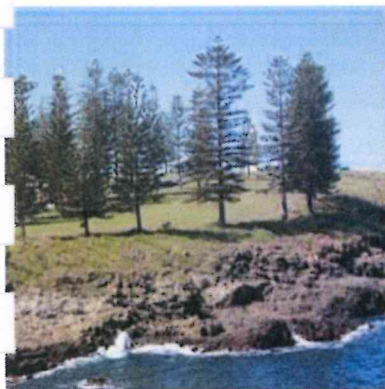




KIAMA MUNICIPAL COUNCIL
your council, your community

August 2013

Planning Proposal to Amend LEP 2011



With respect to:

Lot 100 DP 1063277

And Lot 1 DP 781781

Wyalla Road,
Jamberoo NSW

2533

Planning Proposal to amend LEP 2011 with respect to:
Lot 100 DP 1063277 and Lot 1 DP 781781 Wyalla Rd, Jamberoo 2533

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Name of Planning Proposal: Planning Proposal to amend LEP 2011 with respect to: Lot 100 DP 1063277 and Lot 1 DP 781781 Wyalla Rd, Jamberoo, NSW 2533.

Part 1 – Statement of objectives or intended outcomes

The location of the Planning Proposal is Lot 100 DP 1063277 and Lot 1 DP781781 Wyalla Road Jamberoo NSW 2533 (the subject site).

The objectives of this Planning Proposal are:

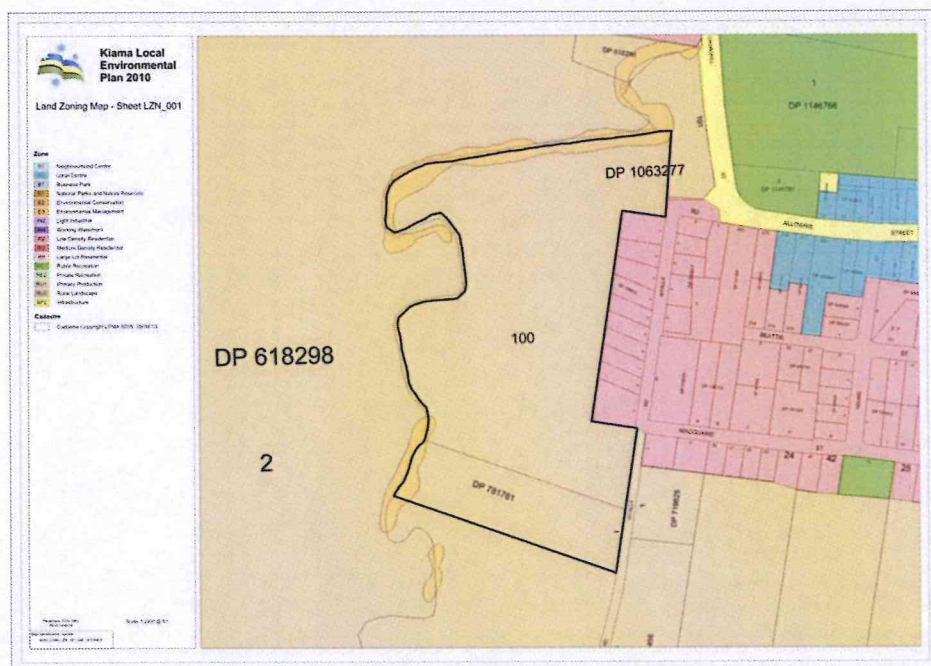
- To rezone a portion of the site from RU2 Rural Landscape to an R2 Low Density Residential zone to provide for an additional supply of residential lots and lots for development under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in accordance with Kiama Council's adopted Urban Strategy.
- To increase the area of the environmental protection zone on the site to assist in protecting the natural features on site.

Part 2 – Explanation of provisions

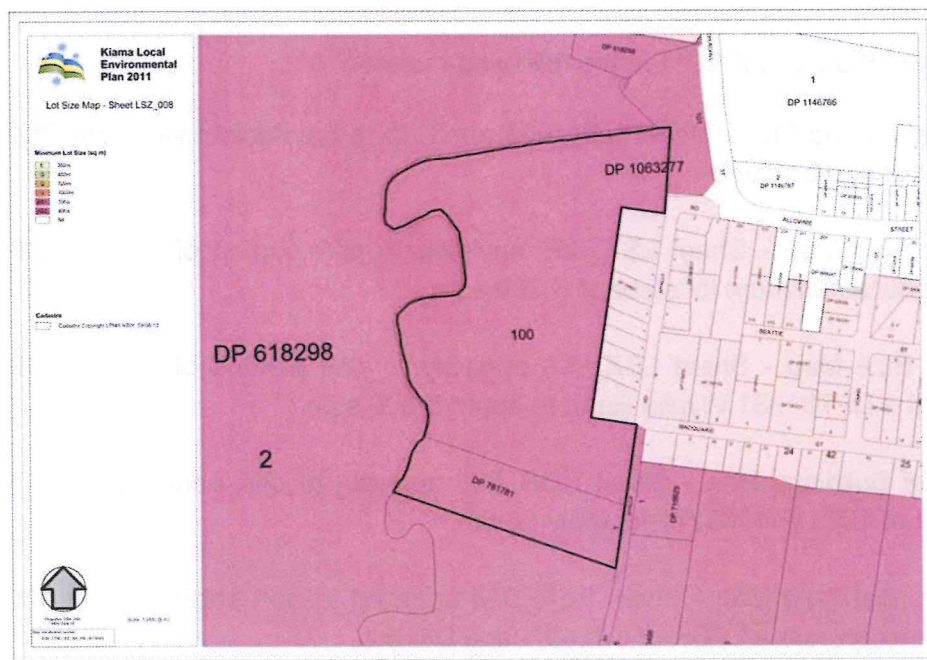
The provisions will apply to Lot 100 DP 1063277 and Lot 1 DP781781 Wyalla Road. The site is located on the western edge of the existing village. The subject site is currently zoned a mix of RU2 Rural Landscape and E3 Environmental Management under Kiama LEP 2011 which requires a minimum lot size of 40ha for a dwelling. The subject site is located adjacent to the western boundary of the Jamberoo village.

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

Kiama LEP 2011 Zoning Map Sheet LZN_008 (Current Zoning)



Kiama LEP 2011 Lot Size Map LSZ_008 (Current Lot Size)



Context Plan of the Subject Site in relation to Jamberoo Village.



The proposal will amend Kiama LEP 2011 in the following manner:

1. Amend the Land Zoning Map - Sheet LZN_008 applying to the subject site from RU2 and E3 zone to R2 and E3 zone.
2. Amend the Lot Size Map - Sheet LSZ_008 applying to part portion of Lot 100 DP 1063277 to introduce minimum lot sizes of E 350 sqm.
3. Amend the Lot Size Map - Sheet LSZ_008 applying to part portions of Lot 100 DP 1063277 and Lot 1 DP781781 Wyalla Road to apply S 800 sqm.
4. Amend Height of Buildings Map - Sheet HOB_008 applying to part portions of Lot 1 DP781781 and Lot 100 DP 1063277 to apply I 8.5m.
5. Amend Floor Space Ratio Map - Sheet FSR_008 applying to part portion of Lot 100 DP 1063277 to incorporate an FSR of C 0.45:1 and D 0.5:1.

