planning for Natural Hazards

Appendix G – Bushfire Hazard Assessment (Building Certification & Environmental Services)

Appendix H – Traffic Impact Assessment (Glen Holdsworth)

Appendix I – LGMS Endorsement Letter

Appendix J – Gateway Determination

Appendix K – Preliminary Site Investigation Report by Hunter Geotechnical Services

Appendix L – Acid Sulfate Soils Assessment

Abbreviations and Definitions

This Planning Proposal uses the following abbreviations and definitions:

ACHIA Report: Aboriginal Cultural Heritage Impact Assessment
AHIP: Aboriginal Heritage Impact Permit (as per NPW Act 1974)
BC Act: Biodiversity Conservation Act 2016
BDAR: Biodiversity development assessment report
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)
EIS: Environmental Impact Statement
EP&A Act: Environmental Planning and Assessment Act 1979
EP&A 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
KC KPOM: Kempsey Council Koala Plan of Management
KLEP 2013: Kempsey Local Environmental Plan 2013
KLGMS 2041: Kempsey Local Growth Management Strategy 2041
LGA: Local Government Area
LSPS: Local Strategic Planning Statement
NCRP: North Coast Regional Plan 2041
SIS: Species impact statement
SOHI: Statement of Heritage
SSD: State significant development
VMP: Vegetation Management Plan

Introduction

Introduction

This Planning Proposal has been prepared under Section 3.33(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act), in accordance with Local Environmental Plan Making Guideline (August 2023), 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 the subject site from R5 Large Lot Residential to R1 General Residential zone to enable residential growth in accordance with the South West Rocks Structure Plan 2023 resulting in an increase of approximately 181 residential allotments (Appendix C) and potentially 225 dwellings.
Legal Description	Lot 9 DP 1219664
Property Address	157 Arakoon Road, South West Rocks NSW 2431
Site Area	23.97ha
Current KLEP 2013 2011	R5 Large Lot Residential Lot Size Map 1 hectare Height of Buildings Map - unspecified
Proposed KLEP 2013 2011	R1 General Residential Lot Size Map 500m ² Height of Buildings Map 8.5 metres
Applicant details	Sam and Margaret Walls c/- King and Campbell Pty Ltd, PO Box 243, Port Macquarie NSW 2444
Landowner	Sam and Margaret Walls

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

The subject site, 157 Arrakoon Road, South West Rocks, legally described as Lot 9, DP 1219664 (Site), is identified in Figure 2, Figure 3 and Figure 4 as follows:

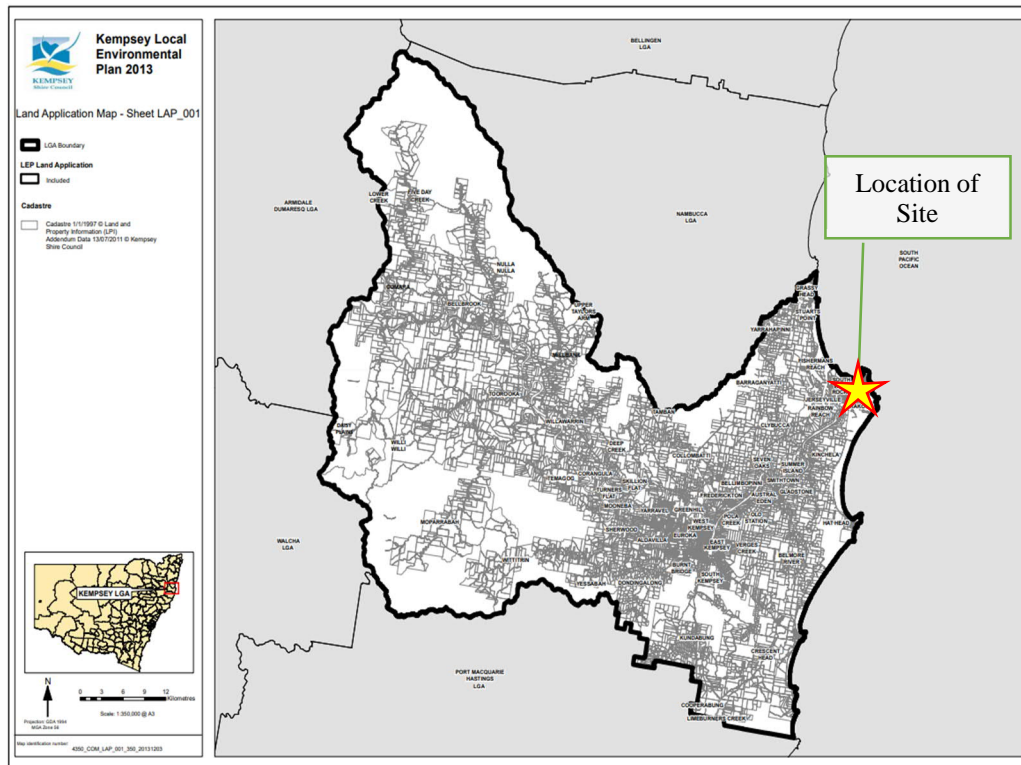


Figure 2 - KLEP 2013 Land Application Map and location of Site

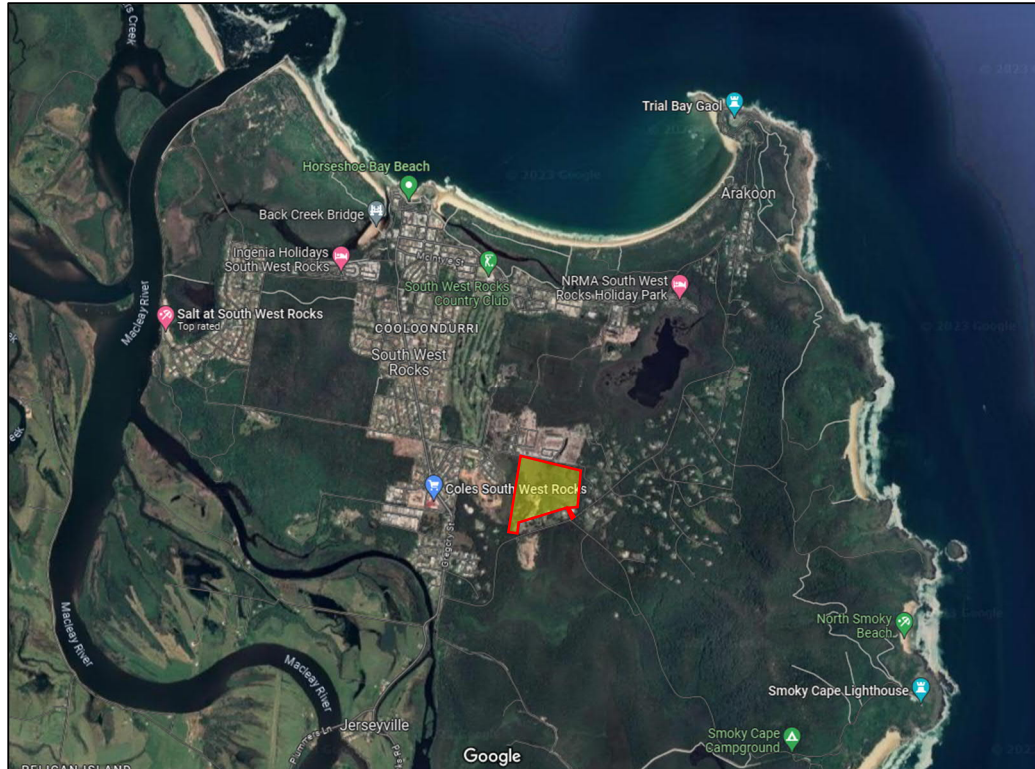


Figure 3 - Site (approx.) red outline/yellow fill within South West Rocks Locality (Source: Google Maps 19 October 2023)

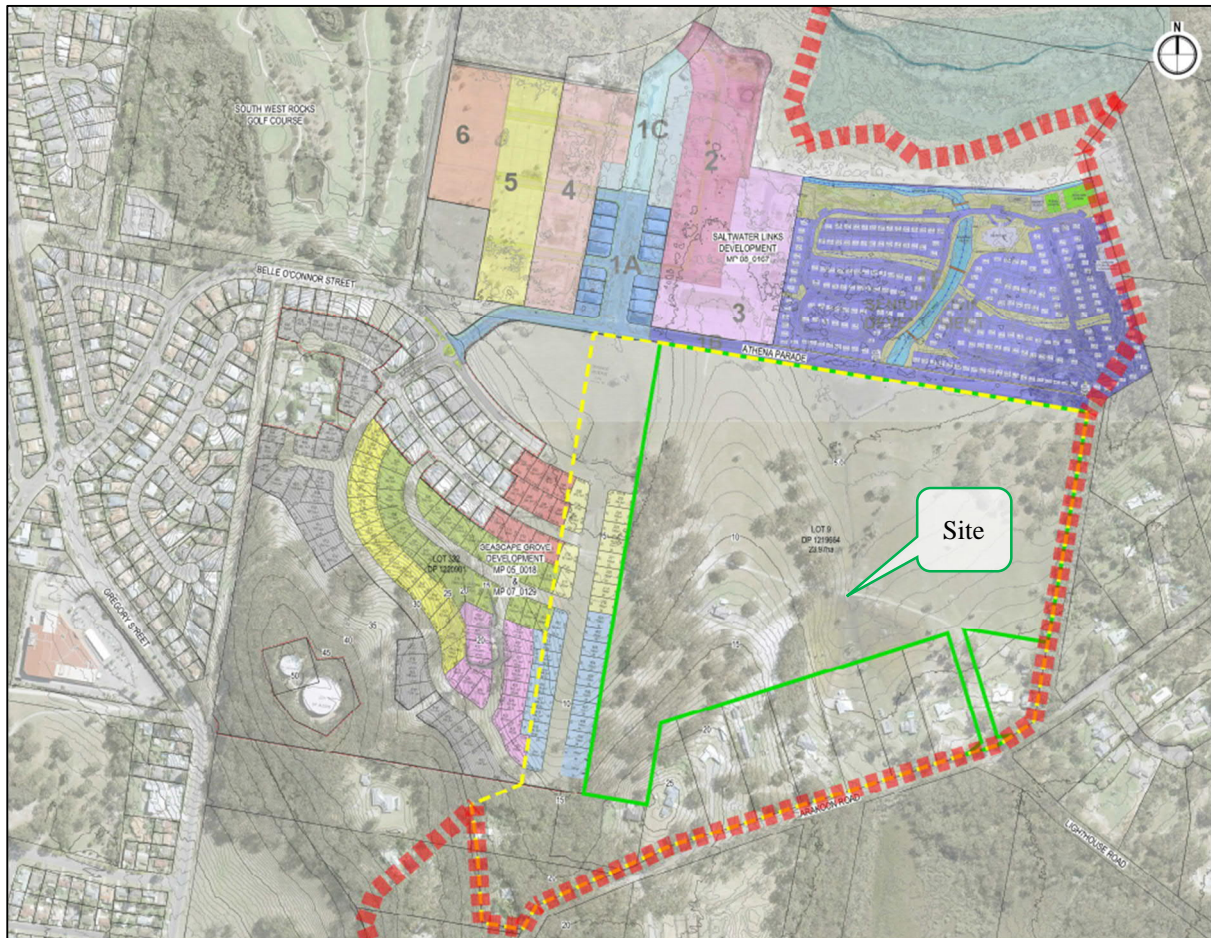


Figure 4 – Extract of Site Context Plan (Appendix C) and edge of Urban Investigation Area

LEGEND

- SUBJECT SITE BOUNDARY (LOT 9 DP1219664)
- - - SOUTH WEST ROCKS URBAN INVESTIGATION AREA 4 (NEW RELEASE AREA)
- - - SITE IS WITHIN THE 2017-2036 NORTH COAST URBAN GROWTH AREA BOUNDARY
- 15 EXISTING SURFACE CONTOURS (MAJOR AT 5m INTERVALS, MINOR AT 0.5m INTERVALS) DATA FROM ELVIS - NSW GOVERNMENT SPATIAL SERVICES DIGITAL ELEVATION MODEL

PART 1 - Objectives & Intended Outcomes of the Planning Proposal

Objective

The objective of the Planning Proposal is to permit future infill residential development that is compatible with the residential urban growth area to the north and west of the Site as shown in Figure 4. The Site is identified in the South West Rocks Structure Plan (p.19 – Figure 27) as being future residential growth area, an extract of which is provided in Figure 5.

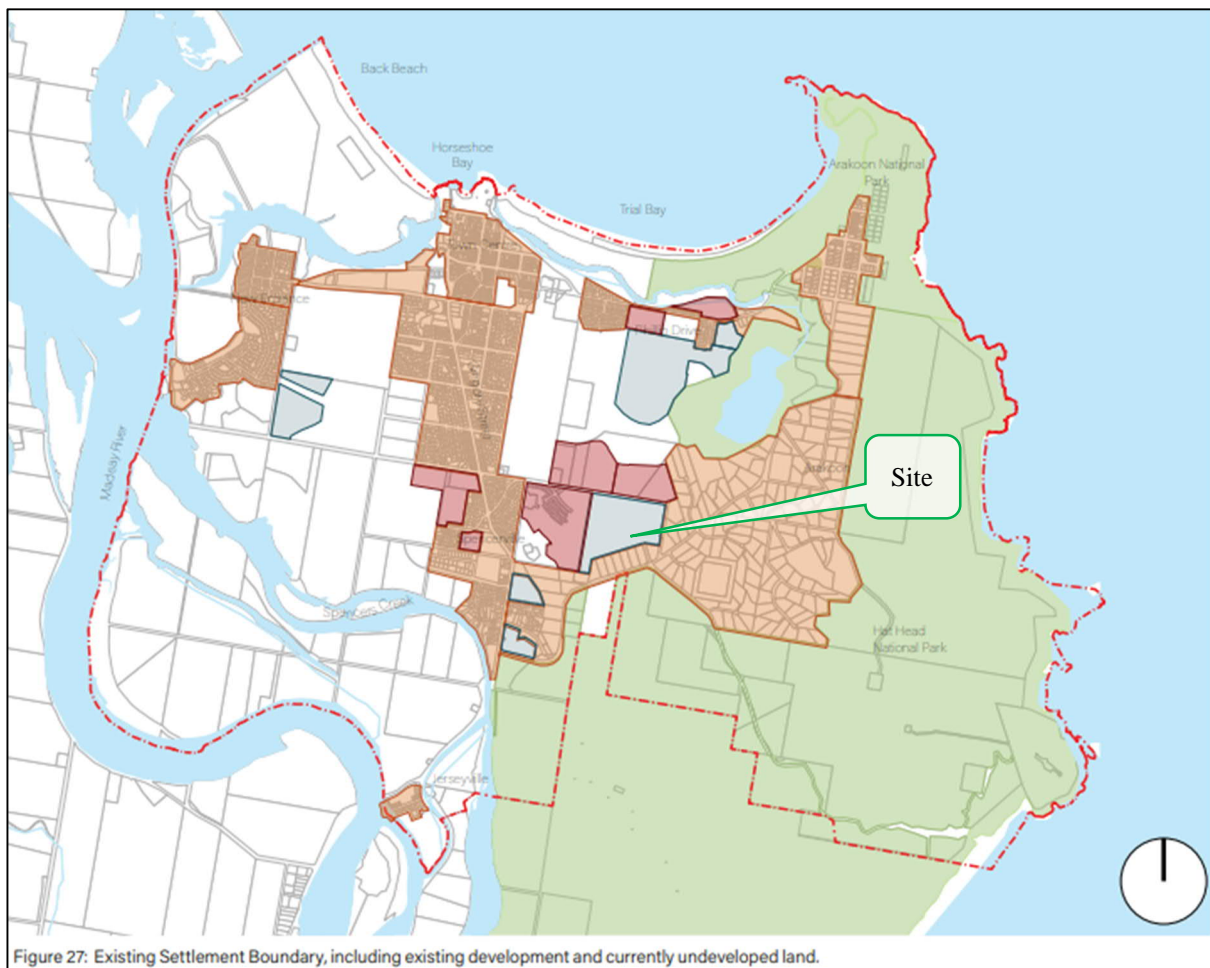


Figure 5 - Extract of Figure 27 from South West Rocks Structure Plan (June 2023)



