



## **Planning Proposal**

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

Iluka Reserve, Kiama Downs  
Part of Lot 34 DP28122 and Part of Lot 243 DP30200

31 January 2017  
*Amended 2 May 2017 to address matters  
raised by Department of Planning &  
Environment after submitted for amended  
Determination*

Reference: L103162

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## **Planning Proposal**

### **AMENDMENT TO KIAMA LOCAL ENVIRONMENTAL PLAN 2011 TO RECLASSIFY AND REZONE PART OF LOT 34 DP28122 AND PART OF LOT 243 DP30200 - ILUKA RESERVE, KIAMA DOWNS**

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Date: 31 January 2017 (Amended 2 May 2017)

This report has been prepared for and in accordance with the scope of services provided by Kiama Municipality Council for the purpose of preparing a Planning Proposal in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. The Planning Proposal seeks to reclassify and rezone Part of Lot 34 DP28122 and Part of Lot 243 DP30200 located within Iluka Reserve, Kiama Downs.

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## 1 Statement of Objectives or intended outcomes

The objective of this planning proposal is to amend the Kiama Local Environmental Plan (LEP) 2011 to rezone and reclassify land currently owned by Council but deemed surplus to Council's needs while also rezoning an area of community land more frequently utilised by the community for recreational purposes from residential to recreational. The current zoning of the reserve occurred as part of the publication of the LEP 2011. It is acknowledged that under the provisions of the Kiama LEP 1996 the entire reserve was zoned 6a Existing Recreation. The current zoning of the reserve does not allow for efficient residential development as the land zoned residential does not front a public road.

This Planning Proposal would enable orderly development and/or sale of land for on the northern portion of the reserve for residential purposes in order to provide an income for Capital Works and/or assist in the long term financial sustainability of the Council. The Planning Proposal will also rezone an area of the reserve on the southern portion which is currently zoned residential to recreational. This Planning Proposal is consistent with a Master Plan which has been prepared by *Site Plus*<sup>1</sup> for the southern portion of Iluka Reserve. The Planning Proposal together with the Master Plan will result in overall improvements to the quality of public open space as identified in the Master Plan to be adopted by Council following further community consultation.

Note:-

The land to which this planning proposal applies is known as Part of Lot34 DP28122 and Part of Lot243 DP30200 and is located on the higher northern portion of Iluka Reserve and down along the eastern boundary. The portion of the reserve intended for future residential development will be referred to as the northern portion and the portion of the reserve to be rezoned to recreational will be referred to as the eastern portion. The eastern portion is combined with the portion of the reserve not part of this planning proposal to form the area referred to as the southern portion of land. The southern portion of land is the land to which the Master Plan applies.

## 2 Explanation of Provisions

The proposed outcome will be achieved by amending the Kiama LEP as detailed below.

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<sup>1</sup> Iluka Reserve Master Plan prepared by Site Plus Pty Ltd Project Number 15156 February 2016 Revision 2. (Extract of Landscape Master Plan provided in Appendix 8.3)

## 2.1 Reclassification

The proposal will amend the classification from ‘community’ to ‘operational land’ of the northern portion of the site by including the sites under Part 2 of Schedule 4 of the Kiama LEP 2011 as detailed in Table 1 below.

<b>Column 1 Locality</b>	<b>Column 2 Description</b>	<b>Column 3 Any trusts etc not discharged</b>
<i>Iluka Reserve, Kiama Downs</i>	<i>Part of Lot34 DP28122 and Part of Lot243 DP30200 as identified as operational land on the Land Reclassification (Part Lots) Map</i>	<i>Crown Grant(s) (DP28122 &amp; DP30200), easement for transmission line created by Transfer No. B910483 (DP28122).</i>

**Table 1: Reclassification**

## 2.2 Rezoning and Provision of Principal Development Standards

### Northern Portion

The proposal will amend the Kiama LEP 2011 by rezoning the portion of the northern portion of land which is currently zoned for recreational use to residential use and providing principal development standards to this portion of the land which is consistent with the remaining portion of the northern portion of land which is already zoned for residential development and has principal development standards consistent with adjoining residential land.

Specifically the Kiama LEP will be amended in the following manner:-

1. Amend the Land Zoning Map – Sheet LZN\_012 applying to Part of Lot 34 DP28122 and Part of Lot 243 DP30200 from zone RE1 to zone R2.
2. Amend the Lot Size Map – Sheet LSZ\_012 applying to Part of Lot 34 DP28122 and Part of Lot 243 DP30200 to apply a minimum lot size of G 450 sqm.
3. Amend the Floor Space Ratio Map – Sheet FSR\_012 applying to Part of Lot 34 DP28122 and Part of Lot 243 DP30200 to apply an FSR of C 0.45:1.
4. Amend the Height of Buildings Map – Sheet HOB\_012 applying to Part of Lot 34 DP28122 and Part of Lot 243 DP30200 to apply a maximum height of I 8.5m.

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Table 2 outlines the current and proposed land classification, zones and principal development standards.

	<b>Current</b>	<b>Proposed</b>
<b>Land Classification</b>	Community	Operational
<b>Zoning</b>	Part R2 (Low Density Residential) and Part RE1 (Public Recreation)	R2 (Low Density Residential)
<b>Floor Space Ratio</b>	Part 0.45:1 and Part unspecified	0.45:1
<b>Minimum Lot Size</b>	Part 450sqm and part unspecified	450sqm
<b>Height Restrictions</b>	Part 8.5m and part unspecified	8.5m

**Table 2: Proposed changes to land classification, zones and principal development standards for the northern portion of Iluka Reserve**

#### Eastern Portion

The proposal will amend the Kiama LEP 2011 by rezoning the eastern portion of land from residential to recreational and remove the principal development standards from this eastern portion of the land thereby making it consistent with the adjoining recreational land.

Specifically the Kiama LEP will be amended in the following manner:-

1. Amend the Land Zoning Map – Sheet LZN\_012 applying to Part of Lot 243 DP30200 from zone R2 to zone RE1.

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2. Amend the Lot Size Map – Sheet LSZ\_012 applying to Part of Lot 243 DP30200 to remove the minimum lot size of G 450 sqm.
3. Amend the Floor Space Ratio Map – Sheet FSR\_012 applying to Part of Lot 243 DP30200 to remove the FSR of C 0.45:1.
4. Amend the Height of Buildings Map – Sheet HOB\_012 applying to Part of Lot 243 DP30200 to remove the height of I 8.5m.

Table 2 outlines the current and proposed land classification, zones and principal development standards.

