15 REPORT OF THE DIRECTOR STRATEGIES AND COMMUNITIES

15.1 Determination of DA 10.2026.77.1: Lots 1-4 SP85556 and Lot 3 DP 250726 - 110-114 Terralong St, Kiama - Amending DA to 10.2023.134.1 (LEC No.2024/67616)

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 10.2026.77.1 for an amending DA to 10.2023.134.1 (LEC No. 2024/67616) for the demolition of existing structures and construction of a mixed-use (shop top housing) building comprising ground floor car parking, one (1) commercial tenancy, and nine (9) residential units. including two (2) affordable housing units at Lots 1-4 SP 85556 and Lot 3 DP 250726 – 110-114 Terralong Street, Kiama.

Development Application 10.2026.77.1 is being reported to Council because it proposes a clause 4.6 variation to s16(3) (Building height limit) of State Environmental Planning Policy (Housing) 2021 of 16.85%. 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 support the clause 4.6 variation to building height limit and 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 Development Application is refused, the determination may be challenged in the NSW LEC.

If Council determines to refuse the application, the subject of this report, valid planning reasons must be provided.

Policy

The statutory instruments relevant to the development include the following:

- *Environmental Planning and Assessment Act 1979.*
- *Environmental Planning and Assessment Regulation 2021.*
- *State Environmental Planning Policy (Housing) 2021.*
- *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

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

Communication/Community engagement

The application was lodged before the adoption of the Department of Planning, Housing and Infrastructure statewide Community Consultation Plan and as such, consultation 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.
- Making all information publicly available on Council's DA Tracker between 11 May 2026 and 8 June 2026.

No submissions were received in response to the DA.

Attachments
Nil

Enclosures

1 10.2026.77.1 - Section 4.15 Assessment Report⇨

2 10.2026.77.1 - Comparison plans⇨

3 10.2026.77.1 - Draft Notice of Determination - Approval⇨

RECOMMENDATION

That Council:

1. Support the request to vary State Environmental Planning Policy (Housing) 2021, s16(3) (Building height limit) made pursuant to cl.4.6 of Kiama LEP 2011

for Development Application No 10.2026.77.1 (PAN-634293) at Lots 1-4 SP 85556 and Lot 3 DP 250726 – 110-114 Terralong Street, Kiama

2. Approve, subject to conditions of consent set out in enclosure 3, Development Application No 10.2026.77.1 (PAN-634293) at Lots 1-4 SP 85556 and Lot 3 DP 250726 – 110-114 Terralong Street, Kiama

Background

APPLICATION DETAILS	
Application Type:	Development Application
Application Number:	10.2026.77.1
NSW ePlanning Portal Reference:	PAN-634293
Proposed Development:	Demolition and new shop top housing - An amending DA to 10.2023.134.1 (LEC No.2024/67616) for the demolition of existing structures and construction of a mixed-use (shop top housing) building comprising ground floor car parking, one (1) commercial tenancy, and nine (9) residential units.
Applicant:	The Trustee for Sky Property and Planning Trust
Property title:	LOTS: 1 – 4 SP: 85556 LOT: 3 DP: 250726
Property address:	110 Terralong Street, Kiama 114 Terralong Street, Kiama

The Site

The subject site consists of two lots being 110 Terralong Street (SP 85556) and 114 Terralong street (Lot 3 DP 250726) which have frontages to Terralong Street, Collins Street and Rosebank Place. Number 110 Terralong Street contains an existing commercial building comprising four strata title units and also includes an awning and balcony within road reserve. Number 114 Terralong Street contains an existing commercial building.

The site is situated on the south-west corner of the intersection of Terralong and Collins Street and is opposite Hindmarsh Park and the ANZAC Memorial Arch to the north-east.

The surrounding area is mixed in character and the site is adjoined by commercial development to the north, east and west and residential development to the south.



Figure 1: Aerial imagery of subject site

The Proposed Development

The application is for an "amending DA" to DA10.2023.134.1. The amending DA seeks to amend the approved development design and comprises the following amendments:

- Redesign of an approved mixed-use development
    - Redesign of building to address structural and constructability issues with the originally approved development.
    - Additional shop top housing storey and inclusion of one (1) additional apartment (resulting in nine apartments total). The revised design includes two (2) affordable housing units and seeks to utilise affordable housing bonuses available under *State Environmental Planning Policy (Housing) 2021*.
    - Removal of one (1) commercial tenancy from the ground level.
    - Removal of basement parking levels and replacement with at-grade car-lift style parking arrangement.
    - General design amendments.

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. Amending DA and previous LEC approval.

2. Clause 4.6 variation to s16(3) of State Environmental Planning Polic (Housing) 2021 – Building height limit.
3. State Environmental Planning Policy (Housing) 2021 – Affordable housing bonuses.
4. Compliance with planning controls, environmental planning instruments and Kiama DCP 2020.

Amending DA and previous LEC approval

The application is for an "amending DA" to DA10.2023.134.1 which was approved by the Land and Environment Court on 1 November 2024 through the s34 conciliation conference process between the parties (LEC No.2024/67616).

The amending DA seeks to amend the approved development design, including changes to the building design and car parking arrangements, changes to the ground floor commercial tenancies, inclusion of one (1) additional apartment and provision of two (2) affordable housing units, increases in height and number of storeys, as well as general design amendments.

An "amending DA" is a development application that seeks to modify development in an already approved development consent by proposing changes but does not operate under section 4.55 of the *Environmental Planning and Assessment Act 1979* – in which modification applications do. An amending DA is not subject to the same "substantially the same development" test that is required for modification applications under section 4.55.

As per s4.12(1) of the *Environmental Planning and Assessment Act 1979*, *"A person may, subject to the regulations, apply to a consent authority for consent to carry out development."*, as explored in the judgement of *Gordon & Valich Pty Ltd v City of Sydney Council* [2007] NSWLEC 780, this means that a development consent is not itself "development", rather it is an approval that authorises certain works or uses. As such an "amending DA" doesn't specifically "amend" an existing development consent, rather it seeks approval for carrying out of development which may as a consequence amend or override an existing development consent.

The Statement of Environmental Effects and plans submitted with the application note the schedule of changes with seek to revise, alter and amend elements of the development as approved in DA10.2023.134.1; the proposal retains a built form layout, in particular levels 2 and 3, and awning, that is similar and generally consistent with that approved under DA10.2023.134.1, and also maintains elements of the approved development including demolition of existing structures.

Council staff are satisfied that the application seeks consent to carry out development which has the effect of amending the previous development consent DA10.2023.134.1 and therefore can be considered as an "amending DA".

State Environmental Planning Policy (Housing) 2021 – Affordable housing bonuses

Section 16 of SEPP (Housing) 2021 allows for additional building height and increased floor space ratio (FSR) where a development provides an affordable housing

component with the objective of the SEPP being to facilitate the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

In order to utilise the affordable housing bonuses available under the SEPP, a development must satisfy the pre-requisites of providing at least 10% of the development as affordable housing, and being within either an accessible area (i.e. in suitable proximity to public transport options) or within 800m walking distance of a commercial or mixed-use zone.

The subject site satisfies the pre-requisites, providing 25% of the development as affordable housing and being located within the E1 Local Centre zone.

The SEPP allows for increased FSR and additional building height using the following calculation, up to a maximum of 30%.

Kiama LEP 2011 sets a FSR of 2:1 for the site. Using the affordable housing provisions, the allowable FSR would be 2.6:1. The application proposes an FSR of 2.49:1 and complies with the FSR development standards as afforded under s16 of the SEPP.

Kiama LEP 2011 sets a FSR of 2:1 for the site. Using the affordable housing provisions, the allowable FSR would be 2.6:1. The application proposes an FSR of 2.49:1 and complies with the FSR development standards as afforded under s16 of the SEPP.

Kiama LEP 2011 sets a building height limit of 14.3 for the site. Using the affordable housing provisions, the allowable building height is 18.59m. The application proposes a peak building height of 21.723m which has been applied for pursuant to a clause 4.6 variation. As noted below, the majority of the encroachment beyond the additional permitted building height is related to the rooftop elements being the lift overrun, fire stairs, rooftop plant and equipment, rainwater tanks, accessible unisex rooftop communal bathroom, planter boxes, rooftop pool and dividing walls that separate and provide privacy between private rooftop terraces and common open space.

