

### **12.4 Housekeeping Amendments to Kiama LEP 2011 to address mapping anomalies - Additional sites and Urban Release Area clause**

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**

On 20 October 2020, Council supported a Planning Proposal (PP) for general housekeeping amendments to *Kiama Local Environmental Plan (LEP) 2011* to address zoning anomalies for a number of sites throughout the Kiama Municipality. Since the issue of the Gateway Determination staff have been advised of 2 further changes that should be made to the LEP 2011 under this housekeeping amendment. These included:

- Anomalies on land owned and operated by Sydney Water;
- The ability to include specific provisions for Urban Release Areas.

Given that Council can only prepare 2 PPs for “housekeeping” amendments per calendar year it was considered important to include these anomalies within the existing Gateway process. This also aligns the purpose of the PP which also includes other Sydney Water land.

This report seeks Council’s endorsement to further include the following sites/provisions into Council’s endorsed LEP Housekeeping PP:

- Including the rezoning of an additional 4 State Agency owned Sydney Water sites.
- Amend Kiama LEP 2011 to include provisions for Urban Release Areas.

#### **Finance**

Subject to endorsement by Council, the amended PP will need to be exhibited in accordance with legislative requirements and Council policy. This would require payment for advertising in the local newspaper.

#### **Policy**

The assessment of requests for the rezoning of land require the consideration of a number of Acts, Government Policies, Environmental Planning Instruments and planning documents. Council’s *Planning Proposal Policy* states that Council will only prepare a maximum of 2 ‘housekeeping’ PPs per calendar year. Should Council resolve to undertake this amended PP, it would be the first PP for this calendar year and therefore would be consistent with this Policy.

#### **Consultation (Internal)**

Following Council’s resolution at its meeting held in October 2020, the PP was forwarded to the Department and received a Gateway determination. During this time additional matters have been identified that could be addressed in the housekeeping

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PP. Sydney Water has engaged with Council to include the rezoning of additional sites.

Inclusion of the new sites and clause has been discussed with the Department. These changes will require an amendment to the Gateway.

### **Communication/Community Engagement**

Should Council support the preparation of the amended PP, the amended Gateway (if granted) will be issued by the NSW Department of Planning, Industry and Environment. The attached Gateway Determination outlines the minimum requirements for consultation to be undertaken with Government agencies and the community. All other community engagement will occur in accordance with the *Kiama Community Participation Plan*.

### **Attachments**

- 1 Gateway Determination - Housekeeping Amendments Kiama LEP planning proposal

### **Enclosures**

Nil

## **RECOMMENDATION**

That Council:

1. Endorse the preparation of an amended Planning Proposal for housekeeping amendments to Kiama LEP 2011 to:
  - a. Rezone Lot 2 DP 793745, Gwinganna Avenue, Kiama from R2 Low Density Residential to SP2 - Water Supply System;
  - b. Rezone 15 North Street, Minnamurra from R2 Low Density Residential to SP2 Water Supply System;
  - c. Rezone Lot 400 DP 801403, Newing Circuit, Kiama Downs from R2 Low Density Residential to SP2 - Water Supply System;
  - d. Rezone 46 Union Way, Gerringong from R2 Low Density Residential to SP2 - Water Supply System;
  - e. Amend Kiama LEP 2011 to include provisions for Urban Release Areas.
2. Forward the amended Planning Proposal to the Department of Planning, Industry and Environment for an amended Gateway Determination.
3. Following receipt of an amended Gateway Determination undertake the appropriate community and State agency consultation.

## **BACKGROUND**

Council's Strategic Planning works program includes a number of housekeeping planning proposals to ensure the LEP remains current.

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In October 2020, Council supported a Housekeeping PP to address zoning anomalies on a number of sites throughout the Kiama Municipality. Council endorsed the following housekeeping amendments to Kiama LEP 2011;

- Annotating land zoned SP2 Infrastructure for the correct purpose in accordance with the types of infrastructure defined within *State Environmental Planning Policy (Infrastructure) 2007* and *Standard Instrument Local Environmental Plan*;
- Rezoning Public Reserves, which are incorrectly zoned, from residential, rural and environmental zones to RE1 Public Recreation;
- Rezoning of 20 Eddy Street, Kiama, from SP2 Infrastructure to B2 Local Centre to facilitate the adaptive reuse of the site for the purposes of a community facility (Kiama Men's Shed); and
- Rezoning of 133 North Kiama Drive, Kiama Downs, which is incorrectly zoned, from R2 Low Density Residential to SP2 Water Supply System.

### **Gateway Determination**

Following Council's resolution in October 2020, the LEP Housekeeping PP was forwarded to the Department Planning, Industry and Environment (DPIE) for a Gateway Determination. A Gateway Determination was issued 31<sup>st</sup> May 2021.

