

Planning Proposal

Kempsey Shire Council
'Saltwater', South West Rocks

December 2023

V3: Post NRPP Review

PP-2021-4455

RR-2021-89

Declaration

Document Name: Planning Proposal – Saltwater Rural to Residential

Document Author: Keiley Hunter

Occupation of document author: Town Planner

Qualifications of document author: Bach Urban and Regional Planning

Declaration: I, *Keiley Hunter*, declare that this Planning Proposal constitutes a planning proposal for the purposes of section 3.33 of the *Environmental Planning and Assessment Act 1979* (the Act) and further declare that the document complies with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning, Industry and Environment's *Local Environmental Plan Making Guideline* (August 2023).

Date: 8 December 2023

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1.0 Introduction

1.1 Executive Summary

The key components of the Planning Proposal are listed below.

Table 1.1 Executive Summary

Proposal	Amend LEP zone and lot size to enable residential development.
Landowner	Tee Bee Holdings Pty Ltd
Purpose	The specific intention of this Planning Proposal is to: <ul style="list-style-type: none"> • Rezone the land from RU2 Rural Landscape to R1 General Residential. • Amend the Minimum Lot Size Map for the land from 40 hectares to 500 square metres (m²) • Identify the land on the Height of Building Map as 8.5 m.
Map changes	Map-only amendment to Land Zoning Map (LZN_013B), Lot Size Map (LSZ_013B) and Height of Buildings Map (LZN_013B).
Proposal Category	Standard
Site Address	Hillier Parade, South West Rocks
Subject Land	Lot 17 DP 1277594; Lot 19 DP 1277594; Lot 11 DP 1277594 (part); Lot 16 DP 1277594 (part).
Current Land Use Zone	RU2 Rural Landscape

1.2 Background

This Planning Proposal has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* and *A guide to preparing planning proposals* (NSW Department of Planning and Environment 2018) and *A guide to preparing local environmental plans* (NSW Department of Planning and Environment 2018).

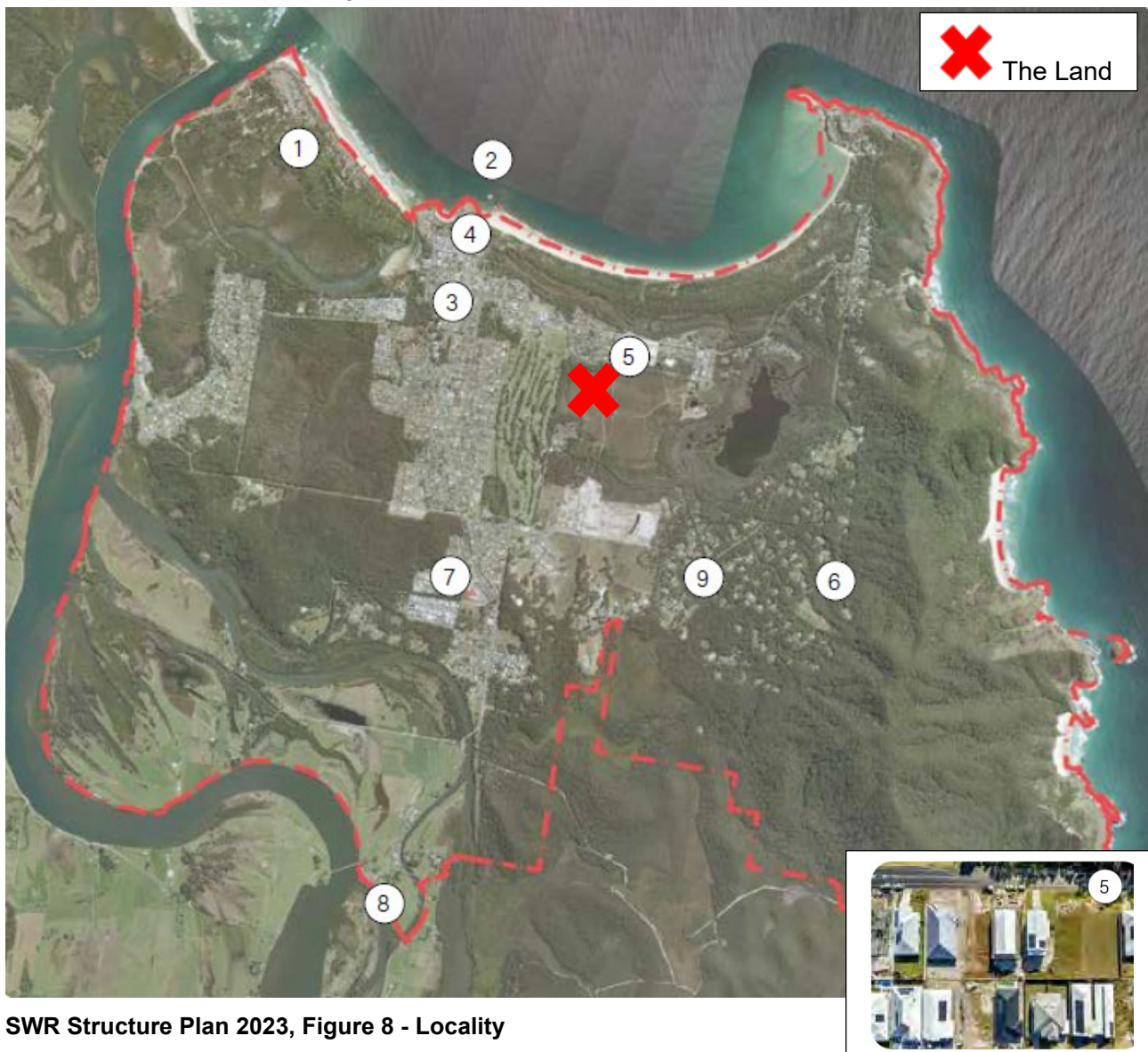
This Planning Proposal explains the intended effects of a proposed amendment to the *Kempsey Local Environmental Plan 2013* ('LEP 2013') to enable residential development of the subject land that is presently zoned RU2 Rural Landscape. Lot 17 DP 1277594 is the primary land parcel has an area of 12.07 hectares. The smaller part lots result from minor cadastral changes to accommodate infrastructure (Council pump station and a future public road).

The land was identified in the Kempsey Local Growth Management Strategy Residential Component 2010 as a new release area. The land was previously zoned Rural Investigation 1D under the Kempsey LEP 1987. The land was deferred from LEP Amendment 55 in 2009 pending the upgrade of the South West Rocks Sewage Treatment Plant (SWR STP) and odour modelling of the STP

operating under 'worst case' scenario.¹ Since then, a Council initiated review of the SWR STP Buffer Zone Odour Impact Assessment has determined that a 150 m buffer from the SWR STP is considered reasonable. In 2013 Council invited the proponents to submit a 'fresh' Planning Proposal for the subject land and recommended a waiver for the need to prepare a Local Environmental Study or to re-exhibit the Planning Proposal (Copy of letter at **Appendix H**).

Since 2013, preliminary discussions between the proponent and Kempsey Shire Council (Council) indicated that part of the land may be suitable for sporting fields, with various proposals and options so far unactioned. Council has indicated an interest in acquiring part of the land for the purpose of expanding district sporting fields. Council has advised the landowner that an additional 6.1 ha of recreation land is needed in South West Rocks, but there is no current acquisition proposal and the LEP has not reserved the land for acquisition for any purpose.

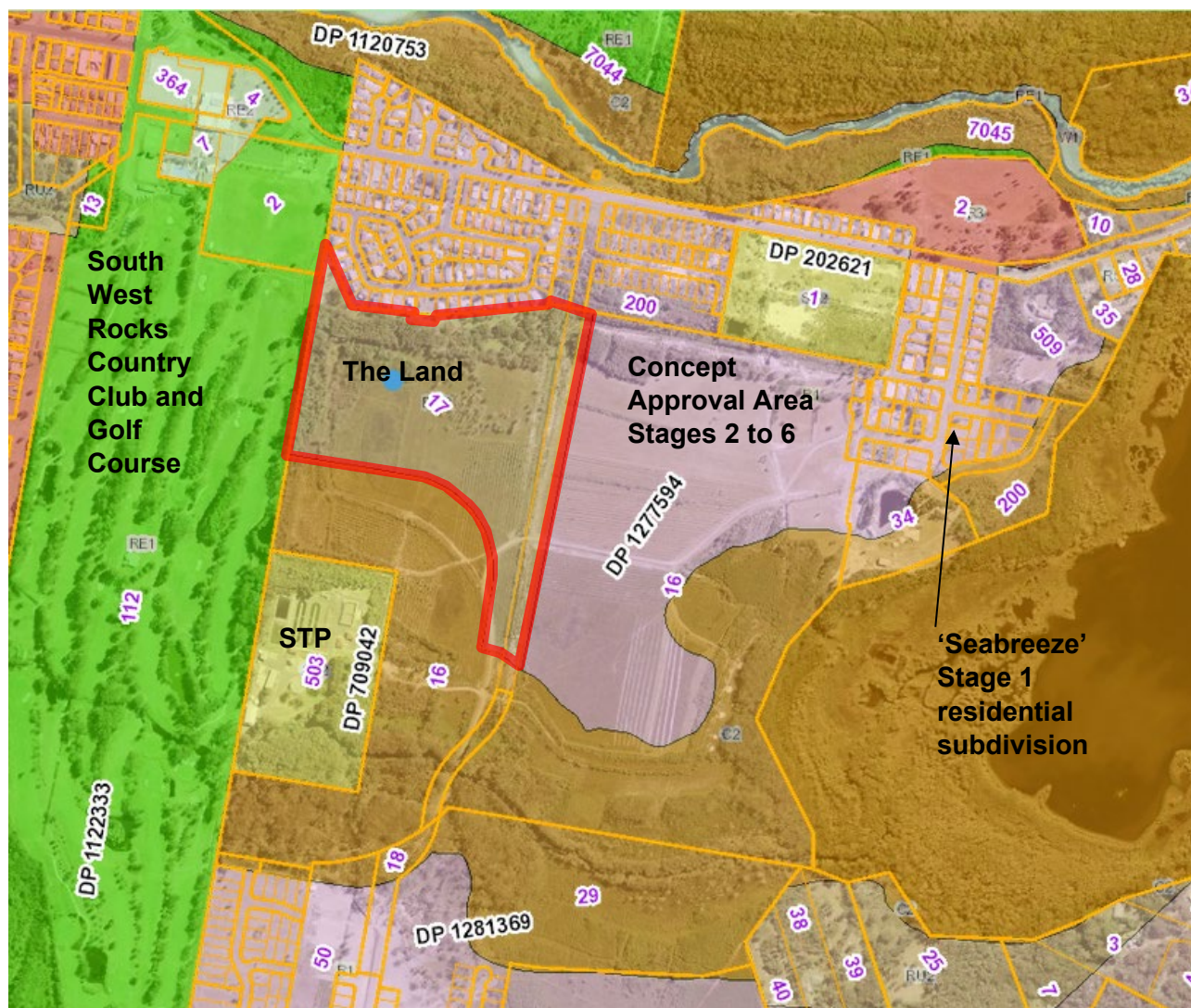
Illustration 1.1 Locality Plan



SWR Structure Plan 2023, Figure 8 - Locality

¹ Motion 2009:117 10/3/09: That Council adopt Draft LEP Amendment 55 except for the area of land that is shown on the attached Map as the "Deferred Area" pursuant to s68 of the EP&A Act, and forward it to the Department of Planning for Gazettal.

Illustration 1.2 The Land



NSW Planning Portal Spatial Viewer 2023

The Planning Proposal will enable a residential subdivision creating vacant land for housing incorporating a range of lots sizes suitable for low and medium density residential development. A Concept Subdivision Masterplan is provided at **Appendix A**.