	<b>Current</b>	<b>Proposed</b>
<b>Land Classification</b>	Community	Community
<b>Zoning</b>	R2 (Low Density Residential)	RE1 (Public Recreation)
<b>Floor Space Ratio</b>	0.45:1 and	None
<b>Minimum Lot Size</b>	450sqm	None
<b>Height Restrictions</b>	8.5m	None

**Table 3: Proposed changes to land classification, zones and principal development standards for the eastern portion of Iluka Reserve**

Historically, Iluka Reserve was zoned 6(a) Public Open Space under the provisions of the *Kiama Local Environmental Plan 1996*. During the conversion of the environmental planning instrument into the Standard Instrument format, part of the Reserve was inadvertently rezoned to R2 Low Density Residential. This is a mapping anomaly which needs to be corrected.

### **3 Justification**

#### **3.1 Need for a Planning Proposal**

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

On 8 May 2014 Council’s Revenue Sub-committee considered whether part of Iluka Reserve should be included in the rezoning and reclassification processes which Council had resolved to undertake at Ordinary Meeting of 15 April 2014 for three (3) other sites within the LGA.

Following its meeting on 8 May 2014, Council’s Revenue Sub-committee reported to Council’s Ordinary meeting of 20 May 2014 that “Iluka Reserve is not heavily used and there are ongoing maintenance costs for the community” and that “future reclassification and subdivision of the land will retain large areas of public open space at this location.” The Revenue Sub-Committee recommended to Council that it “*commence the reclassification / rezoning process in relation to land surplus to Council’s needs and which if sold will provide income for Capital Works and / or assist in long term financial sustainability.*” This planning proposal is a result of Council adopting the recommendation to “*commence the re-classification/re-zoning process in relation to the subject lands*” and also of Council’s reaffirmation of this decision at Council’s Ordinary meeting of 15 September 2015 when the recommendation “*that Council formally proceeds with a planning proposal for part of the Iluka Reserve at Kiama Downs to create up to nine residential lots including open space embellishment over the remainder of the public reserve to meet community needs for future recreation activities in the area based on a master plan including community consultation*” was adopted.

Further to the above recommendation, the Kiama Urban Strategy (KUS) adopted by Council on 20 September 2011 aims to protect agricultural land from urban expansion through the provision of additional housing in suitable locations within existing townships of the Kiama Local Government Area (LGA). The planning proposal is consistent with the aims of the KUS.

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

The land is currently classified as Community Land. In accordance with the provisions of the NSW Local Government Act 1993 Council is therefore unable to sell the land. Amending the Kiama LEP to reclassify the northern portion of the land is the only avenue available to achieve the objective of the Planning Proposal.

The land is partly zoned for public recreation and partly zoned for residential. The recreational land is provided in two parts. Neither of these two parts have street

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frontage. One of these residential parts extends into the southern portion of Iluka Reserve which is intended for continued recreational use. The rezoning proposed is the best way to achieve the objective of residential land on the northern portion and recreational land on the southern portion such that orderly subdivision of the northern portion can occur while recreational improvements can be made to the southern portion.

Specifically, the northern portion of the land is partly zoned for public recreation and partly zoned for residential. The portion of the northern portion of land zoned for public recreation is without principal development standards which currently apply to the portion already zoned residential and other adjoining residential land. The best way to achieve the outcome of Council being able to develop or sell the sites for residential purposes is to amend the Kiama LEP such that the entire northern portion will be zoned to clearly reflect the intended land use and to have suitable development restrictions applied consistently across the site.

The eastern portion of the site is zoned residential and has development standards applying to the site which are consistent with this residential zoning. This land is located within the southern portion which Council seeks to embellish for public recreational use to better meet the community needs. Rezoning this land to Recreational will clearly reflect Council's intent that this land continue to be used for public recreation. The rezoning and removal of development standards will make the planning controls which apply to this eastern portion consistent with the remainder of the southern portion of Iluka Reserve which is zoned Recreational. This is the best way to ensure that continued and improved recreational use of this land can occur.

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

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

The land is located within the Kiama LGA. The Kiama LGA falls outside the scope of the Sydney Metropolitan Plan known as the 'A Plan For Growing Sydney' released in December 2014.

The applicable regional strategy for the area is the Illawarra-Shoalhaven Regional Plan (ISRP) published in November 2015. The Planning Proposal is consistent with the vision

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detailed in the ISRP. The ISRP projects that housing needed in the Kiama LGA over the next 20 years would be 2,850. The ISRP also found that “analysis indicates that there is not enough land or ‘market ready’ infill development in the planning pipeline to meet this demand.”<sup>2</sup>

This shortfall was previously noted in the 2014 Illawarra Urban Development Program Update prepared by the NSW Government. This update (and earlier updates) raised concern that the Kiama LGA does not meet any of the greenfield land supply benchmarks although “Kiama Council has identified a number of sites under its Urban Strategy that will be investigated for rezoning in the short term to address this shortfall.”<sup>3</sup> This update also states that Kiama is also relying on the up zoning of land with the Kiama and Gerringong town centres to further address this shortfall.

This Planning Proposal will assist Kiama Municipal Council meet housing demand identified in the ISRP. The Planning Proposal would provide an additional 9 (approximate) residential lots suitable for either detached dwellings or dual occupancies under the proposed zoning. These residential allotments would be located within an existing urban area and is consistent with Direction 2.2 of the ISRP. Furthermore this Planning Proposal will not adversely impact on the regions natural or cultural assets as identified in the ISRP.

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

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

The land affected by this Planning Proposal was not specifically identified or explored in the KUS. The Planning Proposal is consistent with the Community Panel’s recommendation stated in the KUS that “Council’s aim should be to accommodate growth as much as possible by infill development to increase the density of the existing built-up areas.”<sup>4</sup>

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<sup>2</sup> NSW Government Planning & Infrastructure *Illawarra Shoalhaven Regional Plan* Published November 2015, p34

<sup>3</sup> NSW Government Planning & Infrastructure *Illawarra Urban Development Program Update 2014* Published September 2014, p6

<sup>4</sup> Kiama Municipal Council *Kiama Urban Strategy* Adopted 20 September 2011, p5.

The core factors driving the KUS were the need to meet housing targets identified in the IRS and the desire to protect rural land in the Municipality and maintain separate towns and villages within the LGA. While the IRS has been superseded by the ISRP, the housing demand remains evident (see Section 3.2.1 above). This Planning Proposal provides additional residential lots within existing residential areas without impacting upon rural land or expanding townships closer to each other. The planning proposal is consistent with the KUS.

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

The Planning Proposal is consistent with applicable State Environmental Planning Policies (SEPPs) and deemed State Environmental Planning Policies (deemed SEPPs) as detailed below.

