

12.4 Planning Proposal - Supporting Initial Gateway - Lot 2 DP 1018217 - Dido Street, Kiama

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.1 Maintain the separation and distinct nature of local towns, villages and agricultural land

Delivery Program: 2.1.1 Develop and implement appropriate land use plans

Summary

Council has received a Planning Proposal (PP) for consideration of Lot 2 DP 1018217, Dido Street, Kiama (Attachment 1). This report overviews the reports submitted by the applicant against criteria outlined in Council's Planning Proposal Policy and recommends the Planning Proposal proceed to the Department of Planning and Environment to obtain a Gateway determination.

Finance

A fee structure for submittal and review of planning proposals has been developed by Council and is contained in Council's fees and charges schedule. Relevant fees have been paid for this proposal.

Policy

Requests for rezoning of land require consideration of a number of Acts, Government policies, Council environmental planning instruments and planning documents. Specifically the *Environmental Planning and Assessment Act 1979*, *Kiama Local Environmental Plan 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy and the Kiama Planning Proposal Policy.

Consultation (Internal)

Council's Acting Manager Design & Development and Landscape Officer have been consulted as part of the preliminary assessment of this Planning Proposal.

Communication/Community Engagement

Should Council support the concept PP, the Gateway Determination issued by the NSW Department of Planning and Environment will outline the minimum requirements for consultation with government agencies and the community.

Attachments

1 Applicant's Planning Proposal - Lot 2 DP 1018217 - Dido Street, Kiama [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Endorse this Planning Proposal, to enable residential development of the site, to proceed to the Department of Planning, Industry and Environment for a Gateway determination

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2. Request plan making delegations for this proposal as a part of the Gateway determination.
3. On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.

BACKGROUND

Council has received a Planning Proposal (PP) for consideration for Lot 2DP 1018217, Dido Street, Kiama (known hereafter as 'the subject site'). In line with the adopted Kiama Planning Proposal Policy, this report details the submitted concept PP and provides an assessment of the specialist consultant reports.

Site Details

The subject site (refer to Figure 1), Lot 2 DP 1018217, is located at Dido Street, Kiama. The site is approximately 10,640m². The site gains vehicular access via direct frontage to Dido Street. The site is currently vacant.



Figure 1: Location Map

The site is currently zoned RU1 Primary Production and E2 Environmental Conservation under the provisions of the *Kiama Local Environmental Plan (LEP) 2011* (refer to Figure 2).

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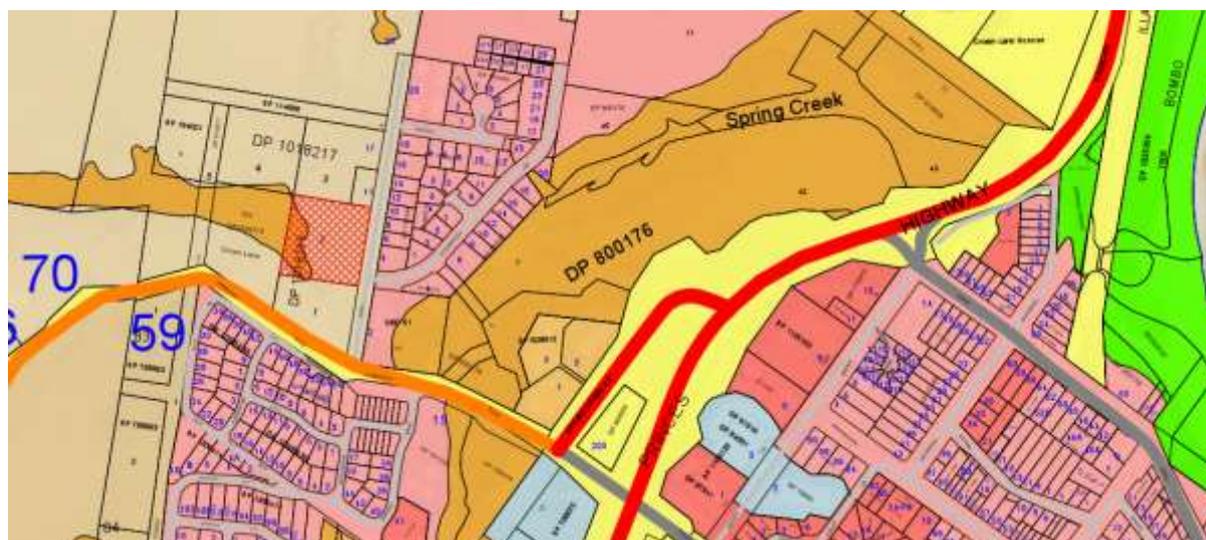


Figure 2: Current Zoning Map

Intent of Proposal

The PP aims to rezone the RU1 Primary Production portion of Lot 2 DP 1018217 to a mixture of R2 Low Density Residential and R5 Large Lot Residential and apply the controls associated with these zones and in keeping with the adjacent land on the eastern side of Dido Street.

The intent of the PP is to rezone the subject land predominantly for residential purposes. The changes proposed by the applicant to the LEP are as follows:

- Amend the land zoning map LZN_012 to rezone the majority of the site zoned RU1 Primary Production to R2 Low Density Residential and R5 Large Lot Residential (refer to Figure 3);
 - Retain the existing E2 Environmental Conservation zone across the western portion of the site and the RU1 Primary Production zone in the site's south-western corner
- Amend the relevant lot size map LSZ_012 to apply a minimum lot size of 450m² for the R2 zoned land and 800m² for R5 zoned land;
- Amend the floor space ratio map FSR_012 to apply a FSR of 0.45:1 for the R2 and R5 zoned portions of the site;
- Amendments to the building height map HOB_012 so that the maximum building height is 8.5m for the R2 and R5 zoned portions of the site;

No changes to the Riparian Lands & Watercourses Map or the Terrestrial Biodiversity Map are proposed as part of this PP.

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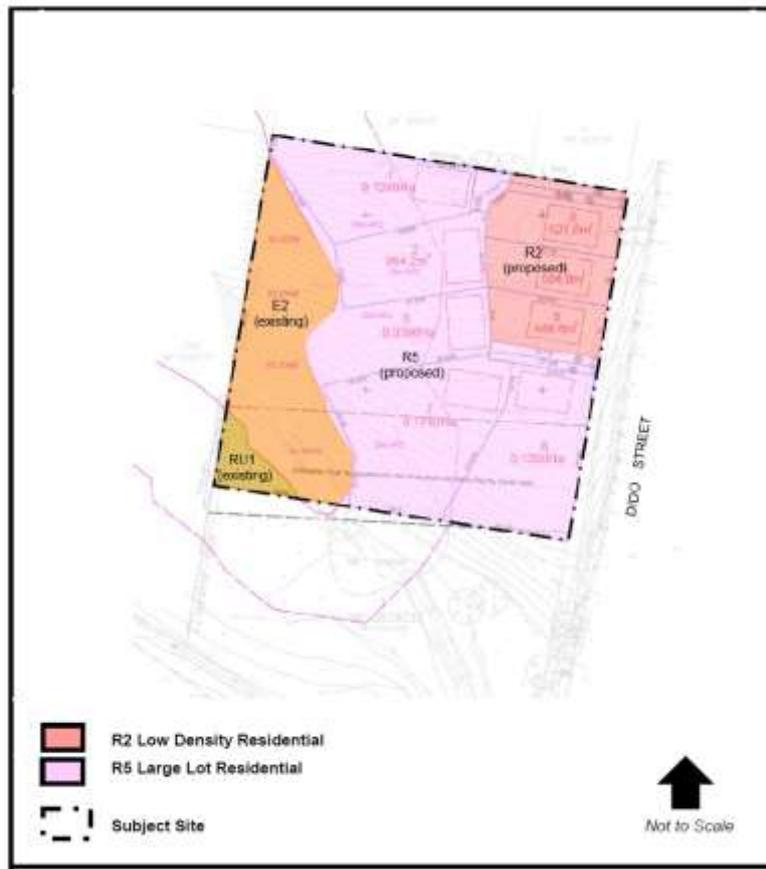


Figure 3: Proposed Zoning Map

Strategic Planning Framework

The results of the review and assessment of the PP are framed around the requirements of the:

- Department of Planning, Industry and Environment’s (DPIE) ‘Guide to Preparing Planning Proposals’,
- Illawarra-Shoalhaven Regional Plan,
- Kiama Planning Proposal Policy and Kiama Urban Strategy (KUS),
- Relevant *State Environmental Planning Policies (SEPPs)*, and
- Applicable Section 9.1 Ministerial Directions.

Guide to Preparing Planning Proposal

The DPIE ‘Guide to Preparing a Planning Proposals’ (the ‘Guide’) outlines what information needs to be contained within and addressed by a PP. The ‘Guide’ outlines that a PP needs to comprise of six (6) parts:

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| Part 1 | A statement of the objectives and intended outcomes of the proposed instrument |
| Part 2 | An explanation of the provisions that are to be included in the proposed instrument |
| Part 3 | The justification for those objectives, outcomes and the process for their implementation |
| Part 4 | Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies |
| Part 5 | Details of the community consultation that is to be undertaken on the planning proposal |
| Part 6 | A project timeline |

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Upon review it has been determined that the proponent's Concept PP has been prepared in accordance with the 'Guide' and has satisfactorily answered the questions contained within Part 3 of the 'Guide' (see below).

Illawarra-Shoalhaven Regional Plan

The Illawarra-Shoalhaven Regional Plan is the NSW Government's strategy for guiding land use planning decisions for the region over the 20 years to 2036. In relation to the provision of housing supply to suit the changing demands of the region, the Plan states that no new release areas beyond those already identified are required for Wollongong, Shellharbour or Shoalhaven, however in Kiama the need for an additional greenfield land release to accommodate growth will have to be determined.