Intended Outcomes

The intended outcomes of the Planning Proposal are:

- Contribute to the Sites role as strategic urban release area in South West Rocks township to provide approximately 181 residential allotments (Appendix C) and potentially an additional 225 dwellings.
- To reinstate degraded PCT 4004 – Northern Melaleuca quinquenervia Swamp Forest on the Site through the creation of a semi dry wetland area/stormwater detention basins with surrounding passive open space.
- Contribute to the low scale residential amenity of South West Rocks through the creation of appropriate lot size and building height controls, as identified in the South West Rocks Structure Plan 2023 (p.21 – Figure 29) as shown in Figure 6.

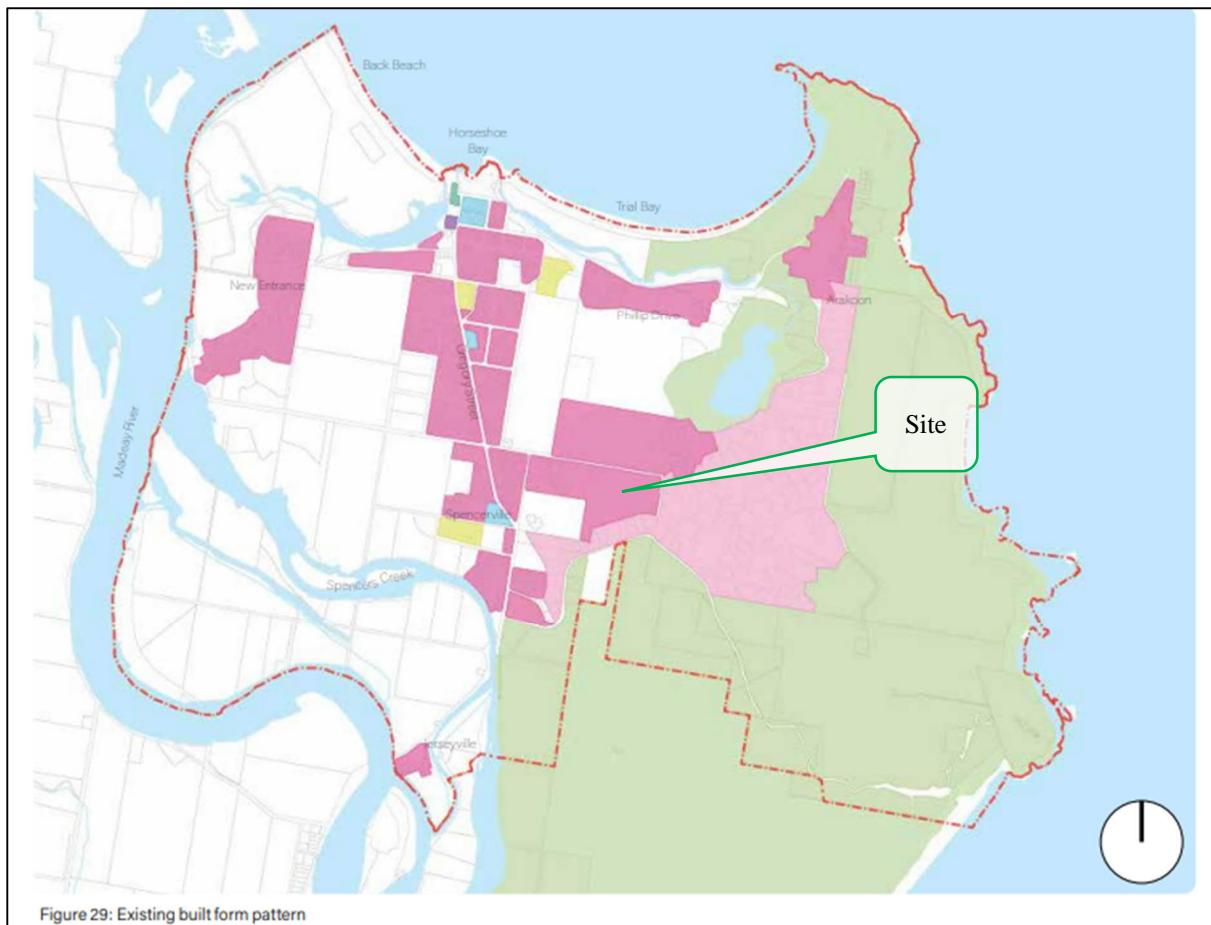


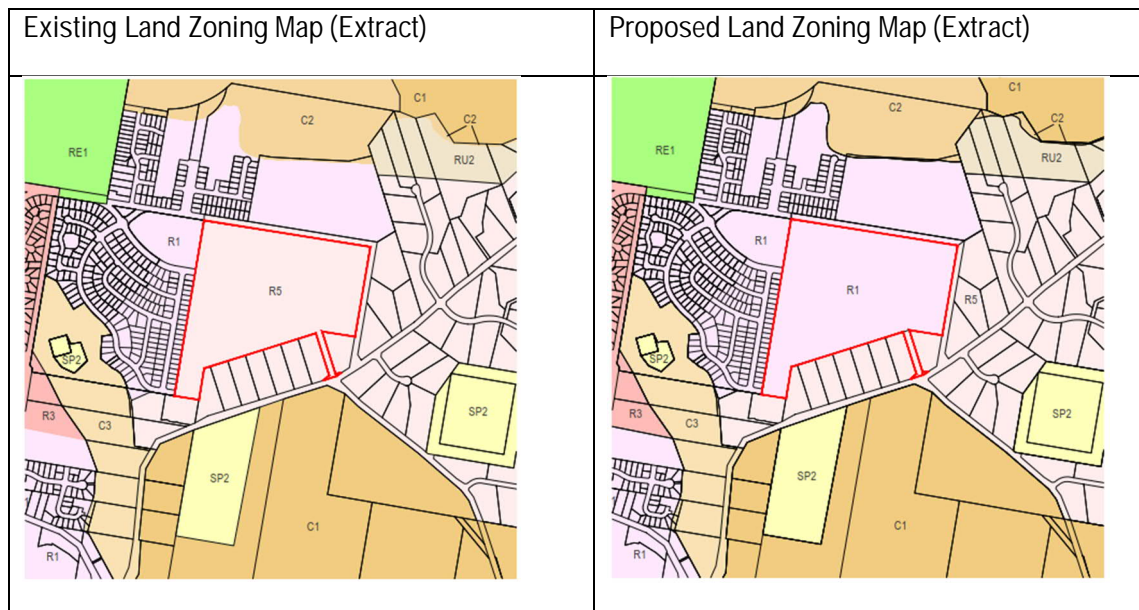
Figure 6 - Extract of Urban Built Form - South West Rocks Structure Plan 2023

PART 2 - Explanation of the Provisions

Intended Provisions

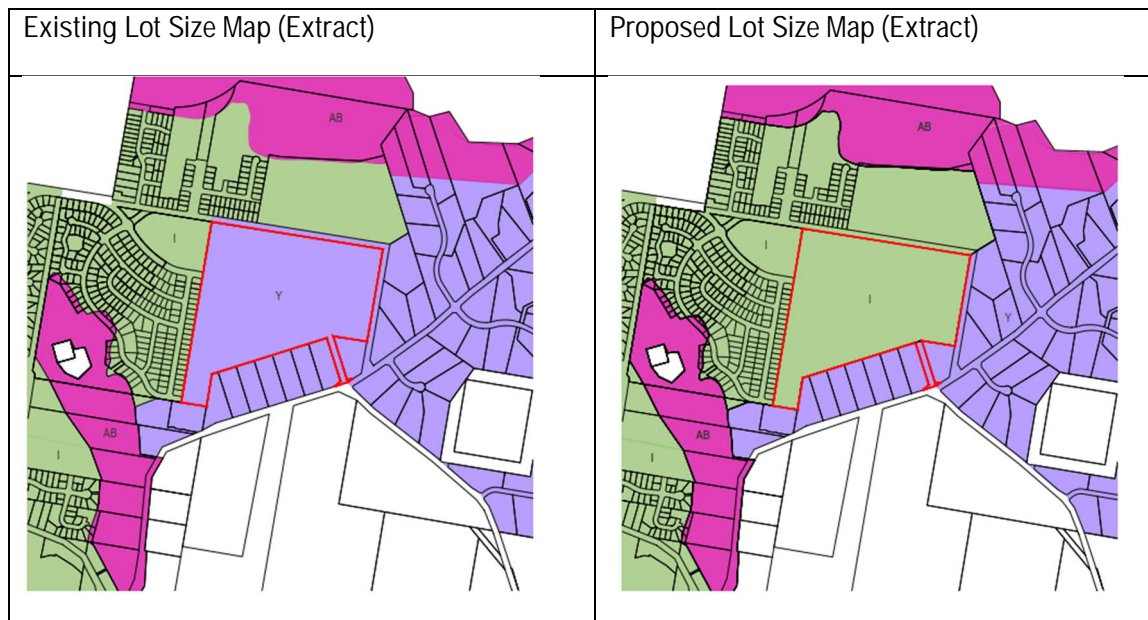
To achieve the intended outcomes of the Planning Proposal the following amendments to the KLEP 2013 Instrument will be required:

4. Amendment to the KLEP 2013 Land Zoning Map (sheet LZN_013B) to:
 - a. Convert the existing R5 Large Lot Residential to R1 General Residential in respect to the Site



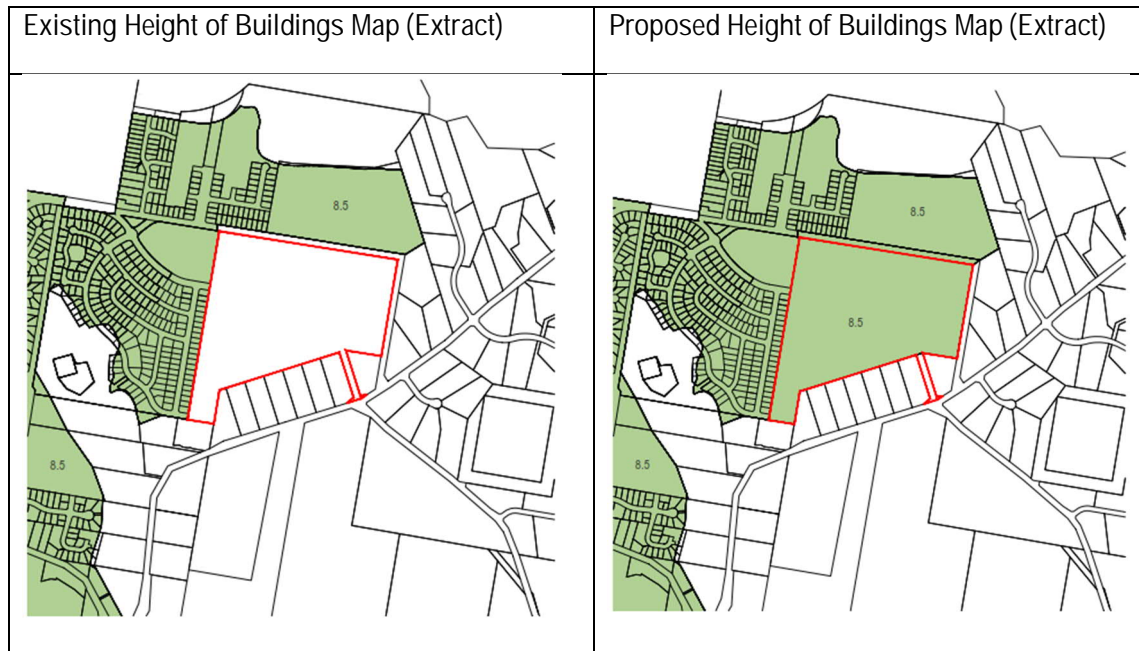
This amendment is consistent with the residential land use zones to the north and west of the Site, as well as those identified within the SWR Structure Plan 2023 as prepared by Kempsey Shire Council.

5. Amendment to KLEP 2013 Lot Size Map (sheet LSZ_013B) to:
- a. Convert the existing 1ha minimum lot size to 500m² minimum lot size



This amendment is consistent with the minimum lot sizes for residential development to the north and west of the Site, as well as those identified within the SWR Structure Plan 2023 as prepared by Kempsey Shire Council.

6. Amendment to the KLEP 2013 Height of Buildings Map (sheet HOB_013B) to:
- b. Include the Site in the 8.5 metre building height limit.



This amendment is consistent with the minimum lot sizes for residential development to the north and west of the Site, as well as those identified within the SWR Structure Plan 2023 as prepared by Kempsey Shire Council.

It is to be noted that the amendments above will include Athena Parade road reserve for the length of the Site adjoining the northern boundary. It is not intended to include the road reserve to the east of the Site.

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). In terms of growth and residential development, Future Macleay states the following (p.29):

“11.1.2 Greenfield housing

Greenfield residential subdivision opportunities are identified in Council's Local Growth Management Strategy: residential Component. These 'urban investigation areas' identify discreet localities within, Kempsey, South West Rocks, Crescent Head and Stuarts Point where Council will consider planning proposals for potential residential subdivision.”

