

14 REPORT OF THE DIRECTOR STRATEGIES AND COMMUNITIES**14.1 Determination of Development Application 10.2025.84.1 - 104 Belinda Street, Gerringong - Construction of 2 Residential Flat Buildings and Landscaping**

CSP Objective: Outcome 3.3: We love where we live and are strongly connected within our region. Growth and development will be managed sustainably, thoughtfully and equitably, while preserving our built and natural heritage.

CSP Strategy: 3.3.2 Manage development and growth sustainably and thoughtfully.

Delivery Program: 3.3.2.1 Council meets the legislative requirements for Planning and Assessment.

Summary

The purpose of this report is to seek Council's determination of Development Application No 10.2025.84.1 for New residential flat building - Clearing site & construction of 2 residential flat buildings and landscaping at Lot 6 DP 737501 - 104 Belinda Street, Gerringong.

Development Application No 10.2025.84.1 is being reported to Council because the subject site does not meet the minimum width requirement under Kiama DCP 2020, Chapter 6 (6.5.2), which specifically requires applications which do not achieve the minimum to be reported to Council for determination.

Staff delegations are limited to determine DAs with an estimated development cost not exceeding \$10 Million. The estimated development cost of DA 10.2025.84.1 is \$15,715,700 meaning that determination must be made by the elected Council. It is recommended that Council determine the proposed development by way of approval.

Financial implication

The development application fee has been paid in accordance with the *Environmental Planning and Assessment Regulation 2021* and Council's adopted Fees and Charges.

If the application is approved a Local Infrastructure Contribution will be required to be paid in accordance with section 4.17 of the *Environmental Planning and Assessment Act 1979* and the Section 7.12 Contribution Plan.

If the application is refused, the application may be challenged in the NSW Land and Environment Court (LEC) and there would be costs associated with defending the refusal.

Risk implication

If the DA is refused, the determination may be challenged in the NSW Land and Environment Court (LEC).

If Council determines to refuse the application, the subject of this report, valid planning reasons must be provided. Additionally, as per Section 11.13 of the Code of Meeting Practice, Council must provide reasons for why it did not adopt the staff recommendation.

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- 14.1 Determination of Development Application 10.2025.84.1 - 104 Belinda Street, Gerringong - Construction of 2 Residential Flat Buildings and Landscaping (cont)
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Policy

The statutory instruments relevant to the development include the following:

- *State Environmental Planning Policy No 55 - Remediation of Land.*
- *State Environmental Planning Policy (Coastal Management) 2018.*
- *State Environmental Planning Policy (Infrastructure) 2007.*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.*
- *Kiama Local Environmental Plan 2011.*
- Kiama Development Control Plan 2020.
- Kiama Community Participation Plan 2019.

Consultation (internal)

The application was referred internally and to external agencies. All internal feedback was considered as part of this assessment.

Communication/Community engagement

Consultation has occurred in accordance with Section 8 of the Kiama Community Participation Plan 2019.

Attachments

Nil

Enclosures

- 1 10.2025.84.1 - PAN-540652 - Section 4.15 Assessment Report
- 2 10.2025.84.1 - PAN-540652 - Plans
- 3 10.2025.84.1 - PAN-540652 - DA Notice of Determination - Approval

RECOMMENDATION

That Council:

1. Approve, subject to conditions of consent set out in enclosure 3, Development Application No 10.2025.84.1 (PAN-540652), at Lot 6 DP 737501, 104 Belinda Street, Gerringong, for new residential flat building - Clearing site & construction of 2 residential flat buildings and landscaping.
2. Advise persons who made a submission on Development Application No 10.2025.84.1 of Council's decision.

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Background

APPLICATION DETAILS	
Application Type:	Development Application
Application Number:	10.2025.84.1
NSW ePlanning Portal Reference:	PAN-540652
Proposed Development:	New residential flat building - Clearing site & construction of 2 residential flat buildings and landscaping.
Applicant:	Place Studio AU Pty Ltd
Property title:	Lot 6 DP 737501
Property address:	104 Belinda Street, Gerringong

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The Site

The site is known as Lot 6 DP 737501 - 104 Belinda Street, Gerringong.

The subject site has a primary frontage to Belinda Street and a secondary frontage to Figtree Lane. The site is currently vacant and is zoned R3 Medium Density Residential under Kiama LEP 2011.

The surrounding area is mixed in character and comprises a blend of commercial and residential development consistent with the Gerringong Town Centre. The site is adjoined by residential development to the south and east, a Council owned and managed open air car park to the east and north and a comparable parcel to the west.

The site falls toward the street and drains overland to the public road.

Access to the property is gained via Belinda Street.

The site is serviced by utilities including water, sewer, electricity and telecommunications.

The Proposed Development

Development Application No 10.2025.84.1 proposes construction of New residential flat building - Clearing site & construction of 2 residential flat buildings and landscaping.

Development Details
<u>Basement 2</u> 14 Resident Car Parking Spaces 6 Visitor Spaces

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- 8 Bicycle spaces

Basement 1

- 32 Resident Car Parking Spaces
- 7 Visitor Spaces
- 9 Bicycle spaces
- Bulky Waste Storage Area
- Waste Storage Area

Basement Mezzanine

- Comms/Switch Room
- Plant Room
- Fire Pump Room
- Storeroom
- Storage

Ground Level

- Building A Layout
 - 2 x 2-bedroom apartments (affordable)
 - 2 x 3-bedroom apartments
 - Common Waste Storage Area in Lobby for 3x 240L Waste Bins
- Building B Layout
 - 2 x 2-bedroom apartments (affordable)
 - 2 x 3-bedroom apartments
 - Common Waste Storage Area in Lobby for 3x 240L Waste Bins

Level 1

- Building A Layout
 - 2 x 2-bedroom apartments
 - 2 x 3-bedroom apartments
 - Common Waste Storage Area in Lobby for 3x 240L Waste Bins
- Building B Layout
 - 2 x 2-bedroom apartments
 - 2 x 3-bedroom apartments
 - Common Waste Storage Area in Lobby for 3x 240L Waste Bins

Level 2

- 2 x 2-bedroom apartments
 - 2 x 3-bedroom apartments
 - Common Waste Storage Area in Lobby for 3x 240L Waste Bins
- Building B Layout

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○ 2 x 2-bedroom apartments ○ 2 x 3-bedroom apartments ○ Common Waste Storage Area in Lobby for 3x 240L Waste Bins
Level 3
• Building A Layout ○ 1 x 3-bedroom apartment ○ Elevator ○ Common Waste Storage Area in Lobby for 3x 240L Waste Bins ○ Communal Open Space • Building B Layout ○ 1 x 3-bedroom apartments ○ Common Waste Storage Area in Lobby for 3x 240L Waste Bins ○ Communal Open Space

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Consultation

The application was referred to the following internal subject matter experts.

Internal referral	Comments
Waste Officer	Due to the limited frontage of the site, the applicant has pursued a mixed waste collection service. This includes the engagement of a private waste contractor to service the red lid garbage bin, with the remaining bins being serviced by Council's Waste Services, however, as noted in the referral documents the full 140L DWM charge (garbage, recycling and FOGO) will still be applied to each unit through their rates. The nature and calculation method of waste charges levied on properties are not a relevant planning consideration. The Waste Management Plan prepared by the applicant has satisfactorily demonstrated that waste can be appropriately managed on the site.
Landscape Design Officer	No objection subject to recommended conditions
Subdivision and Development Engineer	Further information required (see below) Council's Subdivision and Development Engineer provided written feedback on the relevant matters on 12/02/2026. Three objections were raised relating to the following matters: 1. Concept Drainage Design 2. Swept Path Analysis

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	3. Updated Architectural Plans to reflect shoring plan The above matters were satisfactorily resolved during the assessment process and no objection raised subject to recommended conditions.
Contribution Planner	Section 7.12 Contributions and Housing and Productivity Contribution (HPC) applicable
Property Manager	No objection raised during assessment period.
GIS Officer	No objection subject to recommended conditions

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The application was also referred to the following external agencies.

External referral	Comments
Endeavour Energy	No objection subject to recommended conditions.
Sydney Water	No objection subject to recommended conditions
Water NSW	General Terms of Approval issued by Water NSW

Community participation has occurred in accordance with Section 8 of the Kiama Community Participation Plan 2019; namely by:

- Directly notifying adjoining property owners of the exhibition period.
- Notifying relevant community groups.
- Erecting a temporary sign on site to advise of the application and exhibition period.
- Making all information publicly available on Council's DA Tracker between 30 June 2025 and 14 July 2025 and 13 March 2026 and 10 April 2026.

Submissions	Number	Key Issues
Submissions - Against	6	• Notification process and procedure • Affordable Housing provider not listed • Property Frontage Width and Setbacks • Building Height exceedance • FSR measurements • Amenity • Car Parking • Waste Management • Service Augmentation and Utility Supply • Streetscape • Overshadowing

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14.1 Determination of Development Application 10.2025.84.1 - 104 Belinda Street, Gerringong - Construction of 2 Residential Flat Buildings and Landscaping (cont)

		- Nosie from rooftop terrace - Air conditioning location - OSD for water - Reflection from glass panelling - Dilapidation concerns
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Key Issues

The following key issues are relevant to the assessment of this application having considered the relevant planning controls, issues raised in the submissions, referral comments and the proposal in detail.

1. Affordable housing bonus for building height and variation to building height limit controls.
2. Affordable housing bonus for Floor Space Ratio.
3. Compliance with planning controls, Apartment Design Guide and Kiama DCP 2020.
4. Public Submissions.

1. **Affordable housing bonus for building height and variation to the building height limit control**

The proposed development seeks to utilise the 30% additional height bonus available under *State Environmental Planning Policy (Housing) 2021*, cl.16 for affordable housing development.

Kiama LEP 2011 sets an 11m building height limit under cl.4.3, and SEPP (Housing) 2021 allows for an additional building height of up to 30% based on the affordable housing component proposed to be provided in the development. The proposed development provides 15% of the gross floor area as an affordable housing component which under the cl.16 of the SEPP grants an additional 30% increase to building height limit, resulting in a 14.3m building height limit for the development.

Despite this, the proposed development still exceeds the 14.3m building height limit. The applicant has provided a written variation statement pursuant to Kiama LEP cl.4.6 to seek a variation to the building height limit development standard.

The proposed variation to the building height limit is supported on the basis that the proposed development's exceedance of the building height is limited to areas which are isolated to lift overruns in the centre of the site which will not significantly contribute to visual bulk or result in any significant adverse impacts.

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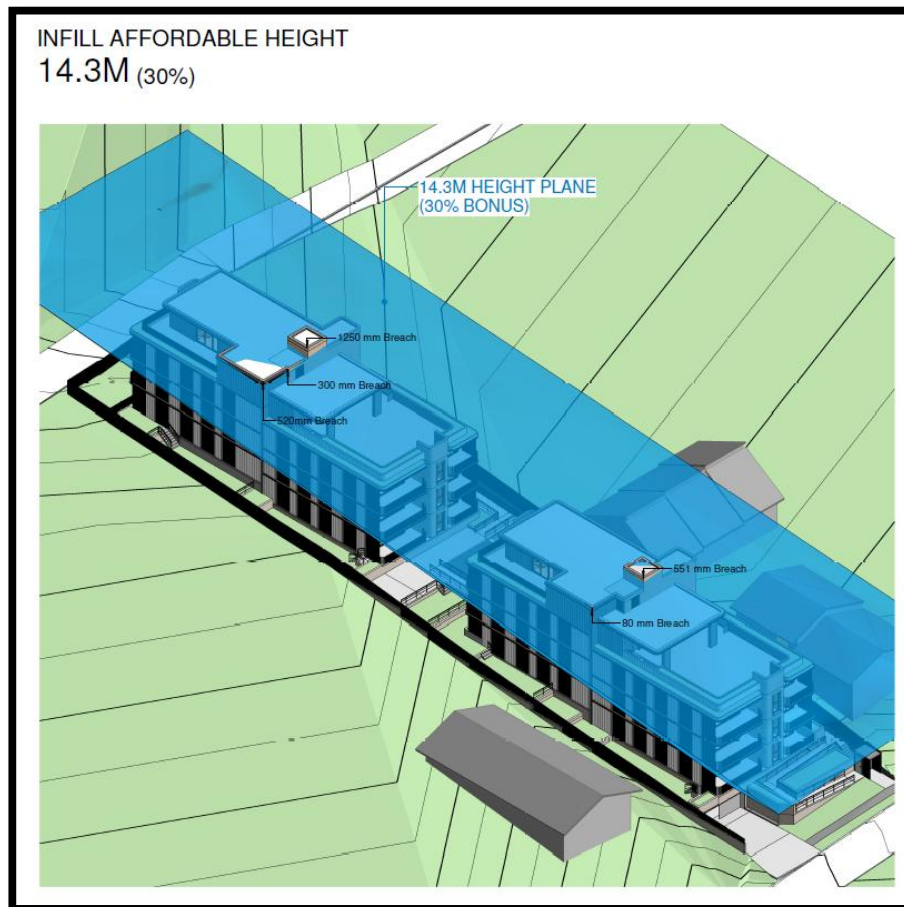


Figure 1: Building height blanket diagram showing areas of encroachment above 14.3m building height limit

Compliance with the development standard is considered unnecessary because despite the non-compliance with the development standard, the objectives of clause 4.3 are achieved and the areas of encroachment which do not exacerbate any amenity impacts of the proposed development.

It is considered that there are sufficient environmental planning grounds to justify contravention of the development standard in this instance.

2. Affordable housing bonus for Floor Space Ratio (FSR)

The proposed development seeks to utilise the 30% additional floor space ratio available under State Environmental Planning Policy (Housing) 2021, cl.16 for affordable housing development.

Kiama LEP 2011 sets a 1:1 FSR under cl.4.4, and SEPP (Housing) 2021 allows for an FSR of up to 30% based on the affordable housing component proposed to be provided in the development. The proposed development provides 15% of the gross floor area as an affordable housing component which under the cl.16 of the SEPP grants an additional 30% increase to FSR, resulting in a 1.3:1 FSR for the development.

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14.1 Determination of Development Application 10.2025.84.1 - 104 Belinda Street, Gerringong - Construction of 2 Residential Flat Buildings and Landscaping (cont)

The proposed development achieves an FSR of 1.3:1 and therefore complies with the applicable FSR controls.

3. Compliance with planning controls, Apartment Design Guide and Kiama DCP 2020.

Kiama LEP 2011 and other State Environmental Planning Policies (SEPPs)

The proposed development complies with the relevant requirements and development standards set out in Kiama LEP 2011 and other applicable SEPPs.

The proposed development involves a variation to clause 4.3 – Building Height Limit in Kiama LEP 2011 and also utilises additional building height limit and floor space ratio bonuses for affordable housing available under State Environmental Planning Policy (Housing) 2021.

The variation to building height limit has been suitably justified by a clause 4.6 variation statement and has been considered above.

Apartment Design Guide (ADG)

The proposed development generally complies with the design criteria and design guidance set out in the ADG. The proposal does involve a variation to the side setback guidance in the ADG.

The ADG stipulates the following minimum setbacks for 4 storey apartment buildings.

- Habitable Rooms and Balconies 6m
- Non-Habitable Rooms 3m

The proposed development has been designed to include a minimum side setback of 3m

The reduced side setback proposed is a response to the elongated nature of the site. The proposed buildings have been mindfully sited and designed to appropriately consider and achieve reasonable levels of visual and acoustic amenity of adjoining developments.

Buildings A and B have been designed to gradually step the built form in response to the slope of the site, thus reducing the bulk and scale of both buildings and providing solar amenity opportunities to adjoining developments as a result.

The materials used on the east and west elevations of the proposed development further serve to provide architectural interest and visual and material articulation. Where elements of balconies address a side boundary, appropriate privacy screening material has been provided to ensure adequate privacy for both residents of the proposed development and neighbouring sites.

The design of the proposed development has appropriately responded to the constrained nature of the site and appropriately considered the objectives and design guidance relevant to the numerical control. The decreased side setback is considered acceptable in this instance.

Kiama DCP 2020

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14.1 Determination of Development Application 10.2025.84.1 - 104 Belinda Street, Gerringong - Construction of 2 Residential Flat Buildings and Landscaping (cont)

The proposed development is generally compliant with applicable development controls set out in Kiama DCP 2020.

The subject site includes a total frontage of 20.25m. Kiama DCP 2020, cl.6.5.2 requires applications for Multi Dwelling Housing which cannot achieve a 25m frontage to be reported to Council for determination.

The proposed development includes a 4.75m (19%) variation to the 25m frontage requirement of the Kiama DCP 2020.

The proposed development has been designed and sited to respond to the limited frontage and provides a built form which is conducive to the desired future character of the locality. The division of the site into 2 main buildings provides ample landscaping, open space and connectivity while achieving high levels of visual and acoustic amenity to surrounding properties through the use of rooftop common open space.

4. Public Submissions

The DA was notified in accordance with Council's Community Consultation Plan 2019 for Development Applications. Five (5) submissions objecting to the proposal were received by Council.

The concerns raised are outlined below:

Summary of Public Submissions	
Objection	Assessment officer's comment
Notification process and procedure	Application was notified consistent with the requirements of Kiama Community Participation Policy and submissions are duly considered.
Affordable Housing provider not listed (EP&A Regs Cl26.)	Applicant has identified EchoRealty as the proposed provider of the affordable housing.
Property Frontage Width and Setbacks (6m side setback in ADG, page 63)	The proposed development is generally consistent with the ADG requirements and where variations are proposed, these have been assessed on merit.
Building Height exceedance	The proposed development utilises additional building height bonuses for affordable housing available under SEPP (Housing) 2021. However, the proposal also includes an exceedance of the building height limit development standard. This variation has been addressed with a written variation statement pursuant to Kiama LEP 2011, cl.4.6, which is considered in detail in the LEP compliance table of this report. Council staff are satisfied that the application demonstrates that strict compliance with the building height limit development

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14.1 Determination of Development Application 10.2025.84.1 - 104 Belinda Street, Gerringong - Construction of 2 Residential Flat Buildings and Landscaping (cont)

	standard is considered unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard in this instance.
FSR measurements	FSR measurements have been provided in the detailed floor plans and have been appropriately and accurately prepared.
Amenity	The development has been designed and sited to maintain appropriate visual and acoustic amenity to adjoining properties, as well as between units within the proposed development.
Car Parking	Appropriate and numerically compliant car parking has been provided on site.
Waste Management	Waste management has been addressed with a combined private/public service.
Service Augmentation and Utility Supply	All essential services are available to the site.
Streetscape	The proposed development has been designed to respond to the ADG requirements as well as the existing and desired future character of the locality.
Overshadowing	Detailed shadow diagrams have been provided and demonstrate that the proposed development has been designed and sited to provide adequate solar access to adjoining properties.
Nosie from rooftop terrace	The design and positioning of the rooftop terraces is appropriate in the context of the locality and surrounding developments and provides amenity and communal open space in keeping with ADG objectives.
Air conditioning location	Air conditioning and plant is located in the basement levels and appropriately separated from trafficable areas.
OSD for water	Appropriate stormwater management including the use of OSD is provided.
Reflection from glass panelling	The building design includes varied materials and avoids bulk massing of reflective elements.
Dilapidation concerns	Appropriate conditions are recommended to ensure construction processes are followed (including pre and post construction dilapidation reports).

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14.1 Determination of Development Application 10.2025.84.1 - 104 Belinda Street, Gerringong - Construction of 2 Residential Flat Buildings and Landscaping (cont)

Options

1. Adopt the recommendation and approve to the application, subject to conditions in enclosure 3.
2. Refuse the application and provide reasons. Also, as per Section 11.13 of the Code of Meeting Practice provide reasons for why it did not adopt the staff recommendation.
3. Adopt an alternative recommendation and as per Section 11.13 of the Code of Meeting Practice provide reasons for why it did not adopt the staff recommendation.

Conclusion

A comprehensive assessment of the Development Application has been undertaken under section 4.15 of the *Environmental Planning and Assessment Act 1979* in accordance with all statutory requirements.

It is recommended that the application be approved subject to conditions of consent.

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14.2 Determination of Development Application 10.2025.201.1 - Lot 6 DP 621070 Minnamurra Lane, Jamberoo - Dwelling House, detached farm building and driveway

CSP Objective: Outcome 3.3: We love where we live and are strongly connected within our region. Growth and development will be managed sustainably, thoughtfully and equitably, while preserving our built and natural heritage.

CSP Strategy: 3.3.2 Manage development and growth sustainably and thoughtfully.

Delivery Program: 3.3.2.1 Council meets the legislative requirements for Planning and Assessment.

Item 14.2

Summary

The purpose of this report is to seek Council's determination of Development Application No 10.2025.201.1 for a new dwelling house and farm building - and ancillary driveway access at Lot 6 DP 621070, Minnamurra Lane, Jamberoo.

Development Application 10.2025.201.1 proposes a clause 4.6 variation to clause 4.2A - erection of dwelling houses on land in certain rural and conservation zones development standard in *Kiama Local Environmental Plan (LEP) 2011* of 50.5%. The application identifies that the land previously benefited from an approval for the erection of a dwelling house (DA10.2011.121.1), however this consent has since lapsed. In this instance DA10.2011.121.1 was approved prior to the commencement of the Kiama LEP 2011 and constitutes a planned development outcome for the site.

Determination of applications where clause 4.6 variations exceed 10% are not within staff delegations for determination and must be determined by the elected Council.

It is recommended that Council determine the proposed development by way of approval.

Financial implication

The Development Application fee has been paid in accordance with *the Environmental Planning and Assessment Regulation 2021* and Council's adopted Fees and Charges.

Any approval of the Development Application would include 7.12 contributions to be conditioned to be paid to Council.

If the review of determination is refused, the application may be challenged in the NSW Land and Environment Court (LEC) and there would be costs associated with defending the refusal.

Risk implication

If the DA is refused, the determination may be challenged in the NSW Land and Environment Court (LEC).

If Council determines to refuse the application, the subject of this report, valid planning reasons must be provided. Additionally, as per Section 11.13 of the Code of Meeting Practice, Council must provide reasons for why it did not adopt the staff recommendation.

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- 14.2 Determination of Development Application 10.2025.201.1 - Lot 6 DP 621070 Minnamurra Lane, Jamberoo - Dwelling House, detached farm building and driveway (cont)

Policy

The statutory instruments relevant to the development include the following:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Kiama Local Environmental Plan 2011*
- Kiama Development Control Plan 2020
- Kiama Community Participation Plan 2019

Consultation (internal)

The application was referred internally and to external agencies. All internal feedback was considered as part of this assessment.

Communication/Community engagement

Consultation has occurred in accordance with Section 8 of the Kiama Community Participation Plan 2019.

Attachments

Nil

Enclosures

- 1 10.2025.201.1 - PAN-590655 - Plans
- 2 10.2025.201.1 - PAN-590655 - Section 4.15 Assessment Report
- 3 10.2025.201.1 - PAN-590655 - DA Notice of Determination

RECOMMENDATION

That Council:

1. Support the request to vary a development standard made pursuant to Clause 4.6 of Kiama Local Environmental Plan 2011 for the variation to the minimum lot size associated with Development Application No 10.2025.201.1 (PAN-590655) at Lot 6 DP 621070, Minnamurra Lane, Jamberoo, and.
2. Approve, subject to conditions of consent set out in enclosure 3, Development Application No 10.2025.201.1 (PAN-590655) for a new dwelling house, farm building (machinery shed) and ancillary driveway access at Lot 6 DP 621070, Minnamurra Lane, Jamberoo.

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14.2 Determination of Development Application 10.2025.201.1 - Lot 6 DP 621070
Minnamurra Lane, Jamberoo - Dwelling House, detached farm building and driveway (cont)**Background**

APPLICATION DETAILS	
Application Type:	Development Application
Application Number:	10.2025.201.1
NSW ePlanning Portal Reference:	PAN-590655
Proposed Development:	New dwelling house and farm building - Proposed dwelling house, farm building (machinery shed) and ancillary driveway access.
Applicant:	Allen Price Pty Ltd
Property title:	Lot 6 DP 621070
Property address:	Minnamurra Lane, Jamberoo

The subject site is described as LOT: 6 DP: 621070, Minnamurra Lane, Jamberoo.

The subject site has a frontage to Minnamurra Lane, Jamberoo. The site is currently vacant and is zoned RU2 Rural Landscape under Kiama LEP 2011.

The surrounding area is rural in character, and the site is adjoined rural and rural-residential development.

The topography of the site is undulating. Access to the property is gained via Minnamurra Lane. The site is serviced by on-site utilities.

The Development

Development Application No 10.2025.201.1 proposes construction of a new dwelling house and farm building - Proposed dwelling house, farm building (machinery shed) and ancillary driveway access.

Consultation

The application was referred to the following internal subject matter experts.

Internal referral	Comments
Environmental Health Officer	No objection subject to recommended conditions.
Contribution Planner	Section 7.12 Contributions applicable

Consultation has occurred in accordance with Section 8 of the Kiama Community Participation Plan 2019; namely by:

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14.2 Determination of Development Application 10.2025.201.1 - Lot 6 DP 621070 Minnamurra Lane, Jamberoo - Dwelling House, detached farm building and driveway (cont)

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- Directly notifying adjoining property owners and the Precinct Committee/Community Association of the exhibition period,
 - Making all information publicly available on Council's DA Tracker between 28/11/2025 and 12/12/2025

During the exhibition period, Council received no submissions.

Key Issues

The following key issues are relevant to the assessment of this application having considered the relevant planning controls, referral comments and the proposal in detail.

1. Variation to clause 4.2A rural dwelling entitlement controls
2. Compliance with planning controls, environmental planning instruments and Kiama DCP 2020

Variation to clause 4.2A rural dwelling entitlement controls

Before reviewing the applicant's 4.6 variation request it is important to understand both the application of Clause 4.2A and Clause 4.6 of the Kiama LEP 2011.

Application of Clause 4.2A – Erection of dwelling houses on land in certain rural and conservation zones

The subject site has a site area of 19.9ha and the application proposes a 50.5% (20.1ha) variation to the clause 4.2A of the Kiama LEP 2011.

Clause 4.2A of the LEP applies to all RU1 Primary Production, RU2 Rural Landscape and C3 Environmental Management zoned land within the Municipality and seeks to “minimise unplanned rural residential development” and “to enable the replacement of lawfully erected dwelling houses in rural and conservation zones”. Clause 4.2A(3) is provided below:

3. *Development consent must not be granted for the erection of a dwelling house on land in a zone to which this clause applies, and on which no dwelling house has been erected, unless the land is—*
 - a. *a lot that is at least the minimum lot size specified for that land by the [Lot Size Map](#), or*
 - b. *a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or*
 - c. *a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or*
 - d. *an existing holding.*

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14.2 Determination of Development Application 10.2025.201.1 - Lot 6 DP 621070 Minnamurra Lane, Jamberoo - Dwelling House, detached farm building and driveway (cont)

It is noted that clause 4.2A(4) establishes a 'sunset clause' to the provisions of clause 4.2A(3), meaning that certain subclauses are 'turned off' in certain circumstances. Clause 4.2A(4) is provided below:

4. *Subclause (3)(b), (c) and (d) ceases to apply if—*
- a. *an application for development consent referred to in that subclause is not made in relation to that land within 5 years after the day this Plan commences, or*
 - b. *an application for development consent referred to in that subclause is made in relation to that land within 5 years after the day this Plan commences, but the application is refused.*

In this respect, subclauses (3)(b), (c) and (d) are 'turned off' and to strictly comply with clause 4.2A the lot must be at least 40Ha if either:

- no Development Application (DA) was lodged for a dwelling by 16 December 2016 (i.e. 5 years after the LEP commenced), or
- a DA was lodged by 16 December 2016 but refused

However, subclauses (3)(b), (c) and (d) continue to be 'turned on' if a DA is lodged by 16 December 2016 approved and then subsequently lapses.

As noted in the assessment and determinations of DA10.2025.131.1 (85 Wyalla Road, Jamberoo), DA10.2025.135.1 (Lot 33 Jamberoo Road, Jamberoo) and DA10.2025.104.1 (173 Mount Brandon Road, Jerrara), the "sunset clause" was communicated to affected landowners.

This resulted in a significant number of DAs being lodged in the months leading up to 16 December 2016.

Application of Clause 4.6 – Exceptions to development standards

Clause 4.6 of the LEP enables development consent to be granted for development even though it would contravene a development standard. Clause 4.6(3) outlines the matters which Council must consider when reviewing a 4.6 variation:

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

In case of *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ established the following five-part test to demonstrate that strict compliance with a development standard is unreasonable or unnecessary:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard, or

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2. The underlying objective or purpose of the standard is not relevant to the development with the consequence that compliance is unnecessary, or
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable, or
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable, or
5. "The zoning of the particular land" was "unreasonable or inappropriate" so that "a development standard appropriate for that zoning is also unreasonable and unnecessary as it applied to that land" and hence compliance with the standard would be unreasonable or unnecessary (i.e. the subject allotment should not have been included in the zone it is located in).

Sufficient environmental planning grounds can be demonstrated when a proposal is compliant with other applicable development standards or controls, promotes good design or amenity outcomes, allows for the orderly and economic development of the land or will promote ecologically sustainable development by integrating relevant economic, environmental and social considerations.

Assessment of Submitted 4.6 Variation to clause 4.2A Development Standard

Compliance with the clause 4.2A development standard and the clause 4.6 variation request are discussed in detail in the Section 4.15 Assessment Report (enclosure 2).

In summary, the Applicant's clause 4.6 written statement relies on demonstrating that the objectives of clause 4.2A and the RU2 Rural Landscape zone are achieved and that there are sufficient environmental planning grounds to justify the variation.

The Applicant's clause 4.6 statement notes that a DA (10.20211.121.1) was lodged for a dwelling on the site on 8 June 2011. Development consent was subsequently granted on 30 August 2011. As the consent was not acted upon within five (5) years, the consent lapsed on 30 August 2016.

In applying the Preston CJ five-part test, the Applicant argues that this application seeks to reinstate a dwelling approval on the site and therefore is not unplanned rural residential development. If this same application were made 6 months later i.e. post 16/12/2011, the land would continue to retain a dwelling entitlement, irrelevant of if the application was acted upon or lapsed.

The Applicant suggests that the objectives of Clause 4.2A are therefore achieved. As the application achieves the objectives of Clause 4.2A, the applicant argues that compliance with the development standard is therefore unreasonable in the particular circumstances.

The applicant argues that there are sufficient environmental planning grounds to justify the contravention of the development standard. Namely, the proposal complies with all other applicable development standards and controls of the Kiama LEP 2011 and Kiama DCP 2020.

It is noted that Council has recently resolved not to support clause 4.6 variations to the development standards of clause 4.2A, namely DAs 10.2025.135.1 (Jamberoo Road,

Report of the Director Strategies and Communities

14.2 Determination of Development Application 10.2025.201.1 - Lot 6 DP 621070 Minnamurra Lane, Jamberoo - Dwelling House, detached farm building and driveway (cont)

Jamberoo), 10.2025.131.1(85 Wyalla Road, Jamberoo) and 10.2025.104.1 (173 Mount Brandon Road, Jerrara).

The difference between these previously mentioned DAs and the current application is the fact that:

- the subject land benefited from a development consent for the erection of a dwelling house (DA10.2011.121.1) and therefore is considered a planned rural residential development, and
- the subject proposal complies with all other applicable development standards and controls of the Kiama LEP 2011 and Kiama DCP 2020

This current application is a different scenario to those previously considered by Council e.g. DA10.2025.131.1, DA10.2025.135.1 and DA10.2025.104.1, and because of the previous development consent for the erection of a dwelling, the clause 4.6 variation is considered well founded. The current proposal for erection of a dwelling house and construction of a farm building is considered to be representative of a planned development outcome for the site.

Compliance with planning controls, environmental planning instruments and Kiama DCP 2020

The proposal is generally compliant with the applicable planning controls, environmental planning instruments and Kiama DCP 2020. A detailed assessment of the proposal is included in the Section 4.15 Assessment Report (enclosure 2).

Options

1. Adopt the recommendation and approve to the application, subject to conditions in enclosure 3.
2. Refuse the application and provide reasons. Also, as per Section 11.13 of the new Model Code of Meeting Practice provide reasons for why it did not adopt the staff recommendation.
3. Adopt an alternative recommendation and as per Section 11.13 of the new Model Code of Meeting Practice provide reasons for why it did not adopt the staff recommendation.

Conclusion

A comprehensive assessment of the Development Application has been undertaken under section 4.15 of the *Environmental Planning and Assessment Act 1979* in accordance with all statutory requirements.

It is recommended that the application be approved subject to conditions of consent.

14.3 Endorse for public exhibition: draft Visitor Economy Strategy 2026-2035

CSP Objective: Outcome 3.2: We have an economy that balances tourism opportunities with resident needs and ensuring we don't lose our community feel.

CSP Strategy: 3.2.1 Thoughtfully manage tourism development and the visitor economy.

Delivery Program: 3.2.1.1 Provide strategic leadership and advocacy to support a sustainable visitor economy.

Item 14.3

Summary

The purpose of this report is to seek Council endorsement to place the Draft Kiama Visitor Economy Strategy 2035 (VES) on public exhibition for a period of 28 days to enable further community, industry and stakeholder feedback prior to final adoption.

The Draft VES provides a contemporary framework to guide the sustainable development of Kiama's visitor economy over the next decade. It adopts a broader visitor economy approach that places community benefit, stewardship and local liveability at the centre of decision-making, reflecting Council's commitment to ensuring tourism enhances, rather than compromises, local lifestyle.

The Strategy consolidates and updates Council's previous tourism strategies and responds to changing visitor expectations, seasonal pressures and engagement feedback. It builds on Kiama's strengths in nature-based experiences, coastal lifestyle and quality visitation, while placing greater emphasis on visitor dispersal across towns and villages, improving the quality and bookability of experiences, strengthening the night-time and cultural economy, and supporting sustainable, high-value visitation.

Clear Council roles for delivery, partnership and advocacy are defined, supported by a phased implementation framework, monitoring measures and alignment with Council's Delivery Program and Operational Plan. Public exhibition of the Draft VES will support transparency, community input and refinement of the Strategy prior to finalisation.

Financial implication

Some initiatives identified in the Strategy will be considered through future operating budgets via Council's Delivery Program and Operational Plan, and may also be supported through external funding mechanisms, including grants and State Government partnerships.

Risk implication

Without a clear framework, unmanaged growth may increase pressure on Kiama township and resident amenity. Public exhibition mitigates this risk through transparency and community input.

Policy

The draft VES aligns with Council's Community Strategic Plan, Local Housing Strategy and Kiama Cultural Plan, and is aligned with the Destination NSW Visitor Economy Strategy 2035, NSW 24-Hour Economy Strategy, Destination Sydney Surrounds

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14.3 Endorse for public exhibition: draft Visitor Economy Strategy 2026-2035
(cont)

South Destination Management Plan and the Regional Economic Development Strategy.

Consultation (internal)

Draft prepared in consultation with Council's Planning and Development, and Community Outcomes departments.

Councillors and Council's Tourism & Economic Advisory Committee (TEAC) were involved in a workshop 12 June 2025.

Tourism and Economic Advisory Committee (TEAC) were presented the draft action plan for feedback at the meeting of 22 January 2026.

There will be future internal workshops to progress components of the draft VES to ensure integrated planning with such items as precinct activation, and cultural development.

Communication/Community engagement

As part of preparing the VES the following engagement activities occurred between May and June 2025 (refer to enclosed Engagement Report).

- Two community popups at Kiama Farmers' Market (50+ people engaged).
- Online survey (104 responses).
- 430+ visits to the 'Your Say' project page during the consultation period.
- 32 key stakeholder interviews.
- Targeted engagement occurred with Destination NSW, Destination Sydney South Surrounds and the Kiama Business Network.

Attachments

Nil

Enclosures

- 1 Visitor Economy Strategy (VES) 2035 Engagement Report
- 2 Draft Kiama Visitor Economy Strategy (VES) 2035 - for exhibition

RECOMMENDATION

That Council:

1. Note the Visitor Economy Strategy (VES) 20235 Exhibition Report
2. Endorse the Draft Kiama Visitor Economy Strategy 2026–2035 for public exhibition for a minimum period of 28 days.
3. Following conclusion of the exhibition period in relation to the Draft Kiama Visitor Economy Strategy 2026–2035:
 - (a) Receive a further report for consideration, if any relevant submissions are received or if any substantial changes are proposed for any other reason,

Report of the Director Strategies and Communities

14.3 Endorse for public exhibition: draft Visitor Economy Strategy 2026-2035
(cont)

detailing the public exhibition outcomes and proposed changes with recommendations regarding adoption of the above documents, or

- (b) Adopt the Kiama Visitor Economy Strategy 2026–2035 if there are no relevant submissions received and there are no substantial changes proposed for any other reasons.

Item 14.3

Background

The preparation of a Kiama Visitor Economy Strategy (VES) was identified as a key deliverable for the Tourism, Events and Economic Development team in Council's 2025 to 2026 Operational Plan, giving effect to Community Strategic Plan outcomes 3.1 *"A strong economy, vibrant local businesses and local economic growth"* and 3.2 *"An economy that balances tourism opportunities with resident needs and ensures Kiama retains its community feel"*.

The Draft Kiama VES 2035 consolidates and updates Council's previous tourism strategies, including the Tourism Opportunities Plan (2018) and the Kiama Tourism and Events Strategy (2022 to 2026), into a single, contemporary framework. It responds to changing visitor expectations, seasonal pressures and engagement feedback, while maintaining continuity with Kiama's strengths in nature based experiences, coastal lifestyle and quality visitation.

The Strategy adopts a broader visitor economy approach, recognising the interaction of tourism with land use planning, infrastructure, transport, housing, culture and community wellbeing. It places stronger emphasis on managing growth, encouraging visitor dispersal across towns and villages, strengthening the night-time and cultural economy, and increasing visitor yield while protecting local amenity and place character. Defined Council roles are established as Deliver, Partner and Advocate, supported by phased implementation, monitoring and reporting through the Tourism and Economic Advisory Committee.

As outlined in the response to a Question on Notice from Councillor Larkins the draft Strategy includes the Tasman Drive social media phenomenon as a case study. The draft Strategy acknowledges the role and impact social media has on the visitor economy. The draft Strategy includes actions to focus on regional partnership opportunities, growing the Municipality's accommodation offerings and targeted destination branding and marketing. The draft Strategy also includes actions to prepare Active Transport and Wayfinding & Interpretation Strategies. These strategies seeks to ensure that future marketing aligns with and responds to current social media trends as well as ensuring that the Municipality's 'tourism' infrastructure is adequate to accommodate peaks in visitation due to social media phenomena such as Tasman Drive.

Key distinctions from earlier strategies

Compared with earlier plans, the Draft VES introduces several shifts in emphasis:

- Community focussed, reaffirming that tourism should enhance, not compromise, local lifestyle, with community benefit and stewardship embedded in goals and actions.

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14.3 Endorse for public exhibition: draft Visitor Economy Strategy 2026-2035
(cont)

-
- Visitor dispersal, identifying personalities for Kiama's towns and villages while ensuring a connected destination to spread economic benefit, reduce pressure on peak locations and support village identities.
 - Experience diversification and bookability, prioritising the quality, diversity and commercial readiness of experiences, particularly in emerging sectors such as wellness, agritourism, marine tourism, cultural and creative experiences and soft adventure, to support longer and off-peak stays.
 - A stronger focus on the night-time and cultural economy, aligned with the development of Council's future Night-time Economy Strategy.

Vision, goals and focus areas

The Draft VES is underpinned by the following vision:

Kiama will inspire visitors with authentic coastal experiences that connect them to nature, heritage and community, as a sustainable, culturally rich and community supported destination where visitors stay longer, do more and contribute to a thriving local economy, vibrant culture and protected environment.

The Strategy includes five strategic goals and five supporting focus areas relating to destination marketing, experience and product development, infrastructure and access, industry capability and workforce, and the night-time and cultural economy.

Key strategic directions included for public discussion

To ensure transparency during public exhibition, the Draft Strategy identifies a number of longer-term strategic directions for community feedback, further investigation and feasibility testing. These directions do not represent commitments, but provide clarity on potential future approaches, these concepts include:

- Blowhole Point Precinct, including the investigation of improved visitor management, all weather blowhole viewing and illumination opportunities, interpretation, and consideration of longer-term precinct planning, noting Crown Land tenure, environmental and cultural sensitivity interest in this area.
 - Kiama Harbour activation, including potential improvements to pedestrian connectivity between the town centre, precinct activation and visibility for existing marine based operators, subject to State agency collaboration.
 - Future accommodation opportunities, including investigation of demand for higher quality accommodation in appropriate locations, subject to planning, land tenure, feasibility and community values.
 - Bombo Headland and Quarry area, including investigation of geotourism and soft adventure concepts such as bouldering or climbing, noting this land is not Council owned and any proposal would require State landowner support, environmental assessment and safety feasibility.
 - Activation of the Kiama Coast Walk, including the potential to position the walk as a multi-day, signature visitor experience, subject to amenities, permits, environmental assessment and partnerships.
-

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14.3 Endorse for public exhibition: draft Visitor Economy Strategy 2026-2035
(cont)

-
- Night-time and cultural economy initiatives, including precinct based approaches to improve evening activity while managing residential amenity through safety, place management and transport measures.
 - Aboriginal led visitor experiences, progressed through culturally appropriate, Traditional Owner led governance, capacity building and engagement.

Priority responses to engagement

In response to themes identified through engagement, the Draft Strategy prioritises actions to:

- Partner with industry and advocacy groups, including Kiama Business Network and Business Illawarra, to advocate for improved transport access and precinct outcomes.
- Collaborate with Destination Sydney Surrounds South and Destination NSW on data led destination marketing aimed at reducing seasonality.
- Support ticketed experience development and capacity building through appropriate funding programs to grow Kiama's product offerings.
- Progress Council's Night-time Economy Strategy and strengthen the local events calendar, including Council delivered signature events such as the Kiama Winter Festival.

Implementation and performance monitoring will occur through Council's existing governance framework, with quarterly updates to the Tourism and Economic Advisory Committee and annual reporting through Council's Delivery Program and Operational Plan.

Next Steps

Following the 28 day public exhibition period, all feedback received will be reviewed and any necessary changes will be made to the Strategy. Following this the final Strategy will be reported to Council for adoption.

14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street Gerringong

CSP Objective: Outcome 3.3: We love where we live and are strongly connected within our region. Growth and development will be managed sustainably, thoughtfully and equitably, while preserving our built and natural heritage.

CSP Strategy: 3.3.2 Manage development and growth sustainably and thoughtfully.

Delivery Program: 3.3.2.1 Council meets the legislative requirements for Planning and Assessment.

Item 14.4

Summary

The purpose of this report is to seek Council's endorsement of the Planning Agreement for 48 Campbell Street Gerringong for finalisation.

This Planning Agreement applies to the proposed Urban Release Area and is associated with the Planning Proposal PP-2025-61. Under the Planning Agreement, the developer will provide material public benefits including dedication of land, construction of works and monetary contributions totaling approximately \$7M.

The Draft Planning Agreement was exhibited between 25 August and 22 September 2025 and 39 submissions were received (see Enclosure 1).

It is recommended that the Planning Agreement – 48 Campbell Street Gerringong (Enclosure 2) be endorsed for finalisation. Once entered into, the Planning Agreement will apply to all subdivision developments on the subject land, the register will be updated, the Agreement will be implemented and monitored, and updates will be included in the Annual Report.

Financial implication

The Planning Agreement the subject of this report aims to mitigate any short- and long-term financial impact to Council as a result of the development. The developer will construct, fund and deliver all of the infrastructure required to facilitate the development, and will also provide funding to Council for some of the ongoing costs.

The contributions will be provided prior to the issue of a Subdivision Certificate for each stage of the development. The monetary contributions will be held in an externally restricted asset account, invested in accordance with the Council's Investment Policy and allocated toward the relevant specified expenditure as part of the annual budget preparation.

Risk implication

A Planning Agreement is a voluntary arrangement that is negotiated and agreed to between the developer and council.

The proposed Planning Agreement provides a formal legal instrument to manage and mitigate any risks associated with the developer dedicating land to council and ensures a funding source for the ongoing maintenance. The Planning Agreement also provides security through registration on land title and a bank guarantee.

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14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street
Gerringong (cont)

To ensure certainty of infrastructure delivery, the Planning Agreement will be entered into before the Planning Proposal is finalised.

If a Planning Agreement is not entered into then there is no certainty on how the infrastructure will be funded or delivered, and the public benefit will not be provided.

The Draft Planning Agreement was reviewed by Council's lawyers (at the developers cost).

Policy

The Draft Planning Agreement has been prepared and assessed in accordance with:

- *Environmental Planning and Assessment Act 1979.*
- *Environmental Planning and Assessment Regulation 2021.*
- Local infrastructure contributions practise notes (DPHI, 2025).
- Kiama Council's Planning Agreements Policy 2024.

Consultation (internal)

The Draft Planning Agreement was discussed at the Development Contributions Coordination Group meetings as the negotiations progressed. This enabled ongoing consultation with staff from the Planning, Finance and Infrastructure teams. Finance and Infrastructure were also specifically consulted to review the cost estimates provided.

The Letter of Offer was reported to the Executive Leadership Team for approval.

Communication/Community engagement

The Draft Planning Agreement and Explanatory Note were publicly exhibited for 28 days between Monday 25 August and Monday 22 September 2025.

During the public exhibition period, 39 submissions were received. The key issues raised in the submissions, council staff responses, and any recommended changes are provided in the Public Exhibition Engagement Report (Enclosure 1).

It is noted that as the Planning Proposal was on public exhibition at the same time, some of the submissions received also related to the Planning Proposal and these have been considered as part of that assessment.

Attachments

Nil

Enclosures

- 1 Planning Agreement - 48 Campbell Street Gerringong - Public Exhibition Engagement Report
- 2 Planning Agreement - 48 Campbell Street Gerringong

Report of the Director Strategies and Communities

14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street
Gerringong (cont)

RECOMMENDATION

That Council:

1. Note the Public Exhibition Engagement Report for the Planning Agreement - 48 Campbell Street Gerringong.
2. Note that pursuant to s55(3)(i) of the *Local Government Act 1993*, Council resolve not to invite tenders under s55(1) of that Act for works on Council land associated with the Planning Agreement given that a satisfactory contract result is more likely to be achieved as a result of the works being delivered by the developer.
3. Delegate authority to the CEO to make any necessary administrative changes to the Planning Agreement before it is entered into.
4. Delegate authority to the CEO to finalise and enter into the Planning Agreement – 48 Campbell Street Gerringong.
5. Require the Planning Agreement to be entered into before the associated Planning Proposal PP-2025-61 is finalised and gazetted.
6. Require that appropriate conditions of consent be imposed on any future development applications to which the Planning Agreement applies.
7. Note that, as per the enclosed Agreement, the Developer is responsible to complete all necessary works in order for the required Subdivision Certificates to be issued.
8. Note that the Planning Agreement Register will be updated accordingly.

Item 14.4

Report of the Director Strategies and Communities

14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street Gerringong (cont)

Background**The site**

The site is known as Lot 2 DP 1168922, 48 Campbell Street, Gerringong (Figure 1). The site is immediately adjacent to the west of Elambra Estate and is currently accessed from the north via Campbell Street.

The eastern part of this site has been strategically identified as a potential urban expansion area since 1995. The site will accommodate approximately 147 residential lots, a local park, riparian corridors, stormwater management and associated infrastructure including a bridge providing road access to Elambra Estate.



**Figure 1 Land to which the Planning Agreement applies
(part of 48 Campbell Street Gerringong)**

The Planning Proposal was lodged in January 2025 and seeks approval to rezone the site for urban development. The Planning Proposal application included a letter of offer to enter into a planning agreement.

The Planning Agreement has been assessed and progressed separately but concurrently to the Planning Proposal assessment.

Planning Agreement

A Planning Agreement is a voluntary agreement between a planning authority and an applicant, under which the developer is required to provide a monetary contribution, the dedication of land or another material public benefit, to be used for or applied towards a public purpose.

The process to prepare a Planning Agreement is set out in the legislation, practise note and Council's Policy. A summary of the steps in the process is:

Step 1: Negotiations, 'in principle' agreement, Letter of Offer

Step 2: Letter of Offer accepted, Draft Planning Agreement prepared.

Step 3: Draft Planning Agreement endorsed by Council and exhibited.

Step 4: Final Planning Agreement endorsed by Council and executed by CEO.

Step 5: Implementation and monitoring of the Planning Agreement.

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14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street
Gerringong (cont)

Proposal

A Planning Agreement has been negotiated to secure infrastructure delivery and funding for the development of 48 Campbell Street Gerringong as follows:

Step 1: Negotiations, 'in principle' agreement, Letter of Offer

The developer, SMG Holdings Pty Ltd, and the two appointed council officers negotiated the 'in principle' terms of this agreement in accordance with Council's adopted Planning Agreements Policy and delegations. The internal Development Contributions Coordination Group and the ELT have received regular updates as these negotiations have progressed.

The negotiations were successful, and the Planning Proposal PP-2025-61 was accompanied by a Letter of Offer to enter into a Planning Agreement in accordance with s7.4 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) and Council's Planning Agreement Policy.

The offer is considered reasonable as it will ensure the infrastructure required to support the development is delivered and will also provide ongoing funding for Council toward some of the maintenance cost. It is therefore considered that the Planning Agreement will result in a positive outcome for Council and the community.

Under the Planning Agreement the applicant proposes to provide the following:

- Delivery of a new access road and bridge crossing to Union Way/Elambra Parade.
- Delivery of a new local park (land dedication and embellishment).
- Riparian corridors (land dedication, rehabilitation works, 5 year maintenance period and a monetary contribution toward ongoing maintenance).
- Monetary contribution towards administration (1.5% of the cost of works).
- Stormwater infrastructure (dedication of land, construction of bioretention basins, 2 year maintenance period).

Key provisions of the agreement include:

- This Planning Agreement applies to the proposed Urban Release Area (eastern part of 48 Campbell Street Gerringong) and is associated to the Planning Proposal PP-2025/61. The Planning Agreement will be executed before the PP is finalised.
- The Agreement will be registered on title to ensure ongoing compliance.
- The value of land, works, and monetary contributions has been costed by the applicant at over \$7 million, which equates to over \$47k per residential lot.
- The monetary contributions will be indexed until the date of payment.
- The riparian maintenance costs are based on a discounted (net present value) rate and will be held in an externally restricted reserve which will earn interest and thereby increase the amount of funding.
- The monetary contributions will be a funding source for future expenditure.

Report of the Director Strategies and Communities

14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street
Gerringong (cont)

Item 14.4

-
- All contributions will be provided on a stage-by-stage basis (ie before the Subdivision Certificate is issued for each stage).
 - The Planning Agreement will exclude Section 7.12 contributions from the 'development to which the Planning Agreement applies' which is the initial subdivision and associated infrastructure. The Planning Agreement will not apply to the residential lots created, and the Section 7.12 Contributions Plan will apply to the dwelling construction and any future DAs or CDCs on the land.
 - Security will be provided through a framework that includes registration on title, a bank guarantee, and all requirements will need to be satisfied before a Subdivision Certificate is issued.
 - In some instances, it may be reasonable to accept a bond for outstanding works (for example if there were delays with the embellishment of a park) and the Planning Agreement allows for this.

The value of non-cash (ie land and works) contributions stated in the Planning Agreement are notional as Council will value the assets based on its usual fair value process, and Council is not 'paying' or reimbursing the developer this amount. The monetary contributions have been reviewed and staff are confident the figures are accurate.

It is noted that by entering into this Agreement Council will only forfeit 7.12 contributions associated with the initial subdivision. Section 7.12 contributions are capped at 1% the estimated cost of the development. The applicable 7.12 contributions for the proposal are likely to be significantly less than the notional value of the Planning Agreement.

Step 2: Letter of Offer accepted, Draft Planning Agreement prepared.

The Letter of Offer was reported to Council's Executive Leadership Team (ELT) at their meeting on 4 June 2025, with support given for the negotiations to continue.

A formal response was provided to the applicant on 6 June 2025.

A Draft Planning Agreement and Explanatory Note were then prepared based on the templates in Council's Planning Agreements Policy.

Step 3: Draft Planning Agreement endorsed by Council and exhibited.

The Draft Planning Agreement and Explanatory Note were reported to Council at the meeting on 19 August 2025 and endorsed for public exhibition. The documents were publicly exhibited for 28 days between Monday 25 August and Monday 22 September 2025.

During the public exhibition period, 39 submissions were received. The key issues raised in the submissions, responses, and any recommended changes are provided in the Public Exhibition Engagement Report (Enclosure 1).

It is noted that the majority of feedback received from the community related to the development the subject of the associated PP. No changes were made to the draft Planning Agreement as a result of community feedback.

