

Rezoning and reclassification of land in Iluka Reserve, Kiama Downs

Proposal Title : **Rezoning and reclassification of land in Iluka Reserve, Kiama Downs**

Proposal Summary : **The planning proposal seeks to rezone and reclassify land in Iluka Reserve, Kiama Downs (part of Lot 34 DP28122 and part Lot 243 DP30200) from RE1 Public Recreation to R2 Low Density Residential and adjust the development controls accordingly to allow the land to be developed for nine residential lots. The interests on the subject land will be removed.**

PP Number : **PP_2016_KIAMA_005_00** Dop File No : **16/11389**

Proposal Details

Date Planning Proposal Received : **13-Oct-2016** LGA covered : **Kiama**

Region : **Southern** RPA : **The Council of the Municipality of Kiama**

State Electorate : **KIAMA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Reclassification**

Location Details

Street : **Riverside Drive**

Suburb : **Kiama Downs** City : **Kiama** Postcode : **2533**

Land Parcel : **part Lot 34 DP28122 and part Lot 243 DP30200**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Illawarra Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.87	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	9
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Iluka Reserve is 1.8ha of cleared public land between Riverside Drive and North Kiama Drive, Kiama Downs. Two tennis courts and a clubhouse leased to the Iluka Tennis Club and a carpark are located in the south eastern corner of the Reserve, accessed off Flinders Avenue. A children's playground is located off Iluka Crescent in the north eastern corner of the Reserve. This equipment would need to be relocated should the proposed residential development proceed.

Kiama Council has identified that the Reserve is not heavily used by the community in its current form and there are ongoing costs to maintain the reserve.

The land sought for residential development is on the northern side of the Reserve. The land identified for residential development (0.87ha) is mostly already zoned for residential purposes under the Kiama LEP 2011. Only 0.3ha of the land requires rezoning from Public Recreation to Residential.

All of the land identified for housing(0.87ha) requires reclassification from community land to operational land to allow Council to sell the land for residential purposes.

Council's Revenue Sub-Committee recommended that the lands were identified as surplus to Council's needs and if sold will provide income for capital works and/or assist in long term financial sustainability.

A draft masterplan for the land remaining in Iluka Reserve has been prepared by Council's Iluka Reserve Working Party and the Kiama Council Revenue Sub-Committee. The Plan identifies options for transitioning the underutilised public open space into a more frequently used and attractive public space that benefits the surrounding community. The draft Plan is to be finalised once the rezoning has been determined.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The objective of the planning proposal are to:**

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- rezone part of Lot 34 DP28122 and part Lot 243 DP30200 within Iluka Reserve, Kiama Downs from RE1 Public Recreation to R2 Low Density Residential and adjust the minimum lot size, floor space ratio and building height controls accordingly; and
- reclassify the land from community to operational.

to allow Council to sell the land for residential use.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The explanations of provisions in the planning proposal are to amend the Kiama LEP 2011 as follows:

- * Land Zoning Map – Sheet LZN_012 applying to the subject site from RE1 Public Recreation to R2 Low Density Residential;
- * Lot Size Map – Sheet LSZ_012 applying to the subject site to introduce minimum lot sizes of G 450sqm;
- * Height of Buildings Map - Sheet HOB_012 applying to the subject site to apply a maximum height of 18.5m;
- * Floor Space Ratio Map - Sheet FSR_012 applying to the site to apply an FSR of C 0.45:1; and
- * including the land under Schedule 4 Classification and reclassification of public land Part 2 land classified or reclassified as operational land – interests changed.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

5.1 Implementation of Regional Strategies

6.2 Reserving Land for Public Purposes

* May need the Director General's agreement

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

S117s

The planning proposal is consistent with the Illawarra Shoalhaven Regional Plan in that it is facilitating urban infill development to increase housing density in an existing built-up area. The draft Iluka Reserve Masterplan integrates the residential development with the open space/recreation uses of the remainder of the Reserve.