In response to concerns about the availability of housing supply in Kiama to meet projected demand, the Plan includes a specific action (2.1.1) which commits the NSW Government to work with Kiama Municipal Council to monitor and review the potential of the area to accommodate demand. Discussion on this issue notes that Kiama should be able to accommodate 2,850 new homes up to 2036, to meet expectations for greater housing choice. However, analysis indicates that there is not enough land or 'market ready' infill development in the planning pipeline to meet this demand, and this may constrain the mix of housing available for first-home buyers, young families and retirees, and to people who want to age in their homes.

It is anticipated that the NSW Government will use the Local Strategic Planning Statement process as the vehicle to work with Council to review housing opportunities that can respond to changing needs.

As the PP seeks to provide additional housing stock it is consistent with Direction 2.1 'Provide sufficient housing supply to suit the changing demands of the region'.

The PP is consistent with Direction 2.2 'Support housing opportunities close to existing services, jobs and infrastructure in the region's centres' as the site is located within reasonable proximity to the Kiama Town Centre.

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The PP is also consistent with Direction 2.4 'Identify and conserve biodiversity values when planning new communities' as the the existing E2 Environmental Conservation zoning and Biodiversity land overlay will be retained on the site.

The Kiama Planning Proposal Policy & Kiama Urban Strategy

The Kiama Planning Proposal Policy outlines that Council may agree with a proponent's request if any of the following criteria can be met:

| Criterion for proceeding | Compliance |
|--|--|
| Land is identified as a nominated area in the Urban Strategy. | Not Identified |
| Land can be identified as assisting to meet Council's strategic direction. | Will assist in meeting obligations under the Regional Plan |
| A clear zoning anomaly exists on site. | Not being included in the Kiama Urban Strategy appears to be an anomaly. Proposed zoning would be consistent with existing and future residential development in the area. |

While the site has not been identified as a nominated area in the Kiama Urban Strategy (KUS) the PP would assist Council in meeting the obligation of the Illawarra-Shoalhaven Regional Plan.

The Kiama Urban Strategy came into effect on 20 September 2011. The KUS considered both urban infill and urban expansion opportunities within the Kiama Municipality and made recommendations on an appropriate approach to address housing demand in the LGA in response to the requirements of the Illawarra Regional Strategy which was the overarching strategic document in force at the time.

The community panel, established to guide the development of the KUS, recommended against significant urban expansion and considered that the land below could cater for any future greenfield expansion needs in the foreseeable future:

- The unreleased part of "Elambra Estate" at Gerringong;
- The "Cedar Grove" estate at West Kiama;
- The KMC and RailCorp greenfield site near Spring Creek;
- Some of the land within the Bombo Quarry in Kiama after its closure;
- Rural land south of Saddleback Mountain Road in Kiama (if required).

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The Kiama Urban Strategy is not a statutory document however it is an important local policy document that is considered by the Minister (or delegate) in making Gateway Determinations for planning proposals. While the KUS was not formally endorsed by the then Director General (DG) of the Department of Planning and Infrastructure, the DG did confirm in writing that he was “pleased the Council has endorsed the consideration of a number of potential rezonings to contribute to housing supply in Kiama in the short term. I can confirm the Department is willing to consider planning proposals for these sites.”

The site’s absence from the KUS appears to be an anomaly. As outlined by the proponent, the subject site was not included in any evaluation for the purposes of the KUS. This may have been an oversight or because its inclusion was not specifically requested by the previous owner at that time. The site’s location in relation to the other sites evaluated by the KUS for urban expansions is illustrated in Figure 4.

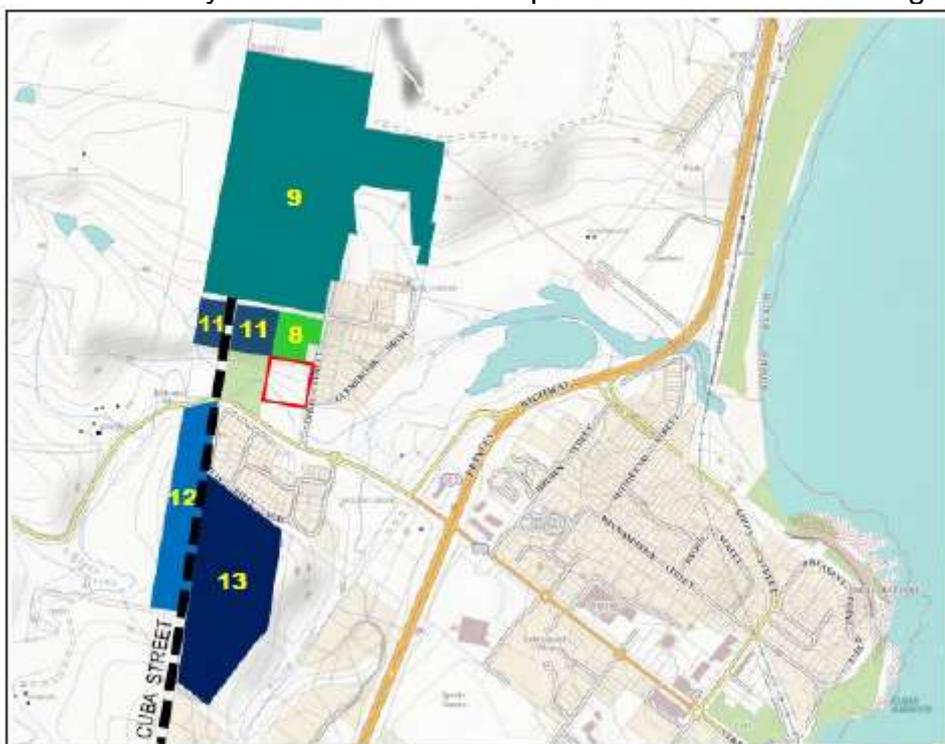


Figure 4: Extract from Kiama Urban Strategy

The KUS recommends that planning proposals should be undertaken to rezone Sites 8, 13 and the eastern portion of Site 11 for residential purposes. Site 13 (i.e. Cedar Grove Stage 2) was rezoned as part of Amendment 2 to the LEP 2011. A Gateway Determination has been issued to rezone Site 8.

The site has similar characteristic to Site 8 as it is directly opposite existing residential development in Dido Street. The proponent has undertaken a site-specific analysis of the constraints and capabilities of the site. This detailed analysis has identified that the subject site does have some capacity for residential subdivision and development without having any adverse environmental impacts. Rezoning the site in a similar fashion to Site 8 is considered appropriate as it would allow for modest residential growth within the town boundaries as referred to in the Mayoral Minute of the 17 October 2017 Council meeting.

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Mayoral Minute

The PP is considered to be consistent with the mayoral minute from the Ordinary meeting of Council 17 October 2017 which recommended that Council not support any planning proposals that involve new residential land outside of the identified town boundaries referred to in the adopted urban strategy areas. This was supported by the majority of Councillors at the time.

15.1 Kiama Urban Strategy

OC-17/201

Committee recommendation that Council:

1. *not support any new planning proposals that involve new residential land outside the identified town boundaries referred to in the adopted urban strategy areas;*
2. *seek the Member for Kiama's assistance in ensuring that the NSW Government does not support any planning proposals that involve land outside the identified town boundaries referred to in the adopted urban strategy areas; and*
3. *seek the Member for Kiama's urgent assistance in progressing the rehabilitation and development of the Bombo quarry area which provides significant opportunity to meet the Municipality's housing needs for at least the next 20 years.*

(Councillors Honey and Westhoff)

For: Councillors Brown, Honey, Sloan, Watson, Way and Westhoff

Against: Councillor Reilly

The location of the proposed rezoning is within the town boundaries outlined in the Kiama Urban Strategy which is consistent with the Mayoral minute. The land immediately to the north and north-west of the subject site has been identified in the KUS as suitable for consideration for rezoning; the land immediately to the west is Crown Land; and, the land to the south is not suitable for development due to flooding and biodiversity constraints.

Section 9.1 Ministerial Directions

The applicant has carried out an assessment of the PP against the relevant Section 9.1 Ministerial Directions. The proponent has argued that the PP is either consistent with or justifiably inconsistent with the relevant Ministerial Directions.

Direction 1.2 – Rural Zones States that a PP must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. A PP may be inconsistent with this direction if it is:

- Justified by a strategy which:
 - Gives consideration to the objectives of the direction;
 - Identifies the land which is the subject of the PP; and
 - Is approved by the Department of Planning.

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- Justified by a study prepared in support of the planning proposal which gives consideration to the objectives of the direction;
 - In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction; or
 - Is of minor significance

Due to the number of residential lots that could be achieved on the site this PP is considered to be of minor significance and is therefore justified against Direction 1.2.

Direction 1.5 Rural Lands states that for a PP that will affect land within an existing or proposed rural of environment protection must:

- (a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement
- (b) consider the significance of agriculture and primary production to the State and rural communities
- (c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources
- (d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions
- (e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities
- (f) support farmers in exercising their right to farm
- (g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses
- (h) consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land
- (i) consider the social, economic and environmental interests of the community.

A PP may be inconsistent with this direction if it is:

- Justified by a strategy which:
 - Gives consideration to the objectives of this direction;
 - Identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites; and
 - Is approved by the Secretary of the Department of Planning and Environment and is in force; or
- Is of minor significance.

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The applicant states that the PP is justifiably inconsistent with this Direction as it is justified by the Illawarra-Shoalhaven Regional Plan and as it is of minor significance.

The applicant argues that the site is already fragmented from nearby rural lands – being bounded to the east by Dido Street and residential development; to the west by Crown Land; and to the north and north-west by effectively rural-residential development. The site is not identified as State significant agricultural land, under the *State Environmental Planning Policy (Primary Production and Rural Development) 2019*. As the site does not allow for viable agricultural uses this PP is considered to be of minor significance and is therefore justified against Direction 1.5.

