



KIAMA MUNICIPAL COUNCIL
your council, your community

July 2015

Planning Proposal to Amend LEP 2011



With respect to:
Land zoned B7
Business Park in
Kiama Local
Environmental Plan
2011

Contents

Part 1 – Statement of objectives or intended outcomes.....	3
Part 2 – Explanation of provisions	3
Part 3 – Justification	3
Q1: Is the planning proposal a result of strategic study or report?.....	3
Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?.....	7
Q3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?	7
Q4: Is the Planning Proposal consistent with a council's local strategy or other local strategic document?.....	7
Q5: Is the planning proposal consistent with applicable State Environmental Planning Policies?	7
Q5a: Is the planning proposal consistent with applicable deemed State Environmental Planning Policies?	7
Q6: Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?	7
Q7: 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?	7
Q8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	8
Q9: Has the planning proposal adequately addressed any social and economic effects?	8
Q10: Is there adequate public infrastructure for the planning proposal?	8
Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?.....	8
Part 4 – Mapping	8
Part 5 – Community Consultation	8
Part 6 – Timeframe	9
Appendix 1- Section 117 Ministerial Directions – Compliance Checklist prepared by Kiama Municipal Council.....	10

Name of Planning Proposal: Land zoned B7 Business Park in Kiama Local Environmental Plan 2011

Part 1 – Statement of objectives or intended outcomes

The intended outcome of this Planning Proposal is to allow **recreation facility (indoor)**, **building identification signs** and **business identification signs** as permitted land uses in the B7 Business Park zone in Kiama Local Environmental Plan (KLEP) 2011.

Part 2 – Explanation of provisions

To achieve the intended outcome, this Planning Proposal seeks to amend planning controls in KLEP 2011 as follows:

- Include **recreational facility (indoor)** as being permissible with consent in the Land Use Table of the B7 Business Park zone; and
- Remove **recreational facility (indoor)** from being prohibited within the Land Use Table of the B7 Business Park zone; and
- Include **building identification signs** and **business identification signs** as being permissible with consent in the Land Use Table of the B7 Business Park zone.

Part 3 – Justification

Q1: Is the planning proposal a result of strategic study or report?

The Planning Proposal is not the result of any strategic study or report, but was as a result of the following matters:

- Council at its meeting 10 February 2015 resolved that an administrative planning proposal to include gymnasiums and fitness centres in the B7 Business Park zone be undertaken. Including **recreational facility (indoor)** as being permissible with consent in the Land Use Table of the B7 Business Park zone is the best means of achieving this.

The land use in KLEP 2011 that includes gymnasiums and fitness centres is **recreation facility (indoor)** and is defined in the KLEP 2011 dictionary to mean:

“ A building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club”

- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP)* permits that some type of advertising and signage structures be exempt from any formal approvals. Business parks tenants generally require the

erection of a Multiple Identification Signage Board (MISB) structure at the front property boundary; however, this does not fit under the exemptions within the SEPP. The B7 Business Park zone prohibits **signage**. To allow for an MISB structure, it is proposed that **building identification signs** and **business identification signs** be included as a permissible land uses, with consent, in the B7 Business Park zone.

Signage is defined in the KLEP 2011 dictionary to mean:

“any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes any of the following:

- (a) an advertising structure,*
- (b) a building identification sign,*
- (c) a business identification sign,*

but does not include a traffic sign or traffic control facilities.”

Building identification sign is defined in the KLEP 2011 dictionary to mean:

“a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol but does not include general advertising of products, goods or services.”

Business identification sign is defined in the KLEP 2011 dictionary to mean:

“a sign

(a) that indicates:

- (i) the name of the person or business, and*
- (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and*

(b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not contain any advertising relating to a person who does not carry on business at the premises or place.”

The B7 Business Park zone objectives and permissible and prohibited land uses in KLEP 2011 are shown below:

Zone B7 Business Park

1 Objectives of zone

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

2 Permitted without consent

Home occupations

3 Permitted with consent

Agricultural produce industries; Child care centres; Hardware and building supplies; Landscaping material supplies; Light industries; Neighbourhood shops; Office premises; Passenger transport facilities; Plant nurseries; Respite day care centres; Restaurants or cafes; Roads; Rural supplies; Self-storage units; Vehicle sales or hire premises; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Boat launching ramps; Boat sheds; Business premises; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Community facilities; Correctional centres; Crematoria; Eco-tourist facilities; Educational establishments; Environmental facilities; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Forestry; Function centres; Heavy industrial storage establishments; Highway service centres; Industrial training facilities; Industries; Information and education facilities; Marinas; Medical centres; Mooring pens; Moorings; Open cut mining; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Retail premises; Rural industries; Sewerage systems; Signage; Storage premises; Tourist and visitor accommodation; Waste or resource management facilities; Water recreation structures; Wharf or boating facilities

** Relevant land uses are underlined for emphasis*

Prior to KLEP 2011 coming into force, Kiama Local Environmental Plan 1996 (KLEP 1996) was the local environmental planning instrument. KLEP 1996 indicates that the current areas identified as B7 Business Park zones were previously zoned 4(c) Light industrial, and ***recreation facility (indoor)*** and ***signage*** were both permissible land uses.

