KIAMA MUNICIPAL COUNCIL
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Kiama Development Control Plan 2020
Chapter 8. Rural Uses

RESPECT INNOVATION INTEGRITY TEAMWORK EXCELLENCE

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Chapter 8: Rural Uses

Introduction

Approximately 10,000ha of the Kiama Municipality is zoned for rural purposes – this represents 35.5% of the local government area. The net value of agriculture exports from the Kiama Municipality is $26M per annum.

The Kiama Municipality has a strong history in agriculture, however recent industry adjustments have changed the viability of traditional farming businesses. New farm based enterprises have the potential to grow the local economy, however any reform in this sector needs to ensure the long term protection of agricultural land as a resource for food and fibre production.

In this chapter "Rural" refers to both rural and environmental protection/management zoned land. Kiama has regionally important environmental and agricultural lands. It is Council's intention to preserve and maintain these areas as significant natural resources. Accordingly, these additional controls are designed to ensure that any development in these areas is appropriate for future proofing these important natural assets.

Objectives

O:8.1.1	To protect agricultural land and restrict its fragmentation for purposes other than primary production.
O:8.1.2	To ensure that development does not inhibit the use of agricultural land for agriculture.
O:8.1.3	To minimise the risk to development posed by climate change and natural hazards such as acid sulfate soils, bush fires, flooding, sea level rise and associated rise in water tables, and land instability.
O:8.1.4	To maintain, protect and improve the natural environment including native vegetation and riparian land.
O:8.1.5	To ensure that all new development adopts best practice design criteria for climate change.
O:8.1.6	To protect threatened species, endangered ecological communities, natural habitat and riparian corridors, waterways and wetlands.
O:8.1.7	To protect and enhance the character of the Kiama area's coastal and rural scenic visual landscapes.
O:8.1.8	To protect rural residential amenity.

Topic 8.1 – Agriculture

Under the Kiama LEP agriculture includes:
(a) aquaculture,
(b) extensive agriculture,
(c) intensive livestock agriculture, and
(d) intensive plant agriculture.

Extensive agriculture is permitted without consent in our RU1 Primary Production and RU2 Rural Landscape zones. Development consent is required for extensive agriculture in our E3 Environmental Management zone and is prohibited in our E2 Environmental Conservation zone. Under the Kiama LEP 2011 extensive agriculture means any of the following:

(a) the production of crops or fodder (including irrigated pasture and fodder crops) for commercial purposes,
(b) the grazing of livestock (other than pigs and poultry) for commercial purposes on living grasses and other plants on the land as their primary source of dietary requirements, and any supplementary or emergency feeding, or temporary agistment or housing for weaning, dipping, tagging or similar husbandry purposes, of the livestock,
(c) bee keeping,
(d) a dairy (pasture-based) where the animals generally feed by grazing on living grasses and other plants on the land as their primary source of dietary requirements, and any supplementary or emergency feeding, or temporary agistment or housing for weaning, dipping, tagging or similar husbandry purposes, of the animals.

In certain circumstances, intensive agriculture requires development consent in our RU1 Primary Production and RU2 Rural Landscape zones and is prohibited in all other zones. Under the Kiama LEP 2011 intensive agriculture includes: intensive plant agriculture and intensive livestock agriculture.

Intensive plant agriculture

Under the Kiama LEP 2011 intensive plant agriculture means any of the following:
(a) the cultivation of irrigated crops for commercial purposes (other than irrigated pasture or fodder crops),
(b) horticulture,
(c) turf farming,
(d) viticulture.

Controls - Siting and design

Objectives

O:8.1.9	To minimise the impacts of horticulture on adjoining properties,
O:8.1.10	To control the impacts of horticulture by appropriate site buffer or setback distances,
O:8.1.11	To minimise the impacts of development on the natural environment, and
O:8.1.12	To provide a consistent approach to planning for the development of new horticulture farms and facilitate additions to existing farms.

8.1.1 Intensive Plant Agriculture is required to comply with the minimum separation distances outlined below unless the impacts can be mitigated through a Council approved design:

Minimum setback/separation distances			
	Horticulture (field based)	**Controlled environment structures (igloos)**	**Viticulture**
Front building setback	Nil	20 metres	40 metres
Side or rear building setback	Nil	20 metres	40 metres
All residential zones	50 metres	50 metres	50 metres

Dwelling on same property	20 metres	20 metres	20 metres
Any other dwelling (whether on a neighbouring property)	50 metres	50 metres	50 metres

Note: Where rural land uses emit odour, the above separation distances are minimums only. Consideration will be given to OEH's policy on 'Assessment and management of odour from stationary sources in NSW' (November 2006) taking into consideration the site characteristics and the merits of each application.

8.1.2 Development for the purposes of intensive plant agriculture must accommodate future expansion of the farm while maintaining recommended buffer distances.