Part 4 of this Planning Proposal illustrates the proposed map amendments to Kiama LEP 2011.

Part 3 – Justification

Q1: 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.

The Kiama Urban Strategy

The Planning Proposal has been enabled by the Kiama Urban Strategy. The need to provide for seniors living in the Kiama LGA was identified as a part of the Kiama Urban Strategy. The subject land was identified in Council's adopted Urban Strategy as sites 25 and 26: Lot 100 DP 1063277 and Lot 1 DP 781781, Wyalla Road Jamberoo. In relation to the site, the Kiama Urban Strategy states:

"Due to the high suitability of the rural site identified in Wyalla Road Jamberoo for seniors housing, this site is not being considered further as an urban expansion site for standard residential purposes. Council may need to negotiate further with this landowner to enable the site to be used for seniors living 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 applicants have estimated a potential yield on site of approximately 52 lots in total, comprising of 30 lots available for self care seniors housing, and 22 residential housing lots. The proposed rezoning would assist in both enabling a wider housing choice in Jamberoo through the provision of a mix of lot sizes, as well as providing stimulation for the Jamberoo area.

Council considers it appropriate to rezone the subject lands to R2 and E3 to facilitate development in the LGA including obtaining some independent living units in accordance with the design principles of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Kiama Needs and Directions Study 2006

The Kiama Needs and Directions Study 2006 was undertaken in order to provide a background for identifying Kiama's housing needs. The study identified the need for consideration of a diverse mix of housing to enable older people to stay living in their communities. The subject site was raised in this study as being a suitable site for future consideration of 'seniors living' for Jamberoo.

Locality Based Residential Strategy for Jamberoo Village 2004

The Locality Based Residential Strategy for Jamberoo Village was undertaken as a part of the comprehensive review of Council's Local Environmental Plan 1996. The major relevant findings of this strategy was that there was a desire amongst the older community members

for retirement style housing and smaller housing types in Jamberoo. That is, a desire for housing choice within the village itself.

Judith Stubbs & Associates report for Kiama LEP review 2006 and associated documents

These documents flagged the subject site for potential development for seniors housing for Jamberoo. Specifically the subject site was seen as ideally suited for a greenfield development comprising of self care dwellings in conjunction with a high or low care facility.

Summary of Local Studies

The subject site has been identified in a number of studies/strategies as suitable for consideration for the provision of housing for seniors in the Jamberoo area. It is noted that there appears to have been a desire amongst some members of the community to have a seniors' facility in this location that incorporated not only self care residential dwellings, but also a low or high care facility on site. It is also noted that a Site Compatibility Certificate could have been utilised to facilitate housing under the SEPP (Housing for Seniors or People with a Disability) 2004.

Whilst Council attempted to canvass these ideas, the applicants stated that these concepts were not commercially viable. Furthermore, there is at present a residential care facility already located in Kiama. The resultant Planning Proposal has included a mix of residential lots with the same planning controls as the rest of Jamberoo, as well as approximately 30 smaller lots which will be set aside for seniors housing. The Planning Proposal has been supported by Council.

Further information is provided by the applicant in the accompanying information prepared by URBIS.

Q2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

To achieve the desired outcomes of providing for an additional supply of residential lots and lots for development under SEPP (Housing for Seniors or People with a Disability) 2004 in accordance with Kiama Council's adopted Urban Strategy and ensuring the adequate protection of the riparian corridor the following options were available to Council:

Option A

- To rezone a portion of the site from RU2 Rural Landscape to an R2 Low Density Residential zone to provide for an additional supply of residential lots and lots for development under SEPP (Housing for Seniors or People with a Disability) 2004 in accordance with Kiama Council's adopted Urban Strategy.
- Amend the Land Zoning Map - Sheet LZN_008 applying to the subject site from RU2 and E3 zone to R2 and E3 zone.

- Amend the Lot Size Map - Sheet LSZ_008 applying to part portion of Lot 100 DP 1063277 to introduce minimum lot sizes of E 350 sqm.
- Amend the Lot Size Map - Sheet LSZ_008 applying to part portion of Lot 100 DP 1063277 and Lot 1 DP781781 Wyalla Road to apply S 800 sqm.
- Amend Height of Building Map - Sheet HOB_008 applying to part portion of Lot 1 DP781781 and Lot 100 DP 1063277 to apply I 8.5m.
- Amend Floor Space Ratio Map - Sheet FSR_008 applying to part portion of Lot 100 DP 1063277 to incorporate a floor space ratio of C 0.45:1 and D 0.5:1.
- Amend Floor Space Ratio Map - Sheet FSR_008 applying to part portion Lot 1 DP781781 to incorporate a floor space ratio of C 0.45:1.
- To rezone a portion of the site to an environmental protection zone on site to assist in protecting the natural features on site.

Comment

This is considered the best means of achieving the desired outcomes as the zoning of the land will reflect the residential and environmental protection uses.

Option B

- Retain the current RU2 zoning and only allow development utilising a site compatibility statement under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Comment

This option was not seen as economically viable by the current owner. It is believed that the presence of high and low care facilities in nearby Kiama provides sufficient support to proposed seniors living on this site. Further, the proposal will add to the housing choices for the Jamberoo village and support underutilised services and infrastructure.

Q3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy?

The Planning Proposal is not inconsistent with the Illawarra Regional Strategy (IRS). The Planning Proposal will assist in delivering a range of housing types and some controlled urban growth in Jamberoo. The Regional 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 the village nature of Jamberoo.

Q4: Is the Planning Proposal consistent with a council's local strategy or other local strategic document?

The Planning Proposal is consistent with Kiama's Urban Strategy. The need to provide for seniors living in the Kiama LGA was identified as a part of the Kiama Urban Strategy. The subject land was identified in Council's adopted Urban Strategy as sites 25 and 26: Lot 100 DP 1063277 and Lot 1 DP 781781, Wyalla Road Jamberoo. In relation to the site, the Kiama Urban Strategy states:

"Due to the high suitability of the rural site identified in Wyalla Road Jamberoo for seniors housing, this site is not being considered further as an urban expansion site for standard residential purposes. Council may need to negotiate further with this landowner to enable the site to be used for seniors living 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 applicants have estimated a potential yield on site of approximately 52 lots in total, comprising of 30 lots available for self care seniors housing, and 22 residential housing lots. The proposed rezoning would assist in both enabling a wider housing choice in Jamberoo through the provision of a mix of lot sizes, as well as providing stimulation for the Jamberoo area.

Council considers it appropriate to rezone the subject lands to R2 and E3 to facilitate development in the LGA including obtaining some independent living units in accordance with the design principals of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

Q5: Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning policy is consistent with applicable State Environmental Planning Policies, in particular:

State Environmental Planning Policy	Statement of Compliance
State Environmental Planning Policy No 55 – Remediation of Land	Consistent. A Preliminary Contamination Assessment has been prepared. This assessment concluded that the site is not impacted by any known contamination. The applicant has indicated that a Phase 1 Environmental Site Assessment will be prepared as a part of future Development applications for development on site.

