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Gateway determination report – PP-2022-3463

Kiama Heritage Planning Proposal 2022

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

Contents

1	Planning proposal.....	1
1.1	Overview.....	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area.....	3
2	Need for the planning proposal	5
3	Strategic assessment	5
3.1	Regional Plan	5
3.2	Local.....	6
3.3	Section 9.1 Ministerial Directions	6
3.4	State environmental planning policies (SEPPs)	6
4	Site-specific assessment	7
4.1	Environmental.....	7
4.2	Social and economic.....	7
4.3	Infrastructure	7
5	Consultation.....	7
5.1	Community	7
5.2	Agencies.....	8
6	Timeframe	8
7	Local plan-making authority	8
8	Assessment summary	8
9	Recommendation.....	8

Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal
Council Report (28 June 2022)
Council Minutes (28 June 2022)
Kiama Town Centre Heritage Review – Preliminary Justification Report (April 2021)

Kiama Town Centre Heritage Review – Draft Report (November 2021)

Smith Farm Heritage Conservation Area Heritage Assessment (December 2021)

Other supporting documentation (e.g. Heritage Inventory Sheets, maps)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	LGA name
PPA	Kiama Municipal Council
NAME	Kiama Heritage Planning Proposal (0 homes, 0 jobs)
NUMBER	PP-2022-3463
LEP TO BE AMENDED	Kiama Local Environmental Plan 2011
ADDRESS	Various – refer to Sections 1.3-1.4 of this report
DESCRIPTION	Various – refer to Sections 1.3-1.4 of this report
RECEIVED/ADEQUATE	30/09/2022
FILE NO.	IRF22/3372
POLITICAL DONATIONS	There are no donations or gifts to disclose, and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to amend the Kiama Local Environmental Plan (KLEP) 2011 as follows:

- amend the relevant Heritage Maps to show additional new local heritage items and local heritage conservation areas within the Kiama Town Centre
- amend heritage item I164 in Schedule 5 of the KLEP 2011 to incorporate the Blowhole Tennis Court (Terralong Street – Lot 1 DP 1115376)
- amend heritage item I117 in Schedule 5 of the KLEP 2011 to incorporate Saints Peter and Paul Catholic Church (94 - 112 Manning Street, Kiama – Lot 1002 DP 859186)
- amend Schedule 5 to include 7 new local heritage items
- amend Schedule 5 to include 2 new local Heritage Conservation Areas (HCAs)

The objectives of this planning proposal are clear and adequate.

The planning proposal also sought to amend Schedule 5 of the LEP to identify exiting local heritage items I151, I152 and I153 (Kiama Police Station, Kiama Police Station and Residence and Kiama Court House) as State Heritage Items, following approval from the NSW State Heritage Register (SHR) Committee. However, only items which are already State Heritage listed can be included in a LEP. The State Heritage approvals and listing could therefore hold up finalisation of the LEP.

Noting the Department's commitment to reducing LEP timeframes, the Department has recommended a Gateway condition requiring this aspect of the planning proposal to be removed. It is noted that the listing of State heritage items in an LEP does not afford the items any greater protection.

Council has been informed of this change and will seek to amend the LEP to complete this aspect of the proposal when/if the items are listed on the State Heritage Register.

1.3 Explanation of provisions

The planning proposal seeks to amend the KLEP 2011 by:

- amending Schedule 5 of the KLEP 2011 to:
 - incorporate the Blowhole Tennis Court (Terralong Street – Lot 1 DP 1115376) in heritage item I164
 - incorporate Saints Peter and Paul Catholic Church (94 - 112 Manning Street, Kiama – Lot 1002 DP 859186) in heritage item I117
 - list the following sites as new individual local heritage items;
 - 24 Manning Street, Kiama – Lot 21 DP 1186998
 - 5 Noorinan Street, Kiama – Lot 12 DP 1166458
 - 51 Shoalhaven Street, Kiama – Part Lot 200 DP 1017091
 - 23 Barney Street, Kiama – Lot 1 DP 194007
 - 72 Collins Street, Kiama – Lot 1 DP 781177
 - 1 Bong Bong Street, Kiama – Lot 1 DP 1115376
 - 19 Barney Street, Kiama – Lot 1 DP 1014606
 - List the following areas as new local HCAs;
 - Kiama Town Centre HCA, being:
Manning Street, from Bong Bong Street to Terralong Street, and Terralong Street, from its eastern extent to Collins Street, including the façade of 66 and 68 Terralong Street – Lots 1 & 2 DP 508891
 - Smiths Farm HCA, being:
The area generally between Akuna Street, Shoalhaven Street, Barney Street, Seaview Street, Belvedere Street and Collins Street and 87 Shoalhaven Street – Lot 7 DP 258846.
- amending the relevant heritage maps to include the new heritage items, listed above, and the new heritage conservation areas.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The planning proposal relates to numerous sites both within, and in proximity to, the Kiama Town Centre in the Kiama local government area.

