



KIAMA MUNICIPAL COUNCIL
your council, your community

February 2017

Planning Proposal to Amend LEP 2011



With respect to:
Lot 102 DP 775450
105 Shoalhaven
Street,
Kiama NSW 2533

Planning Proposal to amend Kiama LEP 2011 with respect to:
Part of Lot 102 DP 775450 - 105 Shoalhaven Street, Kiama 2533

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Additional Permitted Use – Residential Care Facility: Planning Proposal to amend LEP 2011 with respect to: Part of Lot 102 DP 775450, 105 Shoalhaven Street, Kiama, NSW 2533.

Part 1 – Statement of objectives or intended outcomes

The objective of the planning proposal is to amend the Kiama Local Environmental Plan (KLEP) 2011 to include a 'Community Facility' as an Additional Permitted Use within Schedule 1 on the mapped part of Lot 102 DP 775450

BACKGROUND

In December 2015, Council was approached by the Lions Club with a proposal to refurbish an existing unoccupied Council owned building at 105 Shoalhaven Street, Kiama, for use as a holiday respite house, predominantly for carers.

The Kiama Lions Club made a request to Council to lease the premises on a short to medium term basis for a peppercorn rent with Kiama Lions Club responsible for the major costs of refurbishment. It is intended that the renovated dwelling will provide short respite breaks near the seaside for carers and their families.

The Kiama Lions Club is liaising with the Carers Association of NSW and other Australian carers organisations and the project is to be financially self-sustaining in relation to operating costs.

Council has been advised that the proposal also has the support of the Gerringong and Minnamurra Lions Clubs and a number of local businesses who will assist with the renovations and supply of materials. Kiama Lions will be seeking funding from Lions International in addition to using some of their own funds. They will also be seeking funds from National Disability Insurance funds.

The refurbishment/renovation is to include wheelchair accessibility and off street parking provision.

The subject site is zoned IN2 Light Industrial and is part of the former Kiama gas works site.

The subject site has been retained by Council for longer term strategic purposes because it adjoins the Council workshop site and former gas works site and provides a buffer between residential properties to the north and industrial land to the south.

Part 2 – Explanation of provisions

The provisions will apply to the mapped area of Lot 102 DP 775450. The site is located on developed land at 105 Shoalhaven Street, Kiama. The subject site is currently zoned IN2 Light Industrial under Kiama LEP 2011 which prohibits the proposed land use. Rather than rezone the land to permit the proposal, it is considered more appropriate to use Schedule 1 as it will not result in other unwanted land uses on the site.

The following aerial view illustrates the current situation and location in relation to Kiama.

