

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

Proposal Title :	Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo		
Proposal Summary :	The planning proposal seeks to include a local clause in the Kiama LEP 2011 which will allow subdivision of allotments with multiple zones and minimum lot sizes and to enable residential development on 26 Drualla Road and 2A Downes Place (part of Lot 100 & Lot 101 DP1157883), Jamberoo.		
PP Number :	PP_2016_KIAMA_003_00	Dop File No :	16/10870

Proposal Details

Date Planning Proposal Received :	16-Aug-2016	LGA covered :	Kiama
Region :	Southern	RPA :	The Council of the Municipality of
State Electorate :	KIAMA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	26 Drualla Road		
Suburb :	Jamberoo	City :	Jamberoo
Land Parcel :	Lot 100 DP 1157883		Postcode : 2533
Street :	2A Downes Place		
Suburb :	Jamberoo	City :	Jamberoo
Land Parcel :	Lot 101 DP 1157883		Postcode : 2533

DoP Planning Officer Contact Details

Contact Name :	Lisa Kennedy
Contact Number :	0242424945
Contact Email :	lisa.kennedy@plannign.nsw.gov.au

RPA Contact Details

Contact Name :	Edward Patterson
Contact Number :	0242320444
Contact Email :	council@kiama.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	Graham Towers
Contact Number :	0242249467
Contact Email :	graham.towers@planning.nsw.gov.au

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Illawarra Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	1.71	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	15
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Lots 100 and 101 DP1157883 are a rural and rural residential lots respectively on the western edge of Jamberoo village. They are held in the same ownership.**

Lot 100 is located along Drualla Road and is a dairy farm containing a dwelling, dairy infrastructure and open farming land – improved pastures and dams. It is proposed to rezone the vacant, north-eastern corner of the lot (12,369m²) immediately adjoining the residential development in Downes Place and bounded by the unformed Drualla Road reserve. This land is cleared pastures used for cattle grazing.

Lot 101 is located on the western side of the existing residential development in Downes Place and it is zoned RU2 Rural Landscape. It is 4,745m² in area with a dwelling, pool, outbuildings and landscaping.

The combined area of the site subject to the planning proposal is 17,114m². The land slopes gently in a north westerly direction towards Drualla Road reserve. It is 20 metres upslope of Hyams Creek which has a large dam and waterhole. The land is largely cleared of vegetation apart from plantings around the dwelling on Lot 101 and along Downes Place. A gravel access track that services the dwelling on Lot 100, cuts across the site in a south-westerly direction from the lots north-eastern corner.

The site incorporates site 24, mapped in the Kiama Urban Strategy 2011 for residential development. It is a larger area and changed shape to that which is identified in the Strategy. The Strategy identifies that any development of site 24 should include a peripheral road to assist in defining the Jamberoo village boundaries.

A conceptual subdivision plan indicates that 15 new dwelling allotments can be established as a result of this planning proposal. The development will also include the

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

construction of Drualla Road.

The landholder lodged a planning proposal with Kiama Council in December 2015. As a result of the internal review process, Council noted that while the planning proposal would result in the residential zoning of the land, the approval of the subsequent subdivision would not be possible under the current provisions of the Kiama LEP 2011.

Clause 4.1C has been drafted using wording from similar clauses, approved by the Department of Planning and Environment and Parliamentary Counsel in other LEPs, to enable the subdivision of lots with multiple zones.

Council resolved on 28 June 2016 to endorse an amended planning proposal for the rezoning of part Lot 100 and Lot 101 and inclusion of proposed Clause 4.1C.

Adequacy Assessment

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

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

Comment : The objectives of the planning proposal are to include a clause in the Kiama LEP 2010 to enable the subdivision of allotments with multiple zones, and to facilitate residential development along Drualla Road and Downes Place, Jamberoo by rezoning the land from RU2 Rural Landscape and R2 Low Density Residential and applying development controls.

