



IRF22/4187

# Gateway determination report – PP-2022-4144

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Kiama Town Centre Planning Proposal

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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

<b>1</b>	<b>Planning proposal</b>	<b>1</b>
1.1	Overview	1
1.2	Objectives of planning proposal	1
1.3	Explanation of provisions	2
1.4	Site description and surrounding area	2
1.5	Mapping	5
<b>2</b>	<b>Need for the planning proposal</b>	<b>5</b>
<b>3</b>	<b>Strategic assessment</b>	<b>6</b>
3.1	Regional Plan	6
3.2	Local	7
3.3	Section 9.1 Ministerial Directions	7
3.4	State environmental planning policies (SEPPs)	8
<b>4</b>	<b>Site-specific assessment</b>	<b>8</b>
4.1	Environmental	8
4.2	Social and economic	8
4.3	Infrastructure	9
<b>5</b>	<b>Consultation</b>	<b>9</b>
5.1	Community	9
5.2	Agencies	9
<b>6</b>	<b>Timeframe</b>	<b>9</b>
<b>7</b>	<b>Local plan-making authority</b>	<b>10</b>
<b>8</b>	<b>Assessment summary</b>	<b>10</b>
<b>9</b>	<b>Recommendation</b>	<b>10</b>

**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal (November 2022) and maps
Council Report (September 2022)
Council Minutes (September 2022)
Kiama Development Control Plan 2021 – Chapter 12 – Location Specific Controls

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

LGA	LGA name
PPA	Kiama Municipal Council
NAME	Kiama Town Centre Planning Proposal
NUMBER	PP-2022-4144
LOCAL ENVIRONMENTAL PLAN (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	29/11/2022
FILE NO.	IRF22/4187
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 implement the Kiama Town Centre Study relating to facilitating higher density development by amending the Kiama Local Environmental Plan (KLEP) 2011 to:

1. Increase the maximum permissible building height:
  - a) from 3 storeys to 4 storeys along the southern side of Terralong Street, between Thomson Street and Collins Street;
  - b) from 3 storeys to 4 storeys for parts of Kiama Centrepont Shopping Mall; and
  - c) from 3 storeys to 4, 5 and 6 storeys for parts of the Akuna Street strategic site.
2. Increase the maximum floor space ratio of specific sites;
3. Map the areas of the Kiama Town Centre required to have an active street frontage;
4. Amend clause 6.8 relating to active street frontage development standards; and
5. Rezone 72 Manning Street from RE1 Public Recreation to B2 Local Centre/E1 Local Centre.

The objectives of this planning proposal are clear and adequate.

The Department understands Council also wishes to decrease the maximum building height for parts of the Akuna Street strategic site to 8.5 metres to reflect the use of the site as public open space.

The Department has therefore recommended a condition requiring Council to update the statement of objectives in the planning proposal to include this, prior to exhibition.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the KLEP 2011 by:

1. Amend relevant Height of Building map sheet (HOB\_012) to:
  - a) Increase the maximum building height along the southern side of Terralong Street, between Thomson Street and Collins Street, to 14 metres (or 4 storeys),
  - b) Increase the maximum building height for parts of the Kiama Centrepont Shopping Mall to 14 metres (or 4 storeys),
  - c) Increase the maximum building height for parts of the Akuna Street strategic site to 14 metres (4 storeys), 17 metres (5 storeys) and 21 metres (6 storeys),
  - d) Decrease the maximum building height for parts of the Akuna Street strategic site to 8.5 metres, and
  - e) Apply a maximum building height of 11 metres to Lot 154 DP 751279, 72 Manning Street.
2. Amend the relevant Floor Space Ratio map sheet (FSR\_012) to:
  - a) Increase the maximum floor space ratio along the southern side of Terralong Street, between Thomson Street and Collins Street, to 2:1,
  - b) Increase the maximum floor space ratio for parts of the Kiama Centrepont Shopping Mall to 2:1,
  - c) Increase the maximum floor space ratio for parts of the Akuna Street strategic site to 2:1, 2.5:1 and 3:1, and
  - d) Apply a maximum floor space ratio of 1.5:1 to Lot 154 DP 751279, 72 Manning Street.
3. Adopt Active Street Frontage map sheet (ASF\_012) to map active street frontages on specific sites;
4. Amend clause 6.8 to outline that the active street frontage development standards only apply to the areas marked as active street frontages within the on the Active Street Frontages map, and
5. Amend the relevant Land Zoning map sheet (LZN\_012) to rezone Lot 154 DP 751279, 72 Manning Street (i.e. Silica Restaurant) from RE1 Public Recreation to B2 Local Centre/E1 Local Centre. Council has advised that this is to correct a mapping error as the site is privately owned.

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

Council's planning proposal notes that the changes (maximum building heights, floor space ratios etc) may be subject to change following the exhibition of the planning proposal (e.g. to ensure consistency and compliance with floor to ceiling heights in the *NSW Apartment Design Guide*).

