

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause

CSP Objective: Outcome 4.1 We love where we live; our housing reflects our values.

CSP Strategy: 4.1.3 Manage growth sustainably and thoughtfully.

Delivery Program: 4.1.3.1 Local Housing Strategy facilitates the provision of adequate housing supply within the Municipality

Item 15.2

Summary

The purpose of this report is to seek Council's support of the Urban Release Area Clause Planning Proposal PP-2024-2097 (Attachment 1).

A Planning Proposal (PP) is the process to amend the zoning or development standards in a Council's Local Environmental Plan (LEP). This PP seeks to introduce an additional clause into the Kiama LEP 2011 to enable development within Urban Release Areas to occur as intended, by permitting residue lots to be created that are less than the otherwise required minimum lot size.

It is recommended that Council endorse Planning Proposal PP-2024-2097 (Attachment 1) and submit it to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination.

Financial implication

The *Planning Proposal Stage 1 – Minor* fee has been paid by the proponent in accordance with the current adopted Fees and Charges 2024-25. Should the PP progress as recommended in this report, the *Planning Proposal - Stage 2 – Minor* fee will become payable.

Risk implication

If the PP is not supported the development may be delayed, which will impact on the delivery of new homes that are needed. It is also noted that if the PP is not supported by the Council, the proponent may seek a Rezoning Review by the Regional Planning Panel, and the Panel would then become the PP Authority.

Policy

The Planning Proposal has been prepared and assessed in accordance with:

- Environmental Planning and Assessment Act 1979
- Local Environmental Plan Making Guideline, DPHI, August 2023
- Kiama Council's Planning Proposal Policy, 2018
- Kiama Council's Community Participation Plan, 2020

Consultation (internal)

The PP has been discussed within the Planning and Development team.

Report of the Director Planning, Environment and Communities

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

Communication/Community engagement

In accordance with the Kiama Council Community Participation Plan, should a Gateway Determination be issued the PP will be placed on public exhibition for 28 days (or as required by the Gateway determination) to enable community comment.

Attachments

- 1 Planning Proposal Report - Urban Release Area Clause Planning Proposal PP-2024-2097 [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Endorse the Urban Release Area Clause Planning Proposal.
2. Submit the Planning Proposal to the Department of Planning, Housing and Infrastructure for a Gateway determination.
3. When submitting the Planning Proposal for a Gateway determination, identify that Council is seeking to be authorised as the Local Plan Making Authority.
4. Should a Gateway determination be issued, any conditions required, including public exhibition and consultation with the community, key authorities and government agencies, be actioned by staff.
5. Receive a further report regarding the finalisation of the Planning Proposal.

Background

A Local Environmental Plan (LEP) establishes the statutory planning controls for land including the zone, permissible and prohibited development, minimum lot size, height limits and floor space ratio.

The LEP also includes provision for land to be identified as an *Urban Release Area (URA)*. This is a specific layer and there are additional controls under Part 7 that apply specifically to this land. There is currently one Urban Release Area (URA) in the Kiama LGA, which is known as the *South Kiama Urban Release Area*.

Planning Proposal (PP)

A Planning Proposal (PP) is the process to amend the zoning or development standards in a Council's Local Environmental Plan (LEP).

The Planning Proposal process is set out in the *Local Environmental Plan Making Guidelines* (NSW Department of Planning and Environment, August 2023). A summary of the steps in the process is:

Stage 1: Pre-lodgement Scoping proposal – assessed internally by Council staff.

Report of the Director Planning, Environment and Communities

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

Stage 2: Planning Proposal – assessed by Council staff, then endorsed by Council.

Stage 3: Gateway Determination – assessed and issued by DPHI.

Stage 4: Post Gateway – Council (or PPA) actions Gateway requirements.

Stage 5: Public Exhibition and Assessment – actioned by the Council (or PPA).

Stage 6: Finalisation of the change to the LEP- Council endorsed, finalised by DPHI.

If a PP is not supported by Council the proponent may lodge a Rezoning Review, and the PP will then be considered by the Regional Planning Panel. A proponent can also seek a review of the Gateway conditions or determination.

Where Council does not support the PP, the Planning Proposal Authority (PPA) may become the Southern Regional Planning Panel (not the Council).

Proposal

On 18 September 2024 Planning Proposal PP-2024-2097 was lodged via the NSW Planning Portal. The PP was lodged by the proponents of the South Kiama Urban Release Area, however the PP applies to the whole of the Kiama Local Government Area as the proposed LEP clause will apply to all current and any future URA's.

The South Kiama Urban Release Area is approx. 40 hectares of land located to the west of the M1 between Weir Street to the south and Saddleback Mountain Road to the north (see Figure 1).

The site was rezoned for urban development in 2022 and Council is currently in the process of preparing a site specific Development Control Plan (DCP) chapter for the site. Once a DCP is adopted the proponent can lodge a Development Application for subdivision and carry out the development to create new residential lots.

During pre-lodgement meetings, associated with the DCP preparation, with the applicant, it has been identified that the Kiama LEP 2011 does not include provision to enable the subdivision development to occur. This is because the subdivision of land to create residential lots, as permitted by the R2 and R3 zoning, will result in residue C2, C3 and RU2 lots being less than the minimum lot size required under the LEP.

This means there is a need to include an additional clause (or clauses) in the LEP to allow for residue lots to be created that are less than the otherwise required minimum lot size.

Council's planning team have been working collaboratively with the proponent to ensure that the various planning issues are worked through efficiently to achieve the best outcome for the site and future residents. This includes the preparation of a site-specific Development Control Plan chapter and discussions on a Planning Agreement that will ensure suitable open space, riparian, heritage and stormwater outcomes for the site. These will be reported to Council separately as they progress.

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

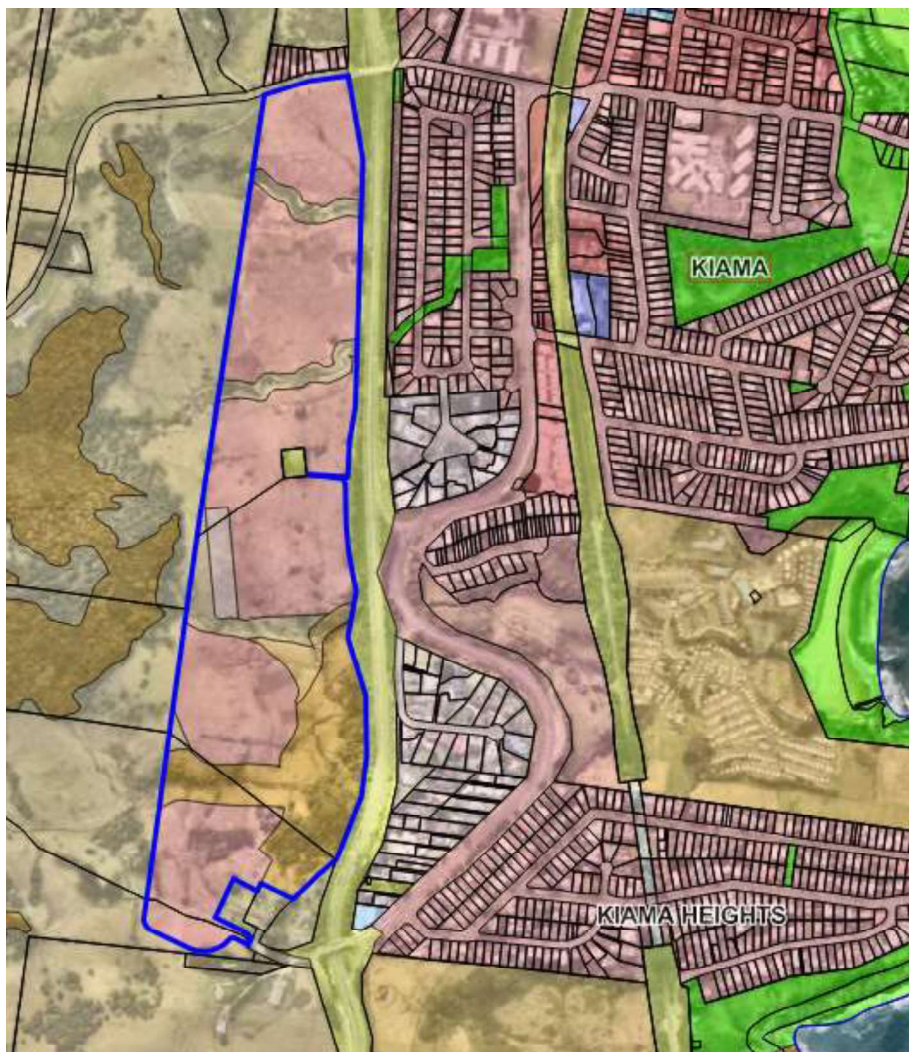


Figure 1: South Kiama Urban Release Area

Stage 1: Pre-lodgement Scoping proposal

Given the nature of this Planning Proposal a Stage 1 Scoping Proposal was not required, however early engagement between Council staff and the proponent has occurred. This included detailed consideration of various options and scenarios, to ensure that the proposed LEP clause(s) would meet the need for the South Kiama URA as well as all future URA sites in the Kiama LGA.

Stage 2: Planning Proposal – assessed by Council staff, then endorsed by Council

The PP has been reviewed and assessed against all relative criteria including:

- *Environmental Planning and Assessment Act 1979.*
- NSW DPHI's Local Environmental Plan Making Guideline.
- Relevant Ministerial Directions issued under s9.1 of the Act.
- Kiama Council's Planning Proposal Policy.

The Planning Proposal proposes to introduce a new clause into the LEP that will allow for residue lots to be created that are less than the minimum lot size.

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

The PP proposes to introduce the clauses in the Urban Release Area part of the LEP and will therefore apply to all current and any future URAs.

It is considered both reasonable and practical that the development of an urban release area will create residential lots which will result in 'residue' lots.

The 'residue' lots maybe for environmental conservation, riparian or stormwater purposes in C2 or C3, RU1 or RU2 and will be less than the minimum lot size.

It is therefore reasonable to recognise that in order to facilitate the development of the site, that the 'residue' lots will be less than the otherwise required minimum lot size, and that this is necessary in order to develop the urban release area.

This Planning Proposal is considered administrative in nature and seeks to include additional clauses within *Part 7 Urban Release Areas* of the Kiama LEP 2011.

The Local Environmental Plan Making Guidelines outline that a Planning Proposal is required to have both Strategic Merit and Site Specific Merit for a Gateway Determination to be issued.

Strategic Merit test

The strategic merit test poses three main criteria for assessing the strategic merit of a Planning Proposal. Proposals must be:

1. Consistent with the relevant district plan within the Greater Sydney Region, or corridor/precinct plans applying to the site, including any draft regional, district or corridor/precinct plans released for public comment.
2. Consistent with a relevant local strategy that has been endorsed by the Department.
3. Responding to a change in circumstances, such as the investment in new infrastructure or changing demographic trends that have not been recognized by existing planning controls.

The PP has strategic merit as it facilitates a new Urban Release Area (South Kiama) identified by the Kiama Local Strategic Planning Statement 2020 and it is generally consistent with the Illawarra Shoalhaven Regional Plan 2041.

The Objective of the PP is to facilitate the orderly and economic use and development of land within the South Kiama Urban Release Area and future urban release areas.

Site-Specific Merit test

The Planning Proposal must demonstrate that it has site-specific merit. In order to establish site-specific merit, the PP must meet the following criteria.

1. The natural environment (including known significant environmental values, resources or hazards).
2. The existing uses approved uses and likely future uses of land in the vicinity of the land subject to the proposal.
3. The services and infrastructure that are or will be available to meet the demands arising from the Planning Proposal and any proposed financial arrangements for infrastructure provision.

Report of the Director Planning, Environment and Communities

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

The proposal has site specific merit as it will facilitate the new (approved) Urban Release Area of South Kiama and is consistent with the approved uses and likely future uses of the land. The PP is consistent with all Section 9.1 Ministerial Directions that apply to the site. Please refer to Table 1 for the Section 9.1 Ministerial Directions Compliance Checklist.

Table 1 Ministerial Directions Compliance Checklist

Ministerial Direction	Comment
1. Planning Systems	
1.1 Implementation of Regional Plans	The PP is consistent with the Illawarra-Shoalhaven Regional Plan 2041 and therefore consistent with Direction 1.1.
1.2 Development of Aboriginal Land Council Land	The South Kiama Urban Release Area is not identified on the Land Application map of <i>State Environmental Planning Policy (Aboriginal Land) 2019</i> .
1.3 Approval and Referral Requirements	The PP proposes to introduce an additional clause to the KLEP 2011 which will enable the efficient and appropriate assessment of future development applications in urban release areas. The PP does not increase the referral requirements for future applications. The PP is therefore consistent with Direction 1.3.
1.4 Site Specific Provisions	The PP will amend an environmental planning instrument in order to allow particular development to be carried out as part of the approved new Urban Release Area of South Kiama. Therefore the PP is consistent with Direction 1.4.
Planning Systems – Place-based	
1.5 to 1.22	These directions do not apply to the Kiama LGA.
2. Design and Place	
There are currently no Directions in this Focus Area.	
3. Biodiversity and Conservation	
3.1 Conservation zones	The direction does not apply to the PP.

Report of the Director Planning, Environment and Communities

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

3.2 Heritage Conservation	Heritage items such as Kendall's Cemetery and various Dry Stone Walls are located within the current URA area, and therefore this Direction applies. The PP will not alter the existing provisions of the Kiama LEP 2011 and Kiama DCP 2020 which give effect to heritage conservation. Therefore, the PP is consistent with Direction 3.2.
3.3 Sydney Drinking Water Catchments	This direction does not apply to the PP.
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	This Direction does not apply to the Kiama LGA.
3.5 Recreation Vehicle Areas	The direction does not apply to the PP.
3.6 Strategic Conservation Planning	The direction does not apply to the PP.
4. Resilience and Hazards	
4.1 Flooding	The site is flood affected. This PP seeks to facilitate the orderly and economic use and development of land within the Kiama Urban Release Area and future urban release areas through the provision of a new clause in the KLEP2011, that applies to new urban release areas. Flooding will not be impacted on by the provisions of the proposed clause and therefore the PP is consistent with Direction 4.1.
4.2 Coastal Management	The site is not located within a Coastal Zone and therefore the direction does not apply to the PP.
4.3 Planning for Bushfire Protection	The site is Bushfire Affected. This PP seeks to facilitate the orderly and economic use and development of land within the Kiama Urban Release Area and future urban release areas through the provision of a new clause in the KLEP2011, that applies to new urban release areas. The objective of the PP does not alter the design of the URA which has regard for Planning for Bushfire

Report of the Director Planning, Environment and Communities

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

	Protection 2019 and incorporates APZs. This PP does not introduce any new controls that place inappropriate developments in hazardous areas. The PP does not alter or impact the bushfire affectation of the land. The PP is considered consistent with Direction 4.3.
4.4 Remediation of Contaminated Land	The direction does not apply to the PP.
4.5 Acid Sulfate Soils	The direction does not apply to the PP.
4.6 Mine Subsidence and Unstable Land	The direction does not apply to the PP.
5. Transport and Infrastructure	
5.1 Integrating Land Use and Transport	The provisions of the PP will not impact on transport choice and will not impact on permitted uses and the types of business that can be established in any proposed business zone. Therefore, the PP is consistent with Direction 5.1.
5.2 Reserving Land for Public Purposes	<p>The new URA area of South Kiama will incorporate land reserved for Public Open Space and the restoration of Kendalls Cemetery.</p> <p>This PP will not create, alter or reduce existing zonings or reservations of land for public purposes and therefore the PP is consistent with Direction 5.2.</p>
5.3 Developing Near Regulated Airports and Defence Airfields	The direction does not apply to the PP.
5.4 Shooting Ranges	The direction does not apply to the PP.
6. Housing	
6.1 Residential Zones	The PP applies to an approved new Urban Release Area of South Kiama for the rezoning of residential land. Council are in the process of adopting a site specific DCP specific for the new URA to guide good design and encourage a variety and choice