#### SEPP 55 – Remediation of Land

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

Iluka Reserve contains areas of fill. A natural gully containing a creek line and other low lying sections of the reserve were filled during the 1980's. Land to be rezoned to residential is located on the northern portion of the site only. To clarify the extent (if any) that the fill encroaches onto this northern portion, a Stage 1 Site Contamination Assessment was undertaken in accordance with the Contaminated Land Management Act. This report found it likely that the fill which had been placed on the southern portion of Iluka Reserve had encroached onto the northern portion of the Reserve. As a result, a more detailed Stage 2 Contamination Assessment was recommended and subsequently undertaken. This report was carried out in accordance with the Planning Guidelines SEPP 55 – Remediation of Land and Contamination Land Management Act 1997. This detailed assessment investigated whether fill on the northern portion of land was contaminated. The investigation found that from a land contamination perspective, the subject land was suitable for the proposed rezoning and residential subdivision.

The Stage 1 and Stage 2 Contamination Reports are provided in **Appendix 8.4 and 8.5** respectively.

#### SEPP 71 – Coastal Protection

SEPP 71 aims:-

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

All the sites are within the SEPP 71 Coastal Zone. None of the proposed sites are within a ‘sensitive coastal location’ as defined by SEPP 71. Matters to be considered when preparing a draft Local Environmental Plan are detailed under Clause 8. These are addressed in the table below.

Matters for consideration	Consistency with Planning Proposal
a) aims of the policy set out in clause 2,	The Planning Proposal is consistent with the aims set out in Clause 2 of the SEPP.
b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	The land is well setback from foreshore areas and does not provide any direct public access paths to or along the foreshore. Indicative subdivision layouts indicate that existing public access paths would be retained. Specifically a path from Iluka Reserve to Iluka Crescent is be retained.

<b>Matters for consideration</b>	<b>Consistency with Planning Proposal</b>
c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	No significant opportunities given the setback of the land from the coastal foreshore area.
d) the suitability of development given its type, location and design and its relationship with the surrounding area,	The planning proposal involves the reclassification and rezoning of land to a classification and zone consistent with the surrounding area.
e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	Given the setback of the land from the coastal foreshore and the topography of the land, there will be no overshadowing of the foreshore. Distant views of the ocean are gained from or across sections of the land. Some of these views will be impacted. These views are not of the coastal foreshore.
f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	Given the setback of the land from the coastal foreshore and the topography of the land, future residential development of the northern portion in a manner similar to the surrounding area will not affect the scenic qualities of the coast.
g) measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u> ) and plants (within the meaning of that Act), and their habitats,	The land is not mapped as Biodiversity land. It is dominated by open mowed grass land. A small number of trees in two clusters are located near the existing playground equipment. Potentially some trees along the eastern boundary are located on the northern portion of the site. A larger cluster of trees are located at the northern end of the eastern portion, however these trees are on land to be rezoned Recreational and could be retained if found to be significant. The Master Plan does not show these trees to be removed. An assessment of significance in accordance with Section 5A of the Environmental Planning and Assessment Act 1979 will be prepared if

<b>Matters for consideration</b>	<b>Consistency with Planning Proposal</b>
	required by the Gateway determination.
h) measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u> ) and marine vegetation (within the meaning of that Part), and their habitats	<p>The Planning Proposal is unlikely to impact on fish, marine vegetation or their habitats.</p> <p>The land is significantly setback from areas of marine life. A Category 2 watercourse is mapped under the Kiama LEP as flowing through the Iluka Reserve and part of the eastern portion. This is a piped watercourse.</p>
i) existing wildlife corridors and the impact of development on these corridors,	<p>The land is not mapped as Biodiversity land. It is dominated by open mowed grass land. A small number of trees in two clusters are located near the existing playground equipment. Potentially some trees along the eastern boundary are located on the northern portion of the site. A larger cluster of trees are located at the northern end of the eastern portion, however these trees are on land to be rezoned Recreational and could be retained if found to be significant. The Master Plan does not show these trees to be removed. An assessment of significance in accordance with Section 5A of the Environmental Planning and Assessment Act 1979 will be prepared if required by the Gateway determination.</p>
j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	<p>Given the setback of the land from the coastal foreshore, development of the northern portion of land for a residential uses will not adversely impact on coastal processes and coastal hazards.</p>
k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	<p>The Planning Proposal will not result in any conflicts between land and water based coastal activities.</p>
l) measures to protect the cultural places, values, customs, beliefs and traditional	<p>The proposal will not impact on any items of known cultural importance of</p>

<b>Matters for consideration</b>	<b>Consistency with Planning Proposal</b>
knowledge of Aboriginals,	Aboriginals.
m) likely impacts of development on the water quality of coastal waterbodies,	Future residential development would be subject to development assessment with sediment control and waste management measures required where necessary.
n) the conservation and preservation of items of heritage, archaeological or historic significance,	The land contains no items of known heritage, archaeological or historic significance.
o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	The Planning proposal aims to reclassify and rezone land to allow for additional residential development in an existing residential area. This supports the generation of compact towns.

**Table 4: SEPP 71 Matters for consideration**

### **3.2.4 Is the planning proposal consistent with applicable Ministerial Directions (s117 directions)?**

The following table identifies the proposal’s consistency with the relevant Ministerial Directions.

