



# ORDINARY MEETING OF COUNCIL

To be held at 5pm on

**Tuesday 16 October 2018**

Council Chambers

11 Manning Street, KIAMA NSW 2533

## Order of Business

- 1 Apologies
- 2 Acknowledgement of Traditional owners
- 3 Confirmation of Minutes of Previous Meeting
- 4 Business Arising from the Minutes
- 5 Public Access Summary
- 6 Mayoral Minute
- 7 Minutes of Committees
- 8 Public Access Reports
- 9 Report of the General Manager
- 10 Report of the Director Environmental Services
- 11 Report of the Director Corporate & Commercial Services
- 12 Report of the Director Engineering and Works
- 13 Report of the Director Blue Haven
- 14 Reports for Information
- 15 Addendum To Reports
- 16 Notice of Motion
- 17 Questions for future meeting
- 18 Confidential Summary
- 19 Confidential Reports
- 20 Closure

## Members

His Worship the Mayor  
Councillor M Honey  
Councillor A Sloan  
Deputy Mayor  
Councillor M Brown  
Councillor N Reilly  
Councillor K Rice  
Councillor W Steel  
Councillor D Watson  
Councillor M Way  
Councillor M Westhoff

## COUNCIL OF THE MUNICIPALITY OF KIAMA

Council Chambers  
11 Manning Street  
KIAMA NSW 2533

9 October 2018

To the Chairman and Councillors:

### NOTICE OF ORDINARY MEETING

You are respectfully requested to attend an **Ordinary Meeting** of the Council of Kiama, to be held in the **Council Chambers, 11 Manning Street, KIAMA NSW 2533** on **Tuesday 16 October 2018** commencing at **5pm** for the consideration of the undermentioned business.

Yours faithfully



Kerry McMurray  
**General Manager**

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**AGENDA FOR THE  
ORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL  
TUESDAY 16 OCTOBER 2018**

**1 APOLOGIES**

**2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

*“On behalf of those present, I would like to show my respect and acknowledge the traditional owners of the Land, of Elders past and present, on which this meeting takes place, and extend that respect to other Aboriginal and Torres Strait Islander people present.”*

### **3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

#### **3.1 Ordinary Council on 18 September 2018**

##### **Attachments**

- 1 Minutes - Ordinary Council - 18/09/18 [↓](#)

##### **Enclosures**

Nil

##### ***RECOMMENDED***

That the Minutes of the Ordinary Meeting held on 18 September 2018 be received and accepted.



# MINUTES OF THE ORDINARY MEETING OF COUNCIL

commencing at 5pm on

## TUESDAY 18 SEPTEMBER 2018

Council Chambers  
11 Manning Street, KIAMA NSW 2533

Item 3.1

Attachment 1

MINUTES OF THE ORDINARY MEETING

18 SEPTEMBER 2018

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MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE  
MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS,  
KIAMA, ON TUESDAY 18 SEPTEMBER 2018 AT 5PM

**PRESENT:** Mayor – Councillor M Honey,  
Deputy Mayor – Councillor K Rice,  
Councillors M Brown, N Reilly, A Sloan, W Steel, D Watson,  
M Way and M Westhoff

**IN ATTENDANCE:** General Manager, Director Environmental Services, Acting  
Director Corporate, Commercial and Community Services,  
Director Engineering and Works and Director Blue Haven

**1 APOLOGIES**

Nil

**2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

The Mayor declared the meeting open and acknowledged the traditional owners:

*“On behalf of those present, I would like to show my respect and acknowledge the traditional owners of the Land, of Elders past and present, on which this meeting takes place, and extend that respect to other Aboriginal and Torres Strait Islander people present.”*

**3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**3.1 Ordinary Council meeting held on 21 August 2018**

*OC-18/231*

**Resolved** that the Minutes of the Ordinary Council meeting held on 21 August 2018 be received and accepted.

(Councillors Westhoff and Way)

**4 BUSINESS ARISING FROM THE MINUTES**

**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

In relation to Item 10.4 Councillor Reilly advised that his comment with regard to Section 5.5 of the Kiama LEP being repealed was incorrect. At the time of the submission of the report Section 5.5 was still in force.

**OC-18/232**

**Resolved** that at this time, 5.02pm, Council bring forward items pertaining to the election of the Mayor and Deputy Mayor.

(Councillors Reilly and Rice)

**9.2 Election of Mayor**

5.03pm The Mayor here vacated the Chair and the General Manager assumed the Chair.

At this time the General Manager, acting as a Returning Officer, advised that one nomination for the position of Mayor had been received, this being for Councillor Honey.

The General Manager then formally declared that this being the case **Councillor Mark Honey** was elected to the position of Mayor **unopposed**.

5.04pm The General Manager here vacated the Chair and Councillor Honey as newly elected Mayor assumed the Chair

**9.3 Election of Deputy Mayor**

At this time, 5.06pm, the General Manager, acting as a Returning Officer, advised that two nominations had been received, those being for Councillors Sloan and Steel.

**OC-18/233**

**Resolved** that Council proceed with the election of a Deputy Mayor for the determined term and that such election be conducted with an open vote by show of hands.

(Councillors Way and Watson)

An Open vote for the election of the Deputy Mayor was then conducted. The Returning Officer then formally declared Councillor Sloan elected as the Deputy Mayor for the period until September 2020 by 5 votes to 4.

The Mayor then declared Councillor Sloan as Deputy Mayor.

## MINUTES OF THE ORDINARY MEETING

18 SEPTEMBER 2018

**5 PUBLIC ACCESS**

Robert Coady	10.5	10.2018.103.1 – Lot 4 DP 562389 - 16 Greta Street Gerringong - Demolition of existing dwelling and construction of medical centre with 3 residential apartments and associated car parking
Russell Pearson	10.5	10.2018.103.1 – Lot 4 DP 562389 - 16 Greta Street Gerringong - Demolition of existing dwelling and construction of medical centre with 3 residential apartments and associated car parking

**6 MAYORAL MINUTE****6.1 Doreen Woods - Gerringong Senior Citizens Club***OC-18/234*

**Resolved** that Council formally congratulate Mrs Doreen Woods for her dedication and years of service to the Gerringong Senior Citizens Club and the local community.

(Councillors Honey and Westhoff)

**6.2 Kiama Country Women's Association - celebrates 80 years***OC-18/235*

**Resolved** that Council formally congratulate the Kiama Country Women's Association on 80 years of service to the community.

(Councillors Honey and Brown)

**7 MINUTES OF COMMITTEES****7.1 Minutes: Access Committee meeting held on 3 August 2018***OC-18/236*

**Resolved** that Council note the minutes and refer the issue of a safe accessible route from Blue Haven Bonaira to the 'top shops' on Manning Street, to Engineering & Works for investigation with feedback to be reported to the Access Committee when completed.

(Councillors Rice and Steel)

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**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

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**7.2 Minutes: Destination Kiama Tourism Advisory Committee meeting held 23 August 2018**

**OC-18/237**

**Resolved** that the Minutes of the Destination Kiama Tourism Advisory Committee meeting held on 23 August 2018 be received and the recommendations therein be adopted.

(Councillors Brown and Watson)

**7.3 Minutes: Catchment and Flood Risk Management Committee meeting held on 21 August 2018**

**OC-18/238**

**Resolved** that the Minutes of the Catchment and Flood Risk Management Committee Meeting held on 21 August 2018 be received and accepted.

(Councillors Brown and Rice)

**7.4 Minutes: Kiama Local Traffic Committee meeting held on 4 September 2018**

**OC-18/239**

**Resolved** that the Minutes of the Kiama Local Traffic Committee Meeting held on 4 September 2018 be received and the recommendations therein adopted.

(Councillors Way and Sloan)

**7.5 Minutes: Walking Tracks and Cycleways Committee meeting held on 8 August 2018**

**OC-18/240**

**Resolved** that the Minutes of the Walking Tracks and Cycleways Committee meeting held on 8 August 2018 be received and the recommendations therein adopted. Further that with regard to Item 2.2 Jamberoo Shared Pathway, the Committee advise the Youth Advisory Committee on the route map as soon as it is determined.

(Councillors Way and Westhoff)



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**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

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**COMMITTEE OF THE WHOLE**

**OC-18/241**

**Resolved** that at this time, 5.15pm, Council form itself into a Committee of the Whole to deal with matters listed in the reports as set out below:

- Report of the General Manager
- Report of the Director Environmental Services
- Report of the Director Corporate & Commercial Services
- Report of the Director Engineering and Works
- Report of the Director Blue Haven
- Addendum to Reports

(Councillors Steel and Way)

**8 PUBLIC ACCESS REPORTS**

**OC-18/242**

**Committee recommendation** that at this time, 5.16pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Way and Brown)

**Disclosure of Interest - Councillor Sloan**

Councillor Sloan declared a significant pecuniary interest in this matter as is part owner of the subject property. Councillor Sloan left the Chamber and took no part in discussion or voting on this matter.

5.16pm Councillor Sloan here left the Chamber

**10.5 10.2018.103.1 – Lot 4 DP 562389 - 16 Greta Street Gerringong - Demolition of existing dwelling and construction of medical centre with 3 residential apartments and associated car parking**

**OC-18/243**

**Committee recommendation** that Council approve Development application 10.2018.103.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

(Councillors Way and Brown)

For: Councillors Brown, Honey, Reilly, Rice, Steel, Watson, Way and Westhoff

**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

Against: Nil

5.18pm Councillor Sloan here returned to the Chamber

**9 REPORT OF THE GENERAL MANAGER**

**9.1 Interstate Conference (Townsville) - Global Eco Asia-Pacific Tourism Conference - 26 to 28 November 2018**

**OC-18/244**

**Committee recommendation** that Council grant approval for Council's Manager Tourism and Events, Karen Ronning, and Councillors Brown and Steel, as Council's representatives of Destination Kiama, to attend the Global Eco Asia-Pacific Tourism Conference in Townsville on 26-28 November 2017

(Councillors Brown and Reilly)

**9.4 Council Committees - appointment of committees and memberships**

**OC-18/245**

**Committee recommendation** that Council endorse the committee structure and the Councillor membership for 2018/19 as below.

(Councillors Brown and Way)

Committee	Council Membership	Meeting Times	Membership Nos.
Committee of the Whole	All Councillors	3 <sup>rd</sup> Tuesday every month (except January), 5pm	All Councillors
Access	Clr Sloan	1 <sup>st</sup> Friday every 2 <sup>nd</sup> month, 10am	1 Councillor (Chair) and 1 alternate
Audit, Risk and Improvement Committee	Clr Reilly Clr Sloan	At least 4 times per year	2 Councillors
Australia Day	Clr Honey Clr Westhoff	As required.	Mayor and 2 Councillors (including Chair)

## MINUTES OF THE ORDINARY MEETING

18 SEPTEMBER 2018

Blue Haven Advisory	Clr Watson Clr Rice	1 <sup>st</sup> Wednesday, quarterly, 6pm Blue Haven	2 Councillors
Catchment and Flood Risk Management	Clr Sloan Clr Westhoff	As required	2 Councillors
Companion Animals Management Advisory	Clr Way	Every 6 months or as required.	1 Councillor
Destination Kiama Tourism Advisory	Clr Brown Clr Steel	Bi-monthly	2 Councillors and General Manager
Economic Development	Clr Steel Clr Watson Clr Honey	4 <sup>th</sup> Tuesday every month, 5.30pm	3 Councillors (including Chair)
Hoi An Friendship	Clr Brown Clr Rice Clr Reilly Clr Way	As required	4 Councillors and General Manager
Kiama Cultural Board including Art Centre and Grants	Clr Honey Clr Reilly	Last Thursday every month, 5.30pm	Mayor, 2 Councillors and General Manager
Kiama Health and Sustainability Advisory	Clr Rice Clr Sloan	Bi-monthly	2 Councillors
Kiama Local Traffic Committee	Clr Honey Clr Way	1 <sup>st</sup> Tuesday every month, 9am	1 Councillor (Mayor as Chair) and 1 alternate
Kiama Walking Tracks and Cycleways	Clr Honey Clr Way	As required	1 Councillor (including Chair) and Mayor ex-officio

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**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

Long Term Financial Planning and Revenue	Clr Reilly Clr Rice Clr Sloan Clr Steel	As required	4 Councillors
Performance Review	Clr Honey Clr Rice Clr Sloan Clr Way	Every 12 months	Mayor, Deputy Mayor and 2 Councillors
Planning Committee	Clr Honey Clr Rice Clr Sloan Clr Way Clr Westhoff	As required.	Mayor, Deputy Mayor and 3 Councillors
Seniors' Week	Clr Rice	As required	1 Councillor (including Chair)
Staff Consultative	Clr Honey	Monthly, no set date, 11.30am	Mayor (ex officio)
Streets and Reserves Naming	Clr Westhoff Clr Sloan	As required.	1 Councillor and 1 alternate
Work Health and Safety	Clr Honey	Quarterly	Mayor (ex officio)
Youth Advisory	Clr Reilly Clr Westhoff	1 <sup>st</sup> Thursday every month, 10.40am at Kiama High School	2 Councillors

Item 3.1

Attachment 1

**9.5 Councillor delegates to other bodies 2018/2019**

**OC-18/246**

**Committee recommendation** that Council endorse its representatives to outside organisations for 2018/2019 as listed below.

.(Councillors Steel and Brown)

## MINUTES OF THE ORDINARY MEETING

18 SEPTEMBER 2018

Committee/Association	Meetings	Councillors Elected	Nature of Appointment	Delegates
Civic Risk Mutual	Quarterly	Clr Honey	Council	1 Councillor and General Manager
Cleary Bros Community Consultative Committee	As required	Clr Sloan Clr Westhoff (Alt)	Council	2 Councillors
Friends of Kiama Library	Monthly	Clr Rice Clr Way (Alt)	Council	1 Councillor and 1 Alternate
Healthy Cities Illawarra Management Committee and International Healthy Cities Alliance (including Australian Chapter)	Quarterly and as required	Clr Honey Clr Rice (Alt)	As Mayor	Mayor and 1 Alternate
Illawarra Academy of Sport	Bi-monthly	Clr Way (Alt)	Delegate	1 Councillor and 1 Alternate being Director Blue Haven
Illawarra Bush Fire Management Committee	Quarterly	Clr Watson	Councillor Delegate, Staff	1 Councillor and Director Engineering and Works
Illawarra Connection		Clr Steel	Council	1 Councillor
Illawarra District Weeds Authority Committee	Quarterly	Clr Rice	Council	1 Councillor and 1 Alternate being Landscape Officer
Illawarra Landcare Co-ordinating Committee	Monthly	Clr Rice	Council	1 Councillor
Illawarra Regional Airport Management Advisory Committee	As required	Clr Honey	As Mayor	Mayor
Illawarra Regional Information Service	Quarterly	Clr Reilly	Delegate	1 Councillor
Illawarra Rural Fire District Service Agreement Committee	Quarterly	Clr Watson	Councillor Delegate, Staff	1 Councillor and Director Engineering and Works

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Illawarra Shoalhaven Joint Organisation	2 <sup>nd</sup> Friday alternate month	Clr Honey Clr Reilly Clr Sloan (Alt)	Councillor delegate	Mayor, 1 Councillor, 1 Alternate, General Manager
Joint Regional Planning Panel	As required	Clr Honey Clr Sloan	Council delegates	Mayor, 1 Councillor and 1 Alternate
Kiama & District Sports Association	Bi-monthly	Clr Way	Council	1 Councillor and Director Engineering & Works
Kiama Liquor Accord	As required	Clr Watson Clr Brown	Council delegate	2 Councillors and Road Safety Officer
Mutual Management Services Limited	Quarterly	Clr Honey	As Mayor	Mayor
NSW Public Library South East Zone Committee	Quarterly	Clr Rice	Council delegate	1 Councillor, Director Corporate and Commercial Services and Manager Library Services
South Coast Co-operative Library Service	Bi-monthly	Clr Rice	Council	1 Councillor
Sydney Catchment Authority's Local Government Reference Panel	As required	Clr Sloan Clr Westhoff (Alt)	1 Councillor, 1 Staff	1 Councillor, 1 Alternate and Director Environmental Services

Item 3.1

Attachment 1

**9.6 Delegation of functions of the Council - review of delegations to the Mayor*****OC-18/247***

**Committee recommendation** that Council endorse the delegations as detailed in this report with the amendment to (c) under Delegations to the Mayor to read as below:

- (c) To authorise any work which in the opinion of the Mayor is urgent at a cost not to exceed \$50,000.

(Councillors Brown and Way)

**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

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**9.7 Donation request: LP Entertainment - Rural Aid Concert - 15 November 2018**

**OC-18/248**

**Committee recommendation** that Council provide LP Entertainment for the Rural Aid Concert on 15 November 2018 with:

1. a \$1,000 donation
2. free reserve hire for a local sporting ground
3. assistance with traffic control if needed.

(Councillors Brown and Way)

**9.8 Re-endorsement of the Kiama Tourism Opportunities Plan**

**OC-18/249**

**Committee recommendation** that Council

1. re-endorse the Kiama Tourism Opportunities Plan which incorporates the changes detailed in the report that were made to the document since its adoption on 17 July 2018
2. review the Kiama Tourism Opportunities Plan on a yearly basis
3. amend the report to read Barren Grounds Nature Reserve

(Councillors Brown and Steel)

**9.9 Question for Future Meeting: Terms of Reference Definitions**

**OC-18/250**

**Committee recommendation** that Council adopt the glossary of terms detailed in the report.

(Councillors Reilly and Westhoff)

**9.10 Blue Haven Advisory Committee Terms of Reference**

**OC-18/251**

**Committee recommendation** that Council endorse the amended Terms of Reference for the Blue Haven Advisory Committee.

(Councillors Watson and Sloan)

**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

10 Report of the Director Environmental Services

**10.1 Regional Disaster Waste Management Plan Project**

**OC-18/252**

**Committee recommendation** that Council, as part of the 2018-19 quarterly budget review process, resolve to allocate \$22,500 from Domestic Waste Management Reserves, as its contribution to the Regional Disaster Waste Management Plan Project.

(Councillors Brown and Way)

**10.2 Question for future meeting: CCTV Kiama Downs Shops**

**OC-18/253**

**Motion**

**Committee recommendation** That Council:

1. investigate a location for the provision of CCTV cameras for the Kiama Downs shopping centre and adjacent car park located in Johnson Street, Kiama Downs
2. investigate new technology to provide the CCTV cameras
3. request two quotes to provide an accurate costing to supply and install CCTV
4. apply for State and Federal Government Grants to provide CCTV coverage.

(Councillors Way and Steel)

The **Motion** was Put and **Carried**

For: Councillors Brown, Honey, Sloan, Steel, Watson and Way

Against: Councillors Reilly, Rice and Westhoff

**OC-18/254**

**Committee recommendation** that Council request a briefing by the Illawarra Local Area Command on crime in the Kiama LGA.

(Councillors Reilly and Sloan)

**10.3 Minutes: Cultural Board meeting held on 23 August 2018 and Laughter House Entertainment Spiegel Tent**

**Motion**

It was moved by Councillor Westhoff and seconded by Councillor Brown that



**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

Council:

- note the Cultural Board minutes
- does not endorse the motion contained in the minutes in regards to the Laughterhouse Entertainment Spiegeltent proposal.

**Amendment to the Motion**

It was moved by Councillor Rice and seconded by Councillor Reilly that Council:

- note the Cultural Board minutes.
- assists Laughterhouse Entertainment to work towards a solution where the Spiegeltent can be appropriately located as a seasonally available performance space.

**Foreshadowed Amendment to the Motion**

**OC-18/255**

**Committee recommendation that Council**

- note the Cultural Board minutes with the exception of Item 4 contained in the Minutes.
- Defer any consideration of Item 4 until the meeting on 15 October 2018 with Laughterhouse Entertainment.

(Councillors Reilly and Steel)

The **Amendment to the Motion** on being Put was **Lost**

The **Foreshadowed Amendment to the Motion** then became the **Motion** and was Put and **Carried**

**10.4 Grant funding offers for projects identified in the Minnamurra and Crooked River Coastal Zone Management Plans**

**OC-18/256**

**Committee recommendation that Council**, as part of the 2018-19 quarterly budget review process, resolve to allocate \$11,500 from the Holiday Parks Reserve and \$4,500 from the Environment and Sustainability Reserve, as its contributions to each of the funding offers for grant applications submitted under the NSW Estuary Program.

(Councillors Brown and Watson)

**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

**10.6 Kiama Local Strategic Planning Statement – Project Overview**

*OC-18/257*

**Committee recommendation** that Council note the project overview for the development of the Kiama Local Strategic Planning Statement contained within this report and endorse the commencement of community engagement activities.

(Councillors Rice and Reilly)

**10.7 Draft Chapter 3 Preservation of Trees and Vegetation and Chapter 8 Landscaping Requirements**

*OC-18/258*

**Committee recommendation** that Council endorse the attached draft Development Control Chapters 3 and 8 for public exhibition with dot point one of item 2.3 being amended to include the words “notify Council of any proposed work” at the end of the point.

(Councillors Brown and Watson)

For: Councillors Brown, Honey, Reilly, Rice, Sloan, Steel, Watson, Way and Westhoff

Against: Nil

**11 REPORT OF THE DIRECTOR CORPORATE & COMMERCIAL SERVICES**

**11.1 Annual Financial Statements 2017/18**

*OC-18/259*

**Committee recommendation** that :

1. Council's Draft Financial Statements for 2017/2018 be referred to Council's auditors for audit under sect 413 (1).
2. Council resolves in accordance with sect 413 (2c) that the annual financial report is in accordance with:
  - the Local Government Act 1993 (as amended) and the Regulations made there under;
  - the Australian Accounting Standards and professional pronouncements;
  - the Local Government Code of Accounting Practice and Financial Reporting;
  - presents fairly the Council's operating result and financial position for the year;
  - accords with Council's accounting and other records; and
  - that the Council is not aware of any matter that would render this report false or misleading in any way.
3. Council adopt the Councillors/Management "Statement" and resolve that it be

**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

- signed and attached to the Financial Statements for 2017/2018.
4. That on receipt of the Audited Reports, a copy is forwarded to the Office of Local Government.

(Councillors Reilly and Westhoff)

**11.2 Statement of Investments - August 2018**

**OC-18/260**

**Committee recommendation** that Council receive and adopt the information relating to the Statement of Investments for August 2018.

(Councillors Brown and Watson)

**11.3 Audit, Risk and Improvement Committee Charter Amendment**

**OC-18/261**

**Committee recommendation** that Council receive and adopt the amended Audit, Risk and Improvement Committee Charter with a further amendment to the charter to read *"Initially, the Chair shall be appointed for a three year term and the other two independent members shall be appointed for two years to be decided by lot."*

(Councillors Sloan and Reilly)

**12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS**

**12.1 Purchase of one (1) 14000 GVM truck & one (1) 6x4 Rigid Truck & Trailer as identified in 2018-19 Plant Replacement Program**

**OC-18/262**

**Committee recommendation** that Council approve the

1. purchase one (1) Hino FE 1426 with Berry Howe Tipping Body from Illawarra Hino with a capital value of \$140630 + GST.
2. purchase one (1) Mack Trident with Tefco Tipping Body & Trailer from Southern Truck Centre Wollongong with a capital value of \$384800 + GST.

(Councillors Way and Steel)

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**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

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**13 REPORT OF THE DIRECTOR BLUE HAVEN**

Nil

**14 REPORTS FOR INFORMATION**

**OC-18/263**

**Committee's recommendation** that the following Reports for Information listed for the Council's consideration be received and noted

- 14.1 Return and Earn Vending Machines
- 14.2 Stronger Country Communities Fund - Kevin Walsh Oval, Jamberoo
- 14.3 Autonomous Vehicle Trial
- 14.5 Parking Statistics - August 2018
- 14.6 Minutes: South Precinct Committee meeting held on 19 July 2018 and 16 August 2018
- 14.7 Minutes: Jamberoo Valley Ratepayers and Residents Association meeting held 7 August 2018
- 14.8 Minutes: Central Precinct Committee meeting held on 28 August 2018
- 14.9 Minutes: Minnamurra Progress Association meeting held on 4 September 2018
- 14.11 Question for future meeting: Pheasant Point Heritage Precinct controls
- 14.12 Question for future meeting: Community engagement
- 14.13 Question for future meeting: 15 minuted parking zones - top of Manning Street and along Terralong Street
- 14.14 Question for future meeting: Seek grant funding mini-breakwall at Kiama Harbour
- 14.15 Question for future meeting: Request NSW State Government reimbursement of Electoral Commission Fee
- 14.16 Questions for future meetings register as at 11 September 2018
- 14.17 Information from Office of Local Government.

(Councillors Rice and Westhoff)

**14.4 NSW Coastal Conference 2018**

**OC-18/264**

**Committee recommendation** that Councillors Reilly and Sloan be endorsed to attend the NSW Coast Conference 2018.

(Councillors Reilly and Brown)

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**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

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**14.10 Question for future meeting: Roadside seating and/or picnic tables**

**OC-18/265**

**Committee recommendation** that Council refer the item to Destination Kiama for investigation.

(Councillors Rice and Sloan)

**15 ADDENDUM TO REPORTS**

**OC-18/266**

**Committee recommendation** that at this, 6.54pm, Council bring forward and deal with matters pertaining to the Addendum to Reports.

(Councillors Way and Brown)

**15.1 200 Anniversary of Aboriginal people on Minnamurra River**

**OC-18/267**

**Committee recommendation** that Council establish a permanent means of acknowledging the 1818 massacre and the aboriginal culture in the vicinity of the Minnamurra River.

(Councillors Rice and Reilly)

**15.2 Minutes: North Kiama Community Forum - 8 August 2018**

**OC-18/268**

**Committee recommendation** that Council receive and note the minutes of the North Kiama Community Forum.

(Councillors Reilly and Way)

**OC-18/269**

**Committee recommendation** that at this time, 6.59pm, Council bring into open Council and deal with confidential items 19.1, 19.2, 19.3 and 19.4 with the exception of confidential attachments to item 19.1.

(Councillors Sloan and Way)

**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

**19.1 Kiama Council Cultural Grants - Winter Funding Round 2018**

*OC-18/270*

**Committee recommendation** that Council approve the following recommended Cultural Grants funding applications:

- Aboriginal Cultural Art Workshop \$2,500
- Presence of Land Exhibition \$2,000
- Kinder Garden: Parents and Kids Songwriting Together \$2,700
- Free contemporary dance workshops and performance \$3,000

(Councillors Brown and Reilly)

**19.2 Minutes: Health and Sustainability Committee meeting held on 14 August 2018**

*OC-18/271*

**Committee recommendation** that Council:

1. receive and accept the minutes of the Health & Sustainability Committee Meeting held on 14 August 2018.
2. approve the following recommended Health & Sustainability Grants funding applications:
  - a. Gerringong Public School P & C - \$500;
  - b. Minnamurra Public School P & C Association – \$1,000;
  - c. Slow Food Saddle Back - \$500.

(Councillors Sloan and Way)

**19.3 NSW EPA Response to Bombo Sewage Treatment Plant Incident on 18 December 2017**

*OC-18/272*

**Committee recommendation** That Council write to the Environment Protection Authority requesting advice as to why due process was not followed in this instance in relation to the incident at Bombo Sewage Treatment Plant on 18 December 2017. Further that Council also write to Sydney Water requesting assurance that this type of occurrence will not happen again.

(Councillors Sloan and Brown)

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**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

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**19.4 Seven Mile Beach Reserve Surf Schools**

**OC-18/273**

**Committee recommendation** that Council endorse the strategy for the ongoing future management of surf schools on Seven Mile Beach Gerroa including;

1. acknowledge the future Plan of Management as the principal land use management framework for the operation of surf schools on Seven Mile Beach and;
2. revoke the previously adopted Policy for the Licensing of surf schools on Seven Mile Beach Gerroa and replace with interim guidelines for surf schools in conjunction with short term licences.
3. Short term licences be determined by the General Manager under delegated authority.

(Councillors Brown and Way)

**16 NOTICE OF MOTION**

Nil

**RESUMPTION OF ORDINARY BUSINESS**

**OC-18/274**

**Committee recommendation** that at this time, 7.15pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Steel and Rice)

**ADOPTION OF COMMITTEE OF THE WHOLE REPORT**

**OC-18/275**

**Resolved** that Council formally confirm, adopt and endorse the Committee recommendations made by Council sitting as a Committee of the Whole as detailed in the Committee recommendations numbered 18/241 to 18/274 above.

(Councillors Steel and Rice)

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**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

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**17 QUESTIONS FOR FUTURE MEETINGS**

**17.1 Old Police Residence**

Councillor Steel requested a detailed report on the possibility of Council either purchasing or leasing the vacant old police residence in Terralong Street adjacent to the Police Station. The Mayor referred the matter to the Acting Director Corporate & Commercial Services for investigation and report.

**17.2 Hoi An Friendship Committee**

Councillor Rice requested a report on how Kiama can best move forward with the friendship agreement with Hoi An and suggested that Council invite the new Consul General of Vietnam to visit Kiama for a tour and Mayoral reception. The General Manager advised that he would arrange a meeting of the Hoi An Friendship Committee to allow the Committee to determine a suitable proposal.

**17.3 Community Response Policy**

Councillor Rice requested a report on the issues involved and the progress that can be made towards developing a manageable community response policy for the Municipality. The Mayor referred the matter to the General Manager for investigation and report.

**17.4 Inspection of Public Toilets**

Councillor Westhoff requested a report on the progress of the audit of public toilets in the LGA including maintenance findings. The Mayor referred the matter to the Director Engineering & Works.

**17.5 Community Bank premises**

Councillor Westhoff requested investigation into the possible relocation of the Gerringong Library branch to the unused baby health centre premises until its permanent move to the new Library and the possibility of then allowing the current Gerringong Library premises for use by the Gerringong & District Community Bank

**17.6 Gallery Business Papers**

Councillor Steel requested copies of the Business Paper be made available to the members of the Gallery. The Mayor referred the matter to the General Manager for action.



**MINUTES OF THE ORDINARY MEETING**

**18 SEPTEMBER 2018**

**18 CONFIDENTIAL SUMMARY**

**Public Representations:**

The Mayor called for representations regarding issues which had been proposed to be disclosed in Confidential Committee of the Whole. No such representations were received.

**18.1 Exclusion Of Press And Public:**

**OC-18/276**

**Resolved** that in accordance with Sections 10 and 10A of the Local Government Act, 1993 as amended, Council close the meeting of the Confidential Committee of the Whole to the Press and Public to deal with the following matters on the grounds as detailed below.

**19.5 ASSISTANT GENERAL MANAGER**

**Reason for Confidentiality:** This matter deals with personnel matters concerning particular individuals (other than councillors) as per Section 10A(2)(a) of the Local Government Act. .

(Councillors Reilly and Steel)

**OC-18/277**

**Resolved** that at this time, 7.12pm, Council form itself into a Confidential Committee of the Whole to deal with matters listed in the recommendations as set out below subject to the consideration of any representations relating to such action.

(Councillors Sloan and Way)

**19 CONFIDENTIAL REPORTS**

**19.5 Assistant General Manager**

**OC-18/278**

**Committee recommendation** that Council

1. appoint the Director Environmental Services, Linda Davis, as Assistant General Manager, to fulfil the role of General Manager during periods of leave of the General Manager of greater than 3 consecutive business days.
2. appoint the Director Engineering and Works, Gino Belsito, to act in the role of General Manager during periods of leave of the General Manager and Assistant General Manager of greater than 3 consecutive business days.

(Councillors Brown and Watson)

MINUTES OF THE ORDINARY MEETING

18 SEPTEMBER 2018

Close of Confidential Committee of the Whole:

OC-18/279

Committee recommendation that at this time, 7.24pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Brown and Way)

Adoption of Report

The General Manager formally reported the recommendations of the Confidential Committee of the Whole more particularly set out above.

OC-18/280

Resolved that that the Confidential Committee of the Whole recommendations numbered 18/278 to 18/279 be confirmed and adopted.

(Councillors Way and Reilly)

6 CLOSURE

There being no further business the meeting closed at 7.26pm

These Minutes were confirmed at the Ordinary Meeting of Council held on 16 October 2018

.....  
Mayor

Item 3.1

Attachment 1

**4 BUSINESS ARISING FROM THE MINUTES**

**5 PUBLIC ACCESS SUMMARY**

## 6 MAYORAL MINUTE

### 6.1 Mayor's Giving Tree

#### Attachments

Nil

#### Enclosures

Nil

#### **RECOMMENDED**

That Council endorses the Mayor's Giving Tree appeal.

#### **REPORT**

Each year the Mayor of Kiama has a "Giving Tree" for children at Christmas. Residents and organisations are invited to place gifts for children from 0-14 years under the tree which are distributed to local children for Christmas.

In past years, this expression of support from our Municipality, particularly for those in our community who may not be able to fully celebrate Christmas, has been both strong and enthusiastic.

I would like to express my appreciation for that support and hope that once again, the residents and community groups of the Municipality will support this project which benefits many children in our community.

Gifts may be left under the "Giving Tree" situated in the Kiama Library and the foyer of the Council Administration Building during opening hours from Monday 12 November to Thursday 6 December 2018.

It would be appreciated if the gifts were not wrapped as they need to be sorted into age groups for distribution.

I am sure through the community's generosity many children in the Kiama area will enjoy and share the happiness of Christmas which they might not otherwise do.

## 7 MINUTES OF COMMITTEES

### 7.1 Minutes - Kiama Youth Advisory Committee Meeting - 6 September 2018

Responsible Director: Environmental Services

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#### Attachments

- 1 Minutes - Kiama Youth Advisory Committee Meeting - 6 September [↓](#)

#### Enclosures

Nil

#### **RECOMMENDED**

That the Minutes of the Kiama Youth Advisory Committee Meeting held on 6 September 2018 be received and accepted.

#### **BACKGROUND**

Attached are the minutes of the Kiama Youth Advisory Committee meeting held on 6 September 2018 for information.

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**Minutes of the Kiama Youth Advisory Committee meeting held on Thursday 6 September 2018 at Kiama High School at 10:47am**

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**Present:** Clr Kathy Rice (Kiama Municipal Council, Chair), Clr. Mark Westhoff (Kiama Municipal Council), Andrew Chatfield (Kiama Municipal Council, minutes), Jane Littrich (Kiama High School staff), Amelia Beahan, Benjamin Davis, Vedad Neday Diznab, Sophie Williams, Chloe Storch, Cyrus Piggott, Emilio Gotizolo, Riley O'Byrne, Mackenzie Warfield, Ethan Corkin, Chelsea Branch, Milly Wall, Carlo Cullen.

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**1. Apologies:** Nick Guggisberg (Kiama Municipal Council), Valentine Crome (Kiama Municipal Council Library Services), Bethany Chapman, Simon Case, Jayden Wilshire, Taylor Lee Byrne, Charlotte Beahan, Carlie Abbott.

**2. Minutes of previous meeting:**

Moved by Emilio Goytizolo and seconded by Riley O'Byrne. CARRIED

**3. Business arising from previous meeting (July):**

*3.1 Amendment to the previous minutes – item 5.2 KHS school car parking*

Clr Kathy Rice requested a correction from the July meeting minutes to reflect “Josie Mansell raised the issue of car parking and asked if Council could help to provide more parking options especially at the Shoalhaven St entrance. Clr Rice replied that Council has **levelled and graveled** the car park next to the Pre School and this can be used by students”

*3.2 Amendment to the previous minutes – item 5.3 Mental Health Resources*

Clr Kathy Rice requested a correction from the July meeting minutes to reflect “Clr Rice informed students of a mental health resource she has come across developed in conjunction with **St Vincent's Hospital** called ‘This Way Up’. Topics covered include anxiety and depression, but there is a cost of \$49 per person for 3 months’ access to online courses and information. Jane Littrich reported that Gareth Ward is providing \$8000 to go towards to Mental Health First Aid training for Year 11 and Year 8 students. Jane also encouraged the committee to help promote these resources”

*3.3 CENTRAL Gym at Kiama High*

Senior Youth Worker Andrew Chatfield reported that a Memorandum of Understanding along with Policies and Procedures regarding the use of the proposed gym space is still to be completed and endorsed by Council. Andrew will keep the committee informed on the progress.

**Committee recommendation:** That the information be noted.

**4. Business arising from previous meeting (August, Youth Engagement):**

*4.1 Promotion of services available to young people*

Andrew Chatfield confirmed that promotion of SENTRAL programs along with a variety of youth specific information will continue to be promoted via the TV in the canteen line. Emilio Goytizolo has offered to assist us in working with canteen staff to ensure information is accessible, accurate and delivered in the appropriate format.

**ACTION:** Andrew Chatfield to compile information on a USB stick for Emilio.

*4.2 Kiama Library longer opening hours*

Clr Kathy Rice reported that the NSW Public Libraries Association has announced a 60 million dollar grant for public libraries including Kiama Library. There may be a wait for the funding to be available, though currently there is 'top up' funding available for smaller Councils from the 1 July 2019. Clr Rice encouraged committee members to inform friends and family to access an online petition to keep up the pressure for the release of funding. The petition is available through Kiama Library.

*4.3 Job listing board*

Andrew Chatfield reported that Kiama High School have offered a space within the school for SENTRAL to work from and that there are plans for an information board to be on display at the entrance to the old gym. Andrew will keep the committee updated on the progress of the SENTRAL space.

**Committee recommendation:** That the information be noted

**5. Reports:**

*5.1 SENTRAL programs*

Andrew Chatfield provided an update on current programs and activities at SENTRAL during Term 3 including; Barista training each Thursday from 4 – 6.30pm. Training is free and is perfect for those wanting to learn the basic skills and improve their employability. Fitness programs continue with group training on Wednesdays from 3.30pm and Yoga on Thursdays from 3.30pm.

*5.2 Youth Markets event*

Andrew Chatfield informed the committee of an event organised through SENTRAL's Event Management team called the Kiama Youth Markets which are to be held at SENTRAL on Saturday September 15th from 11am – 3pm. The markets aim to provide young people with an opportunity to hold their own stall, selling unwanted items or arts and crafts. Each stall will cost \$20 to host with all proceeds being donated to Beyond Blue. The event will also feature bands, food and coffee along with raffles and give-a-ways.

*5.3 KHS programs Term 3*

Andrew Chatfield reported that SENTRAL/KHS programs offered during Term 3 include; Event Management, Young Person's Program, Youth Worker @ KHS Mentoring Program, Youth Advisory Committee and KHS Volunteers.

*5.4 KHS Programs*

Andrew Chatfield provided information on current joint programs with Kiama High School students during Term 2 2018 including; Youth Advisory Committee, KHS Volunteers program, Event Management and Youth Worker at KHS mentoring program.

*5.5 Kiama Library*

Valentine Crome provided information on current library events including; a 'HSC Lock in' on Monday 15 October, between 4 - 5.30pm. The library will be open as usual, but from 5.30pm the library becomes a year 12 only space. Students will have the opportunity for an evening of quiet study, with pizza and snacks served to ensure maximum concentration. The evening will run from 4pm till 8pm and is for current Year 12 students only.

Kiama Library is available to help students with their studies for the HSC. From September 24 there will be extra tables in the Youth area for small groups of friends who want to study together. Some study rooms will also be provided for free. Ask at the front desk of the library for more info.

**Committee recommendation:** That the information be noted.

**6. General Business:**

*6.1 Council's Bulky Waste Drop off event*

Clr Kathy Rice informed the committee that Council is holding a 'Bulky Waste Drop off' day at Minnamurra Tip and there is an 'Up for grabs' tent where there are a number of items available for free, including brand new webcams provided to Council as part of the NBN trial.



**6.2** *KHS raising funds for Farmers*

Emilio Goytizolo informed the committee of a 'Mufti Day' event held by Kiama High School, asking students to dress as a Farmer and provide a gold coin donation to raise funds. All money raised will go to Trundle High School, which is located in one of the drought effected areas.

**6.3** *Suicide Prevention Collaborative Celebration event*

Clr Rice informed students of an event being held at Kiama Pavilion on Thursday 13 September to highlight the issue of suicide prevention and for the suicide prevention collaborative to provide an update on the project. Emilio Goytizolo asked if Kiama Rotary are continuing their mental health awareness training, to which Andrew Chatfield will speak with Kiama Rotary and report back.

**ACTION:** Andrew Chatfield to contact Mal Bracken from Kiama Rotary regarding the mental health First Aid training.

**6.4** *Farewell to Clr Rice*

Clr Kathy Rice informed the committee that this will be her last meeting as she is stepping down from her role as Chair with the Youth Advisory Committee. Clr Rice has indicated that Clr Mark Westhoff will perform Chairing duties with another Kiama Councillor expected to join the committee. Andrew Chatfield officially thanked Clr Rice for her support, with the committee also extending their gratitude.

**There being no further business the meeting closed at 11.29am**

**7.2 Minutes - Planning Committee - 6 September 2018**

Responsible Director: Environmental Services

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**Attachments**

1 Minutes - Planning Committee [↓](#)

**Enclosures**

Nil

***RECOMMENDED***

That the Minutes of the Planning Committee Meeting held on 6 September 2018 be received and accepted.

Attached for Councillors' information are the minutes of the Planning Committee meeting held on 6 September 2018.

**Minutes of the Planning Committee meeting held on Thursday 6 September 2018 at Kiama Council, Commencing at 9am**

(18/80509)

**Present:** Mayor, Cllr Mark Honey (Chair), Cllr Kathy Rice, Cllr Andrew Sloan, Cllr Mark Westhoff, Kerry McMurray, Linda Davis, Mark Lyndon, Brendan Leo, Mark Hitchcock, Darryl Smith, Megan Hutchison, Karen Renkema-Lang, Penny Morris, Nick Guggisberg and Rachel Rowley.

**Apologies:** Cllr Mark Way, Kerry McMurray and Megan Hutchison.

**Item 1 - Attending/Apologies**

As above.

**Item 1a - Declaration of Pecuniary Interest – Nil.**

**Item 2 - Minutes of Previous Meeting – 5 July 2018**

There were no matters arising from the minutes. Moved: Cllr Andrew Sloan/Seconded Cllr Mark Westhoff.

**Item 3 – Update on the Kiama Town Centre Study**

Linda advised that 3 expressions of interest had been received. Karen asked how the expressions of interest would be assessed and how the Committee would be involved. The Committee discussed this matter and it was agreed that Mark Hitchcock, Karen, Penny and Cllr Sloan, Linda and Mark Lyndon would form a selection panel and meet to discuss the 3 applications submitted. A meeting date of 18 September 2018, at 10am was agreed upon. Deb to forward details of the meeting to panel members.

**Item 4 – Kiama Local Strategic Planning Statement – Project Overview**

Linda gave an overview of the Kiama Local Planning Statement – Project Overview that was circulated to the Committee. The overview, including the 4 suggested phases for the project, were discussed. Council is required to prepare a Local Strategic Planning Statement (LSPS) that will set out:

- A 20 year vision for landuse in the local area;
- The special characteristics which contribute to local identity;
- Share community values to be maintained and enhanced;
- How growth and change will be managed into the future.

Various comments were made including the following:

- Community engagement will be critical to manage this process;
- The Department of Environment and Planning has released guidelines which address the legislative requirements;
- Once the LSPS is in place, it will shape the comprehensive reviews of Kiama LEP 2011 and Kiama DCP 2012 and other priority projects identified through the process;
- The Department of Environment and Planning has a working group to develop the new DCP template that will not be available for up to two years;

- Traffic management and transport is likely to be raised as a priority issue for the community that will require a response in the LSPS.
- Karen suggested that population and dwelling projections, as published by the Department of Planning and Environment, would be important considerations for development of the Kiama Strategic Planning Statement and thought this should be explicitly referenced in the statement. Linda agreed that population projections would be a consideration in the development of the Statement. Whilst projections will provide some context for the initial vision-setting discussions, it is appropriate for detailed discussion about projections and potential policy responses to be a focus for future consultation phases.
- Kathy Rice raised the matter of whether or not Council records of emails could be used to specifically invite concerned community members to consultation workshops during development of the Kiama Strategic Planning Statement. A discussion followed on the feasibility and merit of doing so given the number of emails received by Council.

The 4 phases of the project would be:

- Phase 1 – Now until March 2019 – workshops and possibly surveys;
- Phase 2 – April 2019 to July 2019 – workshops;
- Phase 3 – Exhibition and finalisation – more statutory and formal;
- Phase 4 – Implementation.

#### **Item 5 – Strategic Traffic Management Plan for the Kiama Town Centre and Gerringong**

The need to undertake a strategic review of traffic, access and parking within Kiama in the future was acknowledged. Linda confirmed that this would require a significant allocation of funding which has not been identified in this year's budget. Linda noted that, should funding be allocated in future years for a Strategic Traffic Management Plan for Kiama, it would be led by Council's Engineering and Works Department by the Manager Design and Development. Mark Honey advised that he would request the Member for Kiama, Gareth Ward, to support any Council application for available grant funding for this purpose.

#### **Item 6 – NSW Government Architect**

Penny asked for a representative from the Government Architect's office to be invited to address the planning committee on the same day the NSW Government's Chief Planner, Gary White, is addressing councillors and senior staff about strategic planning. Linda agreed to extend an invitation. Penny spoke to the 'Better Placed' document of the NSW Government Architect which is an integrated design policy for the built environment of NSW. It aims to assist all those involved in the built environment-state and local government, consultants, developers, community groups etc in respect of trying to achieve better urban outcomes through good design. It sets out seven distinct objectives to define the key considerations in the design of the built environment. The 'Better Fit' (objective 1) addresses local character and place-an increasingly key issue for Kiama Municipality's town and villages. Penny felt the document provided considerable strategic guidance for REP's, LEP's, the KUS, DCP's, and also the development assessment process-particularly in respect of assessing development proposals against local character, sense of place and contextual fit considerations. Penny stressed how important neighbourhood character and urban design excellence is and for council to continue to oppose the new Low Rise Medium Density Housing Code.

**Item 7 – Other Items**

a) Akuna Street Development

Penny asked for an update on the Akuna Street development. Linda advised that despite the applicant no longer having a business interest in the land, the development application remained valid and needs to be determined. Penny advised that she had read in The Bugle that a supermarket was not included in the amended plans. Linda advised that this was incorrect and that the amended plans will retain the proposed supermarket. Once the amended plans are submitted, they will be publically notified.

**Items 8 – Date of Next Meeting**

The next meeting will be held on Friday 16 November 2018, commencing at 9.30am.

**There being no further business  
the meeting closed at 11.30am**

Item 7.2

Attachment 1

**7.3 Minutes: Kiama Local Traffic Committee meeting held on 2 October 2018**

Responsible Director: Engineering and Works

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**Attachments**

1 Minutes of Kiama Local Traffic Committee Meeting - 2 October 2018 [↓](#)

**Enclosures**

Nil

***RECOMMENDED***

That the Minutes of the Kiama Local Traffic Committee Meeting held on 2 October 2018 be received and accepted.

**BACKGROUND**

The minutes of the Kiama Local Traffic Committee meeting held on 2 October 2018 are attached for information.



**MINUTES OF THE  
KIAMA LOCAL TRAFFIC COMMITTEE  
MEETING**

held electronically

**TUESDAY 2 OCTOBER 2018**

Council Chambers  
11 Manning Street, KIAMA NSW 2533

Item 7.3

Attachment 1

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**MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE 2 OCTOBER 2018**

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**MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE OF THE MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS, KIAMA, ON TUESDAY 2 OCTOBER 2018 AT 9AM**

**PRESENT:** Councillor M Honey (Mayor) (Chairman), Amy Thomson (RMS Representative), Craig Gray (NSW Police Representative), Darrell Clingan (Local Member's Representative), Gino Belsito (Director Engineering and Works), Darren Brady (Manager Design and Development), Janelle Burns (Kiama Council Road Safety Officer), Chris Balzarano (Council Ranger) and Mallory McLennan (Minutes)

1 Apologies

Nil

**2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

The Mayor declared the meeting open and acknowledged the traditional owners:

*"On behalf of those present, I would like to show my respect and acknowledge the traditional owners of the Land, of Elders past and present, on which this meeting takes place, and extend that respect to other Aboriginal and Torres Strait Islander people present."*

**3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**3.1 Kiama Local Traffic Committee meeting on 4 September 2018**

**Resolved** that the Minutes of the Kiama Local Traffic Committee Meeting held on 4 September 2018 be received and accepted.

(Councillor Honey and Amy Thompson)

**4 BUSINESS ARISING FROM THE MINUTES**

Nil

**5 REPORT OF RMS DELEGATED FORMAL ITEMS**

**5.1 Timed Parking - 160 Manning Street, Kiama**

**Resolved** that the existing 30 minute timed limited parking be maintained, in the parking zone fronting the convenience shops at 160 Manning Street, Kiama, but with the restricted parking hours extended from 7.30am to 6pm.



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**MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE      2 OCTOBER 2018**

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(Councillor Honey and Amy Thompson)

**6      CONFIDENTIAL REPORTS**

**7      CLOSURE**

There being no further business the meeting closed at 7 October 2018.

These Minutes were confirmed at the Ordinary Meeting of Council held on 6 November 2018

.....  
.....  
Mayor

Director Engineering & Works

**Item 7.3**

**Attachment 1**

## 8 PUBLIC ACCESS REPORTS

### Committee Of The Whole

#### *RECOMMENDATION*

That Council form itself into a Committee of the Whole to deal with matters listed in the reports as set out below:

- Report of the General Manager
- Report of the Director Environmental Services
- Report of the Director Corporate & Commercial Services
- Report of the Director Engineering and Works
- Report of the Director Blue Haven
- Reports for Information
- Addendum to Reports

## 9 REPORT OF THE GENERAL MANAGER

### 9.1 Sponsorship: Kiama Garden Club request - 2018 annual garden competition

CSP Objective: 1.0 A healthy, safe and inclusive community

CSP Strategy: 1.1 Developing and implementing services and programs that promote social cohesion, healthy and active lifestyles for residents of all ages, abilities and interests

Delivery Program: 1.1.3 Provide and promote cultural and artistic activities and programs

#### Summary

The Kiama Garden Club Inc. has requested prize sponsorship for the 2018 annual garden competition to be held in November.

#### Finance

\$250 to be funded from the Donations budget.

#### Policy

This request does not covered by Council's Donations Policy as the request is to sponsor prizes in the competition.

#### Communication/Community Engagement

Not applicable.

#### Attachments

1 Request for sponsorship [↓](#)

#### Enclosures

Nil

### **RECOMMENDATION**

That Council approve sponsorship of \$250 towards the prizes for the annual garden competition.

### **BACKGROUND**

The Kiama Garden Club hold the annual Kiama Municipality Garden Competition which includes a category for the local primary schools. The competition is only open to residents of the Municipality and local schools. This year judging will be held in the second week of November.

Council has received a request for sponsorship towards prizes for the annual competition.

The categories are:

Best garden over ½ acre

Report of the General Manager

9.1 Sponsorship: Kiama Garden Club request - 2018 annual garden competition (cont)

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- Best front garden (incorporating a rose garden)
- Best backyard garden (incorporating a vegetable garden)
- Best water wise garden
- Best balcony/unit garden
- Best Primary School vegetable garden

Council has been a regular sponsor of the competition for many years and in 2017 provided \$250 sponsorship.

It is recommended that Council again provide \$250 sponsorship to the Kiama Garden Club Inc to be put towards prizes for the Annual Garden Competition.



P.O. Box 174,  
JAMBEROO 2533. NSW.

The Manager,  
Kiama Municipal Council  
P.O. Box 75 , Kiama 2533.

Dear Sir,

On behalf of Kiama Garden Club I wish to inform you that once again we are holding  
the annual Kiama Municipal Garden Competition in November, 2018.

We were wondering if as you have done in the past if Council would like to  
provide us with a sponsorship.

I have attached competition entry form to show what the categories are.

N.B. this competition is only open to Kiama Municipality residences and schools

Yours in Gardening,

Robert A. Curll (Organiser).

05/09/2018

**9.2 Request to waive hall hire fees: Jamberoo Country Women's Association**

CSP Objective: 1.0 A healthy, safe and inclusive community

CSP Strategy: 1.1 Developing and implementing services and programs that promote social cohesion, healthy and active lifestyles for residents of all ages, abilities and interests

Delivery Program: 1.1.3 Provide and promote cultural and artistic activities and programs

Item 9.2

**Summary**

This report seeks to endorse the donation of Jamberoo School of Arts hall hire fees for the Jamberoo Country Women's Association (CWA) drought relief fundraising event.

**Finance**

The cost of the hire and waste charges for the event are \$248 which can be funded from Council's Donations Budget.

**Policy**

This event does comply with Council's Donations Policy.

**Communication/Community Engagement**

Not applicable.

**Attachments**

Nil

**Enclosures**

Nil

**RECOMMENDATION**

That Council endorse the donation of fees for the hire of the Jamberoo School of Arts hall for the drought relief fundraising event held by the Jamberoo Country Women's Association on 8 September 2018.

**BACKGROUND**

The Jamberoo Country Women's Association have contacted Council with a request to waive all hall hire fees for the Jamberoo School of Arts for a fundraising event they were holding to support the local farmers. The event took place on 8 September and was a very successful trivia night and auction. All funds raised are to be donated to local farmers.

Council has taken an active stance in supporting local farmers during this tough period with various forms of drought relief – Fiver for a Farmer; temporary hardship relief for rates and charges; sponsorship of the Women in Dairy conference dinner to allow local farming women to attend who may not have the available funds to do so.

Report of the General Manager

9.2 Request to waive hall hire fees: Jamberoo Country Women's Association  
(cont)

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The cost of the hall hire was \$200 and waste charges \$48. Council has sufficient funds in the Donations budget to cover this cost and as the request does comply with “direct benefit to the local community requirement” of Council’s Donations Policy, it is recommended that Council endorse the donation of the hall hire fees to the Jamberoo Country Women’s Association.

**Item 9.2**

**9.3 Request to waive hall hire fees: Jamberoo Community Preschool - end of year presentation - Jamberoo School of Arts**

CSP Objective: 1.0 A healthy, safe and inclusive community

CSP Strategy: 1.1 Developing and implementing services and programs that promote social cohesion, healthy and active lifestyles for residents of all ages, abilities and interests

Delivery Program: 1.1.3 Provide and promote cultural and artistic activities and programs

Item 9.3

**Summary**

Council has received a request from Jamberoo Community Preschool for free hall hire for the end of year presentation on Thursday 6 December 2018.

**Finance**

To be funded from Council's Donations Fund. Hall hire would amount to \$170.00

**Policy**

Not applicable

**Communication/Community Engagement**

Not applicable

**Attachments**

Nil

**Enclosures**

Nil

**RECOMMENDATION**

That Council provide free hire of the Jamberoo School of Arts hall for the Jamberoo Community Preschool end of year presentation.

**BACKGROUND**

Council has received a request from the Jamberoo Community Preschool Director requesting that the hire fee for the Jamberoo School of Arts hall be waived for the Preschool's end of year presentation being held on Thursday 6 December 2018.

The Preschool is a community based school (not-for-profit) and celebrates the children's successes and achievements throughout the year at this "graduation" ceremony.

The Preschool intends to hold the presentation from 5pm to 7pm excluding set up and pack down. The cost of hall hire for a casual hirer is \$85 per hour.

It is expected that the Preschool would use their own waste bins and that the bond for casual and regular hiring (\$400) would be required to be paid.

This is the first time that the Preschool has requested to use the hall.



## Report of the General Manager

## 9.3 Request to waive hall hire fees: Jamberoo Community Preschool - end of year presentation - Jamberoo School of Arts (cont)

## Request from Jamberoo Community Preschool:

**From:** Jamberoo Pre School  
**Sent:** Friday, 21 September 2018 10:22 AM  
**To:** Council  
**Subject:** Jamberoo School of Arts Hall

At preschool, we are busy planning for our end of year events, as I'm sure you are busy too, getting ready for all of your upcoming events. Last night as a staff team we had a staff meeting and worked on finalising our events for next term.

We were wondering if there is any possibility of having the use of the hall, free of charge, on the afternoon/ evening of Thursday 6th December...? Each year, we celebrate children's successes and achievements throughout the year, with this culminating in an End of Year Celebration; and Graduation for children heading off to school.

We were hoping that we may be able to use the hall and the chairs between 4pm (just staff, setting up between 4pm-5pm) and 7pm. Families would arrive at 5pm and leave by 6:30pm, with our staff then packing up and cleaning up afterward. As our preschool is community-based (i.e., not for profit) our budget is limited, with community support and involvement greatly appreciated.

Please let me know if this is a possibility.

Kind Regards,

Jenny Grogan

Director

Jamberoo Community Preschool

## 10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

### 10.1 Kiama Health Plan 2018-2021

CSP Objective: 1.0 A healthy, safe and inclusive community

CSP Strategy: 1.1 Developing and implementing services and programs that promote social cohesion, healthy and active lifestyles for residents of all ages, abilities and interests

Delivery Program: 1.1.5 Facilitate sport and health related facilities and programs

#### Summary

This report provides information relating to the recent review of the Kiama Health Plan and attached to this report is a new draft Kiama Health Plan for the period of 2018-2021.

#### Finance

N/A

#### Policy

Kiama Health Plan

#### Communication/Community Engagement

The new draft Kiama Health Plan 2018-2021 if supported and endorsed by Council, will be placed on public exhibition for comment. Following this, appropriate changes may be made with the final plan to be reported to and endorsed by Council; which will subsequently be communicated to the public through a media release, social media and on Council's website.

#### Attachments

- 1 Kiama Health Plan - final [↓](#)

#### Enclosures

Nil

### **RECOMMENDATION**

That Council:

1. Endorse the draft Kiama Health Plan 2018-2021.
2. Place the draft Kiama Health Plan 2018-2021 on public exhibition.

### **BACKGROUND**

The Kiama Health Plan is has undergone a comprehensive review with the aim of updating the plan's strategies, and incorporating them into Council's Integrated Planning and Reporting Framework.

## Report of the Director Environmental Services

## 10.1 Kiama Health Plan 2018-2021 (cont)

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In reviewing the current plan, National, State, Regional and local strategic priorities along with relevant data for Kiama were considered, with the review process overseen by a sub-committee of the Health & Sustainability Committee.

The community consultation to inform the review included both surveys (online/hard copy) as well as group consultation meetings, which were held between 22 September and 29 October 2017. Just over 400 surveys were completed.

A report containing the outcomes of the consultations was shared with the Health & Sustainability Committee in December 2017. The report from the review, which includes the results and subsequent recommendations for inclusion in the revised Kiama Health Plan, was endorsed by Council in June 2018.

The new revised draft Kiama Health Plan 2018-2021 is attached recommending that Council endorse the plan for public exhibition for comment. Following this, appropriate changes may be made with the final plan to be reported to and endorsed by Council, with the plan to be implemented over the next 3 years.