The draft Planning Agreement was reviewed by Council's lawyers (at the Developer's cost).

Report of the Director Strategies and Communities

14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street
Gerringong (cont)

Step 4: Final Planning Agreement endorsed by Council and executed by CEO.

This report presents the final Planning Agreement for endorsement by Council.

The Public Exhibition Engagement Report (Enclosure 1) provides a summary of the exhibition process, submissions received, responses and any proposed changes as a result of submissions.

A Final Planning Agreement (Enclosure 2) has now been prepared and includes the following changes:

- Clause 31 Registration on Title – minor update to improve readability.
- Schedule 1 (1) – updated to note that the agreement applies to *part* of the site.
- Schedule 1 (6) – updated to clarify that s7.12 is excluded from all subdivision developments on the subject land (including future stages) and that s7.11/s7.12 is not excluded from future DAs or CDC's (ie dwelling construction).
- Schedule 1 (10) – Updated to also require 'all obligations including maintenance periods' to be completed before the security is returned.
- Schedule 2 (A. Monetary Contributions) – Updated to reflect per stage cost.
- Schedule 2 (B. Dedication of Land) – Update land area, and timing for dedication.
- Schedule 2 (C. Work) - Clarify that works are to be approved by Council with the Subdivision Works Certificate and Development Application. Clarify the maintenance period, and that the maintenance plan to be approved by Council. Clarify in relation to timing that 'relevant stage' is the stage in which the land is included.
- Schedule 5 – An indicative Staging Plan has been included to provide indicative timing.
- Other minor changes, including formatting and numbering.

As the Planning Agreement is associated to the Planning Proposal, the Planning Agreement will need to be executed before the Planning Proposal is finalised. The staff recommendations in this report aim to ensure that these timeframes align.

Step 5: Implementation

The Planning Agreement will be executed before the Planning Proposal is finalised.

The Planning Agreement will be registered on the title of the Land and added to Council's Planning Agreements Register.

A condition of consent will be imposed on any future approvals for subdivision development requiring the terms of the Planning Agreement to be satisfied prior to the issue of a Subdivision Certificate.

The terms of the agreement will be monitored as the development progresses through the Development Contributions Coordination Group.

Updates on the implementation will be publicly provided in Council's Annual Report.

Report of the Director Strategies and Communities

14.4 Post exhibition endorsement: Planning Agreement – 48 Campbell Street
Gerringong (cont)

Conclusion

This Planning Agreement applies to the proposed Urban Release Area at 48 Campbell Street Gerringong and will secure public benefit contributions of approximately \$7M, including land dedication, construction of works, and monetary contributions to Council.

It is recommended that Council delegate authority to the CEO to finalise and enter into the Planning Agreement.

Once executed, the Planning Agreement Register will be updated, and annual updates on the implementation will be included in the Annual Report. The Planning Agreement will be implemented as the relevant stages of the associated development occur.

Item 14.4

14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong

CSP Objective: Outcome 3.3: We love where we live and are strongly connected within our region. Growth and development will be managed sustainably, thoughtfully and equitably, while preserving our built and natural heritage.

CSP Strategy: 3.3.2 Manage development and growth sustainably and thoughtfully.

Delivery Program: 3.3.2.1 Council meets the legislative requirements for Planning and Assessment.

Summary

The purpose of this report is to seek Council's endorsement to finalise Planning Proposal PP-2025-61 which seeks to rezone part of 48 Campbell Street, Gerringong to enable urban development including approximately 147 residential lots, open space, riparian corridors and associated infrastructure.

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 amend the Kiama (LEP) 2011 map sheets as follows:

- Rezone part of the site to Zone R2 Low Density Residential with a minimum lot size of 450sqm, floor space ratio of 0.5:1 and 8.5m height limit.
- Rezone part of the site to Zone C2 Environmental Conservation.
- Rezone part of the site to Zone C3 Environmental Management.
- Rezone part of the site to RE1 Public Recreation for a future local park.
- Identify part of the subject site as an Urban Release Area (URA).

The PP was supported to proceed to Gateway by Council on 17 June 2025 and the Department of Planning, Housing and Infrastructure (DPHI) issued a Gateway Determination on 28 July 2025 (Enclosure 1). The Gateway conditions have now all been actioned, including State Agency referrals and the required public exhibition period.

The Planning Proposal is accompanied by an offer to enter into a Planning Agreement with Council which will ensure that the required infrastructure is secured for the site.

It is recommended that Council endorse the Post Exhibition Planning Proposal Report (Enclosure 3) and submit it to the Office of the NSW Parliamentary Counsel under section 3.36(1) of the Environmental Planning and Assessment Act 1979 (the Act) to draft the final legal instrument that will give effect to this Planning Proposal.

Financial implication

The *Planning Proposal Stage 1 – Major fee* was paid by the proponent upon lodgment of the PP and the *Planning Proposal - Stage 2 – Major fee* was paid prior to the application being submitted for Gateway.

The long-term financial impact of the development will be considered as part of Council's long-term financial planning.

Report of the Director Strategies and Communities

14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

Risk implication

If the PP is not supported the development may be delayed, which will impact on the delivery of new homes that have been identified as being needed in the Local Government Area. It is also noted that if the PP is not progressed by the Council, the proponent may seek a Rezoning Review by the Southern Regional Planning Panel and the Panel would then become the PP Decision Making Authority.

Policy

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

- *Environmental Planning and Assessment Act 1979.*
- Local Environmental Plan Making Guideline, DPHI, August 2023.
- Relevant Ministerial Directions issued under s9.1 of the EP&A Act.
- Illawarra Shoalhaven Regional Plan 2041 (DPHI, 2021).
- Kiama Council's Local Strategic Planning Statement (2020, updated 2025).
- Kiama Council's Local Housing Strategy, 2025.
- Kiama Council's Planning Proposal Policy, 2023.
- Kiama Council's Community Participation Plan, 2019.

Consultation (internal)

The PP was referred internally to Council's Engineering Team (Subdivision Engineer) for comments in relation to transport and flooding. The PP was also discussed within the Strategic Planning team in relation to the Planning Agreement and planning controls and the proposed Floor Space Ratio (FSR) of 0.5:1 is supported.

Communication/Community engagement

In accordance with condition 2 of the Gateway Determination (Enclosure 1), section 3.34(2)(c) and clause 4 of Schedule 1 of the Act, and the Kiama Community Participation Plan 2023, the PP was placed on public exhibition for 31 working days between 8 August and 21 September 2025.

The PP was notified on Council's Your Say page, which included a link to the NSW Planning Portal where the documents and submission portal were available.

During the public exhibition period 27 submissions were received. It is also noted that some of the 39 submissions received on the Planning Agreement related to the PP and these have also been considered.

A summary of submissions received, responses and any changes is provided in the Public Exhibition Engagement Report at Enclosure 2.

Consultation (External)

In accordance with condition 3 of the Gateway Determination, the PP was referred to ten State Agencies. The comments received from the State Agencies have been

Report of the Director Strategies and Communities

14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

addressed by the applicant and all comments have now been adequately satisfied (see Enclosure 2).

Attachments

Nil

Enclosures

- 1 PP-2025-61 - Gateway Determination
- 2 PP-2025-61 - Public Exhibition Engagement Report
- 3 PP-2025-61 - Post Exhibition Planning Proposal Report
- 4 PP-2025-61 - Gateway Alteration Letter to Council (Extension)
- 5 PP-2025-61 - LEP Map - Land Zoning - Sheet LZN_014
- 6 PP-2025-61 - LEP Map - Minimum Lot Size - Sheet LSZ_014
- 7 PP-2025-61 - LEP Map - Height of Building - Sheet HOB_014
- 8 PP-2025-61 - LEP Map - Floor Space Ratio - Sheet FSR_014
- 9 PP-2025-61 - LEP Map - Urban Release Area - Sheet URA_014

RECOMMENDATION

That Council

1. Note the Public Exhibition Engagement Report.
2. Endorse the Post Exhibition Planning Proposal Report for Planning Proposal PP-2025-61, 48 Campbell Street, Gerringong.
3. Endorse the amendments to Kiama Local Environmental Plan 2011 under s3.36(1) of the *Environmental Planning and Assessment Act 1979*.
4. Delegate to 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 final legal instrument that will give effect to this Planning Proposal.
5. 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.
6. Delegate to the Chief Executive Officer the authority to finalise the Planning Proposal by referring the final instrument to the NSW Department of Planning, Housing and Infrastructure for review and Gazettal in the Government Gazette and NSW Legislation website.
7. Note that the Planning Agreement associated with PP-2025-61 has been endorsed for finalisation. (subject of separate report to this Ordinary Council Meeting) and will be entered into prior to the finalisation of the Planning Proposal.

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

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)*.

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.

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).

The Site

The site is known as 48 Campbell Street, (Lot 2 DP 1168922), Gerringong (Figure 1). The site is immediately adjacent to the west of Elambra Estate and is currently accessed via Campbell Street. The site is zoned RU2 Rural Landscape and is predominantly used for agricultural practices. It is noted that the site is predominantly cleared, however vegetation on the site, including a large fig tree, are located adjacent to the existing rural dwellings on the site and the riparian corridor.

The eastern part of this site has been strategically identified as a potential urban expansion area in the Gerringong Charette (1995), Kiama Urban Strategy (2011), Kiama Local Strategic Planning Statement (2020) and the Kiama Local Housing Strategy (2025).

14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

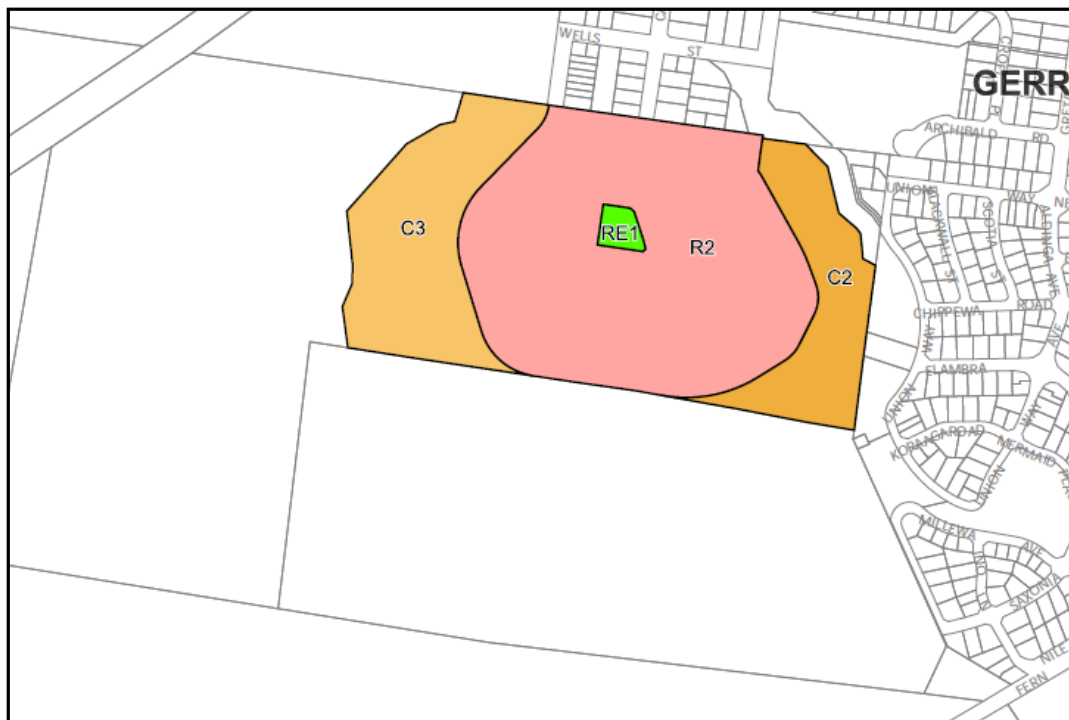


Figure 1: Land Zone LEP Map

Stage 1: Pre-lodgement Scoping proposal

A PP for this site was first submitted in 2021 (PP-2021-3536) at which time a Scoping Proposal was not required. This PP was supported by Council and a Gateway Determination issued by Department of Planning, Housing and Infrastructure (DPHI), which required the preparation of additional technical studies as well as State Agency consultation. The conditions of the Gateway (including public exhibition) were not completed within the 12-month timeframe and it lapsed in June 2022.

In November 2023 a new PP was lodged (PP-2023-1114) however there was insufficient information to support the PP at that time, and it was withdrawn by the applicant.

Council's planning team have been working collaboratively with the proponent to ensure that the various planning issues are worked through efficiently and effectively to achieve the best outcome for the site and future residents. Through this process, the applicant has offered to enter into a Planning Agreement with Council to ensure the delivery of required infrastructure and a new PP has been prepared and submitted.

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

The current PP (PP-2025-61) was submitted in January 2025 and sought to:

- Rezone part of the site to R2 Low density Residential with a minimum lot size of 450sqm, floor space ratio of 0.45:1 and 8.5m height limit.
- Rezone part of the site to C2 Environmental Conservation.
- Rezone part of the site to C3 Environmental Management.

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

-
- Rezone part of the site to RE1 Public Recreation for a future local park.
 - Identify part of the subject site as an Urban Release Area (URA) to ensure application of Part 7 of the Kiama LEP 2011 applies to the site.

The PP addressed the requirements of the previous Gateway Determination, including updated technical studies, flood modelling and the issues raised by state agencies, as well as current Ministerial Directions and NSW Guidelines. The PP was accompanied by the required technical studies.

