

Rezoning Review Briefing Report – RR-2024-21

“Springside Hill”, 177 Long Brush Road, Jerrara, and 33 Greyleigh Drive, Kiama and 103 Jamberoo Drive, Kiama (1062 Dwellings and 274 jobs)

Element	Description
Date of request	19 July 2024
Department ref. no	RR-2024-21
LGA	Kiama
LEP to be amended	Kiama Local Environmental Plan 2011
Address	177 Long Brush Road, Jerrara, 33 Greyleigh Drive, Kiama and 103 Jamberoo Drive, Kiama
Reason for review	<input checked="" type="checkbox"/> Council notified the proponent it will not support the proposed amendment <input type="checkbox"/> Council failed to indicate support for the proposal within 90/115 days, or failed to submit the proposal after indicating its support
Has council nominated PPA role	As Kiama Council (Council) has resolved not to support the planning proposal, in accordance with Local Environmental Plan (LEP) Making Guideline (August 2023), the Southern Regional Planning Panel should act as the PPA if it is supported to proceed to Gateway determination.
Consultation	<p><u>Council’s pre-Gateway consultation with Government Agencies</u></p> <p>Council consulted with Sydney Water and Biodiversity, Conservation and Science Group (BCS) as part its pre-Gateway assessment of the planning proposal.</p> <p>The proponent’s rezoning review request report includes a response to each matter raised by Sydney Water and BCS (see pp 26-29) (Attachment B2). It is understood the proponent was not provided an opportunity to respond to agency comments during Council’s pre-Gateway assessment of the planning proposal.</p> <p>The comments received from these two government agencies are summarised below and are discussed in more detail in the Key Issues section of this briefing report:</p> <p><u>Sydney Water (Attachment E)</u></p> <p>On 20 March 2024, Sydney Water provided comments on the planning proposal, including:</p> <ul style="list-style-type: none"> the site is within the Kiama West Water Supply Zone. Wastewater

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	<p>servicing is currently unavailable to the site;</p> <ul style="list-style-type: none"> to fully support all growth and developments and to fully assess proposed developments, we require the ultimate and annual growth data for this development. <p>The growth data should be completed and provided (by the proponent) directly to Sydney Water via the Water Servicing Coordinator (WSC) Feasibility application process referencing this preliminary planning proposal response. The Feasibility application should be lodged if the proponent decides to further progress to the planning proposal stage; and</p> <ul style="list-style-type: none"> Sydney Water is happy to meet with the proponent to discuss options. <p><u>Biodiversity, Conservation and Science Group (BCS) (Attachment F)</u></p> <p>On 22 March 2024, BCS provided comments on the planning proposal, including:</p> <ul style="list-style-type: none"> BCS is not convinced there is enough information about water management, biodiversity, and management of riparian lands; a fit for purpose Flood Impact and Risk Assessment (FIRA) report be prepared; significant biodiversity should be mapped and incorporated into non-urban zonings; identify areas for rehabilitation of critically endangered communities in accordance with a vegetation management plan; C2 Environmental Conservation zoning be considered for all significant biodiversity values; and Asset Protection Zones (APZs) be contained within existing cleared areas not proposed areas of conservation. <p><u>Council’s pre-Gateway consultation with the Community</u></p> <p>Council did not undertake community consultation prior to a Gateway request in accordance with the Kiama Community Participation Plan (CPP) 2019.</p> <p>However, Council informed the community of the proposed planning proposal by:</p> <ul style="list-style-type: none"> media release; the proposal documents were made available on Council’s Website; and Councillors were briefed on the proposal.
<p>Brief overview of the timeframe/progress of the planning proposal</p>	<p>The following dates summarise the steps and timeframes of the planning proposal:</p> <p>Council has previously considered parts of the site through previous planning proposals, including:</p> <ul style="list-style-type: none"> In 2015 a proposal was lodged to rezone 7ha of RU2 Rural Landscape land to R2 Low Density Residential to deliver 32 lots (limited south-east

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	<p>portion of the current site). The site was not identified as a Greenfields expansion area in the Kiama Urban Strategy and therefore Council did not support the proposal.</p> <p>This proposal was subject to a pre-Gateway Review request which was not supported to the then Southern Joint Regional Planning Panel (PGR_2015_KIAMA_002_00). The reasons included because it was inconsistent with the regional and local strategic planning framework and was of local planning significance (Attachment G); and</p> <ul style="list-style-type: none"> In 2019, a proposal was lodged to rezone 38 hectares of rural land to deliver 168 lots and a mix of residential zones (south-east portion of the current site). Council did not support the proposal as it was in the process of finalising the Kiama Local Strategic Planning Statement 2020 and inconsistent with the regional and local strategic planning framework. <p>A rezoning review (RR_2019_KIAMA_001_00) was not supported by the Southern Regional Planning Panel because it lacked strategic merit (Attachment H).</p> <p>30 November 2023 - a pre-lodgement meeting was held between the proponent and the Council. The proponent states that a Scoping Report was not prepared, and a formal pre-lodgement meeting did not occur.</p> <p>15 December 2023 - the Planning Proposal and letter of offer to enter into a planning agreement (dated 12 December 2023) was submitted through the NSW Planning Portal (PP-2023-2833).</p> <p>12 February 2024 - the planning proposal was lodged for assessment by Kiama Council.</p> <p>16 April 2024 - Council considered the planning proposal at its Ordinary Meeting and resolved consistent with the officer recommendation that Council (Attachment C3):</p> <ol style="list-style-type: none"> <i>‘Not support the Planning Proposal (PP-2023-2833) (PP) for the rezoning of land at 177 Long Brush Road, Jerrara, 33 Greyleigh Drive, Kiama and 103 Jamberoo Drive, Kiama, as it is inconsistent with the Kiama Local Strategic Planning Statement 2020 and Illawarra and Shoalhaven Regional Plan 2041 and therefore does not satisfy the strategic merit and site-specific merit tests.</i> <i>Not send the proposal to the Department of Planning for Gateway Determination.</i> <i>Actively work with the proponent through the Growth and Housing Strategy process to consider this land, along with other sites for future potential urban expansion, in conjunction with the Urban Development Program.’</i> <p>The Meeting included <i>Item 17.9: Petition: Kiama West Rezoning</i>, which is a petition of the residents of the local government area, stating that the proposal does not have strategic merit (Attachment C4).</p>

Element	Description
	<p>16 April 2024 - the proponent responded to the Council report to advise Council of several discrepancies in not supporting the proposal (Attachment B3).</p> <p>3 May 2024 – Following the April Council meeting, Council officers wrote to the proponent advising that Council does not support the Planning Proposal to proceed to Gateway. Council advised that they are open to discussing any future development potential and requested the Proponent’s availability so as to arrange a meeting (Attachment B3).</p> <p>3 May 2024 - Council sent a response to <i>Letter of Offer to enter into a Planning Agreement in association of PP-2023-2833</i> to the Proponent (Attachment B4).</p> <p>13 May 2024 - Council wrote to the landowner seeking a meeting to discuss future development potential of the Site and input into Council’s ‘Growth and Housing Strategy’.</p> <p>21 May 2024 – The proponent notes that Council, the landowner and the proponent met to discuss the planning proposal and Council’s position on the proposal in relation to Council’s Growth and Housing Strategy. Both parties acknowledged the steps to date and a commitment to working collaboratively on issues Council deemed ‘non-negotiable’ which if addressed, could potentially lead the site being identified in the Growth and Housing Strategy, which the proponent identified as including:</p> <ul style="list-style-type: none"> • abandoning the use of an independent water and sewer infrastructure provider; • providing clarification on active open space provision; • beginning negotiations on a voluntary planning agreement particularly with respect to dedication of public space land; • reducing the maximum height of buildings from 15m; • removing the additional permitted education establishment and place of public worship uses; and • demonstrating a willingness to engage in strategic traffic and transport discussion for the region. <p>7 June 2024 - the landowner submitted a response to Council, agreeing in principle to address all of Council’s requests from the 21 May 2024 meeting.</p> <p>13 June 2024 - the Rezoning Review was lodged by the proponent in the NSW Planning Portal.</p> <p>16 July 2024 - Council resolved to exhibit their draft Growth and Housing Strategy (Attachments D1 and D2).</p> <p>19 July 2024 to 16 August 2024 – Council publicly exhibit the draft Growth and Housing Strategy (Attachments C5 and C6).</p> <p>14 August 2024 - Council provided their comments on the rezoning review.</p>
Department contact:	Shruthi Sriram, Planning Officer, Planning Proposal Authority, 9228 6362

