



KIAMA MUNICIPAL COUNCIL
your council, your community

June 2017

Planning Proposal to Amend LEP 2011



With respect to:

Housekeeping

Amendments to

Subdivision Provisions

Contents

Part 1 – Statement of the objectives	4
Part 2 – Explanation of provisions	4
Part 3 – Justification for objectives	6
3.1: Is the planning proposal a result of strategic study or report?	6
3.2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?	10
3.3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including any exhibited draft plans or strategies)?	10
3.4: Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?	10
3.5: Is the planning proposal consistent with applicable State Environmental Planning Policies?	10
3.6: Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?	16
3.7: 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?	16
3.8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?	16
3.9: Has the planning proposal adequately addressed any social and economic effects?	16
3.10: Is there adequate public infrastructure for the planning proposal?	17
3.11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?	17
Part 4 – Mapping	17
Part 5 – Community Consultation	17
Part 6 – Project Timeline	17
Appendix 1 - Section 117 Ministerial Directions – Compliance Checklist prepared by Kiama Municipal Council.....	19

Planning Proposal for housekeeping amendments to subdivision provisions of the *Kiama Local Environmental Plan 2011*.

Part 1 – Statement of the objectives

The Planning Proposal (PP) seeks to amend subdivision provisions in the Kiama Local Environmental Plan (LEP) 2011 to enable the subdivision of dual occupancies in residential areas and adjustment of rural allotment boundaries.

The objective of this PP is to:

1. Increase the minimum lot size for the Torrens Title Subdivision of dual occupancies on land zoned R2 Low Density Residential and R3 Medium Density Residential; and
2. Retain the existing minimum lot size for the Torrens Title Subdivision of multi dwelling housing on land zoned R3 Medium Density Residential; and
3. Permit semi-detached dwellings within the R2 Low Density Residential zone; and
4. The adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

Part 2 – Explanation of provisions

The Kiama LEP 2011 is to be amended by:

1. Amending Clauses 4.1A and 4.1B to increase the size of the lot, created as part of a Torrens Title Subdivision, for each dwelling associated with a dual occupancy to at least 225m² for low density residential areas in Kiama Downs, Kiama, Kiama Heights, Gerringong and Gerroa and at least 400m² for low density residential areas in Jamberoo (i.e. no more than two lots); and
2. Amending Clauses 4.1A and 4.1B to retain the existing size of the lot, created as part of a Torrens Title Subdivision, for each dwelling associated with a multi dwelling housing of 150m² for medium density residential areas in the municipality (i.e. three or more lots); and
3. Amending the Land Use Table to make semi-detached dwellings permissible with consent within the R2 Low Density Residential zone; and
4. Adding a clause to enable the adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

Subdivision of Dual Occupancies

The existing provisions of Clauses 4.1A and 4.1B do not allow for the efficient subdivision of existing and proposed dual occupancies on certain residential zoned land. As both existing clauses seek to enable the subdivision of dual occupancies on residential zoned land the combining and subsequent editing of these clauses is considered the best means of achieving the intent of the PP.

It should be stressed that it is not the intent of this PP to alter the permissible built form of dual occupancies throughout the Municipality. Dual occupancies, both attached and

detached, are currently permissible in all residential zones throughout the Municipality. It is not the intent of this PP to change this.

The current provisions of Clauses 4.1A and 4.1B do not allow for the Torrens Title Subdivision of dual occupancies that were erected after December 2011. It is considered to be onerous to restrict the Torrens Title Subdivision of newer dual occupancies if they comply with all other built form controls.

Also, Clauses 4.1A and 4.1B enable existing dual occupancies to be Torrens Title Subdivided to a minimum lot size of 150m² uniformly across the Municipality. As different areas of the Municipality have different minimum lot sizes it is not considered appropriate to apply a uniform minimum lot size across the Municipality. In this regard it is considered that the amended clause should seek to utilise the prescribed minimum lot sizes, for specific locations, to ensure that future residential density reflects the desired residential character of those specific locations.

