

Appendices

Appendix A. Council Minutes

Preliminary Planning Proposal Meeting Minutes – 7 June 2018

Present: Mark Lyndon, Edward Paterson

Attendees: Elise Crameri (APP), and Tim Slack (Boral).

Property: Lot 2 DP 805229 – Spring Creek Kiama.

Proposal: Rezone northern portions of site from RU1 Primary Production & E2 Environmental Conservation to R2 Low Density Residential, and apply the associated development standards.

The applicant provided the following information:

- Explained that the current split zoning of the site makes it difficult to achieve an efficient subdivision layout.
- The site in conjunction with the adjoining property, owned by Council, will be included in the Spring Creek DCP, which is currently being prepared.
- Acknowledged the topographical constraints of the site.
- Acknowledge that the site is mapped in the *LEP 2011* as containing biodiversity land.
- Keen to provide an attached/terrace style residential product on the site.

Council provides the following information in response:

- Any request to rezone the site would need to argue why the proposed R2 Low Density Residential zoning is more appropriate than the existing RU1 Primary Production & E2 Environmental Conservation zones. Comprehensive justification as to the removal of the E2 zoning will be required. It is understood that Environmental Studies have already been undertaken in the area in relation to the development of the draft Spring Creek Development Control Plan.
- A Planning Proposal will need to be prepared in accordance with the Department of Planning & Environment's (DoPE) Guide to Preparing Local Environmental Plans and Guide to Preparing Planning Proposals as well as Council's Planning Proposal Policy.
- A request to prepare a Planning Proposal will require payment in accordance with Council's adopted fees and charges.
- As the site is mapped as containing biodiversity land the Planning Proposal will need to address the ecological constraints of the site.
 - It is recommended that you consult with the *Biodiversity Conservation Act 2016*, and associated materials, to ascertain if a Biodiversity Assessment Report, or any offsetting, is required.
- The current Minimum Lot Size Map shows that the minimum lot size for the residential zoned component of the site is 450sqm. Any Planning Proposal, to rezone the site from RU1 Primary

Production & E2 Environmental Conservation to R2 Low Density Residential, should also seek to apply this development standard to the entire area to be rezoned.

- The current Height of Building Map shows that the maximum building height for the residential zoned component of the site is 8.5m. Any Planning Proposal, to rezone the site from RU1 Primary Production & E2 Environmental Conservation to R2 Low Density Residential, should also apply this development standard to the entire area to be rezoned.
- The current Floor Space Ratio Map shows that the maximum floor space ratio (FSR) for the site is 0.45:1. Any Planning Proposal, to rezone the site from RU1 Primary Production & E2 Environmental Conservation to R2 Low Density Residential, should also apply this development standard to the entire site.
- Multi dwelling housing and attached dwellings are currently prohibited in the R2 Low Density Residential zone. There are several amendments to the LEP, which could result in some forms of this development becoming permissible in the R2 zone. It is suggested that you refer to Council's June Business Paper as it contains a report recommending amendments to the LEP, which may be of interest. Alternatively, you may seek to amend the Land Use Table or pursue an Additional Permitted Use on the subject site. This will need to be comprehensive justification as to its suitability for the site.

If you require clarification on any of the issues above please contact the undersigned on (02) 4232 0444.

Note: The information provided by the Preliminary Planning Proposal Meeting is based on the level of information presented for discussion and represents the professional opinions of the members and their interpretation of the Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy, as well as other relevant Planning Instruments, Codes and Policies. The level of advice provided may not be exhaustive. The proposal is subject to a full assessment with a formal Application for Planning Proposal lodged to Council for its consideration.

Yours faithfully



Mark Lyndon
Manager Strategic Planning

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.1 Maintain the separation and distinct nature of local towns, villages and agricultural land

Delivery Program: 2.1.1 Develop and implement appropriate land use plans

Summary

Council has received a Planning Proposal (PP) for consideration of Lot 2 DP 805229, Dido Street, Kiama (Attachment 1). This report overviews the reports submitted by the applicant against criteria outlined in Council's Planning Proposal Policy and recommends that the PP proceed to the Department of Planning and Environment to obtain a Gateway determination.

Finance

A fee structure for submittal and review of planning proposals has been developed by Council and is contained in Council's fees and charges schedule. Relevant fees have been paid for this proposal.

Policy

Consideration of requests for rezoning of land require consideration of a number of Acts, Government policies, Council environmental planning instruments and planning documents. Specifically the *Environmental Planning and Assessment Act 1979*, *Kiama Local Environmental Plan 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy and the Kiama Planning Proposal Policy.

Communication/Community Engagement

The Planning Proposal will be exhibited in accordance with Council's adopted Planning Proposal Policy following receipt of a Gateway Determination from the Department of Planning and Environment.

Attachments

- 1 Concept Planning Proposal - prepared by APP: Property and Infrastructure Specialists

Enclosures

Nil

RECOMMENDATION

That Council:

1. Endorse this Planning Proposal to proceed to the Department of Planning and Environment for a Gateway determination.
2. Request plan making delegations for this proposal as a part of the Gateway determination.
3. On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.

BACKGROUND

Council has received a PP for consideration for Lot 2 DP 805229, Dido Street, Kiama (known hereafter as 'the subject site'). In line with the Kiama Planning Proposal Policy, this report details the submitted concept PP and provides an assessment of the specialist consultant reports.

Planning Proposal Details

The subject site (figure 1 attached), Lot 2 DP 805229, is located at Dido Street, Kiama. The site is approximately 3.5 hectares. The site gains vehicular access via direct frontage to Glenbrook Drive. Currently the site is predominantly zoned R2 Low Density Residential under the provisions of the *Kiama Local Environmental Plan (LEP) 2011*. A 0.62 Hectare area along the northern boundary of the site is zoned a mixture of RU1 Primary Production and E2 Environmental Conservation.



Figure 1: Location Map

Intent of Planning Proposal

The PP aims to rezone the 0.62 hectare area along the northern boundary of Lot 2 DP 805229, currently zoned RU1 Primary Production and E2 Environmental Protection, to R2 Low Density Residential and apply the associated controls in keeping with the adjacent land along Glenbrook Drive.

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

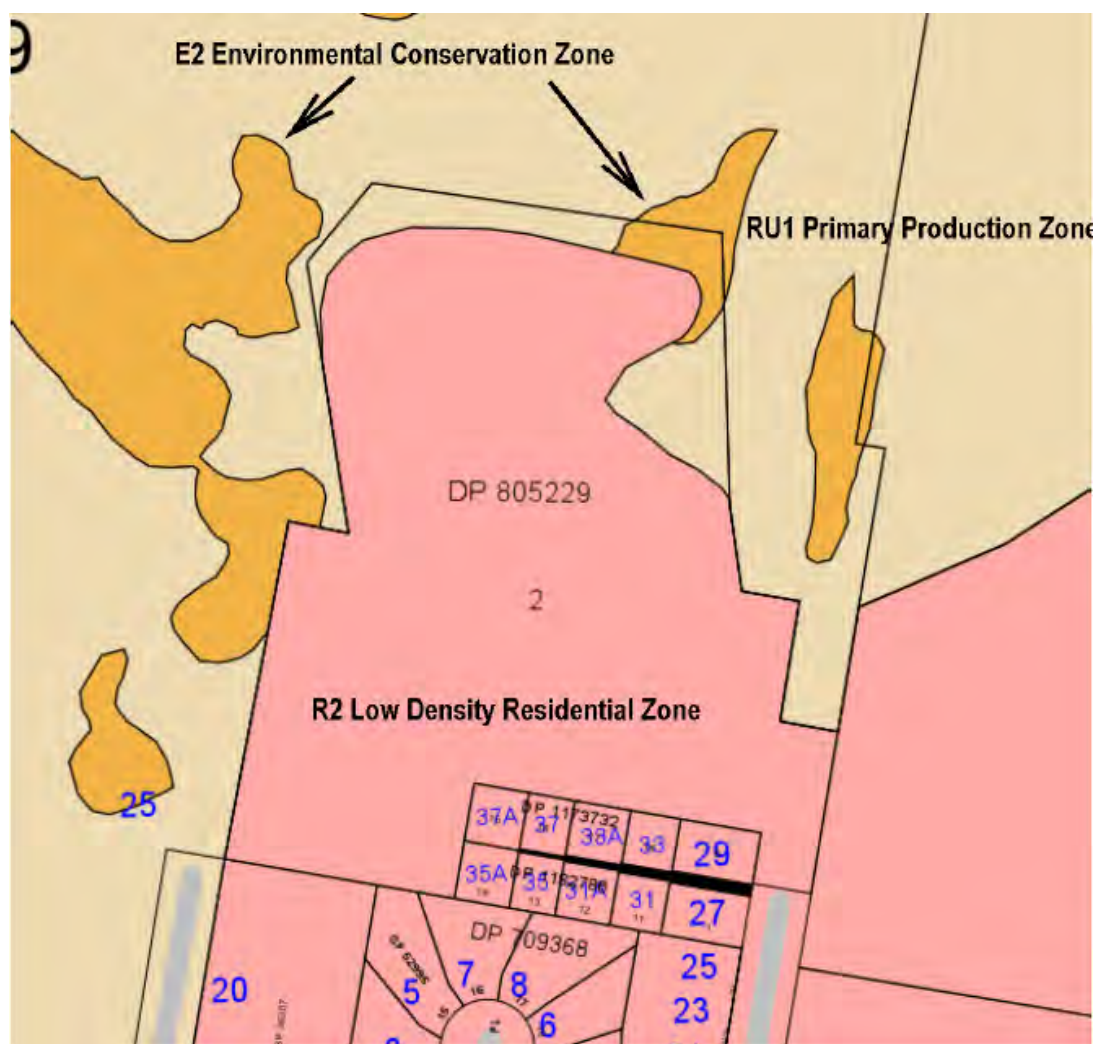


Figure 2: Current Zoning

The small areas of non-residential zoning on the property create logistical complications and limitations for appropriate residential development. This site has been identified as a priority residential development site by the Kiama Urban Strategy (see commentary below).

The PP also aims to make *multi dwelling housing* and *attached dwellings* permissible with consent on the site as part of an Additional Permitted Use amendment. This component of the PP is not supported. At its June 2018 meeting, Council resolved to endorse a Planning Proposal to amend the *Kiama Local Environmental Plan (LEP) 2011* to introduce a minimum lot size and/or a dwelling density for dual occupancy, manor house and multi dwelling housing (terrace) development in the R2 Low Density Residential and R3 Medium Density Residential zones. As the PP endorsed in June 2018 will apply to all R2 Low Density Residential and R3 Medium Density Residential land in the Municipality it is redundant to also permit multi dwelling housing and attached dwellings as Additional Permitted Uses on the subject site. Council has informed the proponent that an amended PP, that does not include reference to Additional Permitted Uses, will be required.

The PP seeks the following amendments to the *LEP 2011* to ensure that the 0.62 Hectare area along the northern boundary of site is consistent with the existing

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

residential zoning on the site. An outline of the existing and proposed controls for the 0.62 Hectare area along the northern boundary of site is provided below:

Controls	Current controls	Proposed controls
Zone	RU1 Primary Production E2 Environmental Conservation	R2 Low Density Residential
Floor Space Ratio (FSR)	FSR – none	FSR – C 0.45:1
Height of Building (HOB)	HOB – none	HOB – I 8.5
Lot Size	Lot size - AB 40ha	Lot size – G 450 (m ²)

Review and Assessment of the Planning Proposal

The results of the review and assessment of the PP are framed around the requirements of the:

- Department of Planning and Environment's (DPE) 'Guide to Preparing Planning Proposals';
- Illawarra-Shoalhaven Regional Plan;
- Kiama Planning Proposal Policy and Kiama Urban Strategy (KUS);
- Relevant *State Environmental Planning Policies (SEPPs)*, and
- Applicable Section 9.1 Ministerial Directions.

Guide to Preparing Planning Proposals

The Department of Planning and Environment's (DPE) 'Guide to Preparing a Local Environment Plan' (the 'Guide') outlines what information needs to be addressed by a PP. The 'Guide' outlines that a PP needs to comprise of five (5) parts:

- | | |
|--------|--|
| Part 1 | A statement of the objectives and intended outcomes of the proposed instrument |
| Part 2 | An explanation of the provisions that are to be included in the proposed instrument |
| Part 3 | The justification for those objectives, outcomes and the process for their implementation |
| Part 4 | Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies |
| Part 5 | Details of the community consultation that is to be undertaken on the planning proposal |

Upon review it has been determined that the proponent's Concept PP has been prepared in accordance with the 'Guide' and has satisfactorily answered the questions contained within Part 3 of the 'Guide' (see below).

The Illawarra-Shoalhaven Regional Plan

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

Question 3 of Part 3 of the 'Guide' asks if the PP is consistent with the objectives and actions of the applicable regional plan. The applicable regional plan for the Kiama municipality is the Illawarra-Shoalhaven Regional Plan (ISRP). The ISRP contains five (5) goals which need to be considered when assessing this PP:

- Goal 1 A prosperous Illawarra-Shoalhaven
- Goal 2 A variety of housing choices, with homes that meet needs and lifestyles
- Goal 3 A region with communities that are strong, healthy and well-connected
- Goal 4 A region that makes appropriate use of agricultural and resource lands
- Goal 5 A region that protects and enhances the natural environment

The subject PP assists in achieving Goal 2, specifically Direction 2.1 'Provide sufficient housing supply to suit the changing demand of the region' and Direction 2.2 'Support housing opportunities close to existing services, jobs and infrastructure in the region's centres'. The majority of the site (~ 70%) has already been rezoned to R2 Low Density Residential. The small areas of non-residential zoning on the property create logistical complications and limitations for appropriate residential development.

The subject PP is not inconsistent with Goals 4 and 5. The 0.27 hectares of RU1 Primary Production land is not of a sufficient size, shape, location or slope to be used for prime agricultural production. The proposed rezoning will not result in a significant impact of regionally important agricultural and resource lands, as required in Direction 4.1 of the Regional Plan.

