

Planning and Assessment

IRF19/6452

Gateway determination report

LGA	Kiama
PPA	Kiama Municipal Council
NAME	South Kiama residential development (455 lots)
NUMBER	PP_2019_KIAMA_004_00
LEP TO BE AMENDED	Kiama Local Environmental Plan 2011
ADDRESS	Land between Saddleback Mountain Road and south of Weir Street, South Kiama
DESCRIPTION	Lot 1 DP 707300, Lot 5 DP 740252, Part Lot 101 DP 1077617, Part Lot 102 DP 1077617, Lot 8 DP 258605 and part of road reserve
RECEIVED	11 August 2019 and additional information on 17 October 2019
FILE NO.	IRF19/6452
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.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Kiama Local Environmental Plan (LEP) 2011 to rezone rural land west of the Princes Highway between Saddleback Mountain Road to south of Weir Street, South Kiama and modify development standards to enable residential development and environmental conservation.

The proposal was subject to a rezoning review as Kiama Municipal Council did not support the landholder's request to prepare a planning proposal.

On 19 June 2019, the Southern Regional Planning Panel determined that the proposal should be submitted for a Gateway determination because it demonstrated strategic and site-specific merit.

The planning proposal and supporting technical studies have been prepared by White Constructions (proponent). The proponent has provided additional information and comments in response to the panel's recommendations.

Council also provided clarification of information within and in addition to the proponent's planning proposal. Council has confirmed that the planning proposal includes the rezoning of the 3m-wide access/part of the Princes Highway road reserve

to Kendalls Cemetery, which will be subject to a road closure application and purchase from Roads and Maritime Services by the proponent.

The proposal seeks to rezone portions of the site from RU2 Rural Landscape to R2 Low Density Residential and E2 Environmental Conservation and introduce building controls for minimum lot size, building height and floor space ratio.

A proposed master plan for the land between Saddleback Mountain Road and Weir Street anticipates the rezoning would provide approximately 455 lots (285 low-density residential, 140 small residential and 30 townhouses), enlarged environmental conservation and riparian areas, and integrated roads with three access points to the development. There is no proposed master plan for Lot 8 and part Lot 102 south of Weir Street; however, this area is proposed to be used for residential development.

The panel did not endorse the subdivision layout or lot yield submitted with the planning proposal but recommended further design and constraints analysis to determine yields.

1.2 Site description

The site is bounded by Saddleback Mountain Road to the north, the Princes Highway to the east, and farmland and heritage-listed dry stone walls to the west. The site extends south to include land south of Weir Street, South Kiama. (Figures 1 and 2, below and next page).



Figure 1: Subject site and locality map.



Figure 2: Subject site.

The site is approximately 1.6km to the south-west of Kiama Town Centre in the Kiama local government area. It covers six parcels of land and is legally described as Lot 1 DP 707300, Lot 5 DP 740252, Part Lot 101 DP 1077617, Part Lot 102 DP 1077617 and Lot 8 DP258605. The 3m-wide access/part of the Princes Highway road reserve from the highway to the cemetery does not have a legal descriptor.

The site is approximately 41ha in area. It is irregular in shape and has approximate dimensions of 1550m north-south and 360m east-west. It consists of two easterly-facing catchments on the mid to lower slopes of Saddleback Mountain Escarpment. The land is undulating, with surface levels falling in an easterly direction towards the Princes Highway. Steeper sections are adjacent to the four watercourses that traverse the site in a west to east direction.

The main watercourse is Munna Munnora Creek in the southern catchment of the site, which flows to Easts Beach. The northern catchment has two unnamed watercourses that flow into Kendalls Beach.

On the broad crest separating the two catchments is Kendalls Cemetery. The cemetery is delineated by dry stone walls and landscaping. It is not part of the planning proposal.

The site comprises predominantly cleared grazing land originally supporting dairying and later beef cattle. Most of the site contains improved pastures, with some pockets of remnant rainforest vegetation. The land also has agricultural improvements with internal rural fencing, stockyards and three farm dams.

Dry stone walls also feature across the site and were used as property boundaries and yard walls. There is the likelihood of Aboriginal relics being present on parts of the site.

The land is not mapped as being bushfire prone but is near bushfire-prone land to the west.