Planning Proposal

Table 1. Overview of planning proposal

Element	Description
Site Area	Approximately 113.72 ha
Site Description	<p>The site comprises 12 lots which are understood to be in single ownership and portions of unformed Crown roads over an area of approximately 113.72ha, located at:</p> <ul style="list-style-type: none"> • 177 Long Brush Road, Jerrara (Lot 201 DP 1148007); • 33 Greyleigh Drive, Kiama (Lot 1 DP 995058, Lot 1 DP 1003719, Lot 1320 DP 1060995, Lots 156, 183, 185 to 186, 188 to 189 DP 751279); and • 103 Jamberoo Drive, Kiama (Lot 102 DP 1176643 and Lot 187 DP 751279). <p>The site is located approximately 1.7km west of the Kiama town centre and Kiama Station (Figure 1).The immediate surrounding context existing farmland zoned RU2 Rural Landscape. Land to the east of the site is predominately low density residential and forms part of the western periphery of the Kiama township.</p> <p><u>Flooding</u></p> <p>The site is found within the Spring Creek Catchment. Council has prepared a flood study for this catchment dated May 2014. Council’s flood study identifies the site is affected by the probable maximum flood from Spring Creek which is identified as having a high flood hazard (Figure 3).</p> <p><u>Bushfire</u></p> <p>The is bushfire affected (Figure 4). The planning proposal is supported by a bushfire study prepared by Ecological dated December 2023.</p>
Proposal summary	<p>The proposal seeks to amend the Kiama LEP 2011 to enable a master planned urban residential development that incorporates a mix of dwellings, commercial uses, recreation, and conservation outcomes.</p> <p>The proposal seeks to amend the Kiama Local Environmental Plan (KLEP) 2011 on the site by:</p> <ul style="list-style-type: none"> • rezoning the part of the site zoned RU2 Rural Landscape (RU2) to part R2 Low Density Residential (R2), part R3 Medium Density Residential (R3); part E1 Local Centre (E1); and part RE1 Public Recreation (RE1) (Figure 6): <p>Parts of the site are proposed to retain the existing RU2, C2 Environmental Conservation (C2) and C3 Environmental Management (C3) zones. No changes are proposed to existing C2 and C3 zoned land;</p> <ul style="list-style-type: none"> • introducing maximum height of buildings of 8.5m for R2 zoned land; and 15m for the R3 and E1 zoned land (Figure 7): • reducing the minimum subdivision lot size on part of the site from 40ha to450sqm on R2 and R3 zoned land; and • 1,000sqm on RU2 zoned land on the southern portion of the site. Remaining RU2 zoned land (northern portion of the site) will retain its existing 40ha minimum lot size (Figure 8).

Element	Description
	<ul style="list-style-type: none"> • introducing an exception to the minimum subdivision lot size to enable the following: <ul style="list-style-type: none"> ○ 350sqm for lots where it can be demonstrated by a building envelope plan that a dwelling house can be built on the lot; ○ 200sqm for a semi-detached dwelling; and ○ 175sqm for an attached dwelling. • identifying RE1, C2 and C3 for acquisition by Council (Figure 9): • including additional permitted uses to Schedule 1, to permit educational establishments and place of public worship at 103 Jamberoo Road, Kiama, being part of Lot 103, DP 1176643; and attached dwellings in the R2 zone (Figure 10): • applying Part 7 of the LEP. This requires the consent authority be satisfied (Figure 11): <ul style="list-style-type: none"> ○ that public utility infrastructure will be available when required; and ○ a development control plan will be in place prior to development consent which addresses matters including: <ul style="list-style-type: none"> ▪ staging plan for the timely and efficient release of urban land; and ▪ an overall transport movement hierarchy. <p><u>Masterplan Concept</u></p> <p>The proposed indicative layout masterplan (Figure 2) includes:</p> <ul style="list-style-type: none"> • 1062 dwellings, comprising: <ul style="list-style-type: none"> ○ 22 rural residential dwellings; ○ 377 low density residential dwellings; and ○ 633 low rise, medium density housing, including terraces, townhouses and low-rise apartments. • 20 social housing dwellings delivered to Homes NSW (former NSW Land and Housing Corporation); • 5% delivered as affordable rental housing to be managed by a community housing provider in perpetuity; • supports ongoing 274 jobs; and • 43ha of public open space, riparian lands and conservation areas. <p><u>Voluntary Planning Agreement (VPA)</u></p> <p>A letter of offer to enter into a VPA with Council dated 12 December 2023 supports the planning proposal (Attachment A11). The proposed VPA includes, open space, provision of essential services, including sewer and potable water and delivery of social and affordable housing.</p> <p><u>Site Specific DCP</u></p> <p>The planning proposal is not supported by a site specific DCP document. The proposal does propose to apply existing Clause 7.4 Development Control Plans, which requires a DCP be in place prior to development consent.</p>

Element	Description
<p>Relevant State and Local Planning Policies, Instruments</p>	<ul style="list-style-type: none"> • Illawarra Shoalhaven Regional Plan 2041 (the Regional Plan) • Illawarra-Shoalhaven Regional Transport Plan • Kiama Local Strategic Planning Statement 2020 (LSPS) • Kiama Urban Strategy 2011 • The Community Strategic Plan (CSP) • Community Participation Plan • Council’s draft Growth and Housing Strategy • State Environmental Planning Policies: <ul style="list-style-type: none"> ○ SEPP (Housing) 2021 ○ SEPP (Biodiversity and Conservation) 2021 ○ SEPP (Housing) 2021 ○ SEPP (Industry and Employment) 2021 ○ SEPP (Planning Systems) 2021 ○ SEPP (Primary Production) 2021 ○ SEPP (Resilience and Hazards) 2021 ○ SEPP (Resources and Energy) 2021 ○ SEPP (Sustainable Buildings) 2022 ○ SEPP (Transport and Infrastructure) 2021 • 9.1 Ministerial Directions: <ul style="list-style-type: none"> ○ 4.1 Flooding, 3.2 Heritage, 4.3 Planning for Bushfire, 4.4 Remediation of Land, 9.1 Rural Zones, 9.2 Rural Lands
<p>Council’s draft Growth and Housing Strategy</p>	<p>The Draft Growth and Housing Strategy (the draft strategy) provides a framework for how best to accommodate growth and ensure sustainable and responsive delivery of housing for the Kiama local government area (LGA) and its community. This plan aims to give effect to Council’s Local Strategic Planning Statement (LSPS).</p> <p>The draft strategy identifies the LGA is expected to grow to over 31,000 people by 2044 (or by 33%), with a projected 3,456 new dwellings required to meet current projected demand.</p> <p>The draft strategy has:</p> <ul style="list-style-type: none"> • a focus on the initial five year supply pipeline and the targets that have been set for us by the NSW Government of 900 new completed homes by 2029 (); and • identifies 14 investigation areas for new housing supply – this does not include the site. Council notes that nominating these sites this does not pre-empt an outcome, but rather, is a step in the process that these sites are nominated as investigation sites that may have strategic merit. <p>Investigation area near the site can be found in Figure 5.</p> <p>On 16 July 2024, Council endorsed the draft strategy to be publicly exhibited. This report to Council discusses the planning proposal subject to the rezoning review (Attachment C2), including:</p> <ul style="list-style-type: none"> • there has been significant push for this land to be rezoned from the landowners;

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	<ul style="list-style-type: none"> • Council staff are also willing and keen to continue to work with the proponents to seek options and possible solutions for the site which might be considered in the long term. This would allow appropriate and detailed infrastructure planning and to support connection and integration of development sites; and • there are other options and solutions for the site and surrounds that could also be discussed. This could be achieved through a stakeholder group approach similar to the process that has been followed for Bombo Quarry. This would allow for further information to be available on the timing and progress of key projects already identified within the draft strategy, interconnectivity between projects could be considered and infrastructure could be planned appropriately first for the Bombo Quarry Precinct and surrounds and then for any additional land that might be suitable for development. <p>The draft strategy was subsequently exhibited from 19 July 2024 to 16 August 2024. The Department made a submission during the draft strategies exhibition, which was generally supportive of the draft strategy subject to the comments in the letter (Attachment I).</p> <p>Council officers are considering the exhibition outcomes. It is understood Council officers intend to report the exhibition outcomes to Council in November 2024.</p> <p>Council can seek Department endorsement of their final Growth and Housing Strategy. At this time Council has not indicated if they will seek endorsement.</p> <p>The Panel will need to note that the 5 year target of 900 dwellings to 2029 referenced in the draft strategy is in accordance with the latest NSW Government housing targets. It is anticipated that further 10 and 20 year targets will be release by the end of 2024.</p>