The current application seeking to increase building height and scale whilst providing an affordable housing component is consistent with intent of the NSW Government in-fill affordable housing reforms as implemented through the SEPP which seek to encourage private developers to build more affordable housing and housing in general.

In accordance with s82 of the *Environmental Planning and Assessment Regulations 2021*, conditions of consent will require the affordable housing component of the development be used for affordable housing and managed by a community housing provider for a period of 15 years commencing on the day on which an occupation certificate is issued.

Clause 4.6 variation to s16(3) of State Environmental Planning Policy (Housing) 2021 - Building height limit

The application seeks to vary the s16(3) development standard for building height limit under SEPP (Housing) 2021 pursuant to clause 4.6 of Kiama LEP 2011. The building

height of 14.3m as set by Kiama LEP 2011 is uplifted to 18.59m utilising the affordable housing bonuses under SEPP (Housing) 20211. The proposal seeks a 16.85% variation to the uplifted building height limit afforded under the SEPP.

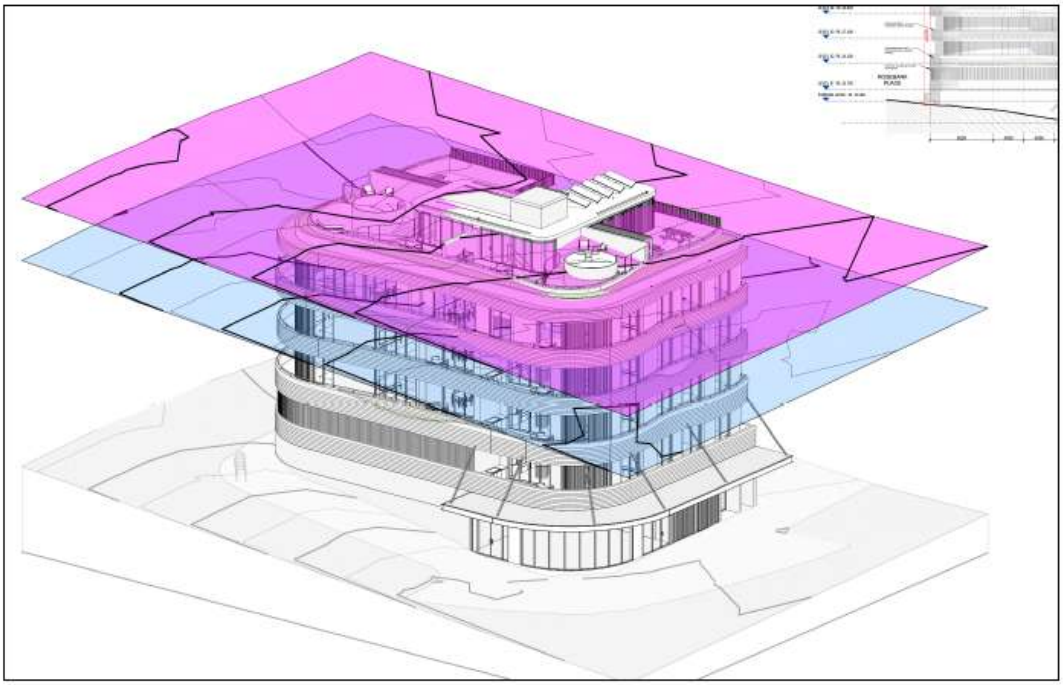


Figure 2: Height blanket diagram showing building height encroachments, and Kiama LEP mapped height (blue) of 14.3m and permitted building height under SEPP (Housing) 2021 (purple) of 18.58m

The application has been supported by a clause 4.6 variation statement and the application demonstrates that compliance with the building height development standard is unreasonable in this instance for the following reasons:

- The areas of encroachment generally arise due to the fall of the land. It would not be a practical or a more appropriate outcome to minimise building height encroachments through a stepping down of the built form to follow the existing ground level and slope of the land in this instance given the site area and site dimensions; this would create split levels within the development and result in an impractical building design and layout.
- The areas of encroachments are mainly functional rooftop elements located more centrally within the rooftop area and do not substantially contribute to overall bulk and scale of the building.
- Considering this is an amending DA to DA10.2023.134.1 and that a 2.375m (16.96%) building height encroachment was approved for the decorative turret, lift enclosure, pergola and parapet, the relative rooftop/building encroachments are similar to that approved in DA10.2023.134.1. The current amending DA seeks to amend the building design, but also to increase the number of apartments and number stories of the building from four stories to five stories, through utilising the affordable housing bonuses available under SEPP (Housing)

2021. Both the approved and proposed design include rooftop elements that encroach beyond the building height limit, and it is reasonable to expect similar encroachments where the SEPP bonus provisions fundamentally encourage increased building height and insertion of an additional storey to facilitate an affordable housing outcome. The percentage exceedance between DA10.2023.134.1 and DA10.2026.77.1 are effectively equivalent and proportional.

- The proposed development is consistent with the objectives of the E1 Local Centre zone and the objectives of clause 4.3 – Height of Buildings, in that the development is in keeping with the desired scale and character of the street and local area, accepting bonuses for building height and floor space ratio available under SEPP (Housing) 2021. The building height encroachments do not create significant adverse overshadowing impacts and the proposal maintains reasonable daylight to adjoining development and the public domain.
- The proposal is consistent with the objectives of Chapter 2 Part 2 Division 1 of SEPP (Housing) 2021 in facilitating the delivery of new in-fill affordable housing to meet the needs of very low, low and moderate income households.

The application also demonstrates sufficient environmental planning grounds to justify contravention of the development standard being:

- The majority of and most significant encroachments are functional elements of the building being the lift overrun, fire stairs, rooftop plant and equipment, rainwater tanks, accessible unisex rooftop communal bathroom and dividing walls that separate and provide privacy between private rooftop terraces and common open space.
- Similar encroachments were approved in DA10.2023.134.1 and the extent of proposed encroachments in this application are effectively equivalent and proportional to those approved, whilst also considering height bonuses under SEPP (Housing) 2021.
- Encroaching elements such as the roof top planter boxes positively contribute to the overall design quality of the development by softening the building and contributing to the lightweight design. These elements and the location of landscaping on the rooftop assists in combatting urban het island effects within the urban centre, stormwater management and contributing to high-quality rooftop open space.
- The proposal is consistent with the objects of the *Environmental Planning and Assessment Act 1979* specifically by:
    - promoting the supply and delivery of housing and affordable housing within a well-located and accessible area,
    - promoting good design, amenity and property construction and maintenance of built environments, including the protection of the health and safety of the occupants of buildings, through emphasis of the prominent

corner location and provision of active ground floor commercial uses and housing within the Kiama town centre, and

- promoting, the orderly and economic use and development of land.

The proposed variation to building height limit is considered to be well-founded in this instance.

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

The proposal is generally consistent with the applicable planning controls, environmental planning instruments and general controls within Kiama DCP 2020.

Of note, Topic 12.7 in Chapter 12 of Kiama DCP 2020 sets built form outcomes within the Kiama town centre, indicating appropriate heights and building scale. The DCP does not contemplate bonuses and non-discretionary standards established under other environmental planning instruments such as SEPP (Housing) 2021.

Despite the prescriptive nature of the building height controls in Topic 12.7, these are outweighed and prevailed by in bonuses available under SEPP (Housing) 2021. The provision of affordable housing component in this development increases the building height limit from 14.3m under Kiama LEP 2011 to 18.59m under the SEPP. Correspondingly height, scale and number of storey controls set out in Kiama DCP 2020 should be similarly uplifted in line with the height bonuses available under the SEPP.

A detailed assessment of the proposal is included in the Section 4.15 Assessment Report (enclosure 1).

Options

1. Adopt the recommendation thereby granting approval to the application, subject to conditions in enclosure 3.
2. Refuse the application and provide reasons.
3. Adopt an alternative recommendation and provide reasons.

Conclusion

A comprehensive assessment of the Development Application has been undertaken under section 4.15 of the *Environmental Planning and Assessment Act 1979* (enclosure 1) in accordance with all statutory requirements.