1.3 Existing planning controls

Most of the site is zoned RU2 Rural Landscape under the Kiama LEP 2011, with a small section of vegetation in the south-east corner zoned E2 Environmental Conservation and a small part of Munna Munnora Creek zoned E3 Environmental Management (Figure 3, below).

The lands have a minimum lot size of 40ha under the Kiama LEP. No building height or floor space ratio controls apply to the site.

The environmental land is identified as 'biodiversity land' on the terrestrial biodiversity maps in the LEP and is subject to the relevant biodiversity provisions.

The four watercourses on the site are identified as category 2 (Munna Munnora Creek) and category 3 watercourses on the riparian land and watercourses maps in the LEP and are subject to the relevant riparian land and watercourse provisions.

The dry stone walls throughout the site are listed as local heritage items and are subject to the heritage conservation provisions in the LEP.

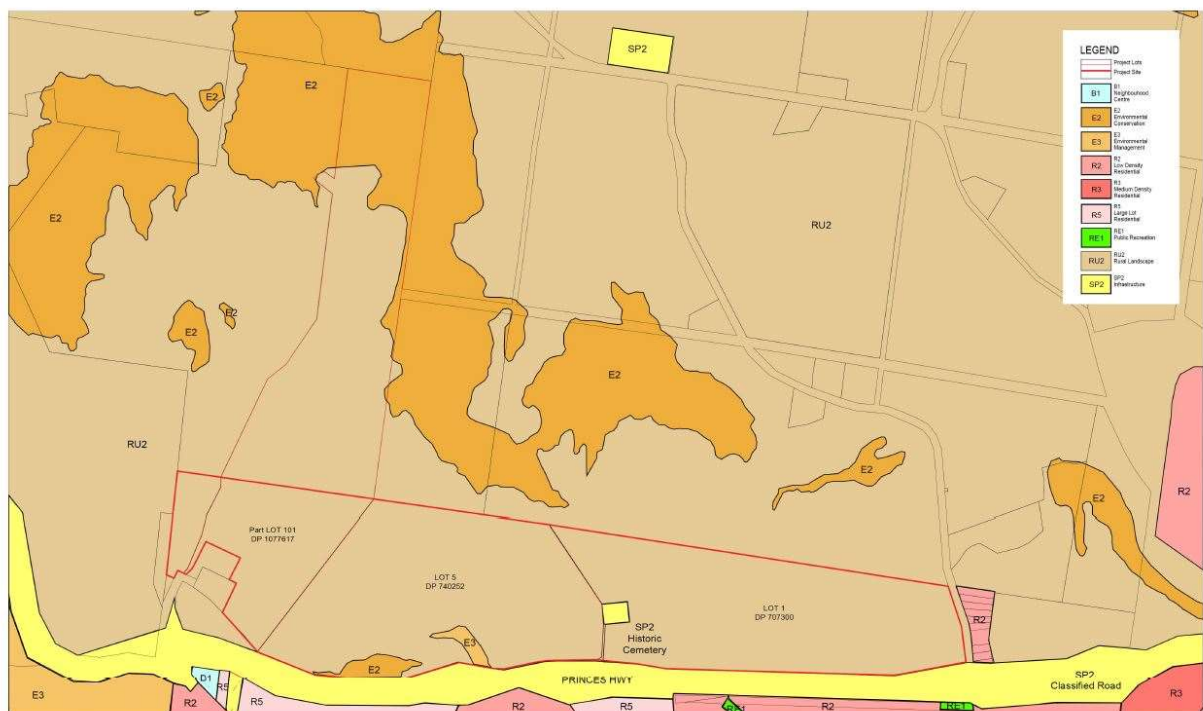


Figure 3: Zoning map (source: planning proposal).

1.4 Surrounding area

To the north of the site and Saddleback Mountain Road is a small strip of nine residential lots zoned R2 Low Density Residential.

To the south of the site is a small cluster of four rural-residential lots on either side of Weir Street. Beyond these lots and to the west are predominantly cleared rural lands and associated rural dwellings, with areas of remnant rainforest vegetation on steeper slopes and along watercourses. These lands are zoned RU2 Rural Landscape.

To the east of the site is the Princes Highway road reserve and carriageway (zoned SP2 Infrastructure and RU2 Rural Landscape) and the residential development of Kiama and Kiama Heights (zoned a mix of R2 Low Density Residential, R5 Large Lot Residential, RE1 Public Recreation and B1 Neighbourhood Centre).

