

Sydney:
Suite 304, 21 Berry St
North Sydney NSW 2060
PO Box 1612,
North Sydney NSW 2059

Our ref: 206.095

9th October 2006

Minister for Planning
GPO Box 39
Sydney, NSW 2001

**SUBJECT: MAJOR PROJECTS APPLICATION UNDER PART 3A OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.**

PROPOSED INTEGRATED RESIDENTIAL DEVELOPMENT AT DIDO STREET, KIAMA.

Dear Minister,

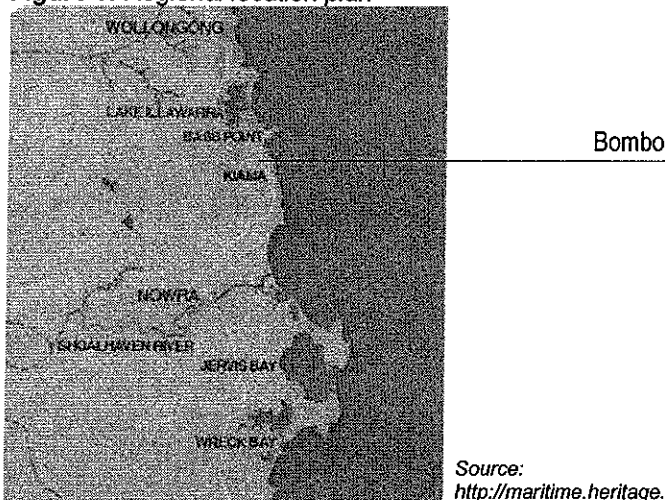
We are consulting with you on behalf of our client, Boral Development Business Unit which wishes to make a project application under the provisions of Part 3A of the *EP&A Act 1979*.

This application includes:

- a request under Clause 6 for confirmation that the project will be considered under Part 3A as a Major Project,
- the preparation of an outline of the proposal clearly indicating the scope of the project and including a Preliminary Assessment, and
- a request for Director General's (DG's) requirements for the preparation of the Environmental Assessment (EA).

The application is in relation to a proposed integrated housing development on land at Dido Street, Bombo, Kiama. The land has an area of 3.658 ha, is registered as Lot 2, DP 805229 and is mainly zoned Residential 2(a) in the Kiama Local Environmental Plan 1996 (LEP 1996). The proposal will result in the creation of 90 new residential dwellings as illustrated in the attached plans and drawings of Turner + Associates Architects (See Figure 2).

Figure 1: Regional location plan



Source:
<http://maritime.heritage.nsw.gov.au>

1: THE SITE

Boral owns an area of 3.658 ha of land registered as Lot 2, DP 805229. The site is located in Bombo within the Kiama Local Government Area. The site is located 1km north west of Kiama. The Bombo quarry is located approximately 500 metres to the north of the site. The land is zoned 2(a) Residential and the northern edge is zoned 7(d) Rural Environmental Protection (Scenic) under the Kiama 1996 LEP.

An intermittent creek runs across the site diagonally and drains to Spring Creek to the south east of the site. This gully divides the site and creates steep slopes, each side of the site slopes towards the gully at a grade of approximately 20%. At present the site is undeveloped and Jamaica Street which connects to the site is unformed, a 120m gravel roadway runs from Glenbrook Drive into the property.

2: PROJECT DESCRIPTION

The proposal is for the subdivision of the site into 90 residential lots and associated earthworks as part of an integrated residential development. The subdivision is designed to allow the development of a range of housing types. A concept plan of the proposed subdivision is included, see **Figure 2**.

