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Our ref: PP\_2013\_KEMPS\_001\_00 (10/10988)  
Your ref: T5-59, GLR:GLR

Mr David Rawlings  
General Manager  
Kempsey Shire Council  
PO Box 78  
WEST KEMPSEY NSW 2440

Dear Mr Rawlings,

**Planning proposal to amend Kempsey Local Environmental Plan (LEP) 1987 or draft Kempsey LEP 2012**

I am writing in response to your Council's letter dated 19 April 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at Crescent Head Road, Crescent Head to 2(a) Residential 'A' Zone under Kempsey Local Environmental Plan (LEP) 1987 or R1 General Residential under draft Kempsey LEP 2012 and amend the lot size and height of buildings controls and, if required, the Scenic Protection Map for the subject land.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistencies with S117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the Director General's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending LEP is to be finalised within 18 months of the week following the date of the Gateway determination. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Carlie Boyd of the regional office of the department on 02 6641 6600.

Yours sincerely,

  
6/6/13

**Richard Pearson**  
**Deputy Director General**  
**Planning Operations and Regional Delivery**

## Gateway Determination

*Planning proposal (Department Ref: PP\_2013\_KEMPS\_001\_00): to rezone land at Crescent Head for residential purposes and amend the development standards applying to the land.*

I, the Deputy Director General, Planning Operations and Regional Delivery at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Kempsey Local Environmental Plan (LEP) 1987 to rezone land at Crescent Head Road, Crescent Head to 2(a) Residential 'A' Zone or rezone the land to R1 General Residential under draft Kempsey LEP 2012 and amend the lot size and height of buildings controls and, if required, the Scenic Protection Map for the subject land should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to include existing and proposed lot size, height of buildings and (if required) scenic protection maps, which are at an appropriate scale and clearly identify the subject site. Council is to update the 'explanation of provisions' within the planning proposal to clearly advise the public of proposed land zones and development standards applying to the land.
2. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
  - flora and fauna
  - water quality and stormwater management
  - soils, groundwater and urban capability
  - bushfire
  - archaeological/heritage assessment
  - visual/scenic quality
  - traffic and transport
  - infrastructure and servicing capability and provision
  - flood free development footprint (including access from the site to Crescent Head)
3. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and other relevant policies:
  - 1.2 Rural Zones
  - 1.5 Rural Lands
  - 2.1 Environment Protection Zones
  - 5.1 Implementation of Regional Strategies
  - State Environmental Planning Policy (SEPP) Rural Lands 2008
  - North Coast Regional Environmental Plan
  - Mid North Coast Regional Strategy

Council is to update the planning proposal accordingly prior to undertaking public exhibition, and provide a copy of the revised planning proposal to the department's regional office.

4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**;  
and

- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
- Essential Energy
  - Ambulance Service of NSW
  - Catchment Management Authority - Northern Rivers
  - Department of Family and Community Services
  - Department of Education and Communities
  - Office of Environment and Heritage
  - NSW National Parks and Wildlife Services
  - Fire and Rescue NSW
  - Department of Health and Ageing
  - NSW Police Force
  - Origin Energy
  - Transport for NSW – Roads and Maritime Services
  - State Emergency Service
  - Telstra
  - Local Aboriginal Land Council
  - Local Aboriginal community
  - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

6. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
7. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated 6 day of June 2013.



**Richard Pearson**  
**Deputy Director General**  
**Planning Operations and Regional Delivery**  
**Department of Planning and Infrastructure**

**Delegate of the Minister for Planning and Infrastructure**



**WRITTEN AUTHORISATION TO EXERCISE DELEGATION**

Kempsey Shire Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

<b>Number</b>	<b>Name</b>
PP_2013_KEMPS_001_00	Planning proposal to rezone land at Crescent Head Road, Crescent Head to 2(a) Residential 'A' Zone under Kempsey Local Environmental Plan (LEP) 1987 or R1 General Residential under draft Kempsey LEP 2012 and amend the lot size and height of buildings controls and, if required, the Scenic Protection Map for the subject land.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated **6 June** 2013

**Richard Pearson  
Deputy Director General  
Planning Operations and Regional Delivery  
Department of Planning and Infrastructure**

# Attachment 5 – Delegated plan making reporting template

## Reporting template for delegated LEP amendments

### Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

**Table 1 – To be completed by the department**

Stage	Date/Details
Planning Proposal Number	PP_2013_KEMPS_001_00
Date Sent to Department under s56	19/04/2013
Date considered at LEP Review Panel	23/05/2013
Gateway determination date	06/06/2013

**Table 2 – To be completed by the RPA**

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

**Table 3 – To be completed by the department**

Stage	Date/Details
Notification Date and details	

### Additional relevant information: