



KIAMA MUNICIPAL COUNCIL
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25 June 2018

Planning Proposal to Amend LEP 2011



With respect to the rezoning
of:

Part of Lot 1 DP 129766 and
Part of Lot 144 DP 751279
144 Jamberoo Mountain Road,
Jamberoo

Planning Proposal to amend LEP 2011 with respect to:
Part of Lot 1 DP 129766 and Part of Lot 144 DP 751279 - 144 Jamberoo Mountain Road, Jamberoo

Prepared By	Reviewed By	Revision Number	Date
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		Ver 1.0 Final Issue	
Amended by Kiama Municipal Council	Mark Lyndon	Ver 2.0	25 June 2018

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Part 1 – Statement of objectives or intended outcomes

Statement of Objectives or intended outcomes

The objective of this planning proposal is to amend the Kiama Local Environmental Plan (LEP) 2011 to rezone Part of Lot 1 DP 129766 and Part of Lot 144 DP 751279 from E2 Environmental Conservation to E3 Environmental Management to better reflect the ecological values of this portion of the site and so that a dwelling house would be permitted on this portion of the site.



Figure 1 Existing Cleared Portion (looking west)



Figure 2 Existing Cleared Portion and view to existing vehicle access point (looking north-east)

No new dwelling entitlement

It must be noted that this Planning Proposal does not seek to create any additional dwelling entitlements.

The subject property known as 144 Jamberoo Mountain Road, Jamberoo is comprised of four (4) parcels (Lots 143, 144, 160 and 166 DP 751279) which when consolidated have an area which exceeds the minimum lot size of 40ha. The owners have also purchased a fifth parcel along the northern boundary which has an area of 7,689m² (Lot 1 DP 129766). This parcel would also be included in any future consolidation.

A portion of the property (on Lot 143 DP 751279) is currently zoned E3 – Environmental Management and a dwelling is permissible with consent on this portion of E3 land. However, there is no existing or approved dwelling on this E3 land. This portion of E3 land is difficult to access. The intended outcome of this Planning Proposal is to permit a dwelling house on a portion of the property, which is more easily accessible and suitable for E3 zoning. The property contains an existing shed along the northern boundary, which is capable of being occupied. This can either be the subject of a future Building Certificate to legalise the use of the shed as a dwelling or Council can insist on having the fittings (kitchen, laundry, bathroom) removed so that it is no longer capable of separate occupation. This can be done by issuing

an Order under the provisions of the Environmental Planning and Assessment Act 1979 or as a condition of consent for a future dwelling house on the property. As per Part 1.3 of the NSW Department of Planning and Environments' 'A guide to preparing planning proposals', the matter does not need to be addressed as part of this Planning Proposal as it will be the subject of later compliance action or a development application.

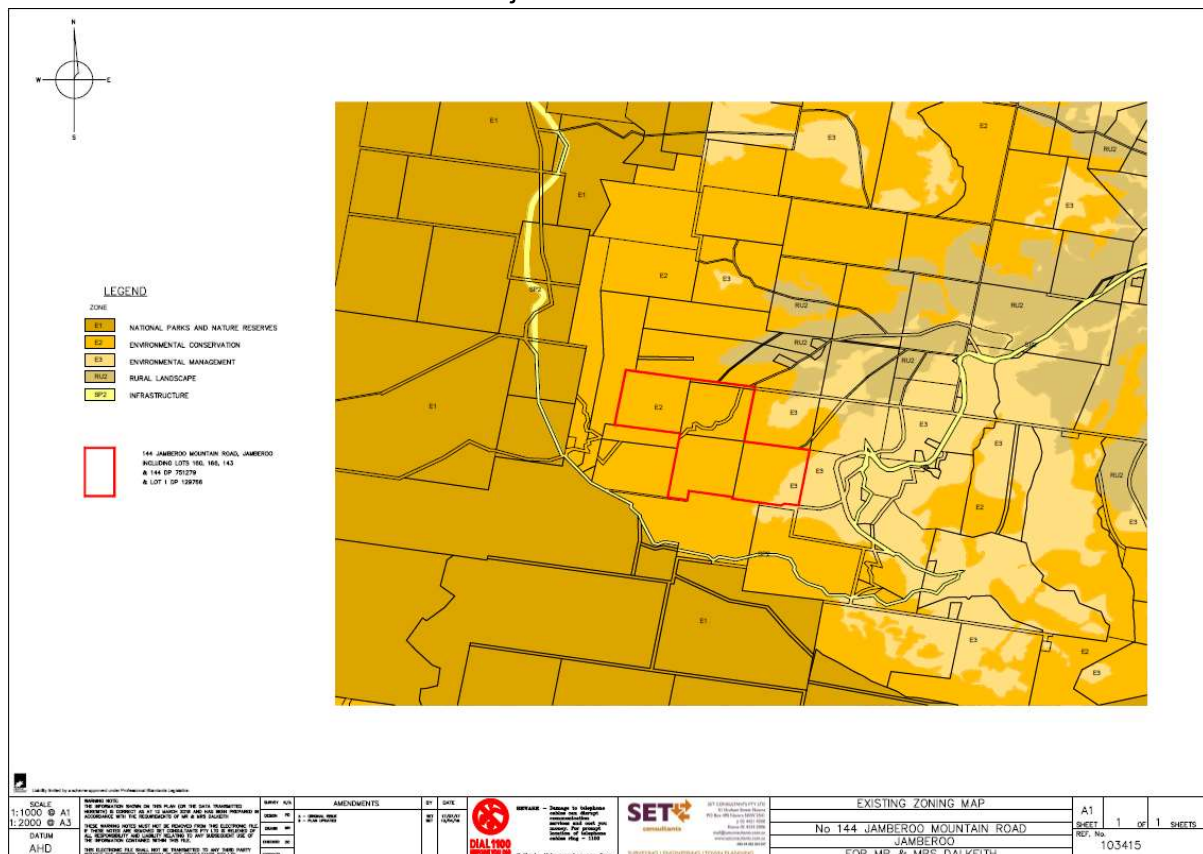
This Planning Proposal will not result in any increase in the number of dwellings permitted than is currently permitted.