The Future Macleay generally references the Local Growth Management Strategy throughout in terms of identifying residential growth for the Kempsey LGA. At its Ordinary Meeting of the 27 June 2023 Council unanimously endorsed the Kempsey Local Growth Management Strategy 2041 (KLGMS 2041). The KLGMS 2041 was developed to guide and deliver upon the priorities and actions contained in Future Macleay and to replace the following strategies:

- Kempsey Shire Council Local Growth Management Strategy – Residential Component (2010); and
- Kempsey and South West Rocks Industrial Land Review (2004).

Part 11.5 of the KLGMS 2041 discusses South West Rocks and includes Part 11.5.2 - Housing. Part 11.5.2 states the following:

“The South West Rocks Structure Plan will address the ability for South West Rocks to accommodate an additional 1580 dwellings to 2041, including approximately 200 semi-detached and approximately 360 flats/apartments. This includes changes to the Kempsey LEP building heights which have been proposed in Appendix A (Table 2) of the South West Rocks Structure Plan.

Consideration is also being given to rezoning the following land parcels (or part thereof) as follows (refer Map 11):

- Lot 9 DP1219664 (R1)
- Lot 44 DP1274452 (part R1)”

This part directly refers to the Site the subject of this Planning Proposal (Lot 9, DP1219664). A copy of Map 11 from the KLGMS 2041 is provided as Figure 7.

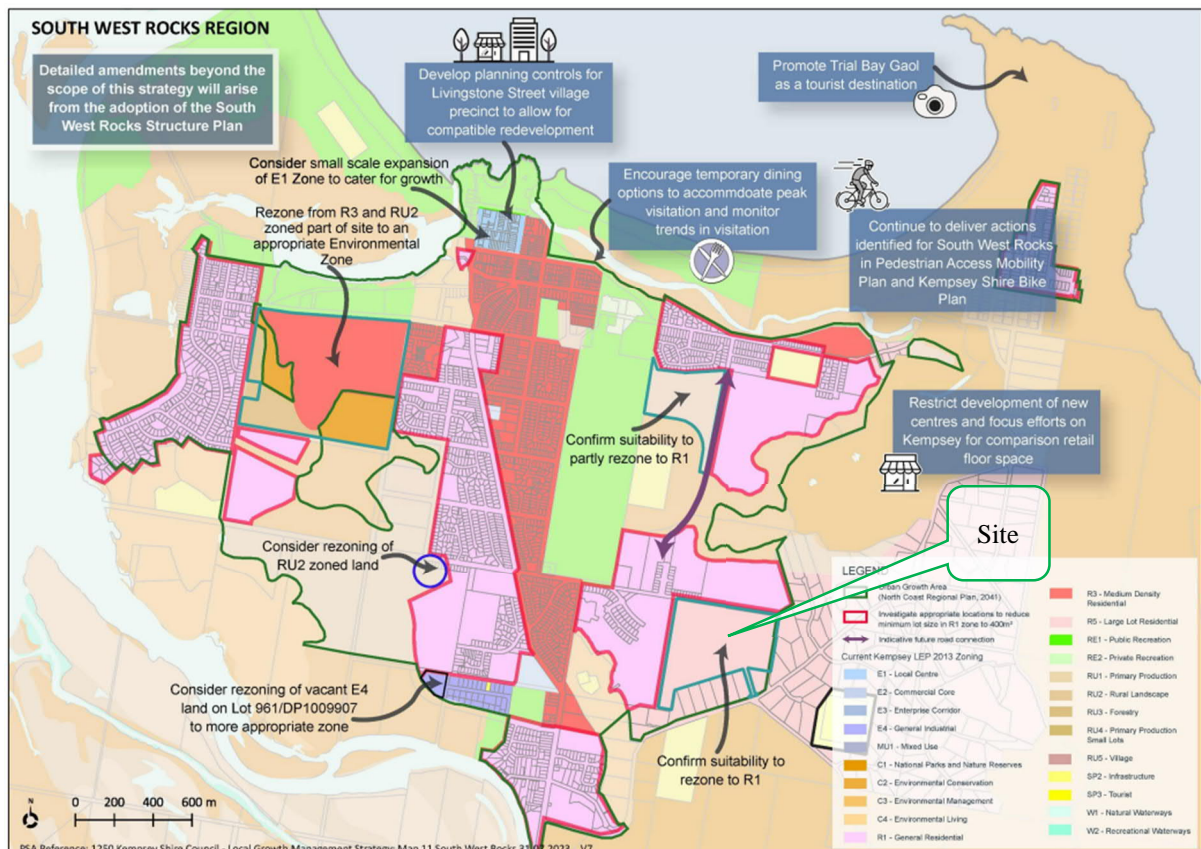


Figure 7 - Extract of Map 11 KLGMS 2041

The South West Rocks Structure Plan (June 2023) (SWRSP 2023) was also unanimously endorsed by Council at its Ordinary Meeting of 27 June 2023. The Site is identified in the SWRSP 2023 as future residential growth area, refer to Figure 5, and as Low Scale Dwellings/Apartment Buildings, refer to Figure 6.

Further, the Site is located within the 'Saltwater' neighbourhood of South West Rocks as indicated on Pages 30 and 36 in the SWRSP 2023. Page 37 of the SWRSP 2023 discusses the opportunities for the ten (10) neighbourhoods identified and states the following in respect to 'Saltwater':

"Saltwater has been identified as an area to accommodate residential development. Part of the land within this precinct is proposed for a zoning change to R1 – General Residential."

To conclude the SWRSP 2023 identifies key features moving forward in respect of amendments to the KLEP 2013 and they are provided in Table 2 of the document. An extract of Table 2 is provided in Figure 8.

1. KLEP Proposed Planning Amendments							
Map ref	Location (Focus Area)	Precinct	Zone		Height		Benefit
			2013 LEP	Proposed	2013 LEP	Proposed	
1	Arakoon Road	Spencer-ville	R5	R1	-	8.5m	Will allow a greater variety of dwelling types
2	Gordon Young Dr	Gordon Young Dr	R3, C2, RU2	C2	-	-	Minimises impact to untouched bushland and biodiversity
N/A	Various	Various			*Refer to Appendix A		Maintain and enhance existing character

Figure 8 - Extract of Table 2 SWRSP 2023

The location identified as 'Arakoon Road' in Figure 8 is depicted in Figure 46 (Map Ref: 1) on p.45 of the SWRSP 2023, an extract of which is provided as Figure 9 below:



Figure 9 - Extract of Figure 46 SWRSP 2023

The SWRSP 2023 therefore identifies the Site as a proposed amendment to KLEP 2013. This Planning Proposal has been prepared in response to and in accordance with the development standards identified in the SWRSP 2023.

This Planning Proposal can therefore be considered to result from an endorsed LSPS – Future Macleay and the following strategic studies actioning the LSPS:

- Kempsey Local Growth Management Strategy 2041; and
- South West Rocks Structure Plan (June 2023)

Not only does this Planning Proposal result from the above-mentioned LSPS and strategic studies, but it is also consistent with the recommendations and actions of those documents.

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

As identified in Question 1, a Planning Proposal for the Site has been identified as the best means of achieving the desired housing outcomes for South West Rocks through the LSPS – Future Macleay and the most recent planning strategies actioning the LSPS:

- Kempsey Local Growth Management Strategy 2041; and
- South West Rocks Structure Plan (June 2023)

There are no other planning pathways available under the EP&A Act and EP&A Regulation to achieve the intended outcomes for the Site.

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 West Rocks. 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>This objective discusses matters that Council's should consider when preparing strategies and/or planning proposals for their LGA. Recently, as discussed under Question 1 of this Part, Kempsey Shire Council has developed the following strategies to meet the goals and objective of the NCRP:</p> <ul style="list-style-type: none"> • LSPS - Future Macleay (July 2020) • Kempsey Local Growth Management Strategy 2041; and • South West Rocks Structure Plan (June 2023) <p>As outlined in the commentary to Question 1 of this Part, this Planning Proposal has been prepared as a result of the above local strategies recommending that the Site be investigated for a change in zoning from R5 Large Lot Residential to R1 General Residential. This Planning Proposal represents that investigation and meets the prescribed development standards as outlined in those local strategies.</p>

	<p>Further, the NCRP recommends that new greenfield areas should be located adjacent or near to existing urban areas to encourage efficient use of land and infrastructure. As shown in Figure 4 and Figure 7, the Site is located adjacent existing urban areas enabling direct connection and efficient use of infrastructure. The NCRP also notes that rural residential housing (current zone of Site), although remaining popular, can however be costly to service, environmentally unsustainable and potentially conflicting with other adjoining land uses. The change of zoning for the Site to R1 General Residential will enable more cost-effective development of land, infrastructure connection and reinstatement of degraded vegetation addressed in Appendix D prepared by Biodiversity Australia and discussed in detail in the body of this Planning Proposal.</p>
Objective 2 – Provide for more affordable and low cost housing	<p>This objective discusses how Council's through policy framework and strategies can help provide more affordable and low cost housing in the North Coast region. The Site, the subject of this Planning Proposal is not identified as a potential site for affordable housing and incentive provisions. However, once rezoned could cater for a greater number of low cost housing options such as secondary dwellings, being ancillary to new dwellings, developed on the future lots. Although the concept subdivision contains 181 residential allotments, some of the lots will be capable of supporting dual occupancies and secondary dwellings. Hence, the rezoning will enable approximately 225 additional dwellings.</p>
Objective 3 – Protect regional biodiversity and areas of high environmental value	<p>The Site is mapped as potentially containing areas of high environmental value (HEV) land under the NCRP, p.22. To determine if the Site contains HEV an Ecological Report by Biodiversity Australia, enclosed as Appendix B, was undertaken.</p> <p>Although a number of hollow bearing trees (HBTs) were recorded on the Site, the Ecological Report confirmed in respect of the HBTs that no HEV was found to be present on the Site when assessed against the Northern Councils E – Zone review: Final Recommendations definition of Key Threatened Species Habitat and the Private Native Forest Code of Practice Guideline No.2, Protocol for re-evaluating old-growth forest on private property.</p> <p>Further, Section 5 of Ecological Report undertook a broader assessment in relation to criteria listed in Attachment 2 of the BCD NE Branch Steps for Assessing Biodiversity in Planning Proposals (BCD Attachment 2). The Ecological Report concludes that the values listed in BCD Attachment 2 are absent from the Site and do not meet the key consideration criteria for HEV as described in BCD Attachment 2. Therefore, the Site is not considered to contain any HEV land and is deemed appropriate for rezoning from R5 Large Lot Residential to R1 General Residential.</p>
Objective 4 – Understand, celebrate and integrate Aboriginal culture	<p>This Objective discusses how council's 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 SWRSP 2023 recognises the importance of Wuumung (South West Rocks) to the Thunggutti/Dunghutti Nation. The Site is located within the 'Saltwater' neighbourhood.</p> <p>Supporting this Planning Proposal is the following assessment report:</p>

	<p>Aboriginal Heritage Due Diligence Assessment Report – 157 Arakoon Road, South West Rocks (March 2023) by Heritage Now Pty Ltd (Appendix E).</p> <p>The assessment report was written in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010b). To summarise, the assessment report identified that no Aboriginal objects, places or areas of potential archaeological deposit were found on the Site. As such, there is no identified risk of harm to Aboriginal objects as a result of subsequent works and thus an ACHIA Report and AHIP application are not required.</p> <p>Although the amendment to the KLEP 2013 sought by this Planning Proposal will not directly result in works on the Site, should the Planning Proposal be supported, it will, subject to development consent, result in subsequent works to subdivide the land for residential development. Works for subdivision are likely to involve stripping of ground surface and infilling to prepare the land for development. It will also require excavation for installation of below ground surfaces including water, sewer, telecommunications and electricity. Roads and accessways to future residential lots will also need to be formed; and lastly construction of individual residences.</p> <p>The assessment report recommends the following precautions should works occur on the Site:</p> <p>Recommendation 1</p> <p>All on-site personnel are to be made aware of their obligations under the National Parks and Wildlife Act 1974; this includes the protection of Aboriginal sites and the reporting of any new Aboriginal, or suspected Aboriginal, heritage sites. This may be done through an on-site induction or other suitable format.</p> <p>Recommendation 2</p> <p>In the unlikely event that Aboriginal or suspected Aboriginal archaeological material is uncovered during the development, then works in that area are to stop and the area cordoned off. The project manager is to contact the heritage consultant and the Kempsey Local Aboriginal Land Council to make an assessment as to whether the material is classed as Aboriginal object/s under the National Parks and Wildlife Act and advise on the required management and mitigation measures. Works are not to re-commence in the cordoned off area until heritage clearance has been given and/or the required management and mitigation measures have been implemented.</p> <p>Recommendation 3</p> <p>In the unlikely event that human remains, or suspected human remains, are uncovered during the development, then works in that area are to stop and the area cordoned off. The project manager is to contact the NSW Police to establish whether the area is a crime scene. If it is not a crime scene, then Heritage NSW is to be notified via the Environment Line on 131555 and management measures are to be devised in consultation with Aboriginal stakeholders. Works are not to recommence in the area until the management measures have been implemented.</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, Council's 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 F.</p>

Other strategies under this objective are to:

- Update land use strategies where risks are known in consultation with Local Emergency Management Committees,
- Use local strategic plans to adapt to climate change and reduce exposure to natural hazards,
- Create resilience and adaptation plans, and
- Partner with local Aboriginal communities to develop land management agreements and to support cultural management practices.

It is to be noted that the Site is Bushfire affected, as mapped by the NSW RFS. A Bushfire Hazard Assessment (June 2022), by David Pensini (BCES) has been prepared in respect to this Planning Proposal and is provided as Appendix G. In summary the report found that the Site has merit as part of the SWRSP 2023, to become part of the expanding residential growth area. The report also makes recommendations for future development of the site to minimise risk. Nevertheless, due to the sites exposure to bushfire risk, the Planning Proposal will require consultation with NSW Rural Fire Service.

In terms of flooding, KLEP 2013 does not contain any flood risk maps, however, refers to the Kempsey Development Control Plan to map land at risk in the Kempsey LGA. The Site, according to the DCP is not mapped as being exposed to flood risk. As shown in Figure 10.