The proposal will not have an impact on any significant water bodies including Spring Creek, which is some 250 m to the south-east of the site, and will be separated by future residential development on adjoining R2 Low Density zoned lots. Future development will be required to comply with Council's controls in relation to stormwater management to ensure the water quality and ecological function of the wetlands is not adversely impacted upon, consistent with Direction 5.4 of the Regional Plan. Areas of low and moderate ecological value are small, isolated and degraded. These areas are protected under the provisions of the Biodiversity Conservation Act 2016 as well as the environmental conservation provisions of the LEP 2011, which will not change as a result of this PP. The proposed rezoning will protect the region's environmental values by focusing development in a location which has the capacity to absorb development, as required in Direction 5.1 of the Regional Plan.

The Kiama Planning Proposal Policy & Kiama Urban Strategy

The Kiama Planning Proposal Policy outlines that Council may agree with a proponent's request if any of the following criteria can be met:

Criterion for proceeding	Compliance
Land is identified as a nominated	N/A

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

area in the Urban Strategy.	
Land can be identified as assisting to meet Council's strategic direction.	N/A
A clear zoning anomaly exists on site.	<p>The proposed rezoning seeks to resolve a clear zoning anomaly. The existing RU1 Primary Production and E2 Environmental Conservation zoning is inappropriate due to the relatively small size.</p> <p>The 0.27 hectares of RU1 Primary Production land is not of a sufficient size, shape, location or slope to be used for prime agricultural production.</p> <p>It is acknowledged that the 0.35 hectares of E2 Environmental Conservation land contains areas of low and moderate ecological value. These areas are small, isolated and degraded. These areas are protected under the provisions of the Biodiversity Conservation Act 2016 as well as the environmental conservation provisions of the LEP 2011, which will not change as a result of this PP.</p>

As can be seen above the subject PP is supported by the Kiama Planning Proposal Policy as a clear zoning anomaly exists on site.

Question 4 of Part 3 of the 'Guide' asks if the PP is consistent with Council's local strategy or other local strategic plan. The Kiama Urban Strategy (KUS), which was adopted by Council on 20 September 2011, is Council's adopted local strategy and identifies Kiama's overarching strategy to meet housing targets identified in the ISRP. The Site is identified in the KUS under Section 5 – Sites Considered for Urban Expansion. The site forms part of a larger area referred to as Spring Creek in the Kiama Urban Strategy. The Spring Creek area contains land under multiple ownerships including Kiama Municipal Council.

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

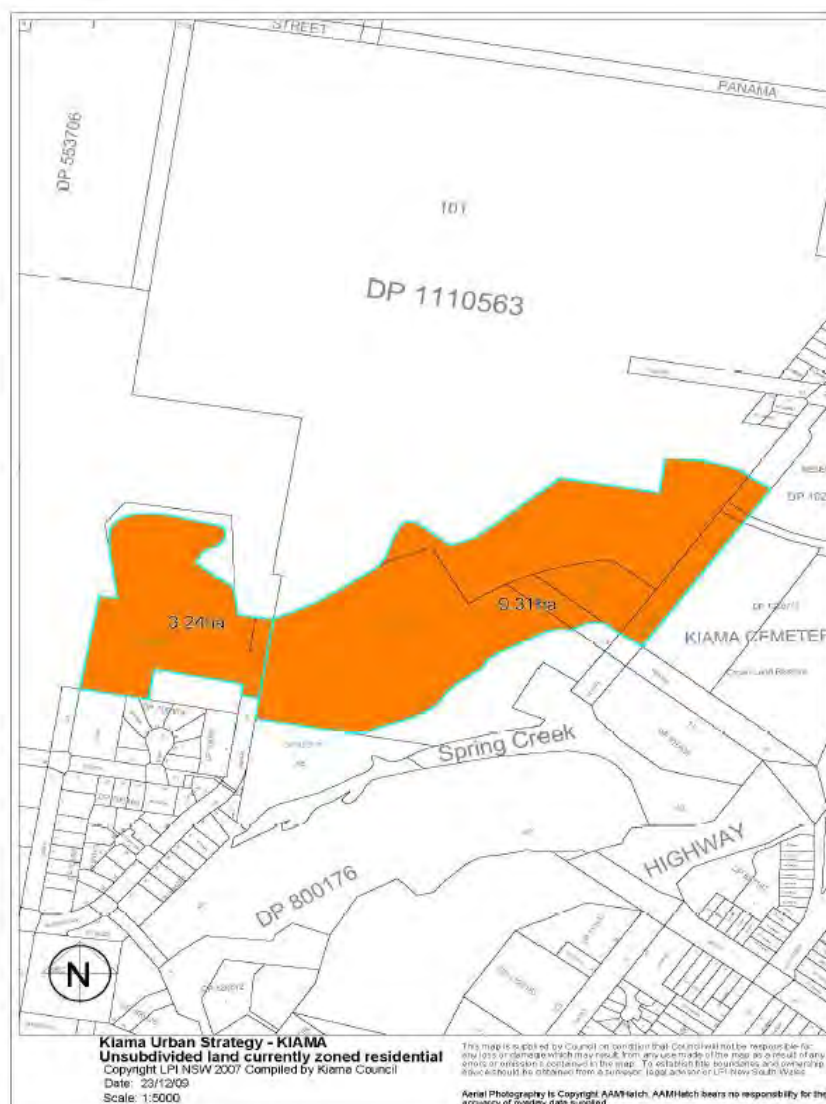


Figure 2: Unsubdivided land currently zoned residential at Kiama.

While not identified as a site for future residential rezoning the KUS outlines that the subdivision and release of land already zoned residential should take precedence and should be considered as Stage 1 of the Urban Release Strategy. The KUS envisioned a potential lot yield for the site of approximately 50 dwellings on the site. The entire site needs to be zoned residential in order to achieve the dwellings yields of approximately 28-48 dwellings as indicated by the proponent.

The Kiama Planning Proposal Policy outlines that in order to adequately ascertain the appropriateness of any concept PP specialist reports/statements may need to accompany the initial request. In order to assess the viability of the land for residential development an ecological report was requested by staff as the site is mapped as containing biodiversity. Staff have reviewed the submitted ecological report and have found that at this point it meets the required level of detail. The results of this assessment process have been summarised below under the heading 'Specialist Reports and Statements'.

State Environmental Planning Policies

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

Question 5 of Part 3 of the 'Guide' asks if the PP is consistent with applicable *State Environmental Planning Policies* (SEPPs). The following SEPPs are applicable to the subject PP:

- SEPP No.55 – Remediation of Land.
- SEPP (Rural Lands) 2008.

The proponent has prepared an assessment against the relevant sections of the applicable SEPPs. Staff have reviewed the proponent's assessment against the applicable SEPPs and have concluded that the proposal is consistent with the relevant SEPPs including SEPP No 55 – Remediation of Land and SEPP (Rural Lands) 2008.

Section 9.1 Ministerial Directions Compliance Assessment – Prepared by SET Consultants Pty Ltd.

Question 6 of Part 3 of the 'Guide' asks if the PP is consistent with applicable Section 9.1 Ministerial Directions. The following 9.1 Directions are applicable to the subject PP:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment & Heritage
- 2.2 Coastal Management
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.10 Implementation of Regional Plans
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

The proponent has prepared an assessment against the applicable Section 9.1 Ministerial Directions. With the exception of Directions 1.2 Rural Zones and 1.5 Rural Lands the Concept PP was found to be consistent with the relevant Section 9.1 Ministerial Directions. The Concept PP is considered to be of minor significance and the inconsistencies with Directions 1.2 and 1.5 are justified. Staff have reviewed the proponent's assessment against the applicable Ministerial Directions and concur that these inconsistencies are justified by the Kiama Urban Strategy.

Specialist Reports and Statements

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

Questions 7 and 8 of Part 3 of the 'Guide' ask if there are any likely environmental effects, particularly in relation to critical habitat or threatened species, populations or ecological communities, associated with the PP. Question 9 of Part 3 of the 'Guide' ask if the PP has adequately addressed any social and economic effects. Question 10 of Part 3 of the 'Guide' ask if there is adequate public infrastructure for the PP.

In order to satisfactorily answer Questions 7, 8, 9 and 10 of Part 3 of the 'Guide' the following specialist reports/statements have been provided:

- Ecological
- Bushfire
- Aboriginal Heritage Information Management System Search

Ecological Opportunities and Constraints Assessment – Prepared by WSP

An assessment on any ecological constraints associated with the site that might impact upon the PP was requested by staff. An Ecological Opportunities and Constraints Assessment was prepared by WSP on behalf of the applicant. The Ecological Opportunities and Constraints Assessment included a field survey of the site. The site contains a small isolated patch of Whalebone Tree – Native Quince dry sub-tropical rainforest (0.42 ha) (PCT 1300) which is consistent with the Illawarra Subtropical Rainforest in the Sydney Basin threatened ecological community, and is listed as an endangered ecological community (EEC) under the NSW *Biodiversity Conservation Act 2017*. The Assessment identified these areas as having moderate conservation value EEC.

Areas of moderate conservation value EEC are those which:

- Have a moderate to low diversity and relative abundance of native plant species and a relatively high diversity and relative abundance of exotic plant species
- Are of moderate size and/or have a relatively low area to edge ratio
- Are small but located in close proximity to other large areas of the community and/or other related native vegetation communities.

The WSP concluded that:

Any proposed development that would affect a substantial area identified as having high, moderate or low conservation significance would require impact assessment, mitigation and offsetting.

Any future land use should aim to restrict substantial development to areas of lower conservation significance, and protect areas of high ecological value within the study area, to avoid significant adverse impact on the ecological values of the locality. Development controls and the implementation of environmental management measures associated with future development of the study area may also provide opportunities to enhance the long-term viability of vegetation and associated habitat and strengthen riparian and habitat linkage with adjoining vegetated areas; thereby leading to long term positive ecological outcomes within the locality.

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

Areas of low and moderate ecological value are small, isolated and degraded. Based on existing status, offsetting of any clearing of these areas would fulfil the Biodiversity Conservation Act 2016 requirements. Offsetting requirements would be determined as part of the future development approval.

Staff Comment

The report was peer reviewed by staff who agreed with the results and conclusion of the submitted Ecological Opportunities and Constraints Assessment and concluded that the PP could proceed for a Gateway Determination.

Bushfire Risk Assessment – Prepared by Eco Logical Australia Pty Ltd

As the site immediately adjoins land identified as being bushfire prone land a bushfire assessment report has been provided. A Bushfire Risk Assessment was prepared by Eco Logical Australia Pty Ltd as per the requirements of Ministerial Direction 4.4 'Planning for Bushfire Protection'. The Bushfire Risk Assessment identified the likely severity of a bushfire event due to the existing slopes and vegetation on site. The areas identified as being bushfire prone on the site are a moderate risk due to the predominant rainforest vegetation. In accordance with Ministerial Direction 4.4 this PP will need to be referred to the NSW Rural Fire Service following receipt of a Gateway Determination.

The Assessment identified that the proposed subdivision could comply with the relevant deemed-to-satisfy requirements of 'Planning for Bushfire Protection 2006'.

Staff Comment

The report was peer reviewed by staff who agreed with the results and conclusion of the submitted Bushfire Risk Assessment and concluded that the PP could proceed. Consultation with the NSW Rural Fire Service will be required prior to community consultation.

Aboriginal Heritage due Diligence Assessment – Kelleher Nightingale Consulting Pty Ltd

An Aboriginal Heritage Due Diligence Assessment was prepared by Kelleher Nightingale Consulting Pty Ltd on behalf of the applicant. The Aboriginal Heritage Due Diligence Assessment outlined that no Aboriginal objects were identified during the visual inspection. Areas of archaeological sensitivity were defined based on landform, levels of previous disturbance and on site predictive models developed from previous archaeological assessments. The likelihood of Aboriginal cultural material occurring throughout the study area (i.e. archaeological potential) was assessed as low, moderate or high, based on the archaeological sensitivity and levels of previous ground disturbance.

The Assessment concluded that the fig tree located within the drainage depression in Lot 2 might have cultural significance to local Aboriginal people. Consultations with Illawarra Local Aboriginal Land Council should be undertaken in order to assess its significance, should the PP receive a positive Gateway Determination.

Staff Comment

The preservation of both Aboriginal and European heritage is a paramount importance to Council. Staff are of the opinion that the proposed rezoning itself will

Report of the Director Environmental Services

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama (cont)

not be detrimental to the ongoing preservation of Aboriginal and European heritage, and as such have concluded that the PP could proceed for a Gateway Determination. It is suggested that following Gateway the Illawarra Local Aboriginal Land Council should be consulted with.

Assessment Summary

Report	Appropriate to proceed to Gateway
Concept Planning Proposal Report – Prepared by APP: Property and Infrastructure Specialists.	✓
State and Regional Environmental Planning Policies (SEPPs and REPs) Compliance Assessment – Prepared by APP: Property and Infrastructure Specialists.	✓
Section 9.1 Ministerial Directions Compliance Assessment – Prepared by APP: Property and Infrastructure Specialists.	✓
Ecological Opportunities and Constraints Assessment – Prepared by WSP	✓
Bushfire Risk Assessment – Prepared by Eco Logical Australia Pty Ltd	✓
Aboriginal Heritage Due Diligence Assessment – Kelleher Nightingale Consulting Pty Ltd	✓

Plan Making Delegations

Council has received delegations for local plan making powers under Planning Circular PS16-005 and Section 3.36 of the *Environment Planning and Assessment Act 1979*. It is intended to request delegated Plan making powers for planning proposals consistent with an endorsed strategy and /or surrounding zones such as this PP. This request will be sent to gateway with the planning proposal delegation following council approval to proceed. Following the Gateway determination, Council will be directed as to any further requirements to obtain additional studies, consult with public authorities and exhibit the Draft Kiama LEP.

Conclusion

The Planning Proposal meets the criteria outlined in the Planning Proposal Policy, as a clear zoning anomaly exists on site.

The technical reports obtained by the applicant have provided enough information to enable Council staff to support this stage of the Concept Planning Proposal.