The PP was also accompanied by a letter of offer to enter into a Planning Agreement.

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

- *Environmental Planning and Assessment Act 1979* (the Act).
- 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 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 identified by the Gerringong Charette (1995), Kiama Urban Strategy (2011), Kiama Local Strategic Planning Statement (2020), Kiama Local Housing Strategy (2025) and it is generally consistent with the Illawarra Shoalhaven Regional Plan 2041. The Objective of the PP is to rezone land to facilitate residential development.

Strategic Planning – Kiama Local Housing Strategy 2025

The Kiama Local Housing Strategy has been considered during the assessment of the PP. The site is identified as a Tier 3 greenfield development site, therefore the non-negotiable principles for greenfield development have been considered and met.

Table 1 Non-Negotiable Principles for Greenfield Development Compliance

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

Principle	Met?	Comment
Urban expansion areas are master planned to ensure each area has appropriate connections to the existing road and public transport networks.	Yes	The site is an identified growth area that has provided a master plan demonstrating connectivity to the adjoining urban areas and transport networks.
Engagement with State Government to ensure state infrastructure and services can be planned and delivered for each urban expansion areas has occurred.	Yes	Engagement has occurred with State Agencies and additional engagement will occur during the DA process.
The Sydney Water system has capacity to provide sewer and water connectivity to each urban expansion area.	Yes	The applicant has obtained a Sydney Water Feasibility Analysis confirming that there is capacity within the existing system to service this development.
Each urban expansion area is provided with mix of land use zones to ensure a diversity of housing typologies, employment lands, open space and natural areas.	In part	The size and location of this site limits opportunities for housing diversity, however, opportunities will be further explored as the development application process progresses. Open space and natural areas have been provided.
Employment lands are provided within each urban expansion to ensure local services are provided to new residents and to minimise traffic impacts and movement.	Not applicable	The site does not require employment lands to be provided on site as per the draft Employment Lands Strategy.
Financial liability to council is minimised – where land such as riparian corridors and stormwater management lands and infrastructure are proposed to be dedicated to Council, these are dedicated free of cost following rehabilitation and/or construction works, with a maintenance period and with in-perpetuity funding.	Yes	The applicant has offered to enter into a Planning Agreement under which the riparian corridors will be revegetated, maintained and then dedicated to Council with a monetary contribution for the ongoing maintenance.
Each urban expansion area is provided with useable public open	Yes	The PP proposes to provide a local park to service the new estate. The land dedication and

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

Principle	Met?	Comment
space which meets both quantum and quality standards.		embellishment will be included in the Planning Agreement.
Heritage Items and values are identified and preserved.	Not applicable	There are no known heritage items on this site.
Areas of high environmental significance are appropriately retained and managed within urban expansion areas	Yes	The riparian corridors to the east and west of the site will be protected through a Conservation zoning and revegetated as required as part of the development.

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The Objective of the PP is to provide additional residential lots that will deliver additional dwellings and residential population within close proximity to existing schools, shops and community facilities. The PP also proposes to provide the required infrastructure to support the development through a Planning Agreement, the subject of a separate Council report.

Site-Specific Merit test

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

1. The natural environment (including known significant environmental values, resources or hazards).

The PP was referred internally to Council's Engineering Team (Subdivision Engineer) for comments in relation to flooding, emergency evacuation and traffic. The updated flood modelling demonstrates that the bridge crossing achieves flood free access to the entire Urban Release Area, and shelter in place is no longer required, satisfying the Section 9.1 Ministerial Direction 4.1 – Flooding and the NSW Shelter in Place Guideline 2025. Satisfactory referral comments were provided.

The PP was referred externally to the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) and satisfactory referral comments were provided. The bridge location is supported by DCCEEW. The PP meets the Section 9.1 Ministerial Direction and the NSW Government's Shelter in Place Guideline.

2. The existing uses, approved uses and likely future uses of land in the vicinity of the land subject to the proposal.

The site is adjacent to existing residential development along Campbell Street and in Elambra Estate. Appropriate buffers, by way of perimeter roads, will ensure future residential development does not impact adjacent agricultural lands or future employment lands identified in the draft Employment Lands Strategy.

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.

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

The PP is accompanied by a Letter of Offer to enter into a Planning Agreement under Section 7.4 of the *Environmental Planning and Assessment Act 1979*.

The Letter of Offer and in principle agreement has been negotiated between staff and the applicant in accordance with Council's adopted Planning Agreements Policy.

Under the Planning Agreement the following contributions (land, works, monetary contributions) are proposed to be provided with the development:

- Delivery of a new access road and bridge crossing to Union Way/Elambra Parade.
- Delivery of a new local park (land dedication and embellishment).
- Riparian corridors (land dedication, maintenance period and a monetary contribution toward ongoing maintenance).
- Monetary contribution towards administration.

The Planning Agreement will be registered on the land title and proposes to exclude the application of section 7.12 to the development (the subdivision of land). It is worth noting that Section 7.12 contributions will still be payable for subsequent dwelling approvals.

The Planning Agreement will ensure that adequate infrastructure provision is secured.

Council's Strategic Planning Team have exhibited the draft Planning Agreement and prepared a final Planning Agreement for endorsement by Council. The Planning Agreement will be required to be entered into before the PP is finalised.

The proposal has site specific merit as it will facilitate a new Urban Release Area and is consistent with the approved uses and likely future uses of the land. The PP is consistent with all relevant State Environmental Planning Policies (see Table 2) and Section 9.1 Ministerial Directions (see Table 3) that apply to the site and recognises the natural environment. The site is in close proximity to existing services and will also provide additional infrastructure through a Planning Agreement.

State Environmental Planning Policies**Table 2 Assessment of PP against relevant SEPPs**

SEPP	Assessment
SEPP (Primary Production) 2021	The agricultural and rural land impacts of the proposal have been addressed and justified by supporting agricultural assessments. Consultation occurred with the NSW Department of Primary Industries – Agriculture to further review potential impacts on rural/agricultural lands. The applicant provided an Agricultural Assessment and Land Use Conflict Assessment (LUCRA) to address these matters. The cell design and mitigation measures consider agriculture and roaming live-stock.
SEPP (Resilience and Hazards) 2021	The site is not located in the coastal zone.

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

	Chapter 4 – Remediation of Land has been appropriately considered in the planning proposal and supporting contamination studies. These assessments have found the land can be remediated to be suitable for the intended uses. The PP proposes to dispose of some contaminants off-site and others to be contained within an on-site contamination cell located on the residue rural zoned land. Consultation occurred with the Environmental Protection Authority who have provided comments and conditions to ensure integrity of the cell and life-time perpetuity.
SEPP (Resources and Energy) 2021	The site is mapped as biophysical strategic agricultural land in this SEPP. However, the site is not impacted on by the effects of mining and coal seam gas (CSG) activity.

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Ministerial Directions**Table 3: Assessment of PP against relevant s9.1 Ministerial Directions**

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 PP is accompanied by an Aboriginal Heritage Diligence Assessment (November 2020) and an Aboriginal Cultural Heritage Assessment (prepared by Austral, last updated April 2026). The site is not identified on the Land Application map of <i>State Environmental Planning Policy (Aboriginal Land) 2019</i> . Therefore, the PP is considered consistent with Direction 1.2.
1.3 Approval and Referral Requirements	The PP does not contain any provisions that would require concurrence, consultation or referral of a Minister or public authority beyond the current framework.
1.4 Site Specific Provisions	This Direction does not reply.
Planning Systems – Place-based	
1.5 to 1.22	These directions do not apply to the Kiama LGA.

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2. Design and Place	
There are currently no Directions in this Focus Area.	
3. Biodiversity and Conservation	
3.1 Conservation zones	The PP is accompanied by an Ecological Constraints Analysis (May 2020). The Proposed C2 zoned land that overlays the Union Creek riparian area does not reduce the conservation standards that apply to the land. The PP does not seek to change the development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) of "Rural Lands". The PP does not have negative impacts on the Union Creek riparian area. The presence of a mature fig tree within the study area poses a 'High' constraint. Hollows are present, which are important habitat for native fauna, particularly microbats, many of which are threatened. The PP proposes to rezone surrounding land of the mature fig tree to retain the ecological value it holds. A Vegetation Management Plan (VMP) will be prepared to inform the revegetation of the riparian corridors and the Planning Agreement includes a maintenance period. The PP is considered consistent with Direction 3.1
3.2 Heritage Conservation	The PP is accompanied by an Aboriginal Heritage Diligence Assessment (dated November 2020) and an amended Aboriginal Cultural Heritage Assessment (dated 2 April 2026) and identified 2 artifacts of low significance: Artefact 1' (AHIMS #52-5-1018) and 'Artefact 2' (AHIMS #52-5-1019). The applicant completed consultation with Aboriginal Stakeholders. The 5 recommendations of the ACHA have been developed after considering the archaeological context, environmental information, consultation with the local Aboriginal community, and the findings of the test excavation and the predicted impact of the planning proposal on archaeological resources. The recommendations include informing the Aboriginal stakeholders about the management of Aboriginal cultural heritage within the study area throughout the completion of the project. The consultation outlined as part of the ACHA is valid for six months and must be

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	maintained by the proponent for it to remain continuous. If a gap of more than six months occurs, then the consultation will not be suitable to support an AHIP for the project. The PP is considered consistent with Direction 1.2
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. The PP is accompanied by an amended Flood Impact Risk Assessment (FIRA) (2025) Prepared by Martin and Associates which considers the Flood Risk Management Manual 2023. An access road and bridge crossing are proposed over Union Creek to Union Way (and Elambra Parade) to the east of the site in accordance with the Flood Risk Management Manual 2023. The PP only seeks to rezone areas above the PMF to residential. It is demonstrated that the proposed URA is located above the PMF level and will therefore not result in offsite impacts. The updated FIRA identifies that the proposed bridge enables flood free access for all existing residential development between Belinda Street and the site, in all events up to and including the PMF. The FIRA indicates that the proposed development will not result in adverse off-site impacts on people, property or the environment in all events up to and including the PMF. Shelter-in-place is no longer required.

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	Consideration has been given to the full range of flooding and including climate change, as larger floods may pose significant risk to the development. Council's Subdivision Engineer has reviewed the PP and the referral is satisfactory. The PP was referred externally to State Agency DCCEEW. DCCEEW provided satisfactory referral advice that sufficient information has been provided to enable appropriately informed advice from the SES on emergency management planning and subsequently for the Planning Proposal Authority to establish the consistency of the proposal with all elements of the Section 9.1 (2) Local Planning Direction - Focus Area 4: Resilience and Hazards 4.1 Flooding. DCCEEW Conservation Programs, Heritage and Regulation Group (CPHR) has no further advice for this proposal. Therefore, the PP is considered 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 PP is accompanied by a Bushfire Report (February 2023) prepared by Bushfire & Evacuation Solution and considers the Planning for Bushfire Protection 2019 (PBP). The PP recommends APZs appropriate to future residential development. The PP provides provision for public access roads, reticulated water supplies for firefighting and utility installations. The hazard areas affecting the site are assessed as low to medium risk. The primary access to the site via the existing public access roads is to the north through the existing urban landscape and away from the primary bushfire threat to the south, west and east. The PP is considered consistent with Direction 4.3.
4.4 Remediation of Contaminated Land	The PP is accompanied by a Contamination Remediation Action Plan (RAP) (February 2022) and Letter of response (dated 5 December 2025) prepared by Environmental and Natural Resource Resolutions. Part of the site is contaminated due to the historical agricultural use. The PP (and RAP) proposes that remediation of the contaminated soil will occur as a combination of off-site disposal and onsite encapsulation.

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	If an encapsulation cell is the preferred option, the RAP outlines that this will be located on residual rural land and the exportation of some soil off the URA site will be overseen by an accredited site auditor. The finalised encapsulation cell design will be prepared by an appropriately qualified engineer and is capable of being constructed in a manner which protects the agricultural productivity of the land, and at all stages the NSW EPA Accredited Site Auditor will be involved to provide further Interim Audit Advice and endorsement throughout the project. Long Term Environmental Management Plan (LTEMP): To address concerns about ongoing management, the LTEMP for the Site will be legally enforceable under the relevant legislation and developed to include protocols for the ongoing maintenance of the encapsulation cell capping layer integrity. Supported by the encapsulation cell design, the LTEMP will outline procedures which help facility ongoing maintenance by the landowner (see intermediate marker layer above). It is considered that the PP demonstrates that the site can be made suitable for the proposed rezoning to residential land and is considered consistent with Direction 4.4.
4.5 Acid Sulfate Soils	The PP considers the Acid Sulfate Soils Planning Guidelines. Class 4 and Class 5 acid sulfate soils have been identified in close proximity to the URA site, on the lower flood prone which are not proposed to be disturbed. Future development of the URA site is unlikely to significantly disturb these soils. If required, the applicant will undertake acid sulfate soil investigations as part of a future subdivision application. For the purposes of a rezoning PP, it is considered that the proposal is consistent with Direction 4.5.
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.

