

15.3 Kiama Town Centre Planning Proposal - Finalisation

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

Purpose of Report

The purpose of this report is to seek Council's adoption of the proposed amendment contained in Planning Proposal PP-2023-4144. The PP seeks to update the Kiama Local Environmental Plan 2011 by amending development controls for land in the Kiama Town Centre, including changing maximum building heights and floor space ratios, mapping active street frontages, amending clause 6.8 and rezoning 72 Manning Street, Kiama. Following Council's endorsement, the amendments will be sent to the Office of the NSW Parliamentary Counsel under section 3.36(1) of the Environmental Planning & Assessment Act 1979.

Financial implication

Failure to support the PP and not referring it to the Parliamentary Counsel will likely lead to non-compliance with the Gateway Determination and the subsequent need to withdraw the PP from the Planning System. The work undertaken by staff to date would be lost and the proposal process would need to recommence.

Risk implication

Planning Proposals require consideration of a number of Acts, Government policies, environmental planning instruments and planning documents. Specifically, the *Environmental Planning and Assessment Act 1979*, *Kiama Local Environmental Plan 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Local Strategic Planning Statement 2020 and the Kiama Planning Proposal Policy.

Policy

Following Council's resolution at its meeting held in September 2022, the PP was forwarded to the Department and received a Gateway Determination.

Consultation

As required by the conditions of the Gateway, the PP was referred to the following state agencies who have provided satisfactory referral advice and comments:

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

Attachments

- 1 Active Street Frontages Map [↗](#)

- 2 Land Zoning Map [↗](#)
- 3 Height Of Buildings Map [↗](#)
- 4 Floor Space Ratio Map [↗](#)

Enclosures

Nil

RECOMMENDATION

That Council

1. Make the following amendments to Kiama Local Environmental Plan 2011 under section 3.36(1) of the Environmental Planning & Assessment Act 1979:
 - i. Amend Sheet HOB_012 of Kiama LEP 2011 to increase the maximum height of buildings permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 14.3m.
 - b. Parts of Kiama Centrepoint Shopping Mall, to 14.3m.
 - c. Parts of the Akuna Street strategic site, to 14.3m, 17.4m and 21m.
 - ii. Amend Sheet FSR_012 of Kiama LEP 2011 to increase the maximum floors space ratio permitted:
 - a. Along the southern side of Terralong Street, between Thomson Street and Collins Street, to 2:1.
 - b. Parts of Kiama Centrepoint Shopping Mall, to 2:1.
 - c. Parts of the Akuna Street strategic site, to 2:1, 2.5:1 and 3:1.
 - iii. Amend Sheet ASF_012 and clause 6.8 of Kiama Local Environmental Plan 2011 to outline that the active street frontage development standards, within the Kiama Town Centre, only apply to the areas marked as 'primary active frontages'.
 - iv. Amend clause 6.8 of Kiama Local Environmental Plan 2011 to rezone Lot 154 DP 751279, 72 Manning Street (i.e. Silica Restaurant) from RE1 Public Recreation to B2 Local Centre and amend Sheet HOB_012 and FSR_012 to apply a 11m maximum building height and a floor space ratio of 1.5:1 for the site.
2. Delegate the Chief Executive Officer the authority to send the Planning Proposal to the Office of the NSW Parliamentary Counsel in accordance with section 3.36(1) of the Environmental Planning & Assessment Act 1979 to draft the legal instrument that will give effect to this Planning Proposal.
3. Delegate to the Chief Executive Officer the authority to make minor mapping and Local Environmental Plan instrument changes if required by the Office of the NSW Parliamentary Counsel.
4. Delegate to the Chief Executive Officer the authority to finalise the Planning proposal by placing the final instrument received from the NSW Parliamentary

[Counsel \(referred to in recommendation 1\) in the NSW Government Gazette and on the NSW Legislation Website.](#)

Background

At the September 2022 meeting, Council resolved to prepare and submit a Planning Proposal (PP) to amend Kiama Local Environmental Plan (LEP) 2011. The Planning Proposal proposed the following amendments to Kiama LEP 2011:

1. Increase the maximum permissible building height:
 - a. From three (3) storeys to four (4) storeys along the southern side of Terralong Street, between Thomson Street and Collins Street;
 - b. From three (3) storeys to four (4) storeys for parts of Kiama Centrepoint Shopping Mall, and
 - c. From three (3) storeys to four (4), five (5) and six (6) storeys for parts of the Akuna Street strategic site.
2. Decrease the maximum permissible building height for part of the Akuna Street Strategic sites to 8.5m to facilitate public open space.
3. Increase maximum floor space ratio to specific sites.
4. Map the areas of the Kiama Town Centre required to have an active street frontage.
5. Amend Clause 6.8 relating to active street frontage development standards; and
6. Rezone 72 Manning Street from RE1 Public Recreation to B2 Local Centre/E1 Local Centre to correct mapping error.

