



New South Wales

PARLIAMENTARY COUNSEL

Opinion

Environmental Planning and Assessment Act 1979
Proposed Kiama Local Environmental Plan 2011 (Amendment No 11)

Your ref: PP_2017_KIAMA_003_00
Our ref: e2017-340.d10 EL

In my opinion the attached draft environmental planning instrument may legally be made.

A handwritten signature in black ink, appearing to be 'R. Hodge'.

(R HODGE)

Acting Parliamentary Counsel

3 May 2018



New South Wales

Kiama Local Environmental Plan 2011 (Amendment No 11)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

A handwritten signature in black ink, appearing to read 'Mark Lyndon'.

Mark Lyndon - Manager Strategic Planning, Kiama Municipal Council
signed under delegation for Kiama Municipal Council

4 May 2018

Kiama Local Environmental Plan 2011 (Amendment No 11)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Kiama Local Environmental Plan 2011 (Amendment No 11)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

This Plan applies to land in the following zones under *Kiama Local Environmental Plan 2011*:

- (a) Zone RU1 Primary Production,
- (b) Zone RU2 Rural Landscape,
- (c) Zone R2 Low Density Residential,
- (d) Zone R3 Medium Density Residential,
- (e) Zone E3 Environmental Management.

Schedule 1 Amendment of Kiama Local Environmental Plan 2011

[1] Land Use Table

Insert “; Semi-detached dwellings” after “Secondary dwellings” in item 3 of the matter relating to Zone R2 Low Density Residential.

[2] Clause 4.1A Exceptions to minimum lot sizes for development in Zone R2 and Zone R3

Omit clause 4.1A (3). Insert instead:

- (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:
 - (i) each lot being equal to or greater than 50% of the minimum size shown on the Lot Size Map in relation to the land if the land is in Zone R2 Low Density Residential, or
 - (ii) each lot being equal to or greater than 150 square metres if the land is in Zone R3 Medium Density Residential, and
 - (b) the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.

Note. See clause 4.1D for exceptions to minimum subdivision lot sizes for dual occupancies in Zone R2 and Zone R3.

[3] Clause 4.1B Exceptions to minimum lot sizes for certain development in residential zones

Insert after clause 4.1B (2):

- (3) However, this clause does not apply to land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential on which there is an existing dual occupancy (erected at any time).

Note. See clause 4.1D for exceptions to minimum subdivision lot sizes for dual occupancies in Zone R2 and Zone R3.

[4] Clause 4.1D

Insert after clause 4.1C:

4.1D Exceptions to minimum subdivision lot sizes for dual occupancies in Zone R2 and Zone R3

- (1) The objective of this clause is to encourage the efficient subdivision of existing and proposed dual occupancies without adversely impacting on residential amenity.
- (2) This clause applies to the subdivision of land in the following zones:
 - (a) Zone R2 Low Density Residential,
 - (b) Zone R3 Medium Density Residential,but does not apply to the subdivision of land under the *Strata Schemes Development Act 2015* or the *Community Land Development Act 1989*.
- (3) Despite clause 4.1, development consent may be granted to the subdivision of land to which this clause applies if:

- (a) there is an existing dual occupancy (lawfully erected at any time) on the land or development consent has been granted for the erection of a dual occupancy on the land, and
 - (b) the subdivision of land will result in no more than 2 lots with each resulting lot equal to or greater than 50% of the minimum size shown on the Lot Size Map in relation to the land, and
 - (c) each resulting lot will have either a semi-detached dwelling or dwelling house.
- (4) 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 no more than 2 lots with each resulting lot equal to or greater than 50% of the minimum size shown on the Lot Size Map in relation to the land, and
 - (b) the erection of either a semi-detached dwelling or dwelling house on each lot resulting from the subdivision.

[5] Clause 4.2C

Insert after clause 4.2B:

4.2C Exceptions to minimum subdivision lot size for boundary adjustments in Zone RU1, Zone RU2 and Zone E3

- (1) The object of this clause is to permit the boundary between 2 or more lots to be altered in certain circumstances to give landowners a greater opportunity to achieve the objectives of a zone.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone E3 Environmental Management.
- (3) Despite clause 4.1, development consent may be granted to the subdivision of 2 or more adjoining lots to which this clause applies if:
 - (a) the subdivision will not result in any increase in the number of lots, and
 - (b) the subdivision will not result in an increase in the number of dwellings on, or dwellings that may be erected on, any of the lots, and
 - (c) the land subject to the subdivision will continue to be used for rural or agricultural purposes (or both).
- (4) Before determining a development application for the subdivision of land under this clause, the consent authority must consider the following:
 - (a) the existing uses and approved uses of other land in the vicinity of the subdivision,
 - (b) whether or not the subdivision is likely to have a significant impact on land uses that are likely to be preferred and the predominant land uses in the vicinity of the development,
 - (c) whether or not the subdivision is likely to be incompatible with a use referred to in paragraph (a) or (b),
 - (d) whether or not the subdivision is likely to be incompatible with a use on land in any adjoining zone,

- (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d),
 - (f) whether or not the subdivision is appropriate having regard to the natural and physical constraints affecting the land,
 - (g) whether or not the subdivision is likely to have an adverse impact on the environmental values or agricultural viability of the land.
- (5) This clause does not apply:
 - (a) in relation to the subdivision of individual lots in a strata plan or a community title scheme, or
 - (b) if the subdivision would create a lot that could itself be subdivided in accordance with clause 4.1.