



F12/403-02;
GLR:GLR

7 November 2013

The Director Assessments Policy Systems
and Stakeholders
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir

**SUBMISSION – DRAFT STATE ENVIRONMENTAL PLANNING POLICY (MINING,
PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) AMENDMENT
STAGE 2 EXCLUSION ZONES**

Reference is made to the Draft State Environmental Policy (Mining and Petroleum Production and Extractive Industries) Amendment (the SEPP) and the public exhibition of the Stage 2 Coal Seam Gas Exclusion Zones. Reference is also made to the submission by Kempsey Shire Council to the Department dated 12 April 2013, in the initial phase of consultation regarding the Coal Seam Gas exclusion zones, a copy of which is enclosed.

- 1 From a review of the amended SEPP, it is clear that the Department has not included all R5 Large Lot Residential or equivalent zoned land, in the definition of "Residential Zone". Council resubmits that the definition of 'Residential Zone' should be amended and broadened to include the R5 Large Lot Residential or equivalent zone. This would then qualify R5 Large Lot Residential Zoned land to be considered a 'coal seam gas exclusion zone'.

The R5 Large Lot Residential zone objectives include the following mandatory objective:

- *To provide residential housing, in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*

It is submitted that the zone is primarily a residential zone, but is within a rural setting, which could include environmentally sensitive locations and locations of scenic quality. All of these qualities or characteristics would be impacted by Coal Seam Gas development in areas zoned R5 Large Lot or equivalent.

- 2 The concept of land within an R5 Large Lot Residential or equivalent zone, having to meet "village criteria" to qualify for inclusion in the definition of "Residential Zone" is an unnecessary construct and does not seem to exist in any other planning policy or statutory context. Regardless of whether land zoned R5 or equivalent meets this constructed village criteria the landuses on these lands are primarily residential.

The table below contains the "village criteria" as distributed by the Department to LGAs in the Stage 1 of the SEPP amendment process.

Council's comments in italics are included in this regard in the table below:



Table 1: Departments "Village Criteria" with Council's Comments

Criteria:	Comment:	Information to be considered in evaluation:
The area must contain a mix of land uses	A mix of land uses (such as retail, business, industrial, educational or recreation) that service the local rural community is a key point of differentiation between a village and a rural residential subdivision.	Description of current land uses in the area and any information on projected changes to these land uses.
<p align="center">Kempsey Shire Council Comments</p> <p><i>In regional areas, having a mix of businesses, and industrial, education or recreation facilities that service the local community in R5 or equivalent zones would fragment town centres. These landuses are specifically kept in the town centres or in more remote village areas, or neighbourhood areas, so as to reinforce and protect the town centres and businesses. As indicated on the enclosed map, the existing rural residential areas in Kempsey are located near enough to support the existing town centre.</i></p> <p><i>This criteria rules out most R5 Large Lot Residential or equivalent land in Kempsey Shire, and it would be the same for most rural and regional LGAs. This is demonstrated by only 7 areas in NSW qualifying for exclusion in of CSG development based on meeting this village criteria.</i></p>		
The zone must apply to a settlement that is long established and that has some historic association within the district, region and/or rural hinterland	Villages are generally long established population centres that historically served a particular economic function in a district or regional context. This is a key point of differentiation to rural residential subdivisions that are typically more recently established and, by the nature of their predominantly residential land use, do not provide a regional economic function.	Information on when the settlement was established and its historic association with the surrounding region.
<p align="center">Kempsey Shire Council Comments</p> <p><i>The length of time the rural residential use has been occurring is not relevant in terms of the whether the area is currently used primarily for residential landuses. Residents of these areas contribute to the regional economy by using the town centres. Providing an economic function is not key to whether landuses are characterised as residential. To qualify as an exclusion area, it has be included as a residential zone, so meeting the criteria of a residential zone should also qualify it for inclusion.</i></p>		
The area must contain a mix of lot sizes, including an average lot size up to 4,000 m²	Villages are characterised by a range of residential lot sizes, including smaller lots than would typically comprise a rural residential subdivision.	Information on range of residential lot sizes, including number and proportion of lots up to 4,000 m ² in area.
<p align="center">Kempsey Shire Council Comments</p> <p><i>Under current LEPs, the most common R5 Large Lot Residential or equivalent lot size in rural and regional areas has been 1ha. Having lots sizes of 4,000 m2 or average lot sizes of that kind, is very rare in rural and regional areas. Again this is an arbitrary unjustified criteria, and could not apply to most LGAs in rural and regional NSW.</i></p>		