These changes were to enact the adopted position of Council as outlined within Kiama DCP 2020.

A Gateway Determination was issued by the Department of Planning, Industry and Environment (DPIE) on 21 December 2022.

As required by the conditions of the Gateway, the PP was referred to the following State Agencies:

- Sydney Water
- Transport for NSW
- Endeavour Energy
- Crown Lands

Satisfactory referral comments were received by all state agencies.

As a requirement of Gateway, the PP was placed on public exhibition between 15 September 2023 and 6 October 2023. Public exhibition occurred in accordance with the Kiama Community Participation Plan (CPP) 2019.

A total of 22 Submissions were received. The submissions received are outlined in the Community Engagement section of this report below.

Exhibition outcome

The PP was placed on public exhibition between 15 September 2023 and 6 October 2023 in accordance with section 3.34(2)(c) and clause 4 of Schedule 1 to the Act and the Kiama Community Participation Plan (CPP) 2019.

Notification of the formal public exhibition period occurred on 13 September 2023 via the following:

- Council Media Release
- Councils Social Media platforms
- Council Project Webpages
- Individual letters to property owners

A total of 22 submissions were received.

A summary of community submissions and Councils comments have been categorised below:

Community comments	
1. Height increases	
	<ul style="list-style-type: none"> i. Overdevelopment and impacts on Tourism ii. Precedent for future development iii. Overshadowing, view loss and impacts on privacy iv. Bulk and scale, visual impact and noise v. Impacts on the existing character (coastal town/heritage sea side village) vi. Not supportive of height increases greater than 4 storeys vii. Not supportive of any height increases at all viii. Properties in a Heritage area should not be permitted height increases. ix. The commissioned study did not recommend height increases. x. Sustainable design / environmentally suitable building materials xi. The attempt to isolate certain buildings and neglect, sell off or allow to deteriorate others is symptomatic of poor planning.
Staff Response:	
<p>It is to be noted, an 11m maximum building height is applicable under the existing LEP controls to most sites throughout the Kiama Town Centre, including along Terralong Street. Therefore, the existing two storey buildings opposite Hindmarsh Park are already permitted to be increased to 3 storeys (11m) in height following development approval, in accordance with the existing LEP and DCP controls.</p> <p>Following the initial Community Consultation of the draft deliverables in February/March of 2022 the proposal was amended. Proposed maximum building heights were reduced along Terralong Street and Akuna Street. The properties on</p>	

Terralong Street opposite Hindmarsh Park were removed from the proposal in response to feedback sought from the community.

It is a widely adopted best-practice planning approach to facilitate and encourage densities within proximity to public and commercial services. The southern side of Terralong Street, between Thomson Street and Collins Street (i.e the Westend Precinct), already presents as a taller streetscape compared to other areas within the Town Centre. Given the rising topography behind this area the proposed additional height recessed back, will not adversely impact or cause overshadowing issues. Kiama Centrepoint Shopping Mall acts as a transition zone between the Westend Precinct, the Akuna Street strategic site and the remainder of the Town Centre.

It is important to encourage growth and economic sustainability. The community feedback throughout the process has been utilized to make further amendments to the design that alleviated some concerns, however at this stage the requests to reduce height are not supported. It is important to provide opportunities for growth in the Kiama Town Centre.

The increased building heights and floor space ratios throughout the town centre provide the opportunity for more diverse mixed-use developments that have the potential to utilize an adaptable first floor for commercial purposes.

Any development application would be required to comply with the Development Controls listed in Topic 12.7 of the Kiama Town Centre DCP 2020 with regards to view loss, noise, acoustic treatment, privacy and amenity, overshadowing etc.

