

Rezoning of part of 35 Bland Street Kiama

Proposal Title : **Rezoning of part of 35 Bland Street Kiama**

Proposal Summary : **The planning proposal seeks to rezone part of Lot 73 DP1153471, 35 Bland Street, Kiama from SP2 Infrastructure to R2 Low Density Residential and adjust the building controls accordingly. It has the potential to provide up to two additional residential dwellings.**

PP Number : **PP_2016_KIAMA_001_00**

Dop File No : **16/07302**

Proposal Details

Date Planning : **20-May-2016**

Proposal Received :

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 : **35 Bland Street**

Suburb : **Kiama**

City : **Kiama**

Postcode : **2533**

Land Parcel : **Lot 73 DP1153471**

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 : **Edward Paterson**

Contact Number : **0242320444**

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

DoP Project Manager Contact Details

Contact Name : **Graham Towers**

Contact Number : **0242249467**

Contact Email : **graham.towers@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A**

Release Area Name :

Regional / Sub : **Illawarra Regional Strategy**

Consistent with Strategy : **Yes**

Regional Strategy :

Rezoning of part of 35 Bland Street Kiama

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.05	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	4
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 :

Lot 73 is 1259m2 on the corner of Bland and King Streets adjacent to the Princes Highway. The land is cleared, with low lying weeds and grass and has had fill placed on it. In recent times whilst the site has remained vacant, the area along King Street appears to have been partly used as an access route for construction vehicles associated with surrounding developments.

The Lot has a split zoning of R2 Low Density Residential on the eastern portion and SP2 Infrastructure on the western portion.

The Lot was created in 2003 when the landholder of the eastern portion (previously known as Lot 101 DP1029485) entered into negotiations with Kiama Council to purchase 584m2 of surplus adjoining land within the King Street road reserve. Council closed the land under the Roads Act and the land was subdivided and consolidated in title with the adjoining privately owned land thus becoming Lot 73.

Council's records indicate that the sole purpose of proceeding with the road closure, land disposal and consolidation of land titles was for the subject area of land to be used for residential proposes.

It has recently been brought to Council's attention that the 584m2 of former road reserve still retains a zoning for road purposes and has never been rezoned for residential uses. The land sale proceeded on the basis of a land valuation assessment using a residential zoning for the land. Council also incorrectly indicated in correspondence during the road closure process that the land was zoned residential.

There are no easements or restrictions over the land for road purposes and the site is not mapped for Land Acquisition by the Kiama LEP, 2011.

It is noted that the Kiama LEP, 2011 floor space ratio (FSR) maps indicate the subject land is assigned an FSR of 0.45:1 contiguous with the adjoining residential zoned land in the immediate proximity.

Council is undertaking the planning proposal to correct the current zoning anomaly. The proposal will provide zoning consistency with the land's title and intended uses. The increased development potential for the Lot of two additional dwellings, would result in up to four dwellings on the Lot as a result of the rezoning and subsequent subdivision under the provisions of Clause 4.1 of the Kiama LEP 2011.

Rezoning of part of 35 Bland Street Kiama

External Supporting Notes : The objective of the planning proposal is to rezone part of Lot 73 DP1153471, 35 Bland Street Kiama from SP2 Infrastructure (Classified Road) to R2 Low Density Residential so that the low density residential planning controls apply uniformly to the whole of Lot 73.

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 rezone part of Lot 73 DP1153471, 35 Bland Street Kiama from SP2 Infrastructure (Classified Road) to R2 Low Density Residential so that the low density residential planning controls apply uniformly to the whole of Lot 73.

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

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

Comment : The explanations of provisions in the planning proposal are to amend the Kiama LEP 2011:
* Land Zoning Map – Sheet LZN_012 applying to the subject site from SP2 – Infrastructure to R2 – Low Density Residential;
* Lot Size Map – Sheet LSZ_012 applying to the subject site to introduce minimum lot sizes of G 450sqm; and
* Height of Buildings Map - Sheet HOB_012 applying to the subject site to apply 8.5m.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.2 Coastal Protection
2.3 Heritage Conservation
3.1 Residential Zones
3.4 Integrating Land Use and Transport
5.1 Implementation of Regional Strategies

* May need the Director General's agreement

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
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 :

S117s

The planning proposal is consistent with the Illawarra Shoalhaven Regional Plan in that it is improving the consistency of land use controls and controlled urban growth and is facilitating urban infill development to increase the density of the existing built-up areas.

The planning proposal is consistent with the s117 Directions 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans. Although the site is within the Coastal Zone, the proposal will not impact upon the coast or the coastal zone. The land has been previously disturbed and the Kiama LEP contains provisions relating to heritage conservation which are considered during the assessment of a development application. The proposal is maximising the urban development potential along Bland Street and will allow for the utilisation of existing residential infrastructure.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal

Rezoning of part of 35 Bland Street Kiama

is consistent with the s117 Directions 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans.

SEPPs

The planning proposal is consistent with SEPP55 Remediation of Land. A Stage 1 contamination assessment concluded there is a low risk of site contamination and a Stage 2 Contamination Assessment is not required.

The proposal is consistent with SEPP 71 Coastal Protection in that the proposal will not impact upon the natural, cultural, recreational or economic attributes of the coast.

The proposal is consistent with the Illawarra Regional Environmental Plan No.1 in regards to its consistency with the objectives for new living areas.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Draft map sheets for LZN_012, LSZ_012, and HOB_012 from the Kiama LEP 2011 have been provided in the planning proposal and are appropriate for public exhibition. The maps will need to be prepared in accordance with the Department's 'Standard Technical requirements for Spatial Datasets and Maps, 2015'.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council requests that the planning proposal be publicly exhibited for 14 days. Public notification of the exhibition will include local newspaper notifications, notice on Council's website, hard copies will be available at Council's administration buildings and notification letters to surrounding property owners.