Report of the Director Planning, Environment and Communities

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

	of housing types, and that new housing has appropriate access to infrastructure and services, whilst minimising the impact on the environment. This PP will facilitate the new URA for the provision of housing. The PP will not change the requirements of the site specific DCP. Therefore, the PP is consistent with Direction 6.1.
6.2 Caravan Parks and Manufactured Home Estates	The direction does not apply to the PP.
7. Industry and Employment	
7.1 Business and Industrial Zones	The current URA is zoned for residential and therefore the direction does not apply to the PP.
7.2 Reduction in non-hosted short-term rental accommodation period	The direction does not apply to the PP.
7.3 Commercial and Retail Development along the Pacific Highway, North Coast	The direction does not apply to the PP.
8. Resources and Energy	
8.1 Mining, Petroleum Production and Extractive Industries	The direction does not apply to the PP.
9. Primary Production	
9.1 Rural Zones	The direction does not apply to the PP.
9.2 Rural Lands	The PP proposes to facilitate the development of urban release areas, which will include the creation of residue lots, some which may be a rural zoning, to facilitate the urban development.
9.3 Oyster Aquaculture	The direction does not apply to the PP.
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	The direction does not apply to the PP.

Report of the Director Planning, Environment and Communities

15.2 Endorse for Gateway: Planning Proposal PP-2024-2097 - Urban Release Area Clause (cont)

Stage 3: Gateway Determination – issued by DHPI

Should the recommendations in this report be endorsed, the next steps are for the Planning Proposal to be submitted to the Department of Planning, Housing and Infrastructure for a Gateway determination. Council should also advise that they are seeking to be authorised as the Local Plan Making Authority (LPMA).

Stage 4: Post Gateway – Council (or PPA) actions Gateway requirements.

The Gateway determination may include conditions requiring additional information, public exhibition and consultation with key authorities and Government agencies which will be actioned by Council staff accordingly.

Stage 5: Public Exhibition and Assessment

Once all additional information, agency engagement has occurred, the Planning Proposal will be placed on public exhibition in accordance with Council's Community Participation Plan (CPP) 2019. This includes making the Planning Proposal documents publicly available for a minimum of 28 days and notifying members of the community who made be affected.

Stage 6: Finalisation of the change to the LEP- Council endorsed, finalised by DHPI.

Following this consultation process, the Planning Proposal would be reported back to Council with a recommendation that the Proposal is progressed to finalisation and that Council use its plan making delegations to finalise the relevant amendments to Kiama LEP 2011.

To amend the Kiama LEP 2011, Council must request the NSW Parliamentary Counsel's Office (PCO) to draft the legal instrument that will give effect to this PP, in accordance with section 3.36(1) of the Environmental Planning & Assessment Act, 1979. Following receipt of the final legal instrument and mapping, Council will refer the final instrument to the NSW Department of Planning, Housing and Infrastructure for review and Gazettal in the Government Gazette and NSW Legislation website.

Conclusion

The Planning Proposal seeks to introduce a new clause within the Kiama LEP 2011 that will apply to all Urban Release Areas and enable residential subdivision to be carried out as intended, by permitting residue lots to be created that are less than the otherwise required minimum lot size.

It is recommended that Council support Planning Proposal PP-2024-2097 (Attachment 1) and submit it to the Department of Planning, Housing and Infrastructure for a Gateway determination.



PLANNING PROPOSAL

Amendment to Urban Release Area Provisions | Kiama Local Environmental Plan 2011

Prepared for
WHITE CONSTRUCTIONS & DEVELOPMENTS PTY LTD
18 September 2024

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Director	Clare Brown
Associate Director	Travis Lythall
Consultant	Matthew Holt
Project Code	P0051997
Report Number	Final – 18 September 2024

Urbis acknowledges the important contribution that Aboriginal and Torres Strait Islander people make in creating a strong and vibrant Australian society.

We acknowledge, in each of our offices, the Traditional Owners on whose land we stand.

All information supplied to Urbis in order to conduct this research has been treated in the strictest confidence. It shall only be used in this context and shall not be made available to third parties without client authorisation. Confidential information has been stored securely and data provided by respondents, as well as their identity, has been treated in the strictest confidence and all assurance given to respondents have been and shall be fulfilled.

© Urbis Ltd
50 105 256 228

All Rights Reserved. No material may be reproduced without prior permission.

You must read the important disclaimer appearing within the body of this report.

urbis.com.au

CONTENTS

1.	Introduction	1
1.1.	Overview	1
1.2.	Report Structure.....	2
2.	Existing Urban Release Area Context.....	3
2.1.	Background to South Kiama Urban Release Area	3
2.2.	Operation of Part 4 of KLEP 2011 to the South Kiama Urban Release Area.....	7
2.3.	Strategic Planning Context	10
3.	The Planning Proposal	12
3.1.	Part 1: Objectives and Intended Outcomes	12
3.2.	Part 2: Explanantion of Provisions.....	13
3.3.	Part 3: Justification of Strategic and Site-Specific Merit.....	13
3.4.	Part 4: Maps.....	17
3.5.	Part 5: Community Consultation	17
3.6.	Project Timeline	17
4.	Conclusion	19
5.	Disclaimer	20

FIGURES

Figure 1 South Kiama Urban Release Area	2
Figure 2 South Kiama Urban Release Area and Associated lands.....	3
Figure 3 PP-2021-379 Rezoning	4
Figure 4 PP-2021-379 Proposed Minimum Lot Sizes	5
Figure 5 Current Land Use Zoning	6
Figure 6 Current Minimum Allotment Sizes.....	7
Figure 7 South Kiama Urban Release Area with Zoning Overlay	9
Figure 8 Lot 8 DP258605 Location Plan.....	10

PICTURES

Picture 1 Zoning Pre-PP-2021-379	4
Picture 2 Proposed Rezoning under PP-2021-379	4

TABLES

Table 1 Allotment Details.....	9
Table 2 Strategic Planning Framework	11
Table 3 Strategic and site-specific merit assessment	14
Table 4 Relationship to Strategic Planning Framework	15
Table 5 Relationship to Local Strategic Plans	16
Table 6 Relationship to relevant local strategies	16
Table 7 Anticipated Project Timeline	18

1. INTRODUCTION

1.1. OVERVIEW

This proponent-initiated Planning Proposal (**Planning Proposal**) has been prepared by Urbis Ltd (**Urbis**) on behalf of White Constructions & Developments Pty Ltd (**the proponent**) and seeks to amend provisions of Part 4 Principal development standards of the *Kiama Local Environmental Plan 2011* (**KLEP 2011**) as it relates to the subdivision of land within Urban Release Areas mapped under KLEP 2011 that have multiple land use zones.

This Planning Proposal seeks to include provisions that will enable the subdivision of land within current and future mapped Urban Release Areas including the 'South Kiama Urban Release Area' (as mapped under Part 7 of the KLEP 2011), that includes rural and conservation zoned land that do not meet the minimum allotment size requirements for subdivision of land prescribed under Part 4 of the KLEP 2011. This Planning Proposal will enable an exception to the minimum lot size development standard for future subdivision within an Urban Release Area in certain circumstances. It is proposed to introduce two new clauses, clauses 7.5 and 7.6 (as explained in **Section 3** of this Planning Proposal) to provide an exemption to clause 4.6(6) of KLEP as it relates to the subdivision of rural and conservation zoned land associated with the subdivision of land within an Urban Release Area.