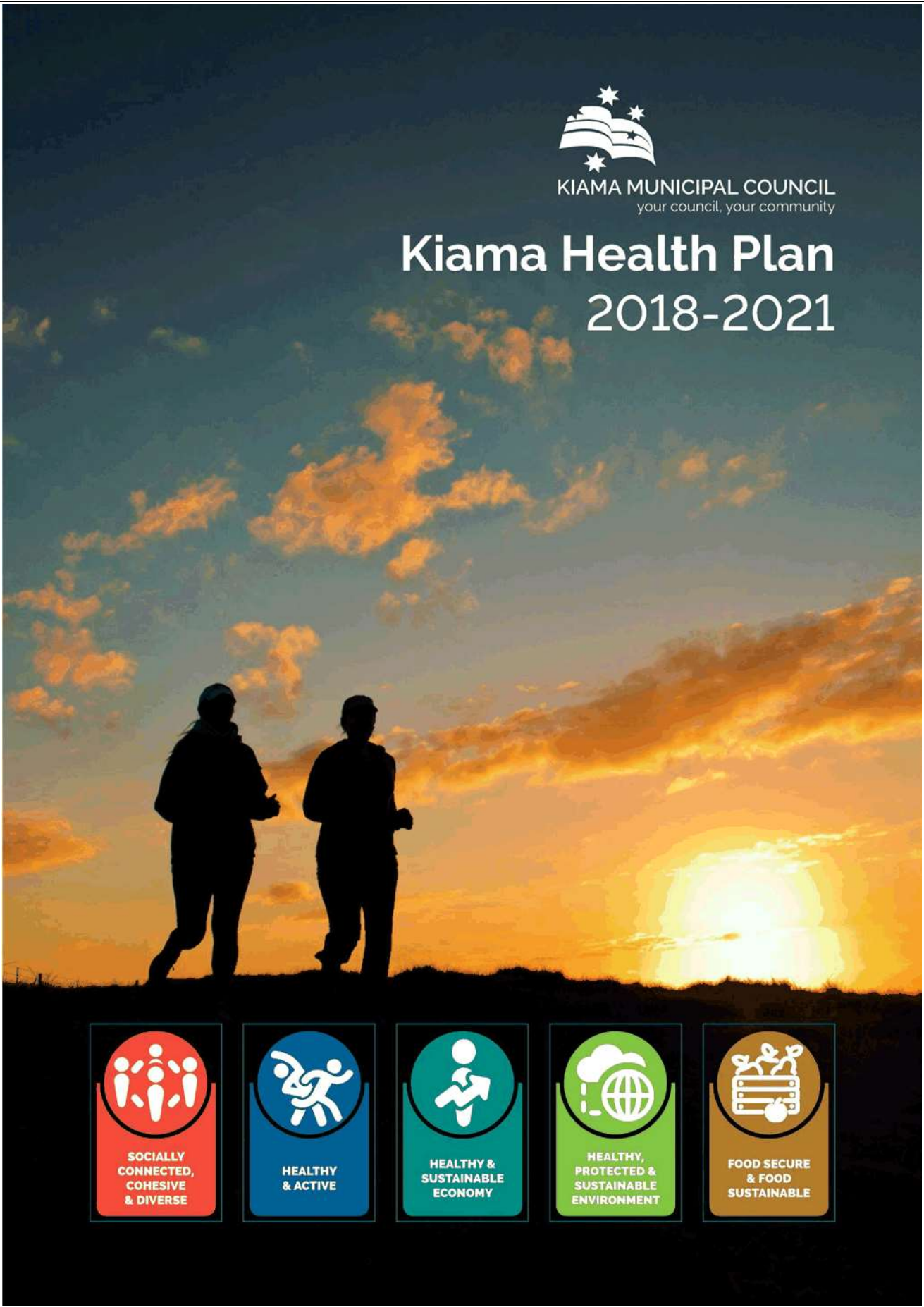


KIAMA MUNICIPAL COUNCIL  
your council, your community

# Kiama Health Plan 2018-2021

Item 10.1

Attachment 1



**SOCIALLY  
CONNECTED,  
COHESIVE  
& DIVERSE**

**HEALTHY  
& ACTIVE**

**HEALTHY &  
SUSTAINABLE  
ECONOMY**

**HEALTHY,  
PROTECTED &  
SUSTAINABLE  
ENVIRONMENT**

**FOOD SECURE  
& FOOD  
SUSTAINABLE**

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## Our vision

### Community vision

Working together for a healthy, sustainable and caring community.

### Council mission

Kiama Council will work to create a Municipality that has a healthy, vibrant lifestyle, beautiful environment and harmonious, connected and resilient community.

### Council values and principles

				
<b>RESPECT</b> We treat others as we expect to be treated - in a fair and professional manner.	<b>INNOVATION</b> We champion change in order to provide superior services to our community.	<b>INTEGRITY</b> We are open, honest and ethical in our behaviours - at all times.	<b>TEAMWORK</b> We are one team - working together with trust and commitment to achieve shared goals.	<b>EXCELLENCE</b> We aspire to be the best - in everything we do.

Council's principles and values as established in the Strategic Plan are based on the social justice principles of:

**Equity:** There should be fairness in decision making, prioritising and allocation of resources, particularly for those in need. Everyone should have a fair opportunity to participate in the future of the community. The planning process should take particular care to involve and protect the interest of people in vulnerable circumstances.

**Access:** All people should have fair access to services, resources and opportunities to improve their quality of life.

**Participation:** Everyone should have the maximum opportunity to genuinely participate in decisions which affect their lives.

**Rights:** Equal rights should be established and promoted, with opportunities provided for people

**Item 10.1**

**Attachment 1**



## Introduction

Local Government has always been considered the level of government closest to the people and it has a lead role in community building. Local Government is now more than just about providing basic services (roads, rates and rubbish) - it is about creating vibrant, liveable and resilient communities. Kiama Council acknowledges this in developing the Community Strategic Plan (CSP) 2011-2021.

The CSP, a state government requirement for all Councils in NSW, provides the framework for developing a sustainable and vibrant community that Kiama residents and Council is seeking.

A healthy community is one that is continually creating and improving physical, social and economic environments, thereby expanding community resources.

"Health is created where people live, love, work and play. It is created by human beings in their interactions with each other and with their physical environments" (Ilona Kickbusch, WHO).

Kiama Council was one of the first Councils in NSW to develop a Health Plan and Council remains an innovative leader in this policy area. Kiama Council recognises that the health of the community (both human health and environmental health) is a shared responsibility.

This Plan builds on the work and success of previous Health Plans, where all sections of Council work together to develop a healthier community. It involves a "health in all policies" approach.

Healthy urban environments are strengthened through partnerships. Council recognises, values and welcomes the opportunities for co-operative work with agencies and the community.

The strategies outlined in this plan are based on a set of values:

- The promotion of a sense of belonging and connectedness
- The promotion and active support of healthy lifestyles
- Working in partnership and promoting participation
- Collaboration and consultation with our community
- Responsiveness to social, cultural and individual diversity
- Equitable access to services and resources

This plan covers a broad range of issues, which Kiama Municipal Council believes interact to have positive benefits for the health of residents, visitors, and the environment. It offers a balance between the practical and theoretical, with links that draw on international, national, state and regional research, policies and best practice.



The Kiama Health Plan is primarily focused on strategies to promote health and well-being and disease prevention. In developing this Health Plan 2018-2021, Council wants to build on the successes and achievements of previous Plans, which include:

- The First Health Plan development in 1998/1999, followed by subsequent plans in 2005-2008 and 2011-2017.
- Heart Foundation Local Government Award 1998 for Outstanding Policy for Structural Change. This was awarded for the first Health Plan development.
- Gold medal winner of the 2004 NSW Sports Safety Awards – Outstanding Education and Promotion Project or Program In The Field Of Sports Injury And Prevention Reduction.
- Plan was presented at the 2005 Mayor’s Roundtable Conference Taiwan.
- The second Health Plan was awarded the National Winner of the Heart Foundation 2005 Local Government Awards – National Policy of Healthy Communities.
- Kiama hosted the inaugural Healthy Cities Alliance Australian Chapter National Forum and Meeting, May 2008.
- In June 2008, Mayor Councillor Sandra McCarthy represented the Australian Healthy Cities Alliance in Singapore at the World Cities Summit.
- Kiama Council was recognised as a World Health Organisation (WHO) Healthy City in August 2008.
- In November 2008, Kiama Council was invited to the International Mayors Forum in Hangzhou China to give a presentation on Kiama’s Healthy Cities Program/Health Plan.
- Opening of the Coastal Walking Track from Warri Beach to Kiama Heights in 2009.
- In 2009 and 2010, Kiama Council hosted delegates from Hangzhou City, China to showcase local Healthy Cities initiatives.
- In 2010 and 2011 Kiama Council hosted delegates from Muju County South Korea to showcase local Kiama Healthy Cities Program/Health Plan Initiatives.
- In December 2012, Kiama Council was awarded a grant from the Department of Families and Community Services to implement the Kiama Age Friendly Project including trialling the use of the WHO Age Friendly Checklist.
- In August 2013, Kiama Council was awarded the Local Government Partnership Alive and Well Award for “Pioneering Spirit and Early Adopters of Smoke-free Policy”.
- In 2016 the Dementia Friendly Kiama Project received a series of awards including: the National Local Government Award for Innovation – category winner, WHO Best practice in Health Promotion award, and the National Disability Award – Disability Access & Inclusion.
- 2016 & 2018 – NSW Local Government Heart Foundation Award for health projects – 2016 for the Garden to table project (food sustainability), 2018 for the Intergen Munch Out program.

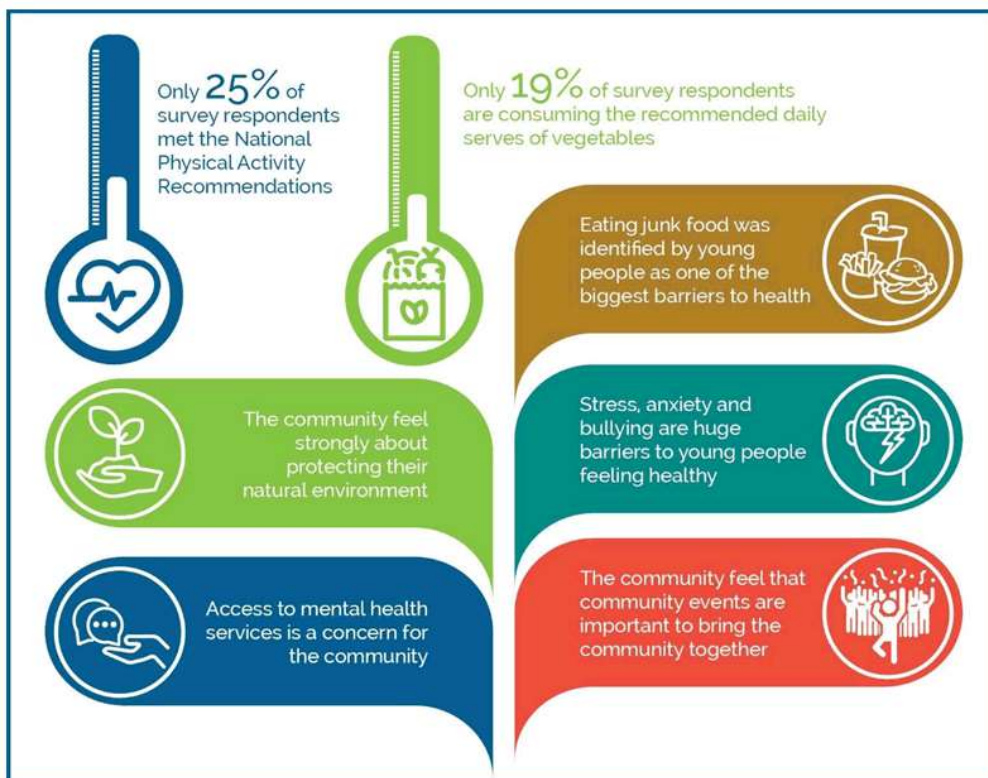
The Health Plan will be reviewed annually in line with Council’s Operational Plan facilitating new strategies to be incorporated into the plan as needed.

## Kiama’s health at a glance

Our community is ageing; we have a high rate of cardiovascular disease, incidences of falls and people who are overweight. Social isolation is a major health issue for our older population with approximately 56% of the population who are aged 65 years and older living alone<sup>1</sup>. The risk of hospitalisation due to alcohol attributable conditions is higher in Kiama compared to the rest of NSW. Mental health is a concern for our population with 16 deaths from suicide recorded from 2010-2014. Over 40% of the population residing in our local health district had insufficient physical activity levels in 2017<sup>2</sup> and only 8.1% of the population residing in our local health district were consuming the recommended daily serves of vegetables in 2017<sup>3</sup>.

Kiama Council recently undertook a comprehensive review of the current health plan; some key results can be found below. A full report can be accessed on Council’s website [www.kiama.nsw.gov.au](http://www.kiama.nsw.gov.au).

### Key community survey and consultation results



<sup>1</sup> Australian Bureau of Statistics 2011, Census Data.

<sup>2</sup> NSW Government 2017, Physical activity in adults, *HealthStats NSW*, accessed at [http://www.healthstats.nsw.gov.au/Indicator/beh\\_phys\\_age/beh\\_phys\\_lhn\\_snap](http://www.healthstats.nsw.gov.au/Indicator/beh_phys_age/beh_phys_lhn_snap)

<sup>3</sup> NSW Government 2017, Fruit and vegetables: recommended daily consumption by adults, *HealthStats NSW*, accessed at [http://www.healthstats.nsw.gov.au/Indicator/beh\\_veg\\_statage/beh\\_veg\\_lhn\\_snap](http://www.healthstats.nsw.gov.au/Indicator/beh_veg_statage/beh_veg_lhn_snap)

## Integrated planning and reporting framework

The Community Strategic Plan (CSP) forms the first layer of the Integrated Planning and Reporting (IP & R) framework. It identifies the Community's vision and objectives for a minimum ten-year period and identifies strategies to work towards achieving these long-term objectives. It addresses social, environmental, economic and civic leadership issues in an integrated manner

Our Delivery Program for 2017 – 2021 (reviewed at the beginning of each Council term) focuses on the specific actions we will undertake to achieve the objectives of the CSP. Supporting the Delivery Program is the one-year Operational Plan (reviewed annually), which details the activities and services that will be carried out during the year.

The 2018-2021 Kiama Health Plan will now be incorporated into Council's IP & R framework enabling a more formal and accountable process for measuring and reporting on the strategies and actions within the plan.



## The context for health planning

The Health Plan adopts internationally recognised principles, which have proven to be successful in producing better health and environmental outcomes within a community. Nationally, environment and health policy development is influenced by the Federal Government being a signatory to international programs and treaties, such as the World Health Organisations (WHO) Ottawa and Bangkok Charters for Health Promotion, Rio Agenda 21 and Convention Framework on Climatic Change and Biological diversity, the United Nations Sustainable Development Goals, the Shanghai Declaration 2016 and The New Urban Agenda.

In the development of the Kiama Health Plan, a number of international environmental health and human health policies, in particular, the World Health Organisations (WHO) Ottawa Charter, the WHO Healthy Cities approach, the United National Sustainable Development Goals, Shanghai Declaration 2016 and the New Urban Agenda have been taken into consideration. These frameworks are recognised as excellent models that can provide an integrated planning approach for the management of health and environmental health issues.

Kiama Municipal Council adopts the World Health Organisation's (WHO) definition of health as:

*"a state of complete physical, social and mental well-being, and not merely the absence of disease or infirmity."*

The WHO states that the basic requirements for health are peace, shelter, education, food, a stable ecosystem, sustainable resources, social justice and equity.

### Social determinants of health

In formulating this health plan, Council has also considered the role that social determinants play in our communities' health.

The social determinants of health are the social, economic and environmental contexts in which people are born, grow, live, work and age. They are closely tied to the distribution of money, power and resources. Thus, health must address issues such as food security, employment, pollution, urbanisation, natural resources depletion, social isolation and poor working conditions.

It is acknowledged that the social determinants do not operate separately or independently of each other. Rather, they are interacting and interdependent, and it is the complex interrelationships between them, which determine the conditions that promote and support health.

## International principals

Several international principals have informed the design of this plan.

### **The WHO Ottawa Charter for Health Promotion, 1986**

The Ottawa Charter (WHO, 1986) promotes a community development approach to enhancing health status through 5 action areas, including:

1. Building healthy public policy
2. Creating supportive environments
3. Strengthening community action
4. Developing personal skills
5. Re-orienting health care services toward prevention of illness and promotion of health

### **WHO Healthy Cities Movement, 2003**

The WHO, Healthy Cities Principles are critical to placing health on the political and social agenda. The WHO have resourced and supported the Global Healthy Cities Movement to improve the public health of citizens at a local level. In 2016 the WHO identified Healthy Cities as the means or a way forward to achieving the United Nations Sustainable Development Goals.

The 11 characteristics of a “Healthy City” are:

1. A clean, safe physical environment of high quality (including housing quality).
2. An ecosystem that is stable now and sustainable in the long term.
3. A strong, mutually supportive and non-exploitative community.
4. A high degree of participation and control by the public over the decisions affecting their lives, health and well-being.
5. The meeting of basic needs (for food, water, shelter, income, safety and work) for all the city’s people.
6. Access to a wide variety of experiences and resources, with the chance for a wide variety of contact, interaction, and communication.
7. A diverse, vital and innovative city economy.
8. The encouragement of connectedness with the past, and the cultural and biological heritage of city dwellers and with other groups and individuals.
9. A forum that is compatible with and enhances the preceding characteristics.
10. An optimal level of appropriate public health and sick care services accessible to all.
11. High health status (high levels of positive health and low levels of disease).



Being a Healthy City depends not on current health infrastructure, rather upon, a commitment to improve a city's environs and a willingness to forge the necessary connections in political, economic, and social arenas. Kiama Council was endorsed as a Healthy City by the WHO in 2008, becoming a member of the International Alliance of Healthy Cities. In recognition of the Healthy Cities approach outlined by the WHO, Kiama seeks to place health high on the political and social agenda and to empower residents to take responsibility for their health and to encourage them to live healthy lives.

**The United Nations Sustainable Development Goals, 2015 - 2030**

The United Nations' Sustainable Development Goals and their targets were unanimously endorsed in September 2015 by 193 countries, including Australia. Also known as the Global Goals, they are a universal call to action, to end poverty, protect the planet and allow all people the opportunity for better health, education and a peaceful society.

Whilst national strategies and overseas aid are key levers for implementation, much of the action will occur at the subnational and local government levels and involve the private sector and civil society. Australian reference to the goals (<http://dfat.gov.au/aid/topics/development-issues/2030-agenda/Pages/default.aspx>)

Sustainable Development Goals

- |  |  |
|--|--|
| 1. No poverty                              | 10. Reduced inequalities                   |
| 2. Zero hunger                             | 11. Sustainable cities and communities     |
| 3. Good health & wellbeing                 | 12. Responsible consumption and production |
| 4. Quality education                       | 13. Climate action                         |
| 5. Gender equality                         | 14. Life below water                       |
| 6. Clean water and sanitation              | 15. Life on land                           |
| 7. Affordable and clean energy             | 16. Peace, justice and strong institutions |
| 8. Decent work and economic growth         | 17. Partnerships for the goals             |
| 9. Industry, innovation and infrastructure |  |

**United Nations 2016 – The New Urban Agenda**

The New Urban Agenda proposes a comprehensive strategy for sustainable urban development that reflects the deepening understanding of urban systems. The WHO emphasises that a health focus will ensure the New Urban Agenda's success in helping cities to achieve their environmental, social equity and economic goals to support the health and wellbeing of their citizens.

## National and state priorities

In formulating this plan, Council has also considered national and state priorities.

**National Health Priorities<sup>4</sup>** (as at September 2017) areas are currently:

- Cancer control
- Cardiovascular health
- Injury prevention and control
- Mental health
- Diabetes mellitus
- Asthma
- Arthritis and musculoskeletal conditions
- Obesity
- Dementia

**The NSW State Plan 2011- 2021<sup>5</sup>** identifies the following goals in addressing health, environment & community issues:

Return quality services (provide the best transport, health, education, policing, justice and family services, with a focus on the customer)

- Keep people healthy and out of hospital
- Provide world class clinical services with timely access and effective infrastructure
- Better protect the most vulnerable members of our community and break the cycle of disadvantage
- Increase opportunities for people with a disability by providing supports that meet their individual needs and realise their potential

Strengthen our local environment and communities (improve people's lives by protecting natural environments and building a strong sense of community)

- Protect our natural environment
- Increase opportunities for people to look after their own neighbourhoods and environments
- Make it easier for people to be involved in their communities
- Increase opportunities for seniors in NSW to fully participate in community life
- Fostering opportunity and partnership with Aboriginal people
- Enhance cultural, creative, sporting and recreation opportunities

<sup>4</sup> Australian Institute of Health & Welfare (2017), Educational resource: National Health Priorities, available at <https://www.aihw.gov.au/reports/health-care-quality-performance/national-health-priority-areas-first-report/related-material>

<sup>5</sup> NSW Government Department of Premier and Cabinet (2011), 'NSW 2021: A plan to make NSW number one, available at [http://www.ipc.nsw.gov.au/sites/default/files/file\\_manager/NSW2021\\_WEBVERSION.pdf](http://www.ipc.nsw.gov.au/sites/default/files/file_manager/NSW2021_WEBVERSION.pdf)

## The planning process

The process used for updating the Health Plan is detailed below.

### Stage 1: Collection and analysis of data and literature

This stage involved the following:

- Review of national, state, regional and local priorities.
- Collection and review of data relevant to the Health Plan including statistics and reports.

Before strategies could be developed it was important to have a thorough understanding of the changes in demographic, health and environmental indicators that have occurred over the last 5 years.

- Evaluation of previous Health Plans process and impact outcomes (including what worked, what didn't, what's been achieved etc.).
- Review of literature on best practice and emerging issues.

This data compilation provided some baseline information and evidence about potential priorities. From 2006-2016 there has been an increase of 13% to the Kiama LGA population. The health status of the Illawarra Shoalhaven region identifies that our key health issues are:

- overweight & obesity
- psychological distress
- risky alcohol consumption, and
- higher than NSW average hospitalisations due to; alcohol attributable injury, fall related injury, smoking attributable disease, coronary heart disease, chronic obstructive pulmonary disease and diabetes<sup>6</sup>.

The data informed our survey and consultation questions and formed the basis of our review.

### Stage 2: Community consultation

Consultation was multi-faceted with the aim of collecting as wide a variety of opinion as possible within a specific timeframe. Two primary forms of consultation were employed, face to face consultations and a community survey. During the face-to-face consultations, the community and stakeholders were asked three simple questions "What helps you support your health on a daily basis? What stops you from being healthy on a daily basis? and What ideas do you have to help Council improve your health?". The community survey consisted of several questions covering a range of health and environmental issues and was distributed using a range of online channels including; social media, Council website and e-newsletters as well as a hard copy mail out.

<sup>6</sup> Illawarra Shoalhaven Local Health District (2012), Our Health Care Services Plan 2012-2022.



The following channels were used to attract interest and involvement from groups and residents:

- Mail-out to organisations/groups
- Survey of residents
- Kiosks at Community events
- Media campaign
- Community consultations

Overall approximately 75 people were consulted through the face-to-face consultations, and 413 of surveys were completed and returned.

### Stage 3: Data analysis and development of a review report

Data was analysed and results collated into a report outlining the results of the review process, with the report being submitted to Council in June 2018 for endorsement.

### Stage 4: Identification and prioritisation of issues

The consultation stage identified a long list of issues. Each of the issues were assessed against three prioritisation criteria:

1. Opportunity (is there is an opportunity for Council to address the issue or should it primarily be addressed by another agency; and are there resources to address the issue?)
2. Impact (i.e. the issue is critical to the Kiama Municipality)
3. Enthusiasm (i.e. from Council, Community, Stakeholders/Other agencies).

### Stage 5: Strategy development

A four-hour strategy development workshop was held with Council's Health & Sustainability Advisory Committee. Participants were given pre-reading (review report, strategy ideas) prior to participating in the workshop facilitated by Council's Health Promotion Officer. Participants either confirmed current strategies or developed additional draft strategies to address identified gaps arising out of the consultations for the new health plan. Where a new strategy is proposed, this strategy has been highlighted in red text in the below tables containing the various strategies.

## Stage 6: Preparation of plan for endorsement

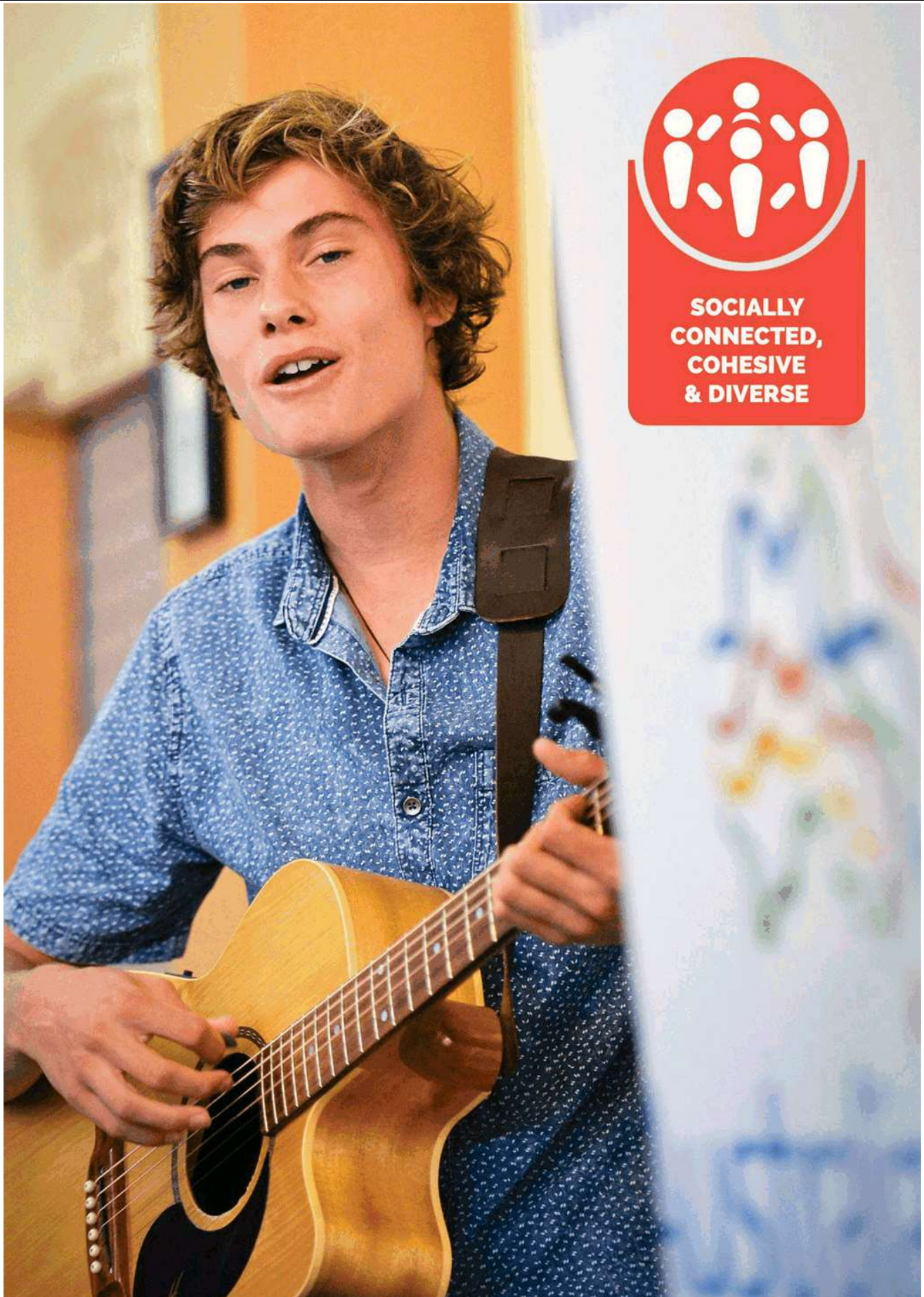
The draft strategies were incorporated into a new draft Health Plan, which was presented to the Kiama Health and Sustainability Advisory Committee for their consideration. Comments were evaluated and minor changes were made to finalise the plan, which was then presented to Council in October 2018 for endorsement to go on exhibition before final adoption.

## Governance

The Kiama Health and Sustainability Advisory Committee (H&SC) oversee the implementation of the Kiama Health Plan. The Committee consists of Council staff, Councillors, external organisational representatives and community representatives to ensure a coordinated, community based participatory approach to the development, implementation and evaluation of initiatives, with meetings held bi-monthly. The Committee was formed in 2008 (then called the Sustainable Kiama Communities Project) to provide a mechanism for community participation in council planning, project delivery and decision-making via a consultative process around health and sustainability issues in the Kiama LGA.

Council recognises that partnerships are vitally important in implementing this Plan and have developed strong and valuable partnerships in the past. We hope to strengthen these partnerships and form new partnerships to achieve our common goals. We will endeavour to initiate and support partnerships at both a local and regional level to advance Council's strategic objectives.

Additionally, in order to have greater reach from the strategies and actions in the Health Plan, Council provides funding to deliver two Community Health Grant Programs. The funding gives the community the opportunity to develop and implement programs in Community Gardening and Health & Sustainability, which supports community innovation, partnerships & local ownership of initiatives to support and grow community health.



Item 10.1

Attachment 1



1.0 Socially connected, cohesive and diverse

- Community connections
- Community events & gatherings
- Information provision
- Culture and arts

Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.1.5.7</b> Maintain up-to-date New Residents Kit</p>	Ensure New Residents Kit is reviewed and updated as required and available for distribution to local residents	Health Promotion Officer
<p><b>OP 1.1.5.5</b> Engage with members of the community to promote Council and community health and sustainability events, information and activities</p>	Implement activities to promote Council and community health and sustainability events, information and activities	Health Promotion Officer
<p><b>OP 4.3.1.4</b> Distribute information of Council activities and policies on a regular basis through a range of media channels</p>	Community newsletter distributed to residents and ratepayers electronically each week (50 weeks pa) Community newsletter distributed to residents and ratepayers electronically each week (50 weeks pa)	Communications Officer
<p><b>OP 1.1.1.2</b> Encourage, develop and acknowledge volunteers</p>	Timebanking program set up and promoted	Cultural and Community Development Officer

Item 10.1

Attachment 1

Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.2.1.6</b> Create a positive volunteer culture within BHC</p>	<p>Targeted volunteer recruitment strategy developed and implemented Volunteer satisfaction levels</p>	<p>Director of Nursing/Facility Manager</p>
<p><b>OP 1.1.3.2</b> Undertake activities that support the 'Build' strategy identified in Council's BISI cultural planning document</p>	<p>Plans are developed and progressed to be DA ready</p>	<p>Cultural and Community Development Officer</p>
<p><b>OP 1.1.3.5</b> Undertake activities that support the 'Invest' strategy identified in Council's BISI cultural planning document</p>	<p>'Weave' directory updated and promoted as required Kiama Cultural Grants rounds are held and projects funded. Opportunities for increasing public art installations within the Kiama LGA are investigated</p>	<p>Cultural and Community Development Officer</p>
<p><b>OP 1.1.3.1</b> Undertake activities that promote cultural diversity</p>	<p>Number of cultural diversity events held pa</p>	<p>Cultural and Community Development Officer</p>
<p><b>OP 1.2.3.1</b> Develop and implement a program of events for young people</p>	<p>Percentage of program participants report in their evaluations that they feel more confident about themselves having participated in the program.</p>	<p>Senior Youth Worker</p>
<p><b>OP 4.3.1.10</b> Promote availability of accessible Council information and events</p>	<p>Accessible Council information and events are promoted.</p>	<p>Communications Officer</p>

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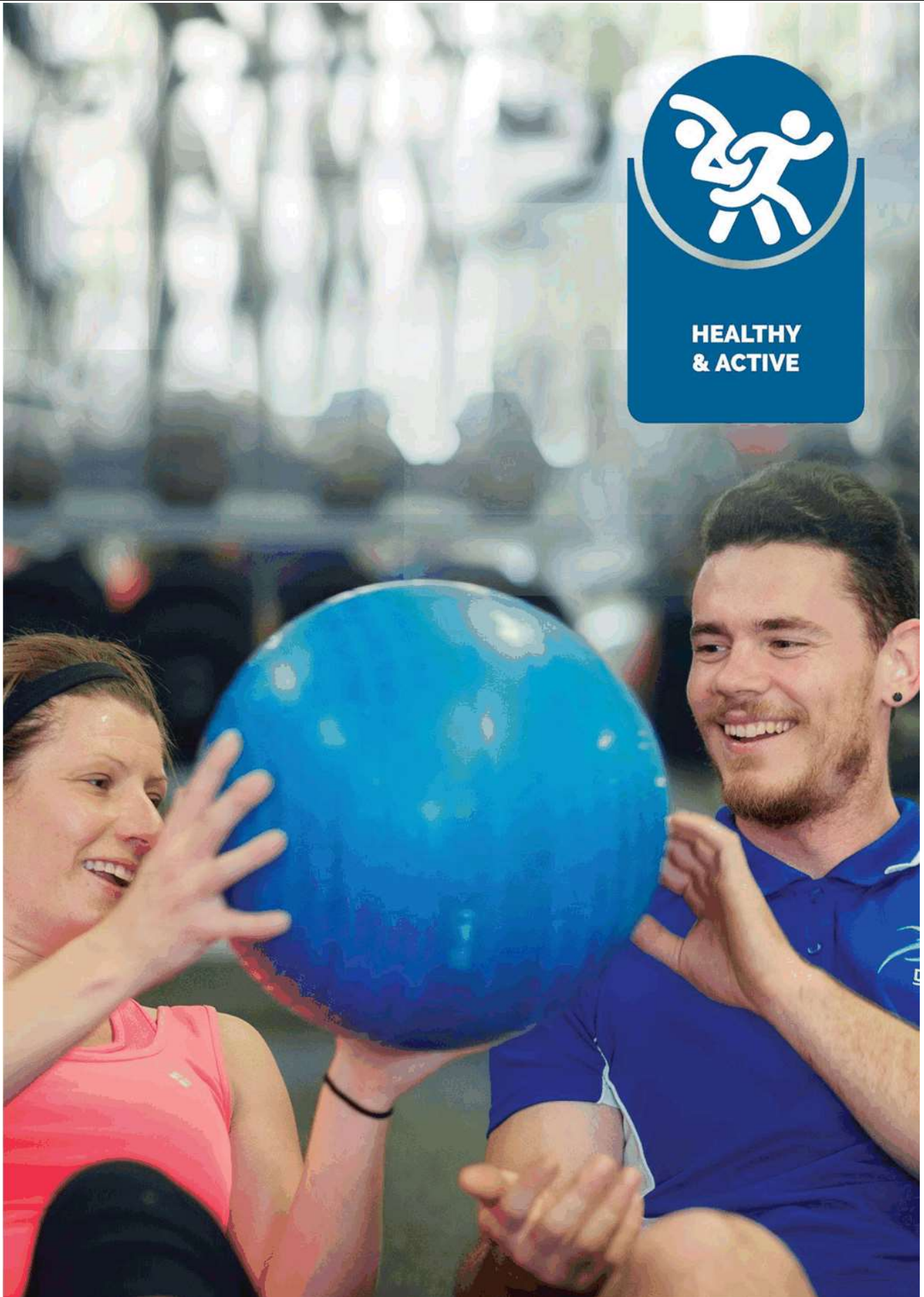
Action	Performance Measure	Responsible Officer or Department
<p><b>OP 4.3.1.3</b>                      Coordinate information on Council activities and policies on a regular basis through a range of media</p>	<p>Public notices and regular notifications placed in local newspapers</p>	<p>Communications Officer</p>
<p><b>OP 4.3.1.4</b>                      Distribute information of Council activities and policies on a regular basis through a range of media</p>	<p>Community newsletter printed and distributed to ratepayers (hard copy) each quarter                      Community newsletter distributed to residents and ratepayers electronically each week (50 weeks pa)</p>	<p>Communications Officer</p>
<p><b>OP 2.5.1.4</b>                      Complete audit of all accessible parking places and identify improvements. Where facilities are to be upgraded or new facilities provided, the plan for these facilities are tabled at Access Committee for comment with the feedback incorporated into the 4-year work program</p>	<p>Completion of audit                      Plans tabled at Access Committee for comment as required</p>	<p>Manager Design and Development</p>

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Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.2.3.3</b> Provide information, referral, advocacy and support for young people through the SENTRAL youth facility and online mediums</p>	<p>Percentage of program participants report that the support provided by the Youth Service has assisted them.</p>	<p>Senior Youth Worker</p>
<p><b>New OP 19/20</b> Provide information on Council's Website to the community about available mental health support services</p>	<p>Information provided and updated annually Information distributed through Health &amp; Sustainability Newsletter</p>	<p>Health Promotion Officer</p>

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## 2.0 Healthy and active

- Physical activity
- Mental health and wellbeing and drug and alcohol programs
- Sportsgrounds, pools & infrastructure
- Public health (regulatory)
- Smoke free environments
- Walkways, cycle ways, shaded playgrounds & outdoor exercise equipment

Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.1.5.4</b></p> <p>Engage with and educate members of the community on leading an active, healthy and sustainable lifestyle</p>	<p>Implement activities to engage with and educate members of the community on leading an active, healthy and sustainable lifestyle</p>	<p>Health Promotion Officer</p>
<p><b>OP 1.3.2.8</b></p> <p>Implement Public Health Act legislation (public and private swimming pools and water supplies, skin penetration, legionella)</p>	<p>Annual report submitted to NSW Health by due date</p> <p>Action to rectify breaches of legislation commenced within 5 days of notification</p> <p>Registers of premises and compliance are reviewed and updated as required by legislation</p> <p>Inspections of all registered premises conducted in accordance with schedule</p>	<p>Environmental Health Officer</p>
<p><b>OP 1.1.5.12</b></p> <p>Ensure effective operations of Leisure centre and Jamberoo Pool to meet community needs</p>	<p>Monitor total Leisure Centre patronage to meet customer needs</p> <p>Maintain number of pool bookings for schools, swim clubs and aquatic customers pa</p> <p>Ensure Leisure Centre membership is maintained at capacity</p> <p>Swim school operation levels are maintained</p>	<p>Leisure Centre Manager</p>

Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.1.5.13</b> Maintain or increase user satisfaction of Leisure Centre and Jamberoo Pool facilities and its activities and programs</p>	Customer satisfaction levels in annual customer satisfaction survey reported as good, very good or excellent	Leisure Centre Manager
<p><b>OP 1.3.1.2</b> Conduct surf awareness education programs in local primary schools</p>	Annual program completed	Leisure Centre Manager
<p><b>OP 1.3.3.1</b> Implement Local Road Safety Action Plan</p>	Council endorsed recommendations implemented or included In Asset Management Plan Plan, promote and implement Bike Week activities Plan, promote and implement Road Safety Workshop	Road Safety Officer
<p><b>OP 1.1.5.1</b> Implement a range of health and wellbeing programs for young people</p>	Number of health and wellbeing programs for young people completed Number of young people participating in health and wellbeing programs 80% of program participants report in their evaluations that they feel more confident about their wellbeing having participated in the program	Senior Youth Worker
<p><b>OP 1.1.6.5</b> Identify and prepare cycleway funding applications</p>	Lodgement of applications for external grant funding for cycleways	Manager Design and Development

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Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.2.3.2</b></p> <p>Provide a range of educational and recreational community development programs in conjunction with local schools</p>	Percentage of program participants report in their evaluations that they gained valuable skills and knowledge from participating in the programs	Senior Youth Worker
<p><b>OP 1.1.7.4</b></p> <p>Improve accessibility of recreational facilities including wheelchair access to seating, shaded areas, outdoor exercise and play equipment</p>	Where facilities are to be upgraded or new facilities provided, the plan for these facilities are tabled at Access Committee for comment with the feedback incorporated into the 4-year work program	Manager Design and Development
<p><b>OP 1.3.3.2</b></p> <p>Prepare road safety funding applications</p>	Applications lodged for all available grant funding for road safety initiatives	Road Safety Officer
<p><b>OP 1.3.3.6</b></p> <p>Plan, promote and implement road safety activities</p>	Host NSW Bike Week Activities Host Road Safety Workshops	Road Safety Officer
<p><b>OP 1.3.1.1</b></p> <p>Undertake scheduled patrol programs for Council beaches</p>	Ratio of rescues conducted to preventative actions undertaken	Leisure Centre Manager

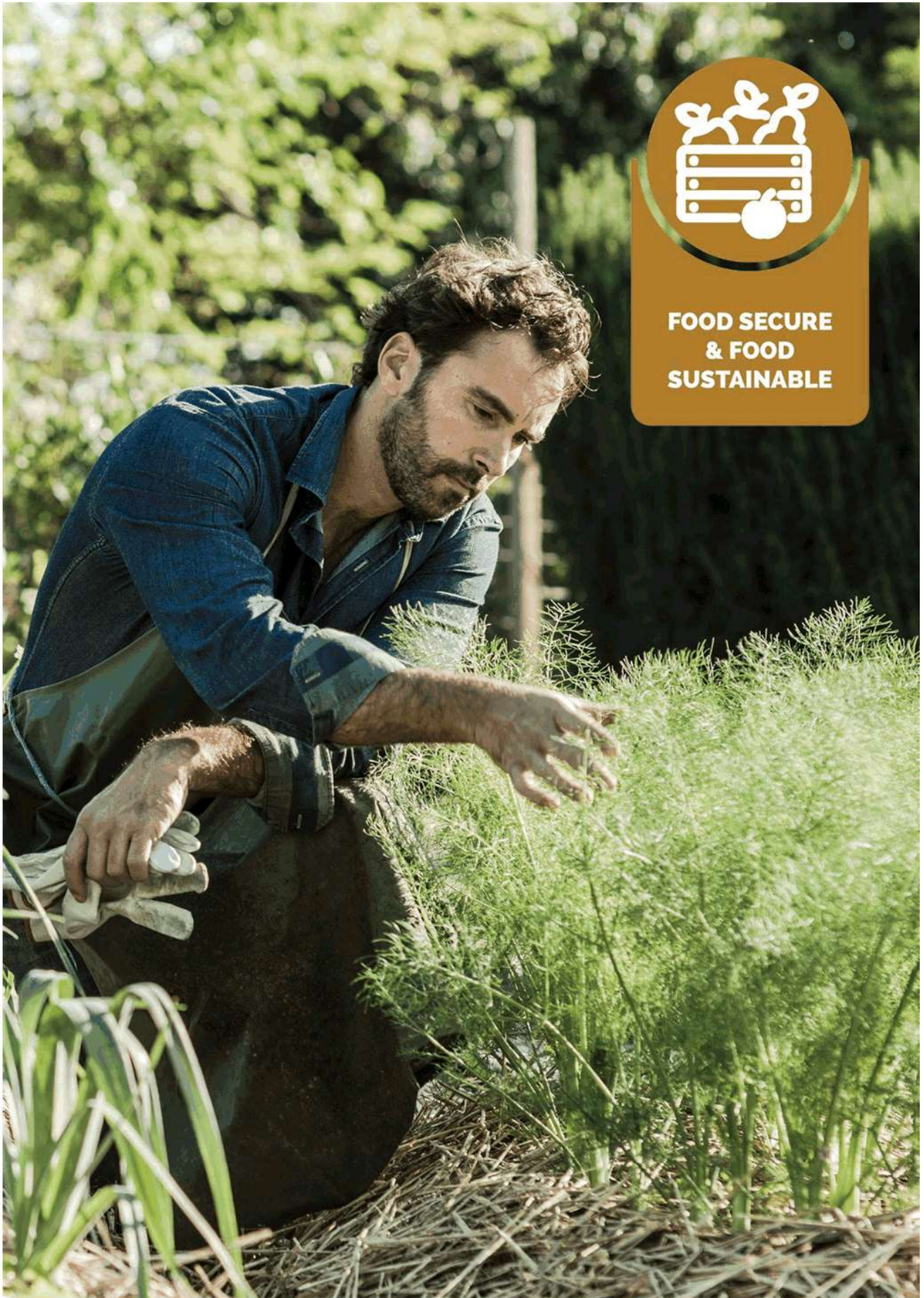
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Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.1.1.7</b> Allocate an accessibility budget to support access resources and assistance to ensure maximum opportunity for all residents to genuinely participate in Council functions, consultations, events and activities.</p>	Annual budget allocated to assist accessibility of Council's community consultations and events	Manager Community and Cultural Development
<p><b>New OP 19/20</b> Implement programs that support the wellbeing of young people and educate them about the risks of drug &amp; alcohol use</p>	Number of programs implemented that incorporate content on this topic	Senior Youth Worker

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**FOOD SECURE  
& FOOD  
SUSTAINABLE**

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3.0 Food secure and food sustainable

- Food & nutrition
- Community gardens
- Food sustainability & security

Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.3.2.1</b> Administer Food Safety Legislation</p>	<p>Temporary food stall applications determined within 21 working days</p> <p>Inspections conducted in accordance with NSW Food Regulation Partnership</p> <p>Compliance with legislation and food safety standards</p> <p>Food recall system implemented with 48 hours of notification</p>	<p>Environmental Health Officer</p>
<p><b>OP 1.3.2.2</b> Provide Food Safety Education</p>	<p>Provide "I'm Alert" online food education training</p> <p>Number of food safety education workshops</p> <p>Number of Food Safety Newsletters developed and distributed</p>	<p>Environmental Health Officer</p>
<p><b>OP 1.1.5.3</b> Engage with and educate members of the community on healthy, affordable and sustainable food and gardening practices</p>	<p>Implement activities to engage with and educate members of the community on healthy, affordable and sustainable food and gardening practices</p>	<p>Health Promotion Officer</p>

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4.0 Encourage and enhance a healthy and sustainable economy

- Music and art facilities and support
- Supporting and growing the local economy

Action	Performance Measure	Responsible Officer or Department
<p><b>OP 3.1.3.1</b> Conduct forums and programs that support Economic Development via the Kiama Small Business Forum</p>	<p>Number of forums and programs held supporting the Kiama Small Business Forum</p>	<p>Economic Development Manager</p>
<p><b>OP 1.1.3.3</b> Undertake activities that support the 'Integrate strategy' identified in Council's BISI cultural planning document</p>	<p>Cultural Board meetings are held each year Deliver the annual Music in the Park program</p>	<p>Cultural and Community Development Officer</p>
<p><b>OP 3.1.1.2</b> Undertake a 'Demand Study' to ensure an adequate supply of employment lands to meet future needs</p>	<p>Completion of Demand Study</p>	<p>Economic Development Manager</p>
<p><b>OP 3.1.3.4</b> Develop and promote Kiama's economic and employment opportunities</p>	<p>Development of an Investor's Prospectus</p>	<p>Economic Development Manager</p>

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Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.1.3.4</b></p> <p>Undertake activities that support the 'Sustain' strategy identified in Council's BISI cultural planning document</p>	<p>The annual Arts Honour Roll program is completed</p> <p>Annual program of Arts Biz education workshops are held in partnership with Shellharbour City Council</p> <p>Number of artists gatherings held to promote networking</p>	<p>Cultural and Community Development Officer</p>
<p><b>New OP 19/20</b></p> <p>Look for opportunities to promote Healthy &amp; Sustainable Environments through tourism channels</p>	<p>Distribute the Destination Kiama publication through tourism channels</p> <p>Identify opportunities to distribute information on Sustainable tip's for visiting Kiama, through various tourism channels in partnership with other Council staff</p>	<p>Manager Tourism and Events</p>
<p><b>New OP 19/20</b></p> <p>Encourage businesses in the LGA to use environmentally friendly practices</p>	<p>Number of programs and projects implemented per annum</p>	<p>Manager Environment and Health</p>

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5.0 Healthy, protected and sustainable environment

- Natural environment
- Built environment
- Waste management
- Regulatory and statutory
- Council facilities and operations

Built Environment		
Action	Performance Measure	Responsible Officer or Department
<p><b>OP 1.3.2.4</b> Create a register and implement a compliance program as required by the Environmental Planning and Assessment Regulation</p>	<p>Ensure an Annual Fire Safety Statement are received annually for all relevant premises</p>	<p>Manager Development Assessment</p>
<p><b>OP 2.1.1.4</b> Assess Planning Proposals against relevant State Government legislation and Council Policy</p>	<p>Requests for Planning Proposals are reported / determined within 90 days of lodgement All Planning Proposals are completed within timeframe set out in Gateway Determination</p>	<p>Manager Strategic Planning</p>
<p><b>OP 1.1.7.2</b> Manage new recreation and open space asset creation</p>	<p>Percentage of Council approved new asset program completed on time, within approved scope, within budget and to agreed standard Percentage of new asset budget expended</p>	<p>Manager Depot Operations</p>

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Built Environment		
Action	Performance Measure	Action
<p><b>OP 1.1.6.1</b> Manage footpath and cycleway asset renewals</p>	<p>Percentage of Council approved renewal program completed on time, within approved scope, within budget and to agreed standard</p> <p>Percentage of renewal budget expended</p>	Works Coordinator
<p><b>OP 1.1.6.2</b> Manage new footpath and cycleway asset creations</p>	<p>Percentage of Council approved new asset program completed on time, within approved scope, within budget and to agreed standard</p> <p>Percentage of new asset budget expended</p>	Works Coordinator
<p><b>OP 1.1.6.3</b> Implement maintenance program for footpath and cycleway infrastructure and assets.</p>	<p>Percentage of Council approved maintenance program completed on time, within approved scope, within budget and to agreed standard</p> <p>All required maintenance completed within 5 days</p>	Works Coordinator
<p><b>OP 1.1.6.4</b> Consult with people with a range of disability types to establish priorities within Council's pathway management plan</p>	<p>Quarterly review of pathways planning invites input from Council's Access Committee</p>	Manager Depot Operations
<p><b>OP 4.2.4.2</b> Advocate for provision of improved and accessible public transport within and between towns</p>	<p>Advocacy undertaken with key stakeholders</p>	General Manager

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Built Environment		
Action	Performance Measure	Action
<p><b>OP 1.1.7.1</b> Manage recreation and open space renewals</p>	<p>Percentage renewal program completed</p> <p>Percentage of Council approved renewal program completed on time, within approved scoped, within budget and to agreed standard</p>	<p>Manager Depot Operations</p>
<p><b>OP 2.1.1.3</b> Commence research and community engagement process to inform review of strategic and statutory land use planning documents</p>	<p>Vision and principles to inform the review of strategic and statutory land use planning documents complete</p>	<p>Manager Strategic Planning</p>
<p><b>New OP 19/20</b> Support implementation of smoke free legislation within the Municipality and promote compliance at all Council events</p>	<p>Percentage of outdoor dining venues complying with legislation (target 100%)</p> <p>Percentage of Council community events promoted as smoke free events</p>	<p>Manager Environment &amp; Health</p>
<p><b>New OP 19/20</b> Look for opportunities to increase the access to public water stations for the community. Dependant on capital works budget endorsement by Council</p>	<p>Number of new public water stations provided in public places</p>	<p>Director Engineering &amp; Works</p>

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Built Environment		
Action	Performance Measure	Action
<p><b>New OP 19/20</b>                      Look for opportunities to provide effective shade (natural and manmade) in public places especially sporting grounds, playgrounds and community events. Dependant on capital works budget endorsement by Council</p>	Number of new shade structures provided in public places	Director Engineering & Works

Natural Environment		
Action	Performance Measure	Responsible Officer or Department
<p><b>OP 2.4.2.1</b>                      Implement programs identified in the Regional Waste Plan</p>	Programs commenced or completed in accordance with adopted annual work plan	Waste Management Officer
<p><b>OP 1.3.2.13</b>                      Investigate public and environmental health complaints</p>	High risk public and environmental health complaints investigated Non-high risk public and environmental health complaints investigated	Manager Environment & Health

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Natural Environment		
Action	Performance Measure	Action
<p><b>OP 2.2.3.2</b> Undertake and support on-ground activities and biodiversity education to promote and enhance natural areas</p>	<p>Community education events aligned to National Tree Day and World Environment Day</p>	<p>Environmental Sustainability Officer</p>
<p><b>OP 2.2.2.1</b> Support and implement local Illawarra Landcare projects</p>	<p>Requests for technical/material support completed within allocated budget</p>	<p>Landscape Officer</p>
<p><b>OP 2.2.2.2</b> Pursue grant funding for natural area restoration at priority sites on Council land</p>	<p>Appropriate grant applications are reviewed and/or submitted for funding consideration</p>	<p>Environmental Sustainability Officer</p>
<p><b>OP 2.2.1.1</b> Implement actions identified within adopted Coastal Zone Management Plans in accordance with funding and resource availability</p>	<p>Grant funded programs are delivered to schedule</p>	<p>Environmental Sustainability Officer</p>

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Natural Environment		
Action	Performance Measure	Action
<p><b>OP 2.1.3.1</b> Protect and maintain productive agricultural lands through ensuring Council's statutory and policy documents contain necessary framework</p>	<p>Council to liaise with NSW DPI-Lands to determine a timeframe for agricultural classification mapping project.</p>	<p>Manager Strategic Planning</p>
<p><b>OP 2.5.2.4</b> Manage drainage asset maintenance and operation including gross pollutant traps and drainage pits</p>	<p>All required maintenance completed within 5 days Annual schedule developed</p>	<p>Engineering Administration Officer  Director Engineering and Works</p>
<p><b>OP 2.4.2.2</b> Implement programs identified in the Regional Litter Strategy</p>	<p>Programs commenced or completed in accordance with adopted annual work plan</p>	<p>Manager Environment &amp; Health</p>
<p><b>OP 2.4.1.1</b> Operate Community Recycling Centre</p>	<p>Increase in the usage of the Community Recycling Centre Amount of waste diverted from landfill</p>	<p>Manager Waste Services</p>
<p><b>P 2.4.1.2</b> Provide scheduled domestic and commercial collections for waste, recycling and organics</p>	<p>Services comply with collection and recycling contract and service schedule</p>	<p>Manager Waste Services</p>

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Natural Environment		
Action	Performance Measure	Action
<b>OP 1.3.2.14</b> Implementation of Protection of Environment Operations (Clean Air) Regulations	Determine applications under Protection of Environment Operations (Clean Air) Regulations within 14 days	Senior Ranger
<b>OP 2.2.1.2</b> Implement programs required as a result of the NSW Coastal Reforms process	Develop Kiama LGA Coastal Management Program in line with agreed work program	Environmental Sustainability Officer
<b>OP 2.2.2.3</b> Manage vegetation at Seven Mile Beach Reserve	All bush regeneration works are completed as scheduled	Landscape Officer
<b>OP 2.2.3.1</b> Comply with Noxious weeds Biosecurity legislation through Illawarra District Noxious Weeds Authority	All notifiable events are reported to the Illawarra District Weeds Authority	Landscape Officer
<b>OP 2.4.2.4</b> Develop and implement approved programs funded through the NSW EPA Better Recycling Fund	Programs implemented as per Better Waste Recycling Fund Project Table	Waste Management Officer

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Natural Environment		
Action	Performance Measure	Action
<b>OP 2.4.2.5</b> Undertake scheduled waste management programs and workshops	Total tonnages diverted from landfill from programs undertaken Number of waste management workshops Number of annual waste management events undertaken	Waste Management Officer
<b>OP 2.4.2.6</b> Process recyclables and organics	Total tonnages of recyclable processed Total tonnages of organics processed Resource Recovery target achieved as set by NSW EPA	Waste Manager
<b>OP 3.1.2.1</b> Develop Agribusiness Policy	New business enquiries resulting from Guidelines completed and implemented	Economic Development Manager
<b>New OP 19/20</b> Continue to investigate ways that Council can minimise our energy consumption, water waste and environmental footprint	Number of programs and projects implemented per annum	Manager Environment & Health
<b>New OP 19/20</b> Implement the pledges made under the Cities Power Partnership program.	Number of programs and events and pledges implemented per annum (target 2 per annum)	Manager Environment & Health

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**10.2 Draft Amendments to Chapter 30 - Heritage - Kiama Development Control Plan 2012**

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.3 The principles of sustainable development and compliance underpin town planning and local development

Delivery Program: 2.3.1 Conduct development and building assessment/approval functions in accordance with statutory requirements, policies and procedures

Item 10.2

**Summary**

This report seeks endorsement of the attached draft Amendments to Chapter 30 – Heritage of Kiama Development Control Plan 2012 to be placed on public exhibition in accordance with the *Environmental Planning and Assessment Act 1979*.

**Finance**

The exhibition of the draft Chapter will require Council to pay for an advertisement in local print media.

**Policy**

The process of amending the Development Control Plan is guided by Council's 'Preparation of Development Control Plans Policy'.

**Communication/Community Engagement**

Council will need to place the draft Chapter on public exhibition for a minimum of 28 days in accordance with legislative requirements. This will involve advertising in local print media as well as on Council's website.

**Attachments**

1 Draft Chapter 30 - Heritage [↓](#)

**Enclosures**

Nil

**RECOMMENDATION**

That Council endorse the attached draft Development Control Chapter 30 – Heritage of the Kiama Development Control Plan 2012 for public exhibition.

**BACKGROUND**

As part of the assessment of the Golden Valley Road Planning Proposal, shortcomings of the existing provisions of Chapter 30 – Heritage of the Kiama Development Control Plan (DCP) 2012 were identified. In April 2018 Council resolved to prepare amendments to Chapter 30 – Heritage of the Kiama DCP 2012 to ensure the conservation of significant areas and items of Aboriginal Cultural Heritage. This report seeks the endorsement of the attached draft Amendments to Chapter 30 – Heritage to be placed on public exhibition.

## Report of the Director Environmental Services

## 10.2 Draft Amendments to Chapter 30 - Heritage - Kiama Development Control Plan 2012 (cont)

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As part of the assessment of the Golden Valley Road Planning Proposal, the Office of Environment & Heritage (OEH) informed Council that it had no objection to the proposed rezoning but recommended that Council and the proponent consider options for conservation of the identified sites of Aboriginal significance.

It is important to ensure that items or sites of high Aboriginal heritage significance are conserved. In reviewing potential options for conserving the area of high significance it is considered that the most appropriate mechanism to achieve conservation is to strengthen the existing controls of Chapter 30 – Heritage of the Kiama DCP 2012 that would apply to future development proposals on the site.

Currently Chapter 30 of Kiama DCP 2012 outlines that Council may require an archaeological assessment of a site to be carried out prior to determining a DA. In its current state however, the DCP does not require developments to avoid disturbance of areas identified as being of high significance through such an assessment as a priority. This represents a gap in the existing policy and it is considered appropriate to amend the DCP to better conserve Aboriginal cultural heritage. It is recommended that this process occur irrespective of whether or not this rezoning proceeds.

Council has discussed this option with OEH who has confirmed that this is an appropriate method for conserving areas of high significance. OEH has confirmed that the sites are now registered on the Aboriginal Heritage Information Management System (AHIMS) database and are protected under the provisions of the *National Parks & Wildlife Act 1974*.

The formatting of Chapter 30 has been amended to enable greater usability. Specific amendments have been made to reflect the Due Diligence Code of Practice and to ensure that developments avoid disturbance of areas identified as being of high significance as a priority.

The specific amendment is the insertion of new controls C12 and C13.