The minimum lot size prescribed for the R2 Low Density and R3 Medium Density Residential areas in Kiama Downs, Kiama, Kiama Heights, Gerringong and Gerroa is 450m². By comparison the minimum lot size prescribed for the residential areas of Jamberoo is 800m². In this regard, under the current provisions of Clauses 4.1A and 4.1B a lot could be created in Jamberoo with a minimum lot size of 150m², approximately 18% of the prescribed minimum lot size.

As this PP does not seek to alter the permissible built form of dual occupancies it is considered consistent to permit Torrens Title Subdivision of dual occupancies (i.e. 2 dwellings) in R2 Low Density Residential zoned land to 50% of the prescribed minimum lot size. This will mean that the lot for each dwelling associated with a dual occupancy will need to be at least 225m² for the R2 Low Density Residential areas in Kiama Downs, Kiama, Kiama Heights, Gerringong and Gerroa and at least 400m² for the R2 Low Density Residential areas in Jamberoo.

As the proposed clause will ultimately enable semi-detached dwellings to be located on land zoned R2 Low Density Residential it is considered appropriate to also amend the land use table to make semi-detached dwellings permissible with consent within the R2 Low Density Residential zone. These amendments are considered further appropriate as the former Kiama LEP 1996 did not prescribe a minimum lot size for Torrens Title subdivisions of dual occupancies and multi dwelling housing (previously referred to as integrated housing).

Subdivision – Boundary Adjustment of certain Rural and Environmental Land

The intent of this amendment is to allow the subdivision of land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management that will not increase the number of lots or the number of dwellings and dwelling entitlements on each lot. Subdivisions under this clause will need to demonstrate a continuation of rural/agricultural uses.

As several other standard instrument LEPs (i.e. Armidale Dumaresq, Shoalhaven, Snowy River, Tamworth and Wingecarribe) contain boundary adjustment clauses it is considered appropriate to draft similar a clause in line with these existing clauses.

This Planning Proposal does not include mapping amendments to Kiama LEP 2011.

Part 3 – Justification for objectives

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

The Planning Proposal is not the result of any strategic study or report. The Planning Proposal is the result of a Council resolution to endorse the subject amendments to the LEP 2011.

The necessity to make the intended amendments to the Kiama LEP 2011 has become evident as a result of the past five (5) years since the publication of the Kiama LEP 2011. At their meeting of 11 November 2014 the Kiama Development Industry Committee raised concerns over the difficulties and uncertainties relating to the subdivision of dual occupancies within the Municipality. In light of these concerns Council requested a report on likely administrative Planning Proposals required under Kiama LEP 2011 and potential time frames for same. The following advice was reported to the March 2017 Council meeting where it was resolved to prepare a Planning Proposal to enable:

- The efficient Torrens Title Subdivision of Dual Occupancies and Multi Dwelling Housing on land zoned R2 Low Density Residential and R3 Medium Density Residential; and
- The adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

Subdivision of Dual Occupancies

The current provisions of the LEP do not prescribe a minimum site area required to erect dual occupancies or multi-dwelling housing on residential zoned land. In this respect, dual occupancies and/or multi-dwelling housing can theoretically be erected on residential allotments of any size within the Municipality. The LEP definitions for dual occupancies and multi dwelling housing are provided below.

- **dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.
- **dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.
- **Multi-dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Dual occupancies are currently permissible with consent within the R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones. Multi-dwelling housing is currently only permissible within the R3 Medium Density Residential zone.

Semi-detached dwellings and attached dwellings are dual occupancies and multi dwelling housing which have been Torrens Title subdivided to result in each dwelling being situated on its own allotment. The LEP definitions for semi-detached dwellings and attached dwellings are provided below.