8.1.3 Must not be located in visually prominent areas such as ridgelines and highly exposed areas.

8.1.4 Must, where possible, be sited in locations that maximise opportunities for cooperative packing and labour pooling.

8.1.5 Must, where practical, be sited in locations that minimise impact to the amenity of surrounding land uses.

8.1.6 Sites with a slope greater than 10% must not be used for intensive plant agriculture, other than for the purposes of viticulture, which may be located on slopes up to 20%.

Controls - Design and construction of controlled environment structures

Objectives

O:8.1.13	To minimise the visual impact of structures associated with controlled environment horticulture,
O:8.1.14	To encourage the minimal use of pesticides through improved design of structures, and
O:8.1.15	To encourage development within close proximity to major markets, adequate labour supply, major transport links and extension services.

8.1.6 Sites with a slope greater than 10% must not be used for intensive plant agriculture, other than for the purposes of viticulture, which may be located on slopes up to 20%.

8.1.7 All controlled environment structures, including covering materials, are to be kept well maintained and in good condition.

8.1.8 The orientation of controlled environment structures must be in a north-south orientation and must consider the direction of prevailing winds to take advantage of cooling summer breezes.

8.1.9 Where possible, controlled environment structures are to be a minimum of 6 metres in height to encourage adequate ventilation, provide optimal growing environment and increase the overall efficiency.

8.1.10 Development must include the planting and maintenance of vegetative screens and windbreaks.

8.1.11 Controlled environment horticulture structures are to be raised to facilitate the drainage of stormwater away from structures.

Controls - Noise and odour

Objectives

O:8.1.16	To minimise the noise and odour impacts of Intensive plant agriculture on the amenity of surrounding land uses.

8.1.11 Controlled environment horticulture structures are to be raised to facilitate the drainage of stormwater away from structures.

8.1.12 Where possible, buildings and facilities are to be located out of the line of sight of adjoining neighbours.

8.1.13 Prevent entry of drainage/seepage water into site sheds and storage facilities through the construction of earth contour banks and drainage.

8.1.14 Appropriately silenced forklifts should be utilised to reduce night noise generation.

8.1.15 Noise levels generated must not exceed the requirements of the NSW Industrial Noise Policy (NSW EPA, 2000).

8.1.16 Where practical, major truck deliveries and produce transport should be scheduled for reasonable hours of the day. Council acknowledges that farmers need to access markets early in the morning therefore requiring night time vehicle movements.

8.1.17 Locate all stationary noise generating machinery within sheds and where practical away from property boundaries.

Controls - Soil, waste and water management

Objectives

O:8.1.17	To minimise the impact of development on soil erosion,
O:8.1.18	To encourage the improvement of soil organic matter and reduce soil compaction,
O:8.1.19	To minimise the impact of stormwater and surface run-off on receiving water courses or water bodies and on adjacent lands, and (
O:8.1.20	To ensure drainage systems efficiently control water flows and minimise the impact on natural drainage patterns of the site.

8.1.18 Intensive plant or horticultural operations are to incorporate grassed inter-row areas or cover crops between production areas crop rows in order to:

- reduce erosion potential,
- improve soil organic matter,
- provide trafficable areas in wet weather,
- act as biological filters for water run-off, and
- reduce pest and disease levels.

8.1.19 The existing soil moisture content must be assessed prior to undertaking any cultivation practices to avoid damage to the soil structure from cultivating when too dry or moist.

8.1.20 Cultivation between crop rows must be minimised and only undertaken for moisture retention and ground preparation.

8.1.21 Viticulture farms are to incorporate cover crops in their overall farm management practices to reduce erosion potential, improve soil organic matter and reduce pest and disease levels.

8.1.22 Any cultivation of the site must follow the natural contour lines to increase soil water retention and to minimise erosion potential.

8.1.23 Applications are to demonstrate that an adequate water supply is available to support the proposed development. The use must not solely rely on reticulated water supply to service the needs of the development and must demonstrate an integrated approach to water management using alternate water sources in conjunction with reticulated water.

8.1.24 Water quality tests must be performed to demonstrate that levels of salts, minerals, and pH are suited for horticultural use where irrigation is proposed through the use of water extracted from an adjoining/nearby river.

8.1.25 Stormwater drains are to be wide, gently sloping open drains that are well vegetated to minimise erosion potential and facilitate filtering of solid particles contained in the runoff.

8.1.26 Local drainage patterns are to be maintained and stormwater flows effectively managed.

8.1.27 Development must incorporate the construction of stormwater diversion banks, sedimentation ponds and the installation of a wastewater treatment system to divert and treat wastewater and run-off.

8.1.28 Runoff from site buildings (sealed or compacted) is to be collected in sedimentation ponds prior to any irrigation on-site. Contaminated waters must be suitably treated before reuse on the farm.