An unintended consequence of the operation of clauses 4.1, 4.1C and 4.6(6) as they relate to the subdivision of land zoned rural and conservation associated with the development of an urban release area is to prohibit the creation of undersized rural and conservation zoned lots within and outside of but associated with the subdivision of land in an Urban Release Area.

The rationale for the introduction of the two clauses to manage the prohibition on the subdivision of land is detailed in **Section 3** and **Attachment A** to this Planning Proposal.

At this time there is only one Urban Release Area designated under KLEP 2011, the South Kiama Urban Release Area. The operation of the proposed clauses has been tested against South Kiam Urban Release Areas but is expected to have similar application to future Urban release Areas where multiple land use zones are involved. For context the location of the South Kiama Urban Release Area is shown in **Figure 1**.

Figure 1 South Kiama Urban Release Area



Source: Urbis, 2024

1.2. REPORT STRUCTURE

This Planning Proposal has been prepared in accordance with section 3.33 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the NSW Department of Planning, Housing and Infrastructure (DPHI) guideline ‘*Local Environmental Plan Making Guideline*’ dated August 2023.

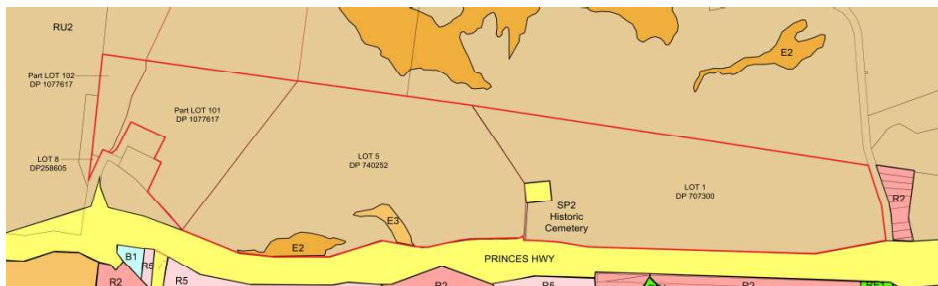
The relevant sections of the Planning Proposal are listed below:

- **Section 2:** Background on the planning proposal which rezoned the South Kiama Urban Release Area, and current strategic and statutory planning framework relevant to the proposed amendment to KLEP 2011.
- **Section 3:** Comprehensive description and assessment of the Planning Proposal in accordance with the DPHI Guideline.
- **Section 4:** Conclusion and justification.

- R5 Large Lot Residential
- RE1 Public Recreation
- E2 Environmental Conservation (now C2 Environmental Conservation)
- E3 Environmental Management (now C3 Environmental Management)

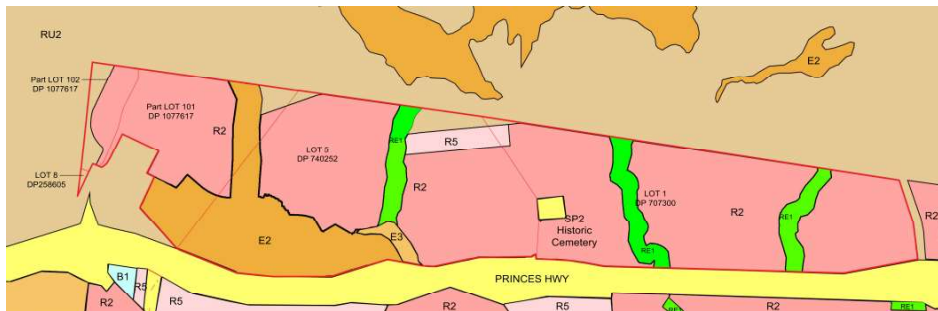
The land use zones applying to the South Kiama Urban Release Area pre and post the lodgement of PP-2021-379 are illustrated in **Figure 3** below. Kendall's Cemetery which is zoned SP2 Historic Cemetery does not form part of the Urban Release Area and was not rezoned under PP-2021-379.

Figure 3 PP-2021-379 Rezoning



Picture 1 Zoning Pre-PP-2021-379

Source: Site Plus, 2018



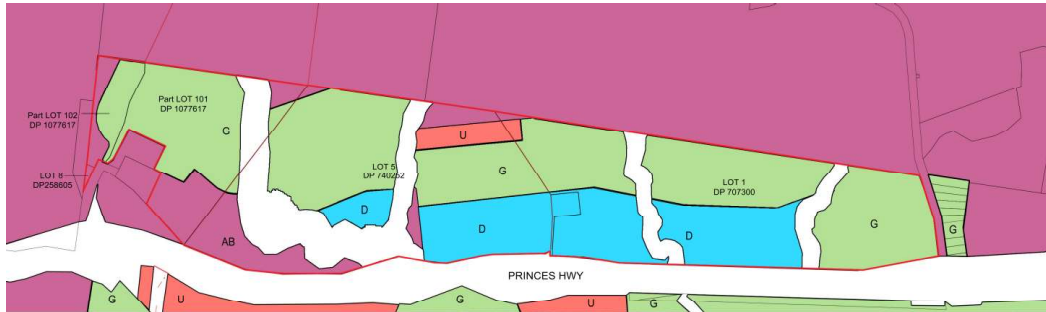
Picture 2 Proposed Rezoning under PP-2021-379

Source: Site Plus, 2018

In tandem with the rezoning of the land, new minimum lot size controls were proposed under PP-2021-379 as shown on **Figure 4**:

- 'D' – 300m².
- 'G' – 450m².
- 'U' – 1000m².
- 'AB' – 40ha.

Figure 4 PP-2021-379 Proposed Minimum Lot Sizes



Source: Site Plus, 2018

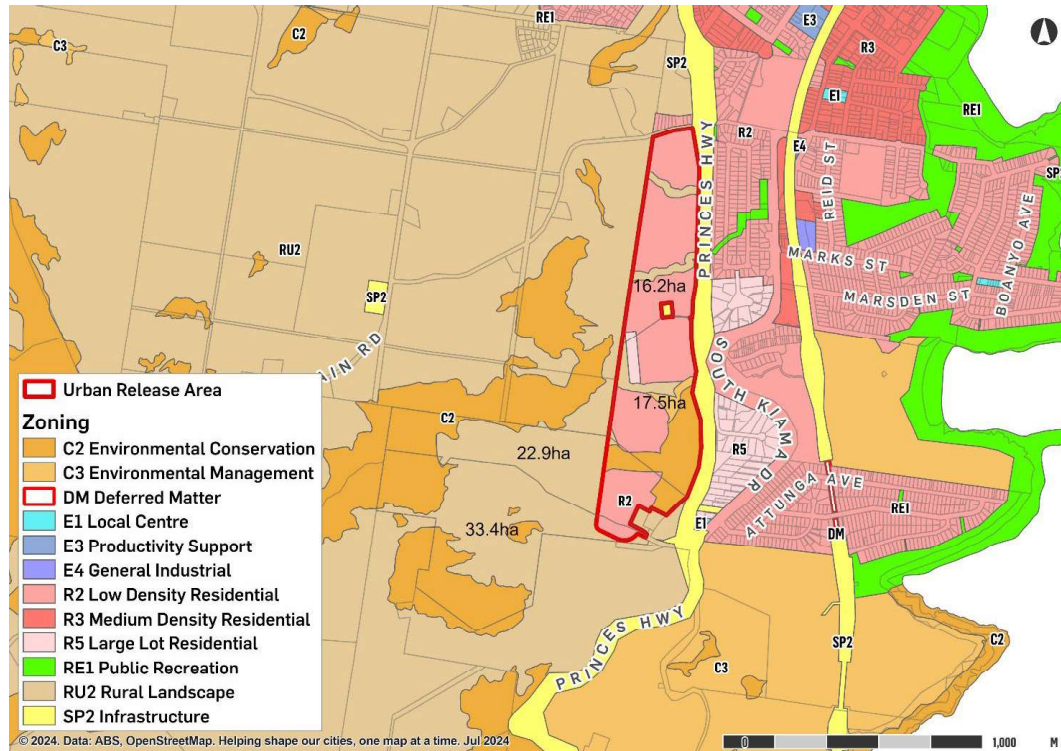
No minimum allotment size was proposed for that land to be zoned RE1 Public Recreation under PP-2021-379. The 'Urban Release Area' designation excluded Kendall's Cemetery.

