

Planning and Assessment

IRF20/2848

Gateway determination report

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| LGA | Kiama LGA |
| PPA | Kiama Municipal Council |
| NAME | Planning proposal to reclassify land at Lot 69A DP30126, 85 Attunga Avenue Kiama Heights from community to operational. (1 home, 0 jobs) |
| NUMBER | PP_2020_KIAMA_001_00 |
| LEP TO BE AMENDED | Kiama LEP 2011 |
| ADDRESS | 85 Attunga Avenue, Kiama Heights |
| DESCRIPTION | Lot 69A DP30126 |
| RECEIVED | 16 June 2020 with an updated version received on 3 August 2020 |
| FILE NO. | EF20/23332 & IRF20/234818 |
| POLITICAL DONATIONS | There are no donations or gifts to disclose and a political donation disclosure is not required. |
| LOBBYIST CODE OF CONDUCT | There have been no meetings or communications with registered lobbyists with respect to this proposal. |

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Kiama LEP 2011 by reclassifying Council land Lot 69A DP30126, 85 Attunga Avenue, Kiama Heights from community to operational. This will allow for the lot to be sold and developed consistent with its current zoning of R2 low density residential. There are no interests on the subject land proposed to be discharged.

1.2 Site description

Lot 69A DP30126, 85 Attunga Avenue, Kiama Heights is 770m² in area. It is a vacant, grassed lot with a partially damaged dry stone wall running along its northern boundary. The wall extends along all the properties on the northern side of Attunga Avenue. (Figures 1 & 2).

1.3 Existing planning controls

The land is zoned R2 Low Density Residential under the Kiama LEP 2011. No changes are proposed to the zoning or development controls of lot size (450m²), building height (8.5m) and FSR (0.45:1).

1.4 Surrounding area

The lot is located in the residential area of Kiama Heights, south of the Kiama town centre. The lot adjoins low density development to the east, west and across Attunga Avenue to the south. To the north beyond the wall is private land which incorporates the East Beach Caravan Park. There is a public reserve to the south east of the lot which joins Attunga Avenue with Kalang Road. There is a large area of open space on the headland which provides pedestrian access to Easts Beach.



Figure 1: 85 Attunga Avenue, Kiama Heights - Aerial Photo identifying Public Land (*Source: Kiama Municipal Council)

Figure 1: Subject site and locality plan (Source: MMJ Planning Proposal)



Figure 2: 85 Attunga Avenue, Kiama Heights - Site Plan (*Source: NearMap)

Figure 2: Subject site (Source: MMJ Planning Proposal)

2. PROPOSAL

2.1 Objectives or intended outcomes

The objective of the planning proposal is to reclassify land at Lot 69A DP30126, 85 Attunga Avenue, Kiama Heights from community to operational.

The objective is clear and concise.

2.2 Explanation of provisions

It is proposed to amend the Kiama LEP 2011 by:

- including the land under Schedule 4 Classification and reclassification of public land Part 1 land classified or reclassified as operational, no interests changed.

The explanation of provisions is clear and concise.

The planning proposal includes references to Schedule 4 Part 1 and Part 2 from an earlier version of the proposal. References to Part 2 should be corrected to Part 1 prior to public exhibition.

2.3 Mapping

No mapping changes are required.

3. NEED FOR THE PLANNING PROPOSAL

A planning proposal is the only means of reclassifying the land.

4. STRATEGIC ASSESSMENT

The planning proposal is not the result of any strategic study or report.

4.1 State

N/A

4.2 Regional and Local

The planning proposal is consistent with the Illawarra Shoalhaven Regional Plan and Kiama Urban Strategy, as it is facilitating the use of the land for residential purposes consistent with its zoning.

4.3 Local

The planning proposal is consistent with the Kiama Council Community Plan and Kiama Urban Strategy, as it is facilitating the use of the land for residential purposes and facilitating urban infill development to increase the density of existing built-up areas.

4.4 Section 9.1 Ministerial Directions

The planning proposal is consistent with the s9.1 Directions 2.2 Coastal Protection, 2.3 Heritage Conservation and 5.10 Implementation of Regional Plans. Although the site is within the Coastal Zone – Coastal Use and Coastal Environment Area, the proposal will not impact upon the coast or the coastal zone. The lot is separated from the coastal foreshore by private land and therefore has no, or provides no, direct access to Easts Beach. The local heritage listed dry stone wall along the northern boundary of the lot is not affected by the reclassification. The Kiama LEP 2011 contains heritage provisions which would be considered should the lot be developed.

4.5 State environmental planning policies (SEPPs)

The planning proposal has identified that the SEPP Coastal Management 2018 applies to the proposal. The reclassification of the lot does not apply or raise any issues with the SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal will result in the loss of a small area of informal open space however it is not reserved or used for public purposes and has been zoned for residential development. Whilst the Lot may be used by people to access Easts Beach, this involves trespassing onto private land between the Lot and the beach.

5.2 Environmental

The site is not known or mapped to contain any environmental values or resources and is not affected by any hazards. The planning proposal has no environmental impacts.

5.3 Economic

Monetary gains from the sale of the lot will be used to provide income for capital works and/or assist in the long term financial sustainability of Council.

5.4 Infrastructure

The land is located within an existing residential area where all utility services are available. The planning proposal does not involve any changes to the access to public infrastructure or servicing of the land.

5.5 Reclassification

In relation to the Planning Secretary's requirements regarding matters which must be addressed in the justification of all planning proposals to reclassify public land:

- a) the planning proposal is not a result of a strategic study or report. The site was investigated by Council in 2015 and the community classification was identified as an anomaly. Council has identified that the land is surplus to the community land required in Kiama Heights and the local government area.
- b) The planning proposal is consistent with Council's Kiama Urban Strategy as it is facilitating the use of the land for residential purposes.
- c) The planning proposal states there are no interests in the land which require extinguishing as part of the planning proposal.
- d) Council is both the land owner and relevant planning authority who has resolved to reclassify the land.

The planning proposal has been prepared in accordance with Department's Practice Note PN16-001 Classification and reclassification of public land through a local environmental plan.

6. CONSULTATION

6.1 Community

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.

A public hearing will also be held in accordance with the Local Government Act.

6.2 Agencies

The planning proposal does not identify any agency consultation.

It is recommended that a Gateway determination be issued without requiring consultation with agencies.

TECHNICAL STUDIES

No studies have been completed.

It is recommended that a Gateway determination be issued without requiring studies to be completed.

7. TIME FRAME

Council has proposed a 12-month project timeframe to complete the planning proposal 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 land and to provide enough time for Council to obtain an Opinion on a draft LEP from Parliamentary Counsel's Office.

8. LOCAL PLAN-MAKING AUTHORITY

The planning proposal (version 2) still identifies that the Governor's Approval is required when a reclassification proposal seeks to remove any public reserve status and/or discharges any interests affecting public land and as such does not request Council to be the local plan making authority.

The planning proposal confirms that no interests are to be removed/discharged. As such the Governor's Approval is not required and Council may be the local plan making authority.

Due to the minor, local nature of the proposal including the existing residential zoning and development controls applying to the land, it is considered appropriate for Council to be the local plan making authority.

The planning proposal should be updated to remove the reference to requiring the Governor's approval prior to public exhibition.

9. CONCLUSION

It is concluded that a Gateway determination should be issued to enable the planning proposal to proceed without the requirement for agency consultation.

10. RECOMMENDATION

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be updated to remove the need for Governor's approval and references to changing Schedule 4 Part 2 prior to public exhibition.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation with public authorities is not required.
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should be the local plan-making authority.



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