

# Kiama Local Environmental Plan 1996

[1996-334]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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File last modified 4 March 2022

# Kiama Local Environmental Plan 1996



New South Wales

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# Kiama Local Environmental Plan 1996



New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Kiama Local Environmental Plan 1996*.

### 2 Land to which plan applies

- (1) This plan applies to all of the land within the area of Kiama as shown on the map.
- (2) However, this plan does not apply to the land marked “Deferred matter” on the map, (being land excluded from the operation of this plan pursuant to section 68 (5) of the Act), except for the land shown edged heavy black on the maps (or, if any sheets of the maps are specified, by the specified sheets of the maps) marked as follows—

#### Editorial note—

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the plan.

*Kiama Local Environmental Plan 1996 (Amendment No 12)*

*Kiama Local Environmental Plan 1996 (Amendment No 19)*

*Kiama Local Environmental Plan 1996 (Amendment No 22)*

*Kiama Local Environmental Plan 1996 (Amendment No 23)*

### 3 (Repealed)

### 4 Aims and objectives

- (1) The aims of this plan are as follows—
  - (aa) To protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
  - (a) To plan for the community’s needs for the next ten years by promoting and encouraging development that improves the total quality of life, both now and in the future, in a way that maintains the ecological process on which life depends,

- (b) To preserve the essence of the special qualities of the Council's area,
- (c) To manage, develop and conserve the natural and built resources within the Council's area,
- (d) To meet general community expectations,
- (e) To provide for the community's welfare, including the social and economic well-being of the community of the Council's area,
- (f) To provide planning mechanisms to assist in the development of greater community spirit and vibrancy,
- (g) To ensure the efficient and equitable use of resources within environmental constraints,
- (h) To provide adequate opportunity for public involvement and participation in environmental planning and assessment.

(2) The objectives of this plan are as follows—

- (a) To define future urban boundaries,
- (b) To retain a rural separation between villages and towns which help characterise the Council's area,
- (c) To protect natural and built environmental features of the Council's area,
- (d) To provide for controlled urban growth within the defined boundaries,
- (e) To provide for consolidation of existing urban areas particularly around existing business and transport centres and where environmental (including social) parameters are suitable,
- (f) To protect prime crop and pasture land outside defined urban boundaries,
- (g) To consolidate and strengthen existing retail/business centres,
- (h) To encourage the provision of a range of retail and business services which are more attractive, convenient and accessible to the community,
- (i) To provide for tourism related uses and activities and to attract them to selected localities within the Council's area,
- (j) To ensure that new developments are well designed and complement the character of the surrounding land and the Council's area,
- (k) To ensure that residential areas are based on neighbourhood and environmental design principles, including the following—

- improved pedestrian and bicycle access to services and facilities,
  - minimum use of the motor vehicle,
  - solar access and energy efficiency,
  - a built form that complements the landscape,
  - minimum degradation of flora and fauna and natural habitats,
  - a landscape design that is appropriate to the area and makes a more attractive residential environment,
  - a defined edge to the settlement with appropriate landscaping and recreational facilities, including pathways and cycleways,
  - adequate provision of community services and facilities including meeting rooms, child care and sporting facilities,
  - focal points that provide the potential for increased social interaction,
  - a range of housing styles and lot sizes,
  - retention of landscape features,
  - stormwater retention ponds and basins,
  - the enhancement of waterways,
  - environmentally acceptable sewage disposal,
- (l) To protect the Council's area's natural heritage through appropriate controls and plans of management,
- (m) To identify and conserve items of environmental heritage of a local, regional, State and national significance,
- (n) To provide industrial lands within environmental constraints to increase the employment base of the Council's area and improve the self-sufficiency level of the local community,
- (o) To identify land required for public purposes and to provide for the classification of public land for general community or operational use,
- (p) To minimise the adverse impact of activities within the Council's area on the global environment,
- (q) To promote the more efficient use of water and energy within the Council's area,
- (r) To assist the sustainability of prime crop and pasture lands,



- (s) To ensure the preservation of the landscape and special scenic qualities of the Council's area,
- (t) To protect biological diversity and maintain essential ecological processes and life support systems,
- (u) To ensure that activities and development within the catchments of the Council's area do not impact adversely on the water quality of the estuaries and wetlands systems,
- (v) To ensure planning and development have regard to total catchment management philosophy and principles,
- (w) To promote the sustainability of the natural ecosystems within the Council's area,
- (x) To restrict development on flood liable land,
- (y) To enhance individual and community well-being and welfare by encouraging a path of economic development that safeguards the welfare of future generations,
- (z) To foster the cultural development of the Kiama area, especially the arts and crafts skills of the community,
- (aa) To restrict the fragmentation of non-urban land other than for agricultural purposes.
- (ab) To conserve, protect and maintain riparian corridors.

## 5 Model provisions

This plan adopts the *Environmental Planning and Assessment Model Provisions 1980*, other than the definitions in clause 4 of **home occupation**, **home industry**, **map** and **retail plant nursery** (and of any term that is also defined in clause 6 of this plan) and clauses 5 (5), 15, 16 and 17 of the Model Provisions.

## 6 Definitions

(1) In this plan—

**acid sulfate soils** means actual acid sulfate soils or potential acid sulfate soils.

**Acid Sulfate Soils Assessment and Management Guidelines** means *Acid Sulfate Soils Assessment and Management Guidelines*, published by the Environment Protection Authority, Department of Urban Affairs and Planning and the NSW Acid Sulfate Soils Management Advisory Committee as amended from time to time.

**acid sulfate soils map** means the series of maps marked “*Kiama Local Environmental Plan 1996 (Amendment No 27)—Acid Sulfate Soil Planning Map*” kept in the office of the Council.

**actual acid sulfate soils** means acid sulfate soil containing highly acid soil horizons or layers resulting from the aeration of soil materials that are rich in iron sulphides, primarily pyrite. The soil material has a pH of less than 4 when measured in dry season conditions and may be identified by yellow mottles and coatings of jarosite.

**agriculture** means the use of land for the grazing of livestock or the production of crops (or both) or for the keeping or breeding of livestock and bees, but does not include intensive livestock production or filling.

**amusement park** means a commercially run ground where amusements and mechanical entertainments such as merry-go-rounds and the like are permanently situated.

**appointed day** means the day on which this plan is published in the Gazette.

**area of high conservation value** means land indicated as such an area on the maps (or specified sheets of maps) marked as follows—

**Editorial note—**

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*Kiama Local Environmental Plan 1996,*

*Kiama Local Environmental Plan 1996 (Amendment No 6).*

**bulky goods** means large goods which, in the opinion of the Council, are of such a size and shape to require—

- (a) a large area for handling, storage or display, and
- (b) easy and direct vehicular access to enable the goods to be collected by customers after sale.

**bush fire hazard reduction** means the reduction of fuel by burning, chemical, mechanical, manual or any other means.

**car park** means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

**caravan park** means land used for the accommodation of caravans or other moveable dwellings within the meaning of the [Local Government Act 1993](#).

**clear**, in relation to any land, means any manner of destruction of a tree, shrub or plant on the land, but does not include—

- (a) the destruction of any tree, shrub or plant that is required or expressly authorised by or under any Act or statutory instrument or by any statutory authority in

pursuance of the provisions of any Act or statutory instrument, or

- (b) the destruction of any tree, shrub or plant where the destruction is necessary in an emergency to prevent the spread of fire or in circumstances where the tree, shrub or plant presents a danger to life or property.

***cottage industry*** means an activity carried out under the following circumstances—

- (a) the activity is carried out within a dwelling or the curtilage of a dwelling occupied by the person carrying on the activity or on land adjoining the land owned by that person,
- (b) the activity does not—
  - (i) interfere with the amenity of the locality by reason of the emission of noise, traffic, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise, or
  - (ii) involve exposure to view from any public place of any unsightly matter, or
  - (iii) require the provision of any essential service main of a greater capacity than that available in the locality, or
  - (iv) involve the employment of more than two persons (whether as apprentices, employees, students of arts and crafts activities, or trainees) other than residents of the dwelling, or
  - (v) involve the exhibition of any notice, advertisement or sign (other than a notice or sign not exceeding 1 metre by 0.6 metre exhibited on that dwelling to indicate the name and occupation of the resident thereof),
- (c) the activity is in character with the scale and ambience of other activities within the immediate area,
- (d) any goods offered for sale have been produced on the site of the activity,
- (e) adequate provision has been made on site for the collection, storage and disposal of waste resulting from the activity,
- (f) provisions have been made, on site, for the safe and convenient parking, turning and manoeuvring of vehicles associated with the activity,
- (g) satisfactory provision has been made to ensure the safe and convenient ingress to and egress from the site, for all vehicles using the site,
- (h) the building to be used in conjunction with the activity does not cause adverse visual impact, and
- (i) the activity does not involve the use of the premises for the purposes of

prostitution or a brothel.

**Council** means the Council of the Municipality of Kiama.

**damage**, in relation to flora, includes lopping, topping, ring-barking, poisoning, felling, digging up, pulling out, smothering or any other form of deliberate damage.

**dual occupancy development** means development that results in 2 dwellings (whether attached or detached) on a single allotment of land and may include a subdivision creating separate land titles for those dwellings.

**environmental protection works** includes works such as removal of weeds, (eg Lantana camara and the like) and other works essential to mitigate against harmful environmental impacts.

**existing holding** means—

- (a) subject to paragraph (b), a lot, portion or parcel of land in existence on 4 July 1977, or
- (b) where on 4 July 1977, a person owned 2 or more adjoining or adjacent lots, portions or parcels of land, the aggregation of those lots, portions or parcels.

**extractive industry** means—

- (a) the winning of extractive material, or
- (b) an undertaking (not being a mine) which depends for its operations on the winning of extractive material from the land on which it is carried on,

and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

**fill** means the depositing of soil, rock or other material obtained from a site outside the property boundaries of an allotment of land on which it is deposited, but does not include the depositing of topsoil, or feature rock imported to the allotment, that is intended for use in garden landscaping, turf or garden bed establishment or topdressing of lawns.

**floorspace ratio**, in relation to a building, means the ratio of the gross floor area of the building to the area of the allotment on which the building is situated.

**flora** includes trees, shrubs and vegetation (including aquatic species).

**function centre** has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

**ground level** means the level of a site before development is carried out on that site.

**height**, in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point.

**home based child care service** means a child care service provided for a fee at the premises where the person providing the service resides but does not include any child care service requiring registration as a child care service under any legislation.

**home business** means a business carried on in or from a dwelling where—

- (a) the business is either carried out within the dwelling or an out-building, or the majority of the business is carried on away from the dwelling (with the dwelling, outbuildings and curtilage being used primarily as a base or office or for storage of tools of trade or equipment), and
- (b) the business will not interfere with the amenity of the neighbourhood—
  - (i) by reason of traffic generation, noise or otherwise, or
  - (ii) by the exposure to view from any adjacent premises or from any public place of any goods associated with the business or any unsightly matter, or
  - (iii) by parking of heavy vehicles either on or adjacent to the property, or
  - (iv) by the hours the business is conducted, or
  - (v) by the exhibition of any notice, advertisement or sign (other than a notice or sign not exceeding 1 metre by 0.6 metre exhibited on that dwelling to indicate the name and occupation of the resident thereof), and
- (c) the dwelling continues to be used for permanent residential occupation by the person carrying on the business, and
- (d) only the persons residing in the dwelling work on the premises, and
- (e) the business does not involve the use of the premises for the purposes of prostitution or a brothel.

**home hosting facility** means a dwelling-house used and occupied for permanent residential purposes in which no more than 2 rooms are made available by the residents for temporary accommodation of a short term or holiday nature catering for not more than 8 paying guests.

**industrial retail outlet** means a shop—

- (a) which is used in conjunction with a light industry on land zoned for industrial purposes, and
- (b) which is situated on the land on which the light industry is located, and

- (c) in which are sold only goods which have been assembled, manufactured or stored on the land on which the shop is situated.

**industry** means—

- (a) any manufacturing process within the meaning of the *Factories, Shops and Industries Act 1962*, or
- (b) the breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business,

but does not include an extractive industry.

**integrated housing development** means 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.

**intensive horticulture** means the growing for sale on a commercial basis of plants, flowers or other vegetation and includes a wholesale plant nursery, but does not include a retail plant nursery.

**intensive livestock production** means a building or an activity carried out within a building or on land involving the keeping or nurturing of cattle, sheep, goats, poultry or other livestock for commercial purposes by predominantly supplementary feeding methods and, without limiting the generality of the foregoing, includes—

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms, and
- (d) fish farming (including farming of crustaceans and oysters),

but does not include an animal boarding establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land, or intensive hand feeding of livestock as a result of natural disaster including drought, flood or bush fire, or dairy farming where the nurturing of dairy cattle is primarily achieved by the grazing of pasture.

**motel** means a building or buildings (other than a hotel, boarding-house, residential flat building or home hosting facility) substantially used for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used in the provision of meals to those travellers or the general public.

**motor showroom** means a building or place used for the display or sale of motor vehicles, caravans, boats or trailers whether or not motor vehicle accessories, caravan accessories, boat accessories or trailer accessories are sold or displayed there.

**plant nursery** means a building or place used for the growing and selling (whether by retail or wholesale) of plants whether or not ancillary products are sold there.

**potential acid sulfate soils** means soil which is waterlogged and contains oxidisable sulphur compounds and that has a field pH of 4 or more but will become severely acid when oxidised.

**prime crop and pasture land** means land within an area identified, on a map prepared by or on behalf of the Director-General of the Department of Agriculture, deposited in an office of the Department of Agriculture and a copy of which is deposited in the office of the Council, as Class 1, Class 2 or Class 3 or as land of merit for special agricultural uses, but does not include land which the Director-General of the Department of Agriculture has notified the Council in writing is not prime crop and pasture land for the purposes of this plan.

**recreation area** means—

- (a) a children’s playground,
- (b) an area used for sporting activities or sporting facilities,
- (c) an area used by the council to provide recreational facilities for the physical, cultural or intellectual welfare of the community, and
- (d) an area used by a body of persons associated together for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include racecourses and showgrounds.

**recreation facility** means a building or place used for indoor or outdoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but does not include a place of assembly.

**residential flat building** means a building or group of buildings containing more than 2 dwellings, but does not include a dwelling resulting from integrated housing development or villa homes and courtyard houses.

**riparian corridor** means 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.

**road** means a private road, right-of-carriageway, or a public road principally (though not solely) used as a carriageway for the passage of vehicles.

**storey** means the space in a building between the floor of the building and the floor next above or, where there is no floor above, the ceiling or roof above.

**the map** means Sheets 1–3 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 61)*”, as amended by the maps (or specified sheets of maps) marked as follows—

**Editorial note—**

The amending maps are not necessarily listed in the order of gazettal or publication on the NSW legislation website. Information about the order of gazettal or publication can be determined by referring to the Historical notes at the end of the plan.

*Kiama Local Environmental Plan 1996 (Amendment No 61)*—Sheets 4 and 5

*Kiama Local Environmental Plan 1996 (Amendment No 64)*

*Kiama Local Environmental Plan 1996 (Amendment No 65)*

**tree plantation and harvesting** means the planting of local endemic species of trees in plantations on lawfully cleared land in existence near native forests on the date of commencement of this plan for the purpose of temporarily increasing the area of endemic forest and its biodiversity and providing habitat for native species of plants and animals until that plantation is harvested.

**veterinary surgery** means a building or place used for the treatment of the diseases and injuries of animals, and includes a building or place used for the purposes of an animal hospital.

**villa homes and courtyard houses** means a building or group of buildings comprising 3 or more dwellings of one storey construction where each dwelling has an attached private outdoor open space area for the exclusive use of the occupants of that dwelling.

**water recycling facility** has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

**water supply system** has the same meaning as it has in the standard instrument prescribed by the [Standard Instrument \(Local Environmental Plans\) Order 2006](#).

(2) A reference in this plan—

(a) to a building or place used for a purpose includes a reference to a building or place intended to be used for that purpose, and



(b) to a map is a reference to a map deposited in the office of the Council, and

(c) to development for the purposes of a residential flat building or villa homes and courtyard houses includes a reference to a subdivision creating separate land titles for each dwelling in such development.

(3) Notes in this plan do not form part of this plan.

## **7 Consent authority**

The Council is the consent authority for the purposes of this plan.

## **Part 2 Zonings and land uses**

### **8 Zones indicated on the map**

For the purposes of this plan, land to which this plan applies is in a zone specified below if the land is shown on the map in the way stated below in relation to that zone.

Zone No 1 (a)	Rural "A"—shown coloured cream and lettered "1 (a)"
Zone No 2 (a)	Residential "A"—shown coloured scarlet and lettered "2 (a)"
Zone No 2 (b)	Residential "B"—shown coloured scarlet and lettered "2 (b)"
Zone No 3 (a)	General Business—shown coloured blue and lettered "3 (a)"
Zone No 3 (b)	Special Business (Heritage)—shown coloured blue and lettered "3 (b)"
Zone No 3 (c)	Neighbourhood Business—shown coloured blue and lettered "3 (c)"
Zone No 3 (d)	Business (Tourist Related)—shown coloured blue and lettered "3 (d)"
Zone No 4 (b)	Extractive Industrial—shown coloured purple and lettered "4 (b)"
Zone No 4 (c)	Light Industrial—shown coloured purple and lettered "4 (c)"
Zone No 5 (a)	Special Uses (Schools, etc)—shown coloured yellow and lettered "5 (a)" and indicating the designated special use
Zone No 5 (b)	Special Uses (Railways)—shown coloured grey and lettered "5 (b)"
Zone No 6 (a)	Existing Recreation—shown coloured green and lettered "6 (a)"
Zone No 6 (b)	Private Recreation—shown coloured green and lettered "6 (b)"
Zone No 6 (c)	Proposed Recreation—shown coloured green and lettered "6 (c)"

Zone No 7 (b)	Rural Environmental Protection (Estuarine Wetlands)—shown coloured orange and lettered “7 (b)”
Zone No 7 (b1)	Rural Environmental Protection (Wetlands Buffer)—shown coloured orange and lettered “7 (b1)”
Zone No 7 (d)	Rural Environmental Protection (Scenic)—shown coloured orange and lettered “7 (d)”
Zone No 7 (e)	Rural Environmental Protection (Hinterland)—shown coloured orange and lettered “7 (e)”
Zone No 7 (f)	Rural Environmental Protection (Foreshire Protection)—shown coloured orange and lettered “7 (f)”
Zone No 7 (l)	Rural Environmental Protection (General)—shown coloured orange and lettered “7 (l)”
Zone No 8 (a)	National Parks—shown coloured white with green hatching and lettered “8 (a)”
Zone No 9 (a)	Proposed Arterial Road—shown coloured grey without lettering

## 9 Zone objectives and Land Use Table

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of Zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which—
  - (i) development may be carried out without the need to obtain development consent, and
  - (ii) development may be carried out only after development consent has been obtained, and
  - (iii) development is prohibited,are specified under the headings “Without Development Consent”, “Only With Development Consent” and “Prohibited”, respectively, appearing in the matter relating to the zone in the Table to this clause.
- (3) Except as otherwise provided by this plan, the Council shall not grant consent to the carrying out of development on land to which this plan applies unless the Council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Land Use Table

### **Zone No 1 (a) Rural “A”**

## **1 Objectives of Zone**

The objectives are—

- (a) to provide suitable land for agricultural use,
- (b) to protect the agricultural potential of rural land,
- (c) to prevent the fragmentation of rural land of prime crop and pasture potential,
- (d) to enable uses that are compatible with the rural use of the land,
- (e) to protect the landscape quality of the rural area,
- (f) to cater for small domestically-based enterprises that do not adversely affect the environment or the amenity of the neighbourhood and its residents, and
- (g) 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 animal boarding establishments, intensive horticulture, intensive livestock production, deer farming, goat farming or turf farming); bush fire hazard reduction; environmental protection works; home based child care services; home businesses.

## **3 Only With Development Consent**

Any purpose other than a purpose included in item 2 or 4.

## **4 Prohibited**

Advertising structures (other than those ancillary or incidental to the use of the land); amusement parks; boarding-houses; bulk stores; car repair stations; commercial premises (other than caravan parks); detached dwelling dual occupancy development; gas holders; hotels; industries (other than cottage industries, rural industries or extractive industries for the winning of sand, clay, soil or turf); junk yards; liquid fuel depots; motels; motor showrooms; plant nurseries; residential flat buildings; refreshment rooms (other than those used in conjunction with a cottage industry);

roadside stalls fronting a main road; service stations; shops; timber yards; transport terminals; villa homes and courtyard houses; warehouses.

## **Zone No 2 (a) Residential “A”**

### **1 Objectives of Zone**

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.

## **Zone No 2 (b) Residential “B”**

### **1 Objectives of Zone**

The objectives are—

- (a) to enable the orderly and economic development of land for residential purposes,
- (b) to provide for medium density residential development not having a height greater than 2 storeys,
- (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 and diversification and energy efficiency in subdivision patterns, site plans and building designs,
- (f) to provide housing choice,
- (g) to conserve and enhance the architectural and aesthetic character of items of environmental heritage significance,
- (h) to allow for increases in residential density and for urban consolidation in appropriate locations,
- (i) to prevent development occurring on land subject to flooding, slip or coastal erosion,
- (j) to protect significant landscapes,

- (k) to cater for small domestically-based enterprises that do not adversely affect the environment or the amenity of the neighbourhood and its residents, and
- (l) 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; residential flat buildings; roads; units for aged persons; utility installations (other than gas holders or generating works); villa homes and courtyard houses.