In the centre of the site is a 2202m² public reserve lot owned by Council and containing the local heritage item, Kendalls Cemetery. The lot is zoned SP2 Historic Cemetery.

1.5 Southern Regional Planning Panel recommendations

In addition to determining that the planning proposal demonstrated strategic and site-specific merit, the panel also stated, “it is the Panel’s view that the proposed layouts and lot configuration have not been properly informed by an assessment of the visual and landscape qualities of the site and a proper urban design analyses that responds to the site’s context and character. Further detailed analysis of the site is required before specific zonings, heights and densities can be determined”.

The panel recommended the following additional requirements be considered as part of the Gateway determination:

- further urban design analysis;
- additional constraints analysis in terms of environmental, visual, landscape and heritage outcomes;
- site-specific development control plan (DCP) controls; and
- the provision of zoning and controls that reinforce the outcomes of the urban design, visual and landscape analysis of the site.

Council and the proponent have provided further details as part of the planning proposal on how the panel’s requirements would be addressed by:

- further review and finalisation of a master plan for the site that identifies the key principles for development of the site and management options to accommodate constraints and minimise visual impacts;
- consultation with agencies to determine whether further studies to identify constraints are required during the preparation of the master plan and planning proposal or by subsequent development applications;
- Council working with the proponent to carry out more detailed master planning work and prepare a site-specific DCP to identify the desired zonings and development controls. This work will be carried out in parallel with the making of the LEP; and
- the planning proposal’s provisions and mapping being updated to identify a range of zonings, densities and heights that reflect the outcomes of the studies and master plan.

1.6 Summary of recommendation

It is recommended that the planning proposal proceed as submitted with conditions.

The panel has identified that the planning proposal has strategic and site-specific merit as:

- the site is identified in the Kiama Urban Strategy 2011 'if insufficient dwelling numbers are available' and Council's other initiatives will not meet the projected housing needs identified in the Illawarra Shoalhaven Regional Plan;
- the planning proposal can progress in parallel with the development of the local strategic planning statement;
- there is a natural buffer of E2-zoned land between most of the site and RU2-zoned land usable for agricultural purposes;
- the site is constrained for commercial agricultural use due to its topography and soil quality; and
- the site is aligned with the current western boundary of the town to the north.

The planning proposal will assist in meeting housing targets identified in regional and local planning strategies.

The proposed Gateway determination is consistent with the panel's findings and recommendations.

The proposed amendments to the Kiama LEP 2011 will be supported by a master plan and DCP for residential development and subdivision of the site.

Delegation of plan-making functions is to remain with the Department due to the planning proposal being subject to a rezoning review and its potentially contentious nature.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the planning proposal are to amend the Kiama LEP 2011 to:

- provide additional residential lots close to schools, shops and community facilities;
- provide residential development that is consistent with the character of adjacent residential development and the principles of the Kiama DCP; and
- provide in part for the projected housing needs of Kiama as identified in the Kiama Urban Strategy 2011 and the Illawarra Shoalhaven Regional Plan.

It is considered that the statement of objectives is clear and meets the requirements of the Department's *A guide to preparing planning proposals*.

2.2 Explanation of provisions

A summary of the proposed amendments to the Kiama LEP provisions and maps is provided in Table 1.

Table 1: Proposed LEP amendments

LEP provision	Current	Proposed
Land Zoning Map LSN_012 & LSN_013	Land zoned RU2 Rural Landscape	Replace with a mixture of: <ul style="list-style-type: none"> • R2 Low Density Residential; and • E2 Environmental Conservation
	Land zoned E2 Environmental Conservation	Increase the area subject to E2 zoning to incorporate regrowth rainforest and wetlands as identified in the flora and fauna assessment
Lot Size Map LSZ_012 & LSZ_013	40ha	Replace with 450m ²
Height of Building Map HOB_012 & HOB_013	None	Apply an 8.5m height limit to land zoned R2
Floor Space Ratio Map FSR_012 & FSR_013	None	Apply an FSR control of 0.45:1
Heritage Map and Schedule 5 Environmental Heritage HER_012	Dry stone walls on the site are listed in schedule 5 of the LEP as item (No. 164) of local heritage significance	No change
Terrestrial Biodiversity Map BIO_013	A small area on the south-eastern side of Lot 5 is identified on the terrestrial biodiversity maps as 'biodiversity land'	Adjust the location of mapped biodiversity land on the site in accordance with the flora and fauna assessment
Riparian Land and Watercourses Map WCL_012 & WCL_013	The watercourses on the site are identified as category 2 and 3 watercourses on the riparian land and watercourses maps	No change

The panel did not endorse the proposed subdivision layout or lot yield in the planning proposal. Changes to the provisions will need to be included in the planning proposal and endorsed by the Department prior to public exhibition.