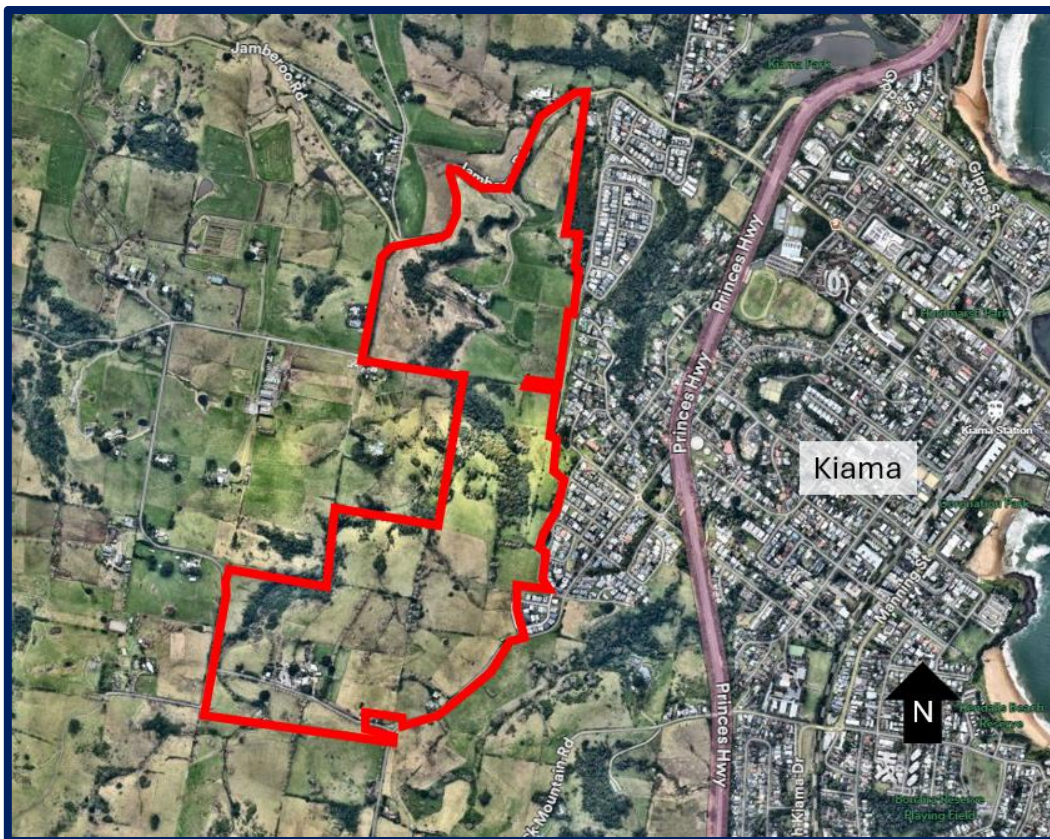


Figure 1: The site highlighted red (Source: Nearmaps, 2024)

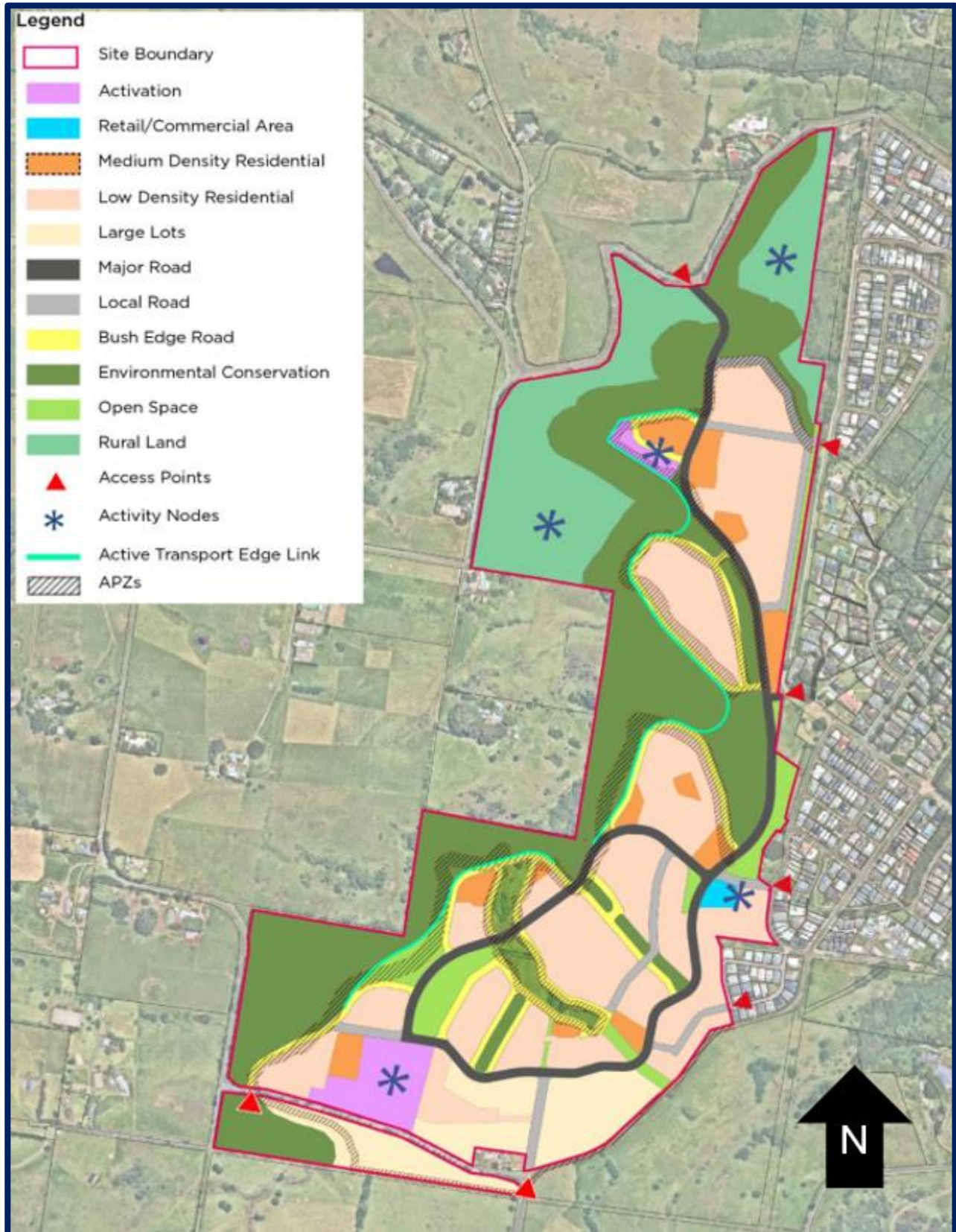


Figure 2: Indicative Layout Plan (Source: Rezoning Review Request Springside Hill, June 2024)

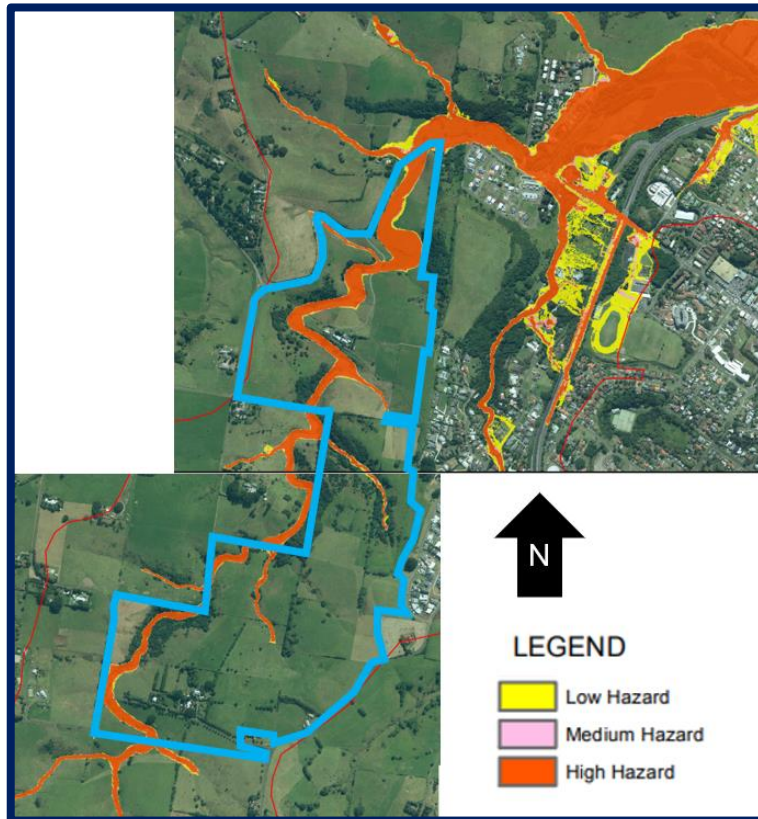


Figure 3: PMF Flood Hazard Map - the site highlighted blue (Council's Spring Creek Catchment Flood Study dated May 2014)