8.1.29 Diversion banks may need to be constructed to intercept and divert runoff away from any composting areas.

8.1.30 Viticulture farms must consider soil types and their suitability for the production of grapes over the proposed development site.

Controls - Pest Management

Note: Intensive plant agriculture or horticultural land uses must not utilise pesticides for the control of insects, diseases and weeds that pose a risk to the production of crops. Under the NSW Pesticides Act 1999, it is an offence to use a pesticide in a way that 'causes injury or likely injury to another person, damage or likely damage to another person's property or harm to a non-target plant'. Users or persons intending to use pesticides are to undertake the necessary chemical application and certification training.

Objectives

O:8.1.21	To ensure pest management is undertaken in a responsible and sustainable manner

8.1.31 Pesticide use must meet the requirements of any relevant pesticide legislation (currently being the NSW Pesticides Act 1999 and associated regulations such as the Pesticides Regulation 2009, Pesticides Amendment (Records) Regulation 2001 and the Pesticides Amendment (User Training) Regulation, administered through the NSW Office of Environment and Heritage).

8.1.32 The storage, transport, and keeping of records for all pesticides used in intensive plant agriculture farms are to be in accordance with any relevant legislation.

Intensive livestock agriculture

Under the Kiama LEP 2011 intensive livestock agriculture means the keeping or breeding, for commercial purposes, of cattle, poultry, pigs, goats, horses, sheep or other livestock, and includes any of the following:

(a) dairies (restricted),
(b) feedlots,
(c) pig farms,
(d) poultry farms,

Clause 5.18 of the Kiama LEP 2011 outlines that development consent is not required for the types of intensive livestock agriculture listed in Table 1 if they will not be located:

(i) in an environmentally sensitive area, or
(ii) within 100 metres of a natural watercourse, or
(iii) in a drinking water catchment, or
(iv) within 500 metres of any dwelling that is not associated with the development, or a residential zone, or
(v) if the development is a poultry farm—within 500 metres of another poultry farm.

Table 1: Exempt types of Intensive Livestock Agriculture

Development Type	Livestock Capacity
Cattle Feedlot	<50 head of cattle

Development Type	Livestock Capacity
Goat Feedlot	<200 goats
Sheep Feedlot	<200 sheep
Pig Farm	<20 breeding sows, Or <200 pigs (of which <20 may be breeding sows)
Dairy Farm	50 dairy cows
Poultry Farm	1,000 birds for meat or egg production (or both)

Development consent is required for intensive livestock agriculture in all other circumstances.

Controls - Siting and design

Objectives

O:8.1.22	To minimise the impacts of intensive livestock agriculture on adjoining properties,
O:8.1.23	To control the impacts of intensive livestock agriculture by appropriate site buffer or setback distances,
O:8.1.24	To minimise the impacts of development on the natural environment, and
O:8.1.25	To provide a consistent approach to planning for the development of new intensive livestock agriculture farms and facilitate additions to existing farms.

8.1.33 Development for the purposes of Intensive Livestock Agriculture, are required to comply with the minimum buffer distances outlined below:

Minimum setback/separation distances		
	Intensive livestock agriculture (except Poultry farms)	**Poultry farms**
Front building setback	175 metres	50 metres
Side or rear building setback	100 metres	50 metres
All residential zones	500 metres	500 metres
Dwelling on same property	100 metres	50 metres

Minimum setback/separation distances		
	Intensive livestock agriculture (except Poultry farms)	**Poultry farms**
Any other dwelling (whether on a neighbouring property)	150 metres	150 metres

Note: Where rural land uses emit odour, the above separation distances are minimums only. Consideration will be given to OEH's policy on 'Assessment and management of odour from stationary sources in NSW' (November 2006) taking into consideration the site characteristics and the merits of each application.

8.1.34 Development must be in accordance with the "Blue Book" Code of Practice for Animal Care produced by the Department of Primary Industries.

8.1.35 Sites with a slope greater than 3-4% must not be used for intensive livestock agriculture.

8.1.36 Sites that have residual chemicals in the soil such as organochlorides and arsenic must not be used for intensive livestock agriculture.

8.1.37 Development must be located having regard to the topography and microclimate of the area to ensure concentration of odours cannot occur. Design and construction of controlled environment structures

Controls - Noise, odour and dust

Objectives

O:8.1.26	To minimise the noise, odour and impacts of Intensive livestock keeping establishments on the amenity of surrounding land uses, and
O:8.1.27	To encourage healthy, sustainable practices to minimise the impact of development.

8.1.38 Where possible, buildings and facilities are to be located out of the line of sight of adjoining neighbours.

8.1.39 Ensure that feed grain is stored in a dry storage area to prevent fermentation.

8.1.40 Prevent entry of drainage/seepage water into site sheds and storage facilities through the construction of earth contour banks and drainage.