2.3 Mapping

Updated proposed zoning, minimum lot size, building height and floor space ratio maps have been submitted.

The proposed maps will need to be revised to reflect any changes to the explanation of provisions. An amended terrestrial biodiversity map is also to be prepared.

The revised maps will need to be included in the planning proposal and endorsed by the Department prior to public exhibition.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal identifies that there is a need to rezone the site to allow residential development to help meet the demand for housing as identified in the Illawarra Shoalhaven Regional Plan and Kiama Urban Strategy and that it is the only option to achieve the objectives of residential development on the land.

The panel found the planning proposal has strategic and site-specific merit, including the delivery of housing targets.

The planning proposal is the only mechanism available for amending the current land use and development control provisions applying to the site to achieve residential development on the land.

4. STRATEGIC ASSESSMENT

4.1 Illawarra Shoalhaven Regional Plan

The Illawarra Shoalhaven Regional Plan provides the strategic policy, planning and decision-making framework to guide the region to sustainable growth over the next 20 years.

In planning for the growth of the region, the plan takes a balanced approach to housing that uses development potential in existing and new urban areas to provide housing choice and address affordability issues.

For new urban areas, the plan continues its focus on areas that have been strategically identified for housing for many years. While these lands may have historically been used for agriculture, they have been strategically identified for urban use in consultation with local councils and government agencies, including the NSW Department of Primary Industries.

The plan includes commentary about the need to address the lack of housing capacity in Kiama. It indicates there is not enough land or market-ready infill development in the pipeline to meet housing demand in Kiama (2850 homes by 2036) and this may constrain the mix of housing available to first homebuyers, young families and retirees.

Action 2.1.1 of the plan commits the NSW Government to working with Council to monitor and review the potential of Kiama to accommodate housing demand. This action aligns with Direction 2.1 of the plan to provide enough housing to suit the changing demands of the region.

Direction 2.5 and Action 2.5.1 of the plan commit the NSW Government to monitoring the delivery of housing to match supply with demand through the Illawarra Shoalhaven Urban Development Program (UDP). The UDP is the state government's primary tool for managing land and housing supply across the region and monitoring the planning, servicing and development of new urban areas.

Direction 4.1 of the plan seeks to protect the agricultural production values of rural land and contains Action 4.1.1 to identify regionally important agricultural lands. The site is not mapped as containing biophysical strategic agricultural land under State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

The planning proposal states the proposed zoning is consistent with the plan as:

- the development of the site would supply approximately 450 Torrens-titled lots that would help to achieve the predicted needs for building lots within Kiama;
- development of the site does not use land that is suitable for food cultivation or fragment agricultural land; and
- development of the site will use existing infrastructure.

The planning proposal is consistent with key directions and actions identified in the regional plan by providing additional housing to meet the changing demands and projected needs of the region.

4.2 Kiama Urban Strategy 2011

The Kiama Urban Strategy 2011 was prepared by Council to inform the preparation of the Kiama LEP. It identifies potential urban expansion areas to cater for the housing needs of the LGA.

The strategy has not been formally endorsed by the Department, mainly on the grounds that it does not provide sufficient yields to meet the projected housing needs of Kiama. Notwithstanding this, the Department wrote to Council in 2012 confirming it is willing to consider planning proposals over land that is identified in the strategy for urban expansion.

The landowners of Lots 1, 5, 101 and 102 made submissions to the draft strategy to have their land rezoned from rural to residential. Council's assessment of the landowners' requests was that the lots "should be considered together only if insufficient dwelling numbers are available from other sources". The sites were subsequently not included in the strategy for greenfield urban development within the next 10+ years.

The planning proposal states it is consistent with the strategy because it will help meet the target supply of the Torrens-titled lots predicted to be required in the strategy. The planning proposal identifies that the strategy was intended to generate 1890 building sites by 2021 and 43% (812) were to be Torrens-titled lots. Since the adoption of the strategy, only 1173 building parcels have been created. Therefore, it is argued that rezoning of the site is needed to meet the target of an additional 717 building parcels in the next 2–3 years.