The Planning Proposal is informed, justified and supported by the following documents:

Table 1.2 Supporting Information and Assessments

Appendix	Document	Consultant/Agency
A	Concept Subdivision Masterplan	King + Campbell
B	Saltwater DCP Masterplan	Planit Consulting
C	Consistency with SEPPs	Keiley Hunter Urban Planner
D	Consistency with Ministerial Directions	
E	Bush Fire Risk Assessment	Building Certification and Environmental Services
F	Biodiversity Assessment	Biodiversity Australia
G	Flood Assessment	de Groot & Benson
H	Correspondence	Kempsey Shire Council
I	Record of Decision 15 October 2021	Northern Regional Planning Panel
	Record of Decision 24 October 2023	
	Assessment Against Panel Conditions	NSW DPE
	Pre-Gateway Determination Report	Director, Agile Planning (DPE)
J	Aboriginal Cultural Heritage Assessment	Everick Heritage
K	Servicing Assessment	De Groot and Benson
L	Contamination Assessment	Regional Geotechnical Solutions
M	Groundwater Assessment	Douglas Partners
N	Acid Sulfate Soils Assessment	Regional Geotechnical Solutions
O	Request for Alternate PPA	Keiley Hunter Urban Planner
P	Deposited Plan 1277594	King + Campbell
Q	Landscape Master Plan	Design Lead Landscape Advice (DLLA)
R	STP Odour and Noise Assessments	Various
S	NSW Coastal Design Guidelines	Keiley Hunter Urban Planner

The above documents are found in the **Appendices** to this report.

1.3 Rezoning Review

The Planning Proposal was lodged with Council on 16 February 2021. On 27 May 2021 a Rezoning review request lodged by proponent as Council failed to indicate its support within 90 days of lodgement.

On 15 October 2021, the Northern Regional Planning Panel decided that the Planning Proposal 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. The reasons for the decision were that:

1. *The proposal has strategic merit because it is consistent with relevant provision 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 the relevant provisions of the LGMS.*
2. *The proposal would be compatible with adjoining residential land and will held to provide greater housing supply and choice.*
3. *The proposal exhibits sufficient site-specific merit to warrant further investigation abouts its development potential under the Gateway process.*

The Panel's eight (8) conditions are listed below:

1. *An ecological study is to be undertaken by suitably 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 the protection or compensation measures needed to protect areas of ecological value, particularly any species or communities listed on the 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 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 investigation. 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, consider 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 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 [sic] conditions have been complied with.*

A detailed assessment against the Panels Conditions was provided to Council and the NSW Department of Planning on 10 January 2022.

On 14 June 2022 a request was made to the Department of Planning and Environment (DPE) Northern Region requesting an alternate PPA be appointed as Council had failed to accept the role within the prescribed 43 days. On 29 September 2022 the Panel was appointed as PPA.

Assessment against Panel Conditions

On 14 February 2023, a revised Planning Proposal was submitted addressing the required supporting information in response to the Panel's eight conditions.

DPE's Agile Planning team considered the revised Planning Proposal and additional information against the Panel's conditions, as detailed in **Appendix I**. The Agile Planning team issued a Pre-Gateway Report on 28 August 2023 where it was recommended that:

The Agile Planning team has considered the revised planning proposal against the Panel's conditions and has consulted BCD on the Conditions 1 and 2 as they relate to biodiversity and ecological impacts.

The Agile Planning team is satisfied that the proponent has adequately addressed all conditions, except Condition 2. The Agile Planning team recommends that proponent pay the outstanding PPA fee and then update the planning proposal and supporting ecological studies to address the comments from BCD prior to lodging for Gateway determination.

Based on the advice of BCD, the Agile Planning team recommends that the planning proposal and supporting ecological studies be updated to:

- reflect the koala habitat compensation measures in accordance with the CKPoM, rather than the Coffs Harbour Development Control Plan 2015 (which does not apply to the site)*
- assess high environmental value (HEV) land as required under the NCRP*
- demonstrate whether the C2 Environmental Conservation zoned land to the south has the necessary ecological attributes for the required koala habitat compensation area*
- address the suitability of the C2 Environmental Conservation zoned land to the south with regards to land ownership and management responsibilities.*

The "new" Panel

Panel members have changed since the Panel's decision on the Rezoning Review of 15 October 2021, therefore a site visit was convened on 11 October 2023 to enable the "new" Panel to familiarise themselves with the Saltwater site followed by a Panel briefing on 13 October 2023.

The Record of Decision is attached at **Appendix I** and is summarised as follows:

- Subject to condition 2 being satisfactorily addressed and the Proposal recommended to proceed to Gateway, the Panel requires an Odour Impact Assessment to be undertaken to confirm the 150 m buffer zone to the South West Rocks Sewage Treatment Plant is adequate. This is to occur prior to public exhibition of the Planning Proposal.*
- The Panel concurred with the Department's Pre-Gateway Briefing Report recommendation that conditions 1 and 2 to 8 have been adequately met by the proponent but further work is required to address condition 2.*

- *Should the Panel be satisfied that condition 2 had been satisfactorily addressed, and prior to the Planning Proposal going on exhibition, the applicant will be required to satisfy the Panel that the site has the capability to accommodate alternate sludge handling operations (based on an upgraded capacity of 12,000 EP) to enable the reduced 150 m odour setback.*

This Planning Proposal document has been updated to include the additional work that has been prepared to address Condition 2 and to reflect current strategic plans, SEPPs and ministerial directions.

1.4 The Land

The land is described as Lot 17 DP 1277594; Lot 19 DP 1277594; Lot 11 DP 1277594 (part); Lot 16 DP 1277594 (part) with an area of 14 hectares. A copy of DP 1277594 is attached at **Appendix T**. A locality plan is provided as **Illustration 1.1**. The land is vacant and adjoins the residential subdivision commenced on the adjoining land holding (Lot 16 DP 1277594 and resultant lots) in 2019 (DA T6-17-446) for a Concept Masterplan and Stage 1 subdivision for a total of 223 lots. The properties surrounding the overall land holding comprise the South West Rocks Country Club, an established residential area with frontage to Currawong Crescent, the approved and commenced SWRUT residential subdivision (35 lots) and the South West Rocks Sewerage Treatment Plant.

The land is subject to an existing 1996 development consent for a Tea Tree plantation (DA/96/2). That consent commenced (as can still be observed on site) and is therefore preserved in perpetuity. DA T6-17-446 (Condition 8) requires the surrender of existing consents for that land within Stage 1 prior to the issue of a construction certificate. The land is relatively flat (around 4.5m AHD), mapped as bush fire prone land, partially flood affected and contains some remnant native vegetation.

Illustration 1.3 Subject Land Context



Source: Biodiversity Australia, Biodiversity Assessment, Figure 4, 2023

1.5 Concept Masterplan

A Concept Subdivision Masterplan by King + Campbell showing potential subdivision arrangements, dwelling yield and compatibility with the surrounding residential pattern is provided at **Appendix A** and is shown in the illustration below.

Illustration 1.4 Concept Masterplan



RU2 TO R1 PLANNING PROPOSAL DEVELOPMENT AREA	
HOUSING TYPE	LOT/ DWELLING YIELD
500 TO 600 m ²	41
> 600 m ²	22
DUAL ACCESS	7
DUAL OCCUPANCY	15 (30 DWELLINGS)
MEDIUM DENSITY	5 (44 DWELLINGS @ 26/ha)
TOTAL LOTS	90
TOTAL DWELLINGS	144

Source: King + Campbell, November 2023 (Appendix A).

Guiding design principles of the Concept Masterplan are summarised as follows:

1. Provision of residential land suitable for a **range of housing types and densities**.
2. **Integration** with the adjoining residential approval area.
3. Provision of a **safe** and logical public **road network**, footpaths and cycleways.
4. Recognising the hierarchy of the **north-south road link** between Hillier Parade and Shamrock Avenue.
5. Compliance with NSW Planning for **Bushfire Protection** 2019 subdivision requirements.
6. Clearly identifying a suitable **Koala habitat offset area** within land of the same ownership.
7. Provision of a stormwater management system that will accommodate the development's drainage requirements and provide additional **habitat** opportunities for wallum froglet.
8. **Interface with adjoining golf course:**

At the NRPP site meeting conducted 11 October 2023, a question was raised relating to the interface between the proposed residential development of the subject land and the adjoining golf course. There is a significant amount of vegetation on the golf course providing a barrier to the subject land. As indicated in the image below, only a small section of the development layout would be exposed to a stray golf ball. It is anticipated that the existing vegetation on the golf course and the separation from the boundary to the proposed lots in this instance provides suitable protection.

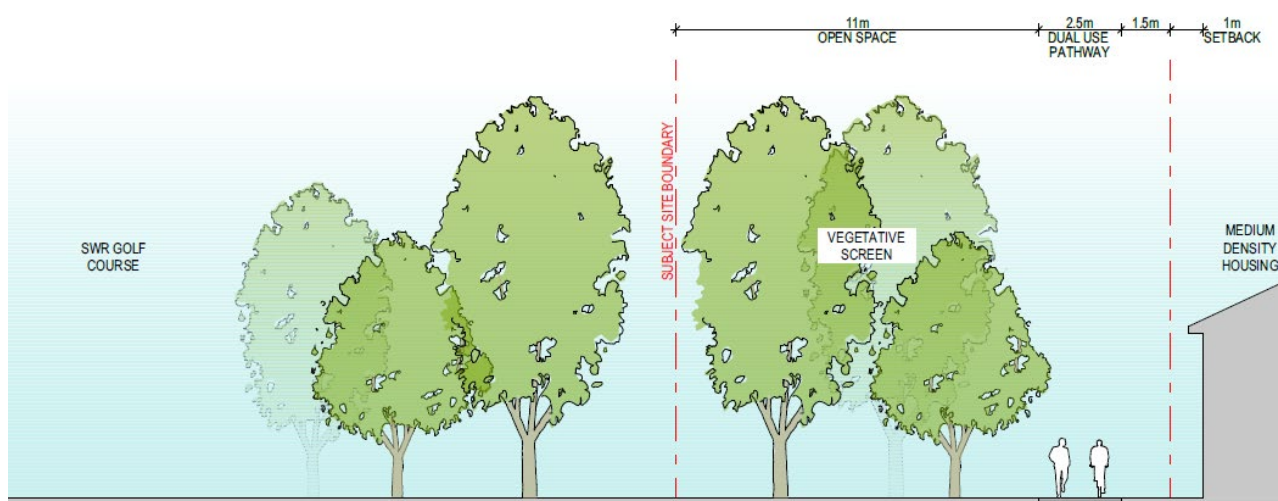
9. Identification of land that is suitable for potential **sporting fields** or golf course extension.

Earlier masterplans for the Saltwater precinct were prepared by Planit Consulting in 2009 on behalf of Council for inclusion in a Saltwater precinct specific Development Control Plan. The Saltwater South West Rocks Development Control Plan (DCP) 2010 prepared by Planit Consulting was adopted by Council on 21 June 2011 and came into effect on 5 July 2011. The 'Planit' Masterplans are provided at **Appendix B**.

Illustration 1.5 Interface with golf course



Section A-A



Source: King + Campbell, 2023 – Refer full drawing set at Appendix A

Images



Third tee looking south – subject land to the left



Third tee sign (Images: King & Campbell, 2023)

2.0 Planning Proposal

2.1 Intended Outcomes

The objective of this Planning Proposal is to amend LEP 2013 to facilitate residential development of the land.

