



## **ORDINARY MEETING OF COUNCIL**

### **MINUTE ITEM ATTACHMENTS**

Tuesday 16 April 2024

**ORDINARY MEETING OF COUNCIL MINUTE ITEM ATTACHMENTS**

**16 APRIL 2024**

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By your side



18<sup>th</sup> March 2024

The General Manager  
Kiama Council  
PO Box 75  
KIAMA NSW 2533

**Attention: Jane Stroud, Councillors**

**Re: Indigenous Cultural Heritage Bonaira Site, no consultation with indigenous community**

We write to you following discussions with the local First Nations People's Elder Aunty Gwenda in regards to the proposed sale of the Bonaira Site to a private provider, and the lack of consultation with the local Indigenous community regarding the cultural significance of the site that is proposed for sale.

As you may be aware the Bonaira site is considered by the local First Nations People Community to be of cultural significance. We have been told that firstly it is the site of a local birthing tree that was historically used by the Indigenous Community. Further to this Aunty Gwenda has identified that the former Kiama Hospital Site is also considered to be culturally significant based on the treatment of indigenous people at this site.

The concerning factor in this is that Aunty Gwenda has stated the local First Nations People Elders have not been consulted with over the proposed sale of this land, the impact on their community and the potential disconnect with country that may be experienced as a result of this sale.

Further to this, it raises concern and questions regarding the reclassification of the land as a whole, with cultural significant land being required to be protected by the local plan of management as protected by *Section 36D Local Government Act 1996* (NSW). It appears that even as community land the cultural significance has not been recognised and the impacts on the First Nations Community caused by a potential disconnect with country being made as a result of the reclassification of the land and the sale.

Is the lack of consultation with the First Nations Community correct as has been identified by the Local Elder? If this is the case it would appear council is failing in its requirements to protect land of cultural significance. As a result before any further action should be taken it is absolutely incumbent on the council to engage in this consultation to ensure that a proposed sale will not interfere with the local First Nations Community and their connection to country and places of cultural significance. As stands it appears their rights have not been considered throughout this process and this should occur as a priority. Please provide a formal response, a copy of this letter has been sent to the relevant portfolio holders at a state level.

Sincerely

A handwritten signature in black ink, appearing to read "Graeme Kelly".

Graeme Kelly OAM  
General Secretary

A handwritten signature in black ink, appearing to read "G Vann".

Per:  
G Vann,  
Southern Manager

cc;

**UNITED SERVICES UNION**

**NSW LOCAL GOVERNMENT, CLERICAL,  
ADMINISTRATIVE, ENERGY, AIRLINES  
AND UTILITIES UNION**

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E [united@usu.org.au](mailto:united@usu.org.au)  
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Wollongong

**Satellite Offices**

Bathurst, Canberra, Dubbo,  
Grafton, Hay, Port Macquarie,  
Tamworth, Wagga Wagga

Kiama Council Mayor; N Riley  
Councilor Rice  
Councilor J Keast  
Councilor K Renkema-Lang  
Councilor I Draisma  
Councilor S Larkins  
Councilor M Brown  
Councilor W Steel  
Councilor M Croxford  
Minister for Local Government R Hoenig  
Minister for Aboriginal Affairs D Harris  
MLA W Tuckerman Shadow Minister for Local Government  
MLA L Williams Shadow Minister for Aboriginal Affairs  
MLC A Cohn Greens Portfolio Holder Local Government  
MLC S Higginson Greens Portfolio Holder First Nations' Justice & Heritage

**UNITED SERVICES UNION**

**NSW LOCAL GOVERNMENT, CLERICAL,  
ADMINISTRATIVE, ENERGY, AIRLINES  
AND UTILITIES UNION**

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Tamworth, Wagga Wagga



Phone enquiries:  
(02) 4232 0444

Reference:  
JS:JH - 24/34736

28 March 2024

Mr Graeme Kelly OAM  
General Secretary  
United Services Union  
Email: [sgeddes@usu.org.au](mailto:sgeddes@usu.org.au)

Dear Mr Kelly OAM,

Thank you for your letter of the 18 March 2024 regarding "Indigenous Cultural Heritage" on the Bonaira Site.