As the land at 72 Manning Street is adjacent to and/or subject to a Crown Lands lease agreement, consultation with Crown Lands is recommended.

## 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.

Section 1.3 of this report and the planning proposal provide general descriptions of land, streets and specific sites to which the planning proposal relates.

The subject sites are also mapped in the planning proposal and shown in **Figure 1** to **Figure 4** below.

**Note:** These maps only show the proposed planning controls of the sites subject to this planning proposal.



**Figure 1: Proposed Height of Buildings Map (source: Planning Proposal)**





Figure 2: Proposed Floor Space Ratio Map (source: Planning Proposal)



Figure 3: Proposed Active Street Frontages Map (source: Planning Proposal)



Figure 4: Proposed Land Zoning Map (source: Planning Proposal)

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the relevant maps, which are suitable for community consultation (refer to **Figure 1** to **Figure 4** above).

Upon lodgement, Council identified that the draft Height of Building Map (**Figure 1**) shows no changes to the area between 'R' and 'P' (allocated public open space in the Akuna Street strategic site) and that it was intended for the height of this area to be reduced from 11m to 8.5m to facilitate the open space.

The Department has recommended a condition requiring Council to update the relevant building height map and statement of objectives of the planning proposal accordingly, prior to 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 an associated action.

Council's LSPS contains the following action under Planning Priority 1 (PP1) to plan for and balance housing supply and demand:

*Facilitate higher density development as recommended by the Kiama Town Centre Study through the review and amendment of Development Controls within the study area.*

Studio GL was engaged by Council to prepare the Kiama Town Centre Study and inform recommendations for potential increases to maximum building heights and floor space ratio to specific sites in the town centre. This planning proposal seeks to implement those recommendations.



Studio GL also prepared the associated draft Topic 12.7 – Kiama Town Centre of Kiama Development Control Plan (DCP) 2020 which was adopted by Council on 20 September 2022. Council sought preliminary community feedback on the Kiama Town Centre Feasibility Analysis and new draft DCP Chapter, prior to lodgement of the planning proposal.

Increases to maximum building heights and floor space ratios would allow the opportunity to facilitate higher density development (including infill housing), along with providing the straightening of roads, pedestrian linkages, and the provision of public open space.

Council believes the proposed amendments are needed to provide the opportunity for additional commercial and retail space throughout the Town Centre, to attract businesses and have positive economic benefits through local job creation, helping contribute to a viable community.

Council also acknowledges the need to control and manage development to ensure that Kiama does not lose its distinctive character.

The Department is satisfied the proposal is intended to ensure Council's town centre planning controls are appropriate and help to achieve good planning outcomes, sustainable urban design, improved quality of life and economic growth within the Kiama Town Centre.

Importantly, the proposal is consistent with local strategic planning objectives identified within 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 key relevant aspects of the Illawarra Shoalhaven Regional Plan 2041 (Regional Plan).

**Table 3 Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 18: Provide housing supply in the right locations	Consistent - The planning proposal would give effect to Objective 18 of the Regional Plan and Strategy 18.2 which seeks to facilitate housing opportunities in existing urban areas, particularly within strategic centres.  The planning proposal would provide new/amended planning controls which would support opportunities for infill housing (among other things) in the Kiama Town Centre.
Objective 19: Deliver housing that is more diverse and affordable	Consistent - The planning proposal provides new/amended planning controls which would support opportunities for more diverse housing in the Kiama Town Centre.
Objective 22: Embrace and respect the region's local character	Consistent - In developing Kiama Town Centre Study Council and planning proposal, Council has acknowledged the need to control and manage development in the Kiama Town Centre in a way which ensures Kiama does not lose its distinctive character.

Objective 23: Celebrate, conserve and reuse cultural heritage	Council acknowledges Kiama has a strong existing cultural heritage and has sought to balance aspirations for higher density development in the town centre with the need to preserve heritage through its Kiama Town Centre Heritage Review, associated heritage DCP controls (Chapter 4), and Kiama Heritage planning proposal (PP-2022-3463).
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## 3.2 Local

The planning proposal states that it is consistent with the following local plans and endorsed strategies.

**Table 4 Local strategic planning assessment**

Local Strategies	Justification
Kiama Local Strategic Planning Statement	Consistent – As noted in Section 2 of this report, the planning proposal is a direct result of the Kiama Local Strategic Planning Statement 2020 (LSPS) and an associated action under Planning Priority 1.