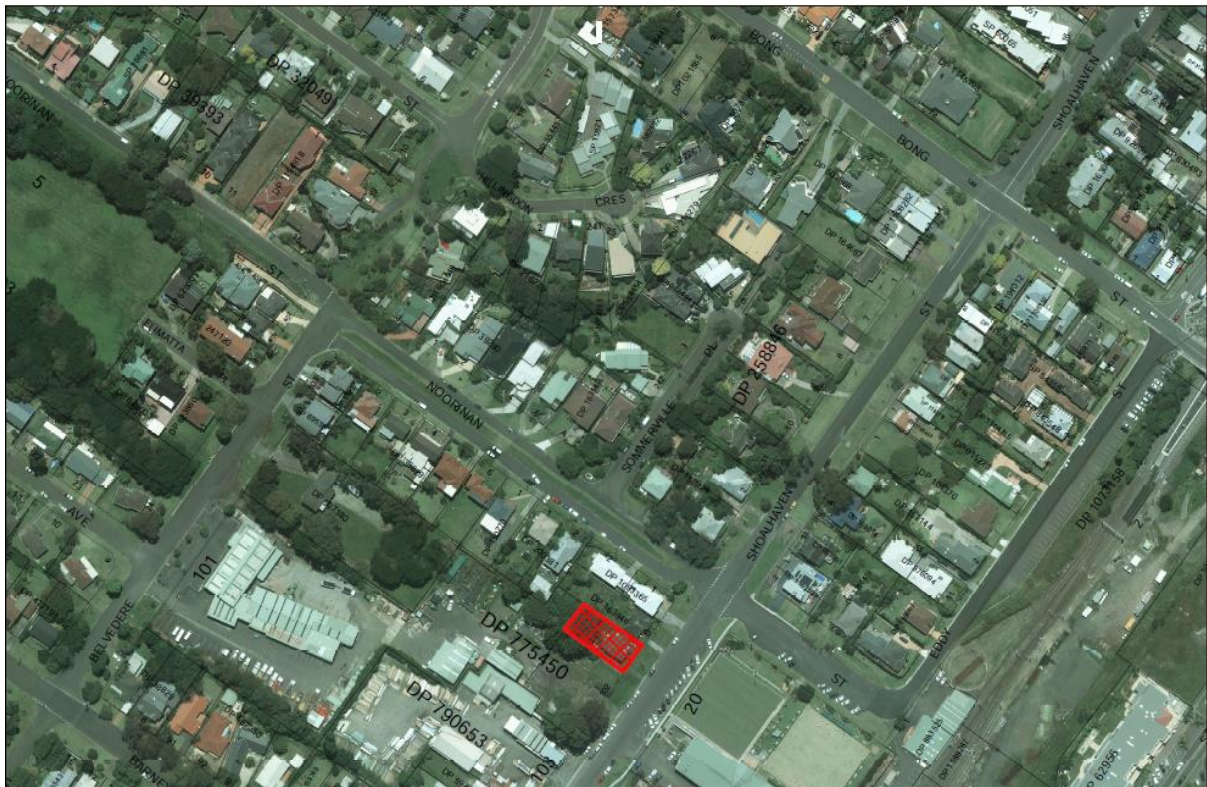


Figure 1 – Aerial view of site



Figure 2 – Existing dilapidated cottage



Figure 3 – View from Shoalhaven Street

Kiama LEP 2011 Zoning Map Sheet LZN_008 - IN2 Light Industrial

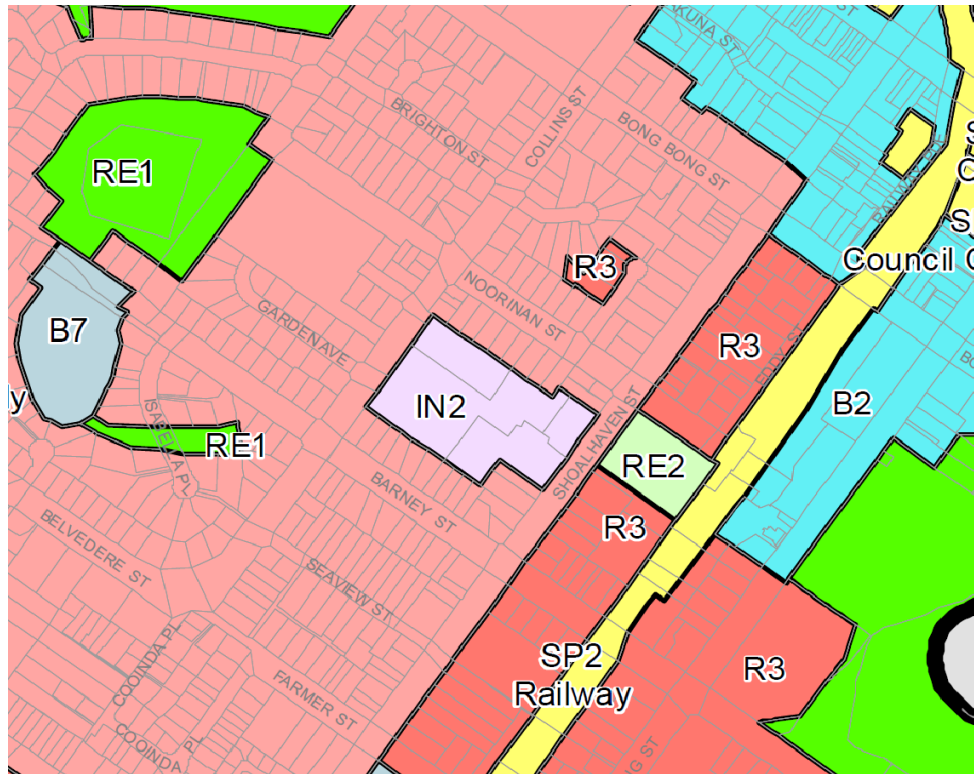


Figure 4

Kiama LEP 2011 Lot Size Map LSZ_008 – No MLS

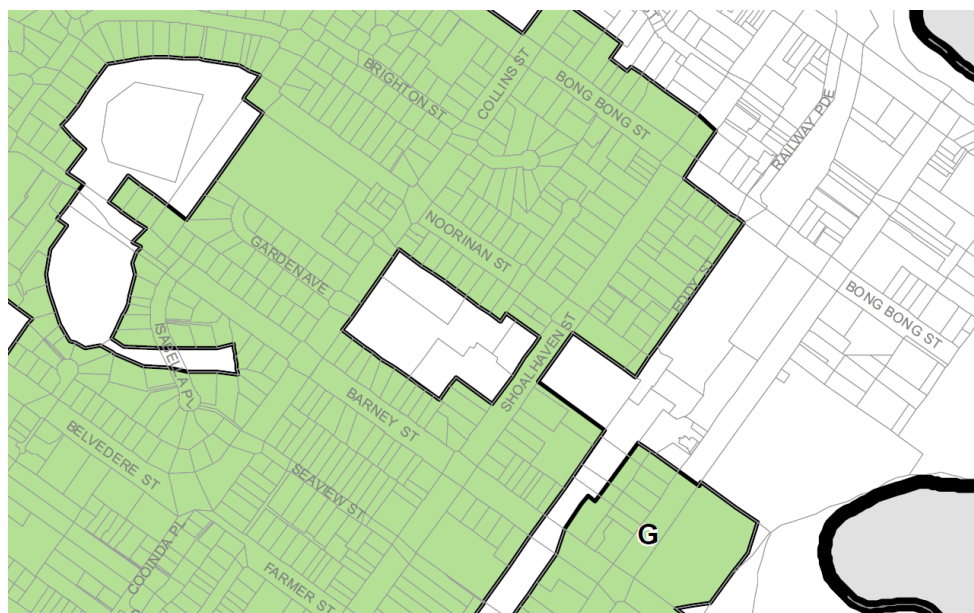


Figure 5

The proposal will amend Kiama LEP 2011 in the following manner:

- An Additional Permitted Use for the purpose of a Community Facility will be added to Schedule 1 of the Kiama LEP 2011.
- An amendment to the Additional Permitted Use map sheet APU_012 to outline the area of the site where the Community Facility will be permitted.

For the purposes of the Kiama LEP 2011 and this report, a **Community Facility** is defined as:

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and
- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

This is considered the most appropriate definition as Council is a public authority, the Lions Club are a not-for-profit organisation and the use is not considered Residential Accommodation due to the short-term nature of visits.

Part 3 – Justification

Q1: Is the planning proposal a result of strategic study or report?

The Planning Proposal is not the result of a strategic study or report. The proposal has arisen in response to a submission from the Lions Club of Australia proposing to use the building as a respite care facility and the subsequent resolution of Council to support the proposal (see attached minutes).

Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

To achieve the desired outcomes of the draft planning proposal, the following options were explored:

Option A

Add 'Community Facility' as an Additional Permitted Use within the mapped part of Lot 102 DP 775450 and amend map sheet APU_012 to identify the area the use is to be permitted within.

