

Mapping Anomaly Caliope Road Kiama

Proposal Title : **Mapping Anomaly Caliope Road Kiama**

Proposal Summary : **To correct a mapping anomaly along the eastern and southern boundaries of Lot 20 DP1151501, Caliope Road Kiama by moving the R2 Low Density Residential and RU2 Rural Landscape Zone boundaries to correspond to the cadastral lot boundaries and thus allow for residential development on the entire lot as originally envisaged.**

PP Number : **PP_2014_KIAMA_001_00**

Dop File No : **14/01255**

Proposal Details

Date Planning Proposal Received : **13-Jan-2014**

LGA covered : **Kiama**

Region : **Southern**

RPA : **The Council of the Municipality of Kiama**

State Electorate : **KIAMA**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **15 Caliope Road**

Suburb : **Kiama**

City :

Postcode : **2533**

Land Parcel : **Lot20 DP1151501**

DoP Planning Officer Contact Details

Contact Name : **Lisa Kennedy**

Contact Number : **0242249457**

Contact Email : **lisa.kennedy@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Kim Bray**

Contact Number : **0242320445**

Contact Email : **council@kiama.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A**

Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Illawarra Regional Strategy**

Consistent with Strategy : **Yes**

Mapping Anomaly Caliope Road Kiama

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.15	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	3
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Kiama Council has identified that the proposal will involve government consultation and a public exhibition period of 14 days.**

Recommendation:

No government agency consultation or public exhibition is required.

The mapping anomaly extends onto other lots - Lots 21 DP1151501 Cole Street and Lots 21-24 DP1151501 Caliope Street.

Recommendation:

Kiama Council be requested to consider correcting the mapping anomaly in this location by moving the R2/RU2 zone boundary to the correspond to the southern cadastral boundary of lots 20-24 DP1151501 and eastern cadastral boundary of Lots 20 & 21 DP1151501.

As a result of the above two recommendations and hence changes to the intent of the planning proposal, it is being referred to the LEP Panel for an assessment and Gateway determination.

External Supporting Notes : **Lot 20 is 1.1ha in area and is located on the south west edge of the Kiama urban area approximately 200 metres west of the Princes Highway. The majority of the land has been cleared and is currently used for residential purposes.**

The land has a spilt zoning under the Kiama LEP 2011. The majority of the site is zoned R2 Low Density Residential. A triangular sliver of land along the southern boundary and a thin sliver along the eastern boundary are zoned RU2 Rural Landscapes.

The landholder has submitted a planning proposal to Kiama Council to correct the mapping anomaly. The mapping from past planning instruments (Kiama LEP No. 5 and Kiama LEP 1996) shows that until 2012 the zone mapping corresponded to the eastern and southern boundaries of the Lot. The first occurrence of the split zone appears in Kiama LEP 1996 Amendment No. 61, February 2012. The split zone was carried across into the mapping for the Kiama LEP 2011. The split zone extends west onto four other lots in Caliope Street and north onto one lot in Cole Street.

Council has confirmed that the spilt zoning on the site inadvertently occurred with the application of a cadastral update during LEP 1996 and this split zoning was carried through to the Kiama LEP 2011.

The correction of the mapping anomaly will allow the lot to be fully developed for

Mapping Anomaly Caliope Road Kiama

residential use as envisaged by the Kiama Urban Strategy - identified as a Greenfield Urban Expansion Area – site 16 and as zoned in earlier planning instruments.

Kiama Council has supported the rezoning as it is both an endorsed site under the Kiama Urban Strategy and has a clearly identified zoning anomaly on site. The rezoning of the whole site as residential will add to the development potential of the lot and for Kiama and will assist Council to meet its dwelling supply obligations under the Illawarra Regional Strategy.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objective of the planning proposal is to ensure that the whole of Lot 20 DP1151501 is zoned R2 Low Density Residential Zone to enable residential development on the entire lot.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The planning proposal seeks to amend the Kiama LEP 2011 by amending the:
* Land Zoning Map (sheet LZN_012)- from RU2 Rural Landscape to R2 Low Density Residential Zone
* Lot Size Map (sheet LSZ_012) from 40ha to 450m2
* Height of Buildings Map (sheet HOB_012) to apply up to 8.5m
* Floor Space Ratio Map (sheet FSR_012) to apply an FSR of 0.45:1

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

3.1 Residential Zones

3.4 Integrating Land Use and Transport

5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

Illawarra REP No. 1

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

The Kiama Urban Strategy, 2011 has not been endorsed by the Director General. The Director General has supported the Strategy's recommendation to rezone a number of sites (including this site, site 16) to allow for urban residential development. The Director General advised Council on 15th February 2012, that the Department will consider a planning proposal for these sites. There are a number of outstanding issues with the Strategy which require further investigation and negotiation between Council and the Department prior to the Director General endorsing the Strategy.