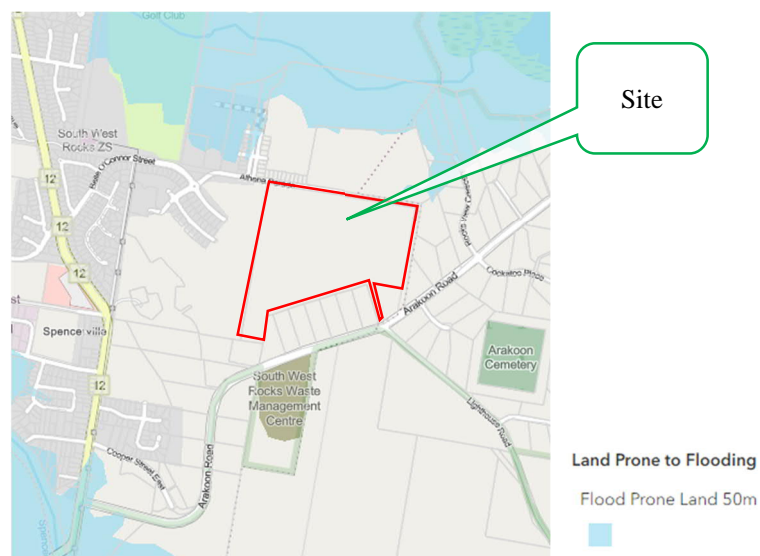


Figure 10 - Extract Kempsey DCP Flood Map

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.

To conclude, the Sites' main hazard will be bushfire risk, which is addressed in Appendix G, but nevertheless, will require the Planning Proposal to be referred to the NSW RFS for comment.

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 residential development, there will be opportunity for individual new dwellings 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	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 R5 Large Lot Residential zoned land to R1 General Residential zoned land. The Site is not adjacent any Rural land and, as a result, will not create any conflicts between residential 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 residential 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 stormwater.</p> <p>Future dwelling houses will need to meet current BASIX standards and capture rainwater for non-drinking water purposes, in household use.</p>
Objective 10 – Sustainably manage the productivity of 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 recent local planning strategies as being an urban (residential) expansion area.
Goal 2 – Productive and connected	
Objective	Comment
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 does not create any adverse impact on the South West Rocks town centre. The Site, as discussed in the body of this document, is identified in the most up to date local Planning Strategies for Kempsey LGA and South West Rocks, as suitable for investigation for residential growth. This residential growth will help meet housing targets set by the Regional and Local strategies as well as support economic growth through job creation during construction and post construction phases. The final design of residential development on site, although yet to be determined will cater for public transport and active transport infrastructure to link the residential development to the town centre and employment precincts in South West Rocks.</p>
Objective 12 – Create a diverse	This objective states that Council's strategic planning and local plans should

visitor economy	<p>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 West Rocks, as it is identified in the local strategies for residential growth.</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"> 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 Protect established agriculture clusters and identify expansion opportunities in local plans that avoid land use conflicts, particularly with residential and rural residential land uses. <p>The Planning Proposal will not reduce or result in the reduction of any agribusiness or related income generating activities. The Planning Proposal seeks to rezone R5 Large Lot Residential zoned land to R1 General Residential zoned land. The Site is not adjacent any Rural land and, as a result, will not create any conflicts between residential land uses and agribusiness land uses.</p>
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>In fact, a subsequent residential subdivision of the Site resulting from the Planning Proposal is likely to improve local transport links within South West Rocks, as part of the SWRSP 2023 vision by connecting Burrawong Drive, which forms part of the adjoining Seascope Grove residential estate, to Arakoon Road. Thereby providing alternative access options and improving traffic flows through the area generally.</p> <p>Further comments regarding this are included within the Traffic Impact Assessment included within Appendix H.</p>
Objective 16 – Increase active public transport usage	<p>The aim of this objective is to encourage active and public transport use and reduce the reliance on private car usage.</p> <p>Any subsequent residential subdivision of the Site resulting from the Planning Proposal will need to cater for, in its design, both active and public transport links as per the SWRSP 2023.</p>
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 this Planning Proposal, consideration of such technologies will need to be undertaken at the detailed design stage of the subsequent residential subdivision, should this Planning Proposal be supported.</p>

Goal 3 – Growth Change and Opportunity	
Objective	Comment
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>As detailed in Question1, Section A of this Part of the Planning Proposal, this Planning Proposal results from local planning strategies for Kempsey LGA and the South West Rocks locality that have recently been adopted by Council. These local strategies have considered the various objectives and strategies as outlined in the North Coast Regional Plan 2041.</p>
Objective 19 – Public spaces and green infrastructure support connected and healthy communities	<p>The aim of this objective is ensure that when Council's are creating local land use strategies and statements, that they take into consideration planning for both public and open spaces for the enjoyment of current and future communities.</p> <p>A concept subdivision plan (Appendix C) has been prepared to support this Planning Proposal. The concept subdivision plan provides for potential open space to the north of the Site that also has the function of reinstating degraded PCT 4004, which is discussed in greater detail in the body of this Planning Proposal.</p>
<p>Objective 20 – Celebrate local character</p> <ul style="list-style-type: none"> Kempsey (Local Narrative) 	<p>This objective contains the following strategies:</p> <ul style="list-style-type: none"> 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. Celebrate buildings of local heritage significance by: <ul style="list-style-type: none"> retaining the existing use where possible establishing a common understanding of appropriate reuses exploring history and significance considering temporary uses designing for future change of use options. <p>A narrative for each LGA is also provided in the North Coast Regional Strategy. For the purposes of this Planning Proposal, Kemspey LGA will be the focus narrative.</p> <p>This Planning Proposal fits within the Kempsey LGA narrative for Housing and Place. One of the goals is to:</p> <ul style="list-style-type: none"> Deliver housing at South West Rocks, in addition to West and South Kempsey. <p>As detailed in Question1, Section A of this Part of the Planning Proposal, this Planning Proposal results from local planning strategies for Kempsey LGA and the South West Rocks locality that have recently been adopted by Council. These local strategies have considered the various objectives and strategies as outlined in the North Coast Regional Plan 2041. If the Planning Proposal is supported, it will help achieve the housing goals of the North Coast Regional Plan 2041 for the</p>

	Kempsey LGA.
--	--------------

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 DPE, the DPE 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.nsw.gov.au/planning-portal)

Please note, Kempsey Shire has just adopted a new Local Growth Management Strategy which has been endorsed by the Department subject to conditions. A copy of the approval letter is attached for your reference.

The KLGMS 2041 is also discussed in Question 1, Section A of this Part. The endorsement letter is provided as Appendix I. As discussed in Question 1, the SWRSP 2023 is consistent with the KLGMS 2041 and this Planning Proposal has been prepared in accordance with the SWRSP 2023, as land identified in that strategy.

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?

SEPP (Housing) 2021	The intent of this SEPP is to deliver a sufficient supply of safe, diverse and affordable housing https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714
<p>Assessment – Consistent</p> <p>The principles of this Policy are:</p> <ul style="list-style-type: none"> (a) enabling the development of diverse housing types, including purpose-built rental housing, (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability, (c) ensuring new housing development provides residents with a reasonable level of amenity, (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services, (e) minimising adverse climate and environmental impacts of new housing development, (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality, (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use, (h) mitigating the loss of existing affordable rental housing. <p>Comment:</p> <p>The Planning Proposal is considered consistent with this SEPP because the proposed R1 General Residential zone permits, with consent, several of the housing types addressed in this SEPP, such as boarding houses, group homes, residential flat buildings and secondary dwellings. The current R5 Large Lot Residential zone is less flexible in terms of the dwelling types permissible with consent and therefore more restrictive in terms of housing diversity. The concept subdivision is capable of supporting approximately 225 additional dwellings.</p>	
SEPP (Transport and Infrastructure) 2021	The intent of this SEPP is to provide well-designed and located transport and infrastructure integrated with land use https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0732
<p>Assessment – Consistent</p> <p>The aims of this SEPP include:</p> <ul style="list-style-type: none"> (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and (b) providing greater flexibility in the location of infrastructure and service facilities, and (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and (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 (e) identifying matters to be considered in the assessment of development adjacent to particular types of 	

<p>infrastructure development, and</p> <p>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</p> <p>(g) providing opportunities for infrastructure to demonstrate good design outcomes.</p> <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 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 Department of Planning and Environment.</p> <p>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.</p>
--

SEPP (Primary Production)	<p>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.</p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0729</p>
<p>Assessment – Consistent</p> <p>The key aims of this SEPP are:</p> <p>(a) to facilitate the orderly economic use and development of lands for primary production,</p> <p>(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,</p> <p>(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,</p> <p>(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,</p> <p>(e) to encourage sustainable agriculture, including sustainable aquaculture,</p> <p>(f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,</p> <p>(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.</p> <p>Comment:</p> <p>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 resulting</p>	

residential uses 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 not applicable to this Planning Proposal.
- 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 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 to Figure 11.

Comment:

The above summary of the SEPP ascertains that Chapter 4 is relevant to this Planning Proposal. An ecological assessment of the Site has been undertaken by Biodiversity Australia and is provided at Appendix B. The ecological assessment concluded that there are no koalas habituating the Site and it does not contain any Primary or Secondary Koala Food Trees. The assessment also confirms that there are no areas of high biodiversity value present on the Site, consistent with the mapping that Chapter 13 applies.

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 subsequent development of the land for residential purposes, should the Site be rezoned as R1 General Residential.

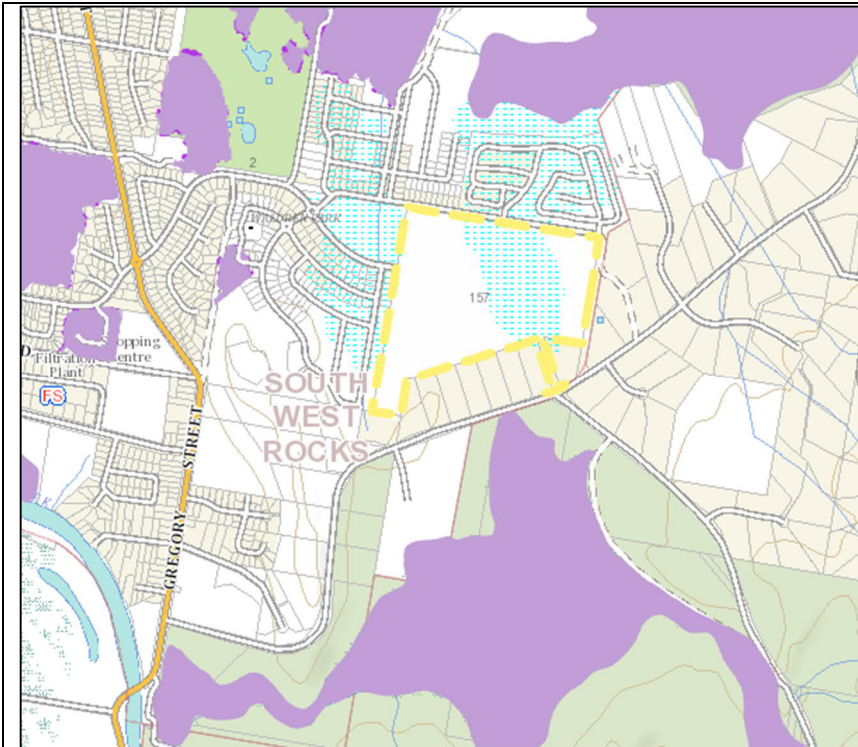


Figure 11 - Extract of Biodiversity Values Map, Site in yellow outline (Source: DPE Spatial Viewer)

SEPP (Resilience and Hazards) 2021	<p>The intent of this SEPP is to manage risks and building resilience in the face of hazards</p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0730</p>
<p>Assessment – Consistent</p> <p>There are three (3) particular chapters of this SEPP that may pertain to the Planning Proposal:</p> <ul style="list-style-type: none"> 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 as demonstrated in Figure 12. Therefore, the provisions of this Chapter do not apply to the Planning Proposal. 	

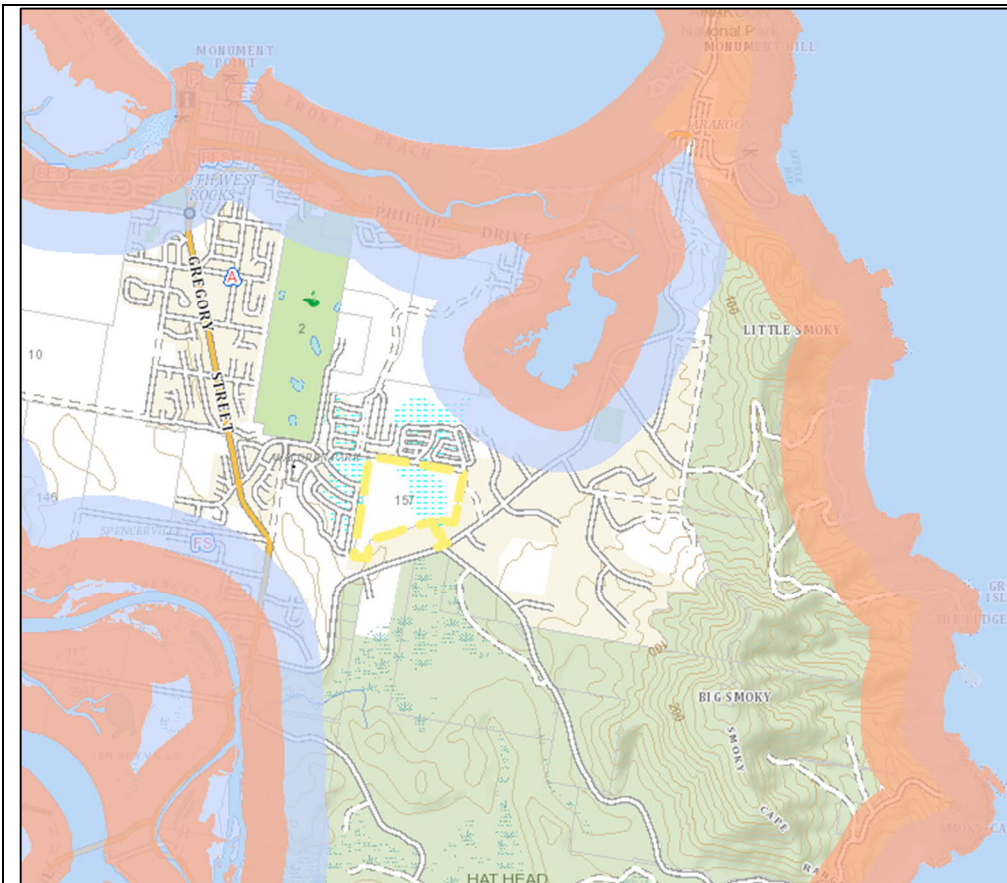


Figure 12 - Extract of Coastal Use Area and Coastal Environmental Area Maps, Site in Yellow outline (Source: DEP Spatial Viewer)

- 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 R5 Large Lot Residential zone on the Site to R1 General Residential, both of which do not 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. This chapter is therefore not applicable to this Planning Proposal.
- 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 residential 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 above 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 involve hazardous or offensive industry and is not considered to be contaminated land.

