



## **Planning Proposal**

### **Amendment to KLEP 2011 to Rezone Land**

Dido Street,  
Kiama  
Lot 3 DP 1018217

7 December 2017  
Reference: L103410

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## 1 Statement of Objectives or intended outcomes

The objective of this planning proposal is to amend the Kiama Local Environmental Plan (LEP) 2011 for Lot 3 DP 1018217 from RU1 Primary Production to R2 Low Density Residential in accordance with the Kiama Urban Strategy (KUS) to permit subdivision and low density residential development of this land.

## 2 Explanation of Provisions

The intended outcome will be achieved by amending Kiama LEP 2011 as follows:-

1. Amend the Land Zoning Map – Sheet LZN\_012 applying to Lot 3 DP 1018217 from zone RU1 to zone R2.
2. Amend the Lot Size Map – Sheet LSZ\_012 applying to Lot 3 DP 1018217 from minimum lot size of AB 40ha to G 450 sqm.
3. Amend the Floor Space Ratio Map – Sheet FSR\_012 applying to Lot 3 DP 1018217 to apply a FSR of C 0.45:1.
4. Amend the Height of Buildings Map – Sheet HOB\_012 applying to Lot 3 DP 1018217 to apply a maximum height of I 8.5m.

## 3 Justification

### 3.1 Need for a Planning Proposal

#### 3.1.1 Is the Planning proposal the result of any strategic study or report?

Yes. The Planning Proposal is in accordance with the Kiama Urban Strategy (KUS).

The KUS was adopted by Council on 20 September 2011 and identified land for urban expansion. The subject site is identified under Section 8 of the KUS as land for which a planning proposal should be undertaken to satisfy the housing mix outlined in the then Regional Plan (the *Illawarra Regional Strategy*)<sup>1</sup>.

#### 3.1.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

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<sup>1</sup> Kiama Municipal Council *Kiama Urban Strategy* Adopted 20 September 2011, p41.

Rezoning the land to R2 Low Density Residential and amending the Development Standards to reflect the Development Standards of residential land to the east of the subject site is considered the best way of achieving the intended outcome of permitting low density residential development of the land. The dwelling yield for the subject site indicated in the KUS is approximately 11-12 dwellings<sup>2</sup>. The proposed LEP amendments will allow for a subdivision and development which will meet this yield and assist to meet the detached housing mix for growth in Kiama.

Consideration was given to rezoning some of the land to R3 Medium Density Residential to allow for multi-dwelling housing or amending the minimum lot size to 350sqm to increase the lot yield as has been applied to portions of other urban release land to the south. However, given the topography of the land and its visibility from the coastal foreshore the resultant built form likely from such LEP amendments were not considered the best means of achieving the intended outcome and would result in a the dwelling yield greater than indicated in the KUS.

Note:

Consideration was also given to zoning a small portion of the site E2 Environmental Conservation to reflect the Endangered Ecological Community (EEC) identified by the Flora and Fauna Constraints Assessment undertaken by Biosis (Appendix 4). This assessment finds that this pocket of Illawarra Subtropical Rainforest EEC has an area of 130m<sup>2</sup>. Such as small pocket of E2 Environmental Conservation land within a R2 Low Density Residential Zone would be unusual and unnecessarily hinder subdivision layouts should further assessment confirm removal is suitable.

This EEC land is not currently zoned E2 Environmental Conversation. Rezoning the site to R2 Low Density Residential does not remove the legislative requirement for appropriate Flora and Fauna assessments to be undertaken at the time of Development Assessment for subdivision. In this regard it is recommended in the Constraints Assessment, that *a 5 Part Test Impact assessment under Section 7.3 of the BC Act for EEC as part of a Flora and Fauna Assessment to be submitted with a development application to subdivide the study area.*<sup>3</sup>

The report also acknowledges that the total clearing of the EEC would be below the threshold and not require a Species Impact Statement (SIS) or a Biodiversity Development Assessment Report (BDAR) it also notes that clearing is unlikely to result in significant impact. However, should the 5 Part Test find that clearing the vegetation would result in a significant impact and Council concludes that this EEC needs to be retained, then the subdivision plan would be designed accordingly without the need for the land to be zoned E2 Environmental Conservation.

### **3.2 Relationship to Strategic Planning Framework**

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<sup>2</sup> Using a site area of 8874m<sup>2</sup> and an average of 773m<sup>2</sup> per lot created derived from the approximate 75lots for 5.8ha stated in the Kiama Municipal Council *Kiama Urban Strategy* Adopted 20 September 2011, p46

<sup>3</sup> Biosis *Flora and Fauna Constraints Assessment for Lot 3 DP 1018217*, 4 September 2017, p7 (see Appendix 4)

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### **3.2.1 Is the planning proposal consistent with objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan and exhibited draft strategies)?**

The applicable regional strategy for the area is the *Illawarra-Shoalhaven Regional Plan* (ISRP) published in November 2015. The Planning Proposal is consistent with the vision detailed in the ISRP. The ISRP projects that housing needed in the Kiama LGA over the next 20 years would be 2,850. The ISRP also found that *“analysis indicates that there is not enough land or ‘market ready’ infill development in the planning pipeline to meet this demand.”*<sup>4</sup>

The 2016 Illawarra - Shoalhaven Urban Development Program Update (UDP) prepared by the NSW Government indicates that the dwelling approvals and greenfield housing activity for Kiama LGA is likely to decrease in the short term. The report goes on to state that *“this has the potential to impact the provision of a mix of housing types to cater for first home buyers, young families, retirees and support ageing in place. The shortage of greenfield land supply also raises concerns in relation to Kiama’s housing affordability when compared to the rest of the Region.”*<sup>5</sup>

The UDP update acknowledges Kiama Council’s desire to move from greenfield to infill development while still identifying a number of potential greenfield areas contained in its Urban Strategy that can assist in meeting demand.