Direction 2.1 – Environment Protection Zones states that a PP must not reduce the environmental protection standards that apply to the land. A PP may be inconsistent with this direction if it is:

- Justified by a strategy which:
 - Gives consideration to the objectives of the direction,
 - Identifies the land which is the subject of the PP, and
 - Is approved by the Department of Planning, or
- Justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
- In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- Is of minor significance.

In the assessment of Direction 2.1 the proponent has stated that the PP is consistent with Direction 2.1 as it does not propose to alter the current E2 Environmental Conservation zone or the Terrestrial Biodiversity overlay applying to the site. For this reason, it is accepted that the PP is consistent with Direction 2.1.

Direction 2.2 Coastal Management states that a PP must contain provisions that give effect to the objects of the *Coastal Management Act 2016* and must not rezone land which would enable increased development within a coastal vulnerable area, coastal wetland or littoral rainforest.

A PP may be inconsistent with this direction if it is:

- Justified by a study or strategy prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
- In accordance with any relevant Regional Strategic Plan or District Strategic Plan, prepared under Division 3.1 of the Environmental Planning and Assessment Act 1979 by the relevant strategic planning authority, which gives consideration to the objective of this direction, or
- Is of minor significance.

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The applicant states that the subject site is not within a coastal vulnerability area, as identified by State Environmental Planning Policy (Coastal Management) 2018, and the site has not been identified as land affected by a current or future coastal hazard. For this reason, it is accepted that the PP is consistent with Direction 2.2.

Direction 2.3 Heritage Conservation states that a PP must contain provisions that facilitate the conservation of:

- a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and
- c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that:

- a) the environmental or indigenous heritage significance of the item, area, object or place is conserved by existing or draft environmental planning instruments, legislation, or regulations that apply to the land, or
- b) the provisions of the planning proposal that are inconsistent are of minor significance

A search of the Aboriginal Heritage Information Management System indicates that there are no known Aboriginal sites or places recorded or declared within 50 metres of the site.

Photographs, provided by the applicant, show that dry stone walls are located throughout the site. These walls are listed as heritage items in the LEP 2011. The PP does not seek to remove this listing.

The directions are considered to be addressed as there is appropriate legislation in place to protect unrecorded Aboriginal Heritage items and the dry stone walls as listed in Schedule 5 of the Kiama LEP 2011.

Direction 3.1 Residential Zones states that a PP must include provisions that encourage the provision of housing that will:

- (a) broaden the choice of building types and locations available in the housing market, and
- (b) make more efficient use of existing infrastructure and services, and
- (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and

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(d) be of good design.

A planning proposal must, in relation to land to which this direction applies:

- a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and
- b) not contain provisions which will reduce the permissible residential density of land.

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy which:
 - (i) gives consideration to the objective of this direction, and
 - (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and
 - (iii) is approved by the Director-General of the Department of Planning, or
- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or
- (c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or
- (d) of minor significance.

The PP will be of a density that is consistent with the general residential nature of the Kiama urban area and will provide for a range of residential uses that are permissible within the R2 Low Density Residential zone and R5 Large Lot Residential zone. Servicing has been addressed in the PP with the utility infrastructure available in the vicinity of the site. The capacity of this infrastructure will be confirmed with the relevant service providers post Gateway Determination. The proposal is consistent with the Illawarra-Shoalhaven Regional Plan. The PP is deemed to be consistent with this direction.

Direction 3.4 – Integrating Land Use and Transport states that a PP must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
- (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

A PP may be inconsistent with this direction if it is:

- Justified by a strategy which:
 - Gives consideration to the objectives of the direction;

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- Identifies the land which is the subject of the PP; and
 - Is approved by the Department of Planning; or
 - Justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction; or
 - In accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction; or
 - Is of minor significance.

The applicant has argued that the proposal is consistent with the Direction as Kiama Coaches operates a bus route between Kiama and Jamberoo with a bus stop being located within 200 metres of the site.

In a strategic context, the guide referred to in the Direction states that:

Studies of land capability and opportunity should consider accessibility as a major criterion for assessment, especially access by public transport. Consultation with public transport operators and cyclist, pedestrian and disability groups should commence in the early stages of plan preparation.

No new road networks are proposed as part of this PP. The site has existing frontage to a public road. Council's Acting Manager of Design and Development has raised no objection to the proposal. Additionally this PP is consistent with the Illawarra-Shoalhaven Regional Plan, and as such it is consistent with this Direction.

Direction 4.1 Acid Sulfate Soils states that a PP must:

- (a) Consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General,
- (b) Be consistent with the Acid Sulfate Soils Model LEP, and
- (c) On land having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps, consider an acid sulfate soils study, if the PP proposes an intensification of land uses on land assessing the appropriateness of the change of land use given the presence of acid sulfate soils.

The applicant states that the PP is consistent with this Direction as, given the elevation of the site and the distance from Class 1 and 2 acid sulfate soils in the Spring Creek wetland area, it is unlikely that development of the site will disturb acid sulfate soils. As the site is mapped as Class 5, is approximately 200 metres from land identified as Class 2 acid sulfate soils and is not situated below 5 metres Australian Height Datum an acid sulfate soils study is not required. The acid sulfate soils provisions of the LEP will continue to apply to the site.

Direction 4.3 Flood Prone Land states that a PP must:

- (a) Give effect to the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).

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- (b) Not rezone land within a flood planning area from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.
 - (c) Not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).
 - (d) Not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).

A PP may be inconsistent with this direction only if the relevant planning authority can satisfy the Director-General (or an officer of the Department nominated by the Director-General) that:

- (a) the planning proposal is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or
- (b) the provisions of the planning proposal that are inconsistent are of minor significance.

The applicant has argued that the proposal is consistent with this Direction as a flood impact analysis of the site has determined that the area proposed for residential rezoning and future residential development will not be detrimentally impacted by flooding from Spring Creek.

For the purposes of this Direction a flood planning area has the same meaning as a flood planning level as in the *Floodplain Development Manual 2005*. These definitions have been incorporated into the LEP and generally refers to land with a level of a 1:100 average recurrent interval flood event plus 0.5metre freeboard. The flood impact analysis, prepared by Footprint Sustainable Engineering shows that areas of the site to be rezoned from rural to residential are within the flood planning area. In this regard the PP is strictly inconsistent with this Direction. However, the areas of the site that are within the flood planning area relatively small in size and therefore the inconsistency is considered to be of minor significance. Council's Acting Manager of Design and Development has raised no objection to the proposal.

Direction 4.4 Planning for Bush Fire Protection states that a PP must:

- (a) have regard to Planning for Bushfire Protection 2006,
- (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (c) ensure that bushfire hazard reduction is not prohibited within the APZ.

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A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the council has obtained written advice from the Commissioner of the NSW Rural Fire Service, to the effect that, notwithstanding the noncompliance, the NSW Rural Fire Service does not object to the progression of the planning proposal.

The PP was supported by a Bushfire Hazard Assessment report, prepared by Harris Environmental Consulting, which concluded that the site can comply with the requirements of PBP 2006. Consultation with the NSW RFS will form part of the consultation process should Council endorse the PP to Gateway Determination.

5.10 Implementation of Regional Plans states that a PP must be consistent with a Regional Plan released by the Minister for Planning. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:

- (a) is of minor significance, and
- (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.

The PP addressed its consistency with the Illawarra-Shoalhaven Regional and is considered to comply with this Direction as it will assist in supplying additional housing in the Kiama LGA.

6.1 Approval and Referral Requirement states that a PP must:

- (a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and
- (b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:
 - (i) the appropriate Minister or public authority, and
 - (ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and
- (c) not identify development as designated development unless the relevant planning authority:
 - (i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and

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- (ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.

The PP does not propose to introduce consultation, concurrence or referral requirements and does not identify designated development. The PP is consistent with this direction.

State Environmental Planning Policies

The submitted PP has outlined that only 1 State Environmental Planning Policy (SEPP) applies to the proposal, that being SEPP No 55 – Remediation of Land. The PP is considered to be generally consistent with SEPP No 55 which requires the planning authority to consider:

- (a) the planning authority has considered whether the land is contaminated, and
- (b) if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and
- (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.

The applicant has stated that:

“...a review of the site and understanding of its history does not disclose any known history of being used for potentially contaminating purposes. It is anticipated that a Preliminary Site Investigation contamination assessment may be required at Gateway stage should the Planning Proposal proceed.”

This justification is considered to satisfy the mandatory considerations under the SEPP, however if this proposal proceeding to a Gateway Determination was supported Council could request that DPIE require a Preliminary Site Investigation.

Site Constraints

The site is subject to several constraints that have been analyzed as part of the review of the applicant's PP.

Heritage

A search of the Aboriginal Heritage Information Management System indicates that there are no known Aboriginal sites or places recorded or declared within 50 metres of the site.

Photographs, provided by the applicant, show that dry stone walls are located along the northern boundary of the site. These walls are listed as heritage items in the LEP 2011. The PP does not seek to remove this listing.

Report of the Director Environmental Services

12.4 Planning Proposal - Supporting Initial Gateway - Lot 2 DP 1018217 - Dido Street, Kiama (cont)

The directions are considered to be addressed as there is appropriate legislation in place to protect unrecorded Aboriginal Heritage items and the dry stone walls as listed in Schedule 5 of the Kiama LEP 2011. In this regard the protection of the dry stone walls will form part of the assessment of any subsequent Development Application for the site.

It is considered that the impact on heritage is acceptable.

Flooding

The site is within the Spring Creek catchment which drains south and then east into Spring Creek. The flood impact analysis, prepared by Footprint Sustainable Engineering shows that areas of the site to be rezoned from rural to residential are within the flood planning area. However, the areas of the site that are within the flood planning area relatively small in size and therefore the inconsistency is considered to be of minor significance Council's Acting Manager of Design and Development has raised no objection to the proposal.

