

Planning Services

Gateway Determination Report

LGA	Kiama LGA
PPA	Kiama Municipal Council
NAME	Planning proposal to amend Kiama LEP 2011 to permit bed and breakfast accommodation and eco-tourist facilities in rural and environmental zones. (0 homes, 0 jobs)
NUMBER	PP_2018_KIAMA_001_00
LEP TO BE AMENDED	Kiama Local Environmental Plan, 2011 (LEP)
ADDRESS	N/A
DESCRIPTION	N/A
RECEIVED	14 May 2018, Additional information 7 June 2018
FILE NO.	IRF18/3137 (EF18/8022)
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

- The planning proposal seeks to amend the Kiama LEP 2011 to permit with development consent, bed and breakfast accommodation in the RU1 Primary Production zone and eco-tourist facilities in the RU2 Rural Landscapes and E3 Environmental Management zones which will contribute to the local tourism economy whilst ensuring the continuation and productivity of rural and environmental areas. - **Attachment B1** – Planning proposal.

Site description

- N/A – The planning proposal applies to all lands zoned RU1, RU2 and E3 in the Kiama LGA.

Existing planning controls

- Currently the only forms of tourism and visitor accommodation permissible in rural and environmental areas of the Kiama LGA are farm stay accommodation in the RU1, RU2 and E3 zones and bed and breakfast in the RU2 and E3 zones.

Surrounding area

N/A

Summary of recommendation

- It is recommended that the planning proposal should proceed as submitted.

PROPOSAL

Objectives or intended outcomes

- The objective of the planning proposal is to amend the Kiama Local Environmental Plan (LEP) 2011 to permit bed and breakfast accommodation with consent in the RU1 Primary Production Zone and permit eco-tourist facilities with consent in the RU2 Rural Landscape and E3 Environmental Management zones.
- The objective is clear and appropriate for public exhibition.

Explanation of provisions

It is proposed to amend the Kiama LEP 2011 by:

- Amending the Land Use Table to make bed and breakfast accommodation permissible with consent within the RU1 Primary Production Zone;
- Amending the Land Use Table to make eco-tourist facilities permissible with consent within the RU2 Rural Landscape and E3 Environmental Management zones; and
- Including compulsory Clause 5.13 Eco-tourist facilities.
- Council will not be able to grant consent to a Development application for an eco-tourist facility unless it has satisfied the provisions of Clause 5.13.
- The explanation of provisions clearly describes the intended changes appropriate for public exhibition.

Mapping

There are no mapping amendments for this planning proposal.

NEED FOR THE PLANNING PROPOSAL

- Council considers that the inclusion of bed and breakfast accommodation and eco-tourist facilities as permissible types of tourism and visitor accommodation in the rural and environmental areas will contribute to the local tourism economy whilst ensuring the continuation and productivity of the rural and environmental areas.
- Under the provisions of the previous Kiama LEP 1996 bed and breakfast accommodation was permissible in the Rural A zone (now RU1 and RU2) as a type of tourist facility. This permissibility was not carried over into the RU1 zone in the current LEP. Council has no recollection as to the reasons behind this decision.
- The planning proposal is the only mechanism available for amending the current provisions in the land use table and adding the model eco-tourist facilities clause to the Kiama LEP.

STRATEGIC ASSESSMENT

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

Regional - Illawarra Shoalhaven Regional Plan 2015

- The proposal is consistent with the Illawarra Shoalhaven Regional Plan (the Plan).

- It will assist in diversifying Kiama's tourism industry. The Plan (Goal 1) outlines that tourism is a priority growth sector for the region. Bed and breakfast accommodation and eco-tourist facilities will contribute to trail and experience based tourism.
- The proposed amendments will also assist in addressing Goal 4 - 'A Region That Makes Appropriate Use of Agricultural and Resource Lands'. As bed and breakfast accommodation can only occur within existing dwellings its inclusion in the RU1 Primary Production zone will not compromise agricultural lands.

Kiama Rural Lands Study 2006

- The Kiama Rural Lands Study 2006, prepared by Edge Land Planning, outlines that tourism is an increasingly important activity in the LGA and is an industry which should be actively encouraged in rural areas.
- The Study also comments that tourism and other economic development initiatives should be encouraged to ensure the continuation of existing agricultural practices.
- In light of these recommendations, Council considers it appropriate to permit a wider range of tourist and visitor accommodation in rural and environmental areas as long as they are low impact and in keeping with the existing rural and environmental character.
- The Planning Proposal is consistent with the Kiama Rural Lands Study 2006 as it would contribute to the local tourism sector whilst maintaining Kiama's rural and environmental landscapes. It will also provide greater economic diversification opportunities for rural properties.