Part 2 – Explanation of provisions

The intended outcome will be achieved by amending Kiama LEP 2011 as follows:-

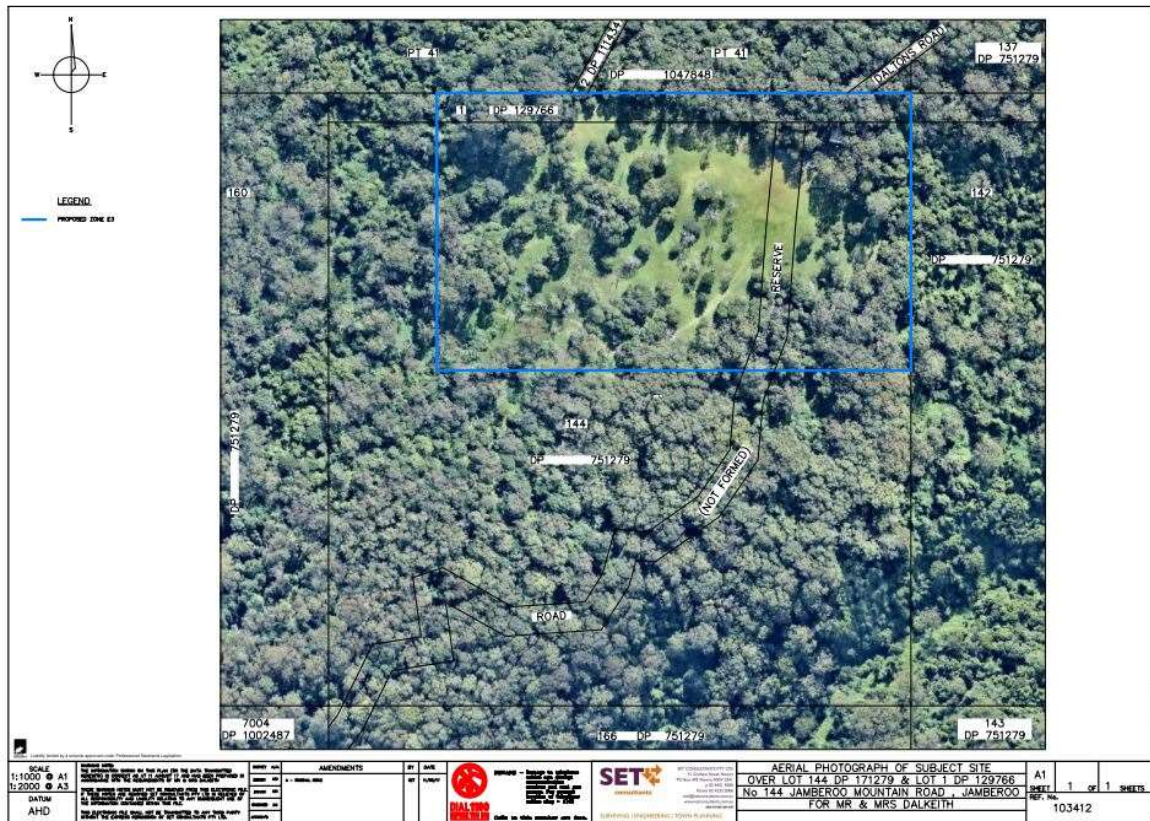
1. Amend the Land Zoning Map – Sheet LZN_005 applying to Part of Lot 1 DP 129766 and Part of Lot 144 DP 751279 from zone E2 to zone E3.

The following excerpt maps from Kiama LEP 2011 and context plan illustrate the current situation and location in relation to Subject site:



Kiama LEP 2011 Zoning Map Sheet LZN_008 (Current Zoning)

Aerial of Land subject of the Planning Proposal.



Part 3 – Justification

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

The Planning Proposal has been facilitated by a number of studies which are detailed below.