The planning proposal is consistent with the s117 Directions 3.1 Residential Zones; 3.4 Integrating Land Use and Transport; and 5.1 Implementation of Regional Strategies. The planning proposal will enable the whole site to be used for residential land within the

Mapping Anomaly Caliope Road Kiama

Kiama town boundaries and is contributing to the Illawarra's regional housing supply.

The planning proposal is inconsistent with the s117 Directions 1.2 Rural Zones and 1.5 Rural Lands. These inconsistencies are justified by the site being identified in the Kiama Urban Strategy as suitable for a residential use. The area of the site mapped for rural use and its location adjacent to residential areas to the north and west prevents the land from being used for agricultural production. It is also of minor significance.

The proposal is consistent with SEPP55 Remediation of Land. A preliminary contamination assessment has concluded that the site is not impacted upon by any known contamination.

The proposal is inconsistent with SEPP Rural Lands, however, this inconsistency is justified by Council's strategic planning and urban development studies identifying the site as being suitable for residential development as agreed by the Director General.

The proposal is inconsistent with the Illawarra Regional Environmental Plan No.1 in regards to land identified as having landscape or environmental attributes. The proposal is not considered to affect the scenic amenity of the area given the small area of land to be rezoned.

RECOMMENDATION: The Director General can be satisfied that the planning proposal is consistent with all relevant s117 Directions and SEPPs or any inconsistencies have been justified by a strategy or are of minor significance.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Draft map sheets for LZN_012, LSZ_012, HOB_012, and FSR_012 from the Kiama LEP 2011 have been provided. The maps will meet the 'Standard technical requirements for preparing LEP maps' when the plan is forwarded for finalisation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council requests that the planning proposal be publicly exhibited for 14 days.

Recommendation:

The planning proposal does not require public exhibition as it is correcting a mapping anomaly.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : The planning proposal addresses the Department's "Guide for preparing a planning proposals" and is considered adequate for a Gateway determination with conditions.

A project timeframe of 12 months to complete the rezoning process is included in the planning proposal. This timeframe allows for the preparation of studies, government and community consultation and preparation of consultation reports -18 weeks. Such a timeframe is not considered to be required as no studies or consultation is required. Hence a more appropriate timeframe is 6 months. Even if Council decides to amend the planning proposal to include similarly affected adjoining lands then notification of those landowners may be appropriate and would not affect the timeframe.

Mapping Anomaly Caliope Road Kiama

Council has not sought delegation to complete the planning proposal. However, it is considered appropriate that the delegation of plan making functions be given to Council due to the matter being a mapping anomaly, is of local significance, and its consistency with the Kiama Urban Strategy.

Council has stated that the planning proposal will correct a clearly identified zoning anomaly. The zoning anomaly extends over five adjoining lots and Council should consider correcting the zoning boundary for these lots as well.

RECOMMENDATION:

The Deputy Director General's letter to Kiama Council request Council to consider correcting the mapping anomaly in this location by moving the R2/RU2 zone boundary to the correspond to the southern cadastral boundary of Lots 20-24 DP1151501 and eastern cadastral boundary of Lots 20&21 DP1151501.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Kiama LEP was notified on 16th December 2011. This is the second amendment to the LEP.

Assessment Criteria

Need for planning
proposal :

A planning proposal is the only means of achieving residential development on the site.

An alternate option of retaining the current RU2 Rural Landscape and amending Schedule 1 Additional permitted uses to allow for residential development was considered. This option was not seen by Council as being appropriate as it is preferable to have zones reflect the intended land use.

Kiama LEP 2011 did not adopt clause 5.3 Development near zone boundaries. However, adoption of this clause would require any development to be consistent with the objectives of both zones, which could not be achieved for residential development.

Consistency with
strategic planning
framework :

The land is identified in the Kiama Urban Strategy 2011 as site 16 – a Greenfield Urban Expansion Area. As a result the majority of the site was zoned R2 Low Density Residential under the Kiama LEP 2011.

The planning proposal is consistent with the Illawarra Regional Strategy in that it will assist in delivering a range of housing types and controlled growth for Kiama.

Environmental social
economic impacts :

At the request of Council, the landholder has prepared a Flora and Fauna Assessment, Aboriginal Heritage, Contamination Assessment and Concept Planning Proposal Report for the planning proposal. These reports have not raised any environmental issues with the area to be rezoned.

The site is not mapped as bush fire prone land and as such a bushfire assessment report or consultation with the NSW Rural Fires Services is not required.