If endorsed, the draft amendments will be placed on public exhibition for a minimum of 28 days in accordance with legislative requirements. This will involve advertising in local print media as well as on Council's website. Following public exhibition of the draft DCP Chapter and consideration of submissions, the final recommended DCP Chapter will be reported to Council for consideration and endorsement.



Item 10.2

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Heritage

### Section 1 – Introduction

This chapter of the Development Control Plan is focused on ensuring that there is sufficient understanding of the significance of Kiama Local Government Area's heritage, and that future development is undertaken in accordance with legislative requirements and in a way that is sensitive to the significance of heritage items.

### Section 2 – Aboriginal Cultural Heritage Management

#### Aims

- To ensure that Aboriginal cultural heritage values, both objects and tangible sites or features as well as intangible spiritual and cultural values, are fully and effectively addressed in the development assessment process and afforded appropriate protection or management consistent with legislative requirements.

#### Objectives

- To provide detailed controls and guidelines intended to assist in the identification, protection and conservation of Aboriginal cultural heritage sites and values in the Kiama Municipal Council Area for the benefit of its citizens, the community generally and for future generations;
- To increase proponent's awareness of Aboriginal cultural heritage matters and promote the increased identification and recognition of Aboriginal cultural heritage sites and values in the planning and development process;
- To provide potential proponents and the wider community with clear and accessible:
  - information on Council's requirements, and other legislative requirements, for the
  - conservation of Aboriginal cultural heritage sites and values;
- To promote and encourage appropriate and sympathetic site design and development solutions for areas having known, or potential, Aboriginal cultural heritage sites and values;
- To increase community awareness and appreciation of the Aboriginal cultural heritage sites and values of the Kiama Municipal Council area; and
- To protect and conserve known or potential places or items Aboriginal Cultural Heritage within the Kiama LGA.

## Controls

### Aboriginal Cultural Heritage Management Development Assessment Toolkit

- C1 The Aboriginal Cultural Heritage Management Development Assessment Toolkit, adopted by Council 21 May 2013, shall be used to determine if an Aboriginal Cultural Heritage Investigation or Assessment is required.
- C2 An Aboriginal Cultural Heritage Investigation or Assessment (see below) is not required:
- for sites that Council considers as being highly disturbed landscapes (and do not contain a declared Aboriginal Place or known Aboriginal site or object); or
  - where it can be demonstrated that the site has been substantially disturbed over an equal or greater area, and to an equal or greater depth and/or severity, than would result from the proposed development or activity; or
  - where a detailed Aboriginal Cultural Heritage Assessment or archaeological investigation, of an acceptable standard and including the required level of Aboriginal community consultation, has been undertaken over the entire site within the last 10 years.
- C3 The Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, prepared by the NSW Department of Environment, Climate Change & Water, shall be used when preparing to undertake development on land which may contain items or places of Aboriginal Cultural Heritage.

### Preliminary Aboriginal Cultural Heritage Investigation

- C4 Council will require, in accordance with the Aboriginal Cultural Heritage Management Development Assessment Toolkit, a Preliminary Aboriginal Cultural Heritage Investigation (level 1 assessment) to be undertaken for a development proposal that is:
- within an environmentally sensitive area, as defined by the Kiama LEP 2011; or
  - for a site containing mature trees, that may be over 150 years old and so have the potential for Aboriginal scarring (including living trees, standing dead trees, stumps or stags, fallen trees and logs); or
  - for a site containing any of the following small scale landscape features that may potentially hold Aboriginal cultural heritage sites/objects:
    - the riparian corridor 200 metres wide on each side of permanent or ephemeral creeks;
    - watercourses (including waterways subsequently modified by post-settlement activity);
    - sandstone outcrops adjacent to waterways/watercourses;



- exposed sandstone platforms or relatively level sandstone outcrops (including platforms and outcrops that may have been buried or covered due to post-contact land uses);
  - rock overhangs/shelters over 1 metre high (especially with relatively level and/or dry floors);
  - areas of undisturbed native vegetation in excess of 100m<sup>2</sup> or covering 10% or more of a site (whichever is the greater for the site in question);
  - spurs, ridgelines, ridge tops and high points or knolls; and
  - cliffs, including areas above or below cliff lines; or
- located within a “sensitive landscape setting” which includes land which is:
    - within 200 metres of waters (meaning any river, stream, lake, lagoon, swamp, wetlands, natural watercourse, or tidal waters including the sea); or
    - located within a sand dune system (including marine/coastal, estuarine, fluvial/riverine or Aeolian dunes); or
    - located on a ridge top, ridge line or headland; or
    - located within 200 metres below or above a cliff face; or
    - within 20 metres of or in a cave, rock shelter, or a cave mouth.
- C5 Aboriginal Cultural Heritage Investigation’s shall be undertaken by a suitably qualified or experienced person, with expertise in Aboriginal cultural heritage, and will include as a minimum:
- a search of the Aboriginal sites database and other information held by the Office of Environment and Heritage;
  - the involvement of, and consultation with, local Aboriginal people or organisations;
  - background research relevant to the site, its Aboriginal cultural heritage context, landscape setting, and land use history; and
  - an on-ground site inspection.

#### **Aboriginal Cultural Heritage Assessment**

- C6 Council will require, in accordance with the Aboriginal Cultural Heritage Management Development Assessment Toolkit, an Aboriginal Cultural Heritage Assessment (level 2 assessment) to be undertaken for development proposal that is:
- within a site that is part of an Aboriginal Place as declared under the *National Parks and Wildlife Act 1974*; or
  - for a site containing a known Aboriginal site or object, as recorded by the Office of Environment and Heritage or identified by previous Aboriginal cultural heritage studies. All known places or items of Aboriginal Cultural Heritage are listed on the NSW Government’s Aboriginal Heritage Information Management System (AHIMS) database.

- C7 Aboriginal Cultural Heritage Assessment's shall be undertaken by a suitably qualified and experienced person, with expertise in Aboriginal cultural heritage, and will be consistent in terms of consultation with the Aboriginal community, process and content with the Office of Aboriginal Cultural Heritage Management Environment and Heritage publication *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) and other applicable guidelines as published by this agency. Adequate consultation with the Illawarra Aboriginal community will be a critical element in the preparation of an Aboriginal Cultural Heritage Assessment.

#### Unexpected Aboriginal Finds

- C8 All Aboriginal relics in NSW are protected under the *National Parks and Wildlife Act 1974*, which makes it an offence to knowingly damage, disturb, deface or destroy an Aboriginal relic or site. The following requirements apply to any unexpected find containing Aboriginal cultural material during demolition, excavation or construction:

- All works must cease immediately and the Office of Environment and Heritage (OEH) must be informed of the find.
- Should there be any human remains in the find, then the NSW Coroner's Office and the NSW Police must also be informed.
- Following any finds, the OEH, the local Aboriginal Land Council, the Kiama Aboriginal Reference Group and a suitably qualified and experienced archaeologist shall be consulted in the preparation of a management strategy, with all costs to be borne by the developer, which may include the requirement to apply for an Aboriginal Heritage Impact Permit with OEH.
- The find will be recorded in accordance with the requirements of the *National Parks and Wildlife Act 1974* and OEH guidelines. This will result in the places or items of Aboriginal Cultural Heritage being listed on the AHIMS database.
- Work shall not recommence on site until advised in writing by the OEH.

#### Known or Potential Aboriginal Cultural Heritage Places or Items

Where the development involving disturbance of a known or potential Aboriginal Cultural Heritage places or items, Council will notify the NSW Heritage Branch of the Office of Environment & Heritage in accordance with the *National Parks and Wildlife Act 1974*.

- C9 As part of their due diligence all applicants shall refer to the AHIMS database to confirm if any known Aboriginal Cultural Heritage places or items are present on or near the subject site.
- C10 Council may require that an archaeological assessment of a site be carried out prior to the determination of a development application.

- C11 In accordance with the Aboriginal Cultural Heritage Management Development Assessment Toolkit, Council will require an Aboriginal Cultural Heritage Assessment (level 2 assessment) to be undertaken for development on a site that is near or contains any known Aboriginal Cultural Heritage places or items.
- C12 Where development is proposed on sites containing or near known or potential Aboriginal Cultural Heritage places or items, the development is to be designed to avoid disturbing the places or items in the first instance. For residential subdivisions this may include retaining the archaeological sites within public recreational land.
- C13 Where disturbance of Aboriginal Cultural Heritage places or items cannot be avoided an Aboriginal Heritage Impact Permit (AHIP), issued by the Office of Environment and Heritage, will need to be supplied to Council as part of the Development Application.

### Section 3 – European Cultural Heritage Management

#### Aims

- To ensure that identified values of heritage listed sites are fully and effectively addressed in the development assessment process and afforded appropriate protection or management consistent with legislative requirements.

#### Objectives

- To provide detailed controls and guidelines intended to ensure that new development in the vicinity of a heritage item or on the site of a heritage item, maintains and enhances the heritage values of the item for the benefit of Kiama Local Government Areas' citizens, the community generally and for future generations.
- To provide detailed controls and guidelines intended to ensure that alterations and additions to heritage items are carried out in a manner which maintains and enhances the heritage values of the item for the benefit of Kiama Local Government Areas' citizens, the community generally and for future generations.
- To ensure that public domain heritage items which includes, but is not limited to trees, parks, monuments and cemeteries are adequately maintained and conserved for the benefit of Kiama Local Government Areas' citizens, the community generally and for future generations.

The built European heritage of Kiama LGA is protected under the provision of State Government legislation which includes the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977*. To assist in the management of heritage items, levels of significance are assigned to an item. In NSW, a heritage item may be identified as having a State or Local level of significance. Schedule 5 in Kiama LEP 2011 lists 163 heritage items comprising residential and commercial properties, municipal and industrial properties, places of Worship, State and Commonwealth government properties, dry stone walls, cemeteries and grave sites, parks, monuments and trees, movable objects, and archaeological sites. There are thirteen heritage items of State significance identified on the State Heritage Register which are located in the Kiama LGA and these items have value to the people of New South Wales and to the Nation as a whole.

### When is Development Consent Required?

Certain types of development on land that contains a heritage item will require consent from Council i.e. the submission of a Development Application (DA). Clause 5.10(2) of Kiama Local Environmental Plan (LEP) 2011 lists a range of activities which require development consent.

Developers and their consultants are encouraged to discuss their proposals with Council's Development Assessment Officers prior to preparing concept plans and submitting a Development Application. Council may refer concept plans onto its Heritage Advisor where development impacts require an expert assessment. Such consultation may benefit the applicant in ensuring smooth processing of their application and earlier determination times.

The successful design of new development in the vicinity of a heritage item, on the site of a heritage item, and alterations and additions to a heritage item must have regard, and be appropriate under the following design criteria:

- a) *Character* - The character of the built environment is shaped by many contributing factors including: the natural landform; landscape elements; date and style of buildings; scale and form of buildings; street and subdivision patterns; building setbacks; materials and details; and views, vistas and skylines.
- b) *Scale* - Scale encompasses proportion, height and bulk, and relates to the size of buildings relative to surrounding buildings.
- c) *Form* - Form relates to the overall shape and volume of a building, and the arrangement of its parts including the roof and façade.
- d) *Siting* - Siting relates to the positioning of buildings on allotments, which includes houses, garages and carports.
- e) *Materials and Detailing* - Proposed alterations and additions to heritage items and new development in the vicinity of a heritage item or within the site of a heritage item should recognise and respond to the predominant materials, textures, and details which contribute to the character of a locality.

Also, to ensure that proposed development is appropriate in rural settings, the design criteria within Chapter 6 - Rural Development shall be referred to and suitably addressed.

### When is Development Consent Not Required?

Some works do not require development consent where Council considers that the proposed works are of a minor nature and will not have an adverse impact on the heritage significance of the heritage item. Clause 5.10(3) of Kiama LEP 2011 lists a range of activities which do not require development consent.

Developers and their consultants are advised to contact Council's Development Assessment Officers to confirm if consent is not required for their proposed works.

### **When is a Heritage Management Document Required?**

Council must consider the effect the proposed development will have on heritage items located on the development site or on adjoining lands. To assist Council in assessing impacts, a heritage management document may be required to be submitted with the DA in the form of a Heritage Impact Statement and/or Conservation Management Plan. Developers and their consultants are advised to contact Council's Development Assessment Officers to confirm what heritage management documents are required to be submitted with a DA.

### **What is a Heritage Impact Statement?**

A Heritage Impact Statement (HIS) is a succinct report prepared by a professional heritage consultant which includes the following:

- Why the item is of heritage significance; and
- What impact the proposed works will have on that significance; and
- What measures are proposed to mitigate negative impacts; and
- Justification for the option chosen.

A HIS should be prepared in accordance with NSW Heritage Branch of the NSW Office of Environment & Heritage (OEH) published guidelines.

### **What is a Conservation Management Plan?**

A Conservation Management Plan (CMP) is generally required for items listed in the State Heritage Register and is a more detailed report than a HIS. A CMP consists of two parts:

- Part 1 assesses the significance of a place and its elements and provides a succinct statement of significance; and
- Part 2 provides policies and strategies to help guide future works, management, and maintenance of the place. The policies must address all of the issues required to retain the significance of the place and its elements.

CMP's shall be prepared by professional heritage consultants in consultation with Council. The structure of the CMP should follow the methodology and structure outlined in J.S. Kerr, *The Conservation Plan*, 6<sup>th</sup> edition, National Trust of Australia (NSW) 2004, and NSW Heritage Branch published guidelines.

### **What is the Burra Charter?**

The Burra Charter is a statement of conservation principles developed in 1979 by the Australian Chapter of the International Council on Monuments and Sites (ICOMOS). The Charter provides a set of definitions, principles, processes and practices to guide the conservation of places. The Charter identifies the significance of a place from the following values: Historical, Aesthetic, Social and Scientific.

### How is 'heritage significance' defined?

The NSW Heritage Branch of the Office of Environment and Heritage has established seven criteria for assessing heritage significance, which encompass the four values in the Burra Charter:

- Criterion (a) - An item is important in the course, or pattern of NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (b) - An item has strong or special association with the life or works of a person, or group of persons of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (c) - An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).
- Criterion (d) - An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.
- Criterion (e) - An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (f) - An item possesses uncommon, rare, or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).
- Criterion (g) - An item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places and Cultural or natural environments.

As a general rule to proposing a change to a heritage item, the Burra Charter advocates a cautious approach: *Do as much as necessary to care for the place and make it useable, but otherwise change it as little as possible and implement changes that do not compromise the cultural significance of the property or locality.*

### What conservation incentives are there?

In order to assist owners and managers of heritage items, Council may grant consent to development for any purpose on the site of a heritage item where there is demonstrated benefit towards the conservation of the item, even though development for that purpose would otherwise not be allowed in the Kiama LEP 2011. Clause 5.10(10) of Kiama LEP 2011 sets out five criteria which must be satisfied before consent can be granted.

Council can also provide advice for owners and managers of heritage items. This type of advice includes information and guidance on infill development, alterations and additions, colour schemes, fencing, and repair and maintenance.

For properties listed on the State Heritage Register or Register of the National Estate, there may be potential for State and/or Federal government funding. There may also be potential tax benefits for heritage listed properties which should be discussed with a qualified professional accountant.

### Controls for New Developments

- C13 New development in the vicinity of a heritage item or on the site of a heritage item should harmonise with its surroundings. Through careful analysis and evaluation of the historic context of the heritage item, new development must be appropriate in its scale, form, siting, materials and colour and detailing.
- C14 New development in the vicinity of a heritage item or on the site of a heritage item need not replicate exactly that of the heritage item, but rather through careful analysis of significant design characteristics sympathetically interpret and design new works which are in harmony with the character of the heritage item.
- C15 New development in the vicinity of a heritage item or on the site of a heritage item should recognise the predominate scale (height, bulk, density, grain) of existing development and respond sympathetically in the design of new works.
- C16 The form of new development in the vicinity of a heritage item or on the site of a heritage item need not replicate exactly that of adjacent historic properties, but should however visually respect and relate to them in a positive way.
- C17 The form of new development in the vicinity of a heritage item or on the site of a heritage item should respond to adjacent historic properties with respect to treatment of facades and side elevations visible from the street or prominent locations.
- C18 The design of roof forms for new development in the vicinity of a heritage item or on the site of a heritage item should respect the scale, form, detail and pitch of adjacent historic properties.
- C19 New development in the vicinity of a heritage item should be sited to reflect the prevailing rhythm, spacing, orientation, and front and side setbacks of buildings within a streetscape or landscape which includes a heritage item.
- C20 New development within the site of a heritage item should be sited to minimise adverse impacts on the setting and significant views to and from the place.
- C21 The design of facades/walls in development located in the vicinity of a heritage item or on the site of a heritage item that are visible from the street or prominent location should use materials and colours which are characteristic of the area, such as brickwork, render or timber etc. Other materials may be used but must be harmonious and sympathetic with the character of the area and should be chosen for their complimentary qualities in relation to colour, texture and tonal contrast.
- C22 New buildings in the vicinity or within the site of a heritage item should use colours which harmonise with traditional colour schemes.
- C23 The principal elevation of new buildings located in the vicinity of a heritage item or on the site of a heritage item should provide a level of detail and design of openings that is in proportion with and similar to that of the adjacent heritage item.



- C24 New development in the vicinity of a heritage item should include landscape details such as fences, garden walls and planting treatments which respond to and are sympathetic with the character of the item.

**Controls for Alterations & Additions**

- C25 New infill within town centres which include heritage items should recognise and respond in a sympathetic way to key elements and features which define the historic character of the townscape such as rooflines, parapets, street awnings, shopfronts, and treatment of facades with respect to proportion, modulation and number of openings.
- C26 In designing new additions to single-storey heritage items, generally limit new works to single-storey and preferably locate to the rear of the existing building. The above requirement may be varied to suit specific site conditions. New roof and building mass should not project above or dominate the existing building scale.
- C27 New additions to two-storey heritage items should preferably be single-storey, or double storey with justification. Any new development should generally be located to the rear of the existing building, but may be varied to suit specific site conditions.
- C28 For heritage items, changes to original roofs should be minimal, particularly if seen from the street or prominent locations, and be determined by the building context. Roof elements such as skylights should not be located where visually prominent in the streetscape or prominent locations.
- C29 New work to the rear of an existing building can either extend the existing roof form, pitch and eaves, or, where the roofline is not maintained, be of a more subservient/differential style such as a skillion or flat/parapet style roof.
- C30 Where new roofing of a visually detached addition projects above the existing roofline in the case of a second storey addition, it should be of similar pitch and form to the original.
- C31 The re-roofing of the main body of a house is not generally desirable, except where justified due to deterioration, and only if new roofing matches original materials.
- C32 If visible in the streetscape or prominent locations, new roofing to development in the vicinity of a heritage item, on the site of a heritage item or as part of alterations and additions to a heritage item should be consistent with existing materials.
- C33 The materials, textures, and detailing of alterations and additions to a heritage item and new buildings on the site of a heritage item or in the vicinity of a heritage item need not mimic exactly existing original details, but rather re-interpret and be compatible with the materials, textures and details of a heritage item.
- C34 When proposing to repaint external fabric of a heritage item, re-instatement of traditional colour schemes is strongly encouraged. Evidence of original schemes may be determined by scraping back paint from areas that are not subject to intense weathering. Advice may be sought from Council's Heritage Advisor should you wish to investigate colour schemes for your building.

Chapter 30 – Kiama Development Control Plan 2012 – Heritage

- C35 Where new doors, windows or verandahs are visible from the street or prominent location, they should be of similar proportion, size, location and detailing to original elements. If there is no indication of original treatment, the design of new doors and windows should be generally vertically emphasised and kept simple.
- C36 The retention and repair of original architectural details including doors, windows, verandah piers and columns, decorative timber work to verandas and gables, cast iron decoration, roughcast and tile work in principal elevations is encouraged. Original lead lights and coloured glass panes should be preserved.
- C37 Existing incompatible/intrusive elements (e.g. non original aluminium windows and doors, aluminium or vinyl cladding) in principal elevations and prominent locations should be replaced where alterations and additions are proposed.
- C38 Original verandas and external detailing in general should be preserved and restored, or reconstructed where necessary. Removal or infilling of verandahs visible from the street or prominent locations is generally not supported.
- C39 Heritage items with original facades/walls comprised of unpainted brickwork or stonework are not to be painted, rendered or bagged.
- C40 Paint should not be applied to original brickwork, stonework, exposed bricks on chimneys, terracotta chimneypots, tessellated or glazed tiling, slate verandah edging and steps, or any other unpainted surfaces of a heritage item.
- C41 New ancillary buildings including garages and carports proposed within the site of a heritage item should preferably be detached and located in traditional locations, that is, to the rear or side of the dwelling, and set back from the front façade.
- C42 Garages, carports and outbuildings etc. should be designed to be subservient in scale to the main building, with recessive or darker colours that reduce visual prominence.
- C43 Generally designs for garages, carports and out buildings etc. should be kept simple. Do not mimic elaborate design elements of the main dwelling if it over-emphasises the garage or carport appearance.
- C44 Brushed concrete, gravel, crushed sandstone, dark segmental pavers, or driveways designed as separated wheel strips are appropriate in preference to light coloured paving, "faux brick" or stencil finishes which are generally not supported.
- C45 Driveways and hardstands should be a maximum of 3.5 metres at the street frontage and should be kept simple.
- C46 Existing fencing that is original should be retained and conserved.
- C47 Alterations and additions or new buildings in urban areas should generally provide for a new fence of appropriate materials, colours and scale where no fencing exists. Fencing should be kept simple, with a level of detail compatible with the heritage item.

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- C48 Original landscape details including fencing, garden walls, paving and paths, planting schemes and other garden features which contribute to the significance of a heritage item should be retained.

#### Section 4 – Dry Stone Walls

##### Objectives

- To conserve, protect and enhance Kiama LGA's unique historic dry stone walls for the benefit of its citizens, the community generally and for future generations.
- To ensure new development in the vicinity of a dry stone and any alterations to a dry stone is carried out in a manner which minimises adverse impacts.

There are over 360 dry stone walls located within the Kiama Municipal Council area which have been mapped and have had their heritage value assessed. Council has inventory reports for a majority of the dry stone walls noted above which are available to the public. Dry stone walls are identified as items of environmental heritage in Kiama LEP 2011 and consequently any proposal to demolish, damage, alter (including making breaks), dismantle, or destroy these walls (in whole or in part) requires Council's consent. Development Applications (DA) must show the location of dry stone walls accurately plotted on a site analysis plans, engineering plans, layout plans and concept landscape plans, including any walls located on adjoining land, such as within the road reserve. The condition of the dry stone wall, and any proposed alterations to the wall (e.g. to provide access) should be addressed in a Statement of Environmental Effects submitted with the development application. Specialist advice may be necessary from an expert in dry stone walls.

In addition to the above, a Heritage Impact Statement may be required by Council if it is of the opinion that there is the potential for a dry stone wall to be adversely affected by proposed development. It is strongly advised that applicants discuss their proposals with Council before lodging a DA so as to confirm Council's submission requirements and minimise potential delays.

The rebuilding of deteriorated walls is encouraged and may be also required as a condition of the development consent. Competent, experienced dry stone wall builders are to be engaged for such a task to ensure that the integrity of the walls is retained. For the purposes of this DCP, rebuilding shall mean restoration or reconstruction as defined by the Burra Charter.

It is common to see Tecomaria hedges or historic planting alongside dry stone walls in the Kiama LGA. These were planted to provide additional windbreaks or shelter for cattle. In some instances these hedges or trees have engulfed the original wall, often to the point where the latter is invisible, and/or has been damaged by a combination of sheltering cattle and invasive tree roots. Because these hedges and rows were cultural plantings by early farmers, they do have some heritage value, and careful consideration needs to be given to their management. Such plantings also provide valuable habitat for native fauna. As a consequence, in some cases it would be desirable to retain the hedge and allow it to contain the old wall within it, rather than cutting or poisoning the hedge in order to display and/or repair the wall. In other cases, the vegetation may be present only sporadically, and represent fortuitous generation rather than deliberate planting by the farmers, and its removal may well be justified based on the significance and integrity of the wall.

Many walls have become habitat for the plant *Zieria granulata*. This plant is also known as Illawarra Zieria and is projected under the *Threatened Species Conservation Act 1995*. Before any work is undertaken near or on dry stone walls reasonable effort must be taken to identify any vegetation to be removed to ensure that no *Zieria granulata* is harmed. Further information is contained in Council's management plan for the conservation and regeneration of *Zieria granulata* and dry stone walls on Saddleback Mountain Road and Old Saddleback Road, Kiama regarding obligations and procedures.

Finally, the Burra Charter advocates a cautious approach to change: "all that is necessary, as little as possible". The above philosophy should underpin all proposed works to historic dry stone walls.

### Controls

- C49 Dry Stone Walls shall not be altered, demolished or rebuilt without Council's consent. Non-compliance with this requirement constitutes an offence under the Environmental Planning and Assessment Act 1979.
- C50 The replacement of dislodged or occasional missing stones and the removal of invasive vegetation by hand is regarded as routine maintenance. However, actions such as burning of vegetation alongside or protruding into walls, or blasting it off by water hoses or the like is not permitted, since it can crack the stones, destabilise the walls and destroy the surface lichen.
- C51 Development applications which require the alteration, demolition or rebuilding of dry stone walls will have regard to the heritage significance of the wall and general amenity benefits to the community in retaining walls intact especially where they form site boundaries or are located within roads.
- C52 Council may restrict openings in walls to locations where existing breaks or past damage provides a natural or opportunistic break in otherwise generally intact walls.
- C53 Council may place restrictions on the Section 88B Instrument at Subdivision Certificate approval stage to assist the conservation of dry stone walls.
- C54 Where a dry stone wall is located on the front or rear lot boundary that is adjacent to a road, all buildings and domestic structures (e.g. sheds, pergolas, clothes hoists and the like) must be located at least six (6) metres away from the wall. Screening must also be provided to obscure clothes drying areas from view from the adjacent road.
- C55 Where a dry stone wall is located on a side boundary that is adjacent to a road, all buildings and domestic structures (e.g. sheds, pergolas, clothes hoists and the like) must be located at least 3.5 metres away from the wall. Screening must also be provided to obscure clothes drying areas from view from the adjacent road.

- C56 Council may consider some breaks or the relocation of stone walls or parts of stone walls which are of relatively minor significance, and where this is considered justifiable in the circumstances of the case. As a general principle, if other means of access and egress can be achieved without having to make a new break in an existing wall, then that course should be adopted. A succession of breaks in walls of heritage significance to provide access to driveways for each dwelling in a proposed subdivision would substantially reduce heritage value and generally will not be permitted. Alternative means of achieving such access, e.g. by having an internal collector road within a subdivision should be considered, as has been implemented previously in the municipality.
- C57 The non-disclosure of the existence of a dry stone wall, or the non-detection and therefore non-recording and assessment by Council, does not constitute a legal reason for undertaking its alteration, demolition or rebuilding without Council consent.

DRAFT

**10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs  
- Construction of pergola over existing deck**

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.3 The principles of sustainable development and compliance underpin town planning and local development

Delivery Program: 2.3.1 Conduct development and building assessment/approval functions in accordance with statutory requirements, policies and procedures

Item 10.3

**Summary**

This report reviews the Development Application No 10.2018.185.1 which seeks consent for the construction of a pergola over an existing deck.

The report recommends that Council approve Development Application No 10.2018.185.1 as the proposal is:

- Permissible under Kiama Local Environmental Plan (LEP) 2011 – R2 Low Density Residential;
- Consistent with Kiama Development Control Plan (DCP) 2012;
- Compliant with the zone objectives and is consistent with the relevant development standards of the Kiama LEP, except for the Foreshore Building Line development standard (Clause 6.7) where a 4.6 variation is being sought.

**Finance**

N/A

**Policy**

N/A

**Reason for Report**

This report is submitted to Council as the proposal is located within a Foreshore Building Line and only the elected Council can assume concurrence to approve a variation to development standards that are greater than 10%.

**Communication/Community Engagement**

Required: Yes (letter notification)

Notification Period: 14 days from 02/08/2018 to 16/08/2018

Submissions: Nil submissions received

**Attachments**

1 10.2018.185.1 - plans [↓](#)

**Enclosures**

Nil

Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs - Construction of pergola over existing deck (cont)

**RECOMMENDATION**

That Council approve Development Application No 10.2018.185.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

**BACKGROUND**

The property is described as Lot 852 DP 321591 which is located at 96 North Kiama Drive, Kiama Downs.

The site is zoned R2 Low Density Residential under Kiama LEP 2011.

The overall site measures approximately 600m<sup>2</sup> in size and is rectangular in shape. The site currently contains a dwelling house. Residential dwellings adjoin both side boundaries as well as across the road to the west of the property, with a public reserve to the rear of the property.



**Description of the Proposed Development**

The proposal involves the construction of a pergola over an existing deck located on the eastern side of the dwelling. The proposed pergola is 2 x 13.31m with an area of 26.62m<sup>2</sup> and with an overall height of approximately 4.1m from the existing ground level.

**Section 4.15 Assessment**

The proposed development has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended) and the following matters are considered relevant.

Item 10.3



Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs -  
Construction of pergola over existing deck (cont)

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### Relevant Environmental Planning Instruments

- State Environmental Planning Policy – (Coastal Management) 2018

The site is located within the coastal zone, as defined by the abovementioned SEPP. The proposed development is considered to satisfy the requirements of the SEPP.

- Kiama LEP 2011

The subject land is zoned R2 Low Density Residential. Dwelling houses and their ancillary structures are permitted with consent in the zone. The proposal is considered consistent with the zone objectives.

Specific clauses requiring consideration:

#### Clause 4.3 - Height of Buildings

This Clause provides a maximum building height of 8.5m, measured as the vertical distance between the existing ground level and the highest point of the building. The proposal is consistent with this standard with a maximum height of approximately 4.1m.

#### Clause 4.6 - Exceptions to Development Standards

This Clause provides for exceptions to development standards where requested and justified in writing by the applicant and where Council is satisfied that:

- the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3) (i.e. that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard); and
- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

In this instance it is proposed to construct the pergola with a rear setback of 13.10m which is 2.14m within the 15.24m Foreshore Building Line which applies to the land, thereby breaching the Foreshore Building Line requirement by approximately 14%.

The applicant has provided a submission, under Clause 4.6 of Kiama LEP 2011, seeking a variation to the Foreshore Building Line contained in Clause 6.7 of Kiama LEP 2011.

### Applicant's Submission

In addressing Clause 4.6 and seeking a variation to Clause 6.7, the applicant has highlighted that Clause 4.6 aims to enable flexibility in applying development standards where better design outcomes are achieved. Clause 4.6(3) states:

*“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

## Report of the Director Environmental Services

## 10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs - Construction of pergola over existing deck (cont)

- 
- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- b) *that there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant makes the following comments in justification to the proposed exception to the foreshore building line development standard:

*We are proposing to construct a small pergola atop an already approved deck structure, which has a setback proposed of 13.1m.*

*In our initial application, as we were constructing over an existing and approved deck (which is in itself within the foreshore building setback), we had overlooked this as also requiring the approval of the exception to development standards.*

*As the deck has been allowed within the foreshore setback area, we had incorrectly assumed this improvement to weatherproof the deck would also be allowed.*

*This request is to formally request an exception to the foreshore setback to allow this pergola to be constructed.*

*As stated in the Kiama LEP 2011, we seek to justify the contravention of the development standard by demonstrating:*

- a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:*
- *Compliance with this development standard is unreasonable in this particular instance, as we respectfully point out that both adjoining neighbours have almost identical improvements (pergolas attached) to their properties with identical setbacks to that we are requesting;*
  - *Both neighbours’ identical improvements are sympathetic to the location and are in keeping with Council’s ambient planning for the area;*
  - *The proposal will enable the currently built “box” look of the rear of the existing residence to “soften”, architecturally, and be a more aesthetically complete residence.*
  - *The current rear of the property has no weather protection to the existing doors at the rear, the proposal will enable more use of the existing deck area to be possible and thereby enhance the amenity of the existing deck for the occupants.*
- b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- *The proposed development will not only improve the owner’s ability to use the premises to a greater extent, but it will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs - Construction of pergola over existing deck (cont)

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- *Environmental Planning in respect to this extent of variation has been shown as being reasonable in the examples of both adjoining properties, which are almost identical in scale, bulk and degree of setback requested.*



Neighbour to the south with privacy fence (which will remain)

## Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs -  
Construction of pergola over existing deck (cont)

Neighbour to the immediate north

Item 10.3

**Council's Response**

In relation to Clause 4.6(3)(a) of Kiama LEP 2011 the following matters are noted:

- The proposal does not result in any unreasonable impacts on the neighbouring properties, such as overshadowing, view loss, privacy loss and the like.
- The proposal does not add any additional floor space to the existing development.
- The proposal is over an existing deck that is already encroaching on the foreshore building line.

In relation to Clause 4.6(3)(b) of Kiama LEP 2011 the following matters are noted:

- The proposal is consistent with the R2 zone objectives (as previously discussed).
- Despite encroaching on the applicable foreshore building line (15.24m), the proposal is consistent with the objectives of clause 6.7; being:
  - 1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.

## Report of the Director Environmental Services

## 10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs - Construction of pergola over existing deck (cont)

- 
- Despite non-compliance with the foreshore building line development standard, the proposal is consistent with the objectives of Clause 4.6; being:
    - (a) To provide an appropriate degree of flexibility in applying certain development standards to particular development.
    - (b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.
  - The site is suitable for the proposed development as there are no unreasonable impacts on the neighbouring properties, such as overshadowing, view loss, privacy loss and the like.

As outlined above it is considered that there are sufficient environmental planning grounds to justify contravention of the development standard under the circumstances.

In terms of public interest, the proposal will not result in any unreasonable impacts on the neighbouring properties, such as overshadowing, view loss, privacy loss and the like.

Overall, despite the non-compliance with the foreshore building line development standard, the proposed development satisfies the objectives underpinning the standard.

Council can assume concurrence of the Secretary of the Department of Planning & Environment under Kiama LEP 2011, Clause 4.6 to vary a development standard by more than 10%, as a result of a new direction given by the Department on 15 December 2017 withdrawing the use of staff delegation in such circumstances. This direction has since be reconfirmed in Planning Circular PS18-003 dated 21 February 2018

As the proposed exception to the Foreshore Building Line development standard has satisfactorily addressed Clause 4.6(3) of Kiama LEP 2011, it is recommended that the application for exception be supported.

**Clause 6.7 - Foreshore Building Line**

The objective of this Clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area. The proposal is located within a Foreshore Building Line of 15.24m from the rear boundary but will not give rise to any undue impacts in the locality.

**Any draft Environmental Planning Instruments**

Nil

**Kiama DCP 2012**

The relevant sections of Kiama DCP 2012 are discussed below:

Chapter 2 - Section 6 - Building Height plane - Low Density Development Only

The proposal provides a compliant building height plane.

Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs -  
Construction of pergola over existing deck (cont)

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### Chapter 2 - Building Lines – Section 12 & 13

The proposal provides compliant building line setbacks for both side boundaries and the rear boundary, as the proposal is attached to the rear of the dwelling there is no applicable front boundary setback.

### Chapter 2 – Section 16 – Foreshore Building Lines

The objectives for Foreshore Building Lines are as follows:

- *To site dwellings having regard to possible risks to life and property resulting from storm surge, tidal inundation, flooding, erosion and sea level changes resulting from climatic changes/changing weather pattern.*
- *Control the bulk, scale and location of development at the water's edge.*
- *Restrict development and redevelopment below the Foreshore Building Line.*
- *Reduce the number of structures below the Foreshore Building Line, particularly upon redevelopment of foreshore land.*
- *Restore the land below the Foreshore Building Line, as far as practicable, to a natural state, with a minimum intrusion of artificial structures.*
- *Preserve and enhance the natural features and vegetation at the interface of land and water.*
- *Avoid pollution of, and adverse ecological impacts on, waterways, riparian vegetation and aquatic life.*
- *Preserve the foreshore vista in a natural state where the foreshore is undeveloped.*
- *Provide for separation between private land uses and public access along the foreshore.*
- *Provide visual separation between land-based development and water-based activities.*
- *Minimise the disturbance of Acid Sulfate Soils.*
- *Mitigate the potential for property loss or damage by ensuring buildings are not subjected to structural damage as a result of erosion, flooding or other coastal or riverine processes and hazards.*

Whilst the proposal encroaches on a 15.24m Foreshore Building Line by 2.14m at a setback of 13.10m, it is considered to be generally consistent with the objectives and controls of Section 16 – Foreshore Building Line.

### Chapter 4 – Low Density Development

The objectives for the Overall Controls are as follows:

- *To encourage innovative housing design which incorporates high level architectural, environmental and amenity standards.*
- *To promote residential development that achieves the principles of energy efficiency and ecologically sustainable development.*

Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs -  
Construction of pergola over existing deck (cont)

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- *To protect the character of the areas and towns.*
- *Ensure all development is designed and sited to respond to greater climatic extremes with energy efficient responses.*
- *To provide high level of user amenity through the provision of well designed, liveable dwellings.*
- *To provide high level of visual and acoustic privacy for existing and new residents.*
- *To ensure that any residential development adjacent or in close proximity to rurally zoned land recognizes the 'right to farm' for rural land zonings.*
- *To ensure that development will not disrupt the streetscape or the unity of a group of buildings and spoil the existing character.*

The proposal is generally consistent with the objectives and controls of Chapter 4 – Low Density Development.

#### Chapter 11 - Waste Requirements

A waste management plan was supplied with the application which deals with demolition and construction waste. Conditions will be imposed, should consent be given, requiring compliance with the waste management plan during both demolition and construction.

#### **Any Matters Prescribed by the Regulations**

- NSW Coastal Policy, 1997

The proposed development is not inconsistent with the NSW Coastal Policy, 1997.

#### **The Likely Impacts of the Proposed Development**

- Noise

Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbours. No ongoing significant noise impacts are expected as a result of the development.

- Privacy and Overlooking

No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.

- Overshadowing

Shadow impacts on adjoining properties are negligible.

- Views

The proposal will have no or negligible impact upon views currently available from neighbors.

- Stormwater Management

All stormwater will drain to the existing system.



Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs -  
Construction of pergola over existing deck (cont)

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- Environmental Impacts

*Vegetation Removal* – No vegetation is to be removed.

*Impact on Water Resources* – Stormwater will be conveyed to the existing system. Controls will be implemented during construction to minimise sedimentation.

- Social and Economic Impacts

The proposed development will have minimal social or economic impacts.

### **Submissions Received**

Notification letters were sent to neighboring property owners who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period no submissions were received.

### **The Public Interest**

The proposal is considered to be consistent with Kiama LEP 2011 and Kiama DCP 2012. The proposal is not likely to cause significant adverse impacts to the natural or built environment, is not likely to cause significant adverse social and economic impacts, is generally suitable for the site and therefore is considered to be consistent with the public interest.

### **External Referrals**

No external referrals were required for the proposal.

### **Internal Referrals**

No internal referrals were required for the proposal.

### **Final comments and conclusions**

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposal is consistent with Kiama LEP 2011 and relevant DCP. The proposed development is consistent with the objectives of Kiama LEP 2011 - R2 Low Density Residential zone.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised.

The proposed development is considered to be reasonable and conditional approval is recommended.

## **Draft Conditions of Development Consent**

### **General**

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as 10.2018.185.1 dated xxxxxx except as amended by the following conditions:  
(g005.doc)

### **Prior to Commencement of Works**

- (1) Building work must not commence until the Principal Certifying Authority for the development to which the work relates has been informed of:

## Report of the Director Environmental Services

## 10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs - Construction of pergola over existing deck (cont)

- 
- i The licensee's name and contractor licence number;
  - ii That the licensee has complied with Part 6 of the Home Building Act 1989.

In the case of work to be done by any other person, the Principal Certifying Authority:

- a Has been informed in writing of the person's name and owner builder permit number;

or

- b Has been given a declaration, signed by the owner/s of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989. (pt005.doc)

- (2) Under the provisions of the Act, work may not commence on the development until the following is carried out:

- a Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
- b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
- c You **must** notify the Council of the appointment; and
- d You **must** give at least two (2) days' notice to Council of your intention to commence work.

You will find attached an application form for a Construction Certificate. Should you require Council to issue this Certificate you should complete this application and forward it, together with plans and specifications, to Council for approval.

You will find attached a form for the "*Notice of Commencement of Building Work and Appointment of Principal Certifying Authority*", which you are required to submit to Council at the appropriate time and at least two (2) days prior to the commencement of work.

Should you appoint Council as the Principal Certifying Authority, relevant inspection fees will be required to be paid at the time of lodgement of this form. (pt020.doc)

- (3) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a Showing the name, address and telephone number of the Principal Certifying Authority for the work;
- b Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c Stating that unauthorised entry to the work site is prohibited.

## Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs -  
Construction of pergola over existing deck (cont)

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**Note:** Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. The sign will be provided by the nominated Principal Certifying Authority for the relevant fee. (pt060.doc)

**Stormwater Management**

- (1) Stormwater shall be connected to the existing system. (sm005.doc)

**Inspections**

- (1) The building work shall be inspected at critical and other stages as required by the Principal Certifying Authority for the development.

**NOTE:** Should you choose Council to be your Principal Certifying Authority for this development you will be advised of the required building inspections and applicable fees at the time of that appointment. (bu015.doc)

**Building Construction**

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia. (bu010.doc)
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (3) Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;
- Monday to Friday - 7.00 am to 5.00 pm
- Saturdays - 8.00 am to 1.00 pm
- No construction work is to take place on Sundays or Public Holidays. (bu151.doc)
- (4) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, construction and/or subdivision work. All waste nominated for disposal must be disposed of at a licensed landfill facility. All waste nominated for recycling must be reused or recycled. (bu153.doc)

**Erosion and Sedimentation Controls/Soil and Water Management**

- (1) All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In particular:
- A silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). Such fence must be regularly inspected and cleaned out and/or repaired as is necessary, and all collected silt must be disposed of in accordance with Council's Sedimentation Control Policy.
  - Unnecessary disturbance of the site (eg; excessive vehicular access) must not occur.
  - All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.

## Report of the Director Environmental Services

10.3 10.2018.185.1 – Lot 852 DP 231591 – 96 North Kiama Drive Kiama Downs -  
Construction of pergola over existing deck (cont)

- 
- d All the above requirements must be in place for the duration of the construction works. (esc005.doc)

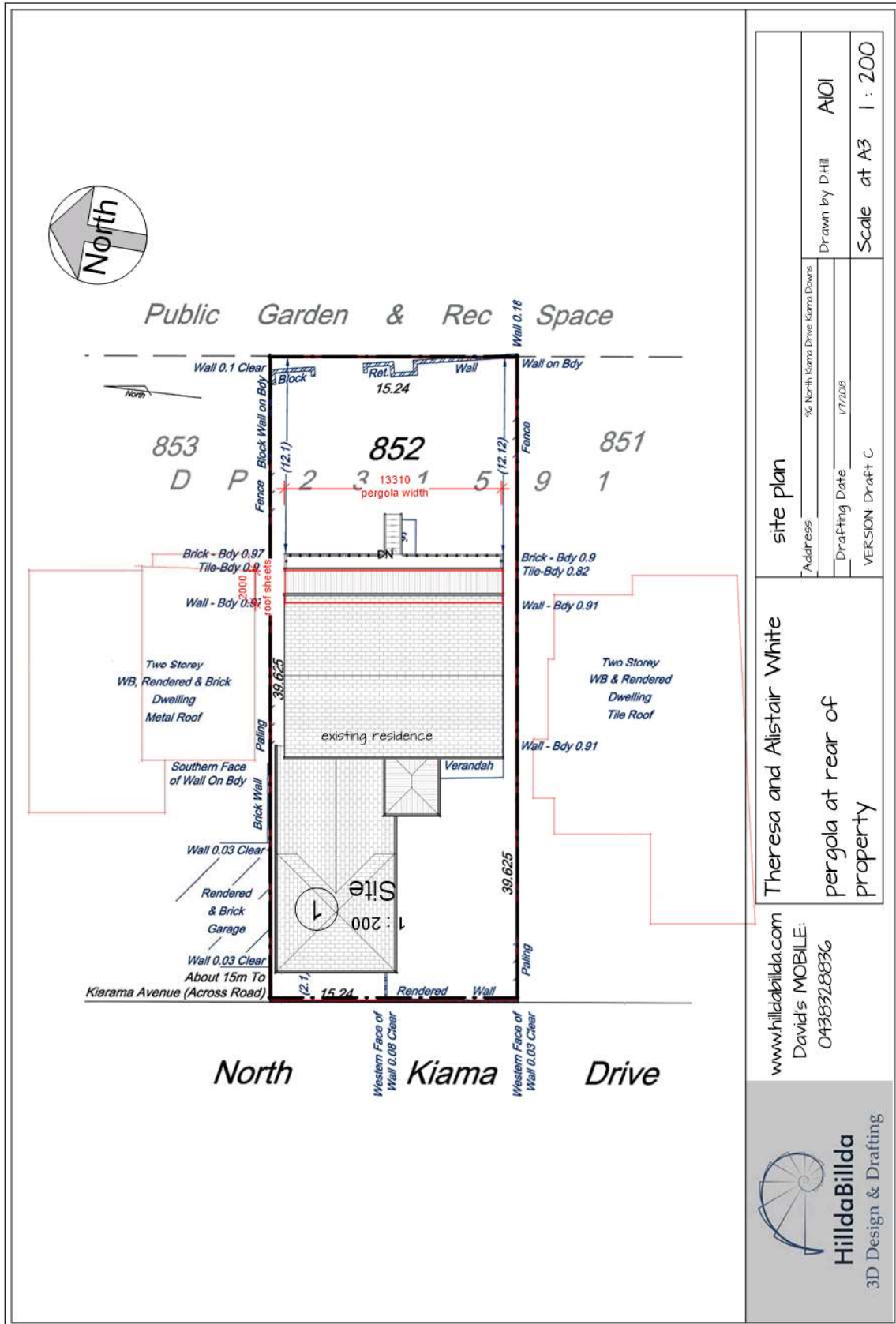
**Site Facilities**

- (1) An appropriate temporary toilet facility shall be provided on site, located inside the property boundaries, prior to commencement of works. The temporary toilet shall be maintained in a clean/sanitary condition at all times. (sf010.doc)
- (2) During construction the applicant shall provide, inside the property boundaries a suitable waste container for the disposal of all papers, plastics and other light weight materials. (sf015.doc)
- (3) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
- a Stating that unauthorised entry to the premises is prohibited; and
  - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

Any such sign is to be removed when the erection or demolition of the building has been completed. (sf020.doc)

**Prior to Occupation**

- (1) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to release of the Final Occupation Certificate.
- Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)
- (2) The whole or part of the building must not be occupied unless an Occupation Certificate has been issued in relation to the building or part in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.



site plan	
Address: 96 North Kiama Drive Kiama Downs	Drawn by D.Hill AIOI
Drafting Date: 1/7/2018	Scale at A3 1 : 200
VERSION: Draft C	

Theresa and Alistair White  
 pergola at rear of  
 property

www.hilldaBilda.com  
 David's MOBILE:  
 0438328836


**HildaBilda**  
 3D Design & Drafting

Attachment 1 Item 10.3

site context	Drawn by D.Hill A1012
Address: 96 North Kiama Drive Kiama Downs	Scale at A3 1 : 250
Drafting Date: 1/7/2018	
VERSION: Draft C	

Theresa and Alistair White  
pergola at rear of  
property

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David's MOBILE:  
0438328836



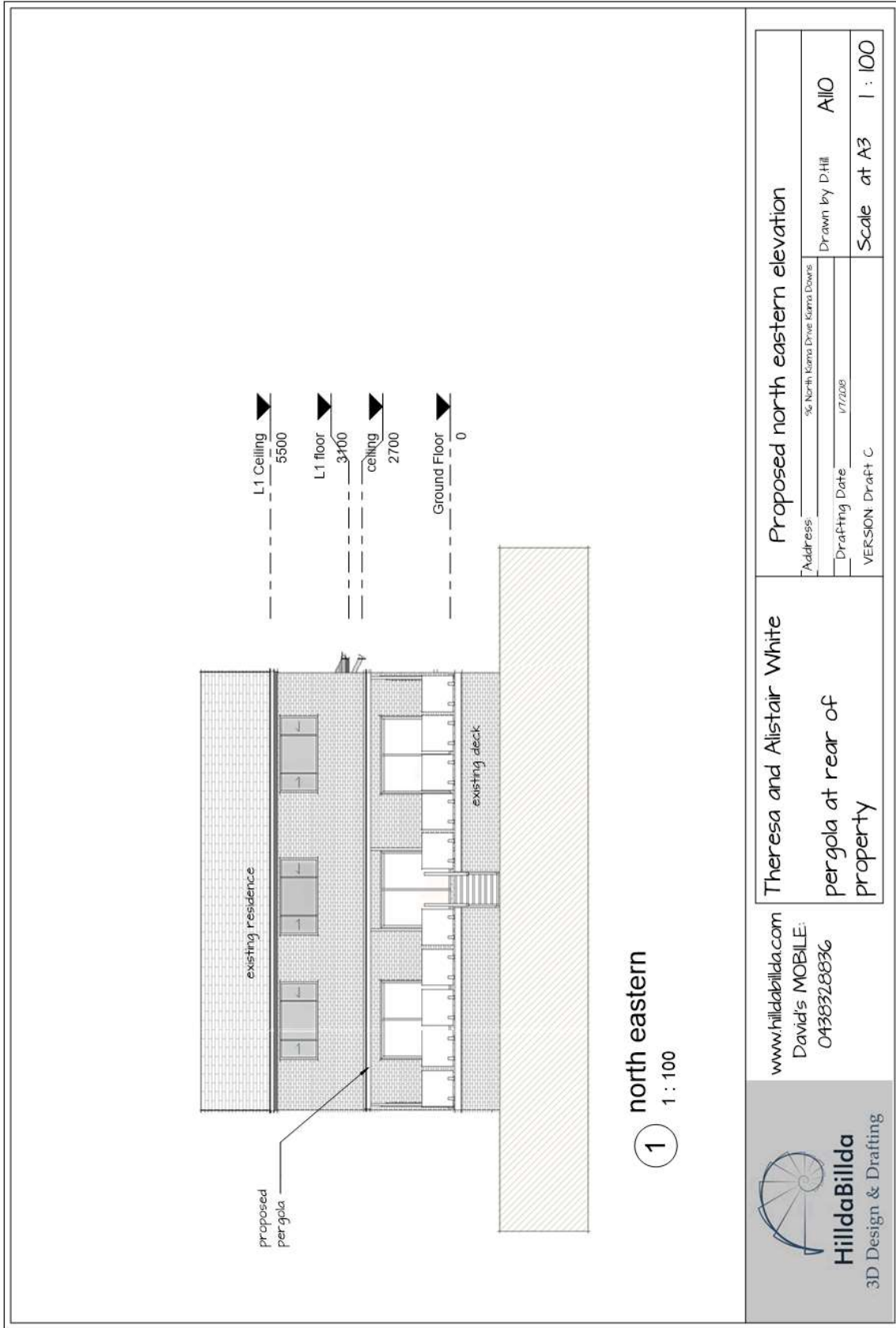
**HilldaBilda**  
3D Design & Drafting



**1**  
 1 : 1  
 perspective from rear yard

Theresa and Alistair White pergola at rear of property		perspective 1, stormwater concept detail	
www.hilldabillda.com David's MOBILE: 0438328836	Address: 96 North Kiama Drive Kiama Downs Drafting Date: 1/7/2018 VERSION: Draft C	Drawn by: D.Hill A105	Scale: at A3 1 : 1





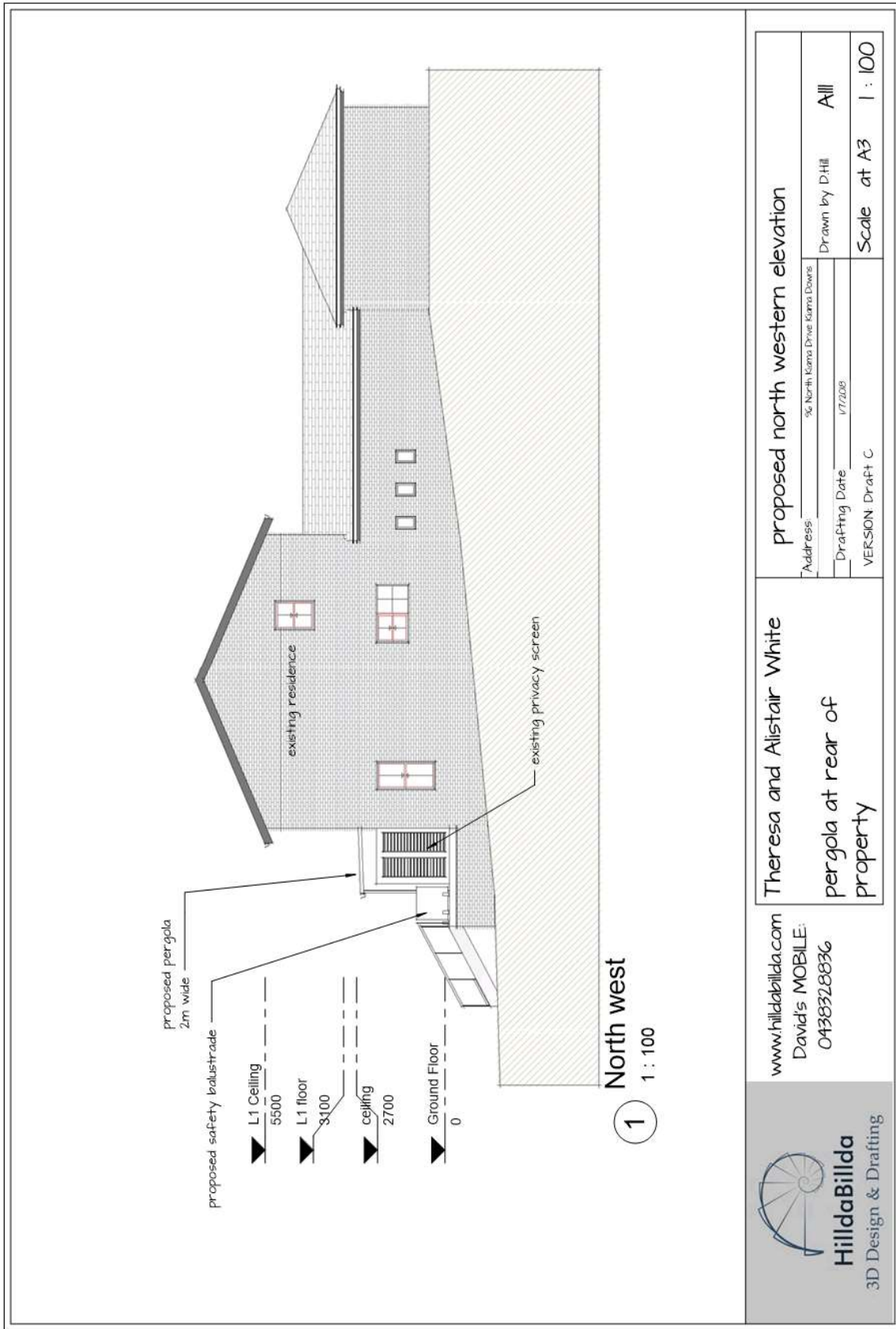
Proposed north eastern elevation	
Address: 96 North Kiama Drive Kiama Downs	Drawn by D.Hill A.I.O
Drafting Date: 1/7/2018	Scale at A3 1 : 100
VERSION: Draft C	

Theresa and Alistair White  
 pergola at rear of property

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 David's MOBILE: 0438328836

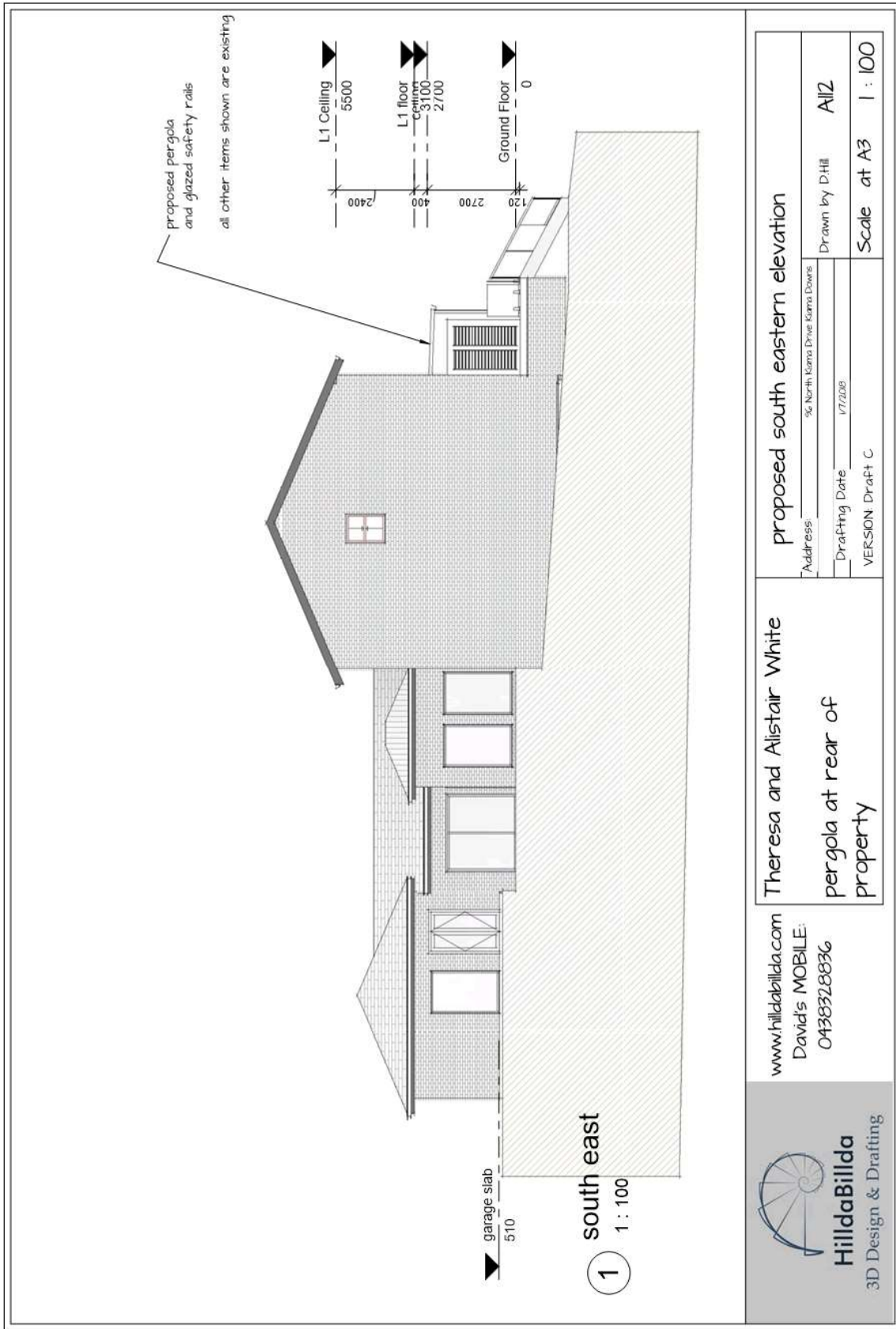
**HilldaBillda**  
 3D Design & Drafting

1 north eastern  
 1 : 100



Item 10.3

Attachment 1



proposed south eastern elevation	
Address: 96 North Kiama Drive Kiama Downs	Drawn by D.Hill
Drafting Date: 1/7/2018	Scale at A3: 1 : 100
VERSION: Draft C	

Theresa and Alistair White  
 pergola at rear of property

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 0438328836



**10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs – demolition of existing deck & construction of new decks**

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.3 The principles of sustainable development and compliance underpin town planning and local development

Delivery Program: 2.3.1 Conduct development and building assessment/approval functions in accordance with statutory requirements, policies and procedures

Item 10.4

**Summary**

This report reviews Development Application No 10.2017.307.1, which seeks consent for the demolition of an existing deck and construction of new decks.