It is recommended that the cl4.6 variation to building height limit be supported and the application be determined by way of approval subject to conditions of consent set out in enclosure 3.

15.2 Endorse for Gateway: Planning Proposal PP-2026-1733 - 25 Cole Street Kiama and Lot 514 DP 1066359

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 support of Planning Proposal PP-2026-1733 to proceed to Gateway determination. A Planning Proposal (PP) is the process to amend the zoning or development standards in Council's Local Environmental Plan (LEP).

This PP seeks to amend the Kiama LEP 2011 to rezone part of 25 Cole Street Kiama (Lot 1 DP1231462) from RU2 Rural Landscape to R2 Low Density Residential to facilitate approximately 9 residential allotments on the western portion of the site, and the remainder of the site to C2 Environmental Conservation and C3 Environmental Management to ensure the protection and management of the environmental values of the site. The PP also seeks to reclassify Lot 514 DP1066359 from Community to Operational land and make minor mapping corrections to part of the land and road.

It is recommended that Council endorse Planning Proposal PP-2026-1733 (Enclosure 1) and submit it to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway determination. If a Gateway Determination is made by way of approval, the Planning Proposal would be placed on public exhibition to enable community, stakeholder and state agency consultation to occur.

Financial implication

The *Planning Proposal Stage 1 – Minor* fee has been paid by the proponent in accordance with the current adopted Fees and Charges 2026-27. Should the PP progress as recommended in this report, the *Planning Proposal - Stage 2 – Minor* fee will become payable.

Risk implication

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

Policy

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

- *Environmental Planning and Assessment Act 1979.*

- Local Environmental Plan Making Guideline, DPHI, July 2026.
- Illawarra Shoalhaven Regional Plan 2021 (DPHI, 2021).
- Draft The Illawarra Shoalhaven Plan (exhibited by DPHI 2026).
- Kiama Council's Community Engagement Strategy, 2025.
- NSW Statewide Community Participation Plan 2026.
- Kiama Council's Local Strategic Planning Statement, 2020 (updated 2025).
- Kiama Council's Local Housing Strategy, 2025.

Consultation (internal)

Planning and Development team, Property Coordinator.

Communication/Community engagement

Should the Planning Proposal be supported and Gateway Determination issued by the DPHI, the determination will outline the duration and extent of public exhibition required with the community, and which state agencies Council must consult with.

The LEP Making Guideline recommended period of public exhibition for a 'Standard' Planning Proposal is 20 working days (ie 28 calendar days). The Planning Proposal will be exhibited in accordance with the Gateway requirements.

During the exhibition period a referral will be made to the SES for comments about the proposed shelter-in-place flooding response, as well as review of the Flood Emergency Evacuation Plan provided by the applicant during the assessment period.

The reclassification process will also require a Public Hearing to be held.

Attachments
Nil

Enclosures

1 PP-2026-1733 - 25 Cole Street Kiama - Planning Proposal Report⇨

2 PP-2026-1733 - 25 Cole Street Kiama - Assessment Report⇨

3 PP-2026-1733 - 25 Cole Street Kiama - Land Use Zone Map⇨

4 PP-2026-1733 - 25 Cole Street Kiama - Lot Size Map⇨

5 PP-2026-1733 - 25 Cole Street Kiama - Floor Space Ratio Map⇨

6 PP-2026-1733 - 25 Cole Street Kiama - Height of Buildigs Map⇨

RECOMMENDATION

That Council:

1. Endorse Planning Proposal PP-2026-1733 for the purpose of seeking Gateway determination
2. Submit the Planning Proposal to the Department of Planning, Housing and Infrastructure for a Gateway determination.

3. Seeks to be authorised as the Local Plan Making Authority, when submitting the Planning Proposal for a Gateway determination.
4. Undertake and comply with any conditions, including public exhibition and consultation with the community, key authorities and government agencies, as required by any Gateway Determination.
5. Receive a further report regarding the finalisation of the Planning Proposal.

Background

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

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, July 2026). 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 DHPI.

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 PP includes both Lot 1 DP 1231462 (25 Cole Street Kiama) and Lot 514 DP 1066359 (public reserve) as shown at Figure 1.



Figure 1. Subject Sites (aerial view)

25 Cole Street Kiama (Lot 1 DP1231462)

As shown at Figure 2, this lot is a triangular, irregular-shaped allotment of land situated to the east Cole Street Kiama and adjoining the recently endorsed 2 Caliope Street rezoning. The site is predominately zoned RU2 Rural Landscape and C2 Environmental Conservation, with a small area of R2 Low Density Residential. It is noted that the site currently contains a dwelling and associated structures, and seven (7) drystone walls in varying conditions throughout the site.



Figure 2. Subject Site – 25 Cole Street (current land use zonings)

The western part of the site has been strategically identified as a suitable site for residential development in Council's Local Housing Strategy (see Figure 3). The remainder of the site contains environmentally sensitive land that is proposed to be preserved for conservation and is not suitable for housing.



Figure 3. Portion of 25 Cole Street identified in Local Housing Strategy

Public Reserve (Lot 514 DP 1066359)

As shown in Figure 4, this rectangular shaped piece of land to the east of Cole Street is currently identified as a public reserve. The lot is zoned as R2 Low Density Residential and classified as community land.

The lot is predominantly used as informal carparking by local residents and does not provide productive or effective use of a public reserve, therefore has been assessed as negligible loss of public open space. The existing R2 Low Density residential zone of the land means that the site is suitable for dwelling houses.

It is therefore recommended that Lot 514 be reclassified from community to operational land, and to remove the 'public reserve' notation.

As this PP proposed the loss of land for public purposes, it will require a Public Hearing, followed by the Governors approval to remove its listing as land dedicated for public reserve. There are also minor mapping anomalies that are proposed to be corrected with this PP.

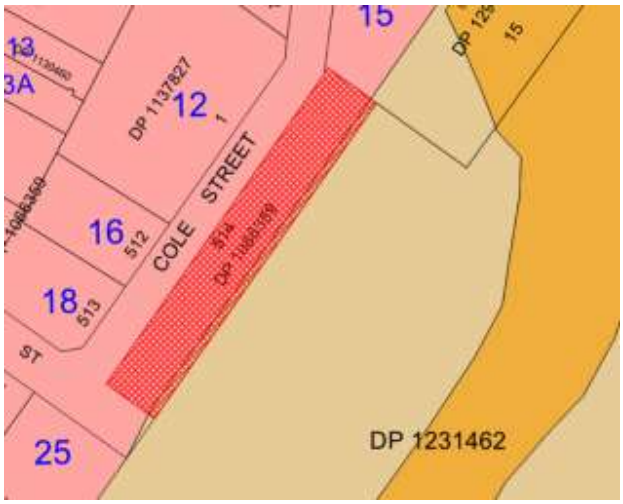


Figure 4. Subject Site – Lot 514 in DP 1066359 (current land use zonings)

Current proposal

The applicant submitted a PP in August 2026 (PP-2026-1733) which seeks to:

- Rezone part of 25 Cole Street Kiama to Zone R2 Low Density Residential with a minimum lot size of 450sqm, floor space ratio of 0.45:1 and an 8.5m height limit. The estimated lot yield is 9 lots.
- Maintain the current C2 Environmental Conservation zone.
- Rezone the remainder of the site from RU2 Rural Landscape to C3 Environmental Management.
- Reclassify Lot 514 from Community to Operational land.
- Minor mapping corrections to Lot 514 and adjoining road.

The PP therefore seeks to amend the Kiama LEP 2011 to update the following maps:

- Land Zone Map Sheet 12 (Enclosure 2).
- Minimum Lot Size Map (Enclosure 3).
  - R2 zone 450sqm minimum lot size.
  - C2 and C3 zone 40 ha minimum lot size.
- Height of Building Map (Enclosure 4).
  - R2 zone 8.5m height of building.
- Floor Space Ratio Map Sheet 12 (Enclosure 5).
  - R2 zone 0.45:1 FSR.



Figure 5. 25 Cole Street Kiama - proposed land use zonings

Assessment process

Stage 1: Pre-lodgement Scoping proposal

A Scoping Proposal was received in December 2024, with referrals made to various State Government Agencies including RFS, Heritage NSW, NSW SES, DCCEEW, NSW Health and Transport for NSW. A summary of these referral comments was provided along with internal staff comments to the applicant in March 2025. Staff then met with the applicant in June 2025 and July 2025 to further discuss the comments and explain the next stages of the process.