This Planning Proposal will assist Kiama Municipal Council meet housing demand identified in the ISRP and is consistent with Directive 2.2. The Planning Proposal would provide an additional 10 (approximate) residential lots suitable for either detached dwellings or dual occupancies under the proposed zoning and applies to a lot identified under Council’s Urban Strategy as a potential greenfield site.

### **3.2.2 Is the planning proposal consistent with a Council’s local strategy or other local strategic plan?**

The Kiama Urban Strategy (KUS) was adopted by Council on 20 September 2011 and is Kiama’s overarching strategy to meeting housing targets identified in the then Illawarra Regional Strategy (IRS). The KUS had a direct influence on the preparation of the Kiama LEP 2011.

The land affected by this Planning Proposal was considered for and identified by the KUS as a site which should be assessed further in a Planning Proposal for urban expansion. The site is known in the KUS as ‘Site 8’. Section 9 of the KUS indicates Site 8 (and other sites) as suitable for Stage 2 (5-10 years). In the Kiama area only Site 13 was identified as Stage 1 (0-5 years). Site 13 refers to Cedar

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<sup>4</sup> NSW Government Planning & Environment *Illawarra Shoalhaven Regional Plan* Published November 2015, p34

<sup>5</sup> NSW Government Planning & Environment *Illawarra Shoalhaven Urban Development Program* Published October 2016, p41

Grove which has now been developed. Therefore, with regards to both staging order and indicated timeframes, the proposed development is consistent with the KUS.

Section 9 also identifies lot yield for the site of approximately 11-12 lots<sup>6</sup> although Section 6.1 acknowledges that a more accurate lot yield potential and density would need be established. Reflecting site constraints including bushfire, topography and the potential need to protect land identified as EEC a concept subdivision plan has been prepared which illustrates a lot yield of 10 lots. Further investigation of these constraints may increase this lot yield to be closer to that identified by the KUS. Notwithstanding this it is noted that under the proposed zone Dual Occupancy would be a permissible form of development and a number of the sites may be suited to such development. As such the overall dwelling yield may be more reflective of the lot yield derived from the KUS.

The Planning Proposal is consistent with the KUS.

### **3.2.3 Is the planning proposal consistent with applicable State Environmental Planning Policies?**

The Planning Proposal is consistent with applicable State Environmental Planning Policies (SEPPs) as detailed below in Appendix 2.

#### SEPP 55 – Remediation of Land

SEPP 55 aims to provide a planning approach to the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment. Specifically, relevant is that SEPP 55 specifies certain matters to be considered when rezoning land.

The Planning Proposal seeks to rezone the land to residential. Whether or not the land is contaminated must therefore be considered if a purpose referred to in Table 1 to the contaminated land planning guidelines could have lawfully been carried out on that land.

Council's records which date back to the late 1950's do not indicate any development history related to the site. An existing driveway (right of carriageway which provides access to the properties to the west) is construction on the site. The DP registered in November 2000 shows an old stone wall located on the southern boundary. The indication of a stone wall suggests that the site may have been used for agricultural activity in the past. Furthermore, the current zoning lawfully permits extensive agriculture without consent.

A Stage 1 Preliminary Investigation Report, required under Clause 6 of SEPP 55 and detailed in '*Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land*' should be carried out after an in accordance with any Gateway determination to ensure that the site is suitable or can be remediated to be suitable for residential use.

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<sup>6</sup> Using a site area of 8874m<sup>2</sup> and an average of 773m<sup>2</sup> per lot created derived from the approximate 75lots for 5.8ha stated in the Kiama Municipal Council *Kiama Urban Strategy* Adopted 20 September 2011, p46



### SEPP 71 – Coastal Protection

SEPP 71 aims:-

- *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- *to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- *to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- *to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- *to ensure that the visual amenity of the coast is protected, and*
- *to protect and preserve beach environments and beach amenity, and*
- *to protect and preserve native coastal vegetation, and*
- *to protect and preserve the marine environment of New South Wales, and*
- *to protect and preserve rock platforms, and*
- *to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- *to encourage a strategic approach to coastal management.*

The site is located within the SEPP 71 Coastal Zone but is not within a ‘sensitive coastal location’ as defined by SEPP 71. Matters to be considered when preparing a draft Local Environmental Plan are detailed under Clause 8. These are addressed in the Table 1 below.

Table 1: SEPP 71 Matters for consideration	
Matters for consideration	Consistency with Planning Proposal
<i>a) aims of the policy set out in clause 2,</i>	The Planning Proposal is consistent with the aims set out in Clause 2 of the SEPP.
<i>b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</i>	The land is setback from foreshore areas and does not provide any direct public access paths to or along the foreshore. A right of way exists over the site which provides access to Dido Street from western properties. Any future subdivision is likely to widen, improve and potentially relocate this access route.
<i>c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</i>	No significant opportunities given the setback of the land from the coastal foreshore area.

Table 1: SEPP 71 Matters for consideration	
Matters for consideration	Consistency with Planning Proposal
<i>d) the suitability of development given its type, location and design and its relationship with the surrounding area,</i>	The planning proposal involves the rezoning of land to a zone and application of development standards consistent with lower lying land to the east and land recently rezoned on the ridge to the south.
<i>e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,</i>	Given the setback of the site from the coastal foreshore the intended future development would not overshadowing the foreshore. The site is located below surrounding ridge lines. Land to the south west is identified as Crown Land however due to the topography of this Crown Land and existing vegetation, the intended future development of the subject site would not result in any significant loss of views from this land to the coastal foreshore.
<i>f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,</i>	The site is visible from the coast. Vistas from the coast which encompass this site are also likely to encompass other areas of residential development. Depending on the vantage point these may include the northern portion of the Kiama Township, the higher part of the existing housing in the Spring Creek area or the more recent development occurring in Cedar Grove. That is the proposal will result in development which will alter the view of hills to the west of the township of Kiama, however this view from the coast exists within the context of existing residential development associated with Kiama.
<i>g) measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u>) and plants (within the meaning of that Act), and their habitats,</i>	The land is not mapped as Biodiversity land. A Flora and Fauna Constraints Assessment was undertaken for the subject site (see Appendix 4). This found only a low likelihood of occurrence of threatened flora species and a low likelihood of impact on the threatened fauna species investigated. A 130m <sup>2</sup> area of Illawarra Subtropical Rainforest was recorded on the site in low condition.

