

Planning Proposal for residential development along Wyalla Road, Jamberoo

Proposal Title : **Planning Proposal for residential development along Wyalla Road, Jamberoo**

Proposal Summary : **To amend the Kiama LEP 2011 by rezoning rural land at Wyalla Road Jamberoo to residential to provide for an additional supply of residential lots and lots for development under SEPP Housing for Seniors or People with a Disability (SEPP Seniors Housing) and to increase the area of E3 Environmental Management.**

PP Number : **PP_2013_KIAMA_001_00**

Dop File No : **13/10152**

Proposal Details

Date Planning
Proposal Received : **26-Aug-2013**

LGA covered : **Kiama**

Region : **Southern**

RPA : **The Council of the Municipality of**

State Electorate : **KIAMA**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Lot 100 Wyalla Road**

Suburb : **Jamberoo**

City : **Jamberoo**

Postcode : **2534**

Land Parcel : **Lot 100 DP1063277**

Street : **Lot 1 Wyalla Road**

Suburb : **Jamberoo**

City : **Jamberoo**

Postcode : **2534**

Land Parcel : **Lot 1 DP781781**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Kim Bray**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

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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
MDP Number :	0	Date of Release :	
Area of Release (Ha) :	5.60	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	52	No. of Dwellings (where relevant) :	52
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 :	The site consists of 2 lots - Lot 1 - 1.3ha and Lot 100 - 7.8ha (total area 9.1ha) on the south western residential boundary of Jamberoo village. It is agricultural land currently used for grazing. The site is bounded to the north and west by Hyams Creek, to south rural lands and to the east Jamberoo village. It is proposed to develop 5.6ha for residential purposes with 52 lots - 30 lots for self-care seniors housing (including one lot for a community centre) and 22 residential housing lots. Kiama Council has supported the rezoning as it will add to the development potential for Jamberoo Village whilst adding a component of smaller lots to be developed utilising the requirements of SEPP Seniors Housing. It will enable a wider housing choice in Jamberoo through the provision of a mix of lot sizes.
External Supporting Notes :	The site consists of 2 lots - Lot 1 - 1.3ha and Lot 100 - 7.8ha (total area 9.1ha) on the south western residential boundary of Jamberoo village. It is agricultural land currently used for grazing. The site is bounded to the north and west by Hyams Creek, to south rural lands and to the east Jamberoo village. It is proposed to develop 5.6ha for residential land with 52 lots - 30 lots for self-care seniors housing (including one lot for a community centre) and 22 residential housing lots. Kiama Council has supported the rezoning as it will add to the development potential for Jamberoo Village whilst adding a component of smaller lots to be developed utilising the requirements of SEPP Seniors Housing. It will enable a wider housing choice in Jamberoo through the provision of a mix of lot sizes.

Adequacy Assessment

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

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

Comment : The purpose of the planning proposal is to rezone 5.6ha from RU2 Rural Landscape Zone to R2 Low Density Residential Zone to provide for an additional supply of residential lots and lots for development under SEPP Seniors Housing in accordance with Kiama Council's adopted Kiama Urban Strategy.

The proposal will also rezone RU2 lands along Hyams Creek to E3 Environmental Management (total 3.4ha) to assist in protecting the natural riparian features of the site.

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

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

Comment : The planning proposal seeks to amend the Kiama LEP 2011 by amending the:
* Land Zoning Map - from RU2 and E3 to R2 and E3;
* Lot Size Map - from 40ha to 350sqm and 800sqm for R2 lands, E3 lands will retain the 40ha;
* Height of Buildings Map - to apply up to 8.5m for R2 lands; and
* Floor Space Ratio - FSR of 0.45:1 and 0.5:1 for R2 lands.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies

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 (Rural Lands) 2008
Illawarra REP No. 2 - Jamberoo Valley**

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

The Kiama Urban Strategy has not been endorsed by the Director General. The Director General has supported the Strategy's recommendation to rezone a number of sites (including Lot 1) to allow for urban residential development. The Director General advised Kiama Council on 15th February 2012 that the Department will consider a planning proposal for these sites. There are a number of outstanding issues with the Strategy which require further investigation and negotiation between Council and the Department prior to the Director General endorsing the Strategy.

The planning proposal is consistent with the s117 Directions 2.1 Environment Protection Zones; 3.1 Residential Zones; 3.4 Integrating Land Use and Transport; and 5.1 Implementation of Regional Strategies. It is protecting environmentally sensitive areas, providing a mix of residential housing in close proximity to Jamberoo village centre and is contributing to the Illawarra's regional housing supply.

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The planning proposal is inconsistent with the s117 Directions 1.2 Rural Zones and 1.5 Rural Lands. These inconsistencies are justified by Lot 1 being identified in the Kiama Urban Strategy as suitable for inclusion in a planning proposal to rezone from rural to residential use. The Kiama Urban Strategy identified the high suitability of Lot 100 for seniors housing and the possibility that the inclusion of some additional residential opportunities may be required to encourage the use of the site for seniors housing. The Strategy also identified that the site layout planning for Lots 1 and 100 should be undertaken in conjunction with each other.