Servicing

The site has access to reticulated water and sewer, as well as telecommunications and electricity. The PP seeks to rezone land to low density residential and large lot residential. DPIE's 'Guide to preparing a planning proposal' indicates that a PP should address whether existing infrastructure is adequate to serve or meet the needs of the proposal. The 'Guide' outlines that this question typically applies to PPs that result in residential subdivisions in excess of 150 lots or substantial urban renewal projects. As this proposal would result in eight 8 residential lots

Utility services are available in the locality and service the existing residential development to the east. Given the relatively small scale of development and the location of the site adjacent to land already zoned and developed for residential purposes, it is considered that consultation with the relevant service providers after and in accordance with any Gateway Determination is the most appropriate way of determining if the existing infrastructure is adequate. This consultation will be requested should Council decide to endorse this proposal.

Bushfire

Approximately half of the site is mapped as bushfire prone land. The PP was supported by a Bushfire Hazard Assessment report, prepared by Harris Environmental Consulting, which concluded that the site can comply with the requirements of PBP 2006. Consultation with the NSW RFS will form part of the consultation process should Council endorse the PP to Gateway Determination.

The adequacy of the report will need to be reviewed by the NSW RFS as part of the Gateway process.

Visual amenity

The applicant has provided a visual assessment and photographs from various vantage points. The applicant has outlined that:

Report of the Director Environmental Services

12.4 Planning Proposal - Supporting Initial Gateway - Lot 2 DP 1018217 - Dido Street, Kiama (cont)

“The subject site occupies an elevated hillside position on the lower flanks of a major west-east trending ridgeline. In terms of the general visual exposure of the site, the ridgeline forms the dominant landscape element being clearly visible from the northern parts of Kiama township, the Princes Highway and South Coast Railway, and Bombo Beach. The site sits below the ridgeline, being positioned lower on the hillside just above the Spring Creek flood plain, and is not as extensively exposed to view.”

As the site does not project above the ridgeline and most of the views of the subject site also contain existing residential development, the visual impact of the proposal is considered acceptable.

Plan Making Delegations

Council has received plan making delegation under Section 3.36 of the Environmental Planning and Assessment Act 1979. Should Council endorse the PP for Gateway Determination, it is recommended that Council request plan making delegations.

Conclusion

The site’s absence from the KUS appears to be an anomaly. The subject site was not included in any evaluation for the purposes of the KUS. This may have been an oversight or because its inclusion was not specifically requested by the previous owner at that time. The site has similar characteristic to Site 8, which has received a Gateway Determination for residential rezoning. Rezoning the site in a similar fashion to Site 8 is considered appropriate as it would allow for modest residential growth within the town boundaries as referred to in the Mayoral Minute of the 17 October 2017 Council meeting.

The PP and supporting documents have not raised any significant issues that would preclude the rezoning of the site to predominantly residential purposes and any issues that have been raised can be addressed through an amended PP or at Development Application stage.

It is therefore recommended that the PP be endorsed to be forwarded to the Department of Planning, Industry and Environment for a Gateway Determination.

PLANNING PROPOSAL



**LOT 2 DP 1018217
DIDO STREET, KIAMA**

Prepared by

Plannex Environmental Planning

on behalf of Tony Scopelitti

April 2019

Item 12.4

Attachment 1

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1.0 INTRODUCTION

1.1 Introduction

Plannex Environmental Planning has been engaged by Tony Scopelitti to prepare a Planning Proposal seeking to rezone part of his land at Lot 2 DP 1018217 Dido Street, Kiama from RU1 Primary Production to a mixture of R2 Low Density Residential and R5 Large Lot Residential to enable the site to be subdivided and developed for residential purposes, whilst retaining the existing E2 Environmental Conservation zoning across the western portion of the site.

This Planning Proposal identifies the objectives and intended outcomes of the proposal; offers an explanation of the proposed amendments to Kiama Local Environmental Plan 2011; and, provides detailed justification for the proposed amendment.

Prior to the preparation of the Planning Proposal a meeting was held with Council officers to discuss the development proposal and the intended amendments to Kiama Local Environmental Plan 2011 to facilitate the proposal, and to identify the range of matters to be addressed in the Planning Proposal. A copy of the minutes of that meeting are attached at Appendix A.

This Planning Proposal has been prepared in accordance with Section 3.33 of the Environmental Planning and Assessment Act, 1979 (EP&AA); and, relevant Department of Planning and Environment (DPE) guidelines, including 'A guide to preparing planning proposals' (2018) and 'A guide to preparing local environmental plans' (2018).

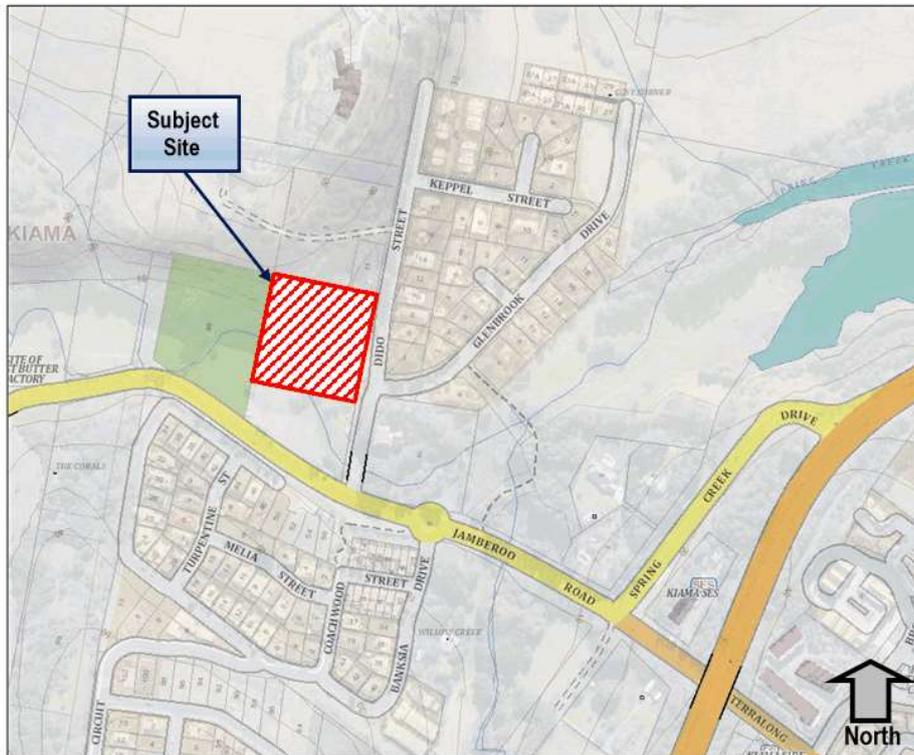
1.2 Subject Site

The subject site is an almost square-shaped allotment of land situated on the western side of Dido Street, north of Jamberoo Road, at Kiama (see Figure 1). The subject site is described as Lot 2 in Deposited Plan No.1018217 Dido Street, and has an area of 1.021 hectares. Photographs of the subject site are contained at Appendix B.

The subject site has a frontage of 100.585m to Dido Street along its eastern boundary. The northern boundary of the subject site measures 101.515m in length and the southern boundary measures 101.56m. The western boundary is 100.585m in length.

The subject site is currently vacant and its southern portion is affected by a 30.48m wide transmission line easement. The remnants of an old dry stone wall are located along part of the northern boundary.

Figure 1 – Location Plan



Source - SIX Maps

The subject site is located to the north-west of Kiama township within the lower hillslopes of the major ridgeline that extends through to Bombo Beach and separates Kiama from Bombo and Kiama Downs to the north. The localised landform of the site slopes in a south-easterly direction towards Dido Street and in a southerly towards Spring Creek, which cuts across the south-western corner of the site before flowing through the significantly flatter neighbouring property to the south and then under Dido Street and eventually into the Spring Creek wetland and lagoon at the southern end of Bombo Beach.

Vegetation across the subject site consists of two (2) vegetation types – 'Weeds and exotics' and 'Exotic grassland'. The dominant plant species present on-site include Large-leaved Privet, Coral Trees, Tobacco Bush and Easter cassia. Grasslands occurring on the cleared portions of the site are dominated by exotic species such as Kikuyu, Paspalum, Panic Veldtgrass and Parramatta Grass.

Figure 2 – Site Context



Source - SIX Maps

The subject site is not currently connected to Sydney Water's reticulated water supply or sewerage systems. Electricity services are similarly not connected to the subject site, but do run along the eastern side of Dido Street as an overhead supply.

1.3 Development Proposal

The rezoning of the land is necessary in order to facilitate a development proposal to subdivide the land into a total of eight (8) allotments to be subsequently developed for residential purposes. The proposed subdivision (illustrated in the concept plan at Appendix C) makes provision for a range of allotment sizes taking into account the site constraints and opportunities. It is proposed to create three (3) 'standard-sized' residential allotments, of between 488.6m² and 529.6m² in area, fronting Dido Street, with a fourth lot also fronting Dido Street, but with a larger area of 1,350m² taking into account the influence of the transmission easement. The layout also proposes four (4) larger battle-axe allotments – three (3) ranging in size from 910.3m² to 1,740m² and the fourth having an area of 3,396m² and encompassing the residue of the land.

Access to the proposed allotments is proposed in two (2) locations from Dido Street – one at the northern end of the site to provide access to Lots 1 to 4, and the other at the southern end of the site providing access to Lots 5 to 8. The access corridors will have a minimum width of 5m and will be covered by Rights of Carriageway so that each allotment has coincidental legal and practical access. It is intended that even the allotments with direct frontage to Dido Street will utilise the designated access corridors in order to minimise the number of access points onto Dido Street.