Table 1: SEPP 71 Matters for consideration	
Matters for consideration	Consistency with Planning Proposal
	An assessment of significance will be prepared if required by the Gateway determination.
<i>h) measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u>) and marine vegetation (within the meaning of that Part), and their habitats</i>	The land is setback from areas of marine life. The Planning Proposal is unlikely to impact on fish, marine vegetation or their habitats.
<i>i) existing wildlife corridors and the impact of development on these corridors,</i>	The land is not mapped as Biodiversity land. An area to the south-west of the site is mapped as Biodiverse land. The Flora and Fauna Constraints Assessment undertaken for the subject site (see Appendix 4) describes the site as follows:- <i>"Dense growing vegetation, surrounded by open rural land extends across the study area and to the west for approximately 500 metres. This area is isolated from other vegetation patches by rural land and low density residential development to the north and south east."</i> <sup>7</sup>
<i>j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,</i>	Given the setback and elevation of the site from the coastal foreshore development of the site for residential uses will not adversely impact on coastal processes and coastal hazards.
<i>k) measures to reduce the potential for conflict between land-based and water-based coastal activities,</i>	The Planning Proposal will not result in any conflicts between land and water based coastal activities.
<i>l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</i>	The proposal will not impact on any items of known cultural importance of Aboriginals. A web search of the Aboriginal Heritage Information Management System (AHIMS) does not reveal any Aboriginal sites recorded or declared in or near the site. See Appendix 9.
<i>m) likely impacts of development on the water quality of coastal waterbodies,</i>	Future residential development would be subject to development assessment with

<sup>7</sup> Biosis Flora and Fauna Constraints Assessment for Lot 3 DP 1018217, 4 September 2017, p1 (see Appendix 4)

Table 1: SEPP 71 Matters for consideration	
Matters for consideration	Consistency with Planning Proposal
	sediment control and waste management measures required as necessary.
n) the conservation and preservation of items of heritage, archaeological or historic significance,	The land contains no listed items of heritage, archaeological or historic significance. An old stone wall is shown on the current DP plan (DP 1018217) along the southern boundary of the subject lot. Should this wall be located on the site and identified as of heritage significance it could be able to be retained as part of any future subdivision. (See Section 3.3.3 below)
o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	The Kiama Urban Strategy is focused on creating compact towns. The Planning proposal aims to rezone land identified in the Kiama Urban Strategy for urban expansion at the western edge of the Kiama township.

#### State Environmental Planning Policy (Rural Lands) 2008

This SEPP applies to the subject site. The subject site is currently zoned RU1 Rural Landscape. Clause 7 contains Rural Planning Principles which are considered in Table 2 below as per Direction 1.5 issued under Section 117(2) of the Environment Planning and Assessment Act.

Table 2 Rural Planning Principles	
Rural Planning Principle	Response
<i>The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas</i>	The Proposal seeks to rezone land from RU1 Rural Landscape to R2 Low Density Residential. While the site is not currently used for productive economic activity, the proposal and intended future residential development would prevent such future rural use.
<i>Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State</i>	The site is less than 1ha in area and is directly adjacent to residential land to the east. Properties to the north and west appear to be used for rural residential living with landscaped lawns. The site is not currently used for agriculture and given its small nature and surrounding land uses is unlikely to be used for agricultural purposes. The site is located to the east of a ridgeline used to visually separate Kiama from rural land to the west.

<i>Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development</i>	The site is located on the urban/township side of ridges which separate Kiama from land to the west. Land to the west is more commonly used for agriculture. The proposal does not impact on these productive agricultural land uses located further to the west.
<i>In planning for rural lands, to balance the social, economic and environmental interests of the community</i>	The KUS responds to the balance needed in providing for additional housing with the need to protect rural lands. It emphasises infill development opportunities while also providing for some consideration to greenfield sites to ensure a housing mix is provided. The subject site was identified as one of these greenfield sites.
<i>The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land</i>	<p>A Flora and Fauna Constraints Assessment undertaken for the subject site (see Appendix 4) reports that the majority of the site contains mainly exotic vegetation in low condition not listed under state or federal biodiversity legislation.</p> <p>A small pocket of EEC was also identified on the site. While this is noted as a high constraint, it was also found to be in low condition. The Planning Proposal does not propose to zone this land for Environmental Conservation. Should the 5 Part Test find that clearing the vegetation would result in a significant impact and Council concludes that this EEC needs to be retained, then the subdivision plan would be designed accordingly without the need for the land to be zoned E2 Environmental Conservation.</p>
<i>The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities</i>	The planning proposal seeks to rezone the land to low density residential. Housing likely to be developed on the site will not be of a rural nature. Notwithstanding this the dwellings will be located within close distance to rural land uses to the west.
<i>The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing</i>	The Planning Proposal would not result in rural housing. Service provision and the impact on services is discussed in Section 3.4.1 of this Planning Proposal.