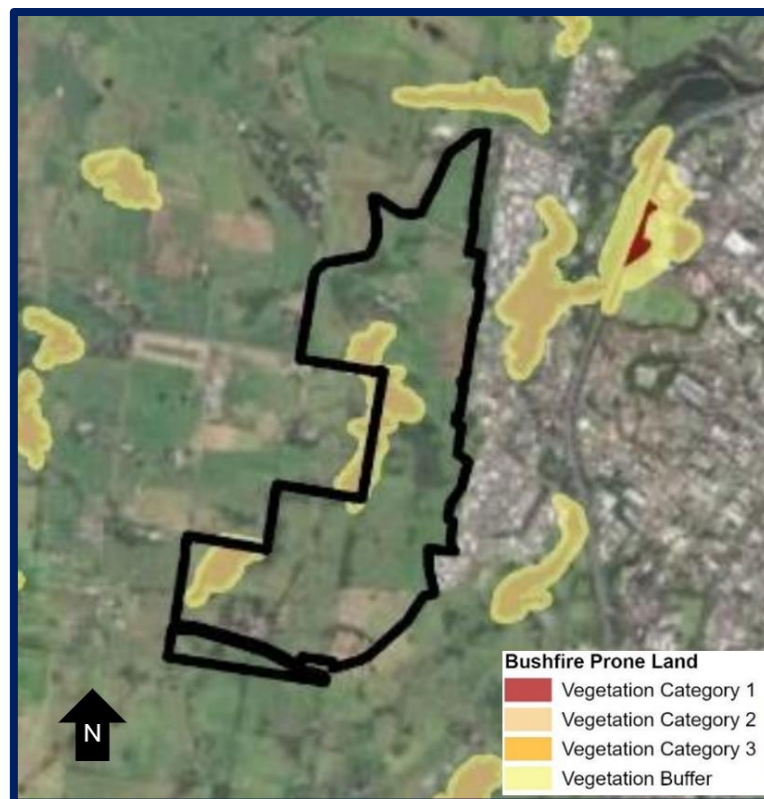


Figure 4: Bushfire Map - the site highlighted black (Proponent's Bushfire Study dated December 2023)

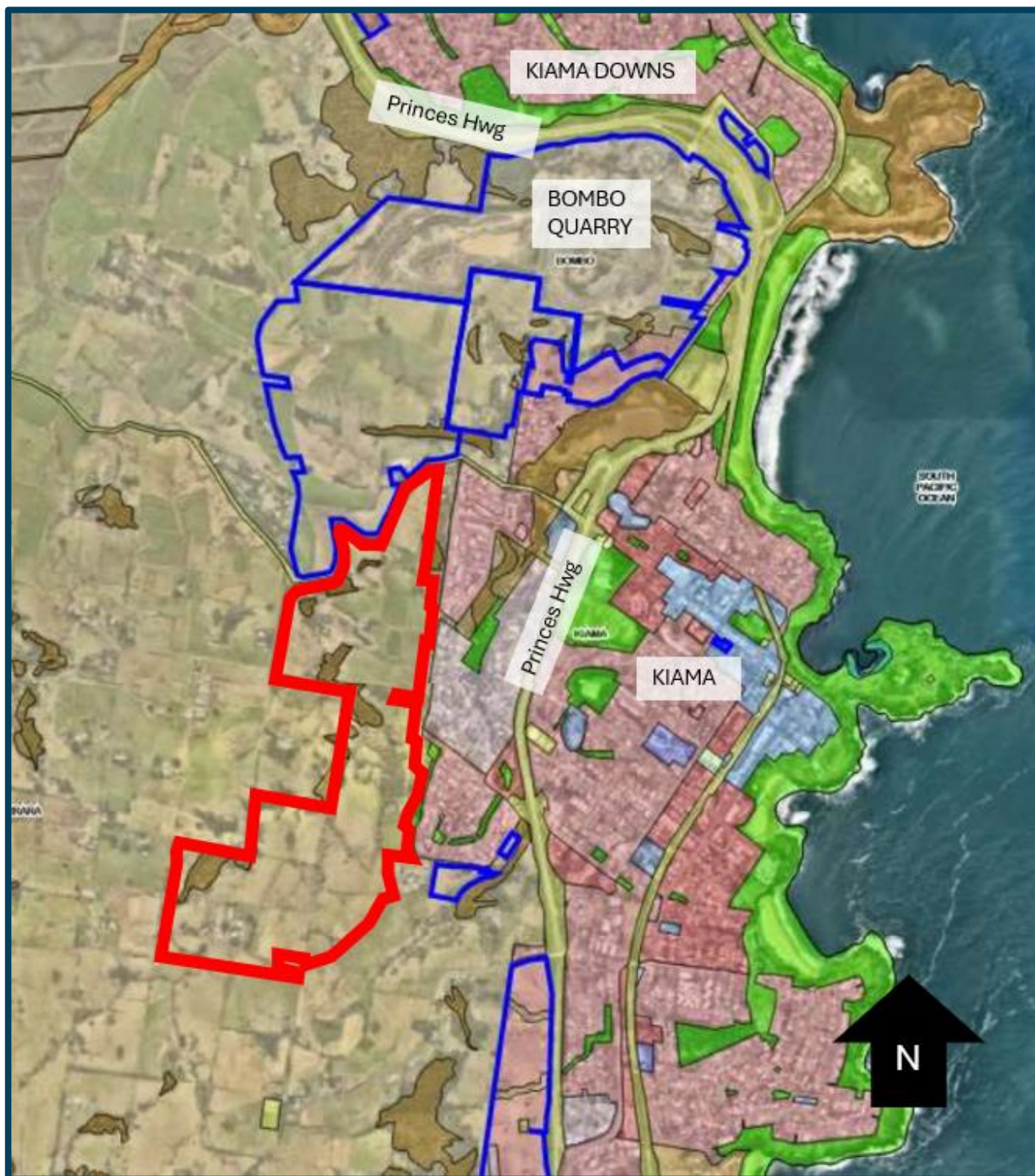


Figure 5: The draft strategy’s neighbouring Housing Investigation Areas highlighted blue – the site is highlighted red (16 July 2024 Council Meeting Agenda)

The planning proposal seeks to amend the Kiama LEP 2011 as described in **Table 2** below.

Table 2. Current and proposed Kiama LEP 2011 provisions

Control	Current	Proposed
Zone	<p>RU2 Rural Landscape</p> <p>C2 Environmental Conservation</p> <p>C3 Environmental Management</p>	<p>R2 Low Density Residential</p> <p>R3 Medium Density Residential</p> <p>E1 Local Centre</p> <p>RE1 Public Recreation</p> <p>RU2 Rural Landscape</p> <p>C2 Environmental Conservation</p> <p>C3 Environmental Management</p> <p>Note: Parts of the site are proposed to retain the existing RU2, C2 Environmental Conservation and C3 Environmental Management zones. It is noted no changes are proposed to existing C2 Environmental Conservation and C3 Environmental Management zoned land.</p>
Maximum height of the building	N/A	<p>R2 to 8.5m</p> <p>R3 and E1 to 15m</p>
Floor space ratio	N/A	N/A
Minimum lot size	40ha	<p>R2: 450sqm</p> <p>RU2: 1,000sqm (Southern portion of the site). Remaining RU2 zoned land (northern portion of the site) will retain its existing 40ha minimum lot size.</p> <p>Exception to the minimum subdivision lot size:</p> <ul style="list-style-type: none"> • 350sqm for lots where it can be demonstrated by a building envelope plan that a dwelling house can be built on the lot; • 200sqm for a semi-detached dwelling; and • 175sqm for an attached dwelling.
Relevant Acquisition Authorities	No part of the site is identified for land acquisition.	<p>Identify land for public acquisition. Any land zoned:</p> <ul style="list-style-type: none"> • RE1 Public Recreation;

Control	Current	Proposed
		<ul style="list-style-type: none"> • C2 Environmental Conservation; and • C3 Environmental Management
Part 7 – Urban Release Area requirements	Part 7 does not apply to the site.	Apply Part 7 to the site.
Additional Permitted Uses	N/A	<p>It is proposed to introduce the following additional permitted uses:</p> <ul style="list-style-type: none"> • at 103 Jamberoo Road, Kiama, being part of Lot 103, DP 1176643 - Educational establishments and Place of public worship; and • R2 - Attached dwellings.