The gazetted land use zones for the South Kiama Urban Release Area differed from that sought under PP-2021-379 and are shown in **Figure 5** which include:

- R2 Low Density Residential
- R5 Large Lot Residential
- C2 Environmental Conservation
- C3 Environmental Management
- RU2 Rural Landscape

The key change from the submitted planning proposal was that the three watercourses proposed to be zoned RE1 Public Recreation under PP-2021-379 were retained in an RU2 Rural Landscape zone.

Figure 5 Current Land Use Zoning



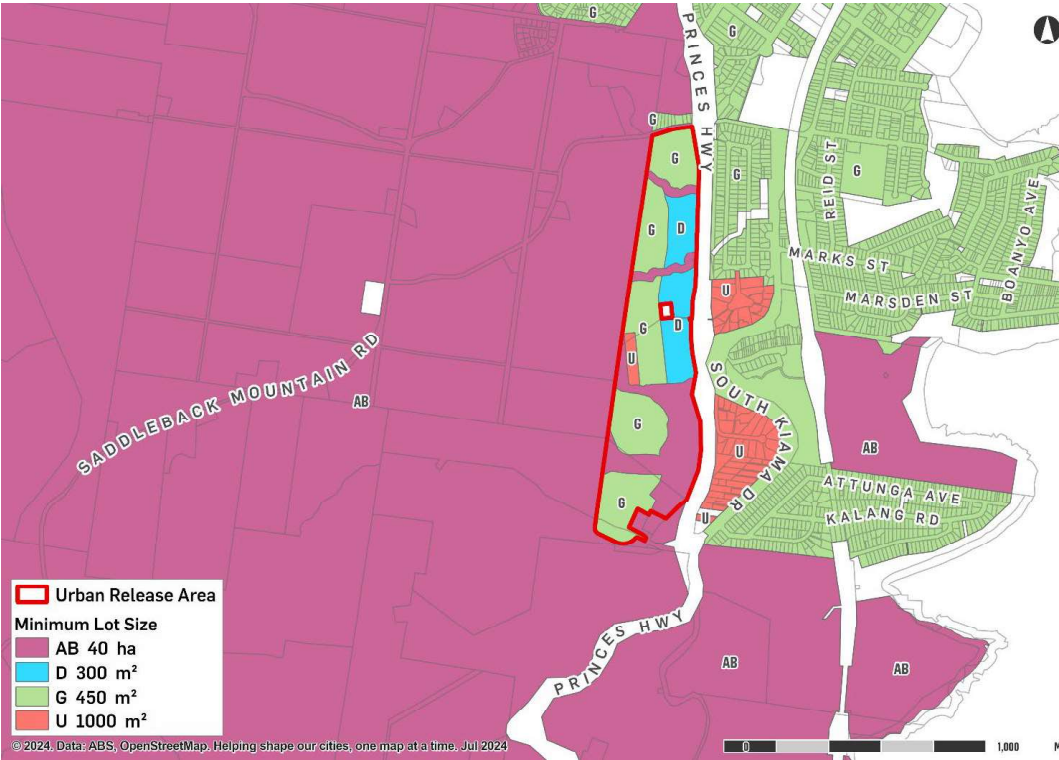
Source: Urbis, 2024

The minimum lot size controls gazetted for PP-2021-379 as shown in 6 are:

- 'D' – 300m².
- 'G' – 450m².
- 'U' – 1000m².
- 'AB' – 40ha.

Relevantly that land within and outside the urban release area boundary zoned for rural or conservation purposes as shown on **Figure 5** above were designated as AB with an associated 40 ha minimum allotment size for the subdivision of land.

Figure 6 Current Minimum Allotment Sizes



2.2. OPERATION OF PART 4 OF KLEP 2011 TO THE SOUTH KIAMA URBAN RELEASE AREA

The KLEP 2011 is the principal environmental planning instrument applying to the Kiama local government area (LGA) and to the South Kiama Urban Release Area.

Part 4 of KLEP 2011 establishes principal development standards for the subdivision of land, minimum allotment sizes for the erection of residential development, maximum heights of buildings and floor space ratio controls for development. Clause 4.6 and other provisions of Part 4 provide a level of flexibility in the operation of these principal development standards.

Notwithstanding the flexibility provided for in the application of the development standards certain provisions of Part 4, operate in concert to prevent the orderly subdivision of land in the South Kiama Urban Release Area.

The unintended restrictions on the subdivision of the South Kiama Urban Release Area are explained below.

Clause 4.1 – Minimum subdivision lot size

Clause 4.1 establishes minimum allotment sizes for the subdivision of land as shown on the Lot Size Map under KLEP 2011. Relevantly clause 4.1(3) states “The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land”.

Clause 4.1 – Exceptions to minimum subdivision lot sizes for certain split zones

An element of flexibility is provided to clause 4.1(3) by clause 4.1C Exceptions to minimum subdivision lot sizes for certain split zones. The clause applies to land in a rural or conservation zone and land in a residential or employment, or W4 Working Waterfront zone. The objectives of the clause are:

(a) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,

(b) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.

Clause 4.1C(3) provides a level of flexibility in the subdivision of land with a split zoning removing the requirement to comply with the minimum lot sizes in clause 4.1 but only in limited circumstances as follows:

(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if—

(a) one of the resulting lots will contain all of the land in a rural or conservation zone and—

(i) any existing dwelling, or

(ii) any land within any other zone with an area that is not less than the minimum size shown on the Lot Size Map in relation to that land, and

(b) each of the other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.

In circumstances where undersized allotments are created through a subdivision of land within a rural and conservation zone, **clauses 4.2 and 4.2A operate to preclude the erection of dwelling houses**. This is to minimise unplanned rural residential development and enable the replacement of lawfully erected dwelling houses in the rural and conservation zones.

Clause 4.1 – Exceptions to development standards

Clause 4.6 of KLEP 2011 provides a degree of flexibility in applying certain development standards to particular development. A limitation is provided to this flexibility through clause 4.6(6) which states:

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

The consequences of these provisions mean that the subdivision of the South Kiama Urban Release Area as shown in the subdivision plan in **Figure 7** below would be prohibited under KLEP 2011 and the potential exception to compliance with development standards provided under clause 4.6(2) is not available.

The subdivision of the South Kiama Urban Release Area as shown in **Figure 7** would result in the creation of multiple allotments in a rural or conservation zone that do not comply with the minimum allotment size for subdivision and would therefore be prohibited.

The details of the subdivision are:

- Subdivision of Lot 101 and Lot 102 in DP1077617 to delineate the residential zoned land within the Urban Release Area land from the existing rural and conservation zoned land to the west and south that sit outside of the land shown on the Urban Release Area Map.
- Subdivision of the residential zoned land within the mapped Urban Release Area into allotments ranging from 300m² to 1,000m² consistent with the nominated development standards for residential development.
- Progressively create allotments within a rural and/or conservation zone in the Urban Release Area that would contain areas of open space, regional stormwater infrastructure, and regenerated riparian areas.