A meeting with members of Council's Strategic staff was held on 1 February 2017¹. Council presented the Department of Planning and Environment's *'Northern Councils E Zone Review Final Recommendations Report'* as a guideline for ascertaining if an Environmental Zoning was appropriate for any given land. A Flora and Fauna Assessment prepared by OMVI Ecological of the area now proposed to be rezoned was undertaken in May 2017². This report found *"it is unlikely that any criteria for either and E2 or E3 is met in the area"*³. Notwithstanding this, given surrounding land and zonings, an Environmental Zoning was appropriate and an E3 Zoning was suitable.

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

Consideration was given to leaving the land zoned E2 and adding 'dwelling houses' as an additional permitted use. This would achieve the intended outcomes of permitting a dwelling to be erected on this portion of land, however this method would not satisfy the intended outcome of zoning the land to better reflect its ecological values. In this regard, the Flora and Fauna Assessment did not find evidence that the land satisfied the criteria for E2 Environmental Conservation and as such a rezoning is considered appropriate. Rezoning the land rather than adding an additional permitted use was therefore considered the best way of achieving the intended outcomes.

As the Flora and Fauna Assessment prepared by OMVI Ecological also found no evidence that the land satisfied the criteria for an E3 Environmental Management Zone, consideration was given to rezoning the land to RU2 Rural Landscape. Land within the larger locality of the site, specifically to the north-east of the site is zoned RU2 and adjoins both E2 and E3 land. However, the subject site is higher up the escapement and as stated in the Flora and Fauna Assessment an environmental zoning is still considered appropriate for the site given its proximity *"to biodiverse environmental and National Parks estate and forms part of a local and regional corridor along the Great Dividing Range"*⁴. An RU2 zoning would permitted a number of additional uses on the site which are not permitted in an E3 zone and the objectives of the RU2 zone are not focused on environmental protection.

¹ See Appendix 9 for Pre-lodgement notes.

² See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64.

³ Based on the criteria outlined in the Department of Planning and Environment's *'Northern Councils E Zone Review Final Recommendations Report'* published October 2015.

⁴ See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64.

The proposed rezoning to E3 Environmental Management is therefore considered the best means of achieving the intended outcomes of the site given the location of the site. This zoning is also consistent with LEP Practice Note PN 09-002 which states that ‘areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.’

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

The applicable regional strategy for the area is the *Illawarra-Shoalhaven Regional Plan* (ISRP) published in November 2015. The ISRP contains key principles including ‘identify and protect land with high environmental value...’ and ‘support sustainable use of land’. The ISRP uses the *Illawarra Biodiversity Strategy Action Plan 2011* (IBSAP) for input. This Action Plan identifies regional biodiversity corridors. Both the ISRP and the IBSAP identify the area in which the subject site is located to be part of a biodiversity corridor.⁵ This biodiversity corridor is mapped at a regional scale and does not identify individual sites.

The area subject to this planning proposal is mostly cleared grassland and although mapped at a regional scale to be within a biodiversity corridor, the Flora and Fauna Assessment prepared by *OMVI Ecological* of the site does not find it to have high ecological value consistent with Environmental Conservation zone. Notwithstanding this, the proposal seeks to retain an Environmental zoning given the biodiversity corridor and other factors.

The Planning Proposal will provide for an alternative location for a dwelling house on the property. This alternative location has an existing and safer access vehicle access route than the area where a dwelling is currently permissible. The Flora and Fauna Assessment prepared by *OMVI Ecological*, finds that such a development on the subject area is “*unlikely to impact conservation dependant biota, locally or regionally*” and that “*an E3 zoning would maintain suitable protection*”⁶ while achieving the intended outcomes of the planning proposal.

The Planning Proposal is therefore considered to be consistent with the ISRP as the proposal will allow for a land use assessed to be appropriate for the site whilst being consistent with protection levels required for areas identified as having a high environmental value.

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

Kiama Community Strategic Plan (CSP) 2013-2023 has recently been reviewed and a draft Kiama Community Strategic Plan (dCSP) 2017-2027 is currently on exhibition. The Planning Proposal would not prevent any of the strategies provided in the current or draft CSP to be met. The proposal is not inconsistent with strategies detailed in the CSP and draft CSP regarding well planning and managed spaces, places and environment.

⁵ Note: Figure 1 of ISRP and Map 3 of the IBSAP are both large scale regional maps and exact location of specific sites cannot be acutely determined.

⁶ See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64.

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 then applicable Illawarra Regional Strategy which has now been superseded by the Illawarra-Shoalhaven Regional Plan (ISRP). The KUS also includes a component which aims to protect the ecologically sensitive natural environment. The KUS had a direct influence on the preparation of the Kiama LEP 2011.

The site affected by the Planning Proposal is not specifically identified or explored in the KUS. As noted in Section 1 of this Planning Proposal, no additional housing will be permitted as a result of this proposal. In this regard, the proposal does not propose urban infill / expansion. The proposal seeks to apply a more suitable environmental zoning to a long standing cleared portion of land in a manner that will not adversely impact on the environmentally sensitive areas within the locality. The proposal is not inconsistent with the KUS.

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.

State Environmental Planning Policy No. 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.

The Planning Proposal does not seek to rezone the land to residential. However residential use of the land will be permitted on the land as a result of the Planning Proposal. Whether or not the land is contaminated must therefore be considered if a purpose referred to in Table 1 to the contaminated land planning guidelines could have lawfully been carried out on that land. Records indicate that the site has historically been zoned in a manner consistent with an environmental zoning. As such, uses in Table 1 of the document now known as '*Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land*' are unlikely to have been permitted on the site. A search of Council's file does not show any record of development approvals granted on the subject land. Notwithstanding this, the portion of the site to be rezoned has been cleared and potentially may have been used for some form of agricultural activity in the past. Although the cleared area is small with regards to common agricultural uses undertaken in this area, such as grazing. Given the low risk of site contamination it is considered that the Stage 1 Preliminary Investigation Report, required under Clause 6 of SEPP 55 and detailed in '*Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land*' should not be required until after and in accordance with any Gateway determination.

State Environmental Planning Policy (Rural Lands) 2008

This SEPP applies to the subject site. The subject site is zoned and is proposed to remain an 'environmental zone' as defined by the SEPP. The site is not zoned nor is proposed to be zoned a 'Rural Zone' as defined by the SEPP. The Rural Planning Principles have been considered as per Direction 1.5 issued under Section 117(2) of the Environment Planning and Assessment Act.

<i>Rural Planning Principle</i>	<i>Response</i>
<i>The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas</i>	<i>The land is not zoned for rural purposes. The planning proposal seeks to rezone land from E2 to E3. This rezoning will increase the range of land uses permitted. These uses are consistent with this Planning Principle.</i>
<i>Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State</i>	<i>The site is not zoned rural and the proposal will not impact on any land currently used for agricultural purposes. The Planning Proposal seeks to permit a dwelling house to be erected in area largely clear of vegetation. The site is not currently used for agriculture however the proposal will not prevent agricultural use of the site. The planning proposal will increase the land uses permitted including extensive agriculture although opportunities for such use of the land would be limited due to the area of land to be rezoned.</i>
<i>Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development</i>	<i>The site is separated from rural zoned land by distance and vegetation. The proposal does not have the capacity to adversely impact on any rural land.</i>
<i>In planning for rural lands, to balance the social, economic and environmental interests of the community</i>	<i>The proposal does not involve any rural zone land. The proposal does not have the capacity to adversely impact on any rural land.</i>
<i>The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land</i>	<i>A Flora and Fauna Assessment prepared by OMVI Ecological of the site has been undertaken and found that despite not meeting criteria for an Environmental Zoning, such a zoning is suitable given the site's proximity to biodiverse environments and National Parks. This E3 Zoning will assist to ensure natural resources are protected.</i>
<i>The provision of opportunities for rural lifestyle, settlement and housing that</i>	<i>The planning proposal seeks to provide the opportunity for a dwelling to be erected on</i>

<i>contribute to the social and economic welfare of rural communities</i>	<i>the property in a more suitable location that would otherwise be permitted.</i>
<i>The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing</i>	<i>There is an existing vehicle access route to the area proposed to be rezoned and there is no such infrastructure existing on the E3 land. Locating a dwelling on the land proposed to be rezoned is therefore considered more appropriate.</i>
<i>Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General</i>	<i>See Sections 3.2.1 and 3.2.2 of this Planning Proposal.</i>

Table 1 Rural Planning Principles

Clause 10 of the SEPP provides matters to be considered in determining development applications for rural subdivisions or rural dwellings and applies to a rural zone, a rural residential zone or an environment protection zone. As such this Clause would apply to any future development application for the erection of a dwelling on the subject site. The land surrounding the subject site is undeveloped environmental conservation land. The Flora and Fauna Assessment prepared by *OMVI Ecological* found that the erection of a dwelling on the subject site is *‘unlikely to impact conservation dependant biota, locally or regionally’*⁷. In this regard, any future development application is likely to be consistent with the SEPP. Furthermore, any such application is also likely to be consistent with the applicant development standards and not require refer to a rural lands planning panel.

State Environmental; Planning Policy – (Vegetation in Non-Rural Areas) 2017

This SEPP came into effect on 25 August 2017. The SEPP seeks to safe-guard native vegetation in urban areas and land zoned for environmental protection by providing a consistent approach to clearing in NSW. This SEPP applies to the E2 zone of the subject site.

No vegetation is proposed to be removed as part of this Planning Proposal. Details of any vegetation removal required as part of the development application will be assessed as part of the development assessment process. In this regard, the Flora and Fauna Assessment prepared by *OMVI Ecological* found that *‘the subject site and potential likely dwelling envelope is located within cleared grassland which has been historically cleared and ‘improved’ possibly for livestock grazing’*⁸. Moreover, the current proposal aims to minimise impacts and utilise existing access tracks and other infrastructure, thus minimising the impacts to native vegetation.’

⁷ See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64

⁸ See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64

Is the planning proposal consistent with applicable Ministerial Directions (S 9.1 directions)?

The Planning Proposal has been assessed against the relevant Ministerial Directions. The proposal is consistent with these Directions. A checklist has been provided in **Appendix 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?

A Flora and Fauna Assessment prepared by *OMVI Ecological* has been undertaken. This Assessment involved field surveys and desk top studies and assessed the *'the potential effects on threatened species, migratory species, and endangered populations and ecological communities or their habitats, of a proposed rezoning of 4.5 hectares (subject site) of the 66 hectare property (study area), as required under the relevant schedules of state and commonwealth threatened species legislation...'*⁹

This assessment has found *'No threatened species were recorded during the site surveys across the study area. A vegetation community with attributes of two endangered ecological communities as described on the schedules of the NSW TSC Act has been assessed as being present along the lower slopes and creeklines in the study area, as well as potential habitat for several other mobile threatened fauna species. None was recorded likely as being impact either directly or indirectly by the rezoning.'*¹⁰

The Planning Proposal does not seek to amend the Terrestrial Biodiversity Mapping which applies to the site and the Flora and Fauna Assessment finds that *'an E3 zoning would maintain suitable protection while allowing permissible development in already cleared lands.'* The Assessment also acknowledges that *'The subject site and potential likely dwelling envelope is located within cleared grassland... moreover, the current proposal aims to minimise impacts and utilise existing access tracks and other infrastructure, thus minimising the impacts to native vegetation.'*¹¹

In light of the above-mentioned Assessment, the Planning Proposal is considered unlikely to adversely impact on any critical habitat or threatened species.

The Kiama LEP contains Biodiversity and Riparian maps referred to by Clause 6.4 Terrestrial Biodiversity and Clause 6.5 Riparian Land and Watercourses. These Clauses 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. Any future development of the land would be subject to all relevant Clauses of the Kiama LEP as part of the Development Assessment process. 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.

⁹ See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64

¹⁰ See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64

¹¹ See Appendix 3 for Flora and Fauna Report prepared by OMVI Ecology. P64

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

Views

Existing vegetation surrounding the site and distance to surrounding developments ensure that a dwelling could be constructed on the site without resulting in any significant adverse impact on views gains from other private properties.

The site is a cleared area which is located below the Illawarra Escarpment. It is likely that the site is visible from vantage points along the escarpment. The location of a dwelling on this cleared land would not be out of character for the locality which contains a number of scattered dwellings within cleared areas. Notwithstanding, any development assessment undertaken of any proposed dwelling would need to consider and appropriately condition the colour and reflectivity of any external materials to be used.

The site is elevated above sea level and distant ocean glimpses may be possible between vegetation to the south-east. The bushfire report has found that the site is capable of providing a building envelope which would not require removal of the existing trees which screen this view. Construction of a dwelling is therefore considered possible without creating any significant adverse impacts on the landscape when viewed from afar. Notwithstanding, the location of any future dwelling and its visibility from surrounding areas would be assessed in more detail as part of the any future development assessment process.

Effluent Disposal

The existing cleared area to be rezoned has an area sufficient to suggest that an effluent disposal system could be located on the site without resulting in any significant adverse impacts. As such a Geotechnical Report has not been undertaken at this stage. A geotechnical assessment will be undertaken as part of any future development application for a dwelling. This will determine the most appropriate type and location for effluent disposal.

Bushfire

The subject site is mapped as Bushfire Prone. A Bushfire Risk Assessment prepared by *SET Consultants Pty Ltd* has been undertaken (see Appendix 4). The area proposed to be rezoned is mostly cleared of vegetation with the exception of a number of scattered trees. The Bushfire Assessment found that *"this area is compliant with Asset Protection Zone (APZ) requirements, some thinning will be necessary within the existing disturbed area to achieve compliance. The area to be rezoned will have direct access to Dalton Road."*¹²

Any development application for a dwelling house lodged in the future would trigger an assessment under Section 79BA of the Act. In order to ensure that the intended outcome of the Planning Proposal is achievable, the Bushfire Assessment modelled a potential building envelope. The Bushfire Assessment found that a dwelling could be erected on the site which if constructed and maintained in accordance with the recommendations outlined in that report

¹² See Appendix 4 for Bushfire Assessment prepared by SET Consultants. P4

would comply with the performance requirements provided in *Planning for Bushfire Protection* (2006) and would provide adequate provision for firefighting strategies. While the recommendations of this report, nor the modelled building envelop do not form part of the proposed amendment to the LEP, it does demonstrate that development of the site for a dwelling would be possible. It also demonstrates that a dwelling could be located on the site such that the Asset Protection Zones required for Bushfire proposes would result in minimal need for vegetation clearing. In this regard the Asset Protection Zones would not extend beyond the rezoned land.

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

Vehicle Access

As discussed in Section 1 of this Planning Proposal, the property has sufficient land size to permit a dwelling to be erected. The property also has a current portion of land which is zoned E3 Environmental Management on which the erection of a dwelling house is permissible. There is no formed roadway to this existing E3 land. The 'Status search of roads' document issued by the *Department of Industry (Lands)* (see Appendix 7) indicates that there are unformed Crown Roads connecting this E3 land to Jamberoo Mountain Road.

Construction of one of these unformed roads for access to the existing E3 portion of land would result in either the clearing of vegetation and/or the dissection of existing cleared grazing land. The Planning Proposal seeks to provide an alternative location for the erection of a dwelling which gains access via an existing vehicle access route. Eliminating the need to construct a new road which may adversely impact on existing land uses, vegetation and the landscape is considered to be a positive social outcome of the Planning Proposal.

Further to the above impacts, the formation of any access route to the existing E3 land would need to connect with Jamberoo Mountain Road. Jamberoo Mountain Road has many sections which have limited sight lines for drivers. Eliminating the need to establish a new intersection with Jamberoo Mountain Road is considered to be in public's interest with regards to road safety.

Aboriginal Heritage

A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) shows that no Aboriginal sites are recorded or been declared in or near the subject site (see Appendix 8 of the Planning Proposal).

Any development consent issued for works on the subject site should involve a condition regarding the protection procedures should any items be found.

Is there adequate public infrastructure for the planning proposal?

The Planning Proposal will not result in any additional dwellings being entitled to be erected on the property.

The Planning Proposal will allow for the erection of a dwelling in a location which is closer to existing services currently provided to properties in Daltons Road (electrical and telecommunication). Extension of these services to the subject site may be required as part of any development application for the erection of a dwelling, although it is the owners intend to seek approval to erect a dwelling and associated on-site infrastructure which will not require the connection to any services. The site has sufficient area to provide for on-site effluent disposal and the placement of water tanks for water supply.

The proposal is not of a scale that has the potential to adversely impact on public infrastructure.

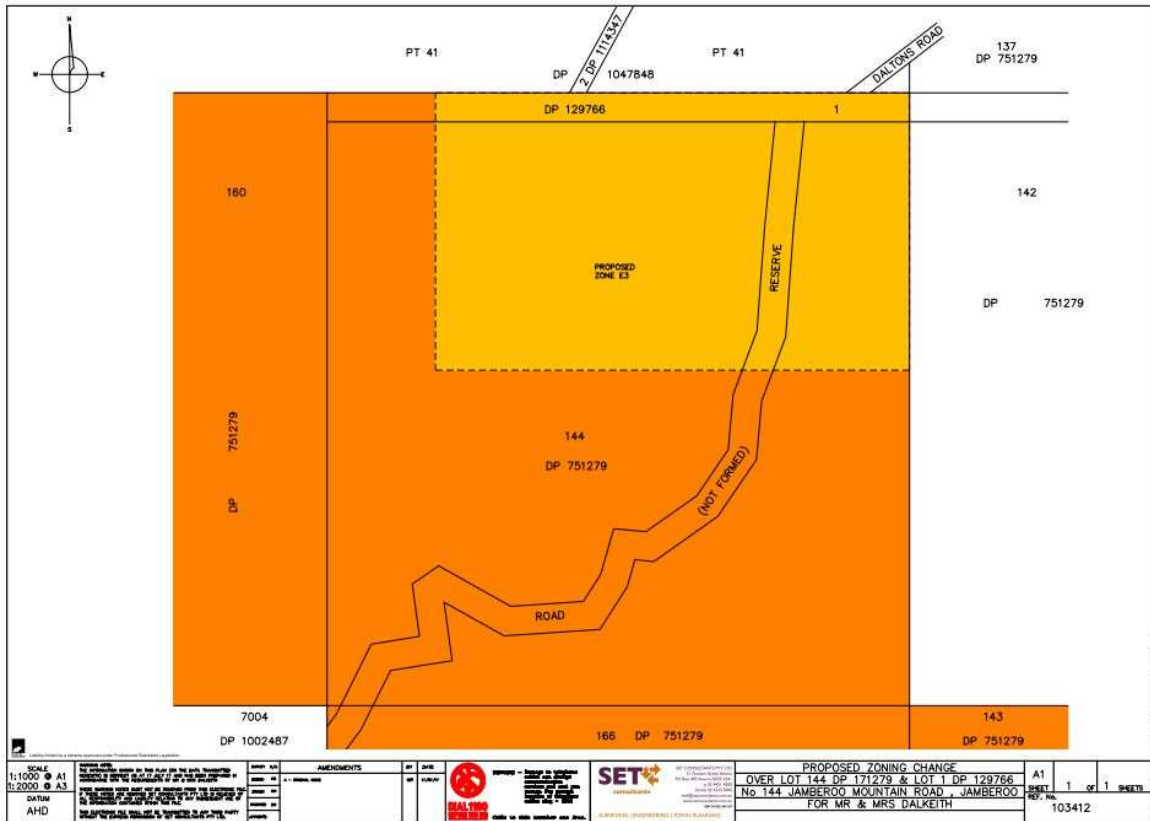
What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

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 Rural Fire Service
- NSW Department of Planning and Environment

Planning Proposal to amend LEP 2011 with respect to:
Part of Lot 1 DP 129766 and Part of Lot 144 DP 751279 - 144 Jamberoo Mountain Road, Jamberoo



Inset of part of land to be rezoned

Part 5 – Community Consultation

Council requests that the planning proposal be exhibited for a period of 14 days and include:

- Advertisement 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,
- Notification letters to relevant State agencies and other authorities/agencies nominated by the Department of Planning and Infrastructure.
- Other if required

Part 6 – Timeframe

The following table outlines the anticipated timeline for the project.