Property and Infrastructure Specialists

STRATEGY > DEFINITION > DELIVERY > TRANSITION

Proposed Amendment to Kiama Local Environmental Plan 2012 Spring Creek, Kiama

September 2018

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1. Introduction

This planning proposal is submitted to Kiama Municipal Council (Council) in support of an amendment to Kiama Local Environmental Plan 2011 (Kiama LEP 2011). The proposal relates to a 3.658 hectare parcel of land at Dido Street, Spring Creek (hereafter referred to as the site). The site is currently zoned part R2 Low Density Residential, part RU1 Primary Production and part E2 Environmental Conservation under Kiama LEP 2011. The proposal involves correcting a zoning anomaly as well as making 'attached dwellings' and 'multi-dwelling housing' additional permitted uses on the site. The introduction of these additional uses on the site is consistent with the proposed amendments to Kiama LEP 2011, which were adopted by Council on 26 June 2018 and Gateway Determination issued by the Department of Planning and Environment on 31 July 2018 (PP_2018_KIAMA_004_00).

It is proposed to rezone two small areas within the north-eastern portion of the site that are currently zoned RU1 Primary Production (0.27 ha) and E2 Environmental Conservation (0.42 ha) to R2 Low Density, so that the site, being a single parcel of land, has one zoning that aligns with its cadastre boundary and facilitates rational building and development boundaries for future development. The use of the site which is currently zoned R2 Low Density for 'attached dwellings' and 'multi-dwelling housing' will provide opportunities for more affordable homes in Kiama.

The site forms part of the 'Spring Creek Urban Release Area' in the Kiama Urban Strategy 2011 which was adopted by Council on 20 September 2011. The release area includes land owned by Boral Resources (NSW) Pty Ltd (Boral) and Council. The release area is earmarked to deliver some 160 dwellings of which approximately 50 dwellings are shown on Boral land. The site is also identified as 'urban land' under the Illawarra-Shoalhaven Regional Plan 2015.

The proposed amendment will provide for more efficient development on the site, contributing to additional homes and greater housing choice close to Kiama Town Centre and beach, outcomes that are consistent with both the Kiama Urban Strategy and Illawarra-Shoalhaven Regional Plan.

An amendment to Kiama Development Control Plan 2012 is being prepared to ensure that any future proposal for residential development on the site and the larger Spring Creek Urban Release Area responds to local conditions including the local market, the site's physical features, cultural heritage significance, views and vistas and connections to existing facilities and movement networks. This amendment is being progressed in consultation with Council.

This report has been prepared by APP Corporation Pty Ltd (APP) on behalf of Boral and is based on plans and information provided by Design IQ and supporting technical documents (refer to Table of Contents). It has been prepared in accordance with the Department of Planning and Environment's (the Department) 'A Guide to Preparing Planning Proposals' (August 2016).and includes the following:

- Part 1 – Objectives or the intended outcomes of the proposed rezoning and subsequent LEP amendments.
- Part 2 – A plain-English explanation of the legislative provisions that would apply to the site under the proposed instrument.
- Part 3 – Justification of the proposed amendment including the objectives, outcome and process for implementation. This part will also contain the strategic planning framework,



- environmental and social impact and identification and discussion of any relevant State or Commonwealth interests.
- Part 4 – Mapping to depict the proposed LEP amendment.
- Part 5 – Community Consultation that is to be undertaken in respect of the planning proposal as it progresses through to the Gateway process.
- Part 6 – Project timeline of the proposed amendment.

The Planning Proposal also addresses the matters that must be addressed as set out in Division 3.4 of Part 3 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

2. Background

2.1 Consultation with Council

On 7 June 2018, Boral and APP met with Council officers to discuss broad concepts for the site. This meeting confirmed key considerations to address in the planning proposal and the necessary technical studies to support the proposal. Comments raised by Council officers have been incorporated and addressed in this planning proposal. A copy of the meeting minutes are included at **Appendix A**.

2.2 Amendments to Kiama LEP 2011 to introduce dual occupancy and multi-dwelling housing development standards and relationship to subject proposal

On 26 June 2018, Council resolved to endorse a planning proposal to amend Kiama LEP 2011 to introduce a minimum lot size for dual occupancy, manor house and multi dwelling housing (terrace) development in zoned R2 Low Density Residential and R3 Medium Density Residential land and make multi dwelling housing permissible in the R2 Low Density zone.

For R2 Low Density zoned land, the proposed amendment introduces a 600m² minimum lot size for dual occupancies and a 900m² minimum lot size for multi-dwelling housing. In accordance with Kiama LEP 2011, multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land (i.e. strata titled), each with access at ground level, but does not include a residential flat building. This proposal incorporates this draft provision (i.e. also seeks to make multi-dwelling housing permissible in the R2 Low Density zone), consistent with Council's resolution of 26 June 2018 and Gateway Determination issued by the Department of Planning and Environment on 31 July 2018.

This proposal seeks to make attached dwellings (i.e. a building containing 3 or more dwellings, where each dwelling is attached to another dwelling by a common wall, and each of the dwellings is on its own lot of land, and none of the dwellings is located above any part of another dwelling) permissible on the site) on land with a minimum lot size of 900m². This approach is generally consistent with Council's resolution of 26 June 2018, with the exception that each dwelling would sit on its own lot of land (i.e. Torrens Title).



3. Site Analysis

3.1 Site Location and Context

The site is on the western side of the Princess Highway, approximately 1.4 km north-west of Kiama Town Centre, 800 m to Bombo Beach and approximately 40 kilometres south of Wollongong (refer to Figure 1). The majority of the site is zoned to allow dwelling houses, dual occupancies and semi-detached dwellings consistent with land to the east and south.

The site has good transport connectivity, with the Princess Highway and South Coast Train Line running within close proximity. The site is currently vacant, comprising predominantly cleared grazing land.

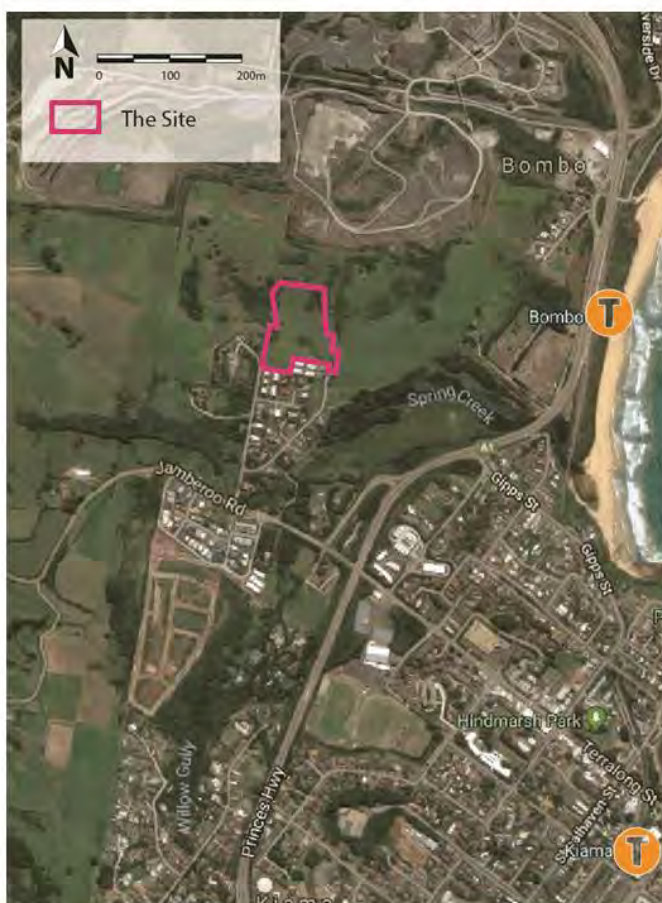


Figure 1 Location Plan

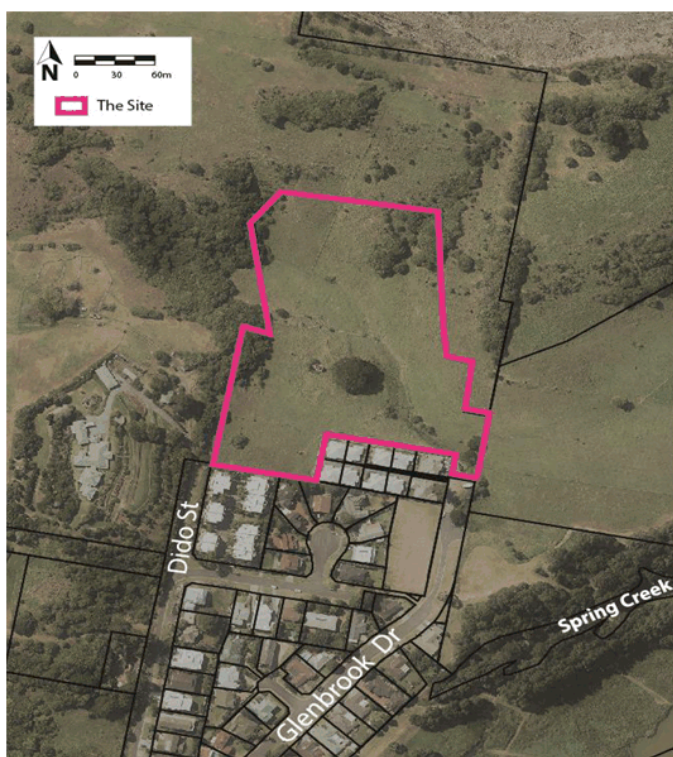


Figure 2 Aerial photograph

3.2 Legal Description and Ownership

The site is legally described as Lot 2 in DP 805229 and is owned by Boral Resources (NSW) Pty Ltd.

3.3 Surrounding Development

Land to the immediate north of the site comprises a rural property, then Boral's Bombo Quarry and surrounding buffer lands. The Illawarra-Shoalhaven Regional Plan notes that this quarry is near the end of its extractive life and presents an opportunity to master plan this land to secure more land for residential, commercial and/or industrial purposes in the future.

To the south of the site is a mix of detached dwellings, attached villa style dwellings, dual occupancy and multi-unit dwellings (refer to Figures 3 and 4). Further south, and on the opposite side of Jamberoo Road is newer residential development which steps up the hill and comprises large dwellings on standard 450-500m² lots and attached dwellings on 230m-240m² lots (refer to Figure 5).



To the east of the site is residential zoned land owned by Council. This land also forms part of the Spring Creek Urban Release Area. To the west of the site is rural land comprising a large residential estate and land for livestock / grazing.



Figure 3 Surrounding development



Figure 4 Photographs of surrounding development



Figure 5 Photographs of existing development to the south of Jamberoo Road

3.3 Existing Zoning and Development Standards

The site is currently zoned part R2 Low Density Residential (approximately 70% of the site), part RU1 Primary Production (approximately 20% of the site) and part E2 Environmental Conservation (approximately 10% of the site) under Kiama LEP 2011 (refer to Figure 6).

The portions of the site that are zoned RU1 Primary Production and E2 Environmental Conservation are small (0.27 ha and 0.42 ha, respectively) and irregular in shape. The E2 Environmental Conservation zoned land is isolated from larger areas of environmental conservation to the east and south along Spring Creek.

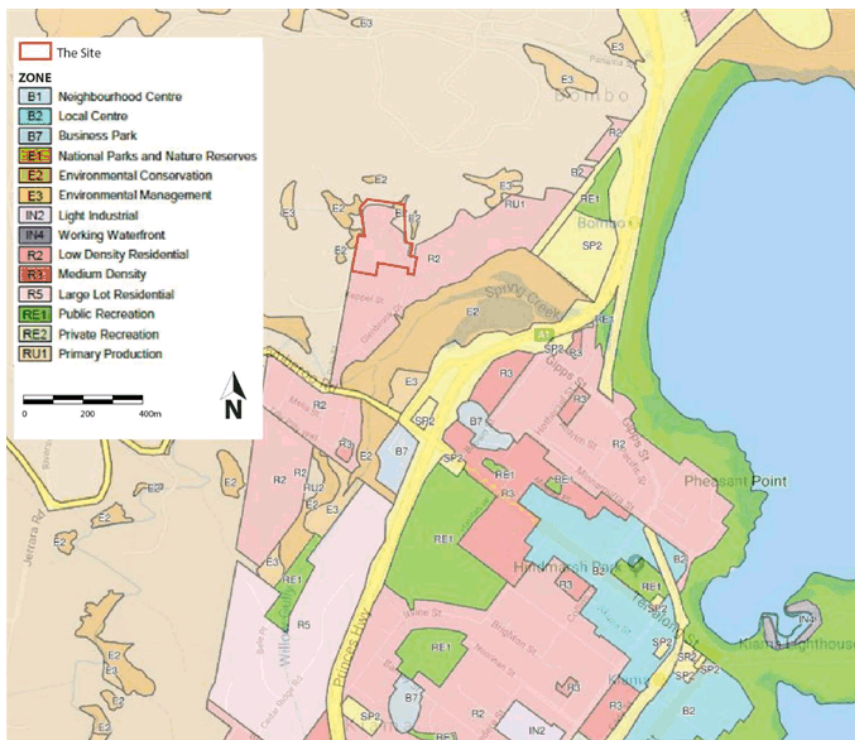


Figure 6 Existing Zoning Controls (Kiama LEP 2011)

The zone objectives, land uses and key development standards applying to the site is summarised in Table 1.

Table 1 Zone objectives, land uses and key development standards

Clause	Provision
R2 Low Density Residential	
Zone Objectives and permissible uses (Clause 2.3)	<p>The objectives of the R2 Low Density zone are to:</p> <ul style="list-style-type: none"> Provide for the housing needs of the community within a low density residential environment; Enable other land uses that provide facilities or services to meet the day to day needs of residents; Increase the supply of secondary dwellings for affordable rental housing stock; and



Clause	Provision
	<ul style="list-style-type: none"> Provide economic and employment opportunities for people who conduct business activities from their homes where these will not adversely affect the amenity of neighbours or the neighbourhood.
	<p>1. Permitted without consent <i>Home occupations</i></p> <p>2. Permitted with consent <i>Bed and breakfast accommodation; Boarding houses; Boat sheds; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies¹; Dwelling houses²; Environmental protection works; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Places of public worship; Recreation areas; Respite day care centres; Roads; Secondary dwellings³; Semi-detached dwellings⁴</i></p> <p>3. Prohibited <i>Any development not specified in item 2 or 3</i></p>
RU1 Primary Production	<p>The objectives of the RU1 Primary Production zone are to:</p> <ul style="list-style-type: none"> encourage sustainable primary industry production by maintaining and enhancing the natural resource base; encourage diversity in primary industry enterprises and systems appropriate for the area; minimise the fragmentation and alienation of resource lands;

¹ In accordance with LEP 2011:

"dual occupancy (attached)" means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.