State Environmental Planning Policy	Statement of Compliance
State Environmental Planning Policy (Rural Lands) 2008	Consistent. The site is a small parcel of land that is partially isolated from adjoining rural holdings by fragmented ownership and the riparian corridor. The proposal to rezone a portion of this site for residential is consistent with the principles of this SEPP in particular the ability to consider land for the “provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities” cl 7(f).

State Environmental Planning Policy (Rural Lands) 2008 –

Section 2 – Aims of Policy	Statement of Compliance
(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,	Consistent. <u>Comment</u> The land proposed for rezoning is fragmented from the adjoining rural holdings by the riparian corridor. Ensuring the economic vibrancy of the Jamberoo village is considered by Council to be a related purpose as outlined by cl 2(a).
(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,	Rural Planning Principles are identified below. Rural Subdivision Principles do not apply to this proposal.
(c) to implement measures designed to reduce land use conflicts,	Consistent. <u>Comment</u> The proposal will improve any land use conflict that currently exists. The proposal includes a buffer area of zoned E3 land and the Hyams Creek Riparian Corridor between any proposed R2 land and the adjoining rural land uses.

Section 2 – Aims of Policy	Statement of Compliance
(d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,	N/A
(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.	N/A

State Environmental Planning Policy (Rural Lands) 2008 –

Section 7 – Rural Planning Principles	Statement of Compliance
(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,	Consistent. <u>Comment</u> The subject site is a small parcel of land that is isolated from adjoining rural holdings and as such has very limited current or future use. The additional residential land will provide much needed critical mass to support the services currently provided in Jamberoo Village which are essential for the operation of surrounding rural lands.
(b) 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,	Consistent. <u>Comment</u> See comment in Section 2(c).
(c) 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,	Consistent. <u>Comment</u> See comment in Section 2(c).
(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,	Consistent. <u>Comment</u>

Section 7 – Rural Planning Principles	Statement of Compliance
	See comment in Section 2(c).
(e) 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,	Consistent. <u>Comment</u> The proposal provides greater protection for the riparian corridor though a proposed extension of the E3 zoned land on site.
(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,	Consistent. <u>Comment</u> The proposed residential development will support existing services and business along with providing a housing choice for long term residents, particularly those from the rural sector wishing to 'downsize' but stay in the locale.
(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,	Consistent. <u>Comment</u> See 7(f) above
(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	Consistent. <u>Comment</u> The proposal is consistent with the Illawarra Regional Strategy. The proposal will assist in delivering a range of housing types and some controlled urban growth in Jamberoo.

Q5a: Is the planning proposal consistent with applicable deemed State Environmental Planning Policies?

Illawarra Regional Environmental Plan No 2 Jamberoo Valley (IREP 2)

Illawarra Regional Environmental Plan No 2 Jamberoo Valley (IREP 2) applies to the site. The proposal is consistent with the aims and objectives of IREP 2 including the conservation of the scenic quality and amenity of the valley; conservation of areas of native vegetation;

and ensuring that future development will not compromise Jamberoo's conservation objectives.

The proposal is inconsistent with cl 10 of IREP 2 as it is proposed to expand the town boundary of the village. However, the inconsistency is deemed to be of a minor nature as the proposal is consistent with the aims and objectives of IREP 2. The inconsistency with cl 10 of IREP 2 is justified given the number of local studies and strategies which have identified this site for consideration of a form of future development.

Illawarra Regional Environmental Plan No 2 – Jamberoo Valley

Part 1 (2) Aims, objectives	Statement of Compliance
(1) The general aim of this plan is to conserve the agricultural, environmental and aesthetic values of the Jamberoo Valley.	Consistent. <u>Comment</u> Although the plan seeks to rezone a portion of land from RU2 to R2 and E3 it is considered of minor nature. The proposal also seeks to enhance the E3 zoned land on site.
(2)(a) to conserve the agricultural potential of the Jamberoo Valley,	Consistent. <u>Comment</u> Whilst the proposal seeks to rezone land from RU2 to R2 and E3 the extent of the proposed zone change is considered to be of minor significance. The subject land is a discrete portion of land located on the edge of town and has, as a natural boundary to agricultural lands, Hyams Creek. The viability of the rest of the Jamberoo Valley is not impacted by this proposal.
(2)(b) to protect the rural environment and scenic amenity of the Jamberoo Valley Escarpment Area,	Consistent. <u>Comment</u> The subject land is located contiguous to existing development in Jamberoo village. The subject site is bounded by Hyams Creek which will act as a natural buffer to surrounding agricultural land uses.
(2)(c) to conserve areas of native vegetation,	Consistent. <u>Comment</u> The proposal will assist in conserving areas of native vegetation as it is expanding the

Part 1 (2) Aims, objectives	Statement of Compliance
	area of land zoned E3 - Environmental Management on site.
(2)(d) to conserve items of the environmental heritage and to encourage and promote their restoration and enhancement,	Consistent. <u>Comment</u> The proposal will expand the area of land zoned E3, that encompasses Hyams Creek.
(2)(e) to conserve the scenic quality of the Valley,	Consistent. <u>Comment</u> The proposal will not adversely impact on the scenic quality of the site or the Jamberoo Valley.
(2)(f) to encourage re-forestation with appropriate species of trees and the eradication of undesirable exotic weed species,	Consistent.
(2)(g) to ensure that future development, including tourist development, in the valley is sited, designed and of such a scale and nature so as not to compromise other conservation objectives.	Consistent <u>Comment</u> Development that may occur on site will be largely consistent with surrounding residential development in Jamberoo. A portion of the site (seniors living) is proposing smaller lot sizes however this is seen as having no impact on any objectives of IREP 2.

Illawarra Regional Environmental Plan No 2 – Jamberoo Valley

Part 3 (10) Objectives relating to Jamberoo Village	Statement of Compliance
The objective of this plan in relation to Jamberoo Village is to limit the existing town boundaries of the Village to the boundaries as shown by a black line edged by a broken line on Sheet 1 of the map marked "Illawarra Regional Environmental Plan No 2—Jamberoo Valley" which is deposited in the office of the Department.	Inconsistent – but justified through the Kiama Urban Strategy. <u>Comment</u> The proposal seeks to vary the town boundary of Jamberoo Village. As the proposal is consistent with the aims and objectives of IREP 2 it is considered that the variation is minor and will add to the vibrancy and sustainability of Jamberoo Village. The inconsistency is also justified by Council

Part 3 (10) Objectives relating to Jamberoo Village	Statement of Compliance
	through a range of studies including the KUS. Furthermore, the clauses relating to Jamberoo village may need to be revisited as the plan is outdated.

Illawarra Regional Environmental Plan No 2 – Jamberoo Valley

Part 3 (11) Preparation of local environmental plans relating to Jamberoo Village	Statement of Compliance
A draft local environmental plan shall not make provision for the expansion of Jamberoo Village beyond the boundaries referred to in clause 10	Inconsistent – but justified through the Kiama Urban Strategy. <u>Comment</u> The inconsistency with this clause is minor and is justified on the grounds that the proposal is consistent with the aims and objectives of IREP2. The inconsistency is also justified by Council through a range of studies including the KUS. Furthermore, the clauses relating to Jamberoo village may need to be revisited as the plan is outdated.