Stage	Anticipated Timeframe	Possible Dates
Planning Proposal to the Department	June 2018	June 2018
Gateway determination	4 weeks from Council forwarding the Planning Proposal to the Minister	1 August 2018
Consultation with State / Commonwealth agencies	2 weeks after gateway determination.	14 August 2018
Exhibition of Planning Proposal	2 weeks after gateway determination.	14 August 2018
Review of submissions and preparation of report to Council.	2 weeks from end of public exhibition period.	September 2018
Report to Council	First available Council meeting after review of submissions and report preparation.	October 2018
Submission to the department to finalise	Immediately after determination at Council meeting.	Late October 2018
Anticipated date LEP will be notified		December 2018

Appendix 1

Section 9.1 Ministerial Directions – Compliance Checklist prepared by Kiama Municipal Council

Ministerial Direction	Comment
1. Employment and Resources	
1.1 <i>Business and Industrial Zones</i>	N/A
1.2 <i>Rural Zones</i>	N/A
1.3 <i>Mining, Petroleum Production and Extractive Industries</i>	N/A
1.4 <i>Oyster Aquaculture</i>	N/A
1.5 <i>Rural Lands</i> <i>A planning proposal to which clauses 3(a) or 3(b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</i>	The Planning Proposal is consistent with the Rural Planning Principles listed in Clause 7 of SEPP (Rural Lands) 2008 as detailed in Table 1 of the Planning Proposal. The Planning Proposal is consistent with Direction 1.5 – Rural Lands.
2. Environment and Heritage	
2.1 <i>Environment Protection Zones</i> <i>planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</i> <i>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</i>	The Planning Proposal seeks to rezone land from E2 – Environmental Conservation to E3 Environmental Management. The E3 zoning provides a lower level of environmental protection than the E2 zoning and therefore the Planning Proposal is inconsistent with this Directive. This inconsistency is justified by a Flora and Fauna Assessment prepared by OMVI Ecological dated 18 May 2017 in support of the Planning Proposal (see Appendix 3).

Ministerial Direction	Comment
<p><i>not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".</i></p> <p><i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:</i></p> <p><i>(a) justified by a strategy which:</i></p> <p><i>(i) gives consideration to the objectives of this direction,</i></p> <p><i>(ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and</i></p> <p><i>(iii) is approved by the Director-General of the Department of Planning, or</i></p> <p><i>(b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or</i></p> <p><i>(c) in accordance with the relevant Regional Strategy, Regional Plan or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or</i></p> <p><i>(d) is of minor significance.</i></p>	
<p>2.2 Coastal Protection</p>	<p>N/A</p>
<p>2.3 Heritage Conservation</p> <p><i>A planning proposal must contain provisions that facilitate the conservation of:</i></p>	<p>The land is not listed as having heritage significance. A search of the Office of the Environment and Heritage AHIMS Web Services (Aboriginal Heritage Information Management System) shows that no Aboriginal sites are recorded or been declared</p>

Ministerial Direction	Comment
<p><i>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,</i></p> <p><i>b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and</i></p> <p><i>c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an 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.</i></p>	<p>in or near the subject site (see Appendix 8 of the Planning Proposal).</p> <p>Clause 5.10 of KLEP 2011 contains provisions relating to heritage conservation. The Planning Proposal does not seek to alter any heritage listings under the KLEP 2011 nor the provisions of Clause 5.10.</p> <p>The Planning Proposal is consistent with Direction 2.3 – Heritage Conservation.</p>
<p>2.4 Recreation Vehicle Areas</p> <p><i>A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):</i></p> <p><i>(a) where the land is within an environmental protection zone,</i></p> <p><i>(b) where the land comprises a beach or a dune adjacent to or adjoining a beach,</i></p> <p><i>(c) where the land is not within an area or zone referred to in paragraphs (4)(a) or (4)(b) unless the relevant planning authority has taken into consideration:</i></p> <p><i>(i) the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and</i></p> <p><i>(ii) the provisions of the guidelines entitled Recreation Vehicles Act, 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.</i></p>	<p>The change from E2 to E3 zoning does not result in additional permissible land uses regarding recreational vehicle areas.</p> <p>The Planning Proposal is consistent with Direction 2.4 – Recreational Vehicle Areas.</p>
<p>2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEP</p>	<p>N/A</p> <p>However, as per discussions with Kiama Council the Northern Councils E Zone Review</p>