The subdivision layout has been configured so that each proposed allotment can accommodate a building area that achieves a maximum Bushfire Attack level of BAL-29 without requiring any clearing or vegetation disturbance within the E2 zoned portion of the site.

The subdivision will be serviced with a reticulated water supply, connections to the reticulated sewerage system, underground electricity reticulation, and NBN broadband services.

1.4 Existing Planning Controls

1.4.1 Kiama Local Environmental Plan 2011

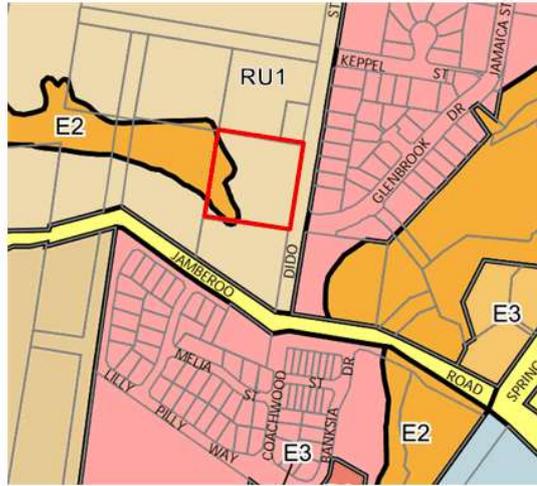
The subject site is affected by the provisions of Kiama Local Environmental Plan 2011 (KLEP 2011). Under KLEP 2011 the following specific planning controls apply to the subject site (shown edged in red on the map extracts):-

Planning Proposal
Lot 2 DP 1018217 Dido Street, Kiama

April 2019

Zoning

RU1 Primary Production
E2 Environmental Conservation



Minimum Allotment Size

40 hectares



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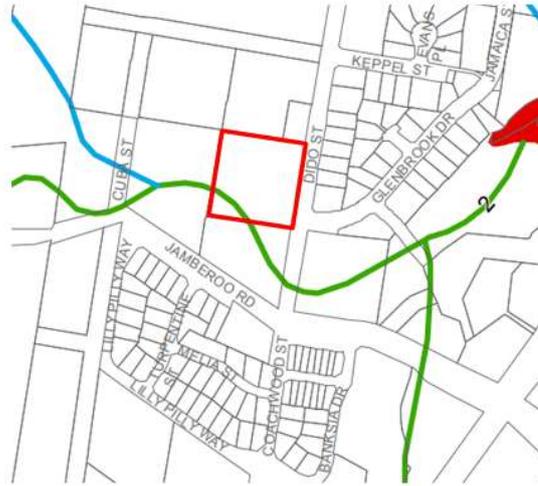
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Planning Proposal
Lot 2 DP 1018217 Dido Street, Kiama

April 2019

Riparian Lands

 Category 2 watercourse



Terrestrial Biodiversity

 Biodiversity Land



Item 12.4

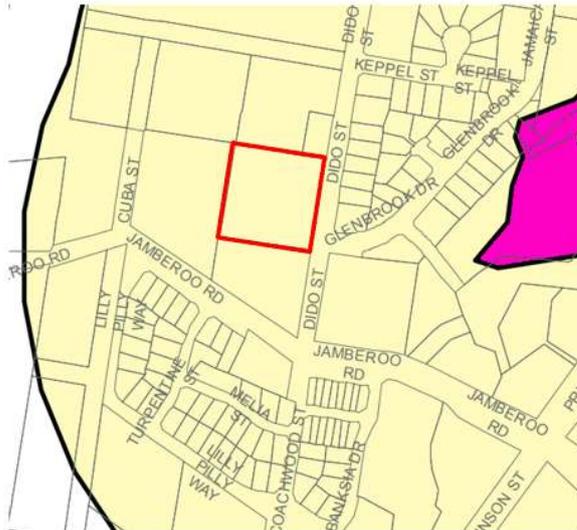
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Planning Proposal
Lot 2 DP 1018217 Dido Street, Kiama

April 2019

Acid Sulfate Soils

 Class 5



There is currently no specified maximum building height or floor space ratio (FSR) development standards applying to the subject site.

The subject site does not contain any listed items of environmental heritage but is located diagonally opposite listed item no. 199 ("Fernleigh" – at No.2 Dido Street) and there are the remnants of a dry stone wall located along the northern boundary of the site (see Photo 6 in Appendix B). Dry stone walls in Kiama are generally listed as a heritage item in Schedule 5 to KLEP 2011 (item no. 164).

Item 12.4

Attachment 1

2.0 OBJECTIVES & INTENDED OUTCOMES

The Planning Proposal seeks to make amendments to KLEP 2011 to rezone part of the land from RU1 Primary Production to a mixture of R2 Low Density Residential and R5 Large Lot Residential to enable the land to be subdivided and developed for residential purposes. The existing E2 zoned land will be maintained to enable the protection of the existing mapped Biodiversity Land.

The specific objectives and intended outcomes of the Planning Proposal are:-

- (a) to rezone part of the subject site from RU1 Primary Production to R2 Low Density Residential and R5 Large Lot Residential;
- (b) to retain the existing E2 Environmental Conservation zone across the western portion of the site and the RU1 Primary Production zone in the site's south-western corner;
- (c) to retain the Biodiversity Land designation within the site and to ensure the ongoing protection of this land;
- (d) to impose minimum allotment sizes of 450m² in respect of the land zoned R2 and 800m² in respect of the land zoned R5;
- (e) to impose a maximum building height limit of 8.5m in respect of the land zoned R2 and R5;
- (f) to impose a maximum FSR of 0.45:1 in respect of the land zoned R2 and R5; and
- (g) to enable the Torrens Title subdivision of the subject site to create residential allotments upon which dwelling houses may be constructed and including one (1) allotment that will contain all of the RU1 and E2 zoned land, in addition to at least 800m² of R5 zoned land.

3.0 EXPLANATION OF THE PROPOSED PROVISIONS

The objectives and intended outcomes of the Planning Proposal, as identified in Section 2.0, are to be achieved by:-

- Amending the KLEP 2011 Zoning Map in accordance with Appendix D, to rezone part of the subject site from RU1 Primary Production to R2 Low Density Residential and R5 Large Lot Residential;
- Amending the KLEP 2011 Lot Size Map in accordance with Appendix E, to apply a minimum permissible allotment size of 450m² in respect of the R2 zoned land and 800m² in respect of the R5 zoned land;
- Amending the KLEP 2011 Height of Buildings Map in accordance with Appendix F, to apply a maximum permissible height of 8.5m in respect of the land zoned R2 and R5; and
- Amending the KLEP 2011 FSR Map in accordance with Appendix G, to apply a maximum permissible FSR of 0.45:1 in respect of the land zoned R2 and R5.

4.0 JUSTIFICATION FOR THE PLANNING PROPOSAL

This section of the report examines the justification for the Planning Proposal in terms of the need for the proposal; how it sits within the strategic planning framework; its likely environmental, social and economic impacts; and, its implications for State and Commonwealth government agencies. This section is structured as responses to the questions contained within the DPI's 'A guide to preparing planning proposals'.

4.1 Need for the Planning Proposal

4.1.1 *Is the planning proposal a result of any strategic study or report?*

The Planning Proposal has been prepared as a direct result of Council's *Kiama Urban Strategy* (KUS). The KUS was prepared to consider and identify opportunities and options for urban infill and urban expansion development within the Kiama Local Government Area (LGA), including sites adjacent to the western fringe of Kiama township.

Although greenfield land adjoining the site to the north and north-west was examined by the KUS for its potential to be rezoned and developed for residential purposes, the subject site was not. Therefore, whilst the KUS does not specifically identify the site as one which should be considered for progression to Planning Proposal stage, it has similarly not specifically excluded the site either. Accordingly, this Planning Proposal seeks to evaluate the subject site in the same manner as the KUS evaluated other sites adjoining, and in the immediate vicinity of, the subject site.

4.1.2 *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The subject site is currently zoned RU1 Primary Production and E2 Environmental Conservation and is affected by a minimum allotment size of 40 hectares. Under the current provisions of KLEP 2011 it is not possible to subdivide the subject site in the manner proposed. Accordingly, rezoning of the subject site to a mix of R2 Low Density Residential and R5 Large Lot Residential to facilitate the proposal is the best and only means of achieving the desired outcome.

4.2 Relationship to Strategic Planning Framework

4.2.1 *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The Illawarra-Shoalhaven Regional Plan (ISRP) was published by the DPE in November 2015 and provides the strategic policy, planning and decision-making framework to guide sustainable growth in the Illawarra-Shoalhaven Region over a 20-year period to 2036. In terms of housing, the ISRP indicates that the region will need to provide at least 35,400 new homes between 2016 and 2036 to meet the demands of population growth and change. The ISRP aims to create sufficient housing supply to enable the region to meet the projected demand for new housing and sets Directions to achieve this outcome.

The Planning Proposal is consistent with Direction 2.1 which seeks to *“provide sufficient housing supply to suit the changing demands of the region”*. The ISRP indicates that the projected housing need for the Kiama LGA up to 2036 is 2,850 new homes. Whilst the Planning Proposal will not make a significant impact in terms of meeting the projected housing needs, it will assist. For this reason, the Planning Proposal is consistent with Direction 2.1.