Q6: Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?

A Section 117 Ministerial Directions - Compliance Checklist has been compiled by Kiama Council and is included in Appendix 1. Urbis, on behalf of the applicant, has also compiled a response to the 117 directions and this is included in Appendix 2.

The proposal is generally consistent with all directions with the exception of Direction 4.3 Flood Prone Land.

In order to address this issue, Council required the applicant to undertake flood studies (including pre and post development modelling) in order to ascertain if the proposal would meet the objectives of S 117 direction 4.3 Flood Prone Land. Whilst the subject site is partially flood prone, the submitted flood studies have identified a large portion of the site that can/will be flood free up to the Possible Maximum Flood (PMF) event and therefore suitable for residential development under the NSW Flood Prone Land Policy.

The proposal aims to carry out works associated with reshaping a portion of the site to ensure that post development dwellings and associated road infrastructure are clear of the PMF which is of a higher standard than required under the NSW Floodplain Development Manual, whilst resulting in minimal to nil impact on flood levels on surrounding properties. These studies have indicated that the concept for the development is satisfactory.

The submitted flood studies were based on conceptual designs only and may be subject to modification and refinement prior to the development application being lodged. It is likely that the submitted flood studies can be re-used for development application purposes provided there has been no major modifications to the extent and level of the reshaping works shown in the conceptual designs.

As a result of the investigations/studies the proposal may be inconsistent with the s 117 directions however the inconsistencies are deemed to be of a minor nature.

Q7: 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 Report was prepared by OMVI Ecological as a part of the Planning Proposal. The report found that two threatened species: the Greater Broad-nosed Bat and potentially the Large Footed Myotis have been recorded in the study area. The site also contained a small heavily disturbed remnant of the Endangered Ecological Community (EEC): Illawarra Subtropical Rainforest (ISR) along part of Hyams Creek. No threatened flora species or endangered populations listed on the schedules of the NSW threatened species Conservation Act 1995 or the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 were recorded in the study area.

Assessment by the consultant under the relevant acts have concluded that the proposed rezoning for residential development is unlikely to have a significant effect on threatened fauna or migratory species that have been recorded or could potentially occur in the study area. Furthermore, referral to the Commonwealth Environment Minister is not required.

Council staff have reviewed the study which identified that the vegetation along the creek is extremely degraded Illawarra Subtropical Rainforest, however the EEC is represented by only a small percentage of the constituent species for that EEC. The dominant vegetation is a canopy of Coral trees, camphor laurel and privet, the groundcover is mostly Tradescantia Wandering Jew. This classification as Illawarra subtropical rainforest is questionable having regard to the lack of constituent species. The vegetation is a thin strip confined to the creek and bank and is disconnected and not part of any greater natural riparian corridor. The vegetation on the western bank of Hyams Creek is privately owned and used for agricultural purposes. It is not considered to be a worthwhile remnant or representative of ISR EEC and not worth further consideration as such for this proposal. No further investigation is deemed necessary. Revegetation would be as per common riparian corridor segment.

Q8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

In order to carry out due diligence with respect to processing this proposal Kiama Council requested that the applicant obtain a number of technical studies. A review of these technical studies has indicated that there will be no significant impact on any critical habitat, threatened species, populations or ecological communities or their habitat.

A summary of the technical studies as well as any major findings has been reiterated below.

Flood studies

The subject site is affected by flooding and the applicants are proposing to carry out earthworks on site (fill and reshape) to ensure that the resultant residential lots and associated road networks are above the Possible Maximum Flood (PMF), including consideration for any climate change impacts. In order for Council to ascertain whether the proposal met obligations under Section 117 Direction 4.3 the applicant was requested to prepare preliminary flood studies (pre and post development). Council's engineering staff reviewed the flood studies and preliminary comments were sought from the Office of Water. Council staff have indicated that the concept for the development is satisfactory. The submitted flood studies were based on conceptual designs only and may be subject to modification and refinement prior to a development application being lodged. It is likely that the submitted flood studies can be re-used for development application purposes provided there has been no major modifications to the extent and level of the reshaping works shown in the conceptual designs.

Council had undertaken pre exhibition consultation with the Office of Water and the Department of Planning and Infrastructure regarding the flood issues on site. Copies of the flood studies were forwarded to the Office of Water who requested another modeling study be undertaken of the site to assist in determining post development levels incorporating re-vegetation of the riparian corridor. These were subsequently provided to the Office of Water and DoPI staff have raised no objections to the studies or this methodology.

Stage 1 - Contamination Assessment

A Stage 1- Contamination Assessment was prepared by Network Geotechnics on behalf of the applicants. As the site is a greenfield site and in the past has been used for agricultural purposes, Council requested that the applicant prepare a preliminary site contamination report. This report concluded that there was a low assessed risk of site contamination exceeding health based guidelines for residential land use; areas with a potential for contamination were localised and small. Future sampling and testing could be carried out as a part of future development applications and appropriate actions would need to be taken if future sampling does indicate levels of contamination. Council staff concurred with the

findings of this assessment. It is flagged that this may require further investigation as a result of subsequent Development Applications.

Bushfire Constraints Assessment Report

The Bushfire Assessment Report was prepared by Australian Bushfire Protection Planners Pty Ltd on behalf of the applicants. At present the site does not contain vegetation deemed to be bushfire prone. The assessment was required to address the possible future revegetation of Hyams Creek which may present a future bushfire hazard. The recommendations of this report will be carried through to any subsequent applications and include the introduction of an Asset Protection Zone of managed grassland within the proposed Zone E3 Environmental Management, and the introduction of bushfire construction standards pursuant to AS 3959-2009 for all future buildings within 100 metres of the rehabilitated riparian corridors. The report has adopted a precautionary approach in its assessment and concludes that there will be an adequate separation between the proposed future residential land and the revegetated areas to address the requirement of Planning for Bushfire Protection 2006.

Aboriginal Archaeological Study

An Aboriginal Archaeological Study was prepared by Mary Dallas Consulting Archaeologists on behalf of the applicants. The study concluded that there were no in situ sites or areas of potential archaeological deposit identified on site, and therefore no Aboriginal Archaeological constraints to redevelopment of the site.

On advice from Council's Aboriginal Liaison officer this study was referred to the Illawarra Local Aboriginal Lands Council study for peer review.

Q9: Has the planning proposal adequately addressed any social and economic effects?
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The proposal has adequately addressed social and economic effects. The proposal is consistent with key elements of the Illawarra Regional Strategy and has been identified in a number of strategies and studies prepared by Council. The proposal will have a positive impact on housing supply for the Local Government Area and also on the economic sustainability of the Jamberoo Village. As the subject site is located on the edge of the existing village, the site has good pedestrian/cycle access to town.