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
<p><u>2.1 Environmental Protection Zones</u></p> <p>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a</p>	<p>The land is not zoned for Environmental Protection Zone.</p> <p>The Planning Proposal does not seek to alter the provisions made for Environmental Protection Zones.</p> <p>The Planning Proposal is consistent with Direction 2.1 – Environmental Protection Zones.</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.	
<p><u>2.2 Coastal Protection</u></p> <p>A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> <li>a) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997, and</li> <li>b) the Coastal Design Guidelines 2003, and</li> <li>c) the manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 (the NSW Coastline Management Manual 1990).</li> </ul>	<p>The land is within the Coastal Zone.</p> <p>Clause 5.5 of KLEP contains provisions relating to development within the coastal zone. Clause 5.5 is consistent with the relevant Coastal policy, guidelines and manual. The Planning Proposal does not seek to alter the provisions of Clause 5.5.</p> <p>The Planning Proposal is consistent with Direction 2.2 – Coastal Protection.</p>
<p><u>2.3 Heritage Conservation</u></p> <p>A planning proposal must contain provisions that facilitate the conservation of:</p> <ul style="list-style-type: none"> <li>a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</li> <li>b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</li> <li>c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an</li> </ul>	<p>The land is not listed at having heritage significance.</p> <p>Clause 5.10 of KLEP contains provisions relating to heritage conservation. The Planning Proposal does not seek to alter any heritage listings under the KLEP nor the provisions of Clause 5.10.</p> <p>The Planning Proposal is consistent with Direction 2.3 – Heritage Conservation.</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
<p>Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.</p>	
<p><b><u>3.1 Residential Zones</u></b></p> <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>a) broaden the choice of building types and locations available in the housing market, and</li> <li>b) make more efficient use of existing infrastructure and services, and</li> <li>c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</li> <li>d) be of good design.</li> </ul> <p>A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> <li>a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</li> <li>b) not contain provisions which will reduce the permissible residential density of land.</li> </ul>	<p>While the Planning Proposal will result some existing land zoned for residential purposes being rezoned for recreational purposes the Planning Proposal will ultimately result in an overall increase in the land being zoned for residential purposes with controls under the KLEP matching that of the surrounding residential land. In this regard the Planning Proposal does not contain provisions which will reduce the permissible residential density of the site.</p> <p>The land is located within an existing residential area with access to appropriate existing infrastructure and services.</p> <p>The Planning Proposal is consistent with Direction 3.1 – Residential Zones.</p>
<p><b><u>3.3 Home Occupations</u></b></p> <p>Planning proposals must permit home occupations to be carried out in dwelling</p>	<p>The Planning Proposal would rezone a portion of the northern portion not</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
houses without the need for development consent.	<p>currently zoned residential to Residential R2 (Low Density). Home Occupations are permitted without consent within the R2 zone under the KLEP. The Planning Proposal would not alter this permissibility.</p> <p>The Planning Proposal is consistent with Direction 3.3 – Home Occupations</p>
<p><u>3.4 Integrated Land Use and Transport</u></p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <ol style="list-style-type: none"> <li>a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</li> <li>b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</li> </ol>	<p>The Planning Proposal provides an increase in residentially zoned land within an established residential area with existing transport systems. The additional land will lead to increased viability of these existing transport systems.</p> <p>The Planning Proposal is consistent with Direction 3.4 – Integrated Land Use Transport.</p>
<p><u>4.1 Acid Sulfate Soils</u></p> <p>The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>When a relevant planning authority is preparing a planning proposal to introduce provisions to regulate works in acid sulfate soils, those provisions must be consistent with:</p> <ul style="list-style-type: none"> <li>• the Acid Sulfate Soils Model LEP in the Acid Sulfate Soils Planning</li> </ul>	<p>The land is not mapped as being affected by Acid Sulfate Soils.</p> <p>Clause 6.1 of the KLEP contains provisions relating to acid sulphate soils. The Planning Proposal does not seek to alter the provisions of Clause 6.1.</p> <p>The Planning Proposal is consistent with Direction 4.1 – Acid Sulfate Soils.</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
<p>Guidelines adopted by the Director-General, or</p> <ul style="list-style-type: none"> <li>• such other provisions provided by the Director-General of the Department of Planning that are consistent with the Acid Sulfate Soils Planning Guidelines.</li> </ul> <p>A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.</p> <p>Where provisions referred to under paragraph (5) of this direction have not been introduced and the relevant planning authority is preparing a planning proposal that proposes an intensification of land uses on land identified as having a probability of acid sulfate soils on the Acid Sulfate Soils Planning Maps, the planning proposal must contain provisions consistent with paragraph (5).</p>	
<p><u>4.3 Flood Prone Land</u></p> <p>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land</p>	<p>The land has not been identified by Council as Flood Prone Land.</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
<p>Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).</p> <p>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</p> <p>A planning proposal must not contain provisions that apply to the flood planning areas which:</p> <ul style="list-style-type: none"> <li>a) permit development in floodway areas,</li> <li>b) permit development that will result in significant flood impacts to other properties,</li> <li>c) permit a significant increase in the development of that land,</li> <li>d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</li> <li>e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</li> </ul> <p>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides</p>	<p>The northern portion of the land is higher than the remainder of Iluka Reserve. The eastern portion is significantly lower. The rezoning of this lower portion is from Residential to Recreational.</p> <p>Clause 6.3 of the KLEP contains provisions relating to flood planning. The Planning Proposal does not seek to alter the provisions of Clause 6.3.</p> <p>The Planning Proposal is consistent with Direction 4.3 – Flood Prone Land.</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
<p>adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p> <p>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</p>	
<p><u>5.10 Implementation of Regional Plan</u></p> <p>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:</p> <p>(a) is of minor significance, and</p> <p>(b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</p>	<p>The Planning Proposal is consistent with the Illawarra-Shoalhaven Regional Plan (see Section 3.2.1 of this report).</p> <p>The Planning Proposal is therefore consistent with Direction 5.10 – Implementation of Regional Plans.</p>
<p><u>6.1 Approval and Referral Requirements</u></p> <p>A planning proposal must:</p> <p>a) minimise the inclusion of provisions</p>	<p>The Planning Proposal does not include any additional provisions to the LEP</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
<p>that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</p> <p>b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</p> <ul style="list-style-type: none"> <li>(i) the appropriate Minister or public authority, and</li> <li>(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and</li> </ul> <p>c) not identify development as designated development unless the relevant planning authority:</p> <ul style="list-style-type: none"> <li>(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</li> </ul>	<p>which would require the concurrence, consultation or referral of future development applications to a Minister or public authority.</p> <p>The Planning Proposal is consistent with Direction 6.1 – Approval and Referral Requirements.</p>

s.117 Direction Title	Consistency of Planning Proposal
<p>(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.</p>	
<p><b>6.2 Reserving Land for Public Purposes</b></p> <p>A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).</p> <p>When a Minister or public authority requests a relevant planning authority to reserve land for a public purpose in a planning proposal and the land would be required to be acquired under Division 3 of Part 2 of the Land Acquisition (Just Terms Compensation) Act 1991, the relevant planning authority must:</p> <ul style="list-style-type: none"> <li>a) reserve the land in accordance with the request, and</li> <li>b) include the land in a zone appropriate to its intended future use or a zone advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), and</li> <li>c) identify the relevant acquiring authority for the land.</li> </ul>	<p>The Planning Proposal seeks to rezone and reclassify public land currently reserved for public purposes.</p> <p>Council is the relevant public authority. The Director-General’s concurrence is sought through this Planning Proposal.</p> <p>The land proposed to be rezoned to rezoned to R2 Low Density Residential and and/or reclassified is owned by Council but deemed superfluous to Council’s needs. The rezoning would enable development and/or sale of the land for residential purposes in order to provide an income for Capital Works and/or assist in the long term financial sustainability of the Council. This income would also be the catalyst to implement improvements to the quality of public open space located immediately to the south of the subject land.</p> <p>Land proposed to be rezoned to Public Recreation is already in classed as public land and is in Council ownership.</p> <p>This Planning Proposal is justifiably</p>