Irrespective of whether or not land zoned R5 Large Lot Residential or equivalent qualifies as a village, it should be included in the definition of 'Residential Zone' on the basis that it is primarily residential in nature.

In addition the impacts which are sought to be mitigated by excluding certain land from CSG development, are the same upon land zoned R5 Large Lot Residential or equivalent, as would be experienced in the other zones included in the definition of 'Residential zone'.

The "village criteria" place rural and regional Council's at a disadvantage in their ability to protect existing and future residents of their Shire, from landuses which are likely to cause conflict or sterilise land from development.

The enclosed map identifies all existing equivalent R5 Large Lot Residential zoned land in Kempsey Shire Council in pink. Council requests that all of this land be excluded from Coal Seam Gas Development.

- 3 Council seeks to include additional land to exclusion areas for Coal Seam Gas Development. These areas are indicated on the enclosed map in dark purple. The land comprises land which is identified in the Draft Kempsey Local Growth Management Strategy Rural Residential Component (DKLGMS RRC). The DKLGMSS RRC has been on public exhibition for 2 months (concluding on 11 October 2013, and the Department has provided comments to the Council.

It is considered that these areas should be excluded from CSG on the same basis that land identified for future residential growth is excluded. It is envisaged that much of this land will be rezoned in the next 15 years to R5 Large Lot Residential.

- 4 With reference to the Biophysical Strategic Agricultural Land (BSAL) maps currently on exhibition, it is noted that the land on these maps do not match the land mapped as regionally significant farmland in the maps associated with the Department's Mid North Coast Regional Strategy. It is submitted that all land identified as BSAL within the Kempsey Shire should correspond with all land identified as regionally significant farmland. This land is identified on the enclosed map. Council understands that BSAL is not an exclusion zone, but rather a zone where particular requirements for assessment apply, including the need for a Gateway Certificate or a Site Verification Certificate.

If you require further information, please contact Georgia Rayner in Council's Sustainable Environment Department on 02 6566 3200.

Yours faithfully


Robert Pitt
DIRECTOR
SUSTAINABLE ENVIRONMENT

Ref: D13/9750, F12/403-02
GLR:JH

12 April 2013

The Director Strategic Regional Policy
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

Submission - Draft State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) Amendment (Coal Seam Gas Exclusion Zones) 2013

Reference is made to the Draft State Environmental Policy and the email sent to Council dated 22 March 2013, seeking comment.

Council supports the provisions of the draft which prohibits Coal Seam Gas Development in residential zones, including the R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential and RU5 Village zones.

It is submitted that the prohibition should be extended to land zoned R5 Large Lot Residential (or equivalent) on the basis that land in the 1(c) or R5 zone in the Kempsey LGA is used primarily for residential purposes with a housing density of 1 dwelling per ha. The potential impacts of Coal Seam Gas Development upon residents in these areas would therefore be the same as for the other nominated residential zones under the draft policy.

If you require further information, please contact Georgia Rayner in Council's Sustainable Environment Department on 02 6566 3200.