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

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

Comment : The explanations of provisions in the planning proposal are to amend the Kiama LEP 2011 by:

- including Clause 4.1C to enable the subdivision of allotments with multiple zones and minimum lot sizes across the Municipality;
- amending the Land Zoning Map – Sheet LZN_008 applying to Part Lot 100 DP 1157883 and Lot 101 DP 1157883 from RU2 Rural Landscape to zone R2 Low Density Residential;
- amending the Lot Size Map – Sheet LSZ_008 applying to Part Lot 100 DP 1157883 and Lot 101 DP 1157883 to apply a minimum lot size of G 450sqm;
- amending the Height of Buildings Map – Sheet HOB_008 applying to Part Lot 100 DP 1157883 and Lot 101 DP 1157883 to apply a maximum height of I 8.5; and
- amending the Floor Space Ratio Map – Sheet FSR_008 applying to Part Lot 100 DP 1157883 and Lot 101 DP 1157883 to apply a maximum floor space ratio of C 0.45:1

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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

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

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

Illawarra REP No. 1

Illawarra REP No. 2 - Jamberoo Valley

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

S117s

The planning proposal is consistent with the Illawarra Shoalhaven Regional Plan, in particular Action 2.1.1 – Collaborate with Kiama Municipal Council to review housing opportunities in the local government area to respond to changing housing needs. The proposal is providing residential land adjacent to an existing residential area and will assist in meeting residential housing targets. The site corresponds to site 24 in the Kiama Urban Strategy 2011 and has been confirmed as suitable for residential development as part of the western boundary of Jamberoo village.

The planning proposal identifies that s117 Direction 2.1 Environmental Protection Zones applies. Although Lot 100 contains land mapped for environmental protection they are not affected by the proposal.

The planning proposal identifies that s117 Direction 4.4 Planning for Bushfire Protection applies. Although Lot 100 contains land mapped as bushfire prone land, they are not affected by the proposal nor is the site in proximity to bushfire prone land.

The planning proposal is consistent with the s117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans. It is allowing residential development adjacent to the existing village which has been identified in the Kiama Urban Strategy. The land is not known to contain any items of Aboriginal heritage and the Kiama LEP contains provisions relating to heritage conservation which would be considered during the assessment of a development application.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans.

The proposal identifies that it is consistent with s117 Direction 4.3 Flood Prone Land. The Flood Assessment for the site found that floodwaters would only marginally effect a small portion of the north western corner of the site and intrude slightly on to the proposed road. The PMF flood extents would be contained within the road reserve. The area for housing will not be flood affected. This inconsistency is of minor significance.

Recommendation: The Secretary's delegate can be satisfied that the proposal's inconsistency with the s117 Direction 4.3 Flood Prone Land is of minor significance.

The planning proposal is of a minor, justified inconsistency with the s117 Directions 1.2 Rural Zones and 1.5 Rural Lands. The planning proposal is rezoning agricultural lands for residential development. However, the site has previously been investigated for residential development as part of the strategic planning for the Kiama Urban Strategy. The proposed residential development will include a perimeter road which sets the village boundary for Jamberoo and the agricultural lands beyond. The Kiama Urban Strategy has not been endorsed by the Department of Planning and Environment however the sites identified for residential development were supported for rezoning by the Department.

Recommendation: The Secretary's delegate can be satisfied that the proposal's inconsistency with the s117 Directions 1.2 Rural Zones and 1.5 Rural Lands is of minor significance and is justified by the Kiama Urban Strategy.

SEPPs

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

The planning proposal is consistent with SEPP55 Remediation of Land. A Stage 1 Contamination Assessment has concluded that the site is of a low risk of contamination and no further remediation is required.

The proposal is inconsistent with the Rural Planning Principles in the SEPP Rural Lands. Agricultural lands will be lost to residential development. However these lands have undergone a strategic assessment and are endorsed for residential development in the Kiama Urban Strategy.

The Deemed SEPPs Illawarra Regional Environmental Plan No.1 and Illawarra Regional Environmental Plan No.2 Jamberoo Valley have been repealed since the planning proposal was written.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Draft map sheets for LZN_008, LSZ_008, HOB_008 and FSR_008, Kiama LEP 2011 are included in the planning proposal and are appropriate for public exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council requests that the planning proposal be publicly exhibited for 28 days. Public notification of the exhibition will include local newspaper notifications, notice on Council's website, hard copies will be available at Council's administration buildings and notification letters to surrounding property owners.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

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

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

Council has confirmed in its referral letter of 9 August 2016 that it is seeking Council Officer Delegation to prepare the draft LEP under Section 59 of the EP&A Act. Appendix 4 – Evaluation Criteria for the Delegation of Plan Making Functions was submitted.