"dual occupancy (detached)" means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

² *"dwelling house" means a building containing only one dwelling.*

³ *"secondary dwelling" means a self-contained dwelling that:*

(a) is established in conjunction with another dwelling (the principal dwelling), and

(b) is on the same lot of land as the principal dwelling, and

(c) is located within, or is attached to, or is separate from, the principal dwelling.

⁴ *"semi-detached dwelling" means a dwelling that is on its own lot of land and is attached to only one other dwelling*



Clause	Provision
	<ul style="list-style-type: none"> minimise conflict between land uses within this zone and land uses within adjoining zones; protect agricultural land for long term agricultural production; and provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing.
	<p>1. Permitted without consent <i>Environmental protection works; Extensive agriculture; Home occupations</i></p> <p>2. Permitted with consent <i>Agricultural produce industries; Air transport facilities; Animal boarding or training establishments; Aquaculture; Building identification signs; Business identification signs; Cellar door premises; Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Highway service centres; Home-based child care; Home businesses; Home industries; Home occupations (sex services); Industrial retail outlets; Intensive livestock agriculture; Intensive plant agriculture; Open cut mining; Recreation areas; Roads; Roadside stalls; Secondary dwellings; Stock and sale yards; Water supply systems</i></p> <p>3. Prohibited <i>Any development not specified in item 2 or 3</i></p>
E2 Environmental Conservation	<p>The objectives of the E2 Environmental Conservation zone are to:</p> <ul style="list-style-type: none"> protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values; prevent development that could destroy, damage or otherwise have an adverse effect on those values; and ensure adequate environmental buffers are provided, maintained or rehabilitated in the vicinity of high ecological value areas and waterways. <p>1. Permitted without consent <i>Environmental protection works</i></p> <p>2. Permitted with consent <i>Environmental facilities; Recreation areas; Roads</i></p> <p>3. Prohibited</p>



Clause	Provision
	<i>Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3</i>
Minimum Lot Size (Clause 4.1)	R2 Low Density zoned land – 450m ² RU1 Primary Production – 40 hectares Note. This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.
Exceptions to minimum lot sizes for development in Zone R2 and R3 (Clause 4.1A)	<p>(1) <i>The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.</i></p> <p>(2) <i>This clause applies to development on land in the following zones:</i></p> <p>(a) <i>Zone R2 Low Density Residential Zone,</i></p> <p>(b) <i>Zone R3 Medium Density Residential Zone.</i></p> <p>(3) <i>Despite clause 4.1, development consent may be granted to a single development application for development on land to which this clause applies if the development is both:</i></p> <p>(a) <i>the subdivision of land into 3 or more lots:</i></p> <p>(i) <i>each lot being equal to or greater than 50% of the minimum size shown on the Lot Size Map in relation to the land if the land is in Zone R2 Low Density Residential, or</i></p> <p>(ii) <i>each lot being equal to or greater than 150 square metres if the land is in Zone R3 Medium Density Residential, and</i></p> <p>(b) <i>the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.</i></p>
Maximum Building Height⁵ (Clause 4.3)	R2 Low Density zoned land – 8.5 m

⁵ *Building height (or height of building) means:*

- (a) *in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or*
- (b) *in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*



Clause	Provision
Maximum Floor Space Ratio (Clause 4.4)	R2 Low Density zoned land – 0.45:1

3.4 Topography

The site consists of undulating land. The lowest parts of the site are adjacent to Spring Creek (6-8 AHD). From this point, the site slopes up to the north and north-west with the highest parts of the site ranging from 32-40 AHD.

3.5 Hydrology

A minor tributary of Spring Creek traverses in a diagonal direction through the site. This tributary is generally dry, but acts as a flood conveyance system for the upstream catchment during all storm events. The flood storage / conveyance is generally contained within the riparian corridor. The site does not contain any flood prone land.

3.6 Access

Access to the site is available via Glenbrook Drive, at its northern end. Glenbrook Drive is a local two-lane, undivided road. Although the lot has frontage to Dido Street, no access to the site is available from Dido Street.

Pedestrian and cycle access to the site is available directly from Glenbrook Drive or via an existing informal pathway which runs along the southern side of Riddel Street through Spring Creek Wetland and then onto Glenbrook Drive. Pedestrian access is also potentially available at the northern end of Dido Street.

In terms of public transport, bus route 701 between Jamberoo and Kiama Station provides bus connectivity in the site and broader area. Route 701 operates from Kiama Railway Station to Jamberoo School of Arts with two services extending to Minnamurra Falls, west of Jamberoo. The closest stops are on Jamberoo Road at its intersection with Dido Street, approximately 420 m from the site. Bombo Train Station is 800 m to the east.

3.7 Ecological Characteristics and Values

An ecological constraints analysis of the site was undertaken by WSP as part of a larger study for the Spring Creek Urban Release Area and is included at **Appendix B**. Due to historic and ongoing agricultural use and surrounding residential dwellings, the biodiversity values of the area in general and site have been heavily impacted and degraded. The majority of remnant native vegetation in and around the site is in a disturbed condition due to historical clearing, cattle grazing, fragmentation, small patch size and the absence of protective buffers due to adjacent land managed for residential subdivisions and agricultural tenures.

The site contains a small isolated patch of Whalebone Tree – Native Quince dry sub-tropical rainforest (0.42 ha) (PCT 1300) which is consistent with the Illawarra Subtropical Rainforest in the Sydney Basin



threatened ecological community, and is listed as an endangered ecological community under the NSW *Biodiversity Conservation Act 2017* (refer to Figure 7). Within the site, this occurs as a closed forest with canopy heights of 10 metres. This patch of native vegetation has low native species diversity and moderate weed invasion, particularly the ground layer vegetation. Weeds in this area included *Olea europaea*, *Lantana camara* and *Ligustrum lucidum*. The ground cover was dominated by introduced and grazing tolerant species including *Sida rhombifolia*, *Ehrharta erecta*, *Doodia aspera*, *Pseuderanthemum variable*.

The remainder of the site comprises highly disturbed areas with no or limited native vegetation, consisting of predominantly of grazed exotic grassland.

In terms of fauna habitats, most vegetation communities do not occur as old-growth forms and important fauna habitat attributes, such as hollows, plentiful fallen timber, connectivity and large patch size are lacking. The general lack of these important habitat attributes reduces the site's capacity for supporting a wide diversity of local native species, including threatened species, in isolation from other higher quality habitats in the locality.

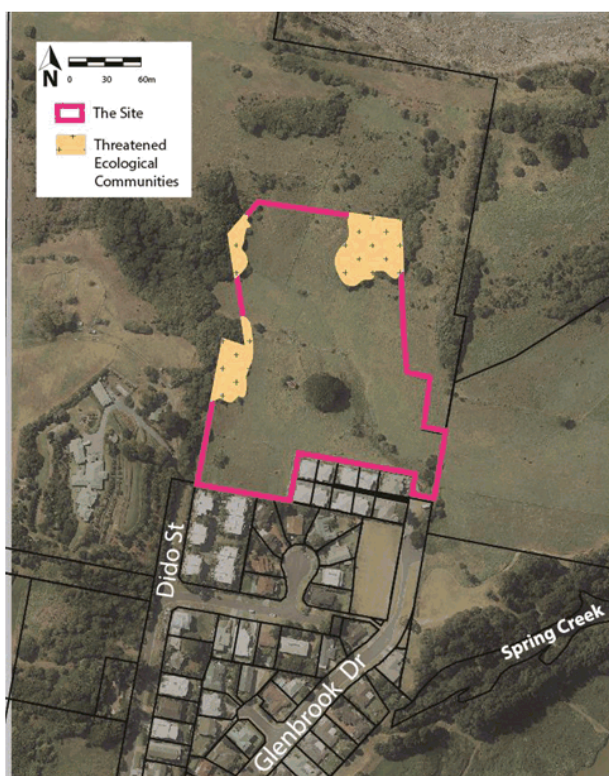


Figure 7 Threatened ecological communities within the site



3.10 Bushfire

Part of the western boundary of the site is identified as Bushfire Prone Land – Vegetation Category 2) and Vegetation Buffer on the NSW Government Planning Portal website (refer to Figure 8). Any future residential development will be required to provide suitable bushfire setbacks or asset protection zones. Notwithstanding, the identified bushfire risk on the site is relatively minor and can be mitigated as part of any future development proposal.

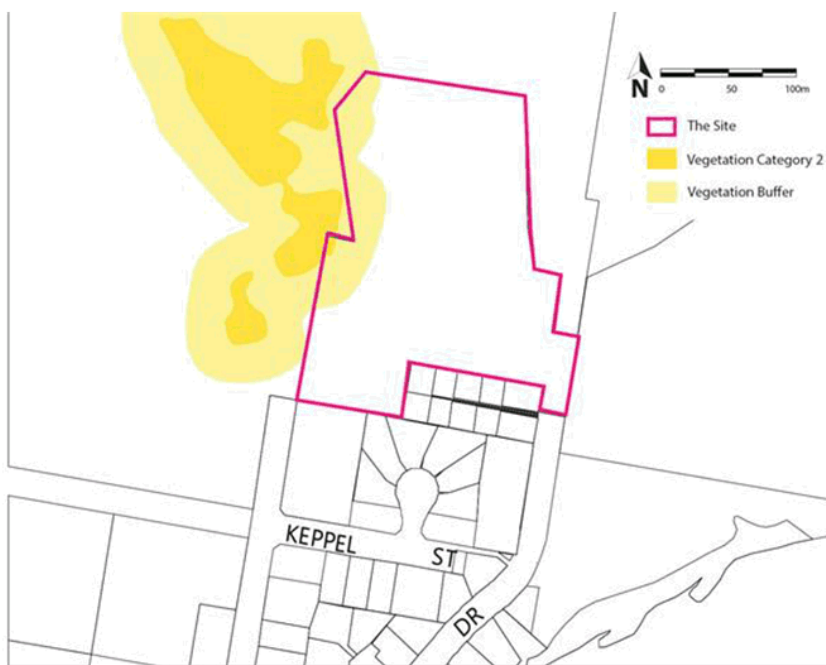


Figure 8 Bushfire prone land

3.8 3.11 Contamination

A preliminary site investigation has been undertaken for the larger Spring Creek site, which includes the site. This assessment takes into consideration surrounding potentially contaminating land uses including Kiama Cemetery and Bombo Quarry. The investigation concluded that contamination risk on the site is low. In relation to acid sulphate soils, Council's Acid Sulfate Soil Map in Kiama LEP 2011, identifies the site as comprising Class 5 acid sulphate soils and is suitable for residential development.



3.9 Heritage

The following section contains information relating to European and Indigenous Heritage as it relates to the site.

3.9.1 European

The site contains a number of dry stone walls. The dry stone walls are heritage items of local significance under Schedule 5 of LEP 2011. The site is not located within a heritage conservation area. Surrounding heritage items include:

- Kiama Cemetery (lots 7029 and 7030 in DP 1026774) to the north-east of the site (I111 – Local);
- Fernleigh residence (former guest house), approximately 250 m to the south-west of the site at 2 Dido Street (I99 – Local);
- Bombo Railway Station group building approximately 790 m to the east of the site (I2 – State); and
- Stone arched culvert, Willow Creek, Jamberoo Road, approximately 300 m to the south of the site (I107 – Local) (refer to Figure 9).

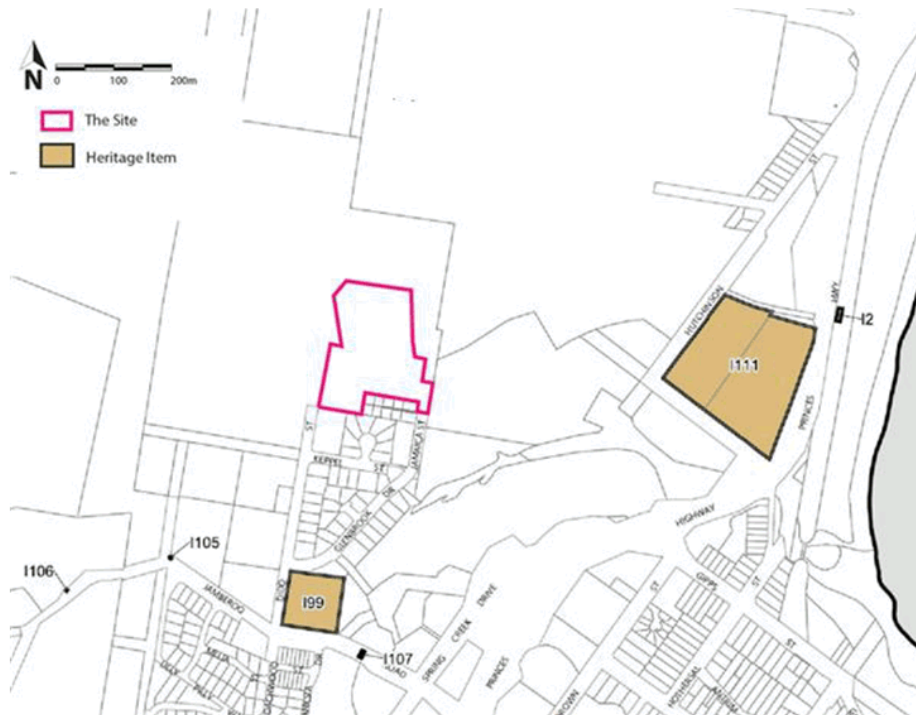


Figure 9 Surrounding heritage items



3.9.2 Indigenous

An Aboriginal Heritage due diligence assessment for the Spring Creek Urban Release Area (including the site) was prepared by Kelleher Nightingale in March 2018 (refer to **Appendix C**). This assessment found no previously recorded Aboriginal archaeological sites on the site (refer to Figure 10). The visual inspection did not observe any Aboriginal objects or archaeological sites.

The existing fig tree located within the central portion of the site may have cultural significance to local Aboriginal people. Future consultation with the local Aboriginal Land Council should be undertaken in order to assess its significance. The existing fig tree is proposed to be retained on the site.