## 3.3 Section 9.1 Ministerial Directions

The planning proposal is generally consistent with all section 9.1 Directions. Discussion on relevant section 9.1 Directions is provided below:

**Table 5 Direction 9.1 Ministerial Direction assessment**

Directions	Consistency	Reasons for Consistency or Inconsistency
Direction 1.1 – Implementation of Regional Plans	Yes	The planning proposal is consistent with the overall intent of objectives and strategies in the Illawarra Shoalhaven Regional Plan (refer to Table 3 above).
Direction 3.2 – Heritage Conservation	Yes	The planning proposal would not alter existing heritage provisions of the Kiama LEP 2011 or Kiama DCP 2020 which give effect to heritage conservation.  Council has sought to balance aspirations for higher density development in the Town Centre with the need to preserve heritage through its Kiama Town Centre Heritage Review, associated heritage DCP controls (Chapter 4) and Kiama Heritage planning proposal (PP-2022-3463).
Direction 4.4 – Remediation of Contaminated Land	Justified	The planning proposal identifies to rezone the land at 72 Manning Street. Council considered this direction does not apply to planning proposals as the proposed amendment is to correct a mapping anomaly in the KLEP 2011.  The proposed zoning will ensure the land is appropriately zoned to align with the existing use of the site as a restaurant. Any future development assessment for the subject site will be considered against the contaminated land planning guidelines and <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> .

Direction 6.1 – Residential Zones	Yes	The proposed changes would support modest increased opportunities for infill and more diverse housing in the Kiama Town Centre, make efficient of existing infrastructure and minimise impacts to the environment.
Direction 7.1 – Business and Industrial Zones	Yes	<p>The planning proposal seeks to increase building heights and floor space ratios on some sites throughout the Kiama Town Centre, including the Akuna Street strategic site. The proposal also seeks to include active street frontages throughout the town centre.</p> <p>These amendments will allow for larger developments in the area that provide additional commercial and retail space and mixed-use developments. This will contribute to attracting more businesses into the area, local job creation and provides economic and social benefits to the town. The amendments will retain areas and locations of existing businesses and provide opportunities for more businesses.</p> <p>Whilst maximum building heights will be decreased for some land within the Akuna Street strategic site, that land is currently used for the purposes of public open space and will provide an offset for an increase in height in other areas.</p>

### 3.4 State environmental planning policies (SEPPs)

The proposal is not inconsistent with relevant SEPPs.

## 4 Site-specific assessment

### 4.1 Environmental

Due to the nature of the planning proposal, it is considered unlikely that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposed changes.

Council has advised none of the sites to which the proposal relates contain any know critical habitat or threatened species, populations or ecological communities, or their habitats.

### 4.2 Social and economic

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

Council notes increasing density provides the opportunity for larger developments with a mixture of commercial and retail space which would have positive economic effects by attracting more businesses to the area and contributing to local job creation. Council believes the proposed changes would make the centre more viable. By encouraging active street frontages, improving connectivity, and providing additional public open space, the amendments will also contribute to positive social effects for the community.

For example, Council notes the Akuna Street strategic site will provide road alignment, pedestrian pathway upgrades, provision of public open space and greater connectivity. The planning proposal will also provide additional commercial and retail space with opportunities for community facilities, such as a library or museum to be part of the development.

Council acknowledges Kiama has a strong existing cultural heritage and tourism function that will continue to support development and performance. Kiama's local economy has a strong reliance on tourism. Therefore, providing further opportunities for businesses and local job creation would provide positive economic effects that does not rely on tourism.

The proposed changes would also result in positive social and economic benefits by supporting modest increased opportunities for infill and more diverse housing in the Kiama Town Centre.

## 4.3 Infrastructure

Council acknowledges the proposed changes (e.g. amendments to building heights and Floor Space Ratios) could result in the need for new or upgraded public infrastructure.

Council notes Sydney Water is aware of anticipated population growth in Kiama and its water infrastructure systems would be upgraded to facilitate this growth.

Council is preparing an Open Space and Recreation Strategy to ensure it provides sufficient and appropriate open space and recreation facilities for the projected population and notes its Community Strategic Plan identifies the need to develop Asset Management Plans for footpaths and cycleways within the town centre.

The need for new or upgraded public infrastructure would also be considered/addressed in detail as part of any future development applications seeking to utilise the new LEP controls proposed in this planning proposal.

The Department is satisfied the potential public infrastructure implications of the planning proposal have been appropriately considered and addressed. Consultation is recommended with Sydney Water, Endeavor Energy and Transport for NSW to ensure any public infrastructure implications of the proposal are thoroughly considered prior to finalisation.

## 5 Consultation

### 5.1 Community

Council proposes a community consultation period of 28 days (20 working days as per the [LEP Making Guideline](#)).

The exhibition period proposed is considered appropriate.

### 5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal:

- Sydney Water,
- Transport for NSW,
- Endeavour Energy, and
- Crown Lands.

## 6 Timeframe

Council proposes an 7-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

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, and it is therefore recommended that the planning proposal should proceed to consultation.

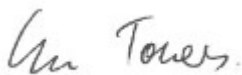
## 9 Recommendation

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 or justified.

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

1. The planning proposal (including the mapping and statement of objectives) should be updated prior to public exhibition to address Council's intent to decrease the maximum building height for parts of the Akuna Street strategic site to facilitate the open space.
2. Consultation is required with the following public authorities:
  - Sydney Water
  - Endeavour Energy
  - Transport for NSW
  - Crown Lands
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.



19/12/2022

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21/12/2022

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