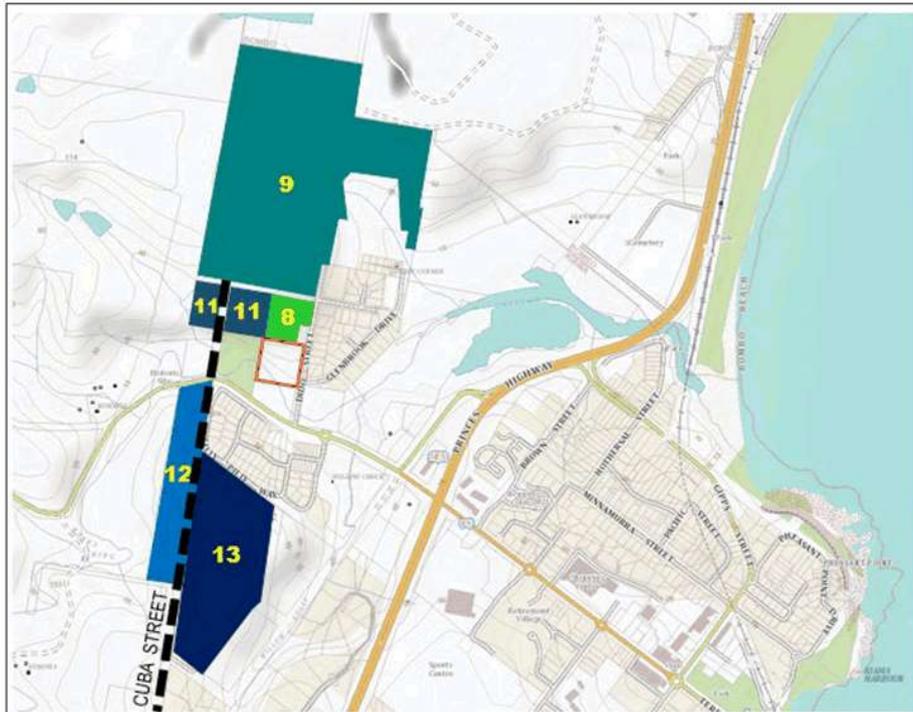
The subject site is located within reasonable proximity to the Kiama Town Centre and is within 200m of a bus stop along Jamberoo Road which services a bus route into the Kiama Town Centre. The Kiama Town Centre provides a range of services including retail, personal, health, community, and financial services. The Planning Proposal is therefore also consistent with Direction 2.2 which seeks to *“support housing opportunities close to existing services, jobs and infrastructure in the region’s centres”*.

The Planning Proposal will maintain the existing E2 Environmental Conservation zoning and Biodiversity land overlay applying to that band of vegetation along the northern side of Spring Creek. In addition, the concept subdivision plan (which the Planning Proposal will enable) also incorporates measures to ensure the protection of this area by including it within a single allotment and by ensuring that the proposed allotments are sized and configured to accommodate future dwellings without the need to clear or impact on vegetation within this area. The Planning Proposal is therefore considered to be consistent with Direction 2.4 which is to *“identify and conserve biodiversity values when planning new communities”*.

4.2.2 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The KUS was adopted in September 2011 and identifies areas throughout the Kiama LGA that are considered to be potentially suitable for urban infill or greenfield urban expansion. On the north-western periphery of Kiama township (in the immediate vicinity of the subject site), five (5) potential sites were evaluated for suitability for urban expansion and are referenced in the KUS as sites 8, 9, 11, 12 and 13. For some unexplained reason (perhaps an oversight or perhaps because it was not specifically requested by the previous owner at that time), the subject site was not included at all in any evaluation for the purposes of the KUS. The location of the potential sites in relation to the subject site is illustrated in Figure 3 below (with the subject site edged red).

Figure 3 – Kiama Urban Strategy



The KUS evaluation assessment resulted in the following recommendations for each of the five (5) potential sites illustrated in Figure 3:-

Site 8 *Include*

Site 9 *Exclude – due to its highly visual ridge location and not required*

Site 11 *Partial inclusion only as part of the land is west of the town boundary adopted by Council (ie Cuba Street)*

Site 12 *Exclude – as the land is west of the town boundary adopted by Council*

Site 13 *Include – as the land adjoins Cedar Ridge and Cedar Grove and is east of the town boundary adopted by Council*

Of these sites, Site 13 has been rezoned and subdivided and is currently being developed with housing; Site 8 is the subject of a current Planning Proposal seeking rezoning to R2 Low Density Residential to enable subdivision to create a potential ten (10) allotments; and, Site 9 was the subject of a recent planning proposal request which was formally not endorsed to proceed to Gateway determination at the Council meeting held on 19th March 2019. At the time of its initial adoption, the KUS indicated that Site 13 would be available for housing by 2016, and Sites 8 and 11 by 2021.

The subject site has very similar characteristics to Site 8. The subject site is located directly opposite existing residential development in Dido Street; it sits lower on the hillside than the discounted Site 9 (and is lower than the supported Sites 8 and 11); and, importantly, it lies to the east of Cuba Street – with only Crown Land (Lot 701 DP 1026775) located between the site and Cuba Street. Cuba Street was reinforced by Council as the adopted western boundary of Kiama township at its meeting of 17th October 2017, when it was resolved that Council “*not support any new planning proposals that involve new residential land outside the identified town boundaries referred to in the adopted urban strategy areas*”.

A more detailed, site-specific analysis of the constraints and capabilities of the subject site has been undertaken to inform the Planning Proposal and concept subdivision layout. This detailed analysis has identified that the subject site does have some capacity for residential subdivision and development without having any adverse environmental impacts. It has also identified that the land immediately to the south is heavily impacted by flooding and biodiversity constraints. These factors, in conjunction with the subject site’s location east of Cuba Street, is demonstrative of the suitability of the site for consideration for rezoning.

Even though the subject site has not been recommended by the KUS for consideration for future urban development, this appears to have been the result of the site having never been exposed to evaluation under the KUS rather than as a result of it being evaluated and ruled out as unacceptable. As mentioned above, the land immediately to the north and north-west of the subject site has been identified in the KUS as suitable for consideration for rezoning; the land immediately to the west is Crown Land; and, the land to the south is not suitable for development due to flooding and biodiversity constraints. This leaves the

subject site as an isolated 'island'. It therefore makes sense, from a planning perspective, to consider the site for rezoning.

Council's *Planning Proposal Policy* (adopted 21st February 2012) identifies the circumstances under which Council may be prepared to consider a planning proposal, namely:-

- *Land is identified as a nominated area in the Urban Strategy.*
- *Land can be identified as assisting to meet Council's strategic direction.*
- *A clear zoning anomaly exists on site.*

In this case, the land is not nominated in the KUS. However, for the reasons explained above, it is considered that the subject site is consistent with the intent of the KUS. The development of the site for residential purposes is also consistent with Council's strategic directions for greenfield urban expansion (as outlined in the KUS), particularly:-

- 4.6.1 *That Council provide sufficient land to meet the requirements of the Illawarra Regional Strategy as required by the Department of Planning.*
- 4.6.3 *That Council agree to the IRS target of 43% detached housing as required by the DOP recognising that the implications of this include the requirement to consider broader greenfield sites in the planning proposal process. However Council seek to review the IRS and this percentage following the 2011 Census and an associated review of population and housing needs.*
- 4.6.6 *That Council reconfirm its strongly held policy position that residential development in Kiama not progress further west than the current West Kiama/Cedar Ridge/Cedar Grove town boundary.*

It is also apparent that the current RU1 Primary Production zoning is not an appropriate zoning for the site. The RU1 zone has objectives aimed at:-

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect agricultural land for long term agricultural production.*
- *To provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing.*

The subject site has an area of just 1.021 hectares, of which only approximately 4,700m² is currently cleared. Whilst the site is contiguous with the adjoining allotment to the south (Lot 1 DP 1018217 – 7,041m² in area), this allotment does not add significantly to the available cleared land and is almost entirely flood-prone. The very small area of cleared land available, together with the shallow soil profile over the site precludes the site from being used for primary production purposes (eg grazing or cropping) consistent with its zoning. In addition, with Council prepared to consider land to the north and north-west for rezoning for residential purposes and the land on the opposite site already being developed for residential purposes, using the subject site for primary production purposes has the potential to cause conflict with existing and future residential neighbours – particularly considering the cleared and less steeply sloping portion of the site is located in its north-eastern corner.

As the site has extremely limited primary production capacity and cannot be used for a purpose that is consistent with the zone objectives, it is considered that there is an anomaly with the existing zoning. This zoning anomaly is further enhanced by the fact that Council is prepared to consider land to the north and north-west for rezoning in accordance with the KUS, and that the subject site should have (as a minimum) at least been evaluated as part of the preparation of the KUS.

4.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal has been reviewed having regard to State Environmental Planning Policies (SEPPs). The only applicable SEPP is *State Environmental Planning Policy No.55 – Remediation of Land*. In this regard, a review of the site and understanding of its history does not disclose any known history of being used for potentially contaminating purposes. It is anticipated that a Preliminary Site Investigation contamination assessment may be required at Gateway stage should the Planning Proposal proceed.

4.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The Planning Proposal has been reviewed in the light of the Directions issued by the Minister pursuant to Section 9.1(2) of the Environmental Planning and Assessment Act, 1979. The Planning Proposal's consistency with the relevant Section 9.1 Directions is summarised in the Table in Appendix H.

4.3 Environmental, Social and Economic Impact

4.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject site contains various ecological constraints, including land zoned E2 Environmental Conservation and mapped as biodiversity land under KLEP 2011; Spring Creek and its associated riparian area; and, land mapped as having biodiversity values under the NSW Biodiversity Values Map. Accordingly, EcoPlanning was engaged to undertake an ecological constraints assessment of the subject site and the neighbouring Lot 1 DP 1018217 (which is in the same ownership as the subject site). A copy of EcoPlanning's report is attached at Appendix I.

The assessment and investigations undertaken by EcoPlanning included a literature and database review of the study area; determination of the potential for threatened species, populations and migratory species to occur within the study area; and, field surveys. Whilst the literature review revealed 'subtropical dry rainforest' as being mapped across the study area, field surveys determined that the on-site vegetation is dominated by Large-leaved Privet, Coral Trees, Tobacco Bush and Easter cassia. Based on this assessment, the actual vegetation communities present were more properly determined as being 'weeds and exotics' and 'exotic grassland'. None of the threatened flora species recorded within 5km of the study area were present on the site.