In supporting the proposal to proceed to a Gateway determination, the panel was not convinced that current housing supply initiatives being pursued by Council would ensure projected housing needs identified in the strategy would be met, particularly given the West Elambra site had not been rezoned (a shortfall of at least 355 lots).

The panel was therefore satisfied that the planning proposal is consistent with the strategy in terms of only progressing development of the site 'if insufficient dwelling numbers are available'.

The Department is satisfied the proposal is consistent with the Kiama Urban Strategy.

4.3 Section 9.1 Ministerial Directions

The planning proposal relies on the site-specific consultant reports to address the relevant section 9.1 Ministerial Directions. However, as the reports do not cover all the lots subject to the planning proposal, a reassessment of the Ministerial Directions will need to be undertaken and the planning proposal updated once the revised reports are completed.

The planning proposal is consistent with section 9.1 Directions 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land and 5.10 Implementation of Regional Plans.

The draft master plan makes design provisions for bus routes and links to existing adjacent cycleway networks.

A flood study and a stormwater management study identify that the site contains areas of flooding within and adjacent to the four watercourses. The flood study found large portions of the site are flood free and the development can be supported in terms of flooding. Although the study did not cover Lots 8 and 102, this area does not contain flood-prone land. No further assessment of Direction 4.3 is required.

As discussed previously, the proposal is consistent with the Illawarra Shoalhaven Regional Plan.

The planning proposal is inconsistent with section 9.1 Direction 1.2 Rural Zones. This inconsistency is justified as the site is identified in the Kiama Urban Strategy for consideration as a greenfield site. No further consideration of this Direction is required.

The planning proposal is inconsistent with section 9.1 Direction 6.3 Site Specific Provisions. This inconsistency is of minor significance as the site requires master planning and the development of a site-specific DCP to identify the future character of the area and important attributes. The panel identified that a detailed analysis of the site is required before specific zonings, heights and densities can be determined. No further consideration of this Direction is required.

It is unknown whether the planning proposal is consistent or justifiably inconsistent with section 9.1 Directions 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones and 4.4 Planning for Bushfire Protection due to the technical studies not covering the entire site. Any potential inconsistency with Direction 4.4 Planning for Bushfire Protection also remains unresolved until consultation with the NSW Rural Fire Service has been undertaken. Consistency with these Directions will require further consideration.

4.4 State environmental planning policies (SEPPs)

The planning proposal is supported by a preliminary site investigation; however, the investigation did not cover Lot 8. The investigation identifies a low to moderate risk of potential contamination at the lands, primarily through the historical agricultural use and the presence of fibrous cement material.

The investigation identifies several potential areas of concern (creeks, stockpiles, dam walls, areas of fill, structures and storage areas) where land contamination may pose a risk to human health or the environment.

The investigation recommends that further phase 2 intrusive investigations be undertaken to assess if the site is suitable for residential development and what remediation is required. These investigations and any subsequent remediation action plan can be suitably addressed through the development assessment process.

The investigation concludes that the lands can be made suitable for proposed residential land use.

The investigation will need to be updated to cover Lot 8 and confirm whether the planning proposal is consistent with SEPP 55 – Remediation of Land.

The Coastal Management and Primary Production SEPPs do not require consideration of matters at a rezoning stage.

The site is not mapped as containing biophysical strategic agricultural land (BSAL) under SEPP (Mining, Petroleum Production and Extractive Industries) 2007. BSAL is defined as land with high-quality soil and water resources capable of sustaining high levels of productivity.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social and economic

The planning proposal has not addressed the social impacts of the development on the Kiama community in detail. It states that the scale of the development is not sufficient to trigger substantial demand on community facilities or the need for new ones. It also notes that Council could amend its contribution plan if it considers there is the need for additional local infrastructure.

Aboriginal heritage

The planning proposal is supported by Aboriginal due diligence advice, which found the land between Saddleback Mountain Road and Weir Street has high subsurface archaeological potential for flaked stone artefact scatters and three potential archaeological deposits, which will require further investigation. The due diligence advice recommends that an Aboriginal cultural heritage assessment be prepared. An Aboriginal heritage report for the land south of Weir Street is also required.