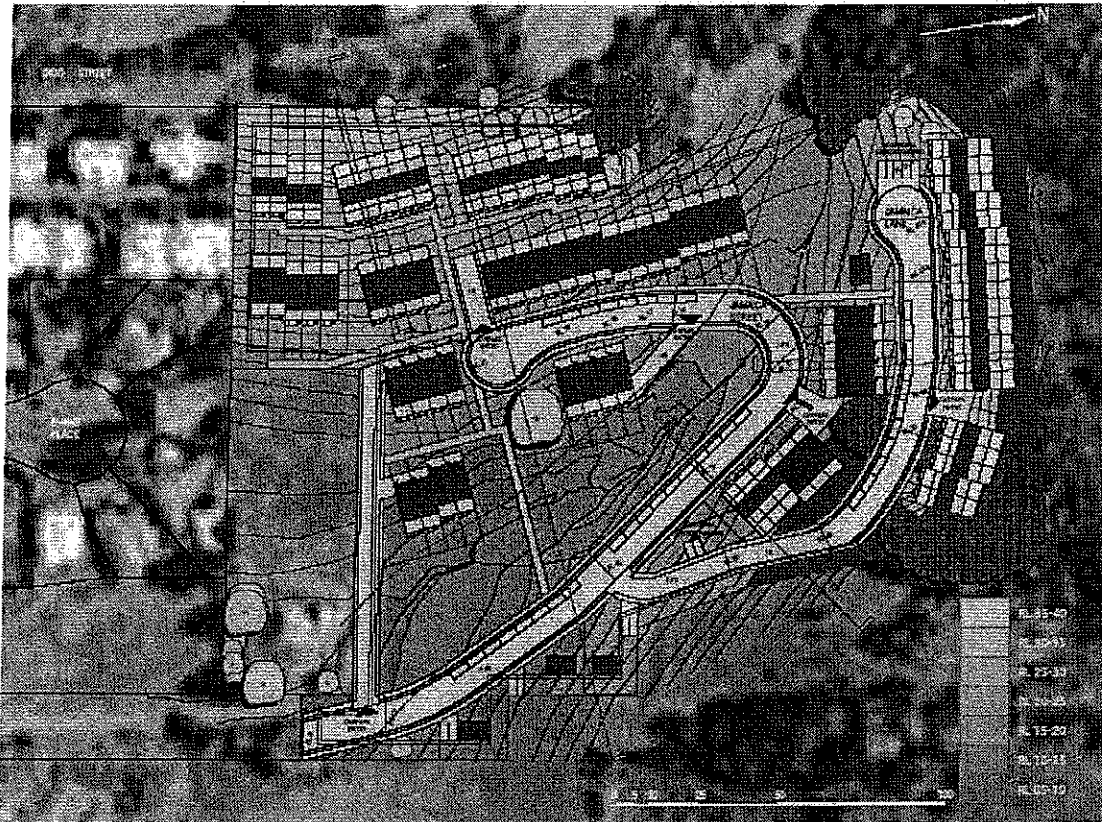
The proposed subdivision is considered to be fully in compliance with the objectives of the Kiama LEP 1996. The proposed subdivision seeks to provide best practice water quality management with detention and filtration of stormwater prior to it entering Spring Creek.

Car parking is provided on the site for all residents and visitors. A comprehensive vehicle and pedestrian network is proposed with roads and pavements connecting and integrating to the existing paths and roads beyond the site. The road network responds to the site contours.

A large open space network has been developed for resident amenity and to protect the existing intermittent creek on the site. The public open space will also accommodate a detention pond which will provide an attractive water feature for the development.

Approximately 15% of the entire 3.658ha site comprises public open space. Every dwelling is also complemented by private open space at the rear which can accommodate a garden or a patio.

Figure 2: Project proposal



3: MAJOR PROJECT SEPP

The land is located in the NSW Coastal Zone as defined in the *Coastal Protection Act 1979* and as depicted in the map included as **Figure 3**.

Part 3A of the EPA Act applies to the carrying out of development that is declared under section 75B to be a project to which the Part applies by:

- (a) a state environmental planning policy; or
- (b) order of the Minister published in the gazette.

Clause 6(1) of the Major Projects SEPP declares development that, in the opinion of the Minister, is development of a kind that is described in Schedule 2 to be a project to which Part 3A of the EPA Act applies. Schedule 2, Item 1 identifies the following development (relevantly) for the purposes of clause 6:

1 Coastal areas

(1) Development within the coastal zone for any of the following purposes:

- (i) **subdivision of land in a residential zone into more than 25 lots** or in a rural/residential zone into more than 5 lots, but in the case of the metropolitan coastal zone only if the land is wholly or partly within a sensitive coastal location.

...

(4) In this clause:

metropolitan coastal zone means that part of the coastal zone between the northern boundary of the local government area of Newcastle City and the southern boundary of Shellharbour City.

...