The 4(c) Light Industrial zone objectives and permissible and prohibited land uses are shown below:

Zone No 4 (c) Light Industrial

1 Objectives of Zone

The objectives are:

- (a) to provide for a range of light industrial uses which will not have a detrimental effect on the amenity of nearby residential neighbourhoods,
- (b) to provide for the orderly and economic development of land for industrial purposes,
- (c) to provide for the retailing of bulky goods within industrial areas,
- (d) to provide local employment opportunities,
- (e) to provide guidelines for the development of industrial land, and
- (f) to ensure that development and land management practices do not have an adverse effect on water catchments, water quality and land surface conditions and important ecosystems such as streams, estuaries and wetlands.

2 Without Development Consent

Bush fire hazard reduction.

3 Only With Development Consent

Any purpose other than those included in item 2 or 4.

4 Prohibited

Boarding-houses; caravan parks; commercial premises and dwellings (other than those used in conjunction with industry and situated on the land on which the industry is conducted); dual occupancy development; educational establishments; extractive industries; hospitals; hotels; institutions; mines; motels; industries (other than cottage industries or light industries); places of assembly; places of public worship; public buildings; residential flat buildings; roadside stalls; shops (other than industrial outlets used for the retail sale of bulky goods); stock and saleyards; villa homes and courtyard houses

The Shoalhaven local government area borders the Kiama local government area to the south. The recently adopted Shoalhaven Local Environmental Plan 2014 (SLEP 2014) permits **recreation facility (indoor)**, **building identification signs** and **business identification signs** in the B7 Business Park zone. Below is the relevant extract from SLEP 2014.

Zone B7 Business Park

1 Objectives of zone

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

2 Permitted without consent

Nil

3 Permitted with consent

Building identification signs; Bulky goods premises; Business identification signs; Child care centres; Kiosks; Light industries; Markets; Neighbourhood shops; Office premises; Passenger transport facilities; Respite day care centres; Roads; Warehouse or distribution centres; Any other development not specified in item 2 or 4

4 Prohibited

Agriculture; Amusement centres; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Eco-tourist facilities; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Highway service centres; Home-based childcare; Home businesses; Home occupations; Home occupations (sex services); Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Places of public worship; Recreational facilities (major); Recreational facilities (outdoor); Registered clubs; Residential accommodation; Resource recovery facilities; Restricted premises; Retail

premises; Rural industries; Service stations; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Waste disposal facilities; Water recreation structures; Wharf or boating facilities

**Relevant land uses are underlined for emphasis*

Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal is the best means of achieving the desired outcomes in the B7 Business Park zone.

Q3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Planning Proposal is consistent with the objectives and actions of the Illawarra Regional Strategy.

Q4: Is the Planning Proposal consistent with a council's local strategy or other local strategic document?

The Planning Proposal is consistent with Kiama's Urban Strategy.

Q5: Is the planning proposal consistent with applicable State Environmental Planning Policies?

The Planning Proposal is consistent with all applicable State Environmental Planning Policies.

Q5a: Is the planning proposal consistent with applicable deemed State Environmental Planning Policies?

The Planning Proposal is consistent with the aims and objectives of Illawarra Regional Environmental Plan No 1.

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?

The Planning Proposal is consistent with all applicable Ministerial Directions (s 117 directions). A compliance checklist has been compiled and is included in Appendix 1.

Q7: 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?

Clause 6.4 of KLEP 2011 guides the protection critical habitat, threatened species, populations and ecological communities, or their habitats. The Planning Proposal, if implemented, is unlikely to contravene the requirements of Clause 6.4.

Q8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The Planning Proposal will allow additional land uses subject to a development application (DA) being made. It is considered that at the time of DA assessment any likely adverse environmental effects can be taken into account with the DA either refused or the likely adverse effects ameliorated through appropriate conditions included in the development consent.

Q9: Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal has considered social and economic effects associated with the proposed amendment, with there being no likely perceived adverse impacts. It is considered that including **recreational facility (indoor)** in the B7 Business Park Zone as a permissible land use, subject to consent, will allow recreationally aligned businesses to establish themselves and then contribute to the health and well being of the local community.

Q10: Is there adequate public infrastructure for the planning proposal?

The Planning Proposal does not generate any need to upgrade or improve public infrastructure.

Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Consultation with any State and Government public authorities has not yet been undertaken. Council will engage any such public authority in accordance with the Gateway Determination.