The report recommends that Council approve Development Application No 10.2017.307.1 subject to conditions at the end of this report.

**Finance**

N/A

**Policy**

N/A

**Reason for the report**

This report is submitted to Council as the proposal involves a Clause 4.6 variation to the Foreshore Building Line under Clause 6.7, which is greater than the 10% assumed concurrence for the standard. The proposed variation is between 6.8% and 23.5%.

**Communication/Community Engagement**

Required: Yes (letter notification).

Notification period: 14 days from 01/06/2018 to 15/06/2018.

Submissions: 2 submissions received.

**Attachments**

- 1 10.2017.307.1 - Plans [↓](#)
- 2 10.2017.307.1 - Applicant's 4.6 Exception Report [↓](#)
- 3 10.2017.307.1 - Attachment 3 - Photos taken from 112 North Kiama Drive [↓](#)
- 4 10.2017.307.1 - Attachment 4 - Photos taken from 112 North Kiama [↓](#)

**Enclosures**

Nil

**RECOMMENDATION**

That Council approve development application 10. 2017.307.1, under Section 4.16 the Environmental Planning and Assessment Act 1979, subject to conditions at the



Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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[end of this report.](#)

## BACKGROUND

### Property information

The property is described as Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs. The zoning of the property is R2 Low Density Residential under Kiama Local Environmental Plan (LEP) 2011. The area of the property is 565.89m<sup>2</sup> and is rectangular.

The site currently has an existing dwelling and is bounded by residential dwellings to the north, south and opposite to the west, with a public reserve to the east.

### Description of the proposed development

The proposal involves the demolition of an existing deck and construction of new decks located to the rear of the property within the 15.24m Foreshore Building Line at 110 North Kiama Drive.



### Section 4.15 Assessment

The proposed development has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended) and the following matters are considered relevant.

#### Relevant Environmental Planning Instruments

- State Environmental Planning Policy – (Coastal Management) 2018

The site is located within the coastal zone, as defined by the abovementioned SEPP. The proposed development is considered to satisfy the requirements of the SEPP.

- Kiama LEP 2011

The subject land is zoned R2 Low Density Residential under Kiama LEP 2011. The proposal is permissible with consent.

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

- 
- Foreshore Building Line - Clause 6.7
    - (1) The objective of this Clause is to ensure that development in the foreshore area will not impact on the natural foreshore process or affect the significance and amenity of the area.
    - (2) Development consent must not be granted for development on land in the foreshore area except for the following:
      - a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area;
      - b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so;
      - c) development for the purpose of boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).
    - (3) Development consent must not be granted under sub-clause (2) unless the consent authority is satisfied that:
      - a) the development will contribute to achieving the objectives for the zone in which the land is located;
      - b) the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area;
      - c) the development will not cause environmental harm such as:
        - (I) pollution or siltation of the waterway, or
        - (II) an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or
        - (III) an adverse effect on drainage patterns, and
      - d) the development will not cause congestion of, or generate conflicts between, people using open space areas or the waterway;
      - e) opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised;
      - f) any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained;
      - g) in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore;
      - h) the development will not be impacted by sea level rise or change of flooding patterns as a result of climate change.

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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The proposal is permissible with consent and is considered to comply with the above criteria as it will not give rise to any undue impacts along the foreshore area.

**Amended Plans**

The applicant was afforded the opportunity to provide amended plans to address concerns raised in the 2 submissions regarding the extent of the proposed decks.

The applicant provided amended plans and provided the following comments to address the concerns.

*“I have greatly altered the plans which I originally lodged to comply with the neighbour’s concerns.*

*I did discuss the original plans with [name redacted] at 108 North Kiama Drive before drawing them up and he and his wife said that their only concern was that I did not block their view from their balcony towards Bass Point. I have not blocked their views.*

*His objections are:*

(a) *The height of the lower deck will create a large dark void. I have reduced the easterly extension of the deck which reduces the heights of the lower deck due to the sloping land and I am building storage under the deck to address this.*

(b) *The size is too large, compared to his “approved” deck.*

*I have greatly reduced the size of the decks by 3.5m in width and 3.5m in depth for the upper deck and 1.5m for the lower deck. (Ps His deck was built without Council approval. It extends past the Foreshore Building Line, is of a very flimsy structure and does not have railings which fit regulations. When he stands on it, as does very early in the mornings, he can look straight into my bedroom window).*

(c) *I am not invading his privacy as his deck is very open to be seen from the beach and all around. I will not be able to see inside his house from the upper deck and from the lower deck I will only be able to see his back lawn.*

(d) *He wants me to round the corners of my deck to match his, so that his views would not be interrupted, but in the beginning of his letter he states that he is grateful that his northerly views are not interrupted! We will not block his views. Round corners would not suit my very angular, flat roofed house and are ugly.*

*The objections from [name redacted] at 112 North Kiama Drive allude to excessive scale and height, loss of privacy and overshadowing, ventilation, privacy and amenity and breaches of the foreshore setback.*

*My house is set back further and my proposed decks are much smaller than [name redacted] and do not extend as far to the east, and thus is a smaller breach of the Foreshore Building Line compared to his structure of two enormous concrete decks, pool and bridge across the pool. Also his decks are very close to the dividing fence. He currently looks straight into our living areas from his kitchen window.*

*As a compromise, I have moved both my upper and lower proposed decks to start 3.5m further south on the northerly end to prevent any possible perceived loss of privacy, and I have reduced the depth of the decks by 3.5m (upper) and 1.5m*



## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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*(lower). We are positioned south of this house so there is no possible overshadowing and the constant wind from the ocean provides much ventilation. My open decks would not stop any wind.*

*His additional observations are very odd. My structural engineer, Greg Mealey of Wollongong, did not find any problem with the structure and the metal above the windows has already been replaced with the new windows. He will be drawing up the structural plans for the decks.*

*In summary, I have addressed both neighbours' concerns by following Council's officer's advice, which was to make the upper deck wider and extend it less to the east. So both proposed decks now start 3.5m further south, away from the northern neighbor and the eastern extent has been reduced by 1.5m for the lower deck and reduces 3.5m for the upper deck."*

Council Comment

The amended plans were re-submitted with the above statement seeking to justify the amended design.

It should however be noted that the deck at the rear of No 108 was not built without Council approval as suggested in the above statement from the owner of No 110.

Furthermore the amended building design and its placement will lessen the impact on the Foreshore Building Line and adjoining properties. The amended plans were re-notified and 2 submissions were again received with concerns about the proposal.

**Exception to Development Standard Assessment**Extent of the Variation

1. The first floor deck will be setback on the northern side 14.2m encroaching by 1.04m into the Foreshore Building Line. On the southern side, the first floor deck is setback 13.623m encroaching by 1.617m into the Foreshore Building Line.
2. The ground floor deck will be setback on the northern side 12.227m encroaching by 3.013m into the Foreshore Building Line and on the southern side 11.656m encroaching by 3.584m into the Foreshore Building Line.

What Standard is proposed to be varied?

Clause 6.7 – Foreshore Building Line being that of 15.24m.

Is the Exception Excluded by Clause 4.6(6) or 4.6(8) of Kiama LEP 2011?

No

Has the Exception Request Adequately Addressed Matters listed in Clause 4.6(3)?

Yes

Is the Proposed Development Consistent with the objectives of the Standard and therefore the Public Interest?

Yes

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

- 
- The applicant's written statement has addressed the provisions of Clause 4.6 of Kiama LEP 2011 and demonstrates that the variation sought to the development standards of the LEP regarding Foreshore Building Line is well founded and justified.
  - The variation applies to the additions to existing decks to increase their size.
  - The increased size of the existing decks are lessened by the fact they are open areas and are not considered unreasonable in the context of the site.
  - The impacts are not considered unreasonable in the circumstances of the use of the land.
  - The variation arises due to the depth of the Foreshore Building Line.
  - Environmental planning outcomes will be met, as the proposed development is not inconsistent with the aims of Kiama LEP 2011 and will provide a positive outcome for development on the site with an aesthetically acceptable built form outcome, without causing unreasonably impacts on residential amenity of nearby properties.

Item 10.4

**Submissions**

The proposal was re-notified to the adjoining property owners by way of 14 day notification letters for which Council received 2 submissions.

A summary of the submissions, which were received from the two adjoining properties, relate to:

- Excessive scale, size, height, causing:
  - Loss of privacy and amenity.
  - Unknown impacts on shadowing, light and ventilation.
  - Substantial breach of Council's foreshore setback regulations.
  - Reduction of views, privacy concerns.
  - Height and size of decks being excessive.

**Comments on Submissions**

It has been identified during the assessment process that the proposal is partially within the Foreshore Building Line, however it has been considered the increased decks would not unduly impact on adjoining properties.

The decks do not present as being of a size or location that would cause loss of privacy or amenity.

Privacy or amenity concerns could be further addressed by way of the introduction of suitable privacy screens on the sides of the upper deck (however this may also impact on oblique views from neighbouring properties). Shadowing, light and ventilation would not appear to be of a major impact due to the orientation of the blocks and the relative positioning of existing dwellings.

**Conclusion**

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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In relation to Clause 4.6(3)(a) of Kiama LEP 2011, the following matters are noted:

- The proposal does not result in any unreasonable impacts on the neighbouring properties, such as overshadowing, view loss, privacy loss and the like.
- The proposal does not add any additional floor space to the existing development.

In relation to Clause 4.6(3)(b) of the LEP, the following matters are noted:

- The proposal is consistent with the R2 zone objectives (as previously discussed)
- Despite encroaching on the applicable Foreshore Building Line (15.24m), the proposal is consistent with the objectives of Clause 6.7, being:
  - (1) The objective of this Clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.
- Despite non-compliance with the foreshore building line development standard, the proposal is consistent with the objectives of Clause 4.6; being:
  - (1) To provide an appropriate degree of flexibility in applying certain development standards to particular development,
  - (2) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- The site is suitable for the proposed development as there are no unreasonable impacts on neighbouring properties, such as overshadowing, view loss, privacy loss and the like.

#### Recommendation

As outlined above, it is accepted that there are sufficient environmental planning grounds to justify contravention of the development standard under the circumstances.

In terms of public interest the proposal will not result in any unreasonable impacts on the neighbouring properties, such as overshadowing, view loss, privacy loss and the like.

Overall, despite the non-compliance with the Foreshore Building Line development standard, the proposed development satisfies the objectives underpinning the standard.

Council can assume concurrence of the Secretary of the Department of Planning & Environment under Kiama LEP 2011, Clause 4.6 to vary a development standard by more than 10%, as a result of a new direction given by the Department on 15 December 2017 withdrawing the use of staff delegation in such circumstances. This direction has since be reconfirmed in Planning Circular PS18-003 dated 21 February 2018.

Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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As the proposed exception to the Foreshore Building Line development standard has satisfactorily addressed Clause 4.6(3) of Kiama LEP 2011, it is recommended that the application for exception be supported.

### **Any Draft Environmental Planning Instruments**

Nil.

### **Development Control Plan (DCP) 2012**

The proposed development satisfies the objectives and performance controls within Kiama DCP 2012.

#### Chapter 2 – overall controls

#### Section 16 – Foreshore Building Lines

This section talks about the visual and environmental impact of development within close proximity to the foreshore. Whilst recognising some potentially adverse impacts to be avoided, it clearly acknowledges that certain forms of development are acceptable. Any proposed development on land impacted by a Foreshore Building Line must be consistent with the following objectives:

- To site dwellings having regard to possible risks to life and property resulting from storm surge, tidal inundation, flooding, erosion and sea level changes resulting from climatic changes/changing weather pattern.
- Control the bulk, scale and location of development at the water's edge.
- Restrict development and redevelopment below the Foreshore Building Line.
- Reduce the number of structures below the Foreshore Building Line, particularly upon redevelopment of foreshore land.
- Restore the land below the Foreshore Building Line, as far as practicable, to a natural state, with a minimum intrusion of artificial structures.
- Preserve and enhance the natural features and vegetation at the interface of land and water.
- Avoid pollution of, and adverse ecological impacts on, waterways, riparian vegetation and aquatic life.
- Preserve the foreshore vista in a natural state where the foreshore is undeveloped.
- Provide for separation between private land uses and public access along the foreshore.
- Provide visual separation between land-based development and water-based activities.
- Minimise the disturbance of Acid Sulphate Soils.
- Mitigate the potential for property loss or damage by ensuring buildings are not subjected to structural damage as a result of erosion, flooding or other coastal or riverine processes and hazards.

Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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Comment

The proposed development satisfies the objectives and performance controls within Kiama DCP 2012. See specific comments below regarding the variation to the 15.24m Foreshore Building Line setback.

Rear Foreshore Building Line

The proposed new works involve the demolition of existing deck and construction of new decks within the rear Foreshore Building Line include:

1. The first floor open deck will be setback on the northern side 14.2m encroaching by 1.04m and on the southern side 13.623m encroaching by 1.617m on the 15.24m Foreshore Building Line.
2. The ground floor open deck will be setback on the northern side 12.227m encroaching by 3.013m and on the southern side 11.656m encroaching by 3.584m on the 15.24m Foreshore Building Line.

It should be noted that the property to the north and south both have varying degrees of encroachments into the Foreshore Building Line in the locality.

Section 5 - Maintenance of Views and Vistas

Comment: The proposed development is of a size and scale that will not significantly alter the main views within the locality and will not have an unreasonable impact on the views and scenic qualities of the site and the surrounding area.

View impact is discussed in detail under Visual Impact.

The following objectives have been considered:

- *To maintain view sharing principles through the development and redevelopment of areas.*

Comment – The development will not unreasonably affect the primary views from adjoining properties and therefore satisfies this objective.

- *To ensure that where practical new development is designed and sited not to significantly alter views (including water and or escarpment views).*

Comment – The proposal will, but not unreasonably, interfere with the views currently enjoyed by properties at Nos 108 & 112 North Kiama Drive.

- *To ensure that primary private views are maintained through the addition of new development.*

Comment – Primary views will not be unreasonably affected by the proposal.

- *To retain views to and from the water.*

Comment – Primary views will not be affected. Some minor view loss along the foreshore reserve will occur.

- *To protect conserve and maintain the landform of the Municipality.*

Comment – The proposal is consistent with surrounding developments in the area.

- *To limit potential for large bulky housing and development.*

Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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Comment – The proposal is not out of character with other development in the area with respect to bulk and scale considerations.

- *To encourage sensitive siting of housing.*

Comment – The dwelling is not unreasonably sited on the property.

- *To maintain or enhance significant public view corridors and other opportunistic views available from the public domain.*

Comment – There is no unreasonable interference with views available from the public domain.

In the assessment of the effect on views resulting from the proposal, reference is to be made to the view sharing principles handed down in the Land and Environment Court.

*“The control refers to “Tenacity Consulting v Waringah [2004] NSWLEC 140 “which provides the following guiding principles in the assessment of views:*

*The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”*

Response The views of the ocean could be considered highly valued. The primary views from 112 & 108 North Kiama Drive are considered to be to the east at the rear of the properties looking out towards the beach and ocean.

*“The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.”*

Response - Given the orientation of the blocks, being in a west/east direction, the current views from Nos 108 and 112 North Kiama Drive will not be unreasonable affected. The oblique views are also not totally removed as the proposal is for open decks with glass balustrading. It is unrealistic to expect that the whole view to the north from the dwelling at No 108 North Kiama Drive should be preserved in total, as this view is already currently impeded by the existing dwellings to the north of No 110 North Kiama that punctuate the view. The partial view loss to No 108 results from an oblique view line across the northern side boundary between this property and the subject property. It would be unreasonable to expect the uninterrupted retention of existing views in that direction.

It is also unrealistic to expect that the whole view to the south of the dwelling at No 112 North Kiama Drive should be preserved in total, as this view is already currently impeded by the existing dwellings to the south of No 110 North Kiama Drive that punctuate the view. The partial view loss to No 112 results from an oblique view line across the southern side boundary between this property and the subject property. It would be unreasonable to expect the retention of existing views in that direction.

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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*“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases, this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.”*

Response The view loss experienced by Nos 108 and 112 North Kiama Drive is not considered to be significant. A portion of both the beach and land interface will be lost, in varying degrees, by each property when looking across their side boundaries. Each property will still enjoy extensive views directly to the beach and ocean.

*“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises because of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skillful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.”*

Response There is a breach to Kiama LEP 2011 and Kiama DCP 2012 with regards to not complying with the rear Foreshore Building Line setbacks however, the design response is considered to be sympathetic to neighbours, appropriate and reasonable in the circumstances.

It is considered that view loss to Nos 108 and 112 is not unreasonable as it is over side boundaries. Views from their decks to the rear are maintained. Therefore, the principle of view sharing has been incorporated in the design due to the reduction of the depth of the decks from that originally proposed to allow for views over the side boundary.

#### Chapter 4 – Low Density Development

##### Overall Controls

The objectives for the overall controls are as follows:

- *To encourage innovative housing design which incorporates high level architectural, environmental and amenity standards.*
- *To promote residential development that achieves the principles of energy efficiency and ecologically sustainable development.*
- *To protect the character of the areas and towns.*
- *Ensure all development is designed and sited to respond to greater climatic extremes with energy efficient responses.*



## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

- 
- *To provide high level of user amenity through the provision of well-designed, liveable dwellings.*
  - *To provide high level of visual and acoustic privacy for existing and new residents.*
  - *To ensure that any residential development adjacent or in close proximity to rurally zoned land recognizes the ‘right to farm’ for rural land zonings.*
  - *To ensure that development will not disrupt the streetscape or the unity of a group of buildings and spoil the existing character.*

The proposal is generally consistent with the objectives and controls of Chapter 4 – Low Density Development.

#### Chapter 11 Waste Requirements

A Waste Management Plan was supplied with the application which deals with demolition and construction waste. Conditions will be imposed, should consent be given, requiring compliance with the Waste Management Plan during both demolition and construction.

#### **Any Planning Agreement**

Nil.

#### **Any Matters Prescribed by the Regulations**

- NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast

The proposal does not compromise the strategic actions or principles (Appendix C - Table 3) adopted within the *NSW Coastal Policy 1997*.

#### **The Likely Impacts of the Proposed Development**

##### Council Assessment of the Visual impact

The proposal is considered to be of a scale and size that is not out of character with the surrounding area. The proposed decks have been designed such that the impact is reduced by being that of an open structure with glass balustrading to allow for view sharing. It should be noted that the deck and other structures at No 112 North Kiama Drive already extend further into the Foreshore Building Line than this proposal. The proposed decks are considered to be that of a typical construction of an open deck (no roof) and glass balustrading, which does not provide any unreasonable bulk to the existing dwelling. Given the topography and location of land, the views from neighbouring properties will not unduly be obstructed by the proposal.

To assist Council in its consideration of the visual impacts of the proposal, site inspections were undertaken from the following properties:

- 108 North Kiama Drive (existing dwelling)
- 112 North Kiama Drive (existing dwelling)

It is Council's assessment that the view impacts have been significantly improved as a result of the amended plans. Council's assessment has revealed that while the

Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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encroachment still exists it is not considered unreasonable. The visual impact concerns raised in submissions have been assessed and are not considered significant enough to warrant refusal of the application.

### **Public Domain**

The proposed development will not significantly affect views from the public domain.

- Noise

Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbors. No ongoing significant noise impacts are expected as a result of the development.

- Privacy and Overlooking

No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.

- Overshadowing

The proposed development will have no unreasonable impact in terms of overshadowing.

- Environmental Impacts

*Vegetation Removal* – No vegetation is to be removed.

*Fauna Impacts* – It is unlikely that the proposal will affect any fauna or its habitat.

*Impact on Soil Resources* – Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent should be imposed, if consent is granted, in relation to soil and water management controls to be implemented during construction. Satisfactory implementation of these controls will prevent significant impacts on soil resources.

*Impact on Water Resources* – Rainwater tanks will be provided, as required by BASIX. Controls will be implemented during construction to minimise sedimentation.

- Social and Economic Impacts

It is considered that the proposed development will not result in any significant adverse social impact.

### **The Suitability of the Site for the Development**

As discussed throughout this report, the development is of a size, bulk, scale and sitting that are considered to be reasonable having regard to the site. The development is proposed within the R2 Low Density Residential zone and bounded by residential dwellings and rural land. The site is considered to be suitable for the proposed development.

### **Submissions**

#### Public Submissions

Notification letters were originally sent to neighboring property owners who were provided with 14 days in which to comment on the proposal. At the conclusion of the

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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notification period, 2 submissions were received. Amended plans were received and they were re-notified of which 2 submissions were received which raised the following (summarised) matters of concern:

Item 1:- *“View sharing”*

Comment - This matter has been discussed in detail within this report and the proposal does not constitute an unreasonable view loss.

Item 2:- *“Excessive scale, size, height.”*

Comment - The applicant provided amended plans with a reduction to the setback and depth of the decks. The proposal is not considered to be excessive.

Item 3:- *“Breach of Council’s Foreshore Setback Regulations.”*

Comment - This matter has been discussed in detail within this report and it is considered that the encroachments are of a size and scale in keeping with the character of the area.

Item 4:- *“Loss of Privacy and amenity.”*

Comment - This matter has been discussed in detail within this report and it is considered that the loss of privacy and amenity is not unreasonable as they are open decks of a size, bulk and scale in keeping with the character of the area.

Item 5:- *“View loss.”*

Comment - This matter has been discussed in detail within this report and it is considered that the development will not have a substantial or unacceptable impact on the views currently available.

Item 8:- *“Design.”*

Comment - The design is not unlike other decks within the locality.

Item 9:- *“Overshadowing concerns”*

Comment: - The shadowing impact is considered reasonable and in accordance with adopted requirements.

Item 10:- *“Light and ventilation.”*

Comment - Due the location of the decks and setbacks to adjoining properties and west/east orientation of the blocks, no detrimental is likely to adjoining properties.

### External Referrals

Nil

### Internal Referrals

Nil

### The Public Interest

The proposal is considered consistent or justifiably inconsistent with relevant Environmental Planning Instruments and DCP 2012 and is not expected to cause significant adverse impacts on the visual amenity of the area or foreshore building

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

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line. The proposal is considered suitable for the site having regard to the zoning. The proposed development is therefore considered consistent with the public interest.

**Final Comments and Conclusions**

The proposed development has been assessed having regard to all relevant matters for consideration prescribed under Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposed development is consistent with Kiama LEP 2011 and Kiama DCP 2012.

It is Council's opinion that the applicant has attempted to remove concerns from both adjoining neighbours by the way of amended plans to lessen the impact and reduce the encroachment into the Foreshore Building Line. The applicant has provided a greater setback to the neighbour directly to north to improve privacy and amenity and reduced the decks size so to allow for a 'view corridor' to the neighbour directly to the south.

It is believed that the reduction has achieved the desired outcome in this case.

Having regard to the context of the site and direction of main views towards the east the non-compliance with the Foreshore Building Line being that of non-habitable decks with no roofing, the impact on views and adjoining dwellings is considered not to be unreasonable.

Assessment of this development proposal in relation to the northern and southern adjoining dwellings has revealed that the current proposal is not unreasonable.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised in relation to the environmental impact of the proposal, particularly the likely visual impacts or view loss.

Concerns raised in submissions have been considered and do not warrant refusal of the application.

The proposed development is considered acceptable and conditional approval is recommended.

**Draft Conditions of Consent****General**

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as 10.2017.307.1 dated XXXXX except as amended by the following conditions.

**Prior to commencement of works**

- (1) Building work must not commence until the Principal Certifying Authority for the development to which the work relates has been informed of:
  - i The licensee's name and contractor licence number;
  - ii That the licensee has complied with Part 6 of the Home Building Act 1989.

In the case of work to be done by any other person, the Principal Certifying Authority:

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

- 
- a Has been informed in writing of the person's name and owner builder permit number;
- or
- b Has been given a declaration, signed by the owner/s of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989.
- (2) Under the provisions of the Act, work may not commence on the development until the following is carried out:
- a Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
  - b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
  - c You **must** notify the Council of the appointment; and
  - d You **must** give at least two (2) days' notice to Council of your intention to commence work.

You will find attached an application form for a Construction Certificate. Should you require Council to issue this Certificate you should complete this application and forward it, together with plans and specifications, to Council for approval.

You will find attached a form for the "*Notice of Commencement of Building Work and Appointment of Principal Certifying Authority*", which you are required to submit to Council at the appropriate time and at least two (2) days prior to the commencement of work.

Should you appoint Council as the Principal Certifying Authority, relevant inspection fees will be required to be paid at the time of lodgement of this form.

- (3) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a Showing the name, address and telephone number of the Principal Certifying Authority for the work;
  - b Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - c Stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. The sign will be provided by the nominated Principal Certifying Authority for the relevant fee.

- (4) No building work is to commence until details prepared by a practising structural engineer have been submitted to and accepted by the Principal

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

Certifying Authority for any reinforced concrete slabs, footings or structural steel.

- (5) A contribution under Section 7.12 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94A (Indirect Contributions) Plan shall be paid to Council **prior to the issuing of a Construction Certificate**. The total contribution required for the development is **\$1,000.00**.

The amount of the contribution shown on the development consent will be indexed to the time of payment in the following manner:

$$\text{Contribution (at time of payment)} = \frac{C \times \text{CPI}_p}{\text{CPI}_c}$$

Where:

C = The original contribution amount as shown in the development consent.

CPI<sub>p</sub> = The *Consumer Price Index: All Groups Index for Sydney* as published by the Australian Bureau of Statistics and which applied at the time of payment.

CPI<sub>c</sub> = The *Consumer Price Index: All Groups Index for Sydney* as published by the Australian Bureau of Statistics and which applied at the time of issue of the development consent. (po001.doc)

### Inspections

- (1) The building work shall be inspected at critical and other stages as required by the Principal Certifying Authority for the development.

NOTE: Should you choose Council to be your Principal Certifying Authority for this development you will be advised of the required building inspections and applicable fees at the time of that appointment.

### Building construction

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council.
- (3) A survey shall be undertaken and a copy be made available to Council or an accredited certifier, certifying that the building is correctly located in relation to the boundaries of the site and in accordance with the approved plans. Such survey shall be submitted at peg out stage.
- (4) Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;

Monday to Friday - 7.00 am to 6.00 pm

Saturdays - 8.00 am to 1.00 pm

No construction work is to take place on Sundays or Public Holidays.

## Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)

- 
- (5) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, construction and/or subdivision work. All waste nominated for disposal must be disposed of at a licensed landfill facility. All waste nominated for recycling must be reused or recycled.

**Erosion and sedimentation controls/soil and water management**

- (1) All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In particular:
- a A silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). Such fence must be regularly inspected and cleaned out and/or repaired as is necessary, and all collected silt must be disposed of in accordance with Council's Sedimentation Control Policy.
  - b Unnecessary disturbance of the site (eg; excessive vehicular access) must not occur.
  - c All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.
  - d All the above requirements must be in place for the duration of the construction works.

**Site facilities**

- (1) An appropriate temporary toilet facility shall be provided on site, located inside the property boundaries, prior to commencement of works. The temporary toilet shall be maintained in a clean/sanitary condition at all times.
- (2) During construction the applicant shall provide, inside the property boundaries a suitable waste container for the disposal of all papers, plastics and other lightweight materials.
- (3) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
- a Stating that unauthorised entry to the premises is prohibited; and
  - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

Any such sign is to be removed when the erection or demolition of the building has been completed.

**Prior to occupation**

- (1) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to release of the Final Occupation Certificate.

Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet.




Report of the Director Environmental Services

10.4 10.2017.307.1 - Lot 859 DP 231616 - 110 North Kiama Drive, Kiama Downs  
– demolition of existing deck & construction of new decks (cont)


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- (2) The whole or part of the building must not be occupied unless an Occupation Certificate has been issued in relation to the building or part in accordance with Clause 109M of the Environmental Planning and Assessment Act 1979.


**Item 10.4**



**3D View 1**  
SCALE



**3D View 2**  
SCALE




**3D View 3**  
SCALE

**DEVELOPMENT APPLICATION**

No.	Description	Date
A	DEVELOPMENT APPLICATION	18/8/17
B	DEVELOPMENT APPLICATION	13/4/18

**Natalie Allan CONSULTING**

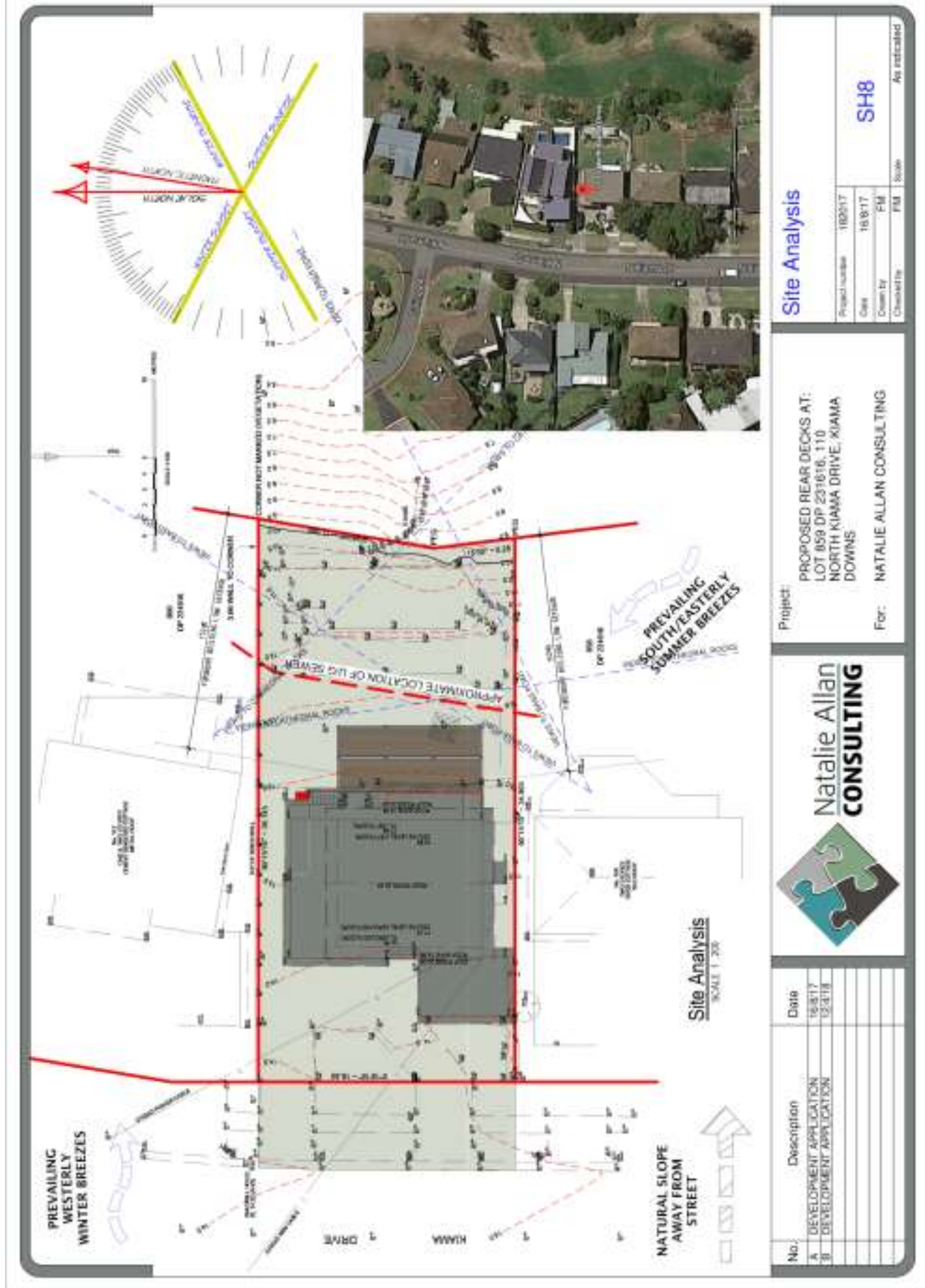


**Project:** PROPOSED REAR DECKS AT:  
LOT 859 DP 231616, 110  
NORTH KIAMA DRIVE, KIAMA  
DOWNS

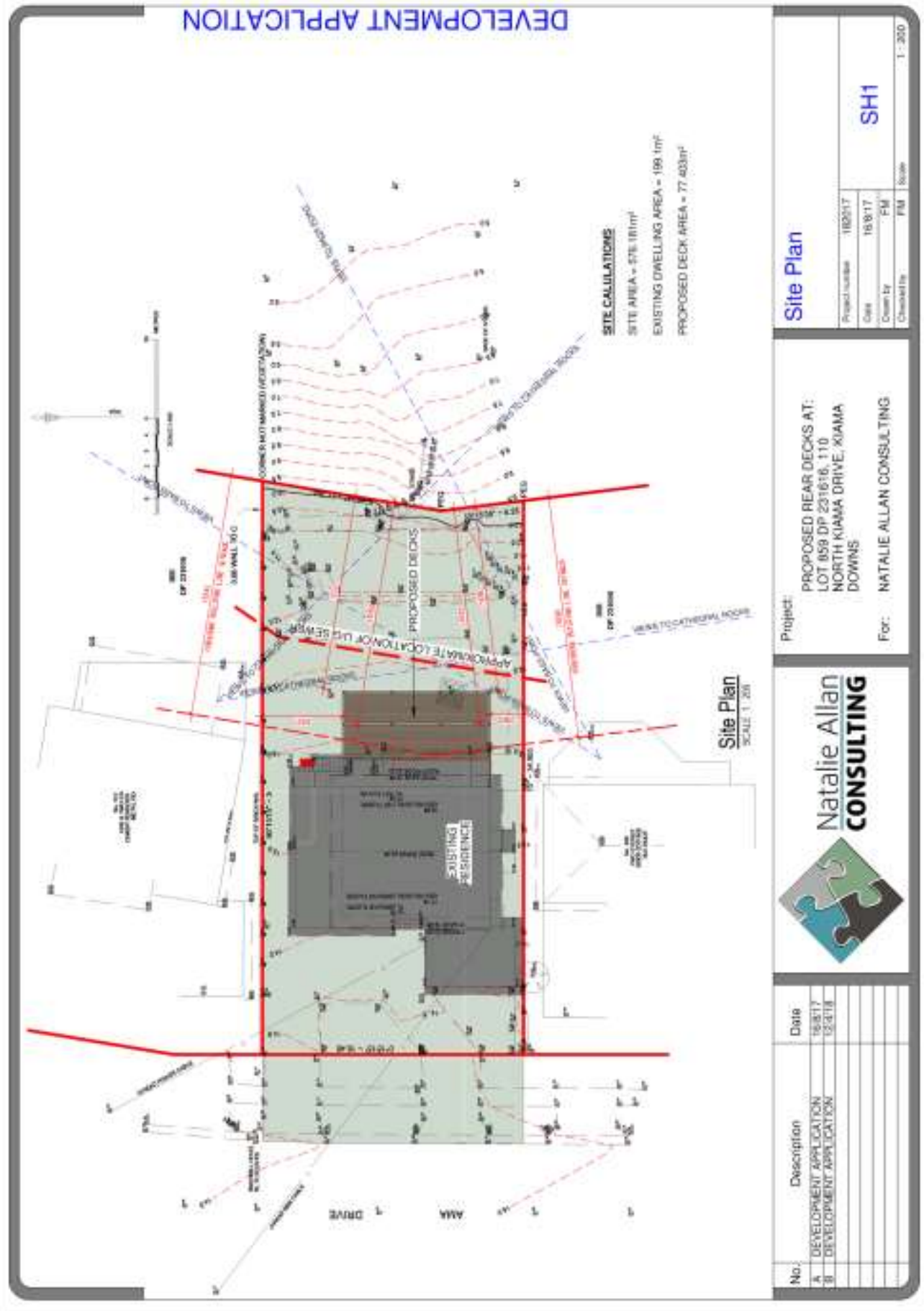
**For:** NATALIE ALLAN CONSULTING

**3D Views**

Project number	180017
Date	18/8/17
Drawn by	FM
Checked by	FM
Scale	



Attachment 1 Item 10.4



<b>Site Plan</b>	
Project number	102017
Date	16/8/17
Drawn by	FM
Checked by	FM
Scale	1:200

**Project:**  
 PROPOSED REAR DECKS AT:  
 LOT 859 DP 231616, 110  
 NORTH KIAMA DRIVE, KIAMA  
 DOWNS

**For:** NATALIE ALLAN CONSULTING



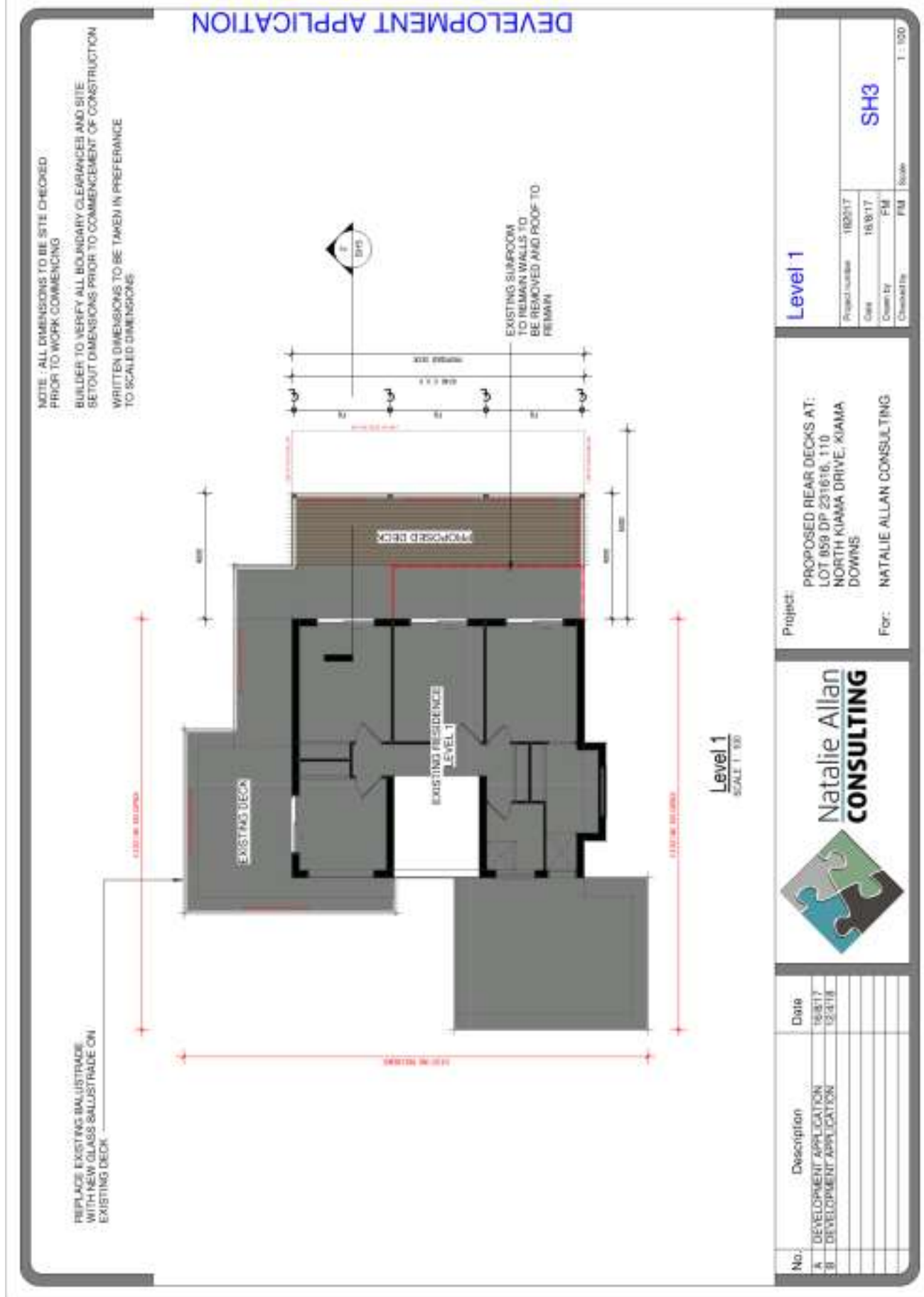
No.	Description	Date
A	DEVELOPMENT APPLICATION	16/8/17
B	DEVELOPMENT APPLICATION	15/4/18

Item 10.4

Attachment 1



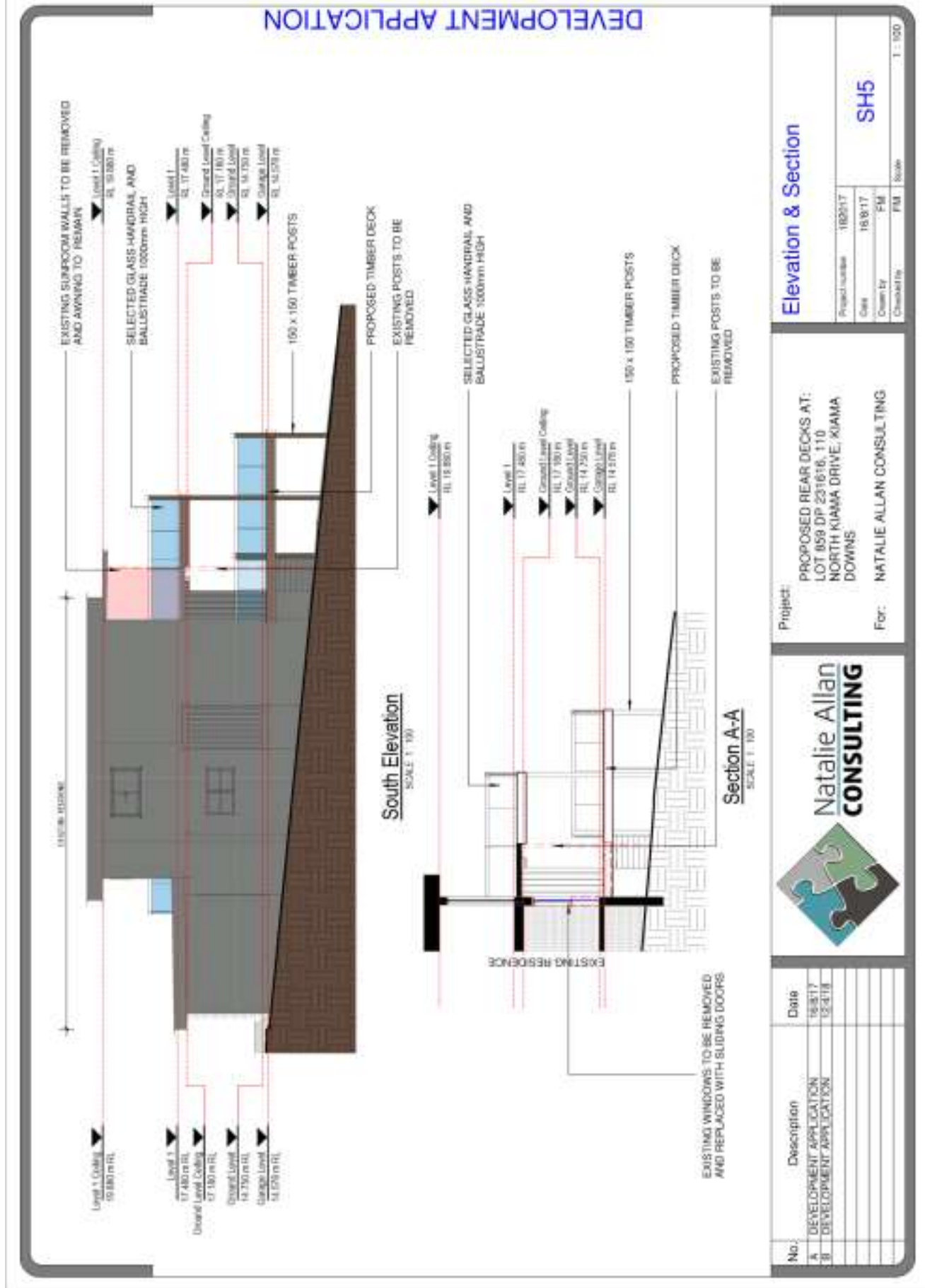




Attachment 1 Item 10.4







**Elevation & Section**

Project number	102017	SH5
Date	16/8/17	
Drawn by	FM	
Checked by	FM	
Scale		1:100

**Project:** PROPOSED REAR DECKS AT:  
LOT 859 DP 231616, 110  
NORTH KIAMA DRIVE, KIAMA  
DOWNS

**For:** NATALIE ALLAN CONSULTING



No.	Description	Date
A	DEVELOPMENT APPLICATION	16/8/17
B	DEVELOPMENT APPLICATION	13/4/18



## ATTACHMENT 2

### Applicant's Clause 4.6 – Exception to Development Standard

#### Clause 4.6 of the Kiama LEP 2011

Clause 4.6 of the Kiama LEP 2011 enables an exception to the development standard upon consideration of a written request from the applicant justifying the contravention in the terms stated below:

#### 4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that:*
    - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
    - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
  - (b) *the concurrence of the Secretary has been obtained.*

Variation Report – 110 North Kiama Drive Kiama Downs - 3

- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) *the public benefit of maintaining the development standard, and*
  - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
  - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note.*  
*When this Plan was made, it did not include Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition and Zone E4 Environmental Living.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
  - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,*
  - (c) *clause 5.4.*

The author of the report is satisfied that the proposed variation to a development standard in the LEP meets the relevant provisions of the clause and is able to be considered by Council on its merits. A thorough review of the clause has been undertaken below.

#### Development Standard Being Varied

The development standard being varied is contained within clause 6.7 Foreshore building line of the LEP. It is worthy to note that the standard does not necessarily have a numeric value allocated to vary, however, the Clause 4.6 variation has been provided as the proposed development encroaches in the Foreshore Building Line. The development standard has been reproduced below in full:

- (1) *The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.*



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- (2) *Development consent must not be granted for development on land in the foreshore area except for the following:*
- (a) *the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,*
  - (b) *the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so, development for the purposes of boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).*
- (3) *Development consent must not be granted under subclause (2) unless the consent authority is satisfied that:*
- (a) *the development will contribute to achieving the objectives for the zone in which the land is located, and*
  - (b) *the appearance of any proposed structure, from both the waterway and adjacent foreshore areas, will be compatible with the surrounding area, and*
  - (c) *the development will not cause environmental harm such as:*
    - (i) *pollution or siltation of the waterway, or*
    - (ii) *an adverse effect on surrounding uses, marine habitat, wetland areas, fauna and flora habitats, or*
    - (iii) *an adverse effect on drainage patterns, and*
  - (d) *the development will not cause congestion of, or generate conflicts between, people using open space areas or the waterway, and*
  - (e) *opportunities to provide continuous public access along the foreshore and to the waterway will not be compromised, and*
  - (f) *any historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the land on which the development is to be carried out and of surrounding land will be maintained, and*
  - (g) *in the case of development for the alteration or rebuilding of an existing building wholly or partly in the foreshore area, the alteration or rebuilding will not have an adverse impact on the amenity or aesthetic appearance of the foreshore, and*
  - (h) *the development will not be impacted by sea level rise or change of flooding patterns as a result of climate change.*

Development that has a boundary to a waterbody such as the coast or river have specific setback requirements, this is known as the Foreshore Building Line (FSBL). This setback creates a buffer between the foreshore and development, assisting in the protection of ecological processes, maintenance of visual amenity, facilitation of public access, etc.

Section 7 within chapter 2 of the Kiama DCP 2012 (the DCP) contains maps that outline specific setback requirements throughout the LGA. For the development site, a FSBL of 15.24m is required. The proposed deck areas do not meet the setback requirement and accordingly a variation from the need to comply with this development standard is being requested.

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Figure 1 - Excerpt from Foreshore Building Line Map – Kiama LEP 2011

As per the requirements of the development standard, consent must not be granted to development within the foreshore area unless Council is satisfied the matters within sub-clause 3 have been met:

- (a) the development will enable the retention and modernisation of an existing dwelling house, ensuring that it meets the long term needs of the occupants. In this way, the proposal meets the objectives of the R2 Low Density Residential zone.
- (b) The development is of a lightweight construction being a wooden deck with glass balustrades. These materials are suitable for a coastal area and aid in reducing bulk and scale, as viewed from adjoining properties and public areas. It will also ensure that views remain unobstructed towards the coast as seen from adjoining properties.
- (c) There will be no greater environmental impact as a result of the introduction of deck areas into the foreshore building area. No vegetation is to be removed to facilitate the development. There will be no increase in hardstand surface areas and so the capacity of the site to absorb stormwater flows will remain.
- (d) The development is wholly contained within the site with a minor portion of the deck areas contained within the FSBL. There will be no conflict between with people utilising open space areas or coastal areas.
- (e) The development will not impact on the ability to provide continuous public access along the foreshore area in future, should Council so desire.
- (f) The development site or adjoining land contains no known heritage, scientific, social, natural or aesthetic significance, that would require consideration by the proposed development. It is noted that the structure is to be pierced into the ground and so will not greatly disturb the natural ground.
- (g) The proposed development is not a significant structure and will not visually dominate the foreshore. Appropriate materials have been selected that are sympathetic and compatible existing architecture along the coast.
- (h) Whilst adjoining the coast the deck areas are located on a flat portion of the site at a minimum of 12.5 RL. Given the decks are within a relatively elevated portion of the site it is highly likely that the development will not be impacted by sea level rise or flooding as a result of climate change for the foreseeable future.



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### Variation Statement

*How is strict compliance with the development standard unreasonable or unnecessary in this particular case?*

Clause 6.7 (2) of the LEP enables the development of land in the foreshore in the following circumstances:

- (a) the extension, alteration or rebuilding of an existing building wholly or partly in the foreshore area,
- (b) the erection of a building in the foreshore area, if the levels, depth or other exceptional features of the site make it appropriate to do so, development for the purposes of boat sheds, sea retaining walls, wharves, slipways, jetties, waterway access stairs, swimming pools, fences, cycleways, walking trails, picnic facilities or other recreation facilities (outdoors).

The site contains an older style two storey dwelling with existing decks benefitting both the ground floor and first floor, oriented to the east and to the north. The proposed development seeks to extend those deck areas to the east to take advantage of the views of the ocean, whilst respecting the viewing rights of adjoining properties, consistent with the intent of (a) above.

As shown in the architectural plans by Natalie Allan Consulting, the development is a lightweight construction being a wooden deck with glass balustrades. These materials are suitable for a coastal area and aid in reducing bulk and scale of the structure, as viewed from adjoining properties and public areas. Solar access to the habitable windows and private open spaces areas of the adjoining dwelling to the south remains compliant with Council requirements, as displayed in the submitted shadow diagrams. It will also ensure that views remain unobstructed towards the coast as seen from adjoining properties, being a permeable structure.

Setbacks of the proposed decks vary greatly with a minimum setback of 10.546m for a portion of both the ground floor and first floor decks, increasing for the majority of the ground floor deck to 11.656m and 14.966m for the first floor deck. In this way, the design is conscientious of the privacy of adjoining properties, as well as for the occupants, focussing the majority of the deck area on the ground floor where the main living areas are located and will be the focal point.

This is in contrast to the first floor deck, which almost achieves compliance with setback requirements for the majority of the deck area, and will largely be utilised in conjunction with the bedroom areas located on the first floor. Focussing the larger deck area on the ground floor deck will ensure that the privacy, views and general amenity of adjoining properties will not be adversely affected by the development.

The proposed deck extensions will achieve the objective of the development standard being varied despite the non-compliance. The minor portion of the development within the foreshore area will not adversely affect natural foreshore processes, being a significant distance from the rear boundary and the coast, and the significance/amenity of the area will not be diminished.

For those reasons, it is considered that compliance with the development standard is unreasonable and unnecessary in this instance. Strict compliance with the development standard will not result in a better planning outcome and the underlying objective of the standard is achieved



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*Are there sufficient environmental planning grounds to justify contravening the development standard?*

The development is located within land zoned R2 Low Density Residential. The streetscape is characterised by two storey dwelling houses, both contemporary and older style houses, within a low density urban/coastal environment. Two storey dwellings are largely found on the higher side of North Kiama Drive, attempting to achieve coastal views. The owner of the property is seeking to retain the existing dwelling house whilst modernising and improving the amenity afforded to the occupants. Through the retention of the existing dwelling house and expansion of the deck areas to cater for the needs of the occupants, the objectives of the zone have been met.

Consideration has been given to the planning principle for views as set forth in *Rose Bay Marina Pty Limited v Woollahra Municipal Council and anor* [2013] NSWLEC 1046. The ocean views are those considered to be of importance within the locality, enjoyed by adjoining coastal properties along with those properties on the higher side of North Kiama Drive.

This is a static view as seen from the residential properties and is enjoyed ancillary to the use of the dwelling houses, either from back yards, deck areas or swimming pools. The introduction of a lightweight deck structure within the FSBL has the potential to affect the views afforded to those adjoining properties to the north and south. However, the potential impact on adjoining properties is considered to be marginal and not inconsistent with the planning principle. Appropriate materials and setbacks are provided and assist in mitigating any impact.

As outlined earlier within this report, the setback of the proposed decks vary greatly with a minimum setback of 10.546m for a portion of both the ground floor and first floor decks. The setback then increases for the majority of the ground floor deck to 11.656m and 14.966m for the first floor deck. It is meaningful to consider the variation being sought in the context of a percentage:

- Ground Floor Deck: 23.5% - 31% variation
- First Floor Deck: 2% - 31% variation

Viewing the proposed variation to the development standard above, it is clear that the bulk of the non-compliance rests with the ground floor deck, which is located some 1.5m to 2m above existing ground level. The first floor deck on the other hand, where privacy impacts and overlooking would be most pronounced, is very near compliance.

#### Objectives of Kiama DCP 2012

Associated with the development controls in chapter 2 of the DCP are the following objectives, which provide guidance as to what is trying to be achieved by Council with the requisite setbacks:

- *To site dwellings having regard to possible risks to life and property resulting from storm surge, tidal inundation, flooding, erosion and sea level changes resulting from climatic changes/changing weather pattern.*
- *Control the bulk, scale and location of development at the water's edge.*
- *Restrict development and redevelopment below the Foreshore Building Line.*
- *Reduce the number of structures below the Foreshore Building Line, particularly upon redevelopment of foreshore land.*
- *Restore the land below the Foreshore Building Line, as far as practicable, to a natural state, with a minimum intrusion of artificial structures.*

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- *Preserve and enhance the natural features and vegetation at the interface of land and water.*
- *Avoid pollution of, and adverse ecological impacts on, waterways, riparian vegetation and aquatic life.*
- *Preserve the foreshore vista in a natural state where the foreshore is undeveloped.*
- *Provide for separation between private land uses and public access along the foreshore.*
- *Provide visual separation between land-based development and water-based activities.*
- *Minimise the disturbance of Acid Sulfate Soils.*
- *Mitigate the potential for property loss or damage by ensuring buildings are not subjected to structural damage as a result of erosion, flooding or other coastal or riverine processes and hazards.*

The proposed development is consistent with the specific objectives of the DCP chapter despite the variation being sought. Below is a review of the development against those objectives of the DCP:

- The site gently slopes towards the coast with the proposed decks located on a relatively flat portion of the site between 13 RL and 12.5 RL (i.e. change in level of 0.5m) and is unlikely to be affected by geotechnical instability. Whilst the site slopes gently from the front boundary towards the coast, beyond the eastern boundary the land drops off sharply.
- The development is of a lightweight construction being a wooden deck with glass balustrades. These materials are suitable for a coastal area and aid in reducing bulk and scale, as viewed from adjoining properties and public areas.
- The lightweight construction will ensure that solar access to the adjoining dwelling to the south remains compliant with Council requirements to habitable rooms and private open space areas (see submitted shadow diagrams). It will also ensure that views remain unobstructed towards the coast as seen from adjoining properties.
- As the deck is to be pierced into the ground there will be little excavation required to facilitate the development and is highly unlikely to disturb Acid Sulfate Soils (ASS). Council's LEP ASS map indicates that there is no potential for ASS on the site. Accordingly, land below the Foreshore Building Line will largely remain in its natural state.
- The proposed development will not affect the existing formal paths to the north, nor those more informal paths to the south, that provide access to Jones Beach from the foreshore area. There is no opportunity in this instance for the development to aid in the improvement to public access to Jones Beach.
- Coastal vegetation that currently runs along the southern boundary of the site will not be affected by the proposed variation to the setback requirements. By providing an extensive deck on the ground floor for the purpose of entertaining and private recreation it is likely that this will create an improved buffer between the dwelling house and that existing vegetation.
- With regard to visual separation between the development and coastal-based activities, there is extensive vegetation between the eastern boundary and the beach area. This provides an ample buffer between the development site and any activities within the coast, ensuring that there is no land use conflict.

### Surrounding Development

Whilst not being conclusive in and of itself, it is a useful exercise to consider surrounding development and how the FSBL has been implemented previously. 112 North Kiama Drive is a modern two storey dwelling, which adjoins the development site to the north, containing a

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swimming pool, awning and deck area, all of which appear to be within the FSBL. 114 North Kiama Drive also contains a deck area apparently within the FSBL.



*Figure 2 - Adjoining properties to the north*

Further to those properties adjoining the development site, there are examples of properties to the south affected by the same setback requirements with swimming pools constructed within the FSBL, see 82 and 84 North Kiama Drive in Figure 2 below.



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Figure 3 - Properties to the south

Again, whilst comparing the proposal to existing development in the street, which have the same setback requirements, is not conclusive it does give an indication of how the setback has been historically applied and the results of such development. Ultimately the proposal, despite the numerical non-compliance, stands on its own, consistent with the objectives of the DCP and upholds the intent of the development standard.

#### Conclusion

Whilst the development does not achieve strict compliance with the required development standard under the LEP, the development achieves the intent of the objective being varied and is not inconsistent with the public interest.

Non-compliance with the development standard will not affect the continued enjoyment of adjoining properties, Council's strategic approach to the coastal zone, coastal processes or the public enjoyment of the coastal area or reserves. Strict compliance with the development is considered to be unreasonable and unnecessary in this instance and for the reasons outlined in this statement, we request that Council favourably consider the variation being sought.

**ATTACHMENT 3**

10.2017.307.1 – Views from 112 North Kiama Drive Kiama Downs looking south towards 110 North Kiama Drive Kiama Downs.