It is unknown at this stage whether the proposal is consistent or justifiably inconsistent with the s117 Directions 4.1 Acid Sulfate Soil and 4.3 Flood Prone Land. The land is mapped as containing Class 5 acid sulphate soils. An assessment is required to determine whether a land use change is suitable given the presence of the acid sulphate soils. Flood studies have been prepared for the site and they conclude that development is feasible with some minor terrain changes to achieve flood free levels in a 1:100 year event. These studies have been forwarded to the Office of Water. Council should consult with the Office of Environment and Heritage to confirm that the studies are appropriate and the proposal is consistent with the s117 Direction.

It is noted that the s117 Direction 4.4 Planning for Bushfire Protection does not apply as the site is not mapped as bushfire prone land nor does it adjoin/is in close proximity to lands that are mapped as bushfire prone.

The proposal is consistent with SEPP55 Remediation of Land. A preliminary contamination assessment has concluded that the site is not impacted by any known contamination. Further investigations will be conducted at the DA stage.

The proposal is inconsistent with SEPP Rural Lands, however, this inconsistency is justified by Council's urban development studies identifying the site as being suitable for residential and seniors housing.

The proposal is also inconsistent with Part 3 Clauses 10 and 11 of the Illawarra Regional Environmental Plan No. 2 - Jamberoo Valley. The site is located outside the existing mapped village boundaries and is thus expanding Jamberoo Village beyond its boundaries. This inconsistency is deemed to be of a minor nature and justified by the local studies and strategies which have identified the site for some form of urban development.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Draft map sheets for LZN_008; LSZ_008; HOB_008 and FSR_008 from Kiama LEP 2011 have been provided. The maps appear to require further refinement to meet the 'Standard technical requirements for preparing LEP maps'.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Kiama Council proposes to place the planning proposal on public exhibition for 28 days. It will be advertised in the local newspaper; hard copies made available at Council's office and libraries; made available on Council's website; notification letters to adjoining and surrounding property owners and notification letters to government agencies. This is considered appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

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.

A project timeframe has been included in the planning proposal. The timeframe anticipates 12 months to complete further studies and complete the rezoning process.

Council is seeking to use its own delegations to complete the planning proposal.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The Kiama LEP was notified on 16th December 2011. This is the first amendment to the LEP.

Assessment Criteria

Need for planning
proposal :

Kiama Council considers that the planning proposal is the best means of achieving residential and seniors housing and environmental protection on the site.

An alternate option of retaining the RU2 zoning on Lot 100 and allowing development utilising a site compatibility certificate under SEPP Seniors Housing was considered. The landholder indicated that it is not economically viable to develop the site only for seniors housing.

There is a risk to Council that by rezoning Lot 100 to R2 there are no controls to prevent the site being used entirely for residential development rather than a mix of seniors housing and residential development.

Consistency with
strategic planning
framework :

The Kiama Urban Strategy, 2011 identified Lot 1 as site 25 and Lot 100 as site 26. Lot 1 was identified for inclusion in a planning proposal to allow residential development.

Lot 100 was not considered as an urban expansion site for standard residential purposes due to its high suitability for senior housing opportunities - it was one of two preferred rural sites in the LGA for seniors housing opportunities. The rezoning of this land to residential was not recommended in the Kiama Urban Strategy as it would be likely to be developed instead for residential lots. The Strategy goes on to say achievement of seniors housing may require Council to negotiate further with the landholder to enable the site to be used for seniors housing suitable to the needs of Jamberoo and surrounds in scale and housing type. This negotiation may include consideration of some additional residential opportunities.

The site has been identified in a number of studies/strategies as suitable for seniors housing in the Jamberoo area. (Kiama Needs and Directions Study, 2006; Locality Based Residential Strategy for Jamberoo Village, 2004; Judith Stubbs & Associates Report.)

The planning proposal is consistent with the Illawarra Regional Strategy in that it will assist in delivering a range of housing types and some controlled growth in Jamberoo. The Strategy states in relation to Jamberoo - "whilst renewal may occur in villages over the next 25 years, this will occur at an appropriate scale to protect and enhance the character of these centres." The proposal will not detrimentally impact on the scale or village nature of Jamberoo.

Environmental social
economic impacts :

A Flora and Fauna Assessment Report has been prepared for the site. The site contains a small heavily disturbed remnant of the Endangered Ecological Community, Illawarra

Subtropical Rainforest (TSR) along part of Hyams Creek. Council considers that the remnant is not worthwhile or representative of the TSR community and any further investigations are deemed unnecessary. Revegetation would be as per common rirparin corridor activities.

