



Planning,
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Gateway determination report – PP-2021-3041

Housekeeping Amendments to Kiama Local Environmental Plan 2011
Planning Proposal (0 homes and 0 jobs)

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1 Planning Proposal

1.1 Overview and objectives of planning proposal

Table 1 Planning proposal details

LGA	Kiama
PPA	Kiama Municipal Council
NAME	Housekeeping Amendments to Kiama Local Environmental Plan 2011 Planning Proposal - The planning proposal seeks to amend provisions and mapping in the Kiama LEP 2011 to correct anomalies with zoning and map labelling for sites across the LGA.
NUMBER	PP-2021-3041
LEP TO BE AMENDED	Kiama LEP 2011
ADDRESS	Kiama LGA 20 Eddy Street, Kiama 133 North Kiama Drive, Kiama Downs
DESCRIPTION	Kiama LGA Lot 1 DP883525 Lot 909 DP236615
RECEIVED	21/05/2021
FILE NO.	EF21/5019 & IRF21/1922
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

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- amend the land use annotations for a number of sites zoned SP2 Infrastructure to ensure consistency with Standard Instrument definitions;
- rezone a number Public Reserves from their current zoning to RE1 Public Recreation; and
- rezone two State agency owned sites to more appropriate zones based upon the current and intended uses of the sites.

The objectives of this planning proposal are clear and adequate.

Council has identified through the application of the LEP, a number of government owned parcels of land which have:

- been annotated incorrectly on land zoning maps;
- not been zoned for public recreation purposes despite their use for recreation;
- zone boundaries that do not correctly reflect the use of the site;
- been incorrectly zoned; or
- use which has now changed.

The purpose of the 'housekeeping' planning proposal is to ensure:

- land zoned SP2 Infrastructure contains the correct annotation on the land zoning map;
- public reserves are appropriately zoned;
- sites owned by state agencies such as Transport for NSW and Sydney Water are zoned appropriately; and
- the use of the surplus Transport for NSW building, by the community group, Kiama Men's Shed, is facilitated and expedited.

1.2 Explanation of provisions

The planning proposal seeks to amend the Kiama LEP 2011 per the changes below.

Table 1 Current and Proposed controls

Control	Current	Proposed
Zoning Maps for SP2 sites across LGA	SP2 labels are not defined land uses within the Standard Instrument LEP or Infrastructure SEPP	Annotate the land use zone using the infrastructure categories used in the Standard Instrument dictionary or infrastructure SEPP, consistent with the LEP practice note PN10-001.
Zoning Maps for council reserves across the LGA	R2 Low Density Residential R3 Medium Density Residential B2 Local Centre E2 Environmental Conservation E3 Environmental Management RU1 Primary Production RU2 Rural Landscapes SP2 Community Facilities SP2 Railway	RE1 Public Recreation – to reflect current recreational use and land title as a public reserve.
Minimum lot size maps for council reserves across the LGA	450m ²	To remove any minimum lot size development standards.

Height of Building maps for council reserves across the LGA	8.5m	To remove any height of building development standards.
Floor Space Ratio maps for council reserves across the LGA	0.45:1	To remove any floor space ratio development standards.
Land Zoning Lot 1 DP883525, 20 Eddy Street Kiama	SP2 Infrastructure - Railway	B2 Local Centre – to allow for a wider range of commercial activities to be undertaken on the site. Transport for NSW is assessing its surplus lands and has identified the existing building as being suitable for use by the Kiama Men's Shed.
Height of Building Lot 1 DP883525, 20 Eddy Street Kiama	Not mapped	11m consistent with surrounding B2 zoned lands. Explanation of provisions to be updated to identify this change.
Floor Space Ratio Lot 1 DP883525, 20 Eddy Street Kiama	Not mapped	1.5:1 consistent with surrounding B2 zoned lands. Explanation of provisions to be updated to identify this change.
Schedule 1, Lot 1 DP 883525, 20 Eddy Street Kiama	N/A	Include community facilities as a use permitted without development consent.
Additional Permitted Use Map, Lot 1 DP 883525, 20 Eddy Street Kiama	N/A	Show that an additional permitted use applies to the lot.
Land Zoning Lot 909 DP236615, 133 North Kiama Drive, Kiama Downs	R2 Low Density Residential	SP2 Infrastructure – Water Supply System - to reflect current use for Sydney Water infrastructure and its ownership by Sydney Water Corporation.
Minimum lot size Lot 909 DP236615, 133 North Kiama Drive, Kiama Downs	450m ²	To remove development standard consistent with other SP2 zoning. Explanation of provisions to be updated to identify this change.
Height of Building Lot 909 DP236615, 133 North Kiama Drive, Kiama Downs	8.5m	To remove development standard consistent with other SP2 zoning. Explanation of provisions to be updated to identify this change.