European heritage

A historical heritage assessment identified 16 dry stone walls on the land between Saddleback Mountain Road and Weir Street, which are listed in the Kiama LEP 2011 as a local heritage item (Item No. I64). Eight of the walls were assessed as being of moderate to high significance due to their relationship with Kendalls Cemetery and their condition and historic functions as a property boundary and original holding pen. The assessment identifies setbacks from the walls and treatments to conserve and improve their condition. Confirmation is required as to whether there are any walls on the lands south of Weir Street.

The site surrounds Kendalls Cemetery, which is a local heritage item (Item No. I144) listed in the Kiama LEP 2011. The cemetery contains 33 grave markers and was used from the 1850s to the 1940s. It is a rare example of an early colonial family cemetery in NSW. It is in the centre of the site delineated by dry stone walls. There are visual connections between the cemetery and Kendall's House to the east of the Princes Highway.

The heritage assessment identifies a minimum 20m setback from the cemetery for any residential development. It recommends the preparation of a conservation management plan for Kendalls Cemetery and the dry stone walls to support any development of the site.

Traffic management

The planning proposal is supported by a revised traffic impact assessment, which is based on the proposed subdivision plan for the land between Saddleback Mountain Road and Weir Street. Traffic modelling of the proposed development with access to and from Saddleback Mountain Road and Weir Street and egress only from the culvert under the Princes Highway to South Kiama Drive shows that the impacts of traffic from the development are within acceptable levels.

A review of the assessment is required to address traffic issues from the development on the land south of Weir Street. Council has requested the Gateway determination consider the need for additional studies to address traffic impacts from the proposal on Kiama streets, including Kiama Town Centre.

Traffic noise

Due to the location and topography of the site adjacent to and uphill of the Princes Highway, a traffic noise intrusion assessment was undertaken. The closest potential dwellings to the Princes Highway will be approximately 20m away and the furthest at a distance of approximately 380m.

The topography of the site is such that some areas have direct line of sight to the highway and some areas are acoustically shielded. The assessment identified that acoustical treatment will be required for most dwellings within 150m of the highway and a further traffic noise assessment will be required.

The panel recommended that the layout of the development be amended to ensure no acoustic wall is required along the Princes Highway to mitigate noise impacts. The proponent has confirmed that an acoustic wall is not required.

Visual impacts

The planning proposal includes photos taken of the site from a range of significant viewpoints and comments on visual impacts of the proposed development. The planning proposal concludes that the site is visually prominent along the frontage of Saddleback Mountain Road, the Princes Highway and Weir Street. There are partial and diffuse views of the site from various locations within the residential area to the east and a small section along Saddleback Mountain Road.

The planning proposal concludes that the development will not impose an unacceptable visual intrusion on residents or motorists. The panel recommended the Gateway determination require visual analysis from the Princes Highway and measures to ensure the views from the highway are of landscape. The proponent has provided a further visual assessment of the site from along the Princes Highway and Weir Street and a landscape interface plan, which will reduce views to the site. Council will consider whether this level of information is adequate in progressing the proposal.

The proposal would have positive economic benefits in providing additional housing opportunities and short-term construction jobs as well as long-term impacts on retail and service businesses in Kiama and benefits to community assets, clubs and associations.

5.2 Environmental

The planning proposal's technical reports do not cover all the lots subject to the planning proposal. The reports will need to be updated to identify and address all environmental matters.

Topography

The land between Saddleback Mountain Road and Weir Street falls predominantly in an easterly direction towards the Princes Highway at grades of 1 in 4 to 1 in 40. There are some locally steeper sections adjacent to the watercourses.

The planning proposal is supported by a preliminary geotechnical assessment. The report identifies there are uniform surface slopes over most of the site, areas of latite rock outcrops, areas of deposition and erosion along and within watercourses, and possible creep and talus debris in the south-eastern section of the site.

The report identifies that the site is geotechnically suitable for residential development and identifies five stability zones ranging from low to high. The high-risk zones are along steep sections of the watercourses, the Princes Highway embankment and very steep sections in the south-eastern part of the site. High-risk zoning would preclude the construction of residential structures. The report concludes that detailed geotechnical investigation and assessment will be required following confirmation of the subdivision layout.

The panel recommended the broad identification of cut and fill and where, if any, retaining walls will be located to ensure heights are minimised. The proponent has provided a proposed cut-and-fill plan; however, this will need to be updated should the zoning, lot yield and lot layout be amended.