Based on the results of this assessment, the proposal is unlikely to impact on Aboriginal heritage and according to the OEH Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales and best practice guidelines, any future works could proceed with appropriate management measures in place.

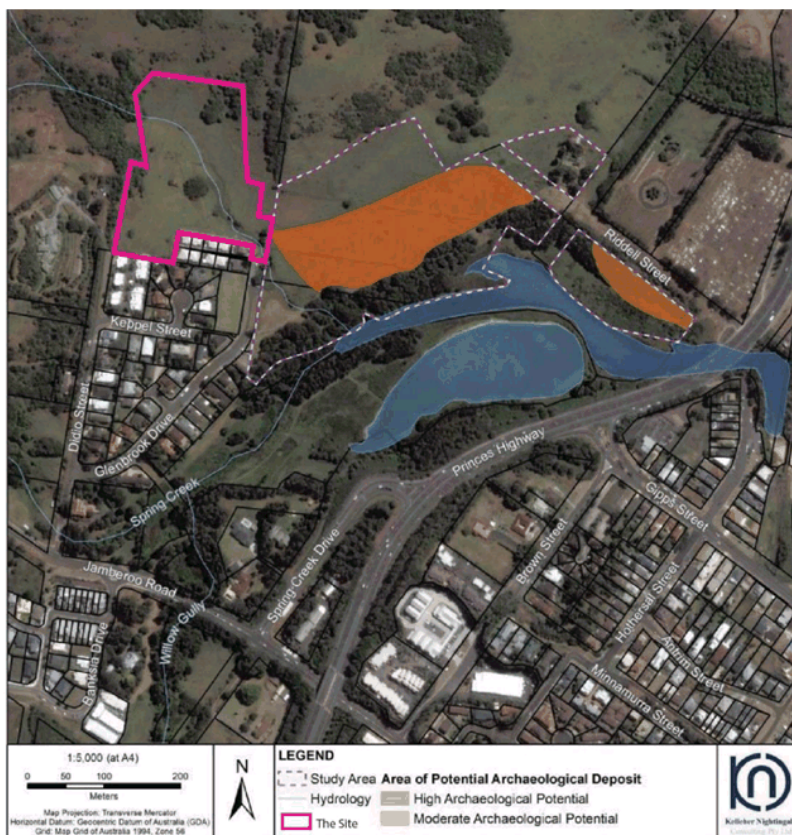


Figure 10 Indigenous Heritage



4. Master Plan

A master plan for the site has been prepared by Design IQ to demonstrate the capability of the site to accommodate the proposal and to guide future planning (refer to Figure 11). The key features of the master plan are:

- approximately 2.8 hectares of residential land;
- new roads and infrastructure; and
- 0.6 hectares of passive open space in the form of an integrated passive recreation area within a riparian corridor network.



Figure 11 Indicative Master Plan

An amendment to Kiama Development Control Plan 2012 is being prepared to ensure that any future proposal for residential development on the site responds to local conditions including the local market, the site's physical features, cultural heritage significance, views and vistas and connections to existing facilities and movement networks. This work is being undertaken in conjunction with Council as part of more detailed planning for the larger Spring Creek Urban Release Area.



5. Proposed LEP Amendment

5.1 Land to which the LEP amendment will apply

A draft Land Application Map is provided in Figure 12. The draft Land Application Map illustrates the land that is to be included in the LEP Amendment.



Figure 12 Draft Land Application Map

5.2 Proposed Land Use Zone and Permissible Uses

It is proposed to rezone two small areas within the north-eastern portion of the site that are currently zoned RU1 Primary Production (0.27 ha) and E2 Environmental Conservation (0.42 ha) to R2 Low Density, so that the site, being a single parcel of land, has one zoning that aligns with its cadastre boundary and facilitates rational building and development boundaries for future development.

The proposed LEP amendment includes an amendment to Schedule 1 – Development for Certain Additional Purposes to enable the use of part of the site for attached dwellings and multi-unit housing and also nominates new development standards to guide this type of future development. No other amendments to the existing land use provisions for land zoned R2 Low Density Residential is proposed.



A draft Land Zoning Map is provided at Figure 13.

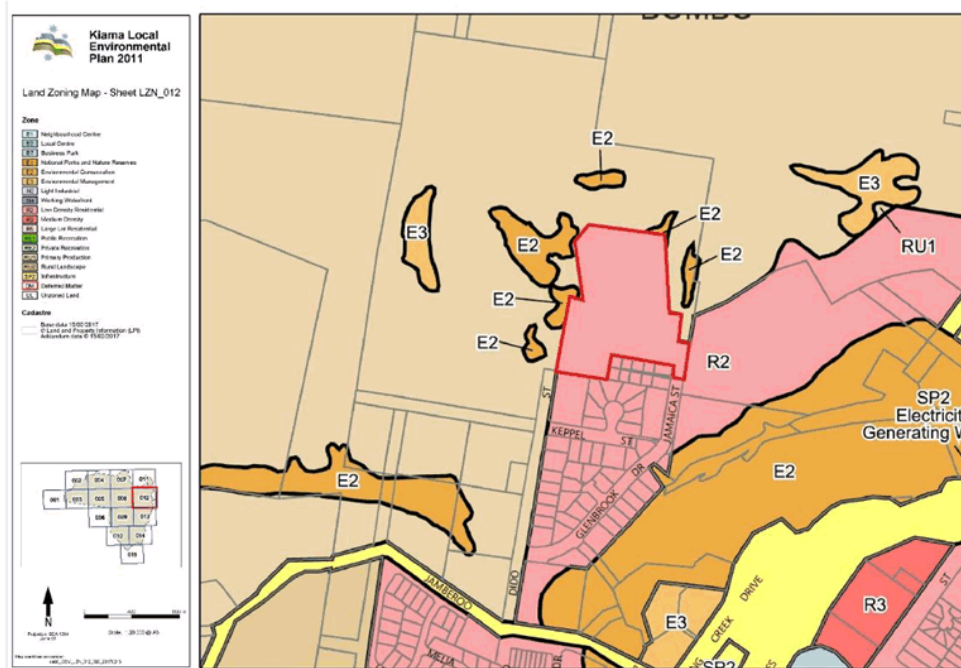


Figure 13 Draft Zoning Map

5.3 Removal of the E2 Environment Conservation Zone

It is proposed to remove the E2 Environment Conservation zone for the following reasons:

- The E2 Environmental Conservation zone is for areas of high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. The zone provides the highest level of protection, management and restoration for such lands. As stated within LEP Practice Note PN 09-002, it is anticipated that many councils will generally have limited areas displaying the characteristics suitable for the application of the E2 zone. In applying an E2 Environment Conservation zone an environmental study that demonstrates the high status of this land should be undertaken.

A detailed assessment of the biodiversity values of the site has been undertaken by WSP (refer to **Appendix B**). Vegetation on the site has been heavily impacted and degraded as a result of historic and ongoing agricultural use. The majority of remnant native vegetation on the site is in a disturbed condition due to historical clearing, cattle grazing, fragmentation, small patch size and the absence of protective buffers due to adjacent land managed for residential subdivisions and



agricultural tenures. The small isolated patch of Whalebone Tree – Native Quince dry sub-tropical rainforest (0.42 ha) (PCT 1300) has low native species diversity and is weed infested. The site does not contain vegetation of high ecological or aesthetic value.

- The size and shape of the small isolated patch of E2 Environmental Conservation zoned land, and the fact that it is surrounded by heavily cleared and modified farmland and future residential development presents a challenge for the long term conservation of vegetation subject to this zoning. This is because with increased intensity of land usage, there is potential for this small isolated patch to become increasingly isolated and for edge effects (e.g. encroachment of weeds, disturbance by humans) to become more significant.
- Regardless of the site's zoning under Kiama LEP 2011, the threatened ecological community on the site is still protected under the NSW *Biodiversity Conservation Act 2017*. Any removal of vegetation on the site including Whalebone Tree – Native Quince dry sub-tropical rainforest will require development consent from Council.
- There are larger, high quality and connected patches of Whalebone Tree – Native Quince dry sub-tropical rainforest on surrounding sites including the two sites to the south and south-east of the site along Spring Creek (i.e. Lot 45 in DP 800176 and Lot 11 in DP 810839). Small, irregular shaped patches of native vegetation that is surrounded by heavily cleared and modified farmland creates both long and short term challenges. Left 'in situ' these patches are likely to become increasingly isolated and for edge effects including encroachment of weeds and disturbance by humans and animals, to become more significant.

There are also design and planning difficulties in accommodating urban development around this patch of native vegetation due to its size and shape, namely:

- Isolated and fragmented pockets of developable area that are not visually or physically integrated or connected with other parts of the site;
- Increased edge effects – the edge of a larger consolidated area of vegetation can be more effectively treated and controlled than a number of smaller patches and a greater proportion of the 'core' area of vegetation can be protected; and
- Reduced efficiencies in terms of road layout, lot configuration and servicing.

For the above reasons, the removal of the E2 Environmental Conservation zone and replacement with R2 Low Density Residential zone is reasonable.

5.4 Removal of the RU1 Primary Production zone

It is proposed to remove the RU1 Primary Production zone overlay along part of the site's northern boundary and triangular parcel of land within the site's eastern boundary for the following reasons:

- The RU1 Primary Production zone boundary does not align with the site's cadastre boundary and comprises two separate and irregular shaped portions. The proposal will result in the site, being a single lot, having a single land use zoning as opposed to three.
- There is no difference between that part of the site zoned RU1 Primary Production and R2 Low Density zoned portions of the site in terms of topography, geology, heritage, use, ecological



- characteristics and values or access. There is no apparent reason why parts of the site are zoned RU1 Primary Production and why the majority of the remainder is zoned R2 Low Density.
- The minimum lot size for land zoned RU1 Primary Production land is 40 hectares. The portion of the site that is zoned RU1 Primary Production is 0.27 hectares. Whilst Kiama LEP 2011 allows a lot to be created that is less than 40 hectares it does not enable the erection of new dwelling on it. Redeveloping the site under the site's current split zonings does not facilitate rationale building and development boundaries.

5.5 Principal Development Standards

5.5.1 Minimum Lot Size

The current Minimum Lot Size Map under Kiama LEP 2011 shows that the minimum lot size for the R2 Low Density residential zoned component of the site is 450m². The proposal seeks to apply the 450m² minimum lot size development standard to the entire area to be rezoned. A draft Minimum Lot Size Map is included at Figure 14.

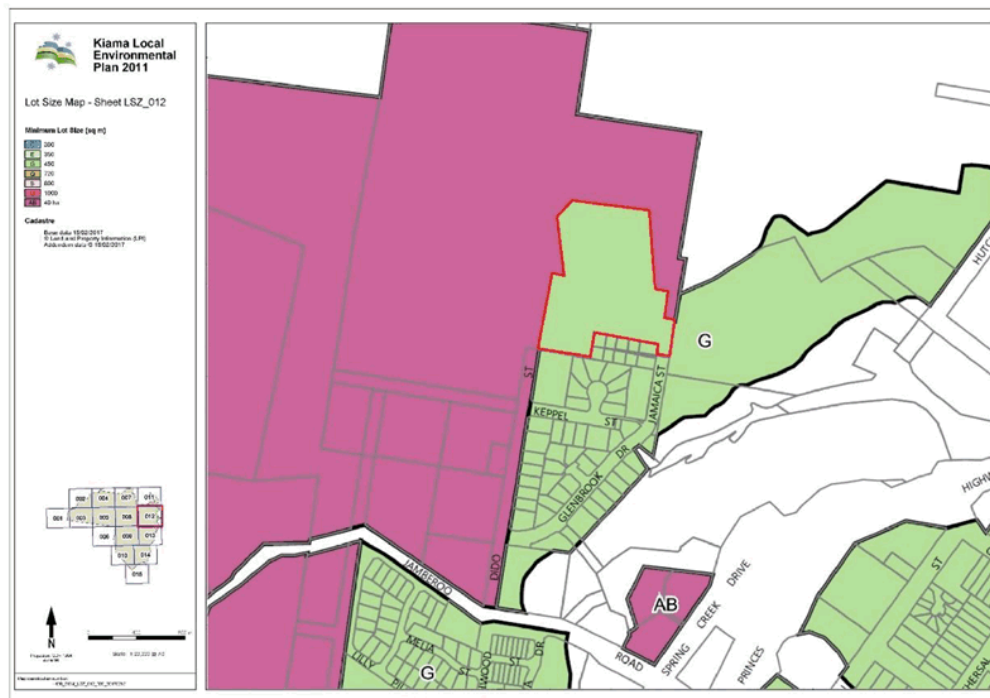


Figure 14 Draft Minimum Lot Size Map



5.5.2 Exceptions to minimum lot sizes for development in Zone R2 Low Density and additional permitted uses

On 26 June 2018, Council resolved to endorse a planning proposal to amend Kiama LEP 2011 to among other amendments introduce a minimum lot size for dual occupancy and multi dwelling housing (terrace) development in zoned R2 Low Density Residential and make 'multi dwelling housing' permissible in the R2 Low Density zone. This amendment was in response to the NSW Government's Low Rise Medium Density Housing Code (the Code), which was anticipated to come into effect on 6 July 2018. Where an LEP does not prescribe a minimum lot size for dual occupancies, the new Code enables dual occupancies to be built on 400m² lots. The same scenario would exist for certain types of medium density housing which will be able to be built on 600m² lots.

To minimise the impact and application of the Code on land zoned R2 Low Density, the proposed amendment:

- introduces a 900m² minimum lot size for multi-dwelling housing;
- introduces a 600m² minimum lot size for dual occupancies; and
- permits 'multi-dwelling housing' on land zoned R2 Low Density.

A Gateway Determination was issued by the Department on 31 July 2018.

This proposal seeks to permit 'multi-dwelling housing' on the site with a minimum lot size of 900 m², consistent with Council's resolution of 26 June 2019 and Gateway Determination. It is also proposed to make 'attached dwellings' permissible on the site and propose a minimum lot size of 900m² for this type of development. This approach is generally consistent with Council's resolution of 26 June 2018, with the exception that each dwelling would sit on its own lot of land (i.e. Torrens Title) as opposed to strata titled multi dwelling housing.