Details of the specific sites being added as new, or amended, local heritage items are outlined in Section 1.3 of this report and the planning proposal, along with general descriptions of land within the proposed new HCAs. The subject sites (excluding some additional properties forming part of the Smiths Farm HCA) are mapped in the planning proposal and shown in **Figure 1** to **Figure 4** below.

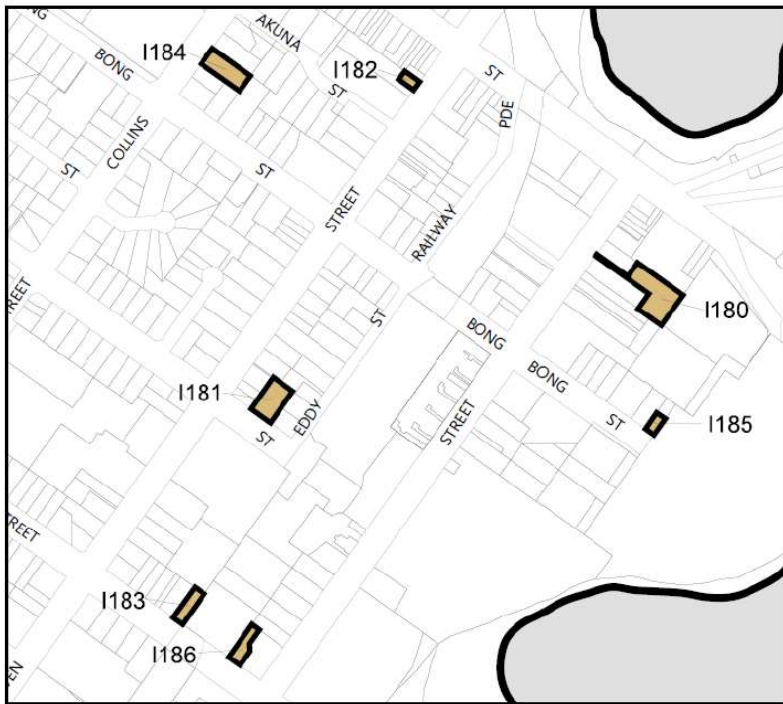


Figure 1: Proposed new heritage items (source: Planning Proposal)

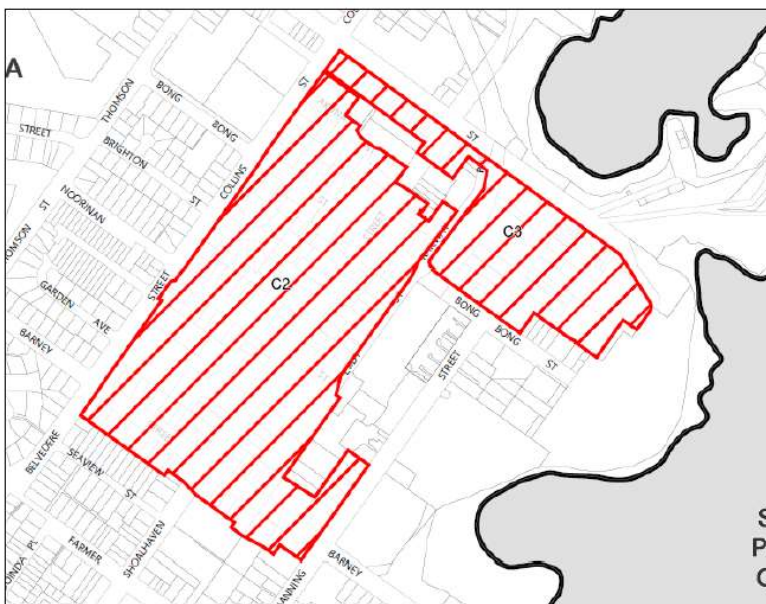


Figure 2: Proposed new HCAs – C2 represents Smiths Farm HCA and C3 represents the Kiama Town Centre HCA (source: Planning Proposal)

