



APPENDIX 3

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Section 117 Direction Title	Consistency of Planning Proposal
1.1 Business and Industrial Zones	N/A
<p>1.2 Rural Zone</p> <p><i>A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</i></p> <p><i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</i></p> <ul style="list-style-type: none"> <i>(a) justified by a strategy which:</i> <ul style="list-style-type: none"> <i>(i) gives consideration to the objectives of this direction,</i> <i>(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and</i> <i>(iii) is approved by the Director-General of the Department of Planning, or</i> <i>(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or</i> <i>(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</i> <i>(d) is of minor significance.</i> 	<p>The Planning Proposal seeks to rezone land from RU2 – Rural Landscape to R2 Low Density Residential therefore the Planning Proposal is inconsistent with this Directive.</p> <p>This inconsistency is 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.</p>
1.3 Mining, Petroleum and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A

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<p>1.5 Rural Lands</p> <p><i>A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</i></p> <p><i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</i></p> <p><i>(a) justified by a strategy which:</i></p> <p><i>(i) gives consideration to the objectives of this direction,</i></p> <p><i>(ii) identifies the land which is the subject of the planning proposal (if the planning proposal</i></p> <p><i>(iii) relates to a particular site or sites, and</i></p> <p><i>(iv) is approved by the Director General of the Department of Planning and is in force, or</i></p> <p><i>(b) is of minor significance.</i></p>	<p>The Rural Planning Principles listed in Clause 7 of SEPP (Rural Lands) 2008 are detailed and addressed in Table 2 of the Planning Proposal.</p> <p>The Planning Proposal seeks to rezone land from RU2 – Rural Landscape to R2 Low Density Residential therefore the Planning Proposal is inconsistent with Direction 1.5 – Rural Lands.</p> <p>This inconsistency is 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.</p>
<p>2.1 Environmental Protection Zones</p> <p><i>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</i></p> <p><i>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size</i></p>	<p>The Planning Proposal does not apply to land within an Environmental Protection Zone nor is the land mapped under the Kiama LEP as biodiverse land.</p> <p>In this regard the Planning Proposal is consistent with Direction 2.1 – Environmental Protection Zone. Notwithstanding this see Section 3.3.1 of the Planning Proposal.</p>

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<i>for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.</i>	
<p>2.2 Coastal Protection</p> <p><i>A planning proposal must include provisions that give effect to and are consistent with:</i></p> <ul style="list-style-type: none"> <i>(a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, and</i> <i>(b) the Coastal Design Guidelines 2003, and</i> <i>(c) the manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 (the NSW Coastline Management Manual 1990).</i> 	<p>The land is within the Coastal Zone.</p> <p>Clause 5.5 of KLEP contains provisions relating to development within the coastal zone. Clause 5.5 is consistent with the relevant Coastal Policy, guidelines and manual. The Planning Proposal does not seek to alter the provisions of Clause 5.5.</p> <p>The Planning Proposal is consistent with Direction 2.2 – Coastal Protection.</p>
<p>2.3 Heritage Conservation</p> <p><i>A planning proposal must contain provisions that facilitate the conservation of:</i></p> <ul style="list-style-type: none"> <i>a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</i> <i>b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</i> <i>c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object,</i> 	<p>The land is not listed as having heritage significance. A dry stone wall is shown on the current DP plan (DP 1018217) along the southern boundary of the subject lot. The wall is not mapped on Council’s Heritage LEP map nor is there a ‘heritage inventory’ record of the wall. However, dry stone walls form a valued part of Kiama’s heritage and retention of any wall in this location would be possible as part of any future subdivision.</p> <p>A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) shows that no Aboriginal sites are recorded or been declared in or near the subject site (see Appendix 9 of the Planning Proposal).</p> <p>Clause 5.10 of KLEP 2011 contains provisions relating to heritage conservation. The Planning Proposal does not seek to alter any heritage listings under the KLEP 2011 nor the provisions of Clause 5.10.</p>

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<i>place or landscape as being of heritage significance to Aboriginal culture and people.</i>	The Planning Proposal is consistent with Direction 2.3 – Heritage Conservation.
<p>2.4 Recreational Vehicle Areas</p> <p><i>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):</i></p> <ul style="list-style-type: none"> <i>(a) where the land is within an environmental protection zone,</i> <i>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</i> <i>(c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</i> <ul style="list-style-type: none"> <i>(i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and</i> <i>(ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.</i> 	<p>The change from RU2 to R2 zoning does alter nor result in additional permissible land uses regarding recreational vehicle areas.</p> <p>The Planning Proposal is consistent with Direction 2.4 – Recreational Vehicle Areas.</p>
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP	N/A
<p>3.1 Residential Zones</p> <p><i>A planning proposal must include provisions that encourage the provision of housing that will:</i></p> <ul style="list-style-type: none"> <i>(a) broaden the choice of building types and locations available in the housing market, and</i> 	The Planning Proposal would result in land being zoned for residential purposes with controls under the KLEP matching that of the surrounding residential land. The site is located adjacent to existing residential land and will make efficient use of existing infrastructure.