8.1.41 Feeding troughs and self-feeders must be designed to minimise any spillage that could potentially contribute to odour emissions.

8.1.42 Industry Best Practice Management measures developed to eliminate or reduce odour are to be undertaken.

8.1.43 Appropriately silenced forklifts should be utilised to reduce night noise generation.

8.1.44 Noise levels generated must not exceed the requirements of the NSW Industrial Noise Policy (NSW EPA, 2000).

8.1.45 Where practical, major truck deliveries and produce transport should be scheduled between the hours of 7am to 6pm weekdays, 7am to 1pm Saturdays. It is noted that exceptional circumstances may mean deliveries are conducted outside these hours on occasions.

8.1.46 Locate all stationary noise generating machinery within sheds and where practical away from property boundaries.

Additional Controls - poultry sheds

8.1.47 All poultry sheds are to be appropriately cleaned out after every batch.

8.1.48 Sheds or structures must be adequately ventilated.

8.1.49 Shed curtains or shutters must be utilised during shed clean outs (to minimise the impact of dust on adjoining land users). As far as practicable, dust generated must stay within property boundaries.

8.1.50 The type of litter material chosen for shed floors must have regard to its propensity to produce dust.

Controls - Soil, waste and water management

Note: Applicants are advised to consult with the requirements for Earth dams contained within Section 3.6 of this Volume, when designing sedimentation ponds.

Objectives

O:8.1.28	To minimise the impact of stormwater and surface run-off on receiving water courses or water bodies and on adjacent lands, and
O:8.1.29	To ensure drainage systems efficiently control water flows and minimise the impact on natural drainage patterns of the site

8.1.51 Local drainage patterns are to be maintained and stormwater flows effectively managed.

8.1.52 Development must incorporate the construction of stormwater diversion banks, sedimentation ponds and the installation of a wastewater treatment system to divert and treat wastewater and run-off.

8.1.53 Suitable impermeable sedimentation pond structures must be constructed that will not contaminate surface and ground waters.

8.1.54 Development must provide appropriate methods for the adequate management and handling of litter, manure, composting and removal of dead animals.

8.1.55 Runoff from feeding pens and site buildings (sealed or compacted) is to be collected in sedimentation ponds prior to any irrigation on-site. Contaminated waters must be suitably treated before reuse on the farm.

8.1.56 All sedimentation ponds are to be de-sludged to remove build-up of solid effluent when their storage capacity is reduced by more than 25%.

8.1.57 Loads of litter, manure and feed being transported to the property are to be adequately covered.

8.1.58 Prompt and safe disposal of feed by-products is to be arranged where recycling is not possible to avoid the harbouring of pests and vermin.

8.1.59 Diversion banks may need to be constructed to intercept and divert runoff away from manure stockpiles and carcass disposal areas.

8.1.60 Runoff from shed roofs, access tracks and hard stands (sealed or compacted) is to be collected and stored on site. Note: Any runoff existing on the site must be free of sediment.

Topic 8.2 - Rural Industry

Under the Kiama LEP agriculture includes:
(a) agricultural produce industries,
(b) livestock processing industries,
(c) composting facilities and works (including the production of mushroom substrate),
(d) sawmill or log processing works,
(e) stock and sale yards,
(f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.

Only agricultural produce industries and stock and sale yards are permissible in the Kiama Municipality.

Agricultural produce industry

Under the Kiama LEP 2011 agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes:

(a) wineries,
(b) flour mills,
(c) cotton seed oil plants,
(d) cotton gins,
(e) feed mills,
(f) cheese and butter factories, and
(g) juicing or canning plants.

Agricultural produce industries are only permissible with consent in our RU1 Primary Production and RU2 Rural Landscape zones.

Objectives

O:8.2.1	To ensure agricultural produce industries are designed and sited so as to not detract from the rural landscape, scenic quality and environmental significance of the rural areas.

Controls

8.2.1 Structures shall be setback a minimum 15 metres from the boundary of a property with a public road frontage.

8.2.2 Structures shall be a minimum 900mm, as measured from the boundary to a vertical member. The minimum side boundary setback from the edge of the gutter, eaves or fascia is 675mm.

8.2.3 Structures must be located at least 100 metres from another dwelling on an adjoining property to help achieve rural dwelling amenity.

8.2.4 Where possible and practicable, agricultural produce industries should occur within existing buildings or be clustered around other structures on the site, or able to utilise the same access ways.