Mapping

The Planning Proposal includes the following map amendments to Kiama LEP 2011:

- Land Zoning Map (**Figure 6**);
- Height of Buildings Map (**Figure 7**);
- Lot Size Map (**Figure 8**);
- Urban Release Area Map (**Figure 9**);
- Additional Permitted Uses Map (**Figure 10**); and
- Land Reservation Acquisition Map (**Figure 11**).

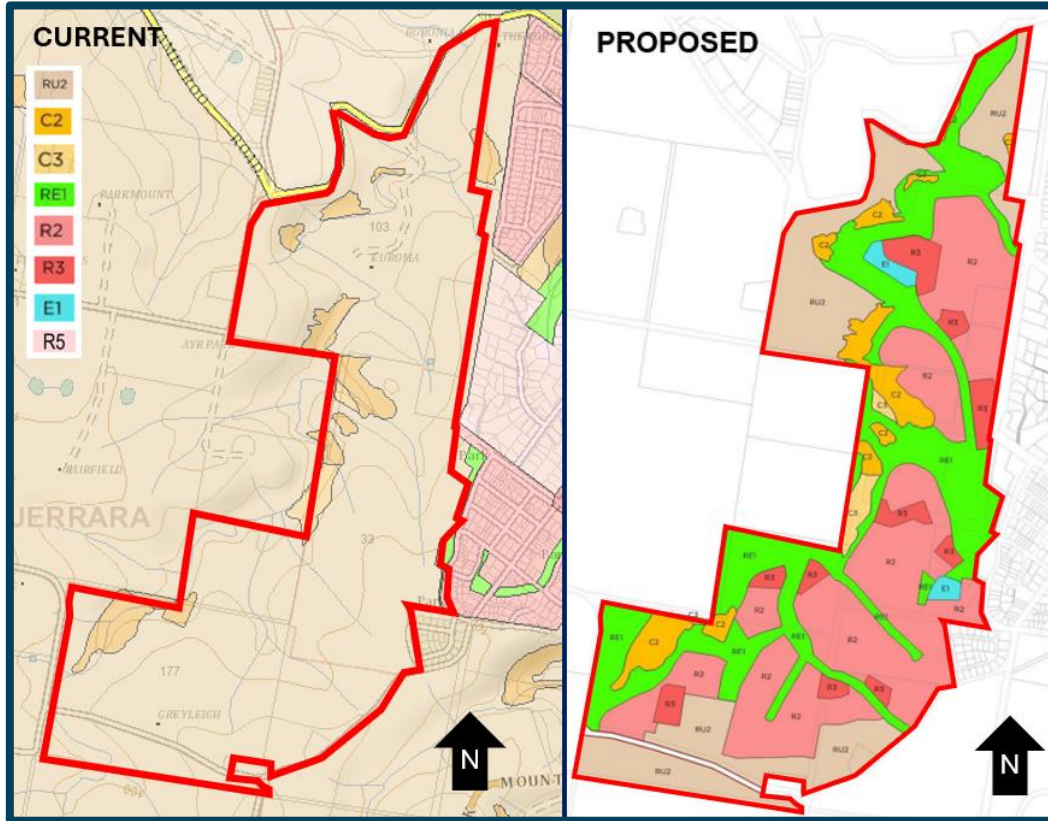


Figure 6: Current and Proposed Land Zoning maps (Source: Planning Proposal)

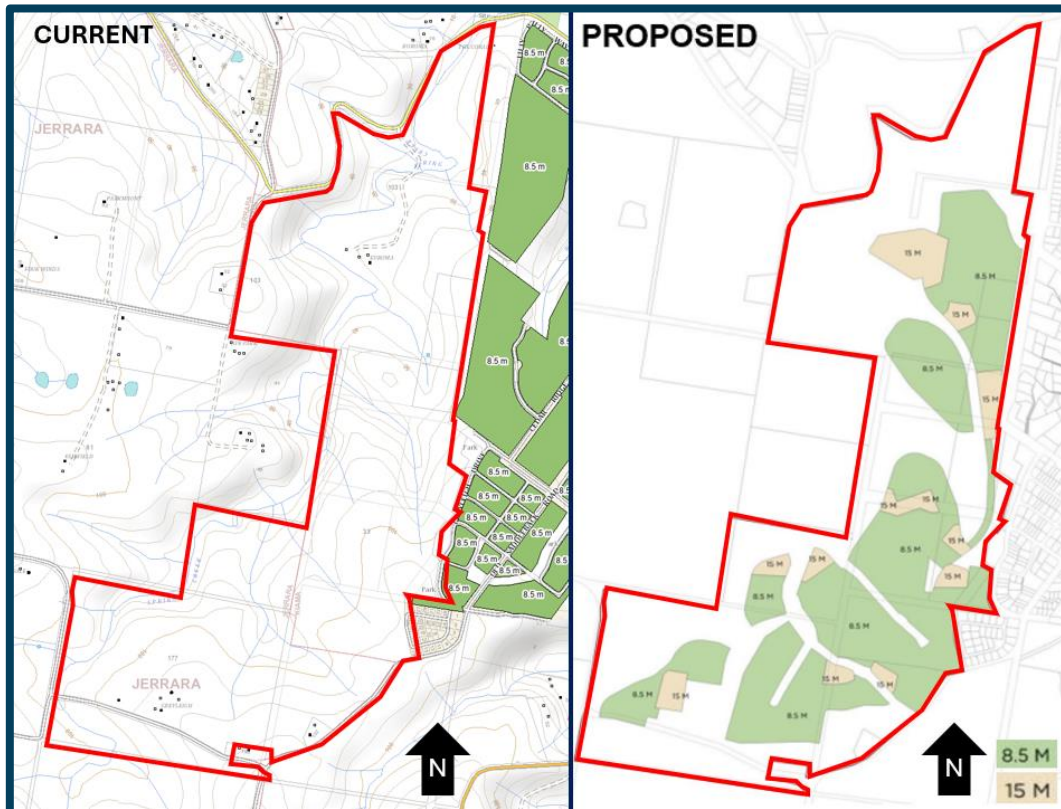


Figure 7: Current and Proposed maximum HOB maps (Source: Planning Proposal)

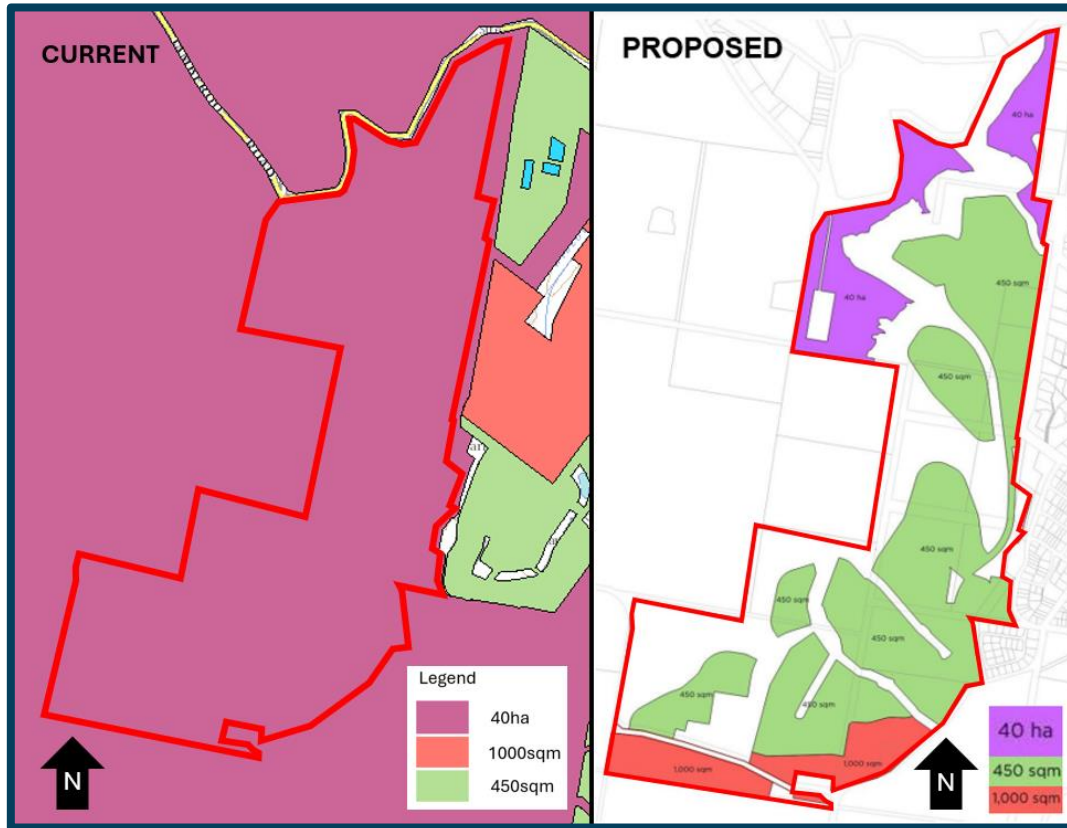


Figure 8: Current and Proposed minimum lots size maps (Source: Planning Proposal)