## **4 Prohibited**

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

## **Zone No 3 (a) General Business**

### **1 Objectives of Zone**

The objectives are—

- (a) to provide areas which are suitable for commercial development,
- (b) to provide guidelines for development within commercial areas,
- (c) to protect, conserve and enhance the architectural and aesthetic character of those buildings considered to be of exceptional architectural character and items of environmental heritage,
- (d) to consolidate commercial centres to enable easy access and to improve the function and viability of the centres,

- (e) to provide for a range of commercial design principles which will enable the orderly and economic development of commercial land,
- (f) to ensure that development is of an appropriate scale and contributes to and enhances the appearance of the commercial centres, and
- (g) 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.

## **3 Only With Development Consent**

Any purpose other than a purpose included in item 2 or 4.

## **4 Prohibited**

Abattoirs; caravan parks; dual occupancy development or dwelling-houses (except where attached to commercial or retail buildings); gas holders; generating works; hospitals; industries (other than cottage industries or light industries); institutions; junk yards; liquid fuel depots; mines; residential flat buildings (except those attached to commercial or retail buildings); road transport terminals; roadside stalls; stock and sale yards; villa homes and courtyard houses.

## **Zone No 3 (b) Special Business (Heritage)**

### **1 Objectives of Zone**

The objectives are—

- (a) to provide for appropriate commercial uses of the land to which the zone applies while retaining the existing character of the area and significant buildings,
- (b) to allow for a greater range of uses that are appropriate in terms of the historical significance of buildings within the zone,
- (c) to ensure that development is restricted to a height and scale that is compatible with existing development and maintains the integrity of the area and the Kiama township,

- (d) to ensure that the historical integrity of the area is enhanced and that new uses complement heritage items,
- (e) to ensure that development meets community expectations, and
- (f) 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.

## **3 Only With Development Consent**

Advertising structures; boarding-houses; car parking; child care centres; commercial premises; cottage industries; demolition of buildings; drainage; dual occupancy development; dwelling-houses; fill; guest houses; home businesses; home hosting facilities; hotels; motels; professional consulting rooms; public buildings; refreshment rooms; residential flat buildings attached to commercial or retail buildings; roads; shops; utility installations (other than gas holders or generating works).

## **4 Prohibited**

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

## **Zone No 3 (c) Neighbourhood Business**

### **1 Objectives of Zone**

The objectives are—

- (a) to provide sites which are suitable for limited commercial development,
- (b) to provide for the orderly and economic development of neighbourhood shopping facilities,
- (c) to meet the day to day needs and requirements of the local residents, and
- (d) 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 businesses.

## **3 Only With Development Consent**

Advertising structures; car parking associated with or ancillary to any land use that is not prohibited; child care centres; commercial premises; cottage industries; drainage; dual occupancy development or dwelling-houses (attached to commercial or retail buildings); fill; recreation areas; recreation facilities (other than fun parlours); refreshment rooms; residential flat buildings attached to commercial or retail buildings; roads; service stations; shops (other than drive-in or take-away food shops); utility installations (other than gas holders and generating works); veterinary surgeries.

## **4 Prohibited**

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

### **Zone No 3 (d) Business (Tourist Related)**

#### **1 Objectives of Zone**

The objectives are—

- (a) to provide areas which are suitable for tourist-related commercial development,
- (b) to restrict ribbon shop development and assist in the consolidation of the retail centre of Kiama township,
- (c) to ensure that development is of an appropriate scale and contributes to and enhances the appearance of the commercial centres, and
- (d) 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.

### **3 Only With Development Consent**

Any purpose other than a purpose included in item 2 or 4.

### **4 Prohibited**

Abattoirs; caravan parks; dual occupancy development or dwelling-houses (except where attached to commercial or retail buildings); gas holders; generating works; hospitals; industries (other than cottage industries and light industries); institutions; junk yards; liquid fuel depots; mines; road transport terminals; roadside stalls; shops (other than those used in conjunction with tourist facilities); stock and sale yards; villa homes and courtyard houses.

## **Zone No 4 (b) Extractive Industrial**

### **1 Objectives of Zone**

The objectives are—

- (a) to identify those areas specifically suitable for extractive purposes, and
- (b) to ensure that development and land management practices do not have an adverse effect on water catchments, water quality and important ecosystems such as streams, estuaries and wetlands.

### **2 Without Development Consent**

Bush fire hazard reduction.

### **3 Only With Development Consent**

Advertising structures; drainage; extractive industries; industries; land uses ancillary to and directly associated with extractive industries; roads; utility installations.

### **4 Prohibited**

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

## **Zone No 4 (c) Light Industrial**

### **1 Objectives of Zone**

The objectives are—

- (a) to provide for a range of light industrial uses which will not have a

detrimental effect on the amenity of nearby residential neighbourhoods,

- (b) to provide for the orderly and economic development of land for industrial purposes,
- (c) to provide for the retailing of bulky goods within industrial areas,
- (d) to provide local employment opportunities,
- (e) to provide guidelines for the development of industrial land, and
- (f) to ensure that development and land management practices do not have an adverse effect on water catchments, water quality and land surface conditions and important ecosystems such as streams, estuaries and wetlands.

## **2 Without Development Consent**

Bush fire hazard reduction.

## **3 Only With Development Consent**

Any purpose other than those included in item 2 or 4.

## **4 Prohibited**

Boarding-houses; caravan parks; commercial premises and dwellings (other than those used in conjunction with industry and situated on the land on which the industry is conducted); dual occupancy development; educational establishments; extractive industries; hospitals; hotels; institutions; mines; motels; industries (other than cottage industries or light industries); places of assembly; places of public worship; public buildings; residential flat buildings; roadside stalls; shops (other than industrial outlets used for the retail sale of bulky goods); stock and saleyards; villa homes and courtyard houses.

## **Zone No 5 (a) Special Uses (Schools, etc)**

### **1 Objectives of Zone**

The objectives are—

- (a) to identify land which can be utilised for the designated purpose, (ie school, church, cemetery etc), and
- (b) 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.

**3 Only With Development Consent**

The particular purpose designated on the map; any purpose ordinarily incidental or ancillary to the designated purpose; drainage; fill; roads; utility installations (other than generating works or gas holders).

**4 Prohibited**

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

**Zone No 5 (b) Special Uses (Railways)**

**1 Objectives of Zone**

The objectives are—

- (a) to identify land to be used for railway purposes, and
- (b) 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**

Any purpose ordinarily incidental or ancillary to the operation of the railways; bush fire hazard reduction.

**3 Only With Development Consent**

Any railway purpose; drainage; roads; utility installations.

**4 Prohibited**

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

**Zone No 6 (a) Existing Recreation**

## **1 Objectives of Zone**

The objectives are—

- (a) to provide sufficient recreation areas for the benefit and use of the residents of and visitors to Kiama,
- (b) to provide a range of compatible land uses which will ensure the most economical and beneficial use of the land so zoned, and
- (c) 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; any development carried out by or on behalf of the National Parks and Wildlife Service under the [National Parks and Wildlife Act 1974](#).

## **3 Only with Development Consent**

Agriculture; caravan parks; drainage; fill; race courses; recreation areas; roads; showgrounds; utility installations (other than generating works or gas holders).

## **4 Prohibited**

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

## **Zone No 6 (b) Private Recreation**

### **1 Objectives of Zone**

The objectives are—

- (a) to provide a variety of open space areas for use in conjunction with the activities of clubs, sporting organisations and the like,
- (b) to enable development of recreation areas by bodies of persons associated for the purposes of the physical, cultural or intellectual welfare of the community and to provide land for recreational facilities for those purposes, and
- (c) 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.

## **3 Only with Development Consent**

Advertising structures; clubs used in conjunction with and situated on recreation areas; drainage; dwelling-houses and dual occupancy development required for use or occupation by persons employed in connection with a land use permitted in the zone; fill; utility installations (other than gas holders or generating works); recreation areas; roads; sports grounds.

## **4 Prohibited**

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

### **Zone No 6 (c) Proposed Recreation**

#### **1 Objectives of Zone**

The objectives are—

- (a) to ensure sufficient recreation areas will be provided for the benefit and use of the residents of and visitors to Kiama,
- (b) to identify lands that will be needed in the future for open space purposes, and
- (c) 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; any development carried out by or on behalf of the National Parks and Wildlife Service under the *National Parks and Wildlife Act 1974*.

### **3 Only with Development Consent**

Agriculture; caravan parks; drainage; fill; race courses; recreation areas; roads; showgrounds; utility installations (other than generating works or gas holders).

### **4 Prohibited**

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

## **Zone No 7 (b) Rural Environmental Protection (Estuarine Wetlands)**

### **1 Objectives of Zone**

The objectives are—

- (a) to identify and preserve estuaries and wetlands and allow them to continue to function as a diverse and natural ecosystem,
- (b) to prohibit development within the zone that is likely to have a detrimental effect on the biological and physical function of the wetlands,
- (c) to restrict public works to those which provide essential services where no other alternative is available and which would not have a detrimental effect on the habitat or landscape qualities of the wetland or other significant coastal habitat areas,
- (d) to prohibit the clearing of land except for the careful control of noxious plants by means not likely to be significantly detrimental to the native ecosystem,
- (e) to encourage the enhancement of wetland values by reinstatement of the natural water regime and vegetation,
- (f) to provide for changes in sea and related water levels,
- (g) to lessen the development pressure on wetland systems, other than development for rehabilitation or educational purposes, by progressively bringing wetlands into public ownership, and
- (h) 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.

## **3 Only with Development Consent**

Rehabilitation of wetland systems; recreational and environmental facilities under the care, control or management of the Council.

## **4 Prohibited**

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

### **Zone No 7 (b1) Rural Environmental Protection (Wetlands Buffer)**

#### **1 Objectives of Zone**

The objectives are—

- (a) to assist in the protection of adjoining wetland systems and riparian and foreshore vegetation,
- (b) to ensure that development of the land has minimal impact on the biological and physical function of the wetlands,
- (c) to ensure that management of the land is appropriate having regard to the potential impact on the local wetland systems, and
- (d) 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.

## **3 Only with Development Consent**

Pollution control structures and artificial wetlands; recreation areas; roads; utility installations (other than gas holders and generating works).

## **4 Prohibited**

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

### **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.

### **Zone No 7 (e) Rural Environmental Protection (Hinterland)**

#### **1 Objectives of Zone**

The objectives are—

- (a) to maintain the environmental attributes of the hinterland environment,
- (b) to preserve intact rainforests and to promote the regeneration of rainforest areas,
- (c) to preserve areas of significant vegetation stands and to promote the regeneration of forests and eradication of introduced vegetation which competes with native flora,
- (d) to protect varieties of wildlife and their associated habitats and corridors,
- (e) to retain and enhance the visual and scenic qualities of the escarpment ridges, foot slopes, walls and associated tablelands,
- (f) to allow on lawfully cleared prime crop and pasture lands the continuation of animal grazing and cropping practices associated with the use of land for agriculture,
- (g) to ensure that development and land management practices do not have an adverse effect on water catchments, water quality, land surface conditions, important ecosystems (such as streams, estuaries and wetlands) and other land below the hinterland environment,
- (h) to ensure that existing and future land uses and land management practices do not lead to a diminution of the environmental values of the hinterland environment, and
- (i) to cater for small domestically-based enterprises that do not adversely affect the environment or the amenity of the neighbourhood and its residents.

## **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; home businesses; home based child care services; regeneration of native forests; removal of noxious weeds.

## **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); clearing of vegetation; cottage industries; dams; dwelling-houses; fill; home hosting facilities; roads; rural worker's dwellings; tree plantations and harvesting; utility installations (other than gas holders and generating works).

## **4 Prohibited**

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

## **Zone No 7 (f) Rural Environmental Protection (Foreshore Protection)**

### **1 Objectives of Zone**

The objectives are—

- (a) to maintain the environmental attributes of the foreshore environment,
- (b) to protect the foreshore areas from the effect of erosion and promote practices which will ensure sand dune stability,
- (c) to enhance the visual and scenic qualities of the foreshore areas,
- (d) 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,
- (e) to ensure that existing and future land uses and land management practices do not lead to the degeneration of the environmental values of the foreshore environment,
- (f) to cater for small domestically-based enterprises that do not adversely affect the environment or the amenity of the neighbourhood and its residents, and

- (g) to ensure that development and land management practices do not have an adverse effect on water catchments, water quality, land surface conditions and other 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; home businesses; home based child care services.

## **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, but excluding buildings required for, or ancillary to, intensive horticulture and intensive livestock production); camping areas, caravan parks; cottage industries; dams; drainage; dwelling-houses; fill; home hosting facilities; roads; 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.

## **Zone No 7 (I) Rural Environmental Protection (General)**

### **1 Objectives of Zone**

The objectives are—

- (a) to protect and conserve lands which are particularly environmentally sensitive and have high flora and fauna value,
- (b) to enable the development of land within the zone only where it can be shown that the development will not destroy, damage or compromise the ecological, scenic or scientific attributes of the land, and
- (c) 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.

## **3 Only with Development Consent**

Environmental protection works; removal or destruction of noxious weeds; works carried out by the National Parks and Wildlife Service.

## **4 Prohibited**

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

### **Zone No 8 (a) National Parks**

#### **1 Objectives of Zone**

The objectives are—

- (a) to identify National Parks and Nature Reserves,
- (b) to preserve and manage the identified National Parks and Nature Reserves for conservation and recreational purposes, and
- (c) 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**

Any purpose authorised under the *National Parks and Wildlife Act 1974*; bush fire hazard reduction.

#### **3 Only with Development Consent**

Utility installations (other than generating works or gas holders).

#### **4 Prohibited**

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

### **Zone No 9 (a) Proposed Arterial Road**

#### **1 Objectives of Zone**

The objectives are—

- (a) to provide for the opening of new, and widening of existing, arterial roads as identified on the map, and
- (b) 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; drainage; open space; roads; widening of existing roads.

## **3 Only with Development Consent**

Utility installations (other than gas holders or generating works).

## **4 Prohibited**

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

# **Part 3 Rural**

## **10 Rural "A" Zone—Subdivision**

- (1) A person shall not subdivide land, including for the purpose of opening a road, within Zone No 1 (a) except with the consent of the Council.
- (2) The Council shall not consent to the subdivision of land within Zone No 1 (a) unless it has obtained all relevant information in relation to, and has made an assessment of—
  - (a) the primary purpose for which each allotment is intended to be used, and
  - (b) if that purpose is agriculture, the form of agriculture for which the allotment is intended to be used.
- (3) Where the Council is of the opinion that a proposed allotment the subject of an application for consent required by subclause (1) is intended to be used for—
  - (a) the erection of a dwelling-house, the Council shall not grant consent unless it is an application allowed by subclause (6), or
  - (b) any other purpose, the Council shall not grant consent unless it prohibits the erection of a dwelling-house on each proposed allotment created by the subdivision.
- (4) (Repealed)

- (5) Only one allotment may be created in accordance with subclause (4) from land that has been the subject of a development application after the commencement of this plan.
- (6) A person may, with the consent of the Council, subdivide land within Zone No 1 (a) to create allotments each having an area of at least 40 hectares that the Council is satisfied will be used for the purpose of the erection of a dwelling-house on each allotment.
- (7) The Council shall not grant consent to an application to subdivide land within Zone No 1 (a) unless it has considered—
  - (a) the relationship of the proposed allotments to be created by the subdivision to adjacent or adjoining allotments and the practicality of consolidating the adjoining allotments with that land, and
  - (b) the quality of the land and the potential agricultural productivity of the land if it remains un-subdivided, and
  - (c) the likely impact of the subdivision on the landscape, vegetation, soil resources and stability and water resources (including the quality of water courses, ground water storage and riparian rights), and the cumulative impact of the subdivision, the future use of the land and the use of other land in the vicinity on surface and ground water quality and quantity and on the physical and biological functions of watercourses and riparian corridors, and
  - (d) in relation to each proposed allotment—
    - (i) the size, quality and potential agricultural productivity of the allotment, and
    - (ii) its relationship to, and effect on, the structure and nature of agricultural industries in the area, and
    - (iii) the purpose for which the allotment is intended to be used and the purposes for which, in the opinion of the Council, the allotment is suitable to be used, also having regard to the land uses undertaken on adjacent and adjoining holdings and other holdings in the vicinity, and
    - (iv) the cumulative effect of similar proposals if consent is granted, and
    - (v) the likelihood of the allotment remaining available for agriculture, and
    - (vi) slip hazard, and
    - (vii) bush fire hazard, and
  - (e) the potential for adverse visual and traffic impacts to be caused by the subdivision and any access road linking with an arterial road and subsequent ribbon

development along roads, and

(f) any adverse impacts the subdivision or subdivision access may have on the proper functioning and safety of other roads in the immediate vicinity.

(8) A person may, without the consent of the Council, subdivide land within Zone No 1 (a) if the subdivision is for any one or more of the following purposes—

(a) to widen a public road,

(b) to make minor adjustments to common property boundaries,

(c) to rectify an encroachment on a lot, portion or parcel of land.

**Note—**

Clause 9 of the *State Environmental Planning Policy (Rural Lands) 2008* also enables the subdivision of lots for the purposes of primary production.

**11 Rural “A” Zone—Dwelling-houses**

(1) This clause applies to land within Zone No 1 (a).

(2) A person shall not erect a dwelling-house or carry out dual occupancy development on land to which this clause applies except in accordance with this clause.

(3) Where land to which this clause applies does not have a dwelling-house erected on it, a person may, with the consent of the Council, erect a dwelling-house or carry out dual occupancy development if the land—

(a) has an area of not less than 40 hectares, or

(b) comprises the whole of an existing holding (or an existing holding affected only by a subdivision carried out in accordance with clause 10 (8)), being an existing holding that has an area of not less than 20 hectares and where the Council is satisfied that—

(i) there will be adequate vehicular access to the dwelling-house or dwellings, and

(ii) the erection of a dwelling-house or dwellings will not create or increase ribbon development along an arterial road, or

(c) (Repealed)

(d) is an allotment created with the consent of the Council, being an allotment referred to in clause 18 (3) (e) of *Kiama Local Environmental Plan No 5* as in force immediately before its repeal by this plan, or

(e) is a concessional allotment within the meaning of paragraph (a) of the definition of **concessional allotment** in clause 16 (2) of *Kiama Local Environmental Plan No 5*



as in force immediately before its repeal by this plan, or

(f) is an allotment having an area of less than 40 hectares and was created under the provisions of clause 32 (1) of the *Kiama Planning Scheme Ordinance*.

(4) Where a person owns—

(a) a lot, portion or parcel of land, or

(b) two or more adjoining or adjacent lots, portions or parcels of land,

being land to which this clause applies, the person may, with the consent of the Council, erect one additional dwelling-house on that land for use as a rural worker's dwelling where the Council is satisfied that the additional dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use of the land for the purposes of agriculture and that separate ownership of the proposed dwelling could only be achieved by a subdivision of the land in accordance with clause 10.

(5) The Council shall not grant consent for a rural worker's dwelling in accordance with subclause (4) if a rural worker's dwelling already exists on the land, or another dwelling exists on the land or on adjoining land in the same ownership which is being used to accommodate rural workers engaged in carrying out agriculture on the land to which the application for consent applies.

(6) The Council may only grant consent for a rural worker's dwelling in accordance with sub-clause (4) if—

(a) it is satisfied the rural worker's dwelling is justified having regard to the nature and scale of the agricultural enterprise and the need for accommodating rural workers on the land, and

(b) the rural worker's dwelling is to be located on the same allotment of land as the principal owner's residence, and is designed in a way that architecturally integrates with existing residential development on the land, where the buildings are located in close proximity to each other.

(7) In granting consent to the erection of a rural worker's dwelling in accordance with subclause (4), the Council may require that—

(a) the rural worker's dwelling may only be occupied by a person engaged as an employee of the person carrying out agriculture, or by a relative who assists the person carrying out agriculture, on the land, and

(b) the rural worker's dwelling is designed and constructed so that it may be removed from the site when the use of the land for agriculture ceases, and

(c) when it reasonably forms the opinion that the rural worker's dwelling is no longer

being lawfully used by the person carrying out agriculture on the land for its intended purpose, the rural worker's dwelling must be removed from the land or the dwelling must be rendered incapable of residential occupation (and its use limited to agricultural or storage purposes) or be left vacant.

- (8) A person may, with the consent of the Council, erect a dwelling-house on land to which this clause applies and on which another dwelling-house is erected if the dwelling-house is intended to wholly replace the other dwelling-house.
- (9) The Council shall not grant a consent referred to in subclause (8) unless it is of the opinion that the proposed dwelling will not interfere with the purpose for which the land concerned is being used.