- ***semi-detached dwelling*** means a dwelling that is on its own lot of land and is attached to only one other dwelling.
- ***attached dwelling*** means a building containing 3 or more dwellings, where:
 - (a) each dwelling is attached to another dwelling by a common wall, and
 - (b) each of the dwellings is on its own lot of land, and
 - (c) none of the dwellings is located above any part of another dwelling.

Semi-detached dwellings and attached dwellings are currently only permissible with consent within the R3 Medium Density Residential zone.

The problem that faces property owners and/or developers is that the Torrens Title subdivision of dual occupancies is restricted under the current provisions of the LEP.

Clause 4.1 of the *Kiama LEP 2011* establishes that the size of any lot resulting from a Torrens Title subdivision cannot be less than the minimum lot size shown on the Lot Size Map in relation to that land. Clause 4.1A and 4.1B provide exceptions to the prescribed minimum lot sizes for certain development in residential zones. The provisions of Clause 4.1A are provided below.

4.1A Exceptions to minimum lot sizes for development in Zone R2 and Zone R3

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *This clause applies to development on land in the following zones:*
 - (a) *Zone R2 Low Density Residential Zone,*
 - (b) *Zone R3 Medium Density Residential Zone.*
- (3) *Despite clause 4.1, development consent may be granted to a single development application for development on land to which this clause applies if the development is both:*
 - (a) *the subdivision of land into 3 or more lots, each lot being equal to or greater than 150 square metres, and*
 - (b) *the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.*

Clause 4.1A enables the Torrens Title subdivision of residential zoned land into three (3) or more lots, each with an area greater to or equal to 150m², if an attached dwelling, semi-detached dwelling or dwelling house is erected on each lot. A development application lodged under the provisions of this clause must be both for the erection of the dwellings and subsequent subdivision. As such a Torrens Title subdivision under this clause cannot occur if the dwellings have been erected as part of a separate application. This clause also does not enable the Torrens Title subdivision of dual occupancies (i.e. 2 dwellings) as it would result in less than three (3) lots. Additionally, it is noted that currently the LEP prohibits attached dwellings and semi-detached dwellings in the R2 Low Density Residential Zone. In

this respect the provisions of Clause 4.1A are contrary to the land use table for the R2 Low Density Residential zone. It is also noted that the provisions of Clause 4.1A do not apply to land zoned R5 Large Lot Residential.

The provisions of Clause 4.1B are provided below.

4.1B Exceptions to minimum lot sizes for certain development in residential zones

- (1) The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) Despite clause 4.1, development consent may be granted to subdivide land in any residential zone if at the time this Plan commenced and at the time the development application was made there existed on the land a dual occupancy or multi dwelling housing and each resulting lot from the subdivision:*
 - (a) will be not less than 150m², and*
 - (b) will contain a single dwelling.*

Clause 4.1B of the LEP enable the Torrens Title subdivision of dual occupancies or multi dwelling housing, within residential zones, that were erected prior to the commencement of the LEP (i.e. December 2011) less than the prescribed minimum lot size. The Torrens Title subdivision of dual occupancies or multi dwelling housing less than the prescribed minimum lot size is not currently permissible for dual occupancies or multi dwelling housing that were erected after December 2011. It is noted that currently the provisions of Clause 4.1B also apply to land zoned R5 Large Lot Residential.

Currently under the provisions of the LEP any developer wishing to gain consent for both the erection of a dual occupancy and/or multi dwelling housing and subsequent Torrens Title subdivision is required to lodge an objection, as per the provisions of Clause 4.6 of LEP, to the standards contained in Clause 4.1 of LEP. This requires a formal submission by the developer, together with justification stating why compliance with the standard is unreasonable or unnecessary. The Committee noted that the need to lodge the objection was an added requirement to the applicant and also produced anxiety in prospective developers given the perception of a lack of certainty in the outcome of such a request.