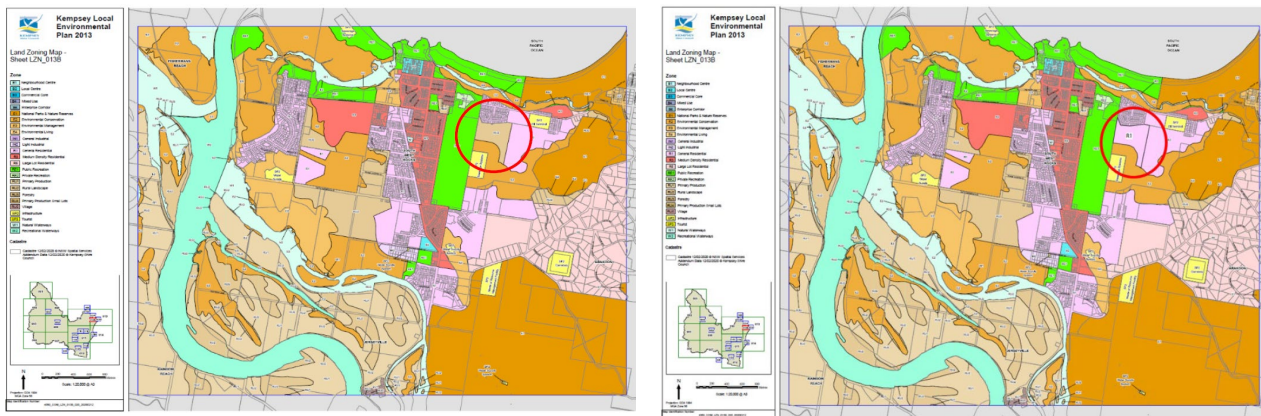
2.2 Explanation of Provisions

The intended outcome of this Planning Proposal will be achieved by amending LEP 2013 as follows:

1. Kempsey LEP Land Zoning Map (Sheet LZN_013B)

Amend the Land Zoning Map for the rural zoned part of the subject land from RU2 Rural Landscape to R1 General Residential.

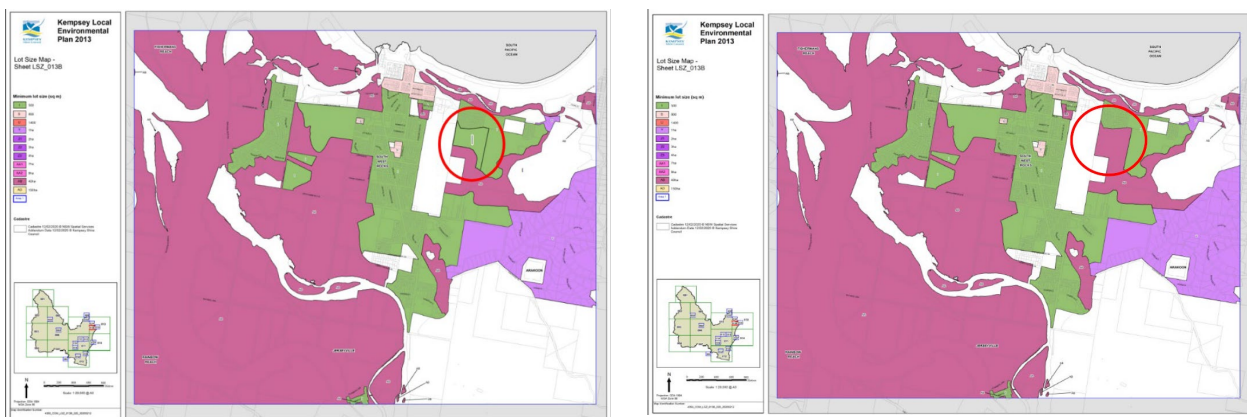
Illustration 2.1 Current and Proposed LEP 2013 Land Zoning Map



2. Kempsey LEP Lot Size Map (Sheet LSZ_013B)

Amend the Lot Size Map for the rural zoned part of the subject land from AB = 40 ha to I = 500 sq.m.

Illustration 2.2 Current and Proposed LEP 2013 Lot Size Map



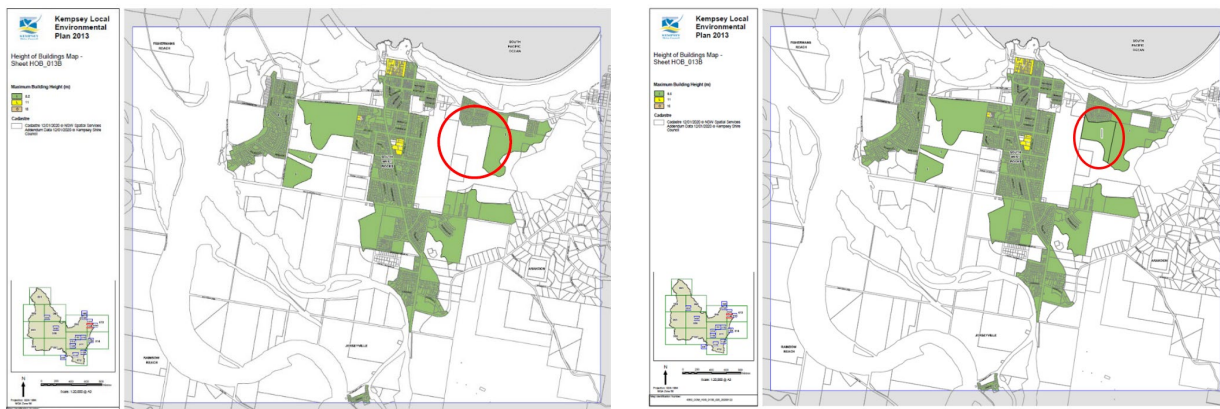
Current

Proposed

3. Kempsey LEP Height of Buildings Map (Sheet LZN_013B)

Amend the Lot Size Map for the rural zoned part of the subject land to $l = 8.5$ metres.

Illustration 2.3 Current and Proposed LEP 2013 Height of Buildings Map



Current

Proposed

3.0 Justification

3.1 Objectives of the Planning Proposal

The objective of this Planning Proposal is to amend Kempsey LEP 2010 Lots Zone, Minimum Lot Size and Height of Building Maps to the land to be developed for residential purposes.

As indicated on the Concept Plan of Subdivision prepared by King and Campbell, the Planning Proposal will enable a subdivision creating approximately 90 low density residential lots with a minimum lot size of 500 m² and five (5) development lots suitable for medium density housing demonstrating the lands' capability to deliver mixed residential densities. A full copy of the concept plan is found at **Appendix A**.

3.2 Intended Outcomes

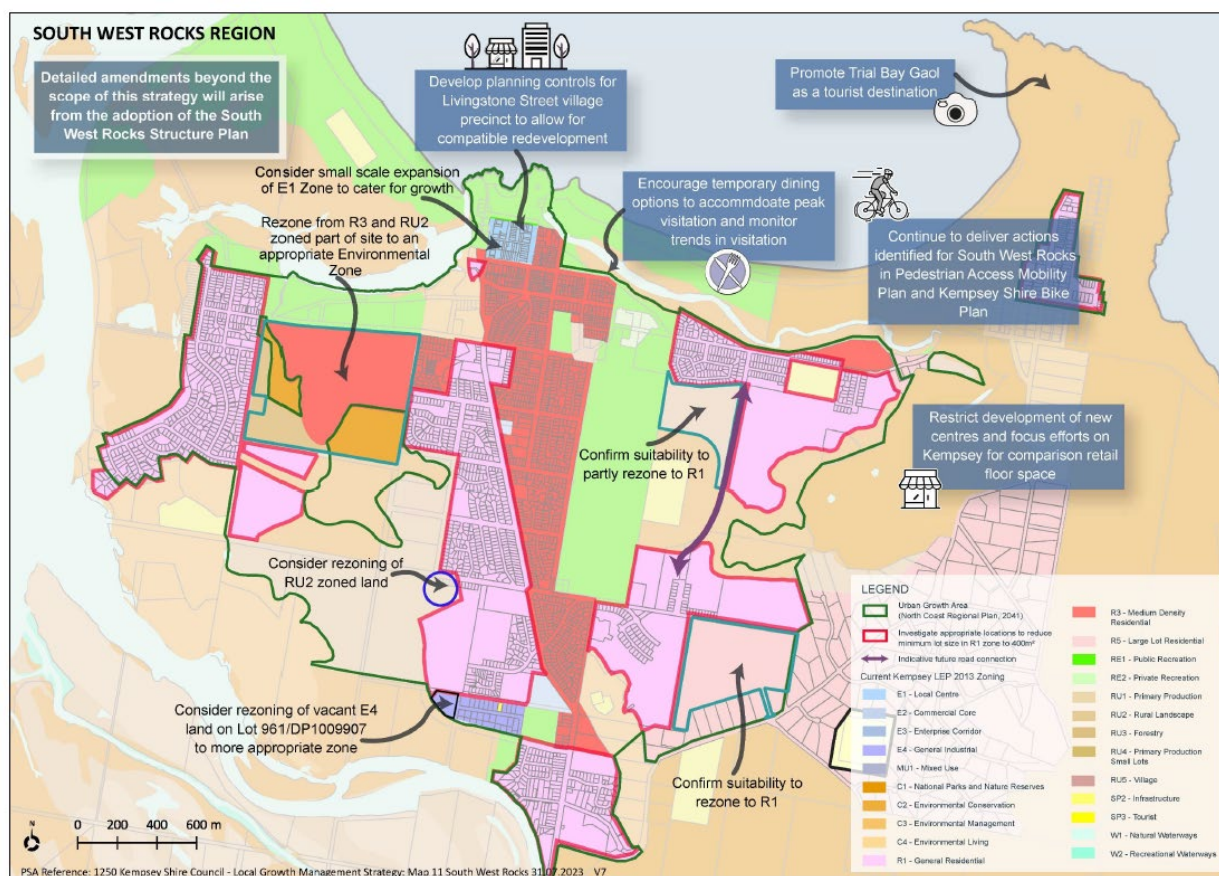
The intended outcome of the Planning Proposal is to facilitate the delivery of residential housing within the urban growth area boundary.

Is the planning proposal a result of any strategic study or report?

Yes. This Planning Proposal has been prepared to support a proponent funded application to amend LEP 2013. The land is within an Urban Growth Area identified in the *Kempsey Local Strategic Planning Statement (LSPS)* and the North Coast Regional Plan 2042. The land is identified as a "New Release Area" in the *Kempsey Local Growth Management Strategy - Residential Component 2010*.

Since the Planning Proposal was lodged, the *Kempsey Local Growth Management Strategy 2023* was prepared and adopted by Council in August 2023. The subject land is identified in the strategy as within the Urban Growth Area with a notation to 'confirm suitability to partly rezone to R1'.

Illustration 3.1 SWR Local Growth Management Strategy 2023



Map 8 – South West Rocks Local Growth Management Strategies and Actions

Figure 1 Map 8 SWR LGMS Strategies and Actions South West Rocks Region

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. This Planning Proposal is the appropriate means of achieving the intended outcomes and is supported by relevant planning studies. The Planning Proposal is consistent with adopted planning policies and strategies discussed above.

Is there a net community benefit?

The Net Community Benefit Criteria is identified in the NSW Government's publication *The Right Place for Business and Services*. This policy document has a focus on ensuring growth within existing centres and minimising dispersed trip generating development. It applies most appropriately to Planning Proposals that promote a significant increase of residential areas or densities, or a significant increase of employment areas or the like.

The accompanying Concept Masterplan shows that this Planning Proposal will enable 90 low density residential lots and five (5) medium density development lots to be created with an estimated yield of 144 dwellings within an infill location, close to shops, services and employment land in the South West Rocks town centre and surrounding area. The proposal does not involve business, industrial or employment land uses, however, providing land for housing will have a positive community benefit in terms of maintaining housing affordability and choice in South West Rocks.

Illustration 3.2 Community Spaces and Facilities



Source: SWR Structure Plan, 2023; Figure 28.