Flora and fauna

A flora and fauna assessment identifies the vegetation on the land between Saddleback Mountain Road and Weir Street as predominantly pasture with areas of remnant rainforest, low-value rainforest regrowth and freshwater wetland vegetation

Illawarra Subtropical Rainforest of the Sydney Basin endangered ecological community (EEC) is found in the south-east corner of the site (on part Lot 101) on the steep area between the Princes Highway and Munna Munnora Creek.

A thin ribbon of remnant wetland vegetation along the creek and the channel of an unnamed watercourse in the north is identified as Freshwater Wetlands on Coastal Floodplains EEC.

A single mature *Zieria granulata* plant was the only threatened flora species found on the site.

A total of 38 fauna species were detected on the site. The Spotted Harrier was the only threatened species observed as an incidental flyover. Another 11 threatened fauna and eight migratory species were considered for potential occurrence on the site.

The flora and fauna assessment recommends that the areas of EEC be retained, zoned E2 Environmental Conservation and managed under a vegetation management plan secured by an appropriate planning mechanism, such as a voluntary planning agreement.

The planning proposal states that most of the site would be developed for residential uses. This will see the loss of pasture, scattered trees and a small patch of low-value rainforest regrowth (0.17ha) in the south-east of the site, and the modification or removal of wetlands.

However, these impacts are to be offset with the revegetation of the major watercourses with rainforest vegetation and the rehabilitation of 1.95ha of low-value rainforest regrowth via targeted weed control. This vegetation will be protected in a reserve and increase connectivity to the upslope rainforest. The environmental area containing the *Zieria* plant is recommended for expansion in the study.

Consultation with the Department's Environment, Energy and Science Group will confirm the environmental status of the Illawarra Subtropical Rainforest EEC and management requirements.

Agricultural land

The planning proposal is not supported by an agricultural assessment. It identifies that the site was previously used for dairying and beef cattle grazing and more recently for horse agistment and hobby beef farming. It also identifies that the site does not contain or abut any prime agricultural land.

Council's assessment of the planning proposal identified that the land is not mapped as containing biophysical strategic agricultural land under SEPP (Mining, Petroleum Production and Extractive Industries) 2007.

Bushfire

Vegetation to the west of the site is mapped as being bushfire prone. The proposed regeneration of riparian corridors and rainforest vegetation along the eastern boundary of the site also has the potential to be identified as bushfire-prone land in the future.

The planning proposal is supported by a bushfire protection assessment, which found the proposed rezoning can support residential development subject to appropriate bushfire protection measures and planning requirements, such as asset protection zones (APZs) and perimeter roads. The assessment determined the width and location of APZs. However, it did not cover Lot 102 and Lot 8 and the proposed development on these two lots. The assessment will need to be updated to include these lots.

Flooding

A flood study and a stormwater management study are provided in support of the planning proposal. The land between Saddleback Mountain Road and Weir Street contains areas of flooding within and adjacent to the four watercourses. The potential for one of the six culverts under the Princes Highway to become blocked is the major influencing control for flood behaviour within the site. The flood study found large portions of the land are flood free on which development can be supported.

On-site detention is required for the two northern catchments of the site to ensure post-development flows do not exceed pre-development flows. Appropriate stormwater management systems could incorporate detention basins, rainwater tanks, treatment devices, swales and gross pollutant traps.

Although the studies did not cover Lots 8 and 102, this area does not contain flood-prone land.

5.4 Infrastructure

The planning proposal identifies that water, stormwater and underground/overhead electrical/telecommunication mains extend to the land between Saddleback Mountain Road and Weir Street.

Sydney Water confirmed that the water supply trunk system would need to be extended from the intersection of Shoalhaven and Bland Streets to service the proposed subdivision. To service lots above the 60m contour, additional investigations of water supply works is required.

A wastewater main extension to service the proposed subdivision must be constructed. Sewer services are available on the eastern side of the Princes Highway and would need to be extended under the highway.

Endeavour Energy has confirmed there is sufficient capacity at the Kiama zone substation, but insufficient distribution capacity to support the proposed mature load. A new 11kV feeder will therefore be required from the Kiama zone substation to support the development. There is limited capacity available to supply the initial stages prior to the new 11kV feeder being required.