These allotments would have an area below the minimum allotment size of 40 hectares and less than 90% of the minimum allotment size for the respective zone and as such would not comply with the minimum lot size control under clause 4.1 of KLEP 2011.

Figure 7 South Kiama Urban Release Area with Zoning Overlay



Source: DKO, 2023

Each of the allotments that are in whole or part located within the South Kiama Urban Release Area have split land use zones including residential, rural and conservation zones as set out in Table 1. None of the allotments currently meet the minimum allotment size for land zoned for rural or conservation purposes of 40 hectares as detailed in Table 1, Figure 5 and Figure 6.

Table 1 Allotment Details

Allotment	Land-use Zones	Allotment Area
Lot 1 DP707300	<ul style="list-style-type: none">R2 Low Density ResidentialRU2 Rural Landscape	16.22ha
Lot 5 DP740252	<ul style="list-style-type: none">R2 Low Density ResidentialC2 Environmental ConservationC3 Environmental ManagementRU2 Rural Landscape	17.83ha
Lot 101 DP1077617	<ul style="list-style-type: none">R2 Low Density ResidentialC2 Environmental ConservationRU2 Rural Landscape	23.07ha
Lot 102 DP1077617	<ul style="list-style-type: none">R2 Low Density ResidentialC2 Environmental Conservation	33.38ha

URBIS
FINAL PLANNING PROPOSAL REPORT_KLEP 2011
AMENDMENT_SADDLEBACK MOUNTAIN ROAD, KIAMA AND WEIR STREET,
KIAMA HEIGHTS

Allotment	Land-use Zones	Allotment Area
	<div><div></div>RU2 Rural Landscape</div>	
Lot 8 DP258605 (refer to Figure 8 below)	<div><div></div>RU2 Rural Landscape</div>	438.7m ²

Figure 8 Lot 8 DP258605 Location Plan



Source: NSW Government

The operation of clauses 4.1, 4.1C and 4.6(6) will prevent the owners of Lot 101 in DP 1077617 and Lot 102 in DP 1077617 from excising their rural and conservation zoned land from the residential, rural and conservation zoned portions located within the urban release area. Further, residential subdivision within the urban release area would be precluded as it would result in the creation of lots zoned RU2 Rural Landscape, C2 Environmental Conservation and C3 Environmental Management that do not comply with the minimum allotment size for the respective zones.

2.3. STRATEGIC PLANNING CONTEXT

This Planning Proposal will enable the orderly subdivision of land in the South Kiama Urban Release Area and would have equal application for land in future urban release areas with split land use zoning, being land identified to deliver much needed housing, consistent with and supportive of a range of strategic planning outcomes established by Council and the NSW Government. It will, through the introduction of the new LEP provisions, remove current and prevent future barriers to subdivision in Urban Release Areas.

This section provides a brief overview of the strategic planning policies governing development in NSW and how the amendments to KLEP 2011 will facilitate the strategic policy outcomes.

Detailed consistency of the proposal with the relevant State and local strategic planning documents is demonstrated in Section 3.3.2 of this report.

Table 2 Strategic Planning Framework

Document / Directive	Description
NSW Government Priorities	<p>NSW Housing Targets have been set for all LGAs committing to build 377,000 new homes across the state in the next 5 years.</p> <p>Council has a target of 900 new completed houses by 2029. The proposed amendment to KLEP 2011 will facilitate the delivery of up to 50% of Council's housing target by 2029.</p> <p>The Australian housing context is currently punctuated with housing shortage and an affordability crisis developing across Australia, enveloping New South Wales, the Illawarra-Shoalhaven Region and the Kiama LGA.</p> <p>Delivery of a diverse housing stock continues to be a priority across all levels of government, with the amendments to the Housing SEPP for Infill Affordable Housing and the Transport Orientated Development (TOD) SEPP as well as the draft Low and Mid-Rise Housing initiatives driving increased density to alleviate housing stresses.</p>
Illawarra Shoalhaven Regional Plan 2041 (Region Plan)	<p>The Region Plan provides a 20-year vision for, amongst other elements, the emerging housing needs of the growing Illawarra Shoalhaven community.</p>
Kiama Local Strategic Planning Statement 2020 (LSPS)	<p>Aligning with the Region Plan, the LSPS sets the land use framework for the Kiama Municipality's economic, social and environmental land use needs over the next 20 years. This includes diversity of housing stock and strategies to unlock housing provision within the LGA, be it through in-fill sites, brownfield or greenfield development.</p>
Draft Kiama Growth and Housing Strategy	<p>Council is currently developing a Growth and Housing Strategy which will outline planning principles, enliven existing identified growth areas, and will scope opportunities to plan future growth locations.</p> <p>The draft Growth and Housing Strategy will be reported to Council in July 2024 with exhibition, endorsement and adoption to follow thereafter.</p>

3. THE PLANNING PROPOSAL

This Planning Proposal has been prepared in accordance with section 3.33 of the EP&A Act and the DPHI Guideline 'Local Environmental Plan Making Guideline' dated August 2023.

This section addresses each of the matters to be addressed as outlined in the Guideline, including:

- Objectives and intended outcomes.
- Explanation of provisions.
- Justification including need for proposal, relationship to strategic planning framework, environmental, social and economic impacts, and State and Commonwealth interests.
- Likely future community consultation.

3.1. PART 1: OBJECTIVES AND INTENDED OUTCOMES

3.1.1. Objective

The proposal seeks to facilitate the orderly and economic use and development of land within the Kiama Urban Release Area and future urban release areas.

3.1.2. Intended Outcomes

This Planning Proposal seeks to remove the effective prohibition under clause 4.6(6) of KLEP 2011 as it relates to the subdivision of land within Urban Release Areas, inclusive of the South Kiama Urban Release Area. The application of the proposed KLEP 2011 amendment is limited to land within an urban release area with multiple land use zones in a rural or conservation zone. The proposed amendment will not have broad application to all land the subject of KLEP 2011.

The operation of the proposed amendment will not enable the development of a dwelling house on an undersized rural or conservation zoned allotments created under the controls where a dwelling house does not presently exist. The provisions of clause 7.6(4) will apply to any undersized allotment zoned rural or conservation created by the proposed exception.

The amendment provides a pathway for the logical and orderly subdivision of rural and conservation zones in and associated with the development of an urban release area within the Kiama LGA.

Enabling an exception as proposed to the minimum allotment size in the appropriate circumstances will facilitate the orderly and economic use and development of land within urban release areas with split zonings. In the case of the South Kiama Urban Release Area, variation to the 40ha minimum lot size control for land zoned rural and conservation will enable the excision of land zoned for rural and conservation purposes, facilitate embellishment and revitalisation of natural and open spaces and delivery of regional stormwater infrastructure prior to transfer of the land into public ownership; and enable land zoned for residential purposes to be developed.

The proposed clause has been adapted from similar urban release area provisions applying in adjacent LGAs. The wording is intentional to accommodate not only excision of non-Urban Release Area land but also to effectively allow multi-stage residential subdivision which will create undersized rural and conservation zoned allotments within the urban release area. The following nuances of the clause are acknowledged as essential in enabling the appropriate subdivision of the site:

- Per section 8 of the *Interpretation Act 1987*, a reference to a word or phrase in the singular form includes are reference in the plural.
- Residue portions of an original lot in the urban release area, following initial subdivision are considered to be an original lot for the next phase of subdivision for the purposes of the clause.

Attachment A, which contains testing of a staged subdivision approach of the South Kiama Urban Release Area, reflects these nuances.

3.2. PART 2: EXPLANATION OF PROVISIONS

3.2.1. Intended Provisions

The objectives and intended outcomes of the Planning Proposal will be achieved by introducing flexibility to vary the minimum lot size controls that applying to land within urban release areas by new clause 7.5 and clause 7.6 into KLEP 2011 as follows (amendments in red text):

7.5 Relationship between Part and remainder of Plan

A provision of this Part prevails over any other provision of this Plan to the extent of any inconsistency.