Part 4 – Mapping

The Planning Proposal only involves a minor text amendment and will not impact on any gazetted KLEP 2011 mapping.

Part 5 – Community Consultation

Notice of the public exhibition on the Planning Proposal will be prepared and will involve the following:

- Exhibited for a period of 28 days and include:
 - Advertisement in a Local Newspaper,
 - Hard copies made available at the Council Administration Building; and
 - An Electronic copy uploaded on Council's website, and

- Notification letters to relevant State agencies and other authorities/agencies where nominated by the Department of Planning and Environment.

Part 6 – Timeframe

The following project timeline will assist with tracking the progress of the planning proposal through the various stages of consultation and approval. It is estimated that the amendment to the KLEP 2011 will be completed by December 2015.

Stage	Timeframe
Submit a Planning Proposal to NSW Dept of Planning & Environment (DP&E) seeking a Gateway Determination	July 2015
Receive Gateway determination	July 2015
Public exhibition and public authority consultation of Planning Proposal	August 2015
Review of submissions and preparation of report to Council	September 2015
Report to Council following exhibition	October 2015
Council approval of Planning Proposal	October 2015
Drafting of instrument	November 2015
Amendment to Kiama Local Environmental Plan 2011 legally drafted and made	December 2015

Appendix 1
Section 117 Ministerial Directions – Compliance Checklist prepared by Kiama
Municipal Council

Ministerial Direction	Comment
1. Employment and Resources	
1.1 Business and Industrial Zones	Sub-clause (4) of Direction 1.1 of Section 117(2) of the Environmental Planning & Assessment Act 1979 requires the following matters to be addressed: (a) give effect to the objectives of this direction, i) The additional land uses proposed will provide additional opportunities to encourage employment growth. ii) The planning proposal will not adversely affect employment opportunities iii) The planning proposal supports the viability of B7 Business Park zones (b) retain the areas and locations of existing business and industrial zones, The planning proposal will not diminish the area and locations of B7 Business Park zones. (c) not reduce the total potential floor space area for employment uses and related public services in business zones, The planning proposal will not reduce the total potential floor space area for employment uses and related public services in business zones. (d) not reduce the total potential floor space area for industrial uses in industrial zones, and The planning proposal is not situated in an industrial zone. (e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning. The planning proposal is consistent with the Illawarra Regional Strategy 2006-31.

Ministerial Direction		Comment
1.2	Rural Zones	This direction is not relevant to the planning proposal
1.3	Mining, Petroleum Production and Extractive Industries	This direction is not relevant to the planning proposal
1.4	Oyster Aquaculture	This direction is not relevant to the planning proposal
1.5	Rural Lands	This direction is not relevant to the planning proposal
2. Environment and Heritage		
2.1	Environment Protection Zones	This direction is not relevant to the planning proposal
2.2	Coastal Protection	This direction is not relevant to the planning proposal
2.3	Heritage Conservation	This direction is not relevant to the planning proposal
2.4	Recreation Vehicle Areas	This direction is not relevant to the planning proposal
3. Housing, Infrastructure and Urban Development		
3.1	Residential Zones	This direction is not relevant to the planning proposal
3.2	Caravan Parks and Manufactured Home Estates	This direction is not relevant to the planning proposal
3.3	Home Occupations	This direction is not relevant to the planning proposal
3.4	Integrating Land Use and Transport	This direction is not relevant to the planning proposal
3.5	Development Near Licensed Aerodromes	This direction is not relevant to the planning proposal
3.6	Shooting Ranges	This direction is not relevant to the planning proposal
4. Hazard and Risk		
4.1	Acid Sulfate Soils	This direction is not relevant to the planning proposal
4.2	Mine Subsidence and Unstable Land	This direction is not relevant to the planning proposal
4.3	Flood Prone Land	This direction is not relevant to the planning proposal
4.4	Planning for Bushfire Protection	This direction is not relevant to the planning proposal

Ministerial Direction		Comment
5. Regional Planning		
5.1	Implementation of Regional Strategies	The planning proposal is consistent with Kiama's Urban Strategy.
5.2	Sydney Drinking Water Catchments	This direction is not relevant to the planning proposal
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	This direction is not relevant to the planning proposal
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	This direction is not relevant to the planning proposal
5.8	Second Sydney Airport: Badgerys Creek	This direction is not relevant to the planning proposal
5.9	North West Rail Link Corridor Strategy	This direction is not relevant to the planning proposal
6. Local Plan Making		
6.1	Approval and Referral Requirements	This direction is not relevant to the planning proposal
6.2	Reserving Land for Public Purposes	This direction is not relevant to the planning proposal
6.3	Site Specific Provisions	This direction is not relevant to the planning proposal
7. Metropolitan Planning		
7.1	Implementation of the Metropolitan Plan for Sydney 2036	This direction is not relevant to the planning proposal