Sites within a Heritage Conservation Area or in close proximity to a Heritage item are required to be accompanied by a Heritage Impact Assessment and to comply with the LEP and DCP controls specific to Heritage.

2. Street Strategic Site: Height increases

In addition to concerns listed in 'Height' above, other concerns included:

- i. Study prepared by Studio GL did not advocate the proposed height increases
- ii. Feedback from the community did not recommend height above 3 stories
- iii. Submissions made to Council opposed height above 3 stories
- iv. Traffic management study concerns
- v. Feasibility analysis - property market and land use research at an aggregate level and on generic development typologies which has limitations.
- vi. Tree preservation, Landscaping
- vii. Pedestrian access and connectivity
- viii. Reduction in property value
- ix. LEP amendments to FSR and Height on Council owned properties
- x. Requests to include specific sites along Terralong Street, opposite Hindmarsh Park

Staff response:

It is important to encourage growth and economic sustainability in the Kiama Town Centre. The strategic site of Akuna Street has been identified for the positive key opportunities for the Kiama Town Centre resulting from redevelopment of the site. The strategic site provides the opportunity to improve access, connectivity and movement. How people access and move around a place is fundamental to its success. The proposal has the opportunity to encourage diverse development with the option of an adaptable first floor.

The boundary of the Akuna Street strategic site was based on Council owned land. The large key site was considered suitable for a development that would provide the additional benefit of a supermarket with better located parking, and that would help activate Terralong Street.

Adjoining sites, including to the north, were not included at the time as they did not contribute to these strategic aims, were not Council owned and at the time 66 Collins Street had been identified as a possible heritage item and was undergoing further investigation as part of a separate project.

If a proponent wishes to pursue amendments to their properties there may be an opportunity for Council to consider a proponent led planning proposal in the future.

With regard to the catalyst strategic sites, these sites were identified as either large sites in single ownership (including Government owned land, Kiama Shopping Centre and the Kiama Leagues Club) or prominent corner sites which would have a big impact on the future character of the Town Centre. In each case “adjacent sites” were not included.

Height was the most prevalent concern that the community have with this site. Concerns were raised that the proposed heights would put pressure on existing infrastructure, traffic, parking, overshadowing, bulk and scale, character, view loss, property depreciation, among others.

Following the Community Consultation period of the draft deliverables in early 2022, Studio GL prepared an Akuna Street Study Report which provided 4 design options with varying heights for the site. Studio GL recommended Option C which was endorsed and formed part of this Planning Proposal.

The design of the Akuna Street Strategic Site varies between 3 to 6 storeys. This design outcome allowed for the retention of existing trees, which was a concern raised during this public exhibition period. The design also provided the opportunity for the straightening of roads, pedestrian linkages and the provision of public open space.

Akuna Street was scaled back following community feedback. The 4 options presented at the Council meeting at that time varied in heights, with some designs limited to 4 storeys. The design sits in with the topography of the land to reduce impacts on amenity, view loss, overshadowing and bulk and scale.

The Report was reviewed at the September 2022 Ordinary Council meeting and Council resolved to endorse option C as part of this PP.

The Akuna Street Strategic Site has been master planned with adequate setback and articulation proposed.

It is recommended that any additional storeys over 4 storeys, considers view sharing and view loss for the existing neighbours, particularly for Bong Bong Street properties to the rear of the site. To the south of Akuna Street, an 'L' shaped built form was suggested to help reduce impacts on neighbour's views from 10 Akuna Street, however additional storeys may be considered subject to detailed view analysis based on accurate site surveys. The proposed six (6) storey component is a smaller portion to the rear of the development.

Increasing building heights to four, five and six storeys provides the opportunity for more diverse and mixed-use development that has the potential for an adaptable first floor. Retail, services and community facilities provide compelling reasons to work in and visit the centre and multiple reasons to return. Commercial office space is limited within the Town Centre and improvements to supply may assist in retaining local businesses or attracting new businesses to the area.

The study that was commissioned by Council highlights that any development must consider each precincts qualities, character and heritage. Any development application will be required to be sympathetic to these through its design and building materials and to not adversely impact on Heritage items.

Any Development Application would need to comply with the DCP controls listed in Topic 12.7 KDCP 2020 specific to Kiama Town Centre and comply with the Kiama Local Environmental Plan 2011. This includes matters such as landscape design, parking, access, preservation of trees, design and others.