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<p><i>(b) make more efficient use of existing infrastructure and services, and</i></p> <p><i>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</i></p> <p><i>(d) be of good design.</i></p> <p><i>A planning proposal must, in relation to land to which this direction applies:</i></p> <p><i>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</i></p> <p><i>(b) not contain provisions which will reduce the permissible residential density of land.</i></p>	<p>Urban expansion has been limited through the KUS with a focus on infill development and establishing limited areas for urban expansion. The site is not located outside these nominated areas.</p> <p>The Planning Proposal is consistent with Direction 3.1 – Residential Zones.</p>
<p>3.2 Caravan Parks and Manufactured Home Estates</p> <p><i>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</i></p> <p><i>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</i></p> <p><i>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</i></p> <p><i>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</i></p>	<p>The planning proposal does not change any provisions relating to caravan parks or manufactured home estates.</p> <p>The Planning Proposal is site specific. The site does not currently contain a caravan park. Neither the current or proposed zone permit Caravan Parks on the site.</p> <p>The Planning Proposal is consistent with Direction 3.2 – Caravan Parks and Manufactured Home Estates.</p>

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<p>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</p> <p>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</p> <p>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.</p>	
<p>3.3 Home Occupations</p> <p><i>Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.</i></p>	<p>Home Occupations are permitted without consent within both the current and proposed zones under the KLEP 2011. The Planning Proposal would not alter this permissibility.</p> <p>The Planning Proposal is consistent with Direction 3.3 – Home Occupations</p>
<p>3.4 Integrated Land Use and Transport</p> <p><i>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</i></p> <p>(a) <i>Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</i></p> <p>(b) <i>The Right Place for Business and Services – Planning Policy (DUAP 2001).</i></p>	<p>The Planning Proposal provides an increase in residentially zoned land to the west of the Kiama Township. The site is adjacent to existing residential zoned land. Access to the site is from the road network which services this adjacent residential land. Additional residential development in this locality will lead to increased viability of these existing transport systems.</p> <p>The Planning Proposal is consistent with Direction 3.4 – Integrated Land Use Transport.</p>
3.5 Development near Licensed Aerodromes	N/A
3.6 Shooting Ranges	N/A
4.1 Acid Sulfate Soils	The site is mapped as being affected by Acid Sulfate Soils (Class 5).

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<p><i>The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</i></p> <p><i>When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</i></p> <ul style="list-style-type: none"> <i>(a) the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning Guidelines adopted by the Director-General, or</i> <i>(b) such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.</i> <p><i>A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.</i></p> <p><i>Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with paragraph (5).</i></p>	<p>Clause 6.1 of the KLEP contains provisions relating to acid sulfate soils. The Planning Proposal does not seek to alter the provisions of Clause 6.1.</p> <p>The topography of the locality results in the subject site having AHD levels higher than Class 2 and 1 land to the east. Should the Department not consider the planning proposal to be of minor significance with regards to Acid Sulfate soils then an Acid Sulfate Soils Study will be carried out in accordance with any Gateway determination and prior to undertaking community consultation.</p> <p>The Planning Proposal is able to be consistent with Direction 4.1 – Acid Sulfate Soils.</p>

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<p><i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</i></p> <p style="padding-left: 40px;"><i>(a) justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction, or</i></p> <p style="padding-left: 40px;"><i>(b) of minor significance.</i></p>	
<p>4.2 Mine Subsidence and Unstable Land</p>	<p>N/A</p> <p>To our knowledge, the land has not been identified by Council as Unstable Land.</p>
<p>4.3 Flood Prone Land</p>	<p>N/A</p> <p>To our knowledge, the land has not been identified by Council as Flood Prone Land. The Spring Creek Catchment Flood Study was finalised in May 2014. This shows the subject site above the PMF Flood extent. In this regard, any future residents would have the option to stay in place during any such flood.</p>
<p>4.4 Planning for Bushfire Protection</p> <p><i>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,</i></p> <p><i>A planning proposal must:</i></p> <p style="padding-left: 40px;"><i>a) have regard to Planning for Bushfire Protection 2006,</i></p> <p style="padding-left: 40px;"><i>b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</i></p>	<p>The south-western corner of the site is mapped as bushfire prone.</p> <p>Consultation with the NSW Rural Fire Service will occur following a gateway determination. This shall occur prior to community consultation.</p> <p>A Bushfire Risk Assessment has been prepared and is provided in Appendix 5 of the Planning Proposal. Section 3 of this Bushfire Assessment addresses this s.117 directive. Specifically, the Assessment states that:-</p>