The planning proposal identifies that the s117 Direction 2.3 Heritage Conservation applies, however the land is not listed as having heritage significance. The Kiama LEP contains provisions (Clause 5.10) relating to heritage conservation.

The planning proposal is consistent with the s117 Directions 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 5.10 Implementation of Regional Plans and 6.2 Reserving Land for Public Purposes. Although the site is within the Coastal Zone, the proposal will not impact upon the coast or the coastal zone. The proposal will utilize existing residential infrastructure and provide additional residential lots. The planning proposal is seeking the Secretary's approval to rezone and remove reservations for public purposes on the lands.

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Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 5.10 Implementation of Regional Plans and 6.2 Reserving Land for Public Purposes.

Recommendation: The Secretary's delegate provide approval to remove the zoning and reservations for public purposes on the lands consistent with the S117 Direction 6.2 Reserving Land for Public Purposes.

SEPPs

The planning proposal is consistent with SEPP 55 Remediation of Land. Iluka Reserve contains areas of fill on the lower lying lands. The higher northern portion, subject to the planning proposal does not contain fill. To clarify the extent (if any) of fill a Stage 1 Site Contamination Assessment was undertaken. The Assessment found it likely that the fill 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 investigation found that from a land contamination perspective, the land was suitable for the proposed rezoning and residential subdivision.

The proposal is consistent with SEPP 71 Coastal Protection in that the proposal will not impact upon the natural, cultural, recreational or economic attributes of the coast.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

A draft map sheet for LZN_012 from the Kiama LEP 2011 has been provided in the planning proposal and is appropriate for public exhibition. Council is in the process of preparing additional maps for LSZ_012, FSR_012 and HOB_012 and will include the maps in the planning proposal prior to public exhibition.

The planning proposal also needs to include a Land Reclassification Map as the land to be reclassified does not apply to the whole lot. All maps will need to be prepared in accordance with the Department's 'Standard Technical requirements for Spatial Datasets and Maps, 2015'.

Recommendation: Council is to finalise the draft maps including a Land Reclassification Map and include the maps in the planning proposal prior to public exhibition. The maps will be prepared in accordance with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps, 2015.'

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Community consultation

Council requests that the planning proposal be publicly exhibited for 28 days. Public notification of the exhibition will include local newspaper notifications, notice on Council's website, hard copies will be available at Council's administration buildings and notification letters to surrounding property owners.

Practice Note PN16-001 Classification and reclassification of public land through a local environmental plan' requires that a copy of the Note is included in the public exhibition materials.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons :

In relation to the Director General's requirements regarding matters which must be addressed in the justification of all planning proposal to reclassify public land:
a) the planning proposal is not a result of a strategic study or report. The land has

been identified by Council's Revenue Sub-Committee as surplus to Council's needs.

b) The planning proposal is consistent with Council's Kiama Urban Strategy to accommodate growth as much as possible by infill development to increase the density of the existing built-up areas.

c) The planning proposal reports that no interests in the land have been found that will require extinguishing as part of the planning proposal.

The Certificate of title for Lot 34 DP28122 and Lot 243 DP30200 includes under Second Schedule 'Reservations and conditions, contained in the Crown Grant referred to in the said Deposited Plan'. The Plans identify both lots as 'Public Garden and Recreation Space'.

These encumbrances on the land and will need to be removed as part of the reclassification process.

The planning proposal will need to be revised to identify the encumbrances on the land and include an explanation of the reasons why the interests are proposed to be extinguished.

d) Council is both the land owner and relevant planning authority who has resolved to reclassify the land.

The Department's Practice Note PN16-001 setting out general requirements for reclassification of land through planning proposals was issued on 5 October 2016. This Note requires that all planning proposal reclassifying public land must address a number of matters for Gateway consideration.