3.3 Relationship to Strategic Planning Framework

Is the Planning Proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

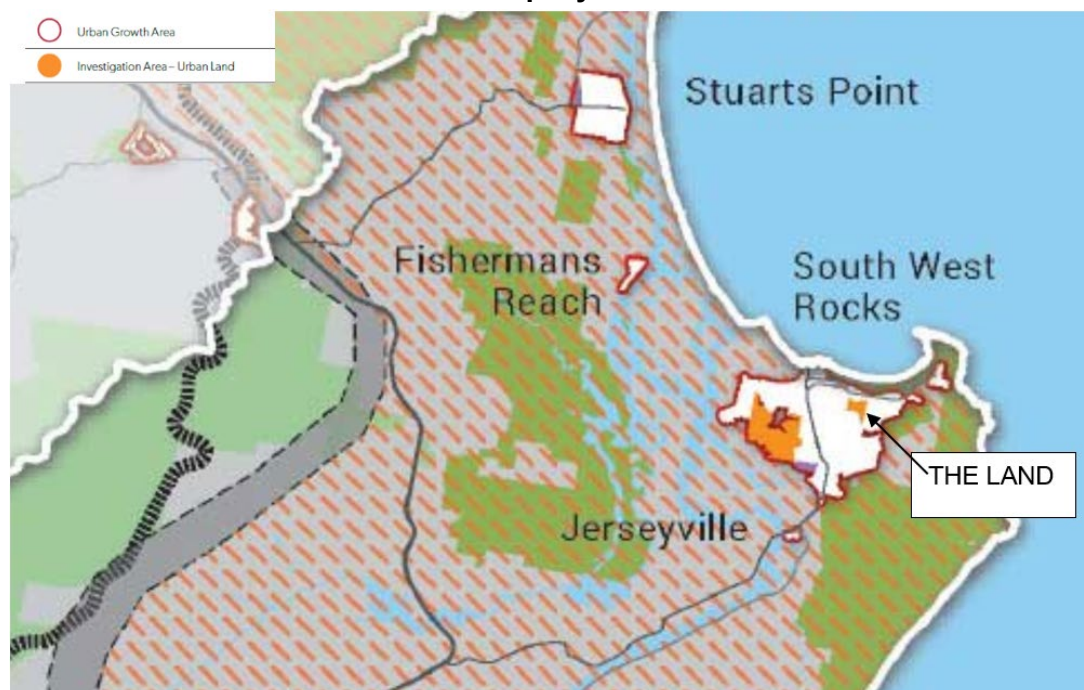
The Planning Proposal is consistent with the relevant goals, directions and actions within the *North Coast Regional Plan 2036*². As shown at **Illustration 3.2**, the land is within the Kempsey urban growth area boundary and is identified as an 'Investigation Area – Urban Land'. The North Coast Regional Plan (NCRP) aims to deliver housing in Kempsey, Crescent Head and South West Rocks.

Since the Planning Proposal was lodged, the North Coast Regional Plan 2036 has been updated to the North Coast Regional Plan 2041, whereby the subject land remains identified as 'Investigation area – urban land'.

The relevant directions of the North Coast Regional Plan 2036 and the relevant objectives of the North Coast Regional Plan 2041 have been addressed in this Planning Proposal.

² The North Coast Regional Plan 2036 has been updated to the North Coast Regional Plan 2041

Illustration 3.3 NCRP 2036 Kempsey Urban Growth Area



Direction 1 - Deliver environmentally sustainable growth

Action 1.1 - Focus future urban development to mapped urban growth areas.

Comment: The land is within a mapped urban growth area of the NCRP 2036 and NCRP 2041.

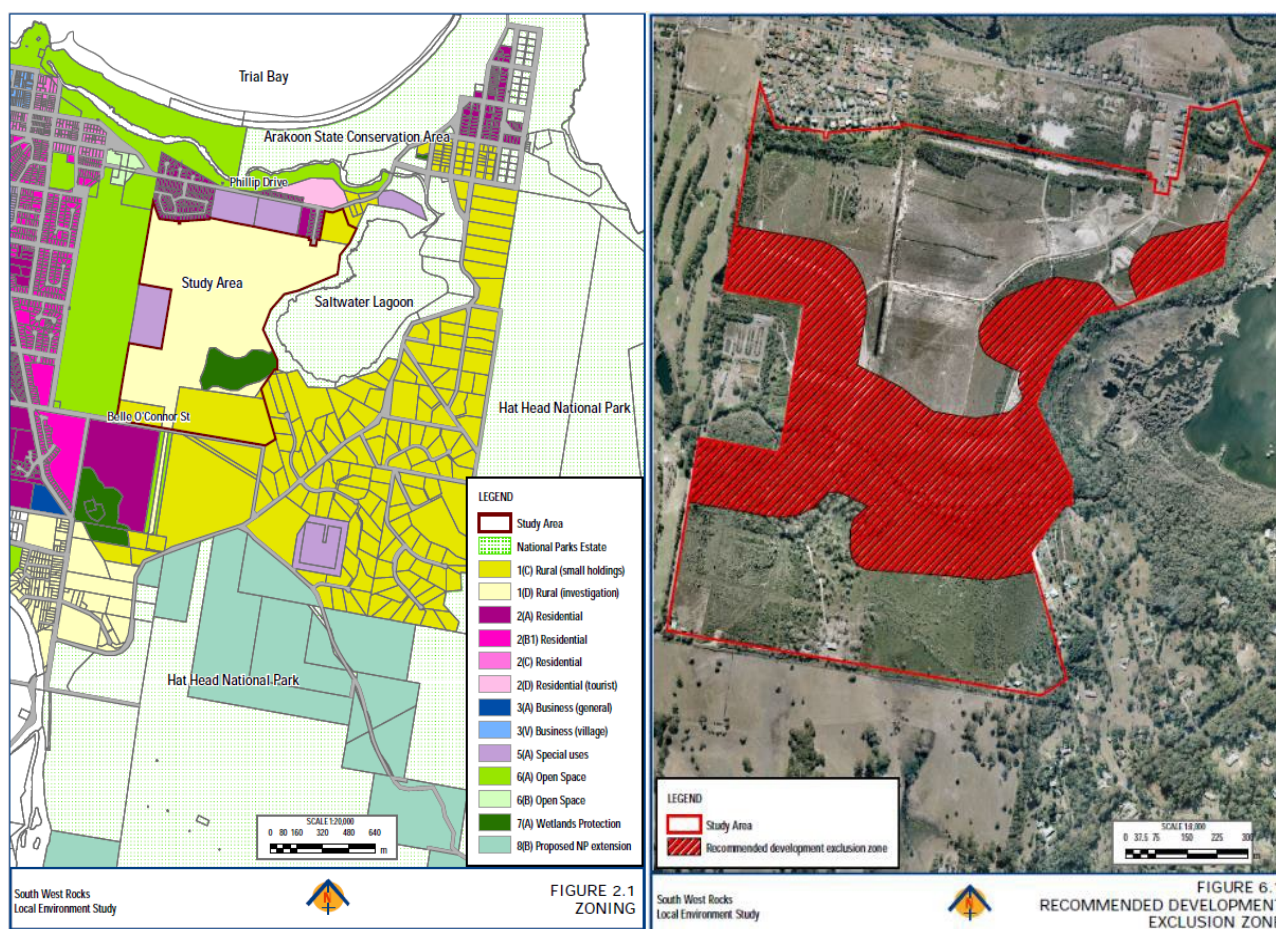
Direction 2 - Enhance biodiversity, coastal and aquatic habitats, and water catchments

Comment: The land has a history of use for agriculture, most recently as a Tea Tree plantation. Consequently, there are few old growth trees within the Saltwater release area. In response to the recommendations of the Saltwater Local Environmental Study and the Saltwater Creek & Lagoon Estuary Management Plan, approximately 35 ha of land was conserved in an environmental protection zone, leaving the remaining land in the Saltwater precinct as suitable for residential development.

Action 2.1 - Focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of high environmental value.

Comment: The *Kempsey Shire Council, Saltwater Developments Area, Phillip Drive & Belle O'Connor Street, South West Rocks Local Environmental Study (LES)* was prepared by Connell Wagner Pty Ltd on behalf of Council on 4 February 2008. The land was included in the study area for the LES.

Illustration 3.4 Connell Wagner Local Environmental Study



As indicated by **Illustration 3.4**, the subject land was included in the study area that was zoned 1(D) Rural Investigation and was not identified as within a *recommended development exclusion zone*.

At Section 6.3 (Developable Areas) of the LES, Connell Wagner found that:

Excluding the habitat areas described above and the area required for the STP buffer zone, approximately 70 hectares of the site has been identified as potentially being suitable for rezoning for future urban uses subject to detailed design and further assessment being undertaken at the Development Application stage as described in this LES.

Direction 3 - Manage natural hazards and climate change

Action 3.1 - Reduce the risk from natural hazards, including the projected effects of climate change, by identifying, avoiding and managing vulnerable areas and hazards.

Comment - This Planning Proposal manages and responds to the environmental attributes of the land in an appropriate manner.

- The concept development area avoids the C2 Environmental Conservation zoned STP buffer lands.
- The subject land is above the 100 year flood level.
- Bushfire APZs have been identified and are achievable to the north, south and east of the concept development area.

GOAL 3 – VIBRANT AND ENGAGED COMMUNITIES

Direction 22 - Deliver greater housing supply

Action 22.2 - Facilitate housing and accommodation options for temporary residents by: preparing planning guidelines for seasonal and itinerant workers accommodation to inform the location and design of future facilities; and working with councils to consider opportunities to permit such facilities through local environmental plans.

Comment – As demonstrated in the Concept Masterplan appended to this report, the land will accommodate a range of residential densities and housing types.

Direction 25 - Deliver more opportunities for affordable housing

Action 25.1 - Deliver more opportunities for affordable housing by incorporating policies and tools into local growth management strategies and local planning controls that will enable a greater variety of housing types and incentivise private investment in affordable housing.

Comment - This Planning Proposal will enable land for housing that can be used to facilitate private investment in affordable housing. The increased supply of land available for housing will provide an important contribution to restraining escalating house prices.

North Coast Regional Plan 2041

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

Table 3.1 North Coast Regional Plan 2041 Assessment

Regional Plan Objectives	Justification
<i>Objective 1: Provide well located homes to meet demand.</i>	<p>The Regional Plan aims to deliver housing at South West Rocks.</p> <p>The Planning Proposal will enhance housing opportunities in an area that adjoins existing residential development, that is located close to existing recreation, retail and commercial services. This area is identified for future residential development within Council's approved Local Growth Management Strategy. The proposal therefore supports the following outcomes:</p> <p>Strategy 1.2: Local Council plans are to encourage and facilitate a range of housing options in well located areas.</p> <p>Strategy 1.4: Councils in developing their future housing strategies must prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling / small lot housing target and are encouraged to work collaboratively at a subregional level to achieve the target.</p>
<i>Objective 2 – Provide for more affordable and low cost housing</i>	The Planning Proposal is consistent with this action as it will ultimately increase housing supply, and therefore have a positive impact on housing affordability in the locality.
<i>Objective 3: Protect regional biodiversity and areas</i>	An assessment of high environmental values (HEV) was prepared by Biodiversity Australia, (Appendix F). There were no areas of HEV

Regional Plan Objectives	Justification
<i>of high environmental value</i>	<p>identified within the subject land and, therefore, none of the land was recommended to be zoned C2 or C3.</p> <p>HEV assets were identified in the Connell Wagner Local Environmental Study, 2008, and subsequently protected within the C2 zone boundary.</p> <p>The C2 zone boundary was derived from the <i>Saltwater Lagoon Estuary Management Plan</i> whereby the recommended buffer to Saltwater Lagoon of RL 3.0 m AHD plus 50 metres (horizontally) was identified as a measure that would accommodate the 1 in 100 year flood level of RL 3.1 m AHD plus provide an ecological buffer to the lagoon's surrounding natural environment.</p> <p>Disturbed land within the C2 zoned buffer has been nominated as a Koala Habitat offset area to be revegetated to improve Koala habitat and connectivity.</p> <p>The Concept Master Plan prepared for the Planning Proposal does not propose any residential development or infrastructure within the C2 zone, therefore, meeting the requirements of Strategy 3.1: <i>focusing land-use intensification away from HEV assets and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and planning proposals.</i></p>
Objective 8: Support the productivity of agricultural land	The land is in an urban infill location and is no longer suitable for agriculture.