Yours sincerely

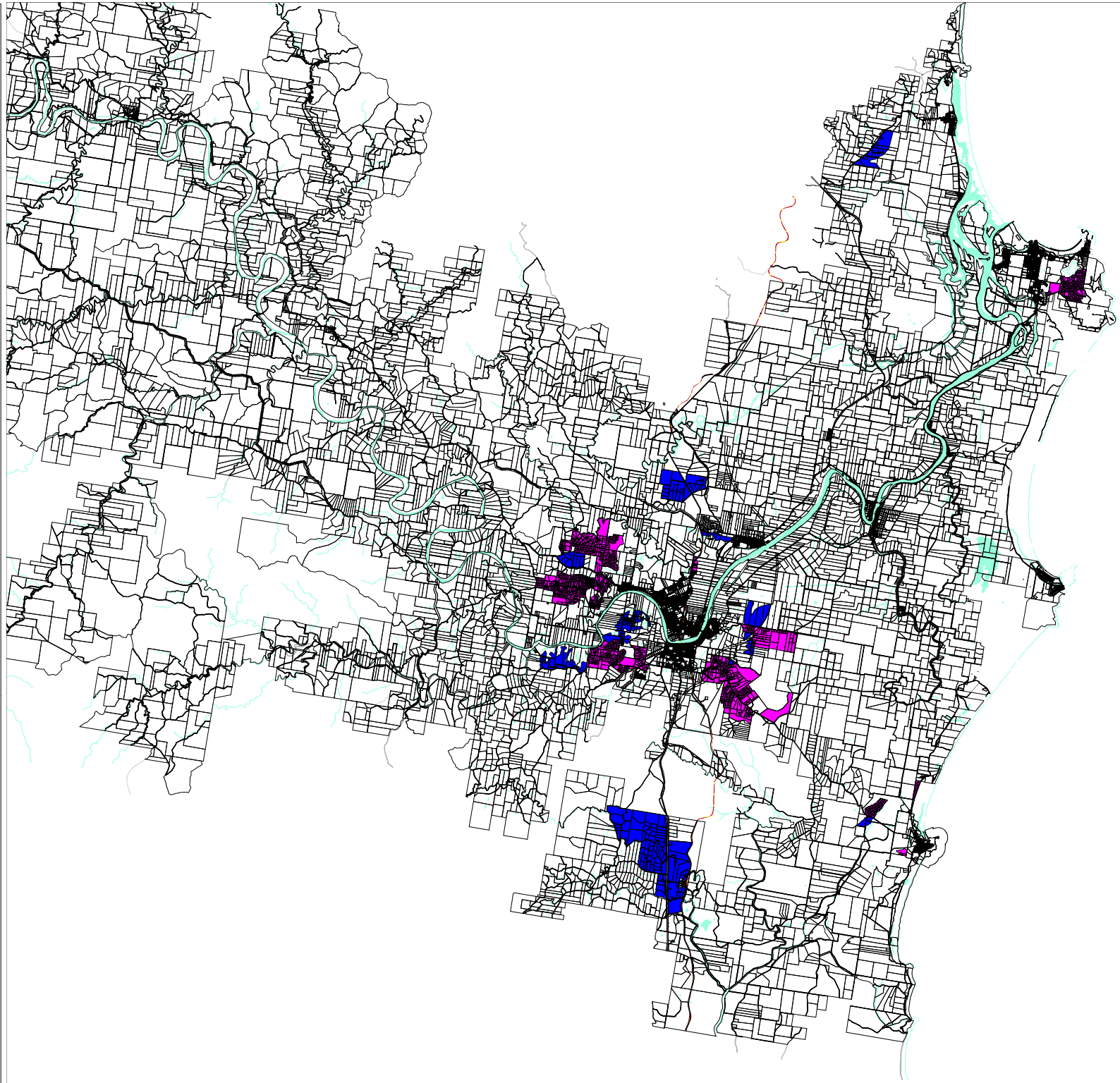


Robert Pitt
DIRECTOR
SUSTAINABLE ENVIRONMENT

**Kempsey Shire Council - Areas Requested
for inclusion as Coal Seam Gas Exclusion
Areas**

 Existing Rural Residential Zoned Land

 Proposed Rural Residential Land
Release Areas in Draft Kempsey
LGMS Rural Residential Component
2013





COPY

Office of the Director General

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

Our ref: 09/04155
Your ref: 727 GLR.MK

KSC RECEIVED	
FOLIO	452805
10 JUN 2011	
FILE	879
OFFICER	SXS G.R. (ran)

Dear Mr Rawlings

Residential Component of Kempsey Local Growth Management Strategy

I refer to your letter seeking my approval of the Residential Component of Council's Local Growth Management Strategy.