7.6 Exceptions to minimum lot size—subdivision of land in approved land use zones

(1) The objective of this clause is to allow for the subdivision of particular land that is wholly or partly in an urban release area to create 1 or more new lots (each a residual lot) of a size that is less than the minimum lot size shown on the Lot Size Map in relation to the land in particular circumstances.

(2) This clause applies to a lot (the original lot) if the original lot, or part of the original lot is—

- (a) in an urban release area, and
- (b) in an approved land use zone.

(3) Development consent may be granted to subdivision of the original lot to create a residual lot of a size that is less than the minimum lot size shown on the Lot Size Map in relation to the land comprising the residual lot if the residual lot is within one or more approved land use zones, or an approved land use zone and another zone.

(4) A dwelling cannot be erected on a residual lot that is less than the minimum lot size created by clause 7.6(3).

(5) In this clause—

approved land use zone means any of the following land use zones—

- (a) Zone RU2 Rural Landscape,
- (b) Zone C2 Environmental Conservation,
- (c) Zone C3 Environmental Management.

3.3. PART 3: JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

The LEP Making Guideline identifies that the Minister (or delegate) must be satisfied that the Planning Proposal has strategic and site-specific merit and that identified potential impacts can be readily addressed during the subsequent LEP making stages.

Consistent with the assessment criteria outlined in the LEP Making Guidelines, Table 3 outlines an assessment against the criteria for strategic and site-specific merit.

Table 3 Strategic and site-specific merit assessment

Assessment Criteria	Response	Consistency
Strategic merit – does the proposal:		
<i>Give effect to the relevant regional plan outside of the Greater Sydney Region, the relevant district plan within the Greater Sydney Region, and/or corridor/precinct plans applying to the site.</i>	The proposed amendment will facilitate the logical subdivision of land and enable future residential development to be undertaken within an Urban Release Area, as zoned. This will meet in part the housing objective of the Illawarra-Shoalhaven Regional Plan	YES
<i>Demonstrate consistency with the relevant LSPS or strategy that has been endorsed by the Department or required as part of a regional or district plan.</i>	The Planning Proposal is consistent with the relevant objectives of the Kiama LSPS. Refer to Table 5 .	YES
Site-specific merit – does the proposal give regard and assess impacts to:		
<i>The natural environment on the site to which the proposal relates and other affected land.</i>	The proposed clause will not have a direct impact on the natural environment. Considered in a broad sense the proposed clause will facilitate the delivery of restored environmental land into public ownership.	N/Aa
<i>Existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates.</i>	The proposed amendment to KLEP 2011 will facilitate logical subdivision and enable future residential development of land within Urban Release Areas.	YES
<i>Services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.</i>	Service and infrastructure provision is not relevant to the proposed amendment.	N/A

3.3.1. Section A – Need for the Planning Proposal

Q1. *Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?*

No. The proposed amendment is to address an unintended consequence of the outcomes of PP-2021-379 which results in the prohibition of creating conservation and open space lots in an Urban Release Area.

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

Yes. This planning proposal is the best means of achieving the planning outcomes to facilitate development in the South Kiama and future Urban Release Areas and so enable the orderly and economic subdivision of land in an Urban Release Areas that contain rural or conservation area zones under the KLEP 2011.

3.3.2. Section B – Relationship to Strategic Planning Framework

Q3. Will the planning proposal give effect to the objectives and actions of the applicable regional, of district plan or strategy (including any exhibited draft plans or strategies)?

Yes. The Planning Proposal will give effect to the objectives and actions of the applicable regional and district planning strategies described in Section 2.3 above and detailed below in Table 4:

Table 4 Relationship to Strategic Planning Framework

Objective	Consistency
Government Priority	
NSW Government Housing Targets Kiama 5-year housing target – 900 new completed homes by 2029.	The Planning Proposal seeks to rectify an unintended consequence of PP-2021-379 which restricts the ability to subdivide rural and conservation zoned land. The amendment will facilitate the delivery of residential land in the South Kiama Urban Release Area and will significantly contribute to housing provision in Kiama as well as meeting the target set by the State government.
The Australian housing context is currently punctuated with housing shortage and an affordability crisis developing across Australia, enveloping New South Wales, the Illawarra-Shoalhaven Region and the Kiama LGA. Delivery of a diverse housing stock continues to be a priority across all levels of government, with the amendments to the Housing SEPP for Infill Affordable Housing and the TOD SEPP as well as the draft Low and Mid-Rise Housing initiatives driving increased density to alleviate housing stresses.	The planning proposal will seek to amend the provisions of KLEP 2011 which preclude the orderly subdivision of the South Kiama Urban Release Area which was rezoned in 2022 for the purpose of enabling residential development. The provision will apply to future urban release areas that result in a mix of residential, rural or environmental zones.
Illawarra Shoalhaven Regional Plan 2041	
A region that values its people and places	
Objective 18: Provide housing supply in the right locations.	The planning proposal will enable the orderly and economic development of the South Kiama Urban Release Area which has been purposefully rezoned to enable delivery of residential allotments. It can be concluded that in rezoning the South Kiama Urban Release Area that DPHI recognised it as a suitable location to accommodate housing supply.
Objective 19: Deliver housing that is more diverse and affordable.	The proposed amendment will not alter the minimum lot size control of residential zoned land in an Urban Release Area.

Q4. Is the planning proposal consistent with a Council LSPS that has been endorsed by the Planning Secretary or GSC, or another endorsed local strategy or strategic plan?

Yes. The Planning Proposal is consistent with the following local strategy as described in Section 2.3 of this report and detailed below:

Table 5 Relationship to Local Strategic Plans

Planning Priority	Consistency
Kiama Local Strategic Planning Statement 2020	
Section 10 - Future Housing Opportunities	The inclusion of proposed clause 7.5 and clause 7.6 into KLEP 2011 will facilitate the delivery of residential land in urban release areas and enable Council to achieve a significant component of its housing target.
Theme 1: Manage sustainable growth	

Q5. Is the planning proposal consistent with applicable State and regional studies or strategies?

Yes. A consistency assessment against Council’s relevant local strategies is provided below.

Table 6 Relationship to relevant local strategies

Local Strategy	Consistency
Draft Kiama Growth and Housing Strategy	
Council has developed a Growth and Housing Strategy which will outline planning principles, enliven existing identified growth areas, and will scope opportunities to plan future growth location. The Draft Kiama Growth and Housing Strategy is to be reported to Council on 16 July for adoption for exhibition purposes..	The Planning Proposal seeks to facilitate the subdivision of residential land within the South Kiama Urban Release Area and emerging precincts nominated as an Urban Release Area that have residential, environmental and rural zoning.
From the evidence base informing the Kiama Growth and Housing Strategy incorporating data from REMPLAN 2024, the population of Kiama is projected to increase from 23,398 in 2024 to 31,115 in 2044 with a 71% increase in the population of 75+ year olds (1,906 persons) over this period.	The staged subdivision of the South Kiama Release area as shown in Figure 7 and Attachment A will be enabled by the proposed clause 7.5 and clause 7.6 and this will enable the delivery of a diversity of housing supply. .
It has been identified that providing a diversity of lot sizes is important to meet broad demographics of the Kiama LGA and will help achieve housing affordability and sustainability.	

Q6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposed clause 7.5 and clause 7.6 is not inconsistent with the relevant State Environmental Planning Policies.

Q7 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The insertion of clause 7.5 and clause 7.6 through this Planning Proposal will address an unintended consequence of the interplay between clauses 4.1, 4.1C and 4.6 of KLEP 2011 as they relate to land with multiple zonings in an urban release area.

The amendment is administrative in nature and does not give rise to consideration of the Ministerial Directions which were assessed under PP-2021-379 which created the South Kiama Urban Release Area.