#### **11A Dwelling entitlements on existing concessional lots**

The amendment of this plan by the *State Environmental Planning Policy (Rural Lands) 2008* does not affect any entitlement arising under a provision of this plan (as in force before that amendment) to erect a dwelling-house on a lot, if—

- (a) the lot was created before that commencement, or
- (b) development consent to the creation of the lot was applied for, or granted, before that commencement.

#### **12 Rural "A" Zone—Development**

- (1) The Council shall not grant consent to development on land within Zone No 1 (a) (other than the subdivision of land) unless it has taken into account the effect that the proposed development will have on the agricultural viability of that land and land in the vicinity of that land.
- (2) The Council shall not grant consent to development on land within Zone No 1 (a) unless it has considered—
  - (a) the effect of the proposed development on agricultural and other land uses undertaken on adjacent and adjoining holdings and other holdings in the vicinity, and
  - (b) the quality of the land and the potential agricultural productivity of the land, and
  - (c) the likely impact of the proposed development on the landscape, vegetation, soil resources and stability and water resources (including the quality of water courses, ground water storage and riparian rights), and the cumulative impact of the development on surface and ground water quality and quantity and on the physical and biological functions of watercourses and riparian corridors, and
  - (d) the effect of the proposed development on the structure and nature of agricultural industries in the area, and

- (e) the traffic generating effects of the development on access roads, and
- (f) the cumulative effect of similar proposals if consent is granted, and
- (g) the likelihood of the land remaining available for agriculture.

### **13 Rural “A” Zone—Consideration of Natural Environmental Attributes**

The Council shall not grant consent to development on land within Zone No 1 (a) unless it has considered its effect 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, water courses 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.

## **Part 4 Residential**

### **14 Residential “A” and “B” Zones—Subdivision**

- (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.

### **15 Residential “A” and “B” Zones—Dwelling-houses**

- (1) A person shall not erect a dwelling-house on land within Zone No 2 (a) or 2 (b) unless the allotment—
  - (a) where the allotment is hatchet-shaped, has an area, excluding the access corridor, of not less than 550 square metres, and

- (b) where the allotment is not hatchet-shaped, has an area of not less than 450 square metres.
- (2) Despite subclause (1), a person may erect a dwelling-house on land within Zone No 2 (a) or 2 (b) on an allotment that has an area of less than 450 square metres if the allotment was in existence as a separate allotment on 4 July 1977.
- (3) This clause does not prevent dwelling-houses being erected on lots in 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.
- (4) Despite subclause (1), a person may erect a dwelling-house on an allotment within Zone No 2 (a) or 2 (b) which has an area less than that specified in subclause (1) where the allotment was created by a subdivision approved by the Council before the appointed day.

#### **16 Residential “A” and “B” Zones—Dual Occupancy Development**

- (1) A person may, with the consent of the Council, on an allotment of land within Zone No 2 (a) or 2 (b)—
  - (a) erect 2 dwelling-houses on that allotment, or
  - (b) erect a second dwelling-house in addition to one already erected on that allotment, or
  - (c) alter or add to a dwelling-house or to any other building erected on that allotment so as to create 2 dwelling-houses,if, but only if, not more than 2 dwellings will occupy the allotment after the development has been carried out.
- (2) The Council shall not consent to dual occupancy development unless—
  - (a) in a case where the development will result in the creation of 2 attached dwellings—the area of the allotment on which the dwellings are or will be created is not less than 450 square metres, or
  - (b) in a case where the development will result in the erection of 2 dwelling-houses—the area of the allotment on which the dwelling-houses are or will be erected is not less than 600 square metres.
- (3) Except as provided by subclause (4), the Council shall not consent to dual occupancy development unless the floor space ratio of dwellings on the land will be not more than 0.5:1.
- (4) Where—

- (a) an application is made to the Council to alter or add to a dwelling-house to create 2 dwellings, and
- (b) the floor space ratio of the dwelling-house before it is altered or added to exceeds 0.5:1,

the Council may consent to the application if the floor space ratio of the dwellings to be created is not more than the floor space ratio of the dwelling-house before the alteration or addition.

- (5) Subclause (4) only applies in relation to dwelling-houses erected before the appointed day.
- (6) If an application is made for consent to erect a second dwelling-house on an allotment where there is an existing dwelling-house, the second dwelling-house shall not exceed 3.6 metres in height.
- (7) If an application is made for consent to erect 2 detached dwelling-houses on a vacant allotment, the dwelling-house furthest from the street frontage shall not exceed 3.6 metres in height.
- (8) The Council shall not grant consent for a second dwelling-house unless it is satisfied that—
  - (a) adequate provision is made in respect of the privacy of the proposed dwelling-house and any adjacent dwelling-house (including the curtilage of the adjacent dwelling-house), and
  - (b) adequate provision is made in respect of solar access and access to natural light for the proposed dwelling-house and any adjacent dwelling-houses (including their curtilages).
- (9) If an application is made for consent for dual occupancy development in respect of land within a heritage conservation area, or identified as a heritage item within the meaning of Part 9, the Council shall have regard to any heritage or conservation provisions which may apply in respect of the land.
- (10) The Council shall not grant consent for dual occupancy development unless it is satisfied that adequate arrangements have been made for the provision of a water supply to each dwelling and for the disposal of sewage and stormwater from each dwelling.
- (11) The Council shall not grant consent for dual occupancy development unless it is satisfied that the proposed dwelling or dwellings will not have an adverse effect on—
  - (a) the protection of rare and endangered flora and fauna species and the protection of habitats for native flora and fauna,

- (b) the protection of wildlife corridors and vegetation links with other nearby bushland,
- (c) the protection of bushland as a natural stabiliser of the soil surface and the protection of existing landforms such as natural drainage lines, water courses and foreshores, and
- (d) the protection of bushland for scenic values and the retention of the unique visual identity of the landscape.

**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.

**18 Residential “A” and “B” Zones—Residential Flat Buildings, Villa Homes and Courtyard Houses and Units for Aged Persons**

- (1) This clause applies to land within Zone No 2 (a) or 2 (b).
- (2) The Council shall not grant consent to development—
  - (a) within Zone No 2 (a)—for the purposes of units for aged persons or villa homes and courtyard houses, or
  - (b) within Zone No 2 (b)—for the purposes of residential flat buildings, units for aged persons or villa homes and courtyard houses,unless—
  - (c) it has considered a statement of environmental effects which has been prepared with regard to the Residential Design Guidelines set out in Schedule 1 and is satisfied with the likely environmental effect of the proposed development, and

(d) it is satisfied the development meets the aims, objectives, controls and guidelines set out in this plan.

(3) A statement of environmental effects referred to in subclause (2) must consist of a written statement supported by plans, diagrams, perspectives or models which clearly and accurately show the siting and design of the proposed building and works to be carried out on the development site, and also show—

(a) the location of residential buildings (if any), the floor levels of those buildings and window openings, and

(b) important outdoor recreational spaces and facilities,

on any adjoining site that shares a common property boundary with the proposed development site or that may be significantly affected in terms of loss of privacy, overshadowing and loss of views.

#### **19 Residential “A” and “B” Zones—Development Adjacent to Railway Land**

The Council, in granting consent to residential development located on land within Zone No 2 (a) or 2 (b) adjacent to the South Coast Railway Line or any associated feeder line, may impose conditions to enable the occupants of that development to achieve satisfactory internal acoustic privacy.

#### **20 Residential “A” Zone—Development in the Gerringong Urban Release Area**

(1) This clause applies to land within Zone No 2 (a) shown with hatching on Sheet 7 of the map and which is known as the Gerringong urban release area.

(2) The Council shall not grant consent to the development of land to which this clause applies unless it is satisfied that—

(a) the disturbance of soils within the area, having regard to their type and to the location or topography of the land, will not significantly affect watercourses and the estuary and wetlands downstream of the land or the ecology of this waterway system, and

(b) the development and other existing and planned development within the Crooked River catchment area can be carried out without having a significant adverse environmental impact on the catchment, including the water quality of its groundwater, streams and estuary or the biodiversity of the catchment area, and

(c) suitable arrangements can be made for access to the land by vehicles, cyclists and pedestrians in a way that provides safe and efficient use of public thoroughfares which link in with the existing road and cycleway system and important public places such as commercial and recreational areas.

**20A Residential “A” and “B” Zones—Development in the West Kiama Urban Release Area**

- (1) This clause applies to land within Zone Nos 2 (a) or 2 (b) that is shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 23)*” and which is known as the West Kiama urban release area.
- (2) The Council shall not grant consent to the development of land to which this clause applies for residential purposes (including subdivision) unless it is satisfied that the development is consistent with the following planning objectives for the West Kiama urban release area—
  - (a) To provide a defined urban edge to the southern and western boundaries of the Kiama town west of the Kiama Bypass that—
    - (i) is accessible to the community,
    - (ii) separates urban land from rural land to the south and west,
    - (iii) provides a visually attractive interface with rural land as viewed from rural and urban locations, and
    - (iv) respects natural landscape features within the area.
  - (b) To conserve and protect natural remnant vegetation and provide new plantings of endemic species of plants in both public and private lands.
  - (c) To protect cultural heritage.
  - (d) To protect and enhance the riparian corridor along the upper reaches of Willow Gully Creek.
  - (e) To ensure new urban development is designed to complement the character of the subject land having regard to existing natural landform, riparian features, remnant native vegetation and cultural heritage.
  - (f) To ensure new urban development is consistent with best practice neighbourhood and environmental design principles including—
    - (i) accessibility,
    - (ii) energy efficiency,
    - (iii) urban form and design in both the private and public realms,
    - (iv) livableness and neighbourhood character, and
    - (v) housing choice.
  - (g) To protect water quality in the Willow Gully Creek and Spring Creek catchments and natural ecosystems and biodiversity supported by these streams and



associated waterbodies.

- (h) To prevent residential development on flood prone land and protect existing development downstream of the subject land from exposure to changes in flood behaviour.
  - (i) To ensure residential development is carried out only on sites that are not contaminated by previous landuse or which are appropriately rehabilitated where site contamination has been detected.
- (3) The Council shall not grant consent to development on land to which this plan applies unless—
- (a) it is satisfied the land has been investigated and recommended as being suitable for development (with or without remediation) in a site contamination report, and
  - (b) where it has reason to believe that a site may be contaminated, the development, and any required site remediation, are consistent with recommendations in a site audit and site audit statement prepared in accordance with the *Contaminated Land Management Act 1997*.

Nothing in this subclause affects the application of *State Environmental Planning Policy (Resilience and Hazards) 2021*, Chapter 4 to land to which this clause applies.

- (4) A person shall not alter or demolish (as defined in clause 42) a dry stone wall on land to which this clause applies except with the consent of the Council.
- (5) A person shall not damage or destroy any Aboriginal site on land to which this clause applies except with any necessary consent or permission under the *National Parks and Wildlife Act 1974*.

#### **20B Development in the “Cedar Grove” urban release area**

- (1) This clause applies to land shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 22)*” and known as the “Cedar Grove” urban release area.
- (2) The Council, in considering any development application for urban purposes on land to which this clause applies, is to ensure that the development is consistent with the following planning objectives for the “Cedar Grove” urban release area—
  - (a) a defined urban edge is created on the Kiama town boundaries that—
    - (i) provides an effective natural buffer separating urban land and agricultural land to the south, and
    - (ii) provides a visually attractive interface with rural land as viewed from rural and urban locations, and

- (iii) has regard to natural landscape features within the area,
- (b) the effective incorporation of three existing dwellings and their immediate residential curtilages into the subdivision design layout if they are retained,
- (c) all road drainage and residential lots are connected to stormwater reticulation that is connected to a stormwater detention pond (if the Council is satisfied such a pond should be required) and water pollution control devices for treatment prior to discharge in order to protect the Willow Gully Creek and Spring Creek catchments and natural ecosystems and biodiversity supported by those streams and associated waterbodies,
- (d) access is provided for fire fighting vehicles to perimeter rural land for bush fire fighting purposes,
- (e) pedestrian ways and cycleways are provided within the residential estate that link with public land within and outside the estate, the existing residential estate on the northern side of Jamberoo Road and the township of Kiama,
- (f) the part of the land to which this clause applies that is within Zone No 7 (b1) is to be revegetated and preserved as a natural riparian area to be enjoyed in connection with the proposed development,
- (g) the preservation and restoration of the existing dry stone wall located on the western boundary of the land to which this clause applies,
- (h) cleared rural land within Zone No 1 (a) on the southern fringe of the proposed residential estate is revegetated as a natural forested buffer area separating the residential estate from agricultural land on the plateau above the estate to the immediate south,
- (i) effective screen planting and landscaping is provided along the southern side of Jamberoo Road adjacent to the proposed residential estate for town entry beautification and residential estate embellishment purposes,
- (j) pedestrian and traffic safety is provided for at the point of access to the planned residential estate where it connects to Jamberoo Road,
- (k) residential development in the proposed estate aims to achieve a minimum site density of 15 dwellings per hectare and is designed to complement the character of the subject land having regard to existing natural landform, riparian features, remnant native vegetation and cultural heritage,
- (l) new urban development consistent with what the Council is satisfied are “best practice” neighbourhood and environmental design principles, including—
  - (i) accessibility,

- (ii) energy efficiency,
  - (iii) urban form and design in both the private and public realms,
  - (iv) livableness and neighbourhood character, and
  - (v) housing choice, and
- (m) residential development in the planned estate that is not located on flood prone land and is designed in a way that protects existing development downstream from flooding as a consequence of development in the proposed estate.
- (3) A person must not alter or demolish (as defined in clause 42) a dry stone wall on land to which this clause applies except with the consent of the Council.
- (4) A person must not damage or destroy any Aboriginal site on land to which this clause applies except with any necessary consent or permission under the *National Parks and Wildlife Act 1974*.
- (5) Notwithstanding any other provision of this plan, a person, with the consent of the Council, may on land to which this clause applies, carry out development for the purpose of villa homes and courtyard housing to a maximum height of 2 storeys but only on lots created specifically for that purpose and identified as such in a plan of subdivision for which consent has been granted.

**20C Particular development prohibited in Ocean Street, Kiama**

- (1) This clause applies to land in Zone 2 (a) Residential “A” situated in Ocean Street, Kiama, being part of Lot 2, DP 740400.
- (2) Despite any other provision of this plan, development for any of the following purposes is prohibited on the land—
- (a) subdivision (other than for a purpose mentioned in subclause (3)),
  - (b) dual occupancy development (other than a granny flat),
  - (c) integrated housing development,
  - (d) units for aged persons,
  - (e) villa homes and courtyard houses.
- (3) Consent is not required for a subdivision for the purpose only of any one or more of the following—
- (a) widening a public road,
  - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,

- (c) a minor alignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
- (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
- (e) rectifying an encroachment on a lot,
- (f) creating a public reserve,
- (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public conveniences.

## **Part 5 Business**

### **21 General Business, Special Business (Heritage), Neighbourhood Business and Business (Tourist Related) Zones—Floorspace Ratios**

A person shall not erect a building on land within a zone specified in Column I of the Table to this clause if the ratio of the floorspace of the building to the site area of the land on which the building is to be erected exceeds the ratio specified opposite that zone in Column II of that Table.

#### **Table**

<b>Column I</b>	<b>Column II</b>
Zone No 3 (a)	1.5:1
Zone No 3 (b)	0.6:1
Zone No 3 (c)	0.5:1
Zone No 3 (d)	1.5:1

### **22 General Business and Business (Tourist Related) Zones—Residential Flat Buildings**

- (1) This clause applies to development for the purposes of a residential flat building in Zone No 3 (a) or 3 (d).
- (2) The Council shall not grant consent for development for the purposes of a residential flat building unless—
  - (a) it has considered a statement of environmental effects which has been prepared with regard to the Residential Design Guidelines set out in Schedule 1 and is satisfied with the likely environmental effect of the proposed development, and
  - (b) it is satisfied the development meets the aims, objectives, controls and guidelines set out in this plan.

- (3) A statement of environmental effects referred to in subclause (2) must consist of a written statement supported by plans, diagrams, perspectives or models which clearly and accurately show the siting and design of the proposed building and works to be carried out on the development site, and also show—
- (a) the location of residential buildings (if any), the floor levels of those buildings and window openings, and
  - (b) important outdoor recreational spaces and facilities,
- on any adjoining site that shares a common property boundary with the proposed development site or that may be significantly affected by the development in terms of loss of privacy, overshadowing or loss of views.
- (4) The Council shall not grant consent to a residential flat building on a site within a zone specified in the Table below if the site area is less than the total of the minimum areas specified in the Table for each proposed dwelling.

**Table**

<b>Zone No 3 (a)</b>		<b>Zone No 3 (d)</b>	
<b>Dwelling Size (in gross floor area)</b>	<b>Minimum Site Area component per Dwelling</b>	<b>Dwelling Size (in gross floor area)</b>	<b>Minimum Site Area component per Dwelling</b>
Small < 60 m <sup>2</sup>	90 m <sup>2</sup>	Small < 60 m <sup>2</sup>	80 m <sup>2</sup>
Medium 60-90 m <sup>2</sup>	120 m <sup>2</sup>	Medium 60-90 m <sup>2</sup>	100 m <sup>2</sup>
Large > 90 m <sup>2</sup>	170 m <sup>2</sup>	Large > 90 m <sup>2</sup>	140 m <sup>2</sup>

- (5) The Council shall not grant consent to a residential flat building on land within a zone specified in the Table below unless a landscaped area is provided on the site that is no less than the total of the minimum landscaped areas specified in the Table for each proposed dwelling.

**Table**

<b>Zone No 3 (a)</b>		<b>Zone No 3 (d)</b>	
<b>Dwelling Size (in gross floor area)</b>	<b>Minimum Landscaped Area per Dwelling</b>	<b>Dwelling Size (in gross floor area)</b>	<b>Minimum Landscaped Area per Dwelling</b>
Small < 60 m <sup>2</sup>	20 m <sup>2</sup>	Small < 60 m <sup>2</sup>	20 m <sup>2</sup>
Medium 60-90 m <sup>2</sup>	30 m <sup>2</sup>	Medium 60-90 m <sup>2</sup>	30 m <sup>2</sup>
Large > 90 m <sup>2</sup>	40 m <sup>2</sup>	Large > 90 m <sup>2</sup>	40 m <sup>2</sup>

**23 General Business, Special Business (Heritage) and Neighbourhood Business**

### **Zones—Shops and Commercial Premises**

- (1) This clause applies to land within Zone No 3 (a), 3 (b) or 3 (c).
- (2) Subject to subclause (4), where—
  - (a) a building is lawfully used, or has been lawfully constructed to be used, for the purposes of a shop of a particular kind, and
  - (b) the building could not, but for this clause, be used for the purposes of a shop of another kind or for the purposes of commercial premises except with development consent being obtained for that use,

the building may, without the necessity for development consent being obtained, be used for the purposes of a shop of another kind or for the purposes of commercial premises.
- (3) Subject to subclause (4), where—
  - (a) a building is lawfully used, or has been lawfully constructed to be used, for the purposes of commercial premises of a particular kind, and
  - (b) the building could not, but for this clause, be used for the purposes of commercial premises of another kind or for the purposes of a shop except with development consent being obtained for that use,

the building may, without the necessity for development consent being obtained, be used for the purposes of commercial premises of another kind or for the purposes of a shop.
- (4) Subclauses (2) and (3) do not authorise the use of a building for the purposes of a shop or commercial premises in which—
  - (a) publications classified Category 1 restricted, Category 2 restricted or RC under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth are shown, exhibited, displayed, sold or otherwise rendered accessible or available to the public, or
  - (b) a business to which section 578E of the *Crimes Act 1900* applies is conducted.
- (5) Where a building is used for the purpose of a shop or commercial premises in pursuance of this clause—
  - (a) the curtilage of the shop or commercial premises shall not be used for storage or display purposes, and
  - (b) the hours of operation of the shop or commercial premises shall not, in the case of a building used for the purposes of a shop or commercial premises immediately before the commencement of the use authorised by this clause, extend outside

the hours during which the shop or commercial premises were so used at that time.

- (6) Where, immediately before the commencement of a use of a building authorised by this clause, a condition relating to—
- (a) the maintenance of landscaping, or
  - (b) the parking of vehicles, or
  - (c) the provision of space for the loading or unloading of goods or vehicles,

was imposed on the use of the building or the use of the land on which the building was erected, that condition applies to and in respect of the use of the building so authorised or the use of the land on which it is erected in the same way as it applies to and in respect of that former use.