Floor Space Ratio Lot 909 DP236615, 133 North Kiama Drive, Kiama Downs	0.45:1	To remove development standard consistent with other SP2 zoning. Explanation of provisions to be updated to identify this change.
Number of dwellings	N/A	N/A
Number of jobs	N/A	N/A

1.3 Site description and surrounding area

The 13 SP2 sites are located in the urban areas of Kiama, Kiama Downs and Gerringong.

The 27 sites to be zoned for recreation purposes are located within the town boundaries of Kiama, Kiama Downs, Gerringong and Gerroa. Historically as areas have been rezoned for residential development, sites for public reserves have not been identified until the later subdivision stage. As such although the reserves are in public ownership, are classified as community lands and are being used for public recreation they have retained a residential zoning.

Lot 1 DP883525, 20 Eddy Street Kiama is located south of the Kiama Town Centre adjoining the South Coast railway line and is accessible via direct frontage to Eddy Street. The site has an area of 1,463m² and contains an existing building that was formerly used as a depot for Transport for NSW and is now considered surplus to operational requirements. The site is surrounded by the South Coast railway line and working area, Kiama Bowling and Recreation Club and residential development. Lot 1 is shown in **Figure 1** below.



Figure 1 Lot 1 20 Eddy Street, Kiama (Kiama Municipal Council – Planning proposal)

Lot 909 DP236615, 133 North Kiama Drive, Kiama Downs is owned by Sydney Water Corporation and has an area of 556m². The site contains existing water supply infrastructure and is surrounded predominately by residential development.

1.4 Mapping

The planning proposal includes tables outlining the current and proposed map changes and mapping showing the proposed changes. The following maps are to be changed:

- Land Zoning Map Sheets LZN_011, 012, 013, 014 & 015
- Lot Size map Sheets LSZ_011, 012, 014 & 015
- Height of Buildings Map Sheets HOB_011, 012, 104 & 015
- Floor Space ratio map Sheets FSR_011, 012, 014 & 015
- Additional Permitted Use map APU_012

The planning proposal is to be updated to correct the title referencing of the Lot Size, Height of Building and Floor Space Ratio Maps.

2 Need for the planning proposal

The planning proposal is the only mechanism available for amending the land use annotations of certain land zoned SP2 Infrastructure; and the land zonings of public reserves and 133 North Kiama Drive, Kiama Downs, as this requires amendments to a number of maps within the Kiama LEP 2011.

Alternative mechanisms to amend the LEP to facilitate development on Lot 1 DP883525, 20 Eddy Street, Kiama include Additional Permitted Uses (Schedule 1 of Kiama LEP 2011) and Development near zone boundaries (Clause 5.3 Development near zone boundaries of the Standard Instrument – Principal Local Environmental Plan).

These mechanisms are not considered to be the most appropriate as Clause 5.3 of the Standard Instrument – Principal Local Environmental Plan is not currently adopted by the Kiama LEP 2011 nor could it be utilised on this site as it is within the coastal zone as identified by State Environmental Planning Policy (Coastal Management) 2018.

An Additional Permitted Use to permit a community facility on the site without rezoning the site is not considered to be the best means of achieving the intended outcomes of the planning proposal as it unnecessarily restricts potential development that would be appropriate for such a site within close proximity to the Kiama Town Centre and infrastructure such as the South Coast Railway.

Rezoning the site without including an Additional Permitted Use, to permit a community facility without development consent, will extend the time the Kiama Men's Shed will have to wait to use the vacant building and thus remain without a building from which to operate from.

The Planning Proposal is the best way of achieving the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Illawarra Shoalhaven Regional Plan. The proposal does not include an assessment against the draft Illawarra Shoalhaven Regional Plan 2041, however details have been included in the table.