Section 9.1 Ministerial Directions

- The planning proposal is consistent with the s9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones and 5.10 Implementation of Regional Plans. The planning proposal does not contain provisions which would increase the permissible density of land within a rural zone, reduce the environmental protection standards or affect coastal lands. Any proposed tourist/visitor accommodation will need to comply with Clause 5.13 'Eco-tourist facilities' in the LEP. Bed and breakfast accommodation can only operate within existing dwellings.
- It is unknown whether the planning proposal is consistent or justifiably inconsistent with the s9.1 Direction 4.4 Planning for Bushfire Protection. The planning proposal will apply to lands which are mapped as bushfire prone land. Any potential inconsistency remains unresolved until consultation with the Rural Fire Service has been undertaken.
- The planning proposal is potentially inconsistent with s9.1 Directions 2.2 Coastal Management, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land as the proposal applies to RU1, RU2 and E3 zones across the LGA. Any inconsistencies would be of minor significance and can be addressed at the development application stage. The provision of the compulsory clause 5.13 will require the consent authority to be satisfied that any development will not have an adverse impact on the productivity of agricultural land and environmental issues. No further consideration of these Directions is required.

State environmental planning policies

- The planning proposal is consistent with the Rural Planning Principles in the SEPP Rural Lands as the proposal will allow for diversification of rural activities whilst still maintaining agricultural production.

SITE-SPECIFIC ASSESSMENT

Social

- Council has identified that the proposal will provide social benefits such as giving experiences in rural and environmental settings; enhancing an appreciation of the environmental and cultural values of the area by both locals and visitors; and improvements in the rural landscape will be highly valued by the Kiama community.

Environmental

- Council considers that the proposal is unlikely to result in any negative environmental effects. As bed and breakfast accommodation can only occur within existing dwellings, it is unlikely that the proposal will result in any environmental effects.
- With regards to eco-tourist facilities, the provision of the compulsory clause 5.13 will require the consent authority to be satisfied that development will not have an adverse impact on the natural environment and provides opportunities for the regeneration of natural environments.

Economic

- Council considers that the proposal will result in increased revenue into rural and environmental areas. In 2017 the estimated total value of the tourism sector for the Kiama LGA was approximately \$142 million. Approximately 19% of the LGA's total workforce is employed in the tourism sector. Providing a wider range of tourist accommodation within the LGA will enable more visitor stays which will increase the amount of money spent in the immediate and wider region.

Infrastructure

- The provision of any required infrastructure will be the responsibility of the developer/proponent of the accommodation facilities.
- As bed and breakfast accommodation can only operate within existing dwellings, the provision of infrastructure has already been supplied or alternate arrangements have been made.
- Eco-tourism facilities will require site specific assessments of water supply, effluent disposal systems and electricity supply. Due to the small-scale nature of eco-tourist facilities it is highly likely that these facilities will be provided with on-site effluent disposal systems, on-site water supply systems, and on-site renewable energy systems.

CONSULTATION

Community

- Council has advised that the planning proposal is to be publicly exhibited for 28 days. Public notification will include local newspaper notifications, notice on Council's website, hard copies of the planning proposal provided at Council's administration buildings and notification letters to surrounding property owners. This is considered appropriate.

Agencies

- Council has identified consultation with the NSW Rural Fire Service to meet requirements under section 9.1 Direction 4.4 Planning for Bushfire Protection.
- No further agency consultation is required.

TECHNICAL STUDIES

- No studies have been completed or are required for the planning proposal.

TIME FRAME

- Council has proposed a 12-month project timeframe to complete the rezoning process.
- This is considered appropriate due to the low administrative nature of the planning proposal – no required studies, limited agency consultation and proposed use of the applicable Standard Instrument Eco-tourism model clause.

LOCAL PLAN-MAKING AUTHORITY

- Council has requested in its letter of 14 May 2018 Council Officer Delegation to prepare the draft LEP under Section 59 of the Act. Appendix 4 – Evaluation Criteria for the Delegation of Plan Making Functions was submitted.
- Due to the simple, local nature of the proposal and the proposed use of the compulsory Clause 5.13 Eco-tourist facilities, it is considered appropriate to provide delegations to Council.

CONCLUSION

- Preparation of the planning proposal is supported to proceed with conditions.
- The planning proposal addresses the Department's 'A guide to preparing planning proposals'.
- The planning proposal has strategic and local merit given its positive impact on the local economy, in particular the tourism sector, and positive social and environmental effects.
- The planning proposal will assist in the growth of tourism across the region as well as providing diversification of activities on farms and in environmental areas.
- The proposed amendments to the Kiama LEP 2011 will be supported by an amendment to Chapter 31 Bed and Breakfast/Farm Stay – Kiama Development Control Plan 2011 to include development controls for Eco-tourist facilities.

- Delegation of plan making functions are recommended to be given to council.

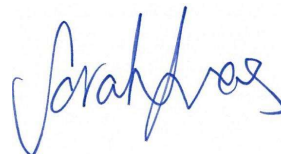
RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any potential inconsistencies with section 9.1 Directions 2.2 Coastal Management, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance and would be addressed at the development application stage; and
2. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the NSW Rural Fire Service in accordance with the Act and S9.1 Direction 4.4 Planning for Bushfire.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.



4 July 2018

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