Since 2013 Council staff have received 34 separate formal requests to vary the minimum lot size in order to Torrens Title subdivide dual occupancies that were erected post December 2011. To date all of these variations have been granted approval in accordance with Clause 4.6 of the LEP. In light of this it is considered appropriate to amend the provisions of the LEP to more efficiently enable the Torrens Title subdivision of dual occupancies and multi dwelling housing to result in semi-detached dwellings and attached dwellings respectively on residential land, especially where the development satisfies all other requirements of the LEP and the Kiama DCP 2012.

Subdivision – Boundary Adjustment of certain Rural and Environmental Land

Clause 4.1 of the LEP establishes that the size of any lot resulting from a Torrens Title subdivision cannot be less than the minimum lot size shown on the Lot Size Map in relation to that land. Subdivision 38 of the *State Environmental Planning Policy (SEPP) (Exempt and*

Complying Development Codes) 2008 allows the realignment of boundaries of rural and environmental zoned land. The provisions of Subdivision 38 are listed below.

Subdivision 38 Subdivision

2.75 Specified development

The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code:

- (a) widening a public road,*
- (b) a realignment of boundaries:*
 - (i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and*
 - (ii) that will not create additional lots or the opportunity for additional dwellings, and*
 - (iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless a lot or lots whose boundaries are being realigned is or are already smaller than the minimum size and that lot or those lots will only increase in size at the completion of the subdivision), and*
 - (iv) that will not adversely affect the provision of existing services on a lot, and*
 - (v) that will not result in any increased fire risk to existing buildings, and*
 - (vi) if located in Zone RU1, RU2, RU3, RU4, RU6, E1, E2, E3 or E4 that will not result in more than a minor change in the area of any lot, and*
 - (vii) if located in any other zone that will not result in a change in the area of any lot by more than 10%,*
- (c) (Repealed)*
- (d) rectifying an encroachment on a lot,*
- (e) creating a public reserve,*
- (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.*

Under the current provisions of both the LEP and the SEPP the boundary adjustment of rural and/or environmental zoned land which is already less than the prescribed minimum lot size is prohibited if the resultant lot decreases in size. Rural land holders who wish to align their allotment boundaries with existing fencing may not be able to do so under the current legislative provisions.

The proposed amendments to the LEP will apply uniformly across the Municipality. The Planning Proposal (PP) aims to enable the efficient Torrens Title subdivision of existing and proposed dual occupancies, attached dwellings and semi-detached dwellings on residential zoned land and for small scale boundary adjustments between land zoned rural and/or environmental.

It is acknowledged that this PP seeks to make several amendments to the LEP. In light of this Council staff consulted with the Department of Planning and Environment (DoPE) regarding the bundling of these amendments into the one PP. The DoPE have confirmed

that as the proposed amendments are all relating to the subdivision of land within the municipality that it is appropriate to combine these amendments into the one PP.

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

A Planning Proposal is the only mechanism available for amending the current provisions of the LEP.

3.3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including any exhibited draft plans or strategies)?

The applicable regional strategy for the area is the Illawarra-Shoalhaven Regional Plan (ISRP). It is considered that the proposed amendments to the LEP 2011 are consistent with Goals 2 and 4 of the ISRP.

By enabling the efficient subdivision of dual occupancies and multi dwelling housing the PP is consistent with Direction 2.1, 2.2 and 2.3 as it will assist in supplying sufficient housing, support housing opportunities close to existing services and deliver housing in new release areas.

By enabling the adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management the PP is consistent with Directions 4.1 and 4.2 as it will enable existing rural land holders to more efficiently manage their land and assets.

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

Council's applicable local strategy is the Kiama Urban Strategy (KUS). It is considered that the proposed amendments to the LEP 2011 are consistent with Strategic Direction 4.1 of the KUS.

As part of formulating the KUS Council considered that urban infill was a priority and should be maximised as it would protect agricultural land resources and respond to changing housing needs of an ageing population. By enabling the efficient subdivision of dual occupancies and multi dwelling housing the PP is consistent with Strategic Direction 4.1 of the KUS as it will assist in providing for urban infill development.