<i>Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General</i>	See Sections 3.2.1 and 3.2.2 of this Planning Proposal. This site has been identified in the KUS which seeks to address the housing targets and mix identified in the Regional Strategy.
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### **3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?**

The Planning Proposal has been assessed against the relevant Ministerial Directions. The proposal is consistent with these Directions with the exception of Directive 1.2 Rural Zone and 1.5 Rural Lands. These inconsistencies are justified as the site is specifically identified in the Kiama Urban Strategy (KUS) which seeks to address the housing targets identified in the Regional Strategy.

A checklist has been provided in Appendix 3.

## **3.3 Environmental Social and Economic Impact**

### **3.3.1 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?**

The land is not mapped as Biodiversity land. The land is also not mapped as containing Riparian Land.

A Flora and Fauna Constraints Assessment was undertaken by *Biosis* (see Appendix 4). This found only a low likelihood of occurrence of threatened flora species. No threatened fauna was recorded within the study area during site investigations and based on a number of factors considered the assessment found only a low likelihood of impact on the threatened nomadic fauna species which were specifically considered based on habitat values present.

A 130m<sup>2</sup> area of Illawarra Subtropical Rainforest was recorded on the site. While this Endangered Ecological Community (EEC) was noted as a high constraint, it was recorded to be in low condition. The assessment also acknowledges that the total clearing of the EEC would be below the threshold and not require a Species Impact Statement (SIS) or a Biodiversity Development Assessment Report (BDAR). It also notes that clearing is unlikely to result in significant impact. Notwithstanding this, the report does recommend that where feasible this EEC remnant be retained and a 5 Part Test Impact assessment under Section 7.3 of the BC Act for EEC as part of a Flora and Fauna Assessment be submitted with a development application to subdivide the study area.

Retention of the EEC land is possible, however would have significant impacts on the lot yield as a result of its location, potential buffer and bushfire implications. An assessment of significance will be prepared if required by the Gateway determination.

### **3.3.2 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

#### Bushfire

The subject site is mapped as Bushfire Prone. The vegetation on site had been cleared previously and the majority of vegetation onsite is regrowth forming a 'Closed Exotic Shrubland'. Vegetation posing a threat to the site comes from the vegetation located to the south and west over Lot 2 and 4 of DP1018217 and Lot 701 DP 1026775. In accordance with, *Kevin Mills and Associates* (2006) 'The Natural Vegetation in the Municipality of Kiama NSW', this vegetation is a community of Complex Subtropical Rainforest. Given the small isolated nature of the vegetation over Lot 2 and 4 of DP1018217 and Lot 701 DP 1026775 and the limited fire runs it is unlikely the vegetation would support a fully developed fire due, therefore it is considered to be a low bushfire threat. As a result, the short fire methodology has been utilised to assess the bushfire threat and determine the required Asset Protection Zones. It is believed that the short fire run methodology currently provides the most accurate representation of the fire behaviour relating prevailing bushfire hazard impacting on the subject site.

The proposed planning proposal meets the requirements of Section 117 (2) of the EP& A Act by satisfying the requirements of Ministerial Direction 4.4 'Planning for Bushfire Protection' (2006). If future development resulting from the proposed rezoning is undertaken in accordance with the recommendations outlined in the Bushfire Report provided in Appendix 5 it will comply with performance requirements provided in Planning for Bushfire Protection (2006) and will provide adequate provision for fire fighting strategies.

It should be noted only a small corner of the subject site is considered bushfire prone, therefore the majority dwelling houses likely to be developed on the subject site following a future subdivision would not trigger 79BA of the Act. However, in order to ensure that the intended outcome of the Planning Proposal is achievable, the Bushfire Assessment modelled the APZ required to comply with BAL 29. The Bushfire Assessment found that a dwelling could be erected on each of the proposed lots which if constructed and maintained in accordance with the recommendations outlined in that report would comply with the performance requirements provided in Planning for Bushfire Protection (2006) and would provide adequate provision for firefighting strategies. While the recommendations of this report, nor the modelled APZ form part of the proposed amendment to the LEP, it does demonstrate that development of the site for future dwellings would be possible. It also demonstrates that dwellings could be located on the site such that the Asset Protection Zones required for Bushfire proposes would result in minimal need for vegetation clearing. In this regard the Asset Protection Zones would not extend beyond the rezoned land.



### Traffic

The subject site gains vehicle access from Dido Street. Dido Street intersects Jamberoo Road at a T-intersection. Currently this intersection is the only vehicle entry point into and out of the existing Spring Creek residential area.

The land is likely to generate approximately ten (10) residential lots. Under the R2 zoning proposed, dwellings, dual occupancies and secondary dwellings are all permitted uses. As such it is likely that some sites may be developed with dual occupancies or contain secondary dwellings. The RMS *Guide to Traffic Generating Development* calculates a daily vehicle trip rate of 9 trips per dwelling based on surveys conducted in areas where a new residential subdivision is being built. This Guide goes on to state that to provide allowance for some later additional dual occupancy development the AMCORD rate of 10 trips per dwelling could be applied<sup>8</sup>. Using the AMCORD rate, the likely development resulting from the Planning Proposal would create an average of 100 additional trips per day.

In addition to the subject site, the KUS identified Council owned land to the north-east of Dido Street as a site for investigation for urban expansion (known as Glenbrook Drive, Kiama)<sup>9</sup> and subsequently zoned this land R2 – Low Density Residential under the Kiama LEP 2011. Given its land size, the lot yield for this land will be significantly higher than the subject site. Should an alternative access point to Spring Creek not be established at that time this north-eastern land is subdivided, then an upgrade of the Dido Street / Jamberoo Road intersection would need to be investigated. Given the likely lot yield of the subject site relative to this undeveloped residential land to the north-east, any intersection upgrade required would more appropriately occur at that time.

Notwithstanding the above, the ability of the existing intersection to perform adequately with the additional 100 additional trips per day would need to be considered as part of the the Development Assessment (DA) process required to be undertaken in accordance with the Environmental Planning and Assessment Act 1979, to subdivide the site for residential purposes.