In response to your letter, I draw your attention to Section 36D Local Government Act 1993 (NSW), which you also quote in paragraph 4 of your correspondence. In reading this section of the Local Government Act you should specifically note item (1) which states that:

*(1) This section applies to community land that is the subject of a **resolution by the council that declares that**, because of the presence on the land of any item that **the council considers** to be of Aboriginal, historical or cultural significance, the land is an area of cultural significance for the purposes of this Part.*

I confirm that the site is not subject to any resolution of Council under this section of the Local Government, nor is the site listed on Council's Heritage Register for any items of Aboriginal significance. It is a fact that when the land entered Council's ownership, there was no resolution made by Council to allocate the land to community classification and that in accordance with Section 31(2A) of the Local Government Act 1993 the land defaulted to a community classification following the three (3) month period after Council acquired the land. This has been well documented in several reports to Council and is a matter of historic public record. Whilst any community member may provide their own personal view of Council's intent or belief at the time, without an official resolution of Council the legislation in accordance with this section of the Act cannot be applied. You would also be aware that Council has recently reclassified the site to operational and for this and the other reasons outlined above the provisions of Section 36D do not apply to the site.

It is also important to note that the site is not listed on the AHIMS (Aboriginal Heritage Information Management System). This register administrated by the State Government lists all known and recognised Aboriginal significant sites or places, this includes places which may be confidential or not publicly disclosed. This register is regularly checked by Council staff during any planning process, to ensure knowledge of sites are considered in consultation processes. Through a search of this register it is evident that there is no formal identification or record of the land being an Aboriginal site or place. Therefore, no legislative process or consultation requirement has been missed or omitted in either the reclassification or sale process as your letter purports.

I do note that neither during the 2019 development, or throughout the preparation of feasibility studies for the Bonaira project in 2013 and 2016, the United Services Union made no representations to Kiama Municipal Council concerning protection of Indigenous or cultural heritage significance on the site. I find it curious that such assertions are first raised so many years after the project has been completed and is fully operational.

It is disappointing that you allege that Aunty Gwenda has not been consulted. Aunty Gwenda has direct contact with Council, through our Aboriginal Liaison Officer, and has regular meetings/discussions with Mayor Reilly, other Councillors and key staff frequently. As you are

aware the matter of the Blue Haven sale has been ongoing for many months and the community, including any community member has had the ability to provide their thoughts or concerns to Council throughout this time in many forms. A formal public hearing was also held regarding the reclassification in accordance with the requirements of the Environmental Planning and Assessment Act 1979. Consultation (using the applicable legislation) has occurred in accordance with the requirements.

Whilst I appreciate and value the role that our Aboriginal community has within our LGA and the strong connection to country that Aunty Gwenda holds, I must work within the framework and legislation that I am provided by the State Government through the Local Government Act. As you are aware, the sale has been lawfully resolved by Council to proceed and negotiations are at a late stage. The assertions outlined in your letter cannot be supported by the evidence and therefore do not warrant any change or any further reply from Council.

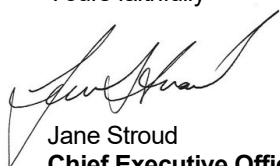
I am aware that the Mayor has spoken directly with Aunty Gwenda concerning your letter to ensure that she was in fact advised that you prepared this letter, citing her name and purporting to voice her concerns (merely reducing her to a third party), without so much as giving her the decency of being included in a copy of your March letter sent instead to so many other levels of government and Elected Officials for their information. The Mayor assures me Aunty Gwenda remains comfortable with her relationship with Kiama Municipal Council and having spoken with her myself today, I too remain satisfied. You will also note, I have cc'ed Aunty Gwenda on my letter so that she can be directly informed of government and official union correspondence.

I am a personal and professional advocate of indigenous self-determination and enabling marginalised individuals' and communities to vocalise and represent their own concerns in matters to any level of government or to unions. I do not like to see indigenous community members verbalised and politicised for union campaign activities. I believe our Indigenous Elders deserve better.

My door and lines of communication remain open to Aunty Gwenda and our local indigenous community who are able to meet with me at any time, to discuss any matter or concern related to Kiama. Our working relationship remains strong and focused on constructive and more important work activities such as the development of Council's first reconciliation action plan.