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

Council's planning team have been working collaboratively with the proponent to ensure that the various planning issues are worked through efficiently to achieve the best outcome for the site and future residents.

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

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

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 recognised by existing planning controls.

The site has demonstrated Strategic Merit as the part of the site proposed for residential development is identified in Council's Local Housing Strategy 2025 (see Figure 3). The full assessment of the Strategic Merit test is provided at Section 1 of the PP Assessment Report (Enclosure 2). The Strategic Merit test has been satisfied.

Site-Specific Merit test

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

1. The natural environment (including known significant environmental values, resources or hazards).
2. The existing uses, approved uses, and likely future uses of land in the vicinity of the land subject to the proposal.

3. The services and infrastructure that are or will be available to meet the demands arising from the Planning Proposal and any proposed financial arrangements for infrastructure provision.

Assessment of the Site-Specific Merit test is provided as Section 2 of the PP Assessment Report (Enclosure 2). The Site-Specific Merit test has been fully satisfied.

Ministerial Directions

Assessment of the PP against each of the relevant Ministerial Directions is provided at Section 3 of the PP Report (Enclosure 2). In summary, all Directions have been satisfactorily addressed.

State Environmental Planning Policies

Assessment of the PP against each of the relevant SEPPs is provided at Section 4 of the PP Report (Enclosure 1). In summary, all relevant SEPPs have been satisfactorily addressed.

In summary, the PP has satisfied all of the requirements in the LEP Making Guideline.

Stage 3: Gateway Determination – issued by DHPI

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

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

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

Stage 5: Public Exhibition and Assessment

Once all additional information, agency engagement has occurred, the Planning Proposal will be placed on public exhibition in accordance with the NSW Statewide Community Participation Plan 2026 and the Gateway Determination. This includes making the Planning Proposal documents publicly available and notifying members of the community who may be affected.

The public exhibition process will also include a Public Hearing for the proposed reclassification of land.

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

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

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

final instrument to the NSW Department of Planning, Housing and Infrastructure for review and Gazettal in the Government Gazette and NSW Legislation website.

Conclusion

This PP seeks to amend the Kiama LEP 2011 to rezone part of 25 Cole Street Kiama (Lot 1 DP1231462) from RU2 Rural Landscape to R2 Low Density Residential to facilitate approximately 9 residential allotments on the western portion of the site, and the remainder of the site to C2 Environmental Conservation and C3 Environmental Management to ensure the protection and management of the environmental values of the site. The PP also seeks to reclassify Lot 514 DP1066359 from Community to Operational land and make minor mapping corrections to part of the land and road.

The proposal has been assessed in accordance with the Ministerial Directions, LEP Making Guidelines and Council's Local Housing Strategy and is supported by staff to proceed to be submitted for a Gateway Determination and public exhibition.

It is recommended that Council endorse Planning Proposal PP-2026-1733 (Enclosure 1) and submit it to the NSW Department of Planning, Housing and Infrastructure (DPHI) for a Gateway Determination.

15.3 Endorse for Gateway: Planning Proposal PP-2026-2417 - Coastal Vulnerability Area

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 support of Planning Proposal PP-2026-2417 to proceed to Gateway determination. A Planning Proposal (PP) is the process to amend the zoning or development standards in a Council's Local Environmental Plan (LEP) or a State Environmental Planning Policy (SEPP).

This PP (Enclosure 1) seeks to implement the Kiama Coastal Management Plan 2024 by amending the *State Environmental Planning Policy (Resilience and Hazards) 2021* to introduce a Coastal Vulnerability Area (CVA) map (Enclosure 3). The CVA applies to the coastline of the Kiama LGA from the Minnamurra River at the north (where it meets the Shellharbour LGA) to 2km south of Black Head (where it meets the Shoalhaven LGA).

This PP is supported by an amendment to the Kiama Development Control Plan 2020 (DCP). The introduction of the CVA topic into the DCP will include controls to guide future development within the identified CVA. The proposed DCP amendments will be on public exhibition alongside the Planning Proposal (see Enclosure 4).

It is recommended that Council endorse Planning Proposal PP-2026-2417 (Enclosure 1) and submit it to the NSW Department of Planning, Housing and Infrastructure (DPHI) for Gateway Determination. If a Gateway Determination is made by way of approval, the Planning Proposal and draft DCP would be placed on public exhibition to enable community, stakeholder and state agency consultation to occur.

Financial implication

There is no financial implication for Council relating to the lodgment of this PP. Council has secured grant funding for the preparation of the planning proposal and related mapping.

Risk implication

If the PP is not supported, the amendment to the SEPP cannot proceed, which will impact the safety of existing and future residents and development that are located within the Kiama Coastline Coastal Vulnerability Area.

Policy

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

- *Environmental Planning and Assessment Act 1979.*

- *Coastal Management Act 2016.*
- *State Environmental Planning Policy (Resilience & Hazards) 2021.*
- Local Environmental Plan Making Guideline, DPHI, July 2026.
- Illawarra Shoalhaven Regional Plan 2041 (DPHI, 2021).
- Draft Illawarra Shoalhaven Plan (exhibited by DPHI, 2026).
- NSW Statewide Community Participation Plan 2026.
- Kiama Council's Local Strategic Planning Statement, 2020 (updated 2025).

Consultation (internal)

Planning and Development, Environment and Compliance.

Communication/Community engagement

Should the Planning Proposal be supported and Gateway Determination issued by the DPHI, the determination will outline the duration and extent of public exhibition required with the community, and which state agencies Council must consult with.

The LEP Making Guideline recommended period of public exhibition for a 'Standard' Planning Proposal is 20 working days (ie 28 calendar days).

The PP and Draft DCP will be advertised on Council's Your Say page, with a link to the NSW Planning Portal for additional information and where submissions can be made.

Attachments
Nil

Enclosures

1 PP-2026-2417 - Coastal Vulnerability Area - Planning Proposal Report⇨

2 PP-2026-2417 - Coastal Vulnerability Area - Map⇨

3 PP-2026-2417 - Coastal Vulnerability Area - Detail Maps⇨

4 PP-2026-2417 - Coastal Vulnerability Area - Draft DCP Amendments⇨

RECOMMENDATION

That Council:

1. Endorse Planning Proposal PP-2026-2417 for the purpose of seeking Gateway determination
2. Submit the Planning Proposal to the Department of Planning, Housing and Infrastructure for a Gateway determination.
3. Seeks to be authorised as the Local Plan Making Authority, when submitting the Planning Proposal for a Gateway determination.

4. Undertake and comply with any conditions, including public exhibition and consultation with the community, key authorities and government agencies, as required by any Gateway Determination.
5. Place the draft amendments to the Kiama Development Control Plan 2020 Chapter 2 on public exhibition concurrently with Planning Proposal.
6. Receive a further report regarding the finalisation of the Planning Proposal and adoption of the amendment to Kiama Development Control Plan 2020.

Background

Council has the responsibility to manage development in areas potentially affected by coastal erosion, recession and inundation hazards. The appropriate mechanism to do this is via the *State Environmental Planning Policy (Resilience and Hazards) 2021* (Resilience and Hazards SEPP) which includes development controls for four key coastal management areas:

- Coastal wetlands and littoral rainforests.
- Coastal vulnerability area.
- Coastal environment area.
- Coastal use area.

Mapping was undertaken by the NSW Government for three of the four Coastal Management Areas, however, mapping for the Coastal Vulnerability Area (CVA) was not included in the Resilience and Hazards SEPP as local councils were thought to have more accurate data and mapping for coastal hazards and were therefore better equipped to provide this mapping.

Kiama Municipal Council has undertaken detailed modelling and mapping through its Coastal Management Program (CMP) and underpinning studies. Council is now seeking to have this mapping included into the Resilience and Hazards SEPP as the Coastal Vulnerability Area map. Accompanying the CVA mapping will be a new Coastal Vulnerability Chapter in the Kiama Development Control Plan 2020.