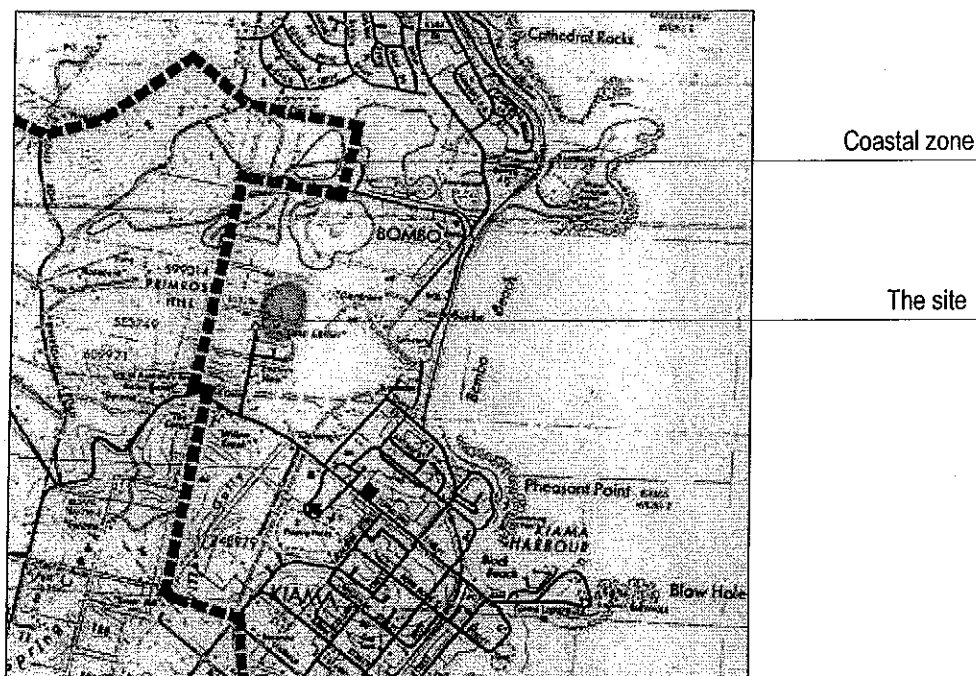
subdivision of land does not include a boundary adjustment, or a strata subdivision, or a community title subdivision associated with an approved development.

The Land is not located within the metropolitan coastal zone as Kiama is south of Shellharbour. However, the land is located within the coastal zone and the proposed development involves the "subdivision of land" in a residential zone into more than 25 lots.

While the Proposed Development is likely to involve a community title subdivision, it is not associated with an approved development and as such falls within the definition of "subdivision" in Schedule 2 of the Major Projects SEPP.

Therefore, pursuant to the Major Projects SEPP, the proposed development is assumed to be a project to which Part 3A applies. The approval of the Minister is required for all Part 3A Projects pursuant to section 75D of the EPA Act.

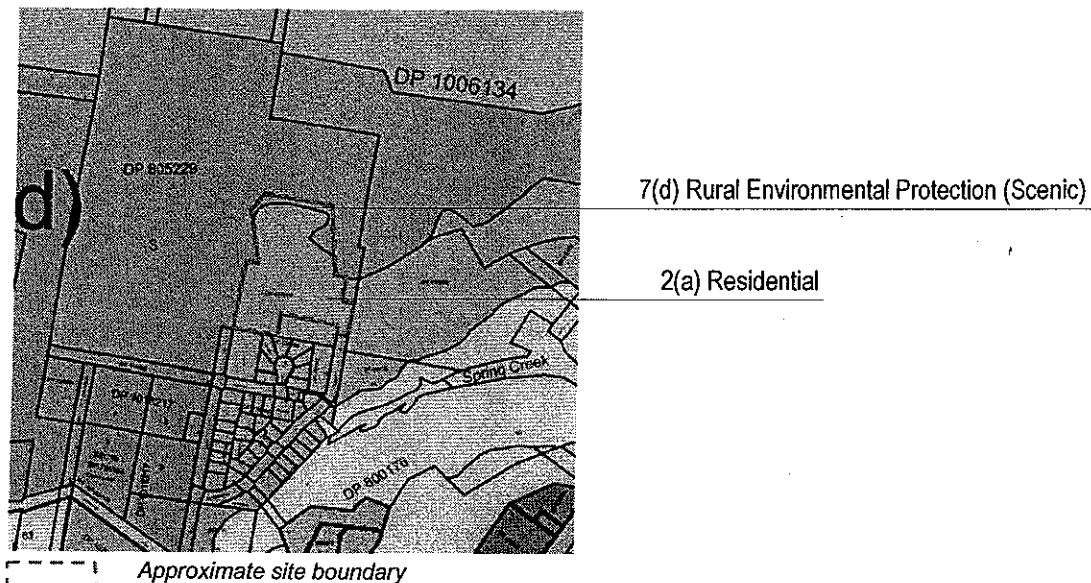
Figure 3: Location within the Coastal Zone