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	The Guidelines for planning and development have been considered in the structure plan design. The Right Place for Business and Services – Planning Policy have been considered in the structure plan design. The PP proposed an additional road and bridge crossing to provide connectivity to the adjoining urban area. Therefore, the PP is consistent with Direction 5.1.
5.2 Reserving Land for Public Purposes	The proposed Urban Release Area includes a local park which is proposed to be zoned RE1 Public Recreation. The embellishment and dedication of the local park is included in the Planning Agreement with Council. The site-specific DCP will also include the local park. This PP proposes to create a zoning of land for public purposes which is supported by Council and the Planning Secretary (through the Gateway Determination) and therefore the PP is consistent with Direction 5.2.
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 identified Urban Release Area for the rezoning of rural land to residential land. The proposed URA will be rezoned to R2 Low Density Residential, with a minimum lot size of 450sqm. The PP will facilitate residential development to allow for a mixture of housing types and design on the urban edge of Gerringong Township with connections to and efficient use of existing infrastructure and services. 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	

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7.1 Business and Industrial Zones	The new URA is proposed to be 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 planning proposal seeks to rezone a portion of land from an existing rural zone to a residential zone. The eastern part of this site has been strategically identified as a potential urban expansion area in the Gerringong Charette (1995), Kiama Urban Strategy (2011), Kiama Local Strategic Planning Statement (2020) and Local Housing Strategy 2025. The objective of this Direction is to protect the agricultural production value of rural land. The PP is accompanied by an Agricultural Assessment which indicates that all future residential development will be carried out on Class 3 land. All Class 2 land will continue to be used for agriculture purposes and will continue to support farming. The URA has been designed to protect native vegetation, cultural heritage, and water resources through the rehabilitation of the Union Creek watercourse. More information is provided in Direction 9.2. Although the PP is inconsistent with the Direction as it proposes to rezone rural land to residential, this inconsistency has been justified as the land has been

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	identified in the Kiama Local Housing Strategy which has been approved by the Planning Secretary. Therefore, the PP is considered consistent with Direction 9.1.
9.2 Rural Lands	The PP proposes future development to occur on Class 3 land only. Class 2 land will continue to be used for agricultural purposes to enable continued farming. Continued Agricultural Use of the Class 2 land will provide opportunities for investment in productive and sustainable rural economic activities. The site has strategic and site specific merit and is identified as a future urban expansion area in the Kiama Local Housing Strategy. The Agricultural Assessment and Structure Plan minimises the fragmentation of rural land, consolidation of residual agricultural land and reduces the risk of land use conflict to ensure that the objectives of this Direction are met. The on-site encapsulation cell design, mitigation measures and life-time perpetuity of the cell aim to minimize any impacts on Agricultural land and roaming live-stock. Therefore, the PP is considered consistent with Direction 9.2.
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.

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As the PP had satisfied all requirements, at the 17 June 2025 Ordinary Council Meeting, Council resolved to submit the Planning Proposal PP-2025-61 to the Department of Planning, Housing and Infrastructure for Gateway Determination, and sought to be authorised as the Local Plan Making Authority.

Stage 3: Gateway Determination – issued by DPHI

The DPHI issued a Gateway Determination on 28 July 2025 (Enclosure 1) which determined that the PP should proceed subject to the following:

The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the Act subject to the following:

- a) the planning proposal authority has satisfied all the conditions of the gateway determination;

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-
- b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the Act or the Secretary has agreed that any inconsistencies are justified; and
 - c) there are no outstanding written objections from public authorities.

The Gateway Determination included the following Conditions:

1. *Prior to public exhibition, the planning proposal shall be updated to the satisfaction Council to:*
 - (a) *update the statement of objectives to replace references to the Kiama Local Strategic Planning Statement 2020 with the Kiama Local Housing Strategy 2025;*
 - (b) *ensure the planning proposal and relevant supporting technical studies are consistent in addressing the latest version of the proposal, proposed LEP controls and Structure Plan;*
 - (c) *include a more detailed assessment of how the planning proposal is consistent with key relevant objectives and strategies in the Illawarra Shoalhaven Regional Plan 2041;*
 - (d) *address consistency with:*
 - *the Kiama Local Strategic Planning Statement – 2025 Update*
 - *the Kiama Local Housing Strategy 2025;*
 - *State Environmental Planning Policy (Resources and Energy) 2021; and*
 - *State Environmental Planning Policy (Primary Production) 2021.*
2. *Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:*
 - (a) *the planning proposal is categorised as complex as described in the Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 30 working days; and*
 - (b) *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guideline (Department of Planning and Environment, August 2023).*
3. *Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:*
 - *Sydney Water;*
 - *NSW Department of Climate Change, Energy, the Environment and Water; (this includes the Environmental Planning Authority)*

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-
- *Natural Resources Access Regulator;*
 - *Heritage NSW;*
 - *Illawarra Local Aboriginal Land Council;*
 - *Sydney Water;*
 - *Endeavour Energy;*
 - *NSW State Emergency Service;*
 - *NSW Department of Primary Industries – Agriculture; and*
 - *NSW Rural Fire Service (prior to undertaking community consultation).*

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 40 working days to comment on the proposal.

4. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*

The Gateway was issued with a 9-month timeframe and expiry date of 28 April 2026.

A 3-month extension was requested and granted by the DPHI, and the new expiry date is 31 July 2026. This extension will allow sufficient time for the PP to be finalised and for the PCO office to prepare the final instrument for Gazettal.

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

The Gateway determination included conditions requiring additional information, public exhibition and consultation with key authorities and Government agencies which have been actioned by Council staff. All conditions of Gateway have now been met.

Stage 5: Public Exhibition and Assessment

The Planning Proposal was placed on public exhibition in accordance with Council's Community Participation Plan (CPP) and the conditions of Gateway for a minimum of 31 working days. Members of the community who may be affected were notified. Referrals were also provided to the relevant state agencies.

All community and state agency submissions have been considered and the matters raised have been worked through both internally, externally and with the applicant. All concerns raised in submissions have been adequately addressed.

The submissions received, responses and any changes are provided at Enclosure 2.

A summary of key concerns raised by the community include:

- Traffic study, traffic impacts and child/pedestrian safety.
- Inadequate infrastructure.
- Flooding, stormwater run-off and wastewater impacts.
- Bridge cross-over.

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

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- Contamination and the on-site encapsulation cell.
 - Impacts on the environment, agricultural lands and visual impacts.
 - Public open space and landscaping.
 - Housing needs and Planning concerns.
 - Absence of the Gerringong Town Centre Study.

During the exhibition process, further consideration was given to the appropriate Floor Space Ratio (FSR) for the site. The PP originally proposed 0.45:1 which is the standard in Council's LEP for R2 Low Density Residential. To provide greater flexibility for dwelling diversity and some medium density across the site, this has been amended to 0.5:1. The site specific DCP will include a master plan to strategically plan any proposed medium density areas.

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

This report recommends that the PP progress to finalisation and that Council use its plan making delegations to finalise the relevant amendments to Kiama LEP 2011. The updated PP Report (post exhibition version) is provided at Enclosure 3.

To amend the Kiama LEP 2011, Council will request that the NSW Parliamentary Counsel's Office (PCO) to draft the legal instrument that will give effect to the LEP amendment, 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. This process is shown at Figure 2 below.

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14.5 Post exhibition endorsement: Planning Proposal PP-2025-61 - 48 Campbell Street Gerringong (cont)

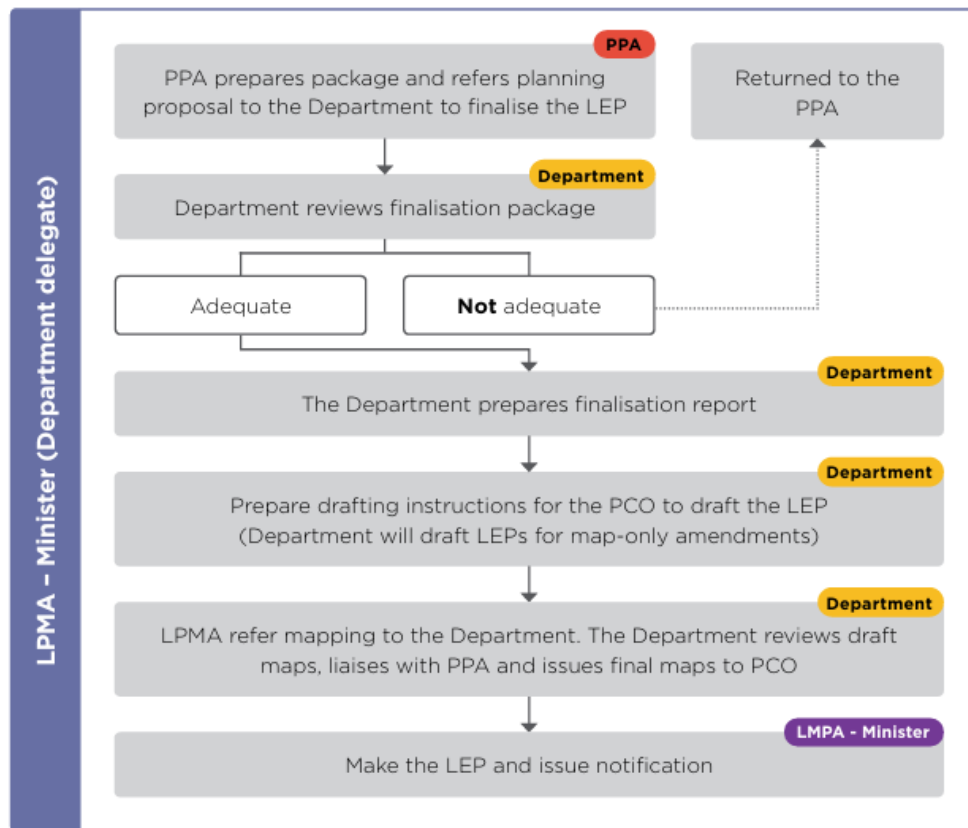


Figure 2 Extract of LEP Making Guideline – Figure 10 Finalisation stage overview

Delegations

As part of issuing the Gateway Determination, DPHI has delegated its 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 officers are satisfied that the PP has been carried out in accordance with the conditions prescribed by the Gateway Determination.

Post rezoning

Should the Planning Proposal be supported and finalised, the site will be included in the Kiama LEP 2011 as an Urban Release Area and will require a site specific Development Control Plan (DCP) Chapter to be prepared, including:

- Road network, hierarchy, typologies.
- Pedestrian and bicycle network, public transport network.
- Lot density, type and layout.
- Landscaping, public open space and tree canopy.
- Biodiversity and ecology.
- Built form control including setbacks, site coverage and parking requirements.

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Once a site specific DCP is adopted, a Development Application for subdivision and associated works can be prepared and submitted. It is noted that the Planning Agreement includes an indicative staging plan and that flood free access will be required to be satisfied for each stage. The draft DCP chapter and subdivision DA will also go on public exhibition to enable community comment.

Conclusion

This Planning Proposal seeks to amend the Kiama Local Environmental Plan 2011 and to rezone part of 48 Campbell Street, Gerringong to create a new Urban Release Area to enable urban development including approximately 147 residential lots, open space, riparian corridors and associated infrastructure.

It is recommended that Council resolve to support finalisation of the Planning Proposal PP-2025-61 and submit it to 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 Department for review and Gazettal in the Government Gazette and NSW Legislation website. The Kiama LEP 2011 will then be amended and the relevant maps updated.

14.6 Submission: Proposed statewide Community Participation Plan (CPP)

CSP Objective: Outcome 3.3: We love where we live and are strongly connected within our region. Growth and development will be managed sustainably, thoughtfully and equitably, while preserving our built and natural heritage.

CSP Strategy: 3.3.2 Manage development and growth sustainably and thoughtfully.

Delivery Program: 3.3.2.1 Council meets the legislative requirements for Planning and Assessment.

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Summary

The NSW Government has released the proposed Statewide Community Participation Plan (CPP) for public exhibition and is inviting feedback.

Under the *Environmental Planning and Assessment Act 1979*, each planning authority, including the NSW Department of Planning, Housing & Infrastructure (DPHI) and each individual council, is currently required to prepare its own CPP. As part of the NSW Planning Reform program, the Government proposes to replace these individual plans with a single Statewide CPP to provide consistent and transparent consultation requirements across all Councils.

A CPP outlines how and when councils engage with the community and stakeholders on planning-related applications and decisions. It operates alongside a Council's Community Engagement Strategy (CES), which covers engagement on all other council matters.

This report summarises the proposed changes and seeks Council's endorsement to lodge the attached submission (Enclosure 1).

Financial implication

There are no direct financial implications associated with preparing or lodging the submission. There may be a financial impact to Council if the Statewide CPP is implemented as this would result in less notification fee income and less notification costs.

Risk implication

There are no direct risk implications associated with preparing or lodging the submission. As noted in the comments below, there are risks associated with the proposed changes including reduced community consultation and input into planning matters, as well as potential legislative risk if the CPP is unclear and notification/exhibition does not occur correctly, which could lead to third party appeals in the development assessment process.

Policy

The following were considered when preparing the submission:

- *Environmental Planning and Assessment Act 1979.*
- *Environmental Planning and Assessment Regulation 2021.*

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14.6 Submission: Proposed statewide Community Participation Plan (CPP) (cont)

- *Local Government Act 1993*
- Council's Community Participation Plan 2019.
- Council's Community Engagement Strategy 2024-2028.

Consultation (internal)

The submission was prepared by the Planning and Development team and the Communications team were consulted.

Communication/Community engagement

The proposed Statewide Community Participation Plan is on public exhibition by the NSW Government until 3 June 2026.

Attachments

Nil

Enclosures

- 1 Submission on Proposed Statewide Community Participation Plan

RECOMMENDATION

That Council endorse the lodgement of the submission to the NSW Government in response to the "Have your say: Proposed Statewide Community Participation Plan" (Enclosure 1).