Table 2 Regional Plan assessment

Regional Plan Objectives	Justification
ISRP Direction 3.1 – Grow the opportunities for investment and activity in the region’s network of centres	Whilst not within the Kiama Town Centre, Lot 1 DP883525, 20 Eddy Street, Kiama is in proximity to the town centre and public transport services such as the South Coast railway line, making it an ideal site for rezoning to B2 Local Centre. This is also consistent with the findings of the Kiama Town Centre Study that identified a lack of non-retail commercial floor space within the Kiama Town Centre.
ISRP Direction 3.3 – Build socially inclusive, safe and healthy communities	<p>The planning proposal is consistent with and gives effect to Direction 3.3 in the Plan. Rezoning Lot 1 DP883525, 20 Eddy Street, Kiama to facilitate a wider range of commercial activities on the site will also allow Transport for NSW to expediate the proposal to the lease the site to the Kiama Men’s Shed for the purposes of a community facility. This will assist in creating a socially inclusive community.</p> <p>Council’s assessment that the proposal will also increase the amount of land zoned for public recreation purposes and therefore contribute to the building of healthy communities is not supported. No additional recreational lands are being identified, therefore there’s no changes to the health of communities.</p>
IRSP Direction 5.1 – Protect the region’s environmental values by focusing development in locations with the capacity to absorb development	The planning proposal seeks to amend the zone boundaries for the public reserve Lot 91 DP 838427, Fern Street, Gerringong, to reflect the biodiversity values on the site. Aligning the boundaries, so that land identified on the Terrestrial Biodiversity Map is also zoned E2 Environmental Conservation, will provide further protection to the environmental values of the site.
Draft ISRP – Objective 11 Protect important environmental assets	The planning proposal is consistent with the intent of Strategy 11.4 – Protect biodiversity values in urban release areas by incorporating validated, up-to-date environmental data into local strategic planning and local plans, in that it is ensuring that the zoning of Lot 91 DP 838427, Fern Street, Gerringong reflects the biodiversity values on the site. This strategy has application across an LGA not just URAs.
Draft ISRP – Objective 21 Respond to the changing needs of local neighbourhoods	<p>The planning proposal is consistent with Strategy 21.1 – Consider the changing needs of local neighbourhood centres in local strategic planning and local plans by exploring flexibility and supporting a mix of land uses so that local spaces can be adapted to new uses and user needs over time.</p> <p>The rezoning of Lot 1 DP883525, 20 Eddy Street, Kiama is in response to the landowner Transport for NSW’s changing needs for the land and buildings. A business zoning will facilitate a wider range of commercial activities on the site and will allow Transport for NSW to lease the site to the Kiama Men’s Shed for the purposes of a community facility.</p>

3.2 Local

The planning proposal is not the direct result of the Kiama 2040 Local Strategic Planning Statement (LSPS) or a strategic study or report. The proposal states that it is consistent with the LSPS as discussed in the table below.

Council's Strategic Planning works program, prepared to assist in the implementation of the LSPS, identifies the need to undertake a number of housekeeping planning proposals to ensure the Kiama LEP 2011 remains contemporary.

In accordance with Council's Planning Proposal Policy, Council will only prepare a maximum of two 'housekeeping' planning proposal per calendar year. This planning proposal was endorsed by Council at the Ordinary Meeting on 20 October 2020.

Table 4 Local strategic planning assessment

Local Strategies	Justification
Kiama 2040, Local Strategic Planning Statement	<p>The planning proposal gives effect to Planning Priority 7 Strengthen Commercial Centres by increasing land available for commercial activities in line with the recommendations of the Kiama Town Centre Study.</p> <p>It also gives effect to Planning Priority 14 Support and create vibrant places by ensuring Council owned land (specifically public reserves) are managed to create vibrant and inclusive spaces.</p>

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below. The planning proposal is to be updated prior to public exhibition to confirm the proposal's consistency with applicable directions.

Table 5 Section 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
1.1 Business and Industrial Zones	Yes	The planning proposal will allow for a broader range of business/commercial land uses to occur on Lot 1 DP883525, 20 Eddy Street, Kiama. This will encourage employment growth in a suitable location as well as supporting the viability of the Kiama Town Centre.
1.2 Rural Zones	Yes	The planning proposal does not propose to rezone land from a rural zone to a residential, business, industrial, village or tourist zone. Whilst a couple of the sites have land zoned rural, their use, classification and land title is a public reserve and they are not used for rural/agricultural purposes. The planning proposal does not reduce nor restrict land available for agriculture.