A State Environmental Planning Policy (SEPP) contains planning provisions for land use planning and development. The Resilience and Hazards SEPP contains planning provisions for land use planning within the coastal zone, consistent with the *Coastal Management Act 2016*, and provisions to manage hazardous and offensive development.

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) or in the State's SEPP.

The Planning Proposal process is set out in the *Local Environmental Plan Making Guidelines* (NSW Department of Planning and Environment, July 2026). 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 DHPI.

The site

The subject area is the entire coastline of the Kiama LGA from the Minnamurra River at the north (where it meets the Shellharbour LGA) to 2km south of Black Head (where it meets the Shoalhaven LGA).

(Subject site on next page – taken from Kiama Coastal Management Plan 2024).

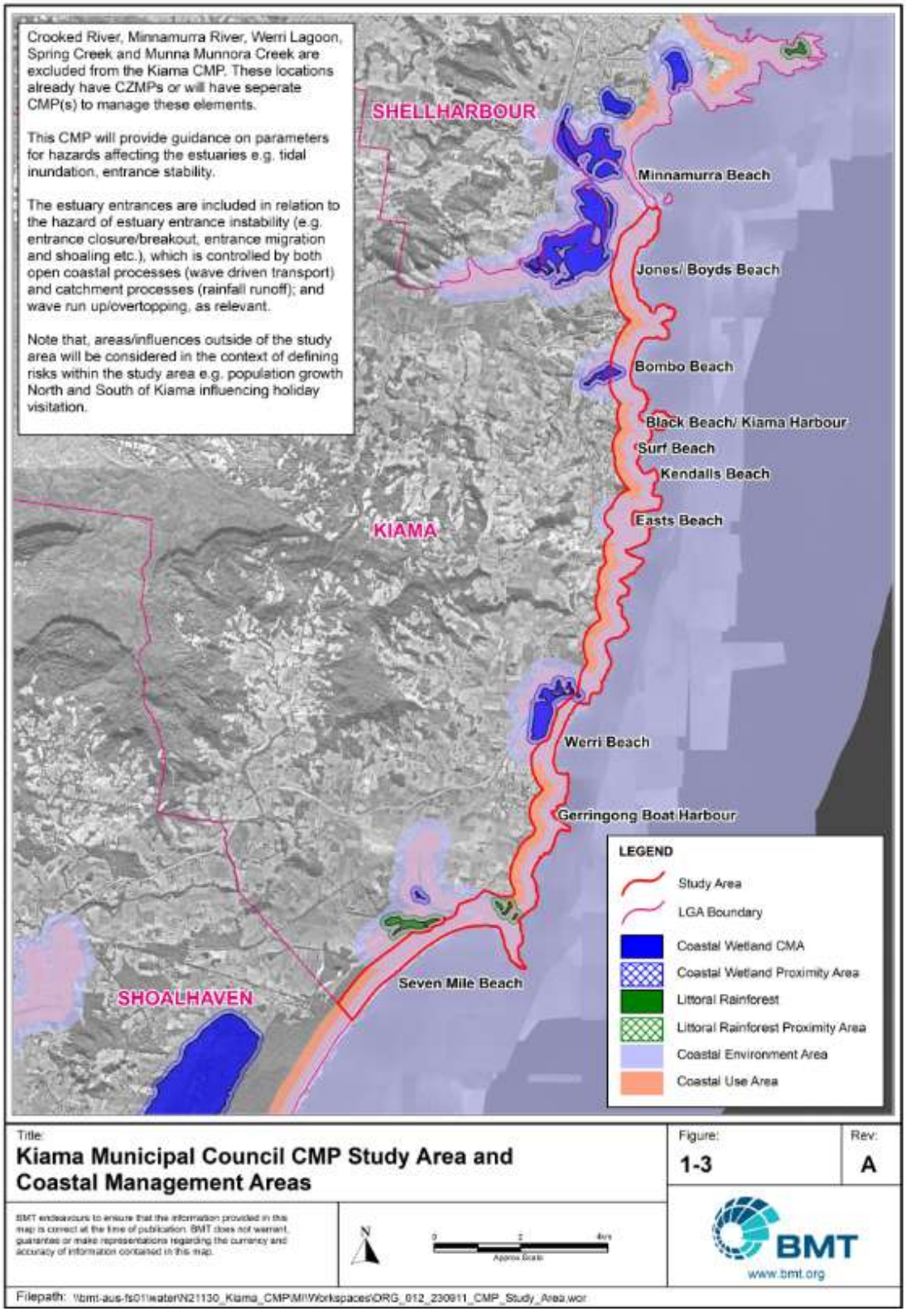


Figure 1. Subject Site (aerial and current zonings)

Current Proposal

The PP seeks to:

- amend the *State Environmental Planning Policy (Resilience and Hazards) 2021* to introduce the Coastal Vulnerability Area identified in the Kiama Coastline Coastal Management Program Stage 4: Coastal Management Program.

The PP has been prepared to address the current Ministerial Directions and NSW Guidelines, as well address the strategic merit and site-specific merit tests.

Assessment process

Stage 1: Pre-lodgement Scoping proposal

A Scoping Proposal was not required for this PP.

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

Council's planning team have been working collaboratively with the Environment team to implement the Kiama Open Coast CMP.

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

- *Environmental Planning and Assessment Act 1979.*
- NSW DPHI's Local Environmental Plan Making Guideline.
- NSW Coastal Management Framework.
- Kiama Council's Community Engagement Strategy, 2025.
- NSW Statewide Community Participation Plan, 2026.
- Illawarra Shoalhaven Regional Plan 2041, 2021.
- Draft Illawarra Shoalhaven Plan, (exhibited by DPHI 2026).

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 recognised by existing planning controls.

The PP has demonstrated Strategic Merit as it is implementing an Action of the Kiama Coastal Management Program which has been adopted by Council and certified by

the NSW Department of Planning, Housing and Infrastructure. Assessment of the Strategic Merit test is provided at Section 1 of the PP Report (Enclosure 1). In summary, the Strategic Merit test has been fully satisfied.

Site-Specific Merit test

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

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

Assessment of the Site-Specific Merit test is provided as Section 2 of the PP Report (Enclosure 1). In summary, the Site-Specific Merit test has been fully satisfied.

Ministerial Directions

Assessment of the PP against each of the relevant Ministerial Directions is provided at Section 3 of the PP Report (Enclosure 1). In summary, all Directions have been satisfactorily addressed.

State Environmental Planning Policies

Assessment of the PP against each of the relevant SEPPs is provided at Section 4 of the PP Report (Enclosure 1). In summary, all relevant SEPPs have been satisfactorily addressed.

In summary, the PP has satisfied all of the requirements in the LEP Making Guideline.

Stage 3: Gateway Determination – issued by DHPI

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

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

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

Stage 5: Public Exhibition and Assessment

Once all additional information and agency engagement has occurred, the Planning Proposal will be placed on public exhibition in accordance with the Gateway Determination. This includes making the Planning Proposal documents and Draft DCP publicly available for a minimum of 28 days and notifying members of the community who may be affected.

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

Following this consultation process, the Planning Proposal would be updated as required following exhibition and reported back to Council with a recommendation that the Proposal is progressed to finalisation and that Council use its plan making delegations to finalise the relevant amendments to SEPP.

Conclusion

This Plannng Proposal seeks to implement the Kiama Coastal Management Plan 2024 by amending the *State Environmental Planning Policy (Resilience and Hazards) 2021* to introduce a CVA map. This PP is supported by an amendment to the Kiama Development Control Plan 2020 (DCP).

It is recommended that Council endorse Planning Proposal PP-2026-2417 (Enclosure 1) and submit it to the NSW Department of Planning, Housing and Infrastructure (DPHI) for Gateway Determination. If a Gateway Determination is made by way of approval, the Planning Proposal and Draft DCP would be placed on public exhibition to enable community, stakeholder and state agency consultation to occur.

15.4 Post exhibition endorsement: Planning Proposal PP-2026-486 - Jamberoo Heritage Review

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 Councils endorsement to finalise the Jamberoo Heritage Review Planning Proposal PP-2026-486 and amend Schedule 5 of the Kiama Local Environmental Plan 2011 as follows:

- Add six new Heritage Items.
- Make minor amendments to three existing Heritage Items.