Further consultation with service providers is required to confirm infrastructure is available for the land south of Weir Street.

The provision of any required infrastructure will be the responsibility of the developer of the land.

6. CONSULTATION

6.1 Community

The planning proposal does not include details on community consultation.

Council has advised that the planning proposal is to be publicly exhibited for 28 days, which is considered appropriate.

The planning proposal is to be revised to include details on community consultation including Council's standard consultation practices of local newspaper notifications, notice on Council's website, hard copies of the planning proposal provided at Council's administration buildings and notification letters to surrounding property owners.

6.2 Agencies

The planning proposal does not identify any agency consultation.

Consultation is required with the following agencies:

- NSW Rural Fire Service to meet requirements under section 9.1 Direction 4.4 Planning for Bushfire Protection;
- the Division of Biodiversity & Conservation, DPIE to confirm the environmental status of the Illawarra Subtropical Rainforest EEC, flooding and the Aboriginal potential archaeological deposits on the site;
- Roads and Maritime Services to confirm the proposal to close and purchase part of the road reserve from the Princes Highway to Kendalls Cemetery and for advice on traffic generation, traffic noise and visual landscape buffers;
- Sydney Water and Endeavour Energy to confirm the provision of servicing infrastructure;
- Illawarra Local Aboriginal Land Council – Aboriginal significance; and
- Natural Resources Access Regulator – watercourse management.

7. TECHNICAL STUDIES

The assessment reports on visual impacts and cut and fill required by the panel as part of the Gateway process were prepared by the proponent.

Council has requested that the need to prepare additional studies to address traffic impacts from the proposal on Kiama streets, including Kiama Town Centre, be considered as part of the Gateway determination. Council may request such a study as the planning proposal authority for the proposal.

The technical reports will need to be updated to ensure they cover all the land subject to the planning proposal. Consultation with agencies and further consideration by Council will determine whether further studies are required during the preparation of the planning proposal or by subsequent development applications.

8. TIME FRAME

Council has proposed an 18-month time frame to complete the rezoning process. This is considered appropriate as: most of the studies need to be updated to address all lands covered by the planning proposal, including the part road reserve; additional studies/plans are required as requested by the panel; and the proposed master plan is to be updated and a site-specific DCP chapter is to be prepared.

9. LOCAL PLAN-MAKING AUTHORITY

Council did not request authorisation to be the plan-making authority. Due to the planning proposal being subject to a rezoning review and the potentially contentious nature of the proposal, it is considered appropriate that delegations remain with the Department.

10. CONCLUSION

It is recommended that the planning proposal proceed as submitted with conditions.

The planning proposal will assist in meeting housing targets identified in regional and local planning strategies.

The proposed Gateway determination is consistent with the panel's findings and recommendations.

The proposed amendments to the Kiama LEP 2011 will be supported by a master plan and DCP for residential development and subdivision of the site.

11. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones and 6.3 Site Specific Provisions are justified; and
2. note that the consistency with section 9.1 Directions 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones and 4.4 Planning for Bushfire Protection is unresolved and will require justification.

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

1. The planning proposal is to be revised prior to consultation to include the following:
 - a) revised technical studies covering all parts of the subject site;
 - b) a review of the master plan to:
 - cover the entire site;
 - identify the key principles for development of the site;
 - more fully address constraints, visual impacts, environmental outcomes, heritage outcomes and landscape outcomes;

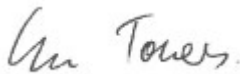
- c) identify zonings, densities and heights that reflect the outcomes of the studies and master plan;
- d) terrestrial biodiversity mapping; and
- e) details on consistency with section 9.1 Directions, community and agency consultation and a project time frame.

The revised proposal is to be submitted to the Southern Region of the Department for consideration prior to public consultation.

2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities in accordance with the *Environmental Planning and Assessment Act 1979*.
 - NSW Rural Fire Service;
 - Division of Biodiversity & Conservation, DPIE;
 - Roads and Maritime Services;
 - Sydney Water;
 - Endeavour Energy;
 - Natural Resources Access Regulator; and
 - Illawarra Local Aboriginal Land Council.

The agencies are to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal. Any agency advice received and Council's proposed response to this advice should be placed on public exhibition with the planning proposal.

4. The time frame for completing the LEP is to be 18 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
- 6.



21/11/19

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25/11/2019

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