3.5: 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	Assessment of Compliance
State Environmental Planning Policy No 55 – Remediation of Land	N/A as the PP does not seek to change the permissible land uses in any zones.

State Environmental Planning Policy	Assessment of Compliance
State Environmental Planning Policy No 71 – Coastal Protection	Clause 7 of SEPP No 71 requires Council to take into account the matters for consideration set out in Clause 8 when it prepared a PP that applies to land to which the SEPP applies.
2 Aims of Policy	
<i>This Policy aims:</i>	
(a) <i>to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</i>	The PP will not alter the natural, cultural, recreational and economic attributes of the NSW coast.
(b) <i>to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i>	The PP will not directly alter existing access to and along the coastal foreshore. The PP will not directly inhibit access to and along coastal foreshores.
(c) <i>to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i>	As above.
(d) <i>to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</i>	The PP will not directly impact on items or places of Aboriginal cultural heritage.
(e) <i>to ensure that the visual amenity of the coast is protected, and</i>	The PP will not directly alter the visual amenity of the coast.
(f) <i>to protect and preserve beach environments and beach amenity, and</i>	The PP will not directly alter beach environments and beach amenity.
(g) <i>to protect and preserve native coastal vegetation, and</i>	The PP will not directly alter beach environments and beach amenity.
(h) <i>to protect and preserve the marine environment of New South Wales, and</i>	The PP will not directly alter the marine environment of NSW.

State Environmental Planning Policy	Assessment of Compliance
(i) <i>to protect and preserve rock platforms, and</i> (j) <i>to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and</i> (k) <i>to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</i> (l) <i>to encourage a strategic approach to coastal management.</i>	The PP will not directly alter rock platforms. While the PP will apply to areas within the coastal zone it will not result in irreversible damage to the environment, thus adhering to the precautionary principle. The PP will also ensure inter-generational equity and the conservation of biological diversity and ecological integrity. In this way the PP will ensure the site is managed in accordance with the principles of ecologically sustainable development. The PP is not proposing development. Any future development on the site will be assessed against the provisions of SEPP 71. The PP will not inhibit any future coastal management.
Clause 8 – Matters for consideration <i>The matters for consideration are the following:</i>	
(a) <i>the aims of this Policy set out in clause 2,</i> (b) <i>existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</i> (c) <i>opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</i> (d) <i>the suitability of development given its type, location and design and its relationship with the surrounding area,</i> (e) <i>any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore</i>	The Planning Policy is consistent with the aims of SEPP 71 (see above). The PP will not directly alter existing access to and along the coastal foreshore. The PP will not directly inhibit access to and along coastal foreshores. As above. The subject PP will not alter development permissibility within the municipality. The PP will not directly alter the visual amenity of the coastal foreshore.

State Environmental Planning Policy	Assessment of Compliance
<i>and any significant loss of views from a public place to the coastal foreshore,</i> (f) <i>the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,</i> (g) <i>measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,</i> (h) <i>measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats</i> (i) <i>existing wildlife corridors and the impact of development on these corridors,</i> (j) <i>the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,</i> (k) <i>measures to reduce the potential for conflict between land-based and water-based coastal activities,</i> (l) <i>measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</i> (m) <i>likely impacts of development on the water quality of coastal waterbodies,</i> (n) <i>the conservation and preservation of items of heritage, archaeological or historic significance,</i> (o) <i>only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,</i>	The PP will not directly alter the scenic qualities of the NSW coast. The PP will not alter any existing measures to conserve animals and plants and their habitat. The PP will not alter any existing measures to conserve fish and marine vegetation and their habitat. The subject PP will not alter development permissibility within the municipality and as such is unlikely to impact upon existing wildlife corridors. The subject PP will not alter development permissibility within the municipality. The likely impacts of coastal process and coastal hazards on development, and vice versa, will not be altered as a result of this PP. The Planning Proposal will not alter the potential for conflicts between land-based and water-based coastal activities. The PP will not directly impact on items or places of Aboriginal cultural heritage. The subject PP will not alter development permissibility within the municipality. As such, the likely impacts of development on the quality of coastal waterbodies will not be altered as a result of this PP. The PP will not directly alter the existing conservation and preservation of items of heritage, archaeological or historic significance. The PP will encourage infill residential development within the existing Kiama township.