The Gateway determination requires Council to consult with the NSW RFS under Section 3.34(2)(d) of the Act and to comply with the requirements of Section 9.1 Direction 4.4 Planning for Bushfire Protection.

Council will engage with the following state agencies in accordance with the Gateway Determination:

- Sydney Water;
- Sydney Trains;
- Endeavour Energy;
- NSW Rural Fire Services.

Community consultation will occur in accordance with the Kiama Community Participation Plan (CPP) 2019 once comments from the state agencies have been received.

### **Amendment to Housekeeping Planning Proposal**

The following additional matters have been identified that could be addressed in this PP via an amended Gateway.

1. Sydney Water has identified additional sites which are incorrectly zoned, and
2. Staff have identified a clause on Urban Release Areas to include in the LEP.

Inclusion of the new sites and provisions has been discussed the DPIE. These changes will require an amendment to the Gateway. If Council agree with the outlined intended amendments, staff will prepare an amended PP and subsequently submit it to the Department of Planning, Industry and Environment for an amended Gateway. If an amended Gateway is issued the PP will be publicly exhibited and subsequently reported back to Council for final endorsement.

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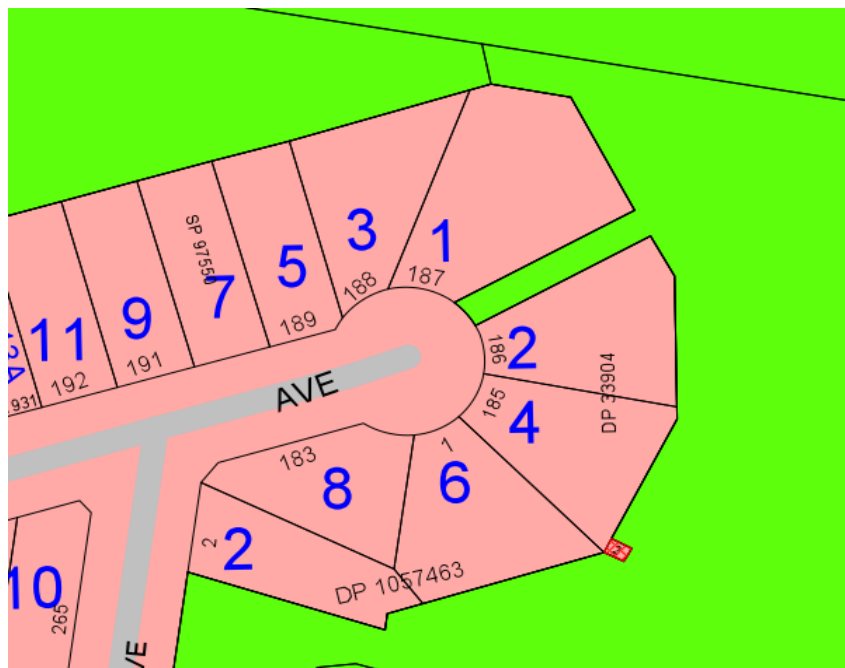
### **Additional State Agency owned land - Sydney Water sites**

If endorsed by Council, this amendment to the housekeeping PP will seek to rezone the following 4 Sydney Water sites:

- Rezone Lot 2 DP 793745, Gwinganna Avenue, Kiama from R2 Low Density Residential to SP2 Water Supply System.



**Figure 1: Aerial photo of Lot 2 DP 793745, Gwinganna Avenue, Kiama**



**Figure 2: Current R2 zoning of Lot 2 DP 793745, Gwinganna Avenue, Kiama**

- Rezone 15 North Street, Minnamurra from R2 Low Density Residential to SP2 Water Supply System.

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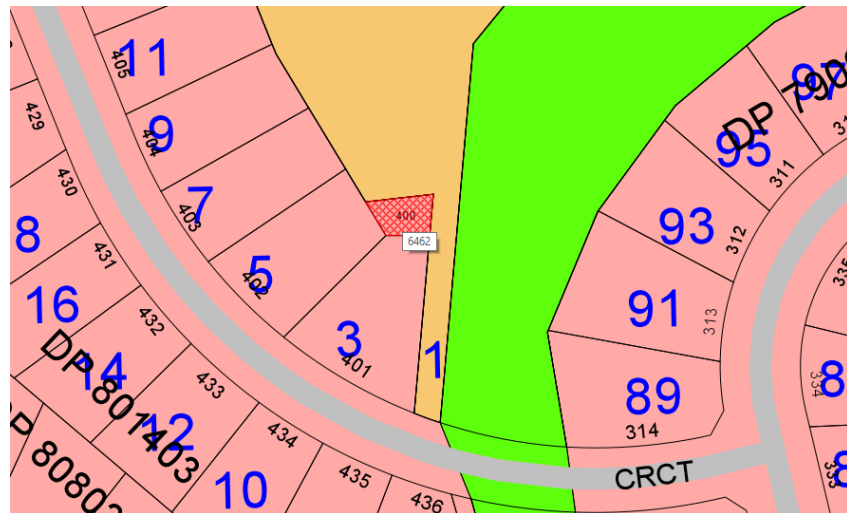


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**Figure 5: Aerial photo of Lot 400 DP 801403, Newing Circuit, Kiama Downs**



**Figure 6: Current R2 zoning of Lot 400 DP 801403, Newing Circuit, Kiama Downs**

- Rezone 46 Union Way, Gerringong from R2 Low Density Residential to SP2 Water Supply System.