### Topography and Geotechnical

The subject site rises steeply to the north-west with an average slope of approximately 30%. Concept subdivision plans have been prepared which respond to this gradient. The proposed access road is positioned in line with contours and larger lots are provided to ensure adequate building envelopes and designs options can be achieved. However, given the gradient of the site a Preliminary Geotechnical Assessment to assess site stability and residential construction classification in accordance with AS2870 will be prepared following and in accordance with any Gateway Determination. This report will occur in conjunction with the Stage 1 Preliminary Investigation Report discussed in Section 3.2.3 of this Proposal.

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<sup>8</sup> RMS *Guide to Traffic Generating Development*

<sup>9</sup> Including whole or part lots - Lot 11 DP 810839, Lot 45 DP 805299 and Lot 101 DP 1110563.

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### Acid Sulphate Soils

The site is mapped as being affected by Acid Sulfate Soils (Class 5). The topography of the locality results in the subject site having AHD levels higher than Class 2 and 1 land located 200m or more to the east. Future subdivision of the site could occur in a manner which allows lots to be stepped up the site thereby minimising the level of excavation required. An Acid Sulphate Soils study is therefore not considered necessary as part of this Planning Proposal. Notwithstanding this, such a study will be carried out prior to undertaking community consultation should it be required as part of the Gateway determination.

Further to the above, the Development Assessment (DA) process required to be undertaken in accordance with the Environmental Planning and Assessment Act 1979, to subdivide and develop the site for residential purposes provides the appropriate legislative framework through which other environmental effects associated with any future residential development of this land would be assessed.

### **3.3.3 Has the Planning Proposal adequately addressed any social and economic effects?**

#### Views and Visual Impact

The Planning Proposal will permit low density residential development on the site. Such development will alter the existing view of hills to the west of the township of Kiama. A Visual Impact analysis has been undertaken and is provided in Appendix 8. This Visual Impact Analysis concludes that the *“capacity for visual impact as a consequence of low density residential development on the subject site is considered low and will not adversely affect Council’s objectives for managing scenic qualities of the urban fringe areas.”*

Development of the land for residential development may impact on views gained from the existing dwelling on the adjoining lot to the west (Lot 4 DP 1018217). The Planning Proposal applies development standards to the site which are consistent with the existing residential area to the east and the Cedar Grove development located on the ridge to the south. These development standards include a maximum building height of 8.5m. Any issues that may arise regarding views would be addressed during the assessment of any future development application(s) for the sites. In this regard, a building envelope for any lot proposed in the north-western corner of the site may need to be considered in light of view corridors at time of subdivision. Notwithstanding this it is noted that this adjoining western site is also mapped in the KUS for potential urban expansion.

#### Access

A 3.5m right of carriage way and easement for services burdens the subject site to the benefit of the three properties to the west (Lot 4 and 5 DP 1018217 and Lot 1 DP 194021). The Planning Proposal will not extinguish this right of carriage way or easement.

Concept subdivision plans show continued access from Dido Street to these western properties. Repositioning of the access route and easement for services and any services contained therein

may be proposed at time of subdivision. This would be assessed as part of any development application for subdivision.

#### Old Stone Wall

An old stone wall is shown on the current DP plan (DP 1018217) along the southern boundary of the subject lot. This stone wall was not detected during site inspections and is not mapped on Council's Heritage LEP map. However, dry stone walls form a valued part of Kiama's heritage and consideration will need to be given to any such wall as part of the Development Assessment process. The land to the south is not identified within the KUS as suitable for urban expansion. Retention of any wall would provide a visual delineation between the zones and any such wall in this location would be able to be retained as part of any future subdivision.

### **3.4 State and Commonwealth Interests**

#### **3.4.1 Is there adequate public infrastructure for the planning proposal?**

The Planning Proposal seeks to rezone land to low density residential. This question typically applies to planning proposals that result in residential subdivisions in excess of 150 lots<sup>10</sup>. As a result of the Planning Proposal future development of the land for residential purposes is expected. The land is likely to generate approximately ten (10) residential lots. Under the R2 zoning proposed, dwellings, dual occupancies and secondary dwellings are all permitted uses.

Utility services are available in the locality and service the existing residential development to the east. Council advised that service feasibility letters from service providers should be obtained. Given the relatively small scale of development and the location of the site adjacent to land already zoned and developed for residential purposes, it is considered that these letters be obtained after and in accordance with any gateway determination.

Development of this land for residential purposes would result in an increase in demand for other public infrastructure such as health, education, and emergency services etc. This increase in demand would be minor relative to the existing demand generated by the established residential population of the Kiama area.

#### **3.4.2 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?**

No State or Commonwealth authorities have been consulted as part of the preparation of this Planning Proposal.

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<sup>10</sup> NSW Government Planning & Environment *A guide to preparing planning proposals* August 2016, p17