SEPP (Industry and Employment) 2021	<p>The intent of this SEPP is to grow a competitive and resilient economy that is adaptive, innovative and delivers jobs:</p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0723</p>
<p>Assessment – Consistent</p> <p>This SEPP contains the following two (2) chapters:</p> <ul style="list-style-type: none"> 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. <p>Comment:</p> <p>Considering the above applicability of these chapters to the Planning Proposal, the Planning Proposal is not inconsistent with this SEPP.</p>	
SEPP (Resources and Energy) 2021	<p>The intent of this SEPP is to promote the sustainable use of NSW's resources and transitioning to renewable energy:</p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0731</p>
<p>Assessment – Consistent</p> <p>The purpose of this SEPP is to outline what constitutes development permissible without consent and development that is permissible with consent in relation to mining, petroleum production and extractive industries within the State of NSW; and the matters for consideration in relation to these types of development.</p> <p>Comment:</p> <p>This Planning Proposal is not considered to be inconsistent with this SEPP as it does not involve land, or is adjacent land used for or reserved to be used for to mining, petroleum production and extractive industries.</p>	
SEPP (Planning Systems) 2021	<p>The intent of this SEPP is to provide a strategic and inclusive planning system for the community & the environment:</p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0724</p>
<p>Assessment – Consistent</p> <p>The provisions of this SEPP address State Significant Development (SSD) and land owned by an Aboriginal Land Council.</p> <p>Comment:</p> <p>The Planning Proposal will not result in development that is considered SSD, on land containing SSD or land owned by an Aboriginal Land Council.</p> <p>Therefore, the Planning Proposal is not considered inconsistent with this SEPP.</p>	

SEPP (Precincts Regional) 2021	<p>The intent of this SEPP is to consider State significant precincts, Activation precincts and other specific precincts within the State.</p> <p>https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0727</p>
<p>Assessment – Consistent</p> <p>The purpose of this SEPP is to identify State significant and activation precincts within NSW.</p> <p>Comment:</p> <p>The SEPP does not identify any State significant or activation precincts within the Kempsey LGA and hence in the South West Rocks locality. Therefore, this Planning Proposal is not considered inconsistent with this SEPP.</p>	

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

Focus Area 1 - Planning Systems	<p>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.</p>
1.1 Implementation of Regional Plans	
<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 this Direction is detailed in Question 3, Section B of this Part of this Planning Proposal.</p>	
1.2 Development of Aboriginal Land Council land	
<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.</p>	

Further, the provisions of SEPP (Planning Systems) 2021 are addressed in Question 6, Section B of this Part of this 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 EP&A 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 EP&A 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 2013 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 2013.

1.4 Site Specific Provisions

Assessment – Consistent Objective

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

Application

This direction applies to all relevant planning authorities when preparing a planning proposal that will allow a particular development to be carried out.

Direction 1.4

(1) A planning proposal that will amend another environmental planning instrument in order to allow particular

development to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or
- (b) rezone the site to an existing zone already in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

(2) A planning proposal must not contain or refer to drawings that show details of the proposed development.

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 2013.

1.5 – 1.22 – Planning Systems Place Based

Assessment – Consistent

This direction applies to the following place based strategies:

- 1.5 Parramatta Road Corridor Urban Transformation Strategy
- 1.6 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan
- 1.7 Implementation of Greater Parramatta Priority growth Area Interim Land Use and Infrastructure Implementation Plan
- 1.8 Implementation of Wilton Priority growth Area Interim Land Use and Infrastructure Implementation Plan
- 1.9 Implementation of Glenfield to MacArthur Urban Renewal Corridor
- 1.10 Implementation of the Western Sydney Aerotropolis Plan
- 1.11 Implementation of Bayside West Precincts 2036 Plan
- 1.12 Implementation of Planning Principles for the Cooks Cove Precinct
- 1.13 Implementation of St Leonards and Crows nest 2036 Plan
- 1.14 Implementation of Greater Macarthur 2040
- 1.15 Implementation of the Pyrmont Peninsula Place Strategy
- 1.16 North West Rail Link Corridor Strategy
- 1.17 Implementation of the Bays West Place Strategy
- 1.18 Implementation of the Macquarie Park Innovation Precinct
- 1.19 Implementation of the Westmead Place Strategy
- 1.20 Implementation of the Camellia-Rosehill Place Strategy
- 1.21 Implementation of South West Growth Area Structure Plan
- 1.22 Implementation of the Cherrybrook Station Place Strategy

Comment:

None of these place-based Directions apply to Kempsey LGA and nor does this Planning Proposal have any effect on these place based strategies. Therefore, the Planning Proposal cannot be considered inconsistent with this Direction.

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.
3.1 Conservation Zones (previously 2.1 Environment Protection Zones)	
Assessment – Inconsistent (Justified) 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"> 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 <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> <p>(d) is of minor significance.</p>	
Comment:	
This Planning Proposal is inconsistent with this direction as it does not include provisions that facilitate the protection and conservation of environmentally sensitive areas. However, the Planning Proposal does not apply to land within a conservation zone or land otherwise identified for environment conservation/protection purposes in the KLEP 2013, nor does it reduce conservation standards in KLEP 2013 applying to any land.	
The inconsistency of this Planning Proposal with Direction 3.1(1) is considered justified for the following reasons:	
<p>(1) The Site to which this Planning Proposal applies is identified for residential growth in the SWRSP 2023 that gives consideration to the LSPS Future Macleay (2020) and the North Coast Regional Plan 2041, both of which have been approved by the Planning Secretary. The LSPS Future Macleay (2020) and North Coast</p>	

Regional Plan 2041 both identify the need for urban growth in South West Rocks to deliver housing. The Sites inclusion in the SWRSP 2023 has been detailed in the body of this Planning Proposal.

- (2) This Planning Proposal is supported by an Ecological Impact Assessment prepared by Biodiversity Australia that supports the suitability of the Site for the proposed R1 General Residential zone and does not recommend the need for further provisions in the KLEP 2013 to facilitate the protection and conservation of environmentally sensitive areas.

3.2 Heritage Conservation

Assessment – Inconsistent (Justified)

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 inconsistent with this Direction as it does not contain provisions that facilitate the items in Direction 3.2(1)(a) to (c). Notwithstanding, the current KLEP 2013 contains Clause 5.10 Heritage Conservation, that has provisions for the protection and conservation of Aboriginal objects and places of heritage significance. This existing Clause enables this Planning Proposal to be a justified inconsistency with this Direction to the satisfaction of the Planning Secretary.

Further, supporting this Planning Proposal is the following assessment report:

- Aboriginal Heritage Due Diligence Assessment Report – 157 Arakoon Road, South West Rocks (March 2023) by Heritage Now Pty Ltd (Appendix E).

The assessment report was written in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal

Objects in NSW (DECCW 2010b). To summarise, the assessment report identified that no Aboriginal objects, places or areas of potential archaeological deposit were found on the Site. As such, there is no identified risk of harm to Aboriginal objects as a result of subsequent works and thus an ACHIA Report and AHIP application are not required.

3.3 Sydney Drinking Water Catchments

Assessment – Consistent

This Direction does not apply to the Kempsey LGA, therefore the Planning Proposal cannot be considered to be inconsistent with this Direction.

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

Assessment – Consistent

This Direction does not apply to the Kempsey LGA, therefore the Planning Proposal cannot be considered to be inconsistent with this Direction.

3.5 Recreation Vehicle Areas

Assessment – Consistent

Objective

The objective of this Direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.

Application

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

Direction 3.5

- (1) A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):
 - (a) where the land is within a conservation zone,
 - (b) where the land comprises a beach or a dune adjacent to or adjoining a beach,
 - (c) where the land is not within an area or zone referred to in paragraphs (a) or (b) unless the relevant planning authority has taken into consideration:
 - i. the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and
 - ii. the provisions of the guidelines entitled Recreation Vehicles Act 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.

Comment:

The Planning Proposal is considered consistent with this Direction because the Planning Proposal does not seek to enable any land to be developed for the purposes of a recreation vehicle area.

3.6 Strategic Conservation Planning

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 cannot be considered inconsistent with this Direction.

3.7 Public Bushland

Assessment – Consistent

Objective

The objective of this direction is to protect bushland in urban areas, including rehabilitated areas, and ensure the ecological viability of the bushland, by:

- (a) preserving:
 - i. biodiversity and habitat corridors,
 - ii. links between public bushland and other nearby bushland,
 - iii. bushland as a natural stabiliser of the soil surface,
 - iv. existing hydrological landforms, processes and functions, including natural drainage lines, watercourses, wetlands and foreshores,
 - v. the recreational, educational, scientific, aesthetic, environmental, ecological and cultural values and potential of the land, and
- (b) mitigating disturbance caused by development,
- (c) giving priority to retaining public bushland.

Comment:

This Direction does not apply to the Kempsey LGA. Therefore, this Planning Proposal cannot be considered as inconsistent with this Direction.

3.8 Willandra Lakes Region

Assessment – Consistent

This Direction does not apply to the Kempsey LGA. Therefore, this Planning Proposal cannot be considered as inconsistent with this Direction.

3.9 Sydney Harbour Foreshores and Waterways Area

Assessment – Consistent

This Direction does not apply to the Kempsey LGA. Therefore, this Planning Proposal cannot be considered as inconsistent with this Direction.

3.10 Water Catchment Protection

Assessment – Consistent

This Direction does not apply to the Kempsey LGA, as there are no regulated catchments in the Kempsey LGA under the SEPP (Biodiversity and Conversation) 2021. Therefore, this Planning Proposal cannot be considered as inconsistent with this Direction.

Focus Area 4 - Resilience & Hazards	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.
4.1 Flooding	
<p>Assessment – Consistent</p> <p>The objectives of this Direction are to:</p> <ul style="list-style-type: none"> (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. <p>Comment:</p> <p>The Planning Proposal is considered consistent with this Direction because the Site is not identified as being flood affected, refer to Figure 10.</p>	
4.2 Coastal Management	
<p>Assessment – Consistent</p> <p>Objective</p> <p>The objective of this direction is to protect and manage coastal areas of NSW.</p> <p>Application</p> <p>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.</p> <p>Comment:</p> <p>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 Figure 12 and the relevant part of this Planning Proposal addressing SEPP (Resilience and Hazards) 2021.</p>	
4.3 Planning for Bushfire Protection	
<p>Assessment – Consistent</p> <p>Objectives</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (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. <p>Application</p> <p>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.</p> <p>This applies where the relevant planning authority is required to prepare a bush fire prone land map under section 10.3 of the EP&A 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.</p>	

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 EP&A 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 Site the subject of this Planning Proposal is mapped as Category 3 (majority - orange) and Category 1 (small areas - red) on the Bushfire Prone Land Risk Mapping by the NSW RFS, refer to Figure 13.

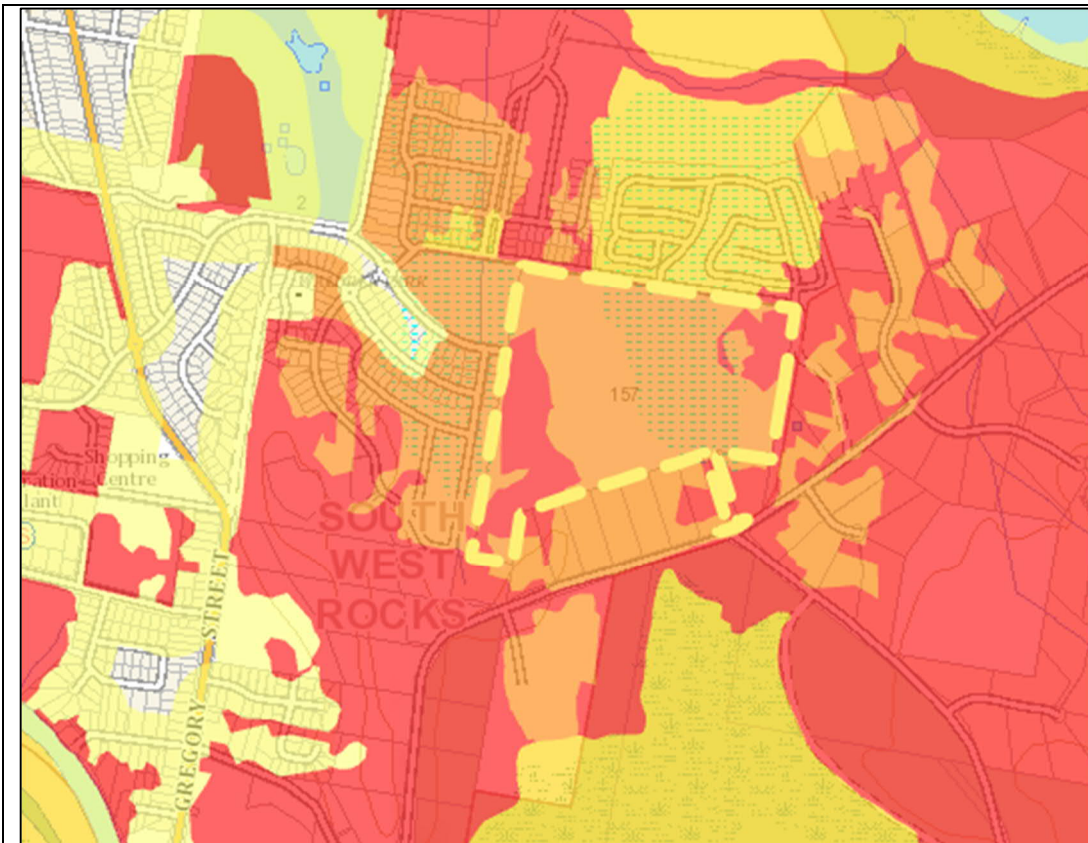


Figure 13 - Extract of Bushfire Risk Map (Source: DPE Spatial Viewer)

To address the provisions of this Direction and to justify the Planning Proposals consistency, David Pensini of Building Certification and Environmental Services was engaged to provide a Bushfire Hazard Assessment, refer to Appendix G.

The Bushfire Hazard Assessment addresses the items listed 2 to 3 in the Direction, which demonstrates the Planning Proposal is consistent with the Direction. Notwithstanding, it is noted that the Planning Proposal, in accordance with Item 1, must be referred to the Commissioner of the NSW Rural Fire Service, following receipt of a Gateway determination, but prior to the Planning Proposal being made available for community consultation.

It is noted that the Commissioner for the NSW Rural Fire Service may make recommendations in respect to the Planning Proposal that may require amendments. Such request will be considered and addressed at that time.

