



IRF23/281

Gateway determination report – PP-2023-224

Reclassification - 14A Bonaira Street, Kiama

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Planning Proposal (January 2023)
Council Minute (13 October 2022)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	LGA name
PPA	Kiama Municipal Council
NAME	Reclassification – 14A Bonaira Street, Kiama
NUMBER	PP-2023-224
LEP TO BE AMENDED	Kiama Local Environmental Plan 2011
ADDRESS	14A Bonaira Street, Kiama
DESCRIPTION	Lot 2 DP 1215276
RECEIVED	1/02/2023
FILE NO.	IRF23/281
POLITICAL DONATIONS	There are no donations or gifts to disclose, and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to reclassify the site of the Blue Haven Bonaira Retirement Village (14A Bonaira Street, Kiama – Lot 2 DP 1215276) from Community Land to Operational Land.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Kiama Local Environmental Plan 2011 (Kiama LEP 2011) to list the subject site under Schedule 4, Part 1 'Land classified, or reclassified, as operational land — no interests changed'.

This will have the effect of giving the land operational status.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

Council is not seeking to change/discharge any interests from the subject land and has not identified it as a Public Reserve.

1.4 Site description and surrounding area

The site is located at 14A Bonaira Street, Kiama in the Kiama local government area (Figure 1).

The site is legally described as Lot 2 DP 1215276 and is approximately 3.095ha in size

The site is located to the east of the Illawarra Rail Line, west of Kendalls Beach and north of Bonaira Native Garden. The site is otherwise surrounded by detached residential development and adjoins Kiama Integrated Primary and Community Health Centre at 14B Bonaira Street.

The site currently contains the Blue Haven Bonaira Retirement Village and home care, consisting of a residential aged care facility, independent living units, home care packages and a local heritage item known as 'Barroul House'. The retirement village was completed in 2019 and contains 134 beds across eight care houses.



Figure 1 Site Location (source: Planning proposal)

The Deposited Plan for the site (Figure 2) shows several easements/restrictions affecting the land (e.g. right of access, easement for services, restrictions on use etc).

Council is not seeking to change/discharge any interests from the subject land and has not been identified it as a Public Reserve.