4: KIAMA LOCAL ENVIRONMENTAL PLAN 1996

The following clauses of Kiama 1996 LEP are relevant to this proposed development and are discussed below. They illustrate that the proposal will comply with the relevant requirements/provisions of the Kiama 1996 LEP. Most of the land is zoned Residential - 2(a) with a small section of the northern edge zoned 7(d) (Rural Environmental Protection (Scenic)). An extract from the zoning map is illustrated within **Figure 4** below.

Figure 4: Zoning Plan



Source: Kiama 1996 LEP

4.1 Part 2 Clause 9: Zone 2(a) (Residential) controls

General controls for development Zone 2 (a) (Residential Zone)

1 The objectives are:

- (a) to enable the orderly and economic development of land for residential purposes,
- (b) to provide for a variety of allotment sizes and housing choice,
- (c) to reduce the consumption of land for residential purposes,
- (d) to reduce housing costs by reducing, in certain cases, the minimum area of land on which residential development may be carried out,
- (e) to encourage innovation, diversification and energy efficiency in subdivision patterns, site plans and building designs,
- (f) to prevent development occurring on land subject to flooding, slip or coastal erosion,
- (g) to protect urban bushland and significant vegetation,
- (h) to protect significant landscapes,
- (i) to conserve and enhance the architectural and aesthetic character of items of environmental heritage significance,
- (j) to cater for small domestically-based enterprises that do not adversely affect the environment or the amenity of the neighbourhood and its residents, and
- (k) to ensure that development and land management practices do not have an adverse effect on water catchments, water quality, land surface conditions and important ecosystems such as streams, estuaries and wetlands.

2 Without Development Consent

Bush fire hazard reduction; home based child care services; home businesses.

3 Only With Development Consent

Boat building carried out within a building; child care centres; cottage industries; drainage; dual occupancy development; dwelling-houses; educational establishments; fill; home hosting facilities; hospitals; integrated housing development; places of public worship; professional consulting rooms; recreation areas; roads; utility installations (other than gas holders or generating works); units for aged persons; villa homes and courtyard houses.

4 Prohibited

Any purpose other than a purpose included in item 2 or 3.

Comment: The proposed 90 lot subdivision for an integrated housing development is permissible with consent in the 2(a) Zone. "Integrated housing development" is defined in the Kiama LEP as meaning:

"development that consists of:

(a) the subdivision of land into 5 or more allotments, and

(b) the erection of a single dwelling-house on each of the allotments created by that subdivision"

The proposal will provide a variety of allotment sizes and housing choices in the area (CI 9(1)(b)), the proposed integrated housing (town houses) and detached houses will provide an innovative and energy efficient subdivision pattern and building design (CI 9(1)(e)). The proposal protects the existing intermittent creek in a landscaped riparian zone and provides water quality management measures to protect and improve Spring Creek and its catchment (CI 9(1)(k)).

4.2 Part 2 Clause 9: Zone 7(d) (Rural Environmental Protection (Scenic) Residential Controls)

The objectives and table of uses associated with the 7(d) Rural Environmental Protection (Scenic) zone state as follows:

Zone No 7 (d) Rural Environmental Protection (Scenic)

1 Objectives of Zone

The objectives are:

- (a) to protect vegetation and land of significant scenic or aesthetic value,*
- (b) to preserve, within the land referred to in paragraph (a), significant vegetation stands and promote revegetation programs,*
- (c) to preserve dominant land forms which contribute to significant landscapes and form part of an aesthetic environmental feature,*
- (d) to provide suitable land for agricultural use,*
- (e) to protect the agricultural potential of rural land,*
- (f) to prevent the fragmentation of rural land of prime crop and pasture potential,*
- (g) to allow on lawfully cleared prime crop and pasture land the continuation of animal grazing and cropping practices associated with the use of land for agriculture,*
- (h) to cater for small domestically-based enterprises that do not adversely affect the environment or the amenity of the neighbourhood and its residents, and*
- (i) to ensure that development and land management practices do not have an adverse effect on water catchments, water quality, land surface conditions and important ecosystems such as streams, estuaries and wetlands.*

2 Without Development Consent

Agriculture (other than clearing, domestic animal boarding and breeding establishments, intensive horticulture and intensive livestock production, goat farming, deer farming or turf farming) carried out on lawfully cleared land; bush fire hazard reduction; clearing of noxious weeds; environmental protection works; home based child care services; home businesses.