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. Further, a Preliminary Site Investigation by Hunter Geotechnical Services has been undertaken in accordance with condition 1(b)

of the Gateway Determination, and is provided at Appendix K. Hunter Geotechnical Solutions concluded the following in their report:

9 Conclusions

The detailed desktop review of available information and thorough Site inspection including shallow soil investigation have enabled the development of a CSM allowing assessment of potential health and environmental issues relating to the Site. Key findings were:

1. Potential contamination sources at the Site are limited based on historical land use
2. Visible signs of gross contamination were not observed during Site inspection and intrusive works
3. Contamination in shallow soils was not identified at any of the sampling locations

In summary, based on the desktop study and limited soil sampling conducted on the Site, no indication of gross contamination has been identified which would constrain the development of the Site for the proposed residential development. HGS considers the Site suitable for the proposed residential development.

Given the preliminary nature of the investigation an unexpected finds protocol should be utilised during any proposed future earthworks at the Site.

10 Unexpected Finds

The presence of any unexpected finds would be highlighted during development works by the observation of any unusual physical (e.g. staining, fill material, asbestos-containing material) or sensory characteristics of the soil. In the event that any significant unknown type of material is identified, site works should be stopped in that area and an assessment of the material and its likely impact on the CSM would be undertaken by an appropriately qualified environmental consultant immediately to prepare a suitable response to the occurrence. All additional works should be documented and detailed in the validation report.

As the Site is not within an investigation area within the meaning of the Contaminated Land Management Act 1997, and the Preliminary Site Investigation by Hunter Geotechnical Services did not find evidence of contamination and has made appropriate recommendations in the event of unexpected finds, this Planning Proposal is considered consistent 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 subject to Class 4 and 5 Acid Sulfate Soils as shown in Figure 14. As the Planning Proposal seeks an intensification of use of the Site from R5 Large Lot Residential to R1 General Residential, an Acid Sulfate Soils Assessment has been undertaken by Hunter Geotechnical Services and is provided at Appendix L.

Hunter Geotechnical Services made the following conclusion in their report:

The geotechnical assessment supports the proposed rezoning from R5 Large Lot Residential to R1 General Residential, provided the recommendations in this report are followed. The presence of acid sulfate soils within the Site is manageable with appropriate treatment and mitigation measures.

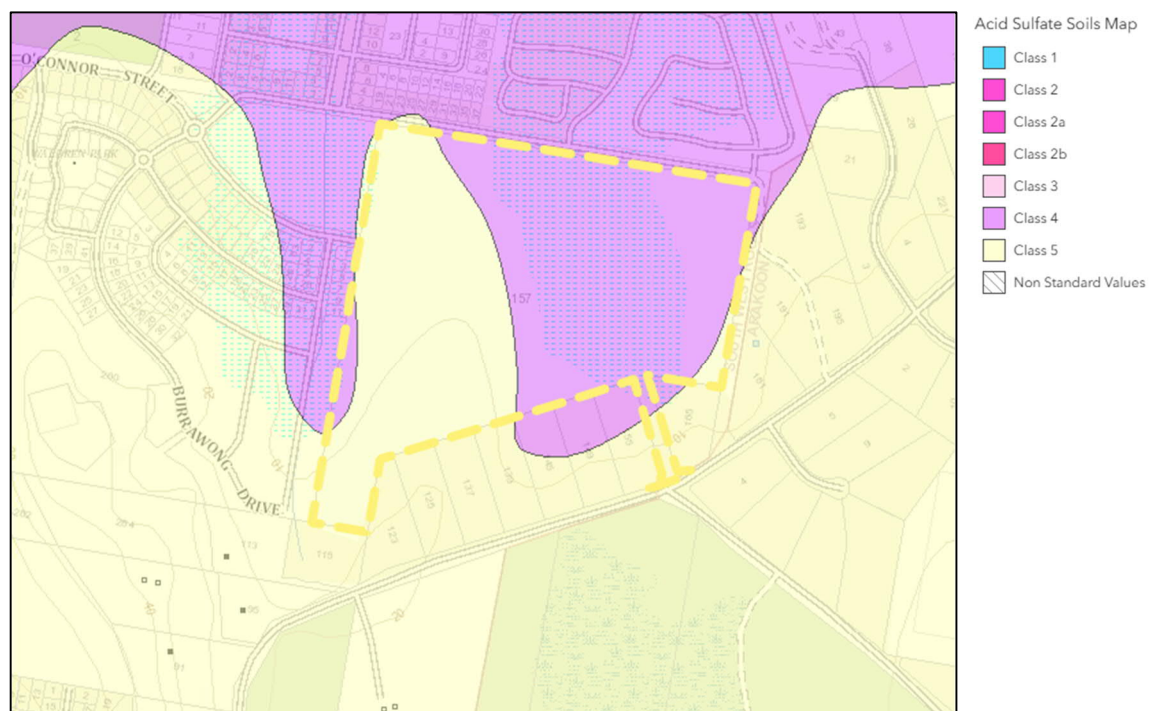


Figure 14-Extract of Acid Sulfate Soils Maps - Site in yellow outline (Source: DPE Spatial Viewer)

The recommendations in the report are contained in Section 7 – Acid Sulfate Soils Management Plan and are reproduced as follows:

7 Acid Sulfate Soils Management Plan

If possible, the disturbance of acid sulfate soils should be minimised. Disturbance of acid sulfate soils must follow the procedures outlined in this specific management plan. Based on the findings in this report highlighted above an acid sulfate soils management plan must be followed in accordance with the Kempsey Shire Council guidelines and the New South Wales Department of Environment, Climate Change and Water (DECCW).

7.1 Proposed Works

The proposed subdivision development includes the construction of a stormwater basin within the area identified as having Potential Acid Sulfate Soils (PASS). This area, corresponding to the yellow polygon in Figure 1 and the green-shaded zone in the concept plan, will require excavation to an approximate depth of 2 m. Excavation within the stormwater basin area will likely disturb soils within the Holocene Alluvium (Unit 5) and potentially the underlying Pleistocene Estuarine deposits (Unit 7). Both units have been characterised by elevated s-Net Acidity and varying levels of Chromium Reducible Sulfur (CRS). As such, these soils have the potential to generate acidic leachate if disturbed, oxidised, and exposed to water or air. The management of these disturbed soils will be critical to preventing environmental harm, including acidification of surface and groundwater systems.

Avoiding the disturbance of Potential ASS is the preferred management option but where disturbance cannot be avoided it is recommended that lime treatment of the excavated soils is undertaken.

Construction of working platforms or placement of fill on the Potential ASS may displace the Potential ASS above the water surface, exposing them to oxidation. In addition, excavation works for associated services, shallow foundations, and piled foundations may also encounter Potential ASS below the ground surface.

The extent of soil disturbance for the broader subdivision is currently unknown, but the excavation for the basin represents a significant area of potential impact on the identified PASS. The extent of potential disturbance is not yet known.

The approximate area of Potential ASS should be delineated and marked with pegs in accordance with Figure 27, and identification through observations of paperbark vegetation and low-lying areas around the drainage swale.

Regular visual monitoring during excavation to note the presence of any grey – blue clays that may represent Potential ASS: Where encountered excavation works should temporarily cease and an assessment of the excavation be made by a geotechnical professional to assess whether avoidance is feasible.



HGS Ref: G0840-GI-001-Rev1
Geotechnical Investigation
Lot 9 DP1219664, 157 Arakoon Road, South West Rocks



Figure 27: Extent of Potential Acid Sulfate Soils Requiring Acid Sulfate Soils Management Plan

28/01/2025

Hunter Geotechnical Services

1

7.2 Soil Excavation & Removal

7.2.1 Treating Acid Sulfate Soils

Excavated ASS must be treated with lime prior to removal from the site. Treatment must be undertaken on a bunded hardstand with a perimeter that is a minimum 300mm high. The hardstand must be constructed prior to any excavations and excavated material must be placed on the hardstand only. A maximum excavated material stockpile size of 15m³ may be treated before removal from site.

Lime treatment pads to be prepared by placement of a 5mm layer of good quality fine agricultural lime on the base and surrounded by an earthen bund. The pads should grade to a low point where potential leachate can be captured within the bunded area for further treatment if required. Multiple pads rather than one large pad may allow improved management of materials with varying water contents. The pads should be located >100m from existing waterway.

Place excavated ASS in layers not exceeding 150mm loose thickness in the treatment pads. Dewatering may be required for soils that are excavated in a wet condition. It is noted that the current EPA position on the disposal of treated ASS is that all treated ASS (pH ≥ 7) that is to be transported off site must be removed to a licensed waste landfill unless a site-specific exemption is granted. It would, however, be appropriate to retain treated ASS on site once verification of the neutralisation of the soils is confirmed. The treated soils could potentially be used for backfilling or used for landscaping purposes on site such as in the outer batter formations, pending geotechnical assessment.

Works in the low lying swamp landscape will require monitoring for displacement of Potential ASS during construction of the rock working platform or placement of fill by a geotechnical professional. Any soils exposed above the water surface by heave or excavation, should be transported to the lime treatment pads.

Treatment is undertaken by placing the excavated material on the hardstand. The required lime dosing is then spread across the stockpile and thoroughly mixed into the excavated material. This should be undertaken as soon as practicable to prevent further oxidation of the soil. Only after completion of the lime treating is the

material suitable to be stored off the hardstand or to be removed from site. Untreated ASS must not be stored off the hardstands at any time.

Excavated soils are to be dosed with lime so that the pH is above 5.5 and below 8. A regular chemical testing regime of the soils must be undertaken by a suitably qualified engineer/scientist during mixing to ensure adequate doses of lime have been applied. The management plan process should be documented by the engineer/scientist and kept on record. Lime dosing rates are based off the specific CRS Suite analysis as provided above and have been multiplied by a factor of safety of 1.5 to account for the rate of lime reactivity and the possibility of non-homogenous mixing.

This result indicates that a liming rate of approximately 8kg per tonne of excavated material.

7.2.2 Removal of Treated Acid Sulfate Soils

Prior to the removal of treated acid sulfate soils, the client must determine a waste classification using a chemical assessment in accordance with Step 5 of Part 1 of the Waste Classification Guidelines. If the client does not chemically assess the treated acid sulfate soils, the soil must be classified as hazardous waste.

7.3 General Acid Sulfate Soils Management Strategies

A detailed description of general acid sulfate soils management strategies for working with acid sulfate soils can be found in Annex E of this report along with additional details about testing and monitoring of acid sulfate soils.

The Planning Proposal, is considered consistent with this Direction as the report by Hunter Geotechnical Services meets the requirements of Item 3 in the Direction, and contains an appropriate management plan, as reproduced above.

4.6 Mine Subsidence & Unstable Land

Assessment – Consistent Objective

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

Application

This direction applies when a relevant planning authority prepares a planning proposal that permits development on land that is within a declared mine subsidence district in the Coal Mine Subsidence Compensation Regulation 2017 pursuant to section 20 of the Coal Mine Subsidence Compensation Act 2017, or has been identified as unstable in a study, strategy or other assessment undertaken by or on behalf of the relevant planning authority or by or on behalf of a public authority and provided to the relevant planning authority.

Comment:

The Site is not mapped as being within a declared mine subsidence district in the Coal Mine Subsidence Compensation Regulation 2017 pursuant to section 20 of the Coal Mine Subsidence Compensation Act 2017, the site has also not been identified as unstable in a study, strategy or other assessment undertaken by or on behalf of the relevant planning authority or by or on behalf of a public authority. Therefore, this Planning Proposal cannot be considered inconsistent with this Direction.

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 – Inconsistent – Justified 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:	
<ul style="list-style-type: none"> (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	
<ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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:	
<ul style="list-style-type: none"> (a) justified by a strategy approved by the Planning Secretary which: <ul style="list-style-type: none"> 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 provisions of this Direction apply to the Planning Proposal as it seeks to create a R1 General Residential zone from R5 Large Lot Residential zone. This Planning Proposal is inconsistent with this direction as it does not contain provisions that give effect to:	
<ul style="list-style-type: none"> (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001). 	
However, the Site is identified in local strategies that take into consideration and give effect to the North Coast Regional	

Plan 2041 in respect to providing housing in South West Rocks, as discussed in the body of this report. The Planning Proposal is also supported by a Traffic Engineering Report (TPS Group), Appendix H, in relation to traffic and pedestrian movement. The 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.

Therefore, the Planning Secretary can be satisfied that the Planning Proposal is justified as being inconsistent as it has been prepared in accordance with the North Coast Regional Plan 2041, under which the KLGMS 2041 and SWRSP 2023 give effect to.

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.

Direction 5.2

- (1) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).
- (2) When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:
 - (a) reserve the land in accordance with the request, and
 - (b) include the land in a zone appropriate to its intended future use or a zone advised by the Planning Secretary (or an officer of the Department nominated by the Secretary), and
 - (c) identify the relevant acquiring authority for the land.
- (3) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:
 - (a) include the requested provisions, or
 - (b) take such other action as advised by the Planning Secretary (or an officer of the Department nominated by the Secretary) with respect to the use of the land before it is acquired.
- (4) When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.

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) with respect to a request referred to in paragraph (4), further information is required before appropriate planning controls for the land can be determined, or
- (b) the provisions of the planning proposal that are inconsistent with the terms of this direction are of minor significance.

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 – Consistent
Objectives

The objectives of this Direction are to:

- (a) ensure the effective and safe operation of regulated airports and defence airfields;
- (b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and
- (c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

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 land near a regulated airport which includes a defence airfield.

The Planning Proposal is consistent with this Direction because it does not create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.

5.4 Shooting Ranges

Assessment – Consistent
Objectives

The objectives are to:

- (a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range,
- (b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land,
- (c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.

Application

This direction applies to all relevant planning authorities when preparing a planning proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.

Comment:

The Planning Proposal is consistent with this Direction because it does not affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.

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	
<p>Assessment – Inconsistent - Justified Objectives</p> <p>The objectives of this direction are to:</p> <ul style="list-style-type: none"> (a) encourage a variety and choice of housing types to provide for existing and future housing needs, (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) minimise the impact of residential development on the environment and resource lands. <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 residential zone (including the alteration of any existing residential zone boundary), or any other zone in which significant residential development is permitted or proposed to be permitted.</p> <p>Direction 6.1</p> <ul style="list-style-type: none"> (1) A planning proposal must include provisions that encourage the provision of housing that will: <ul style="list-style-type: none"> (a) broaden the choice of building types and locations available in the housing market, and (b) make more efficient use of existing infrastructure and services, and (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and (d) be of good design. (2) A planning proposal must, in relation to land to which this direction applies: <ul style="list-style-type: none"> (a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and (b) not contain provisions which will reduce the permissible residential density of land. <p>Consistency</p> <p>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> <ul style="list-style-type: none"> (a) justified by a strategy approved by the Planning Secretary which: <ul style="list-style-type: none"> 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 Planning Proposal is inconsistent with this Direction as it does not seek to provide provisions in the KLEP 2013 that contain a requirement that residential development cannot be permitted until land is adequately serviced (or arrangements satisfactory to the Council, or other appropriate authority, have been made to service it). The Planning Proposal, however, is considered consistent with other requirements of this Direction in that:

- The proposed R1 General Residential zone will broaden the choice of residential housing types available to the market over the current R5 Large Lot Residential zone.
- Will make more efficient use of infrastructure and services through denser housing controls; and
- Reduce the consumption of land for housing and associated urban development on the urban fringe of South West Rocks, as the land is identified in the SWRSP 2023 as a suitable urban growth area.