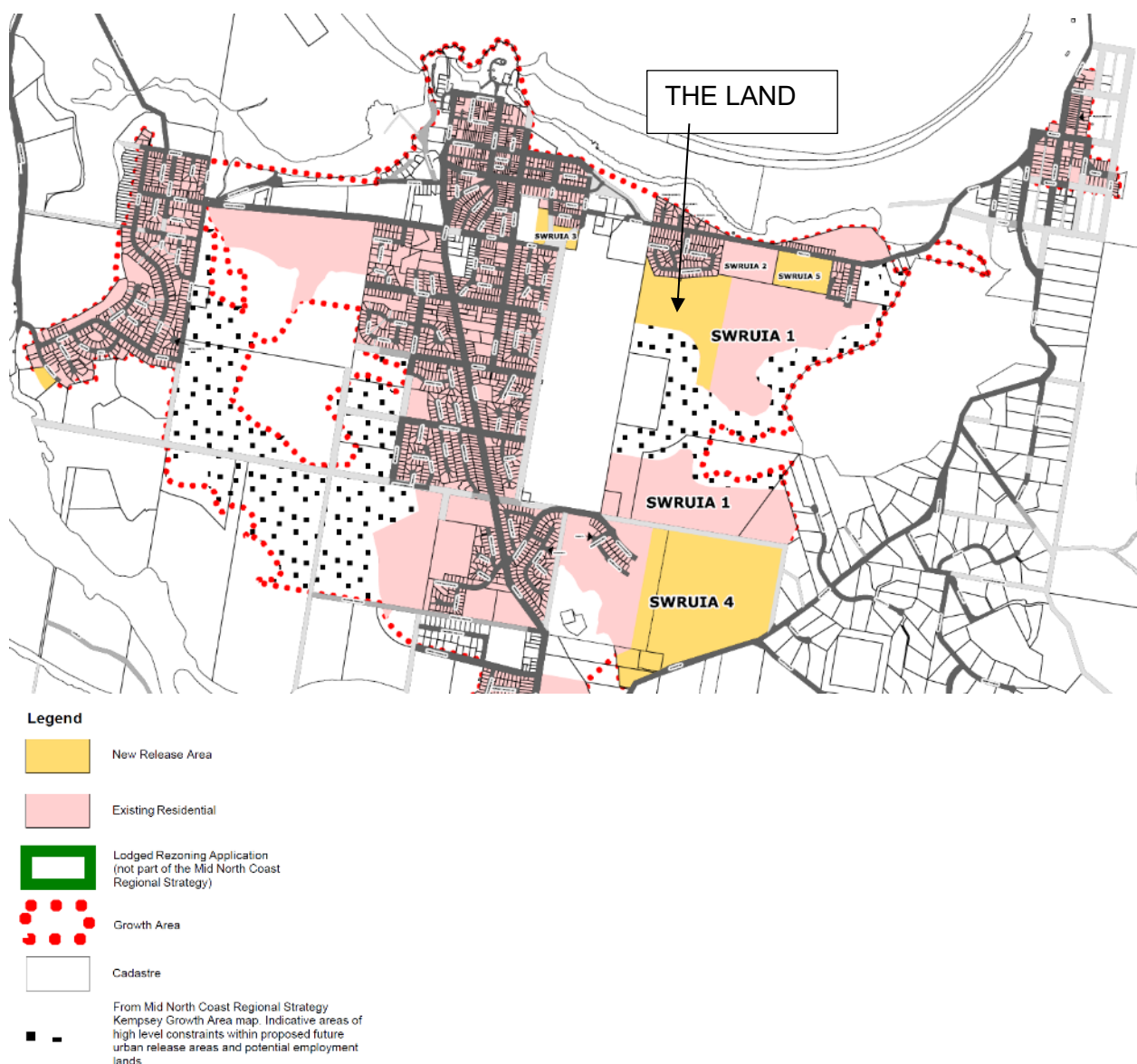
Is the Planning Proposal consistent with the council's local strategy or local strategic plan?

The Planning Proposal is consistent with the land release strategy of the Kempsey Shire Council Local Growth Management Strategy 2010, which states:

South West Rocks, identified as a town in the MNC Strategy, will cater for 50% of the total new dwellings in the Shire from 2006 to 2031. Approximately 40% of these dwellings are expected to be attached or medium to medium high density, to suit the small household size that is typical of the older demographic profile. The **Saltwater** and former Shell site release areas will cater for growth in the shorter term, together with increased density in key locations around business centres. The medium term demand will be provided through the Seascope Grove eastern area and, subject to detailed investigation of contamination, the former Caltex site. (Page 8)

The land is identified in the Table 2.1 Summary of Land releases as 'SWRUIA 1 Saltwater' for short terms release between 2009 and 2012. The release area map and table are provided at **Illustration 3.5** below.

Illustration 3.5 South West Rocks Release Areas



Source: Kempsey Shire Council Local Growth Management Strategy 2010

Council's Local Strategic Planning Statement (LSPS) makes the following observations regarding future growth and housing:

- *Future growth within the Kempsey LGA will be guided by this LSPS, local growth strategies, the Macleay Valley 2036: Community Strategic Plan (June 2017) and the North Coast Regional Plan 2036 (March 2017).*
- *Existing local growth strategies include:*
 - *Kempsey and South West Rocks: Industrial Land Review (June 2004)*
 - *Kempsey Shire Council Local Growth Management Strategy: Residential Component (2010)*
 - *Kempsey Shire Council Rural Residential Land Release Strategy (December 2014).*
- *The recommendations of these growth strategies continue to inform strategic growth and direction in the Shire.*

- *The North Coast Regional Plan 2036 contains mapping (see Part G) that identifies ‘urban growth areas’ and ‘existing employment land’ which aligns with the council land-use zones in the Kempsey Local Environmental Plan 2013. The Regional Plan also includes ‘investigation area – employment land’ and ‘investigation area – urban land’ categories. These areas align with those similarly identified in Council’s growth strategies.*
- *It is anticipated that future residential growth will mostly be provided in Kempsey, South West Rocks, Frederickton, Crescent Head and Stuarts Point where residential land for investigation may be available, a planning need exists, and necessary infrastructure is (or will be) available.*

Planning for housing demand and increasing housing diversity and choice is identified in the LSPS as a planning priority.

Part E of the LSPS identifies the desired local character of towns in the Shire. At page 31 it defines local character as:

‘...what makes one neighbourhood distinctive from another. It is the way a place ‘looks and feels’. It is created by the way built and natural elements in both the public realm and private domain interrelate with one another, including the interplay between buildings, architectural style, subdivision patterns, activity, topography and vegetation.’ (Source: NSW Government Planning Circular PS 18-001)

In South West Rocks, the LSPS (page 41) aims to:

- *Prepare an overall plan for the growth and development of South West Rocks.*
- *Protect, enhance and add to the natural and cultural environment to maintain the area as a tourism destination and a great place to live*
- *Promote active transport (e.g. walking and cycling) routes and linkages*
- *Prepare a structure plan for the entire South West Rocks area to guide development over the next 20 years*
- *Continue to progressively deliver on the actions identified for South West Rocks in Council’s Pedestrian Access Mobility Plan and the Kempsey Shire Bike Plan*

The Planning Proposal is consistent with the LSPS for the following reasons:

1. The land is within an identified growth area.
2. The Planning Proposal will deliver land for housing.
3. The Concept Masterplan provides for mixed densities.
4. The Concept Masterplan provides for ‘active transport linkages’.

Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?

Yes. An assessment of consistency with State Environmental Planning Policies (SEPPs) considered relevant to the proposal is at **Appendix C**.

Is the PP consistent with applicable Ministerial Directions (section 9.1 Directions)?

Yes. The PP is consistent with the applicable s9.1 Ministerial Directions as shown in the table provided at **Appendix D**. In instances when an inconsistency has been identified, appropriate justification and how the Planning Proposal addresses the inconsistency has been provided.

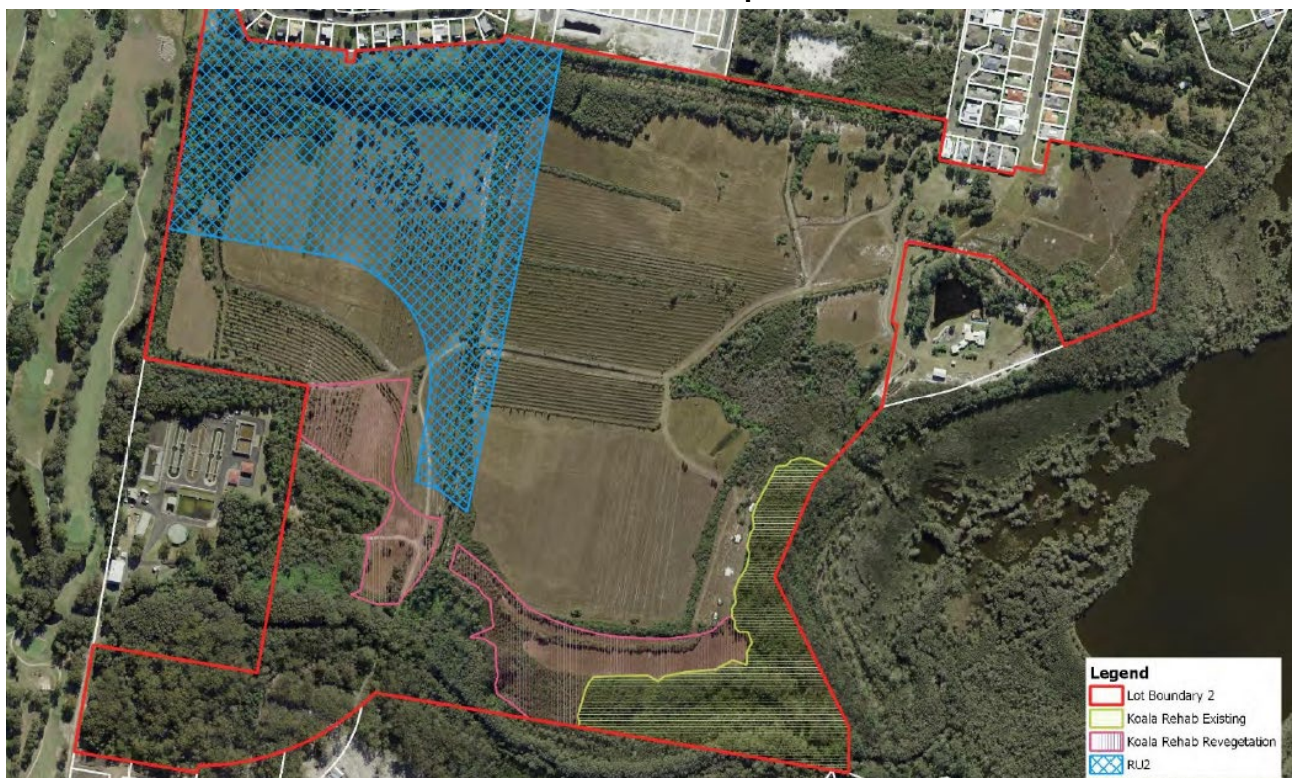
Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

This Planning Proposal will not alter any zones or development controls in a manner such that there could be unacceptable impacts on threatened species, populations, or ecological communities.

Biodiversity

Part of the subject land and surrounding land, including residential zoned land, is identified on the Biodiversity Values (BV) map. Part of the land is mapped as Secondary 'A' Koala Habitat under KSC Comprehensive Koala Plan of Management (CKPoM). The current extent of Koala Habitat mapped with in the land equates to 4.5 ha. The CKPoM requires impacts to mapped koala habitat to be offset at a ratio of 2:1, requiring an area of 9 ha in total to be offset.