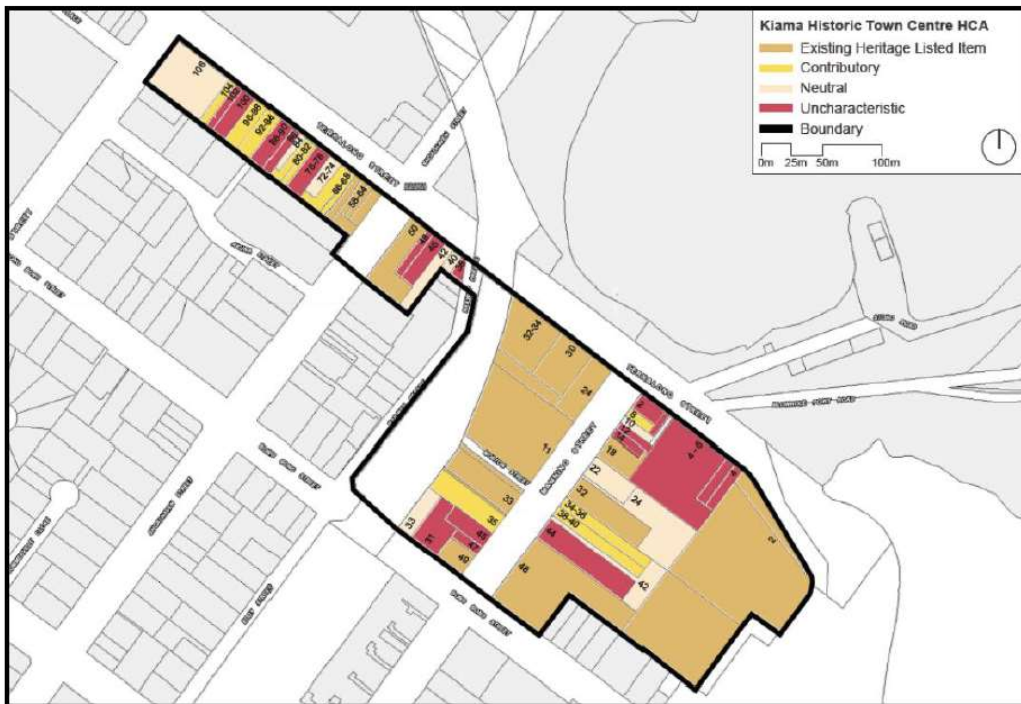


Figure 3: Boundaries of Kiama Town Centre HCA (source: Planning Proposal)



Figure 4: Boundaries of Smiths Farm HCA (source: Planning Proposal)

The planning proposal includes mapping showing the proposed changes to the KLEP 2011 maps (refer to Section 1.4) which are generally considered adequate for public exhibition.

2 Need for the planning proposal

Council notes the planning proposal is a direct result of the Kiama Local Strategic Planning Statement 2020 (LSPS) and associated actions.

Theme 5 of the LSPS is to foster vibrant and accessible places. Planning Priority 14, of the LSPS, is to identify and safeguard areas and items of heritage significance. The following actions have been identified to achieve this Planning Priority:

- establish a holistic review program of the existing heritage register contained in Schedule 5 of the Kiama LEP 2011:
- finalise Kiama Town Centre Heritage Review Project, as identified by the Kiama Town Centre Study, to consider the outcomes of the KTC Study and to identify other potential heritage items and/or areas
- update associated inventory sheets to ensure all relevant information is available regarding the heritage significance of heritage listed items/areas
- create a heritage conservation area (HCA) for Civic Precinct

Council considers the planning proposal is a direct result of the Kiama Town Centre Heritage Review Preliminary Justification Report prepared by GML Heritage.

Council staff have refined the subject planning proposal (items proposed for listing, extent of HCAs etc) based on preliminary community feedback received on the Kiama Town Centre Heritage Review, amended heritage controls proposed in Kiama Development Control Plan (DCP) Chapter No. 4, a DCP summary report and draft inventory sheets for the proposed new heritage items.

The Department is satisfied the proposal is intended to protect the heritage significance of Kiama Town Centre and surrounds and is consistent with local strategic planning objectives, namely Council's LSPS.

A planning proposal of this nature is the best and only means of achieving the intended outcomes.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against the key relevant aspects of the Illawarra Shoalhaven Regional Plan 2041.

Table 3 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 23 – Celebrate, conserve, and reuse cultural heritage	The planning proposal seeks to protect heritage items and HCAs and is consistent with this Objective of the Regional Plan.

