

DATE OF DETERMINATION	27 February 2025
DATE OF DECISION	11 February 2025
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Leathley, David Ryan & Daniel Walsh
DECLARATIONS OF INTEREST	None

PLANNING PROPOSAL

PP-2021-4455 – Lot 44 DP1274452 Swift Place, South West Rocks - Kempsey Shire

The updated planning proposal (8 December 2023) seeks to amend the Kempsey Local Environmental Plan 2013 to:

- rezone from RU2 Rural landscape to R1 General Residential;
- reduce the Minimum Lot Size from 40ha to 500m²; and
- apply a maximum Height of Building of 8.5m.

PANEL CONSIDERATION AND DECISION

The Strategic Planning Panel of the Northern Regional Planning Panel (Panel) met with the Department of Planning, Housing and Infrastructure (Department), for a Pre-Gateway briefing to consider the updated advice received from the proponent, dated 27 November 2024.

Upon receipt of the updated advice received from the proponent the Panel requested an updated response from Conservation Programs, Heritage and Regulation (CPHR) (previously known as Biodiversity Conservation and Science (BCS)) regarding the proposal. On 17 December 2024, CPHR provided a response which confirms the previous matters considered by the Panel remain and are unresolved regarding high environmental value (HEV) land on the site.

The panel considered the proponent's request to revise its previous decision by replacing the requirement for CPHR approval, on the basis that requirements that the PPA would need to be satisfied with have been adequately addressed, while still allowing CPHR to provide input during public exhibition. The Panel considered that circumstances have not materially changed since its previous decision and concluded that there was not sufficient reason to make the requested revision.

The panel seeks confirmation from the proponent if they are intending to update their proposal to resolve the site-specific issues identified in the Panel's decision dated 24 October 2024:

1. *Update the planning proposal to address the issues raised by NSW Biodiversity Conservation and Science (BCS) in its submission dated 23 January 2024, including:*
 - a. *provide a Wallum Froglet survey which is confirmed as adequate by BCS;*
 - b. *confirming the proposed management mechanisms for the Koala compensation area have in principle support from BCS. If the land is proposed to be dedicated to Council and/or a government agency, in principle support from that agency and/or Council will also need to be obtained; and*
 - c. *applying a C2 Environmental Conservation (C2) zone to all high environmental value (HEV) land on the site. The appropriate application of the C2 zone is to be confirmed by consultation with BCS once the proposal has been updated.*
2. *Given the additional 6 months granted via this deferral, the Panel requests that the Proponent undertake the additional work required to satisfy the Panel that the adjoining*





sewage treatment works has the capability to accommodate alternate sludge handling operations to enable the reduced 150m odour setback. This should be informed by further consultation with Council.

The proponent is required to respond within two weeks from the date of this decision if they are intending on updating their proposal to address the Panel's 24 October 2024 decision by the 30 April 2025 timeframe. Should the proponent not provide this confirmation the Panel will reconvene to determine that the proposal should not be submitted for a Gateway determination.

The Panel's decision was unanimous.

REASONS FOR THE DECISION

The Panel discussed the Department's Pre-Gateway Determination Briefing Addendum Report and Presentation, the advice received from CPHR, and letter received from the proponent (dated 27 November 2024). Concerns of the proponent and of CPHR were discussed extensively especially in relation to the Wallum froglet survey, HEV land on the site and the odour impact of the adjacent sewage treatment plant.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Leathley
 Daniel Walsh	 David Ryan

SCHEDULE 1		
1	LGA – ADDRESS	PP-2021-4455 – Kempsey LGA Lot 44 DP1274452 Swift Place, South West Rocks
2	LEP TO BE AMENDED	Kempsey Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The revised planning proposal (8 December 2023) seeks to amend the Kempsey Local Environmental Plan 2013: <ul style="list-style-type: none"> • rezone from RU2 Rural landscape to R1 General Residential; • reduce the Minimum Lot Size from 40ha to 500m2; and • apply a maximum Height of Building of 8.5m
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Department of Planning, Housing and Infrastructure Pre-Gateway Determination addendum report and presentation • Keiley Hunter Town Planning letter, 27 November 2024
5	BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> • Briefing with Department of Planning, Housing and Infrastructure (DPHI): 10:30am – 11:24am, 11 February 2025 <ul style="list-style-type: none"> ○ Panel members in attendance: Dianne Leeson (Chair), Stephen Leathley, David Ryan & Daniel Walsh ○ DPE staff in attendance: Louise McMahon, Alex Galea, Tim Coorey, Adam Williams and Taylah Fenning ○ Key issues discussed: <ul style="list-style-type: none"> • History of planning proposal • Correspondence from proponent • BCS response • HEV mapping and associated ecological issues • Sewage treatment plant