The proposal will lead to the additional supply of residential zoned lots on the edge of the Kiama township.

Mapping Anomaly Caliope Road Kiama

Assessment Process

Proposal type : **Minor** Community Consultation Period : **Nil**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority
Consultation - s56(2)
(d) :

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Council has proposed government agency consultation with NSW Rural Fire Service; NSW Department of Primary Industries; NSW Office of Environmental and Heritage; NSW Office of Water; Sydney Water; and Endeavour Energy.**

Recommendation:

No government agency consultation is required due to the small area of the mapping anomaly.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Council required the landholder to undertake a Flora and Fauna Assessment, Aboriginal Heritage assessment and a Stage 1 Contamination Assessment, in order to ascertain if the planning proposal would meet the objectives of the s117 Directions. The planning proposal does not identify the need for any further studies however the timeframe for completing the proposal has included 6 weeks for the preparation of any outstanding studies.

No further studies are required.

As this proposal is addressing a zoning anomaly to restore land that was previously zoned residential the level of studies that have been done are considered too detailed to match the lack of complexity of the planning proposal and also pre-empt the level of studies that may be recommended by the Gateway determination.

RECOMMENDATION: Council should be advised that only minimal studies (if any) should be undertaken prior to Gateway determination and the detail of any studies should match the complexity of the planning proposal.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **Details of site servicing are indicative only and are to be further addressed in any subsequent development application.**

Documents

Document File Name	DocumentType Name	Is Public
140113 Planning Proposal 15 Caliope Road Kiama letter KMC to DoPI lodgement.pdf	Proposal Covering Letter	Yes
140113 Planning Proposal 15 Caliope Road Kiama planning proposal.pdf	Proposal	Yes

Mapping Anomaly Caliope Road Kiama

131119 Planning Proposal 15 Caliope Road Kiama KMC meeting report 131119.pdf	Proposal	Yes
131119 Planning Proposal 15 Caliope Road Kiama KMC meeting minutes 131119.pdf	Proposal	Yes
140113 Planning Proposal 15 Caliope Road Kiama landholders Concept Planning Proposal Cowman Stoddart Pty Ltd.pdf	Proposal	Yes
140113 Planning Proposal 15 Caliope Road Kiama Flora & Fauna Assessment.pdf	Study	Yes
140113 Planning Proposal 15 Caliope Road Kiama Aboriginal Heritage Assessment.pdf	Study	Yes
140113 Planning Proposal 15 Caliope Road Kiama Contamination Assessment.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 5.1 Implementation of Regional Strategies

Additional Information : The Deputy Director General, as delegate of the Minister for Planning and Infrastructure, determine under section 56(2) of the EP&A Act that an amendment to the Kiama Local Environmental Plan 2011 to correct a mapping anomaly and enable residential housing development on Lot 20 DP1151501, Caliope Road Kiama should proceed subject to the following conditions:

1. No further technical studies or reports are required.
2. Council is to prepare draft maps in accordance with Planning and Infrastructure's 'Standard technical requirements for LEP maps' when it submits the plan for finalisation.
3. No community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act").
4. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
5. No public hearing is required to be held into the matter 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 if reclassifying land).
6. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.
7. Council be authorised to use its delegation of the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979. It is also recommended that the Council be reminded to request the use of its delegations in its Gateway request and seek to use these delegations whenever possible.
8. The Director General can be satisfied that the planning proposal is consistent with s117 Directions 3.1 Residential Zones; 3.4 Integrating Land Use and Transport; and 5.1 Implementation of Regional Strategies
9. The planning proposal is inconsistent with the s117 Directions 1.2 Rural Zones and 1.5 Rural Lands in that it is changing the rural zoning to allow residential development. However, the Director General can be satisfied that the inconsistencies have been justified by local planning studies and the Kiama Urban Strategy.

Mapping Anomaly Caliope Road Kiama

10. The Director General can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.

11. No further referral is required for any s117 Directions whilst the planning proposal remains in its current form.

12. It is recommended that the Deputy Director General's letter to Kiama Council request Council to consider also correcting the adjoining mapping anomalies by moving the R2/RU2 zone boundary to correspond to the southern cadastral boundary of lots 20-24 DP1151501 and eastern cadastral boundary of Lots 20 & 21 DP1151501. Landowners should be notified if Council seeks to include this land.

13. Council be advised that only minimal studies should be undertaken prior to Gateway determination and the detail of any studies required before or after Gateway determination should match the complexity of the planning proposal.

Supporting Reasons :

The conditions are necessary to ensure that:

- A simple mapping anomaly does not become complicated by unnecessary consultation and studies.

Signature:



Printed Name:

MARK PARKER
Local Planning Manager

Date:

26th February 2014