<b>s.117 Direction Title</b>	<b>Consistency of Planning Proposal</b>
<p>When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal relating to the use of any land reserved for a public purpose before that land is acquired, the relevant planning authority must:</p> <ul style="list-style-type: none"> <li>a) include the requested provisions, or</li> <li>b) take such other action as advised by the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) with respect to the use of the land before it is acquired.</li> </ul> <p>When a Minister or public authority requests a relevant planning authority to include provisions in a planning proposal to rezone and/or remove a reservation of any land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition, the relevant planning authority must rezone and/or remove the relevant reservation in accordance with the request.</p>	<p>inconsistent with Direction 6.1 – reserving land for public purposes. Concurrence is sort from the Director General.</p>
<p><u>6.3 Site Specific Provisions</u></p> <p>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:</p> <ul style="list-style-type: none"> <li>a) allow that land use to be carried out in the zone the land is situated on, or</li> <li>b) rezone the site to an existing zone already applying in the</li> </ul>	<p>The Planning Proposal does not contain any site specific planning controls. The development standards which would apply to the land are consistent with those applied on similarly zoned land.</p> <p>The Planning Proposal is consistent with Direction 6.3 – Site Specific Provisions.</p>

s.117 Direction Title	Consistency of Planning Proposal
<p>environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</p> <p>c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>A planning proposal must not contain or refer to drawings that show details of the development proposal.</p>	

**Table 5: Applicable s117 directions**

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

#### **3.3.1 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

The Kiama LEP contains Biodiversity and Riparian maps and Clause 6.4 Terrestrial Biodiversity and Clause 6.5 Riparian Land and Watercourses contain controls for development occurring on or within close proximity of land so mapped. Clause 5.9 also provides controls for the preservation of trees and vegetation. The planning proposal does not seek to change the Biodiversity and Riparian maps nor Clause 5.9, 6.4 or 6.5 of the Kiama LEP. These clauses would apply to any future development of the land.

The land is also not mapped as containing Riparian Land. A Mapped Category 2 watercourse is located within Iluka Reserve this is located on the southern portion of the reserve including the eastern portion of land which is part of this Planning Proposal. This water course has been piped and is buried under fill brought to the site in the 1980’s. The piping of this watercourse has reduced the potential for this Planning Proposal to result in any adverse impact on the any habitats or communities associated with this watercourse.

The land is not mapped as affected on the Terrestrial Biodiversity Map. The land is predominately mowed grass. A small number of trees in two clusters are located near the existing playground equipment. Potentially some trees along the eastern boundary are located on the northern portion of the site. A larger cluster of trees are located at the northern end of the eastern portion, however these trees are on land to be rezoned Recreational and could be retained if found to be significant. The Master Plan does not show these trees to be removed. An assessment of significance in accordance with Section 5A of the Environmental Planning and Assessment Act 1979 will be prepared if determined necessary by the Gateway determination.

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

The land is not known or mapped as affected by bushfire, landslip or acid sulphate soils. The land is located within an established urban area and adjoins residential uses to the north, west and east. The Development Assessment (DA) process required to be undertaken in accordance with the Environmental Planning and Assessment Act 1979, to subdivide and develop the northern portion of land for residential purposes provides the appropriate legislative framework through which environmental effects associated with any future residential development of this land would be assessed. Similarly, Part 5 of the Environmental Planning and Assessment Act 1979 provides the legislative framework through which the environmental effects associated with works requiring consent within the eastern portion of the site would be assessed.

#### Flooding

There have been no recent flood studies carried out over this area. The land proposed to be rezoned for residential development is located on the higher portion of Iluka Reserve. A piped watercourse runs through Iluka Reserve on the southern portion of the reserve. Given the topography of the Reserve and the surrounding land forms it is likely that overland flow through the reserve may be evident during extensive or heavy periods of rain. It is understood that this water is either absorbed into the generally impervious reserve area or flows to the east where it can connect into established Council infrastructure. Any increase in runoff or drainage impact associated with a residential subdivision of the subject land would be assessed as part of the DA process and drainage infrastructure required in accordance with Council's requirements.

#### Traffic

Vehicle access to the land would be gained from Riverside Drive. Riverside Drive reaches a crest to the north of the future potential intersection of Riverside Drive and any proposed subdivision road. A Preliminary Intersection Review was undertaken to consider the feasibility of a potential intersection as would be likely to be required for any residential subdivision of the northern portion of land resulting from the Planning Proposal. A copy of this Review is provided in **Appendix 8.6**. The Review finds that the design of a basic left in and left out intersection with a deceleration and acceleration lane is likely to be achievable for this site and be capable of satisfying the extended design domain of the Austroads Standards. This would require the widening of Riverside Drive but would not require the acquisition of private land. A detailed traffic study and intersection design should be undertaken as part of the DA for any subdivision.

The Master Plan also refers to improving the existing vehicle access off Flinders Avenue and formalising the car parking area to which this access leads. This is a small car parking area for four (4) vehicles only and Flinders Avenue would be capable of absorbing any additional traffic that may be generated from the formalisation of this car parking area.

#### Geotechnical

A Preliminary Geotechnical Assessment was undertaken for the northern portion of the site. This report provides recommendations for the type of construction of any future residential development on the land and also for any earthworks undertaken as part of a residential subdivision. A copy of this report is provided in **Appendix 8.4**. The recommendation in this report should be considered prior to any works occurring on the land and should be made available to any future purchaser of the property.

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

#### General Effects

The Planning Proposal is consistent with the Illawarra-Shoalhaven Regional Plan (ISRP) and the Kiama Urban Strategy (KUS) with regards to assisting to provide additional housing within existing and well established residential areas thereby reducing the housing pressure on rural and agricultural land.

The Planning Proposal does not apply to land identified as needing protection. The Planning Proposal aims to reclassify and partly rezone land to allow for the northern portion of Iluka Reserve to be subdivided and developed for residential purposes in a manner consistent with surrounding residential uses while rezoning the eastern portion of land zoned from residential to recreational to reflect the intended ongoing use of this

land for public recreational purposes and to ensure that land subject to the Master Plan for Iluka reserve is appropriately zoned for the proposed embellishment works.