3.3.3. Section C – Environmental, Social and Economic Impact

Q8. *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?*

No. The planning proposal seeks to correct a drafting anomaly which prevents the subdivision of land zoned for rural or conservation purposes from residential zoned land in an Urban Release Area where the resulting rural or conservation lots will be undersized.

Q9. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

No. The Planning Proposal will remove a drafting anomaly in KLEP 2011.

3.3.3.1. Built Form and Context

Q10. *Has the planning proposal adequately addressed any social and economic effects?*

There are no adverse social or economic effects arising from the insertion of clause 7.5 and clause 7.6 into KLEP 2011. The proposed clauses will enable the orderly and economic development of land within Kiama urban release areas.

3.3.4. Section D – Infrastructure (Local, State and Commonwealth)

Q11. *Is there adequate public infrastructure for the planning proposal?*

Insertion of proposed clause 7.5 and clause 7.6 into KLEP 2011 will not give rise to any increased demand for public infrastructure.

3.3.5. Section E – State and Commonwealth Interests

Q11. *What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?*

The DPHI Regional Office has been consulted in relation to the Planning Proposal and confirmed that this Planning Proposal was the appropriate pathway to address the drafting anomaly.

In addition, multiple meetings have been held with Kiama Municipal Council to test the wording of the proposed provisions

3.4. PART 4: MAPS

No maps are required to be updated as part of the Planning Proposal.

3.5. PART 5: COMMUNITY CONSULTATION

Section 3.34 of the EP&A Act requires the relevant Planning Proposal Authority to consult with the community in accordance with the Gateway Determination.

In accordance with the requirements of the LEP Making Guideline, it is expected that the Planning Proposal will be publicly exhibited for at least 28 days post Gateway Determination. As part of the Gateway Determination, consultation will be undertaken with any relevant agencies and stakeholders.

3.6. PROJECT TIMELINE

The Planning Proposal is **basic** as the change is principally administrative in nature.

The following table sets out the anticipated project timeline in accordance with the LEP Making Guideline. The key milestones and overall timeframe will be subject to further detailed discussions with Council and DPHI to seek ways to accelerate this timeframe.

Table 7 Anticipated Project Timeline

Process	Indicative Timeframe
Planning Proposal submitted to Council	September 2024
Council decision	November 2024
Gateway Determination	December 2024
Post Gateway + Public Exhibition	January-February 2025
Review of submissions	February-March 2025
Report to Council – adoption for finalisation	March 2025
Finalisation of planning proposal	March – May 2025
Gazettal of LEP amendment	May 2025

4. CONCLUSION

The insertion of proposed clause 7.5 and clause 7.6 into KLEP 2011 as proposed under the Planning Proposal is an administrative amendment to address the unintended consequence of prohibiting the subdivision of land in an urban release area with multiple land use zones.

The proposed amendment will not result in the creation of additional dwelling entitlements in rural or conservation zones and will only apply to land within designated urban release areas with multiple land uses zones applying to the land.

In the immediate term the proposed amendment will enable the orderly development of the South Kiama Urban Release Area, have a significant positive impact towards meeting Council's 2029 housing target and facilitate the subdivision of land in future urban release areas under KLEP 2011.

Item 15.2

Attachment 1

5. DISCLAIMER

This report is dated 18 September 2024 and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Ltd (**Urbis**) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of WHITE CONSTRUCTIONS & DEVELOPMENTS PTY LTD (**Instructing Party**) for the purpose of Planning Proposal Report (**Purpose**) and not for any other purpose or use. To the extent permitted by applicable law, Urbis expressly disclaims all liability, whether direct or indirect, to the Instructing Party which relies or purports to rely on this report for any purpose other than the Purpose, and to any other person which relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report, and upon which Urbis relied. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

In preparing this report, Urbis may rely on or refer to documents in a language other than English, which Urbis may arrange to be translated. Urbis is not responsible for the accuracy or completeness of such translations and disclaims any liability for any statement or opinion made in this report being inaccurate or incomplete arising from such translations.

Whilst Urbis has made all reasonable inquiries it believes necessary in preparing this report, it is not responsible for determining the completeness or accuracy of information provided to it. Urbis (including its officers and personnel) is not liable for any errors or omissions, including in information provided by the Instructing Party or another person or upon which Urbis relies, provided that such errors or omissions are not made by Urbis recklessly or in bad faith.

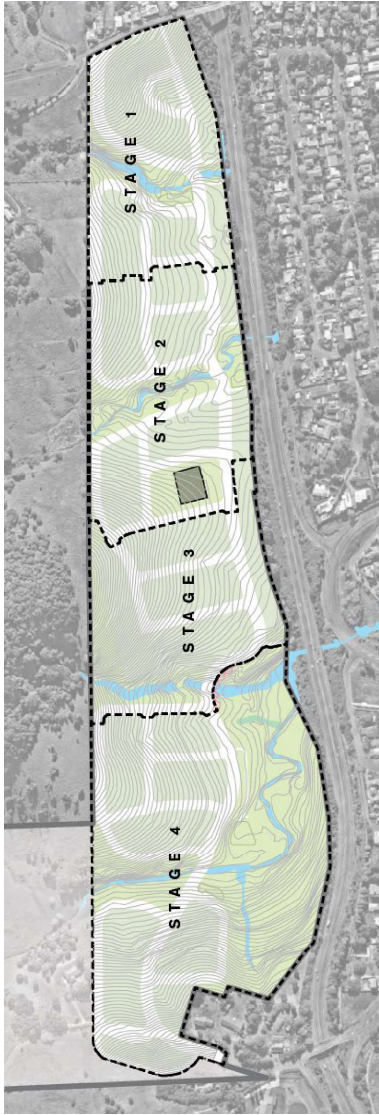
This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the reasonable belief that they are correct and not misleading, subject to the limitations above.

Attachment A – Subdivision Testing

Item 15.2

Attachment 1

Figure A1 Potential Site Staging Plan



Source: DKO

Figure A2 Stage 1 Subdivision Test



Source: DKO

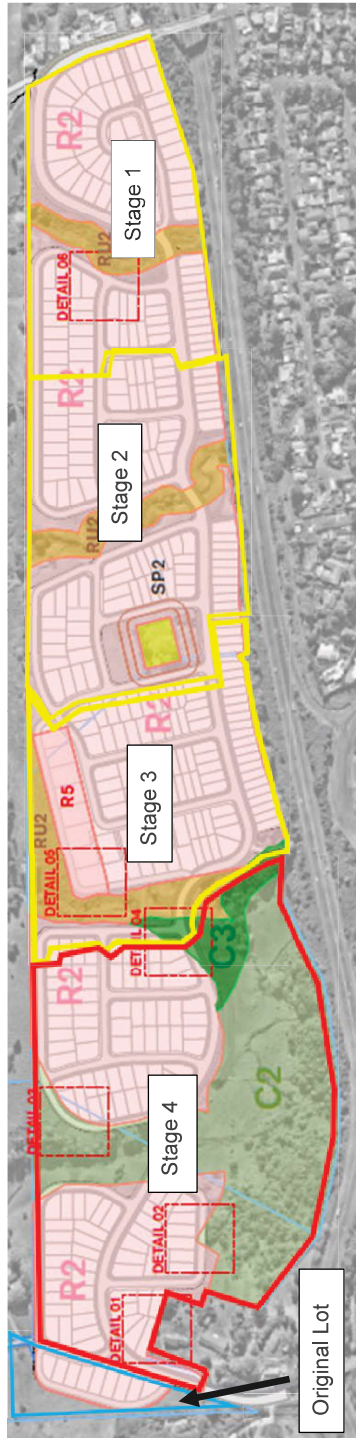


Source: DKO



Source: DKO

Figure A5 Stage 4 Subdivision Test



Source: DKO