The proposal will not impact on land that the government has identified a need to protect. The proposal seeks to expand the area zoned E3 Environmental Management and proposes a development buffer zone to protect the existing degraded riparian corridor along Hyams Creek. The proposed Zone R2 Low Density Residential is compatible with surrounding adjoining residential zones. The proposed expansion of the existing Zone E3 Environmental Management is compatible with the surrounding adjoining land use

In order to demonstrate compliance the applicant has prepared a Net Community Benefit test which is attached as Appendix 3.

Q10: Is there adequate public infrastructure for the planning proposal?

The applicant has provided details of the ability to obtain servicing on site. This has included the following information:

- All services are currently at the boundary or on the site at present.
- That existing adjacent water, sewer, electricity and telecommunications systems will be utilised and upgraded as necessary.
- An infrastructure and services report addressing all servicing needs as well as stormwater will form part of future development applications.

Q11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Pre Gateway consultation

Council had undertaken pre exhibition consultation with the Office of Water and the Department of Planning and Infrastructure regarding the flood issues on site. Copies of the flood studies were forwarded to the Office of Water who requested another modeling study be undertaken of the site to assist in determining post development levels incorporating re-vegetation of the riparian corridor. These further reports were forwarded to Office of Water who raised no objections to the studies or this methodology.

Post Gateway consultation

It is proposed that the following State authorities would be consulted following Gateway determination.

- NSW Rural Fire Service
- NSW Office of Water
- NSW Department of Primary Industries
- NSW Office of Environment and Heritage

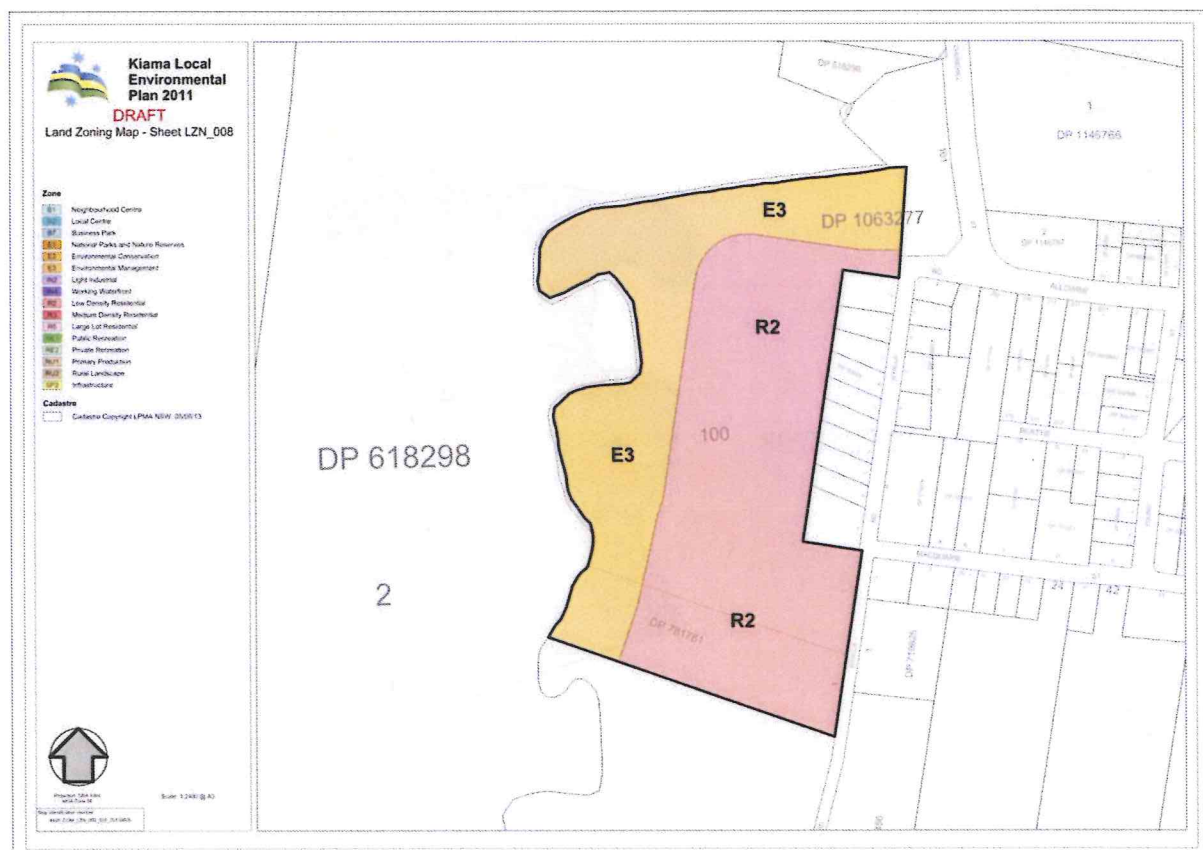
Council requests that Gateway nominates any other State or Commonwealth authorities required for consultation. All identified authorities/stakeholders will be notified during the exhibition period.

Part 4 – Mapping

The proposed map amendments to Kiama LEP 2011:

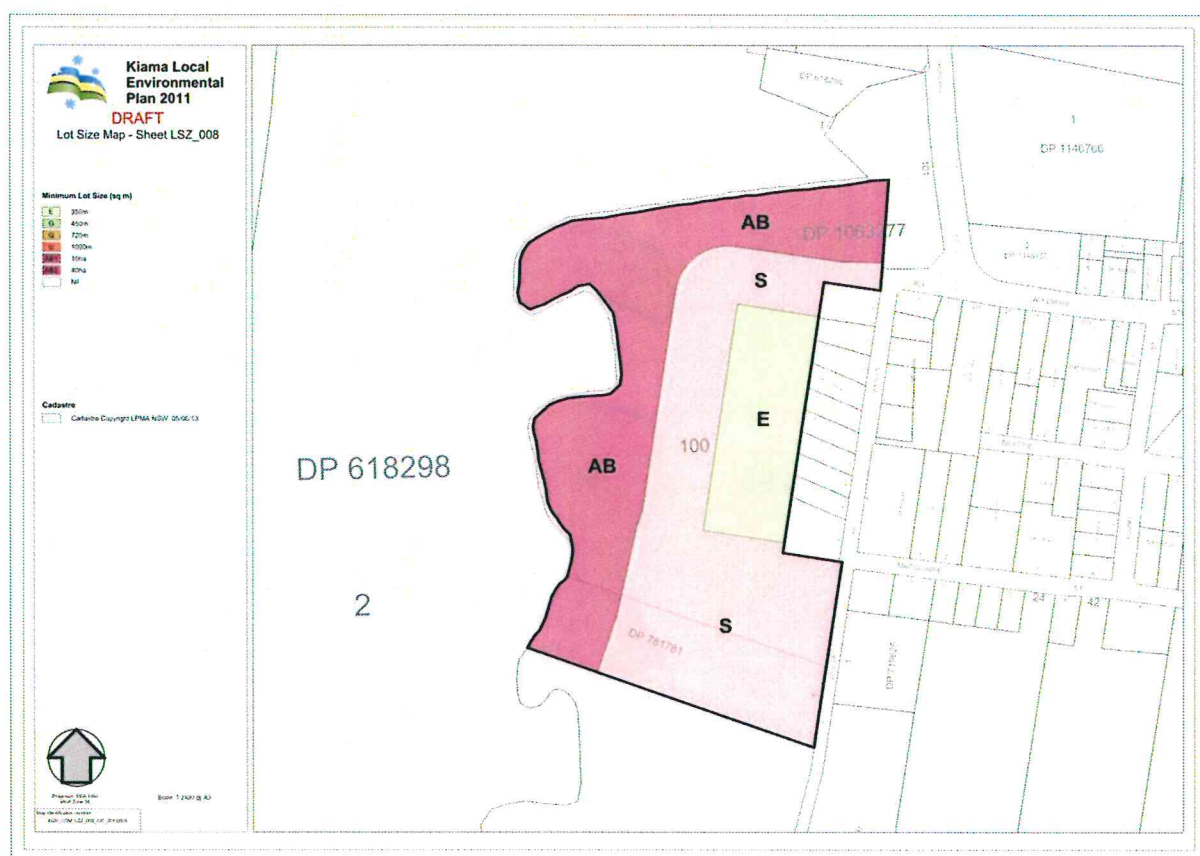
Land Zoning Map sheet LZN 008

1. Amend the Land Zoning Map - Sheet LZN_008 applying to the subject site (Lot 100 DP 1063277 and Lot 1 DP781781 Wyalla Road Jamberoo) from RU2 and E3 zone to R2 and E3 zone.



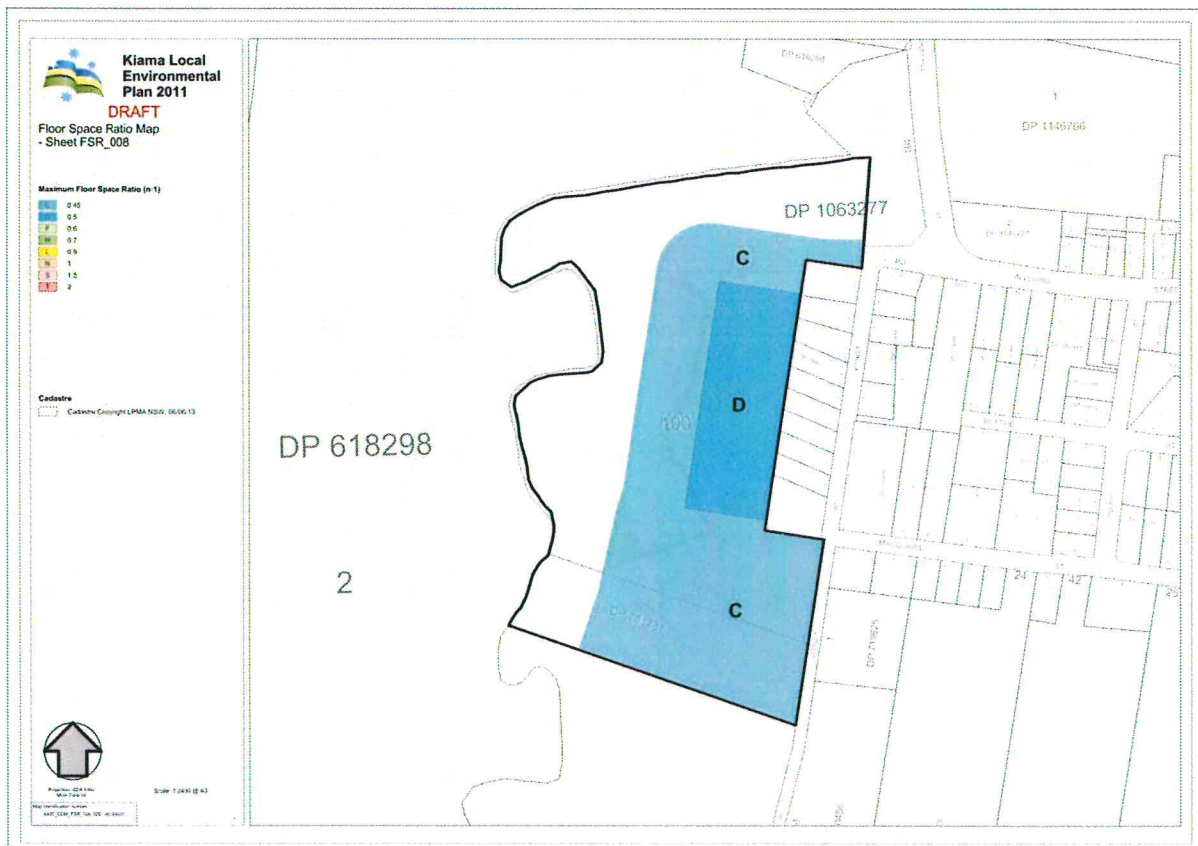
Lot Size Map sheet LSZ_008

2. Amend the Lot Size Map - Sheet LSZ_008 applying to part portion of Lot 100 DP 1063277 to introduce minimum lot sizes of E 350 sqm.
3. Amend the Lot Size Map - Sheet LSZ_008 applying to part portions of Lot 100 DP 1063277 and Lot 1 DP781781 Wyalla Road to apply S 800 sqm.



Floor Space Ratio Map – Sheet FSR_008

5. Amend Floor Space Ratio Map - Sheet FSR_008 applying to part portion of Lot 100 DP 1063277 to incorporate a floor space ratio of C 0.45:1 and D 0.5:1.
6. Amend Floor Space Ratio Map - Sheet FSR_008 applying to part portion Lot 1 DP781781 to incorporate a floor space ratio of C 0.45:1.



Part 5 – Community Consultation

Council requests that the planning proposal be exhibited for a period of 28 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.

Part 6 – Timeframe

The timeframe for the Planning Proposal is that, from date of Gateway determination to date of submission to DoPI, to finalise the LEP is a period of 12 months.

	Timeframe	Possible dates assuming Gateway determination by end July 2013	Responsibility
Anticipated commencement date (dependant on Gateway determination)	Expected by end of August 2013	End of August 2013	DoPI
Preparation of any outstanding studies (if required)	6 weeks from notification of Gateway determination.	End September 2013	Applicant
Consult with State/Commonwealth agencies	4 weeks from completing review of any outstanding studies	Mid November 2013	Agencies
Exhibition of PP and technical Studies (assuming no requirements to return to Gateway post additional studies)	4 weeks from completing review of any outstanding studies	End December 2013	Council
Date of Public Hearing (if applicable)	N/A	N/A	Council

	Timeframe	Possible dates assuming Gateway determination by end July 2013	Responsibility
Review of Submissions and Preparation of report to Council	4 weeks	End of January 2014	Council
Report to Council following exhibition	First available round after completion of review of submissions (allow 8 weeks)	March 2014	Council
Final Maps and Planning proposal documents prepared	4 weeks from Council meeting	April 2014	Council
Submission to DoPI for finalisation of LEP			Council
Anticipated date Council will forward final Planning Proposal to DoPI for notification	3 months from Department finalisation notification	July 2014	Council
Anticipated date LEP will be notified.	Unknown	August 2014	Parliamentary Counsel and DoPI

Appendix 1

Section 117 Ministerial Directions – Compliance Checklist prepared by Kiama Municipal Council