3 Only with Development Consent Attached dwelling dual occupancy development; buildings ancillary to agriculture (including milking sheds, haysheds, machinery sheds, silos, stables, cattle yards and the like); cottage industries; dams; drainage; dwelling-houses; fill; golf courses; home hosting facilities; roads; rural worker's dwellings; tree plantations and harvesting; utility installations (other than generating works or gas holders).

4 Prohibited

Any purpose other than a purpose included in item 2 or 3.

Comment: The treatment of that small area of land in the north east of the site that falls within this 7(d) zone is in compliance with the objectives of that zone. A stand of vegetation on the north east corner of the site (within zone) will be retained and complement the open space network. The proposal seeks to protect the existing water catchment and system of the site, compliant with objective (CI 9(1)(i)).

The buildings proposed for this land use zone and this area of the site are permissible under the provisions of Part 10 Clause 52 (General Principles for the development and use of land and buildings adjacent to zone boundaries) from the Kiama LEP 1996, (see **Section 4.7** of this letter).

The dwellings are arranged to sensitively fit within the existing topography, below the ridgeline and screened by vegetation on the north east and northwest.

4.3 Part 4, Clause 14 provides controls for subdivision on Residential A and B Zoned land

- (1) *A person shall not subdivide land within Zone No 2 (a) or 2 (b) for the purpose of creating lots for detached dwelling-houses unless:*
- (a) *each of the allotments to be created that is hatchet-shaped has an area, excluding the access corridor, of not less than 550 square metres, and*
 - (b) *each of the allotments to be created that is not hatchet-shaped has an area of not less than 450 square metres.*
- (2) *This clause does not apply to a subdivision creating separate land titles for dwellings created by dual occupancy development or integrated housing development or by development creating villa homes and courtyard houses.*

Comment: This project proposes is an integrated housing development, as such the minimum lot sizes specified above do not apply (CI 14(2)).

4.4 Part 4 Clause 17 Integrated Housing developments controls

17 Residential "A" and "B" Zones—Integrated Housing Development

- (1) *Integrated housing development may, with the consent of the Council, be carried out on land within Zone No 2 (a) or 2 (b).*
- (2) *The Council shall not grant consent to integrated housing development on an allotment of land within Zone No 2 (a) or 2 (b) unless it is satisfied that:*
- (a) *each allotment on which a dwelling will be erected has an area of 232 square metres or more, and*
 - (b) *the development makes adequate provision with respect to the privacy of each proposed dwelling-house, and*
 - (c) *the development makes adequate provision with respect to solar access and access to natural light for each proposed dwelling-house, and*
 - (d) *the floor space ratio of each proposed dwelling-house will not exceed 0.5:1, and*
 - (e) *adequate arrangements can be made for the provision of water, sewerage and drainage services for each proposed dwelling-house.*

Comment: The proposed 90 lot subdivision is permissible within zone 2(a) (CI 17(1)). The proposed housing types within the development – townhouses and detached houses all make adequate provision to respect the privacy of other proposed dwellings and have been designed to allow solar access and natural light to each dwelling (CI 17 (2)(b) and (c)). The total FSR of the proposed scheme on the site will be 0.27:1 which is well below the upper limit of 0.5:1 (CI 17 (2)(d)).

Adequate arrangements will be made for the provision of water, sewerage and drainage services to each proposed dwelling house in the scheme, by linking the site to the existing systems and networks that serve nearby residential property (CI 17(2)(e)).

4.5 Clause 39: Rural Environmental Protection (Scenic) — Consideration of Natural Environmental Attributes.

Clause 39 of the Kiama LEP relates to that part of the site within the 7(d) zone and states as follows:

- The Council shall not grant consent to development on land within Zone No 7 (b), 7 (b1), 7 (d), 7 (e), 7 (f) or 7 (l) unless it has considered the effect of the development on:*
- (a) *the protection of rare and endangered flora and fauna species and the protection of habitats for native flora and fauna, and*
 - (b) *the protection of wildlife corridors and vegetation links with other nearby bushland, and*
 - (c) *the protection of bushland as a natural stabiliser of the soil surface and the protection of existing landforms such as natural drainage lines, watercourses and foreshores, and*

- (d) the protection of bushland for scenic values and the retention of the unique visual identity of the landscape, and
(e) the cumulative impact of a series of development proposals.