I am pleased to advise that I have agreed to the Strategy with the exception of sites at Euroka (KUIA5) and Spencerville (SWRUIA6). A table is attached indicating the sites which have been agreed to. The local issues and constraints applying to the approved areas can be addressed when planning proposals are prepared.

The long term nature of the Euroka proposal suggests there is no urgent need for this land. Council may wish to refine the proposal having regard for mapped biodiversity constraints. Unconstrained parts of the land can then be considered in a future amendment of the Strategy, if required.

The Spencerville site is marked by hatching in the Mid North Coast Regional Strategy growth area map indicating that biodiversity investigations were then underway. I understand the process is not proceeding at present. The release of SWRUIA 6 therefore cannot be agreed to at this stage. However, if an adequate investigation is carried out within the site and any land is found to be unconstrained, the LGMS can be amended to include that land only, and submitted to me for an updated approval.

According to the LGMS, South West Rocks approaches the capacity of the present water supply scheme at peak times. I understand the Council is investigating measures to address future supply. When any planning proposals are prepared for releases at South West Rocks they will need to address the ability of water infrastructure to service the additional population.

Attachment

Kempsey Local Growth Management Strategy - Residential Component Sites agreed to by the Director General, Planning and Infrastructure.

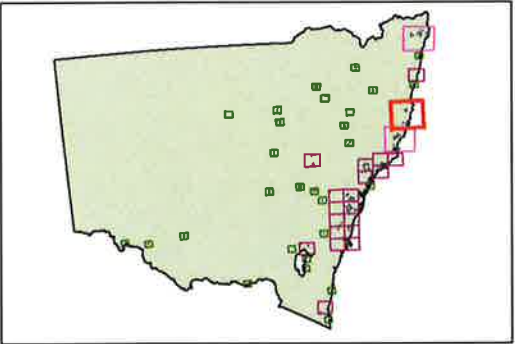
The following sites and time-frames are agreed for release, subject to resolution of the local issues and constraints applying to the areas when planning proposals are prepared.

Time-frame	Location
Short	North St, Kempsey KUIA 1
Short	North St, Kempsey KUIA 2
Short	Gothic St, SW Rocks SWRUIA 3
Short	Baker St West, Crescent Head CHUIA 1
Short	Macleay St Frederickton FUIA 1
Short	Melville land, Part lot 82 DP263591 South West Rocks
Medium	River St, Kempsey KUIA 3
Medium	Greenhills, Kempsey KUIA 4
Medium	Seascape East, SW Rocks SWRUIA 4
Medium	Caltex site, South West Rocks SWRUIA5
Long	Frederickton FUIA 2

State Environmental Planning
Policy (Mining, Petroleum
Production and Extractive
Industries) 2007

Future Residential Growth Areas
Land Map - Sheet STA_045

- Legend**
- Future Residential Growth Areas
- Cadastral**
- Cadastral 11/09/2013 © Land and Property Information (LPI)