A development application would be referred to relevant state agencies such as Transport for NSW and Sydney Water to assess the application in terms of infrastructure.

Concerns were also raised regarding infrastructure and the increased pressure on these networks. This is expanded further below.

Request for additional properties to be included within the LEP Amendment

The sites raised in the submissions are disjointed from the sites included in the proposal on Terralong Street. Council staff do not support the fragmentation of sites and is not considering increasing heights to 4 storeys opposite Hindmarsh Park as part of this proposal. The corner site has been included as an entry statement which continues to scale up Terralong Street with the topography of the land.

In addition to the reasons outlined above, a large number of submissions during public exhibition of the draft deliverables in early 2022 opposed building heights beyond the existing 11m permitted on Terralong Street, opposite Hindmarsh Park. Concerns included overshadowing, bulk and scale, visual impacts, impacts on character and charm.

If a proponent wishes to pursue amendments to their properties there may be an opportunity for Council to consider a proponent led PP.

- 3. Minor amendments required to LEP maps:**
- i. Amend HOB maps to increase height of buildings to allow provision of an adaptable first floor.**
 - ii. Amend LEP maps to include Southern Car park of Akuna Street site.**

During the formal public exhibition period, submissions outlined that the proposed 14m and 17m building heights did not allow the provision of retail space and an adaptable first floor, and the southern car park of Akuna Street was not incorporated in to the LEP maps.

The submission outlined that the building height should be increased to 14.3m for 4 storey developments and 17.4m for 5 storey developments to allow developments of this nature as per the requirements of the controls listed in Topic 12.7 of the Kiama DCP 2020.

Staff response:

Height of Buildings

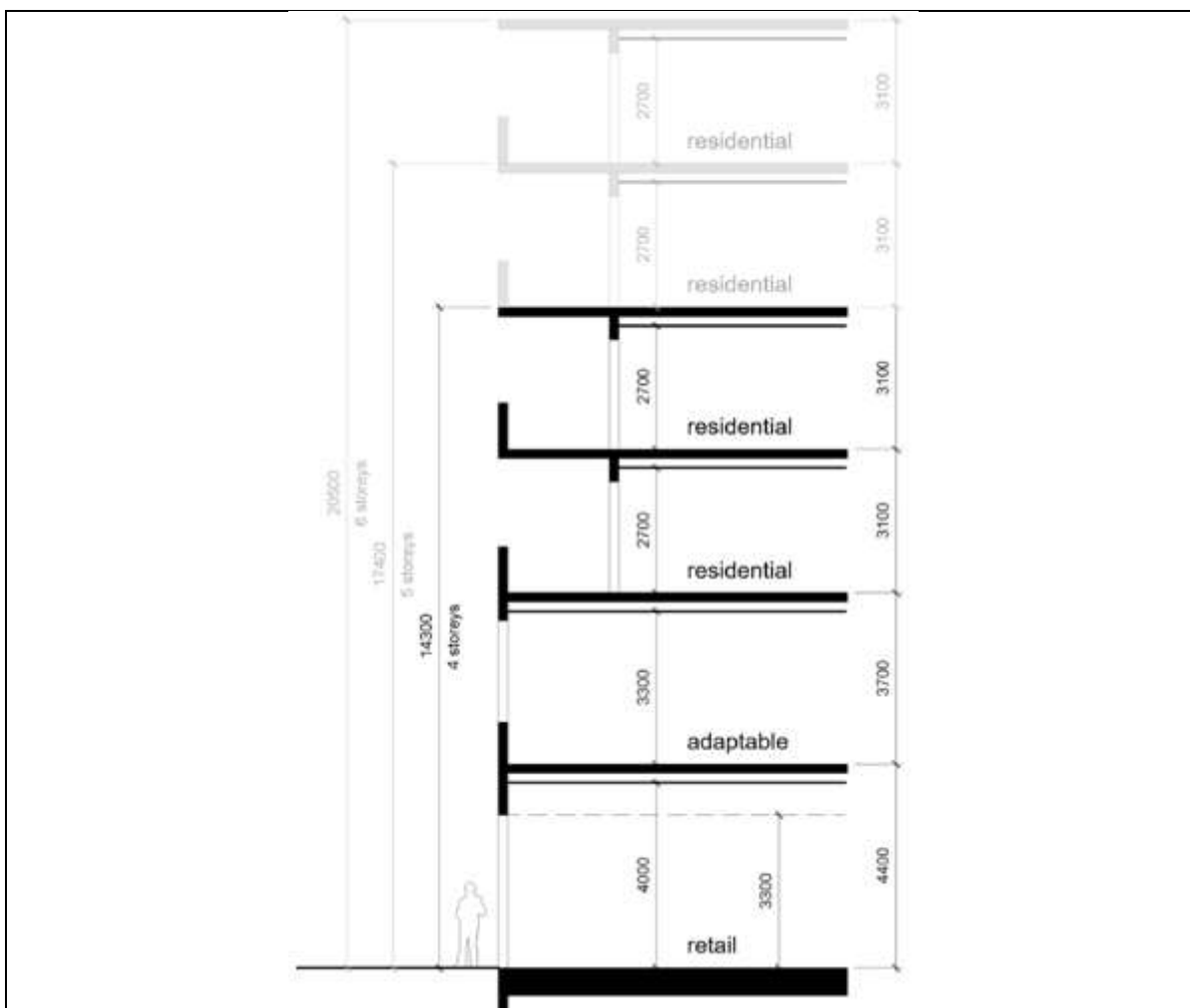
The submission raised that the following height increases should apply to allow for the provision of retail stores on ground floor and an adaptable first floor for future proposed development:

- i. 4 storeys – 14m to be increased to 14.3m
- ii. 5 storeys – 17m to be increased to 17.4m

Topic 12.7 of Kiama DCP 2020 outlines the following required minimum ceiling heights:

Use	Minimum floor to floor height	Minimum floor to ceiling height
Retail	4.4m	4m
Commercial	3.7m	3.3m
Adaptable	3.7m	3.3m
Residential	3.1m	2.7m
Community	3.7m	3.3m

The objectives of this planning proposal state that permissible heights will be increased for provision of ‘4 storeys’ and ‘5 storeys’. It is clear from the objectives of the PP and Councils endorsement, that the intent is to permit developments of 4 and 5 storeys. The opportunity to incorporate an adaptable first floor would encourage better design outcomes and more diverse mixed use development. The proposed heights of 14m and 17m would not permit an adaptable first floor.



It is demonstrated that the heights required for an adaptable first floor are required to be increased to 14.3m and 17.4m. This will still limit developments to 4 storeys and 5 storeys, however would enable the option to have an adaptable first floor.

The LEP Height of Building (HOB) map sheet HOB_012 has been amended to increase building heights to 14.3m and 17.4m on identified sites throughout the town centre.

Southern Car park

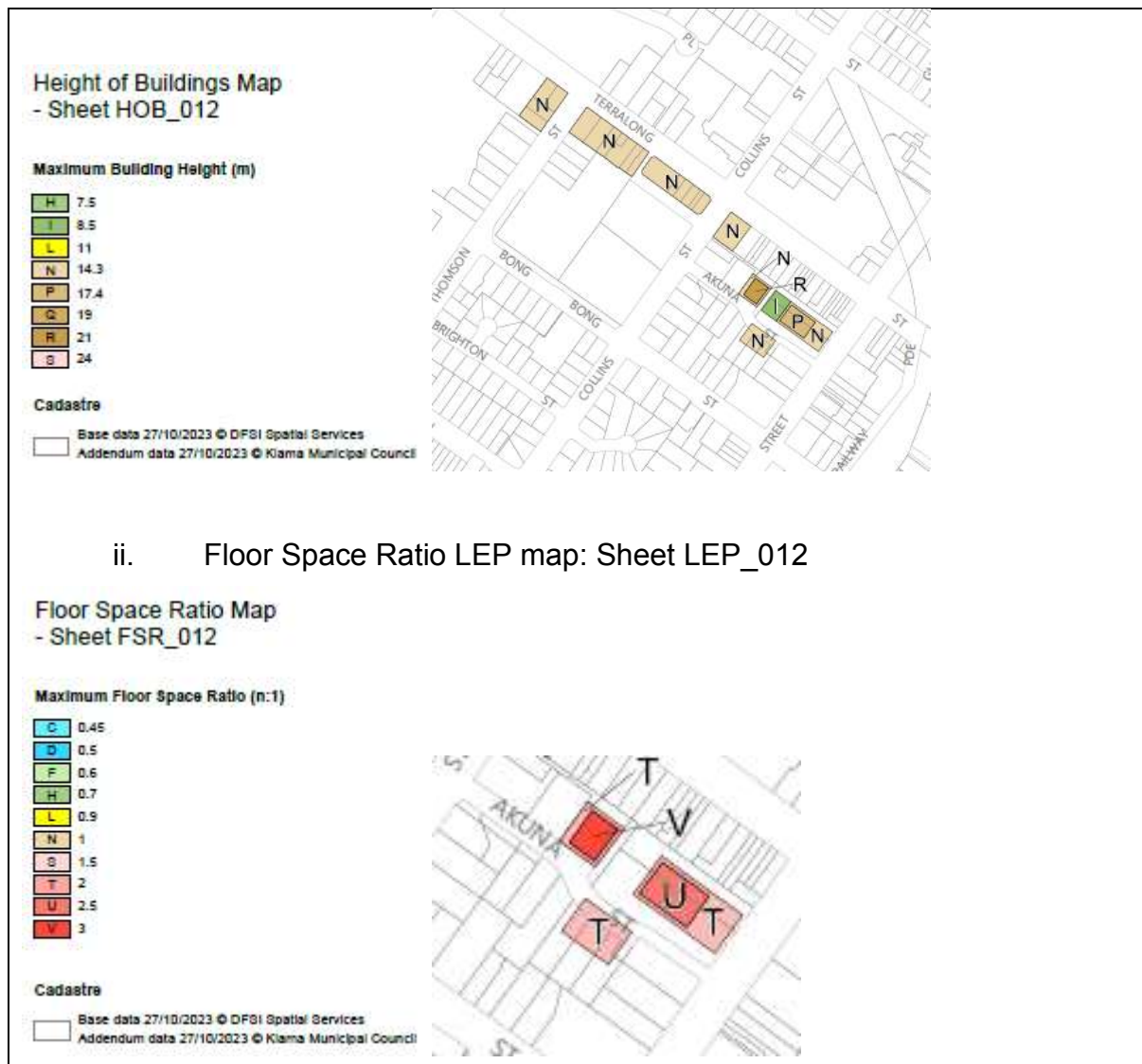
One submission raised that the Southern carpark in the Akuna Street strategic site was not incorporated in to the LEP height of building and floor space ratio maps.

This carpark is part of the proposal as demonstrated in Figure 2 of the Amended Planning Proposal Report dated November 2022, and as endorsed by Council.

This is an error as the site should have been included in the LEP mapping.

The amendment has been made and this land has been included in the relevant LEP maps:

- i. Height of Building LEP map: Sheet HOB_012