Clause 4.1A of Kiama LEP 2011 applies to land within the R2 Low Density and R3 Medium Density Residential zones by allowing exceptions to the minimum lot size clause to encourage housing diversity without adversely impacting on residential amenity.

Clause 4.1A states:

4.1A Exceptions to minimum lot sizes for development in Zone R2 and Zone R3

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *This clause applies to development on land in the following zones:*
 - (a) *Zone R2 Low Density Residential Zone,*
 - (b) *Zone R3 Medium Density Residential Zone.*
- (3) *Despite clause 4.1, development consent may be granted to a single development application for development on land to which this clause applies if the development is both:*
 - (a) *the subdivision of land into 3 or more lots:*
 - (i) *each lot being equal to or greater than 50% of the minimum size shown on the Lot Size Map in relation to the land if the land is in Zone R2 Low Density Residential,*
 - or*

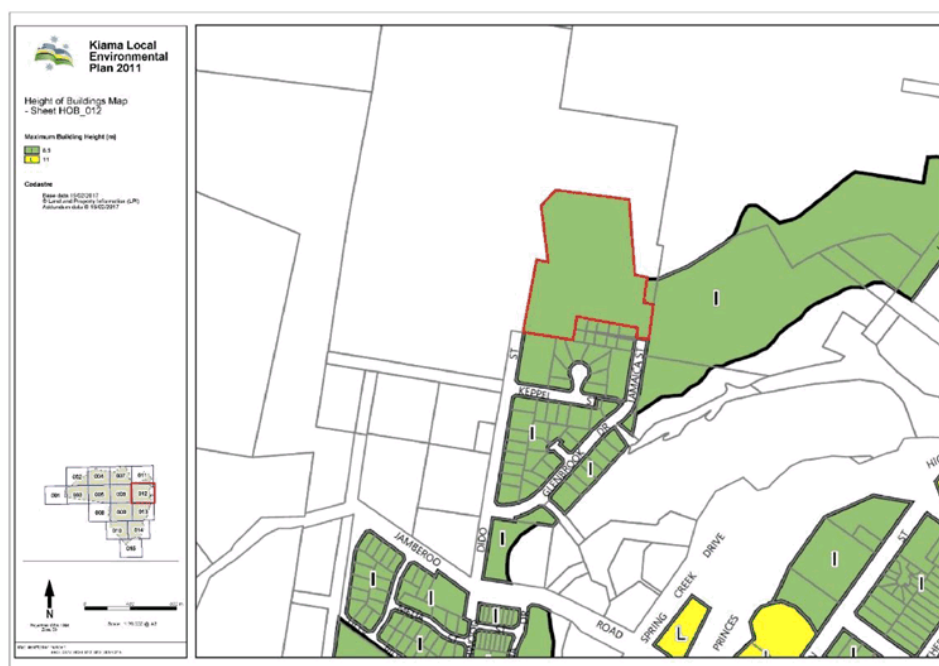


- (ii) each lot being equal to or greater than 150 square metres if the land is in Zone R3 Medium Density Residential, and
- (b) the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.

No change to this provision is proposed. That is, it is proposed to apply the existing provision to the entire area to be rezoned.

5.5.3 Maximum Building Height

The current Height of Building Map under Kiama LEP 2011 shows that the maximum building height for the R2 Low Density residential zoned component of the site is 8.5m. The proposal seeks to apply the 8.5 m building height standard to the entire area to be rezoned. A draft Building Height Map is included at Figure 15.





5.5.4 Maximum Floor Space Ratio

The current Floor Space Ratio Map shows that the maximum floor space ratio (FSR) for the site is 0.45:1. The proposal seeks to apply the 0.45:1 FSR development standard to the entire site area to be rezoned. A draft Floor Space Ratio Map is included at Figure 16.

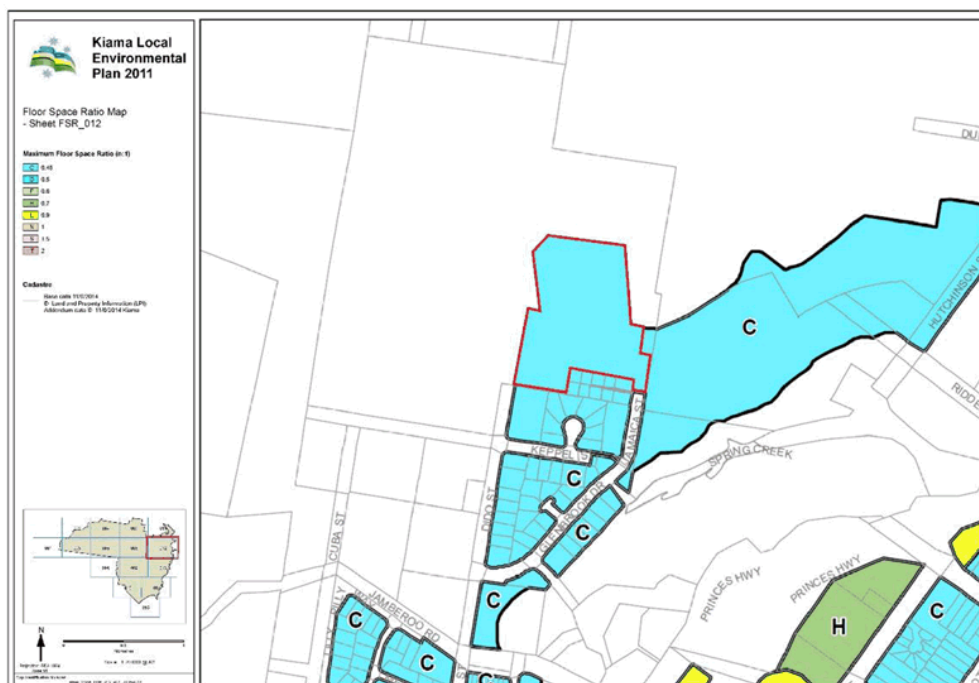


Figure 16 Draft Floor Space Ratio



6. Strategic Justification

The strategic justification for the rezoning of the site has previously been demonstrated by the identification of Spring Creek in the Kiama Urban Strategy 2011, which was adopted by Council on 20 September 2011. This strategy identifies for the provision of approximately 50 dwellings on the site. A discussion on the proposal consistency with the Illawarra Shoalhaven Regional Plan (2015) and Section 117 Ministerial Directions is provided below.

6.1 Illawarra Shoalhaven Regional Plan

The NSW Government's Illawarra-Shoalhaven Regional Plan (the Regional Plan) released in 2015 provides the strategic policy, planning and decision-making framework to guide the region to sustainable growth over the next 20 years. Within the Regional Plan, Spring Creek is referred to as an urban release area. The proposed rezoning is consistent with the vision and goals for the Illawarra as set out in the Regional Plan, in that:

- The majority of the site (~ 70%) has already been rezoned to R2 Low Density Residential. The existing RU1 Primary Production and E2 Environmental Conservation zone impede the site's ability to provide some 50 dwellings as identified within the Kiama Urban Strategy and contributing to the projected 2,850 dwellings required in Kiama by 2036 (refer to Action 2.1.1 of the Regional Plan).
- The proposal provides opportunities for a mix of low and medium density housing in proximity to the Spring Creek Wetlands Walk and Bombo Beach.
- The proposal supports healthier environments by increasing densities in proximity to existing pedestrian and cycle networks, consistent with the vision for the Illawarra Region.
- By 2036, the population of the Illawarra-Shoalhaven is predicted to grow by just over 60,000 people and the make-up of the population is to include a greater proportion of people ages 65 years+ and one-two person households. The proposal delivers more diverse housing to meet the needs of singles, families and the aged and increasing the supply of affordable housing within Kiama. The proposal also responds to market demand for the area, consistent with Directions 2.1 and Action 2.1.1 of the Regional Plan.
- The proposal takes a balanced approach to housing that provides choice, affordability, and supports the orderly supply of land for development, consistent with Direction 2.1 of the Regional Plan. The site's current split zoning does not provide for the orderly or efficient use of land.
- The site has good access to Kiama Town Centre, jobs and the Bombo Train Station, consistent with Direction 2.2 of the Regional Plan which supports housing opportunities close to existing services, jobs and infrastructure within the Kiama Town Centre and Wollongong which is approximately 25 km to the north of the site.



- The proposal provides opportunities for new villa, multi-dwelling and attached dwellings in Kiama, consistent with Direction 2.2 of the Regional Plan which acknowledges that this type of housing can contribute to the supply of housing in existing urban areas. Action 2.2.1 of the Regional Plan states that the NSW Government will work with Council to review planning controls in existing urban areas to identify opportunities to increase the range of housing types.
- The 0.27 hectares of RU1 Primary Production land is not of a sufficient size, shape, location or slope to be used for prime agricultural production. The proposed rezoning will not result in a significant impact of regionally important agricultural and resource lands, as required in Direction 4.1 of the Regional Plan.
- The proposal will not have an impact on any significant water bodies including Spring Creek, which is some 250 m to the south-east of the site, and will be separated by future residential development on adjoining R2 Low Density zoned lots. Future development will be required to comply with Council's controls in relation to stormwater management to ensure the water quality and ecological function of the wetlands is not adversely impacted upon, consistent with Direction 5.4 of the Regional Plan.

6.2 Kiama Urban Strategy (2011)

The site forms part of a larger urban release area referred to as Spring Creek in the Kiama Urban Strategy. In 2011, the site is identified as comprising R2 Low Density Residential land. The Kiama Urban Strategy provides for 1,890 dwellings within Kiama, of which 50 dwellings are envisaged to be accommodated on the site (Boral land). It is noted that the NSW Government's Regional Plan released in 2015 identifies a need to provide a more diverse range of housing including affordable housing. The proposal is consistent with the Kiama Urban Strategy.

6.3 State Environmental Policies

6.3.1 State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)

In accordance with Clause 6 of SEPP 55, a planning authority is to consider whether the land to which a planning proposal relates is contaminated and if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purposes for which the land is proposed to be used.

A preliminary site investigation has been undertaken for the larger Spring Creek site, which includes the site. This assessment takes into consideration surrounding potentially contaminating land uses including Kiama Cemetery and Bombo Quarry. The investigation concluded that contamination risk on the site is low. In relation to acid sulphate soils, Council's Acid Sulfate Soil Map in Kiama LEP 2011, identifies the site as comprising Class 5 acid sulphate soils and is suitable for residential development.



6.3.2 State Environmental Planning Policy (Rural Lands) 2008 (Rural Lands SEPP)

The Rural Lands SEPP applies to land within Kiama. The proposal is consistent with the aims and objectives of the Rural Lands SEPP in that it will facilitate the orderly and economic use and development of land. The proposed 0.27 hectares of RU1 Primary Production land that is proposed to be rezoned to R2 Low Density Residential is not of a sufficient size, shape, location or slope to be used for prime agricultural purposes. The site is identified in the Kiama Urban Strategy as comprising R2 Low Density Residential land. The proposal involves correcting a zoning anomaly in Kiama LEP 2011.

6.3.3 State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP)

The Coastal Management SEPP applies to land within the Kiama LGA and repeals the former SEPP 14 – Coastal Wetlands and SEPP 71 – Coastal Protection. This policy aims to promote land use planning that is located within the coastal zone in a manner that is consistent with the *Coastal Management Act 2016* including the management of objectives for each coastal management area.

Under the Coastal Management SEPP, the site is mapped as a 'Coastal Environmental Area' and must comply with Clause 13- Development of Land within the Coastal Environmental Area. Any development located on the Coastal Environmental Area cannot be granted consent unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on that land. It is proposed to rezone two small areas within the north-eastern portion of the site that are currently zoned RU1 Primary Production (0.27 ha) and E2 Environmental Conservation (0.42 ha) to R2 Low Density. The proposal does not involve any physical works. Any future development application on the land will require an assessment against the provisions of the Coastal Management SEPP.

6.3.4 Section 9.1 Ministerial Directions

An assessment of the proposal in relation to the relevant Section 9.1 Ministerial Directions is provided in **Appendix D**.



7. Environmental, Social and Economic Impacts

This section addresses the environmental assessment of the planning proposal in respect to the relevant matters for consideration under section 3.33 of the EP&A Act.

7.1 Ecology

As discussed in section 3.7, an ecological constraints analysis of the site was undertaken by WSP. Due to historic and ongoing agricultural use and surrounding residential dwellings, the biodiversity values of the area in general and site have been heavily impacted and degraded. The majority of remnant native vegetation in and around the site is in a disturbed condition due to historical clearing, cattle grazing, fragmentation, small patch size and the absence of protective buffers due to adjacent land managed for residential subdivisions and agricultural tenures.

The site contains a small isolated patch of Whalebone Tree – Native Quince dry sub-tropical rainforest (0.42 ha) (PCT 1300) which is consistent with the Illawarra Subtropical Rainforest in the Sydney Basin threatened ecological community, and is listed as an endangered ecological community under the NSW *Biodiversity Conservation Act 2017*. Within the site, this occurs as a closed forest with canopy heights of 10 metres. This patch of native vegetation has low native species diversity and moderate weed invasion, particularly the ground layer vegetation. Weeds in this area included *Olea europaea*, *Lantana camara* and *Ligustrum lucidum*. The ground cover is dominated by introduced and grazing tolerant species. This area contains lower diversity and density of microhabitats than the core area of the site (adjacent to Spring Creek) and the habitats they do contain are more likely to be impacted by existing human habitation and disturbance.

None of the native vegetation of the site has been mapped as having a high ecological value. This patch of native vegetation is not large, is irregular in shape and is surrounded by heavily cleared and modified farmland. This creates both long and short term challenges for conservation. Left 'in situ' these patches are likely to become increasingly isolated and for edge effects including encroachment of weeds and disturbance by humans and animals, to become more significant.

As discussed in section 5.3, there are also design and planning difficulties in accommodating urban development around this patch of native vegetation due to its size and shape, namely:

- isolated and fragmented pockets of developable area that are not visually or physically integrated or connected with other parts of the site;
- increased edge effects – the edge of a larger consolidated area of vegetation can be more effectively treated and controlled than a number of smaller patches and a greater proportion of the 'core' area of vegetation can be protected; and
- reduced efficiencies in terms of road layout, lot configuration and servicing.