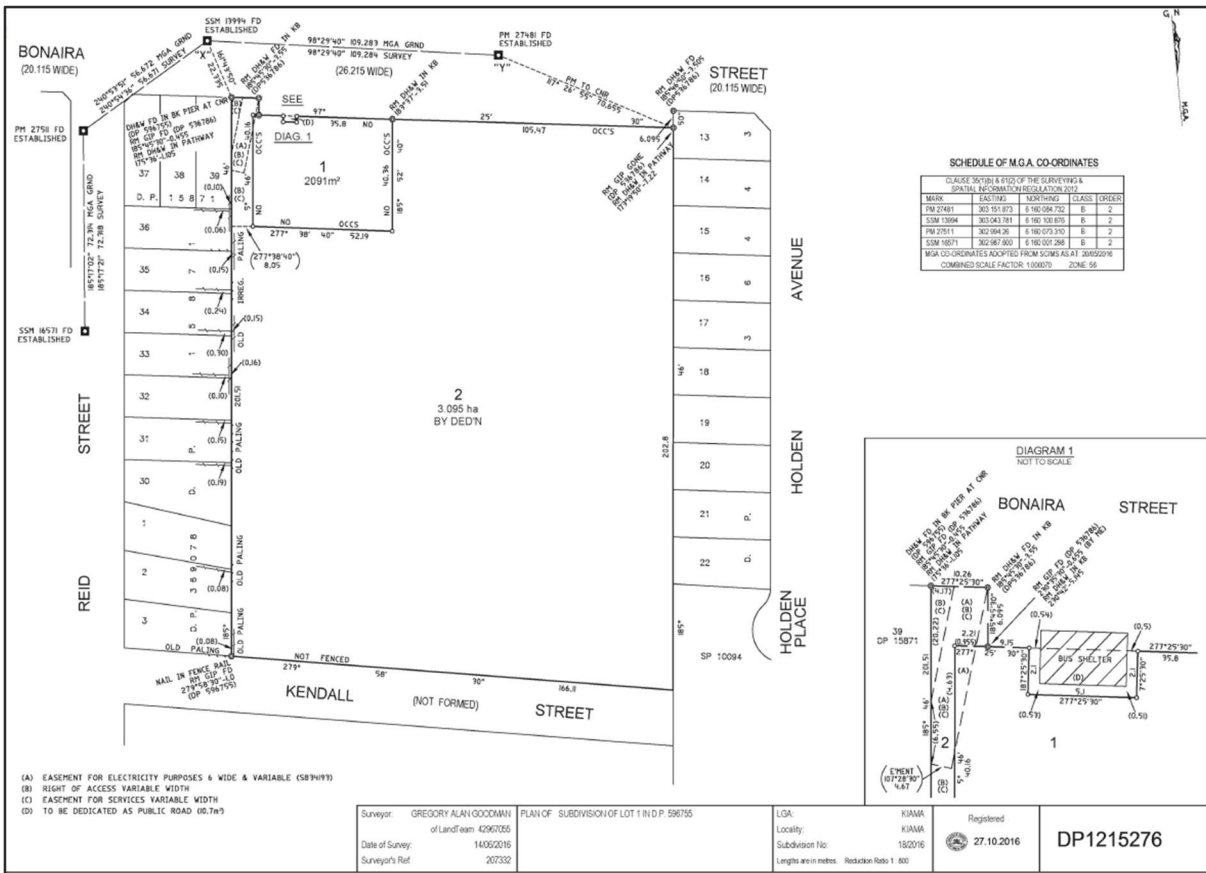


Figure 2 Deposited Plan (source: Planning proposal)

The site is zoned R2 Low Density Residential, has a Floor Space Ratio of 0.45:1, a minimum lot size of 450m², and a maximum building height of 8.5m under the Kiama LEP 2011.

1.5 Mapping

The planning proposal includes mapping to identify the subject land which is considered adequate for public exhibition purposes.

No LEP mapping changes are proposed as part of the planning proposal.

2 Need for the planning proposal

Council has identified the need to reclassify the subject site from Community Land to Operational Land to ensure it is being operated in accordance with the *Local Government Act 1993*.

Following Council’s acquisition of the site, it should have been classified as operational land within three months, however this was not completed at the time due to an oversight and the site was given Community Land status by default.

Council considers the status of the site as Community Land is not appropriate for the current use of the land for senior housing. Council notes the construction of Blue Haven Bonaira was completed in 2019 and comprises a contemporary seniors housing development.

Council is unable to financially sustain the continued operation of Blue Haven Bonaira which is understood to have been operating at a loss and Council has identified a need to improve cash flow to improve its long-term financial position.

Reclassification to Operational Land will enable Council to sell the land. Funds would be allocated to Council's Land Development Reserve to improve its financial position. The purpose of this Reserve is for:

- Revenue generating investments/activities that provide a commercial rate of return in the short, medium or long-term; and
- All profits/returns generated from investment activities to be returned to the Reserve.

3 Strategic assessment

3.1 Regional Plan

Illawarra Shoalhaven Regional Plan 2041

Council considers there are several key Objectives of the Illawarra Shoalhaven Regional Plan relevant to the proposal (refer to Section B of the planning proposal), including:

- Objective 18: Provide housing supply in the right locations;
- Objective 19: Deliver housing that is more diverse and affordable;
- Objective 21: Respond to the changing needs of local neighbourhoods; and
- Objective 23: Celebrate, conserve and reuse cultural heritage.

Council considers that the proposed reclassification, within an already defined residential urban area, will not contradict with the objectives and actions of the Regional Plan. The proposed reclassification will allow the land to be sold and continue to operate as seniors housing to provide care and housing seniors or people with a disability.