(view from inside of dwelling upper level)



(view from upper level deck)

**Item 10.4**

**Attachment 3**



(view from upper level deck)



(view from lower level deck)

**Item 10.4**

**Attachment 3**



**ATTACHMENT 4**

10.2017.307.1 – Views from 108 North Kiama Drive Kiama Downs looking north towards 110 North Kiama Drive Kiama Downs.



(view from inside of dwelling upper level)



(view from inside of dwelling upper level)

**Item 10.4**  
**Attachment 4**





(view from upper level deck)



(view from outside dwelling lower level)

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Attachment 4

**10.5 10.2018.66.1 - Lot 11 DP 599429 - 261 Jamberoo Mountain Road, Jamberoo - Demolition of existing dwelling & construction of principal dwelling, secondary dwelling, shed & swimming pool**

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.3 The principles of sustainable development and compliance underpin town planning and local development

Delivery Program: 2.3.1 Conduct development and building assessment/approval functions in accordance with statutory requirements, policies and procedures

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**Summary**

This report reviews Development Application No 10.2018.66.1 which involves the demolition of an existing dwelling and construction of principal dwelling, secondary dwelling, shed and swimming pool.

The report recommends that Council approve Development Application No 10.2018.66.1 as the proposal is:

- Permissible in the Part RU2 Rural Landscape/Part E3 Environmental Management, complies with the zone objectives and is consistent with the relevant development standards of Kiama Local Environment Plan 2011 (LEP); and
- Generally consistent with Kiama Development Control Plan 2012 (DCP), with the exception of the controls requiring the height of buildings not being higher than 8.5m.

Requests to vary the DCP controls have been received.

**Finance**

N/A

**Policy**

N/A

**Reason for the Report**

This report is submitted to Council because the application was called up for determination by a Councillor.

**Communication/Community Engagement**

Required: Yes (letter notification)

Notification Period: 14 days from 09/04/2018 to 23/04/2018

Submissions: 1 submission

**Attachments**

1 10.2018.66.1 - plans [↓](#)

**Enclosures**

Nil

Report of the Director Environmental Services

10.5 10.2018.66.1 - Lot 11 DP 599429 - 261 Jamberoo Mountain Road, Jamberoo - Demolition of existing dwelling & construction of principal dwelling, secondary dwelling, shed & swimming pool (cont)

**RECOMMENDATION**

That Council approve Development Application No 10.2018.66.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

**Development Site**

The property is described as Lot 11 DP 599429 which is located at 261 Jamberoo Mountain Road, Jamberoo.

The overall site measures 19.83 hectares and is irregular in shape. The site currently contains Class 1 (dwelling) and Class 10 buildings (sheds) and is bounded by rural land containing principally pasture and woodland.

The site is zoned Part RU2 Rural Landscape/Part E3 Environmental Management pursuant to Kiama LEP 2011.

The site is partially cleared and vegetated with woodland forest and slopes down moderately from the south-west corner to the north-east corner. The site drains to an agricultural dam on the property.

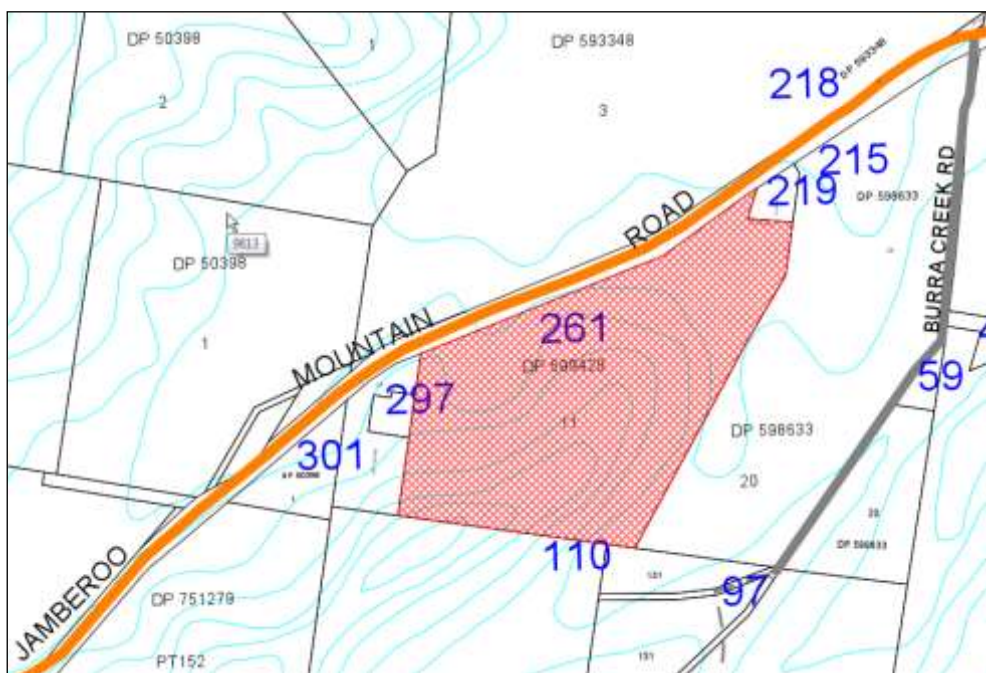


Figure 1 – Locality Plan

Access to the property is gained through a Public Road. The site is serviced with electricity, and relies on rainwater tanks for water supply and an onsite waste water management system for effluent disposal.

The site is subject to the following constraints:

- Bushfire affectation.

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10.5 10.2018.66.1 - Lot 11 DP 599429 - 261 Jamberoo Mountain Road, Jamberoo - Demolition of existing dwelling & construction of principal dwelling, secondary dwelling, shed & swimming pool (cont)

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- Areas mapped in Kiama LEP 2011 as:
  1. Terrestrial biodiversity;
  2. Riparian land; and
  3. Watercourses.



**Figure 2 – Site Photograph (West View)**



**Figure 3 – Site Photograph (East View)**

**Item 10.5**

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10.5 10.2018.66.1 - Lot 11 DP 599429 - 261 Jamberoo Mountain Road, Jamberoo - Demolition of existing dwelling & construction of principal dwelling, secondary dwelling, shed & swimming pool (cont)



**Figure 4 – Site Photograph (South View)**

**Item 10.5**

**Background**

The development application history is as follows:

<b>DA No</b>	<b>Description</b>	<b>Lodgement</b>	<b>Determined</b>	<b>Decision</b>
35/1978	Dwelling	-	05/12/1978	Approved
330/1978	Shed	-	02/10/1979	Approved
10.2001.279.1	Garage	27/07/2001	31/07/2001	Approved
10.2017.323.1	Dam	17/11/2017	19/17/2017	Withdrawn
10.2017.362.1	Use of 3 sheds as temporary accommodation	21/12/2017	04/01/2018	Rejected
10.2018.82.1	Dam	09/04/2018	25/06/2018	Approved

**Description of the Proposed Development**

The proposal involves the demolition of an existing dwelling and construction of a principal dwelling, secondary dwelling, shed and swimming pool.

The proposal is described as:

Report of the Director Environmental Services

10.5 10.2018.66.1 - Lot 11 DP 599429 - 261 Jamberoo Mountain Road, Jamberoo - Demolition of existing dwelling & construction of principal dwelling, secondary dwelling, shed & swimming pool (cont)

- The construction of a triple storey principal dwelling, double storey secondary dwelling, and 271.5m<sup>2</sup> shed, with combined driveway, swimming pool and landscaped areas.
- The dwelling/s have a combined gross floor area (GFA) of 725.9 m<sup>2</sup>.

Details of each of the dwellings is as follows:

<b>Principal Dwelling 1 386.4 m<sup>2</sup> GFA</b>	<b>Secondary Dwelling 2 339.5 m<sup>2</sup> GFA</b>
<p><u>Ground Floor</u> (1<sup>st</sup> storey)</p> <ul style="list-style-type: none"> <li>• Foyer</li> <li>• Open plan kitchen, dining, living</li> <li>• Games room with wet bar</li> <li>• Bedroom 2, 3 and 4</li> <li>• Guest room</li> <li>• Office</li> <li>• Sewing room</li> <li>• 3 x bathrooms</li> <li>• Laundry</li> <li>• 3 x storage rooms</li> </ul> <p><u>First Floor</u> (2<sup>nd</sup> storey)</p> <ul style="list-style-type: none"> <li>• Bed 1 with ensuite</li> <li>• 2 x teenagers retreats</li> </ul> <p><u>Second Floor</u> (3<sup>rd</sup> storey)</p> <ul style="list-style-type: none"> <li>• Attic room</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Open plan kitchen, dining, living</li> <li>• Family room</li> <li>• Main bedroom with WIR and ensuite</li> <li>• 4 x bedrooms</li> <li>• Guest room</li> <li>• Study</li> <li>• 2 x bathrooms</li> <li>• Laundry and courtyard</li> </ul> <p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• Rumps</li> </ul>

The proposal is shown in Figures 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 below:

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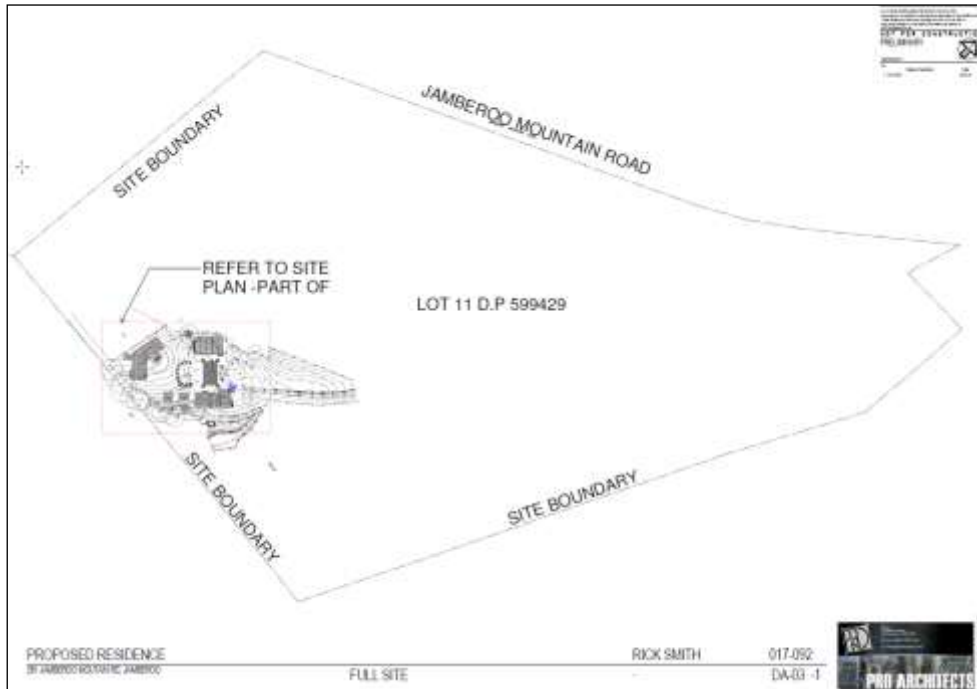


Figure 5 – Site Plan



Figure 6 – Site Plan

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Figure 7 – 3D Perspective

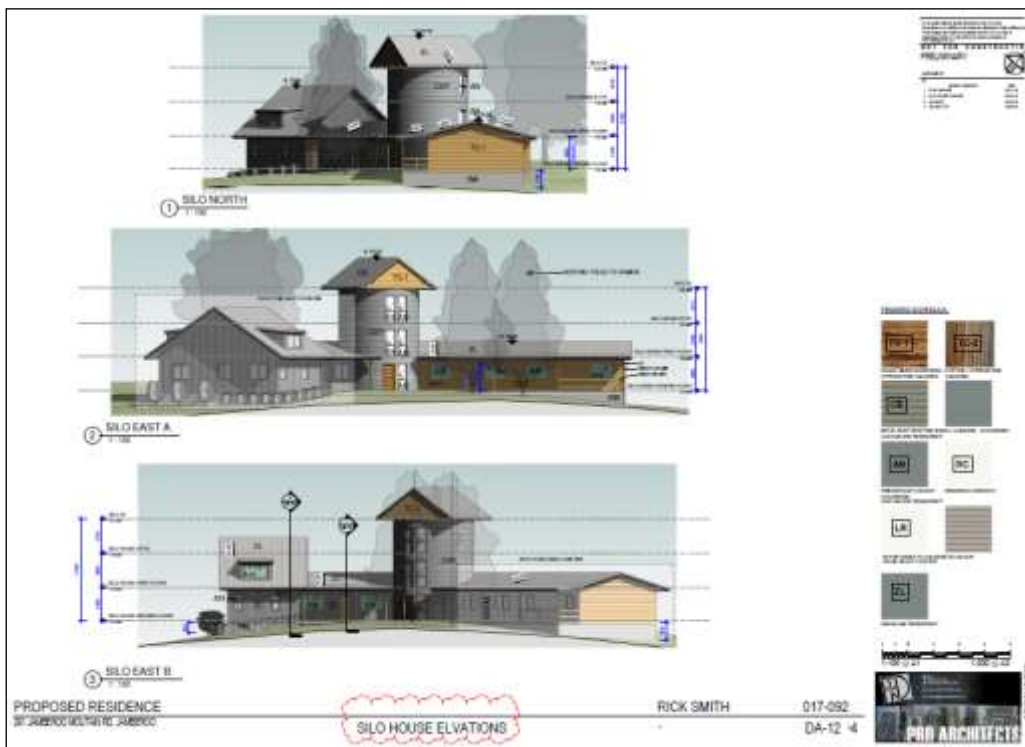


Figure 8 – Principal Dwelling– 3D Perspectives

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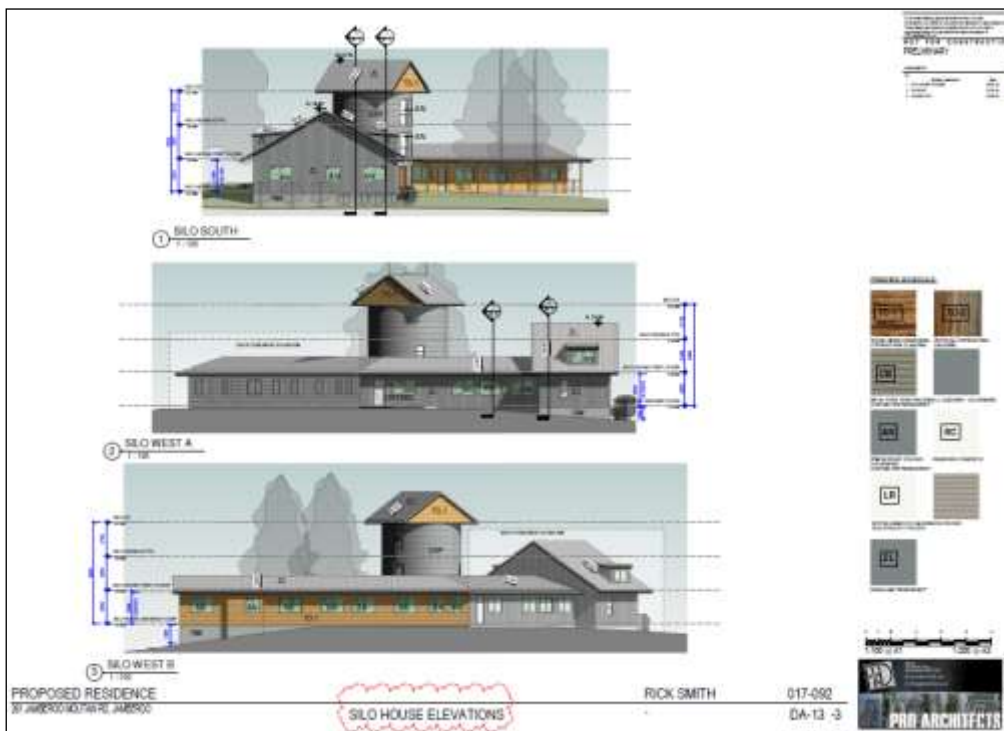


Figure 9 – Principal Dwelling– Elevations



Figure 10 – Principal Dwelling– 3D Perspectives

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Figure 11 – Principal Dwelling– 3D Perspectives



Figure 12 – Secondary Dwelling Elevations



Figure 13 – Secondary Dwelling– 3D Perspective



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Figure 14 – Secondary Dwelling– 3D Perspective

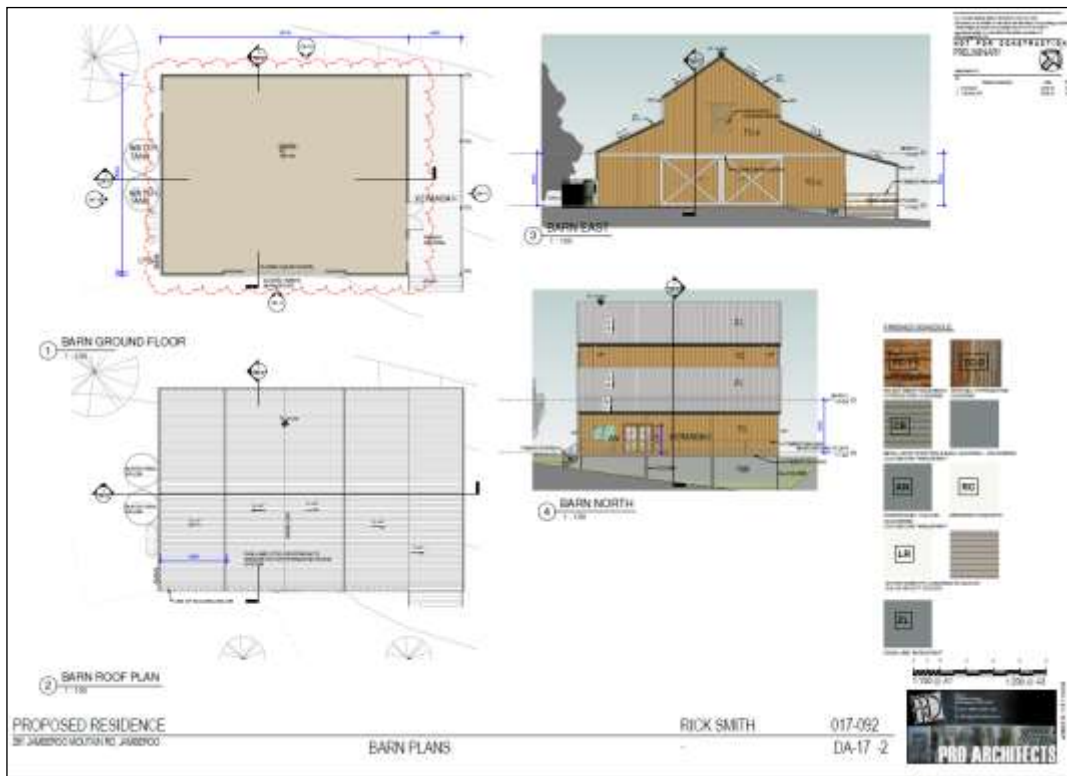


Figure 15 – Shed– Elevations

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Figure 16 – 3D Aerial Perspective

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**Section 4.15 Assessment**

The proposed development has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended) and the following matters are considered relevant.

**Relevant Environmental Planning Instruments**

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate (912721S) was lodged for the new dwellings with the application which demonstrates that each dwelling has been designed in accordance with BASIX.

- State Environmental Planning Policy No 55 - Remediation of Land

Clause 7 of the SEPP No 55 requires Council to consider whether the land is contaminated and if it is contaminated if remediation works are required. Council is unaware of any historic land use (including cropping that may have involved spraying) which would deem the site unsuitable for the proposed development, therefore the land is considered to be suitable for the proposed use.

- State Environmental Planning Policy (Rural Lands) 2008

The site contains land within ‘environmental management zone’ and ‘rural zone’, as defined by SEPP (Rural Lands) 2008. The proposed dwelling, shed and pool will be located entirely within the ‘rural zone’ land while the access road will be located within the “environmental protection zone’ land.



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10.5 10.2018.66.1 - Lot 11 DP 599429 - 261 Jamberoo Mountain Road,  
Jamberoo - Demolition of existing dwelling & construction of principal  
dwelling, secondary dwelling, shed & swimming pool (cont)

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Consideration has been given to the aims of the SEPP (Rural Lands) 2008 and the matters prescribed by Clause 10 as the proposal is for the erection of a dwelling on land within an 'environmental protection zone'.

**Matters to be considered in determining development applications for rural subdivisions or rural dwellings**

The following matters are to be taken into account:

(a) *the existing uses and approved uses of land in the vicinity of the development.*

Comment - Approximately 8 rural dwellings are located along Jamberoo Mountain Road adjacent and nearby to the site. The surrounding land is predominantly zoned rural landscape and environmental management and permits agricultural practices in the area.

(b) *Whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development.*

Comment - The permitted uses of the rural landscape and environmental management zone provide for a limited range of development particularly concentrated around low density residential development and extensive agriculture. The proposed development is not likely to have a significant impact on the preferred and predominant land uses in the vicinity.

(c) *Whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b).*

Comment - The proposed development is not likely to be incompatible with a use referred to above.

(d) *if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone.*

Comment - The property does not adjoin any land zoned rural residential.

(e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).*

Comment - Not required as it is considered unlikely that the development will result in any incompatibilities.

The proposal facilitates the orderly and economic use and development of the land for rural and related purposes.

The proposed development is considered to be consistent with the objectives and relevant requirements of the SEPP.

**State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017**

Clause 9 and 10 of the SEPP (Vegetation in Non-Rural Areas) 2017 outlines that consent is required for the clearing of certain vegetation in non-rural areas.

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Council's DCP 2012 outlines that certain trees can be removed without requiring consent.

A jacaranda tree and 7 native trees are proposed to be removed as part of this development to provide a compliant Asset Protection Zone (APZ).

The proposed development is considered to be consistent with the objectives and relevant requirements of the SEPP.

### **Kiama LEP 2011**

#### Clause 2.3 - Zone objectives and Land Use Table

The subject land is zoned Part RU2 Rural Landscape/Part E3 Environmental Management under Kiama LEP 2011.

The proposal is defined as a dwelling, secondary dwelling, pool and ancillary works under the provisions of the LEP 2011, which are permitted with consent in the Part RU2 Rural Landscape/Part E3 Environmental Management zone.

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The proposal is considered to be consistent with the zone objectives.

Specific clauses requiring consideration:

#### Clause 4.2A - Erection of dwelling houses on land in certain rural and environmental protection zones

Clause 4.2A permits a dwelling house to be erected on a RU1, RU2 and E3 zoned lot subject to either the lot complying with the Lot Size Map (40 ha min.) or permissibility before gazettal of Kiama LEP 2011 or is an existing holding.

The existing dwelling was approved in 1978 prior to the gazettal of the Kiama LEP 2011 therefore the allotment has a 'dwelling entitlement' and demolition and replacement of the existing dwelling is permissible even though the lot is less than 40 hectares in area.

#### Clause 4.3 - Height of Buildings

Clause 4.3 requires that the height of the building does not exceed the maximum height shown on the Height of Buildings Map. No building height is prescribed for this site.

#### Clause 4.4 - Floor Space Ratio

Clause 4.4 requires that the floor space ratio does not exceed the maximum floor space ratio shown for land on the Floor Space Ratio (FSR) map. No floor space ratio is prescribed for this site.

#### Clause 5.4 - Controls relating to miscellaneous permissible uses

Clause 5.4(9) relates to secondary dwellings and requires that if development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

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- 
- (a) 60m<sup>2</sup>;
  - (b) 100% of the total floor area of the principal dwelling.

The principal dwelling is 386.4m<sup>2</sup> in area and the secondary dwelling is 339.5m<sup>2</sup>.

The secondary dwelling is 88% of the size of the principal dwelling and therefore complies.

#### Clause 6.2 - Earthworks

Clause 6.2 lists considerations for proposals which involve earthworks. The proposal complies with the objectives of the clause and as the proposed earthworks are ancillary to the proposed dwelling separate development consent is not required.

The proposed development is consistent with the relevant provisions of the Kiama LEP 2011 and is permissible within in the Part RU2 Rural Landscape/Part E3 Environmental Management zone.

#### Clause 6.4 - Terrestrial Biodiversity

The objective of this clause is to maintain terrestrial biodiversity by:

- (a) *protecting native fauna and flora, and*
- (b) *protecting the ecological processes necessary for their continued existence, and*
- (c) *encouraging the conservation and recovery of native fauna and flora and their habitats.*

Before determining a development application for development on land to which this Clause applies, the consent authority must consider whether or not the development:

- (a) *is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land,*
- (b) *is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna,*
- (c) *has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (d) *is likely to have any adverse impact on the habitat elements providing connectivity on the land.*

Development consent must not be granted to development on land to which this Clause applies unless the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

The site is affected by land mapped as terrestrial biodiversity as shown below:

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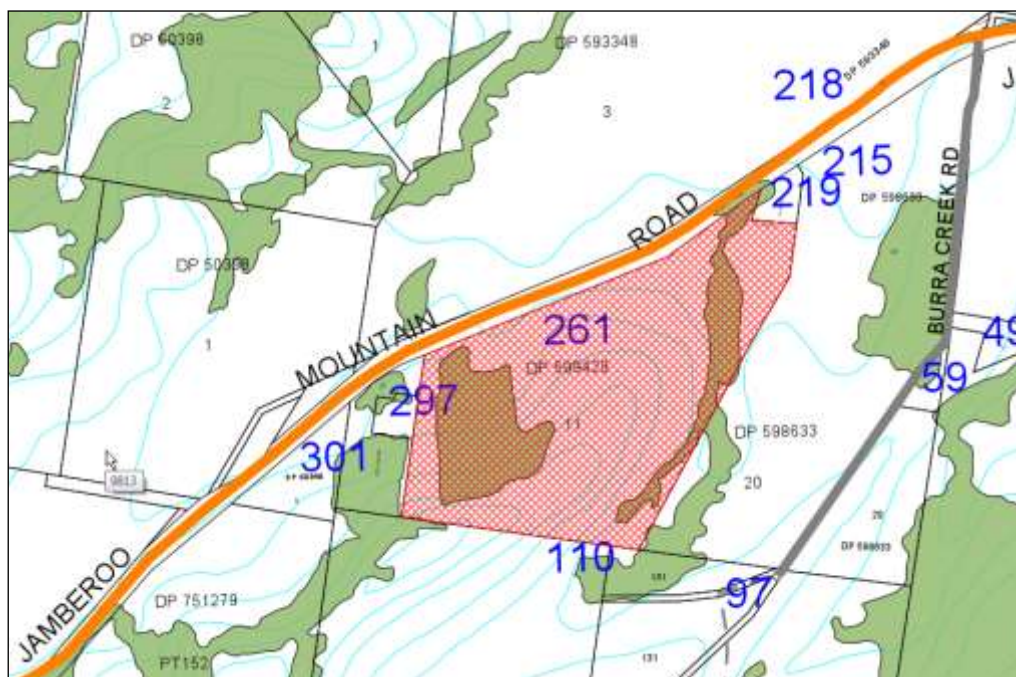


Figure 17 – Kiama LEP 2011 – Terrestrial Biodiversity Map

A Threatened Species Assessment Report has not been provided by the applicant.

The Biodiversity Land is predominately to the north of the proposed principal dwelling, secondary dwelling, shed and ancillary works site within heavily vegetated areas.

The proposed dwellings, and all ancillary infrastructure required to facilitate the development, are located within a portion of the site already predominantly cleared.

Limited clearing of vegetation is required to facilitate the development. It is considered that the development will not impact on the ecological value and significance of the fauna and flora on the land.

There will be no fragmentation of the existing flora on the site and there will be no reduction in the connectivity through the site.

The proposal therefore is considered to meet with the objectives of the Clause and the matters which are required to be satisfied prior to issue of consent.

#### Clause 6.5 - Riparian Land and Watercourses

The objective of this Clause is to protect and maintain the following:

- (a) *water quality within watercourses,*
- (b) *the stability of the bed and banks of watercourses,*
- (c) *aquatic riparian habitats,*
- (d) *ecological processes within watercourses and riparian areas.*

This Clause applies to:

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- (a) *land identified as “Category 1 watercourse”, “Category 2 watercourse” or “Category 3 watercourse” on the [Riparian Land and Watercourses Map](#), or*
- (b) *land that is within:*
- (i) *40m from the top of the bank of a Category 1 watercourse, or*
  - (ii) *20m from the top of the bank of a Category 2 watercourse, or*
  - (iii) *10m from the top of the bank of a Category 3 watercourse.*

Before determining a development application to carry out development on land to which this clause applies, the consent authority must consider whether or not the development:

- (a) *is likely to have any adverse impact on the following:*
- (i) *the water quality and flows within the watercourse;*
  - (ii) *aquatic and riparian species, habitats and ecosystems of the watercourse;*
  - (iii) *the stability of the bed and banks of the watercourse;*
  - (iv) *the free passage of fish and other aquatic organisms within or along the watercourse;*
  - (v) *any future rehabilitation of the watercourse and its riparian areas; and*
- (b) *is likely to increase water extraction from the watercourse.*

Development consent must not be granted to development on land to which this Clause applies unless the consent authority is satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) *if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised - the development will be managed to mitigate that impact.*

The site is affected by land mapped as Riparian Class 1 and 3 as shown below:

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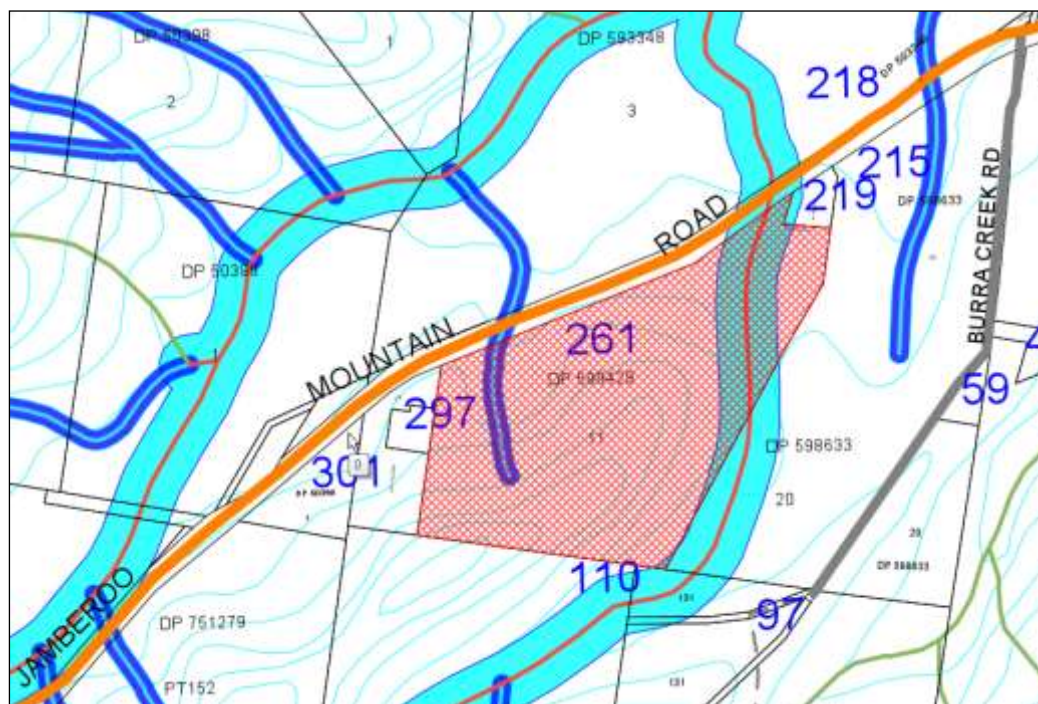


Figure 18 – Kiama LEP 2011 – Riparian Map (Class 1 and 3)

A Soil and Water Management Plan and Report has been provided by the applicant. There are Category 1 and 3 watercourses traversing the site from south to north.

The proposal is located greater than 40m from the top of bank of any watercourse that traverses the site.

An onsite effluent system is proposed given the site is not connected to reticulated sewer.

A geotechnical report has been submitted which details a potential location for the effluent disposal area to the north-east of the dwelling house, which is greater than 40m to any watercourse.

It is not considered that there will be any adverse impact upon the operation of the watercourse during the excavation/construction works, appropriate sediment and erosion controls are to be implemented prior to works commencing.

The ongoing operation of the development and ancillary infrastructure will not adversely impact on the water quality and flows or stability of the bed and banks of the watercourse as detailed within sub-clause 3.

The proposal therefore meets with the objectives of the clause and the matters which are required to be satisfied prior to issue of consent.

#### **Any Draft Environmental Planning Instruments**

- Draft State Environmental Planning Policy

The following draft State Environmental Planning Policies (SEPP) have been exhibited and are required to be considered:



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- Draft SEPP – Land Remediation;
- Draft SEPP – Primary Production and Rural Development.
- Draft SEPP 55 – Land Remediation

The provisions of the draft SEPP have been considered, however, the gazettal of the draft SEPP bringing it into law, is not considered to be imminent or certain.

- Draft SEPP – Primary Production and Rural Development

The NSW Government is proposing changes to the planning system to further support sustainable agriculture, aquaculture and rural development. These changes will help ensure planning proposals affecting rural land are properly assessed and provide greater certainty to farmers on the types of activities that will require development consent.

Changes proposed include consolidating the following five existing SEPPs:

- State Environmental Planning Policy (Rural Lands) 2008 (Rural Lands SEPP)
- State Environmental Planning Policy 30 - Intensive Agriculture (SEPP 30)
- State Environmental Planning Policy 52 - Farm Dams and Other Works in Land and Water Management Plan Areas (SEPP 52)
- State Environmental Planning Policy 62 - Sustainable Aquaculture (SEPP 62)
- Sydney Regional Environmental Plan 8 - Central Coast Plateau Areas (SREP 8)

The Rural Lands SEPP currently makes provision for the identification of State Significant Agricultural Land.

No land has been identified under these provisions to date.

The gazettal of the draft SEPP bringing it into law, is not considered to be imminent or certain because the public consultation period closed on 18 December 2017.

**Kiama DCP 2012**

The proposed development is not inconsistent with the objectives Kiama DCP 2012. The main areas of compliance along with the minor non-compliances are addressed in the table below:

Control	Comment
<b>Chapter 1 – Background</b>	
Section 7 - Demolition	
Where a separate Development Application or where demolition is proposed and forms part of another Development Application an Asbestos	The applicant has not submitted an Asbestos and Hazardous Materials Assessment Audit Report. The following justification is provided:

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Control	Comment
<p>and Hazardous Materials Assessment Audit Report is required to be prepared and submitted to Council for all buildings and structures proposed to be demolished.</p>	<p><i>A Demolition Plan accompanies this application, and a Waste Minimisation and Management Plan is provided at Appendix 1 to this Statement. The existing house is double brick with tile roof and there is no asbestos or other hazardous materials present. It is therefore submitted that an Asbestos and Hazardous Materials Assessment Audit and Risk Assessment and Management Plan are not warranted by this development.</i></p> <p>The existing dwelling was erected in 1978, and asbestos was in production until 1990, therefore a condition of consent is recommended requiring that Asbestos and Hazardous Materials Assessment Audit Report be prepared and submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate, and that any asbestos be removed in accordance with the requirements of AS 2601-2001 Demolition of Structures and its associated Code of Practice.</p>

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Chapter 2 – Overall Controls	
Section 5 - Maintenance of Views and Vistas	
<p>C6 Any development in Kiama should incorporate view sharing principles into the design and siting of development to ensure that where possible with that existing view lines are not detrimentally impacted.</p>	<p>Existing primary view corridors are not unreasonably impacted by the positioning and scale of the principal dwelling, secondary dwelling, and ancillary development.</p>
<p>C8 Development should ensure, where possible, that there is no unreasonable loss of existing view lines from existing development.</p>	
<p>C9 No one dwelling should be sited to maximise the views for its occupants to the exclusion of nearby resident or</p>	

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Control	Comment
neighbours.	
C10 Building design should have regard to the topography of the site and avoid unnecessary bulk or alteration of natural ground levels.	The bulk, scale and positioning of the principal dwelling, secondary dwelling, and ancillary development avoids unnecessary bulk alteration of natural ground levels, due to its moderate scale, and its siting on the flattest and highest part of the site to maximise amenity and vistas for the intended occupants. The proposal is considered to satisfy this control.
<b>Section 18 - Reflectivity in Building Materials</b>	
<p><u>Objectives</u></p> <ul style="list-style-type: none"> <li>To preserve the visual amenity and the urban, coastal and rural scenic character of the Municipality from potential visual detractor by reflective building materials.</li> <li>To encourage the use of building materials with suitable levels of reflectivity and colours to assist in minimising nuisance glare and reflectivity.</li> <li>To permit the use of metal roofing or cladding where the proposal satisfies the objectives of this chapter and will not set an undesirable precedent in the locality.</li> <li>To acknowledge BASIX and the benefits of lighter coloured walls and roofs in regard to improved energy efficiency and thermal comfort.</li> </ul>	<p>The external façade of the principal dwelling, secondary dwelling, and ancillary development is proposed to be medium and darker tones, with considerable variation in materiality across facades, consistent with the desired subdued external colour scheme to minimise visual impact on the landscape.</p> <p>The character and architectural style of the principal dwelling, secondary dwelling, and ancillary development is consistent with the character of existing dwellings in the area, which are single or double storey buildings with subdued colour schemes incorporating timber, tile, brick and metal cladding.</p> <p>The proposed principal dwelling, secondary dwelling, and ancillary development is designed in a rural architectural style, is consistent with the local architectural vernacular, further enhancing the rural character of the locality.</p> <p>The proposal is considered to satisfy these objectives.</p>
<b>Chapter 6 – Rural Development</b>	

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Control	Comment
<ul style="list-style-type: none"> <li>• To protect agricultural land and restrict its fragmentation for purposes other than primary production.</li> <li>• To ensure that development does not inhibit the use of agricultural land for agriculture.</li> <li>• To minimise the risk to development posed by climate change and natural hazards such as acid sulphate soils, bush fires, flooding, sea level rise and associated rise in water tables, and land instability.</li> <li>• To maintain, protect and improve the natural environment including native vegetation and riparian land.</li> <li>• To ensure that all new development adopts best practice design criteria for climate change.</li> <li>• To protect threatened species, endangered ecological communities, natural habitat and riparian corridors, waterways and wetlands.</li> <li>• To protect and enhance the character of the Kiama area’s coastal and rural scenic visual landscapes</li> <li>• To protect rural residential amenity</li> </ul>	<p>The proposal is considered to meet the objectives because:</p> <ul style="list-style-type: none"> <li>• The clustered arrangement of the buildings and infrastructure protect agricultural land and limit its fragmentation</li> <li>• The arrangement of the proposal ensures that development does not inhibit the use of agricultural land for agriculture</li> <li>• The proposal avoids the existing native vegetation and riparian land.</li> <li>• The proposal ensures that the development adopts best practice design criteria for climate change.</li> <li>• The siting of the proposal protects and enhances the character of the Kiama area’s coastal and rural scenic visual landscapes</li> </ul>
<p>Section 1 - Design and Siting Controls for Rural Dwellings/Alterations</p>	
<p><b><u>Objectives</u></b>                      To ensure that rural housing and ancillary development is designed and sited to protect agricultural land.</p> <ul style="list-style-type: none"> <li>• To ensure that all rural housing and ancillary development does not impact on existing and any possible future agricultural uses on the land on which it is sited or adjoining lands.</li> </ul>	<p>The proposal is considered to meet the objectives for the reasons mentioned above.</p> <p>The bulk of the proposed principal dwelling, secondary dwelling, and ancillary development is consistent with development in the locality, with dwellings being predominantly one and two storeys in height.</p> <p>The proposed built form will not feature</p>

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Control	Comment
<ul style="list-style-type: none"> <li>• To protect and maintain Kiama’s scenic rural landscapes and low density rural residential character.</li> <li>• To minimise the impact of rural residential development on agricultural land and land occupied by native vegetation, endangered ecological communities and threatened species.</li> <li>• To minimise the potential for land use conflict between rural dwellings and agricultural activities carried out or likely to be carried out on adjoining land.</li> <li>• To protect rural residential amenity.</li> <li>• To protect rural heritage items and their rural landscape settings.</li> </ul> <p><u>A dwelling house, secondary dwelling or ancillary development or their building envelope must not be located on a ridge, saddle or knoll.</u></p>	<p>prominently in the landscape from surrounding public roads and residential dwellings because it is positioned amongst woodland and cannot be readily seen from visual receptors. The scale of the principal dwelling, secondary dwelling, and ancillary development is compatible with the rural landscape character of the site within the Jamberoo Valley and does not disrupt its scenic amenity. The principal dwelling, secondary dwelling and ancillary development is located behind woodland vegetation on a ridgeline spur within the property, away from view of the main site entry from Jamberoo Mountain Road. Although the principal dwelling, secondary dwelling and ancillary development is located on a knoll/ridge it does not presents unacceptable visual impacts from both the public and private domain.</p>
<p>C1 Building height of all development must be determined in consultation with Council development assessment staff. In general, a 2 storey 8.5m building height will be applied in these areas. An exception to this control includes farm buildings and other farm structures such as hay sheds, silos and wind turbines</p>	<p>The principal dwelling (silo house) is up to RL 124.75m above the existing ground level of RL 114.3m or 10.45m high. However, the breach is confined to a central architectural feature designed to look like a traditional agricultural grain silo. This part of the building exceeds the 8.5m height limit by 1.95m or 23%. The shed (barn) is up to RL 123.092m above the existing ground level of RL 111.6m or 11.492m high. However, the breach is confined to a central ridge feature designed to look like a traditional agricultural barn. This part of the building exceeds the 8.5m height limit by 2.992m or 35%. The principal dwelling, secondary dwelling and ancillary development when viewed from the front appears as</p>

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Control	Comment
	<p>two storeys (with exception of the silo feature) and generally complies. Although the central architectural silo feature of the principal dwelling and the barn do not strictly meet this control, their design is consistent with the rural vernacular, and are therefore sympathetic to the visual setting. An exception to this control includes farm buildings and other farm structures such as hay sheds, silos and wind turbines, and the silo architectural element and barn are commendable in the design due to their positive contribution to the rural landscape, and overall architectural interest in the design.</p>
<p>C2 Development comprising a mix of a principal dwelling, a secondary dwelling and ancillary development (including bed and breakfast accommodation or farm stay accommodation) must be designed in a way to avoid or mitigate the visual impact of development on the landscape as viewed from a public place.</p>	<p>The principal dwelling, a secondary dwelling and ancillary development are not in disjointed locations across the site, and are clustered together to give the impression of a traditional rural homestead pattern of development, with minimal adverse visual impact on the rural landscape character. Although the principal dwelling, a secondary dwelling and ancillary development is located on a knoll/ridge it does not present unacceptable visual impacts from both the public and private domain due to its discreet location, well removed from the public domain and generally shrouded by existing woodland vegetation on the site.</p>
<p>C3 Dwellings shall be designed to be energy and water efficient.</p>	<p>A report setting out whether the proposal is considered to be energy efficient has been provided. The report has been prepared by a suitably qualified building sustainability consultants addressing the suitability of the scale of the development having regard to the microclimate.</p>

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Control	Comment
<p>C8 Dwellings and 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.</p>	<p>The development is inconspicuous.</p>
<p>C13 Ancillary development should also be where possible and practicable clustered around the principal dwelling, or able to utilise the same access ways.</p>	<p>The ancillary development is clustered around the principal dwelling.</p>
<p>C14 Secondary dwelling must be located to minimise visual impact and the loss of agricultural land and taking into consideration:</p> <ul style="list-style-type: none"> <li>• Clustering with other buildings.</li> <li>• Sites with low visual impact.</li> <li>• Preference being given to sites with lower agricultural value.</li> <li>• Sites should not require removal of vegetation.</li> </ul> <p>Preference is given to sites where land take for driveways is minimal.</p>	
<p><b>Section 2 - Rural Setbacks</b></p>	
<p>C19 A dwelling and any ancillary development must be set back from a public road by a distance of at least 15m and from a private road by a distance of at least 10m where it is practical to do so without clearing native vegetation.</p>	<p>The proposal complies because the buildings are setback a minimum of 15m from any roads.</p>

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The proposed development generally complies with the relevant controls of Kiama DCP 2012, and where strict compliance is not achieved the objectives of the controls are maintained.

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### **Any Planning Agreement**

Nil

### **Any Matters Prescribed by the Regulations**

- NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast

The proposal does not compromise the strategic actions or principals (Appendix C - Table 3) adopted within the *NSW Coastal Policy 1997*.

- Australian Standard AS 2601-1991: The Demolition of Structures

The proposal is not inconsistent with Australian Standard AS 2601-1991: *The Demolition of Structures*

### **Any Coastal Zone Management Plan**

Nil

### **The Likely Impacts of the Proposed Development**

- Streetscape

The design of the proposed development is considered to be reasonable when considered in relation to the context of the site. The bulk, scale and design of the proposal is consistent with relevant planning instruments and is not inconsistent with the streetscape. Due to the remote location of the site of the development from Jamberoo Road, the proposal will not be visible.

- Noise

Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbours. No ongoing significant noise impacts are expected as a result of the development.

- Privacy and Overlooking

No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.

- Overshadowing

Shadow diagrams have not been supplied with the development application because the site is not in an urban environment and there is no potential for overshadowing of neighbouring dwellings.

- Views

The proposal will have no unreasonable impact upon views currently available from neighbours.

- Vehicular Access, Parking and Manoeuvring

Sufficient car parking is proposed.

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Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.

- Stormwater Management

A satisfactory drainage design has been provided with the application.

- Environmental Impacts

*Fauna Impacts* – It is unlikely that the proposal will affect any fauna or its habitat.

*Impact on Soil Resources* – Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent should be imposed, if consent is granted, in relation to soil and water management controls to be implemented during construction. Satisfactory implementation of these controls will prevent significant impacts on soil resources.

*Impact on Water Resources* – A rainwater tank will be provided, as required by BASIX. Controls will be implemented during construction to minimise sedimentation.

- Social and Economic Impacts

The proposed development will likely have minimal adverse social or economic impacts. The amenity impacts of the proposed development have been considered in detail and no concerns raised in submissions warrant refusal of the application.

### **The Suitability of the Site for the Development**

The proposal fits within the locality and the site attributes are considered to be conducive to development.

### **Submissions**

#### Public Submissions

Notification letters were sent to neighbouring property owners who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period 1 submission was received which raised the following (summarised) matters of concern:

	<b>Objection</b>	<b>Assessment Officer's Comment</b>
Item 1	Visual impact	<p>The proposed built form will not feature prominently in the landscape from surrounding public roads and residential dwellings because it is positioned amongst woodland and cannot be readily seen from visual receptors.</p> <p>The scale of the building is compatible with the rural landscape character of the site within the Jamberoo Valley and does not disrupt its scenic amenity.</p> <p>The primary dwelling is located behind woodland</p>

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	Objection	Assessment Officer's Comment
		<p>vegetation on a ridgeline spur within the property, away from view of the main site entry from Jamberoo Mountain Road.</p> <p>Although the principal dwelling is located on a knoll/ridge it does not present unacceptable visual impacts from both the public and private domain.</p>
Item 2	Effluent Disposal	<p>The proposed On-Site Sewage Management System and the effluent disposal area shall be completed in accordance with all conditions of approval and in accordance with recommendations of the Wastewater Management Report by Enviro Tech dated 23<sup>rd</sup> July 2018 (Ref: 18-6499-A) prior to the issue of an Occupation Certificate.</p> <p>This will require the extension of the subsurface drip irrigation area to a minimum area of 2,233m<sup>2</sup> or the construction of a soil absorption bed with a minimum area of 86.4m<sup>2</sup>.</p>
Item 3	Vegetation Removal	<p>There are hundreds of newly planted trees on site as well as an encircling screen of mature trees as screening.</p> <p>The tree to be removed is a jacaranda of no great size.</p> <p>The additional Bush fire assessment mentions 7 trees to be removed. The 7 trees to be removed are in the existing APZ, mix of Sydney Blue Gums, Bangalays and Turpentine trees, most with trunk diameter 200 – 300 mm (one is about 600mm).</p> <p>The other trees will not be adversely impacted by the development.</p> <p>The proposed new outer protection zone for the silo house is able to be achieved by removing litter and logs and no other trees.</p>

Item 10.5

**External Referrals**

The application was referred to the following State Government Department.

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dwelling, secondary dwelling, shed & swimming pool (cont)

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- The NSW Rural Fire Service (RFS)

The RFS was consulted because of the bushfire risk associated with the location of the development. The RFS provided a favourable response to Council on 26 September 2018. No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

### Internal Referrals

The application was referred to the following Council Officers for their consideration.

- Building Assessment Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Subdivision & Development Engineer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Landscape Design Officer

No objection has been raised in relation to the proposed development and the following comments are provided:

*“There is no Landscape Plan provided, however, there are hundreds of newly planted trees on site as well as an encircling screen of mature trees as screening.*

*The tree to be removed is a jacaranda of no great size.*

*The additional Bush fire assessment mentions 7 trees to be removed. The 7 trees to be removed are in the existing APZ, mix of Sydney Blue Gums, Bangalays and Turpentine trees, most with trunk diameter 200 – 300 mm (one is about 600mm). The other trees will not be adversely impacted by the development.*

*The proposed new outer protection zone for the silo house is able to be achieved by removing litter and logs and no other trees.”*

Conditions of development consent have been recommended should the application be approved.

- Environmental Health Officer

No objection has been raised in relation to the proposed development and the following comments are provided:

*“The proposal in its current form is satisfactory.*

*A separate application to modify and/or upgrade an existing sewage management facility shall be submitted to Council for the Onsite Sewage Management System prior to release of the Construction Certificate.*

*The Onsite Sewage Management System and the effluent disposal area shall be completed in accordance with all conditions of approval and in accordance with*

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*recommendations of the Wastewater Management Report by Enviro Tech dated 23 July 2018 (Ref: 18-6499-A) prior to the issue of an Occupation Certificate.*

*This will require the extension of the subsurface drip irrigation area to a minimum area of 2,233m<sup>2</sup> or the construction of a soil absorption bed with a minimum area of 86.4m<sup>2</sup>.*

Conditions of development consent have been recommended should the application be approved.

### **The Public Interest**

The proposal is considered to be consistent with all relevant Environmental Planning Instruments and DCP, is not likely to cause significant adverse impacts to the natural or built environment, is not likely to cause significant adverse social and economic impacts, is suitable for the site and therefore is considered to be consistent with the public interest.

### **Final Comments and Conclusions**

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposal is consistent with Kiama LEP 2011 and generally consistent with the Kiama DCP 2012. The proposed development is consistent with the objectives of the Part RU2 Rural Landscape/Part E3 Environmental Management zone.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised. Concerns raised in submissions have been considered and do not warrant refusal of the application.

The proposed development is considered to be reasonable and conditional approval is recommended.

### **Draft Conditions of Development Consent**

#### **General**

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as 10.2018.66.1 dated xxxxx except as amended by the following conditions:  
(g005.doc)
- (2) The development shall be completed in accordance with the approved colour schedule shown on the approved Elevations Plans. (g014.doc)
- (3) No development/work is to take place until a Construction Certificate has been issued for the development and the necessary conditions of development consent satisfied to enable release of a Construction Certificate. (g030.doc)
- (4) The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority. (g040.doc)
- (5) The property owners shall be made aware that all Aboriginal relics in NSW are protected under Section 90 of the National Parks and Wildlife Act 1974, which



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makes it an offence to knowingly damage, disturb, deface or destroy an Aboriginal relic or site, without first obtaining the written consent of the Director-General of the National Parks and Wildlife Service. If such a site is discovered, the Southern Zone Archaeologist of the National Parks and Wildlife Service shall be contacted immediately. (g050.doc)

- (6) The developer shall provide and maintain temporary fencing around the development site to prevent unauthorised entry into the site by persons or livestock and shall remove the temporary fencing upon completion of all work. (g140.doc)
- (7) The developer shall not carry out any work other than emergency procedures to control dust or sediment-laden runoff outside the normal working hours, namely, 7.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm Saturday, without the prior written approval of the Principal Certifying Authority. Any request to vary these hours shall be submitted to the Principal Certifying Authority in writing detailing:
- a The variation in hours required.
  - b The reason for that variation.
  - c The type of work and machinery to be used. (g165.doc)
- (7) The wood heater shown on the plans and referred to in the BASIX Certificate for the development is not approved for construction until an application under Section 68 of the Local Government Act 1993 has been lodged and approved by the Council.
- (8) Prior to the lodgement of any Construction Certificate Application with the Principal Certifying Authority an application under Section 68 of the Local Government Act (with specification details and fees) shall be submitted to the Council for the wood heater shown on the plans and referred to in the BASIX Certificate.

**Bonds and Contributions**

- (1) A contribution under Section 7.11 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. 1 & 2 shall be paid to Council prior to the issuing of the Construction Certificate. The total contribution required for the development is **\$6,704.74**. (bo005.doc)

**Prior to Commencement of Works**

- (1) Building work must not commence until the Principal Certifying Authority for the development to which the work relates has been informed of:
- i The licensee's name and contractor licence number;
  - ii That the licensee has complied with Part 6 of the Home Building Act 1989.
- In the case of work to be done by any other person, the Principal Certifying Authority:

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- 
- a Has been informed in writing of the person's name and owner builder permit number;
- or
- b Has been given a declaration, signed by the owner/s of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989. (pt005.doc)
- (2) The pre-coloured metal roofing and walling shall not give rise to unreasonable visual intrusion due to reflected glare and shall have a Solar Absorption Classification of not less than 0.46. In this regard specific details of roofing and walling colours shall be submitted to and proved by the Principal Certifying Authority prior to release of the Construction Certificate. **Note:** The roof colours shall be the medium to darker colours. (pt017.doc)
- (3) Under the provisions of the Act, work may not commence on the development until the following is carried out:
- a Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
- b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
- c You **must** notify the Council of the appointment; and
- You **must** give at least two (2) days' notice to Council of your intention to commence work.
- You will find attached an application form for a Construction Certificate. Should you require Council to issue this Certificate you should complete this application and forward it, together with plans and specifications, to Council for approval.
- You will find attached a form for the "*Notice of Commencement of Building Work and Appointment of Principal Certifying Authority*", which you are required to submit to Council at the appropriate time and at least two (2) days prior to the commencement of work.
- Should you appoint Council as the Principal Certifying Authority, relevant inspection fees will be required to be paid at the time of lodgement of this form. (pt020.doc)
- (4) The BASIX commitments shall be indicated on the plans to the satisfaction of Council or an Accredited Certifier prior to the release of the Construction Certificate. (pt034.doc)
- (5) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a Showing the name, address and telephone number of the Principal Certifying Authority for the work;

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- 
- b Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - c Stating that unauthorised entry to the work site is prohibited.

**Note:** Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. The sign will be provided by the nominated Principal Certifying Authority for the relevant fee. (pt060.doc)

- (6) No building work is to commence until details prepared by a practising structural engineer have been submitted to and accepted by the Principal Certifying Authority for the retaining walls in excess of 1.0 metre high. (pt068.doc)
- (7) The applicant shall submit Engineer's details of the foundation based on geotechnical advice prepared by a suitably qualified Geotechnical Engineer. Such detail/advice is to be provided prior to the issue of a Construction Certificate. (pt069.doc)
- (8) Prior to release of the Construction Certificate an appropriately qualified professional shall provide details to the Certifying Authority in regard to disposal of stormwater on site. The on-site disposal area shall be designed so that any overflow from the site will surcharge in a sheet fashion rather than in a concentrated form. (pt071.doc)

### Demolition Works

- (1) Throughout the demolition operations, adequate safety shall be maintained in public places adjoining the site. Safety of the public shall be maintained by providing street closures, hoardings, scaffolding and other types of overhead protection, either singularly or in combination, in accordance with the requirements of Council and AS 2601. (dw005.doc)

### Asbestos Removal

- (1) No later than seven days prior to the demolition of any building or structure, a Hazardous Substances Audit Report prepared by a competent and appropriately qualified person in compliance with AS2601-1991 must be provided to Principal Certifying Authority indicating whether the building or structure contains asbestos or material containing asbestos.

In circumstances where the Hazardous Substances Audit Report identifies that asbestos is to be removed, the following must be provided:

- (a) A hazardous substances management plan prepared by a competent and appropriately qualified person in compliance with AS2601-1991.

#### Asbestos – Licensed Contractors

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Demolition Licence or a current WorkCover Class 2 (Restricted) Asbestos Licence.

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Asbestos – Notification of Neighbours

Fourteen days prior to the commencement of any demolition works involving asbestos, all immediate neighbours shall be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications shall be retained and provided to Council.

Asbestos – Tip receipts

Documentary evidence in the form of tip receipts from an approved Waste Management Facility shall be obtained demonstrating the appropriate disposal of the asbestos waste. Tip receipts shall be provided to Council prior to any further building works being undertaken on the site.

Asbestos – Clearance Certificate

Following the removal of all friable asbestos and prior to further works being carried out on the site, a clearance certificate from an independent competent person in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.

Asbestos – Less than 10m<sup>2</sup> of Bonded Asbestos Sheeting

Demolition works involving the removal of less than 10m<sup>2</sup> of bonded asbestos sheeting may be carried out by a licensed builder who has completed an appropriate bonded asbestos removal course.

Completion of demolition works

- (2) Council will monitor and review the demolition of the structure to ensure all conditions of consent application to the removal of asbestos has been satisfied. (dw015.doc)
- (3) The techniques adopted for stripping out and for demolition shall minimise the release of dust into the atmosphere. (dw030.doc)
- (4) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable legislation and with any relevant recommendations published by the WorkCover Authority. (dw040.doc)
- (5) Removal of asbestos, or of materials containing asbestos fibres, shall be in accordance with the WorkCover Authority code of practice. Disposal of asbestos materials shall be at premises certified to receive asbestos. (dw045.doc)

**Stormwater Management**

- (1) The stormwater drainage system shall be completed in accordance with the details approved by the Private Certifying Authority. (sm006.doc)
- (2) Prior to issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the design of the development causes no adverse effects to adjoining properties as a result of stormwater run-off and allowance is made for surface run-off from adjoining properties in the design.

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- 

**Civil Engineering Construction**

- (1) The developer shall carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to residents of adjacent properties. (cec015.doc)

**Geotechnical Requirements**

- (1) Only clean fill (i.e. natural materials such as earth, rock and stone) is to be used in the development. Under no circumstances are any other material including (but not limited to) building, demolition, concrete, road materials and/or putrescible wastes, permitted to be used as filling on site. (gr060.doc)
- (2) All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with AS 4482.2 and tested by a certified National Association of Testing Authorities Australia (NATA) registered laboratory for contaminants. Based on the test results certification shall be provided to the Principal Certifying Authority prior to the issue of any occupation certificates by a suitably qualified geotechnical engineering consultant confirming the imported fill is suitable for use in residential development. Any imported fill found to not be suitable for residential use shall be removed / remediated in accordance with the NSW Department of Environment, Climate Change and Water requirements. (gr065.doc)

**Inspections**

- (1) The building work shall be inspected at critical and other stages as required by the Principal Certifying Authority for the development.