### Activation

Iluka Reserve has been identified as having low usage. The northern portion has been deemed surplus to Council's needs. The majority of properties adjoining the reserve have been designed to primarily address their street frontages with rear yards and high timber or colourbond fencing presented to the reserve. The proposal would create the opportunity for residential development which would directly overlook and assist to activate and improve surveillance to the remaining reserve area. Furthermore, as outlined in Section 1 above, the Planning Proposal is consistent with a Master Plan which has been prepared for the remaining portion of Iluka Reserve. The Planning Proposal together with the Master Plan will result in overall improvements to the quality of public open space as identified in the Master Plan to be adopted by Council following further community consultation.

### Access

A public pedestrian access path exists between Iluka Crescent and Iluka Reserve. The reserve also has pedestrian connections to North Kiama Drive, Flinders Avenue and Riverside Drive. The retention of pedestrian access between Iluka Reserve and Iluka Crescent would be important for continued public access in the area generally and should be provided for in any further subdivision of the site.

Vehicle access is provided to the lower portion of Iluka reserve via Flinders Avenue. The Planning Proposal would provide the opportunity to create an additional vehicle access point to the remaining portion of the reserve.

A number of private residential properties have gates along their rear boundaries which allow for direct access of residents onto the Iluka Reserve. These private access points which adjoin the northern portion of the site would be lost if the land was developed in accordance with the proposed residential zoning. These access routes are informal and it would be unreasonable to expect their on-going retention.

### Views and Outlook

Residential development of the northern portion of the land has the potential to impact on some existing views from surrounding dwellings. The Planning Proposal applies development standards to the sites which are consistent with the surrounding residential areas. Any issues that may arise regarding views would be addressed during the assessment of any future development application(s) for the sites.

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

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

The Planning Proposal seeks to rezone and reclassify land the northern portion of the land to fully residential and operational and as a result future development of the land for residential proposes is expected. The land would generate nine (9) residential lots. Under the R2 zoning proposed, dwellings, dual occupancies and secondary dwellings are all permitted uses.

Development of the northern portion of the land for residential purposes would result in a minor increase in demand for facilities relative to the existing demand generated by the established residential population of the areas. The land is located within existing residential areas where all utility services are available. It is not expected that there would be issues connecting to existing services nor for there to be any issues as a result of the minor increase in demand. As such, it is proposed that detailed investigation not be required until an application is prepared or considered for subdivision of the land.

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

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

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

- NSW Department of Planning and Environment;

### **3.5 Director General's Requirements for Reclassifying Public Land**

#### **3.5.1 Is the planning proposal the result of a strategic study or report?**

As outlined in Section 3.1.1 above, on 20 May 2014 Council's Revenue Sub-Committee report to Council that *"Iluka Reserve is not heavily used and there are ongoing maintenance costs for the community"* and that *"future reclassification and subdivision of the land will retain large areas of public open space at this location."* The sub-

**Planning Proposal** – to Rezone and Reclassify Part of Lot 34 DP28122 and Part of Lot 243 DP30200 located within Iluka Reserve, Kiama Downs. 30

committee recommended to Council that it *“commence the reclassification / rezoning process in relation to land surplus to Council’s needs and which if sold will provide income for Capital Works and / or assist in long term financial sustainability.”* This planning proposal is a result of Council adopting the recommendation to *“commence the reclassification/re-zoning process in relation to the subject lands”*.

### **3.5.2 Is the planning proposal consistent with the local Council’s community plan, or other local strategic plan?**

As outlined in Section 3.2.2 above, the Planning Proposal is consistent with Kiama Urban Strategy (KUS).

### **3.5.3 If the provisions of the planning proposal include the extinguishment of any interests in the land, an explanation of the reasons why the interests are proposed to be extinguished should be provided.**

Lot 34 DP 28122 and Lot 243 DP30200 are both noted as Public Garden and Recreation Spaces on their respective deposited plans. It is considered that the reservation of these Lots have historically for public recreation constitutes an interest in the land which will need to be extinguished on those parts of the land to be zoned residential. These interests will need to be extinguished to enable future residential development on the land.

The following table outlines the interests that are to be either extinguished or not for each allotment associated with this Planning Proposal.

	<b>To be extinguished</b>	<b>Not to be extinguished</b>
<b>Part of Lot 34 DP 28122 as shown on Draft Reclassification Map</b>	Public Garden and Recreation Space shown on deposited plan	Crown Grant(s) (DP28122), easement for transmission line created by Transfer No. B910483.
<b>Lot 243 DP 30200 as shown on Draft Reclassification Map</b>	Public Garden and Recreation Space shown on deposited plan	Crown Grant(s) (DP30200)

### **3.5.4 The concurrence of the landowner, where the land is not owned by the relevant planning authority.**

Council is the landowner and endorsed the preparation of this Planning Proposal at its meeting 20 May 2014.

**Planning Proposal** – to Rezone and Reclassify Part of Lot 34 DP28122 and Part of Lot 243 DP30200 located 31 within Iluka Reserve, Kiama Downs.

## 4 Mapping

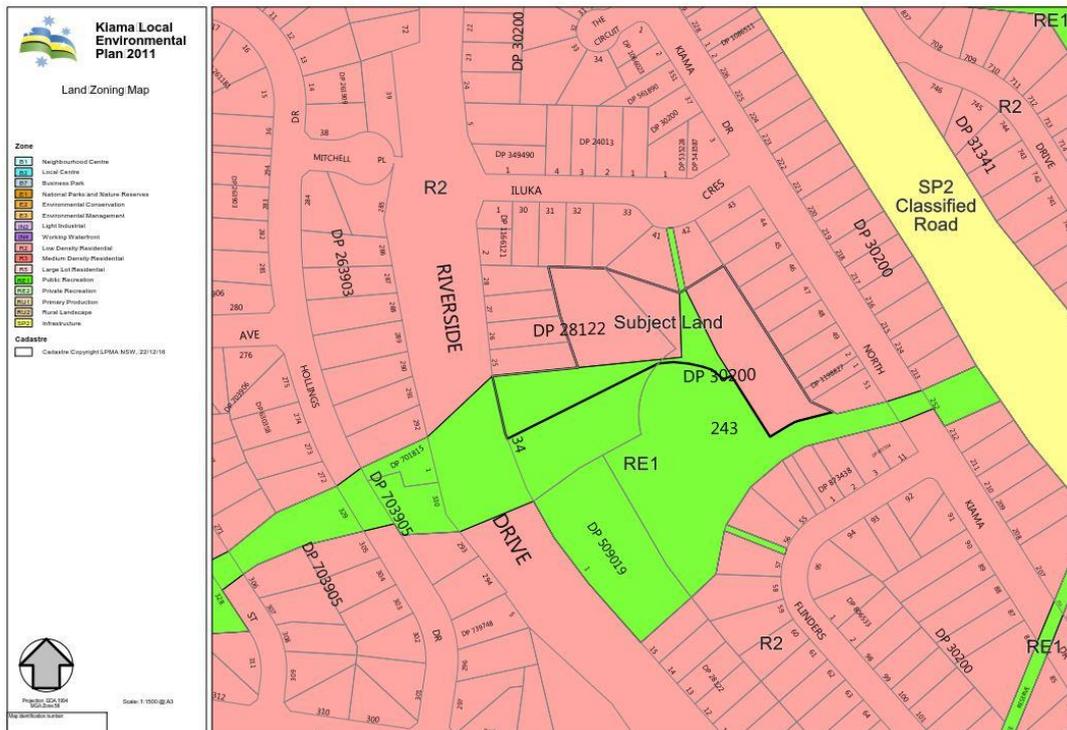
The following illustrates the subject land, current land use zoning and proposed land use zoning map amendments to the Kiama LEP 2011. Changes to the Principal Development Standards are outlined in Section 2.2 and Table 2 & 3. These changes will be mapped after the gateway determination. The maps below are reproduced in **Appendix 8.1** on the paper size mentioned on the scale. Aerial photographs of the sites are also included in the **Appendix 8.1**.