Comment:

This was deemed the most appropriate option as it removed any opportunity for subdivision, limited the use to exactly the use that was endorsed by Council and ensures that Council keeps control over what development is permitted on the land.

Option B

Rezone the area of land to a zone which would permit the proposed use. This could be achieved by extending the adjoining R2 Low Density Residential zone.

Comment

This option was deemed inappropriate as it would allow the land to be subdivided to create a single residential allotment and allow for permanent residential occupation which may not be appropriate for the site due to its location next to light industrial activities.

Q3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Illawarra-Shoalhaven Regional Plan (ISRP) was adopted in November 2015, with a vision for “...a sustainable future and resilient community, capable of adapting to changing economic, social and environmental circumstances...”

The proposal is considered minor in nature and will not diminish the available housing stock in Kiama. It is considered that the proposal will not contradict the objectives and actions of the ISRP.

Q4: Is the Planning Proposal consistent with a council’s local strategy or other local strategic document?

The Kiama Urban Strategy (KUS) was adopted by Council in 2011 and provides a strategic framework for urban development until 2021.

The site is identified within the KUS as employment lands. The KUS states that “...the adequacy of employment land areas needs to be considered in the context of an urban strategy and cover retail, commercial and industrial uses.” Due to the topography of this portion of the site and the existing residential uses to the north it is considered that the proposed use will maintain the buffer between the light industrial and residential uses in the immediate vicinity.