State Environmental Planning Policy	Assessment of Compliance
(p) <i>only in cases in which a development application in relation to proposed development is determined:</i> i) <i>the cumulative impacts of the proposed development on the environment, and</i> ii) <i>measures to ensure that water and energy usage by the proposed development is efficient.</i>	N/A

State Environmental Planning Policy	Assessment of Compliance
State Environmental Planning Policy (Rural Lands)	Ministerial Direction 1.5 requires that the subject PP be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands).
7 Rural Planning Principles <i>The Rural Planning Principles are as follows:</i>	
(a) <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i> (b) <i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,</i> (c) <i>recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,</i> (d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community,</i> (e) <i>the identification and protection of</i>	The PP will enable a greater level of flexibility to manage rural properties as it will enable rural land holders to align their allotment boundaries with existing fencing, agricultural infrastructure etc. In this regard it is considered that the PP promotes and protects opportunities for current and potential productive and sustainable economic activities in rural areas. By promoting agricultural production and diversification in the area this PP is consistent with this principle. By providing opportunities to rural land holders to align their allotment boundaries with existing fencing, agricultural infrastructure etc the PP is consistent with this principle. Not applicable as the PP is not proposing the provision of additional rural lands. The subject PP will not alter the existing level

State Environmental Planning Policy	Assessment of Compliance
<i>natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</i> (f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i> (g) <i>the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i> (h) <i>ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i>	of protection for natural resources within the municipality. The subject PP will enable a greater level of flexibility to manage rural properties. However, the proposed amendments will not alter the existing opportunities for housing opportunities within rural areas. Not applicable as the subject PP will not provide for the opportunity for additional rural housing. The PP is considered to be consistent with both the Illawarra-Shoalhaven Regional Plan.
8 Rural Subdivision Principles <i>The Rural Subdivision Principles are as follows:</i>	
(a) <i>the minimisation of rural land fragmentation,</i> (b) <i>the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</i> (c) <i>the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</i>	The subject PP will not allow for the fragmentation of rural land as it will not enable the creation of additional allotments. The subject PP will not alter development permissibility within the municipality. Additionally the PP will enable a greater level of flexibility to manage rural properties whilst not impacting on neighbouring residential properties. It is envisioned that controls will be added to ensure boundary adjustments minimise land use conflicts. The subject PP will not enable the creation of additional allotments or additional dwelling entitlements. It is envisioned that controls will be added to ensure the nature of existing agricultural holdings etc. are considered.

State Environmental Planning Policy	Assessment of Compliance
(d) <i>the consideration of the natural and physical constraints and opportunities of land,</i>	It is envisioned that controls will be added to ensure the natural and physical constraints and opportunities of the land are considered.
(e) <i>ensuring that planning for dwelling opportunities takes account of those constraints.</i>	Not applicable as the subject PP will not provide for the opportunity for additional rural housing.

3.6: 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.

Council finds the proposal consistent with all applicable Section 117 Ministerial Directions.

3.7: 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?

The PP will not alter any existing measures to conserve that critical habitat or threatened species, populations or ecological communities, or their habitats.

Subdivision of Dual Occupancies & Multi Dwelling Housing

Due to the nature of the applicable zones it is unlikely that critical habitat will be present in these areas.

Subdivision – Boundary Adjustment of certain Rural and Environmental Land

It is envisioned that controls will be added to ensure that such boundary adjustments will not adversely affect critical habitat.