**23A Tourist and other facilities on land within Zone No 3 (b)—former Kiama Infants School site**

- (1) This clause applies to land within Zone No 3 (b) and situated at the corner of Minnamurra and Shoalhaven Streets, Kiama, being Lots 1 and 2, DP 869103, and known as the former Kiama Infants School site, as shown edged heavy black on the map marked "*Kiama Local Environmental Plan 1996 (Amendment No 54)*".
- (2) Despite the general objectives for Zone No 3 (b) as set out in the Land Use Table to clause 9, the objectives for the land to which this clause applies are as follows—
- (a) to allow, with the consent of the Council, the erection of a tourist facility on the land, comprising two buildings, that provide tourist accommodation and related facilities, having—
    - (i) maximum heights of 4.5 and 2.5 storeys, respectively, above ground level, and
    - (ii) a maximum floorspace ratio of 1:1, exclusive of the former school,
  - (b) to encourage the conservation of the former school situated on the land and its conversion to an art gallery, including exhibition, conference and function rooms and associated amenities,
  - (c) to encourage public access, including disabled persons' access, to the land and the former school,
  - (d) to ensure any proposed development of the land is of an appropriate design having regard to the need to retain the former school,
  - (e) to protect trees that the Council considers to be significant on, and adjacent to, the land,

- (f) to prohibit the erection of a residential flat building on the land, even if the residential flat building is proposed to be attached to a commercial or retail building,
  - (g) to prohibit any proposed tourist accommodation building referred to in paragraph (a) being used as a residential flat building, even if the tourist accommodation building is attached to a commercial or retail building.
- (3) Despite any other provision of this plan, the Council may consent to the erection of a tourist facility on the land to which this clause applies if the tourist facility provides for—
- (a) the erection of a tourist accommodation building comprising hotel suites (located generally to the west of the former school) having—
    - (i) a maximum height of 4.5 storeys above ground level, and
    - (ii) a maximum roof height of RL 26.30m AHD, exclusive of parapets, plant rooms and lift towers, and
  - (b) the erection of a tourist accommodation building comprising serviced apartments (located generally to the east of the former school) having—
    - (i) a maximum average height of 2.5 storeys above ground level, taken as the average of the building heights at its southeastern and northwestern corners, and
    - (ii) a maximum height of 2 storeys adjacent to the Shoalhaven Street frontage, and
    - (iii) a maximum roof height of RL 17.10m AHD, exclusive of parapets, plant rooms and lift towers, and
  - (c) a public refreshment room, and
  - (d) the conservation of the former school and its conversion to an art gallery, including exhibition, conference and function rooms and associated amenities, and
  - (e) public access, including disabled persons' access, to the land and the former school, and
  - (f) a maximum floorspace ratio of 1:1, exclusive of the former school.
- (4) The Council must not grant consent to a development application for a tourist facility in accordance with subclause (3) unless it has considered—
- (a) the height, scale, siting and design of the tourist accommodation buildings, and
  - (b) the relationship between the proposed tourist accommodation buildings and the



former school, and

- (c) the protection of trees that the Council considers to be significant on, and adjacent to, the land, and
- (d) the impact of rail-related noise and vibration and any mitigation measures which may be incorporated into the development to overcome those impacts.

(5) Despite any other provision of this plan—

- (a) residential flat buildings (even if attached to a commercial or retail building) are prohibited on the land to which this clause applies, and
- (b) any proposed tourist accommodation building referred to in this clause (even if attached to a commercial or retail building) must not be used for the purpose of a residential flat building.

(6) In this clause—

***the former school*** means the blue stone building formerly known as the Kiama Infants School.

**23B Restrictions on certain development in Zone No 3 (a) or 3 (d) in the Kiama town centre and Zone No 3 (a) in the Gerringong town centre**

(1) This clause applies to land in—

- (a) Zone No 3 (a) or 3 (d) in the Kiama town centre, and
- (b) Zone No 3 (a) in the Gerringong town centre.

(2) The Council must not consent to development for the purpose of the erection of a new building or the conversion of an existing building on the land unless—

- (a) a significant part of the ground level (excluding any land used to provide vehicular access) will be available for business purposes including any associated business car parking, or
- (b) any associated residential car parking will not be located at the ground level of the building or its curtilage.

(3) However, the Council may grant consent to such development if it is satisfied that—

- (a) providing residential car parking at a level other than the ground level is impractical because of underlying geological or water table conditions or for civil engineering design reasons, or
- (b) the scale of the proposed development is minor in the context of the remaining part of the land's potential for further development, or

- (c) the development will not inhibit or restrict the future development of the remaining ground level part of the land for business purposes and associated business car parking.
- (4) Before granting consent to development mentioned in subclause (2), the Council must consider if any associated business or residential car parking area is designed in a way that—
  - (a) will enable a significant part of the ground level to be used, or to be capable of being used, for business purposes, and
  - (b) includes safety design features to protect pedestrians from car movements to and from the land, and
  - (c) includes good urban and architectural design outcomes that contribute positively to the town centre streetscape and enhances the attractiveness of the centre as a place to conduct business.
- (5) In this clause—

***dwelling*** includes a serviced apartment but excludes a room or suite of rooms in a boarding-house, hotel or motel.

***residential car parking*** means car parking required for a dwelling of any type intended for occupation by—

- (a) permanent residents, or
- (b) semi-permanent residents or tenants under rental agreements or leases, or
- (c) tourists, or
- (d) small business operators who may occupy a dwelling for the conduct of their business.

**23C Development on Lot 11, DP 626845, 1 Allowrie Street, Jamberoo (the Jamberoo RSL Hall site)**

- (1) This clause applies to development for any of the following purposes on Lot 11, DP 626845, 1 Allowrie Street, Jamberoo (the Jamberoo RSL Hall site)—
  - (a) any alteration or addition to the existing RSL Hall building other than of a minor nature that does not impact on the Allowrie Street streetscape, the adjoining heritage item known as “Fredericks Store” or Reid Park,
  - (b) the erection of a building to replace the existing RSL Hall building, including any subsequent addition or alteration to the replacement building,
  - (c) any other form of development that is not routine maintenance or repairs.

- (2) Despite any other provision of this plan, the Council must not consent to the development unless—
  - (a) it has considered a heritage impact assessment report, prepared by a qualified heritage consultant, submitted with the development application, and
  - (b) it is satisfied the design of the development—
    - (i) is in keeping with heritage conservation design guidelines in the report, and
    - (ii) has been prepared by a person with recognised heritage design skills, and
    - (iii) will achieve the aims mentioned in subclause (3).
- (3) The report must provide heritage conservation design guidelines that, if followed, will protect—
  - (a) the historic streetscape in the vicinity of the land, including “Fredericks Store” and other nearby historic buildings, and
  - (b) the visual built landscape, in particular building facades or structures on the RSL Hall site, as viewed from Reid Park.

## **Part 6 Industrial**

### **24 Extractive Industrial and Light Industrial Zones—Subdivision**

A person shall not subdivide land within Zone No 4 (b) or 4 (c) unless each allotment of land created has an area of not less than 840 square metres and an average width of not less than 21 metres.

### **25 Extractive Industrial and Light Industrial Zones—Development**

- (1) The Council shall not grant consent to development on land within Zone No 4 (b) or 4 (c) for the purpose of an industry unless it is satisfied that—
  - (a) satisfactory provision has been made to ensure safe and convenient ingress to and egress from the site for all vehicles using the site, and
  - (b) provision has been made on the site for the safe and convenient parking, turning, and manoeuvring of vehicles using the site, and
  - (c) ingress to and egress from the site will be in a forward direction for all vehicles, and
  - (d) adequate provision has been made for on-site landscaping, and
  - (e) adequate provision has been made on the site for the collection, storage and disposal of waste resulting from the industry, and

- (f) suitable arrangements have been made for the connection of a water supply, the disposal of sewage, and the collection, control and management of stormwater drainage from the site, and
  - (g) the dimensions of the site are sufficient to cater for the specific requirements of the industry.
- (2) A person shall not erect a building on land within a zone specified in Column I of the Table to this clause if the ratio of the floor space of the building to the site area of the land on which the building is to be erected exceeds the ratio specified opposite that zone in Column II of that Table.

**Table**

<b>Column I</b>	<b>Column II</b>
Zone No 4 (b)	0.7:1
Zone No 4 (c)	0.6:1

**25A Development within Zone No 4 (c) in Willow Gully Creek and Spring Creek catchments**

- (1) This clause applies to land within Zone No 4 (c), being Lot 17 DP 708075 and Lot 5 DP 748680, Kiama.
- (2) The objectives of this clause are as follows—
- (a) to prohibit development for certain purposes on the land to which this clause applies that would otherwise be permissible on land within Zone No 4 (c) so as to avoid adverse environmental impact on the Willow Gully Creek catchment or the Spring Creek catchment,
  - (b) to allow development on the land to which this clause applies for a purpose permitted within Zone No 4 (c) that is not prohibited under this clause, or for the purpose of a printery, only if it is not likely to pose a hazard or threat to the Willow Gully Creek catchment or the Spring Creek catchment,
  - (c) to protect the amenity of residential areas located near the land to which this clause applies,
  - (d) to protect the visual landscape and natural ecological value of the Willow Gully Creek catchment and the natural ecological value of the Spring Creek catchment.
- (3) Despite the land uses for Zone No 4 (c) as set out in the Land Use Table to clause 9, the Council may consent to development for the purpose of a printery on land to which this clause applies.
- (4) Despite any other provision of this plan, development for any of the following purposes is prohibited on land to which this clause applies—

- (a) car repair stations, motor showrooms, liquid fuel depots, service stations, transport terminals,
  - (b) light industries (other than printeries) that manufacture, or produce as a by-product, or that process or package or otherwise use, or that store on-site, petroleum, oil products, solvents, paints, fertilizers, chemicals, or any other toxic or hazardous substance, or any substance of a like kind, whether solid, liquid or gas,
  - (c) warehouses used for storing any substance referred to in paragraph (b),
  - (d) generating works, sawmills, junkyards.
- (5) In deciding whether or not to grant consent to development on land to which this clause applies for a purpose permitted on land within Zone No 4 (c) or for the purpose of a printery, the Council must have regard to the following—
- (a) the potential for the development or its associated activities or processes to threaten the ecology of the Willow Gully Creek catchment or the Spring Creek catchment (taking into account, for example, the potential for substances to be stored at the site to threaten the water quality of these areas if introduced, accidentally or otherwise, into the environment, or the potential for the development or its associated activities or processes to involve the clearing of native vegetation in these areas),
  - (b) whether adequate environmental safeguards will be implemented in relation to the proposed development and its associated activities and processes (especially in relation to substances which, if not effectively controlled or managed on site, may pose a threat to the ecology of the Willow Gully Creek catchment or the Spring Creek catchment),
  - (c) whether adequate arrangements will be in place for the treatment, storage and disposal of waste products associated with the development (in particular, whether such arrangements are in keeping with environmental practices and procedures that may be required by any regulatory authority including the Council),
  - (d) whether the site will be connected to a sewer servicing the site,
  - (e) whether adequate measures will be implemented to enable stormwater and other run-off from vehicular driveways, parking areas and other hard stand areas and paved storage areas on the site to be treated effectively on the site,
  - (f) the potential for activities and processes associated with the development to have a detrimental effect on the amenity of nearby residential areas by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

- (6) The Council must not grant consent to development on land to which this clause applies for a purpose permitted on land within Zone No 4 (c) or for the purpose of a printery unless the Council is satisfied that the development—
  - (a) will not pose a hazard or threat to the Willow Gully Creek catchment or the Spring Creek catchment, and
  - (b) will not impact adversely on the amenity of nearby residential areas, and
  - (c) will not impact adversely on the visual landscape.
- (7) The Council, in granting consent to development on land to which this clause applies, may impose conditions prohibiting the use, creation, storage or generation of any substance.
- (8) The Council, in granting consent to development on Lot 5, DP 748680, Kiama, may impose conditions requiring the rehabilitation of those parts of the wetlands buffer and riparian corridor (as shown on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 52)*”) within or adjacent to the boundaries of the Lot in a manner that is designed—
  - (a) to minimise the visual impact of the development as viewed from nearby residences and public roads, and
  - (b) to enhance the ecological value of the Willow Gully Creek and the Spring Creek catchments, and
  - (c) to enhance local biodiversity values (including connectivity and habitat values).

## **Part 7 Special uses**

### **26 Special Uses (Railway) Zone—Development**

Notwithstanding any other provision of this plan, the Council may grant consent to development on land within Zone No 5 (b) for any purpose permitted on adjoining land in another zone provided it is satisfied that—

- (a) the proposed development will not have a detrimental effect on existing planning strategies being pursued in the locality, and
- (b) the proposed development will be compatible with the nature of any existing development and meets the objectives of the adjoining zone, and
- (c) the proposed development will not have a significant detrimental environmental impact on the locality.

## **Part 8 Environmental protection**

### **27 Rural Environmental Protection (Estuarine Wetlands) Zone—Subdivision**

- (1) A person shall not subdivide land within Zone No 7 (b) unless each allotment of land created by the subdivision has an area of not less than 40 hectares.
- (2) The Council shall not grant consent to the subdivision of land within Zone No 7 (b) if the Council is satisfied the allotments are intended to be used for residential purposes.

### **28 Rural Environmental Protection (Estuarine Wetlands) Zone—Development in the Vicinity**

The filling or drainage of land shall not be carried out on any land within 30 metres of land within Zone No 7 (b) without the consent of the Council.

### **29 Rural Environmental Protection (Wetlands Buffer) Zone—Development in the Spring Creek Catchment**

Notwithstanding any other provision of this plan, the Council may grant consent to attached dwelling dual occupancy development and development for the purposes of dwelling-houses, home hosting or land clearing on land within Zone No 7 (b1) in the Spring Creek catchment at Kiama.

### **30 Rural Environmental Protection (Scenic) Zone—Subdivision**

- (1) A person shall not subdivide land, including subdivision for the purpose of opening a road, within Zone No 7 (d) except with the consent of the Council.
- (2) The Council shall not consent to the subdivision of land within Zone No 7 (d) unless it has obtained all relevant information in relation to, and has made an assessment of—
  - (a) the primary purpose for which each allotment is intended to be used, and
  - (b) if that purpose is agriculture, the form of agriculture for which the allotment is intended to be used.
- (3)–(5) (Repealed)
- (6) A person may, with the consent of the Council, subdivide land within Zone No 7 (d) to create allotments each having an area of at least 40 hectares for the purpose of the erection of a dwelling-house on each allotment.
- (7) The Council shall not grant consent to an application to subdivide land within Zone No 7 (d) unless it has considered—
  - (a) the relationship of the proposed allotments to be created by the subdivision to adjacent or adjoining allotments and the practicality of consolidating the adjoining allotments with that land, and

- (b) the quality of the land and the potential agricultural productivity of the land if it remains un-subdivided, and
  - (c) the likely impact of the subdivision on the landscape, vegetation, soil resources and stability and water resources (including the quality of watercourses, ground water storage and riparian rights), and the cumulative impact of the development on surface and ground-water quality and quantity and on the physical and biological functions of watercourses and riparian corridors, and
  - (d) in relation to each proposed allotment—
    - (i) the size, quality and potential agricultural productivity of the allotment, and
    - (ii) its relationship to, and effect on, the structure and nature of agricultural industries in the area, and
    - (iii) the purpose for which the allotment is intended to be used and the purposes for which, in the opinion of the Council, the allotment is suitable to be used, also having regard to the land uses undertaken on adjacent and adjoining holdings and other holdings in the vicinity, and
    - (iv) the cumulative effect of similar proposals if consent is granted, and
    - (v) the likelihood of the allotment remaining available for agriculture, and
    - (vi) slip hazard, and
  - (e) the potential for adverse visual and traffic impacts to be caused by the subdivision and subsequent ribbon development along roads, and
  - (f) any adverse impacts the access to the land to be subdivided and to lots resulting from the subdivision may have on the proper functioning and safety of other roads in the immediate vicinity.
- (8) A person may, without the consent of the Council, subdivide land within Zone No 7 (d) if the subdivision is for any one or more of the following purposes—
- (a) to widen a public road,
  - (b) to make minor adjustments to common property boundaries,
  - (c) to rectify an encroachment on a lot, portion or parcel of land.

### **31 Rural Environmental Protection (Scenic) Zone—Dwelling-houses**

- (1) This clause applies to land within Zone No 7 (d).
- (2) A person shall not erect a dwelling-house or carry out dual occupancy development on land to which this clause applies except in accordance with this clause.



- (3) Where land to which this clause applies does not have a dwelling-house erected on it, a person may, with the consent of the Council, erect a dwelling-house or carry out dual occupancy development if the land—
- (a) has an area of not less than 40 hectares, or
  - (b) comprises the whole of an existing holding (or an existing holding affected only by a subdivision carried out in accordance with clause 30 (8)), being an existing holding that has an area of not less than 20 hectares and the Council is satisfied that—
    - (i) there will be adequate vehicular access to the dwelling-house or dwellings, and
    - (ii) the erection of the dwelling-house or dwellings will not create or increase ribbon development along an arterial road, or
  - (c) (Repealed)
  - (d) is an allotment created with the consent of the Council, being an allotment referred to in clause 18 (3) (e) of *Kiama Local Environmental Plan No 5* as in force immediately before its repeal by this plan, or
  - (e) is a concessional allotment within the meaning of paragraph (a) of the definition of **concessional allotment** in clause 16 (2) of *Kiama Local Environmental Plan No 5* as in force immediately before its repeal by this plan, or
  - (f) is an allotment having an area of less than 40 hectares and was created under the provisions of clause 32 (1) of the *Kiama Planning Scheme Ordinance*.
- (4) Where a person owns—
- (a) a lot, portion or parcel of land, or
  - (b) two or more adjoining or adjacent lots, portions or parcels of land,
- being land to which this clause applies, the person may, with the consent of the Council, erect one additional dwelling-house on that land for use as a rural worker's dwelling where the Council is satisfied that the additional dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use of the land for the purposes of agriculture and that separate ownership of the proposed dwelling could only be achieved by a subdivision of the land in accordance with clause 30.
- (5) The Council shall not grant consent for a rural worker's dwelling in accordance with subclause (4) if a rural worker's dwelling already exists on the land, or another dwelling exists on the land or on adjoining land in the same ownership which is being used to accommodate rural workers engaged in carrying out agriculture on the land to which the application for consent applies.

- (6) The Council may only grant consent for a rural worker's dwelling in accordance with subclause (4) if—
- (a) it is satisfied the rural worker's dwelling is justified having regard to the nature and scale of the agricultural enterprise and the need for accommodating rural workers on the land, and
  - (b) the rural worker's dwelling is to be located on the same allotment of land as the principal owner's residence, and is designed in a way that architecturally integrates with existing residential development on the land, where the buildings are located in close proximity to each other.
- (7) In granting consent to the erection of a rural worker's dwelling in accordance with subclause (4), the Council may require that—
- (a) the rural worker's dwelling may only be occupied by a person engaged as an employee of the person carrying out agriculture, or by a relative who assists the person carrying out agriculture, on the land, and
  - (b) the rural worker's dwelling is designed and constructed so that it may be removed from the site when the use of the land for agriculture ceases, and
  - (c) when it reasonably forms the opinion that the rural worker's dwelling is no longer being lawfully used by the person carrying out agriculture on the land for its intended purpose, the rural worker's dwelling must be removed from the land or the dwelling must be rendered incapable of residential occupation (and its use limited to agricultural or storage purposes) or be left vacant.
- (8) A person may, with the consent of the Council, erect a dwelling-house on land to which this clause applies and on which another dwelling-house is erected if the dwelling-house is intended to wholly replace the other dwelling-house which is to be demolished or removed from the site.
- (9) The Council shall not grant consent as referred to in subclause (8) unless it is of the opinion that the proposed dwelling will not interfere with the purpose for which the land concerned is being used.

**Note—**

Clause 11A provides for the erection of dwelling-houses on any lots created before the commencement of the [State Environmental Planning Policy \(Rural Lands\) 2008](#).

**32 Rural Environmental Protection (Scenic), (Hinterland) and (Foreshore Protection) Zones—Development**

- (1) The Council shall not grant consent to development on land within Zone No 7 (d), 7 (e) or 7 (f) (other than the subdivision of land) unless it has taken into account the effect that the proposed development will have on the agricultural viability of that

land and land in the vicinity of that land.

- (2) The Council shall not grant consent to development on land within Zone No 7 (d), 7 (e) or 7 (f) unless it has considered—
  - (a) the effect of the proposed development on agricultural and other land uses undertaken on adjacent and adjoining holdings and other holdings in the vicinity, and
  - (b) the quality of the land and the potential agricultural productivity of the land, and
  - (c) the likely impact of the proposed development on the landscape, vegetation, soil resources and stability and water resources (including the quality of watercourses, ground water storage and riparian rights), and the cumulative impact of the development on surface and ground water quality and quantity, and on the physical and biological functions of watercourses and riparian corridors, and
  - (d) the effects of the proposed development on the structure and nature of agricultural industries in the area, and
  - (e) the traffic generating effects of the development on access roads, and
  - (f) the likelihood of the land remaining available for agriculture, and
  - (g) the cumulative effect of similar proposals if consent is granted.