Q5: Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning policy is consistent with applicable State Environmental Planning Policies, in particular:

No.	State Environmental Planning Policy	Statement of Compliance
1	Development Standards	Does not apply under KLEP 2011
14	Coastal Wetlands	N/A
15	Rural Landsharing Communities	N/A
19	Bushland in Urban Areas	Does not apply to Kiama LGA
21	Caravan Parks	Not relevant to this proposal.
26	Littoral Rainforests	No littoral rainforests are identified in the vicinity of the subject area.
29	Western Sydney Recreation Area	Does not apply to Kiama LGA
30	Intensive Agriculture	N/A
36	Manufactured Home Estates	The SEPP applies to the subject land, however it is not relevant to this Planning Proposal.
39	Spit island Bird Habitat	Does not apply to Kiama LGA
44	Koala Habitat Protection	Does not apply to Kiama LGA
47	Moore Park Showground	Does not apply to Kiama LGA
50	Canal Estates	Not relevant to this planning proposal.
52	Farm Dams and Other Works in Land and Water Management Plan Areas	Does not apply to Kiama LGA
55	Remediation of Land	The SEPP is to be considered when assessing rezoning and Development Applications. The site has some contamination present as identified in the Stage 2 Preliminary Contamination Assessment prepared by Earth 2 Water Pty Ltd dated 30 July 2016. It is considered that once the works referred to in the recommendations section of the report are carried out, the site will be suitable for the proposed use as a Community Facility for respite care. a copy of the Contamination Report is attached to this report.
59	Central Western Sydney Economic and Employment Area	Does not apply to Kiama LGA
62	Sustainable Agriculture	N/A
64	Advertising and Signage	Not relevant to the PP

No.	State Environmental Planning Policy	Statement of Compliance
65	Design Quality of Residential Flat Development	Applies, however Residential Flat Buildings are not permissible within the zone.
70	Affordable Housing (Revised Schemes)	Does not apply to Kiama LGA
71	Coastal Protection	The land is located within the coastal zone, but not in a sensitive coastal location. The proposed use is consistent with the matters for consideration listed under clause 8, specifically (d) relating to the suitability of development in regards to the surrounding area.
	SEPP (Affordable Rental Housing) 2009	The site does not contain any known affordable rental housing development, including secondary dwellings which are a permissible use in the zone.
	SEPP (Building Sustainability Index: Basix) 2004	Applies. It is possible that future development will be subject to the provisions of the SEPP, however this will be assessed at DA stage for such proposals.
	SEPP (Exempt and Complying Development Codes) 2008	Applies. Some Exempt development may be able to be carried out on the site, however the proposed use will require the submission of a Development Application.
	SEPP (Housing for Seniors of People with a Disability) 2004	The SEPP is not applicable to the site as it does not meet the requirements of clause 4.
	SEPP (Infrastructure) 2007	The SEPP applies to the Kiama LGA, however there is not anticipated to be any impact on any infrastructure as a result of this PP.
	SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Does not apply to Kiama LGA
	SEPP Kurnell Peninsula 1989	Does not apply to Kiama LGA
	SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Applies, however not relevant to this proposal.
	SEPP (Miscellaneous Consent Provisions) 2007	Partly applies. The proposal is not anticipated to have any effect on the erection of temporary structures under the SEPP.
	SEPP (Penrith Lakes Scheme) 1989	Does not apply to Kiama LGA
	SEPP (Rural Lands) 2008	The SEPP applies to the LGA, however the subject area is not within or adjacent

No.	State Environmental Planning Policy	Statement of Compliance
		to a rural zone and therefore the SEPP is not applicable to this PP.
	SEPP (State and Regional Development) 2011	Applies, however not relevant to this PP.
	SEPP (State Significant Precincts) 2005	Applies, however not relevant to this PP.
	SEPP (Sydney Drinking Water Catchment) 2011	The site is not within the mapped catchment area.
	SEPP (Sydney Region Growth Centres) 2006	Does not apply to Kiama LGA
	SEPP (Three Ports) 2013	Does not apply to Kiama LGA
	SEPP (Urban Renewal) 2010	Applies, however not relevant to this PP.
	SEPP (Western Sydney Employment Area) 2009	Does not apply to Kiama LGA
	SEPP (Western Sydney Parklands) 2009	Does not apply to Kiama LGA

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?

A Section 117 Ministerial Directions - Compliance Checklist has been compiled by Kiama Council and is included in Appendix 1.

Q7: 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?

Not applicable to this PP as the area is already developed and there are no areas of potential habitat for threatened native flora or fauna.

Q8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Flood studies

Not required.

Stage 1 - Contamination Assessment

See Appendix 3.

Bushfire Constraints Assessment Report

N/A

Aboriginal Archaeological Study

N/A

No further technical studies are considered required.