It is recommended that Council endorse the post-exhibition Planning Proposal report (Enclosure 2) 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 was prepared internally using existing resources. As this is a Council led PP the fees are not payable.

Council's Heritage Advisor *Everick Heritage*, which is part funded through a Heritage NSW grant, provided advice throughout the project and in response to submissions.

One of the proposed New Heritage Items (sandstone kerbing on Allowrie Street) is a Council owned asset, so there will be a financial impact on the cost of maintaining this asset to a heritage standard.

Risk implication

The finalisation of the Jamberoo Heritage Review will ensure that appropriate controls are in place to recognise, protect and manage the heritage values within Jamberoo. Finalisation of the Review will also ensure that development proposals put forward to Council are considered against an adopted strategic planning document and current controls. If the Review is not finalised there is a risk that heritage values may be lost or compromised.

Policy

The Jamberoo Heritage Review has been carried out in accordance with:

- *Environmental Planning and Assessment Act 1979*.
- *Heritage Act 1979*.

- The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance (2013).
- Local Strategic Planning Statement (Kiama Council 2020, updated 2025).

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

- *Environmental Planning and Assessment Act 1979*.
- Local Environmental Plan Making Guideline, DPHI, August 2023 and relevant Ministerial Directions issued under s9.1 of the EP&A Act.
- Kiama Council's Community Participation Plan, 2019.

Consultation (internal)

The PP has been discussed within the Strategic Planning team and with Council's Heritage Advisor *Everick Heritage.*

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, the PP was placed on public exhibition for 35 days between 24 August and 27 September 2026.

During the public exhibition period four submissions were received. A summary of submissions received, responses and any changes is provided in the Public Exhibition Engagement Report (Enclosure 3).

Consultation (External)

In accordance with condition 3 of the Gateway Determination, the PP was referred to NSW Heritage and satisfactory comments were received.

Attachments
Nil

Enclosures

1 PP-2026-486 - Gateway Determination⇨

2 PP-2026-486 - Planning Proposal Report - post exhibiton version⇨

3 PP-2026-486 - Public Exhbition Engagement Report⇨

4 PP-2026-486 - Letter to Minister for Planning and Public Spaces⇨

5 PP-2026-486 - Response letter on behalf of Minister for Planning and Public Spaces⇨

RECOMMENDATION

That Council

1. Note the Public Exhibition Engagement Report.
2. Endorse the post exhibition Planning Proposal Report.

3. Endorse the amendments to Schedule 5 of the 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 Department of Planning, Housing and Infrastructure.
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.

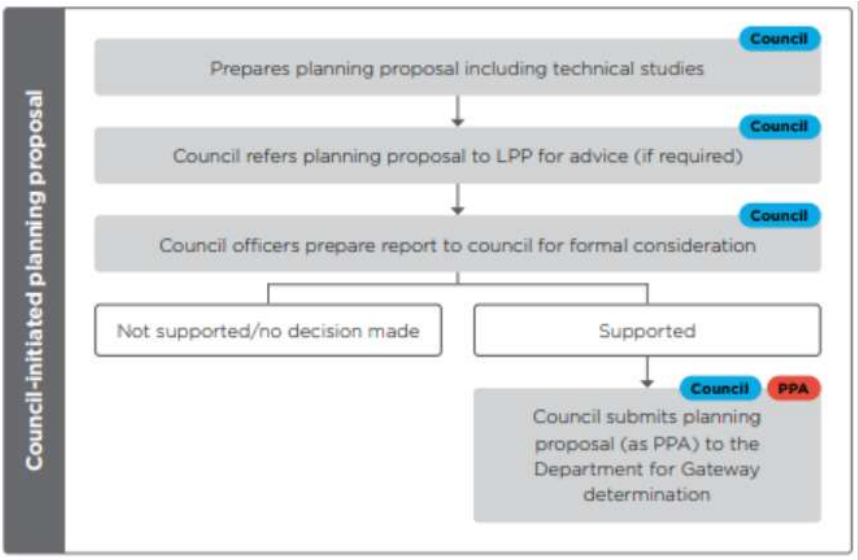
Background

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. Heritage Items are also listed in a Council's LEP.

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: Scoping Proposal – Not required for Council led PP.

Stage 2: Planning Proposal – prepared and reported to Council for consideration.

Stage 3: Gateway Determination – If supported, the DPHI issues a Gateway.

Stage 4: Post Gateway – Council actions Gateway requirements.

Stage 5: Public Exhibition and Assessment – actioned by the Council.

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

Proposal

The post exhibition Planning Proposal Report (Enclosure 2) seeks to amend the Kiama Local Environmental Plan 2011 by amending Part 1 of Schedule 5 to:

1. List six (6) new individual local heritage items.
2. Minor amendments to three (3) existing heritage items.

To implement the above, the following LEP Heritage map sheets will be amended:

i. 4400_COM_HER_007_020_20261015.

ii. 4400_COM_HER_008_020_20261015.

Stage 1: Pre-lodgement Scoping proposal

This step is not required for a Council led PP.

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

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

- *Environmental Planning and Assessment Act 1979.*
- NSW DPHI's Local Environmental Plan Making Guideline, 2023.
- Relevant Ministerial Directions issued under s9.1 of the Act.
- Kiama Council's Planning Proposal Policy, 2023.

This PP is considered administrative in nature and seeks to protect Heritage.

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.

Assessment of the Strategic Merit and Site-Specific Merit tests, consistency with Ministerial Directions and applicable SEPS was provided to Council in the Council Report dated 17 March 2026. In summary, the Strategic Merit test and Site-Specific Merit tests, consistency with Ministerial Directions and applicable SEPS have been fully satisfied. See also section 3 of the Planning Proposal Report (Enclosure 2).

Stage 3: Gateway Determination – issued by DHPI

The PP was supported to proceed to Gateway by Council on 17 March 2026 and DPHI issued a Gateway Determination on 7 May 2026 with a completion date of 8 January 2027.

DPHI do not support establishing HCAs in Jamberoo. Condition 1 of the Gateway Determination requested that both HCAs were removed from the planning proposal prior to public exhibition occurring.

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

As per Gateway **Condition 1** the planning proposal was updated to remove both HCAs, prior to public exhibition.

The DPHI did, however, recognise the significant contribution of the sandstone kerbing along the Allowrie Street Town Centre area, and that they would support this being listed as a Local Heritage Item as this will achieve a similar outcome to the proposed HCA. The planning proposal was updated to include this additional item (road reserve) prior to public exhibition.

The Strategic Planning Team provided an update on the outcome of the Gateway Determination and next steps for the Jamberoo Heritage Review in an Information Report to Council on 18 August 2026.

On 18 August 2026, Council resolved that:

26/001OC

Resolved *that Council delegates to the Chief Executive Officer to:*

1. *Write to the Minister for Planning and Public Spaces, the Hon Paul Scully MP, expressing disappointment in the NSW Department of Planning, Housing and Infrastructure (DPHI)'s decision not to support the establishment of Heritage Conservation Areas (HCAs) in the Jamberoo Village, advised in the DPHI's letter to Council on 7 May 2026.*
2. *Provide the background information and reports that Council have worked on since 2022 that supports the establishment of the two HCAs, accompanying the letter to the Minister.*
3. *Request that the Minister review the decision not to proceed with establishing HCAs in the Jamberoo Village.*
4. *Provide a copy of the representation and background information to the MP for Kiama, Katelin McInerney, seeking support to* reconsider the NSW DPHI's decision

(Councillors Larkins and Warren)

In response to the resolution of Council a letter was sent to the Minister for Planning and Public Spaces requesting a review of the decision to not to proceed with establishing HCAs in the Jamberoo Village.

On 9 October 2026, Council received a response. The concerns were acknowledged however the request to amend the Gateway determination to progress the HCAs was not supported (see Enclosure 4).

The planning proposal was updated to remove both HCAs.

As per Gateway **Condition 2**, the amended planning proposal was placed on public exhibition for a minimum of 20 working days. Public exhibition occurred between 24 August to 27 September 2026.

As per Gateway **Condition 3** the amended planning proposal was referred to Heritage NSW concurrently for their assessment.

All of the conditions of the Gateway have now been met.