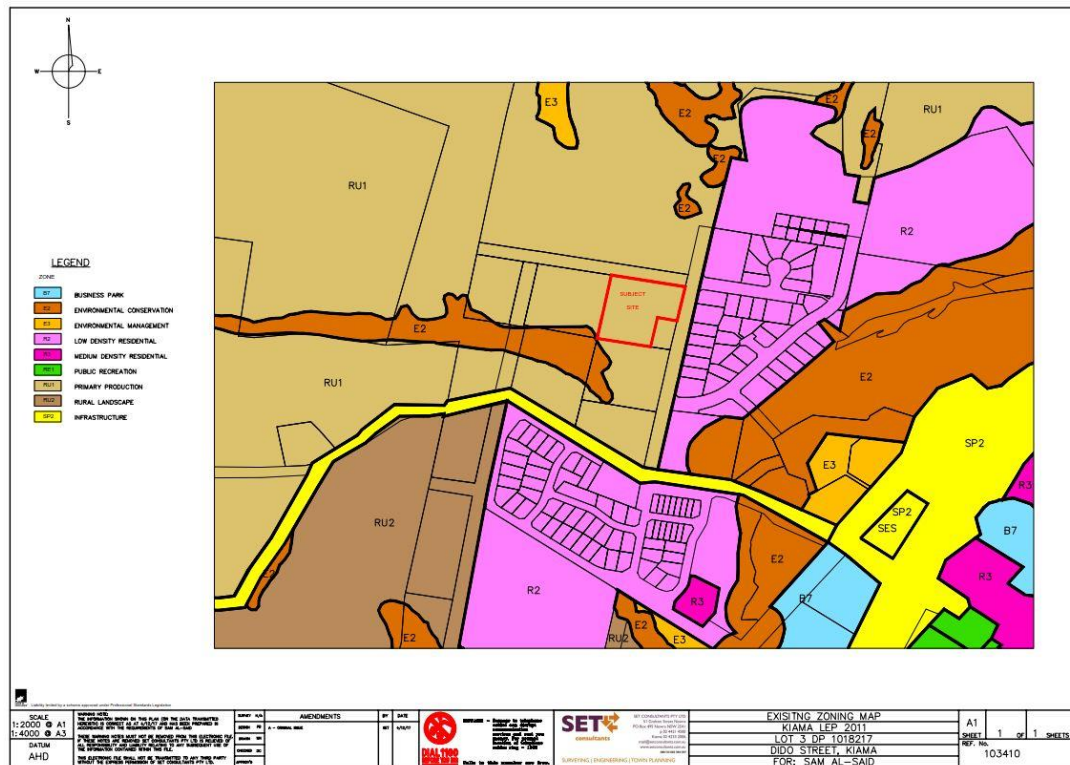
It is requested that the Gateway determination confirm the following list of State authorities to be consulted and nominate any other State or Commonwealth authorities required for consultation.

- NSW Department of Planning and Environment;
- NSW Rural Fire Service;

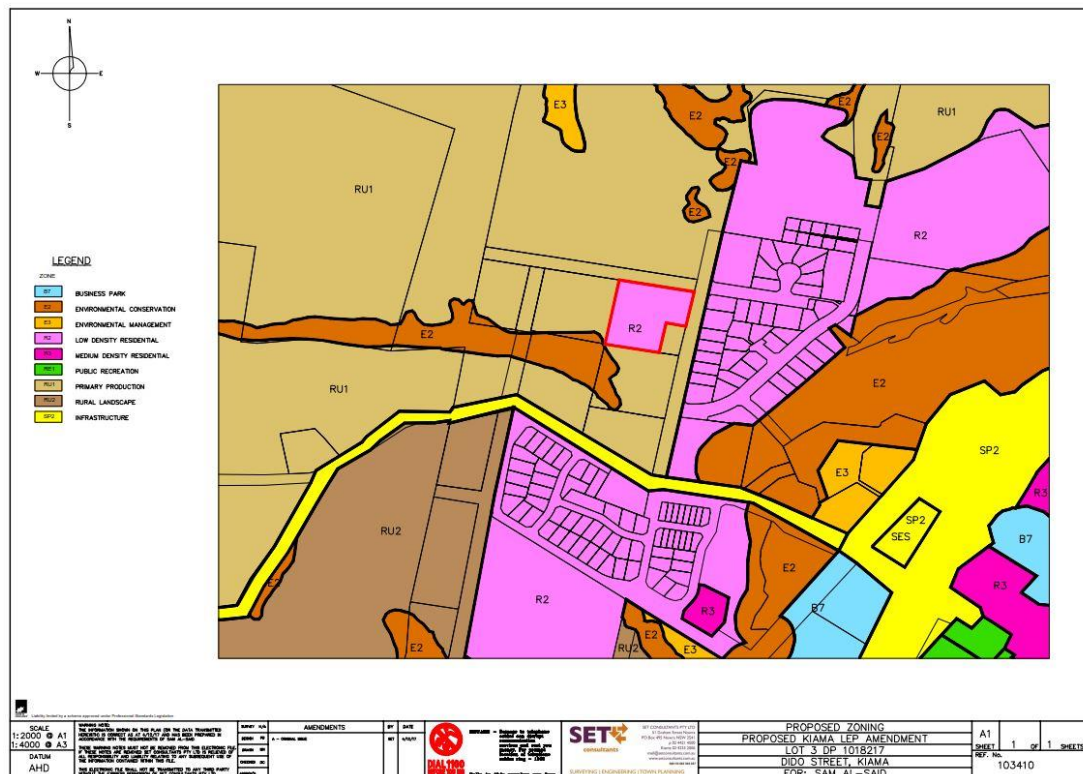
## 4 Mapping

The following illustrates the current land use zoning of the subject site and proposed land use zoning map amendments to the Kiama LEP 2011. Changes to the Principal Development Standards are outlined in Section 2 and also illustrated below. The maps below are reproduced in **Appendix 1**. A shape file for these maps has not been provided as the amendments follow existing property boundaries.