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<p>c) ensure that bushfire hazard reduction is not prohibited within the APZ.</p> <p>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <p>a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</p> <p style="padding-left: 40px;">(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</p> <p style="padding-left: 40px;">(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</p> <p>b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</p> <p>c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</p> <p>d) contain provisions for adequate water supply for firefighting purposes,</p> <p>e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</p>	<p><i>"The planning proposal seeks to revise Kiama Councils Zoning Map to Lot 3 DP 1018217 from RU1 Primary Production to R2 Low Density Residential in accordance with the KUS to permit subdivision and low density residential development of this land.</i></p> <p><i>This report takes into consideration the requirements for 'Residential Subdivision', upon rezoning of the site an application for subdivision will be required. Future subdivision of the site will trigger an assessment under Section 100B of the Rural Fires Act.</i></p> <p><i>The proposal will not place inappropriate development in hazardous areas, the site is appropriate for residential development given compliance with the recommendations of this report.</i></p> <p><i>The APZ's on the site are partially in place, future owners will have the legal ability to maintain APZ's upon approval of future development.</i></p> <p><i>This report demonstrates that the planning proposal can support low density residential development which complies with the requirements of Direction 4.4.6. The site will have legal ability to establish and maintain APZ's. APZ's will need to be maintained in accordance with this report or the recommendations made under a future subdivision application.</i></p> <p><i>The site has the ability to comply with the requirements for public roads. The attached Concept Subdivision Plan found as attachment 1 demonstrates the site can facilitate a road that complies with the requirements of Public Roads, as outlined in Section 4.1.3 (1) of PBP 2006.</i></p>

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f) <i>introduce controls on the placement of combustible materials in the Inner Protection Area.</i>	<p><i>Hydrants will be required to be located at regular intervals within the road reserve and can be supported on the site.</i></p> <p><i>Future detail will be required upon submission of an application for subdivision to Kiama Council.</i></p> <p><i>The prevailing threat to the proposed rezoning is considered low and comes from an isolated area of remnant rainforest. The likelihood of this vegetation supporting a fully developed crown fire is low. Some sites will be located at the interface with the prevailing hazard, though can support a design that provide adequate APZ's onsite.</i></p> <p><i>The site is capable of providing two-way access roads linked to a fire trail network. Given the size and scale of the development a perimeter road is not achievable on the site, a fire trail is therefore proposed to facilitate access to the interface for firefighters."</i></p> <p>Any future development of the land would be in accordance with this Bushfire Report or accompanied by a development specific Bushfire Report as appropriate.</p> <p>The Planning Proposal is consistent with Direction 4.4 – Planning for Bushfire Protection.</p>
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farm Land 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 Creek	N/A

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5.9 North West Rail Link Corridor Strategy	N/A
<p>5.10 Implementation of Regional Plans</p> <p><i>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</i></p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:</p> <p>(a) is of minor significance, and</p> <p>(b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</p>	<p>The Planning Proposal is consistent with the <i>Illawarra-Shoalhaven Regional Plan</i> (see Section 3.2.1 of this report).</p> <p>The Planning Proposal is therefore consistent with Direction 5.10 – Implementation of Regional Plans.</p>
<p>6.1 Approval and Referral Requirements</p> <p>A planning proposal must:</p> <p>a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <p>(i) the appropriate Minister or public authority, and</p> <p>(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and</p>	<p>The Planning Proposal does not include any additional provisions to the LEP which would require the concurrence, consultation or referral of future development applications to a Minister or public authority.</p> <p>The Planning Proposal is consistent with Direction 6.1 – Approval and Referral Requirements.</p>

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<p>c) <i>not identify development as designated development unless the relevant planning authority:</i></p> <ul style="list-style-type: none"> (i) <i>can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</i> (ii) <i>has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.</i> 	
<p>6.2 Reserving Land for Public Purposes</p> <p><i>A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</i></p> <p><i>When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:</i></p> <ul style="list-style-type: none"> a) <i>reserve the land in accordance with the request, and</i> b) <i>include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and</i> 	<p>The subject site is not zoned or reserved for any public purposes. This Planning Proposal does not seek to rezone and reclassify public land currently reserved for public purposes.</p> <p>The Planning Proposal is consistent with Direction 6.2 – Reserving Land for Public Purposes</p>

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<p><i>c) identify the relevant acquiring authority for the land.</i></p> <p><i>When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:</i></p> <p><i>a) include the requested provisions, or</i></p> <p><i>b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.</i></p> <p><i>When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.</i></p>	
<p>6.3 Site Specific Provisions</p> <p><i>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</i></p> <p><i>a) allow that land use to be carried out in the zone the land is situated on, or</i></p> <p><i>b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</i></p>	<p>The Planning Proposal does not contain any site specific planning controls. The development standards which would apply to the land are consistent with those applied on similarly zoned land.</p> <p>The Planning Proposal is consistent with Direction 6.3 – Site Specific Provisions.</p> <p>Note: While a concept subdivision plans have been prepared, these are not formally part of the Planning Proposal. The Planning Proposal is prepared under Part 3 of the EP&A Act and seeks only to amend the Kiama LEP 2011. Any development to subdivide</p>

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<p>c) <i>allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</i></p> <p><i>A planning proposal must not contain or refer to drawings that show details of the development proposal.</i></p>	<p>the site thereafter would be subject to the Development Assessment process under Part 4 of the EP&A Act.</p>