4. Infrastructure, Sydney Water and Transport for NSW

- i. Concerns that water and wastewater systems and public infrastructure (such as roads and footpaths) will not cope with the increased density.
- ii. Increase in traffic flow.
- iii. Insufficient parking.

Staff response:

Sydney Water

The PP was referred to Sydney Water who assessed the proposal and the estimated dwelling growth. Sydney Water suggested that there is sufficient capacity within the network to service the anticipated growth resulting from this planning proposal.

Sydney Water notes that information provided can evolve over time in tandem with the progression of other development projects in the catchment, changes within the local system and receiving works.

Any development application, in particular for the Akuna Street Strategic Site will be referred to Sydney Water for formal approval of Sydney Water servicing requirements.

Transport for NSW

The PP was referred to Transport NSW who assessed the proposal and estimated dwelling growth.

Transport for NSW reviewed the information and does not believe that the rezoning of sites on Thomson, Terralong and Akuna Street will have a significant impact on the Princes Motorway.

Transport for NSW noted that the impacts of the rezoning, which facilitates more intense traffic generating developments, has been adequately considered from a local road network perspective.

Traffic and parking

Concerns regarding the loss of public carpark with the sale of the Akuna Street strategic site are noted. The DCP requires the provision of carparking required to accommodate future development on the site. The program to review and update Council's Local Infrastructure Contributions Plans will also enable Council to levy applicants towards the provision of new public carparking facilities.