Given the nature of the proposal (reclassification to correct a historical land status anomaly), it is not considered inconsistent with the Regional Plan.

3.2 Local

Kiama Municipal Council Local Strategic Planning Statement 2020 (LSPS)

Council considers the proposal is consistent with Council's LSPS, '*Theme 2: Develop a Diverse and Resilient Visitor Economy*'. Theme 2 states (paraphrased) the Blue Have Care Facility is a major local player in the health and aged care sector providing a wide range of aged care services and a wide range of disability services for people in the Illawarra region.

Council notes the potential sale of the land following the reclassification will allow the continued operation of the Aged Care Facility by a new owner/manager.

Given the nature of the proposal (reclassification to correct a historical land status anomaly), it is not considered inconsistent with Council's LSPS, or other local plans and strategies identified in the planning proposal (refer to Section B).

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with Key relevant section 9.1 Directions is discussed below:

Table 3 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 3.2 - Heritage Conservation	Yes	<p>The subject site is mapped as containing local heritage item 'Barroul House' (Local: I81) listed in the Kiama Local Environmental Plan 2011.</p> <p>The proposed reclassification would not materially impact the heritage item which would continue to be conserved through the LEP provisions.</p>
Direction 4.3 – Planning for Bushfire Protection	No	<p>The land is mapped as part bushfire prone.</p> <p>Consultation has not occurred with the NSW Rural Fire Service (NSW RFS) on the revised planning proposal and consistency with this Direction remains unresolved.</p> <p>A Gateway condition has therefore been recommended requiring consultation with the NSW RFS prior to public consultation.</p>
Direction 5.2 – Reserving Land for Public Purposes	No	<p>The proposal is inconsistent with this Direction as it reduces land available for public purposes.</p> <p>However, this inconsistency is considered of minor significance and justified under the terms of the Direction.</p> <p>This is because the proposed reclassification corrects a historical land status anomaly to more accurately reflect the existing operational use of the site as a seniors housing facility.</p> <p>It is recommended Section B of the planning proposal be updated to provide a detailed assessment of the proposal against this Direction.</p>

3.4 State environmental planning policies (SEPPs)

Given the nature of the proposal, it is not inconsistent with relevant SEPPs (refer to Section B of the planning proposal).

4 Site-specific assessment

4.1 Environmental, Social and Economic

The reclassification would not result in any physical works and there is unlikely to be any environmental impacts. Any potential future development applications would be subject to a detailed environmental assessment process.

Council considers reclassification will improve the social and economic effect of the land by allowing the land to be operated/developed as intended by its residential zoning

4.2 Infrastructure

No additional public infrastructure requirements or impacts would result from the proposal.

5 Consultation

5.1 Community

Council proposes a community consultation period of 28 days, including notification of nearby property owners and residents of the Blue Haven Bonaira Facility.

The exhibition period proposed is considered appropriate.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal:

- NSW Rural Fire Service

6 Timeframe

Council proposes a 9 month time frame to complete the LEP.

The Department recommends a time frame of 10 months in case any unforeseen issues arise.

A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

As the planning proposal does not seek to discharge/change any interests or impact a public reserve, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions as it would result in a land classification for the site which more accurately reflect its existing operational use as a seniors housing facility. It would also allow Council to sell the land and allocate the funds to revenue generating investments/activities to improve its long-term financial position.

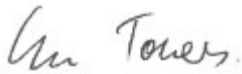
9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with applicable section 9.1 Directions are minor or justified (except those outlined below); and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated to:
 - Prior to public exhibition, Section B of the planning proposal is to be updated to provide a more detailed assessment of the proposal against Section 9.1 Direction 5.2 – Reserving Land for Public Purposes.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The timeframe for completing the LEP is to be 10 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should/ should not be authorised to be the local plan-making authority.



10/2/23

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