Strategy 23.1 - Identify, conserve, and enhance cultural heritage values.	The planning proposal seeks to protect heritage items and HCAs and is consistent with this Strategy of the Regional Plan.
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3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 4 Local strategic planning assessment

Local Strategies	Justification
Kiama Local Strategic Planning Statement	As noted in Section 2 of this report, the planning proposal is the direct result of, and consistent with, heritage conservation priorities and actions identified in Council's LSPS.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with key relevant section 9.1 Directions is discussed below:

Table 5 Direction 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 1.1 – Implementation of Regional Plans	Yes	The PP is consistent with the overall intent of the Regional Plan (and this Direction) and outcomes relating to conserving local heritage and protecting region's local character (Objective 23).
Direction 3.2 – Heritage Conservation	Yes	The planning proposal seeks to facilitate conservation of heritage items and HCAs and is consistent with this Direction.

It is noted the planning proposal incorrectly states several section 9.1 Directions (4.2 – Coastal Management, 5.1 – Integrating Land Use and Transport, 7.1 – Business and Industrial Zones and 6.1 – Residential Zones) do not apply. It is recommended the planning proposal be updated prior to public exhibition to address consistency with these Directions. Consistency with these Directions remains unresolved until this occurs.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with relevant SEPPs.

State Environmental Planning policy (Resilience and Hazards) 2021

Parts of the subject land are in the coastal zone and Chapter 2 – Coastal Management of the SEPP applies.

Council notes the planning proposal seeks to protect heritage items and character within the identified areas from future development. Council concludes the proposal will not be detrimental to the coastal environmental values and natural processes and is not inconsistent with this SEPP.

The proposed heritage controls are likely to reduce the intensity of development and associated impacts in the coastal zone. Future development applications for land that is the subject of this proposal in the coastal zone would also need to appropriately consider the development provisions of the SEPP.

The Department agrees the proposal is not inconsistent with the SEPP.

4 Site-specific assessment

4.1 Environmental

Due to the nature of the planning proposal (i.e. a housekeeping amendment relating to heritage), it is considered unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposed changes.

Council's planning proposal states that none of the sites to which the planning proposal relates contain any know critical habitat or threatened species, populations or ecological communities, or their habitats.

As such, no adverse environmental impacts are anticipated.

4.2 Social and economic

Council considers the proposal would have positive social and economic impacts on the community by:

- ensuring the protection and retention of local heritage and that appropriate development controls and/or restrictions are in place to guide any future development;
- supporting Kiama's social heritage by retaining physical items of cultural significance;
- supporting Kiama's strong existing cultural heritage and tourism function and associated economy; and
- enabling heritage-listed property owners to apply for heritage grants and loans and apply for special heritage valuations and concessions.

The Department acknowledges the positive social and economic impacts stated by Council but also notes heritage controls can restrict what property owners can do with their property, potentially causing negative economic impacts.

Some individual economic and social impact is considered reasonable in the context of protecting sites of local heritage significance from inappropriate development for the benefit of the broader community.

4.3 Infrastructure

No additional burden to existing public infrastructure is anticipated because of the proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended that Heritage NSW be consulted on the planning proposal:

6 Timeframe

Council proposes an 8-month time frame to complete the LEP.

A 9-month time frame to complete the LEP is recommended in the Gateway conditions in case any unforeseen delays occur.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal relates to a basic category LEP amendment and is of local significance, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is consistent with local and regional strategic planning objectives to protect heritage.

It is therefore recommended that the planning proposal should proceed to consultation.

9 Recommendation

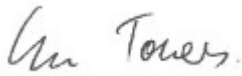
It is recommended the delegate of the Secretary:

- agree that the planning proposal is consistent with relevant Section 9.1 Directions and/or any inconsistencies are minor/justified (except those Directions outlined below); and
- note that the inconsistency with section 9.1 Directions 4.2 – Coastal Management, 5.1 – Integrating Land Use and Transport, 7.1 – Business and Industrial Zones and 6.1 – Residential Zones remains unresolved until further justification has been provided.

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

1. The planning proposal is to be updated prior to public exhibition to:
 - (a) remove all aspects seeking to identify exiting local heritage items I151, I152 and I153 as State Heritage Items; and
 - (b) address consistency with all applicable Section 9.1 Directions (including Directions 4.2 – Coastal Management, 5.1 – Integrating Land Use and Transport, 7.1 – Business and Industrial Zones and 6.1 – Residential Zones).
2. Consultation is required with the following public authorities:
 - Heritage NSW
3. The planning proposal should be made available for community consultation for a minimum of 20 days.
4. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.

5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



24/10/22

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24/10/2022

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