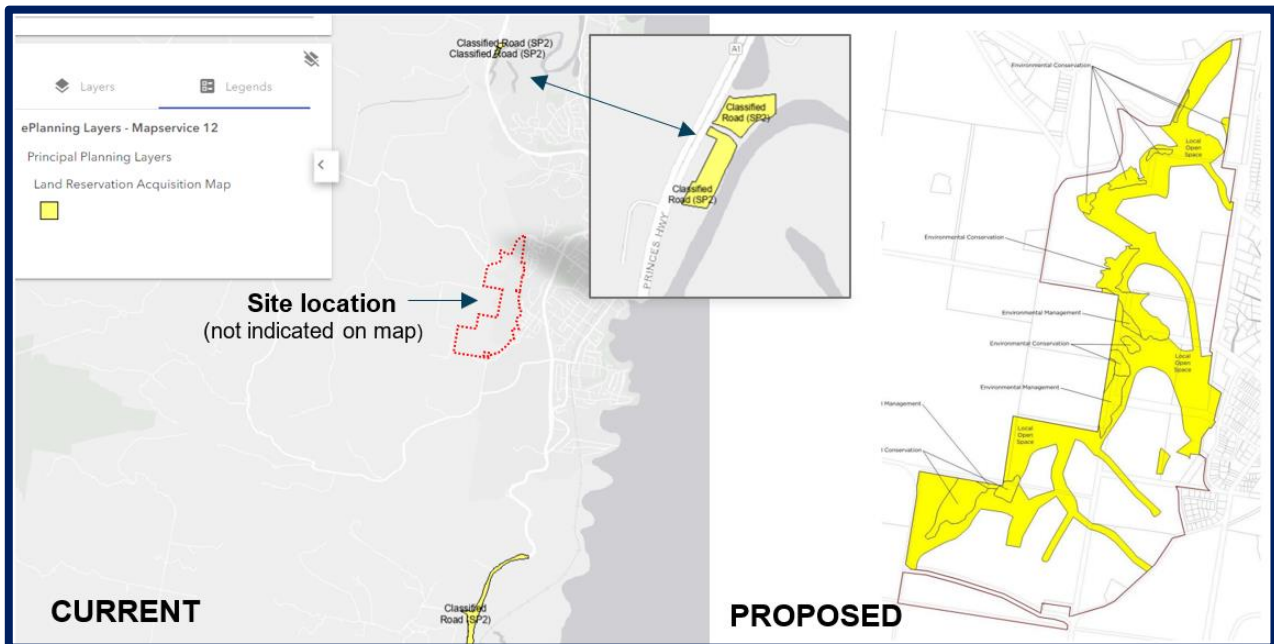


Figure 9: Current and Proposed Land Reservation Acquisition Map – site outlined in red (Source: Planning Proposal)

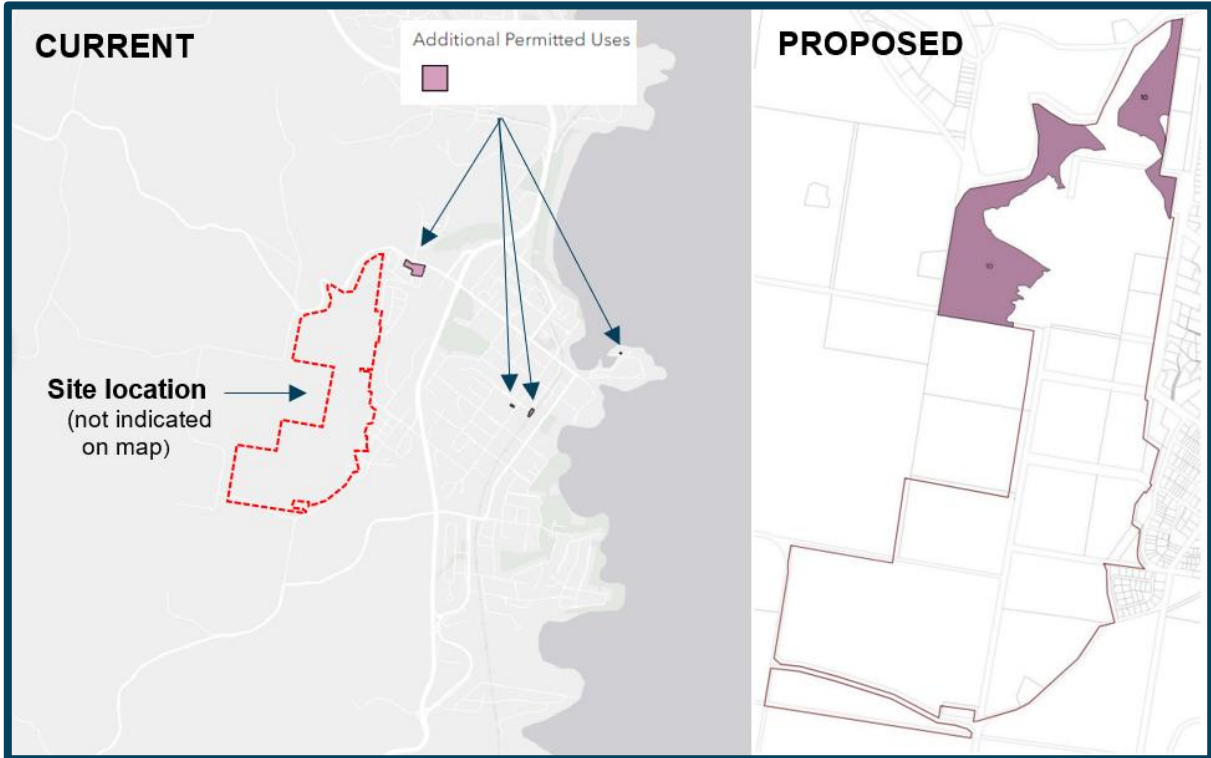


Figure 10: Existing and Proposed Additional Permitted Uses map – site outlined in red (Source: Planning Proposal)

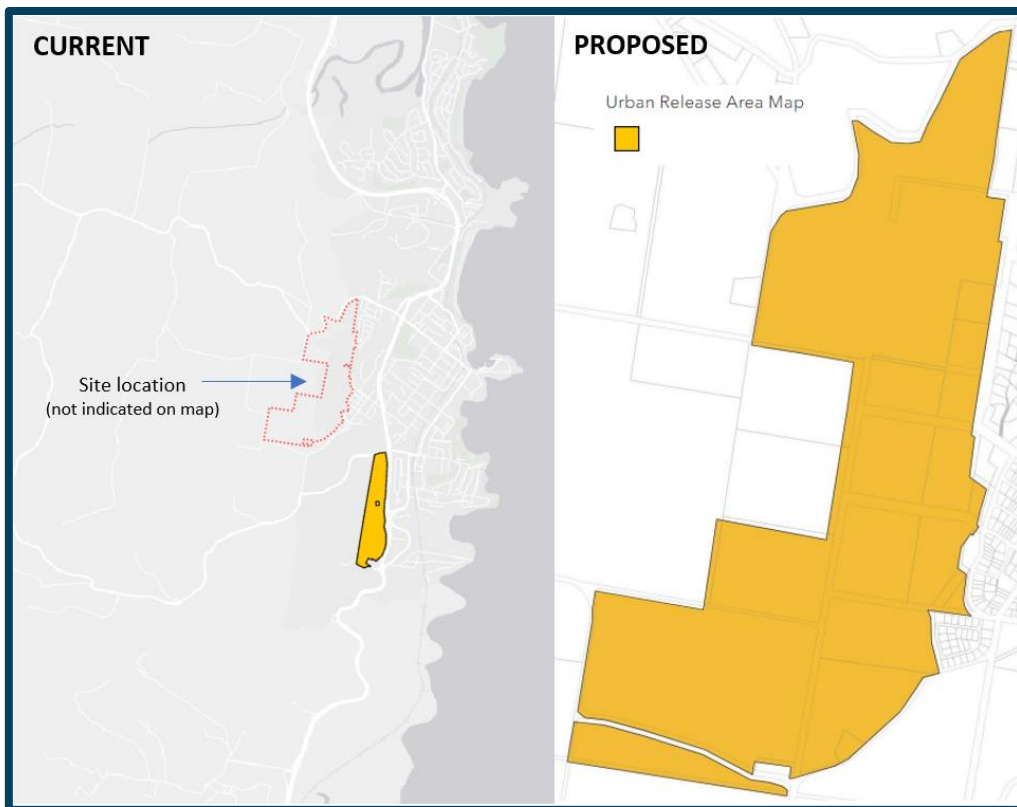


Figure 11: Current and Proposed Urban Release Area map (Source: Planning Proposal)

Key Issues

The following section summarises the key issues, including being drawn from the proponent's rezoning review request (**Attachment B1-B5**), proponent's planning proposal (**Attachment A1-A22**) and Council Response to the rezoning review request (**Attachment C1-C6**).