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 "A guide to preparing planning proposals" and is considered adequate for a Gateway Determination with conditions.

Council has a project timeframe of six months to complete the rezoning process.

Council has confirmed in its referral letter of 19 May 2016 that it is seeking Council Officer Delegation to prepare the draft LEP under Section 59 of the EP&A Act. Appendix 4 – Evaluation Criteria for the Delegation of Plan making Functions was submitted.

It is considered appropriate that the delegation of plan making functions be given to Council due to the matter being of local significance, the current zoning being an anomaly and the proposal providing zoning consistency with the rest of Lot 73.

Recommendation: The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

Recommendation: Delegation to be provided to Council.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Kiama LEP was notified on 16th December 2011. This is the sixth 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 SP2 Infrastructure zoning and amending Schedule 1 Additional permitted uses to allow for residential development is not considered appropriate by Council as it is preferable to have zones reflect the intended land use.

Another option is to adopt the optional Standard Instrument Principal Local Environmental Plan 'Clause 5.3 Development near zone boundaries' which would enable residential development to occur on the SP2 Infrastructure Zone part of the site. A planning proposal would be required to adopt the clause into the Kiama LEP. Council does not support this option.

It is noted in the Department's LEP Practice Note (PN10-001) 'Zoning for Infrastructure in LEPs' that councils are advised when adopting an SP2 zoning for infrastructure land in an LEP, clause 5.3 of the Standard Instrument ('Development near zone boundaries') should generally be adopted. This provides flexibility and avoid the need for spot rezonings when the infrastructure use ceases, is realigned or is downsized in the future. This clause is not applied in the coastal zone.

The land zoning map in the Kiama LEP, 2011 shows a greater area zoned for SP2 Infrastructure Classified Road beyond the alignment of the Princes Highway. Council may also want to consider rezoning these adjoining lands including Bland and King Streets to the surrounding residential zoning.

Consistency with strategic planning framework :

The planning proposal is not the result of any strategic study or report.

The planning proposal is consistent with the Illawarra Shoalhaven Regional Plan in that it is improving the consistency of land use controls and controlled urban growth and is facilitating urban infill development to increase the density of the existing built-up areas.

It is also consistent with the Kiama Urban Strategy, as it is facilitating the use of suitable land within an existing residential area within the town boundaries for residential purposes.

Environmental social economic impacts :

The site is not known or mapped to contain any environmental features. It is located within an existing and established residential locality.

Fill has been placed on the site. Due to the absence of any records for the fill, it has been classified as 'uncontrolled' material. Construction of residential dwellings is possible on this type of fill but would need to be further investigated a part of a development application.

The site is located within visual distance of the M1 Princes Highway as it passes over Bland Street. However, the planning proposal or subsequent residential development will not impact on the road corridor. Acoustic design measures may need to be incorporated into any future dwellings.

Rezoning of part of 35 Bland Street Kiama

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

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

Public Authority
Consultation - 56(2)(d)

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

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

If no, provide reasons : **Council does not propose to conduct agency consultation.**

Recommendation: No government agency consultation is required.

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Council required a number of reports/statements to support the planning proposal. These included a:

* **Stage 1 Contamination Assessment and Preliminary Geotechnical Assessment, Network Geotechnics Pty Ltd, 2015**

* **Planning Proposal, SET Consultants, 2015**

Recommendation: No further studies are required.

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 : **All services are currently available at the site boundary along Bland Street. It is noted that there is not expected to be any limitation connecting to existing services nor for there to be any issues as a result of the potential minor increase in demand on services.**

Documents

Document File Name	DocumentType Name	Is Public
160520 35 Bland Street Kiama Plannign proposal letter KMC to DoPE Gateway Determiniation request.pdf	Proposal Covering Letter	Yes
160520 35 Bland Street Kiama Planning Proposal Planning Proposal.pdf	Proposal	Yes
160520 35 Bland Street Kiama Planning Proposal Planning Proposals Attachments.pdf	Proposal	Yes
160520 35 Bland Street Kiama planning proposal KMC Report 150317.pdf	Proposal	Yes
160520 35 Bland Street Kiama planning proposal Attachment 4 evaluation for delegation.pdf	Proposal	Yes

Rezoning of part of 35 Bland Street Kiama

Planning Team Recommendation

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

S.117 directions: **2.2 Coastal Protection**
 2.3 Heritage Conservation
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 5.1 Implementation of Regional Strategies

Additional Information : **The Acting Director Regions, Southern as delegate of the Minister for Planning, determines under section 56(2) of the EP&A Act that an amendment to the Kiama Local Environmental Plan, 2011 to enable residential development on part of Lot 73 DP1153471, 35 Bland Street Kiama should proceed subject to the following conditions:**

- 1. No further technical studies or reports are required.**
- 2. 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 is to be made publicly available for 14 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 local environmental plans (Department of Planning and Infrastructure 2012).**
- 3. No public authority consultation is required under section 56(2)(d) of the EP&A Act**
- 4. 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 in response to a submission or if reclassifying land).**
- 5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.**
- 6. 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.**
- 7. The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans.**
- 8. The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.**

Supporting Reasons : **The conditions are necessary to ensure that:**

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

Signature:

Graham Towers Team Leader

Printed Name:

Graham Towers Date: 14/6/16