### 4.1 Land the subject of the Planning Proposal

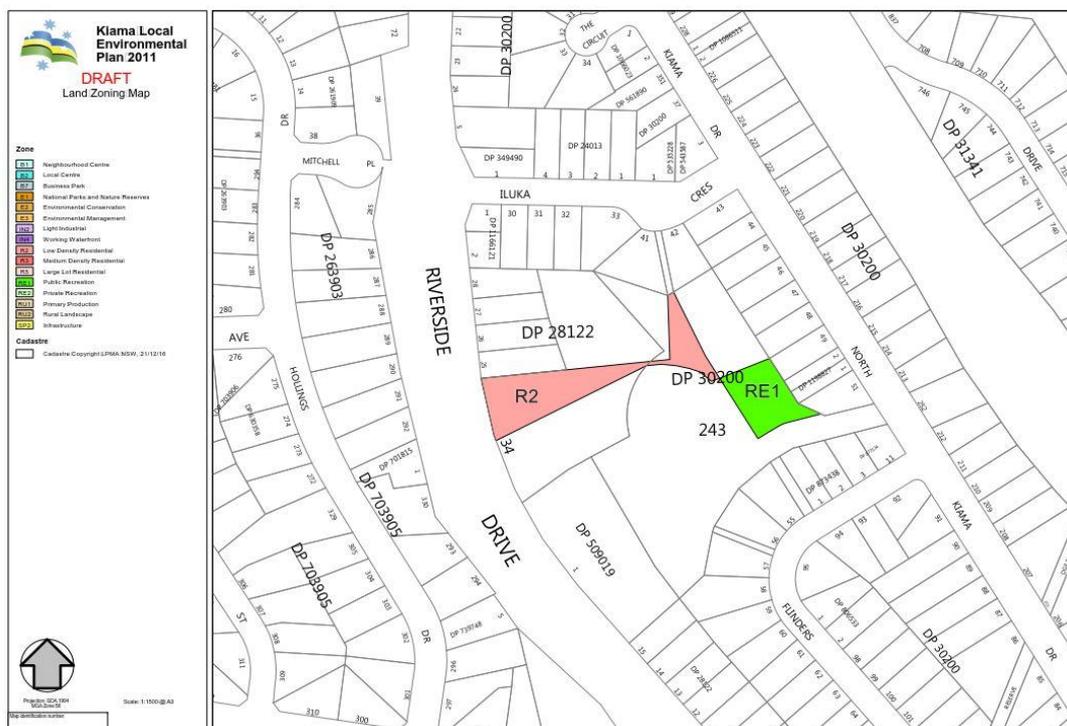


**Planning Proposal** – to Rezone and Reclassify Part of Lot 34 DP28122 and Part of Lot 243 DP30200 located 32 within Iluka Reserve, Kiama Downs.

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



## 4.3 Proposed Land Use Zone under this Planning Proposal



## 5 Community Consultation

Following the Gateway determination and approval from the Director-General (or delegate), the Planning Proposal will be exhibited for a minimum period of 28 days and include:

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

Following the public exhibition period a public hearing will be held. Notice of the public hearing will be made in a local newspaper at least 21 days prior to the hearing date.

## 6 Project Timeline

The following table outlines the anticipated timeline for the project. This timeline has been established on the basis of commencement by Council in December 2016 or early January 2017.

Stage	Anticipated Timeframe	Possible Dates
Planning Proposal to the Department		February 2017
Gateway determination	2-4 weeks from Council forwarding the Planning Proposal to the Minister	March 2017
Completion of technical information or studies as determined by Gateway	4 – 6 weeks from the gateway determination	April 2017
Consultation with State / Commonwealth agencies	4 weeks from the completion of any technical information or studies	May 2017
Exhibition of Planning Proposal (assuming Director General’s approval for community consultation was issued with	4 weeks	May/June 2017

Stage	Anticipated Timeframe	Possible Dates
the Gateway determination)		
Notification of Public hearing date.	Immediately after the exhibition period.	June 2017
Review of submissions	Immediately after the exhibition period.	June 2017
Public hearing	21 days after notification made.	July 2017
Review of Public Hearing report and preparation of report to Council.	4 weeks.	August 2017
Report to Council	First available Council meeting after review of hearing and report preparation.	September 2017
Submission to the department to finalise	4weeks from Council meeting	October 2017
Anticipated date LEP will be notified		November 2017

**Table 6: Project Timeline**

## 7 LEP Practice Note 16-001

The Department of Planning and Environment issued a new LEP Practice Note (PN 16-001) on 5 October 2016 which relates to the classification and reclassification of public land through a LEP. This Practise note supersedes PN 09-003. Practice Note 16-001 sets out a number of matters that must be addressed when a Planning Proposal involves the reclassification of public land. These matters are in addition to the requirements for planning proposals under Section 55 (a) – (e) of the EP&A Act. These additional matters are outlined in and addressed in Table 6 below. Where these matters are already addressed elsewhere in the planning proposal this is noted rather than duplicating the response.