I expect that this letter concludes correspondence on this matter.

Yours faithfully



Jane Stroud  
**Chief Executive Officer**

CC.

Aunty Gwenda Jarrett  
Kiama Council Mayor, Councillor Neil Reilly  
Kiama Council Deputy Mayor, Councillor Imogen Draisma  
Councillor Matt Brown  
Councillor Mark Croxford  
Councillor Jodi Keast  
Councillor Stuart Larkins  
Councillor Karen Renkema-Lang  
Councillor Kathy Rice  
Councillor Warren Steel

Minister for Local Government, The Hon. Ron Hoenig MP  
Minister for Aboriginal Affairs, The Hon. David Harris MP  
Shadow Minister for Local Government, Wendy Tuckerman MP  
Shadow Minister for Aboriginal Affairs, The Hon. Leslie Williams MP  
Greens Portfolio Holder Local Government, Dr Amanda Cohn MLC  
Greens Portfolio Holder First Nations' Justice & Heritage, Ms Susan Higginson MLC



16 April 2024

Jane Stroud  
Chief Executive Officer  
Kiama Municipal Council  
11 Manning Street  
KIAMA NSW 2533

Dear Jane,

**RE: Report 15.1 Kiama West (Springside Hill) Planning Proposal (PP 2023-2833) Stage 2 Preliminary Assessment**

I refer to the abovementioned report on the Agenda for the 16 April 2024 Ordinary Meeting of Council in relation to the planning proposal request for Springside Hill (PP 2023-2833).

The purpose of this letter is to advise you of several discrepancies and misrepresentations in the Council report that have been used to justify the recommendation to not support the planning proposal request. These are outlined below. We request that these be raised and recorded in the minutes when this matter is considered.

**Timeframe for delivery**

The Council report states that the proposed timeframe for delivery of housing on the site is 10 to 15 years, and on this basis, claims that the proposal does not provide immediate or short-term solution for housing supply for Kiama LGA.

This is not an accurate representation of our proposed delivery timeframe and is not stated in the Planning Proposal Report. To clarify, the project would commence immediately, providing short term housing delivery, with overall completion of development across the entire site within 10 to 15 years. We would like this corrected in the minutes.

**Lack of contributions**

The Council report relies on the lack of a contributions plan to justify not supporting the proposal. As part of our proposal, we have submitted an offer to enter into a planning agreement to fund the necessary infrastructure to support development on the site, at no cost to Council. Council has not responded to our letter of offer, despite stating in the report that there has been no discussions with Council staff on the content of the VPA.

**Utility infrastructure**

The Council report states that the proposed stand-alone servicing system will be an undesirable outcome for the community and set a precedent for other sites in the LGA. This is misleading, as stand-alone systems are enabled by legislation, as an alternative to a Sydney Water serviced site. The proposal on this site does not establish a precedent as it is already enabled by legislation. Any site can propose such a system if it satisfies legislative and Sydney Water requirements. A proposal that meets these requirements satisfies the site specific merit test for a planning proposal and cannot be used as a reason to not support the proposal. We recognise that this proposal is a new concept in the Kiama LGA, which is why we have offered to provide Council with as much detail as possible and offered further briefings and site visits to other facilities.

ABN 83 620 275 069  
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info@mecone.com.au  
02 8667 8668

Level 15, 6 Hassall Street, Parramatta NSW 2150





**Claimed lack of support from key government agencies**

The Council report claims that there is a lack of support from key government agencies by referencing comments received from Sydney Water and the Department of Climate Change, Energy, the Environment and Water. Copies of the letters from these agencies are included as attachments to the Council report. Our reading of the letters are that there is not a lack of support, but rather there is requests for further information that needs to be submitted in order for the proposal to be further assessed. Requests for further information is standard practice on most proposals. We have not been asked or given the opportunity to address these requests for further information.

**Site and strategic merit**

The Council report refers to a need to consider equity and opportunity, and sequencing housing growth across other sites in the LGA. We believe that the proposal should be considered on its merits in terms of whether it justifies site and strategic merit rather than be considered on equity of other locations.