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

Due to the nature of the subject PP it is considered unlikely that any environmental effects will occur as a result of the proposed changes. However, it is envisioned that controls will be added to ensure that any potential environmental effects are managed.

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

The proposal is the result of both social and economic responses to the current provisions of the LEP 2011. The subject PP seeks to enable more efficient residential and rural development that will result in both a positive social and economic effects.

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

The subject PP will not alter development permissibility within the municipality and as such no additional public infrastructure will be required as a direct result of the PP.

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

Pre Gateway consultation

The proposal is very minor in nature and as such, no State or Commonwealth authorities have been consulted as part of the preparation of this Planning Proposal.

Part 4 – Mapping

This Planning Proposal does not include mapping amendments to Kiama LEP 2011.

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 DoPE.

Part 6 – Project Timeline

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

	Timeframe	Possible dates
Submit planning proposal to NSW		June 2017

	Timeframe	Possible dates
Department of Planning & Environment (DoPE) seeking a Gateway Determination		
Receive Gateway Determination	4 weeks from submission date	July 2017
Preparation of any outstanding studies (if required)	6 weeks from notification of Gateway determination.	N/A
Consult with State/Commonwealth agencies	4 weeks from completing review of any outstanding studies	August 2017
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	September 2017
Date of Public Hearing (if applicable)	N/A	N/A
Review of Submissions and Preparation of report to Council	4 weeks	October 2017
Report to Council following exhibition	First available round after completion of review of submissions (allow 8 weeks)	February 2018
Submission to Parliamentary Counsel Office (PCO) to draft amendment.	4 weeks from Council meeting	March 2018
Submission to DoPE for finalisation of LEP	6 weeks from date of submission to PCO	Mid-April 2018
Anticipated date LEP will be notified.	6 weeks from date of submission to DoPE	June 2018

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	This direction does not apply to the Planning Proposal
1.2 Rural Zones	The subject PP does not seek to rezone land from rural zone to a residential, business, industrial, village or tourist zone. The subject PP does not contain provisions that will increase the permissible density of land within a rural zone. The Planning Proposal is consistent with Direction 1.2 – Rural Zones.
1.3 Mining, Petroleum Production and Extractive Industries	This direction does not apply to the Planning Proposal
1.4 Oyster Aquaculture	This direction does not apply to the Planning Proposal
1.5 Rural Lands	As shown above the subject PP is consistent with both the Rural Planning Principles and the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>. The Planning Proposal is consistent with Direction 1.5 – Rural Lands.
2. Environment and Heritage	
2.1 Environment Protection Zones	It is envisioned that controls will be added to ensure that subdivisions enabled by this PP will protect and conserve environmentally sensitive areas. The PP does not seek to reduce the environmental protection standards that apply to land within an environment protection zone. The Planning Proposal is consistent with Direction 2.1 – Environment Protection Zones.

Ministerial Direction	Comment
2.2 Coastal Protection	The subject PP will not alter the existing provisions of the LEP which give effect to the NSW Coastal Policy etc. The Planning Proposal is consistent with Direction 2.2 – Coastal Protection.
2.3 Heritage Conservation	The subject PP will not alter the existing provisions of the LEP which give effect to the heritage conservation. The Planning Proposal is consistent with Direction 2.3 – Heritage Conservation.
2.4 Recreation Vehicle Areas	The subject PP will not alter existing development permissibility within the municipality, in particular recreation vehicle areas. The Planning Proposal is consistent with Direction 2.4 – Recreation Vehicle Area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	This direction does not apply to the Kiama Municipality.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	The subject PP will enable the efficient Torrens title subdivision of existing and proposed residential development on residential zoned land, which is service ready. The Planning Proposal is consistent with Direction 3.1 – Residential Zones.
3.2 Caravan Parks and Manufactured Home Estates	The subject PP will not alter existing development permissibility within the municipality, in particular caravan parks and manufactured home estates. The Planning Proposal is consistent with Direction 3.2 – Caravan Parks and Manufactured Home Estates.
3.3 Home Occupations	Home Occupations are permitted without consent within both the R2 Low Density Residential and R3 Medium Density Residential zones under the LEP 2011. The subject PP would not alter this permissibility. The Planning Proposal is consistent with Direction