Matter to Be Addressed	Response
The current and proposed classification of the land	See Section 2.1 of this Planning Proposal
Whether the land is a ‘public reserve’ (defined in the LG Act)	The land was conveyed or transferred to Council under Section 340A of the Local Government Act 1919 and falls under the definition of ‘public reserve’ under the

<b>Matter to Be Addressed</b>	<b>Response</b>
	Local Government Act 1993.
The strategic and site specific merits of the reclassification and evidence to support this	<p>Iluka Reserve is underutilised and as outlined in the Planning Proposal, the northern portion of this land is deemed surplus to Council’s needs.</p> <p>Iluka Reserve is identified in the Plan of Management has having an area of approximately 2.38ha. Currently approximately 0.62ha of this reserve is zoned residential. The proposal would result in approximately 0.78ha of operational residential land being available for development. This represents an increase of approximately 0.16ha of residentially zoned land and would and leave approximately 1.6ha of recreationally zoned land available for embellishment as part of the Master Plan.</p> <p>The site is located within a residential locality. Providing nine (9) additional housing allotments within an existing and well established residential area which has established infrastructure will assist to reduce the housing pressure on rural and agricultural land, the principle of which is in accordance with the Kiama Urban Strategy (KUS) which was adopted by Council on 20 September 2011. (See Section 3.2 of this Planning Proposal)</p> <p>Furthermore, the Proposal seeks to provide funding to improve the functionality of the remaining reserve in accordance with a Master Plan to be adopted by Council following further community consultation such that the</p>

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	<p>reserve will be more frequently used and attractive to the local residents.</p> <p>It is further expected that residential development on the northern portion will improve surveillance of the reserve and provide a new vehicle access point from which the reserve can be accessed.</p>
Whether the Planning Proposal is the result of a strategic study or report	See Section 3.1.1 of this Planning Proposal
Whether the planning proposal is consistent with council’s community plan or other local strategic plan	<p>See Section 3.2.2 in relation to local strategic plan.</p> <p>No specific Council Community Plan relevant to the site has been identified.</p>
<p>a summary of council’s interests in the land, including:</p> <ul style="list-style-type: none"> <li>• how and when the land was first acquired (e.g. was it dedicated, donated, provided as part of a subdivision for public open space or other purpose, or a developer contribution)</li> <li>• if council does not own the land, the land owner’s consent;</li> <li>• the nature of any trusts, dedications etc;</li> </ul>	<p>Lot 34 DP 28122 was registered on 30 October 1957. This DP shows Lot 34 as ‘public garden and recreation space’. A strip of land to the west was dedicated for road widening. An Easement for Transmission Line was created by Transfer No. B910483 and affects a strip of land to the west. The certificate of title Vol. 9708 Fol. 147 issued 1 May 1964 shows Lot 34 DP 28122 to be in Council ownership.</p> <p>Lot 243 DP 30200 was dated 6 February 1959. This DP shows Lot 243 as ‘public garden and recreation space’. The certificate of title Vol. 9567 Fol. 22 issued 14 November 1963 shows this Public Garden and Recreation Space to be in Council ownership.</p> <p>No trusts were found. See Section 3.5.3 of this Planning Proposal.</p>
Whether an interest in land is proposed to be discharged, and if so, an explanation of	See Section 3.5.3 of this Planning Proposal

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the reasons why	
The effect of the reclassification (including, the loss of public open space, the land ceases to be a public reserve or particular interests will be discharged)	This Planning Proposal seeks to reclassify and partly rezone the land. This will enable Council to sell or develop the land for residential development. See Section 3.3 of this Planning Proposal with regards to the Environmental, Social and Economic Impacts of this reclassification.
Evidence of public reserve status or relevant interests, or lack thereof applying to the land (e.g. electronic title searches, notice in a Government Gazette, trust documents)	The Certificates of title and Deposited Plans provide this evidence. See Appendix 8.7
Current use(s) of the land, and whether uses are authorised or unauthorised	The land is classified as “sportsgrounds” under the current Plan of Management. Children’s play equipment is located on the land. Two cement tennis Courts and a club house / amenities facilities building are also located on the land. These are no longer leased or managed by a tennis club but are available for hire to the public on a casual basis. Other uses are more informal such as the use of the open space for recreational purposes such as dog walking.
Current or proposed lease or agreements applying to the land, together with their duration, terms and controls	Nil. The tennis courts are no longer under any lease. These courts are available to the public for casual hire.
Current or proposed business dealings (e.g. agreement for the sale or lease of the land, the basic details of any such agreement and if relevant, when council intends to realise its asset, either immediately after rezoning/reclassification or at a later time)	At this point in time Council has not entered into any business deal to sell the residential land. After the rezoning / reclassification Council will investigate if they will seek relevant approvals and develop the lots or sell the land for development.
Any rezoning associated with the reclassification (if yes, need to	Yes. See Section 2.2. The rezoning will result in a RE1 Public

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demonstrate consistency with an endorsed Plan of Management or strategy)	<p>Recreation zone being applied to the land which contains the tennis courts. This land is currently zoned Part RE1 and Part R2 Residential. This rezoning to RE1 is consistent with the Plan of Management. The Plan of Management was adopted in 2001 and states that <i>“with the construction of the North Kiama Bypass, possibly within the next four years, it would be possible to provide safer access and parking. A detailed design plan needs to be prepared which aims to provide a useable playing field in this area.”</i></p> <p>The North Kiama Bypass is now complete and the planning proposal seeks to rezone some of the land to the north of the Reserve to allow for a residential subdivision. The concept subdivision plan will provide for vehicle access off Riverside Drive. A Master Plan has also been prepared which is consistent with this proposal. The Master Plan utilises the proposed vehicle access for the provision of a car park and overall improvements to the quality of the remaining public open space. This is generally considered to be consistent with the Plan of Management.</p>
How council may or will benefit financially, and how these funds will be used	<p>The reclassification and rezoning would enable Council to seek to develop and/or sell approximately 9 sites for residential purposes. The income generated would be used for Capital Works and/or assist in the long term financial sustainability of the Council. The funds will also assist to provide overall improvements to the quality of public open space for the remainder of remaining portion of Iluka</p>

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	Reserve in accordance with a Master Plan to be adopted by Council following further community consultation.
How council will ensure funds remain available to fund proposed open space sites or improvements referred to in justifying the reclassification, if relevant to the proposal	The Masterplan concept is intended to be approved/endorsed by Council in conjunction with the PP process so that there is a revenue stream to commit to the Iluka Reserve open space embellishment plan. Council will use a reserve to allocate specified funds from the development and sale of residential lots to implement the Iluka Reserve Masterplan.
A Land Reclassification (part lots) Map, in accordance with any standard technical requirements for spatial datasets and maps, if land to be reclassified does not apply to the whole lot	See Section 2.1. This map will be prepared prior to the proposal being placed on Public Exhibition.
Preliminary comments by a relevant government agency, including an agency that dedicated the land to council, if applicable	N/A

**Table 7: Information to Address LEP Practice Note 16-001**