We request that these be raised and recorded in the minutes when this matter is considered. Should you wish to discuss these matters further, please contact me on 0414 194 473 or [cshannon@mecone.com.au](mailto:cshannon@mecone.com.au).

Yours sincerely,

Chris Shannon  
**Director**

Cc: Jessica Rippon, Director Planning, Environment and Communities

(17) (15)

PETITION

Total 10

To the Councillors of Kiama Municipal Council

The Petition of the residents of the Kiama Municipal Council.

Bring to the attention of the Council the concerns of local residents that the rezoning application lodged by Traders In Purple in relation to land at West Kiama (being 114 hectares of the Spring Creek Catchment and a site currently located outside the defined urban boundary for Kiama) is not consistent with the Kiama Local Strategic Planning Statement 2020 (the Planning Statement) or the Illawarra Shoalhaven Regional Plan 2041 (the Regional Plan).

The undersigned petitioners therefore ask the Council to:

1. NOT support the rezoning application lodged by Traders In Purple as it does not cover land mapped in the Planning Statement or referenced in the Regional Plan as an identified potential greenfield site for residential development in Kiama.
2. Not cause further offence to the local community by referencing the site as "Springside Hill", a name assigned by the developer and not a name endorsed by the local community or approved by the NSW Geographical Names Board.
3. Ensure that any need to develop another large greenfield site in Kiama for residential housing is identified and assessed in consultation with the community through the Growth and Housing Strategy planning process.

More detailed comments to support our request are provided as Attachment A.

Lodged by: Karen Fowler

Contact Phone: [Redacted]

Address: [Redacted]

Email: [Redacted]

Privacy statement: Kiama Municipal Council is collecting your personal information solely for the purpose of administering this petition and verifying its authenticity, as required by Council's Petitions Policy. Council will handle your personal information in accordance with the Privacy and Personal Information Protection Act 1998 and the Government Information (Public Access) Act 2009.

Name	Address	Signature
Kaylene Tobin	[Redacted]	[Redacted]
Allyson Bealson	[Redacted]	[Redacted]
Karen Ann Smith	[Redacted]	[Redacted]
Margaret Boothroyd	[Redacted]	[Redacted]
Robyn Reurich	[Redacted]	[Redacted]
Alexandra Chopping	[Redacted]	[Redacted]
Robyn Twyford	[Redacted]	[Redacted]
Dianna Clark	[Redacted]	[Redacted]
Diene Thompson	[Redacted]	[Redacted]

9



11

21

### PETITION

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Lodged by: *Karen Fowler*

Contact Phone: [Redacted]

Address: [Redacted]

Email: [Redacted]

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Name	Address	Signature
<i>Suzanne Whyte</i>	[Redacted]	[Redacted]
<i>France Lyon</i>	[Redacted]	[Redacted]
<i>Jill Millburn</i>	[Redacted]	[Redacted]
<i>Alma Maphers on</i>	[Redacted]	[Redacted]
<i>Annette Pust</i>	[Redacted]	[Redacted]
<i>Stephen Brazier</i>	[Redacted]	[Redacted]
<i>Debra Moore</i>	[Redacted]	[Redacted]
<i>Susan Griffiths</i>	[Redacted]	[Redacted]
<i>Roger Collins</i>	[Redacted]	[Redacted]

9

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Name	Address	Signature
Jenny Bourke	[Redacted]	
ANNE WHITMAN		

6D

PETITION

28+9 = 37

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Handwritten calculations: 10, 8, 56, 10, 66

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Lodged by: Karen Fowler

Contact Phone:

Address:

Email:

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Table with 3 columns: Name, Address, Signature. Names listed include NATALIE DAY, JULIA BIRMINGHAM, Brianna Parker, Michael Conlon, Larchene Wilson, N Hillsdon, PAT BARRON, BOB DEACON, and J WALDEN.

(9)

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Name	Address	Signature
Diane Heffernan		
Tschelle Watson		
Gisanne Brazener		
Mira		
Krystal Wilson		
Linne Brennan		
PAUL FINCH		
Shane Lewis		
Patricia ScARLEA		
Kylie Bingham		
Gerry Green		
Sam M Litcher		
Steve Lacey		
Barb MATHIE		
Rob Dylan		
Carly McKae		
Jacob Henbest		
Jen Dixon		
Sally Richardson		
Rob mag		
Margaret BODIE		
Megdaline Piller		
Anne Grovas		
Kinga Ameyga		

4

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Name	Address	Signature
Racheal Rawca	[Redacted]	[Redacted]
Jacob McIntyre		
Jaime Higley		
Steve Osborne		

4



### PETITION

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The Petition of the residents of the Kiama Municipal Council.