8.2.5 All materials and colours used should be muted or earthy tones appropriate to the local street and landscape context. The colours and materials chosen for buildings need to be considered in terms of their reflectivity and glare. While lighter roof colours are encouraged for heat deflection and global warming Albedo Effect benefits. Roof designs and location may need to be reconsidered so as to ensure that reflectivity and glare do not adversely affect neighbours' amenity. In some cases, where this amenity cannot be reasonably addressed by redesign, lower reflectivity material may need to be specified. All applications are required to be accompanied by a schedule of finishing materials and colours for Council approval.

8.2.6 External finishes should not strongly contrast with the background whether by orientation, location, colour or choice of materials.

8.2.7 Development that is proposed to be carried out on land containing a heritage item, or on other land in the vicinity of a heritage item must be sited and designed in a way that minimises the impact on a heritage item.

8.2.8 Where the land contains a dry stone wall, no breaks, dismantling or alteration of such walls is permitted without development consent.

8.2.9 Development must be designed and sited to protect agricultural land; avoid/minimise their impact on the natural environment and the scenic landscape; and be clustered rather than dispersed over the property.

8.2.10 Development in rural areas must be carefully and sensitively sited and designed to complement landscape rather than become conspicuous built elements in the landscape. The siting of habitable buildings should also have regard to any existing or approved agricultural use of adjoining land and the amenity of neighbours.

8.2.11 Development will need to be landscaped to mitigate visual impact visible from a public place.

Stock and sale yards

Under the Kiama LEP 2011 stock and sale yards means a building or place that is used on a commercial basis for the purpose of offering livestock or poultry for sale and that may be used for the short-term storage and watering of stock.

Stock and sale yards are only permissible with consent in our RU1 Primary Production zone.

The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 outlines that in certain circumstances stock holding yards that are not used for the sale of stock may be considered exempt from requiring development consent.

Controls - Siting and design

Objectives

O:8.2.2	To minimise the impacts of stock and sale yards on adjoining properties,
O:8.2.3	To control the impacts of stock and sale yards by appropriate site buffer or setback distances,
O:8.2.4	To minimise the impacts of development on the natural environment, and

O:8.2.5	To provide a consistent approach to planning for the development of new stock and sale yards and facilitate additions to existing farms.

8.2.12 Development for the purposes of stock and sale yards, are required to comply with the minimum buffer distances outlined below:

Minimum setback/separation distances	Stock and sale yards
Front building setback	175 metres
Side or rear building setback	100 metres
All residential zones	500 metres
Dwelling on same property	100 metres
Any other dwelling (whether on a neighbouring property)	150 metres

Note: Where rural land uses emit odour, the above separation distances are minimums only. Consideration will be given to OEH's policy on 'Assessment and management of odour from stationary sources in NSW' (November 2006) taking into consideration the site characteristics and the merits of each application.

8.2.13 Development must be in accordance with the "Blue Book" Code of Practice for Animal Care produced by the Department of Primary Industries.

8.2.14 Sites with a slope greater than 3-4% must not be used for intensive livestock agriculture.

8.2.15 Sites that have residual chemicals in the soil such as organochlorides and arsenic must not be used for intensive livestock agriculture.

8.2.16 Development must be located having regard to the topography and microclimate of the area to ensure concentration of odours cannot occur. Design and construction of controlled environment structures.

Noise, odour and dust

Objectives

O:8.2.6	To minimise the noise, odour and impacts of stock and sale yards on the amenity of surrounding land uses, and
O:8.2.7	To encourage healthy, sustainable practices to minimise the impact of development.

8.2.17 Where possible, buildings and facilities are to be located out of the line of sight of adjoining neighbours.

8.2.18 Prevent entry of drainage/seepage water into site sheds and storage facilities through the construction of earth contour banks and drainage.

8.2.19 Industry Best Practice Management measures developed to eliminate or reduce odour are to be undertaken.

8.2.20 Noise levels generated must not exceed the requirements of the NSW Industrial Noise Policy (NSW EPA, 2000).

8.2.21 Where practical, major truck deliveries and produce transport should be scheduled between the hours of 7am to 6pm weekdays, 7am to 1pm Saturdays. It is noted that exceptional circumstances may mean deliveries are conducted outside these hours on occasions.

8.2.22 Locate all stationary noise generating machinery within sheds and where practical away from property boundaries.

Soil, waste and water management

Note: Applicants are advised to consult with the requirements for Earth dams contained within Topic 8.3 of this Chapter, when designing sedimentation ponds.

Objectives

O:8.2.8	To minimise the impact of stormwater and surface run-off on receiving water courses or water bodies and on adjacent lands, and
O:8.2.9	To ensure drainage systems efficiently control water flows and minimise the impact on natural drainage patterns of the site.

8.2.23 Local drainage patterns are to be maintained and stormwater flows effectively managed.

8.2.24 Development must incorporate the construction of stormwater diversion banks, sedimentation ponds and the installation of a wastewater treatment system to divert and treat wastewater and run-off.