Ministerial Direction	Comment
1. Employment and Resources	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	Inconsistent but of minor significance. The subject site has been identified in a number of studies/strategies endorsed by Council as suitable for consideration for future development including seniors housing for Jamberoo. Rezoning this site would also assist Council meet its obligations under the Illawarra Regional Strategy.
1.3 Mining, Petroleum Production and Extractive Industries	N/A
1.4 Oyster Aquaculture	N/A
1.5 Rural Lands	Inconsistent but of minor significance. The subject site has been identified in a number of studies/strategies endorsed by Council as suitable for consideration for future development including seniors housing for Jamberoo. Rezoning this site would also assist Council meet its obligations under the Illawarra Regional Strategy.
2. Environment and Heritage	
2.1 Environment Protection Zones	Consistent.
2.2 Coastal Protection	N/A
2.3 Heritage Conservation	N/A
2.4 Recreation Vehicle Areas	N/A

Ministerial Direction	Comment
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Consistent
3.2 Caravan Parks and Manufactured Home Estates	N/A
3.3 Home Occupations	Consistent
3.4 Integrating Land Use and Transport	Consistent
3.5 Development Near Licensed Aerodromes	N/A
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Consistent. The subject site is partially affected by Class 5 Acid Sulfate Soils. Council will condition any future works on site to ensure compliance with the Acid Sulfate Soils Planning Guidelines.
4.2 Mine Subsidence and Unstable Land	N/A
4.3 Flood Prone Land	Inconsistent but of minor significance. Studies carried out by the applicants have indicated that the proposal aims to carry out works associated with reshaping a portion of the site to ensure that post development dwellings and associated road infrastructure are clear of the 'PMF' which is of a higher standard than required under the NSW Floodplain Development Manual, whilst resulting in minimal to nil impact on flood levels on surrounding properties. These studies have indicated that the concept for the development is satisfactory.
4.4 Planning for Bushfire Protection	Consistent. The subject site is not currently mapped as bushfire prone land. The applicants prepared a Bushfire Report to consider future impacts of any rehabilitation of Hyams Creek. The recommendations of this report will be carried through to any subsequent applications and include the introduction of an APZ of managed grassland within the proposed zone E3 Environmental Management, and the

Ministerial Direction	Comment
	introduction of bushfire construction standards pursuant to AS 3959-2009 for all future buildings within 100 m of the rehabilitated riparian corridors.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Consistent.
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
6. Local Plan Making	
6.1 Approval and Referral Requirements	N/A
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
7. Metropolitan Planning	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	N/A

Appendix 2

Section 117 Ministerial Directions – Compliance Checklist prepared by Urbis Pty Ltd on behalf of the applicant

DIRECTION	ASSESSMENT
1.2 Rural Zones (1) The objective of this direction is to protect the agricultural production value of rural land	The site is presently used as additional land for surrounding farms to graze cattle. The primary use although identified as a rural land zone is not for agricultural production and is of minimal value as rural land. The flooding constraints of the site limit the agricultural value of the land. The site is only a small parcel of rural land in the context of the wider rural area and its location on the fringe of the Jamberoo town presents an opportunity for the natural expansion of the town to meet the demand for housing and seniors housing within the Illawarra Region. The subject site is identified in the Kiama Urban Strategy as a site for which a Planning Proposal should be prepared for future residential development. This strategy addresses rural and environmental planning to maintain and protect agricultural land and ecologically sensitive areas, and options of urban expansion and infill to cater for the housing needs of future populations as set out in the Illawarra Regional Strategy. The site is also identified within the Judith Stubbs and Associates Report 2006 to inform the Kiama LEP review (as Lot 100 Wyalla Road, Jamberoo) as a “preferable site for a „greenfields “Seniors Living development”. It estimates a potential yield of more than 70 self-care dwellings and a high or low care facility. While the site may

DIRECTION	ASSESSMENT
	be physically capable of achieving such a yield and form of development, this aim is considered to be idealistic and not achievable for a number of market related reasons.
1.5 Rural Land (1) The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	See Direction 1.2 above.
2.1 Environmental Protection Zones (1) The objective of this direction is to protect and conserve environmentally sensitive areas.	A small part of the subject site fronting Hyams Creek is zoned E3 Environmental Management under the Kiama LEP 2011. The planning proposal seeks to expand the E3 zone and intends to maintain the environmental value of the creek frontage and proposes a development buffer zone of up to 50m on most parts of the site and 5-10 metre riparian zone from the creek to conserve its natural environment. The proposed development buffer zone will also ensure the ecological values of the creek frontage are maintained and preserved. Hyams Creek is also identified in the Kiama LEP 2011 as a Category 1 Riparian Watercourse. As such the proposal has had to comply with the requirements of Category 1 Watercourses that requires land within 40m of the watercourse to be included as a riparian zone and worthy of protection. The proposed development provides an

DIRECTION	ASSESSMENT
	appropriate development buffer to the watercourse and provides a 40-50m development buffer.
3.4 Integrating Land Use and Transport (1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: a) improving access to housing, jobs and services by walking, cycling and public transport, and b) increasing the choice of available transport and reducing dependence on cars, and c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and d) supporting the efficient and viable operation of public transport services, and providing for the efficient movement of freight.	The proposed residential development and seniors housing component gives provision of additional housing within Jamberoo within close proximity by walking to limited employment opportunities within Jamberoo and the community services available to future occupiers. The close proximity of the site to Jamberoo town centre also provides the opportunities for future residents to access by walking existing bus public transport links to Kiama as a larger local centre. The proposed layout of the site provides a gradient appropriate to seniors housing and gives provision of a pedestrian pathway link connecting to the existing Jamberoo pedestrian layout.

DIRECTION	ASSESSMENT
4.3 Flood Prone Land (1) The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The proposed development and layout has been designed to provide an appropriate buffer to flood prone land in accordance with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. The owner of the land has also undertaken a Floody Study to support this planning proposal and inform the overall layout of the design. The Flood Study prepared by Rudy Vandrie is included at Appendix C.
4.4 Planning for Bushfire Protection (1) The objectives of this direction are: (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) to encourage sound management of bush fire prone areas.	The owner of the land has undertaken a Bushfire Study to support this planning proposal and inform the overall layout of the design. The Bushfire Study prepared by ABPP is included at Appendix D. The rezoning proposal creates an E3 environmental buffer zone to the west and north of the future residential development. The width of this buffer varies between 40 and 50 metres and it is proposed that except for a narrow corridor of Gallery Subtropical Rainforest (approximately 5-10 metres wide), the buffer zone will contain managed grassland across the Hyams Creek floodplain. This grassland vegetation will be managed by Kiama Council, leaving the Gallery Subtropical Rainforest the only potential bushfire hazard. This vegetation will be

DIRECTION	ASSESSMENT
	located on land which slopes to the creek at less than five [5] degrees. The requisite Asset Protection Zone setback to this vegetation for residential development is 14 metres and 40 metres for „<i>Special Fire Protection Purpose Development</i>“ such as the proposed seniors living development. Both of these widths can be accommodated within the 50 metre wide buffer zone or in the case of the 35 metre wide buffer zone the Asset Protection Zone setback for the seniors living development is accommodated within the setback width plus the width of the perimeter access road and the proposed residential development located along the outer edge of the rezoning precinct, between the hazard and the seniors living precinct.
5.1 Implementation of Regional Strategies (1) The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies	The Illawarra Regional Strategy is the key strategic policy document applying to the local government area of Kiama. The proposed redevelopment of the site for residential development is of an appropriate scale and density for its location on the fringe of Jamberoo village. The site is not specifically identified as a future urban release area in the Illawarra Regional Strategy. The strategy specifies that release areas outside of the identified areas need to demonstrate compliance with the sustainability criteria contained within Table 3 of this report. Table 3 demonstrates the proposals compliance with the sustainability criteria of the Illawarra Regional Strategy. (See Section 3.3)
6.3 Site Specific Provisions (1) The objective of this direction is to	This planning proposal is supported by a site specific DCP to ensure the appropriate built

DIRECTION	ASSESSMENT
discourage unnecessarily restrictive site specific planning controls.	form and development controls are provided for the future development of the site.