7.2 Heritage

Kelleher Nightingale have prepared an Aboriginal Heritage due diligence assessment contained at **Appendix C**. No known aboriginal heritage archaeological significance or sites have been identified on the land that is proposed to be rezoned. The existing fig tree located within the central portion of the site may have cultural significance to local Aboriginal people. The existing fig tree is proposed to be retained on the site.



In relation to European heritage, the north-western corner of the site contains a remnant dry stone wall in poor condition. Dry stone walls are listed as heritage items under Schedule 5 (I64) of Kiama LEP 2011. It is envisaged that the basalt stones will be used as part of the site's future landscaping and public domain.

7.3 Traffic and Transport

The proposal is unlikely to result in any appreciable change in the traffic generation potential of the site. Any projected change to traffic activity as a consequence of future development will be required to demonstrate that the proposal has acceptable traffic implications.



8. Considerations in accordance with the NSW Government's *Guide to Preparing Planning Proposals*

8.1 Part 1 – Objectives or the intended outcomes of the proposed rezoning and subsequent LEP amendments

The objective of this planning proposal is to:

- Rezone land from RU1 to R2 Low Density Residential to permit a single R2 zoning across the land.
- Rezone land from E2 to R2 Low Density Residential to permit a single R2 zoning across the land.
- Amend the Height of Building (HOB), Floor Space Ratio (FSR) and Lot Size Zoning (LSZ) maps relating to the land to correspond with the adjoining controls applying to residential zoned land (R2).
- Amend Schedule 1 of Kiama LEP 2011 to permit 'attached dwellings' and 'multi-dwelling housing' as permissible uses within the R2 Low Density zone on the site.
- Amend the Permissible Uses Permitted map to reflect the Schedule 1 proposed amendment (as above).

The proposed amendments will enable rational building and development boundaries on the land for future development, including greater housing choice close to Kiama Town Centre and beach, as outcomes that are consistent with both the Kiama Urban Strategy 2011 and Illawarra-Shoalhaven Regional Plan.

8.2 Part 2 - A plain-English explanation of the legislative provisions that would apply to the site under the proposed instrument

The objectives of this planning proposal would be facilitated by the following legislative provisions. A detailed explanation of the legislative provisions is provided in section 5.

1. Amend the Kiama LEP 2011 Land Zoning (LZN) Map – **Sheet LZN_012** to rezone split zones RU1 – Primary Production and E2- Environmental Conservation located on Lot 2 in DP 805229 Dido Street, Spring Creek to R2 Low Density Residential.
2. Amend the Kiama LEP 2011 Height of Building (HOB) Map – **Sheet HOB_012** to apply height limit of 8.5 metres to the rezoned land on Lot 2 in DP 805299 Dido Street, Spring Creek, consistent with development standards for R2 zoned land in Kiama LEP 2011.
3. Amend the Kiama LEP 2011 Floor Space Ratio (FSR) Map – **Sheet FSR_012** to apply an FSR of 0.45:1 to the rezoned land on Lot 2 in DP 805299 Dido Street, Spring Creek, consistent with development standards for R2 zoned land in Kiama LEP 2011.



4. Amend the Kiama LEP 2011 Lot Size Map (LSZ) Map – **Sheet LSZ_012** to apply a minimum lot size of 450sqm to the rezoned land on Lot 2 DP 805299 Dido Street, Spring Creek, consistent with development standards for R2 zoned land in Kiama LEP 2011.
5. Amend the Kiama LEP 2011 Additional Permitted Uses (APU) Map – **Sheet APU_012** to permit an additional permissible use of ‘attached dwellings’ and ‘multi-unit dwellings’ with a minimum lot size of 900m² on, or part thereof Lot 2 in DP 805299 Dido Street, Spring Creek.

8.3 Part 3 –Justification

This part of the Planning Proposal describes the reasons for the proposed outcomes and development standards of the Planning Proposal.

Section A – The need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

This planning proposal is not the direct result of any strategic study or report. The majority of the site is zoned for residential purposes, with two small areas that are currently zoned RU1 Primary Production (0.27 ha) and E2 Environmental Conservation (0.42 ha) proposed to be rezoned to R2 Low Density. This is so the site, being a single parcel of land, has one zoning that aligns with its cadastre boundary and facilitates rational building and development boundaries for future development.

The site is already identified within the Kiama Urban Strategy for the delivery of housing. A single zoning will facilitate practical development on the land consistent with this strategy and contribute to housing targets within the Kiama LGA. The outcome of this proposal would also consistent with the broader Illawarra-Shoalhaven Regional Plan (2015).

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

A planning proposal seeking to amend Kiama LEP 2011 is the most effective way of achieving the objective and intended outcomes. An amendment to the zoning and development standard controls and additional permitted uses will help to facilitate efficient use of and building outcome on the land, and contribute to the NSW Government’s strategic directives on housing supply, diversity and affordability that is being sought in the Kiama LGA.

Section B – Relationship to strategic planning framework

Is the Planning Proposal consistent with the objective and actions of the applicable regional, sub-regional or district plan or strategy?

This planning proposal is consistent with the objectives and actions of the applicable Illawarra-Shoalhaven Regional Plan (2015). A detailed discussion of the planning proposal in relation to the Regional Strategy is provided in section 6.

Is the Planning Proposal consistent with Council’s local strategy or other local strategic plan?

This planning proposal is consistent with the Kiama Urban Strategy 2011. A detailed discussion of the proposal in relation to this strategy is provided in section 6.

Is the Planning Proposal consistent with applicable State Environmental Planning Policies?



State Environmental Planning Policies (SEPP) relevant to this planning proposal include:

- SEPP No.55 – Remediation of land
- SEPP (Rural Lands) 2008
- SEPP (Coastal Management) 2018

A detailed discussion of the planning proposal in relation to its consistency with the relevant SEPPs is provided in section 6.3 of this report.

Is the Planning Proposal consistent with applicable Ministerial Directions (s.9.1 Directions)?

A detailed discussion of the planning proposals consistency with the relevant s.9.1 Ministerial Directions is included in **Appendix D**. In summary, this planning proposal is not inconsistent with any relevant s.9.1 Ministerial Directions.

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?

An ecological constraints analysis of the site was undertaken by WSP. Due to historic and ongoing agricultural use and surrounding residential dwellings, the biodiversity values of the area in general and site have been heavily impacted and degraded. The majority of remnant native vegetation in and around the site is in a disturbed condition due to historical clearing, cattle grazing, fragmentation, small patch size and the absence of protective buffers due to adjacent land managed for residential subdivisions and agricultural tenures.

The site contains a small isolated patch of Whalebone Tree – Native Quince dry sub-tropical rainforest (0.42 ha) (PCT 1300) which is consistent with the Illawarra Subtropical Rainforest in the Sydney Basin threatened ecological community, and is listed as an endangered ecological community under the NSW *Biodiversity Conservation Act 2017*. None of the native vegetation of the site has been mapped as having a high ecological value. This patch of native vegetation is not large, is irregular in shape and is surrounded by heavily cleared and modified farmland. This creates both long and short term challenges for conservation. Left 'in situ' these patches are likely to become increasingly isolated and for edge effects including encroachment of weeds and disturbance by humans and animals, to become more significant.

In terms of fauna habitats, most vegetation communities do not occur as old-growth forms and important fauna habitat attributes, such as hollows, plentiful fallen timber, connectivity and large patch size are lacking. The general lack of these important habitat attributes reduces the site's capacity for supporting a wide diversity of local native species, including threatened species, in isolation from other higher quality habitats in the locality.

Further detail is provided in section 6 of this report and **Appendix B**.

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

An environmental assessment of the planning proposal in relation to European Heritage and Aboriginal Heritage was also undertaken. No land proposed to be rezoned is of European or Aboriginal heritage significance. The proposal is unlikely to result in any appreciable change in the traffic generation potential of the site and that any projected change to traffic activity as a consequence of the development will not have unacceptable traffic implications.



Has the planning proposal adequately addressed any social and economic effects?

This planning proposal seeks to provide greater housing choice through the permissibility of attached dwellings. By 2036, the population of the Illawarra-Shoalhaven is predicted to grow by just over 60,000 people and the make-up of the population is to include a greater proportion of people ages 65 years+ and one-two person households. The proposal delivers more diverse housing to meet the needs of singles, families and the aged and increasing the supply of affordable housing within Kiama

The planning proposal will also provide opportunities for a mix of low and medium density housing close to existing services. Housing will be provided in an area that has good access to Kiama Town Centre and Bombo Train Station, services and facilities, recreation areas and jobs.

Is there adequate public infrastructure for the project?

The proposal involves rezoning two small areas within the north-eastern portion of the site that are currently zoned RU1 Primary Production (0.27 ha) and E2 Environmental Conservation (0.42 ha) to R2 Low Density, so that the site, being a single parcel of land, has one zoning that aligns with its cadastre boundary. Given the nature of this change, it is unlikely to result in any appreciable demand on public infrastructure. Future DAs for housing will need to demonstrate that the proposal can be adequately serviced.

What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway Determination?

No State or Commonwealth authorities have been notified throughout the preparation of this Planning Proposal.

Consultation with State and Commonwealth agencies will be undertaken in accordance with Section 3.34 of the *Environmental Planning & Assessment Act 1979*.



9. Conclusion

This planning proposal is submitted to Council in support of an amendment to Kiama LEP 2011. The site is currently zoned part R2 Low Density Residential, part RU1 Primary Production and part E2 Environmental Conservation under Kiama LEP 2011. The proposal involves correcting a zoning anomaly as well as making 'attached dwellings' and 'multi-unit housing' additional permitted uses on the site.

The two areas proposed to be rezoned are within the north-eastern portion of the site and are currently zoned RU1 Primary Production and E2 Environmental Conservation. It is proposed to rezone these parts of the site to R2 Low Density, so that the site, being a single parcel of land, has one zoning that aligns with its cadastre boundary and facilitates rational building and development boundaries for future development.

The site forms part of the 'Spring Creek Urban Release Area' in the Kiama Urban Strategy 2011 which was adopted by Council on 20 September 2011. The release area includes land owned by Boral Rand Council. The release area is earmarked to deliver some 160 dwellings of which approximately 50 dwellings are shown on Boral land. The site is also identified as 'urban land' under the Illawarra-Shoalhaven Regional Plan 2015.

The proposed amendment will provide for more efficient development on the site, contributing to additional homes and greater housing choice close to Kiama Town Centre and beach, outcomes that are consistent with both the Kiama Urban Strategy and Illawarra-Shoalhaven Regional Plan.

The proposal does not result in any unacceptable environmental impacts.



Appendices

Appendices

Appendix A. Council Minutes

Appendices

Appendix B. Ecological Assessment

Appendices

Appendix C. Aboriginal Heritage

Appendices

Appendix D. Section 9.1 Ministerial Directions



Property and Infrastructure Specialists

Adelaide

61 8 8409 4280

Level 1
151 South Terrace
Adelaide SA 5000

Brisbane

61 7 3238 0400

Ground Floor
143 Coronation Drive
Milton QLD 4064

Canberra

61 2 6268 0600

Unit 8, Level 1
32 Lonsdale Street
Braddon ACT 2612

Melbourne

61 3 8866 0200

Level 7
420 St Kilda Road
Melbourne VIC 3004

Newcastle

61 2 4928 7600

Level 2
426 King Street
Newcastle NSW 2300

Perth

61 8 9224 6300

Level 4
181 Adelaide Terrace
Perth WA 6004

Sydney

61 2 9957 6211

Level 7
116 Miller Street
North Sydney NSW 2060

Tamworth

61 421 959 484

Suite 6
493 Peel Street
Tamworth NSW 2340

Wollongong

61 2 4220 6300

Level 1
94 Market Street
Wollongong NSW 2500

APP Corporation Pty Limited ABN 29 003 764 770

app.com.au



MINUTES OF THE ORDINARY MEETING OF COUNCIL

commencing at 5.03pm on

TUESDAY 18 DECEMBER 2018

Council Chambers
11 Manning Street, KIAMA NSW 2533

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE
MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS,
KIAMA, ON TUESDAY 18 DECEMBER 2018 AT 5.03PM**

PRESENT: Mayor – Councillor M Honey,
Deputy Mayor – Councillor A Sloan,
Councillors N Reilly, K Rice, W Steel, D Watson, M Way and M Westhoff

IN ATTENDANCE: General Manager, Director Environmental Services,
Director Corporate and Commercial Services, Director
Engineering and Works and Director Blue Haven

1 APOLOGIES

18/315OC

Resolved that the apology tendered from Councillor Brown be received and noted and leave of absence granted.

(Councillors Sloan and Reilly)

2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

The Mayor declared the meeting open and acknowledged the traditional owners:

“On behalf of those present, I would like to show my respect and acknowledge the traditional owners of the Land, of Elders past and present, on which this meeting takes place, and extend that respect to other Aboriginal and Torres Strait Islander people present.”

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

3.1 Ordinary Council meeting held on 20 November 2018

18/316OC

Resolved that the Minutes of the Ordinary Council Meeting held on 20 November 2018 be received and accepted.

(Councillors Westhoff and Way)

3.2 Extraordinary Council meeting held on 7 November 2018**18/317OC**

Resolved that the Minutes of the Extraordinary Council Meeting held on 7 November 2018 be received and accepted.

(Councillors Way and Westhoff)

3.3 Extraordinary Council meeting held on 3 December 2018**18/318OC**

Resolved that the Minutes of the Extraordinary Council Meeting held on 3 December 2018 be received and accepted.

(Councillors Sloan and Reilly)

4 BUSINESS ARISING FROM THE MINUTES

Nil

5 PUBLIC ACCESS

Name	Item No.	Subject
Warrick Davidson	16.1	Tingira Reserve – Reposition waste bin to street verge
Warren Simpson	16.1	Tingira Reserve – Reposition waste bin to street verge

6 MAYORAL MINUTE**6.1 Seasons Greetings****18/319OC**

Resolved that Council extends to all, the wish for a happy and peaceful Christmas and for a safe and prosperous New Year.

(Councillors Honey and Sloan)

6.2 Resignation of Senior Youth Worker Andrew Chatfield**18/320OC**

Resolved that Council formally thank Andrew Chatfield for his contribution to youth services in the Kiama Municipality and for his years of service to Council.