### **33 Rural Environmental Protection (Hinterland) and (Foreshore Protection) Zones—Subdivision**

- (1) The Council shall not consent to the subdivision of land within Zone No 7 (e) or 7 (f), except in accordance with subclause (2), unless each allotment of land to be created by the subdivision has an area of not less than 40 hectares.
- (2) The Council may grant consent to the subdivision of land in Zone No 7 (e) or 7 (f) to create an allotment with an area of less than 40 hectares where it is satisfied the subdivision is not intended for the purpose of creating an allotment for a dwelling-house or dual occupancy development.
- (3) Where the Council is of the opinion that a proposed allotment the subject of an application for consent is intended to be used for—
  - (a) the erection of a dwelling-house or dual occupancy development, the Council shall not grant consent unless allowed by subclause (1), or
  - (b) any other purpose, the Council shall not grant consent unless it prohibits the erection of a dwelling-house or dual occupancy development on each allotment created by the subdivision.
- (4) The Council shall not grant consent to an application to subdivide land within Zone No

7 (e) or 7 (f) unless it has considered—

- (a) the relationship of the proposed allotments to be created by the subdivision to adjacent or adjoining allotments and the practicality of consolidating the adjoining allotments with that land, and
- (b) the quality of the land and the potential agricultural productivity of the land if it remains un-subdivided, and
- (c) the likely impact of the subdivision on the landscape, vegetation, soil resources and stability and water resources (including the quality of watercourses, groundwater storage and riparian rights), and the cumulative impact of the development on the landscape and on surface and ground water quality and quantity, and on the physical and biological functions of watercourses and riparian corridors,
- (d) in relation to each proposed allotment—
  - (i) the size, quality and potential agricultural productivity of the allotment, and
  - (ii) its relationship to, and effect on, the structure and nature of agricultural industries in the area, and
  - (iii) the purpose for which the allotment is intended to be used and the purposes for which, in the opinion of the Council, the allotment is suitable to be used, also having regard to the land uses undertaken on adjacent and adjoining holdings and other holdings in the vicinity, and
  - (iv) the cumulative effect of similar proposals if consent is granted, and
  - (v) the likelihood of the allotment remaining available for agriculture, and
  - (vi) slip hazard, and
  - (vii) bush fire hazard, and
- (e) the potential for adverse visual and traffic impacts to be caused by the subdivision and any access road linking with an arterial road and subsequent ribbon development along roads, and
- (f) any adverse impacts the access to the land to be subdivided and to lots resulting from the subdivision may have on the proper functioning and safety of other roads in the immediate vicinity.

#### **34 Rural Environmental Protection (Hinterland) and (Foreshore Protection) Zones—Dwelling-houses**

- (1) This clause applies to land within Zone No 7 (e) or 7 (f).

- (2) A person shall not erect a dwelling-house or carry out dual occupancy development on land to which this clause applies except in accordance with this clause.
- (3) Where land to which this clause applies does not have a dwelling-house erected on it, a person may, with the consent of the Council, erect a dwelling-house or carry out dual occupancy development if the land—
- (a) has an area of not less than 40 hectares, or
  - (b) comprises the whole of an existing holding, being an existing holding that has an area of not less than 20 hectares, and the Council is satisfied that—
    - (i) there will be adequate vehicular access to the dwelling-house or dwellings, and
    - (ii) the erection of the dwelling-house or dwellings will not create or increase ribbon development along an arterial road, and
    - (iii) adequate public utility services are or will be available to the land, or
  - (c) is an allotment created with the consent of the Council, being an allotment referred to in clause 18 (3) (e) of *Kiama Local Environmental Plan No 5* as in force immediately before its repeal by this plan, or
  - (d) is a concessional allotment within the meaning of paragraph (a) of the definition of **concessional allotment** in clause 16 (2) of *Kiama Local Environmental Plan No 5* as in force immediately before its repeal by this plan, or
  - (e) is an allotment having an area of less than 40 hectares and was created under the provisions of clause 32 (1) of the *Kiama Planning Scheme Ordinance*.
- (4) A person may, with the consent of the Council, erect a dwelling-house on land to which this clause applies and on which another dwelling-house is erected if the dwelling-house is intended to wholly replace the other dwelling-house which is to be demolished or removed from the site.
- (5) Where a person owns—
- (a) a lot, portion or parcel of land, or
  - (b) two or more adjoining or adjacent lots, portions or parcels of land,
- being land to which this clause applies, the person may, with the consent of the Council, erect one additional dwelling-house on that land for the purposes of a rural worker's dwelling where the Council is satisfied that the additional dwelling-house will be actually occupied by a person employed or engaged by the owner of the land in the use of the land for the purposes of agriculture and that separate ownership of the proposed dwelling could only be achieved by a subdivision of the land in accordance with clause 33.

- (6) The Council shall not grant consent for a rural worker's dwelling in accordance with subclause (5) if a rural worker's dwelling already exists on the land, or another dwelling exists on the land or on adjoining land in the same ownership which is being used to accommodate rural workers engaged in carrying out agriculture on the land to which the application for consent applies.
- (7) The Council may only grant consent for a rural worker's dwelling in accordance with subclause (5) if—
  - (a) it is satisfied the rural worker's dwelling is justified having regard to the nature and scale of the agricultural enterprise and the need for accommodating rural workers on the land, and
  - (b) the rural worker's dwelling is to be located on the same allotment of land as the principal owner's residence, and is designed in a way that architecturally integrates with existing residential development on the land, where the buildings are located in close proximity to each other.
- (8) In granting consent to the erection of a rural worker's dwelling in accordance with subclause (5), the Council may require that—
  - (a) the rural worker's dwelling may only be occupied by a person engaged as an employee of the person carrying out agriculture, or by a relative who assists the person carrying out agriculture, on the land, and
  - (b) the rural worker's dwelling is designed and constructed so that it may be removed from the site when the use of the land for agriculture ceases, and
  - (c) when it reasonably forms the opinion that the rural worker's dwelling is no longer being lawfully used by the person carrying out agriculture on the land for its intended purpose, the rural worker's dwelling must be removed from the land or the dwelling must be rendered incapable of residential occupation (and its use limited to agricultural or storage purposes) or be left vacant.

### **35 Rural Environmental Protection (General) Zone—Development on nearby Land**

- (1) Except as provided by clause 36, a person shall not, without the consent of the Council, on land within a distance of 100 metres from the boundary of land within Zone No 7 (I), erect a building, disturb or alter any land form or disturb, remove, damage or destroy any native flora, or dispose of or dump any liquid, gaseous or solid matter.
- (2) Nothing in this clause requires the consent of the Council for—
  - (a) the eradication of noxious weeds, or
  - (b) the removal of leaf litter, shed bark or grasses for the purpose of reducing the risk of bush fire.

- (3) The Council shall not consent to an application for consent required by subclause (1) unless it is satisfied that there is no other place outside the zone on which the development might suitably be located or occur.

### **36 Development of Certain Land Near Blue Angle Creek, Gerroa**

- (1) This clause applies to land within 100 metres of the edge of littoral rainforest within the boundaries of Lot 22, DP 511283, but not within that Lot as shown by the broken line on the map.
- (2) Notwithstanding any other provision of this plan, a person must not, without the consent of the Council, erect a building, disturb or alter any land form, disturb, remove, damage or destroy any native flora, or dispose of or dump any liquid, gaseous or solid matter, on land to which this clause applies.
- (3) The Council must not consent to development of the kind referred to in subclause (2) unless it is satisfied that there is no other place outside the land to which this clause applies on which the development might suitably be carried out.
- (4) Nothing in this clause requires the consent of the Council for—
  - (a) to eradicate noxious weeds, or
  - (b) to remove leaf litter, shed bark or grasses for the purpose of reducing the risk of bush fire.

### **37 Areas of High Conservation Value—Development**

- (1) The objectives of identifying land as an area of high conservation value are—
  - (a) to conserve environmentally important land having ecological, scientific, faunal, floristic or aesthetic values, and
  - (b) to preserve intact rainforests and promote regenerating rainforest areas which are of significance, and
  - (c) to preserve areas of significant vegetation stands and to promote the regeneration of forests and eradication of vegetation which competes with native flora, and
  - (d) to protect wildlife and associated habitats and to protect and promote wildlife corridors, and
  - (e) to exclude activities which would prejudice the ongoing conservation or rehabilitation of land referred to in paragraph (a), and
  - (f) to encourage and allow activities which will meet the conservation objectives, and
  - (g) to protect water sources that are to be used for drinking water purposes.

- (2) Development in an area of high conservation value is prohibited other than for the purposes of a public road, care-giving services, cottage industries carried out in association with a dwelling, the regeneration of native forests, removal of noxious weeds, removal of nominated exotic plants and development allowed by clause 38.
- (3) The Council must not consent to development for the purposes of a public road on any land within a zone that is in an area of high conservation value unless it is satisfied that—
  - (a) there is no alternative site for the proposed development on land within an adjoining zone, and
  - (b) there is no reasonable alternative site for the proposed development on land within the zone that is not in an area of high conservation value, and
  - (c) the proposed development will not have a detrimental impact on the visual quality of the area, and
  - (d) the proposed development will be designed and sited so as to be visually unobtrusive from any other public place, and
  - (e) the amount of vegetation proposed to be removed is as little as possible, and
  - (f) the proposed development will not be subject to slip hazard.
- (4) The Council may decline to consent to development within an area of high conservation value until it has considered a site plan of an appropriate scale clearly and accurately showing the boundary of any forest edge and stands of remnant forest existing on the subject land to enable it to properly assess the impact of the proposed development on that vegetation and the biodiversity it supports.
- (5) The Council must not consent to development on land adjoining an area of high conservation value if the Council considers that, because of the proposed development, the objectives of the area will not be met.

### **38 Areas of High Conservation Value—Dwellings**

- (1) Except as provided by subclause (2) a person shall not erect a dwelling-house, an attached dwelling resulting from dual occupancy development or a building ancillary to such dwellings on land within an area of high conservation value.
- (2) A person may, with the consent of the Council, erect a dwelling-house or an attached dwelling on an allotment of land within an area of high conservation value if the land—
  - (a) has an area of not less than 40 hectares, or
  - (b) comprises the whole of an existing holding, being an existing holding that has an area of not less than 20 hectares, and the Council is satisfied that—



- (i) there will be adequate vehicular access to the dwelling, and
  - (ii) the erection of the dwelling will not create or increase ribbon development along an arterial road, and
  - (iii) adequate services are or will be available to the land, or
- (c) is an allotment created with the consent of the Council, being an allotment referred to in clause 18 (3) (e) of *Kiama Local Environmental Plan No 5* as in force immediately before its repeal by this plan, or
- (d) is a concessional allotment within the meaning of paragraph (a) of the definition of **concessional allotment** in clause 16 (2) of *Kiama Local Environmental Plan No 5* as in force immediately before its repeal by this plan, or
- (e) is an allotment created before 21 August 1981 in accordance with clause 32 (1) of the *Kiama Planning Scheme Ordinance* before its repeal, or
- (f) is an allotment having an area of less than 40 hectares, but not less than 20 hectares, created in accordance with the *Kiama Planning Scheme Ordinance* before its repeal.
- (3) The Council shall not grant consent to the erection of a dwelling-house, an attached dwelling or another building referred to in subclause (1) on any land within a zone that is in an area of high conservation value unless it is satisfied that—
- (a) there is no alternative site on land within a more appropriate zone, and
  - (b) there is no reasonable alternative site for the proposed development on land within the zone that is not in an area of high conservation value, and
  - (c) the proposed development will not have a detrimental impact on the visual quality of the locality, and
  - (d) any building and access thereto will be designed and sited so as to be visually unobtrusive from any public place, and
  - (e) the amount of any vegetation proposed to be removed is as little as possible, and
  - (f) the proposed development will not be subject to slip hazard, and
  - (g) the proposed development will not be subject to an unacceptable level of bush fire risk, and
  - (h) any fire protection, in relation to the proposed development, can be achieved by bush fire mitigation and building design methods which do not adversely impact on the visual landscape or the habitat of threatened or endangered species that may exist in the vicinity of the proposed development.

- (4) The Council shall not grant consent as referred to in subclause (2) unless it has taken into account—
- (a) the impact of the proposed development on the movement of native fauna, and
  - (b) the impact of the proposed development on any rare or significant flora, and
  - (c) the impact of the proposed development on any rare or significant fauna, and
  - (d) the impact of the proposed development on any rare or significant native habitats, and
  - (e) the potential the proposed development may have for impact on adjacent or adjoining land under the control of the National Parks and Wildlife Service, and
  - (f) the impact of the proposed development on the quality of surface and ground waters.
- (5) The Council shall not grant consent as referred to in subclause (2) where the proposed development will affect or is likely to affect aquatic habitats unless it has consulted with and taken into account—
- (a) the impact of the proposed development on fish, crustaceans and molluscs, and
  - (b) the impact of the proposed development on the marine environment of aquatic areas and their ecology.

**39 Rural Environmental Protection (Estuarine Wetlands), (Wetlands Buffer), (Scenic), (Hinterland) and (Foreshore Protection) Zones—Consideration of Natural Environmental Attributes**

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.

**40 Rural Environmental Protection (Scenic), (Hinterland) and (Foreshore Protection)**

### **Zones—Tree Plantation and Harvesting**

- (1) This clause applies to lawfully cleared land within Zone No 7 (d), 7 (e) or 7 (f).
- (2) The Council shall not consent to development for the purposes of a tree plantation and harvesting on land to which this clause applies unless it is satisfied that—
  - (a) trees to be planted are local endemic species similar to those found naturally occurring in adjoining native forests, and
  - (b) the plantation will be properly managed in accordance with a plan of management, and
  - (c) an access road is already available or can be provided without adversely affecting other stands of existing native forest or causing unacceptable adverse environmental impact (where such road is for the purpose of providing access to the plantation for planting, ongoing management and harvesting purposes), and
  - (d) the harvesting of timber on maturity will be carried out in an environmentally sensitive manner which—
    - (i) does not involve clear felling of the forest and is in keeping with sound forestry practices, and
    - (ii) prevents erosion and the sedimentation of watercourses, and
    - (iii) utilises roads and routes determined by the Council to be acceptable for use by heavy logging equipment and trucks, and
    - (iv) preserves the amenity of local residents in terms of the time that noisy forestry activities are conducted, and
  - (e) any bush fire hazard reduction area and activities will be confined to identified parts of the plantation site at its inception and not involve existing forested areas adjoining the site.

## **Part 9 Heritage**

### **41 Heritage aims and objectives**

The aims and objectives of this Part are—

- (a) to conserve the environmental heritage of the land to which this plan applies, and
- (b) to integrate heritage conservation into the planning and development control processes, and
- (c) to provide for public involvement in conservation of the area's environmental heritage, and

- (d) to ensure that new development is undertaken in a manner that is sympathetic to, and does not detract from, the heritage significance of heritage items and their settings, as well as streetscapes and landscapes and the distinctive character that they impart to the land to which this plan applies.

## 42 Definitions

- (1) In this Part—

**alter**, in relation to a heritage item or to a building or work within a heritage conservation area, means make structural changes to the outside of the heritage item, building or work, or make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, building or work other than changes to the existing detail, fabric, finish or appearance of the outside of the heritage item, building or work that arise only from maintenance.

**conservation plan** means a document establishing the significance of a heritage item and identifying the policies that are appropriate to enable that significance to be retained in its future use and development.

**demolish**, in relation to a heritage item or to a building, work, relic or place within a heritage conservation area, means damage, deface, destroy, pull down or remove the heritage item, building, work, relic or place in whole or in part.

**heritage conservation area** means land shown edged heavy black and marked “Heritage Conservation Area” on the map.

**heritage item** means a building, work, relic, tree or place described in Schedule 2.

**heritage significance** means historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance.

**maintenance** means the protective care of the fabric of a heritage item and its setting.

**potential historical archaeological site** means land identified on the map as a potential historical archaeological site.

**relic** means any deposit, object or material evidence (terrestrial or underwater) relating to the use or settlement of the area of Kiama which is 50 or more years old.

## 43 Conservation incentives

- (1) Nothing in this plan prevents the Council from granting consent to—
- (a) the use, for any purpose, of a building that is a heritage item or the land on which the building is erected, or
  - (b) the use, for any purpose, of a building within a heritage conservation area or of

the land on which the building is erected,

if it is satisfied that—

(c) the proposed use would have little or no adverse effect on the amenity of the area, or

(d) the conservation of the building depends on the Council granting consent.

(2) When considering an application for consent to erect a building on land on which there is situated a building which is a heritage item, the Council may—

(a) for the purpose of determining the floor space ratio, and

(b) for the purpose of determining the number of parking spaces to be provided on the site,

exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item, but only if the Council is satisfied that the conservation of the building depends upon the Council granting consent.

#### **44 Development in the vicinity of heritage items**

The Council must not grant consent to an application to carry out development on land in the vicinity of a heritage item unless it has made an assessment of the effect the carrying out of that development will have on the heritage significance of the item and its setting.

#### **45 Heritage conservation areas**

(1) A person must not, in respect of a heritage conservation area—

(a) demolish or alter a building or work within the area, or

(b) damage or move a relic within the area, or

(c) excavate for the purpose of exposing a relic within the area, or

(d) damage or despoil a place within the area, or

(e) erect a building on or subdivide land within the area,

except with the consent of the Council.

(2) The Council must not grant consent to an application required by subclause (1), being an application for consent to erect a new building or to alter an existing building, unless the Council has made an assessment of—

(a) the pitch and form of the roof, and

(b) the style, size, proportion and position of the openings for windows and doors, and

- (c) whether the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building are compatible with the materials used in the existing buildings in the heritage conservation area.

#### **46 Heritage items**

- (1) A person must not, in respect of a building, work, relic, tree or place that is a heritage item—
  - (a) demolish or alter the building or work, or
  - (b) damage or move the relic, or
  - (c) excavate for the purpose of exposing the relic, or
  - (d) damage or despoil the place or tree, or
  - (e) erect a building on or subdivide land on which the building, work or relic is situated or that comprises the place, or
  - (f) damage any tree on land on which the building, work or relic is situated or on the land which comprises the place,except with the consent of the Council.
- (2) The Council must not grant consent to a development application required by subclause (1) unless it has taken into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the item and any stylistic or horticultural features of its setting.
- (3) The Council may decline to grant consent to a development application required by subclause (1) until it has considered a conservation plan to enable the Council to fully consider the heritage significance of the item and the impact of the proposed development on the significance of the item and its setting.
- (4), (5) (Repealed)

**Note—**

The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, *Statements of Heritage Impact*).

#### **47 Sites having conservation potential**

Where the Council receives an application to carry out development on land which comprises a potential historical archaeological site, the Council must not grant consent unless—

- (a) it has considered a conservation plan which includes an assessment of how the

proposed development would affect the conservation of the site, and

- (b) in the case of development involving the disturbance or excavation of the land, any excavation permit required under Division 9 of Part 6 of the *Heritage Act 1977* has been obtained.

## Part 9A Master plan development

### 47AA Definitions

In this Part—

**master plan** means an instrument and supporting diagrams, or a number of instruments and supporting diagrams, that outline proposals and principles to guide master plan development of a master plan site.

**master plan development** for a master plan site, means development described in Schedule 5 as master plan development for the master plan site.

**master plan site** means land described in Schedule 5 as a master plan site.

### 47AB Development of master plan sites

- (1) Despite any other provision of this plan, master plan development may be carried out with development consent on a master plan site, but only if—
  - (a) the development complies with the development requirements specified for the site in Schedule 5, and
  - (b) the consent authority has taken into consideration the master plan for the site as adopted by the Council for the time being in accordance with this Part.
- (2) Provisions or instruments identified in Schedule 5 as comprising the initial master plan for a master plan site are taken to have been adopted by the Council with the approval of the Minister in accordance with this Part as a master plan at the commencement of this Part, but nothing prevents the amendment or replacement of any such master plan in accordance with this Part.
- (3) *State Environmental Planning Policy No 1—Development Standards* does not apply to any development standard imposed on master plan development by a development requirement specified in Schedule 5, except as provided otherwise in that Schedule.
- (4) *State Environmental Planning Policy No 71—Coastal Protection* does not require a master plan to be adopted by the Minister under that Policy before consent is granted for master plan development of a master plan site.
- (5) The Council must make a copy of each master plan, as adopted by the Council for the time being, available for inspection at the office of the Council during ordinary office

hours.

- (6) Nothing in this Part prevents development from being carried out on a master plan site in accordance with the other provisions of this plan, subject to the conditions of any consent granted for master plan development.

**47AC Amendment or replacement of master plans**

- (1) A master plan for a master plan site, as adopted by the Council for the time being, may be amended, or revoked and replaced, by a subsequent master plan adopted by the Council in accordance with this clause.
- (2) A master plan may be amended or revoked and replaced only if the master plan as proposed to be amended or the replacement master plan will illustrate and demonstrate proposals for the following—
- (a) the use or uses to be carried out on the development site, including the use of buildings,
  - (b) design principles drawn from an analysis of the development site and its context,
  - (c) desired future locality character,
  - (d) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards,
  - (e) the scale of any development and its integration with the existing landscape,
  - (f) impact on, and improvements to, the public domain,
  - (g) phasing of development,
  - (h) public access to and along the coastal foreshore,
  - (i) pedestrian, cycle and road access and circulation networks,
  - (j) subdivision pattern,
  - (k) infrastructure provision,
  - (l) building envelopes and built form controls,
  - (m) heritage conservation, including both Aboriginal and European heritage,
  - (n) remediation of the site,
  - (o) provision of public facilities and services,
  - (p) car parking provision,



- (q) provision of open space, its function and landscaping,
  - (r) conservation of natural waters, including their riparian corridors, water quality and use,
  - (s) identification and conservation of native flora and fauna and their habitat on the site, including any threatened species, populations or ecological communities,
  - (t) conservation of fish and aquatic animals and their habitats.
- (3) A draft master plan prepared to amend, or to revoke and replace, a master plan must be publicly exhibited by the Council for not less than 28 days.
- (4) After considering any written submissions made to it within that time, the Council—
- (a) may adopt the draft master plan either with or without alteration, or
  - (b) may reject the draft master plan.
- (5) The Council must re-exhibit a draft master plan that has been altered if, in the Council's opinion, the alterations are sufficiently significant to require re-exhibition.
- (6) (Repealed)
- (7) When the Council adopts a draft master plan, it must—
- (a) notify the person who prepared the master plan (if it was not the Council) and any person who made a written submission about it of the adoption of the master plan, and
  - (b) advertise the adoption of the master plan in a newspaper circulating in the locality, and
  - (c) make a copy of the adopted master plan available for inspection at the office of the Council during ordinary office hours.