Stage 5: Public exhibition and assessment

The Planning Proposal was placed on public exhibition in accordance with the Gateway for a minimum of 20 working days. Adjoining landowners were also notified. Referrals were provided to the relevant state agencies as per the Gateway.

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

During the public exhibition period four submission were received. Two submissions supported the planning proposal and the request to review one or both HCAs, one submission noted an error in the heritage study and one provided justification as to why their property is not suitable for heritage listing.

The submissions received, responses and outcome are provided at Enclosure 3.

The reasons for objecting to the heritage listing were reviewed by Council's Strategic Planning team and Council's Heritage Advisor, Everrick Heritage. A site inspection was also carried out by Council's strategic planning team. The outcome of this review is to remove the property from the proposed Heritage listing (see also Enclosure 3).

The post exhibition planning proposal has been updated to remove 71 Churchill Street, Jamberoo as a heritage item; and to include the 313 linear meters of sandstone kerbing along Allowrie Street as a new heritage item.

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

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.

It is recommended that the Proposal be progressed to finalisation and that Council use its plan making delegations to finalise the relevant amendments to Kiama LEP 2011.

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

Conclusion

The Post Exhibition Planning Proposal seeks to amend the Kiama LEP 2011 by amending Part 1 of Schedule 5 to include six new local heritage items, and minor amendments to three existing local heritage items.

It is recommended that Council resolve to support finalisation of the Planning Proposal PP-2026-486 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. Once

completed, the Inventory Sheets will be uploaded to the State Heritage Inventory Register.

15.5 Endorse for public exhibition: Community Emissions Reduction Plan

CSP Objective: Outcome 2.3: We use natural resources sustainably, focusing on protection, restoration, maintenance and enhancement.

CSP Strategy: 2.3.2 Limit our reliance on non-renewable natural resources.

Delivery Program: 2.3.2.1 Develop and implement a Community Emissions Reduction Strategy in alignment with Council's Corporate Emissions Reduction Plan (Net Zero Strategy).

Summary

Seeking Council's adoption of a Community Emissions Reduction Plan (Comm ERP) following a period of public exhibition. The review of a Comm ERP is an action contained in Item 12.8 within Ordinary Council meeting minutes of 20 July 2021.

Council has produced a Comm ERP as a progressive strategy that defines and facilitates community emissions reduction measures.

The Comm ERP is combined with Council's Corporate Emissions Reduction Plan (Corp ERP) to form a complete Net Zero Emissions Strategy.

Internal and external consultation has been conducted through workshops. The findings of which have guided the creation of objectives and actions contained within the Comm ERP.

The Comm ERP objectives are:

1. Identify the causes of greenhouse gas emissions in our LGA.
2. Identify community actions that can reduce greenhouse emissions.
3. Identify and engage stakeholders to achieve reduced community emissions.
4. Align community actions with the NSW DPI Net Zero Plan Stage 1: 2020-2030.
5. Align community actions to achieve state and federal emissions targets.

Actions contained within the Comm ERP are designed to be adopted into future Council Operational Plans where practical and feasible to do so in the public interest.

Financial implication

Financial implications on Council are expected to be minor noting that Comm ERP Actions are designed to be community-led. In-kind investment in the form of staff time is expected to be the greatest cost to Council, while, the community grants funding model opens opportunities for community members and organisations to apply for finances which support the implementation of projects and action plans.

Risk implication

Strategic – aligns with CSP and OP. Limited physical assets. Actions we can ensure can be delivered within OP, able to be done with in-house resources – skills and knowledge of existing staff and roles.

Financial – low financial impact due to the limited need for Council investment in physical assets. Minor fiscal investments may assist project completion from time to time.

Environmental – directly aligned with CSP Strategy 2.3.2. The Comm ERP is structured to align with state, national and international environmental objectives and actions that aim to enhance long term livability.

Regulatory – low risk of compliance/regulatory risks as there is no existing operational framework to regulate community emissions.

Reputational – Council has Publicly committed to having a Comm ERP as part of a Net Zero Strategy. Conversely, Comm ERP is built around discourse that skirts existential threats, it is expected that some negative feedback will appear during public exhibition of the Comm ERP.

Safety – not anticipated to cause safety issues.

Service disruption – not anticipated to result in any service disruptions.

Policy

Corporate Emissions Reduction Plan 2021 – 2031.

Consultation (internal)

- Department Managers.
- Executive Leadership Team.

Communication/Community engagement

Refer to the enclosed Community Consultation – Engagement Report.

Community consultation was conducted via the CSP survey in November 2024 to January 2025, and an in-person workshop that occurred on 25 February 2025.

Attachments
Nil

Enclosures

1 draft Community Emissions Reduction Plan⇨

2 Engagement Report⇨

RECOMMENDATION

That Council:

1. Endorse the Draft Community Emissions Reduction Plan for public exhibition for a minimum of 28 days.
2. Following conclusion of the public exhibition period:
   (a) Receive a further report for consideration detailing the public exhibition period result, or
   (b) Adopt the Community Emissions Reduction Plan if no submission is received and there are no substantial changes proposed for any other reasons.

Background

At Council's Ordinary Meeting held on 11 February 2020 a report was submitted regarding a proposal to commence development of an Emissions Reduction Plan for Council and the community.

Council subsequently resolved that:

> *Council note the information and include budget allocation for the 2020/21 budget to undertake the work necessary to complete the community and stakeholder engagement and identification of emissions reduction pathways to enable Council to consider targets and timeframes for setting net zero emissions policies for Council and the community*.'

At Council's meeting held on 20 July 2021, Council resolved to adopt a Corporate Emissions Reduction Plan and to "*Require a further report, outlining the recommended process to be adopted by Council, for the development of a Community Emissions Reduction Plan for the Kiama Local Government Area."*

Following a significant period of delay due to a lack of resources, Council has now prepared a Comm ERP for Council to consider adopting as a Public-facing document.

Through a formal community consultation process, undertaken in conjunction with the preparation of the Community Strategic Plan 2025-2035, the Comm ERP has been drafted with actions that target LGA-specific matters relating to greenhouse gas emissions.

The Comm ERP is, at its core, a framework that will allow Council to facilitate community-led actions relating to emissions reduction and energy efficiency. The Comm ERP is designed to place minimal strain on Council resources while yielding maximum effect for the individuals, teams, and organisations who are champions of Net Zero emissions reduction actions.

Net Zero emissions reduction actions largely relate to and target our biggest greenhouse gas emissions sources by advocating-for and implementing energy efficiency upgrades to buildings, reducing tailpipe emissions from vehicles, and improving pastoral and food waste practices to harness energy lost through those processes.

Net Zero actions do not necessarily require radical changes to our way of living. For the most part, small, simple, practical and fiscally responsible actions can combine to amount to reduced pollution, more efficient and resilient use of energy supply, and therefore, an improved living environment with better outcomes for the health and longevity of Kiama's residents.

Financial implications and resources

Considering the nature of Council's financial position, the Comm ERP has been written to minimise financial burden upon Council. Actions are designed to be community-led, driven by the will of people and organisations who have a special interest or desire to see change happen according to the principle of minimal harm.

By implementing actions through the Comm ERP, Council will make good use of the resource capacity brought about by partnerships with private specialist groups, government and non-government agencies.

Cost estimates contained in the action tables of the Comm ERP have been separated into three categories:

- **Low cost –** Generally includes staff time and/or training and workshop facilitation. Typically less than $100,000.
- **Medium cost –** Includes staff time and minor capital expenses. Typically between $100,000 and $200,000.
- **High cost –** Involves major capital works or dedicated staff to navigate complex implementation processes. Typically greater than $200,000.

It is estimated that a combination of small budgets, community grant allocations and in-kind support will suffice to achieve the success of many actions contained in the Comm ERP.

Conclusion

It is recommended that Council approve the public exhibition and subsequent adoption of the Community Emissions Reduction Plan.

15.6 Post exhibition adoption: Community Development Plan

CSP Objective: Outcome 1.1: We value a strong sense of belonging, where social and cultural life thrives, and residents, families, friends and visitors feel welcome and included..

CSP Strategy: 1.1.1 Support and deliver the initiatives that encourage community connection and social interaction for all residents

Delivery Program: 1.1.1.2 Empower and build a connected, resilient, safe and cohesive community through partnerships and community development programs and initiatives.