The design of the subsequent subdivision will enable good housing design in that it will provide northerly aspect for solar access and receive prevailing breezes for BASIX compliance.

In terms of justification for the inconsistency, the site is identified in the SWRSP 2023 which identifies the Site for urban growth and is consistent with the North Coast Regional Strategy 2041 that sets housing targets for South West Rocks. Further KLEP 2013 already contains Clause 6.2 that states:

6.2 Public utility infrastructure

- (1) Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.
- (2) This clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing any public utility infrastructure.

As such, there is no need for this Planning Proposal to seek further provisions to those that are already contained in Clause 6.2 in relation to infrastructure provision.

6.2 Caravan Parks and Manufactured Home Estates

Assessment – Consistent Objectives

The objectives of this direction are to:

- (a) provide for a variety of housing types, and
- (b) provide opportunities for caravan parks and manufactured home estates.

Application

This direction applies to all relevant planning authorities when preparing a planning proposal. This direction does not apply to Crown land reserved or dedicated for any purposes under the Crown Land Management Act 2016, except Crown land reserved for accommodation purposes, or land dedicated or reserved under the National Parks and Wildlife Act 1974.

Direction 6.2

- (1) In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:

<p>(a)</p> <p>(b)</p>	<p>retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</p> <p>retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</p>
<p>(2)</p> <p>(a)</p> <p>(b)</p> <p>(c)</p>	<p>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</p> <p>take into account the categories of land set out in Schedule 6 of State Environmental Planning Policy (Housing) 2021 as to where MHEs should not be located,</p> <p>take into account the principles listed in clause 125 of State Environmental Planning Policy (Housing) 2021 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.</p>
<p>Comment:</p>	<p>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 Planning Proposal cannot be considered inconsistent with this Direction.</p>

<p>Focus Area 7 - Resilient Economies</p>	<p>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.</p>
<p>7.1 Business and Industrial Zones</p>	
<p>Assessment – Consistent Objectives</p>	
<p>The objectives of this direction are to:</p>	
<p>(a) encourage employment growth in suitable locations,</p> <p>(b) protect employment land in employment zones, and</p> <p>(c) support the viability of identified centres.</p>	
<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"> • Employment • Mixed Use • W4 Working Waterfront • SP4 Enterprise • SP5 Metropolitan Centre 	
<p>Comment:</p>	
<p>The Planning Proposal is considered consistent with this Direction because it does not affect land within an existing or proposed Employment zone (including the alteration of any existing Employment zone boundary).</p>	

7.2 Reduction in non-hosted short-term rental accommodation period

Assessment – Consistent
Objective

The objectives of this direction are to:

- (a) mitigate significant impacts of short-term rental accommodation where non-hosted short-term rental accommodation period are to be reduced, and
- (b) ensure the impacts of short-term rental accommodation and views of the community are considered.

Application

This direction applies to Byron Shire Council when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.

Comment:

This Direction only applies to the Byron Shire Council LGA. Therefore, this Planning Proposal cannot be considered inconsistent with his Direction.

7.3 Commercial and Retail Development along the Pacific Highway, North Coast

Assessment – Consistent
Objectives

The objectives for managing commercial and retail development along the Pacific Highway are to:

- (a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route,
- (b) prevent inappropriate development fronting the highway,
- (c) protect public expenditure invested in the Pacific Highway,
- (d) protect and improve highway safety and highway efficiency,
- (e) provide for the food, vehicle service and rest needs of travellers on the highway, and
- (f) reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.

Application

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.

Comment:

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 not located within the vicinity of the existing and/or proposed alignment of the Pacific Highway. Therefore, this Planning Proposal cannot be considered inconsistent with this Direction.

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	
<p>Assessment – Consistent Objective</p> <p>The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p> <p>Application</p> <p>This direction applies to all relevant planning authorities when preparing a planning proposal that would have the effect of:</p> <ul style="list-style-type: none"> (a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or (b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development. <p>Comment:</p> <p>The Planning Proposal is considered consistent with this Direction because there is no information to the contrary that would suggest that this Planning Proposal will:</p> <ul style="list-style-type: none"> i. prohibit the mining of coal or other minerals, production of petroleum, or the winning or obtaining of extractive materials, or ii. restrict the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance. 	
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	
<p>Assessment – Consistent Objective</p> <p>The objective of this direction is to protect the agricultural production value of rural land.</p> <p>Application</p> <p>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).</p> <p>Comment:</p> <p>The Planning Proposal does not seek to affect land within an existing or proposed rural zone. Therefore, Planning</p>	

Proposal cannot be considered to be inconsistent with this Direction.

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.

Comment:

The Planning Proposal does not involve land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation boundary); nor does it propose to change the minimum lot size of land within such zones. Therefore, the Planning Proposal cannot be considered to be inconsistent with this Direction.

9.3 Oyster Aquaculture

Assessment – Consistent
Objectives

The objectives of this direction are to:

- (a) ensure that 'Priority Oyster Aquaculture Areas' and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, and
- (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.

Application

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:

- (a) adverse impacts on a 'Priority Oyster Aquaculture Area' or a "current oyster aquaculture lease in the national parks estate", or
- (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.

Comment:

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.

9.4 Farmland of State & Regional Significance on the NSW Far North Coast**Assessment – Consistent Objectives**

The objectives of this direction are to:

- (a) ensure that the best agricultural land will be available for current and future generations to grow food and fibre,
- (b) provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and
- (c) reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.

Application

This direction applies when a relevant planning authority prepares a planning proposal for land within Ballina Shire, Byron Shire, Kyogle Shire, Lismore City, Richmond Valley and Tweed Shire local government areas, except land identified as "urban growth areas" mapped in the North Coast Regional Plan 2041 when preparing a planning proposal, that applies to land:

- (a) mapped as
 - i. State significant farmland, or
 - ii. regionally significant farmland, or
 - iii. significant non-contiguous farmland,
- (b) on the set of four maps held in the Department of Planning and Environment marked "Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction)"; and...

Comment:

This Direction does not apply to the Kempsey LGA. Therefore, this Planning Proposal cannot be considered inconsistent with this Direction.

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?

An Ecological Study by Biodiversity Australia has been conducted for the Site and is enclosed as Appendix B. Biodiversity Australia recorded one threatened species on the Site – the Brush-tailed Phascogale. Biodiversity Australia concluded that the vegetation on the Site is only in moderate condition on the western and eastern fringes, and that the centre of Site is highly degraded. Therefore, the vegetation on the Site is unlikely to constitute a key breeding habitat for the Brush-tailed Phascogale, as it is considered very likely that the key habitat for the species exists within the much higher integrity vegetation which adjoins the Site.

Section 4.1.1 of the report by Biodiversity Australia states that no threatened flora species were found within the Site.

Section 4.2.2.2 discusses Hollow Bearing Trees (HBT). Table 7 under this section of the report lists eighty-eight (88) HBT on the Site. The 'Loss of hollow-bearing trees' is listed under Schedule 4 of the Biodiversity Act 2016 as a key threatening process. The Planning Proposal does not however require or seek the removal of any HBT. Figure 9 (p.48) of the report by Biodiversity Australia provides the location of the HBTs, which are mostly clustered in the north-eastern and south-western portions of the Site. Some of these HBT may require removal under a subsequent development application for the residential subdivision of the Site. A further ecological assessment will be required at that time with a proposed subdivision layout and potential building envelopes to establish the impact any such subdivision may have on the HBTs.

Considering, that Biodiversity Australia only found one threatened species on the Site, that is highly likely to have significantly higher value habitat around the fringes of the Site on adjoining land, the Planning Proposal is unlikely to result in any adverse effects on threatened species or their habitats, populations, ecological and/or communities.

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 of the planning proposal that have not already been considered throughout the body of this report.

Notwithstanding, the concept subdivision plan at Appendix C, provides for two drainage basins. A Vegetation Management Plan (VMP) has been prepared (Appendix D) to establish manmade wetland environments to be created within those drainage basins. The goal of the wetlands is to control stormwater from the subdivision and to offset the loss of native vegetation resulting from the future development of the Site. The VMP identified the dominant plant community type (PCT) as PCT4004, Northern Melaleuca quinquenervia Swamp Forest. The VMP recommends restoring PCT 4004 within the drainage basins to reinstate the integrity of the PCT on the Site. The VMP also recommends that where possible that any large trees or shrubs within or adjacent to the proposed detention basins be retained and protected, as this vegetation will act as vital habitat for fauna on the Site and increase the genetic diversity of the vegetation.

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

The Planning Proposal's purpose is to achieve greenfield residential development in accordance with the urban growth areas identified in the SWRSP 2023. Social and economic impacts arising from the Planning Proposal are expected to be positive, as the subsequent development of the Site will provide greater housing availability and choice in the South West Rocks locality.

The population growth that will result from the Planning Proposal, will entail approximately 486 persons based on an average household size of 2.16 person for South West Rock-Jerseyville (Profile Id).

A breakdown of employment industries in South West Rocks is provided in Table 3:

Table 3 - Local Workers South West Rocks (economy.id.com.au/kempsey/)

Industry	Number (persons)	Percentage (%)
Accommodation and Food Services	247	20%
Retail Trade	205	16.6%
Health Care and Social Assistance	166	13.5%
Construction	139	11.3%
Education and Training	88	7.1%
Other Various Combined (individually below 5%)	387	31.5%
TOTAL	1,232	100%

Considering the current estimated population for South West Rocks is 5,592 persons (Profile Id), the contribution from the Planning Proposal to employment for the construction industry and flow on effects to retail trade, accommodation and food service cannot be understated. South West Rocks is second to West Kempsey in terms of employment of local workers as demonstrated in Figure 15.

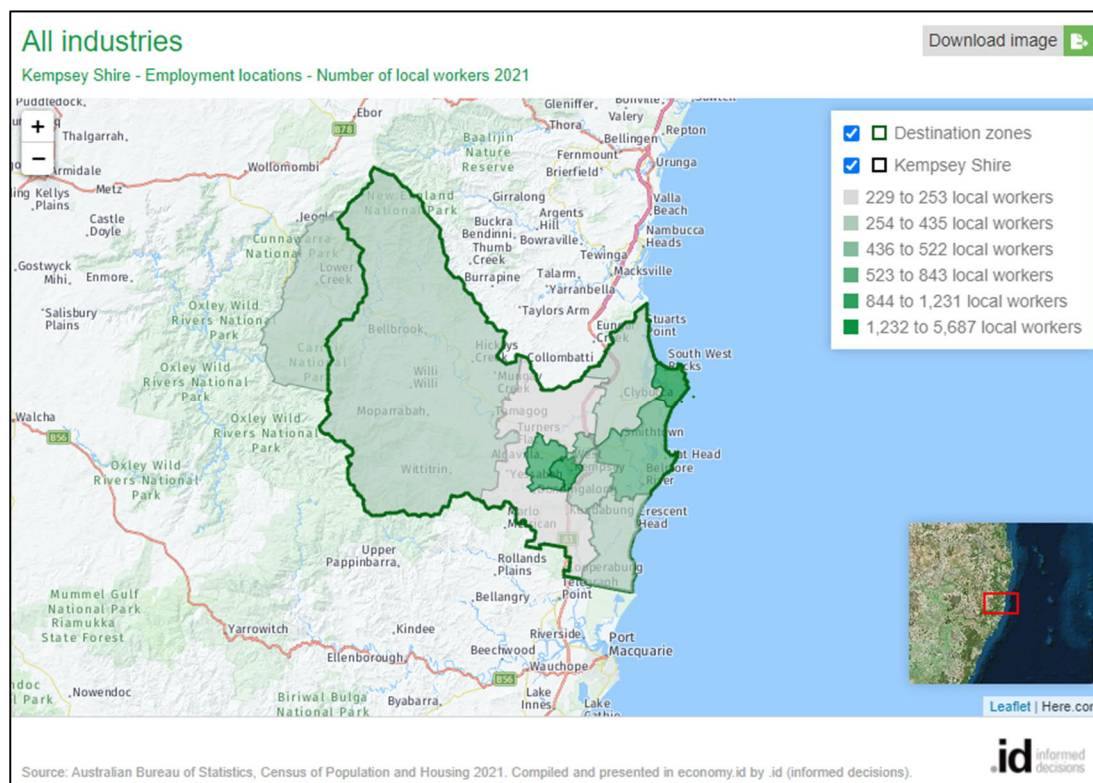


Figure 15 - Local Workers Employment Locations (economy.id.com.au)

Jobs will be created during the civil and environmental management work phases and the residential accommodation construction phase. Ultimately, the additional housing that will eventually result from the Planning Proposal will provide support to the existing local retail centres, schools; health care and social assistance services.

The SWRSP 2023 does not identify the need to provide any additional open space within the Site. There is limited land available in South West Rocks for residential expansion, whilst the locality enjoys access to significant areas of open space and National Park.

SWRSP 2023 also provides for new connections via a new link road from Phillip Drive to Spencerville and ongoing improvement of active transport routes. Development contributions from the subsequent residential subdivision of the Site will help contribute to these improvements.

It is not envisaged that the Planning Proposal will result in demand for new educational facilities (schools) in South West Rocks. Profile Id indicates that there was limited growth in school aged population between 2016 and 2021 census (South West Rocks – Jerseyville) with less than 50 new persons increase. The most significant increase was in the 70-74 age bracket with 196 new persons. Figure 16 provides the change in age structure from 2016 to 2021 Census's.