## Part 10 General

### 47A Exempt and complying development

- (1) Development of minimal environmental impact listed as exempt development in *Kiama Development Control Plan No 20—Exempt and Complying Development* as adopted by the Council on 16 November 1999 is **exempt development**, despite any other provision of this plan.
- (2) Development listed as complying development in *Kiama Development Control Plan No 20—Exempt and Complying Development* adopted as by the Council on 16 November 1999 is **complying development** if—
- (a) it is local development of a kind that can be carried out with consent on the land

on which it is proposed, and

(b) it is not an existing use, as defined in section 106 of the Act.

- (3) Development is exempt or complying development only if it complies with the development standards and other requirements applied to the development by *Kiama Development Control Plan No 20—Exempt and Complying Development* as adopted by the Council on 16 November 1999.
- (4) A complying development certificate issued for any complying development is to be subject to the conditions for the development specified in *Kiama Development Control Plan No 20—Exempt and Complying Development* adopted by the Council, as in force when the certificate is issued.

#### **48 Subdivision**

Notwithstanding any other provision of this plan, a person may only subdivide land to which this plan applies with the consent of the Council except for subdivision for any of the following purposes which may be carried out without consent—

- (a) to widen a public road,
- (b) to make minor adjustments to common property boundaries,
- (c) to rectify an encroachment on a lot, portion or parcel of land.

#### **49 Advertising of certain applications**

- (1) Subject to subclause (2), the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of—
- (a) development within Zone No 2 (a) or 2 (b) for the purpose of a cottage industry, hospital, place of public worship, residential flat building or villa homes and courtyard houses, and
- (b) any development that would involve demolishing, defacing or damaging of a heritage item or a building, work, relic, tree or place within a heritage conservation area or the use of a building or land referred to in clause 43 for a purpose which, but for that clause, would be prohibited by this plan,
- (c) (Repealed)

in the same way as those provisions apply to and in respect of designated development.

- (2) Section 84 of the Act shall not be applied under subclause (1) to the extent that any regulation made under that section requires the notice referred to in that section to contain a statement to the effect that the development application referred to in the notice and the documents accompanying that application may be inspected at the

office of the Department of Urban Affairs and Planning.

## **50 Height restrictions for buildings**

- (1) Except as provided by this clause, a person shall not erect a building containing more than 2 storeys.
- (2) The Council may grant consent to the erection of a building containing—
  - (a) 3 storeys on land within Zone No 3 (a) or 3 (d) in the Kiama central business district, or
  - (b) 2½ storeys on land within Zone No 3 (a) in the Gerringong central business district, but only where the top ½ storey forms a loft within the roof space of a building with a pitched roof.
- (3) The Council may grant consent to 1 additional level which caters only for basement car parking (including goods delivery, loading and unloading facilities and storage facilities) on land to which subclause (2) applies, but only where the ceiling of that car parking level at no point stands higher than 1 metre above the natural ground level.
- (4) In determining an application for consent in accordance with subclause (2) or (3), or both, the Council must consider—
  - (a) whether the building will be in scale with adjacent and nearby buildings, when viewed within such streetscape as may exist or be permitted by this plan, and
  - (b) whether the proposed development will have any significant adverse impact on the environment or the amenity of residents or businesses on adjoining or nearby land, and
  - (c) whether the building will take on the appearance of a 4 storey building when viewed from any road to which it has a frontage.

## **51 Community use—educational establishments**

Nothing in this plan shall prevent the use of educational establishments for the purpose of enabling—

- (a) the community use of the facilities and sites of schools, colleges and other educational institutions, or
- (b) the commercial operation of those facilities and sites, or
- (c) any person to carry out development for the purposes of community uses on land used for the purpose of schools, colleges or other educational institutions whether or not the development is ancillary to that purpose,

provided that the consent of the Council is obtained.

## **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.

## **53 Filling of land**

- (1) This clause applies to land within Zone No 1 (a), 2 (a), 2 (b), 3 (a), 3 (b), 3 (c), 3 (d), 4 (c), 5 (a), 6 (a), 6 (b), 6 (c), 7 (d), 7 (e) or 7 (f).
- (2) Except as otherwise provided by this clause, a person must not fill land to which this clause applies except with the consent of the Council.
- (3) The Council is not to grant consent to fill land to which this clause applies unless it has considered the likely environmental impact of the fill on the land and on adjoining land, including the following—
  - (a) visual impact on the surrounding land,
  - (b) the likely effect on the stability of the land,
  - (c) the potential for the fill to alter drainage patterns or flood levels to the detriment of adjoining property owners,
  - (d) the implications of changing land surface levels and subsequent development and its potential impact on adjoining or nearby property owners, including their privacy and views,
  - (e) measures to be taken to stabilise and landscape the filling to prevent erosion,
  - (f) measures to be taken to prevent sedimentation of waterways,
  - (g) the impact on existing vegetation, particularly mature trees on the land,
  - (h) the nature of the fill material and the potential for that material to contain contaminated substances,

- (i) the potential for the fill to adversely affect water quality,
  - (j) the duration of the filling works, the likely traffic movements generated and the impact on the local road network as a result of those works.
- (4) A person may fill land to which this clause applies without the consent of the Council if the fill—
- (a) has previously been considered as part of a development application in respect of which the Council has granted consent, or
  - (b) is intended for terracing or contouring the ground surface by means of retaining walls or mounds and—
    - (i) the walls or mounds do not exceed a height of 600 millimetres above natural ground level, and
    - (ii) the walls or mounds are not located closer than 1 metre from an adjoining property boundary, and
    - (iii) the fill does not take place within 40 metres of a watercourse, and
    - (iv) the fill does not take place within the dripline of any existing vegetation.
- (5) Additionally, a person may fill land within Zone No 1 (a), 6 (a), 6 (b), 6 (c), 7 (d), 7 (e) or 7 (f) without the consent of the Council if the fill—
- (i) is not to a depth of greater than 600 millimetres above natural ground level at any point, and
  - (ii) does not take place within 1m of any adjoining property boundary, and
  - (iii) does not take place within 40 metres of a watercourse, and
  - (iv) does not take place within the dripline of any existing vegetation, and
  - (v) does not involve an area of more than 2 hectares or the depositing of more than 30 tonnes of material.

- (6) In this clause—

**natural ground level** means the existing ground level of the land before any filling, excavation or building work has been undertaken.

**vegetation** means any plant to which Council's Tree Preservation Order applies.

### **53A Establishment of timber plantations**

- (1) This clause applies only to lawfully cleared land within Zone No 1 (a), 7 (d), 7 (e) or 7 (f).

- (2) Despite any other provision of this plan, a person may, without development consent, establish tree plantations on land that is an accredited proposed timber plantation or an accredited timber plantation (within the meaning of the *Timber Plantations (Harvest Guarantee) Act 1995*) consisting of land to which this clause applies.

#### **54 Development along arterial roads**

- (1) The Council shall not consent to an application to carry out development on land which has frontage to an arterial road unless—
- (a) access to that land is provided by a road other than the arterial road, wherever practicable, and
  - (b) in the opinion of the Council, the safety and efficiency of the arterial road will not be adversely affected by—
    - (i) the design of the access to the proposed development, or
    - (ii) the emission of smoke or dust from the proposed development, or
    - (iii) the nature, volume or frequency of vehicles using the arterial road to gain access to the proposed development.

#### **Note—**

See the requirements of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Chapter 2 in relation to development applications for traffic-generating development.

- (2) The Council shall not consent to the development of land within Zone No 1 (a), 7 (d), 7 (e) or 7 (f) for any purpose listed in *State Environmental Planning Policy (Transport and Infrastructure) 2021*, Schedule 3 if the development will have direct access to—
- (a) an arterial road, or
  - (b) a road connecting an arterial road, where the access to that road is within 90 metres (measured along the road alignment of the connecting road) of the alignment of the arterial road,
- and if alternative access is available from a road that is not an arterial road and can be provided at a distance greater than 90 metres from any intersection of that road with an arterial road.

#### **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.

**56 Residential and tourist facility development in unserviced urban areas**

- (1) This clause applies to land that is not connected to Sydney Water’s reticulated water supply or reticulated sewerage system (or both) within—
  - (a) Zone No 2 (a) or 2 (b), or
  - (b) Zone No 3 (a) or 3 (c)—being land on which tourist facilities are permitted with the consent of the Council.
- (2) The Council shall not grant consent to—
  - (a) dual occupancy development, or development for the purpose of integrated housing development, units for aged persons, or villa homes and courtyard houses, in Zone No 2 (a), or
  - (b) dual occupancy development, or development for the purpose of integrated housing development, residential flat buildings, units for aged persons or villa homes and courtyard houses, in Zone No 2 (b), or
  - (c) the erection or alteration of a residential flat building or a dwelling (other than for a single dwelling), or development for the purpose of a tourist facility (where permitted with the consent of the Council) in Zone No 3 (a) or 3 (c), or
  - (d) subdivision of land within Zone No 2 (a) or 2 (b) for the purpose of creating additional residential lots,

unless arrangements can be made to connect the proposed development to reticulated water supply and reticulated sewerage systems acceptable to the Council.
- (3) Nothing in subclause (2) prevents the Council from granting consent to subdivision of or residential development on the following land at Gerringong—Lots 13, 14, 15 and 18 DP 241462 and Lot 102 DP 835934 Armstrong Avenue.

**57 Tourist facility development in unserviced areas within the Rural “A” Zone**

- (1) This clause applies to land within Zone No 1 (a).
- (2) The Council shall not grant consent to development on land to which this clause applies for tourist facility purposes where that development will require water supply and sewage disposal facilities unless—
  - (a) the proposed buildings intended to be used for the purposes can be connected to reticulated water supply and reticulated sewerage systems acceptable to the Council, or
  - (b) a reliable water supply capable of meeting the projected needs of the occupiers of

the proposed building and a satisfactory alternative option for sewage treatment capable of achieving standards of treatment and effluent discharge quality can be provided.

### **58 Development of flood liable land**

- (1) Subject to subclause (2), the Council shall not consent to an application to carry out development on land which, in its opinion, is flood liable land.
- (2) The Council may consent to an application to carry out development on flood liable land if—
  - (a) the development is for a purpose ancillary or incidental to the use of land for the purpose of agriculture, or
  - (b) a statement of environmental effects or an environmental impact statement indicates that the development would not be contrary to the public interest, or
  - (c) the development comprises the extension or alteration of an existing dwelling-house, or
  - (d) the land is in any urban zone under this plan.
- (3) In considering an application to which subclause (2) applies, the Council shall make an assessment of—
  - (a) the likely levels, velocity, sedimentation and debris carrying effects of flooding, and
  - (b) the structural sufficiency of any building the subject of the application and its ability to withstand flooding, and
  - (c) the effect which the development, if carried out, will or is likely to have on the flow characteristics of floodwaters, and
  - (d) whether or not access to the site will be possible during a flood, and
  - (e) the likely increased demand for assistance from emergency services during a flood.
- (4) In considering an application for consent required by this clause, the Council may set flood levels, and in granting such a consent it may require filling, structural changes or additions or such other measures to reduce the effects of flooding or to assist in emergency situations as it considers appropriate.

### **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 (l) or 9 (a) that is within a riparian corridor, the Council must have regard to the objectives in subclause (1).
- (3) The Council may, in determining an application to which this clause applies—
- (a) refuse consent to development or a specific part or parts of the development the subject of the application proposed to be carried out on any such land within the riparian corridor, or
  - (b) require modification of the development,
- where it considers such development would cause harm to the environment.
- (4) Nothing in this clause authorises the Council to restrict or to prohibit, or to impose a condition of development consent that restricts or prohibits, the carrying out of development on land for the purpose of agriculture if—
- (a) the zoning under this plan allows such development to be carried out without development consent, or
  - (b) such development constitutes, under the Act, a lawful existing use of the land within the meaning of section 106 of the Act, or the continuance of a use or the carrying out of development to which section 109 or 109B of the Act applies.

## **59 Temporary use of land**

- (1) Notwithstanding any other provision of this plan, the Council may grant consent to the temporary use of any land for any purpose (not being designated development or development prohibited by the provisions of any other environmental planning instrument applying to the land) for a maximum period of 28 days (whether or not the days are consecutive) in any one year.

- (2) In determining whether to grant consent as referred to in subclause (1), the Council shall take into consideration—
  - (a) the protection of the environment and the amenity of the locality during and immediately after the carrying out of the proposed use, and
  - (b) whether appropriate arrangements will be made for the provision of utility services, vehicular and pedestrian access, parking and restoration of the site to the condition prevailing immediately before the carrying out of the proposed use, and
  - (c) whether the period for the carrying out of the proposed use is reasonable in the circumstances or whether a lesser period would be more appropriate.

**60 Acquisition and development of land within the proposed recreation zone**

- (1) The owner of any land within Zone No 6 (c) may, by notice in writing, require the Council to acquire that land.
- (2) On receipt of such a notice, the Council must acquire the land.
- (3) Until the land is acquired, a person may, with the consent of the Council, carry out development on land within Zone No 6 (c)—
  - (a) for a purpose for which development may be carried out on land in an adjoining zone, or
  - (b) for any other purposes which is compatible with development which may be carried out on land in an adjoining zone.
- (4) The Council shall not grant consent to a development application to which subclause (3) applies unless it has considered—
  - (a) the need for the proposed development on that land, and
  - (b) the effect of the proposed development on the costs of acquisition of the land, and
  - (c) the imminence of the acquisition, and
  - (d) the likely impact of the proposed development on—
    - (i) the environment, and
    - (ii) the proposed future use of the land for open space, and
    - (iii) the amenity of adjoining property owners or residents.
- (5) The Council may, in granting consent in accordance with subclause (3), require—

- (a) the removal of structures for which it has granted consent, and
- (b) the re-instatement of the land and the removal of any waste materials or refuse at such time as the land is acquired for open space.

#### **61 Acquisition and development of land within the proposed arterial road zone**

- (1) The owner of any land within Zone No 9 (a) may, by notice in writing, require the RTA to acquire the land.
- (2) On receipt of such a notice, the RTA must acquire the land if—
  - (a) the land is vacant, or
  - (b) the land is not vacant but—
    - (i) the land is included in the 5-year works program of the RTA current at the time of the receipt of the notice, or
    - (ii) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time,but the RTA is not required to acquire the land if it might reasonably be required to be dedicated for use as a public road.
- (3) A person may, with the consent of the Council, carry out development on land within Zone No 9 (a)—
  - (a) for a purpose for which development may be carried out on land in an adjoining zone, or
  - (b) for any other purpose which is compatible with development which may be carried out on land in an adjoining zone.
- (4) In deciding whether to grant consent, the Council must take into consideration the effect of the proposed development on the future acquisition of the land by the RTA.

- (5) In this clause—

**the RTA** means the Roads and Traffic Authority.

**vacant land** means land on which there are no buildings other than fences.

#### **62 Classification of public land as community land and operational land**

- (1) In this clause—

**community land** means land classified as community land within the meaning of the [Local Government Act 1993](#).

**operational land** means land classified as operational land within the meaning of the

*Local Government Act 1993.*

- (2) All public land within Zone No 6 (a) or 6 (c), owned or controlled by the Council, is classified as community land, except where it is listed in Schedule 3.
- (3) The public land referred to in Schedule 3 is reclassified from community land to operational land.

**63 Development for certain additional purposes**

- (1) Nothing in this plan prevents a person, with the consent of the Council, from carrying out development on land referred to in Schedule 4 for a purpose specified in relation to that land in that Schedule, subject to such conditions, if any, as are so specified.
- (2) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this plan as are not inconsistent with that subclause or with a consent granted by the Council in respect of the development.

**63A Gerringong—Gerroa sewerage scheme**

- (1) Nothing in this plan prevents the Council from granting consent to the carrying out of development associated with the construction of the Gerringong—Gerroa sewerage scheme (including the sewage treatment plant, access road, bridge, pipelines, pumping stations and other utility installations, works and the like) subject to the consideration of matters in the following subclauses.
- (2) Where in the absence of this clause the carrying out of development on land the subject of the application would be prohibited by this plan, and where the Council considers that there is no better reasonable alternative location for that development, the Council may grant consent to the carrying out of that development if it is satisfied that the development will not have a significant or long-lasting detrimental environmental impact on the land.
- (3) In considering an application for development in accordance with this clause, the Council shall have regard to such other provisions of this plan as would ordinarily apply to the development in the absence of this clause and it may attach conditions, where appropriate, in order to achieve—
  - (a) the intent of those provisions in protecting the environment, and
  - (b) the rehabilitation of disturbed areas as close as possible to their natural state, and
  - (c) any other measures that it considers necessary in the circumstances of the case to avoid, minimise or compensate adverse environmental impact.
- (4) In considering an application for development for an access corridor linking the site of the Gerringong—Gerroa sewage treatment works with Crooked River Road, Gerroa, for

the purpose of providing road and bridge access and utility installations associated with the works, the Council shall have regard to the following environmental objectives—

- (a) the route for the access corridor shall be chosen and surveyed with the aim of either avoiding or minimising the disturbance of existing stands of littoral rainforest and other significant vegetation separating the site of the sewage treatment works and Crooked River Road,
- (b) the construction of the required road, bridge and utility installations (both above and below ground) and any associated sewerage related works associated with the corridor shall be carried out in a manner that achieves minimal environmental impact and incorporates measures to rehabilitate disturbed areas with naturally occurring species of plants.

#### **64 Suspension of covenants, agreements and other instruments**

- (1) This clause applies to development on land within any zone other than within Zone No 2 (a) or 2 (b).
- (2) For the purpose of enabling development to which this clause applies to be carried out in accordance with this plan or with a consent granted under the Act, any agreement, covenant or similar instrument that restricts the carrying out of that development shall not apply to the extent necessary to serve that purpose.
- (3) Nothing in subclause (2) affects the rights or interests of any public authority under any registered instrument.
- (4) In accordance with section 28 of the Act, the Governor approved of subclauses (1)–(3) before the making of this plan.

#### **64A Suspension of covenants, agreements and other instruments—residential land**

- (1) This clause applies to—
  - (a) development (including subdivision) for the purpose of dwelling-houses, residential flat buildings, units for aged persons, villa homes or courtyard houses, where allowed within Zone No 2 (a) or 2 (b), and
  - (b) dual occupancy development and integrated housing development within Zone No 2 (a) or 2 (b).
- (2) For the purpose of enabling development to which this clause applies to be carried out in accordance with this plan or with a consent granted under the Act, any agreement, covenant or similar instrument that restricts the carrying out of that development shall not apply to the extent necessary to serve that purpose.
- (3) Nothing in subclause (2) affects the rights or interests of any public authority under

any registered instrument.

- (4) In accordance with section 28 of the Act, the Governor approved of subclauses (1)-(3) before making of *Kiama Local Environmental Plan 1996 (Amendment No 31)*.

## **65 Saving of certain development applications**

- (1) Environmental planning instruments (including, where appropriate, State environmental planning policies, regional environmental plans and *Kiama Local Environmental Plan No 5*) as in force immediately before the appointed day continue to apply to a development application if—
- (a) the application was made but had not been finally determined before that day, and
  - (b) the development that is the subject of that application is prohibited by other provisions of this plan but could, with development consent, have been carried out in accordance with those instruments as so in force.
- (2) Environmental planning instruments (including, where appropriate, State environmental planning policies, regional environmental plans and *Kiama Local Environmental Plan No 5*) as in force immediately before the appointed day apply to an application made on or after the appointed day for consent to the subdivision of an allotment on which two dwellings are situated so as to create separate land titles for each dwelling if—
- (a) the dual occupancy development which resulted in the two dwellings was carried out with development consent granted before the appointed day or granted on or after the appointed day because of the operation of subclause (1), and
  - (b) the subdivision that is the subject of that application is prohibited by other provisions of this plan but could, with development consent, have been carried out in accordance with those instruments as so in force.

## **66 Development on land identified on Acid Sulfate Soils Map**

- (1) The objective of this clause is to require special assessment of certain development on land identified as being subject to acid sulfate risk.
- (2) A person must not, without the consent of Council, carry out works described in the following table on land of the class (as shown on the acid sulfate soils map) specified opposite those works, except as provided by subclause (4).

<b>Class of land as shown on Acid Sulfate Soils Map</b>	<b>Works</b>
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1	Any works.
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- 2 Works below the natural ground surface.  
Works by which the watertable is likely to be lowered.
- 3 Works beyond 1 metre below the natural ground surface.  
Works by which the watertable is likely to be lowered beyond 1 metre below natural ground.
- 4 Works beyond 2 metres below the natural ground surface.  
Works by which the watertable is likely to be lowered beyond 2 metres below natural ground.
- 5 Works within 500 metres of adjacent Class 1, 2, 3 or 4 land which are likely to lower the watertable below 1 metre AHD in Class 1, 2, 3 or 4 land.