Comment: The proposal responds to the existing natural environment, particularly on the land areas zoned 7(d) on the extreme northern edge of the site.

Existing stands of trees have been retained providing habitat (CI 39(a)) and scenic value (CI 39(d)) and these areas also link to the open space corridor along the creek line (CI 39(b)) which runs through the site.

By retaining and promoting the creek line the existing soil surface will be stabilised. The proposal seeks to build basement car parking facilities and to fit dwellings into the existing contours of the site which removes the need to level areas of the site and retains existing topography, landform and drainage lines (CI 39(c)).

4.6 Clause 50: Height Restrictions for Buildings

Clause 50 of the Kiama LEP relates to height restrictions and states as follows:

Clause 50	Height restrictions for buildings (1) Except as provided by this clause, a person shall not erect a building containing more than 2 storeys
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Comment: The dwellings comply with the LEP height controls and are no more than two storeys above ground level. All dwellings have been designed to sit sensitively within existing site contours to reduce the visual impact of the development from surrounding areas. The proposed dwellings are limited in height to no higher than 7m above the existing ground line. This 7m height limit is likely to be beneath mature tree canopy which will also screen the development and reduce its visual impact (CI 50 (1)).

4.7 Part 10 Clause 52: General Principles for the development and use of land and buildings adjacent to zone boundaries.

Clause 52 of the Kiama LEP is relevant to the 2(a) and 7(b) zone boundary and states as follows:

52 Development adjacent to zone boundaries
(1) A person may, with the consent of the Council, carry out development on land within 20 metres of the boundary between two zones for any purpose for which development consent may be granted in the adjoining zone.
(2) The Council shall not grant consent as referred to in subclause (1) unless the site on which it is proposed to carry out the development is partly within each of the adjoining zones and it is satisfied that: (a) it is necessary to grant consent to the otherwise prohibited use of the land because of the design characteristics of the total proposed development, including the part which is permitted in the adjoining zone, and (b) the total proposed development if carried out will not operate so as to hinder the attainment of the objectives of either of the zones affected by the development.

Comment: The site contains land within two zones – 2(a) Residential and 7(d) Rural Environmental Protection (Scenic). As described in **Section 4.1** above, the 2(a) Residential zone allows for integrated residential development which is not normally permissible in the 7(d) Zone. However, because of the above Clause 52 provisions, consent can be sought to carry out development within 20 metres of the adjoining zone.

4.8 Clause 55: Traffic Impact

Clause 55 of the Kiama LEP relates to traffic impact and states as follows:

Clause 55 *Traffic impact*

The Council shall not grant consent to development in any residential, commercial or industrial zone unless it has given consideration to:

- (a) traffic impacts on the road system and on the amenity of residents, and*
- (b) the safety of traffic access, and*
- (c) the adequacy of car parking.*

Comment: The amenity of existing residents to the south of the proposed development has been considered in the design of the road network for the scheme. The existing street network will link into the development when Jamaica Street is extended into the site. This single connection to the existing road network is considered to be adequate and the expected traffic generation will not adversely impact on traffic along other residential streets in the vicinity (CI 55 (a)).

Jamaica Street is effectively a cul-de-sac, removing opportunities for 'rat runs' through residential streets. New roads have been designed to follow site contours, reducing the steepness of grades on site (CI 55(b)).

Adequate on site car parking is proposed, accommodating visitors' as well as resident's vehicles, reducing competition for parking on existing streets (CI 55(c)). On street parking is provided adjacent to the open space corridor encouraging use and surveillance of public open space.

4.9 Clause 58A: Riparian Corridors

Clause 58A of the Kiama LEP relates to Riparian Corridors. The Kiama LEP defines riparian corridors as meaning:

"land within a stream, river or estuary shown coloured on the map marked "Kiama Local Environmental Plan 1996 (Amendment No 24)—Riparian Corridors" and land within a distance of 30 metres from a bank or shore of any such stream, river or estuary."