**NOTE:** Should you choose Council to be your Principal Certifying Authority for this development you will be advised of the required building inspections and applicable fees at the time of that appointment. (bu015.doc)

**Building Construction**

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia. (bu010.doc)
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (3) All excavations and backfilling must be executed safely in accordance with appropriate professional standards. (bu090.doc)
- (4) All excavations must be properly guarded and protected to prevent them from being dangerous to life or property. (bu095.doc)
- (5) Where retaining walls exceed 1.0 metre in height, the wall is to be certified by a practising structural engineer prior to occupation of the building being permitted. (bu110.doc)
- (6) The Reduced Levels (RL) of the proposed development must be in accordance with the approved plans. Certification of these levels by a registered surveyor must be submitted to an accredited certifier or Council prior to proceeding past that level. (bu120.doc)

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- 
- (7) A survey shall be undertaken and a copy be made available to Council or an accredited certifier, certifying that the building is correctly located in relation to the boundaries of the site and in accordance with the approved plans. Such survey shall be submitted at peg out stage. (bu125.doc)
- (8) Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;
- Monday to Friday - 7.00 am to 5.00 pm
- Saturdays - 8.00 am to 1.00 pm
- No construction work is to take place on Sundays or Public Holidays. (bu151.doc)
- (9) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, construction and/or subdivision work. All waste nominated for disposal must be disposed of at a licensed landfill facility. All waste nominated for recycling must be reused or recycled. (bu153.doc)
- (10) The fences, gates and latches for the swimming pool shall be provided and constructed in accordance with the provisions of Australian Standards AS1926 - Fences and Gates for Private Swimming Pools. (bu250.doc)
- (11) All excavations shall be enclosed with a temporary fence during construction of the pool. (bu255.doc)
- (12) The swimming pool shall not be filled with water until the permanent safety fence has been erected. (bu260.doc)
- 13) An instructional poster for resuscitation which bears the words "*Young Children Should Be Supervised When Using This Swimming Pool*", together with details of resuscitation techniques for adults, children and infants shall be located in a prominent position within the pool enclosure. (bu265.doc)

**Erosion and Sedimentation Controls/Soil and Water Management**

- (1) All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In particular:
- a A silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). Such fence must be regularly inspected and cleaned out and/or repaired as is necessary, and all collected silt must be disposed of in accordance with Council's Sedimentation Control Policy.
  - b Unnecessary disturbance of the site (e.g. excessive vehicular access) must not occur.
  - c All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.
  - d All the above requirements must be in place for the duration of the construction works. (esc005.doc)
- (2) The developer shall ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment



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control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work. (esc020.doc)

**Bushfire Hazard Management**

- (1) The development shall be completed in accordance with “*Planning for Bush Fire Protection*” and conditions imposed by the NSW Rural Fire Service. (bhm005.doc)
- (2) Prior to the issue of any Construction Certificate, the construction plans shall include the requirements of the conditions imposed by the NSW Rural Fire Service to the satisfaction of the Principal Certifying Authority as follows:

Asset Protection Zones

*The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:*

- a) At the commencement of building works and in perpetuity the property around both dwellings shall be managed as follows as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
  - north for a distance of 49 metres as an asset protection zone;
  - east for a distance of 30 metres as an asset protection zone;
  - south for a distance of 29 metres or to the property boundary if closer for the secondary dwelling as an asset protection zone; and
  - west for a distance of 49 metres or to the property boundary if closer for the secondary dwelling as an asset protection zone (APZ).

**(Note:** In forested areas a portion of the APZ may be maintained as an outer protection zone as specified in Table A2.7 of 'Planning for Bush Fire Protection 2006'.)

Water and Utilities

*The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:*

- b) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

*The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:*

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- c) Property access roads shall comply with the following requirements of section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006':
- Bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes.
  - Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge).
  - A minimum carriageway width of 4 metres for rural residential areas, rural land holdings or urban areas with a distance of greater than 70 metres from the nearest hydrant point to the most external part of a proposed building (or footprint).
  - Any carriageway constriction along the property access road shall be no less than 3.5 metres in width and for a distance of no greater than 30m.
  - A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches.
  - Internal roads provide a loop road around any dwelling or incorporate a turning circle with a minimum 12 metre outer radius.
  - Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
  - The minimum distance between the inner and outer curves is 6 metres.
  - The cross fall is not to exceed 10 degrees.
  - Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

#### Design and Construction

*The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:*

- d) New construction for both dwellings shall comply with section 3 and section 7 (**BAL 29**) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

#### Landscaping

- e) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

#### **Landscaping Works**

- (1) The jacaranda tree shall be removed for the secondary dwelling.

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- (2) The seven (7) trees referred to in the letter dated 31 May 2018 prepared by Harris Environmental Consulting being Sydney Blue gums, Bangalays or Turpentine trees shall be removed to establish the Asset Protection Zone for the development.

Prior to removal of any vegetation, the trees shall be marked with pink tape, and inspected to the satisfaction of the Council's Landscape Officer prior to the lodgement of the Construction Certificate by any Principal Certifying Authority.

### Vegetation Management

- (1) No tree(s) shall have backfill placed around its base or have the original ground level altered. (vm010.doc)

### Site Facilities

- (1) An appropriate temporary toilet facility shall be provided on site, located inside the property boundaries, prior to commencement of works. The temporary toilet shall be maintained in a clean/sanitary condition at all times. (sf010.doc)
- (2) During construction the applicant shall provide, inside the property boundaries a suitable waste container for the disposal of all papers, plastics and other light weight materials. (sf015.doc)
- (3) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
- a Stating that unauthorised entry to the premises is prohibited; and
  - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

Any such sign is to be removed when the erection or demolition of the building has been completed. (sf020.doc)

- (4) The development is to be provided with mail boxes in accordance with Australian Standard AS/NZS 4253 - 1994 which covers the dimensions, installation and positioning for mail boxes for receipt of mail. The dwellings shall each be numbered in accordance with the attached street numbering table. (sf050.doc)

### Onsite Sewage Management Systems

- (1) A separate application to modify and/or upgrade an Existing Sewage Management Facility shall be submitted to Council for the On-site Sewage Management System **prior to release of the Construction Certificate.** (pt040)
- (2) The Onsite Sewage Management System and the effluent disposal area shall be completed in accordance with all conditions of approval and in accordance with recommendations of the Wastewater Management Report by Enviro Tech dated 23 July 2018 (Ref: 18-6499-A) **prior to the issue of an Occupation Certificate.**

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This will require the extension of the subsurface drip irrigation area to a minimum area of 2,233m<sup>2</sup> or the construction of a soil absorption bed with a minimum area of 86.4m<sup>2</sup>.

**Prior to Occupation**

- (1) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to release of the Final Occupation Certificate.

Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)

- (2) The BASIX schedule of commitments shall be complied with prior to the issue of a Final Occupation Certificate for the development and if required a certificate shall be provided to the Principal Certifying Authority from a properly qualified person to certify that the BASIX schedule of commitments have been provided and/or installed. (po003.doc)

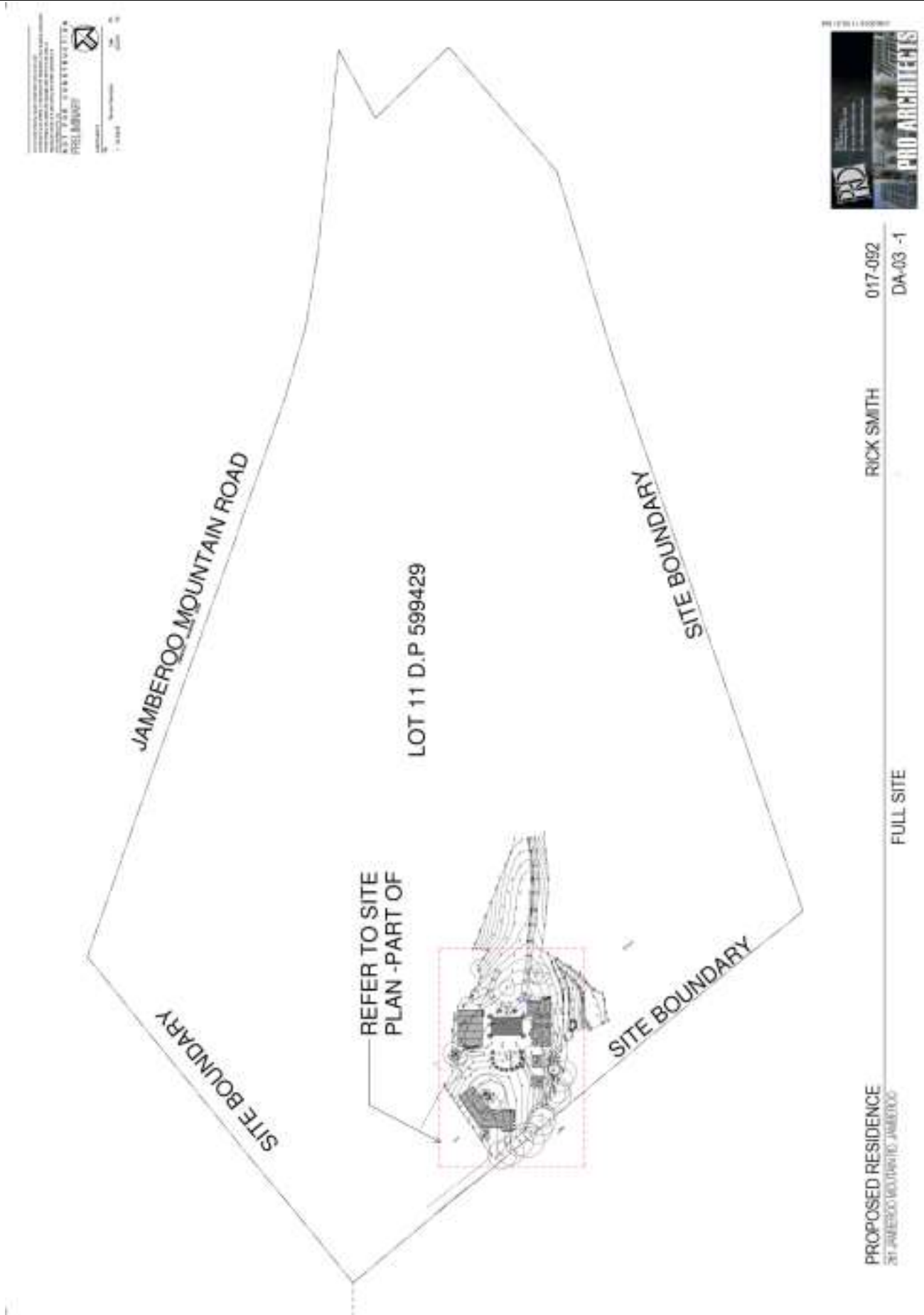
- (3) The whole or part of the building must not be occupied unless an Occupation Certificate has been issued in relation to the building or part in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

**NOTE:** A Fire Safety Certificate must be provided in accordance with the Environmental Planning and Assessment Regulations 2000 prior to the issue of an Occupation Certificate excepting Class 1(a), 10(a) & 10(b) structures. (po005.doc)

- (4) The Onsite Sewage Management System and the effluent disposal area shall be completed in accordance with all conditions of approval and in accordance with the Effluent Disposal Report, prior to the issue of any Occupation Certificate. (po020.doc)

- (5) A certified Works-As-Executed (WAE) drawing for all drainage works shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of any Occupation Certificate (OC). The WAE drawing shall be signed by a Registered Surveyor. The WAE drawing shall show in red ink all changes to the approved Construction Certificate (CC) drawings and finished levels. The PCA shall not issue the OC if any changes to the approved CC design will cause an adverse impact on adjoining lands.





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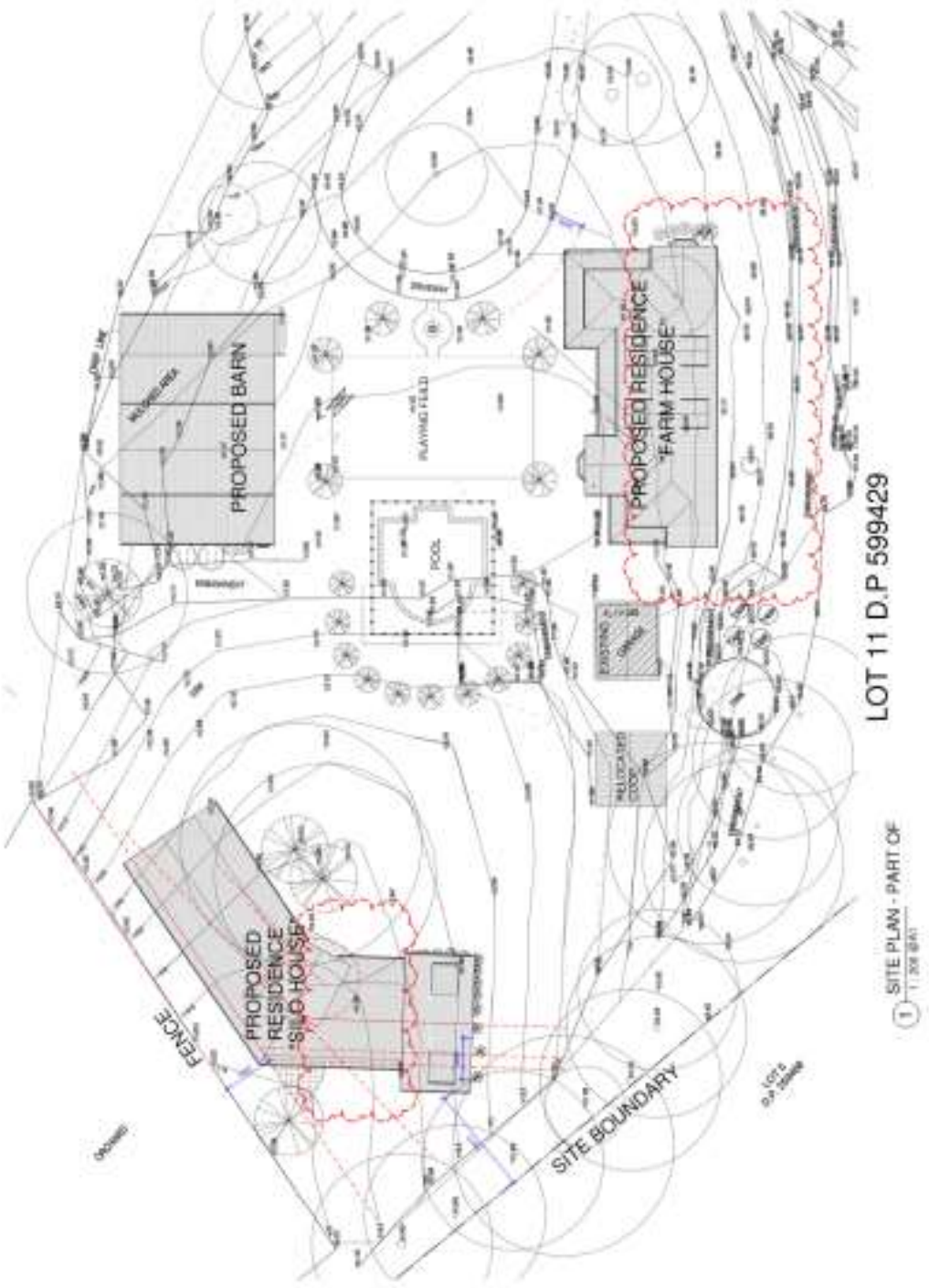
Attachment 1





**SITE INFORMATION**

<b>SITE</b>	BLK 81
<b>1/4 SECTION</b>	261 JAMBEROO MOUNTAIN ROAD, JAMBEROO VIC 3614
<b>PROJ. NO.</b>	10.2018.66.1
<b>DATE</b>	11/08/2018
<b>SCALE</b>	1:200
<b>PROJ. NO.</b>	10.2018.66.1
<b>DATE</b>	11/08/2018
<b>SCALE</b>	1:200
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<b>PROJ. NO.</b>	10.2018.66.1
<b>DATE</b>	11/08/2018
<b>SCALE</b>	1:200



PROPOSED RESIDENCE  
261 JAMBEROO MOUNTAIN ROAD, JAMBEROO

PART SITE PLAN

RICK SMITH

017-092  
DA-04 -3

KEY FOR CONSTRUCTION PRELIMINARY

DATE: 10/2018

SCALE: 1:100

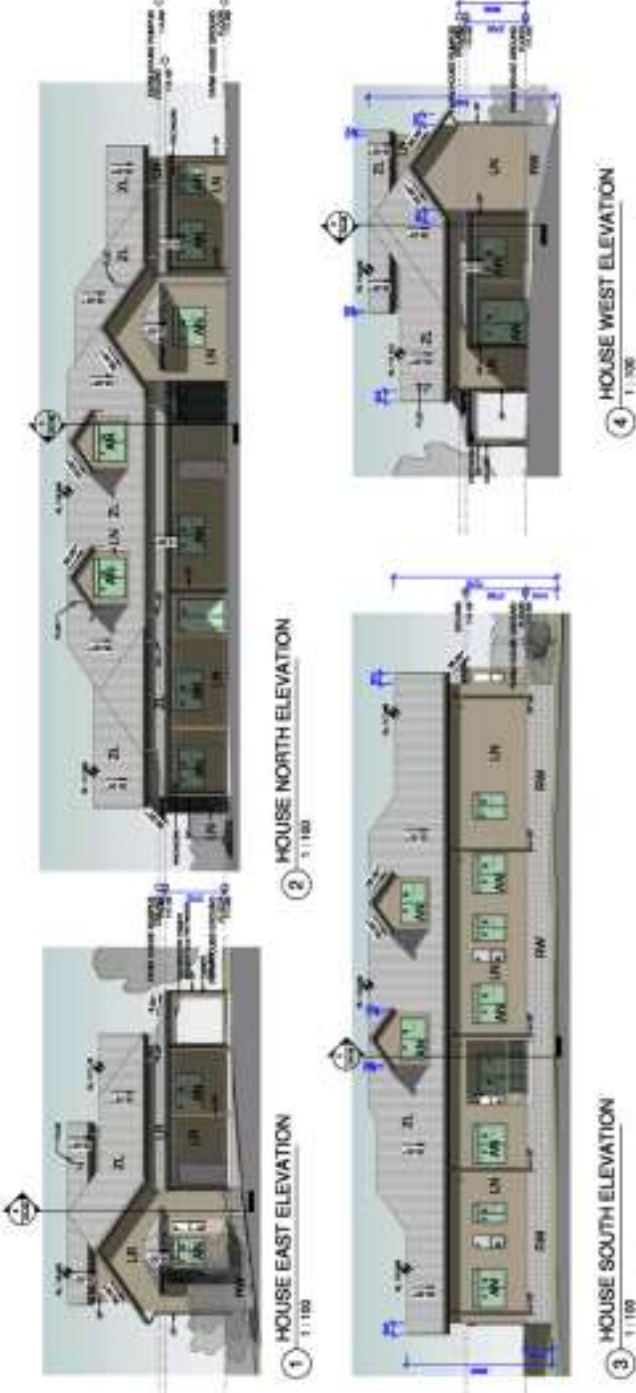
PROJECT: 017-092

CLIENT: RICK SMITH

ARCHITECT: PRO ARCHITECTS

FINISHED SCHEDULE

TC-1	TC-2	CB	AH	RC	LR	ZL
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017-092  
DA-06-3

RICK SMITH

FARM HOUSE ELEVATIONS / SECTIONS

PROPOSED RESIDENCE  
261 JAMBEROO MOUNTAIN RD, JAMBEROO



**GENERAL SCHEDULE**

TC-1	TC-2	CB	AN	RC	LR	FL
Timber Decking	Timber Decking	Concrete	Aluminum	Refrigerator	Laminated Glass	Flint Tiles

**PRO ARCHITECTS**

**1 SILO SOUTH**  
1:100

**2 SILO WEST A**  
1:100

**3 SILO WEST B**  
1:100

**PROPOSED RESIDENCE**  
261 JAMBEROO MOUNTAIN ROAD, JAMBEROO

**SILO HOUSE ELEVATIONS**

RICK SMITH  
017-092 DA-13-3

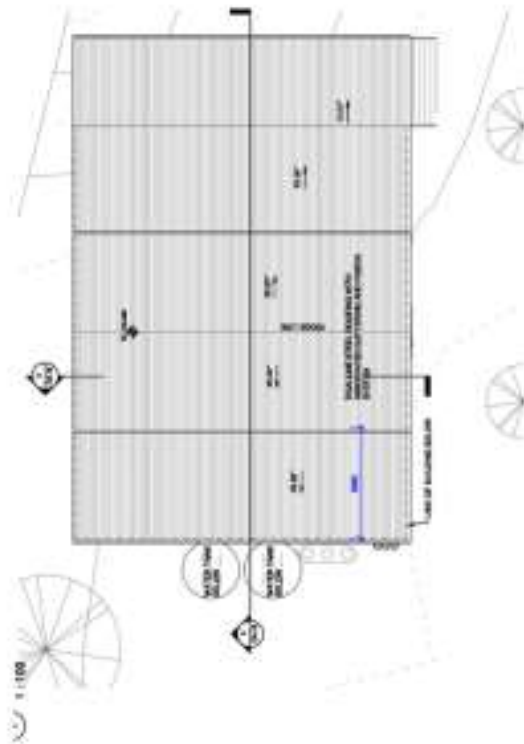
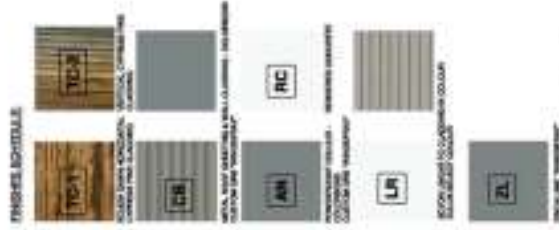
Item 10.5

Attachment 1



KEY FOR CONSTRUCTION PRELIMINARY

DATE: 10/10/18  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]



2 BARN ROOF PLAN  
1:150

PROPOSED RESIDENCE  
 261 JAMBEROO MOUNTAIN RD, JAMBEROO

RICK SMITH 017-092 DA-17 -2

BARN PLANS

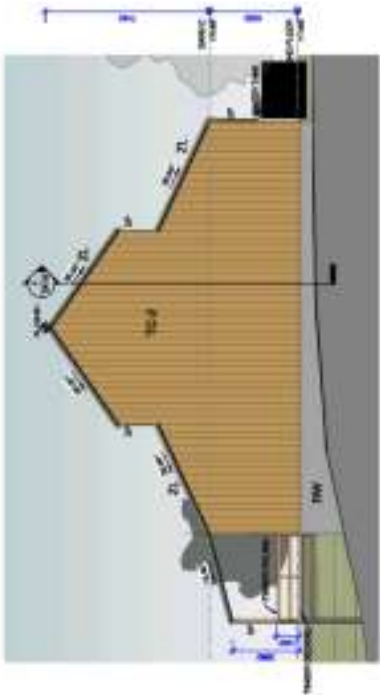
PROPOSED RESIDENCE  
261 JAMBEROO MOUNTAIN RD, JAMBEROO

DATE: 10/10/18  
DRAWN BY: RICK SMITH  
CHECKED BY: RICK SMITH  
SCALE: 1:100

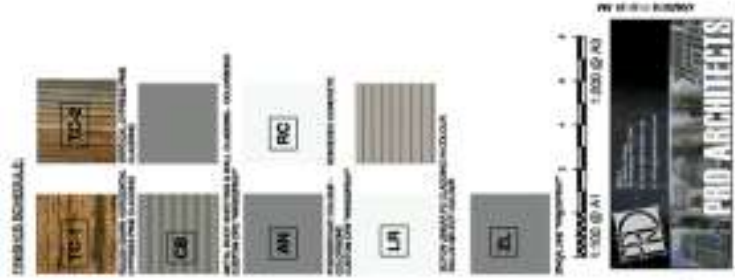
PROJ. NO: 017-092  
DA-18-2



④ BARN SOUTH  
1:100



① BARN WEST  
1:100



PROPOSED RESIDENCE  
261 JAMBEROO MOUNTAIN RD, JAMBEROO

DATE: 10/10/18  
DRAWN BY: RICK SMITH  
CHECKED BY: RICK SMITH  
SCALE: 1:100

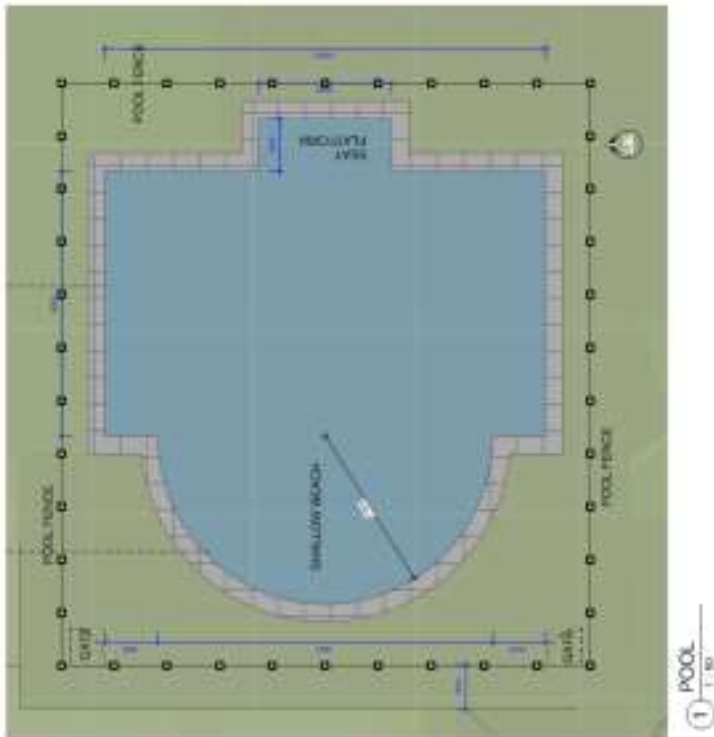
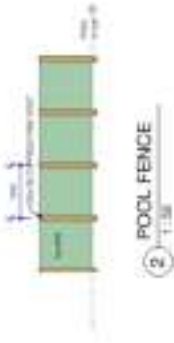
PROJ. NO: 017-092  
DA-18-2

RICK SMITH

BARN ELEVATIONS/ SECTIONS

PROPOSED RESIDENCE  
261 JAMBEROO MOUNTAIN RD, JAMBEROO





017-092  
DA-19 -1

RICK SMITH

POOL

PROPOSED RESIDENCE  
261 JAMBEROO MOUNTAIN RD, JAMBEROO

Item 10.5

Attachment 1

**10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings**

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.3 The principles of sustainable development and compliance underpin town planning and local development

Delivery Program: 2.3.1 Conduct development and building assessment/approval functions in accordance with statutory requirements, policies and procedures

Item 10.6

**Summary**

This report reviews Development Application No 10.2018.175.1 which involves the construction of a staged development of 6 dwellings over 3 individual lots and community title subdivision.

The report recommends that Council approve Development Application No 10.2018.175.1 as the proposal is:

- permissible in the R2 Low Density Residential and complies with the zone objectives and is consistent with the relevant development standards of the Kiama Local Environment Plan 2011 (LEP); and
- generally consistent with the Kiama Development Control Plan 2012 (DCP), with the exception of the controls requiring a 6m rear setback, retaining walls not more than 1.0m high, private open space behind the front building line, and 1.0m wide landscaping on each side of the access corridors.

Requests to vary these DCP controls have been received.

**Finance**

N/A.

**Policy**

N/A.

**Reason for the Report**

This report is submitted to Council because only the elected Council can determine applications involving more than a minor variation to the Development Control Plan.

**Communication/Community Engagement**

Required: Yes (letter notification)

Notification Period: 14 days from 13/08/2018 to 27/08/2018

Submissions: 2 submissions in support.

**Attachments**

1 10.2018.175.1 - Plans [↓](#)

**Enclosures**

Nil

Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

Item 10.6

RECOMMENDATION

That Council approve Development Application No 10.2018.175.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

BACKGROUND

Development Site

The property is described as Lots 2, 3 and 4 DP 271068 which is located at 54 Lilly Pilly Way, Kiama.

The overall site measures 1940.8m<sup>2</sup> and is irregular in shape. The site currently contains the access driveway and associated drainage infrastructure and lead-in servicing for the Community Title subdivision that has been developed under Development Consent No 10.2016.96.1 which was approved on 08/09/2016.

The subject application involves development of 3 of the 4 residential allotments within the Community Title subdivision. Lots 2, 3 and 4 have an area of 697.1m<sup>2</sup>, 591.7m<sup>2</sup> and 652m<sup>2</sup> respectively.

The site is zoned R2 Low Density Residential under Kiama LEP 2011.

The site is cleared and slopes slightly from RL 20.46m to RL 13m from the south-west corner to the north-east corner with a fall of 7.46m. The site drains to the adjoining inter-allotment drainage system.



Figure 1 – Locality Plan

The site is serviced with utilities. Access to the property is gained from Lilly Pilly Way, but the Community Title subdivision fronts Jamberoo Road within Cedar

Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama  
– Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

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Grove Stage 1 estate. The site is one of the few sites in the estate that remains to be developed with residential accommodation.

**Item 10.6**



Figure 2 – Site Photograph – Existing Access and Street Lighting (East View)



Figure 2 – Site Photograph – Existing Pathway and Stormwater Detention (West View)



Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

**Item 10.6**



Figure 4 – Site Photograph (North-west View)



Figure 5 – Site Photograph (North-east View)

**Background**

The development application history is as follows:

DA No	Description	Lodgement	Determined	Decision
10.2016.96.1	Demolition of existing dwelling and 4 Lot Community Title subdivision	29/04/2016	08/09/2016	Approved

Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

**Description of the Proposed Development**

The proposal involves the staged development of a dual occupancy over 3 individual lots and the re-subdivision of each lot under community title subdivision into 2 lots as follows:

- Community Tittle subdivision of each dwelling on Lot 2 DP 271068 into Lot 6 and 7 each lot with an area of 335.3m<sup>2</sup> and 361.8m<sup>2</sup> respectively.
- Community Tittle subdivision of each dwelling on Lot 3 DP 271068 into Lot 8 and 9 each lot with an area of 259.5m<sup>2</sup> and 332.2m<sup>2</sup> respectively.
- Community Tittle subdivision of each dwelling on Lot 4 DP 271068 into Lot 10 and 11 each lot with an area of 271.5m<sup>2</sup> and 380.3m<sup>2</sup> respectively.

The proposal is described as:

- Stage 1 comprising dual occupancy development of Lot 2 DP 271068; and
- Stage 2 comprising a dual occupancy development of Lot 3 DP 271068; and
- Stage 3 comprising a comprising dual occupancy of Lot 4 DP 271068.
- Three detached dual occupancies, one on each of the three allotments (Lots 2, 3, and 4 DP 271068), with separate driveways and landscaped areas with exception of Dwellings 2 and 4 which has a shared driveway in a battle axe configuration.
- The finishing materials/colours are Colorbond roof, face brick, and weatherboards with subdued tones.
- Each dwelling has a north facing ground level Private Open Space at least 24m<sup>2</sup> area.
- Waste storage is rear-yard with kerbside collection.
- The dwelling/s have a combined gross floor area (GFA) of 740.34m<sup>2</sup>.

The details of each lot upon which the proposed dwellings are to be erected is as follows:

Lot 2 DP 271068

- Proposed subdivision to create Lot 6 and 7 each with an area of 335.3m<sup>2</sup> and 361.8m<sup>2</sup>
- Single storey detached dual occupancy housing with a combined GFA of 253.27m<sup>2</sup> or and FSR of 0.36:1 and a maximum building height of RL 24.45m AHD or 5.46m above existing ground level.

<b>Dwelling 1 (Lot 6) 120.67m<sup>2</sup> GFA</b>	<b>Dwelling 2 (Lot 7) 132.6m<sup>2</sup> GFA</b>
<u>Ground Floor</u>	<u>Ground Floor</u>
<ul style="list-style-type: none"> <li>• Front Porch and Entry</li> <li>• Double car garage at Lilly Pilly Way</li> </ul>	<ul style="list-style-type: none"> <li>• Front Porch and Entry</li> <li>• Double car garage with shared battle-</li> </ul>

**Item 10.6**



Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

<b>Dwelling 1 (Lot 6) 120.67m<sup>2</sup> GFA</b>	<b>Dwelling 2 (Lot 7) 132.6m<sup>2</sup> GFA</b>
<ul style="list-style-type: none"> <li>• Covered Alfresco and elevated fenced Private Open Space area at the front of the development</li> <li>• Split level design</li> <li>• Open plan Kitchen, Dining, Living</li> <li>• 3 x bedrooms (Bed 1 with WIR, Ensuite)</li> <li>• Bathroom with WC</li> <li>• Laundry</li> <li>• Linen cupboard</li> </ul>	<p>axe driveway</p> <ul style="list-style-type: none"> <li>• Covered Alfresco and elevated fenced Private Open Space area at the front of the development</li> <li>• Open plan Kitchen, Dining, Living</li> <li>• 3 x bedrooms (Bed 1 with WIR, Ensuite)</li> <li>• Bathroom with WC</li> <li>• Laundry</li> <li>• Linen cupboard</li> </ul>

**Item 10.6**

Lot 3 DP 271068

- Proposed subdivision to create Lot 8 and 9 each with an area of 259.5m<sup>2</sup> and 337.7m<sup>2</sup>,
- Double storey and single storey detached dual occupancy housing with a combined GFA of 245.07m<sup>2</sup> or and FSR of 0.414:1 and a maximum building height of RL 23.145m AHD or 6.09m above ground level.

<b>Dwelling 3 (Lot 8) 124.4m<sup>2</sup> GFA</b>	<b>Dwelling 4 (Lot 9) 120.67m<sup>2</sup> GFA</b>
<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Front Porch and Entry</li> <li>• Double car garage at Lilly Pilly Way</li> </ul> <p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• Open plan kitchen, dining, living room</li> <li>• Powder room</li> <li>• Balcony/terrace (6m x 4m) 24m<sup>2</sup></li> <li>• 3 x bedrooms (Bed 1 with WIR, Ensuite)</li> <li>• Bathroom with WC</li> <li>• Linen cupboard</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Front porch and entry</li> <li>• Double car garage with shared battle-axe driveway</li> <li>• Covered alfresco and elevated fenced Private Open Space area at the front of the development</li> <li>• Open plan kitchen, dining, living</li> <li>• 3 x bedrooms (Bed 1 with WIR, ensuite)</li> <li>• Bathroom with WC</li> <li>• Laundry</li> <li>• Linen cupboard</li> </ul>

Lot 4 DP 271068

- Proposed subdivision to create Lot 10 and 11, each with an area of 271.5m<sup>2</sup> and 380.3m<sup>2</sup>
- Double storey and single storey detached dual occupancy housing with a combined GFA of 242 m<sup>2</sup> or and FSR of 0.37:1 and a maximum building height of RL 21.81m AHD or 7.6m above ground level.

Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

Dwelling 5 (Lot 10) 120.93m <sup>2</sup> GFA	Dwelling 6 (Lot 11) 121.07m <sup>2</sup> GFA
<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Front porch and entry</li> <li>• Double car garage with shared battle-axe driveway</li> <li>• Private Open Space area at the front of the development</li> <li>• Open plan kitchen, dining, living room</li> <li>• Powder Room</li> <li>• Laundry</li> </ul> <p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• 3 x bedrooms (Bed 1 with WIR, Ensuite)</li> <li>• Bathroom with WC</li> <li>• Linen cupboard</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Front deck and entry</li> <li>• Double car garage with shared battle-axe driveway</li> <li>• Open plan kitchen, dining, living, family</li> <li>• WC room</li> <li>• Alfresco</li> <li>• 3 x bedrooms (Bed 1 with WIR, ensuite)</li> <li>• Bathroom with WC</li> <li>• Linen cupboard</li> </ul>

Item 10.6

**Section 4.15 Assessment**

The proposed development has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended) and the following matters are considered relevant.

**Relevant Environmental Planning Instruments**

- State Environmental Planning Policy (Coastal Management) 2016

The 'coastal zone' is defined in the Coastal Management Act 2016 as 4 coastal management areas comprising: *Coastal Wetlands and Littoral Rainforests Area; Coastal Environment Area; Coastal Use Area; and Coastal Vulnerability Area.*

The site of the development is within the mapped *Coastal Environmental Area.*

The coastal environment area identifies the environmental features of the coastal zone, such as state waters, estuaries, coastal lakes and coastal lagoons. It also includes land adjoining those features including beaches, dunes, coastal headlands and rock platforms. The objectives for this area under the Act are:

- to protect and enhance the coastal environmental values and natural processes of coastal waters, estuaries, coastal lakes and coastal lagoons
- enhance natural character, scenic value, biological diversity and ecosystem integrity
- to reduce threats to, and improve the resilience of, coastal waters, estuaries, coastal lakes and coastal lagoons, including in response to climate change
- to maintain and improve water quality and estuary health

## Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama  
– Staged development of 6 dwellings over 3 individual lots and community  
title subdivision of those dwellings (cont)

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- to support the social and cultural values of coastal waters, estuaries, coastal lakes and coastal lagoons
- to maintain the presence of beaches, dunes and the natural features of foreshores, taking into account the beach system
- to maintain and, where practicable, improve public access, amenity and use of beaches, foreshores, headlands and rock platforms

The SEPP states:

Development consent must not be granted to development on land that is wholly or partly within the Coastal Environmental Area unless the consent authority has *considered* whether the proposed development is likely to cause an adverse impact on the following:

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- (b) coastal environmental values and natural coastal processes,
- (c) the water quality of the marine estate (within the meaning of the [Marine Estate Management Act 2014](#)), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- (f) Aboriginal cultural heritage, practices and places,
- (g) the use of the surf zone.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is *satisfied* that:

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
- (b) if that impact cannot be reasonably avoided - the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised - the development will be managed to mitigate that impact.

The proposed development is not considered to have an adverse impact on:

- the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment because the stormwater generated from the development is discharged into an inter-allotment drainage system designed to cater for the water quantity and water quality performance criteria measures required for the Cedar Grove Stage 1 estate to ensure nearby waterways are not polluted by development; and

## Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama  
– Staged development of 6 dwellings over 3 individual lots and community  
title subdivision of those dwellings (cont)

- 
- the coastal environmental values and natural coastal processes because the site is not near, and does not impact access to a foreshore, beach, headland or rock platform, and does not cause overshadowing or wind funnelling of the coastal use area; and does not cause the loss of views from public places to foreshores, and does not adversely impact the visual amenity or scenic qualities of the coast, does not impact on Aboriginal cultural heritage, practices and places, and does not impact the use of the surf zone ; and
  - the water quality of the marine estate (including the Spring Creek sensitive coastal lake downstream from the site) because erosion and sediment control measures are proposed to mitigate the impacts of run-off from the construction site, and
  - marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms because the site is remote from these habitats and areas.

Having regard to the above, the proposal is considered satisfactory because:

- (a) the development is designed, sited and will be managed to avoid an adverse impact, and
- (b) any impact can be reasonably avoided because the development is designed, sited and will be managed to minimise that impact.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate/s (9383135S) was lodged for the new dwellings with the application which demonstrates that each dwelling has been designed in accordance with BASIX.

- State Environmental Planning Policy No 55 - Remediation of Land

Clause 7 of the SEPP No 55 requires Council to consider whether the land is contaminated and if it is contaminated if remediation works are required. Site remediation works are not required since the site has already been subdivided in preparation for residential redevelopment.

- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Clause 9 and 10 of the SEPP (Vegetation in Non-Rural Areas) 2017 outlines that consent is required for the clearing of certain vegetation in non-rural areas. Council's Development Control Plan (DCP) 2012 outlines that certain trees can be removed without requiring consent. One native tree is proposed to be removed as part of this development.

- Kiama LEP 2011

Clause 2.3 - Zone objectives and Land Use Table

The subject land is zoned R2 Low Density Residential pursuant to LEP 2011. The proposal is defined as a dual occupancy and subdivision under the provisions of the LEP 2011, which are permitted with consent in the R2 Low Density Residential zone.

Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama  
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title subdivision of those dwellings (cont)

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The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

As the proposal will provide for the housing needs of the community within a low density residential environment, the development is considered to be consistent with the zone objectives.

Specific clauses requiring consideration:

#### Clause 4.1 - Minimum Subdivision Lot Size

Clause 4.1 requires that the minimum subdivision lot size is not less than the minimum size shown on the Lot Size Map. The site is listed with a minimum resulting lot size of 450m<sup>2</sup> on the lot size map.

#### Clause 4.1D – Exceptions to the Minimum Subdivision Lot Sizes for Dual Occupancies in Zone R2 and Zone R3

The re-subdivision of Lot 2, 3, and 4 after each of the dual occupancies has been constructed, into Lots 6, 7, 8, 9, 10, 11 each lot with an area of not less than 259.5m<sup>2</sup> complies with the provisions of Clause 4.1D because they have areas more than 225m<sup>2</sup>.

#### Clause 4.3 - Height of Buildings

Clause 4.3 requires that the height of the building does not exceed the maximum height shown on the Height of Buildings Map. The height of building map identifies that a maximum building height of 8.5m applies to the site. The proposed dual occupancy will have a maximum height of 7.6m above existing ground level and as such complies.

#### Clause 4.4 - Floor Space Ratio

Clause 4.4 requires that the floor space ratio does not exceed the maximum floor space ratio shown for land on the Floor Space Ratio (FSR) map. The FSR map of the Kiama LEP 2011 identifies that a maximum floor space ratio of 0.45:1 applies to the site.

As per the definition provided in the Kiama LEP 2011 the *gross floor area* (GFA) the development that has an FSR of 0.36:1, 0.414:1, and 0.37:1 on Lot 2, 3, and 4 respectively and complies.

#### Clause 6.1 - Acid Sulfate Soils

Clause 6.1 lists requirements for land affected by Acid Sulfate Soils.

The site is subject to Acid Sulfate Soils Class 5 and the provisions requires that an Acid Sulfate Soils management plan be prepared and lodged with the development application for the proposed work unless more than 1 tonne of soil is disturbed by the proposal, or the development is not likely to lower the water table.

Minimal excavation is proposed because the site is relatively flat where construction is occurring, therefore the water table is not likely to be lowered.

This requirement has been satisfactorily addressed.

Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

Clause 6.2 - Earthworks

Clause 6.2 lists considerations for proposals which involve earthworks. The proposal complies with the objectives of the clause and as the proposed earthworks are ancillary to the proposed dwelling separate development consent is not required.

The proposed development is consistent with the relevant provisions of the Kiama LEP 2011 and is permissible within in the R2 Low Density Residential zone.

**Any Draft Environmental Planning Instruments**

Draft SEPP 55 – Land Remediation

The gazettal of the draft SEPP bringing it into law, is not considered to be imminent or certain and the relevant provisions have been considered.

**Kiama Development Control Plan 2012**

The proposed development is not inconsistent with the objectives Kiama DCP 2012. The minor non-compliances are addressed in the table below:

Control	Comment
<b>CHAPTER 2 – OVERALL CONTROLS</b>	
<b>Section 37 – Applications for Variation to the provisions of a Chapter</b>	
<p>Objective</p> <p>To make provisions that an applicant may make a written submission to Council to request a variation if the provisions of any part of a chapter are unnecessary or unreasonable having regard to the circumstances of the site and the application sought</p>	<p>The applicant has made written submission seeking to vary the controls that are not met by the design of the proposal on the basis that the objectives are maintained.</p>
<p>C57 An applicant may make a written submission to Council to request a variation to the provisions of a Chapter in this plan if:</p> <ul style="list-style-type: none"> <li>The development site has special or exceptional conditions that justify the variation sought. It will be compulsory to demonstrate that a functional development is</li> </ul>	<p>The applicant has made written submission seeking to vary the controls that are not met by the design of the proposal.</p>

**Item 10.6**



Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

Control	Comment
<p>impossible on site without seeking a variation.</p> <ul style="list-style-type: none"> <li>The provisions of a Chapter in this plan do not have appropriate regard to the development proposal.</li> <li>The application to vary the provisions of a Chapter in this plan must accompany the development application and shall be submitted to Council with the appropriate fee as fixed by Council.</li> <li>In requesting a variation, the applicant must consider whether any other reasonable option is available and each of the objectives of the specific controls to be varied.</li> </ul> <p><b>Note:</b> Council will assess any variation based on planning principles and compliance with the objectives within the particular chapter.</p>	

Item 10.6

**Section 5 - Maintenance of Views and Vistas**

<p><u>Objectives</u></p> <ul style="list-style-type: none"> <li>To maintain view sharing principles though the development and redevelopment of areas.</li> <li>To ensure that where practical new development is designed and sited not to significantly alter views (including water and/or escarpment views).</li> <li>To ensure that primary private views are maintained through the addition of new</li> </ul>	<p>The proposal incorporates view sharing principles into the design and siting of development to ensure that where possible that existing view lines are not detrimentally impacted.</p>
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10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama – Staged development of 6 dwellings over 3 individual lots and community title subdivision of those dwellings (cont)

Control	Comment
<p>development.</p> <ul style="list-style-type: none"> <li>• To retain views to and from the water.</li> <li>• To protect conserve and maintain the landform of the municipality</li> <li>• To limit potential for large bulky housing and development</li> <li>• To encourage sensitive siting of housing.</li> <li>• To maintain or enhance significant public view corridors and other opportunistic views available from the public domain.</li> </ul>	
<p>C6 Any development in Kiama should incorporate view sharing principles into the design and siting of development to ensure that where possible with that existing view lines are not detrimentally impacted.</p>	<p>The proposal incorporates view sharing principles into the design and siting of development to ensure that where possible that existing view lines are not detrimentally impacted.</p>
<p>C8 Development should ensure, where possible, that there is no unreasonable loss of existing view lines from existing development.</p>	
<p>C9 No one dwelling should be sited to maximise the views for its occupants to the exclusion of nearby resident or neighbours.</p>	
<p>C10 Building design should have regard to the topography of the site and avoid unnecessary bulk or alteration of natural ground levels.</p>	

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Control	Comment
<p>C11 Where there is a potential for view loss Council may require a maximum building height of less than the maximum allowable for part of the proposed building to ensure view sharing.</p>	<p>The development is generally low-profile single storey design, with a maximum proposed building height of 7.6m for Unit 5. The neighbour to the south that is adjacent the development has made a submission of support to the development indicating that the development is acceptable. The development is not required to be lowered to ensure view sharing.</p>

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**Section 12 - Design Standards - Building Lines in Urban Areas**

<p><u>Rear Building Lines for Designated Properties</u></p> <p>Rear building lines are 6m unless otherwise identified on the Building Line Maps.</p>	<p>Proposal has the following rear setbacks:</p> <p>Unit 1 – 1.15m (80.8% variation)</p> <p>Unit 2 – 2.0m (66.6% variation)</p> <p>Unit 3 – 0.94m (84.3% variation)</p> <p>Unit 4 – 1.8m (70% variation)</p> <p>Unit 5 – 0m (100% variation)</p> <p>Unit 6 – 1.4m (76.6% variation)</p> <p>The applicant has made written submission seeking to vary the objectives or controls that are not met by the design of the proposal as follows:</p> <p><i>A design analysis and detailed site analysis has been undertaken. To achieve compliance with the 6.0m setback control we say that the proposed single level homes would need to be built in a two storey form so as to maintain the private open space with a north aspect.</i></p> <p><i>We say the two storey built form whilst achieving compliance with a setback control would have an adverse impact on the visual outlook from the existing properties at the rear of the subject site</i></p> <p><i>We say a two storey form whilst achieving compliance with the rear building setback and solar orientation for the private open</i></p>
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Control	Comment
	<p><i>space does not suitably address the features of the site and is at odds with the context of the surrounding built form</i></p> <p><i>We say compliance with the 6.0m control maybe able to be achieved with a single level dwelling however this would result in the private open space being situated on the southeast or southwest corner of the site.</i></p> <p><i>We say to satisfy the potential overlooking from the elevated outdoor living areas from the properties to the south screen landscaping would be needed to afford some level of privacy for the occupants of the proposed development and this screen landscaping could have an adverse impact to the existing properties to south in that their outlook would be hindered by the screen landscaping.</i></p> <p><i>Furthermore positioning of the private open spaces to the southeast or southwest is not a desirable outcome for the future residents or occupations of the proposed homes as each of the spaces would only receive minimal solar access</i></p> <p><i>We say a variation to the 6.0m control is appropriate given the context of the location and when the proposal is assessed on its merits.</i></p> <p><i>We say given each of the proposed homes are single level and the rear or southern elevations of the proposed homes will contain only windows that serve a bedroom or the wet areas there will be no adverse impact on the adjoining properties to the south.</i></p> <p>The development has been designed with minimal rear setback with the amenity of future residents (north facing private open space) and impact on adjoining properties (lower building profile) in mind.</p>

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Control	Comment
	<p>The internal living areas and adjacent external alfresco deck areas internal to the development are between 1.3 and 1.8m above ground level that are reasonably mitigated by customary 1.8m high boundary fencing.</p> <p>The proposal steps down the sloping site, and the non-compliance with the setback controls causes no significant overlooking of adjoining property that is mitigated by landscape screening, boundary fencing, offset windows, privacy screen/louvres and the like.</p> <p>The variation results in improved solar access amenity for the intended occupants, and eliminates adverse impacts on neighbours such a view loss, overlooking, and overshadow.</p> <p>The variation is consistent the intentions of the control which states:</p> <p style="padding-left: 40px;">C11 Where there is a potential for view loss Council may require a maximum building height of less than the maximum allowable for part of the proposed building to ensure view sharing.</p> <p>The variation is supported.</p>
<p>Single storey structures including garages, pools, pergolas and barbecue areas may be sited at a lesser distance from the rear property boundary, where such a structure satisfies the objectives of this plan and where, in the opinion of Council, no unreasonable impacts on neighbouring properties will result.</p>	<p>The applicant has made no written submission seeking to vary the objectives or controls that are not met by the design of the proposal.</p> <p>The justification provided in relation to reduced rear building are considered relevant and acceptable in addressing this control.</p>

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**CHAPTER 4 – LOW DENSITY DEVELOPMENT**

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Control	Comment
<p>For the purposes of this chapter low density development refers to: single dwelling houses, dual occupancy development, secondary dwellings and any associated additions.</p> <p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>• To encourage innovative housing design which incorporates high level architectural, environmental and amenity standards.</li> <li>• To promote residential development that achieves the principles of energy efficiency and ecologically sustainable development.</li> <li>• To protect the character of the areas and towns.</li> <li>• Ensure all development is designed and sited to respond to greater climatic extremes with energy efficient responses.</li> <li>• To provide high level of user amenity through the provision of well designed, liveable dwellings.</li> <li>• To provide high level of visual and acoustic privacy for existing and new residents.</li> <li>• To ensure that any residential development adjacent or in close proximity to rurally zoned land recognizes the ‘right to farm’ for rural land zonings.</li> </ul> <p>To ensure that development will not disrupt the streetscape or the</p>	<p>The applicant has made written submission seeking to vary the objectives or controls that are not met by the design of the proposal with respect to the non-compliance with:</p> <ul style="list-style-type: none"> <li>• the 6.0m rear setback;</li> <li>• retaining walls not more than 1.0m height;</li> <li>• 1.0m landscape strip adjacent access corridors;</li> <li>• and private open space not forward of the building line.</li> </ul> <p>The justification is satisfactory because the proposal exhibits a good streetscape appearance, and does not cause unreasonable overshadowing or privacy impacts on neighbours that cannot be resolved by the imposition of conditions of consent</p>

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Control	Comment
<p>unity of a group of buildings and spoil the existing character.</p>	
<p>C1 All applications for low density development must meet the following controls:</p> <ul style="list-style-type: none"> <li>• all Principal development standards as set by LEP 2011.</li> <li>• all development must be designed to minimise any environmental risks associated with its location.</li> </ul>	<p>The proposal complies with all Principal development standards as set by LEP 2011</p> <p>The environmental risks of the development have been reasonably mitigated. The proposal exhibits a good streetscape appearance, and does not cause for unreasonable overshadowing or privacy impacts on neighbours that cannot be resolved by the imposition of conditions of consent.</p>
<p>C3 Cutting and filling on site is limited to 900mm external to the perimeter of the building.</p>	<p>The external retaining walls supporting the internal living areas and adjacent external alfresco/rear deck areas and private open spaces area are between 1.3 and 1.8m above ground level, and containing filling in excess of 0.9m high and therefore does not comply.</p> <p>The applicant has provided the following comment:</p> <p><i>Generally the proposed cutting and filling complies with the development control.</i></p> <p><i>Cutting in excess of approx 1.2m and all filling will be contained within the building footprint of the proposed homes</i></p> <p><i>External cutting along the western boundary will range up to approximately 1.2m. These excavations will be supported with engineers designed retaining walls and the wall will be offset from the boundary to allow for the retention of the existing fencing along the western side boundary and the planting of shrubs and erection of a new boundary fence along the southern boundary</i></p> <p>The proposal steps down the sloping site, and the non-compliance with the cutting and filling</p>

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Control	Comment
	<p>control with respect to the height of retaining wall causes no significant overlooking of adjoining property that is mitigated by landscape screening, boundary fencing, offset windows, privacy screen/louvres and the like.</p> <p>The variation results in improved solar access amenity for the intended occupants, and does not give rise to adverse impacts on neighbours such a view loss, overlooking, and overshadow.</p> <p>Conditions of consent have been recommended requiring all external faces of retaining walls adjacent the to the shared driveway access corridor for Dwellings 2, 4, 5, &amp; 6, and adjacent to the common property access corridor from Lilly Pilly Way and adjacent to Jamberoo Road must be finished with painted cement render.</p> <p>The material finish of the retaining walls will of a high standard to ensure the visual appearance of the retaining wall does not detract from the development.</p>
<p>C5 All development should be designed to provide a high level of privacy for end users without compromising access to light and airflow. Where, due to site or design constraints, potential overlooking is unavoidable. Detailing could include:</p> <ul style="list-style-type: none"> <li>• offset windows in new development and adjacent development windows,</li> <li>• double glazing,</li> <li>• operable louvres or screen panels to windows and/or balconies,</li> <li>• screening through 1.5m high</li> </ul>	<p>The applicant has made no written submission seeking to vary the objectives or controls that are not met by the design of the proposal with respect to the overlooking from raised living and alfresco areas that are between 1.3 and 1.8m above the ground level of the common boundary with residential land to the north.</p> <p>However, the elevated positioning of the ground level POS areas are mitigated by landscape screening to improve the appearance of the retaining walls that support the POS areas, the inclusion of screen panels to balconies, as well as privacy screening from the proposed 1.5m high fencing and landscaping between dwellings.</p>

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Control	Comment
<p>fencing or landscaping between dwellings.</p>	
<p>C7 Walls of buildings facing side boundaries and ≥ 15m in length must be appropriately articulated, such as through the use of different materials or design.</p>	<p>The external wall of Dwelling 1 is 16.07m long, and does not comply.</p> <p>The applicant has provided the following comment:</p> <p><i>Apart from Home 1, all of the proposed dwellings comply with the control.</i></p> <p><i>A variation to the control is required for Home 1. The western side wall of Home 1 has an overall length of 16.070m. We say a variation to the control in this case is appropriate given the design of Home 1 and the significant variation to the roof form along the side of the home .....we say the varying materials being face brickwork and weatherboards together with the split level design and varying roof levels provides adequate articulation along the side of the proposed home</i></p> <p>The justification is considered acceptable as the side wall of the development is generally one storey in appearance and is vertically articulated by the split-level design stepping down the site.</p>
<p>C8 New development should be designed and sited considering the view sharing principles outlined in chapter 2.</p>	<p>See comments above under Chapter 2 – Section 5 - Maintenance of Views and Vistas</p>
<p>C9 In any application consideration will be given to the effect of design that excessive height and/or bulk of dwelling house/addition/dual occupancy/secondary dwelling may have on adjoining properties, with respect to their privacy and</p>	<p>The generally low profile of the development (1 split storey) will present minimal impact with respect to privacy and overshadowing on adjoining properties. The main potential impact is on the amenity of the dwellings internal to the development.</p> <p>The applicant has met the objectives of this</p>

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Control	Comment
overshadowing.	<p>control by the stepped design of the proposal to minimise overlooking from raised living rooms, alfresco areas and private open space areas that are between 1.0 and 1.8m above the ground level at the front of each proposed dwelling.</p> <p>Due to the positioning of the ground level POS area, there is minimal opportunity to provide landscape screening to mitigate overlooking from the proposed living areas, however additional mitigation is proposed in the design including:</p> <ul style="list-style-type: none"> <li>• limiting building height to single storey adjacent to common boundaries with adjoining allotments</li> <li>• offset windows in new development and adjacent development windows,</li> <li>• screen panels to windows and/or balconies,</li> <li>• screening through 1.8m high fencing or landscaping between dwellings.</li> </ul> <p>The proposal is not considered to be excessive in height.</p>
<p>C10 Where a proposed dwelling house/addition/dual occupancy/secondary dwelling is considered to adversely affect privacy or excessively overshadow an adjoining property, Council may request modification to the building design, requiring increased building setbacks, or failing this, refuse the application.</p>	<p>The proposed dual occupancy is not considered to adversely affect privacy of adjoining property.</p>
<p>C13 To maintain and improve the existing and future desired character/amenity of residential zones. Council will only approve of</p>	<p>The proposed dual occupancy is not considered to adversely affect privacy of adjoining property, nor adversely affect the views and vistas from dwellings adjacent in</p>

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Control	Comment
<p>new dwelling houses/additions where they are compatible with the existing and environmental character of the locality and have a sympathetic and harmonious relationship with adjoining development.</p>	<p>Melia Street over the site. Council does not need to request modification to the building design, requiring increased building setbacks and redesign the upper level bulk of the building to ensure view sharing is maintained, to ensure the proposed development is sympathetic and harmonious with adjoining development because the proponent has proposed reduced setback and building height to ensure the intent and objective of this control is met.</p>
<p><b>Section 2 - Setbacks</b></p>	
<p><u>Objectives</u></p> <ul style="list-style-type: none"> <li>• Provide sufficient separation and articulation of buildings to provide high level of amenity, daylight, privacy and noise attenuation.</li> <li>• Development should be designed to minimise overshadowing of adjacent properties and private open space.</li> </ul>	<p>The proposed dual occupancy is not considered to adversely affect privacy of adjoining property, nor adversely affect the views and vistas from dwellings adjacent in Melia Street over the site, or create unreasonable overshadowing. The proposal is considered to comply.</p>
<p><u>C18 Site Specific Controls for Elambra/West Kiama/Cedar Ridge/Silver Hill/Cedar Grove/Gerringong Headland Estates</u></p> <p>Please refer to site specific chapters in this DCP for controls.</p>	<p>See comments below under Chapter 24 – Cedar Grove</p>
<p><b>Section 4 - Private Open Space</b></p>	
<p><u>Objectives</u></p> <p>To ensure that all dwellings achieve the minimum requirements</p>	<p>The proposal complies with this objective and controls, and the arrangements ensure that there are not adverse impact on neighbours</p>