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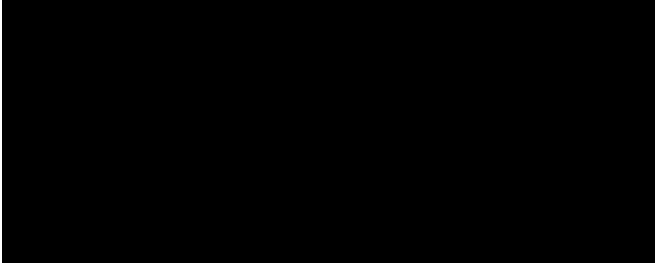
More detailed comments to support our request are provided as Attachment A.

Lodged by:

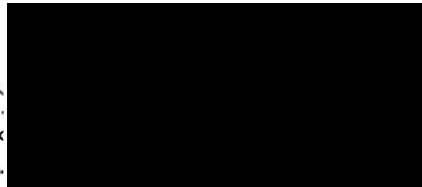
Contact Ph

Address:....

Email.....



*Karen Fowler*



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CDM

Name	Address	Signature
RAY LEISHMAN		
MICHELE LEISHMAN		
LINDA BAIRD		
MICHAEL PUNTORLEN		
LYN RICH		
ROBERT RICH		
Adam Ellis		

8)

**Attachment A**  
**Supporting Comments**

- It would be inappropriate for planning authorities to approve a significant largescale rezoning proposal that does not align with current adopted and publicly exhibited Strategic Planning documents.
- Both the Kiama Local Strategic Planning Statement 2020 (the Planning Statement) and the Illawarra Shoalhaven Regional Plan 2041 (the Regional Plan) did not identify the West Kiama land as a potential urban boundary expansion site and acknowledged that Kiama's ability to deliver additional housing is constrained.
- The Regional Plan clearly indicated that the focus for Kiama LGA should be on increasing housing supply in the Kiama CBD, existing residential areas, the Bombo Quarry site, and the **mapped** potential expansion sites shown in the Planning Statement.
- The South Kiama site has already been rezoned and it is expected that it will deliver around 500 new homesites within the next five to seven years.
- Council has been working hard to deliver on the Actions identified in the endorsed strategic planning documents to increase housing supply and diversity in the town centre. The "Action Plan - Managing Sustainable Growth" on Page 31 of the Planning Statement required Council to prepare a Local Housing Strategy to detail how and where more housing could be provided in the Municipality. This Growth and Housing Strategy is currently being prepared and is expected to be finalised within the next three months.
- Objective 18 of the Regional Plan states "Provide housing in the right locations". If Council and the State Government are serious about meeting this objective, it is essential that no approval is given to rezone the West Kiama Spring Creek Catchment land until this site has been considered holistically via the Growth and Housing Strategy.
- Any decision to approve the West Kiama rezoning proposal prior to finalising the Growth and Housing Strategy will further undermine the community's faith in government planning processes.
- The NSW government's revised housing growth targets for the Kiama LGA (expected to be announced within the next few months) must be considered as part of the Growth and Housing Strategy process. While Traders In Purple claim that Kiama can't meet projected housing targets, this claim needs to be tested once the State government's targets are released and via the Growth and Housing Strategy.
- As recognised in the Regional Plan, Bombo Quarry is the best located and preferred site for developing a new suburb in Kiama. It is understood that this land is likely to be rehabilitated much earlier than previously proposed and will provide a realistic option for redevelopment within the next 10 years. This is another matter that must be further investigated as part of the Growth and Housing Strategy process.
- If current strategic planning documents are revoked or amended to reflect revised government growth targets and outcomes from the current Growth and Housing Strategy process, Council and the Southern Regional Planning Panel will then be in a stronger position to fully consider the strategic and site-specific merits of any new rezoning applications for lands identified as potential residential development sites.