Illustration 3.6 Koala Habitat Offset Compensation Area



Source: Biodiversity Australia, HEV Report, Figure 12, 2023

Illustration 3.7 Biodiversity Values Mapping



Source: Biodiversity Australia, Biodiversity Assessment, Figure 3, November 223

The Planning Proposal will have an acceptable impact in terms of biodiversity values as demonstrated in the Biodiversity Assessment (High Ecological Values (HEV) by Biodiversity Australia 2023) at **Appendix F**. The HEV study includes an assessment of biodiversity within the study area against the requirements of the **BCD NE Branch Approach to Biodiversity Assessment for Planning Proposals**. The full assessment is provided in Table 14 of the HEV assessment and is summarised as follows:

Table 3.2 HEV Summary

HEV Criteria	Results
Biodiversity Values Map	Vegetation that has been ground truthed as PCT 3549 is also partially mapped under Biodiversity Values mapping in relation to <i>'threatened species or communities with potential for serious and irreversible impacts'</i> . This mapping relates to important habitats as mapped for the Swift Parrot. Part of these areas mapped under the BV Map however occur on vegetation devoid of canopy trees and may not constitute important habitat for the species. A Biodiversity Values Mapping Review Report has been submitted to BCD to remove this mapping.
Over-cleared vegetation types	The subject land does not support any PCT that is considered 'over cleared (>70%)'. The percent cleared status of PCT 3549 – 30.18%.
Vegetation in over-cleared landscapes	A review of over-cleared Mitchell Landscapes map data through the SEED portal showed that the Mitchell Landscapes, Macleay

HEV Criteria	Results
	Alluvial Plains, is not mapped as over cleared. Vegetation on this Mitchell landscape does not need to be mapped as HEV.
Threatened Ecological Communities – Any vulnerable, endangered, or critically endangered ecological community listed under the <i>Biodiversity Conservation Act 2016</i> , <i>Fisheries Management Act 1994</i> , <i>EPBC Act 1999</i> and not mapped as Biodiversity Values.	The PCT 3549 is not associated with a TEC and therefore vegetation ground truthed as PCT 3549 does not conform to a TEC.
100m Buffer on Coastal Wetlands and Littoral Rainforest as per State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021	Of the lands mapped as PCT 3549 none falls within lands mapped as Proximity to Coastal Wetland or Proximity to Littoral Rainforest and as such has not been included in any HEV lands mapped.
Key habitat for threatened species (vulnerable, endangered, or critically endangered species listed under BC Act)	<p>Key breeding habitat with known breeding occurrence</p> <p>There are numerous threatened species records within 5 km of the subject land. Of these records however, none occur within land that conforms to PCT 3549. Records in close proximity in similar habitat include little bent-winged bat, long nosed potoroo, and squirrel glider however these were recorded in higher quality habitat to the south of the land in question.</p> <p>Part of this area has been mapped as containing Wallum Froglets as per the Connell Wagner Local Environmental Study, 2008, however the key refuges for this species have already been considered within previous planning proposals and appropriate conservation zonings applied.</p> <p>Core Koala Habitat</p> <p>The Kempsey KPoM has mapped land mapped as PCT 3549 as 'Other vegetation (not koala habitat)'.</p> <p>Habitat for known populations of species credit species and SAI entities</p> <p>A BDAR is in progress for the Concept Approval area and targeted survey has removed a number of species credit species from occurring within the land zoned RU2. Of the species that have outstanding targeted survey requirements the quality of habitat present within lands zoned RU2 does not support habitat attributes required for these species i.e. hollows, freshwater</p>

HEV Criteria	Results
	<p>wetland, mature eucalypts or dense understory for example. The precautionary principle would suggest that species that have not been excluded though targeted survey may occur within the subject land. However, given the ongoing maintenance that occurs targeted surveys are expected to exclude the vast majority of these species from being present in RU2 zoned land.</p> <p>The exception to this is the threatened amphibian, <i>Crinia tinnula</i>. An expert report has been undertaken for the Subject Land however the data is now 17 years old. It should be noted however that no substantial hydrological change has occurred since that time. This report details a small area within the far south of the RU2 zone which recorded Wallum Froglets calling. It was also suggested that a vast majority of the Subject Land could provide habitat during periods of heavily rainfall. However, the 2007 detailed investigation by Connell Wagner was part of an LES investigation for the Subject Land in its entirety. Accordingly, the LES and associated LEP amendment made appropriate provisions of C2 zoning to accommodate for wetland buffers and biodiversity considerations, including but not limited to, refuge habitat for the Wallum Froglet.</p> <p>As such, the C2 allowance for Wallum Froglet Habitat has already been duly considered.</p>
Key habitat for migratory species	A review of DIWA shows that there are known recognised wetlands mapped on land within RU2 zone that is mapped as PCT 3549. Therefore, such wetland values have not been considered for HEV.
Vulnerable estuaries and Intermittently Opening and Closing Lakes and Lagoons (ICOLLs)	A review of mapping revealed that no vulnerable estuaries or ICOLLs are mapped within the subject land.
Karst landscapes	A review of relevant mapping and Guide to NSW Karst and caves suggest no such habitat is present in the locality of the Subject Land.
Sites of geological significance included in the State Heritage register or Heritage Register	A review of sites of geological significance are not within the vicinity of the subject land and will not contribute to HEV of the site.

In terms of the merit of the Planning Proposal, Biodiversity Australia found that:

It is understood that Lot 16 and Lot 17 DP1277594 are in the same ownership and the proposed revegetated Koala habitat offset areas would be secured on title through a VPA and ultimate dedication of the land to council or the National Parks Estate, or, under an 88B

restriction on use requiring landowner management of the area in accordance with a Vegetation Management Plan

In conclusion, the rezoning footprint assessed within this HEV Report contains a variety of lower order biodiversity values. None of these values meet the key consideration criteria for High Environmental Vegetation. Those matters which may marginally occur within the Rezoning Footprint (such as foraging habitat for the Swift Parrot) will see a significant increase in available resource through the statutory offsetting provisions of the Kempsey CKPoM, ultimately resulting in a Net beneficial outcome for the species. As such, it is deemed appropriate that the land is rezoned from RU2 to R1 from a perspective of biodiversity.

Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?

Odour Assessment

Kempsey Shire Council operates the South West Rocks (SWR) Waste Water Treatment Plant (STP) adjoining the subject land. A number of odour assessments have been commissioned by Council to inform on a suitable environmental buffer zone around the perimeter of the STP to adequately manage odour impacts from the facility to acceptable levels. Previous studies are summarised at attached at **Appendix R**.

The subject land was deferred from LEP Amendment 55 in 2009 pending the upgrade of the STP and odour modelling of the plant operating under 'worst case' scenario. Historical odour assessments support the position that a 150 m buffer between the boundary of the treatment plant and residential development is appropriate to manage odour from the plant. In this regard, the C2 Environmental Conservation zone boundary to the north and north-east of the plant is situated 150 m from the northern boundary of the plant.

On the basis of the considerable body odour assessments and peer review prepared on behalf of Council, the PPA can be satisfied that:

1. Odour impact can be safely managed within a 150 m buffer to the plant.
2. Future upgrades to the SWR WWTP are planned based on Council's growth projections as part of the Macleay Water Integrated Water Cycle Management Strategy (IWCMS) to 2034 (Kempsey Shire Council - Macleay Water Development Servicing Plans for Sewerage Services FINAL July 2006.).
3. SWR WWTP upgrades are the responsibility of Council with recoupment of trunk infrastructure costs in accordance with the relevant Developer Servicing Plan and Contributions Scheme to be levied against development.

Constraints Analysis

All other environmental constraints were assessed and evaluated in the Saltwater LES (Connell Wagner) in 2008. The Saltwater South West Rocks Development Control Plan (DCP) 2010 was adopted by Council on 21 June 2011 and came into effect on 5 July 2011. The DCP referenced the land as Zone (DM) Deferred Matter and included the Exclusion Zone Map originally published in the Saltwater LES. As indicated in the LES and shown at **Illustration 3.4**, the land is not within the recommended development exclusion zone and is not considered to be constrained land.

Bush Fire Risk Assessment

A Bushfire Risk Assessment prepared by David Pensini of Building Certification & Environmental Services, December 2020, (**Appendix E**), concluded that:

.... the proposed rezoning of the nominated area of land known as Lot 35 DP 1214499, Waianbar Avenue, South West Rocks is at risk of bushfire attack; however, it is in our opinion that with the implementation of the bushfire threat reduction measures and consideration of the recommendations in this report, the bushfire risk is manageable for the proposed rezoning albeit that the design and construction of any future development within the rezoning area will need to demonstrate compliance with the relevant requirements of NSW Rural Fire Service, Planning for Bushfire Protection, 2019.

With the implementation of the recommendations, it is considered that it will be possible for the future development of the areas which is proposed to be rezoned to meet the applicable performance objectives and acceptable solutions as provided for in NSW Rural Fire Service, Planning for Bushfire Protection, 2019. (page 36, Bushfire Hazard Assessment, December 2020)

Recommendations:

- (i) Asset Protection Zones are to be provided to future residential lots in accordance with Section 3.1.1 of this report.*
- (ii) A minimum 20 wide APZ is to be provided between any released stages of the subdivision and any areas of unmanaged vegetation within approved development areas of the subject site. This APZ will be required to be established and maintained to the standards applicable to Inner Protection Areas (IPA's) until such times as adjoining/adjacent land has been subdivided for development. The creation and maintenance of the required APZ will be via a 'restriction as to user' pursuant to Section 88B of the Conveyancing Act, 1919 which requires the establishment and maintenance of a minimum 20m APZ on adjoining/adjacent land to the released residential lots.*
- (iii) The size of the allotments of land along the northern perimeter of the subject site will need to be such so as to provide for the retention of the Forested Wetland vegetation together with a minimum 20m APZ with sufficient room remaining in which to construct a dwelling.*
- (iv) Vegetation Management Plans (VMP's) are to be prepared for areas nominated as open space and public reserve within or adjoining the subject site. The VMP's are to provide for the ongoing management of any areas which form part of the minimum required APZ's. The ongoing implementation of VMP's is to be imposed upon the landowners via a positive covenant pursuant to section 88B of the Conveyancing Act, 1919.*
- (v) The design and construction of all public roads within the future residential subdivision of the subject site are to comply with the acceptable solutions provided for in Section 5.3.2 of NSW Rural Fire Services, Planning for Bushfire Protection, 2019.*
- (vi) Where development staging is proposed, temporary turning heads are to be provided to the proposed public roads until such times as the development of adjoining stages occurs. The design and construction of the temporary turning heads is to be consistent with the relevant requirements of Table 6 of this report.*
- (vii) Water and other services are to be provided to the future development lots in accordance with the requirements detailed in Section 3.1.4 of this report.*