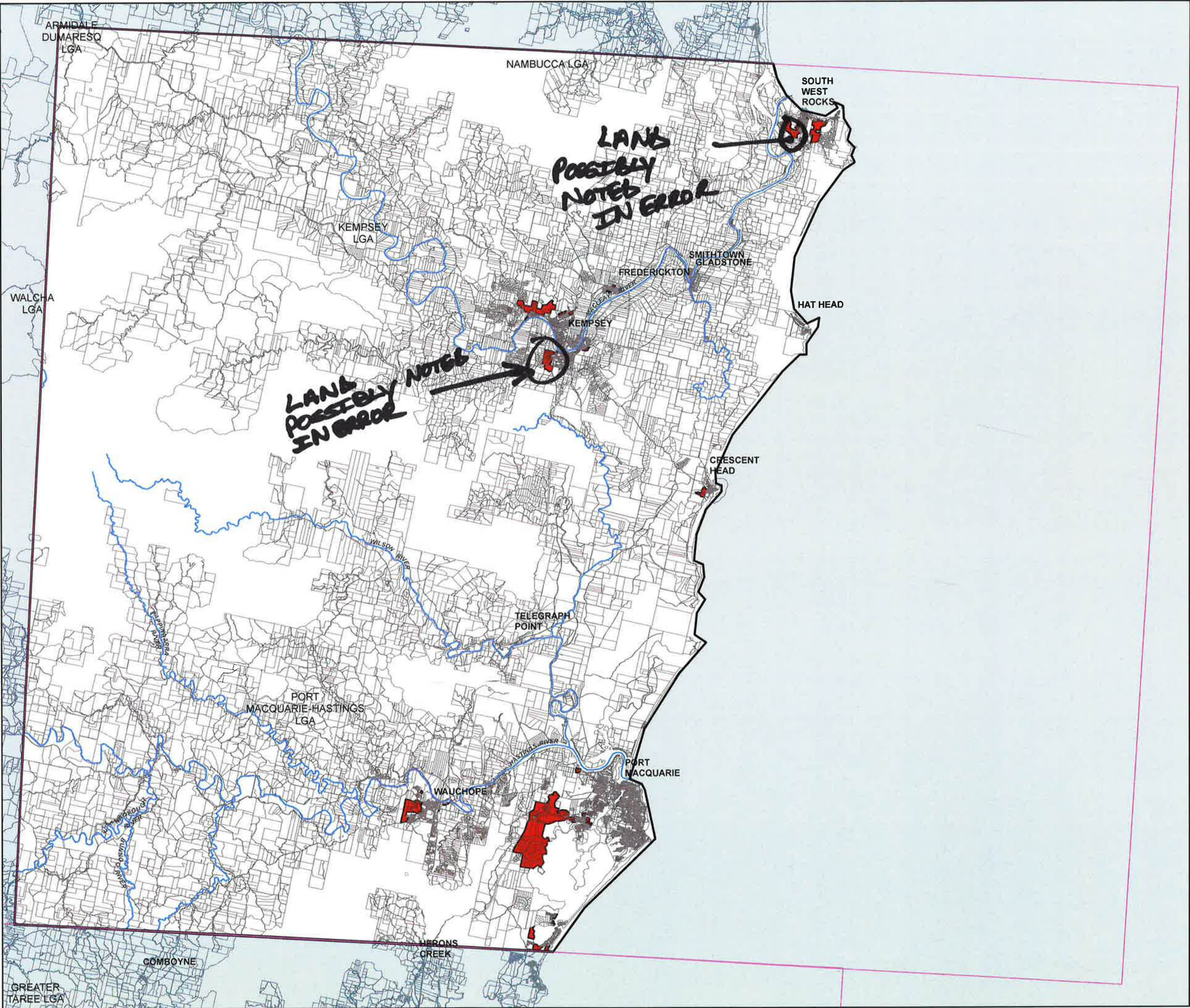
N

0 3,200 6,400 9,600 12,800 Metres


Scale: 1:320,000 @ A3

Projection: GDA 1994
MGA Lambert

Map identification number: SEPP_MPEI_RGA_045_20130911



**Kempsey Shire Council - Areas Requested
to be Biophysical Strategic
Agricultural Land**

 Significant Farmland as Mapped in
Mid North Coast Regional
Strategy Farmland Mapping