(Councillors Honey and Sloan)

6.3 Megan Dalley Memorial, Trainee of the Year Award 2018**18/321OC**

Resolved that Council congratulates Lee Warren on the receipt of the 'Megan Dalley Trainee of the Year Award' for 2018.

(Councillors Honey and Sloan)

6.4 Robert East Community Service Award - 2018**18/322OC**

Resolved that Council congratulate Ian Vickery on receiving the 'Robert East Community Service Award' for 2018.

(Councillors Honey and Sloan)

7 MINUTES OF COMMITTEES**7.1 Minutes: Catchment and Flood Risk Management Committee - 20 November 2018****18/323OC**

Resolved that the Minutes of the Catchment and Flood Risk Management Committee Meeting held on 20 November 2018 be received and accepted.

(Councillors Sloan and Westhoff)

7.2 Minutes: Destination Kiama Tourism Advisory Committee - 4 December 2018**18/324OC**

Resolved that the Minutes of the Destination Kiama Tourism Advisory Committee Meeting held on 4 December 2018 be received and the recommendations therein accepted. Further that Council's congratulations are extended to all staff involved in the development of the Kiama Visitors Guide for 2019.

(Councillors Reilly and Way)

7.3 Minutes: Planning Committee - 16 November 2018**18/325OC**

Resolved that the Minutes of the Planning Committee Meeting held on 16 November 2018 be received and accepted.

(Councillors Sloan and Way)

7.4 Minutes: Walking Tracks and Cycleways Committee - 14 November 2018**18/326OC**

Resolved that the Minutes of the Walking Tracks and Cycleways Committee Meeting held on 14 November 2018 be received and recommendations therein accepted.

(Councillors Way and Rice)

7.5 Minutes: Kiama Local Traffic Committee - 4 December 2018**18/327OC**

Resolved that the Minutes of the Kiama Local Traffic Committee Meeting held on 4 December 2018 be received and the recommendations therein accepted.

(Councillors Way and Steel)

7.6 Minutes: Audit Risk and Improvement Committee - 27 November 2018**18/328OC**

Resolved that the Minutes of the Audit Risk and Improvement Committee Meeting held on 27 November 2018 be received and accepted.

(Councillors Sloan and Westhoff)

COMMITTEE OF THE WHOLE**18/329OC**

Resolved that at this time, 05.14pm, Council form itself into a Committee of the Whole to deal with matters listed in the reports as set out below:

- Report of the General Manager
- Report of the Director Environmental Services
- Report of the Director Corporate & Commercial Services
- Report of the Director Engineering and Works
- Report of the Director Blue Haven
- Addendum to Reports

(Councillors Reilly and Rice)

8 PUBLIC ACCESS REPORTS**18/330OC**

Committee's recommendation that at this time, 05.14pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Way and Reilly)

16.1 Tingira Reserve - Reposition waste bin to street verge**Motion**

It was moved by Councillor Honey and seconded by Councillor Westhoff that Council relocate the dog waste bin from its current location in the dog-off leash area on Marsden Headland to the street access point between 41 and 43 Tingira Crescent, Kiama where it was previously located.

The **Motion** on being Put was **Lost**

Amended motion**18/331OC**

Committee's recommendation that Council leave the bin in its current location however the bin be replaced with a smaller one and that a form of concealment be chosen by the Director of Engineering and Works to hide the bin from view.

(Councillors Steel and Reilly)

The **Amendment** became the **Motion** and was Put and **Carried**

9 REPORT OF THE GENERAL MANAGER**9.1 2019 Australian Coastal Councils Conference - Councillor attendance****18/332OC**

Committee's recommendation that Council endorse the attendance of Councillors Honey, Way and Reilly at the 2019 Australian Coastal Councils Conference in Kiama on 6-8 March 2019. Further, that other interested councillors be endorsed to attend on an ad hoc basis.

(Councillors Sloan and Rice)

9.2 North Kiama Community Forum: Request to form a Precinct Committee and Minutes of AGM and Open Meetings 14/11/18**18/333OC**

Committee recommendation that Council endorse the reformation of the North Precinct and provide:

- \$500 per annum to assist with administration and publicity
- A second hand notebook computer for minute taking and correspondence, and
- A meeting venue free of charge, if necessary.

(Councillors Way and Westhoff)

10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES**10.1 Post Exhibition Report - Chapter 3 Preservation of Trees and Vegetation & Chapter 8 Landscaping - Kiama DCP****18/334OC**

Committee recommendation that Council adopt the final draft of the Kiama DCP Chapter 3 Preservation and Management of Trees and Chapter 8 Landscaping as outlined in this report and attachments with the exception of the minor change to the wording as per the Council resolution from the September 2018 meeting.

(Councillors Watson and Rice)

10.2 NAIDOC Schools Initiative

18/335OC

Committee recommendation that Council agree to participate in the 2019 NAIDOC Week School Initiatives.

(Councillors Westhoff and Reilly)

10.3 Supporting Initial Gateway - Lot 2 DP 805229 Dido Street, Kiama

18/336OC

Committee recommendation that Council:

1. Endorse this Planning Proposal, without the inclusion of the E2 rezoning, to proceed to the Department of Planning and Environment for a Gateway determination.
2. Request plan making delegations for this proposal as a part of the Gateway determination.
3. On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.

(Councillors Rice and Reilly)

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

Against: Nil

10.4 Proposed amendments to Road Transport (General) Regulation 2013 - Reduction in parking Fines

18/337OC

Committee recommendation that Council:

1. Resolve not to be included in the proposed amendment to the Road Transport (General) Regulation 2013 where reduced parking fines are applicable to

specific local government areas.

2. The NSW Treasurer and Minister for Industrial Relations the Honorable Dominic Perrottet MP be notified that Council resolved not to be included in any proposed amendments made under the Road Transport (General) Regulation 2013 reducing parking fines issued in the Kiama Local Government area.

(Councillors Way and Steel)

11 REPORT OF THE DIRECTOR CORPORATE & COMMERCIAL SERVICES

11.1 Community Engagement and feedback on the proposed Special Rate Variation and draft Operational Plan 2018-19 and Delivery Program 2017-21 (incorporating the Long Term Financial Plan 2018-19 to 2027-28)

18/338OC

Committee recommendation that Council

1. acknowledge the submissions received in relation to the proposed special rate variation and that all submissions be included in Council's application to IPART.
2. adopt the amended Operational Plan 2018-19 and Delivery Program 2017-21.

(Councillors Reilly and Rice)

11.2 Statement of Investments - November 2018

18/339OC

Committee recommendation that Council receive and adopt the information relating to the Statement of Investments for November 2018.

(Councillors Watson and Reilly)

11.3 Footpath Dining Policy amendment

18/340OC

Committee recommendation that Council endorse the amendment to the Footpath Dining Policy.

(Councillors Sloan and Westhoff)

12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS

12.1 Tree Vandalism Policy - adoption

RECOMMENDATION

That Council adopt the amended Tree Vandalism Policy 2018 with a review date of 2 years. Also that the policy be further amended to contain the opening statement "Council is resolutely opposed to tree and vegetation vandalism on Council owned or managed lands".

Further, the Council staff add a reader's note to both the Tree Vandalism Policy and Chapter 3 of the DCP "Preservation of Trees & Vegetation, to advise that cross-referencing is required when reading either policy or DCP or words to that effect.

18/341OC

Committee's recommendation that the Tree/Vegetation Vandalism Assessment Form be reviewed.

(Councillors Rice and Sloan)

13 REPORT OF THE DIRECTOR BLUE HAVEN

Nil

14 REPORTS FOR INFORMATION

RECOMMENDATION

That the following Reports for Information listed for the Council's consideration be received and noted

- 14.1 Annual General Meeting of the South Coast Cooperative Libraries - 29 October 2018
- 14.2 Conference Report: Councillors Sloan and Watson attendance - NSW Coastal Conference 2018
- 14.3 Southern Phone Annual General Meeting
- 14.5 Parking Statistics - November 2018
- 14.6 Question for Future Meeting: Table Tennis Equipment Use
- 14.7 Question for Future Meeting: Regulation of Holiday Rental Properties
- 14.8 Conference Report: Eco Tourism Conference 2018 - Townsville
- 14.9 Question for Future Meeting: Costings, budget and projections – Minnamurra Boardwalk
- 14.10 Question for Future Meeting: Minnamurra Boardwalk: economic, social, technological, legal and environmental impacts

- 14.11 Question for Future Meeting: resurfacing of the informal section of Bland Street
- 14.12 Minutes: Minnamurra Progress Association - 4 December 2018
- 14.13 Minutes: South Precinct Committee - 22 November 2018
- 14.14 Minutes: Kiama Central Precinct - 23 October 2018
- 14.15 Questions for future meetings register as at 11 December 2018
- 14.18 Minutes: Central Precinct Meeting 27 November 2018
- 14.19 Christmas Wishes.

14.4 Conference Report: Councillors Reilly and Nick Guggisberg attendance – Age Friendly Cities Conference -

18/342OC

Committee recommendation that opinion is sought from the Blue Haven Advisory Committee as to any role they might like to play with regard to Aged Friendly Cities Australia.

(Councillors Reilly and Rice)

14.16 Conference Report: Councillor Rice attendance – SWITCH 2018 Conference -

18/343OC

Resolved that Council continue to support the Renew Our Libraries campaign and promote the multiple activities and collections of the library to our community.

(Councillors Rice and Westhoff)

14.17 Conference Report: Council Rice attendance - Alliance for Healthy Cities Conference -

18/344OC

Resolved

1. That the idea of a Mayor's Walk is investigated for the Kiama Municipality.
2. That Kiama submits an annual achievement to the Network of Aged Friendly Cities and also submits a report on Health Plan achievements to the Alliance for Healthy Cities.

(Councillors Rice and Honey)

15 ADDENDUM TO REPORTS**18/345OC**

Committee's recommendation that at this time, 6.33pm, Council bring forward and deal with matters pertaining to the Addendum to Reports.

(Councillors Steel and Westhoff)

15.1 Minutes: Jamberoo Valley Ratepayers and Residents Association - 6 November 2018**18/346OC**

Committee's recommendation that the Minutes of the Jamberoo Valley Ratepayers & Residents Association be received and noted.

(Councillors Steel and Westhoff)

15.2 Community engagement and feedback on the proposed Special Rate Variation**18/347OC**

Committee recommendation that Council acknowledge the further submission received in relation to the proposed special rate variation and that all submissions be included in Council's application to IPART.

(Councillors Rice and Reilly)

RESUMPTION OF ORDINARY BUSINESS**18/348OC**

Committee's recommendation that at this time, 6.34pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Watson and Way)

ADOPTION OF COMMITTEE OF THE WHOLE REPORT**18/349OC**

Committee's recommendation that Council formally confirm, adopt and endorse the Committee recommendations made by Council sitting as a Committee of the

Whole as detailed in the Committee recommendations 18/330OC to 18/349OC above.

(Councillors Reilly and Way)

16 NOTICE OF MOTION

Item 16.1 was previously dealt with at Item 8 Public Access

17 QUESTIONS FOR FUTURE MEETINGS

17.1 Parking Stickers

Councillor Steel requested a review of the use of a sticker system for local resident parking in the Kiama CBD.

The Mayor referred the matter to the Director Environmental Services for investigation and report.

17.2 Drug & Alcohol screening program

Councillor Way requested a report outlining how Council currently applies drug and alcohol policies and the feasibility of extending testing to Councillors on a more regular basis.

The Mayor referred the matter to the Director Corporate & Commercial Services for investigation and report.

18 CONFIDENTIAL SUMMARY

18/350OC

Resolved that at this time, 6.36pm, Council form itself into a Confidential Committee of the Whole to deal with matters listed in the recommendations as set out below subject to the consideration of any representations relating to such action.

(Councillors Steel and Way)

Public Representations:

The Mayor called for representations regarding issues which had been proposed to be disclosed in Confidential Committee of the Whole. No such representations were received.

18.1 Exclusion Of Press And Public:**18/351OC**

Resolved that in accordance with Sections 10 and 10A of the Local Government Act, 1993 as amended, Council close the meeting of the Confidential Committee of the Whole to the Press and Public to deal with the following matters on the grounds as detailed below.

19.1 AWARDING OF THE TENDER TO DEVELOP THE KIAMA COASTAL MANAGEMENT PROGRAM

Reason for Confidentiality: This matter deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business as per Section 10A(2)(c) of the Local Government Act. .

19.2 NEW LICENCE 100 TERRALONG STREET KIAMA - THE COLLECTIVE

Reason for Confidentiality: This matter deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it as per Section 10A(2)(di) of the Local Government Act. .

(Councillors Way and Steel)

19 CONFIDENTIAL REPORTS**Disclosure of Interest - Councillor Sloan**

Councillor Sloan declared a non- significant non-pecuniary interest in this matter as he has undertaken work for one of the tenderers .Councillor Sloan took no part in discussion or voting on this matter.

Councillor Sloan here left the Chamber 6.38pm

19.1 Awarding of the tender to develop the Kiama Coastal Management Program**18/352OC**

Committee recommendation that Council endorse the recommendation of the tender assessment panel and appoint BMT as the successful tenderer, to undertake the development of the Kiama Municipal Council Coastal Management Program

(Councillors Steel and Reilly)

Councillor Sloan here returned to the Chamber 6.39pm

19.2 New licence 100 Terralong Street Kiama - The Collective**18/353OC****Committee recommendation** that Council:

1. Enter into a short-term licence with “The Collective Kiama” for use of 100 Terralong Street, Kiama for a term of six (6) months with a six (6) month option to renew.
2. Give the Mayor and/or General Manager delegated authority to sign the licence on behalf of Council.

(Councillors Way and Rice)

Close of Confidential Committee of the Whole:**18/354OC****Committee recommendation** that at this time, 6.39pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Westhoff and Way)

Adoption of Report

The General Manager formally reported the recommendations of the Confidential Committee of the Whole more particularly set out above.

18/355OC**Resolved** that that the Confidential Committee of the Whole recommendations numbered 18/351OC to 18/354OC be confirmed and adopted.

(Councillors Westhoff and Way)

20 CLOSURE

There being no further business the meeting closed at 6.40pm

These Minutes were confirmed at the Ordinary Meeting of Council held on
22 January 2019

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Mayor