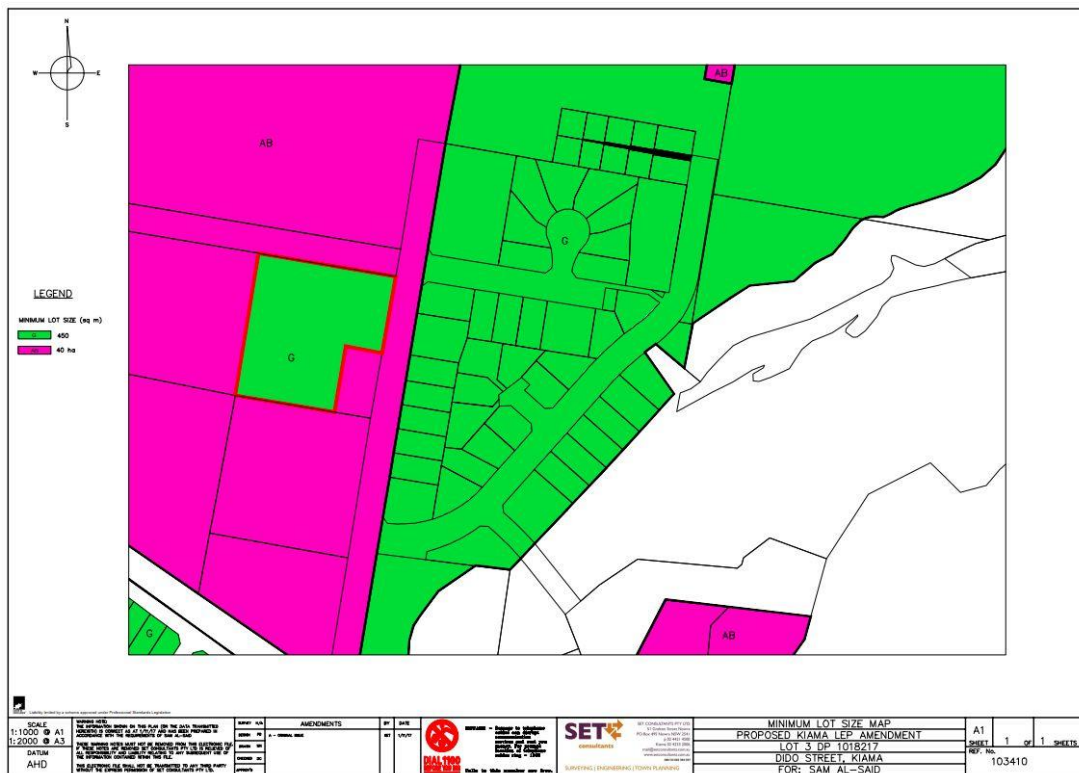
## 4.1 Current Land Use Zone under the Kiama Local Environmental Plan 2011



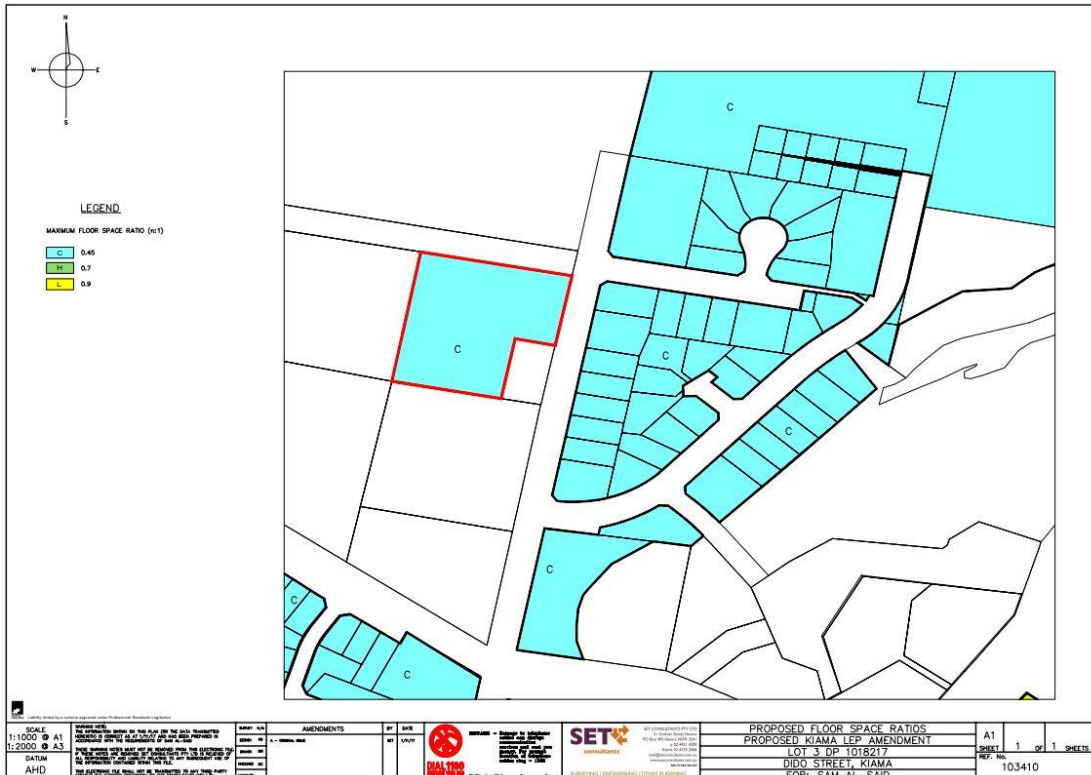
## 4.2 Proposed Land Use Zone under this Planning Proposal