As this planning proposal was submitted prior to the Practice Note being issued, the planning proposal does not address all the matters. Any outstanding matters will need to be identified and included in an updated planning proposal prior to public exhibition.

Recommendation: Council is to revise the planning proposal in accordance with the Department's Practice Note PN16-001 'Classification and reclassification of public land through a local environmental plan' prior to exhibition.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The planning proposal addresses the Department's "A guide to preparing planning proposals" and is considered adequate for a Gateway Determination with conditions.

Council has a project timeframe of twelve months to complete the rezoning process. This is considered an appropriate time to complete the planning proposal due to the need to conduct a public hearing for the reclassification of the lands.

Council has confirmed in its referral letter of 24 August 2016 that it is seeking Council Officer Delegation to prepare the draft LEP under Section 59 of the EP&A Act. Appendix 4 – Evaluation Criteria for the Delegation of Plan making Functions was submitted.

Delegation cannot be provided to councils for the reclassifications of council community land where interests are being removed.

Recommendation: The timeframe for completing the LEP is 12 months from the date of the Gateway determination.

Recommendation: Delegation to remain with the Secretary's delegate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Kiama LEP was notified on 16th December 2011.

Assessment Criteria

Need for planning proposal :

A planning proposal is the only means of reclassifying the land and achieving residential development on the site.

Consistency with strategic planning framework :

The planning proposal is not the result of any strategic study or report. The site was investigated and recommended by Council's Revenue Sub-Committee in 2014 as surplus to Council's needs.

The planning proposal is consistent with the Illawarra Shoalhaven Regional Plan in that it is improving the consistency of land use controls and controlled urban growth and is facilitating urban infill development to increase the density of the existing built-up areas. The planning proposal will assist Council to meet the housing demand identified in the Plan.

It is also consistent with the Kiama Urban Strategy, as it is facilitating the use of suitable land within an existing residential area within the town boundaries for residential purposes.

The Draft Iluka Reserve Masterplan has been prepared for the land remaining in Iluka Reserve. It is to be finalised once the rezoning process has been completed.

Environmental social economic impacts :

The site is not known or mapped to contain any environmental features. It is located within an existing and established residential locality. It is cleared, mown grass with two small clusters of trees near the existing playground equipment. A watercourse which flowed through the Reserve from Riverside Drive to North Kiama Drive was piped and buried with fill in the 1980's.

Iluka Reserve has been identified as having a low usage and the northern portion has been deemed surplus to Council's open space needs. Much of the land subject to the proposal is already zoned for residential purposes. The planning proposal together with the Masterplan will result in overall improvements to the quality of the open space. The children's playground equipment in the northern corner of the Reserve is to be relocated should the proposed residential development proceed. The residential development could be designed to directly overlook and assist to activate and improve surveillance to the remaining area of the Reserve.

The existing pedestrian access between Iluka Reserve and Iluka Crescent would be retained in the residential development. A number of residential properties along Iluka Crescent have gates along their rear boundaries which allow direct access of residents onto the Reserve. This private access would be lost if the land was developed for residential uses. These accesses are informal and it would be unreasonable to expect their on-going retention.

Residential development of the land has the potential to impact on some existing views from surrounding dwellings. The planning proposal applies development standards to the site which are consistent with the surrounding residential areas.

Kiama Council's Plan of Management Sportsgrounds, 19 June 2001 includes Iluka Reserve. It identifies the need to seal the carpark, prepare a design plan to provide a usable playing field and undertake additional tree planting. There are no specific actions for the land subject to the planning proposal.

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A Preliminary Geotechnical Assessment was undertaken which made recommendations for the type of construction of any future residential development on the site. Vehicle access to the residential development would be from Riverside Drive. A detailed traffic study and intersection design is to be undertaken as part of the DA for any subdivision.

