



Mr Michael Forsyth
General Manager
Kiama Municipal Council
PO Box 75
Kiama NSW 2533

Attention: Mr Edward Paterson

Dear Mr Forsyth

Planning proposal to amend Kiama Local Environmental Plan (LEP) 2011

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal for part of Lot 34 DP28122 and part Lot 243 DP30200, Iluka Reserve, Kiama Downs to:

- Reclassify the land from community to operational land and change interests; and
- Rezone land from RE1 to R2 and amend the lot size, building heights and floor space ratio control maps in the Kiama LEP.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

In issuing this Gateway determination, I have found that the planning proposal is consistent with s117 Directions 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, and 5.10 Implementation of Regional Plans. No further approval is required in relation to these or other Directions, while the proposal remains in its current form.

In relation to s117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the reduction of land for public purposes on the basis that the lands are surplus to Council's open space requirements and the funds gained through the disposal of the lands will be reinvested into Council's capital works to implement the Iluka Reserve Masterplan.

On 5 October 2016 the Department issued Practice Note PN16-001 'Classification and Reclassification of Public Land through a Local Environmental Plan'.

As this planning proposal was submitted for Gateway determination prior to the issue of PN16-001, the planning proposal does not address all matters raised in the Practice Note. Any outstanding matters will need to be identified and included in an updated planning proposal prior to public exhibition. A copy of the Practice Note is also to be included in the public exhibition materials.

Plan making powers were delegated to councils by the Minister in October 2012. A planning proposal which discharges interests in public land under section 30 of the *Local Government Act 1993* cannot be delegated to councils. As such Council's request to be issued with delegation for this planning proposal is declined.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and environment to draft and finalise the LEP should be made six weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the *Environmental Planning and Assessment Act 1979* if the time frames outlined in this determination are not met.

It is noted that part of Iluka Reserve that is not subject to this proposal is zoned R2 Low Density Residential under the Kiama LEP 2011. As previously discussed, the Department would be willing to consider a revised proposal or a new proposal to rezone these lands within Iluka Reserve from R2 Low Density Residential to RE1 Public Recreation.

Should you have any queries concerning this matter, I have arranged for Lisa Kennedy of the Department's Southern Regional office to assist you. Lisa can be contacted on (02) 4224 9457.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Linda Davis', followed by the date '20/10/16'.

Linda Davis
Acting Director Regions, Southern
Planning Services

Encl:
Gateway Determination



Gateway Determination

Planning proposal (Department Ref: PP_2016_KIAMA_005_00): for part of Lot 34 DP28122 and part Lot 243 DP30200, Iluka Reserve, Kiama Downs to amend Kiama LEP 2011 to:

- Reclassify the land from community to operational land and change interests; and
- Rezone land from RE1 Public Recreation to R2 Low Density Residential and amend the minimum lot size, building heights and floor space ratio control maps.

I, Linda Davis, Acting Director Regions, Southern at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kiama Local Environmental Plan (LEP) 2011 as described above should proceed subject to the following conditions:

1. The planning proposal is to be revised to reference and include a Land Reclassification Map and proposed zoning and development standard maps prior to public exhibition. The maps will be prepared in accordance with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps, 2015.'
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'. Council is to identify in the proposal that interests are being removed from the land.
3. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* 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 2012).
4. No public hearing is required to be held into the matter under section 56(2)(e) of the *Environmental Planning and Assessment Act 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

Dated 20th day of October 2016

Linda Davis
Acting Director Regions, Southern
Planning Services
Department of Planning and Environment
Delegate of the Minister for Planning