1.5 Rural Lands	No – minor inconsistency	<p>The rezoning and subsequent changing of the minimum lot size for land zoned RU2, E2 and E3 to RE1 Public Recreation is inconsistent with the Direction. However, this inconsistency is of minor significance. As discussed in Direction 1.2, the parcels being rezoned to RE1 are identified as public reserves on title, are classified as community land and are not used for rural/agricultural purposes. The E2/RE1 zone boundary is being corrected to correspond to the wetland on the Lot and the E3 zoning for scenic values will still be protected with the RE1 zoning. The planning proposal does not reduce nor restrict land available for environmental protection or agriculture.</p>
2.1 Environment Protection Zones	No – minor inconsistency	<p>As discussed in Direction 1.5 above, the planning proposal is changing the zoning at Lot 2 DP1065404 Headland Drive, Gerroa from E3 to RE1 and as such the proposal is inconsistent with this direction. This inconsistency is of minor significance.</p> <p>Whilst the site may not be mapped on the Terrestrial Biodiversity Map it has scenic values which have influenced its environmental zoning. The headland is covered with open, grassland consistent with the coastal headlands between Gerringong and Gerroa.</p> <p>It has a split RE1 and E3 zoning. There doesn't appear to be a landscape demarcation between the RE1 zone along the foreshore and headland to the west and Lot 2 with its E3 zoning.</p> <p>The boundary of the E2 and RE1 zoning on Lot 1 DP838437, Fern Street Gerringong is being aligned to correspond to the mapping of the wetlands. The environmental values of the wetland and lot will not be affected by the rezoning.</p>
2.2 Coastal Management	Yes	<p>A number of lots are located in the coastal zone however they are not mapped within a coastal vulnerability area, coastal hazard, coastal wetland or littoral rainforest which would require further investigation or the application of controls.</p>

2.3 Heritage Conservation	Yes	The planning proposal will not alter the existing heritage conservation provisions in the Kiama LEP 2011. Whilst it is rezoning land it is not altering the existing public reserve use of the land. Rezoning Lot 1 DP883525, 20 Eddy Street Kiama is changing the development potential of an already developed site.
2.6 Remediation of Contaminated Land	Yes	A preliminary and detailed site investigation and hazardous materials survey for Lot 1 DP883525, 20 Eddy Street Kiama has been undertaken by Transport for NSW. The reports conclude that the site is suitable in its current form for commercial /industrial uses and medium to high density residential development. The reports are to be included as attachments to the planning proposal.
3.1 Residential Zones	Yes	The planning proposal is rezoning public reserves from a residential zoning to more appropriate public recreation zoning. The rezoning of Lot 1 DP883525, 20 Eddy Street Kiama from SP2 to B2 will allow for some types of additional residential housing in close proximity to the Kiama town centre.
3.4 Integrating Land Use and Transport	Yes	The rezoning of Lot 1 DP883525, 20 Eddy Street Kiama from SP2 to B2 will allow for some types of additional residential housing in close proximity to the Kiama town centre and adjoining public transport links at Kiama train station.
4.1 Acid Sulfate Soils	Yes	The planning proposal does not propose an intensification of land uses on land containing, or in close proximity to, acid sulfate soils.
4.3 Flood Prone Land	Yes	The planning proposal does not propose development of flood prone lands.
4.4 Planning for Bushfire Protection	Unknown until consultation with NSW Rural Fire Service occurs.	The planning proposal includes land mapped as, or in close proximity to, bushfire prone land. Whilst no development is proposed for these lands, the RE1 zone does allow for a number of land uses which are not permitted in the R2 zone ie camping, caravan parks and recreation facilities - indoor, outdoor and major. Consultation with NSW Rural Fire Service is required in accordance with Clause (4) and to confirm if any bushfire studies are required.
5.10 Implementation of Regional Plans	Yes	Refer to Point 3.1 above

3.4 State environmental planning policies (SEPPs)

The planning proposal identifies SEPP 55 Remediation of Land applies to the proposal. SEPP 55 no longer contains provisions relating to the zoning of land. As discussed in Table 5 above, a combined preliminary and detailed investigation and hazardous materials survey was undertaken on Lot 1 DP883525, 20 Eddy Street Kiama. The reports conclude that the site is suitable in its current state for commercial/industrial use and medium to high density residential development.