It is considered appropriate that the delegation of plan making functions be given to Council due to the clause being consistent with similar clauses in other LEPs, the rezoning being of local significance and the site is identified for residential development in the Kiama Urban Strategy 2011.

Recommendation: The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination to allow for the plan to be finalised.

Recommendation: Delegation to be provided to Council.

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Kiama LEP was notified on 16th December 2011.

Assessment Criteria

Need for planning
proposal :

This planning proposal is the only means of inserting a clause to allow subdivision of lots with a spilt zoning and multiple minimum lot sizes and to achieve residential development on the land.

Consistency with
strategic planning
framework :

As previously identified, the planning proposal is generally consistent with the Illawarra Shoalhaven Regional Plan and Kiama Urban Strategy.

The Illawarra Shoalhaven Regional Plan has the specific action Action 2.1.1 – Collaborate with Kiama Municipal Council to review housing opportunities the local government area so it can respond to changing housing needs. The planning proposal will assist in meeting residential housing needs.

The Kiama Urban Strategy recommended that site 24 should be included in a planning proposal to allow it “to be rezoned for future residential development. Village character, heritage and agricultural land issues will be important considerations in determining the boundaries of Jamberoo. The planning proposal should address similar matters and include a peripheral road to define the village boundary”.

The planning proposal incorporates site 24, mapped in the Kiama Urban Strategy 2011 for residential development. It is a larger area and changed shape to that which is identified in the Strategy, which Council has identified as being acceptable for development following the consideration of studies carried out to date.

Environmental social
economic impacts :

The site has been used for cattle grazing and residential purposes for a long period of time. Kiama Council requested a number of technical studies to identify potential environmental impacts which could affect the planning proposal.

An Ecological Assessment was undertaken and found that the site is ecologically degraded and no threatened species or endangered ecological communities are found on the site or are likely to occur.

The site is not mapped as bushfire prone land. However the site is surrounded to the west, north and south by grassland vegetation. The Bushfire Assessment identifies that Planning for Bushfire Protection recommends a 10m wide asset protection zone for grasslands. The proposed subdivision has a 12.5m perimeter road reserve separating the grassland from the residential development.

The Flood Assessment found that floodwaters would only marginally effect a small portion of the north western corner of the site and intrude slightly on to the proposed road. The PMF flood extents would be contained within the road reserve. The area for housing will not be flood affected.

The planning proposal will provide additional residential land (up to 15 lots) in Jamberoo village, assisting Kiama Council to meet the housing needs of future residents. The site is close to the amenities of Jamberoo village centre.

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority **Sydney Water**
Consultation - 56(2)(d) **Other**
:

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

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

If no, provide reasons : **Council is proposing to consult with the Office of Environment and Heritage, NSW Rural Fire Services, Sydney Water, Endeavour Energy and the Department of Primary Industries (DPI) – Water. The landholder initiated consultation with the DPI – Water to determine minimum riparian zone setback requirements to Hyams Creek and the dams. DPI – Water has provided advice which has been incorporated into the planning proposal and design of the proposed residential development.**

Consultation is not required with Office of Environment and Heritage as the proposal does not impact on any flora or fauna values and the Kiama LEP includes a local clause addressing heritage conservation.

Consultation is not required with NSW Rural Fire Services as the proposal does not impact on or is in proximity to bushfire prone land.

Consultation is required with Department of Industry – Lands as the proposal will result in the construction/extension of Drualla Road.

Recommendation: Government agency consultation is required with Department of Primary Industries (DPI) – Water, Department of Industry – Lands, Sydney Water and Endeavour Energy.

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Council required a number of reports/statements to support the planning proposal. The landholder's planning proposal includes:

- **Bushfire Hazard Assessment, Wirrimbirra Environmental Consultants Pty Ltd**
- **Flood Study, Site Plus Pty Ltd**
- **Stage 1 Site Contamination Assessment and preliminary Geotechnical Assessment, Network Geotechnics Pty Ltd**
- **Due Diligence Assessment, Ainsworth Heritage**
- **Fauna and Flora Assessment, Wirrimbirra Environmental Consultants Pty Ltd**

Recommendation: No further studies are required.

