



Kiama Local Environmental Plan 1996 (Amendment No 60)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (W03/00002/PC)

DIANE BEAMER, M.P.,
Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

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Clause 1 Kiama Local Environmental Plan 1996 (Amendment No 60)

Kiama Local Environmental Plan 1996 (Amendment No 60)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Kiama Local Environmental Plan 1996 (Amendment No 60)*.

2 Aims of plan

This plan aims to amend *Kiama Local Environmental Plan 1996 (the 1996 plan)*:

- (a) to rezone part of the land to which this plan applies for business and residential purposes, and
- (b) to amend certain provisions of the 1996 plan to restrict subdivision of existing large lots in rural and environmental protection (scenic) zones, and
- (c) to provide for the development of several sites in accordance with requirements in the 1996 plan and with regard to a master plan prepared to guide the development of those sites, and
- (d) to allow, with the consent of the Council of the Municipality of Kiama, the carrying out of development for the purpose of an existing motel and restaurant to be converted to serviced apartments.

3 Land to which plan applies

- (1) To the extent that this plan rezones land, it applies to certain land near Bong Bong Street, at the corner of Hothersal and Gipps Streets and in Farmer Street, Kiama, as shown edged heavy black on Sheets 1–3 of the map marked “Kiama Local Environmental Plan 1996 (Amendment No 60)” deposited in the office of the Council of the Municipality of Kiama.
- (2) To the extent that this plan restricts subdivision of existing large lots, it applies to land zoned Rural “A” and Rural Environmental Protection (Scenic) under the 1996 plan.

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- (3) To the extent that this plan enables development of certain sites after consideration of a master plan, it applies to land at the corner of Manning and Terralong Streets, Kiama (known as “Commonwealth Bank Corner”), to the east of Manning Street, Kiama (known as the “New ‘Church Lane’ Sub-Precinct”), at the corner of Jupiter and Morrow Streets, Gerringong (known as the “Boat Harbour Mixed Residential Precinct”), and at Belvedere Street, Kiama, as shown edged heavy black and diagonally hatched on Sheets 5, 6, 7 and 8, respectively, of that map.
 - (4) To the extent that this plan permits an additional use, it applies to land in Fern Street, Gerringong, as shown edged heavy black on Sheet 9 of that map.
 - (5) This plan does not apply to land shown as “deferred matter” on Sheets 1 and 4 of that map, which has been excluded from this plan under section 68 (5) of the *Environmental Planning and Assessment Act 1979*.

4 Amendment of Kiama Local Environmental Plan 1996

Kiama Local Environmental Plan 1996 is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 6 Definitions

Insert in appropriate order in the definition of *the map* in clause 6 (1):

Kiama Local Environmental Plan 1996 (Amendment No 60),
Sheets 1–3

[2] Clause 10 Rural “A” Zone—Subdivision

Omit clause 10 (4) (a). Insert instead:

- (a) the allotment having an area no greater than 4,000 square metres will be used for the purpose of a dwelling and is being excised from a parcel of land, consolidated into a single lot after the commencement of *Kiama Local Environmental Plan 1996 (Amendment No 60)*, comprised of two or more former lots in the same ownership having a combined area of 60.4 hectares or more, and

[3] Clause 30 Rural Environmental Protection (Scenic) Zone—Subdivision

Omit clause 30 (4) (a). Insert instead:

- (a) the allotment having an area no greater than 4,000 square metres will be used for the purpose of a dwelling and is being excised from a parcel of land, consolidated into a single lot after the commencement of *Kiama Local Environmental Plan 1996 (Amendment No 60)*, comprised of two or more former lots in the same ownership having a combined area of 60.4 hectares or more, and

[4] Part 9A

Insert after clause 47:

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.

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Schedule 1 Amendments

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 and a copy must be sent to the Director-General.
- (4) After considering any written submissions made to it within that time, the Council:
 - (a) with the approval of the Minister, may adopt the draft master plan either with or without alteration, or
 - (b) may reject the draft master plan.
- (5) The Minister is taken to have approved adoption of a draft master plan if, within 28 days after a copy of it was sent to the Director-General, neither the Director-General nor the Minister has made any written response to the Council concerning adoption of the draft master plan.
- (6) Before adopting a draft master plan that has been altered, the Council must re-exhibit it with the alterations:
 - (a) if the Minister has required re-exhibition, or
 - (b) if the Council is of the opinion that the alterations are sufficiently significant to require re-exhibition.
- (7) When the Council adopts a draft master plan, it must:
 - (a) notify the Minister, 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.

[5] Schedule 4 Development for certain additional purposes

Insert at the end of the Schedule:

- 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.

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Schedule 1 Amendments

[6] Schedule 5

Insert after Schedule 4:

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,

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- (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".

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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

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- (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.