

<b>DATE OF DECISION</b>	15 October 2021
<b>PANEL MEMBERS</b>	Paul Mitchell (Chair), Penny Holloway, Tim Fletcher, Rhonda Hoban and Daniel Walsh
<b>APOLOGIES</b>	Stephen Gow
<b>DECLARATIONS OF INTEREST</b>	None

### REZONING REVIEW

RR\_2021\_KEMPS\_001\_00 - Kempsey Shire Council –AT Part of Lot 35 DP 1214499, South West Rocks (Saltwater) (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- ☐ The Council has notified the proponent that the request to prepare a planning proposal has not been supported.
- ☒ The Council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support.

### PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination once the conditions given below have been satisfactorily addressed because the proposal has demonstrated strategic and site-specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
- ☐ not demonstrated strategic merit
  - ☐ has demonstrated strategic merit but not site-specific merit

The decision was unanimous.

### REASONS FOR THE DECISION:




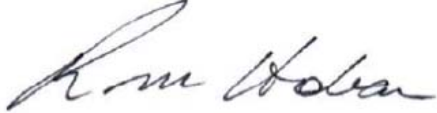

1. The proposal has strategic merit because it is consistent with relevant provisions of the North Coast Regional Plan as the site is within an urban growth area boundary, an identified urban investigation area and avoids areas of potentially high environmental value and risk. The proposal is also consistent with relevant provisions of the LGMS.
2. The proposal would be compatible with adjoining residential land and will help to provide greater housing supply and choice.
3. The proposal exhibits sufficient site-specific merit to warrant further investigation about its development potential under the Gateway process.

### CONDITIONS

Prior to the proposal proceeding to Gateway the following conditions are to be complied with:

1. An ecological study of the site is to be undertaken by suitability qualified specialists who have not been involved in earlier ecological studies of the site. The study is to involve appropriate on-site surveys and is to review the findings of earlier ecological studies of the site. Recommendations are to be made about protection or compensation measures needed to protect areas of ecological value, particularly any species or communities listed on relevant Commonwealth or NSW legislation. The planning proposal is to be amended as necessary to incorporate the recommended measures.

2. Assuming the amended proposal does not include retention of existing Koala feed trees on the site, a study is to be undertaken by a suitably qualified ecologist to determine the compensation measures necessary to address the tree loss. The measures are to include the location of the land on which the compensation measures would be implemented and the legal mechanism by which the measures would be secured.
3. The Douglas Partners (August 2016) groundwater study is to be augmented to include on-site investigations. The groundwater measures recommended in the 2016 study are to be reviewed and amended as necessary considering the augmented study.
4. An Aboriginal Cultural Heritage Assessment (ACHA) is to be undertaken for the site and the planning proposal is to be amended, as necessary, considering the findings of the ACHA.
5. A preliminary contaminated site investigation of the site is to be undertaken and, if necessary, more detailed site investigations and a remediation action plan prepared.
6. An acid sulfate soils investigation of the site is to be undertaken and, if warranted, a draft acid sulfate soils management plan prepared.
7. An amended version of the planning proposal is to be prepared following completion of the above studies to incorporate all reasonable and practical management and mitigation measures given in the studies. The estimated residential yield from the amended proposal is to be determined and the capacity of local water, sewerage and roads systems to accommodate this level of development is to be investigated and any upgrading requirements identified including suggested financial arrangements for provision and upgrading of infrastructure.
8. The amended version of the planning proposal is to be submitted to DPIE for review and DPIE is to advise the Panel as whether all Gateway conditions have been complied with.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Penny Holloway
 Tim Fletcher	 Rhonda Hoban
 Daniel Walsh	

SCHEDULE 1		
1	DEPARTMENT REF - LGA – ADDRESS	RR_2021_KEMPS_001_00 - Kempsey Shire Council –AT Part of Lot 35 DP 1214499, South West Rocks (Saltwater)
2	LEP TO BE AMENDED	Kempsey Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The proposal seeks to rezone part of Lot 35 DP 1214499, South West Rocks from RU2 Rural Landscape to R1 General Residential and amend the minimum lot size and height of building standards.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Rezoning review request documentation</li> <li>Briefing report from Department of Planning, Industry and Environment</li> </ul>
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li><b>Briefing with Department of Planning, Industry and Environment (DPIE):</b> 25 August 2021 <ul style="list-style-type: none"> <li>Panel members in attendance: Paul Mitchell (Chair), Penny Holloway, Tim Fletcher, Rhonda Hoban and Daniel Walsh</li> <li>DPIE staff in attendance: Jenny Johnson, Lucy Walker, Sung Pak, Holly McCann and Lisa Foley</li> </ul> </li> <li><b>Briefing with Council:</b> 25 August 2021 <ul style="list-style-type: none"> <li>Panel members in attendance: Paul Mitchell (Chair), Penny Holloway, Tim Fletcher, Rhonda Hoban and Daniel Walsh</li> <li>DPIE staff in attendance: Jenny Johnson, Lucy Walker, Sung Pak, Holly McCann and Lisa Foley</li> <li>Council representatives in attendance: Robert Fish, Steve Schwartz and Peter Orr</li> </ul> </li> <li><b>Briefing with Proponent:</b> 25 August 2021 <ul style="list-style-type: none"> <li>Panel members in attendance: Paul Mitchell (Chair), Penny Holloway, Tim Fletcher, Rhonda Hoban and Daniel Walsh</li> <li>DPIE staff in attendance: Jenny Johnson, Lucy Walker, Sung Pak, Holly McCann and Lisa Foley</li> <li>Proponent representatives in attendance: Keiley Hunter, Lex Tall and Robbie Tall.</li> </ul> </li> </ul>