Identify any internal consultations, if required :

No internal consultation required

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

Is the provision and funding of state infrastructure relevant to this plan? Yes

If Yes, reasons :

The existing dwelling on Lot 101 has access to Sydney Water's reticulated water supply system and Endeavour Energy's electricity grid. These services will need to be extended and/or augmented to service the future residential development.

The existing dwelling on Lot 101 is not connected to Sydney Water's reticulated sewerage system. The existing development in Downes Place and Drualla Road to the east of Lot 100 are connected to Sydney Water's reticulated sewerage system. The development of the site for residential purposes will require the extension of the sewer main along Drualla Road and across to the western side of Downes Place.

Downes Place is a fully constructed, bitumen-sealed public road and Drualla Road is constructed and sealed to a point just beyond its intersection with Downes Place. It is expected that the construction of Drualla Road will need to be extended further to the west in order to facilitate access to the future subdivision of the subject site.

Recommendation: Confirmation of the availability of services is to be obtained during the agency consultation period.

Documents

Document File Name	DocumentType Name	Is Public
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal letter KMC to DoPE request for gateway determination.pdf	Proposal Covering Letter	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal KMC proposal.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning proposal KMC meeting report.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo planning proposal KMC meeting minutes 160628.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal Plannex planning proposal.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal Plannex planning proposal Appendix A-E Maps.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal Plannex planning proposal Appendix F S117 directions.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo planning proposal Plannex planning proposal Appendix G Ecological assessment pg1-25.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo planning proposal Plannex planning proposal Appendix G Ecological assessment pg26-39.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal Plannex Planning proposal Appendix H Stage 1 Site Contamination & Geotechnical Investigation.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning proposal Plannex Planning proposal Appendix I Geotechnical letter.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal Plannex Planning proposal Appendix J Bushfire Assessment.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning proposal Plannex Planning proposal Appendix K Flood study pg1-16 .pdf	Proposal	Yes

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

160812 Lot 100 & 101 Drualla Road Jamberoo Planning proposal Plannex Planning proposal Appendix K Flood study pg17-25.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning proposal Plannex Planning proposal Appendix K Flood study pg26-29.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo planning proposal Plannex Planning proposal Appendix L Aboriginal Due Diligence report pg1-27.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo planning proposal Plannex Planning proposal Appendix L Aboriginal Due Diligence report pg28-61.pdf	Proposal	Yes
160812 Lot 100 & 101 Drualla Road Jamberoo Planning Proposal Plannex Planning proposal Appendix M Archaeological letter.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Additional Information : The Acting Director Regions Southern, as delegate of the Minister for Planning, determines under section 56(2) of the EP&A Act that an amendment to the Kiama Local Environmental Plan 2011 to allow subdivision of allotments with multiple zones and minimum lot sizes and to enable residential development on 26 Drualla Road and 2A Downes Place Jamberoo should proceed subject to the following conditions:

1. No further technical studies or reports are required.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is to be made publicly available for 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2012).
3. Consultation is required with the following government agencies prior to exhibition, in accordance with the Act and to comply with the requirements of relevant s117 Directions
 - NSW Department of Primary Industries – Water
 - NSW Department of Primary Industries – Land
 - Sydney Water
 - Endeavour Energy

The agencies are to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal. Any agency advice received and council's proposed response to this advice should be placed on public exhibition with the planning proposal.

4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to

Planning proposal to insert Clause 4.1C into LEP and rezone 26 Drualla Road & 2A Downes Place Jamberoo

conduct a public hearing (for example in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

6. Council be authorised to use its delegation of the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

7. The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans.

8. The Secretary's delegate can be satisfied that the proposal's inconsistency with the s117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.4 Flood Prone Lands are of minor significance.

9. The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.

Supporting Reasons : The proposal will provide for residential development as identified in the Kiama Urban Strategy 2011 and Illawarra Shoalhaven Regional Plan.

Signature:

G. Towers TEAM LEADER.

Printed Name:

GRAHAM TOWERS

Date:

9/9/16