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Control	Comment
<p>for well-designed private open space.</p>	<p>such a view loss, overlooking, and overshadowing.</p>
<p>C24 Private open space must be directly accessed from the main living area of the dwelling.</p>	
<p>C26 A minimum of 50% of the provided private open space areas are to receive a minimum of 3 hours of sunlight between 9.00am and 3.00pm on June 22. The sunlight must be able to cover the area measured at 1.0 metre above the finished level of the private open space area.</p>	
<p>C28 Balconies should not be located on the side of developments without appropriate measures to maintain reasonable amenity to adjoining properties.</p>	<p>Conditions of consent are recommended to include privacy screening on the sides of the upper level balcony to ensure sufficient amenity is maintained for the intended occupants and adjoining residents.</p>
<p>C29 A deck/balcony may count as part but not all of a dwellings private open space, subject to the following merit based assessment:</p> <ul style="list-style-type: none"> <li>• A maximum of 1/3 of the total open space can be in the form of a balcony.</li> <li>• That the dimensions and location of the deck would provide for useful practical multipurpose open space;</li> <li>• The location of the deck will not compromise any amenity issues (such as noise or privacy) for surrounding</li> </ul>	<p>The applicant has made written submission seeking to vary the objectives or controls that are not met by the design of the proposal as follows:</p> <p><i>The private open spaces are all located at finished ground level with the exception of the private open space for Home 3. Given the orientation and topographical features of the site we have proposed to locate the private open space wholly within a terrace which is directly accessible from the internal living area.</i></p> <p><i>We say that the location and orientation of the private open space takes full advantage of the orientation of the subject site, and provides for a</i></p>

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Control	Comment
<p>dwellings/occupants.</p> <ul style="list-style-type: none"> <li>Balconies located on the side of developments are not permitted.</li> <li>A minimum dimension of 2 metres is required for any balcony.</li> </ul>	<p><i>functional space that is low maintenance and provides for a wider choice of housing styles which is one of the core aims and objectives of the Council's LEP</i></p> <p><i>We say that the arrangement of the private open space and the location of a separate service courtyard area at the rear of the proposed home responds extremely well to the detailed site analysis and design analysis, and in our opinion should be supported by</i></p> <p>The variation results in improved solar access amenity for the intended occupants, and eliminates adverse impacts on neighbours such a view loss, overlooking, and overshadow.</p>

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**Section 9 - Additional Controls for Dual Occupancy Development and Secondary Dwellings**

<p>C43 Development must meet development standards from Kiama LEP 2011, or site specific clauses (ie Silver Hill/Cedar Ridge, David Smith Place below).</p>	<p>See comments below under Chapter 24 – Cedar Grove</p>
<p>C47 Battle axe block must have a minimum frontage and access handle width of 5m for consideration of dual occupancy or secondary dwelling development. This frontage must include a 3m concrete driveway and a 1m landscaped strip adjoining the neighbouring property.</p>	<p>The proposal includes sufficient width for the 3m wide driveway, but the 1m wide landscape strip required adjoining the neighbouring property cannot be provided.</p> <p>The proposal is considered unsatisfactory due to the lack of landscape relief provided to the access corridor, however, conditions of consent are recommended to mitigate the adverse visual impact as follows:</p> <ul style="list-style-type: none"> <li><i>i. Sheet metal fencing along the side and rear boundaries of the site does not extend forward of the front building line.</i></li> <li><i>ii. Gates returning into the buildings from a</i></li> </ul>



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Control	Comment
	<p><i>side or rear boundary that are visible from Lilly Pilly Way or Jamberoo Road must not be constructed of sheet metal.</i></p> <p><i>iii. Any fencing or gates forward of the building line or facing the street front must be not less than 1.5 metres high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.</i></p> <p><i>iv. The fencing and gates for the Private Open Space area for Dwelling 2, 4, &amp; 6 must be not less than 1.8m high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.</i></p> <p><i>v. The fencing adjacent the shared driveway access corridor for Dwelling 2, 4, 5, &amp; 6 must be not less than 1.5m high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.</i></p> <p><i>vi. All external faces of retaining walls adjacent the to the shared driveway access corridor for Dwelling 2, 4, 5, &amp; 6, and adjacent to the common property access corridor from Lilly Pilly Way and adjacent to Jamberoo Road must be finished with painted cement render.</i></p>
<p>C51 Consideration should be given in the design to help maintain privacy, access to natural light, orientation and a reduction in noise transmission not only between the proposed dwellings, but also</p>	<p>The proposal exhibits a good streetscape appearance, and does not cause unreasonable overshadowing or privacy impacts on neighbours that cannot be resolved by the imposition of conditions of consent. See comments above.</p>

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<b>Control</b>	<b>Comment</b>
<p>between the proposed dual occupancy / secondary dwelling and adjoining residences.</p>	
<p>C52 Consideration will need to be given to the bulk of a building particularly in relation to adjoining development and the streetscape (bulky buildings have a greater potential to overshadow and reduce privacy to adjoining properties). To assist in the reduction of such impacts, intricate designs are necessary incorporating split level, broken roof lines and site specific floor layouts.</p>	<p>The proposal exhibits a good streetscape appearance, and does not cause unreasonable overshadowing or privacy impacts on neighbours that cannot be resolved by the imposition of conditions of consent. See comments above.</p>
<p>C53 Buildings should be sited and designed to have regard, as far as practicable, to views enjoyed from adjacent properties. In relation to properties fronting public reserves or foreshore areas, general building lines set by existing development must be adhered to. Advice should also be sought from Council as to whether foreshore building lines apply to the site.</p>	<p>See comments above under Chapter 2 – Section 5 - Maintenance of Views and Vistas</p>
<p>C54 Windows in a habitable room should be designed and located so as not unreasonably interfere with the privacy of adjoining dwellings</p>	<p>The proposal complies, see comments above.</p>
<p><b>CHAPTER 7 – SUBDIVISION</b>  <b>Section 5 - Battle-Axe Allotments</b></p>	
<p><b>Objectives</b></p>	

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Control	Comment
<p>To encourage conventional residential subdivisions with direct public road access, rather than a series of battle axe allotments one behind each other, in order to maintain the residential amenity and character of the locality.</p> <p>To permit a maximum of two (2) battle axe allotments in a subdivision upon certain land where inherent site constraints such as slope or topography may otherwise prevent a conventional residential subdivision which would provide direct public road access to all lots.</p> <p>To minimise the potential adverse streetscape and amenity impacts upon the locality arising from a number of battle axe lots sharing a common access corridor.</p> <p>To ensure each battle axe lot has a sufficient site area with a suitable building envelope to accommodate a range of different dwelling styles, in order to minimise any potential amenity or privacy impacts upon adjoining residential properties.</p> <p>To ensure each battle axe lot has a sufficient site area to provide satisfactory onsite parking with suitable vehicular access and manoeuvring areas.</p>	
<p>C16 A maximum of 2 battle-axe allotments will be permitted behind an allotment which has direct frontage to a dedicated public road</p>	<p>The proposal does not include a series of battle-axe handles one behind the other and complies. Each dwelling has a maximum of 1 dwelling behind the other and complies. The</p>

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Control	Comment
<p>in the proposed subdivision. Under no circumstances will Council favourably consider any subdivision proposal involving a series of battle-axe lots, one behind each other.</p>	<p>proposal is accessed from a private road extension of Lilly Pilly Way, with dwellings 2, 4 and 6 accessed in a battle-axe configuration via a shared driveway.</p>
<p>C17 All battle-axe allotments must have direct access to a dedicated public road, through the provision of an access handle attached to each battle-axe lot or via a shared access corridor (ie maximum of 2 lots may share a common access corridor).</p>	<p>The proposal is accessed from a private road extension of Lilly Pilly Way within the existing community title subdivision, with Dwelling Nos. 2, 4 and 6 accessed in a battle-axe configuration via a shared driveway and does not comply.</p> <p>There is no development between Jamberoo Road and the private road extension of Lilly Pilly Way and therefore the battle-axe access is considered acceptable in this regard.</p>
<p>C18 The minimum access corridor width for a battle axe allotment shall be 5m with a minimum carriageway width of 3m for the entire length of the access handle.</p>	<p>The proposal is accessed from a private road extension of Lilly Pilly Way within the existing community title subdivision, with Dwelling Nos. 2, 4 and 6 accessed in a battle-axe configuration via a shared driveway from the extension of Lilly Pilly Way.</p>
<p>C19 A 1m wide landscaping strip shall be provided along each side of the required 3m wide road pavement. The landscaping strip shall be planted with suitable small trees, shrubs and groundcovers.</p>	<p>The access corridor servicing Dwelling Nos. 2 and 4 is 4.25m wide, and Dwelling No. 6 is 4.5m wide and <i>do not comply</i>.</p> <p>The applicant has provided the following comment:</p> <p><i>Technically each of the sites could be classified as battle-axe allotments given each of the sites are serviced by a private driveway – identified as Lot 1 on the DP.</i></p> <p><i>It can be argued that the private driveway is an access handle that serves each of the Lots within the Community Title thus each of the lots could be classified as battle-axe allotments. The width of the access handle is 9.5 metres and therefore complies with</i></p>

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Control	Comment
	<p><i>the control.</i></p> <p>The intent of the control is to ensure that ‘gun-barrel’ access corridors are not proposed to ensure that the development contributes positively to the streetscape.</p> <p>The proposal includes sufficient width for the 3m wide driveway, but the 1m wide landscape strip required adjoining the neighbouring property cannot be provided.</p> <p>The proposal is considered unsatisfactory due to the lack of landscape relief provided to the access corridor, however, conditions of consent are recommended to mitigate the adverse visual impact as follows:</p> <ul style="list-style-type: none"> <li>i. Sheet metal fencing along the side and rear boundaries of the site does not extend forward of the front building line.</li> <li>ii. Gates returning into the buildings from a side or rear boundary that are visible from Lilly Pilly Way or Jamberoo Road must not be constructed of sheet metal.</li> <li>iii. Any fencing or gates forward of the building line or facing the street front must be not less than 1.5m high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.</li> <li>iv. The fencing and gates for the Private Open Space area for Dwellings 2, 4, &amp; 6 must be not less than 1.8m high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.</li> <li>v. The fencing adjacent the shared driveway access corridor for Dwellings 2, 4, 5, &amp; 6 must be not less than 1.5m</li> </ul>

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Control	Comment
	<p>high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.</p> <p>vi. All external faces of retaining walls adjacent the to the shared driveway access corridor for Dwellings 2, 4, 5, &amp; 6, and adjacent to the common property access corridor from Lilly Pilly Way and adjacent to Jamberoo Road must be finished with painted cement render.</p> <p>The landscape strips adjacent to the driveway are 0.5m wide in the access corridor, and proposed to be planted out with screen shrubs. Council’s Landscape Officer has raised no objection to the development.</p>
<p>C20 A shared access corridor may be permitted for a maximum of 2 battle axe allotments where, in the opinion of Council, the proposed access arrangement will satisfactorily cater for safe vehicular and pedestrian access to each of the lots and that satisfactory sight line distances are available between the subject lots and the public road.</p>	<p>The Council’s Development Subdivision Engineers have assessed the performance of the access corridors with respect to whether safe vehicular and pedestrian access to each of the lots is achieved and whether satisfactory sight line distances are available between the subject lots and the public road.</p> <p>No objection to the development has been raised by the Council’s Development Subdivision Engineers.</p>

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**CHAPTER 24 – CEDAR GROVE STAGE 1**

Objectives

- To ensure that development in this area creates a defined urban edge.
- To ensure that development provides a visually attractive interface between rural and

The proposal exhibits a good streetscape appearance, and does not cause unreasonable overshadowing or privacy impacts on neighbours that cannot be resolved by the imposition of conditions of consent. See comments above.

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Control	Comment
<p>urban land.</p> <ul style="list-style-type: none"> <li>To ensure that development respects natural landscape features and other environmental attributes of the site.</li> <li>To ensure that pedestrian ways and cycleways are provided that link the estate with public land within and outside the estate, and other existing pedestrian/cycleways.</li> <li>To ensure that the “riparian corridor” land is not used for residential purposes but instead revegetated, preserved and managed as riparian land.</li> </ul> <p>To ensure the preservation and restoration of the existing dry stone wall located on the western boundary of the estate.</p>	

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The proposed development generally complies with the relevant controls of the DCP 2012, and where strict compliance is not achieved the objectives of the controls are maintained.

**Any Planning Agreement**

Nil

**Any Matters Prescribed by the Regulations**

- NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast

The proposal does not compromise the strategic actions or principles (Appendix C - Table 3) adopted within the *NSW Coastal Policy 1997*.

- Australian Standard AS 2601-1991: The Demolition of Structures

The proposal is not inconsistent with Australian Standard AS 2601-1991: *The Demolition of Structures*.



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### Any Coastal Zone Management Plan

Nil.

### The Likely Impacts of the Proposed Development

- Streetscape

The design of the proposed development is considered to be reasonable when considered in relation to the context of the site. The bulk, scale and design of the proposal is consistent with relevant planning instruments and is not inconsistent with the streetscape.

- Noise

Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbours. No on-going significant noise impacts are expected as a result of the development.

- Privacy and Overlooking

No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.

- Overshadowing

Shadow diagrams have been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable.

- Visual Impact

The proposal will not have an unreasonable impact upon views currently available from neighbours across the road on the southern side of Melia Street.

- Vehicular Access, Parking and Manoeuvring

Sufficient car parking is proposed.

Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.

- Stormwater Management

A satisfactory drainage design has been provided with the application.

All stormwater will drain to the drainage easement.

- Environmental Impacts

The existing eucalyptus tree is proposed to be removed. This issue has been considered by Council's Landscape Officer and no concerns have been raised.

*Fauna Impacts* – It is unlikely that the proposal will affect any fauna or its habitat.

*Impact on Soil Resources* – Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent should be imposed, if consent is granted, in relation to soil and water management controls to

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be implemented during construction. Satisfactory implementation of these controls will prevent significant impacts on soil resources.

*Impact on Water Resources* – A rainwater tank will be provided, as required by BASIX. Stormwater will be conveyed to the drainage easement. Controls will be implemented during construction to minimise sedimentation.

- Social and Economic Impacts

The proposed development will likely have minimal adverse social or economic impacts. The amenity impacts of the proposed development have been considered in detail and no submissions against the application were received.

### **The Suitability of the Site for the Development**

The proposal fits within the locality and the site attributes are considered to be conducive to development.

### **Submissions**

#### Public Submissions

Notification letters were sent to neighbouring property owners who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period, no objections were received. Two submissions of support to the development was submitted.

#### **External Referrals**

Nil.

#### **Internal Referrals**

The application was referred to the following Council Officers for their consideration.

- Building Assessment Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Subdivision & Development Engineer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Landscape Design Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- GIS Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

### **The Public Interest**

The proposal is considered to be consistent or justifiably inconsistent with all relevant Environmental Planning Instruments and Development Control Plans, is not likely to

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cause significant adverse impacts to the natural or built environment, is not likely to cause significant adverse social and economic impacts, is suitable for the site and therefore is considered to be consistent with the public interest.

### Final Comments and Conclusions

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposal is consistent with Kiama LEP 2011 and relevant objectives of the Kiama DCP 2012. The proposed development is consistent with the objectives of the R2 Low Density Residential zone.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised. No concerns were raised in submissions.

The proposed development is considered to be reasonable and conditional approval is recommended.

### Conditions of Development Consent

#### General

- (1) Except as amended by the following conditions, the development shall be implemented in three (3) stages in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as 10.2018.175.1 dated xxxxxxxx encompassing:
  - i. Stage 1 comprising dual occupancy development of Lot 2 DP 271068; and
  - ii. Stage 2 comprising a dual occupancy development of Lot 3 DP 271068; and
  - iii. Stage 3 comprising a comprising dual occupancy of Lot 4 DP 271068. (g005.doc)
- (2) The driveway and associated drainage and servicing infrastructure for Stage 1 and Stage 2 is completed prior to the issue of any interim or final Occupation Certificate for Stage.
- (3) The development shall be completed in accordance with the approved colour schedule shown on the approved plans except as amended by the conditions of this consent. (g014.doc)
- (4) No development/work is to take place until a Construction Certificate has been issued for each stage and the necessary conditions of development consent satisfied to enable release of a Construction Certificate for each stage. (g030.doc)
- (5) The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority. (g040.doc)
- (6) The property owners shall be made aware that all Aboriginal relics in NSW are protected under Section 90 of the National Parks and Wildlife Act 1974, which

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makes it an offence to knowingly damage, disturb, deface or destroy an Aboriginal relic or site, without first obtaining the written consent of the Director-General of the National Parks and Wildlife Service. If such a site is discovered, the Southern Zone Archaeologist of the National Parks and Wildlife Service shall be contacted immediately. (g050.doc)

- (7) The developer shall provide and maintain temporary fencing around the development site to prevent unauthorised entry into the site by persons or livestock and shall remove the temporary fencing upon completion of all work. (g140.doc)
- (8) The developer shall under Section 138 of the Roads Act 1993 make application to the Road Authority for permission to occupy the public road reserve, Lilly Pilly Way for the purpose of carrying out activities associated with the development. All of the conditions of approval shall be complied with at all times during occupation of the public road reserve. (g145.doc)
- (9) The developer shall not carry out any work other than emergency procedures to control dust or sediment-laden runoff outside the normal working hours, namely, 7.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm Saturday, without the prior written approval of the Principal Certifying Authority. Any request to vary these hours shall be submitted to the Principal Certifying Authority in writing detailing:
- a The variation in hours required.
  - b The reason for that variation.
  - c The type of work and machinery to be used. (g165.doc)
- (10) Standard Torrens Title addressing applies. Letterboxes to be located at access point and public road boundary. Proposed house numbering to be applied to:
- Proposed Lot 6 – 50 Lilly Pilly Way, KIAMA
  - Proposed Lot 7 – 50A Lilly Pilly Way, KIAMA
  - Proposed Lot 8 – 52 Lilly Pilly Way, KIAMA
  - Proposed Lot 9 – 52A Lilly Pilly Way, KIAMA
  - Proposed Lot 10 – 54 Lilly Pilly Way, KIAMA
  - Proposed Lot 11 – 54A Lilly Pilly Way, KIAMA

**Amendments to Approved Plans**

- (1) Prior to the issue of any Construction Certificate for Stage 1, 2, and 3 of this consent by any Principal Certifying Authority the approved landscape plans are to be amended to ensure that:
- a) Sheet metal fencing along the side and rear boundaries of the site does not extend forward of the front building line.
  - b) Gates returning into the buildings from a side or rear boundary that are visible from Lilly Pilly Way or Jamberoo Road must not be constructed of sheet metal.

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- c) Any fencing or gates forward of the building line or facing the street front must be not less than 1.5 metres high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.
  - d) The fencing and gates for the Private Open Space area for Dwellings 2, 4, & 6 must be not less than 1.8m high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.
  - e) The fencing adjacent the shared driveway access corridor for Dwellings 2, 4, 5, & 6 must be not less than 1.5m high, constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.
  - f) All external faces of retaining walls adjacent the to the shared driveway access corridor for Dwellings 2, 4, 5, & 6, and adjacent to the common property access corridor from Lilly Pilly Way and adjacent to Jamberoo Road must be finished with painted cement render.
  - g) Privacy screens not less than 1.5m high, constructed of powder coated aluminium battens, or timber batten screens must be installed for the full length of the eastern and western ends of the upper level balcony to Dwelling No 3.

Landscape plans satisfying the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate for Stage 1, 2, and 3 of this consent, and are to be installed/constructed and must have a compliance certificate issues for completion of the works required by this condition prior to the issue of any Occupation Certificate for Stage 1, 2, and 3 of this consent and the issue of any Subdivision Certificate for Stage 1, 2, and 3 of this consent.

- (2) Construction plans satisfying the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate for Stage 1, 2, and 3 the upper level balcony on Dwelling 3 shall have privacy screening to the east and west sides to a height of 1.8m.

### Bonds and Contributions

- (1) A contribution under Section 7.11 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. 1 & 2 shall be paid to Council prior to the issuing of the Subdivision Certificate for Stage 1 of the development approved by this consent. The total contribution required for the development is **\$7,064.34**.  
(bo005.doc)
- (2) A contribution under Section 7.11 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. 1 & 2 shall be paid to Council prior to the issuing of any Construction Certificate for Stage 2 of the development approved by this

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consent. The total contribution required for the development is **\$7,064.34.**  
(bo005.doc)

- (3) A contribution under Section 7.11 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. 1 & 2 shall be paid to Council prior to the issuing of any Construction Certificate for Stage 3 of the development approved by this consent. The total contribution required for the development is **\$7,064.34.**  
(bo005.doc)

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**Prior to Commencement of Works**

- (1) Building work must not commence until the Principal Certifying Authority for the development to which the work relates has been informed of:
- i The licensee's name and contractor licence number;
  - ii That the licensee has complied with Part 6 of the Home Building Act 1989.
- In the case of work to be done by any other person, the Principal Certifying Authority:
- a Has been informed in writing of the person's name and owner builder permit number;
- or
- b Has been given a declaration, signed by the owner/s of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989. (pt005.doc)
- (2) The pre-coloured metal roofing shall not give rise to unreasonable visual intrusion due to reflected glare. Metal roofing shall have a solar absorbance classification in accordance with New South Wales BASIX of not less than 0.46. **Note:** The roof colours shall be the medium to darker colours. Details are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate for Stage 2 of this consent.
- (3) Under the provisions of the Act, work may not commence on the development for Stage 1, 2, and 3 of this consent until the following is carried out:
- a Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
  - b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
  - c You **must** notify the Council of the appointment; and
  - d You **must** give at least two (2) days' notice to Council of your intention to commence work.

You will find attached an application form for a Construction Certificate. Should you require Council to issue this Certificate you should complete this application and forward it, together with plans and specifications, to Council for approval.

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You will find attached a form for the “*Notice of Commencement of Building Work and Appointment of Principal Certifying Authority*”, which you are required to submit to Council at the appropriate time and at least two (2) days prior to the commencement of work.

Should you appoint Council as the Principal Certifying Authority, relevant inspection fees will be required to be paid at the time of lodgement of this form.  
(pt020.doc)

- (4) The BASIX commitments shall be indicated on the plans to the satisfaction of Council or an Accredited Certifier prior to the release of the Construction Certificate for Stage 1, 2, and 3 of this consent. (pt034.doc)
- (5) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a Showing the name, address and telephone number of the Principal Certifying Authority for the work;
  - b Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
  - c Stating that unauthorised entry to the work site is prohibited.
- Note:** Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. The sign will be provided by the nominated Principal Certifying Authority for the relevant fee. (pt060.doc)
- (6) No building work is to commence for Stage 1, 2, and 3 approved by this consent until details prepared by a practising structural engineer have been submitted to and accepted by the Principal Certifying Authority for any reinforced concrete slabs, footings or structural steel. (pt062.doc)
- (10) No building work is to commence for Stage for Stage 1, 2, and 3 approved by this consent until details prepared by a practising structural engineer have been submitted to and accepted by the Principal Certifying Authority for the retaining walls in excess of 1.0 metre high. (pt068.doc)
- (11) The applicant shall submit Engineer’s details of the foundation based on geotechnical advice prepared by a suitably qualified Geotechnical Engineer. Such detail/advice is to be provided to the satisfaction Principal Certifying Authority prior to the issue of any Construction Certificate for Stage for Stage 1, 2, and 3 approved by this consent. (pt069.doc)
- (12) The Certifying Authority shall not issue a Construction Certificate unless a suitably qualified civil engineer certifies that the turning paths for the B85 standard vehicle as outlined in Australian Standard AS2890.1 allows for vehicles to enter and exit their internal access driveway in a forward direction.



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**Access Construction**

- (1) The developer shall construct the access driveway for Stage 1 and 2 of this consent prior to the issue of any interim or final Occupation Certificate for Stage 1 and 2, and the issue of any Subdivision Certificate for Stage 1 and 2.
- (2) The access driveway for Stage 1, 2, and 3 of this consent shall be constructed to meet the design requirements of Council's "*Driveway and Footpath Works Procedure Manual*". The access driveway shall be installed prior to the issue of any occupation certificate. (ac015.doc)

**Car Parking and Vehicular Access**

- (1) Car parking and manoeuvring for Stage 1, 2, and 3 of this consent shall comply with the requirements of the Standards Australia publication AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking. (c035.doc)

**Stormwater Management**

- (1) Stormwater shall be connected to the existing system. (sm005.doc)
- (2) The developer shall provide a detailed stormwater drainage network in accordance with the design requirements of "*Section D5 Stormwater Drainage*" of Kiama Development Code as appended to Kiama Development Control Plan 2012. Full hydrological and hydraulic calculations and civil engineering drawings shall be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate for Stage 2 of this consent. (sm055.doc)
- (3) The developer shall provide compliance certification from the hydraulic engineer verifying that the constructed stormwater drainage infrastructure meets with the approved design for Stage 1, 2, and 3 of this consent. The certification shall be provided to the Principal Certifying Authority prior to the release of any of the Occupation Certificate for Stage 1, 2, and 3 of this consent. (sm130.doc)
- (4) The developer shall provide environmental stormwater management controls in the form of post development water quality (including first flush treatments such as trash arresters) and sedimentation control measures to be located within the proposed development site for Stage 1, 2, and 3 of this consent. The proposed treatments shall be submitted to the Principal Certifying Authority for assessment and approval prior to the release of the Construction Certificate for Stage 1, 2, and 3 of this consent. (sm135.doc)
- (5) The developer shall comply with the design requirements of Council's "*Water Sensitive Urban Design*" policy in association with the design requirements of "*Section D5 Stormwater Drainage*" of the Kiama Development Code as appended to Kiama Development Control Plan 2012.  
Detail shall be submitted to the Principal Certifying Authority for assessment prior to the release of the Construction Certificate for Stage 1, 2, and 3 of this consent. (sm150.doc)
- (6) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be

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provided to convey runoff from storms up to the 20% Annual Exceedance Probability (AEP). Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP. (sm155.doc)

- (7) Prior to issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the design of the development causes no adverse effects to adjoining properties as a result of stormwater run-off and allowance is made for surface run-off from adjoining properties in the design.

### Civil Engineering Construction

- (1) The developer shall carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to residents of adjacent properties. (cec015.doc)

### Utility Servicing

- (1) A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The Section 73 Certificate shall be submitted to Council prior to issue of the final Occupation Certificate for Stage 2 of this consent. (us005.doc)
- (2) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access for Stage 2 of this consent. (us045.doc)

### Geotechnical Requirements

- (1) There shall be no loss of support or encroachment of fill onto adjoining properties as a result of excavation or filling within the site for Stage 1, 2, and 3 of this consent. (gr050.doc)
- (2) Only clean fill (i.e. natural materials such as earth, rock and stone) is to be used in the development for Stage 1, 2, and 3 of this consent. Under no circumstances are any other material including (but not limited to) building, demolition, concrete, road materials and/or putrescible wastes, permitted to be used as filling on site. (gr060.doc)
- (3) All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with AS 4482.2 and tested by a certified National Association of Testing Authorities Australia (NATA) registered laboratory for contaminants. Based on the test results certification shall be provided to the Principal Certifying Authority prior to the issue of any occupation certificates by a suitably qualified geotechnical engineering consultant confirming the imported fill is suitable for use in residential development. Any imported fill found to not be suitable for residential use shall be removed / remediated in accordance with the NSW Department of Environment, Climate Change and Water requirements. (gr065.doc)

### Inspections

- (1) The building work shall be inspected at critical and other stages as required by the Principal Certifying Authority for the development.

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**NOTE:** Should you choose Council to be your Principal Certifying Authority for this development you will be advised of the required building inspections and applicable fees at the time of that appointment. (bu015.doc)

**Building Construction**

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia. (bu010.doc)
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (3) All excavations and backfilling must be executed safely in accordance with appropriate professional standards. (bu090.doc)
- (4) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must:
  - a Preserve and protect the building from damage;
  - b Underpin and support the building in an approved manner, if necessary, and;
  - c At least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work. (bu100.doc)
- (5) Where retaining walls exceed 1.0 metre in height, the wall is to be certified by a practising structural engineer prior to occupation of the building being permitted. (bu110.doc)
- (6) The Reduced Levels (RL) of the proposed development must be in accordance with the approved plans. Certification of these levels by a registered surveyor must be submitted to an accredited certifier or Council prior to proceeding past that level. (bu120.doc)
- (7) A survey shall be undertaken and a copy be made available to Council or an accredited certifier, certifying that the building is correctly located in relation to the boundaries of the site and in accordance with the approved plans. Such survey shall be submitted at peg out stage. (bu125.doc)
- (8) Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;  
Monday to Friday - 7.00 am to 5.00 pm  
Saturdays - 8.00 am to 1.00 pm  
No construction work is to take place on Sundays or Public Holidays. (bu151.doc)
- (9) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, construction and/or subdivision work. All waste nominated for disposal must be disposed of at a licensed landfill facility. All waste nominated for recycling must be reused or recycled. (bu153.doc)

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**Erosion and Sedimentation Controls/Soil and Water Management**

- (1) All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In particular:
- a A silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). Such fence must be regularly inspected and cleaned out and/or repaired as is necessary, and all collected silt must be disposed of in accordance with Council's Sedimentation Control Policy.
  - b Unnecessary disturbance of the site (e.g. excessive vehicular access) must not occur.
  - c All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.
  - d All the above requirements must be in place for the duration of the construction works. (esc005.doc)
- (2) The developer shall ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work. (esc020.doc)

**Landscaping Works**

- (1) All landscape areas shown on the approved landscape plans (drawing numbers 1481/1) or otherwise required under the conditions of this consent, shall be landscaped and maintained in accordance with the approved plans and conditions for Stage 1, 2, and 3 of this consent. (lw015.doc)
- (2) The landscaping shall be maintained actively and regularly for a period of 26 weeks commencing from the date of issue of the Occupation Certificate for Stage 1, 2, and 3 of this consent. (lw020.doc)
- (3) At the end of the 26 week landscape maintenance period and after any defects that occurred during that period have been corrected, a final Compliance Certificate shall be provided from a suitably qualified landscape professional stating that all landscape works have been completed and maintained in accordance with the approved landscape plans and the conditions of this development consent for Stage 1, 2, and 3 of this consent. (lw035.doc)
- (4) The landscape works shall remain in situ for the perpetuity of the development for Stage 1, 2, and 3 of this consent. (lw040.doc)
- (5) Prior to release of the respective Occupation Certificate for Stage 1, 2, and 3 of this consent and/or the respective Subdivision Certificate for Stage 1, 2, and 3 of this consent the developer shall provide a Compliance Certificate from a suitably qualified landscape professional or Council's Landscape Officer stating that all landscape works for each respective stage of this consent have been completed in accordance with the approved landscape plans and the conditions of the development consent. (lw170.doc)

## Report of the Director Environmental Services

- 10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama  
– Staged development of 6 dwellings over 3 individual lots and community  
title subdivision of those dwellings (cont)
- 

**Site Facilities**

- (1) An appropriate temporary toilet facility shall be provided on site, located inside the property boundaries, prior to commencement of works. The temporary toilet shall be maintained in a clean/sanitary condition at all times. (sf010.doc)
- (2) During construction for Stage 1, 2, and 3 of this consent the applicant shall provide, inside the property boundaries a suitable waste container for the disposal of all papers, plastics and other light-weight materials. (sf015.doc)
- (3) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
- a Stating that unauthorised entry to the premises is prohibited; and
  - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

Any such sign is to be removed when the erection or demolition of the building has been completed. (sf020.doc)

- (4) The development is to be provided with mail boxes in accordance with Australian Standard AS/NZS 4253 - 1994 which covers the dimensions, installation and positioning for mail boxes for receipt of mail. The dwellings shall each be numbered in accordance with the attached street numbering table. (sf050.doc)

**Prior to Occupation**

- (1) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to release of the Final Occupation Certificate.

Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)

- (2) The BASIX schedule of commitments shall be complied with prior to the issue of a Final Occupation Certificate for Stage 1, 2, and 3 of this consent and if required a certificate shall be provided to the Principal Certifying Authority from a properly qualified person to certify that the BASIX schedule of commitments have been provided and/or installed. (po003.doc)
- (3) Each stage of the development must not be occupied unless an Occupation Certificate has been issued for each respective Stage 1, 2, and 3 of this consent in relation to the building or part in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

**NOTE:** A Fire Safety Certificate must be provided in accordance with the Environmental Planning and Assessment Regulations 2000 prior to the issue of an Occupation Certificate excepting Class 1(a), 10(a) & 10(b) structures. (po005.doc)

- (4) The developer shall complete all access, drainage, and retaining works prior to the issue of any Occupation Certificate for Stage 1, 2, and 3 of this consent. (po010.doc)

## Report of the Director Environmental Services

10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama  
– Staged development of 6 dwellings over 3 individual lots and community  
title subdivision of those dwellings (cont)

---

- (5) A certified Works-As-Executed (WAE) drawing for all drainage and access related works shall be submitted to the Principal Certifying Authority (PCA) prior to the issue of any Occupation Certificate (OC). The WAE drawing shall be signed by a Registered Surveyor. The WAE drawing shall show in red ink all changes to the approved Construction Certificate (CC) drawings and finished levels. The PCA shall not issue the OC if any changes to the approved CC design will cause an adverse impact on adjoining lands.

**Prior to Issuing of Subdivision Certificate**

- (1) The Subdivision Certificate shall not be issued until all conditions of this Development Consent relevant to each stage are complied with or satisfactory arrangements are made with the Principal Certifying Authority. (sub005.doc)
- (2) The developer shall submit the following items to the Principal Certifying Authority prior to the issue of a Subdivision Certificate:
- a. All relevant Construction and Compliance Certificates (where these have not been issued by Council).
  - b. Payment of fees in accordance with Council's adopted fees and charges.
  - c. A Final Plan of Subdivision and four (4) copies.

A copy of the satisfactory final plan of subdivision shall also be provided as an electronic file in either DXF or DWG format. In this regard the electronic copy must be on MGA (Zone 56) orientation, where this is required by the Surveying Regulation 2001, and should preferably use co-ordinates based upon the MGA values of the nearest established permanent survey mark connected as part of the survey. It is preferred the raw boundary line work only be provided, excluding final page layout and text where possible. This must be provided electronically by email to [council@kiama.nsw.gov.au](mailto:council@kiama.nsw.gov.au) including a clear reference to the relevant Development Application number.

- d. An original Deposited Plan Administration Sheet and one copy, prepared in accordance with NSW Land Registry Services
- e. An original Section 88B Instrument and one copy, prepared in accordance with the requirements of the Conveyancing Act 1919.
- f. An original Subdivider/Developer Compliance Certificate (Section 73 Certificate) from Sydney Water Corporation which references the relevant development application number.
- g. An original Notification of Arrangement from an electricity provider which references the relevant development application number.
- h. An original Telecommunications Infrastructure Provisioning Confirmation from a communications provider which references the proposed development.
- i. The payment of all required Section 94 Contributions identified in this consent.

Report of the Director Environmental Services

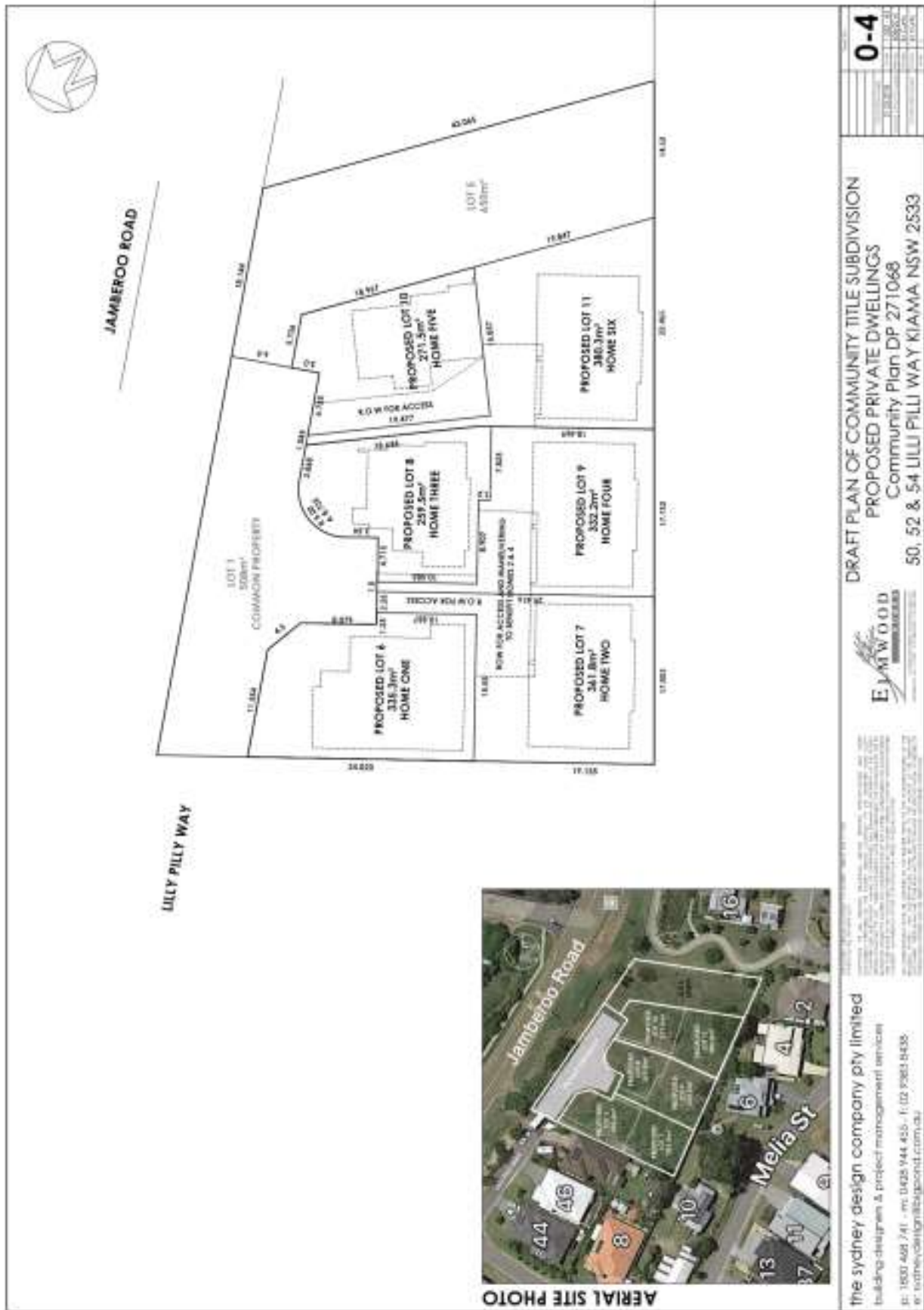
10.6 10.2018.175.1 - Lots 2 3 & 4 DP 271068, - 50, 52 & 54 Lilly Pilly Way, Kiama  
– Staged development of 6 dwellings over 3 individual lots and community  
title subdivision of those dwellings (cont)

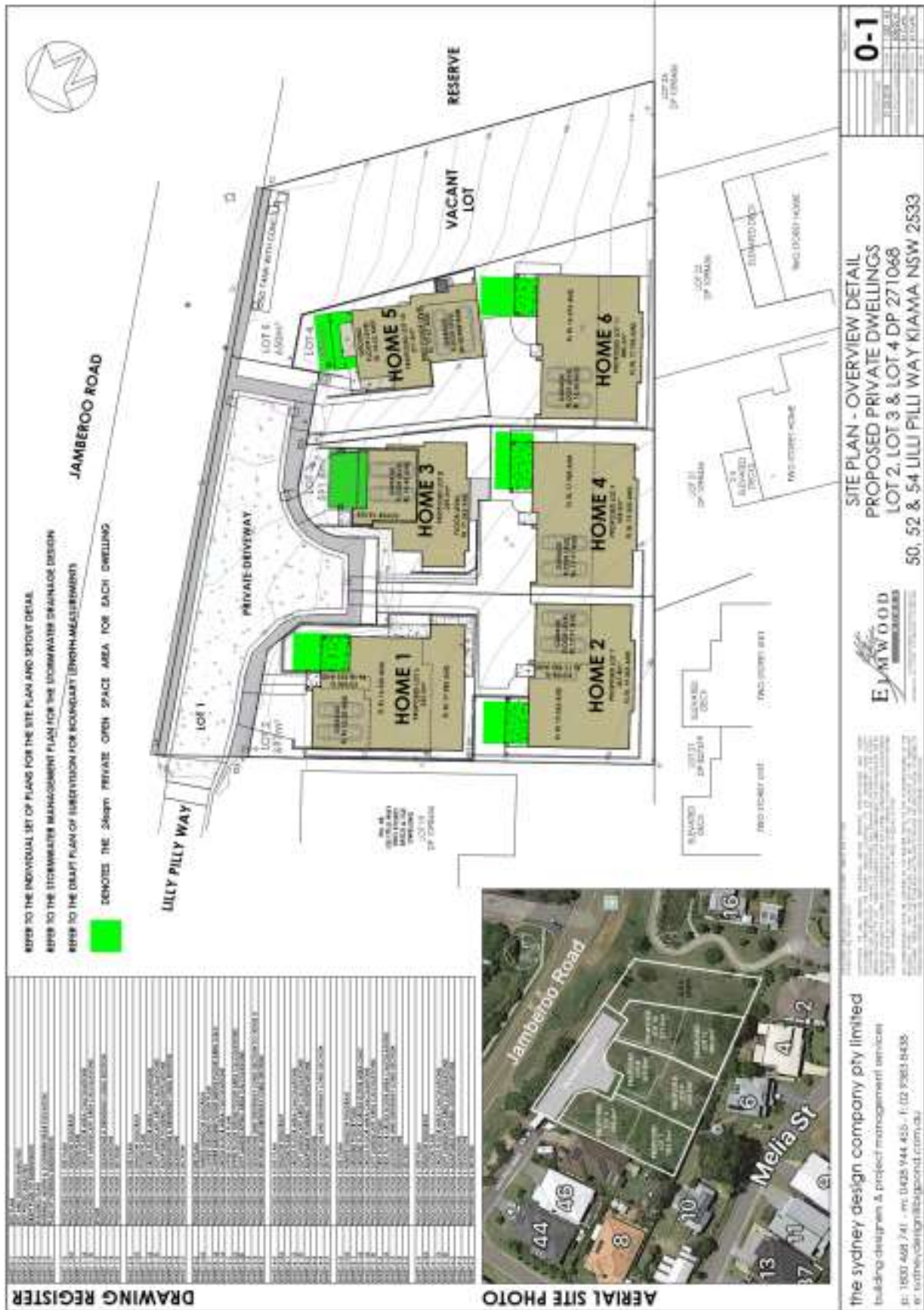
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- j. An Occupation Certificate for each dwelling to be separately titled. (sub005.doc)
- (3) The developer shall acknowledge all existing easements on the final plan of subdivision. (sub060.doc)
- (4) The developer shall acknowledge all existing restrictions on the use of the land on the final plan of subdivision. (sub070.doc)

**Item 10.6**



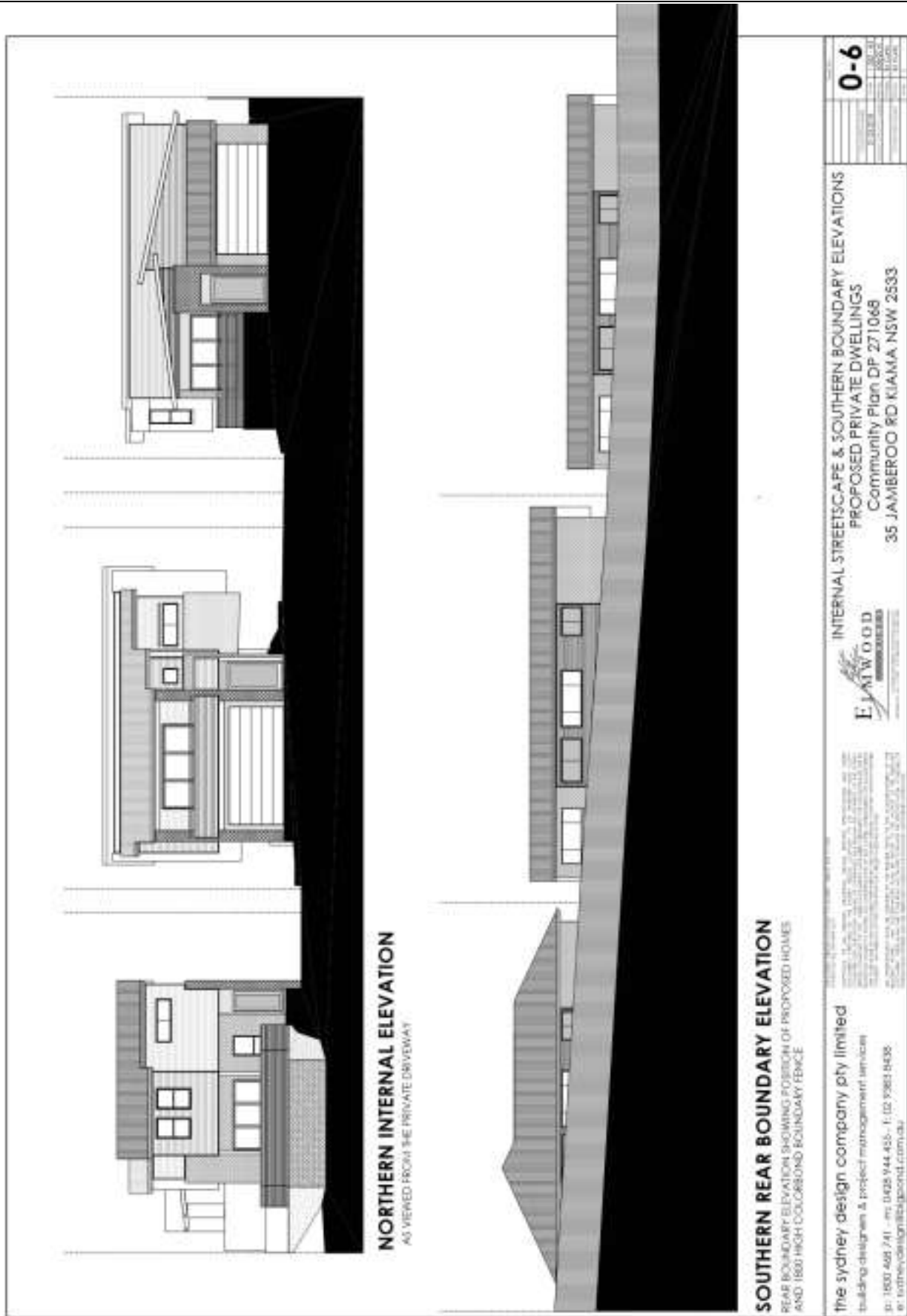




Attachment 1 Item 10.6

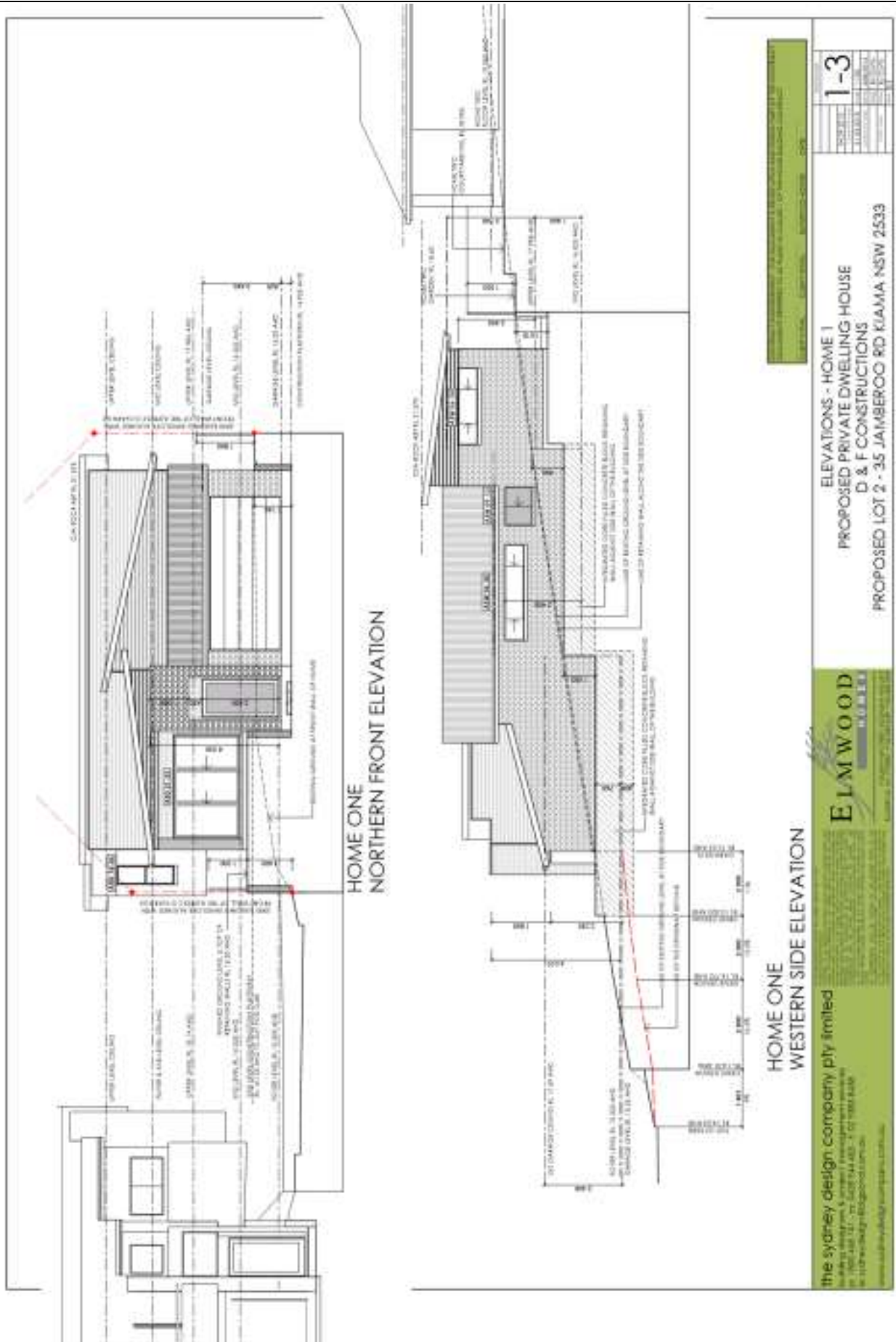




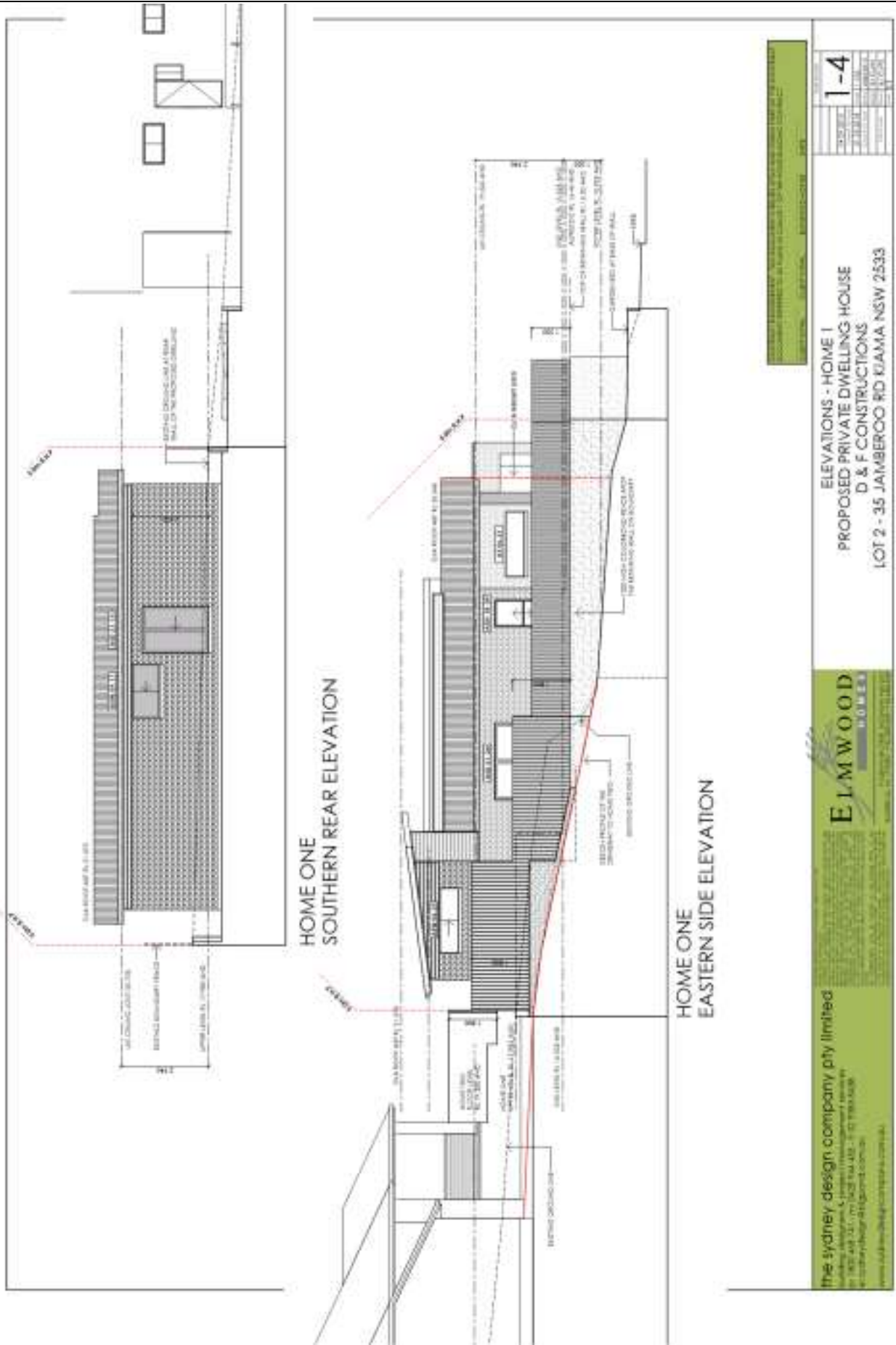


Item 10.6

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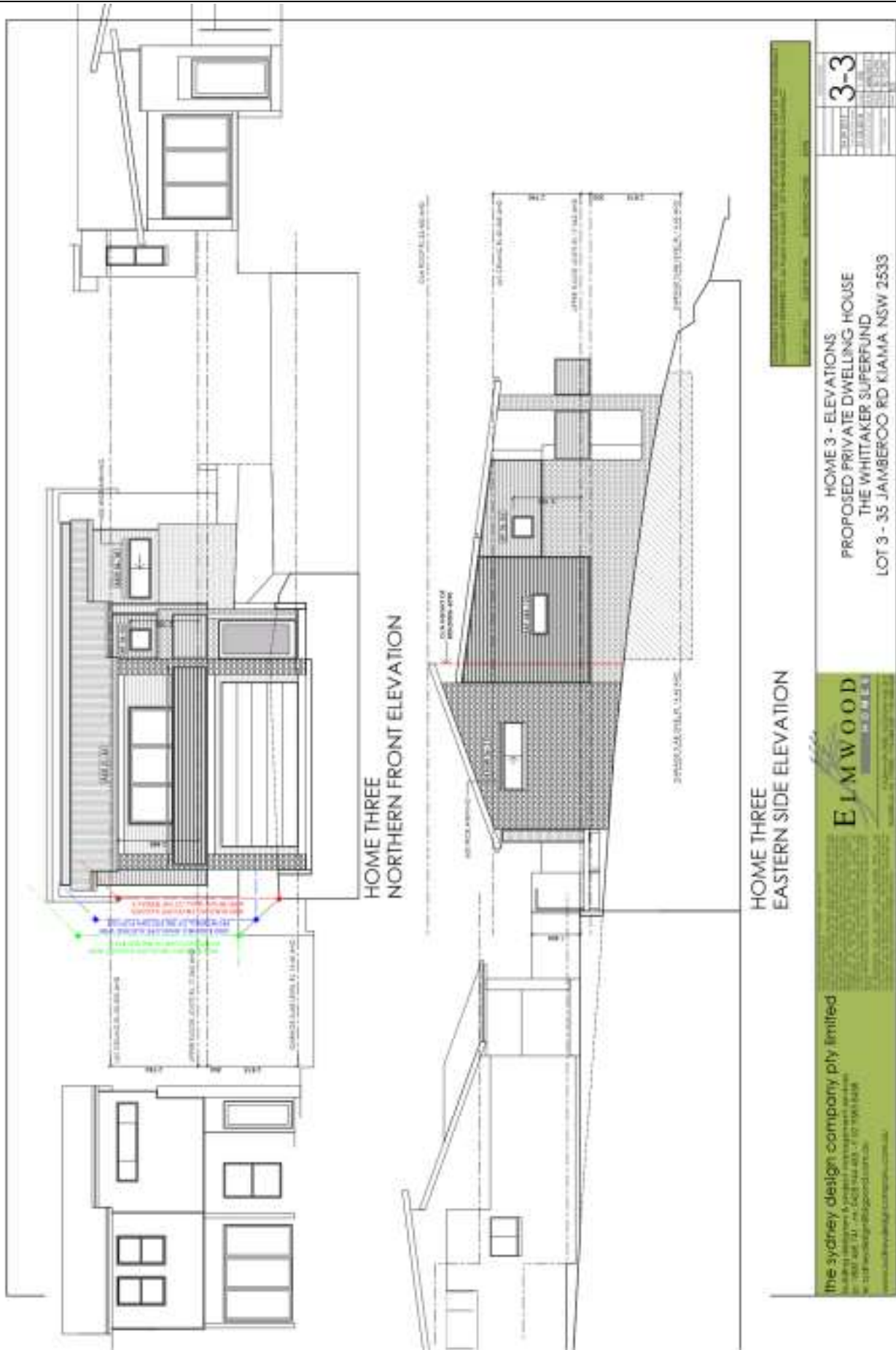
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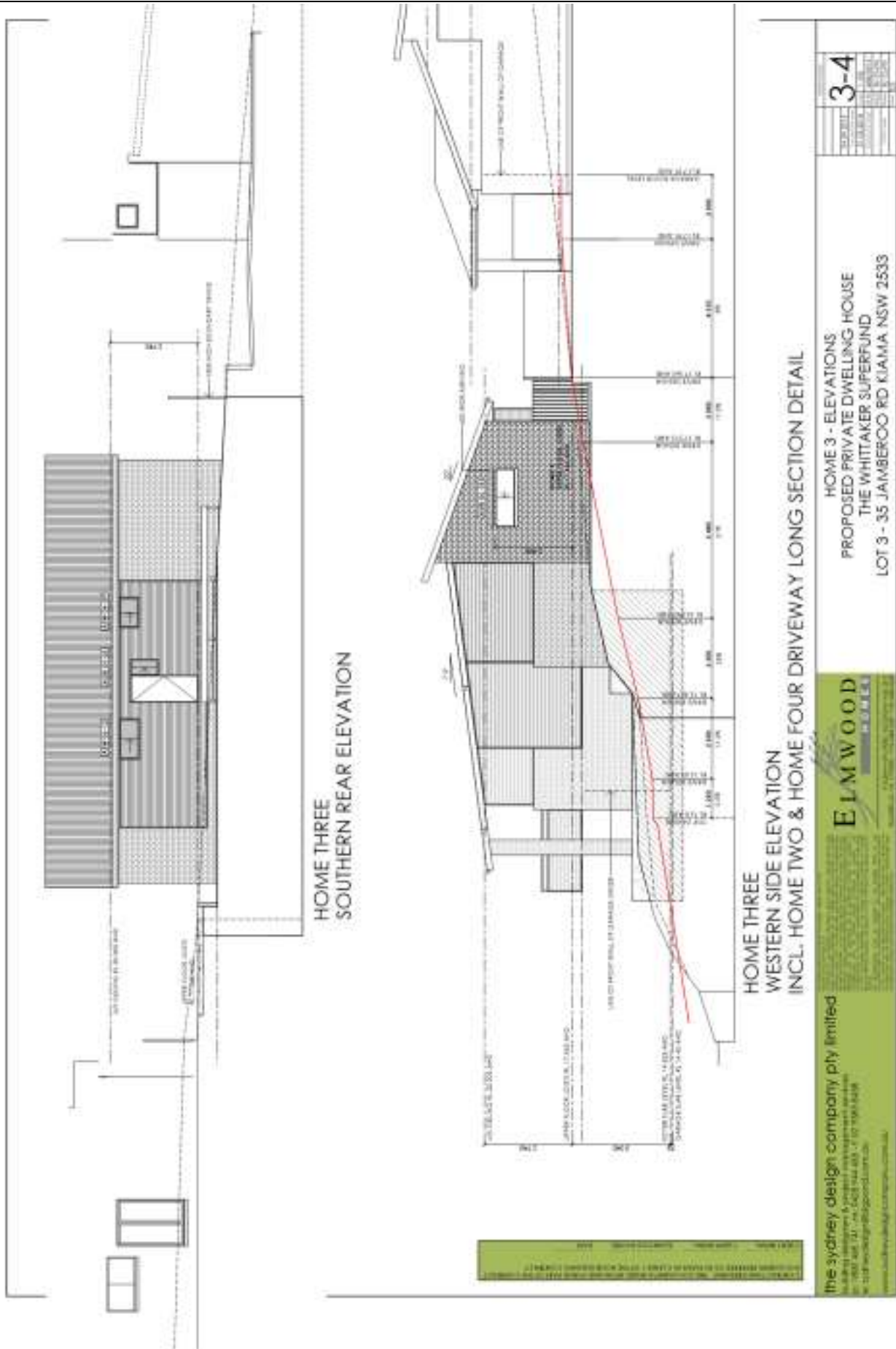