8.2.25 Suitable impermeable sedimentation pond structures must be constructed that will not contaminate surface and ground waters.

8.2.26 Development must provide appropriate methods for the adequate management and handling of litter, manure, composting and removal of dead animals.

8.2.27 Runoff from feeding pens and site buildings (sealed or compacted) is to be collected in sedimentation ponds prior to any irrigation on-site. Contaminated waters must be suitably treated before reuse on the farm.

8.2.28 All sedimentation ponds are to be de-sludged to remove build-up of solid effluent when their storage capacity is reduced by more than 25%.

8.2.29 Loads of litter, manure and feed being transported to the property are to be adequately covered.

8.2.30 Prompt and safe disposal of feed by-products is to be arranged where recycling is not possible to avoid the harbouring of pests and vermin.

8.2.31 Diversion banks may need to be constructed to intercept and divert runoff away from manure stockpiles and carcass disposal areas.

8.2.32 Runoff from shed roofs, access tracks and hard stands (sealed or compacted) is to be collected and stored on site. Note: Any runoff existing on the site must be free of sediment.

Topic 8.3 - Farm Dams

Under the Kiama LEP Farm Dams are a type of water storage facility. Farm dams are only permissible with consent in our RU1 Primary Production and RU2 Rural Landscape zones.

The State Environmental Planning Policy (Primary Production and Rural Development) 2019 outlines that in certain circumstances farm dams may be considered exempt from requiring development consent. Development that may be carried out without the need for development consent is not exempt from any approval, licence, permit or authority that is required under any other Act (in particular, the Water Management Act 2000), and adjoining owners' property rights and the common law still apply.

Rural landholders in the Kiama Municipality can build dams on minor streams and capture 10 per cent of the average regional rainfall run-off. The maximum harvestable right dam capacity (MHRDC) is the total dam capacity allowed under the harvestable right for your property and takes into account rainfall and variations in rainfall pattern. The Harvestable Rights Orders are published in the NSW Government Gazette 40 dated 31 March 2006 (pages 1628 to 1631) (PDF, 259.84 KB).

If you want to construct a dam that is larger than the MHRDC, you will need to licence the volume of water that exceeds the MHRDC. You will also need to hold an approval for a dam which exceeds the MHRDC.

To calculate your MHRDC, use WaterNSW's Maximum Harvestable Rights Calculator

Objectives

O:8.3.1	To ensure that earth dams are constructed to a safe standard, and
O:8.3.2	To minimise the impact of dam construction on neighbouring properties and on the surrounding natural environmental features.

Controls

8.3.1 The width of a dam crest must be a minimum of 3 metres for a 3 metre high dam wall. The crest must increase in width 500mm from every metre above a 3 metre high dam wall.

8.3.2 A minimum of 1.0 metre is to be established for freeboard (the distance between the highest water level and the top of the dam wall). This must increase by 10% for every metre over a 3 metre high wall.

8.3.3 Soils predominantly consisting of gravels; organic soils or peat must not be used for dam construction or batters. The material used to construct an embankment should be sufficiently impervious to keep seepage low and ensure that dam walls remain stable. Soils with 25% clay content or greater are ideal to form an impervious barrier.

8.3.4 The dam embankment must contain at least 200mm of compacted top soil and be planted with a good soil holding grass. Trees and shrubs must not be planted on the embankment.

8.3.5 The slope of the embankment batters must conform to the ratio of 3.0 horizontal to 1.0 vertical for both upstream and downstream slopes.

8.3.6 An earth bywash is required on all dams in order to pass surplus runoff around the dam which would otherwise pass over the embankment. The bywash must be a minimum of 6 metres in width.

8.3.7 The width of the outlet from the bywash must not be less than the inlet width and must not direct flow onto the downstream toe. The bywash cut batter must have a maximum steepness of 1.5:1.

8.3.8 The bywash is to be excavated 75mm below the top water level and backfilled with compacted topsoil and planted with a suitable holding grass such as kikuyu. No trees or shrubs are to be planted in the bywash area.

8.3.9 In spring fed dams and dams that consistently receive a large amount of surface water, a piped spillway may be required to act as an outlet. The spillway is to have an inlet of at least 100mm below the level of the bywash. Generally a 150mm pipe is suitable for this purpose.

8.3.10 To avoid erosion and cracking of soil around spillway pipes and movement of water along the pipe line, gypsum should be applied below, above and around the pipe for a minimum distance of 2 metres. The trench for the pipe is to be cut into the natural ground under the earth bank or through a compacted section of bank. The base width of the pipe trench is generally about 300mm wider than the diameter of the pipe. The trench should be cut and the pipe installed as early as possible in the construction process to allow the excavation time to settle and compact as cutting through the completed embankment creates a point of weakness which may result in failure.