### 4.3 Proposed Minimum Lot Size under this Planning Proposal

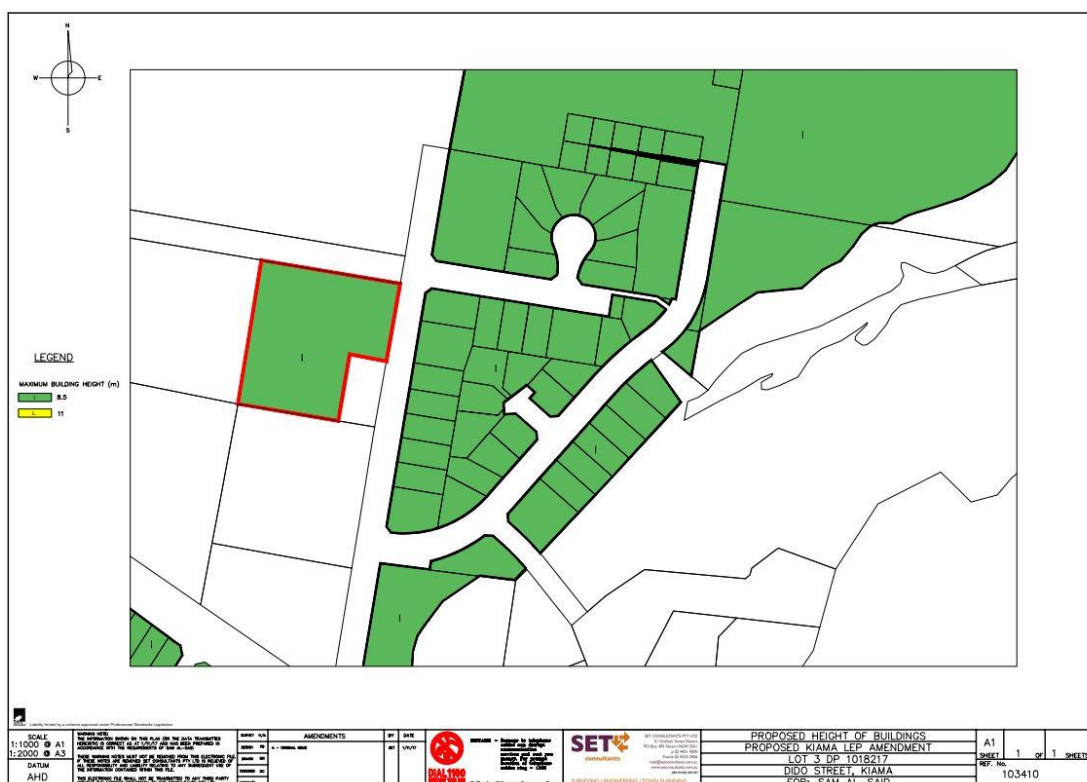


### 4.4 Proposed Floor Space Ratio under this Planning Proposal





## 4.5 Proposed Maximum Height of Building under this Planning Proposal



## 5 Community Consultation

A notification period of 14 days is recommended for this Planning Proposal. This would include:-

- Notification in local newspaper;
- Hard copies made available at the Council Administration Building;
- Electronic copy on Council's website;
- Notification letters to adjoining and surrounding property owners;
- Letters to any State and Commonwealth Public Authorities identified in the gateway determination; and
- any other consultation methods deemed appropriate for the proposal.

## 6 Project Timeline

Table 3 below outlines the anticipated timeline for the project. This timeline has been established on the basis of the proposal being reported to the Council meeting in February 2018.

Table 3: Project Timeline		
Stage	Anticipated Timeframe	Possible Dates
Planning Proposal to the Department	Following Council meeting February 2018	February 2018

Table 3: Project Timeline		
Stage	Anticipated Timeframe	Possible Dates
Gateway determination	4 weeks from Council forwarding the Planning Proposal to the Minister	March 2018
Completion of technical information or studies as determined by Gateway	6 weeks from the gateway determination	May 2018
Consultation with State / Commonwealth agencies	4 weeks from the completion of any technical information or studies	June 2018
Exhibition of Planning Proposal (assuming Director General's approval for community consultation was issued with the Gateway determination)	2 weeks	June/July 2018
Review of submissions and preparation of report to Council.	Immediately after the exhibition period.	July 2018
Report to Council	First available Council meeting after review of submissions and report preparation.	August 2018
Submission to the department to finalise	4weeks from Council meeting	September 2018
Anticipated date LEP will be notified		October 2018

## 7 Appendix





## APPENDIX 9

AHIMS Search

SET Consultants Pty Ltd

Date: 20 June 2017

PO Box 495

Nowra New South Wales 2541

Attention: Peter Dowse

Email: peter@setconsultants.com.au

Dear Sir or Madam:

**AHIMS Web Service search for the following area at Lot : 3, DP:DP1018217 with a Buffer of 200 meters, conducted by Peter Dowse on 20 June 2017.**

The context area of your search is shown in the map below. Please note that the map does not accurately display the exact boundaries of the search as defined in the paragraph above. The map is to be used for general reference purposes only.



A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) has shown that:

0	Aboriginal sites are recorded in or near the above location.
0	Aboriginal places have been declared in or near the above location. *

**If your search shows Aboriginal sites or places what should you do?**

- You must do an extensive search if AHIMS has shown that there are Aboriginal sites or places recorded in the search area.
- If you are checking AHIMS as a part of your due diligence, refer to the next steps of the Due Diligence Code of practice.
- You can get further information about Aboriginal places by looking at the gazettal notice that declared it. Aboriginal places gazetted after 2001 are available on the [NSW Government Gazette \(http://www.nsw.gov.au/gazette\)](http://www.nsw.gov.au/gazette) website. Gazettal notices published prior to 2001 can be obtained from Office of Environment and Heritage's Aboriginal Heritage Information Unit upon request

**Important information about your AHIMS search**

- The information derived from the AHIMS search is only to be used for the purpose for which it was requested. It is not be made available to the public.
- AHIMS records information about Aboriginal sites that have been provided to Office of Environment and Heritage and Aboriginal places that have been declared by the Minister;
- Information recorded on AHIMS may vary in its accuracy and may not be up to date .Location details are recorded as grid references and it is important to note that there may be errors or omissions in these recordings,
- Some parts of New South Wales have not been investigated in detail and there may be fewer records of Aboriginal sites in those areas. These areas may contain Aboriginal sites which are not recorded on AHIMS.
- Aboriginal objects are protected under the National Parks and Wildlife Act 1974 even if they are not recorded as a site on AHIMS.
- This search can form part of your due diligence and remains valid for 12 months.