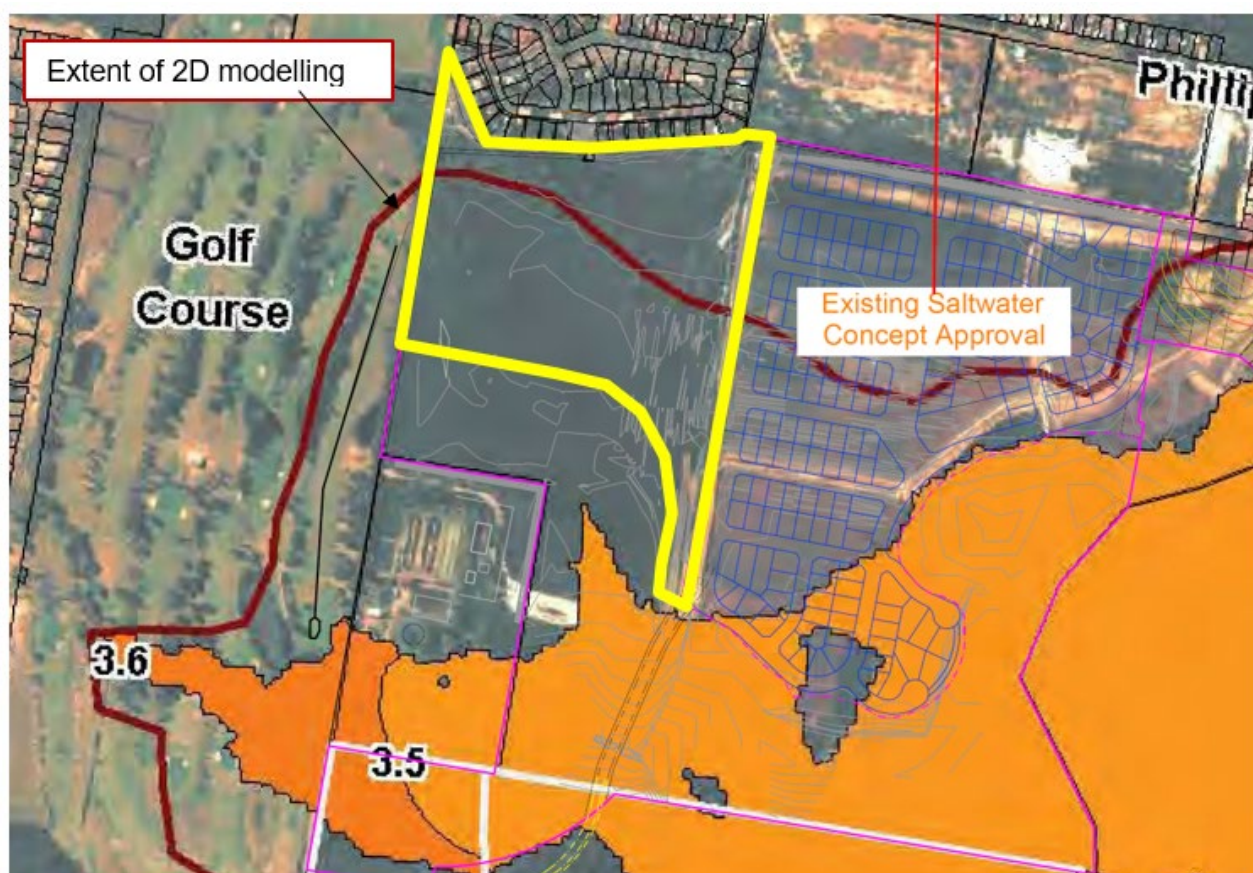
(viii) Adopt Landscaping principals in accordance with Section 3.1.5 of this report.

(ix) The determination of the Bushfire Attack level (BAL) and corresponding construction standards for future residential lots should be the subject of an individual bushfire hazard assessment conducted in conjunction

Flooding

The subject land is above the RL 3.5 m contour. The Saltwater Development Control Plan sets the Flood Planning Level for the site at RL 3.5 m AHD. The minimum floor level of any dwelling will need to be 0.5 m above this level (RL 4.0 m AHD). As such no specific filling is required to bring the land above the Flood Planning Level.

Illustration 3.8 Flooding



Source: deGroot and Benson, Site Elevation Plan, MP4, September 2019

Groundwater

Douglass Partners provided an assessment of ground water conditions, potential impacts and management recommendations in respect of the concept proposal submitted with the Development Application for the subdivision of Lot 35. Groundwater contours are shown at **Illustration 3.8**. Douglas Partners made the following comments in the report titled *South West Rocks Groundwater Monitoring, Phillip Drive, South West Rocks*, August 2016:

Potential Impact of Development in Groundwater:

- Pervious areas such as road, paving and house footprints will prevent direct recharge and evapotranspiration below their footprints. The effect will be a reduction in the net

recharge below the development site of about 50%. In order to maintain similar groundwater flows downstream of the development it will be necessary to reintroduce a similar volume of collected stormwater via the infiltration beds on the downstream boundaries of the site.

- The groundwater levels vary with time. Average groundwater depths over time at the bores range from 0.45 m (Bore 7A) to 2.4 m (Bore 8) and for most bores the depths are between 0.5 m and 1.0 m most of the time. Shallow groundwater at less than 0.5 m depth occurs most commonly on the northern parts of the site.
- The overall impact on groundwater levels below the site due to the pervious areas and infiltration on the downstream boundaries will likely be some mounding of water levels around the infiltration areas with a flatter gradient below the site and lower groundwater levels on the northern parts of the site.
- Given the water levels on the northern parts of the site are about 1 m higher than the levels on the downstream parts of the development site then a 50% reduction in net recharge over the development site may lead to up to about a 0.5 m reduction in water levels at the northern end of the site, probably a little less accounting for upstream inflows and less limiting of rainfall recharge due to surface effects.
- In the vicinity of the proposed infiltration areas the minimum recorded water depths are in the range 0.2 m to 1.5 m and therefore the ground can generally be expected to have the capacity to accept infiltration of rainfall events of up to about 15 to 20 mm provided sufficient grades are available to allow the head of water in the infiltration area to be above the groundwater level and sufficient area is available to spread the infiltration and reduce mounding. Orientation of the infiltration trenches parallel to the groundwater flow i.e. parallel to the downstream boundary of the site will reduce mounding. In some locations confining layers are present which may impede vertical infiltration and it may be necessary to penetrate these layers to allow vertical distribution of the infiltrated water.
 - Taking into account the potential for some reduction in groundwater levels on the northern parts of the site, if a target minimum depth to groundwater of 1.0 m is to be achieved for the developed site there will still be a need for raising/filling of the site and/or installation of subsurface drainage to limit groundwater levels.
 - Filling of the site has the potential to allow higher groundwater levels to occur at times of wet weather if the existing surface drainage controls are affected by any filling.

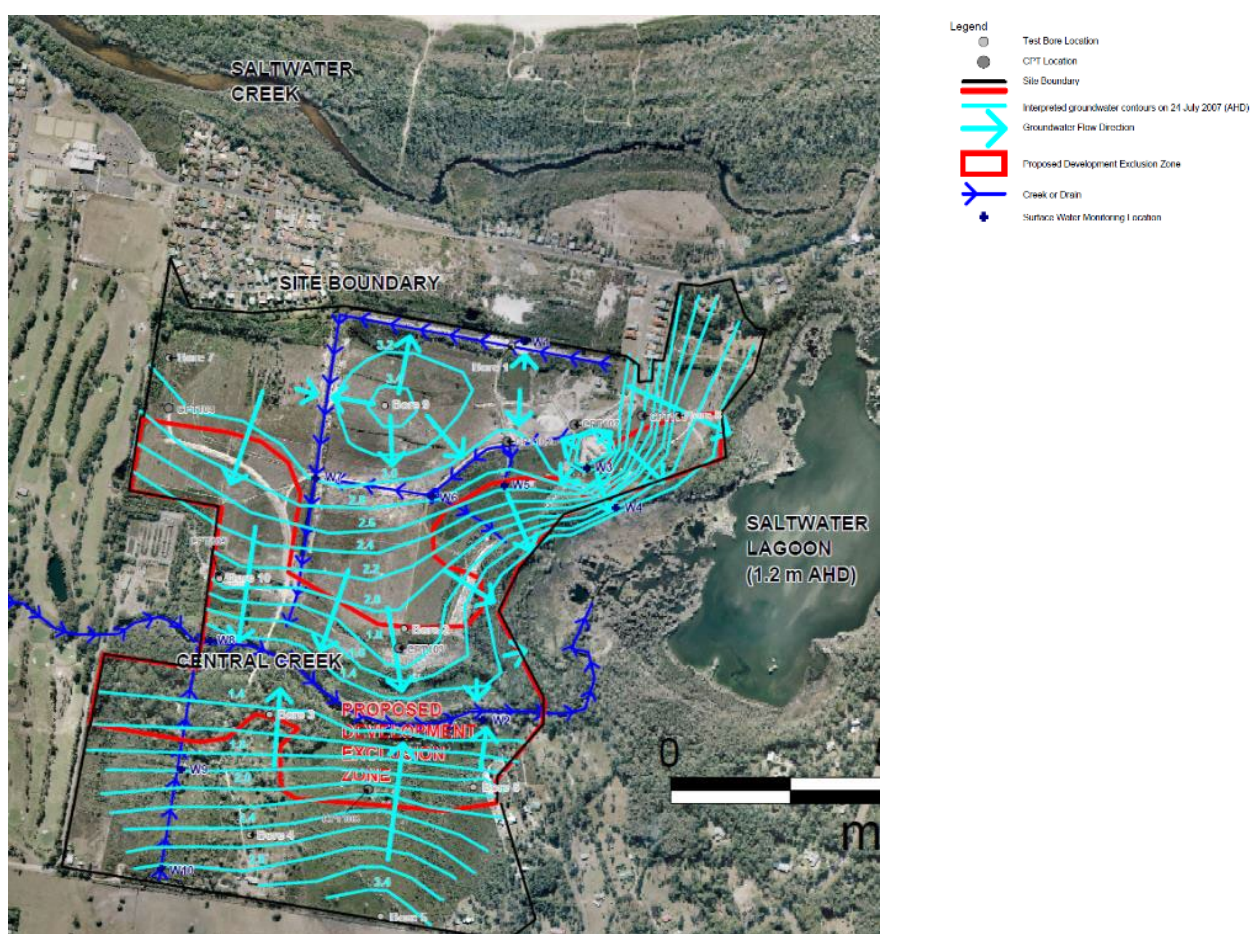
Note: No filling is required to achieve flooding planning levels.

Detailed Design Requirements

- It is considered that the site can be developed in a manner which can provide a reasonable replication of existing groundwater flows downstream of the site. Exact replication of the natural system is not a practical expectation of such an artificial system, however subject to appropriate detailed design, ongoing groundwater monitoring and with flexibility in the design to allow for some adjustment of weir overflow levels, it is anticipated that the impacts are expected to fall within typical seasonal variations in groundwater flow and levels.
- Detailed design will be required to refine the balance required between the size and level of infiltration areas, the amount of site filling and the level of subsurface drainage. The above preliminary analyses suggest that the design should be feasible with filling of up to about 0.5 m in places and/or installation of subsoil drainage to depths of 0.5 m to 1.0 m together with the capacity to store daily rainfall events of up to about 15 to 20 mm for

- Detailed design will require surface water modelling and the development of a numerical groundwater model. The groundwater model should be calibrated to replicate groundwater monitoring data. Simulation of the proposed development will then be required. In order to provide a satisfactory estimate of infiltration storage requirements the modelling will need to include transient analyses using daily time steps.

Illustration 3.9 Groundwater



Land Contamination

Based on the results obtained in this investigation, the subject area within the western portion of Lot 44 DP1274452 is considered likely to be suitable for the proposed residential land use with regard to the presence of soil contamination pending the results of further sampling.

analysis and assessment. However, further assessment of the potential groundwater contamination is recommended.

Additional sampling, analysis and assessment will be undertaken at Development Application stage.

Cultural Heritage

A detailed Aboriginal Cultural Heritage Assessment has been prepared by Everick Heritage (**Appendix J**) who found that:

- The Project Area does not contain any declared Aboriginal Places or Places of Aboriginal heritage significance on the Kempsey LEP. The Collins (2004) assessment included 'intangible' cultural values associated with Birroguns Grave and Saltwater Creek and it was considered that residential development along Phillip Drive/ Lot 35 would not significantly impact on the cultural value of the sites. Additionally, the consultation with the Aboriginal community representatives identified that the loss of access to land for cultural practices from residential development would not be substantial. The protection of natural landscapes and resource use areas within Hat Head and Arakoon National Parks would provide adequate space for the continued practice of Aboriginal culture, including Saltwater Lagoon. As such it is not considered that a future residential development would significantly impact on ceremonial and or contemporary resource use sites.
- No Aboriginal archaeological sites are known to occur within Lot 35 and no sites are known to occur within the adjacent lands including the dune along Phillip Drive. The centroid for Birrogun's Grave (22-4-0035) located to the west on the golf course is not accurate due to mapping methods and datum conversion issues. However, based on the AHIMS site record form the site is located within the South West Rocks golf course approximately 400 metres south of the club house.
- Based on the plates and calculations of survey coverage it is considered that the survey methodology undertaken would have located archaeological sites should they be present within Lot 35 (Collins 2004).
- Collin (2004:19) made specific statements on the potential for archaeological values on the elevated dunes in the north-east corner of the then Study Area adjacent to Phillip Drive and residual forest south of the sewerage treatment plan. However, the report does not specifically recommend archaeological test excavation, which is addressed in Section 11.1 and 11.2 of the Collins report. Neither of these locations is within the area identified for the Seabreeze residential project.
- The Code of Practice makes the following comment on the requirement for archaeological excavation:
 - i. Archaeological test excavation will be necessary when (regardless of whether or not there are objects present on the ground surface) it can be demonstrated through Requirements 1, 2, 3, 4, and 5 that sub-surface Aboriginal objects with potential conservation value have a high probability of being present in an area, and the area cannot be substantially avoided by the proposed activity.
 - ii. Based on the conclusions of the Collins (2004) report and Everick's experience within the South West Rocks Lot 35 does not have a "high probability" for archaeological sites. The bushland on the elevated dune near Phillip Drive is not part of Lot 35 and the remnant woodland south-southeast of the sewerage treatment was identified as having only 'some' potential for sub-surface archaeological sites.
- The recommendation (Collins 2004 Section 11.3) for use of Aboriginal sites monitors is specifically in relation to the elevated dune along Phillip Drive which comprises Lot 509

DP850963. As such this recommendation does not apply to Lot 35. The Collins report concludes that standard unexpected finds procedures are an appropriate management response for Lot 35.