The SEPP Coastal Management 2018 mapping identifies that a number of lots are located in the coastal use area. However as discussed in Table 5 above, they do not require further investigation.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 6 Environmental impact assessment

Environmental Impact	Assessment
Protection of high biological conservation lands	<p>The planning proposal seeks to amend the zone boundaries for Lot 1 DP838437, Fern Street, Gerringong to ensure the E2 Environmental Conservation zone boundary of the wetland corresponds to the mapped wetland on the terrestrial biodiversity map.</p> <p>The planning proposal will not alter any existing measures to conserve high biodiversity areas.</p>
Environmental Effects	<p>Due to the nature of the planning proposal (administrative changes to the map labelling and rezoning existing public reserves to an applicable public recreation zone) Council considers it to be unlikely that any environmental issues will occur.</p>

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 7 Social and economic impact assessment

Social and Economic Impact	Assessment
Increased commercial land opportunities	<p>The rezoning of Lot 1 DP883525, 20 Eddy Street Kiama will provide additional commercial land in close proximity to the Kiama town centre. This will meet an under-supply of non-retail commercial space for small businesses as identified in the Kiama Town Centre Economic Study.</p>
Community benefit – Kiama Men's Shed	<p>The Kiama Men's Shed has been negotiating with Transport for NSW to relocate and use the building on Lot 1 DP883525, 20 Eddy Street Kiama. Rezoning the land will permit potential commercial activities including community facilities on the site.</p>

Increasing area of land zoned for public recreation

The planning proposal states that it is effectively increasing the amount of land zoned for public recreation purposes. Rezoning the sites will ensure their continued use of public recreation purposes. Whilst the planning proposal may be increasing the area of recreational zoned land this land has already been identified in other planning reports as community open space/recreation lands. It is not bringing additional land into the public recreation use.

4.3 Infrastructure

The rezoning of Lot 1 DP883525, 20 Eddy Street, Kiama is the only site with a proposed change to the use of the land and thus has a potential to increase the current demand on public infrastructure. A B2 Local Centre zone will allow for a wider range of land uses to be permissible on the site, however the site's locality in proximity to the town centre ensures that there is adequate public infrastructure available to service the site.

The other sites are not proposing a change to the existing use occurring on the land.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate, and forms part of the conditions of the Gateway determination.

5.2 Agencies

The planning proposal identifies Council will consult with Sydney Water, Transport for NSW (Sydney Trains) and Endeavour Energy. Transport for NSW has provided Kiama Council with a letter of support to rezone Lot 1 DP883525, 20 Eddy Street Kiama from SP2 to B2. This letter should be included in the planning proposal prior to public exhibition.

It is recommended the NSW RFS be consulted on the planning proposal and given at least 21 days to comment.

6 Timeframe

Council seeks a 12 month time frame to complete the LEP, although the project timeline only identifies 9 months to finalise the LEP.

The Department recommends that a time frame of 12 month is sufficient to complete the LEP amendment process.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is of local significance, amending mapping anomalies and Transport for NSW has identified Lot 1 DP883525, 20 Eddy Street, Kiama as surplus to its needs, the Department recommends Council be authorised to be the local plan-making authority for this proposal.

8 Assessment Summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The planning proposal is correcting mapping anomalies, both the Special Infrastructure labelling and the zoning of public reserves, on zoning maps. By correcting the land use zoning, the planning proposal is also removing associated development standards.
- The planning proposal will assist in providing additional commercial land adjoining the Kiama town centre and within an established residential and commercial area.
- The planning proposal has the potential to provide residential housing in proximity to Kiama town centre and public transport.
- The planning proposal will allow the facilities at Lot 1 DP883525, 20 Eddy Street Kiama to be used by the Kiama Men's Club which will have a social benefit for the Kiama community.


9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.5 Rural Lands and 2.1 Environment Protection Zones are minor or justified; and
- Note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection is unresolved and will require justification.

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

1. The planning proposal is to be updated to:
 - confirm the provisions;
 - correct the title referencing of the maps;
 - include the letter from Transport for NSW requesting and supporting the rezoning of Lot 1 DP883525, 20 Eddy Street, Kiama as a supporting document; and
 - include as attachments, the reports undertaken by Transport for NSW on the preliminary and detailed site investigation and hazardous materials survey for Lot 1 DP883525, 20 Eddy Street Kiama has been.
2. Consultation is required with the NSW RFS.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



27/5/21

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31 May 2021

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