On 16 April 2024, Council considered the planning proposal and resolved not to support the planning proposal. Council considered the proposal did not demonstrate site specific and strategic merit.

Strategic Merit

Issue – The Site is not identified in the Strategic Planning Framework for Future Housing

Council's view

- The site isn't identified as a potential greenfield urban expansion area in key strategic planning documents like the LSPS, the Regional Plan 2041, or the Kiama Urban Strategy 2011.
- The proposed timeframe for delivery remains at a 10 to 15 year timeframe. The proposal will not provide an immediate or short-term solution for housing, whereas other urban releasing areas progressing with Council have a shorter timeframe.
- There has been no strategic indication that this is the most suitable and only site available for future expansion and development in the Kiama LGA. Council is aware of several other landowners that have indicated interest in providing land for future development. A number of these landowners have indicated a willingness to wait for the Growth and Housing Strategy to be completed and to include consideration of their landholdings as part of this process.

Council has also been advised that the Bombo Quarry urban release area is progressing and that the timeframe for development is expected to be within 5 to 10 years (see attachment). There has been extensive work undertaken for the Quarry, and this is expected to be released within the coming months for community feedback.

- Supporting the planning proposal now pre-empts any process currently being followed by Council and in essence places the strategic planning process and decision making in a landowner's hands rather than Council or the community. Local Government's role in leading planning and development should not be undermined by private landowners right to seek development, but the processes for managing and planning growth ought to be followed.
- Council recognises the need to provide for additional housing within our LGA and has embarked on the work required to complete our Growth and Housing Strategy. Council has acknowledged that this strategy work will need to identify locations for future growth and identify opportunities that such growth brings to the community.

Proponent's view

- The Regional Plan 2041 identifies a need for an additional 58,000 dwellings in the Illawarra-Shoalhaven region by 2041. There are no objectives or strategies in the Regional Plan which specifically restrict the consideration of additional housing in appropriate locations where it can be demonstrated that there is a demand.

- The LSPS acknowledges that greenfield sites are required to deliver projected housing demand and identifies potential urban expansion areas, which are limited to those identified in the retired 2011 Kiama Urban Strategy.
- the Department has released updated population projections and implied dwelling demand figures. Whereas the 2019 projections showed population growing to 26,100 in the year 2041. The updated 2021 projections show that the Kiama population would grow to 30,800, a 126% increase on the 2019 figures. These projections have substantially increased and exceed the available development pipeline and historic dwelling completion data. This constitutes a significant change in circumstances and suggests a requirement for additional greenfield sites, beyond those sites identified in the Kiama Urban Strategy.
- The NSW Government has recently announced housing targets for the Kiama LGA requiring the completion of 900 dwellings to FY 29, or 180 dwellings per annum. A Housing Study was prepared by AEC in support of the planning proposal request. It demonstrates how the Site can assist in meeting the Department's implied dwelling target of 3,771 dwellings by 2041 for the Kiama LGA. The study found that there is a critical undersupply of housing over the next 5-15 years. The proposal has the potential to not only increase supply but will also provide much needed diverse in housing, including affordable and social housing.
- Combined, the release areas and infill redevelopment sites have potential to deliver a total of approximately 2,354 dwellings to 2041, falling short of the Department's implied dwelling demand figure of 3,771 by 1,417 dwellings.
- Whilst Bombo Quarry has been identified for potential supply, its constraints in terms of rehabilitation, legislation, timing, complexity and its isolated location (distinct separation from key town centres / amenities), raises uncertainty about its redevelopment potential and timing. Further, the Housing Study includes advice from Kiama Council that the wastewater network for Jamberoo is now at full capacity and no additional connections to the wastewater network can be made, which is likely to restrict delivery of new additional housing in Jamberoo.
- The planning proposal aligns with the Regional Plan and LSPS to deliver more housing. The identified growth areas in the LSPS will not deliver the housing supply that is needed in Kiama.

Site Specific Merit

Issue 1 – Provision of adequate infrastructure, including public open space and water utilities

Council's view

- Approximately 43ha of public open space is proposed; however, much of this proposed open space includes riparian lands and conservation areas which do not provide formal open space outcomes and are not suitable for RE1 zoning.
- The land proposed for dedication to Council has been determined by the applicant without any consultation with Council or assessment of community or Council needs. In essence it is the areas of unusable or constrained lands.
- If calculations based on usable open space are undertaken it is found that the area proposed is actually less than NSW standards and there is insufficient active open space, within this proposal.

- There is currently no Section 7.11 plan for the site. Under Section 7.12 of the *Environmental Planning and Assessment Act 1979* (the Act), infrastructure costs would not be covered and would be shifted to existing ratepayers.
- The applicant has offered to enter into a Planning Agreement but to date there have been no discussions with Council staff on the content of a VPA.
- The proposal suggests an on-site utility centre for long-term servicing of the lots. The facility proposes to take available drinking water from the existing Sydney Water main and make a service available at the onsite utility centre to service the new URA. It is unknown whether Sydney Water and the Department of Climate Change, Energy, the Environment and Water would support this arrangement.
- Establishing on-site sewerage systems carries significant risks and could undermine advocacy work for Kiama to be included in water/infrastructure upgrades.
- Council noted that Sydney Water:
 - require a feasibility analysis for the site to properly engage with the proposal and. Without this application, they can't endorse the information or assumptions in the planning proposal, including the 2023 sustainable servicing strategy; and
 - wastewater servicing is currently unavailable to the site.

Proponent's view

- The proposal is to engage Altogether, a licensed provider under the Water Industry Competition Act 2006, to service the site. A license from IPART will need to be obtained to proceed.
- The stand-alone facility does not conflict with any advocacy work by Sydney Water to provide services in the LGA, as the Water Industry Competition Act 2006 allows licensed providers to supply water services.
- The matters raised by Sydney Water's response to Council do not object to the proposal, but simply outline standard operating practices and information that is needed to progress the proposal. It is not a sufficient reason to not support the proposal.
- The proponent is prepared to meet with Sydney Water and Council to further discuss the proposal and discussions with Sydney Water have commenced.
- The feasibility application is being finalised, and Sydney Water have requested to review it and meet with the proponent.
- A letter of offer to enter into a planning agreement was submitted to Council in conjunction with the planning proposal request. The offer was to fund all infrastructure costs associated with the proposal at no cost to Council. The proponent was not given an opportunity to discuss the letter of offer with Council before it resolved not to support the proposal. Notwithstanding, the proponent is willing to discuss the schedule of works proposed in the letter of offer should the planning proposal proceed.

Issue 2 – Land dedication/acquisition by Council

Council view

- Commentary is provided within the documentation that suggests dedication of lands (environmental zones and open space lands) to Council. Such a proposal can have significant implications for Council. As an example, when Calderwood land release was proposed and a calculation on the maintenance and management of the riparian lands and

environmental spaces was undertaken by Shellharbour Council it was found that the expected cost would be so significant it would cause the Council to become unsustainable.

- Given Council's current financial position any dedication and resulting burden of management to Council for lands needs to be carefully and diligently considered. The suitability of Council accepting dedication of these lands and the cost and resource implications (including on-going maintenance) have not been adequately addressed in the documentation. Nor have these been appropriately explored through a strategic process.
- The land proposed has been determined by the applicant without any consultation with Council or assessment of community needs.
- Given Council's current financial position any dedication resulting in burden of management needs to be carefully and diligently considered. The suitability of Council accepting dedication of these lands and the cost have not been adequately addressed.