- Everick does not consider that additional community consultation and archaeological excavation is required prior to determination of the planning proposal. However, consistent with the provisions of Section 5.10 of the Kempsey LEP consultation with the Kempsey Local Aboriginal Land Council prior to determination of future development applications would assist in identifying appropriate construction methodologies to ensure that the recommendations of the previous studies (Roberts 2015 and Collins 2004) can be implemented during ground works. This includes provisions for cultural inductions, unexpected archaeological finds procedures and mechanisms to manage Aboriginal skeletal remains should they be found.

Illustration 3.10 AHIMS Registered Sites



Source: Everick, Figure 4.

Visual

To the north of the subject land is an established residential neighbourhood and a new residential subdivision nearing completion at the former Shell terminal site with frontage to Phillip Drive. To the north of Phillip Drive is bushland extending to the Trial Bay foreshore. South of the subject land the land is low-lying shrubland land and the South West Rocks sewage treatment plant. The South West Rocks golf club and sport ground adjoins the land to the west.

The surrounding area is generally low-lying rising to the Smoky Cape Range to the east. At ground level, the subject land cannot be observed from the Trial Bay foreshore. Views of the land from the Arakoon Road and the Hat Head National Park are limited.

The overall masterplan vision for the overall precinct now known as “Seabreeze” is described in the South West Rocks Developments Coastal Village Masterplan Vision by DLLA Landscaped Architects (**Appendix Q**). The land is capable of providing a range of lot sizes to meet various residential accommodation options and densities. The land is generally flat and is not visually prominent in the coastal landscape. Design Principles of the Masterplan Vision (Section 7.1 to 8.2) aims to:

- provide a diversity of housing densities;
 - lower densities in the environmentally sensitive Woodland; and
 - higher density in areas of highest amenity.
- provide woodland outlook housing to be responsive to slope, flora sensitive (mature tree preservation)
- promote ‘greenway housing’ - low to medium density adjacent to revegetated linear open space overland drainage reserve.
- stabilise site hydrology and development impacts within ‘Saltwater Lagoon Catchment’ by:
 - Re-vegetating overland flow paths
 - Integrating green corridors with WSUD principles
 - Managing and eliminate exotic weeds and unwanted plants
 - Improving water quality

The Concept Subdivision Masterplan (**Appendix A**) by King + Campbell has expanded on this vision by aligning the proposed arrangements with the adjoining concept approval area and providing a range of lot sizes to accommodate a range of low and medium density housing types.

Essential Services

An assessment of public road, water and sewer capability prepared by deGroot and Benson, Consulting Engineers, is provided at **Appendix K**. The assessment found that there is sufficient servicing capacity to cater for demand resulting from the proposed rezoning. With regard to the STP odour buffer, Council has previously advised that:

- *The capacity of the treatment plant is practically around 10,000 equivalent persons (EP).*
- *There are plans for expansion to around 14,000 EP.*
- *The current load on the plant was estimated at around 4,000 EP in 2002. The 2016 census had the population at around 4,600. In 2022, the estimated population for the South West Rocks / Jerseyville area was 5,131 which includes unsewered areas like Arakoon. We would estimate that the current sewered population would be around 5,000 EP (in non- holiday periods). (Reference- “South West Rocks Structure Plan, Background Paper, 17 January 2022).*
- *Any upgrade or augmentation to the South West Rocks STP is Council’s responsibility to resolve. (Council engineer Mr Robert Scott on 6 March 2014 (Addendum Annexure B Sewerage, **Appendix K**).*

Has the PP adequately addressed any social and economic effects?

Social and economic effects of this Planning Proposal are summarised below.

Social

- Social benefits include an increase in land available for housing in Southwest Rocks. Providing land for new households, including families, will have flow on benefits by supporting the local public school, shops and community facilities.
- There is sufficient social infrastructure in the area to cater for the proposed increase in residents, created as a result of the Planning Proposal.
- New lots will be similar, in regard to land use and character, to surrounding properties.
- Increase in housing choice - the Masterplan envisages a greater range of residential densities and housing styles than is presently available in the Saltwater release area.

Economic

- Positive economic benefits include the establishment and construction of the subdivision and future dwellings, and flow on benefits to local businesses.
- The Planning Proposal and the proposed subdivision are fully funded by the proponent. Developer contributions will be levied for each new lot created and used to provide facilities and services for the community.

3.4 State and Commonwealth Interests

Is there adequate public infrastructure for the Planning Proposal?

Yes. Adequate public infrastructure exists to service the subject land. Public roads and reticulated water and sewer are available to the land. The National Broadband Network (NBN) is available in the area.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

This requirement of the Planning Proposal will be addressed following consultation with any relevant State and Commonwealth Public Authorities, to be identified under the terms and conditions of the initial Gateway Determination. There does not appear to be any matters of interest to Commonwealth authorities in relation to the Planning Proposal.

3.5 Mapping

Existing mapping and proposed mapping amendments to LEP 2013 are described and illustrated in Part 2 of this Planning Proposal.

3.6 Community Consultation

Should the NSW DPE endorse exhibition of this Planning Proposal via issue of a Gateway Determination, the community, other stakeholders and government agencies will have an opportunity to make submissions to this PP. If endorsed to do so, the Planning Proposal will be exhibited in accordance with the terms of the Gateway Determination, and the relevant provisions of Section 3.34(2) of the *Environmental Planning and Assessment (EP&A) Act 1979*.

3.7 Pre-Gateway Agency Consultation

A Pre-Gateway Report was prepared on 28 August 2023 by the NSW DPE Agile Planning team to inform and update the NRPP. The Agile Planning team made the following recommendation:

The Agile Planning team is satisfied that the proponent has adequately addressed all conditions, except Condition 2. The Agile Planning team recommends that proponent pay the outstanding PPA fee and then update the planning proposal and supporting ecological studies to address the comments from BCD prior to lodging for Gateway determination.

The PPA fee was paid on 7 November 2023.

Condition 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 compensation measures would be implemented and the legal mechanism by which the measures would be secured.

Based on the advice of BCD, the Agile Planning team recommended that the Planning Proposal and supporting ecological studies be updated to:

1. Reflect the koala habitat compensation measures in accordance with the CKPoM, rather than the Coffs Harbour Development Control Plan 2015 (which does not apply to the site)
2. Assess high environmental value (HEV) land as required under the NCRP
3. Demonstrate whether the C2 Environmental Conservation zoned land to the south has the necessary ecological attributes for the required koala habitat compensation area.
4. Address the suitability of the C2 Environmental Conservation zoned land to the south with regards to land ownership and management responsibilities.

Condition 2 inclusive of the items (listed above) raised by BCD have been comprehensively addressed in the Biodiversity Assessment (HEV Study) prepared by Biodiversity Australia (**Appendix F**). Koala habitat compensation measures relevant to the Kempsey Shire Council CKPoM will be implemented within a suitable C2 zones part of the site within land in the same ownership as the subject land.

4.0 Project Time Line

4.1 Indicative Project Timeline

Table 4.1 Indicative Project Timeline

Stage	Benchmark Timeframes (standard)	ESTIMATED TIMEFRAME
Stage 1 - Prelodgement	50 days	
Stage 2 - Submission of Planning Proposal to Council	95 days	February 2021
Rezoning Review		May 2021
Panel Determination		October 2021
Panel appointed alternate PPA		September 2022
Panel Determination		October 2023
Stage 3 - Gateway determination	25 days	
Stage 4 – Post Gateway	50 days	
Stage 5 - Public exhibition and assessment	95 days	
Stage 6 - Finalisation	55 days	
Total (end to end)	320 days	

4.2 Recommendation

This Planning Proposal, which describes an amendment to the Height of Building, Minimum Lot Size and Land Zoning provisions of *LEP 2010* which apply to the subject land, has been prepared in accordance with the NSW Department of Planning document '*A guide to preparing Planning Proposals*'.

The Planning Proposal is consistent with the *North Coast Regional Plan 2036 and 2041* and is consistent with all relevant SEPPs. The Planning Proposal is consistent with the applicable section 9.1 Ministerial Directions other than where indicated in this Planning Proposal. Any inconsistencies are supported and appropriately justified by the provisions of the *North Coast Regional Plan 2036*, Council's adopted *Local Strategic Planning Statement Local Growth Management Strategy, Residential Component, October 2010*, and the environmental assessments which inform and support this PP.

On 15 October 2021, the Northern Regional Planning Panel decided that the Planning Proposal should be submitted for a Gateway Determination once the conditions given (refer **Appendix I**) have

been satisfactorily addressed because the proposal has demonstrated strategic and site-specific merit. The reasons for the decision were that:

- *The proposal has strategic merit because it is consistent with relevant provision 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 the relevant provisions of the LGMS.*
- *The proposal would be compatible with adjoining residential land and will held to provide greater housing supply and choice.*
- *The proposal exhibits sufficient site-specific merit to warrant further investigation abouts its development potential under the Gateway process.*

On 24 October 2023, the Panel noted that the Department's Pre-Gateway Report, 19 September 2023 found that the revised Planning Proposal had adequately addressed the previous Panel's conditions except for Condition 2. Condition 2 has been fully addressed in this revision of the Planning Proposal.

It is requested that the Planning Proposal Authority (PPA):

- (a) Support this Planning Proposal based on the information provided in this report and the decision of the Northern Regional Planning Panel; and**
- (b) Resolve to refer this Planning Proposal to the NSW Department of Planning and Environment, requesting a Gateway Determination to endorse its public exhibition.**

All relevant strategies, SEPPs and Section 9.1 Directions have been addressed in this Planning Proposal and it is considered that the Planning Proposal may be progressed to exhibition.

Pending endorsement by NSW DPE, the Planning Proposal will be exhibited in accordance with the provisions of the EP&A Act 1979. The outcome of the exhibition will be subsequently reported to the PPA for determination.

A

CONCEPT SUBDIVISION MASTERPLAN

B

PLANIT CONSULTING DCP MASTER PLAN

C

CONSISTENCY WITH SEPPs

D

CONSISTENCY WITH S9.1 DIRECTIONS

E

BUSH FIRE RISK ASSESSMENT

F

ECOLOGICAL ASSESSMENT

G

FLOOD ASSESSMENT

H

KSC CORRESPONDENCE

I

NRPP RECORDS OF DECISION

J

ABORIGINAL CULTURAL HERITAGE ASSESSMENT

K

SERVICING ASSESSMENT

L

CONTAMINATION ASSESSMENT

M

GROUNDWATER ASSESSMENT

N

ACID SULFATE SOILS ASSESSMENT

O

REQUEST ALTERNATE PPA

P

DP 1277594

Q

LANDSCAPE MASTERPLAN

R

ODOUR ASSESSMENTS & SUMMARY

S

NSW COASTAL DESIGN GUIDELINES CHECKLIST