The proposal will have potential economic, housing and social benefits.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **DDG**

Public Authority
Consultation - 56(2)(d)
:

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Recommendation: No government agency consultation is required.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Council required a number of reports/statements to support the planning proposal. These included:

- * Phase 1 Site Contamination Assessment and Preliminary Geotechnical Assessment, Network Geotechnics Pty Ltd, 2015
- * Stage 2 Detailed Contamination Assessment, Network Geotechnics Pty Ltd, 2015
- * Preliminary Intersection Review, SET Consultants, May 2016
- * Draft Iluka Reserve Kiama Downs Masterplan, Site Plus Pty Ltd February 2016.

Recommendation: No further studies are required.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **The land is located within an 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. It is proposed to consider this issue as part of the DA for any subdivision.**

Documents

Document File Name	DocumentType Name	Is Public
160824 Iluka Reserve Kiama Downs Planning Proposal letter KMC to DoPE request for gateway determination.pdf	Proposal Covering Letter	Yes

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161005 Iluka Reserve Kiama Downs Planning Proposal.pdf	Proposal	Yes
161017 Iluka Reserve Kiama Downs Planning proposal Appendix 7.4 Stage 1 Contamination & Preliminary Geotechnical.pdf	Proposal	Yes
161017 Iluka Reserve Kiama Downs Planning Proposal Appendix 7.5 Stage 2 Contamination Assessment.pdf	Proposal	Yes
161005 Iluka Reserve Kiama Downs Planning Proposal Appendix 7.6 Intersection Report SET Consultants 2016.pdf	Proposal	Yes
160908 Iluka Reserve Kiama Downs Planning proposal KMC meeting 150915 report.pdf	Proposal	Yes
160908 Iluka Reserve Kiama Downs planning proposal KMC meeting 150915 resolution to support.pdf	Proposal	Yes
160824 Iluka Reserve Kiama Downs Planning proposal draft Iluka Reserve Masterplan Siteplus Feb 2016.pdf	Study	Yes
160905 Iluka Reserve Kiama Downs Planning Proposal Sportsgrounds Plan of Management.pdf	Study	Yes
160907 Iluka Reserve Kiama Downs Planning proposal Certificates of Title.pdf	Proposal	Yes
161017 LEP Practice Note PN01-001 Classification public land through LEP.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 5.1 Implementation of Regional Strategies
- 6.2 Reserving Land for Public Purposes

Additional Information : The Acting Director Regions, Southern as delegate of the Minister for Planning, determines under section 56(2) of the EP&A Act that an amendment to the Kiama Local Environmental Plan, 2011 to reclassify land from community to operational, rezone land from RE1 to R2 and amend minimum lot size, FSR and building height to enable residential development on part of Lot 34 DP28122 and part Lot 243 DP30200, in Iluka Reserve Kiama Downs should proceed subject to the following conditions:

1. The planning proposal, including the explanation of provisions, is to be revised to reference and include a Land Reclassification Map and the proposed zoning and development control maps prior to its public exhibition. The maps will be prepared in accordance with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps, 2015.' Council is to identify that interests are being removed from the land.

2. Council is to revise the planning proposal in accordance with the Department's Practice Note PN16-001 'Classification and reclassification of public land through a local environmental plan' prior to exhibition.

3. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) the planning proposal is to be made publicly available for 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2016).

4. No public authority consultation is required under section 56(2)(d) of the EP&A Act

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5. The timeframe for completing the LEP is 12 months from the date of the Gateway determination.

6. The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans.

7. The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Direction 6.2 Reserving Land for Public Purposes and approves the proposal to alter the existing zoning of, and remove reservation for land reserved for public purposes.

9. The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.

Supporting Reasons :

The planning proposal will provide Council with the opportunity to reclassify and rezone currently underutilised community land deemed surplus to Council's needs. If approved this will allow Council the opportunity of selling the land, the income from which may be used to implement the draft Iluka Reserve Masterplan.

Signature:

 - Team Leader, Southern

Printed Name:

Graham Towers

Date:

19/10/16.