Background

Statutory context

In NSW, the *Environmental Planning and Assessment Act 1979* (the Act) provides the regulatory framework for planning decisions including the assessment of development applications, making of planning instruments (LEPs), and strategic planning.

Section 1.3 (h) of the Act sets out that a key objective of the Act is "*to provide opportunities for participation in environmental planning and assessment.*"

Division 2.6 of the Act sets out the mandatory requirements for community participation by planning authorities when carrying out relevant planning functions. The mandatory requirements include public exhibition for a minimum period, public notification requirements and the giving of reasons for decisions by planning authorities. The *Environmental Planning and Assessment Regulation 2021* (the Regulation) may also require community consultation by applicants for consents or other approvals.

Currently, each council is required to prepare a CPP outlining how and when it will undertake community participation when exercising local planning functions.

This is based on the following principles:

- a) *The community has a right to be informed about planning matters that affect it.*

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14.6 Submission: Proposed statewide Community Participation Plan (CPP) (cont)

- b) *Planning authorities should encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning.*
- c) *Planning information should be in plain language, easily accessible and in a form that facilitates community participation in planning.*
- d) *The community should be given opportunities to participate in strategic planning as early as possible to enable community views to be genuinely considered.*
- e) *Community participation should be inclusive and planning authorities should actively seek views that are representative of the community.*
- f) *Members of the community who are affected by proposed major development should be consulted by the proponent before an application for planning approval is made.*
- g) *Planning decisions should be made in an open and transparent way and the community should be provided with reasons for those decisions (including how community views have been taken into account).*
- h) *Community participation methods (and the reasons given for planning decisions) should be appropriate having regard to the significance and likely impact of the proposed development.*

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Kiama Council's CPP was adopted in 2019 and can be viewed on Council's website here: <https://www.kiama.nsw.gov.au/Council/Plans-and-strategies/Community-Participation-Plan>. This policy document is currently due for review, however the review has not commenced due to the incoming Statewide CPP.

Note: Council's Community Engagement Strategy (CES) was adopted in 2024 and can be viewed here: <https://www.kiama.nsw.gov.au/Council/Plans-and-strategies/Community-Engagement-Strategy>. The CES is currently being reviewed and the outcome of the Statewide CPP reforms will be referenced in the CES.

Planning Reforms

As part of the NSW Planning Reform program the NSW Government is proposing several changes to the NSW planning system. The latest reforms propose changes to the community participation process for planning and development matters, which are set out in a CPP. A CPP sits alongside a Council's CES which sets out how a council will engage with the community on all other matters.

The NSW Government notes that the proposed Statewide CPP reforms “.. will simplify the planning process with quicker decision-making focusing on outcomes for individuals, businesses, councils, and government – helping to deliver more homes, jobs, and services for communities across NSW.”

As part of the reforms, the NSW Government will be replacing each council's CPP with a single Statewide plan to ensure consultation requirements are clear and consistent across the State.

The proposed Statewide CPP is currently on public exhibition and can be viewed at: <https://www.planningportal.nsw.gov.au/draftplans/exhibition/have-your-say-proposed-statewide-community-participation-plan>

Feedback on both documents can be provided until 3 June 2026.

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14.6 Submission: Proposed statewide Community Participation Plan (CPP) (cont)

Proposed Statewide CPP

The proposed Statewide CPP is intended to standardise public exhibition timeframes across the State and provide certainty for all stakeholders who interact with the planning system.

It is noted that Schedule 1 of the Act already achieves this, in the most part.

The draft CPP as exhibited, primarily reflects the minimum exhibition periods outlined in Schedule 1 and provides a large volume of development types exempt from needing to be notified.

The proposed statewide CPP addresses the following local planning functions:

- **State planning framework**
- **Strategic Planning** – regional, district and local strategic plans, land use planning (Planning Proposals, Development Control Plans etc)
- **Development Assessment**
- **Complying Development.**

The enclosed draft submission has been prepared by staff in response to the NSW Department of Planning, Housing & Infrastructure (DPHI) call for submissions in relation to the Statewide CPP.

The submission (Enclosure 1) provides comments on the following:

1. General Feedback

It is noted that the draft CPP may inconsistent with Section 2.22 of the EP&A Act.

The mandatory requirements contained in Division 4 and clause 17 of Part 1 of Schedule 1 of the EP&A Act are not included in draft Statewide CPP. It is noted that the requirements to provide notification of the determination by a consent authority, including the Minister, are not included in the draft Statewide CPP. The *Environmental Planning and Assessment Amendment Bill 2025* does not make any changes to Division 4 of Part 1 of Schedule 1.

Kiama Council's current CPP and CES set out *how* and *when* Council will engage with its community. The specifics on *how* and *when* Council will engage with its community is not included in the proposed Statewide CPP, only the *how long* it will engage for is included. The absence of this direction may result in further inconsistencies and could be avoided if included.

On page 6 of the draft Statewide CPP it is stated that "An engagement strategy prepared by a planning authority must be consistent with the Community Participation Plan...". Councils are required to prepare Community Engagement Strategies (CESs) as per section 402A of the *Local Government Act 1993* (LG Act). Section 406 of the LG Act outlines that, via the regulations, CESs are to be prepared in accordance with the NSW Government's 'Integrated Planning and Reporting Guidelines'. Section 2.5 of these Guidelines states:

Where a council has community engagement requirements under other legislation or regulations, these should, wherever practical, be integrated into the Community Engagement Strategy.

CESs are prepared under the LG Act and the informing guidelines do not require that a CES must be consistent with the CPP only that councils should, wherever practical, integrate the CPP into the CES.

Staff are concerned that the draft CPP overreaches its legal standing and influence. The draft CPP seeks to influence the content of Council's Community Engagement Strategy, which is prepared in accordance with the *Local Government Act 1993* (LG Act) and the NSW Government's 'Integrated Planning and Reporting Guidelines'.

There are inconsistencies in the use of the word 'days' and therefore notification periods across the NSW planning framework including legislation, proposed Statewide CPP, and LEP Making Guideline. The proposed Statewide CPP notes that "*timeframes are measured in calendar days and include weekends*" which indicates that public holidays are included in the timeframe.

The submission puts forward a consistent definition for "days" that could be used across all NSW planning matters, which would exclude public holidays and weekends. This is based on the *Interpretation Act 1987* and the Christmas / New Year exclusion period as per Schedule 1 cl 16 of the EP&A Act.

2. Content Specific Feedback

○ *State planning framework*

While the draft CPP does not expressly seek to make changes to the current arrangements for the exhibition of matters within the State planning framework (i.e. amendments to Act or State Environmental Planning Policies (SEPPs) etc.) the enclosed submission does raise concerns with the current practice. Currently the Department publish Explanations of Intended Effects when proposing changes to SEPPs. Explanations of Intended Effects are not draft environmental planning instruments and are therefore not required to be considered when assessing Development Applications or included in Planning Certificates.

The draft CPP also indicates that Explanations of Intended Effects may be exhibited unless decided otherwise due to the urgency, scale or nature of the proposal. This statement contradicts the objective of the CPP to empower local communities in the planning process.

○ *Strategic planning*

As part of the NSW Planning Reforms, the objects of the EP&A Act were updated in November 2025 and embed proportionality into planning processes and decision-making, ensuring that assessment efforts respond to the scale and impact of development proposals. This means that there will be greater emphasis on community participation earlier in the planning process. This is now being implemented through the proposed Statewide CPP which proposes to increase the timeframes for strategic planning as follows:

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Strategic Plan	EP&A Act Schedule 1	Kiama Council CPP 2019	Proposed Statewide CPP
Local Strategic Planning Statement (LSPS)	Minimum 28 days	Minimum 28 days	Minimum 60 days
Precinct plans / Master plans / Structure plans	Not legislated	Not specified	42 days (can be varied)
Planning Proposals (PPs)	As per Gateway, or 28 days	As per Gateway, or 28 days	As per Gateway, or 28 days
Development Control Plan (DCP)	Minimum 28 days	Minimum 28 days	Minimum 28 days
Contributions Plan	Minimum 28 days	Minimum 28 days	Minimum 28 days

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While staff are generally supportive of the changes included in the draft CPP it is noted that prescribing a blanket minimum 60 day exhibition period for LSPSs may have unforeseen consequences. For example, as part of exhibiting the Draft Local Housing Strategy a minor amendment to the LSPS was proposed to remove completed actions, and these were both exhibited for 28 days. In this instance it would have been impractical and unnecessary to exhibit the minor amendments to the existing LSPS for longer than the draft Local Housing Strategy.

The CPP should also include a timeframe for non-legislated notifications for other planning policies, strategies and documents (ie Local Housing Strategy, Rural Lands Strategy).

It is noted that the proposed Statewide CPP may be inconsistent with the LEP Making Guidelines and an update to the Guideline is being considered. Should the Guideline be updated, it is suggested that the “days” be updated to be consistent (see comment on the definition of ‘days’ above). It is also suggested that the draft CPP contain different exhibition periods for the different types of Planning Proposals (i.e. Basic, Standard, Complex and Principal).

It is noted that these timeframes may be varied on occasions where a governance priority or administrative requirement requires immediate action. No clarity has been provided in the draft CPP on what would constitute a priority, therefore this appears to contradict the CPP’s objective for transparency.

- *Development assessment*

While the draft CPP includes increases in exhibition periods for strategic planning matters, it makes a significant volume of Development Applications (DAs) exempt from public participation.

Although Schedule 1 of the Act sets out minimum timeframes for the exhibition of certain applications are notified. It is acknowledged that this has resulted in

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inconsistencies across the State as what constitutes 'low impact' differs across the State, as it should.

The proposed Statewide CPP Discussion Paper notes that '*Development types exempt from public exhibition and notification will allow development to be assessed quickly, reducing the administrative burden on councils and supporting their alignment with the Minister's Statement of Expectations and the NSW Government's Faster Assessments program*'.

Although Council's current CPP lists circumstances where certain development is exempt from having to be publicly exhibited, this is limited to the following:

- Single-storey residential outbuildings and single-storey residential additions and alterations that comply with the relevant height, floor space ratio, setback and cut & fill requirements.
- Subdivision of existing buildings (i.e. the subdivision of an existing dual occupancy etc.).
- Changes from one commercial use to another, excluding changes for licensed premises.
- Modification applications fixing a minor error (i.e. wrong plan numbers, error in approval etc.).
- Modification applications involving minor environmental impact where no public submission/s was received to the original development application.
- Review of planning decision where no public submission/s was received to the original development application.

The proposed Statewide CPP however, proposes that a significantly greater range of developments be exempt from notification. An extract of the proposed Statewide CPP is provided below for Residential development:

Exemptions apply for certain development types, listed in Table 6, where the development:

- *is permissible in the relevant zone;*
- *meets the relevant planning controls in a local environmental plan, development control plan and/or state environmental planning policy; and*
- *does not include a 4.6 variation.*

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Table 6: Development exempt from public exhibition and notification

Residential and related uses	
• Alterations – Internal alterations • Alterations and additions existing dwellings • Ancillary development (such as pools, sheds, farm buildings) • Boundary adjustment • Demolition (excluding heritage items) • Exhibition Homes and Villages • Group homes • Heritage item – minor works that does not impact item and is located behind the front façade • Residential flat buildings*	• Moveable dwellings • New single and two storey dwellings, dual occupancies and attached dwellings • Temporary structures • Rural workers dwellings • Secondary dwellings • Strata and Stratum subdivision • Tree removal where they are not heritage items • Home business and/or home occupation • Shop top housing*

*a pre-commencement of works notification to adjoining neighbours is required 7 days before works commence.

An extract of the proposed Statewide CPP for non-residential development is provided below:

Primary production and rural development	
• Agritourism • Commercial farm	• Extensive agriculture • Farm buildings
Commercial development	
• Alterations and additions • Change of use • Take away food and drink premises	• Kiosks • Roadside stalls • Signage
Industrial development	
• Change of use	• Industrial retail outlets
Community, health, education, recreational and other infrastructure	
• Alterations – internal and external • Environmental facility	• Environmental protections works
Tourist and Visitor accommodation	
• Bed and Breakfast accommodation	• Farm stay accommodation

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Other	
Modifications involving minimal environmental impact	• Applications made under section 4.55(1) of the EP&A Act. • Applications made under section 4.55(1A) of the EP&A Act. • Applications made under section 4.56 of the EP&A Act with minimal environmental impact.
Application for the review of a determination or decision of a consent authority (Division 8.2 Reviews)	• Reviews where the application has not been amended pursuant to section 8.3(3) of the EP&A Act.

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The submission puts forward comments on these proposed exemptions, and the practicality of determining whether an application needs to be notified at the time of lodgement.

- *Complying development.*

The submission has no specific comment on complying development as these are not required to be notified in the Kiama LGA.

Conclusion

As part of the NSW Planning Reform program, the NSW Government is proposing to implement a Statewide Community Participation Plan (CPP) which will set out how Councils will engage the public in their planning related decision-making.

Although the proposed Statewide CPP is supported as it will provide a single, consistent CPP for all Council's in NSW, the proposed changes are significant and require careful consideration when considering the communities engagement with planning and growth matters. Perceived reductions in engagement may yield adverse community reactions.

It is recommended that Council endorse the comments on the proposed Statewide CPP (Enclosure 1) for lodgement as a submission to the NSW Government.