8.3.11 The bywash or spillway water from an earth dam should not have an adverse effect on neighbouring properties. Dams are to be sited so that excess water is contained on the property on which they are located before meeting with a watercourse downstream.

8.3.12 All farm dams are required to have a cut-off trench. The cut-off trench is to be constructed along the entire length of the embankment. It does not need to extend across the bywash. The trench must be taken down at least 300mm into the impervious soil and backfilled with impervious material ensuring it is less than 600mm below the natural surface.

8.3.13 The earth dam must not be located near or adjoining a natural wetland, floodplain or riparian area, and shall be designed and located to avoid any impact on remnant vegetation or threatened species.

Topic 8.4 – Ancillary Structures such as farm buildings and sheds

Farm building is defined by the Kiama LEP 2011 as a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling. Certain ancillary structures may be allowed as exempt development within rural zones. Refer to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Objectives

O:8.4.1	To ensure farm buildings and the like are designed and sited so as to not detract from the rural landscape, scenic quality and environmental significance of the rural areas.

Controls

8.4.1 Ancillary structures such as farm buildings and sheds in rural areas shall be setback a minimum 15 metres from the boundary of a property with a public road frontage.

8.4.2 Side boundary setbacks for ancillary structures shall be a minimum 900mm, as measured from the boundary to a vertical member. The minimum side boundary setback from the edge of the gutter, eaves or fascia is 675mm.

8.4.3 Ancillary development must be located at least 100 metres from another dwelling on an adjoining property to help achieve rural dwelling amenity.

8.4.4 Where possible and practicable, ancillary structures should be clustered around the principal dwelling, or able to utilise the same access ways.

8.4.5 All materials and colours used should be muted or earthy tones appropriate to the local street and landscape context. The colours and materials chosen for buildings need to be considered in terms of their reflectivity and glare. While lighter roof colours are encouraged for heat deflection and global warming Albedo Effect benefits. Roof designs and location may need to be reconsidered so as to ensure that reflectivity and glare do not adversely affect neighbours' amenity. In some cases, where this amenity cannot be reasonably addressed by redesign, lower reflectivity material may need to be specified. All applications are required to be accompanied by a schedule of finishing materials and colours for Council approval.

8.4.6 External finishes should not strongly contrast with the background whether by orientation, location, colour or choice of materials.

8.4.7 Development that is proposed to be carried out on land containing a heritage item, or on other land in the vicinity of a heritage item must be sited and designed in a way that minimises the impact on a heritage item.

8.4.8 Where the land contains a dry stone wall, no breaks, dismantling or alteration of such walls is permitted without development consent.

8.4.9 Ancillary development must be designed and sited to protect agricultural land; avoid/minimise their impact on the natural environment and the scenic landscape; and be clustered rather than dispersed over the property.

8.4.10 Ancillary development in rural areas must be carefully and sensitively sited and designed to complement landscape rather than become conspicuous built elements in the landscape. The siting of habitable buildings should also have regard to any existing or approved agricultural use of adjoining land and the amenity of neighbours.

8.4.11 Ancillary development will need to be landscaped to mitigate visual impact visible from a public place.

Topic 8.5 – Animal Boarding and Training Establishments (including horse stables and horse arenas)

Animal boarding or training establishments are defined in the Kiama LEP 2011. Where a number of shelters are being developed for cats or dogs for non-commercial purposes a development application will be required. However, in some circumstances the State Environmental Planning Policy (Exempt and Complying Development Codes 2008), for animal shelters may apply.

Hobby Breeder means a person who keeps and/or trains two (2) and not more than four (4) dogs and is eligible to register with the Dogs NSW and complies with the Animal Welfare Code of Conduct.

Professional Breeder means a person who keeps, breeds and/or trains 5 or more dogs and is eligible to register with Dogs NSW and complies with the relevant Animal Welfare Code of Conduct and/or is registered by the NSW Greyhound Board and complies with the relevant Animal Welfare Code of Conduct.

Horse stables are considered a 'building' under the NSW Environmental Planning and Assessment Act 1979. A development application is required for the erection of stables except in circumstances where the State Environmental Planning Policy (Exempt and Complying Development Codes 2008), for animal shelters applies.

The use of a horse arena must be ancillary to an existing use and does not require development consent. However, the earthworks associated with a horse arena may require development consent if the requirements of Section 2.30 Earthworks and retaining walls under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 cannot be met. If the horse arena is to have a roof a development application for a shed will be required.

Objectives

O:8.5.1	To provide accommodation, environment and security of animals of a standard which ensures their safety and wellbeing; and
O:8.5.2	Prevent the amenity of the surrounding areas from being adversely affected by the emission of noise and odour from the operations of the establishment.