Q9: Has the planning proposal adequately addressed any social and economic effects?

The proposal Community Facility will provide holiday respite for carers and the people they care for. This is considered to be a positive social outcome for the Kiama area and will provide a net community benefit.

Q10: Is there adequate public infrastructure for the planning proposal?

All essential services are available to service the site.

Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Pre Gateway consultation

None carried out at this stage.

Post Gateway consultation

Council requests that the Gateway Determination nominate the relevant State or Commonwealth authorities required for consultation. All identified authorities/stakeholders will be notified during the exhibition period.

Part 4 – Mapping

The proposed map amendments to Kiama LEP 2011:

Additional Permitted Use Map

1. Amend APU_012 to permit the Additional Permitted Use within the identified portion of Lot 102 DP 775450.

Part 5 – Community Consultation

Council requests that the planning proposal be exhibited for a period of 28 days, as per Part 5.5.2 of 'A Guide to Preparing Local Environmental Plans', and include:

- Advertisement in Local Newspaper,
- Hard copies made available at the Council Administration Building and relevant libraries,
- Electronic copy on Council's website,
- Notification letters to affected property owners,
- Notification letters to relevant State agencies and other authorities/agencies nominated by the Department of Planning and Environment.

Part 6 – Timeframe

The timeframe for the Planning Proposal is that, from date of Gateway determination to date of submission to DoPI, to finalise the LEP is a period of 12 months.

	Timeframe	Possible dates assuming Gateway determination by end March 2017	Responsibility
Anticipated commencement date (dependant on Gateway determination)	Late march 2017	Late March 2017	DoPE
Preparation of any outstanding studies (if required)	Not anticipated.	N/A	Applicant
Consult with	21 days from issue of	April 2017	Agencies

	Timeframe	Possible dates assuming Gateway determination by end March 2017	Responsibility
State/Commonwealth agencies	Gateway.		
Exhibition of PP and technical Studies (assuming no requirements to return to Gateway post additional studies)	4 weeks following completion of any required State/Commonwealth consultation.	April 2017	Council
Date of Public Hearing (if applicable)	N/A	N/A	Council
Review of Submissions and Preparation of report to Council	2 weeks	May 2017	Council
Report to Council following exhibition	2 weeks	May 2017	Council
Final Maps and Planning proposal documents prepared	2 weeks from Council meeting	June 2017	Council
Submission to DoPE for finalisation of LEP	2 weeks	June 2017	Council
Anticipated date Council will forward final Planning Proposal to DoPI for notification	3 months from Department finalisation notification	June 2017	Council
Anticipated date LEP will be notified.	Unknown	July 2017	Parliamentary Counsel and DoPI

Appendix 1

Section 117 Ministerial Directions – Compliance Checklist prepared by Kiama Municipal Council

Ministerial Direction	Comment
1. Employment and Resources	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	The subject area is not within a rural zone.
1.3 Mining, Petroleum Production and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	The subject area is not within a rural zone
2. Environment and Heritage	
2.1 Environment Protection Zones	The subject area is not located within or adjacent to an Environmental Protection Zone
2.2 Coastal Protection	The subject area is within the coastal zone, however the PP is minor in nature and will not have any adverse impact on the Coastal Zone.
2.3 Heritage Conservation	Heritage Items are contained within the site, however they are not within the area that is subject to the proposal (refer to attached Inventory Sheet).
2.4 Recreation Vehicle Areas	N/A
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	N/A
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Although not located in a residential zone, the subject land is adjacent to the R2 Low Density Residential zone. The PP is considered consistent with this Direction as it will not reduce

Ministerial Direction	Comment
	residential housing supply.
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	N/A
3.4 Integrating Land Use and Transport	N/A
3.5 Development Near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Not mapped as within an area affected by Acid Sulfate Soils
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	
4.4 Planning for Bushfire Protection	Not mapped as bush fire prone land.
5. Regional Planning	
5.1 Implementation of Regional Strategies	.
5.2 Sydney Drinking Water Catchments	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.8 Second Sydney Airport: Badgerys	N/A

Ministerial Direction	Comment
Creek	
5.9 North West Rail Link Corridor Strategy	N/A
5.10 Implementation of Regional Plans	The PP is considered minor in nature and will not have any impact on the implementation of the Regional Plan.
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A
7.2 Implementation of Greater Macarthur Land Release Investigation	N/A

Appendix 2
Council Resolution

Appendix 3

Contamination Assessment

Appendix 4
Heritage Inventory Sheet