Whilst twelve (12) threatened species of fauna have previously been recorded within 5km of the study area, there are no recent records of any threatened fauna occurring within the study area and most threatened species were either determined as being not present or having a low likelihood of occurrence within the study area. No hollow bearing trees were recorded in the study area. Two (2) species of microbats have been recently recorded within the locality – the Eastern Bentwing-Bat and the Southern Myotis. Habitat on the site is limited to foraging habitat only.

The ecological constraints assessment has identified the land within 20m either side of Spring Creek as presenting a 'high' ecological constraint, with the next 20m outside of this presenting a 'medium' constraint. Where development proposes works that will impact on the 'high' ecological constraint area a Biodiversity Development Assessment Report (BDAR) will be required. Where impacts on the Vegetated Riparian Zone to Spring Creek are proposed, a Vegetation Management Plan (VMP) will be required at development application stage.

The proposed subdivision does not seek to undertake any works – including clearing for Asset Protection Zones – within the area of 'high' ecological constraint, and the proposed allotments have been configured accordingly.

4.3.2 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

In addition to the investigations of the site's ecology (outlined above) flooding, bushfire risk and geotechnical constraints together with potential traffic and visual impacts have been investigated as outlined below:-

(a) Flooding

Spring Creek cuts across the south-western corner of the subject site and passes through the adjoining property to the south, before passing under Dido Street and then into the Spring Creek wetland and lagoon. Potential flooding impacts have been investigated by Footprint Sustainable Engineering.

Footprint's analysis of flooding impacting the site has been derived from the *Spring Creek Catchment Flood Study* (May 2014) and has determined that the 1% AEP flood level affecting the site is RL 8.0m AHD, while the PMF level affecting the site is RL 10.0m AHD. Footprint's mapping of the 1% AEP and PMF levels relevant to the site is attached at Appendix J.

The flood analysis clearly demonstrates that only the very south-western corner of the subject site (ie Lot 2 DP 1018217) is affected by the 1% AEP flood event, and impacts only proposed Lots 6 and 7. The flood-affected area coincides with areas of 'high' ecological constraint and therefore will be excluded from any development – including land clearing. Suitable building areas on proposed Lots 6 and 7 are available well above the 1% AEP flood level and the PMF level. Proposed Lots 1 to 5 and 8 are located entirely above the 1% AEP flood level.

(b) Bushfire Hazard

Harris Environmental Consulting has undertaken an assessment of the capability of the subject site to be rezoned and developed for the proposed residential subdivision in accordance with the provisions of *Planning for Bushfire Protection*

(2006). The assessment has considered the capability of the subject site to achieve the required minimum bushfire protection measures for the proposed subdivision and future dwelling houses, having regard to the need to provide Asset Protection Zone (APZ) building setbacks to existing significant vegetation; the need to provide access and egress for future residential development; and, the need to provide other bushfire protection measures such as the provision of utilities.

The bushfire hazard assessment has undertaken an investigation of the vegetation types and land slopes influencing bushfire behaviour. The upslope land to the north is considered to be managed due to the presence of an existing dwelling house (No.11 Dido Street) and the current proposal to rezone the adjoining property to residential. To the west the land is 15-20° downslope and classified as 'rainforest', while to the south and south-west the land is 5-10° downslope and classified as 'riparian corridor', with 'grassland' also present to the south-west and south. The land to the east is 5-10° downslope and classified as a combination of managed land and 'rainforest'.

Using the slope analysis and vegetation classifications, APZ widths for the proposed allotments have been determined in order for each allotment to accommodate a building area capable of achieving a maximum Bushfire Attack Level (BAL) of BAL-29. To avoid impacting on the vegetation embodied within the E2 zone and within the 20m riparian corridor to Spring Creek, the APZs have been measured from the edges of these areas. The nominated APZs required to achieve BAL-29 are 11m to the south-east; 18m to the south and south-west; and 29m to the west.

The geometric design of the Right of Carriageway access driveways will need to comply with *Planning for Bushfire Protection* (2006) in terms of grades, carriageway width, and crossfalls.

As it is intended to provide a reticulated water supply, where any building envelope on an allotment is not within 70m of a fire hydrant, a 10,000 litre dedicated firefighting supply will need to be provided. Bottled gas will need to be installed and maintained in accordance with AS/NZS 1596-2014. Any above ground electricity transmission lines will need to be managed in accordance with the supply authority's specifications.

A copy of the bushfire hazard assessment report is attached at Appendix K.

(c) Site Stability

Southern Geotechnics was engaged to undertake a geotechnical assessment of the stability of the subject site and its suitability for subdivision and subsequent development for residential purposes.

The geotechnical investigations undertaken by Southern Geotechnics involved a review of local geological mapping; site observations on the property and the surrounding area; drilling of three (3) boreholes across the site; and, engineering assessment and reporting.

Based on the geotechnical investigations undertaken, the site was assessed as having a very low to low risk of slope instability and has been classified as a Class P site in accordance with AS2870 – 2011 *Residential slabs and footings*.

It is recommended that development take place on the moderately sloping ground in the north-eastern portion of the site. Coincidentally, this portion of the site corresponds with the area north of the transmission easement and east of the recommended APZ to the E2 zoned land, which is the area where building envelope opportunities exist.

The geotechnical assessment has identified geotechnical constraints and recommendations for future development, including the following:-

- Foundations should be designed in accordance with engineering principles, with reinforced footings or piers founded on rock.
- Excavations over 600mm deep should be supported by engineered retaining walls. Excavations less than 600mm may be battered not steeper than 2.5H:1V, and vegetated or covered to limit erosion. Excavations in rock should be carried out using a process that involves saw cutting, due to the risk of damage to adjoining properties caused by large hydraulic hammer vibrations.
- No fill material apart from that necessary for driveway and slab construction should be imported onto the site. Any fill arising from excavations on site may be placed and compacted in 200mm maximum thickness layers on stripped and benched ground. Fills more than 600mm deep should be supported by an engineered retaining wall. Fill less than 600mm deep may be battered not steeper than 2.5H:1V, and vegetated or covered to limit erosion.
- Retaining walls greater than 600mm high should be engineer designed, include subsoil drainage at the rear, and allow for the lateral loading arising from soil creep on sloping ground. Landscaping walls less than 600mm high should be constructed in accordance with the supplier's recommendations.
- All roof water run-off not stored for reuse and surface run-off should be piped to the creek. On-site disposal of stormwater by concentrated soakage is not recommended on the basis of the increased risk of slope instability and reactive clay movement. Subsoil drainage is recommended on the upslope side of slab on ground structures to limit the ingress of seepage beneath the slab.

A copy of the geotechnical assessment report is attached at Appendix L.

(d) Traffic Impacts

The subject site is accessed from Jamberoo Road via Dido Street. Jamberoo Road is a main road providing access between Kiama and Jamberoo and also services the M1 motorway, with an on/off ramp located to the east of the site. The proximity of Jamberoo Road provides the site with excellent access to regional the major north-south and east-west road corridors.

In terms of traffic impacts, the site is accessed directly from Dido Street, which has a sealed carriageway and concrete kerb and gutter along its eastern side. The concept subdivision plan makes provision for a total of eight (8) allotments. Based on traffic generation rates of 9 daily vehicle trips per dwelling and 0.85 weekday peak hour vehicle trips per dwelling¹, the eight (8) lot subdivision would generate a total of 72 daily vehicle trips and 6.8 (say 7) vehicle trips in the weekday peak hour.

An additional 7 weekday peak hour trips is not expected to adversely impact upon the current level of service of the intersection of Dido Street and Jamberoo Road.

(e) Visual Impacts

The subject site occupies an elevated hillside position on the lower flanks of a major west-east trending ridgeline. In terms of the general visual exposure of the site, the ridgeline forms the dominant landscape element being clearly visible from the northern parts of Kiama township, the Princes Highway and South Coast Railway, and Bombo Beach. The site sits below the ridgeline, being positioned lower on the hillside just above the Spring Creek flood plain, and is not as extensively exposed to view.

The general visual character of the area is predominantly of a natural and rural character, with elements of residential character also present along Dido Street and in the Cedar Grove Estate. This visual character of the site and its setting is typical of urban fringe development along the western edge of Kiama.

Due to the nature of the prevailing topography of the site and its immediate surrounds, and that of the locality generally, the visual catchment of the subject site is restricted to close range views only. The principal public domain views of the site are from the northbound lanes of the Princes Highway (south of the Spring Creek Drive exit); from Spring Creek Drive; from Terralong Street (west of the Princes Highway overpass); and, from within the 'Cedar Grove' estate (refer to the photograph locations in Figure 4).

¹ *Guide to Traffic Generating Developments* (Roads and Traffic Authority 2002)

Figure 4 – Photograph Locations



In general terms, the ridgeline is the dominant feature of the landscape setting of the site and features in all views of the site from the nominated viewing points. The site does not project above the ridgeline and is viewed against a backdrop of vegetation, flanked by vegetation and with vegetation in the foreground. Most views of the subject site also contain existing residential development, such that the future development of the site will not be a foreign element within the visual catchment. It should also be noted that the land immediately to the north and uphill of the subject site is earmarked for rezoning and residential development (being the subject of a current Planning Proposal). Development of this site will alter the landscaped setting of the subject site and will expand the existing residential elements and will make development on the subject site less apparent.

The following photographs illustrate the visual exposure of the subject site (circled) when viewed from public vantage points to the east and south.