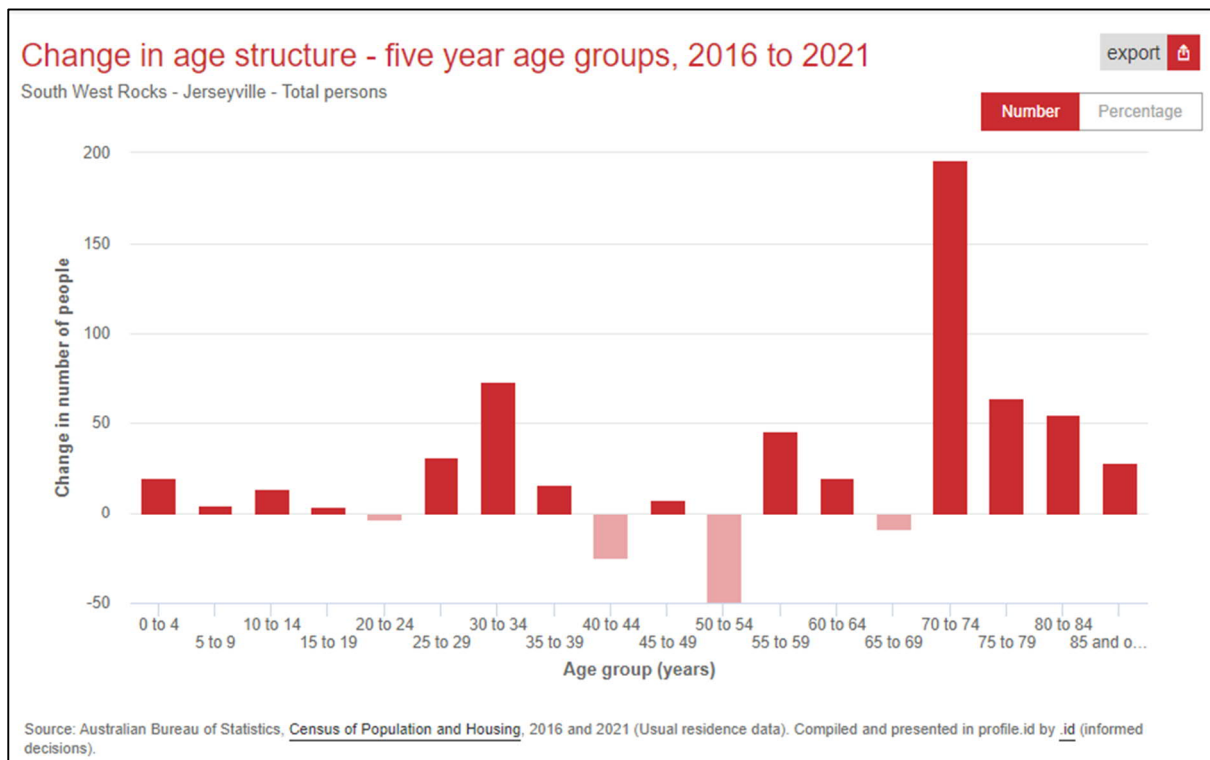


Figure 16 - Change in age structure - five-year age groups, 2016 - 2021 (Source: Profile Id)

This increase in persons in the 70 to 74 age group could be attributed to arising Seniors Housing Developments (over 55's) in the locality including on land to the north of the Site (the Links Over 55's Lifestyle Village). Therefore, in terms of social and economic impact, the Planning Proposal will likely maintain existing industries, such as construction, as other subdivisions adjacent the site become fully developed. However, there may be some additional pressure on health services arising in the South West Rocks locality due to the increasing numbers of older persons relocating to the area.

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 extended from the adjacent developments in Belle O'Connor Street and from Athena Parade. In terms of Stormwater, drainage detention basins are to be established in the northern part of the site following the natural fall of the land. VMP has been prepared for the detention basins and enclosed as Appendix D and is discussed

under Question 9 of this Part of the Planning Proposal.

In terms of road access, it is understood that initial access to the Site will be via Belle O'Connor Street. This access point will not conflict with Council's intention to ultimately establish a connection road between Belle O'Connor Street and Phillip Drive as shown in the SWRSP 2023. The Pre-lodgement discussions involved the potential of negotiating a Voluntary Planning Agreement to provide a second access point through to Arakoon Road. The existing dwelling on the Site currently enjoys access to Arakoon Road between Lots 7 and 8 in DP1219664. This access maybe suitable for such a connection, however there is also opportunity to explore the use of an unformed road reserve directly adjacent the Site's eastern boundary. The most appropriate time to discuss the potential for a Voluntary Planning Agreement would be at the Development Application stage when the subdivision, road layout and construction stages become more advanced.

Nevertheless, should connection to Arakoon Road be made via the development, the Traffic Engineering Report by TPS Group (Appendix H) recommends that a roundabout be installed at any such intersection in the future as traffic volumes would not meet the warrants for traffic lights.

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 and Environment (including Planning and Biodiversity Conservation Divisions, Office of Environment and Heritage NSW and Environmental Protection Authority)
- 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 2013 2011 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 (sheet LZN_013B)

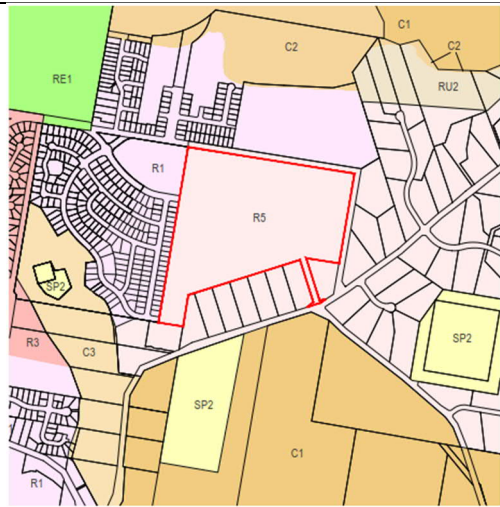
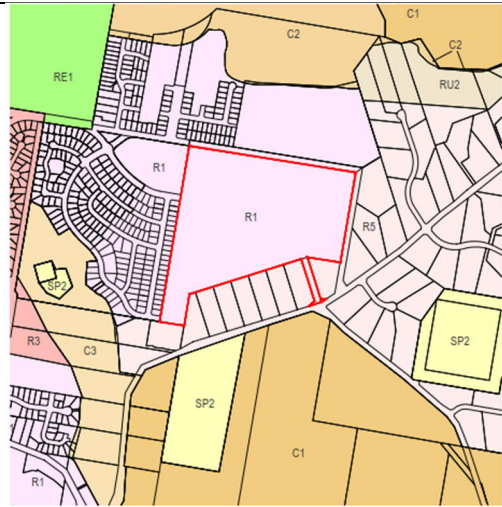
Existing Land Zoning Map (Extract)	Proposed Land Zoning Map (Extract)
	

Table 5 Proposed Amendment to KLEP 2013 Lot Size Maps (sheet LSZ_013B)

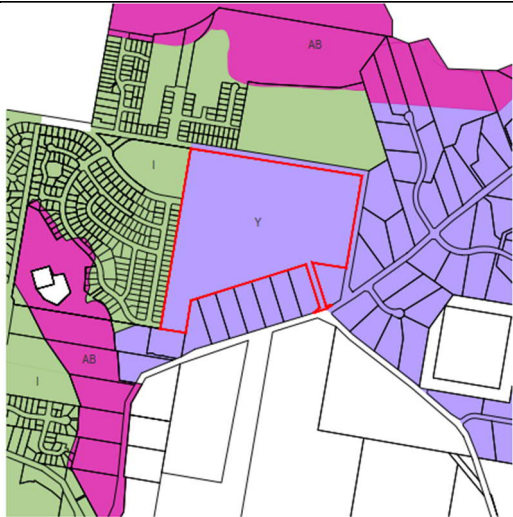
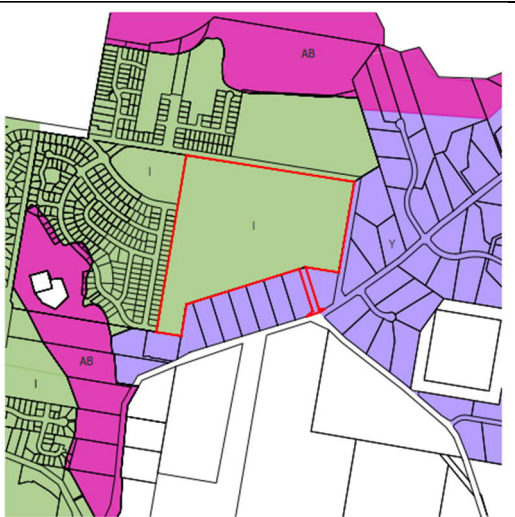


Existing Lot Size Map (Extract)	Proposed Lot Size Map (Extract)
	

Table 6 Proposed Amendment to the KLEP 2013 Height of Buildings Map (sheet HOB_013B)

Existing Height of Buildings Map (Extract)	Proposed Height of Buildings Map (Extract)
	

PART 5 - Community Consultation

Prelodgement – Kempsey Shire Council

A pre-lodgement meeting was held with Kempsey Shire Council in May 2021.

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

Table 7 - Pre-lodgement consultation

Matter	Pre-lodgement notes	Comments
Ecological matters namely: Koala habitat, flora and fauna values	<p>The site contains areas of vegetation identified in the Comprehensive Koala Plan of Management for the Eastern Portion of Kempsey Shire LGA (CKPoM) as preferred Koala habitat (PKH) Secondary (Class A) and Secondary (Class B). Additionally, as the site is zoned R5 Large Lot Residential, State Environmental Planning Policy (Habitat Protection) 2021 currently applies to this site.</p> <p>The site is also mapped as containing potential high environmental values as defined in Direction 2 of the North Coast Regional Plan 2036.</p> <p>Discussions also covered the Biodiversity Conservation Act 2016 and biodiversity offsets, as well as the sensitive lands mapping which can be accessed through the following website:</p> <p>https://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap</p> <p>It was noted that the rezoning proposal may trigger the requirement of Koala habitat offsets in accordance with the CKPoM and biodiversity offsets in accordance with the Biodiversity Conservation Act 2016. There may be opportunity to provide all or some of these offsets on-site, however detailed investigation is required to determine this.</p>	<p>An Ecological Report by Biodiversity Australia is provided as Appendix B. The report found that the Site does not contain any Primary or Secondary Koala Food Trees and would only qualify as 'Other' Koala habitat in accordance with the KSC CKPoM.</p> <p>Biodiversity Australia also found that the Site does not qualify as containing any HEV areas.</p> <p>Nevertheless, Biodiversity Australia have also prepared a VMP for the proposed drainage detention basins to reinstate PCT 4004 within the Site, as a mitigation measure in respect to the subsequent development of the Site for residential subdivision.</p>
Aboriginal cultural heritage	<p>Proponents were advised that the site may potentially contain Aboriginal cultural heritage. The extent and nature of this aspect is unknown.</p>	<p>An Aboriginal Due Diligence Assessment Report by Heritage Now Pty Ltd has been undertaken and is provided as Appendix E.</p>
Road Access	<p>It is understood that initial access to the site will be via Belle O'Connor Street. This access point will not conflict with Council's intention to ultimately establish a connection road between Belle O'Connor Street and Phillip Drive. Council will soon be undertaking a Structure Plan for South West Rocks. The alignment of the road linking Belle O'Connor Street and Phillip Drive will be explored further through this project.</p> <p>An arrangement (through a Voluntary Planning Agreement) will be required to ensure that a second access point through to Arakoon Road is also provided at a stage agreed to with Council. Intersection works will be required at the development application stage (to obtain consent for the future subdivision). Engineering</p>	<p>The SWRSP 2023 is now complete and was adopted by Council in June 2023. A general corridor for the link between Belle O'Connor Street and Phillip Drive is identified in the SWRSP 2023 and does not affect the Site and nor will the Planning Proposal interfere with the proposed link.</p> <p>It is considered premature to negotiate a Voluntary Planning Agreement at the Planning Proposal stage to secure a road</p>

	drawings are not required at this stage.	<p>link from the Site to Arakoon Road.</p> <p>A more appropriate time to open discussions regarding such a link would be at the pre-lodgement stage for a Development Application, where lot and road layouts can be refined; as well as construction staging.</p> <p>Nevertheless, should connection to Arakoon Road be made via the development, the Traffic Engineering Report by TPS Group (Appendix H) recommends that a roundabout be installed at any such intersection in the future as traffic volumes would not meet the warrants for traffic lights.</p>
Acid Sulfate Soils	<p>Portions of the lot potentially contains Class 4 Acid Sulfate Soils, which will need to be addressed at development application stage.</p> <p>Section 9.1 Ministerial Directions – The Planning Proposal will need to address all relevant s9.1 directions.</p>	<p>Direction 4.5 requires an Acid Sulfate Soils (ASS) assessment to be undertaken prior to public exhibition of the Planning Proposal. Regional Geotechnical Solutions (RGS) have been engaged to carry out an ASS Report, which will be provided to Council prior to public exhibition.</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 studies:</p> <ul style="list-style-type: none"> • Flora & fauna (including Koala) study. Reporting is also likely needed to determine the biodiversity credits required to offset future development impacts by applying Stage 1 of the Biodiversity Assessment Method (BAM) to areas of confirmed HEV land proposed for land use intensification. • A traffic report which includes an assessment based on access from Belle O'Conner Street and Arakoon Road. • Bushfire: a bushfire assessment will be required. • Aboriginal Heritage reporting: initially an AHIMS search and the provision of an Aboriginal Cultural Heritage Assessment Report from the Kempsey Local Aboriginal Land Council. • Additional reporting will be required if the site is identified to be of Aboriginal cultural heritage significance. • A survey plan (if split zoning is proposed) and an 	<p>The following reports have been prepared to support the Planning Proposal:</p> <ul style="list-style-type: none"> • Ecological Impact Assessment by Biodiversity Australia - Appendix B • A Traffic Study by TPS Group – Appendix H • A Bushfire Hazard Assessment by David Pensini – Appendix G. • Aboriginal Due Diligence Assessment Report by Heritage Now Pty Ltd – Appendix E. • Indicative subdivision plan provided at Appendix C.

	indicative site plan for the subdivision proposed.	
Summary of Information provided – including Fees etc.	<p>Council's Application to Amend Kempsey LEP 2013 form can be Downloaded through Council's website:</p> <p>http://www.kempsey.nsw.gov.au/pdfsForms/applic_rezoning_land.pdf</p> <p>Council's fees for a major LEP amendment comprise of 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 for consideration and Council resolution to proceed, forwarding Planning Proposal to the NSW Department of Planning (DPIE), liaising with DPIE and LEP Review Panel to obtain Gateway Determination regarding further progress of the LEP Amendment. \$6,500</p> <p>Stage 2 – Gateway Determination to proceed. Includes the following consultation (as directed by the DPIE), State /Commonwealth Authorities, community consultation, consideration and reporting to Council of amendments, referral to DPE for final determination, and all advertising/notification. \$6,500</p>	Noted.

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

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.

Stage	Timeframe and/or date
Consideration by Council	April/May 2024
Council decision	June 2024
Gateway determination	August 2024
Pre-exhibition	September 2024 to February 2025
Public Exhibition	March 2025
Consideration of submissions	April 2025
Post-exhibition review & additional studies	May 2025
Submission to Department for finalisation (where applicable)	June/July 2025
Gazettal of LEP amendment	August 2025

END OF PLANNING PROPOSAL