Ministerial Direction	Comment
	3.3 – Home Occupations.
3.4 Integrating Land Use and Transport	The subject PP will not create, alter or remove a zone or a provision relating to urban land. The Planning Proposal is consistent with Direction 3.4 – Integrating Land Use and Transport.
3.5 Development Near Licensed Aerodromes	This direction does not apply to the Planning Proposal
3.6 Shooting Ranges	This direction does not apply to the Planning Proposal
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Chapter 3.2 of the Acid Sulfate Soils Planning Guidelines state that an Acid Sulfate Soils Study should be prepared when an intensification of land use on acid sulfate soil is proposed. It is noted that this chapter specifically refers to a proposal for rezoning. In this regard it is not considered necessary to prepare an Acid Sulfate Soils Study as this PP does not involve an intensification of land uses on land identified as having a possibility of containing acid sulfate soils. The subject PP will not alter the existing acid sulfate soils controls contained in Clause 5.1 of the LEP 2011. The Planning Proposal is consistent with Direction 4.1 – Acid Sulfate Soils.
4.2 Mine Subsidence and Unstable Land	This direction does not apply to the Planning Proposal
4.3 Flood Prone Land	This direction does not apply to the Planning Proposal as it will not create, remove or alter a zone or a provision that affects flood prone land.
4.4 Planning for Bushfire Protection	The PP will apply to land identified as being bush fire prone land. Council will consult with the NSW Rural Fire Service following the receipt of a gateway determination. The subject PP will not alter the existing relationship between the LEP and <i>Planning for Bushfire Protection 2006</i>. The Planning Proposal is consistent with Direction 4.4 – Planning for Bushfire Protection.
5. Regional Planning	

Ministerial Direction	Comment
5.1 Implementation of Regional Strategies	This direction does not apply to the Kiama Municipality.
5.2 Sydney Drinking Water Catchments	This direction does not apply to the Kiama Municipality.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	This direction does not apply to the Kiama Municipality.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This direction does not apply to the Kiama Municipality.
5.8 Second Sydney Airport: Badgerys Creek	This direction does not apply to the Kiama Municipality.
5.9 North West Rail Link Corridor Strategy	This direction does not apply to the Kiama Municipality.
5.10 Implementation of Regional Plans	The Planning Proposal is consistent with the Illawarra-Shoalhaven Regional Plan (see Section 3.3 of this report). The Planning Proposal is therefore consistent with Direction 5.10 – Implementation of Regional Strategies.
6. Local Plan Making	
6.1 Approval and Referral Requirements	The PP does not propose any additional provisions that would require the concurrence, consultation or referral of future development applications to a Minister or public authority. The Planning Proposal is therefore consistent with Direction 6.1 – Approval and Referral Requirements.
6.2 Reserving Land for Public Purposes	The Planning Proposal does not include any provisions that relate to the use of land reserved for public purposes. The Planning Proposal is therefore consistent with Direction 6.2 – Reserving Land for Public Purposes.
6.3 Site Specific Provisions	This direction does not apply to the Planning Proposal
7. Metropolitan Planning	

Ministerial Direction	Comment
7.1 Implementation of the Metropolitan Plan for Sydney 2036	This direction does not apply to the Kiama Municipality.
7.2 Implementation of the Greater Macarthur Land Release Investigation	This direction does not apply to the Kiama Municipality.
7.3 Parramatta Road Corridor Urban Transformation Strategy	This direction does not apply to the Kiama Municipality.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	This direction does not apply to the Kiama Municipality.