Appendix 3

Net Community Benefit test prepared by Urbis Pty Ltd on behalf of the applicant

The following addresses the evaluation criteria for conducting a “net community benefit test” within the Draft Centres Policy (2009) as required by the guidelines for preparing a Planning Proposal.

NET COMMUNITY BENEFIT TEST

EVALUATION CRITERIA	Y/N	COMMENT
Will the LEP be compatible with agreed State and regional strategic direction for development in the area (e.g. land release, strategic corridors, development within 800m of a transit node)?		The proposal is consistent with key elements of the Illawarra Regional Strategy as discussed in Section 3.3 and Appendix F (of the accompanying professional report prepared by URBIS).
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?	Yes	The Illawarra Regional Strategy is the key strategic policy document applying to the local government areas of Kiama, Shellharbour and Wollongong. The primary purpose of the Regional Strategy is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the region to 2031. The strategy sets housing and employment targets for the Illawarra region. It projects that 38000 new dwellings will be required to accommodate a population increase of 47600 to 2031, and specifies that an appropriate mix generally would be 50% detached housing and 50% higher density housing. Within the Kiama LGA the suggested mix is 43% detached houses, 55% medium density and 2% high density housing. The Regional Strategy identifies Jamberoo as a village. The proposed redevelopment of the site for residential development is of an appropriate scale

EVALUATION CRITERIA	Y/N	COMMENT
		and density for its location on the fringe of Jamberoo village. The development of the site will maintain the existing village character of the site and is a natural extension to the fringe of the village. The site is not specifically identified as a future urban release area in the Illawarra Regional Strategy. The strategy specifies that release areas outside of the identified areas need to demonstrate compliance with the Strategies sustainability criteria as demonstrated in Appendix F.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	No	The proposed rezoning is unlikely to create a precedent or change the expectations of the site as its location provides a unique opportunity to deliver a residential development which acts as a natural extension to the fringe of the Jamberoo town centre. Similar opportunities are otherwise deficient within the locality.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes	There are no other known spot rezoning's in the locality that are being considered with the exception of the planning proposal for the site at Lot 100 Wyalla Road, Jamberoo that is being considered concurrently with this planning proposal.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	No	The sites proposed use for residential development will not provide many ongoing employment opportunities on the site with the exception of the roles provided by an aged care provider to service the proposed seniors housing. Given Jamberoo's limited economic and employment role within Kiama and the Illawarra, it is considered that more ongoing employment and economic opportunities will be available in Wollongong, Shellharbour and Kiama.

EVALUATION CRITERIA	Y/N	COMMENT
		The proposed development will also provide additional construction jobs within the local government area which will be beneficial to the local economy. The proposed rezoning of the site will assist local business in Jamberoo expand their trade base.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	No	The proposal will have no detrimental impact on the supply of residential lands. The proposal will increase the supply of residential lands to potentially provide a yield of up to 52 dwellings that will contribute to meeting regional and local housing supply targets for additional dwellings.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future transport?	Yes	The site is located on the frontage of Wyalla Road that is well serviced by local services connecting to the village of Jamberoo. The site of the proposed residential development is also adjacent the existing pedestrian network that connects the village of Jamberoo. Access to local buses connecting to Kiama is approximately 400m from the site at the bus shelter located within Jamberoo. Vehicular access to the site will be provided off Wyalla Road at two locations. A future DA for the residential development will determine the potential impact of the proposed development on existing utilities. Currently adequate sewer, electricity, water and telecom services are available to the site boundary.]

EVALUATION CRITERIA	Y/N	COMMENT
Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	No	The location of the residential development on site in close proximity to Jamberoo's existing services will assist in reducing travel for future residents by providing for convenient accommodation close to nearby services. To the extent that the use will provide for additional car travel, the amount of car parking is consistent with Council provisions. This car parking provision will be complemented with a reasonable standard of public transport accessibility in the town centre of Jamberoo.
Are there significant Government investments in infrastructure or services in the area where patronage will be affected by the proposal? If so, what is the expected impact?	No	No known significant government investments are being undertaken in the area. The proposal does not require further government investment in public infrastructure, it will utilise the existing infrastructure and services beyond the property boundaries.
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	No	The proposal will not impact on land that the government has identified a need to protect. Part of the site is zoned E3 Environmental Management and this planning proposal seeks to expand this zone. The proposed development has implemented a development buffer zone to protect the existing riparian corridor along Hyams Creek and the expanded E3 zone will contribute to facilitating this protection. The site is prone to flooding and again a flood development buffer zone has been implemented to ensure that 1:100 year flood levels do not compromise the development or safety of future occupants.

EVALUATION CRITERIA	Y/N	COMMENT
Will the LEP be compatible/complementary with surrounding adjoining land uses? What is the impact on the amenity in the location and wider community? Will the public domain improve?	Yes	The rezoning of part of the site to R2 low density residential is consistent with the existing adjoining zoning of the site to the east that is zoned R2. The majority of residential areas within Jamberoo itself are also R2 zoning and therefore the proposed zoning would not be out of character with the surrounding area. The scale and type of density allowed within the R2 zone is consistent with the scale and type of development proposed. The development would be compatible with surrounding land uses with further consideration on amenity and design will be included at the lodgment of future DAs. The proposed expansion of the E3 zone is complimentary to the existing parcels of the site already zoned E3 and will provide an appropriate buffer adjoining the proposed R2 zone.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	Yes	The proposal will not impact upon retail and commercial premises in the area. The proposed development is 100% residential uses that will rely upon existing services available within Jamberoo.
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	N/A	No, the proposed residential development on the fringe of Jamberoo has no potential to develop into a centre in the future.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?		The development will improve competition and diversity of accommodation within the Illawarra region and the Kiama local government area which will lead to better prices and services to customers. Additionally, the proposed development concept will generate additional jobs

EVALUATION CRITERIA	Y/N	COMMENT
		during construction and provide for some jobs as part of the home care based seniors living concept. Importantly these new jobs will be attractive to people in the wider locality. As stated previously the proposed community facility will provide an additional community infrastructure facility within Jamberoo. Those using the site as a recreation facility along Hyams Creek will also benefit from the proposal.