(3) For the purposes of subclause (2), **works** includes—

- (a) any disturbance of more than one (1) tonne of soil (such as occurs in carrying out agriculture, the construction or maintenance of drains, extractive industries, dredging, the construction of artificial waterbodies (including canals, dams, and detention basins) or foundations, or flood mitigation works), or
- (b) any other works that are likely to lower the watertable.

(4) This clause does not require consent for the carrying out of those works if—

- (a) a copy of a preliminary assessment of the proposed works undertaken in accordance with the *Acid Sulfate Soils Assessment and Management Guidelines* has been given to the Council, and
- (b) the Council has provided written advice to the person proposing to carry out works confirming that results of the preliminary assessment indicate the proposed works need not be carried out pursuant to an acid sulfate soils management plan prepared in accordance with the *Acid Sulfate Soils Assessment and Management Guidelines*.

(5) The Council must not grant a consent required by this clause unless it has considered—

- (a) a preliminary soil assessment to ascertain the presence or absence of acid sulfate soils within the area of the proposed works, unless the applicant agrees that acid sulfate soils are present within the area of the proposed works, and
- (b) the adequacy of an acid sulfate soils management plan prepared for the proposed development in accordance with *Acid Sulfate Soils Assessment and Management Guidelines*, and
- (c) the likelihood of the proposed development resulting in the oxidation of acid sulfate soils and the discharge of acid water from the area of the proposed works,

and

(d) (Repealed)

- (6) Clause 35 of and Schedule 1, items 2 and 11, to the *Environmental Planning and Assessment Model Provisions 1980* do not apply to development for which consent is required under this clause for works conducted by councils, county councils or drainage unions.

### **67 Standards that cannot be used to refuse consent—playing and performing music**

- (1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—

(a) the playing or performance of music, including the following—

- (i) the genre of music played or performed, or
- (ii) whether the music played or performed is live or amplified, or
- (iii) whether the music played or performed is original music, or
- (iv) the number of musicians or live entertainment acts playing or performing, or
- (v) the type of instruments played,

(b) whether dancing occurs,

(c) the presence or use of a dance floor or another area ordinarily used for dancing,

(d) the direction in which a stage for players or performers faces,

(e) the decoration to be used, including, for example, mirror balls, or lighting used by players or performers.

- (2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.

- (3) In this clause—

***licensed premises*** has the same meaning as in the *Liquor Act 2007*.

## **Schedule 1 Residential Design Guidelines**

(Clauses 18 & 22)

### **Streetscape**



**Objective**

Development, particularly when viewed from the street, should be compatible with the character and scale of any existing buildings to be retained on the site and residential development in the immediate vicinity.

**Matters to be considered**

Height; bulk, scale and architectural style of buildings; setbacks, type and colour of building materials; design of roofs (eg material, colour, pitch); amount and type of landscaping.

**Visual Privacy**

**Objective**

Dwellings should be arranged so that reasonable internal privacy and reasonable privacy in respect of existing adjoining residences and private open space is achieved.

**Matters to be considered**

Window and balcony placement; window size; screening devices around private open space (eg walls, fences and vegetation); overlooking of neighbours' yards; location of walkways, driveways and utility areas in relation to bedrooms and other habitable rooms and places.

**Noise**

**Objective**

Dwellings should be designed so that—

- (a) noise from outside sources, when measured within habitable rooms and in private open space, is kept to acceptable levels, and
- (b) noise levels within dwellings and in communal and private outdoor areas should be contained as far as possible so as to minimise unreasonable transmission to adjoining dwellings.

**Matters to be considered**

Location of potential noise sources within the development (eg parking areas and driveways); screen barriers (eg walls and earth mounds); location of noise sensitive rooms and/or living areas; need for specialised construction (eg floors and windows).

**Views**

**Objective**

Development should be designed to maintain, within reason, the views of existing residents. Where possible, dwellings should be designed with living areas facing the view.

**Matters to be considered**

Height; size, shape and position of windows; aspect; location and architectural quality of buildings within the site.

**Sunlight**

### **Objective**

Development should be designed to minimise overshadowing of neighbouring or internal dwellings, particularly any solar collectors. Design should control summer sun and admit winter sun, wherever practicable. Design should ensure reasonable access to sunlight or daylight (or both) for living spaces within buildings and open space around buildings. Design should eliminate unwelcome reflections from windows and window treatments.

### **Matters to be considered**

Orientation of living areas and bedrooms having regard to development within and external to the site; use of deciduous trees, pergolas and eaves and use of solar energy collectors; window placement and surface treatments.

## **Car Parking**

### **Objective**

Adequate car parking should be provided within the development so that parking does not cause inconvenience to residents and congestion in nearby streets.

### **Matters to be considered**

Council's parking standards; location and dimensions of driveway and turning space; location, size and landscaping of parking areas.

## **Access, Servicing and Maintenance**

### **Objective**

Access to and through the development should be simple, safe and direct for residents, visitors, tradespeople and service vehicles. Materials, plant types and landscaping treatment should be chosen to minimise future work and maintenance costs.

### **Matters to be considered**

Layout of dwellings, pedestrian entrances and driveways; location of drying areas; mail boxes and garbage collection areas; plant types and materials used in landscaping.

## **Vegetation and Natural Features**

### **Objective**

Development should retain significant trees and natural features such as rock ledges to the maximum extent possible.

### **Matters to be considered**

Size, location and type of trees and other natural features on the site; the Council's Tree Preservation Order; design options for retaining trees and natural features; proposals for protecting retained trees and natural features from destruction or damage during construction.

## **Drainage**

### **Objectives**

Provision should be made in the design for disposal of site drainage in a way that does not overload the on-site or off-site drainage system or impact adversely on adjoining property owners.

### **Matters to be considered**

Council's engineering drainage standards; the need for on-site stormwater detention; the need for drainage easements and arrangements made with adjoining property owners to secure such easements; changes to surface levels to facilitate surface drainage and the implications for adjoining property owners; the impact of drainage discharges on the environment where not directed to a reticulated drainage system.

## **Schedule 2 Heritage items**

(Clause 42)

### **Kiama**

Bombo Headland quarry geological site, Bombo, Kiama

Hartwell House and Coachhouse, Farmer Street, Kiama

Infants School, Kiama, corner Minnamurra and Shoalhaven Streets, Kiama

Scots Presbyterian Church including the surrounding land and Norfolk Island Pines, Shoalhaven Street, Kiama

Terrace houses, 24-44 Collins Street, Kiama

Masonic Temple, former Temperance Hall, 46 Collins Street, Kiama

Cottages Nos 3, 3a, 2, 4, 6, 8 and 10 Collins Lane, Kiama

Manning Street group, Kiama, including—

- Former Commercial Banking Company of Sydney Ltd, Bank Building
- Westpac Bank (former Bank of NSW)
- Uniting Church, front lawn and pine trees
- Grand Hotel
- Former English, Scottish and Australian Bank Buildings (subsequently ANZ Bank), including stables, rear garden and fences
- Council Chambers and pine tree at rear
- Post Office grounds and pine trees

Kiama Government building group, corner Manning/Terralong Streets, Kiama, including—

- Post Office and outbuildings

- Courthouse, grounds and trees
- Police Station
- Police Station Residence

Mount Vernon, 64-66 Bong Bong Street, Kiama

Blowhole Point, including Kiama Lighthouse, Kiama Ice Factory, Kiama Wharf

Terralong Street Quarry, Kiama

Railway cottage, 28 Bong Bong Street, Kiama

Cottage, 38 Bong Bong Street, Kiama

Cottage, 43 Bong Bong Street, Kiama

Anglican Christ Church, Kiama

Remains of Steam Flour Mill, Bush Bank, Princes Highway, South Kiama

- Kendall House, Lot 3, DP 263286, Saddleback Mountain Road, Kiama
- Barroul House, including its immediate curtilage and certain land to the north up to Bonaira Street within the grounds of Kiama Hospital located on Crown Reserve number 6836-3000, Bonaira Street, Kiama (the subject of repealed Kiama LEP No 83)
- Two storey weatherboard building, 127 Terralong Street, Kiama (the subject of repealed Kiama LEP No 92)
- Brick building (former Fire Station), Lot 4, DP 114668, Terralong Street, Kiama (the subject of repealed Kiama LEP No 97)
- Two storey weatherboard duplex building, 2-4 Railway Parade, Kiama (the subject of repealed Kiama LEP No 100)
- The building (formerly known as "Gran's Fudge"), Lot 1, DP 782720 (No 132) Terralong Street, Kiama (the subject of repealed Kiama LEP No 116)

### **Jamberoo**

Public School, Churchill Street, Jamberoo

Culwalla homestead, worker's cottage and old dairies—Lot 173, DP 804643, Jamberoo Road, Jamberoo

Minnamurra House, Minnamurra Lane, Jamberoo

Terragong House and home paddock, Jamberoo

Site of Woodstock Saw Mill, Piggery, Cooperage & Butter Factory, Robertson Rd, Jamberoo

Anglican Church of the Resurrection, Jamberoo

St Stephen's Presbyterian Church, Allowrie Street, Jamberoo

St Matthew's Roman Catholic Church, Jamberoo

Commercial Hotel, Lot 20 Allowrie Street, Jamberoo

Fredericks Store, 3 Allowrie Street, Jamberoo

Uniting Church Hall and Cemetery, Lot 48, Jamberoo

Church of England Cemetery, Tates Hill Road, Jamberoo

O'Mara's Grave, Roman Catholic Burial Ground, Jamberoo Mountain Rd, MR 264 Jamberoo

Kelly's Cottage, Minnamurra Falls Road, Jamberoo

Park Mount, Jerrara Road, Jamberoo

Jamberoo Dairy Factory, Factory Lane, off Jamberoo Road, Jamberoo

Antique Shop (former ES & A Bank) 26 Allowrie Street, Jamberoo

"Colewood", Mountain Road, Druewalla, Jamberoo

Former Wesleyan Parsonage, Lot F, Wyalla Street, Jamberoo

Kinross Cemetery, off Minnamurra Lane, Jamberoo

Gundarimba, cnr Minnamurra Land and Allowrie Street, Jamberoo

Roman Catholic Church Graveyard, Chappel Street, Jamberoo

Weatherboard cottage, eastern side of Browns Land, corner Browns Lane and Jamberoo Road, Jamberoo.

### **Gerringong**

Alne Bank, including stone barn, Rose Valley, Gerringong

Renfrew Park, Princes Highway, Gerringong

St Mary's Church, cnr Fern and Jupiter Streets, Gerringong

### **Gerroa**

Black Head, Gerroa, palaeontological site.

## **Schedule 3 Operational land**

(Clause 62)

- Lot 36, DP 241462, No 57 Armstrong Avenue, Gerringong.
- Lot 1, DP 595495, No 35 Blackwood Street, Gerringong.

- Part Lot 23, DP 39106, No 1 Burra Street, Gerringong, as shown edged heavy black on Sheet 3 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 10)*”.
- Part Lot 2 and Lot 3, DP 707300, Hillview Circuit, Kiama, as shown edged heavy black on Sheet 4 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 10)*”.
- Lot 4, DP 263286, Weston Place, Kiama.
- Lot 1, DP 735746, Cliff Drive, Kiama Downs.
- Part Lot 2, DP 707300, Hillview Circuit, Kiama, as shown edged heavy black on Sheet 1 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 58)*”.
- Part Lot 48, DP 250008 and part Lot 60, DP 703112, Blackwood Street, Gerringong, as shown edged heavy black on Sheet 2 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 58)*”.

## **Schedule 4 Development for certain additional purposes**

(Clause 63)

- Lot 1, DP 635695, Saddleback Mountain Road, Kiama—a single dwelling-house or dual occupancy development resulting in attached dwellings, subject to there being no other residential development on the land or permitted on the land under this plan or any other environmental planning instrument.
- Lots 1, 2 and 3, DP 719744, Omega Lane, Mount Pleasant—a single dwelling-house or dual occupancy development resulting in attached dwellings on each lot, subject to there being no other residential development on the land or permitted on the land under this plan or any other environmental planning instrument.
- Lots 12 and 13, DP 579733, and Lot 4, DP 614586, Princes Highway, Mount Pleasant—a single dwelling-house or dual occupancy development resulting in attached dwellings on each lot, subject to there being no other residential development on the land or permitted on the land under this plan or any other environmental planning instrument.
- Lot 208, DP 30126, Attunga Avenue, Kiama—a car repair station, or free standing dual occupancy development, or villa homes and courtyard houses.
- Lot 2, DP 740400 and Lot 2, DP 720881, South Kiama Drive, Kiama—a motel.
- Portions 133 and 192, Parish of Kiama, Jamberoo Mountain Road, Jamberoo—a dwelling-house or dual occupancy development resulting in attached dwellings, subject to there being no other residential development on the land or permitted on the land under this plan or any other environmental planning instrument.
- Lot 22, DP 620955, Old Brush Road, Jamberoo—a single dwelling-house or dual occupancy development resulting in attached dwellings, subject to there being no other residential development on the land or permitted on the land under this plan or any other environmental planning instrument.
- Lot 3, DP 624566, Lot 4, DP 624566, Lot 2, DP 596024 and that part of Portion 9 (as shown edged

heavy black on the map held by Council on file number 6000.20.87 dated 2.6.95 and labelled “subject land”) Parish of Jamberoo, Curramore and Rutledges Roads, Jamberoo—the following—

- (a) the creation of a maximum of 13 allotments of which all except one of the lots will be created under the *Community Land Development Act 1989*,
- (b) the erection of a dwelling-house on each of all but 2 of the allotments created,
- (c) the creation of an allotment having an area of approximately 5 hectares around an existing dwelling-house on Lot 2, DP 596024,
- (d) the creation of an allotment on which no dwelling-house shall be erected and which the Council is satisfied will be protected for its conservation value.

In determining whether to grant consent for development described in paragraph (a), (b), (c) or (d), the Council shall take into consideration—

- (e) the impact of the proposed development on the native flora and fauna,
  - (f) bush fire risk,
  - (g) the visual impact of the proposed development on the scenic quality of the Jamberoo Valley, and
  - (h) the likely impact of the proposed development on soil resources and stability and water resources (including the quality of water resources, ground water storage and riparian rights).
- Land at Kiama and Gerroa, as shown edged heavy black on Sheets 1 and 2 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 1)*”—two storey town houses.
  - Land comprised of Lot 1, DP 832012 and Lot 101, DP 841244, Thornett Way, Kiama Downs—resubdivision of all the land to create two lots only.
  - Lot 1, DP 832012 and Lot 101, DP 841244, or the two lots created by resubdivision of those lots, Thornett Way, Kiama Downs—the erection of a single dwelling-house, a dual occupancy resulting in two attached dwellings, home hosting facilities or a place of public worship (and incidental buildings) on each lot; land clearing.
  - Lot 23, DP 628235 and part Lot 1, DP 718452, Fern Street, Gerringong—any purpose permitted with development consent in the General Business Zone where all access to, and egress from, the land is by way of Belinda Street, Gerringong (the subject of repealed Kiama LEP No 9).
  - Lot 1, DP 615584, Osborne Street, Gerringong—development for the purpose of a residential flat building, subject to the proposed residential flat building containing not more than 4 dwellings (the subject of repealed Kiama LEP No 21).
  - Lot 2, DP 615584, Osborne Street, Gerringong—development for the purpose of a residential flat building, subject to the proposed residential flat building containing not more than 5 dwellings (the subject of repealed Kiama LEP No 21).
  - Lot 1, DP 202391, Allowrie Street, Jamberoo—guest house and public dining room (the subject of repealed Kiama LEP No 23).

- Lot 32, DP 709582, Saddleback Mountain Road, Kiama—a single dwelling-house (the subject of repealed Kiama LEP No 24).
- Part of Lot 6, Section 57, Panama Street, Kiama—concrete batching plant (the subject of repealed Kiama LEP No 26).
- Part of Lot 2, DP 539957, Barney Street, Kiama—boarding-house (the subject of repealed Kiama LEP No 27).
- Lot 900, DP 616677, Fern Street, Gerringong—art gallery, motel and restaurant (the subject of repealed Kiama LEP No 43).
- Portions 126 and 127, Parish of Kiama, Wyalla Road, Jamberoo—subdivision, where the average lot size is not less than 10 hectares and the erection of a dwelling-house on each of the allotments so created (the subject of repealed Kiama LEP No 46).
- Lot 9, DP 260835, Lot 2, DP 611384 and Portion 177, Parish of Kiama, Nuninuna Drive, Jamberoo—subdivision, into 9 allotments having an average area of approximately 6.5 hectares and two large residue allotments and the erection of a dwelling-house on each of the allotments so created (the subject of repealed Kiama LEP No 50).
- Lot 500, DP 808453 (formerly being Lot 51, DP 592145 and part Lot 5, DP 977432), Riversdale Road, Kiama—a single dwelling-house (the subject of repealed Kiama LEP No 54).
- Part of Allotment 10 of a subdivision of Osborne’s 640 acres (Portion 28), Parish of Kiama, and Lots 19 and 20, DP 252967, Jamberoo Mountain Road, Jamberoo—subdivision and the erection of a dwelling-house on the allotment so created (the subject of repealed Kiama LEP No 55).
- Lot 1, DP 537322, and Lots 11 and 12, DP 555146, Mount Brandon Road, Jamberoo subdivision so as to create two allotments, and the erection of a dwelling-house on one of the allotments, created (the subject of repealed Kiama LEP No 59).
- Lots 261–264, DP 806312, Mount Brandon Road, Jamberoo—re-subdivision of the land to create separate allotments of land comprising approximately 3000 square metres, 4000 square metres, 19.3 hectares and 19.45 hectares, respectively, in area and the erection of a dwelling-house on each allotment so created (the subject of repealed Kiama LEP No 61).
- Lot 3, DP 396306, corner of Farmer and Manning Streets, Kiama—chapel, mortuary and associated residence (the subject of repealed Kiama LEP No 77).
- Lot 8, DP 609013, Foxground Road, Foxground—wildlife refuge, including a theatre/museum, kiosk and storage shed, where—
  - (a) the land is not used for any form of public accommodation whatsoever or entertainment not directly related to the principal activity, and
  - (b) any building on the land (except the dwelling-house) is not extended, altered or rebuilt in any way which increases its floor space by more than 10%.(the subject of repealed Kiama LEP No 78)
- Lots 276 and 277, DP 728098, Parish of Kiama, Kiama Harbour—refreshment room, museum and



takeaway food shop (the subject of repealed Kiama LEP No 90).

- Lot 61, DP 592693, Minnamurra Falls Road, Jamberoo—subdivision of the land to create two rural allotments with an average area of 10 hectares and the erection of a dwelling-house on each allotment, subject to the Council not consenting to development of the land until the following matters are taken into consideration—
  - (a) whether reasonable vehicular access should be provided to Minnamurra Falls Road, having regard to sight distances, road grades and other traffic safety issues,
  - (b) whether any proposed access over Quartersessions Road requires the upgrading of that road and, if so, the appropriate conditions of any development consent,
  - (c) access within the proposed allotments,
  - (d) the shape and size of the proposed allotments and the location of any dwelling-house to be erected on the allotments,
  - (e) the provision of services to any dwelling-house to be erected on the allotments proposed to be created,
  - (f) bush fire risk and hazard reduction and the impact of that reduction on significant vegetation,
  - (g) the archaeological and heritage significance of the subject land.

(the subject of repealed Kiama LEP No 95)
- Part of Lot 51, DP 814100 (formerly known as Lot 14, DP 609011) Jamberoo Mountain Road, Jamberoo—Benedictine Abbey, subject to the Council's not consenting to the carrying out of alterations and additions to the Benedictine Abbey unless it is satisfied the proposed development—
  - (a) will not have a significant impact on native flora and fauna,
  - (b) will not increase the visual impact of the Abbey when viewed from surrounding land,
  - (c) will not have an adverse impact on local water quality,
  - (d) will not significantly increase traffic,
  - (e) will not increase the total floor area of all buildings on the site (other than non-habitable buildings associated with agriculture) above 4500 square metres,
  - (f) will not increase the total number of persons accommodated on the site above 72.

(the subject of repealed Kiama LEP No 98)
- Proposed Lot 2 in the subdivision of part Lot 10 and part Lot 12, Section 5 and Lot 3, DP 916333, Nos 2 and 4 Railway Parade, Kiama—alterations and additions to the existing dwelling-house (the subject of repealed Kiama LEP No 100).
- Lot 1, DP 198113, Lot 173, DP 619790 and Lot 102, DP 845761, Rutledges Road, Curramore—the excision of one allotment with an area of not more than 1 hectare from Lot 102, DP 845761 and

the erection of a dwelling-house on the allotment so created, subject to the following—

- (a) the Council must not grant consent unless the residue of the land is consolidated into one allotment,
- (b) in determining whether to grant consent, the Council must take into consideration—
  - (i) the protection of the water quality of the dam,
  - (ii) the prohibition of effluent disposal within 150 metres of the dam,
  - (iii) the retention and diversification of riparian areas,
  - (iv) the provision of a riparian buffer of 20 metres width surrounding the dam, and
  - (v) the provision of a wildlife corridors through the site.