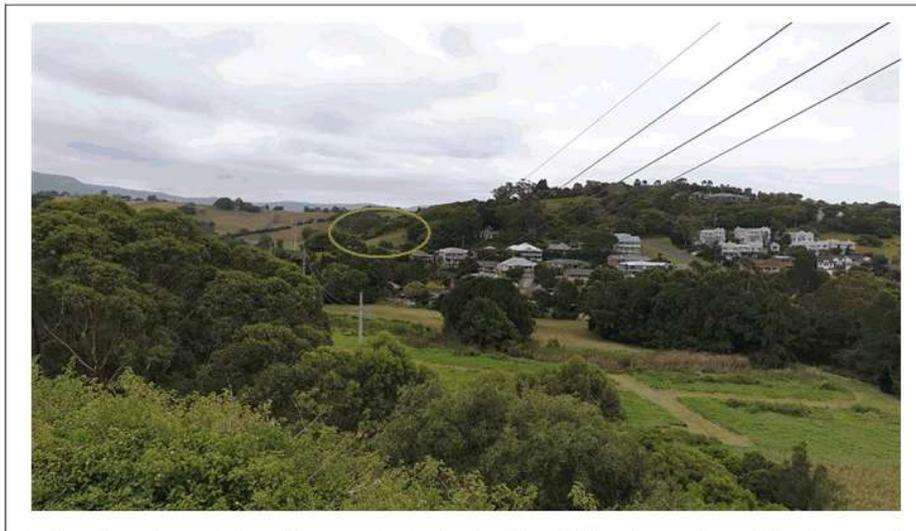
P1 – View from the north-bound lanes of the Princes Highway. The site sits between existing residential development at the top end of Dido Street (to the right) and the 'Cedar Grove Estate' (to the left). The landscape setting is dominated by vegetation and the ridgeline, with elements of residential character also present. Given the comparatively small area affected by potential future development of the site, when considered in the broader visual setting, there will be only a minor change to the landscape setting as the dominant landscape elements will remain the extensive stands of vegetation and the ridgeline.



P2 – View from the western end of Terralong Street (east of the Spring Creek Drive intersection). The site is clearly visible and there are no other visible residential elements present that might otherwise make future development of the site less obvious. Localised topography, intervening vegetation and the alignment of the road all contribute to the screening from view of existing residential development in the Spring Creek area and at Cedar Grove Estate. Future development of the land uphill and to the right of the subject site (as envisaged by the KUS) would also be visible from this viewing point.



P3 – View from the Spring Creek Drive exit off the Princes Highway. The scene has a higher level of residential elements in the immediate vicinity of the site, which will render any future development of the site contiguous with existing development. If development occurs to the right of the subject site (as is envisaged by the KUS) then this will create an expanded residential element within the view, but still maintaining the characteristics of development at the Kiama urban fringe.



P4 – View from the north-bound lanes of Spring Creek Drive. Similar view to that at P3, with more of a predominance of natural elements due to the existence of the Spring Creek floodplain and wetlands in the mid-ground. Even from this vantage point, development on the site will not result in a drastic change to the landscape setting due to the relatively small area of the site and the presence of residential elements within the view.



P5 – View from the intersection of Lilly Pilly Way and Turpentine Street in the Cedar Grove Estate, to the south. The landscape setting is highly urbanised with established residential development in the foreground and to the right of the subject site. Even accounting for the fact that much of the vegetation on the right-hand side of the circled area consists of Coral trees, there is still extensive vegetated areas to the left of the site and above the site to the ridge line. Development of the site will appear as being contiguous with the existing development to the right and will not be inconsistent with the general urban fringe pattern of development in the area generally.

Factors which influence the visual impact of a development include:-

- the distance from the viewer to the development – whether views are distant or close range;
- the extent of the view – whether the development is visible in its entirety or only partially;
- the duration of the view – whether viewed for a short period (as in by a passing motorist) or for an extended period; and
- the visual absorption capacity of the setting – the ability of existing elements within the landscape to hide or screen or disguise a development.

From the locations shown in photographs P1 to P5, views of the site are generally at a distance which would make it difficult for an observer to perceive the detail of future development, with it largely reading as contiguous with the scale and form of the existing residential development.

In terms of the extent of views, even from closer vantage points (P2 and P5), the site is viewed in a broader context and not in its entirety (due to the landform of the site and existing vegetation). Once the site is developed for residential purposes, individual structures would overlap each other in the view and the site would mimic adjacent residential development in that regard.

The exposure of the site to views from public roads will be limited in duration. This is due to a number of factors such as the alignment of the roads; the speed of traffic travelling along the roads; and, intervening topographical, landscape and man-made features. The limited duration of views to the site would not create an increased sensitivity to the development.

The physical setting of the subject site is considered to provide a high visual absorption capacity, on the basis that development of the subject site will not be prominent in the visual catchment. The development will make a comparatively small contribution to the overall view and does not contrast significantly with other residential elements that are apparent in the current views. The major ridgeline backdrop and extensive areas of vegetation will remain the dominant elements within the visual catchment.

Overall, in terms of impacts on the visual quality of the landscape setting, the development of the site will result in a minor modification to the existing visual setting but will not significantly change the overall composition of the wider visual setting. The proposal does not introduce a new visual element into the view, as there is already residential development present in the visual catchment, and therefore achieves compatibility with its surroundings.

4.3.3 Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will provide additional residential land to be developed for detached dwellings to assist Kiama Council to meet the housing demands of population growth and change. The subject site is close to the amenities of the Kiama town centre, which include a major supermarket; general shops; cafes; clubs; hotels; community facilities; churches; swimming pools; recreational amenities; medical practitioners; library; child care centres; a public high school; and, public and Catholic primary schools.

The Planning Proposal will lead to increased development and building activity throughout the subdivision and dwelling construction phases. The broader population base will increase the demand for goods and services which will benefit local businesses and service providers. Section 7.11 and 7.12 Contributions levied by Council at both the subdivision and building stages, will provide funding for identified Council projects.

4.4 State and Commonwealth Interests

4.4.1 Is there adequate public infrastructure for the planning proposal?

The subject site is located immediately to the west of the existing, established residential area of Spring Creek. This residential area is currently fully serviced with reticulated water and sewerage, electricity services and NBN broadband connection.

The area is serviced by Sydney Water's reticulated water supply system, with a watermain located along the eastern side of Dido Street. Existing fire hydrants are located in Dido Street to the north-east of the site and at the intersection of Dido Street and Glenbrook Drive. The site is capable of being connected to the reticulated water supply in Dido Street.

The residential properties opposite the site in Dido Street are connected to Sydney Water's reticulated sewerage system. To service the proposed subdivision, it will be necessary to extend the sewerage system across to the western side of Dido Street. It is expected that Council will consult with Sydney Water as part of the Planning Proposal assessment and any specific requirements can be made known at that stage.

Electricity to service the proposed subdivision would be taken from the existing overhead mains on the eastern side of Dido Street and reticulated via underground mains throughout the subdivision.

Access to the proposed allotments will be provided from Dido Street via two (2) separate access driveways – one positioned towards the northern end of the site and servicing proposed Lots 1 to 4, and the other positioned towards the southern end of the site and servicing proposed Lots 5 to 8. A preliminary design for the access driveways, proving access feasibility, has been prepared and is attached at Appendix M. Direct access to Dido Street, other than via the proposed access driveways, will be prohibited for Lots 3, 4, 5 and 8 via an appropriately worded 88B Restriction.

Kiama Coaches operates a bus route along Jamberoo Road between Kiama and Jamberoo (Route 701). There is a bus stop located south of the site on Jamberoo Road, within 200m walking distance of the site.

Having regard to the availability of existing electricity services; the potential to connect to the available reticulated water supply and sewerage systems; and the availability of convenient public transport, it is considered that there is adequate public infrastructure already in place to cater for the proposal.

4.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

At this stage, the gateway determination has not been issued by the Minister and the relevant State and Commonwealth public authorities to be consulted have not yet been confirmed. It is expected that the following State and Commonwealth agencies (as a minimum) will be formally consulted:-

- Department of Planning and Environment;
- Sydney Water;
- Endeavour Energy;
- Rural Fire Service;
- NSW Office of Environment and Heritage; and
- NSW Department of Primary Industries – Water.

5.0 COMMUNITY CONSULTATION

The gateway determination will identify the level of public consultation required for the Planning Proposal, and may require:-

- notification of the Planning Proposal in a newspaper circulating in the locality;
- notification on Kiama Council's website; and
- notification in writing to affected and adjoining landowners.

The DPE's '*A guide to preparing local environmental plans*' outlines the consultation required for different types of planning proposals depending on whether or not they can be classified as "*low impact proposals*" or not. It is not expected that the Planning Proposal for the subject site will be classified as "low impact", and therefore a 28 day exhibition period is anticipated.

6.0 CONCLUSION

The Planning Proposal seeks to amend KLEP 2011 to enable the subject site to be subdivided and developed for low density residential purposes, with the existing mapped area of high ecological constraint protected and conserved by the retention of the current E2 Environmental Conservation zoning.

The subject site is considered to be suitable for the proposed subdivision and subsequent residential development having regard to the availability of public utility infrastructure and the proximity of the site to existing facilities and services.

Assessments of the site constraints and development proposal undertaken to date, indicate that the development of the site is possible within the existing constraints, and that there is not likely to be any detrimental environmental impacts arising from the proposed development, and that the likely social and economic impacts of the development will be positive.

This Planning Proposal report has reviewed the proposal in light of the State and local strategic planning framework, and has determined that the proposal is consistent with the *Illawarra-Shoalhaven Regional Plan*, relevant SEPPs and s9.1 Directions, and is not inconsistent with Council's adopted *Kiama Urban Strategy* (2011).

The Planning Proposal is recommended to Council for referral to the Department of Planning and Environment for Gateway Determination.



Glenn Debnam BTP (UNSW) RPIA
Town Planner
Director

8th April 2019