Clause 58A states as follows:

Clause 58A *Riparian corridors*

(1) The objectives of this clause are as follows:

- (a) to protect streams, rivers, estuaries and wetlands and allow them to retain their natural hydrological and geomorphological regime and to continue to function as diverse natural ecosystems,*
 - (b) to maintain stream and riverbank stability and protect land from erosion,*
 - (c) to conserve and protect aquatic and remnant natural terrestrial habitats and vegetation communities within riparian corridors,*
 - (d) to restore degraded habitats and maintain vegetation communities within riparian corridors,*
 - (e) to restore and maintain the functioning of riparian corridors as refuge areas,*
 - (f) to conserve and protect Aboriginal heritage.*
- (2) In considering an application for consent for development on land within Zone No 1 (a), 7 (b), 7 (b1), 7 (d), 7 (e), 7 (f), 7 (f) or 9 (a) that is within a riparian corridor, the Council must have regard to the objectives in subclause (1).*

Comment: Whilst the creek line that runs through the subject site is not a riparian corridor as defined by the LEP, nevertheless its proposed treatment is in accord with the objectives listed in Clause 58A.

Surrounded by open space, the creek will retain it's natural character and systems (CI 58A(1)(a)), furthermore the natural treatment of the corridor will enable erosion control to be managed (CI 58A(1)(b)) and protect the natural habitat of the corridor (CI 58A(1)(c)).

As the corridor along the creek line will function as public open space for the community, the area could be the site of a community revegetation program, re-establishing habitat and encouraging local resident's stewardship of the local environment (CI 58A(1)(d)(e)).

5 KIAMA: DEVELOPMENT CONTROL PLANS

A number of Kiama Development Control Plans (DCPs) would be applicable to the development proposal and the site if it were a local development proposal. For completeness these have also been considered in this initial environmental assessment (see Table 5.1).

Table 5.1: DCP compliance checklist

Kiama DCP	Relevance to the proposal	
DCP 6 – Integrated Housing Development	Unlikely	This DCP may be applied as a code or policy. The proposal complies with many aspects of DCP 6 which includes controls for the following: <ul style="list-style-type: none"> • Lot sizes • Road design and dedication • Garbage disposal • Car parking • Utility services • Public open space provision • Sewerage • Floor space ratio • Building design • Building setbacks • Private open space • Privacy • Fences • Landscape • Additions and alterations
DCP 7 – Dual Occupancy Development	No	This DCP does not apply to the proposal.
DCP 8 – Council policy to control building height and amenity within the Kiama Council Area	Possibly	This DCP does not apply to the proposal and it conflicts with controls from DCP 6. Nonetheless, building height of all proposed dwellings is no higher than two storeys.
DCP 12 – Multiple dwelling housing in residential areas	Unlikely	This DCP is unlikely to apply to the proposal. However, the proposal complies with many aspects of DCP 12 which includes controls for the following: <ul style="list-style-type: none"> • Economic site appraisal • Character and streetscape • Height and scale • Massing • Materials and design • Setback and orientation • Privacy • Noise • Views • Sunlight and climate control • Communal/service facilities • Landscaping and open space • Car parking and driveways • Drainage
DCP 18 – Energy Smart Homes	Yes	General design principles which apply to most sites. The proposed development has considered environmental influences and sustainability from early stage of site planning and siting has been developed in response to solar access, prevailing winds and water flow paths.

		This DCP will apply at the detailed design stage also.
DCP 25 – Planning for less waste	Yes	A Waste Minimisation Management Plan is required to cover the construction, demolition and use phases of the building proposed.
DCP 31 – Landscape Guidelines	Yes	Basic information and considerations to be reviewed at the detailed design stage when a DA is to submitted to Council for approval.
DCP 32 – Kiama Development Code	Yes	To be referred to in the detailed design stage, the DCP has some general design controls for issues as diverse as the reuse of roof rainwater; integration of infrastructure and protection of habitat.
DCP 36 – Building Lines and Foreshore Building Lines	Yes	To be referred to in the detailed design stage, the DCP provides controls and guidance in relation to building setbacks for <u>all</u> development in Kiama.

6: OTHER MATTERS OF PUBLIC INTEREST

Preliminary acoustic and air quality studies have been conducted. These studies advise that the proposed development will not create any restrictions to the ongoing operations of the nearby Bombo Quarry.

This letter provides the information for the Minister to formulate an opinion as to whether the project should be considered to be a Major Project under Part 3A. We look forward to your response in relation to this matter.

Yours sincerely,
THE PLANNING GROUP NSW PTY LTD



Stephen Hills
(Managing Director)