(the subject of repealed Kiama LEP No 112)

- Lot 2, DP 614947 and Lot 2, DP 605000, Minnamurra Falls Road, Jamberoo, as shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 8)*”—subdivision of the land to create four allotments with an average area of not less than 10 hectares and the erection of a dwelling-house on each allotment, subject to the Council not consenting to the development of the land until the following matters are taken into consideration—
  - (a) the desirability for vehicular access to any new allotments to be only via Quartersessions Road,
  - (b) whether any proposed access over Quartersessions Road requires the upgrading of that road and, if so, the appropriate conditions of any development consent,
  - (c) access within the proposed allotments,
  - (d) the shape, size and slope of the proposed allotments and the location of any dwelling-house to be erected on the allotments,
  - (e) the suitability of the soil for on-site disposal of effluent,
  - (f) the provision of services to any dwelling-house to be erected on the allotments proposed to be created,
  - (g) bush fire risk and hazard reduction and the impact of that reduction on significant vegetation,
  - (h) the archaeological significance of the subject land.
- Lot 1, DP 602883, 160 Manning Street, Kiama, as shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 9)*”—a maximum of 5 residential units attached to shops.
- Lots 1 and 2, DP 113119, Free Selectors Road, Foxground—the excision from Lots 1 and 2, DP 113119, of no more than four allotments, each with an area of not more than 3 hectares, and the erection of a dwelling-house on each of the excised allotments, subject to the following—

- (a) in determining whether to grant consent, the Council must take the following into consideration—
    - (i) the visual impact of any proposed dwelling-houses,
    - (ii) whether adequate areas are provided for on-site disposal of effluent,
    - (iii) the protection of water quality,
    - (iv) the protection of significant stands of vegetation, and
    - (v) whether a riparian buffer of at least 20 metres should be provided and required to be maintained,
  - (b) all land not excised for allotments must be consolidated in the one residue allotment,
  - (c) a person must not subdivide the consolidated allotment.
  - Land at Gerringong, as shown edged heavy black on Sheet 2 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 4)*”—community facilities, refreshment rooms, or both.
  - Land within Zone No 3 (a) in the Gerringong central business district—residential flat buildings capable of being later adapted for mixed residential and commercial use, subject to the buildings being connected to a reticulated sewerage system.
  - Lot 201, DP 1022563, Crooked River Road, Gerroa, as shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 42)*”—low impact and low scale tourist facility comprising buildings no higher than two storeys.
  - Lot 3, DP 612317, Saddleback Mountain Road, Saddleback Mountain, as shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 21)*”—use of the dwelling-house existing at the time *Kiama Local Environmental Plan 1996 (Amendment No 21)* took effect for the purpose of—
    - (a) a guesthouse in which no more than 5 rooms are utilised for guest accommodation and no more than 10 guests are accommodated at any one time, and
    - (b) a restaurant with a maximum seating capacity of 35 persons.
- In determining whether to grant consent for that development, the Council shall take into consideration—
- (c) the suitability of the soil for on-site disposal of effluent, and
  - (d) the traffic generating effects on access roads and the need for road upgrading, and
  - (e) the likely impact of the proposed development on the amenity of the locality.
- Lot 13, DP 777142, Meares Place, Kiama, as shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 30)*”—the erection of a freestanding residential flat building.
  - Lot 1, DP 883525, Eddy Street, Kiama, as shown edged heavy black on the map marked “*Kiama*

*Local Environmental Plan 1996 (Amendment No 32)*—the use of the site and existing buildings for light industrial purposes normally permitted in Zone No 4 (c) Light Industrial, provided such use—

- (a) does not generate high levels of noise, traffic or exhaust emissions, and
  - (b) does not cause interference with the amenity of nearby residential development because of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, or oil, or otherwise, or because of the hours during which any business is conducted, and
  - (c) does not have an adverse impact upon the heritage value of the railway turntable (identified as a rare, regionally important item in the Illawarra Regional Heritage Study Review, 1994) which lies partly within and partly outside the site.
- Lot 2, DP 579182, Minnamurra Lane, Jamberoo, as shown edged heavy black on the map marked *“Kiama Local Environmental Plan 1996 (Amendment No 14)”*—subdivision of the land to create two allotments—one containing the existing dwelling-house and one vacant, and the erection of a dwelling-house on the vacant allotment, subject to the Council not consenting to the development of the land until the following matters are taken into consideration—
    - (a) the impact of the proposal on native flora and fauna,
    - (b) bush fire risk and hazard reduction and the impact of that reduction on significant vegetation,
    - (c) the impact of the development on local water quality,
    - (d) the size and shape of the allotments and the desirability of retaining the existing cleared and vegetated lands within separate allotments.
  - Land in the *“Riversdale Estate”*, Jamberoo Road and Riversdale Road, Kiama, as follows—
    - Lots 1, 2, 3, 4, 7, 8, 9, 15, 35, 38, 39 and 40, DP 31576
    - Lot 56, DP 598856
    - Lot 1, DP 606772
    - Lot 100, DP 612185
    - Lot 260, DP 612841
    - Lot 102, DP 618483
    - Lot 257, DP 620697
    - Lot 258, DP 622748

— the erection of 1 dwelling-house on each lot.

Lots 1 and 2 DP 599625, Wilsons Road and 1 DP 205057 and Lot 1 DP 770691 Saddleback Mountain Road, Saddleback Mountain—the excision from Lot 1 DP 770691 of one allotment containing an area of approximately 4,000m<sup>2</sup> and the erection of a single dwelling-house on that allotment, subject to the following—

- (a) in determining whether to grant consent to the creation of the excised allotment, the Council must take into considering the following matters—
  - (i) the provision of vehicular access to the allotment to minimise new work, visual impact and unnecessary disturbance of the land,

- (ii) the size, shape and slope of the allotment and the location of any dwelling-house to be erected on that allotment,
  - (iii) the suitability of the allotment for effluent disposal,
  - (iv) the provision of services to the allotment without unacceptable visual impact,
  - (v) the protection and enhancement of existing screening vegetation,
  - (vi) the need to provide an appropriate mitigation of bush fire risk without reducing the scenic integrity of the allotment,
- (b) Lot 1 DP 205057 and the residue of Lot 1 DP 770691 (that was not excised) must be consolidated into one allotment,
  - (c) Lots 1 and 2 DP 599625 must be consolidated into one allotment,
  - (d) a person must not carry out development on the allotment created by the consolidation of Lots 1 and 2 DP 599625 for the purposes of the erection of a dwelling.
- Lots 23 and 24, SP 62956, 81–83 Manning Street, Kiama, as shown edged heavy black on the map marked "*Kiama Local Environmental Plan 1996 (Amendment No 46)*"—use of an existing commercial unit as a pharmacy.
  - Proposed Lots 2–5 in a subdivision of Lot 115 and Lots 132–139, DP 751254, Tomlins Road, Broughton and Lot 13, DP 654855 and Lot 88, DP 784352, Foxground Road, Foxground, as shown edged heavy black on Sheets 1–3, respectively, of the map marked "*Kiama Local Environmental Plan 1996 (Amendment No 43)*"—the erection of a single dwelling-house on each lot.
  - Lot 900, DP 616677, No 1 Fern Street, Gerringong, as shown edged heavy black on Sheet 9 of the map marked "*Kiama Local Environmental Plan 1996 (Amendment No 60)*"—development of the existing building (that was used before the commencement of this item as a motel and restaurant) for the purpose of serviced apartments that do not include residential accommodation for permanent residents.
  - Lot 269, DP 751292, No 182 Knights Hill Road, Knights Hill, as shown edged heavy black on the map marked "*Kiama Local Environmental Plan 1996 (Amendment No 62)*"—the following—
    - (a) the subdivision of the land into 2 lots of approximately 13.2 hectares and 27.3 hectares in area,
    - (b) on the smaller lot—the erection of an ecotourism development (known as the "Illawarra Fly"), comprising a visitors' centre, elevated tree-top walk and associated car parking area,
    - (c) on the larger lot—the erection of a dwelling-house or attached dual occupancy development.
- In determining whether to grant consent for development described in paragraph (a), (b) or (c), the Council must take into consideration the following matters—
- (d) the protection of flora and fauna and the rehabilitation of previously disturbed areas,
  - (e) the likely visual impact of the proposed development on the scenic quality of the locality,

- (f) the likely impact of the proposed development on soil resources and stability, water resources (including the quality of water resources, ground water storage and riparian rights) and vegetation,
  - (g) the likely impact of the proposed development on Aboriginal archaeology and culture,
  - (h) the likely traffic generating effects of the proposed development on the local road network and arterial roads,
  - (i) bush fire risk and hazard reduction and the likely impact of that reduction on significant vegetation,
  - (j) the likely economic impact of the proposed development.
- Part of Lot 1, DP 1070506 and part of Lot 3, DP 258919, Jamberoo Road, Curramore, as shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 66)*”—the following—
    - (a) in Area A (being the area indicated on that map with vertical bars)—an amusement park, function centre and any other facilities associated with an amusement park, such as shops, refreshment rooms and amenities,
    - (b) in Area B (being the area indicated on that map with cross hatching)—car park, water supply system and water recycling facility.

## Schedule 5 Development of master plan sites

(Clauses 47AA and 47AB)

### 1 Commonwealth Bank Corner master plan site

Land fronting Manning Street and Terralong Street, Kiama, as shown edged heavy black and with diagonal hatching on Sheet 5 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 60)*”.

#### Master plan development for this site

Development for the purpose of mixed tourist, commercial, retail and residential uses that meets the *Kiama Town Centre Charrette Objectives* (in so far as they relate to this master plan site) and the *Design Brief for Commonwealth Bank Corner*, copies of which are available at the office of the Council.

#### Initial master plan

The section titled *Indicative Design for the Commonwealth Bank Corner* and other provisions that relate to this master plan site in the report titled *Kiama Town Centre Charrette 25–29th July 2002—A report on the Charrette Outcomes* (the ***Kiama Charrette Report***), copies of which are available at the office of the Council, comprise the initial master plan for this site.

#### Development requirements

The following requirements apply to master plan development on this site—

- (a) lots must be consolidated to create a single lot with not less than the minimum area required for

this site by the Kiama Charrette Report,

- (b) the single lot must be occupied by a significant building in which the mixed tourist, commercial, retail and residential uses will be carried out,
- (c) the building may have a maximum building height of 4 storeys above ground level, subject to there being terraces not less than 3 metres wide along more than half of the top floor punctuated by corner and centrally disposed habitable towers aligning with the street-front property lines of the building as described in the Kiama Charrette Report,
- (d) the building must include a hotel with a reception area and related restaurants, cafes and shops at street level,
- (e) the building must be designed so that people visiting the building will have access to indoor and outdoor areas on the top floor and so that use of the top floor will encourage such access (for example, a restaurant or function room would be a suitable use for the top floor),
- (f) the architectural design of the building must have regard to the heritage value of the streetscapes of the streets to which it has frontage. The building must have a traditional and reasonably symmetrical exterior that, in the opinion of the consent authority, makes a landmark contribution to Kiama's character. There must be double verandahs over the footpaths of both Terralong and Manning Streets that are at least 2 metres deep. All window and door openings and spacings between verandah posts must have greater height than width and be vertically aligned between floors as described in the Kiama Charrette Report,
- (g) a basement storey for car parking is to be located below ground level with some unenclosed on-site parking at grade behind the location of the L-shaped building shown in the Kiama Charrette Report "indicative design".

For the purpose of allowing development to be carried out in accordance with the above development requirements, *State Environmental Planning Policy No 1—Development Standards* applies to a maximum floorspace ratio set by clause 21 to the extent that compliance with that development standard would be unreasonable or unnecessary to achieve the setbacks shown for buildings on this site in the Kiama Charrette Report "indicative design".

## **2 New "Church Lane" sub-precinct master plan site**

Land to the east of Manning Street, Kiama, as shown edged heavy black and with diagonal hatching on Sheet 6 of the map marked "*Kiama Local Environmental Plan 1996 (Amendment No 60)*".

### **Master plan development for this site**

Development for the purpose of mixed uses, including shops, commercial premises and serviced apartments and residential apartments above the ground level storey, that meets the *Kiama Town Centre Charrette Objectives* (in so far as they relate to this master plan site) and the *Design Brief for Church Lane*, copies of which are available at the office of the Council.

### **Initial master plan**

The section titled *Indicative Design for Church Lane* and other provisions that relate to this master plan site in the report titled *Kiama Town Centre Charrette 25–29th July 2002—A report on the Charrette*

*Outcomes*, copies of which are available at the office of the Council, comprise the initial master plan for this site.

### **Development requirements**

The following requirements apply to master plan development on this site—

- (a) the building may have a maximum building height of 4 storeys above ground level, subject to top floor terraces being provided to residential or serviced apartments facing streets for at least half those street frontages,
- (b) the building must include shops and commercial premises, serviced apartments, visitor accommodation and home based businesses or church-related uses at the street level with residential or serviced apartments above,
- (c) the architectural design of buildings must have regard to the heritage value of the streetscapes of the streets to which they have frontage. The building must have a traditional and reasonably symmetrical exterior that, in the opinion of the consent authority, makes a sympathetic contribution to Kiama’s visual character. There must be verandahs at least 2 metres deep at ground level. All window and door openings and spacings between verandah posts must have greater height than width and be vertically aligned between floors,
- (d) On-site parking at grade is to be minimised and must be located behind buildings rather than in front of them. Below ground basement parking is to be provided for residential development.

For the purpose of allowing development to be carried out in accordance with the above development requirements, *State Environmental Planning Policy No 1—Development Standards* applies to a maximum floorspace ratio set by clause 21 to the extent that compliance with that development standard would be unreasonable or unnecessary to achieve the setbacks shown for buildings on this site in the Kiama Charrette Report “indicative design”.

### **3 Boat Harbour Gerringong mixed residential precinct master plan site**

Land fronting Coal, Jupiter and Morrow Streets, Gerringong, as shown edged heavy black and hatched on Sheet 7 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 60)*”.

#### **Master plan development for this site**

Development for the purpose of a residential flat building.

#### **Initial master plan**

The instrument titled *Mixed Residential Housing Precinct Boat Harbour Gerringong*, prepared by PRM Architects + Town Planners and dated 25 November 2002, copies of which are available at the office of the Council, amended to the extent necessary to allow development on this site to comply with any inconsistent development requirements specified below, comprises the initial master plan for this site.

### **Development requirements**

The following requirements apply to master plan development on this site—

- (a) buildings are to be grouped in the locations shown in the instrument titled *Mixed Residential Housing Precinct Boat Harbour Gerringong*,



- (b) the number of dwellings is not to exceed 49,
- (c) building height is not to exceed—
  - (i) 3 storeys where the lowest storey is identified in the initial master plan as providing basement underground car parking, and
  - (ii) 2 storeys plus loft room in a building identified for the purpose in the initial master plan and situated on another part of the site, and
  - (iii) 2 storeys elsewhere on the site,
- (d) the existing 3 mature fig trees on the site must be retained and buildings designed in a manner that will not interfere with these trees including their root systems,
- (e) a new public street (identified in the initial master plan as “Harbour Link Road”) having an overall road reserve width of 8 metres must be provided through the site, in the same or approximately the same location as shown in the initial master plan,
- (f) part of the site must be dedicated to the Council for public road widening purposes in Morrow Street to provide a variable width street enabling two-way vehicular movement, car parking and a pedestrian footpath,
- (g) all requirements of this plan and of development control plans that apply to development for the purpose of multiple dwelling housing in Zone No 2 (a), except to the extent, if any, those requirements—
  - (i) are inconsistent with any other of the development requirements included in this item, or
  - (ii) would prevent master plan development for this site from being carried out.

#### **4 Belvedere Street master plan site**

Lot 5, DP 628003, Belvedere Street, Kiama (which also has frontage to Garden Avenue), as shown edged heavy black and with diagonal hatching on Sheet 8 of the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 60)*”.

#### **Master plan development for this site**

Development for the purpose of residential flat buildings comprised of groups of buildings.

#### **Initial master plan**

The instrument titled *Garden Avenue Housing*, prepared by BHI Architects and dated September 2003, copies of which are available at the office of the Council, amended to the extent necessary to allow development on this site to comply with any inconsistent development requirements specified below, comprises the initial master plan for this site.

#### **Development requirements**

The following requirements apply to master plan development on this site—

- (a) buildings are to be grouped in the locations shown in the instrument titled *Garden Avenue Housing*,

- (b) the number of dwellings is not to exceed 40, and the single detached lot shown on the master plan drawings that is accessed from Garden Avenue is taken to be required to be used for public purposes, including a public pedestrian access linking to the unformed Thomson Street road reserve and then to the adjacent Stead Reserve,
- (c) building height is not to exceed 2 storeys,
- (d) all requirements of this plan and of development control plans that apply to development for the purpose of multiple dwelling housing in Zone No 2 (a), except to the extent, if any, that those requirements—
  - (i) are inconsistent with any other of the development requirements included in this item, or
  - (ii) would prevent master plan development for this site from being carried out,
- (e) the consent authority is satisfied that the design of the turning head in Garden Avenue south will ensure minimum adverse impact on the creek corridor,
- (f) at least 2 of the dwellings resulting from carrying out the development are designed with a floor plan suited to the needs of seniors or people with a disability,
- (g) the consent authority is satisfied that environmental restoration and management of the creek corridor will be adequate, and that limited public access will be provided, as referred to in the *Garden Avenue Development Strategy Report*, copies of which are available from the office of the Council.

## **5 Gerringong Headland master plan site**

Lots 4 and 6, DP 541889, Belinda Street, Gerringong, as shown edged heavy black on the map marked “*Kiama Local Environmental Plan 1996 (Amendment No 40)*”.

### **Master plan development for this site**

Residential development, including subdivision and development for the purpose of housing, and development for the purpose of a public recreation reserve.

### **Initial master plan**

The instrument titled *Gerringong Headland Master Plan—Option 1* (2003) prepared by Hill Thalix Architecture + Urban Projects Pty Ltd for Noble Bros Pty Ltd and Kiama Municipal Council, copies of which are available at the office of the Council, comprises the initial master plan for this site (***the Adopted Master Plan***).

### **Development requirements**

The following requirements apply to development on the Gerringong Headland master plan site—

- (a) residential subdivision and housing must be carried out in a manner generally consistent with the subdivision plan shown in Parts 4 and 6 of the Adopted Master Plan,
- (b) the number of lots created by subdivision must not exceed 28 residential lots,
- (c) land identified as “Extended Foreshore Reserve” in figure 4.2 (i) of the Adopted Master Plan must

be dedicated as public reserve on the registration of a plan of subdivision of any part of the Gerringong Headland master plan site with Land and Property Information NSW.

- (d) new streets must be constructed in the general location as shown in the Adopted Master Plan and must meet the objectives, general specifications, controls and public domain strategy as indicated in Part 5 (Public domain) of the Adopted Master Plan,
- (e) buildings must be constructed in the general locations as shown in the Adopted Master Plan and must, to the satisfaction of the Council, meet the objectives, general specifications, controls and private domain strategy as indicated in Part 6 (Private domain) of the Adopted Master Plan,
- (f) the design of buildings, including their vehicular access, must have regard to, and generally conform to, the design principles indicated in Part 7 (Illustrative housing types) of the Adopted Master Plan,
- (g) development for the purpose of co-ordinated housing may be carried out on the site instead of development in stages involving a subdivision creating separate lots and the subsequent erection of a dwelling on each of those lots, but only if the co-ordinated housing is consistent with the urban design principles contained in the Adopted Master Plan and, in particular, with the objectives and controls specified in Part 6 (Private domain) and Part 7 (Illustrative housing types) of the Adopted Master Plan, including the subdivision plan indicated in figure 6.2 (i).

In carrying out co-ordinated housing instead of such development in stages, there must be variation in the design of dwellings on each lot to prevent an homogenous style of housing and to provide (to the satisfaction of the Council) architectural interest, variety and an individuality in housing design and appearance as viewed from the public domain.

Co-ordinated housing in accordance with the requirements in this paragraph may be implemented over the whole or part of the site.

For the purposes of this paragraph, **co-ordinated housing** means development carried out as a combined subdivision and housing package,

- (h) The following development is prohibited—
  - (i) residential subdivision or the erection of dwellings otherwise than in accordance with the Adopted Master Plan or an amended master plan adopted under the provisions of this plan,
  - (ii) the consolidation or use of individual lots approved in a residential subdivision into larger lots (“super lots”) to enable development for the purposes of “integrated housing development”, “units for aged persons”, “villa homes and courtyard houses” or any other multiple-dwelling form of housing development defined under this plan or otherwise permissible under *State Environmental Planning Policy—Seniors Living 2004*,
  - (iii) the creation of additional lots by the re-subdivision of residential lots created in accordance with the Adopted Master Plan,
  - (iv) the erection of a dwelling-house on two or more lots or the consolidation of two or more lots into a single lot,
  - (v) the carrying out of dual occupancy development.