

DATE OF DETERMINATION	4 November 2024
DATE OF DECISION	24 October 2024
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Leathley, David Ryan & Daniel Walsh
APOLOGIES	Rhonda Hoban is an apology as she is no longer a Local Council nominated member for the LGA
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), Kempsey Shire Council (Council) and the proponent (Keiley Hunter Town Planning) for a Pre-Gateway briefing to consider whether the additional information provided by the proponent had addressed the Panel's review of conditions from the Panel Briefings on 15 October 2021 and 24 October 2023.

The Panel heard from the Department who advised the progress and work undertaken since the Panel's briefing on 24 October 2023 and the Proponent who briefed the Panel on their concerns with the procedural handling of this matter and their response to matters raised within the Department's Pre-Gateway Determination Briefing Report.

The Panel noted BCS comments that a number of issues have not been adequately resolved and that items requested within the Panel's previous records remain outstanding. The Panel resolved that the proponent should be granted adequate opportunity to address those requirements. To that end, the Panel will defer their final decision on their recommendation on this matter until 30 April 2025.

The Panel has requested that the following work be undertaken during the deferral period:

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.

- 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 Panel requires an update as to the status of progress on the items of deferral from the Proponent, in writing, 3 months from the date of this record of decision.

At the conclusion of the deferral period, the Panel requests that the Department provide an Addendum to the Pre-Gateway Report to the Panel which details how each of the deferral items has been addressed. Following review, the Panel will undertake a final determination on this matter.

The Panel's decision was Unanimous.

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

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 presentation and Briefing Report including the revised planning proposal and supporting documents; • Keiley Hunter Town Planning letter, 18 October 2024 • Keiley Hunter Town Planning letter and attached documents, 23 October 2024 and 24 October 2024
5	BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> • Briefing with Department of Planning, Housing and Infrastructure (DPHI): 10:30am – 11:17am, 24 October 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Dianne Leeson (Chair), Stephen Leathley, David Ryan & Daniel Walsh ○ DPHI staff in attendance: Lucy Walker, Louise Mc Mahon, Alex Galea, Tim Coorey, Kate McKinnon, Adam Williams and Taylah Fenning ○ Key issues discussed: <ul style="list-style-type: none"> • Progress made on addressing the Panels conditions and requirements • Briefing with Kempsey Shire Council and Keiley Hunter Town Planning (Proponent): 11:17am – 12:00pm, 24 October 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Dianne Leeson (Chair), Stephen Leathley, David Ryan & Daniel Walsh ○ DPHI staff in attendance: Lucy Walker, Louise Mc Mahon, Alex Galea, Tim Coorey, Kate McKinnon, Adam Williams and Taylah Fenning ○ Council representatives in attendance: Peter Orr, Wes Trotter, Caro Szary and Phil Veneris ○ Proponent representatives in attendance: Keiley Hunter, Karl Robertson, Craig Campbell, Scott Marchant, Lex Tall, Robbie Tall and Paul Grech ○ Key issues discussed: <ul style="list-style-type: none"> • Concerns regarding process and procedure • Progress made on addressing the Panels conditions and requirements • Panel Discussion: 12:00pm – 12:23pm, 24 October 2024 <ul style="list-style-type: none"> ○ Panel members in attendance: Dianne Leeson (Chair), Stephen Leathley, David Ryan & Daniel Walsh

		<ul style="list-style-type: none">○ DPHI staff in attendance: Lucy Walker, Louise Mc Mahon, Alex Galea, Tim Coorey, Kate McKinnon, Adam Williams and Taylah Fenning
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