Proponent view

- The letter of offer to enter into a planning agreement dated 12 December 2023 was to ensure that the proposed public land would be dedicated to Council at no cost, with a funding agreement for the ongoing maintenance of that land.
- Despite the letter of offer, Council wrote to the proponent on 3 May 2024 advising that there was insufficient time to carry out any negotiations to better inform the initial staff report.
- Council has not responded to the letter of offer to enter into a planning agreement.

Issue 3 – Environmental Impacts

Council View

- Council agreed with the matters raised in BCS's submission on the proposal concerning environmental impacts, including that:
 - BCS prefers urban expansion in areas where there is a well-informed understanding of the land's sensitivities and broader planning/servicing;
 - the land drains to Spring Creek, an identified sensitive estuary. Engineered solutions may fail, so any impacts need to be well considered;
 - an assessment of potential impacts of the altered land-use on water quality prior to rezoning be undertaken to ensure adequate spatial and zoning provisions are incorporated;
 - there is no risk-based framework yet for considering water quality and health of Spring Creek;
 - more information is required on water management, biodiversity, and management of riparian lands;
 - restoring riparian lands is supported but such land should be zoned to C2 or C3 rather than RE1;
 - a C2 zoning be considered for all significant biodiversity values on the site including areas mapped as "high ecological constraints" (some attributes currently zoned C3 may warrant C2 zoning longer term given the management intentions);
 - further ecological assessment be carried out at the Planning Proposal stage to determine if suitable areas for rehabilitation of the *Melaleuca armillaris* Tall Shrubland Critically Endangered Ecological Community occur within the subject site. If so, these

- should be included in conservation zones and rehabilitated in accordance with a Vegetation Management Plan VMP and/or an in-perpetuity conservation agreement;
- Council appraises the land tenure outcomes of the conservation zoned land to ensure adequate funding/mechanism for ongoing management. Vegetated lands that may be transferred to Council are an opportunity to investigate the proponent establishing an actively managed Biodiversity Stewardship Agreement site/s before transfer;
 - a Vegetation Management Plan (VMP) be prepared for the Spring Creek riparian corridor, adjacent areas of remnant vegetation and any areas proposed for rehabilitation, and this should be secured at development application stage;
 - the proposal would considerably increase development in a largely rural area of modest size; and
 - the proposal sets a concerning precedent for future proposals to pursue.

Proponent view

- Further information on estuarine and waterway health can be provided, based on a risk based framework. However, Council needs to set the appropriate objectives for the risk based framework across the catchment. It is not considered appropriate for an individual developer to undertake this extensive and expensive process to set the correct rules that could be used as performance objectives for an individual development site.
- The planning proposal request can be amended to incorporate a C2 Environmental Conservation or C3 Environmental Management zone for the riparian lands if Council and DCCEEW agree to this approach.

A letter of offer to enter into a planning agreement was submitted to Council to support the planning proposal. One of the proposed public purpose offers relates to the rehabilitation and embellishment of the Spring Creek riparian corridor. The future ownership and ongoing management of this land will need to be discussed with Council.

- The planning proposal request did not propose a change to the existing C2 Environmental Conservation or C3 Environmental Management zones that apply to the Site. The proposal sought to rezone part of the RU2 Rural Landscape zone.
- The proposal can be amended to rezone land from C3 Environmental Management to C2 Environmental Conservation if Council and DCCEEW agree.
- We are prepared to discuss the ownership and ongoing management of the conservation land with Council.
- We note the comment that a Vegetation Management Plan is required at the development application stage. We are prepared to develop a Vegetation Management Plan at the development application stage following the rezoning of the Site. It is not required at the planning proposal stage and should not be used by Council as a reason to not support the planning proposal request.
- Future development applications will ensure that asset protection zones are not located within areas of high ecological constraint.

Issue 4 – Natural hazards, including flooding and bushfire

Council's view

- The Bushfire Report (**Attachment A5**) does not refer to the recently adopted Bush Fire Prone Land Map 2023. Therefore, an updated Bushfire Report is required.

- The Preliminary Water Cycle Management and Flood Assessment (**Attachment A19**) has not been prepared in accordance with the 2023 Flood Risk Management Manual and Emergency Evacuation. Therefore, an updated Preliminary Water Cycle Management and Flood Assessment is required.
- BCS provided comments and requirements, including that:
 - a fit for purpose Flood Impact and Risk Assessment (FIRA) report be prepared;
 - further flood assessment work be undertaken to address public safety risks; and
 - Asset Protection Zones (APZs) be contained within existing cleared areas (noting that the Master Plan indicates some APZs appear to be located within areas of 'high ecological constraint').

Proponent's view

- A flood impact assessment report can be prepared to support the planning proposal request. The degree of assessment that is now required to support the planning proposal has increased significantly since the time the Preliminary Water Cycle Management report was prepared in January 2023. It should be noted that the current development proposal is predominantly beyond the extent of the PMF flood extents.
- The Bushfire Report can be updated to refer to the more recent Bush Fire Prone Land Map 2023 that was not available at the time the original report was prepared. An assessment against the more recent maps will be undertaken and the findings considered to determine whether there is a need to update the planning proposal request. However, preliminary advice is that the updated mapping is largely administrative and will have no significant impact on the initial conclusions of the Bushfire Report.

Other Issues

Traffic Impacts

Council consider that the proposal did not adequately model the cumulative impacts from the Bombo Quarry housing investigation area and the proposed uses, including educational establishments

The proponent considers that traffic impacts from the proposal have been adequately modelled with impacts acceptable but can undertake the additional modelling requested by Council.

Issue – Heritage Impacts

Council considers the proposal must address Aboriginal Heritage and existing dry stone walls in accordance with Ministerial Direction 3.2 Heritage.

The proponent considers that the masterplan layout adequately has been designed to generally avoid impacts to the dry stone walls. In areas where dry stone walls are impacted the proposal is to interpret and if possible, re-instate in new suitable locations within the public domain.

The proponent considers that the Aboriginal Due Diligence Assessment prepared by Biosis dated January 2023 (**Attachment A2**) identified a single site of major Aboriginal cultural significance. This report proposed a range of strategies that would reduce the impacts and enhance the heritage elements as part of the masterplan. It was proposed that further consultation will take place with the traditional owners of the land. The proponent is willing to discuss this with Council to address any further information that may be required.

Attachments

Attachment A – Planning proposal package as submitted:

Attachment A1 – Planning Proposal report

Attachment A2 – Aboriginal Due Diligence Assessment

Attachment A3 – Agricultural Assessment & LUCRA

Attachment A4 – Biodiversity Technical Study

Attachment A5 – Bushfire Report

Attachment A6 – Concept Masterplan - location

Attachment A7 – Economic Impact Assessment

Attachment A8 – Historical Heritage Constraints Assessment

Attachment A9 – Housing Study

Attachment A10 – Landscape Design

Attachment A11 – VPA letter of Offer

Attachment A12 – Potable Water and Wastewater Concept

Attachment A13 – Social and Community Needs Assessment

Attachment A14 – Stage 1 Preliminary Site Investigation

Attachment A15 – Sustainable Utilities Servicing Strategy

Attachment A16 –Traffic and Transport Assessment

Attachment A17 – Utilities Servicing Strategy

Attachment A18 – Visual Attributes Study

Attachment A19 – Water Cycle Management and Flood Assessment

Attachment A20 – LEP Maps

Attachment A21 – Project Vision

Attachment A22 – Concept Masterplan

Attachment B – Rezoning Review Package:

Attachment B1 – Letter requesting rezoning review

Attachment B2 – Rezoning Review Request report

Attachment B3 – Outcome of Planning Proposal application

Attachment B4 – Response to letter of offer to enter into a Planning Agreement

Attachment B5 – Response to 21 May 2024 Meeting

Attachment C –Council comments:

Attachment C1 – Council comments on Rezoning Review

Attachment C2 – Council Meeting Agenda – 16 April 2024

Attachment C3 – Council Meeting Minutes – 16 April 2024

Attachment C4 – Council Meeting Minutes Attachment – Including Petition

Attachment C5 – Draft Growth and Housing Strategy

Attachment C6 – Draft Growth and Housing Strategy FAQs

Attachment D – 16 July Council Meeting Agenda and Minutes:

Attachment D1 – Council meeting minutes – 16 July 2024

Attachment D2 – Council Meeting agenda – 16 July 2024

Attachment E – Sydney Water comments

Attachment F – Biodiversity, Conservation and Science (BCS) comments

Attachment G – Gateway Review Request (PGR_2015_KIAMA_002_00)

Attachment H – Rezoning Review Record of Decision (RR_2019_KIAMA_001_00)

Attachment I – DPHI Submission on draft Kiama Growth and Housing Strategy



27 August 2024

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30 August 2024

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