5. Loss of Character

Concerns were raised that the character of Kiama will change from a Coastal heritage village and seaside town, to become more like Shellharbour and the Gold Coast. Tourism is vital and there are concerns that the views, character and heritage is what attracts tourism.

Staff response:

Amendments in maximum building heights have been made to reduce bulk, scale, overshadowing and impacts on privacy and amenity. This is demonstrated through the redesign of the Akuna Street site, height reductions and the removal of properties opposite Hindmarsh Park from the proposal. The design of Akuna Street has been designed to fit in amongst topography of the land.

The height increases along Terralong Street have been limited to properties in key locations within close proximity to public infrastructure, services and facilities to public and commercial services. This area presents a taller street scape and existing developments are predominately 3 storeys in height. An additional storey would be recessed back.

Any development application within a heritage conservation area will need to be accompanied by a heritage impact assessment and comply with the Heritage controls pursuant to Chapter 4 of Kiama DCP 2020 and Kiama LEP 2011.

<p>6. Heritage Impacts and Aboriginal Cultural Heritage</p>
<ul style="list-style-type: none"> i. The Kiama Town Centre Heritage Review recommended commissioning an Aboriginal Cultural Heritage Study of the area to understand and guide the sensitive management of areas and places of significance. ii. The properties are in a Heritage area, therefore increased height should not be supported. iii. The study that was commissioned by Council made a point to highlight that any development must consider each precincts qualities, character, and heritage
<p>Staff response:</p>
<p>As outlined above, any application within a heritage conservation area or in close proximity to a heritage item must be accompanied by a heritage impact assessment. If required, an Aboriginal Cultural Heritage Impact Assessment report would be submitted with any development application.</p> <p>The properties throughout the Kiama Town Centre are included within the Proposed Kiama Town Centre Heritage Conservation Area Planning Proposal that is close to finalization. Sites within this area must comply with additional heritage controls pursuant to Chapter 4 of Kiama DCP 2020.</p> <p>All proposed developments must be sympathetic to the existing character and heritage and must not adversely impact on existing heritage items.</p> <p>Where greater heights are proposed, for example within Akuna Street, these heights are recessed back and situated to the rear of developments away from the street scape.</p>
<p>7. Insufficient Community Consultation</p>
<ul style="list-style-type: none"> i. Insufficient community consultation ii. Consultant did not consult with residents living in Akuna Street iii. Visual model required for display and feedback over a longer timeframe iv. Council unwilling to take on community feedback if it undermines asset sales or development overreach
<p>Staff response:</p>
<p>The consultant engaged with the community through a number of workshops throughout 2021. The draft deliverables were exhibited to the community in early 2022. The public exhibition period was advertised via Council's website and social media platforms. A 3D model of the proposal was available to view on Council's website during this period and remained on Council's website. Amendments were made to the design following submissions made by the community to alleviate some concerns. A site specific study was prepared by the Consultant to provide Council with 4 options for Akuna Street. The amended proposal and Akuna Street</p>

site study was reported to Council in September 2022, along with the amended 3D model.

As a requirement of Gateway, the PP was placed on public exhibition between 15 September 2023 and 6 October 2023. Public exhibition occurred in accordance with the Kiama Community Participation Plan (CPP) 2019.

Council advertised the public exhibition period via a media release, social media platform and updating the project webpages. The 3D model was made available to view during this exhibition period also.

Delegations

As part of issuing the Gateway Determination, DPIE delegated plan making functions for this PP to Council. As such, Council is the decision-making authority for this PP.

As the planning proposal authority, Council is satisfied that the PP has been carried out in accordance with the conditions prescribed by the Gateway Determination.

Conclusion

Kiama Council is committed to creating great places to live, work and enjoy in our Municipality.

This PP provides important amendments which include identified sites within Kiama LEP 2011 to ensure the appropriate future development of the town centre. The amendments to the LEP will legislatively enable the already adopted position of Council for the future development of the CBD. The agreements that have been articulated to landowners through the DCP need to be realised by the finalisation of the LEP amendment, so that the DCP vision can be implemented.

No issues were raised by state agencies and no submissions were received from the community during the public exhibition that warrant not proceeding with this PP, especially given it simply enables an already adopted position of the Council.

As such, it is recommended that Council make the amendments to Kiama Local Environmental Plan 2011 in accordance with the Planning Proposal.