Controls - Siting and Design

8.5.1 The kennels and exercise/training yards are to be a minimum separation distance as follows:

Minimum setback/separation distances	Kennels and exercise/training yards
Front building setback	20 metres
Side or rear building setback	20 metres
All residential zones	250 metres
Dwelling on same property	30 metres
Any other dwelling (whether on a neighbouring property)	150 metres

8.5.2 The maximum number of dogs and/or cats being kept **(boarding)** does not exceed 30 dogs and/or 15 cats.

8.5.3 The maximum number of dogs and/or cats being kept (breeding) does not exceed:

- Hobby breeders – up to four (4) dogs on premises and one litter on the premises at any time.
- Professional breeders – Five (5) or more dogs on premises and can demonstrate compliance with the relevant animal welfare codes and the amenity of the neighbourhood is not adversely affected.

8.5.4 The maximum numbers of cats will be considered on merit and applicants must demonstrate compliance with the animal welfare codes applicable to cat breeding.

8.5.5 Cat housing must meet the minimum enclosure sizes shown in Tables 1 and 2 listed in the Animal Welfare Code of Practice – Breeding Dogs and Cats (http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0004/299803/Breeding-dogs-and-cats-code-of- practice.pdf.) These limits do not apply to cats under veterinary care for a disease or injury.

8.5.6 Dog housing must meet the minimum enclosure sizes shown in Tables 1 and 2 listed in the Animal Welfare Code of Practice – Breeding Dogs and Cats These limits do not apply to dogs under veterinary care for a disease or injury.

Additional Controls - Horse Stables

8.5.7 Day yards or holding yards should be at least 3 m wide and be an area of at least 20 square metres. For working horses, yard size should be increased to 35 square metres. Where a roof or canopy is provided it is to be a maximum height of 4 m from existing ground level.

8.5.8 The fitting of yards and the type of yard surface should allow drainage (by absorption or evaporation) without ponding.

8.5.9 Animal effluent is to be treated separately from human effluent. A specific wastewater report for the effluent produced by horses must be provided with the development application. Animal effluent in this instance includes urine, faeces, water used to wash an animal(s) and water used for washing out animal enclosures. Reference should be made to *Designing and Installing On-Site Wastewater Systems* (Sydney Catchment Authority, 2014).

8.5.10 The effluent management area must be protected from impacts by animals and vehicles by using fencing.

8.5.11 For proposals that include the staging of events, such as gymkhanas and dressage events, provision must be made for the management of the extra wastewater generated during the event. If the facility is purpose built for the regular staging of events, the wastewater treatment system must have sufficient capacity and the effluent management area must also be correctly sized, taking peak flows into consideration. A balance tank may be required for peak flows.

8.5.12 All manure collected from the stables, tack shed, exercise yard, dressage or indoor arena, or any other area used by the horses, as well as from the manure trap, must be stockpiled in a dedicated, covered area that has a sealed floor. The manure may be mixed with other vegetative material such as used hay, and composted for re-use on the property's paddocks, or sold or otherwise disposed of offsite.

8.5.13 The manure storage area must be located away from areas of concentrated stormwater flow, as well as a minimum of 40 metres from a dam or drainage depression, 100 metres from any perennial or intermittent watercourse and 150 metres from any named river. Any leachate from the manure stockpile is to be diverted away from stormwater structures such as swales, rock-filled trench, earth banks and wetlands using a bund.

Controls Sustainable noise management

Objectives

O:8.5.3	To minimise the impact of animal boarding and training establishments on the amenity of surrounding land.

8.5.14 The development must comply with the Industrial Noise Policy of the Environment Protection Authority and any relevant policy.

8.5.15 Sound-proofed holding sheds for all distressed animals must be provided.

Controls Hygiene and Waste Management:

8.5.16 All development application are to include the following:

- A detailed Management Plan for the operations of the breeding and/or boarding establishment, including the following;
- A written statement demonstrating how the operation of the premises will comply with the relevant standards, including;
- Animal Welfare Code of Practice No 5 - Dogs and Cats in Animal Boarding Establishments
- Animal Welfare Code of Practice – Breeding Dogs and Cats
- Where the dogs being kept are greyhounds, demonstrate that the person and premises are eligible to be registered by the Greyhound Racing NSW and will meet the animal welfare standards;
- An acoustic report prepared by a person suitably qualified and experienced that includes an assessment of the design, construction details and materials to demonstrate that noise level output will be no more than 5dB(A) above established background noise levels;
- Details of the intended operators' experience and competence in management of a similar operation, including qualifications and references;
- Treatment and disposal of litter;
- Odour Management;
- Food storage and vermin control;
- Water drainage and management; and
- Complaints register.

8.5.17 The submitted Management Plan is to include details on hygiene levels and appropriate waste disposal methods for both solid wastes and liquid wastes.

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KIAMA MUNICIPAL COUNCIL
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