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	Final Recommendations have been taken into consideration as part of this Planning Proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	N/A Note: It is not considered that the Planning Proposal will result in 'significant residential development'.
3.2 Caravan Parks and Manufactured Home Estates <i>In identifying suitable zones, locations and provisions for caravan parks in a planning proposal, the relevant planning authority must:</i> <i>(a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and</i> <i>(b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.</i> <i>In identifying suitable zones, locations and provisions for manufactured home estates (MHEs) in a planning proposal, the relevant planning authority must:</i> <i>(a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,</i> <i>(b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and</i> <i>(c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.</i>	The Planning Proposal would rezone the land from E2 to E3 thereby making dwellings permissible with Council. Home Occupations are permitted without consent within the E3 zone under the KLEP 2011. The Planning Proposal would not alter this permissibility. The Planning Proposal is consistent with Direction 3.3 – Home Occupations
3.3 Home Occupations <i>Planning proposals must permit home occupations to be carried out in dwelling houses without the need for development consent.</i>	The Planning Proposal would rezone the land from E2 to E3 thereby making dwellings permissible with Council. Home Occupations are permitted without consent within

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	the E3 zone under the KLEP 2011. The Planning Proposal would not alter this permissibility. The Planning Proposal is consistent with Direction 3.3 – Home Occupations
3.4 <i>Integrating Land Use and Transport</i>	N/A
3.5 <i>Development Near Licensed Aerodromes</i>	N/A
3.6 <i>Shooting Ranges</i>	N/A
4. Hazard and Risk	
4.1 <i>Acid Sulfate Soils</i>	N/A
4.2 <i>Mine Subsidence and Unstable Land</i>	N/A
4.3 <i>Flood Prone Land</i>	The site is affected by a number of watercourses, however the area of the site to be rezoned is not within the mapped area (including associated buffer area) of a watercourse. Any future effluent disposal areas will be the subject of report prepared by a qualified consultant, however there is sufficient space within the cleared area to accommodate effluent disposal whilst the required minimum distances from any watercourse. A geotechnical assessment will be undertaken as part of any future development application for a dwelling.
4.4 <i>Planning for Bushfire Protection</i> <i>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</i> <i>A planning proposal must:</i> <i>a) have regard to Planning for Bushfire Protection 2006,</i>	The site is mapped as bushfire prone. Consultation with the NSW Rural Fire Service will occur following a gateway determination. This shall occur prior to community consultation. A Bushfire Risk Assessment has been prepared and is provided in Appendix 4 of the Planning Proposal. Section 3 of this Bushfire Assessment addresses this s.117 directive. Specifically, the Assessment states that:- “The rezoning as proposed will allow for dwelling houses to be a permitted use, the area to be rezoned is shown in Figure 3 below and relates to an area that has been used for ongoing agricultural purposes.

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<p><i>b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</i></p> <p><i>c) ensure that bushfire hazard reduction is not prohibited within the APZ.</i></p> <p><i>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</i></p> <p><i>a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</i></p> <p><i>(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</i></p> <p><i>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</i></p> <p><i>b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must be complied with,</i></p> <p><i>c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks,</i></p> <p><i>d) contain provisions for adequate water supply for firefighting purposes,</i></p> <p><i>e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</i></p> <p><i>f) introduce controls on the placement of combustible materials in the Inner Protection Area.</i></p>	<p><i>This report takes into considerations the requirements for ‘infill development’ as the intent of the rezoning is for the residential occupation of the site.</i></p> <p><i>Future development of the site will trigger an assessment under Section 79BA of the Act. The proposal will not place inappropriate development in hazardous areas, the site is appropriate for residential development given compliance with the recommendations of this report.</i></p> <p><i>The APZ’s on the site are partially in place, the owners of the site will have legal ability to maintain APZ’s upon approval of future development.</i></p> <p><i>This report demonstrates that the planning proposal provides a rezoned area which can accommodate a future dwelling which complies with the requirements of Direction 4.4.6.</i></p> <p><i>The site will have legal ability to establish and maintain APZ’s. APZ’s will need to be maintained in accordance with this report or the recommendations made under future s4.14 assessments.</i></p> <p><i>The site has the ability to comply with the requirements for property access roads. Access shall be constructed to comply with the requirements for two-way access roads.”</i></p> <p><i>Any future development of the land would be in accordance with this Bushfire Report or accompanied by a development specific Bushfire Report as appropriate.</i></p> <p><i>The Planning Proposal is consistent with Direction 4.4 – Planning for Bushfire Protection.</i></p>
<p>5. Regional Planning</p>	
<p>5.1 Implementation of Regional Strategies</p>	<p>The Planning Proposal is consistent with the <i>Illawarra-Shoalhaven Regional Plan</i> (see Section 3.2.1 of this report).</p>

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<p><i>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</i></p> <p><i>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:</i></p> <p><i>(a) is of minor significance, and</i></p> <p><i>(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.</i></p>	<p>The Planning Proposal is therefore consistent with Direction 5.10 – Implementation of Regional Plans.</p>
5.2 Sydney Drinking Water Catchments	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	N/A
5.8 Second Sydney Airport: Badgerys Creek	N/A
5.9 North West Rail Link Corridor Strategy	N/A
5.10 Implementation of Regional Plans <i>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</i>	<p>The Planning Proposal is consistent with the <i>Illawarra-Shoalhaven Regional Plan</i> (see Section 3.2.1 of this report).</p>
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A

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6.3 <i>Site Specific Provisions</i>	N/A
7. Metropolitan Planning	
7.1 <i>Implementation of the Metropolitan Plan for Sydney 2036</i>	N/A