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Figure 7: Aerial photo of 46 Union Way, Gerringong

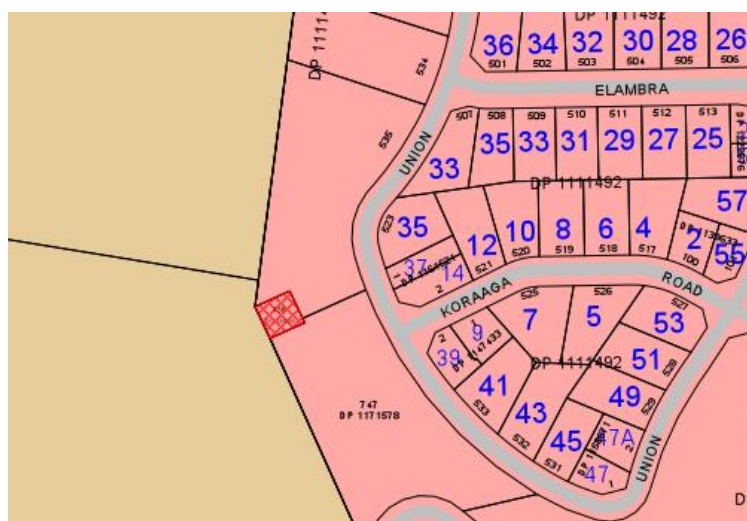


Figure 8: Current R2 zoning of 46 Union Way, Gerringong

### Urban Release Area LEP Clause

Staff have identified that there is a set of controls that can be applied within the Kiama LEP for Urban Release Areas. Urban Release Area provisions will ensure that once land has been rezoned, other strategic planning processes will need to occur and be finalised before development consent can be issued for future development.

Other Councils have similar provisions. Both Wollongong and Shoalhaven Councils have adopted these provision into their LEPs; Wollongong LEP 2009 - [Part 6 – Urban Release Areas](#). and Shoalhaven LEP 2014 - [Part 6 – Urban Release Areas](#) respectively.

Whilst each LEP is slightly different, the overall objectives are consistent with the following:

- Satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an urban release area. This can also include public utility infrastructure.

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- That development on land in an urban release area occurs in accordance with a staging plan and only after a development control plan that includes site specific controls has been prepared for the land.
- Development consent must not be granted for development on land in an urban release area unless a Development Control Plan (DCP) that provides for all matters specified has been prepared for the land.
- That development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became part of an urban release area.

These provisions will allow Council to ensure that, as part of resolving to support any significant future planning proposals, site specific development control plans and servicing arrangements will need to be prepared prior to development consent being issued for subdivision.

This report seeks Council's endorsement to amend the housekeeping PP to include the Urban Release Area clause in the LEP. The final wording of this clause, should it be implemented by Council, will be determined following consultation with the community and the NSW Parliamentary Counsel office.

### **Conclusion**

The inclusion of the additional Sydney Water sites and the Urban Release Area provisions in the LEP are consistent with the intent of Council's previous resolution and is considered appropriate to include as part of this housekeeping PP.

If Council agrees with the outlined intended amendments, staff will prepare an amended PP and submit it to the Department of Planning, Industry and Environment for an amended Gateway. If an amended Gateway is issued the Planning Proposal will be publicly exhibited and subsequently reported back to Council for final endorsement.



### **12.4 Housekeeping Amendments to Kiama LEP 2011 to address mapping anomalies - Additional sites and Urban Release Area clause**

**21/001OC**

**Committee recommendation** that Council:

1. Endorse the preparation of an amended Planning Proposal for housekeeping amendments to Kiama LEP 2011 to:
  - a. Rezone Lot 2 DP 793745, Gwinganna Avenue, Kiama from R2 Low Density Residential to SP2 - Water Supply System;
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  - e. Amend Kiama LEP 2011 to include provisions for Urban Release Areas.
2. Forward the amended Planning Proposal to the Department of Planning, Industry and Environment for an amended Gateway Determination.
3. Following receipt of an amended Gateway Determination undertake the appropriate community and State agency consultation.

(Councillors Watson and Way)

For: Councillors Brown, Honey, Reilly, Rice, Sloan, Steel, Watson and Way

Against: Nil