Summary

At its meeting on 15 September 2026, Council endorsed placing the draft Community Development Plan (Plan) on public exhibition for a period of 28 days.

The draft Plan was publicly exhibited from 23 September to 21 October, and a total of two (2) submissions were received. Council staff have reviewed the submissions and prepared the Public Exhibition Engagement Report (enclosed).

Feedback was broadly supportive of the draft plan and its proposed priorities. Participants highlighted the importance of priorities and emphasis the alignment of community infrastructure and community outcomes, the need for budgeting and continuation of youth and community services, and clear implementation approach that deliver outcomes.

This report is submitted to Council to formally adopt the Community Development Plan.

Financial implication

The commitments within the Plan will be predominately delivered by existing community development team, annual operational budget planning through DPOP, facilitating partnerships and resource sharing and securing external funding programs.

Risk implication

The Plan reduces the risk of a fragmented and uncoordinated approach to community wellbeing by establishing a clear strategic framework that aligns Council's efforts across services, programs, and partnerships. It clarifies Council's role, responsibilities, and the range of services and resources available to the community, improving understanding and accessibility.

Policy

The draft Plan aligns with Council's Community Strategic Plan, DPOP, Kiama Cultural Plan, Disability Inclusion Plan, Draft Reconciliation Action Plan (currently on public exhibition), Kiama Library Strategic Plan, Kiama Visitor Economy Strategy, Town Centre Studies, and a range of place-making initiatives.

Consultation (internal)

The development of the Plan was informed by staff input from various departments and ELT, to ensure strategic alignment and operational viability. The majority of actions and commitments within the Plan are specific to functions of Community

Development team, while partnership and collaboration internally and externally is fundamental to achieving measures outlined.

Communication/Community engagement

The Plan was placed on public exhibition for a period of 28 days and it included community surveys and community pop-up events.

Attachments
Nil

Enclosures

1 Community Development Plan - November 2026⇨

2 Community Development Plan - Public Exhibition Engagement Report - October 2026⇨

RECOMMENDATION

That Council:

1. Receive and note the Community Development Plan Public Exhibition Engagement Report.
2. Adopt the Community Development Plan.
3. Notify those who made submissions on the Community Development Plan of Council's decision.
4. Publish the Community Development Plan on Council's website.

Background

To date, Council has not had a dedicated Community Development Plan to guide and coordinate its approach to strengthening community wellbeing, inclusion, participation and resilience. While community development outcomes have been supported through a range of Council strategies, programs and initiatives, there has been no single framework that brings together community priorities, identifies areas of need, and provides a coordinated roadmap for future action. This Plan recognises the importance of building strong, connected and inclusive communities as outlined in the Community Strategic Plan.

The Plan has been developed to provide a clear strategic direction for community development across the municipality and to ensure that Council's efforts are informed by community needs, aspirations and emerging challenges. It is intended to complement and support the delivery of Council's Community Strategic Plan and other strategic plans of Council, while providing a stronger focus on community cohesion/ wellbeing, capacity building, inclusion, participation and service levels.

The Plan also strengthens internal and external coordination, fostering collaboration internally and between Council, community organisations, government agencies, and other stakeholders to maximise community outcomes. Further, the Plan supports sustainable and evidence-based responses to current, emerging, and changing

community needs, reducing the risk of service gaps, duplication, and missed opportunities.

The Plan translates community needs, aspirations and priorities, clarifies and consolidates Council's current committed resources and service levels and provides the foundation to deliver community development programs, aiming to deliver on four (4) key priority areas:

- Youth Empowerment and Wellbeing.
- Strengthening Reconciliation & Cultural Connections.
- Positive Ageing & Wellbeing.
- Community Safety, Inclusion and Connection.

In addition to providing a strategic framework, the Plan includes an Action Plan that translates the priorities of Council's Delivery Program and Operational Plan (DPOP) into practical actions and will be reviewed annually to ensure it remains responsive and aligns with evolving community needs, Council priorities, and strategic directions.

15.7 Rescission of outdated policies

CSP Objective: Outcome 4.2: Our governance is transparent and trusted, supported by the right structures, technology and processes to effectively serve the community.

CSP Strategy: 4.2.4 Council will build organisational capability, capacity and efficiency to deliver and measure the goals and strategies of the CSP.

Delivery Program: 4.2.4.3 Continue implementation of Service Reviews and resulting recommendations to improve organisational efficiency.

Summary

The purpose of this report is to present the findings of a review of several policies within the Strategies and Communities Directorate and seek a Council resolution to formally rescind them due to them being now obsolete or no longer required.

Financial implication

There are no financial implications.

Risk implication

This report will manage the following risks:

- Outdated policies.
- Accountability risks
- Reputational risks.
- Operational risks.

Policy

As part of Council's Policy Framework, and an action of the Strategic Finance & Governance Improvement Plan, staff are systematically reviewing all Policies and Procedures. As part of this review, obsolete Policies and Procedures are being identified and rescinded. Policies adopted by Council can only be rescinded via a resolution of Council.

Consultation (internal)

Governance.

Executive Leadership Team.

Community Outcomes Team.

Environment and Compliance Team.

Planning and Development Team.

Communication/Community engagement

Nil

Attachments

Nil

Enclosures

Nil

RECOMMENDATION

That Council endorse the rescission of the following policies:

1. Daisy the Cow Policy, as it is an outdated document since 2014 and does not serve a policy definition.
2. Murals and Sculptures Policy, as it is an outdated policy and its scope is captured in the Public Art Policy and Procedures.
3. Skateboarding Policy, as it was developed to advocate for development of skateboard facilities within the municipality and this will be included in the upcoming Social Infrastructure Strategy.
4. Demolition of Buildings containing Asbestos Policy, as it has been replaced with *Kiama Development Control – Chapter 3 – Common Requirements – Topic 3.1.*
5. Planning Proposal Policy, as it is superseded by the NSW Government's Local Environmental Plan Making Guidelines, the *Environmental Planning and Assessment Act 1979,* and Council's adopted fees and charges.

Background

The Policy Register has identified a number of policies that are now outdated in both purpose and timeframe. Since their development, Council's operations and organisational structure have undergone significant change, and many of these older policies have been superseded by more integrated and overarching frameworks as well as changing State Government legislation.

The rationale and justification for the recommendations in this report are outlined below. The intent is to support Council in moving away from historically narrow, single-purpose policies and strategies, and toward alignment with contemporary, organisation-wide policies and strategies that better reflect current operational needs and strategic priorities.

At its October 2026 meeting, the Executive Leadership Team noted the outcomes and recommendations of the reviewed policies and endorsed submitting a report to Council to formally revoke the following policies.

- Daisy the Cow Policy - This is an outdated document since 2014 and does not serve a policy definition. Staff have recently developed Kiama Old Fire Station Guidelines for Hirers. The Guidelines are of operational nature, for activation and operation of the Old Fire Station. The care and maintenance of Daisy the Decorated Cow requirements are captured under the Guidelines; therefore, a standalone policy is no longer required.

- Murals and Sculpture Policy - Council endorsed the Public Art Policy and Procedures in April 2024. The Murals and Sculpture policy is an outdated policy and its scope is captured in the Public Art Policy and Procedures; therefore, a standalone policy is no longer required.
- Skateboarding Policy – this policy was developed to advocate for development of skateboard facilities within the municipality, notably the Kiama Skateboard at the sporting complex. Skateboard facilities are categorised as sport and recreational facilities. This has been noted to be incorporated into the future Social Infrastructure Strategy; therefore, a standalone policy is no longer required.
- Demolition of Buildings containing Asbestos Policy - This policy is considered obsolete and has been replaced with*:*
    1. *Kiama DCP – Chapter 3 – Common Requirements – Topic 3.1.*
    2. Planning Reform – *Standard conditions of development consent – mixed use, change of use, food and drink premises, demolition and biodiversity credits*, June 2023
    3. Requirements regulated by other agencies and legislative frameworks.
- Planning Proposal Policy – this policy was developed to outline the Planning Proposal process. This Policy is considered obsolete and superseded by*:*
    - The NSW Government's LEP Making Guidelines,
    - the *Environmental Planning and Assessment Act 1979,* and
    - Council's adopted fees and charges.