The site is affected by flooding and it is proposed to carry out earthworks - fill and reshaping) to ensure that the resultant residential lots and roads are above the PMF. Council's staff has indicated that the flood studies are satisfactory.

An Aboriginal Archaeological Study has concluded that there are no in-situ sites or areas of potential archaeological deposits on site and hence there are no aboriginal archaeological constraints to redevelopment of the site.

The proposal will have a positive impact on housing supply for the Kiama LGA and on the economic sustainability of Jamberoo Village. The site has good pedestrian and cycle access to town.

Assessment Process

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

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

Public Authority Consultation - s56(2)(d) : **Office of Environment and Heritage
Origin Energy
Sydney Water
Other**

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

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

If no, provide reasons : **Council also proposes to consult with the NSW Office of Water.**

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

If Yes, reasons :

Identify any additional studies, if required. :

Flooding

Other - provide details below

If Other, provide reasons :

Further investigations are required for flooding, acid sulphate soils and infrastructure requirements as addressed above and below.

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 landholders have provided details on the ability to obtain servicing on site. They consider that all services are currently available to the boundary or on the site at present; existing water, sewer, electricity and telecommunications systems will be utilised and upgraded as necessary and an infrastructure and services report addressing all servicing needs as well as stormwater will form part of future development applications.**

Advice should be sought during the rezoning investigations to confirm the availability of infrastructure and services.

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Documents

Document File Name	DocumentType Name	Is Public
130822 Planning Proposal Wyalla Road Jamberoo letter KMC to DoPI gateway determination version 2.pdf	Proposal Covering Letter	Yes
130822 Planning Proposal Wyalla Road Jamberoo Version 2 August final.pdf	Proposal	Yes
130219 Planning Proposal Wyalla Road Jamberoo KMC meeting minutes endorsing planning proposal.pdf	Proposal	Yes
130219 Planning Proposal Wyalla Road Jamberoo KMC meeting business paper considering planning proposal.pdf	Proposal	Yes
130201 Planning Proposal Lot 1 Wyalla Road Jamberoo Urbis report.pdf	Study	Yes
130201 Planning Proposal Lot 100 Wyalla Road Jamberoo Urbis Report.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix A subdivision & rezoning concept.pdf	Map	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix A subdivision concept.pdf	Map	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix B Flora and Fauna Assessment.pdf	Study	Yes
130201 Planning proposal Lots 1 & 100 Wyalla Road jamberoo Appendix C Flood Study 120605.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road jamberoo Appendix C Flood Study Addendum 3b 120920.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix C Flood Study Addendum 4 121220.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix C Flood Study Addendum 120528.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix D Bushfire Assessment.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix G Aboriginal Archaeology Report.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix H Draft DCP.pdf	Study	Yes
130201 Planning Proposal Lots 1 & 100 Wyalla Road Jamberoo Appendix I Contamination Report.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies

Additional Information : The Acting Executive Director, Rural & Regional Planning, as delegate of the Minister for Planning and Infrastructure, determine under section 56(2) of the EP&A Act that an amendment to the Kiama Local Environmental Plan 2011 to enable residential and seniors housing development on Lot 1 and Lot 100 Wyalla Road Jamberoo should proceed

subject to the following conditions:

1. Further investigations of acid sulfate soils and flooding issues are to be completed. The results of these reports will need to demonstrate that the development can be achieved and is consistent with or justifiably inconsistent with relevant s117 Directions. The reports are to form part of the planning proposal for public exhibition.
2. Council is to prepare draft maps for the subject land prior to exhibition, in accordance with the Department's 'Standard technical requirements for LEP maps'.
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 2013)'.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - * Office of Environment and Heritage;
 - * Sydney Water;
 - * Essential Energy; and
 - * NSW Office of Water.Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that it will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
5. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. 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).
6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
7. Council be authorised to use its delegation of the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.
8. The Director General can be satisfied that the planning proposal is consistent with s117 Directions 2.1 Environment Protection Zones; 3.1 Residential Zones; 3.4 Integrating Land Use and Transport; and 5.1 Implementation of Regional Strategies.
9. The planning proposal is inconsistent with the s117 Directions 1.2 Rural Zones and 1.5 Rural Lands in that it is rezoning agricultural lands for residential development. However, the Director General can be satisfied that the inconsistencies have been justified by local planning studies and the Kiama Urban Strategy.
10. Following further investigation of acid sulfate soils and flooding issues, Council will need to confirm in the planning proposal whether the proposal is consistent with the s117 Directions 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land. Any inconsistencies will need to be justified or be of minor significance.
11. The Director General can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.
12. No further referral is required for any other s117 Directions whilst the planning

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proposal remains in its current form.

Supporting Reasons :

The conditions are necessary to ensure that the proposed land use is achievable without environmental and economic impacts.

Signature:



Printed Name:

MARK PARKER
Local Planning Manager

Date:

1st October 2013