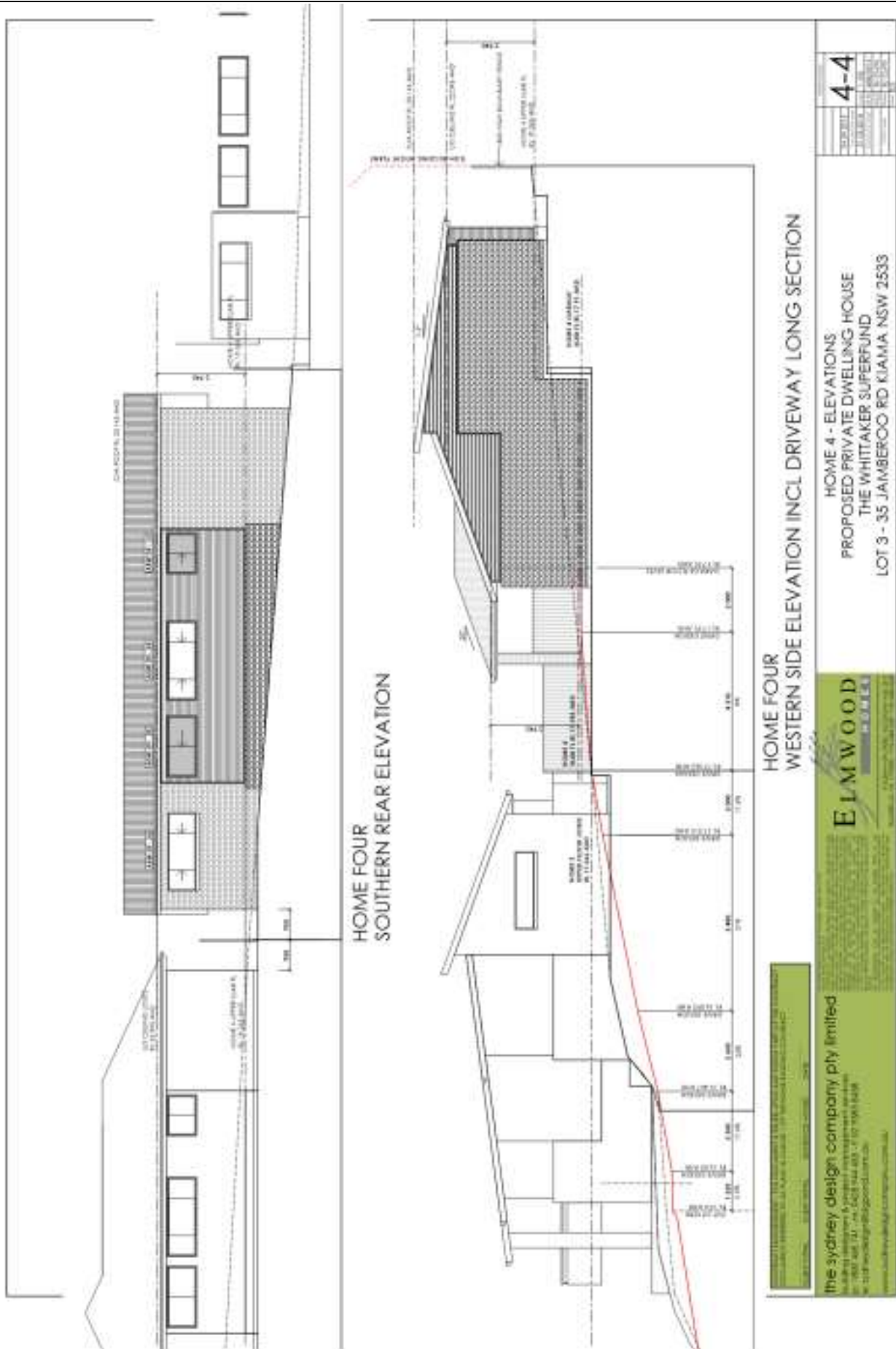


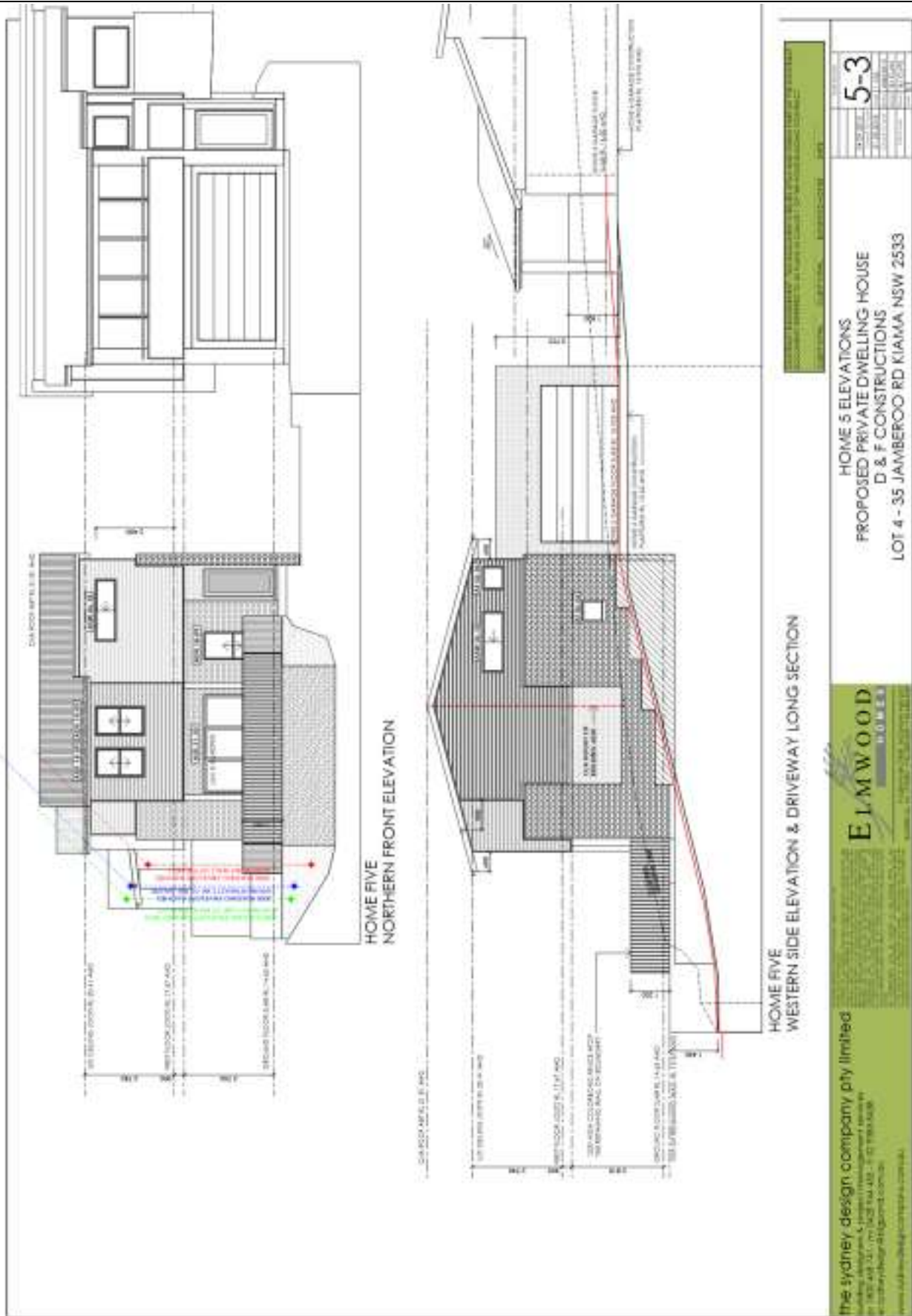


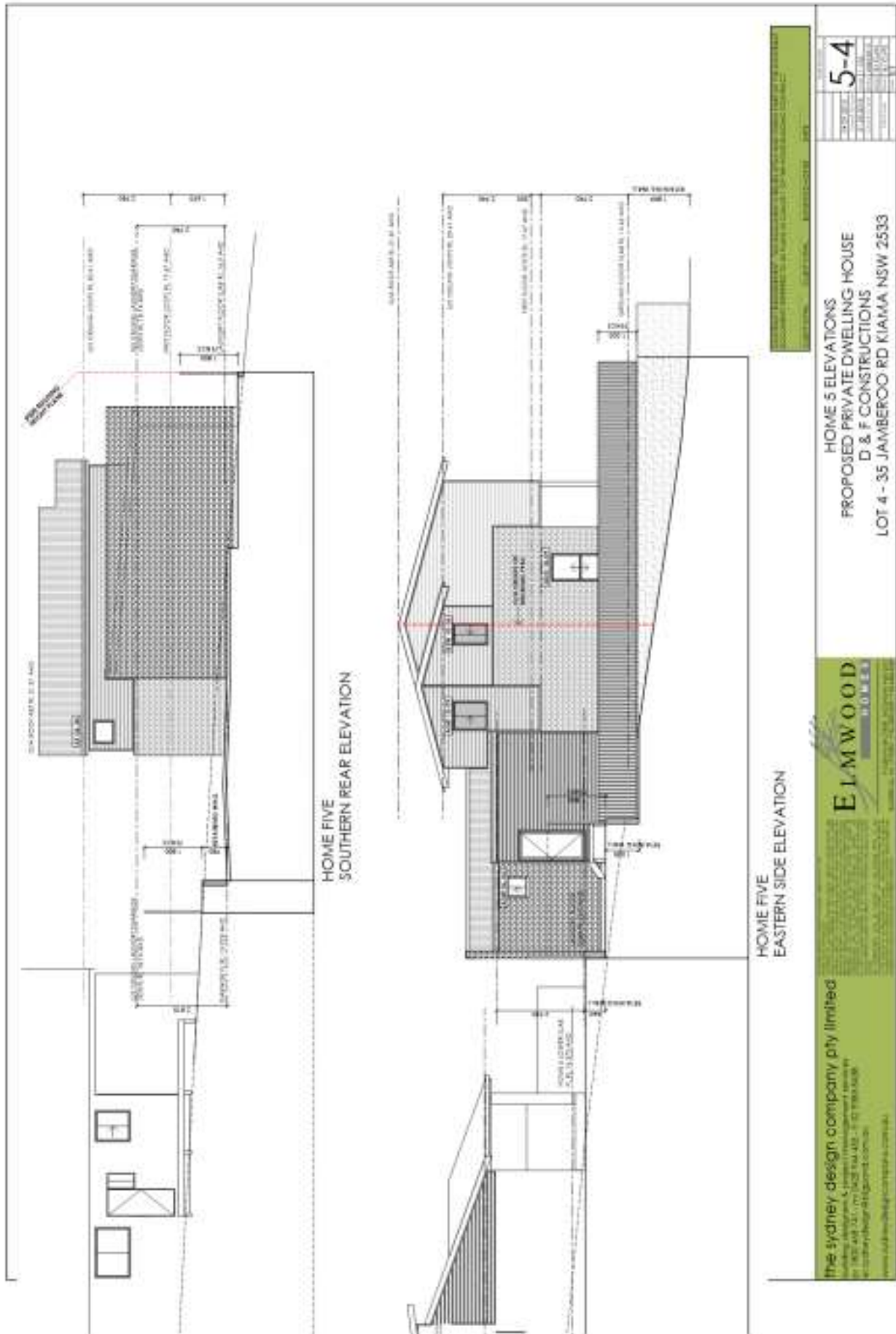




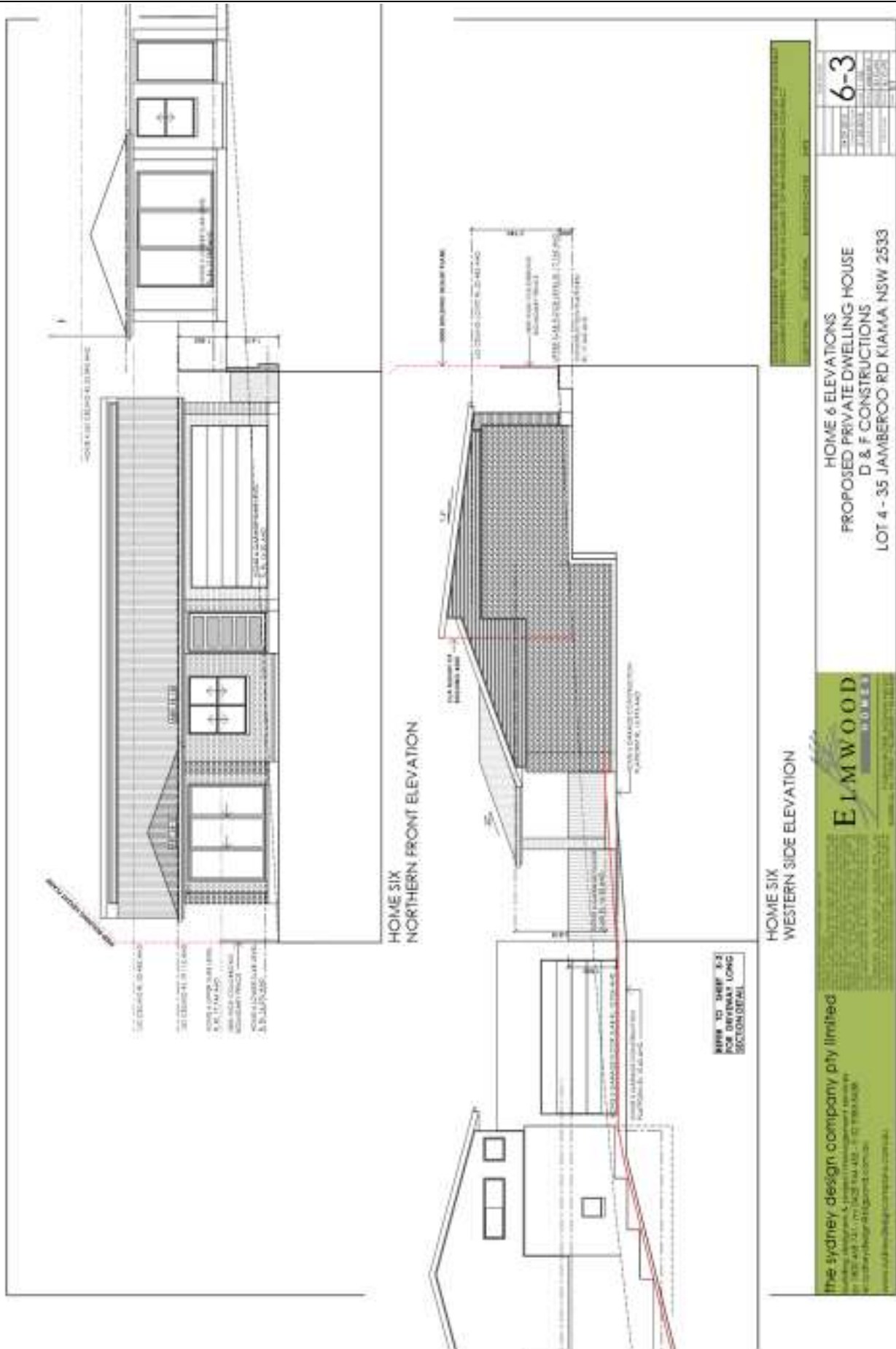


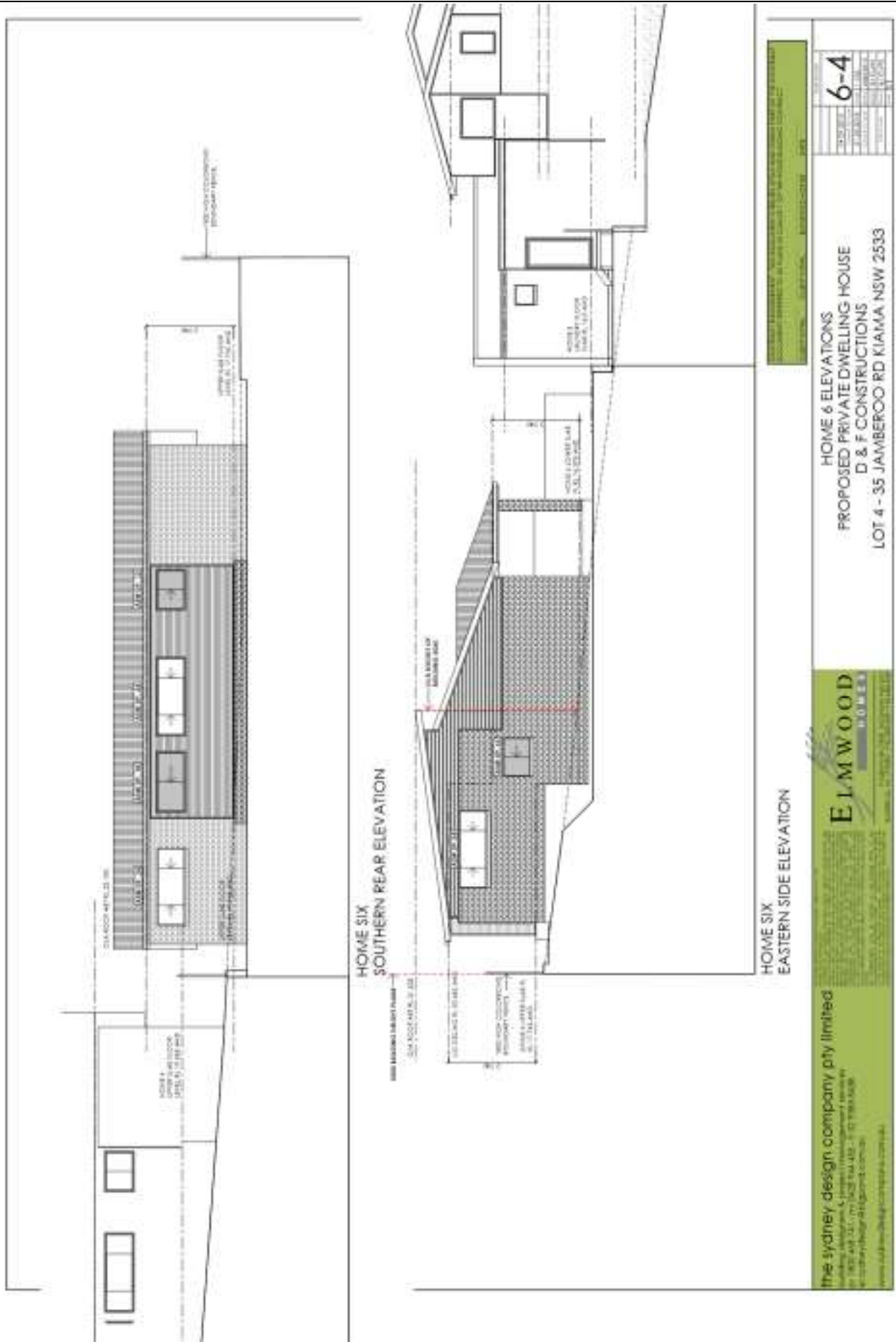












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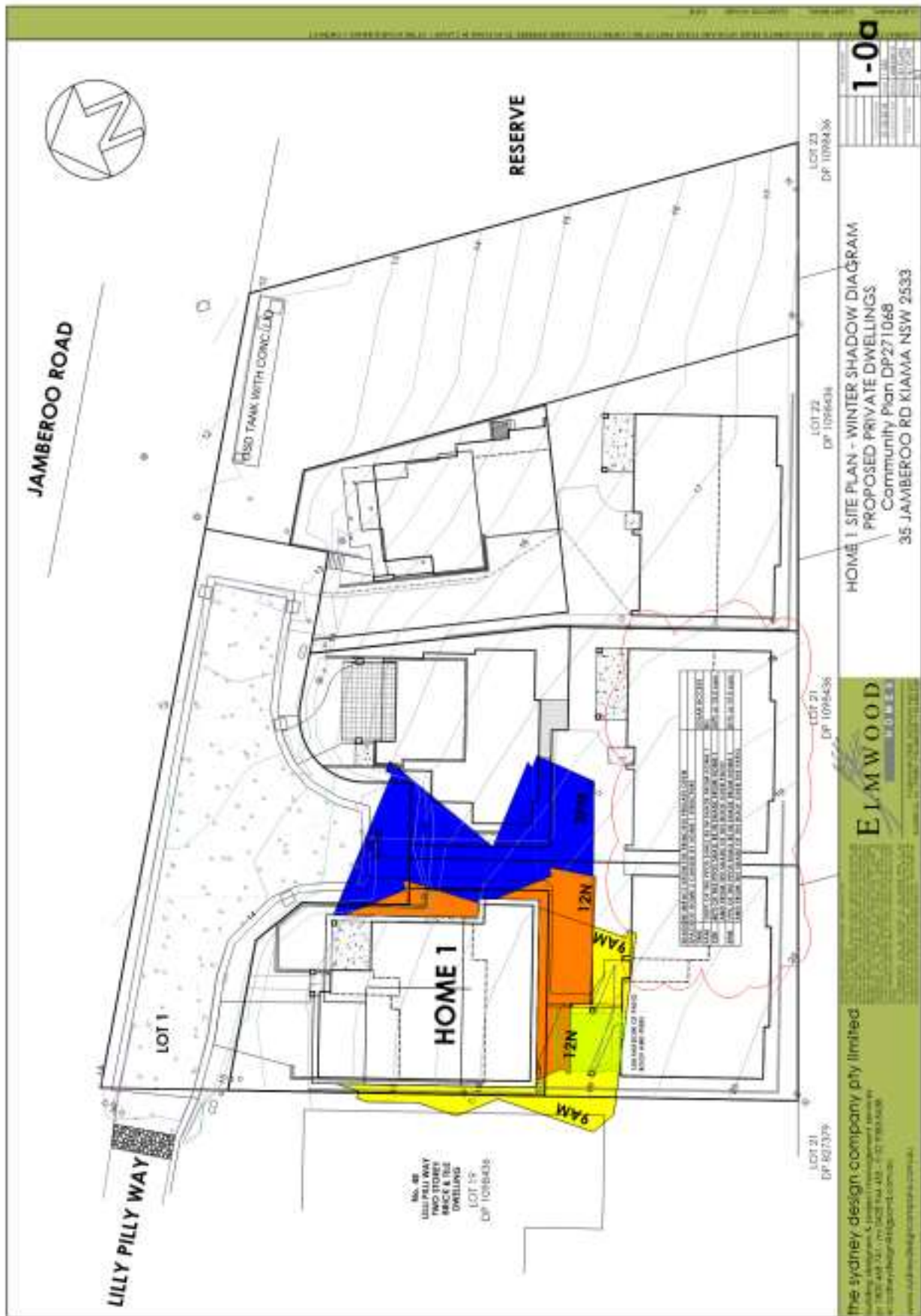
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EXTERIOR COLOUR SCHEME - HOME 1  
 PROPOSED PRIVATE DWELLING HOUSE  
 D & F CONSTRUCTIONS  
 PROPOSED LOT 2 - 35 JAMBEROO RD KIAMA NSW 2533

NO. OF SHEETS	1
TOTAL	1
DATE	10/10/18
SCALE	1:100

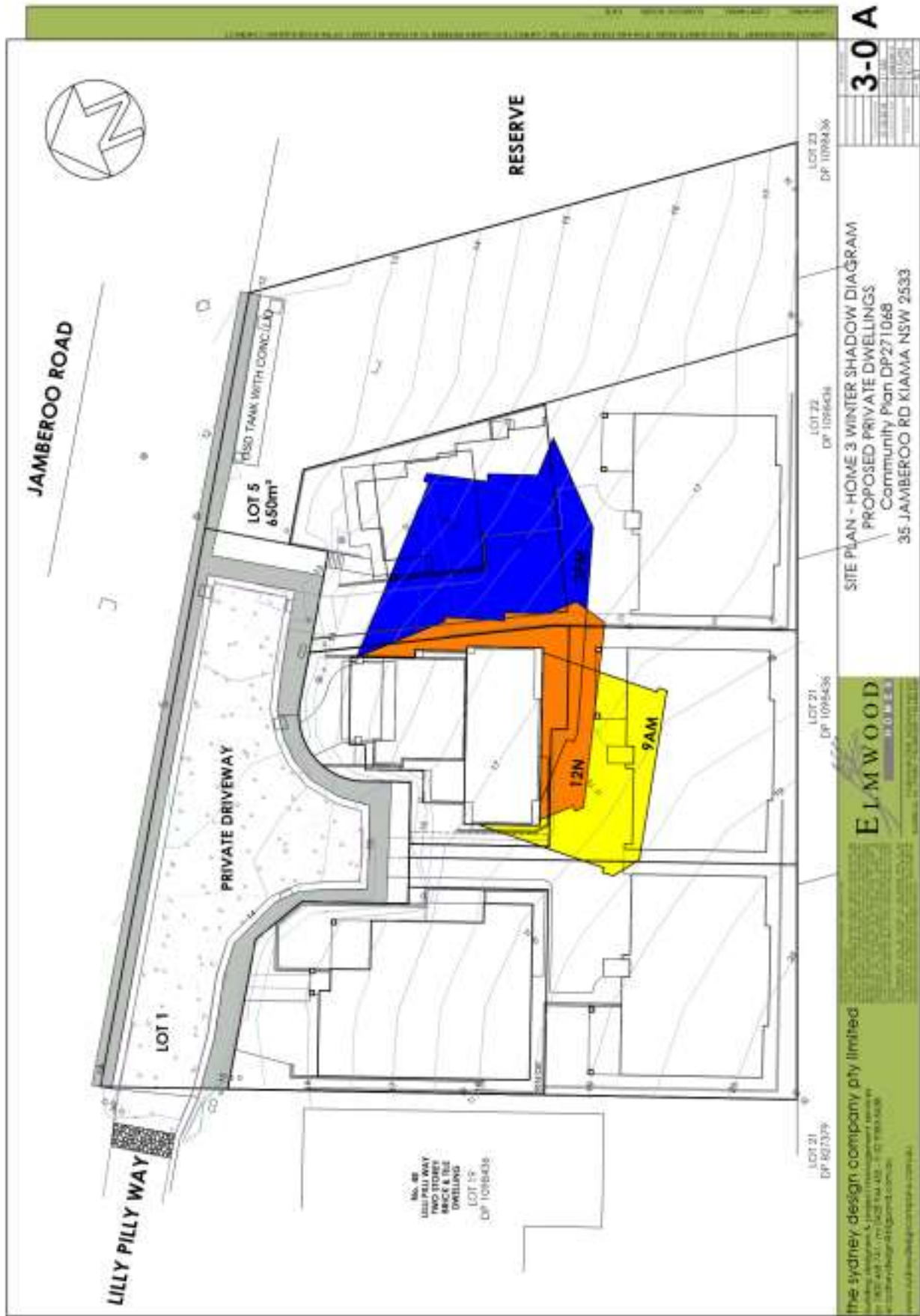






Attachment 1 Item 10.6

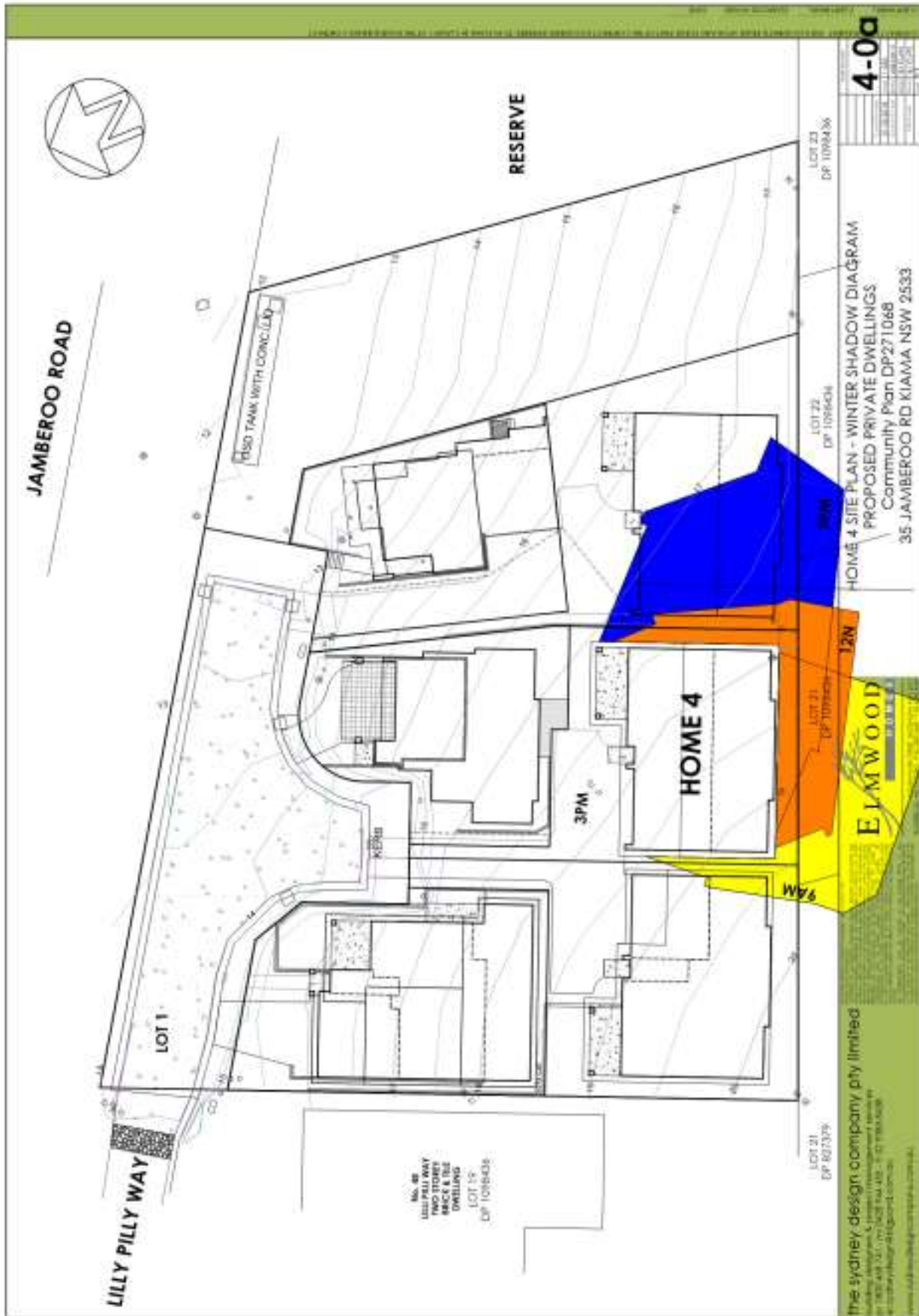




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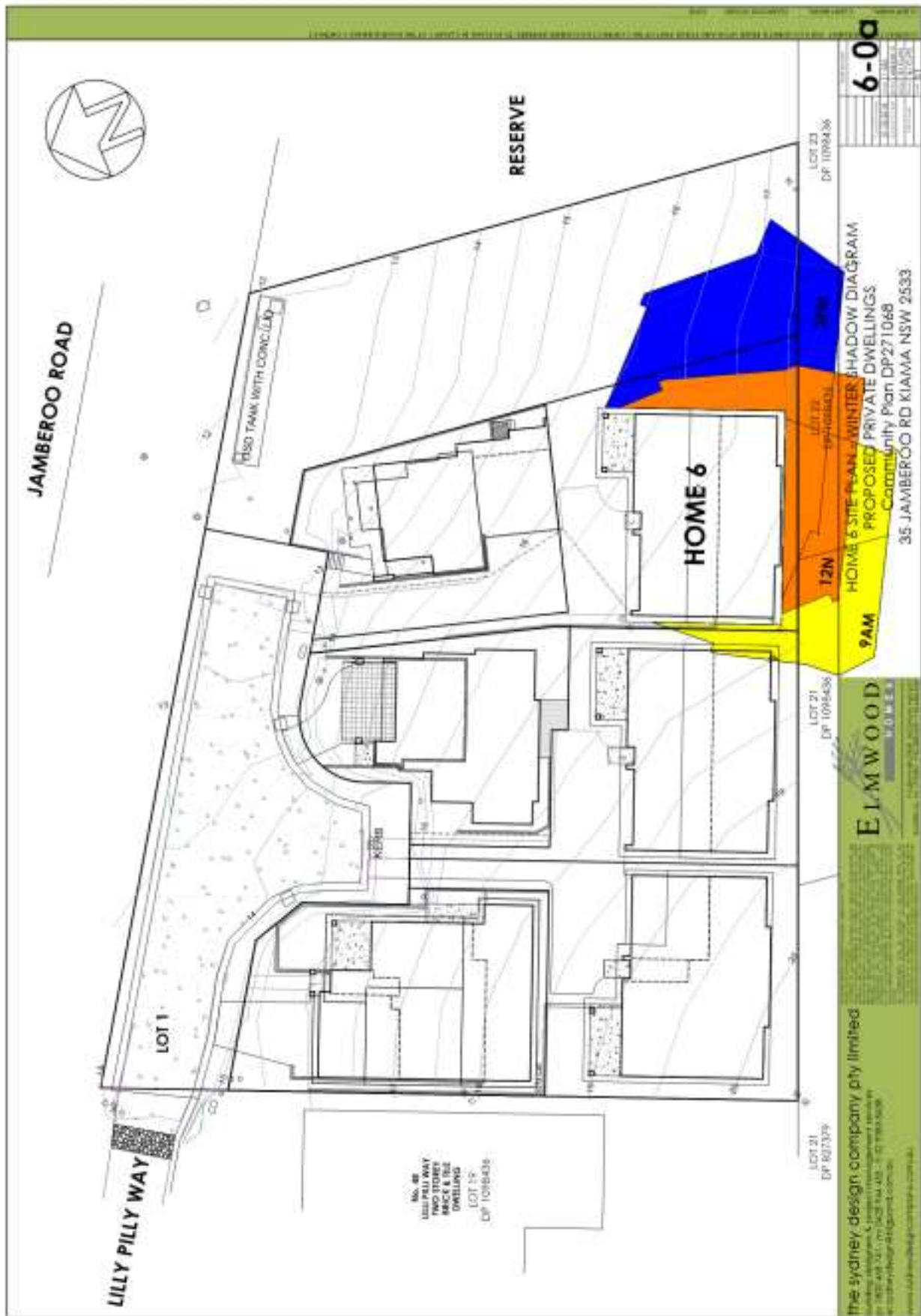
Attachment 1





Attachment 1 Item 10.6





## 11 REPORT OF THE DIRECTOR CORPORATE & COMMERCIAL SERVICES

### 11.1 Kiama Leisure Centre - swimming pool use management

CSP Objective: 1.0 A healthy, safe and inclusive community

CSP Strategy: 1.1 Developing and implementing services and programs that promote social cohesion, healthy and active lifestyles for residents of all ages, abilities and interests

Delivery Program: 1.1.7 Manage recreation and open space infrastructure to cater for current and future generations

#### Summary

The Kiama Leisure Centre pool is used in the morning period (5:30am -7:00am) Monday to Friday by both public lap swimmers and Kiama Leisure Centre swim squad. With growth in the swim squad over the last twelve months it is necessary to devise facility management principles around pool lane allocation.

#### Finance

With the pool lane allocation management proposed in this report it is also timely to revise the current fees and charges for swim squad participants. No changes are proposed to Kiama Leisure Centre membership fees.

#### Policy

NA

#### Communication/Community Engagement

Communication will take place with current Leisure Centre members with pool access and swim squad participants.

#### Attachments

Nil

#### Enclosures

Nil

### **RECOMMENDATION**

That Council:

1. endorse the Kiama Leisure Centre pool management and lane allocation principles in this report,
2. adjust Council's Fees and Charges to capture swim squad session/attendance greater than five times per week plus options for up-front payments, and
3. notify all Leisure Centre members of this decision.

Report of the Director Corporate & Commercial Services

### 11.1 Kiama Leisure Centre - swimming pool use management (cont)

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#### BACKGROUND

The Kiama Leisure Centre swim squad has been using the pool during the early morning period for a considerable period of time. Members of the public also utilise the pool for morning lap swimming.

Over the last 12 months the swim squad has experienced significant growth in the order of 13%. Squad number is currently 158. Typically a surge in squad numbers takes place towards the end of the year/early the following year.

Squad growth is attributable to:

- targeted program to grow competitive swimming and participation
- structure to achieve sustainability through swimmer retention and building capacity to transition through the squad stages
- individual swimmer success and achievements

The swim squad also utilises the pool in the afternoon period (4pm – 6pm) but has greater lane allocation at that time and is out of scope in this report.

In order to meet the current and increasing demands of the morning squad and considering public users of the facility at that time, it is proposed to manage the pool as follows:

- up to 6 lanes allocated to swim squad Monday-Friday 5:15am – 7:00am  
minimum 2 lanes public lap swimmers
- earlier pool opening time for public lap swimmers (5:30am).

Additionally:

- swim squad be allocated and capped to 5 lanes in school holidays
- gold and silver squad swimmers seek to train at an alternative venue summer school holidays where possible
- no “walker” lane provision before 6:30am.

This facility management plan has been developed on the basis of lane usage recording and monitoring over the last 12 months. The management solution will result in:

- more balanced ratio of swimmers per lane across all of the pool users.
- more effective management of the swim squad groups across the 6 lanes reflecting necessary lane separation and different ability levels/speed.

The on-going aquatic functions of the Leisure Centre can be continually managed through quarterly/bi-annual pool use monitoring, squad capacity/number considerations and fluctuation in squad numbers over time.

In addition to pool lane management it is opportune to adjust Council's Fees and Charges as part of the next quarterly budget review process to take into account the increasing number of squad swimmers undertaking multiple training sessions during the week. Currently the Fees and Charges do not reflect training sessions exceeding

Report of the Director Corporate & Commercial Services

11.1 Kiama Leisure Centre - swimming pool use management (cont)

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five per week/swimmer. The rate charged per session will also have to be clarified as currently the fees are expressed by group of sessions.

**Item 11.1**



**11.2 Special Rate Variation application - 2019/20, 2020/21**

CSP Objective: 4.0 Responsible civic leadership that is transparent, innovative and accessible

CSP Strategy: 4.1 Council is financially sustainable

Delivery Program: 4.1.1 Meeting and reporting against IPART/Fit for the Future benchmarks

Item 11.2

**Summary**

To have Council resolve to notify the Independent Pricing and Regulatory Tribunal (IPART) of its intention to apply under the Local Government Act 1993 for a Section 508A Special Rate Variation (SRV) of 9.83% for 2019-20 and 6.00% for 2020-21, to be retained permanently in the rate base. The proposed increases are inclusive of the IPART determined rate pegs relevant to these financial periods.

**Finance**

Council lodged an application with IPART for a three-year special rate variation of 6% per year compounding in February 2019. This was in respect of the financial periods 2018-19 to 2020-21 inclusive. This was partially approved in that the SRV for 2018-19 was approved, however the remaining two years were not approved. The SRV formed a part of the Council's adopted long term financial plan and was an integral component of Council's recent Fit for the Future (FFTF) submission. The purpose of the SRV is to fund the on-going and increasing asset renewal and maintenance requirements of Council. Kiama Municipal Council provides a greater amount of infrastructure on a per assessment basis than any other council in the region, excluding water and sewer assets.

**Policy**

N/A

**Communication/Community Engagement**

Project plan includes advertising in each of the local papers regarding the exhibition of the proposal, as well as utilising Kimunico, Council website, e-letter and Facebook. Council officers will also be attending community precinct meetings to outline the proposed SRV.



**Attachments**

1 Special Rate Variation - Ordinary Council - 21 November 2017 [↓](#)

**Enclosures**

Nil

**RECOMMENDATION**

That Council notify IPART of its intention to apply for a Section 508A Permanent Special Rate Variation of 9.83% for 2019-20 and 6.00% for 2020-21, inclusive of the rate peg, to be retained permanently in the rate base.

**BACKGROUND**

On 21 November 2017, Council resolved as follows:

**“OC-17/001**

**Committee recommendation** that Council notify IPART of its intention to apply for a Section 508A Permanent Special Rate Variation (SRV) of 6% including rate pegging for 3 successive years, to be retained permanently in the rate base.”

The attached report outlines the background to the SRV process as it related to the last application in February 2018.






The main reasons that IPART did not approve the February 2018 SRV application in full was twofold.

Firstly, IPART advised that Council had not given the community adequate time to consider the proposed SRV (ie 28 days) prior to the lodgment of the document. Council had in fact had the documents on exhibition for 21 days prior to lodgment and provided IPART with feedback on any responses in the remaining 7 days post lodgment (there were in fact no responses in the remaining 7 days). This issue arose through the second exhibition period of the Delivery Program and Operational Plan in January 2018.

Secondly, Council only provided the special variation scenario in its submission and did not provide a base case scenario. This was done by Council on the basis that all of the modelling undertaken in the FFTF process was on the basis of being FFTF and was inclusive of the SRV.

In IPART’s determination of Council’s Special Rate Variation, IPART found:

**Table 1.2 Assessment of Kiama Municipal Council's special variation application**

1. Financial Need	
	<p>The council demonstrated the financial need for the special variation (SV):</p> <ul style="list-style-type: none"> <li>▼ Operating Performance Ratio (average from 2018-2019 to 2027-28) is                             <ul style="list-style-type: none"> <li>- 2.2% with SV</li> <li>- -0.2% without SV revenue and assuming SV expenditure.</li> </ul> </li> <li>▼ Infrastructure backlog ratio is estimated at 1.8% in 2027-28 with SV but 4.3% in 2027-28 without SV.</li> <li>▼ Asset renewals ratio above 100% benchmark to 2027-28 with SV (average 109%), but falls below the benchmark, averaging 78%, without the SV expenditure.</li> </ul> <p>However, the IP&amp;R documents, specifically the exhibited Delivery Program and LTFP did not adequately consider the base case and the special variation scenario (see criterion 4).</p>
2. Community awareness	
	<p>On balance, the council demonstrated the community is aware of the rate rise. It:</p> <ul style="list-style-type: none"> <li>▼ used a range of engagement methods to make the community aware of the need for, and extent of rate increase</li> <li>▼ provided detailed explanation about the purpose and impact of the SV and sought feedback, and</li> <li>▼ satisfactorily considered community feedback on the rate increase.</li> </ul> <p>However, the council's IP&amp;R documents, specifically the Delivery Program and LTFP did not fully meet the requirements in detailing the extent of the general fund rate rise under the special variation (see criterion 4).</p>
3. Impact on ratepayers	
	<p>Impact on ratepayers will be substantial, as current rate levels are higher than Group 4 and neighbouring councils. However the impact is reasonable as the:</p> <ul style="list-style-type: none"> <li>▼ rates to income ratio is similar to other councils</li> <li>▼ outstanding rates ratio is lower than neighbouring councils and the Group 4 average, and</li> <li>▼ SEIFA ranking (108) is higher than neighbouring councils.</li> </ul> <p>We note the council's exhibited Delivery Program and LTFP did not fully meet the requirements in assessing the impact on ratepayers (see criterion 4).</p>
4. IP&R documents exhibited	
	<p>The council did not appropriately update its IP&amp;R documentation. Specifically the:</p> <ul style="list-style-type: none"> <li>▼ LTFP did not compare a base case with the SV scenario, and did not discuss the full cumulative increase in rates or the impact on ratepayers.</li> <li>▼ Delivery Program exhibited during the public consultation did not identify the requested SV. The updated Delivery Program with the proposed SV amendments did not provide sufficient time for the community to fully consider the proposed SV.</li> </ul> <p>The Delivery Program and LTFP did not fully meet the requirements in considering financial need (criterion 1), community awareness (criterion 2) and impact on ratepayers (criterion 3).</p>
5. Productivity improvements and cost containment	
	<p>Commencing in 2012, the council has implemented cost containment strategies and efficiency measures which resulted in savings of:</p> <ul style="list-style-type: none"> <li>▼ \$1.28 million from reduced workers compensation insurance premiums</li> <li>▼ \$187,538 from a procurement optimisation process in 2015-16, and</li> <li>▼ \$153,000 per year from waste management reductions.</li> </ul> <p>The council has also realised additional revenue of \$1.35 million from asset sales. It also included further savings in the LTFP from further optimisation in procurement processes, road surface treatment review, projects design and delivery innovations and environmental initiatives.</p>

These issues have been addressed in Council's planning for the next SRV.

**ORDINARY MEETING**

**21 NOVEMBER 2017**

Report of the Director Corporate, Commercial & Community Services

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**11.9 Special Rate Variation**

- CSP Objective: 4.0 Responsible civic leadership that is transparent, innovative and accessible
- CSP Strategy: 4.1 Council is financially sustainable
- Delivery Program: 4.1.1 Meeting and reporting against IPART/Fit for the Future benchmarks

**Summary**

To have Council resolve to notify IPART of its intention to apply for a Section 508A Permanent Special Rate Variation (SRV) of 6% including rate pegging for 3 successive years, to be retained permanently in the rate base.

**Finance**

The proposed special rate variation of 6% per year compounding for three years forms part of Council's adopted long term financial plan and was an integral part of councils Fit of the Future submission. The purpose of the special rate variation is to fund the ongoing and increasing asset renewal and maintenance requirements. Per assessment Kiama Municipal Council provides a higher amount of infrastructure than any council in the region excluding Water and Sewer assets.

**Policy**

NA

**Attachments**

Nil

**Enclosures**

- 1 Office of Local Government - Council Circular - November 2017 - Special Variation and Minimum Rate Variation Guidelines
- 2 SRV Income Summary
- 3 & 3A - Residential 3 Year Summary & Detailed
- 4 & 4A - Rural Residential 3 Year Summary & Detailed
- 5 & 5A - Farmland 3 Year Summary & Detailed
- 6 & 6A - Business Comm.-Ind. 3 Year Summary & Detailed
- 7 & 7A - Business Ordinary 3 Year Summary & Detailed

**RECOMMENDATION**

That Council notify IPART of its intention to apply for a Section 508A Permanent Special Rate Variation (SRV) of 6% including rate pegging for 3 successive years, to be retained permanently in the rate base.

**ORDINARY MEETING**

**21 NOVEMBER 2017**

Report of the Director Corporate, Commercial & Community Services

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**BACKGROUND**

Council received from the Office of Local Government council circular 17-35 special variation and minimum rate variation guidelines and process for 2018-19 on the 9<sup>th</sup> of November 2017; this circular may be found at Enclosure 1.

Council would be aware that there has been a proposal to introduce a Special Rate Variation since the Fit for the Future (FFTF) methodology was introduced back in 2015. Council in submitting Long Term Financial Plans (LTFP) both in 2016 (deemed unfit) and in 2017 (declared fit) identified the need to introduce a permanent special rate variation to enable Council to meet a number of the FFTF Benchmarks, in particular the Asset Renewal Ratio.

In both LTFPs it was identified the need for a 6.0% for 3 years including rate peg, compounding and then retained permanently as part of Council's Notational Rate Yield. The current LTFP which identified the need for the Special Rate Variation, was adopted in draft by Council in May 2017 and placed on public exhibition. No comments were received and Council formally adopted the Long Term Financial Plan at its meeting held on 22 June 2017.

Special variations provide an opportunity for councils to vary general income by an amount greater than the annual rate peg.

The Independent Pricing and Regulatory Tribunal (IPART) will assess and determine special variation applications by councils under powers delegated by the Minister for Local Government.

These powers include:

- setting the annual rate peg based upon an IPART-published Local Government Cost Index and productivity factor; and
- assessing and determining applications for special variations.

The Office of Local Government (the Office) establishes guidelines for applying for special variations. These guidelines set the criteria against which applications will be assessed and provide information on how and when to apply.

Being a 'Fit' council does not negate the requirements set out in these guidelines, that is, council must justify their application, undertake community consultation and ensure that proposed rate increases and resulting income form part of their Integrated Planning and Reporting documentation.

The Integrated Planning and Reporting framework (IP&R) provides a mechanism for councils and the community to have important discussions about service levels and funding priorities and to plan in partnership for a sustainable future.

**ORDINARY MEETING**

**21 NOVEMBER 2017**

Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

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IP&R therefore underpins decisions on the revenue required by council to meet the community needs and demands, and in particular, whether the council requires a special variation to meet those needs.

The special variation guidelines and IPART's assessment process are based on an expectation that councils will have engaged the community in a discussion on the funding required through the IP&R process.

Before applying to IPART for a special variation to general income, councils must adopt their Community Strategic Plan, Delivery Program, Long Term Financial Plan and where applicable, Asset Management Plan. Councils may only apply to IPART for a special variation to general income on the basis of those adopted IP&R documents. However, councils do not have to adopt their Operational Plan for the coming year before applying to IPART for a special variation.

Special variations are an important means of providing additional funding to councils in delivering services and infrastructure that the community has requested and the council is unable to fund within its existing revenue. The reasons an individual council may require a special variation are wide and varied. Special variations do not have to be tied to a particular project or series of projects. A council may need a special variation to either maintain current service levels or to increase service levels where the community has clearly indicated a desire to do so.

In Kiama Municipal Council's case, due to the significant amount of infrastructure, that has been provided to the community, over a long period of time, Council has now found itself, in a situation where it is unable to fund an adequate level of asset renewal within its current financial resources. Council in developing its LTFP recognised this matter, and instigated a number of initiatives to address this situation. The primary focus of the Council is now to provide funding for asset renewal, followed by asset maintenance and only then are funds to be directed to new assets.

There are two special variation options under the *Local Government Act 1993*. When seeking a special variation, councils may apply under section:



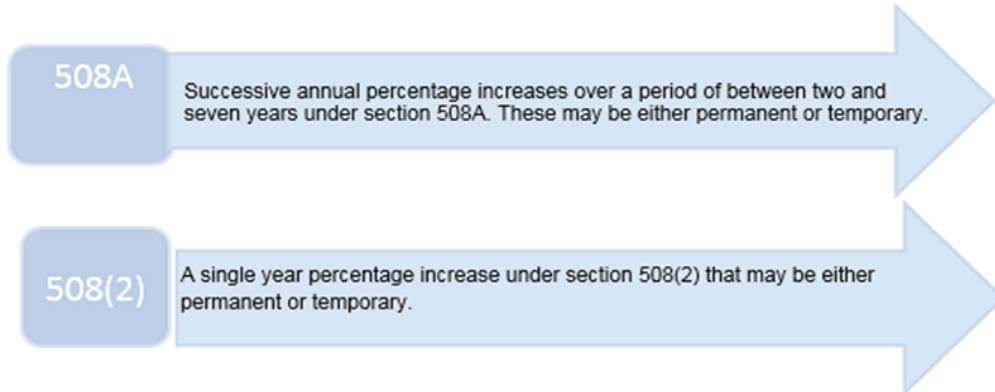
**ORDINARY MEETING**

**21 NOVEMBER 2017**

Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

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The type of special variation that is appropriate for each council will be determined by the General Fund revenue requirements of the council, as outlined in the adopted Long Term Financial Plan. This will depend on a number of factors including:

- the size of the variation required,
- the reason for the variation,
- the need for the increase to be either permanent, or temporary for a fixed term,
- the fluctuation of expenditure over time,
- the financial objectives of a Council, and the rate at which a council wishes to recover its costs.

Item 11.2

Attachment 1

ORDINARY MEETING

21 NOVEMBER 2017

Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

Scenario 1 s508A <i>permanent</i>	Successive annual percentage increases (between 2 and 7 years), which remain permanently in the rate base. Example Scenario 1 – s508A permanent – successive annual percentage increases (5 years) of 7.0%, 6.0%, 5.0%, 4.0%, including the rate peg, which are permanently retained within the rate base (ie, General Income). The rate peg increase applies from year 6.
Scenario 2 s508A <i>temporary</i>	An increase may also be temporary. At the expiry of the special variation the Council must adjust its general income to the level that it would have been without the special variation. Example Scenario 2 – s508A temporary – successive increases of 7.0%, 7.0%, 6.0%, 5.0%, 4.0% including the rate peg, which are removed from the rate base in year 6.
Scenario 3 s508(2) <i>permanent</i>	A one-off (single year) percentage increase that remains permanently in the rate base. Example Scenario 3 – s508(2) permanent – one-off increase of 7.0% in Year 1 which is retained within the rate base permanently. Rate peg increases apply from Year 2.
Scenario 4 s508(2) <i>temporary for x years</i>	A one-off (single year) percentage increase that remains in the rate base for a temporary period of x year. At the end of the temporary period (when the special variation expires) the rate base is adjusted to match the rate peg path. Example Scenario 4 – s508(2) temporary – one off increase of 7.0% in Year 1 which is retained within the rate base for four years. Rate peg applies from Year 2 with general income returning to the rate peg path in Year 5.
Scenario 5 Rate Peg	IPART determined rate peg applies each year. Scenario 5 – annual rate peg increases are 2.5% in Years 1 to 6.

Item 11.2

Attachment 1



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Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

The assessment of applications for a special variation will examine the extent to which councils have fulfilled their obligations under IP&R, in accordance with the criteria.

The IP&R Manual for Local Government "*Planning a Sustainable Future*", March 2013, outlines what is expected of councils in completing IP&R. In particular, it discusses the importance of linking community outcomes and aspirations (as identified in the Community Strategic Plan) to key actions (the Delivery Program).

It also identifies the need for councils to ensure that the appropriate resources are available at the right time (Resourcing Strategy).

The IP&R Manual states that in considering the likely revenue that will be available to meet the community's long term objectives, the Long Term Financial Planning process needs to address capacity for rating, fees and charges, grants and subsidies, borrowings and cash reserves. In particular page 69 of the IP&R Manual states:

*"The planning process should include an assessment of the community's capacity and willingness to pay rates and whether there is the potential for changes in that capacity. In making that judgement, the council might review information relating to:*

- *Separate or specific rates and charges*
- *The potential to reduce the reliance on rates through increased revenues from other sources e.g. fees and charges*
- *Potential growth/decline in rating revenues from changing demographic and industry makeup*
- *Possible need to increase reliance on rating due to reduction of revenues from other sources e.g. a decline in grants or subsidies*
- *Projected impact of the rate peg*
- *Opportunities for a special variation to general income*
- *Council's current rating policy and likely changes to that policy in the future."*

**Special Rate Variation (SRV) Criteria**

The criteria against which IPART assesses each application is based on what councils are required to do under IP&R. These criteria are:

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Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

1. The need for, and purpose of, a different revenue path for the council's General Fund (as requested through the special variation) is clearly articulated and identified in the council's IP&R documents, in particular its Delivery Program, Long Term Financial Plan and Asset Management Plan where appropriate. In establishing need for the special variation, the relevant IP&R documents should canvas alternatives to the rate rise. In demonstrating this need council must indicate the financial impact in their Long Term Financial Plan applying the following two scenarios:

- Baseline scenario – General Fund revenue and expenditure forecasts which reflect the business as usual model, and exclude the special variation, and
- Special variation scenario – the result of implementing the special variation in full is shown and reflected in the General Fund revenue forecast with the additional expenditure levels intended to be funded by the special variation.

Evidence to establish this criterion could include evidence of community need/desire for service levels/project and limited council resourcing alternatives. Evidence could also include the assessment of the council's financial sustainability conducted by the NSW Treasury Corporation.

2. Evidence that the community is aware of the need for and extent of a rate rise. The Delivery Program and Long Term Financial Plan should clearly set out the extent of the General Fund rate rise under the special variation. The council's community engagement strategy for the special variation must demonstrate an appropriate variety of engagement methods to ensure community awareness and input occur. The IPART fact sheet includes guidance to councils on the community awareness and engagement criterion for special variations.

3. The impact on affected ratepayers must be reasonable, having regard to both the current rate levels, existing ratepayer base and the proposed purpose of the variation. The Delivery Program and Long Term Financial Plan should:

- clearly show the impact of any rate rises upon the community,
- include the council's consideration of the community's capacity and willingness to pay rates, and
- establish that the proposed rate increases are affordable having regard to the community's capacity to pay.

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**21 NOVEMBER 2017**

Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

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4. The relevant IP&R documents must be exhibited (where required), approved and adopted by the council before the council applies to IPART for a special variation to its general income.
  5. The IP&R documents or the council's application must explain the productivity improvements and cost containment strategies the council has realised in past years, and plans to realise over the proposed special variation period.
  6. IPART's assessment of the matters set out in Section 5.

The criteria for all types of special variation are the same. However, the magnitude or extent of evidence required for assessment of the criteria is a matter for IPART.

**Kiama Council Financial Analysis**

Detailed below is the financial analysis from the adopted Long Term Financial Plan. As is evident without the Special Rate Variation (SRV), Council is unable to meet the Fit for the Future Benchmarks. Council was previously deemed unfit, even with the SRV, however with work around renewals, depreciation and efficiency targets (through process improvement and LEAN methodology), with the same SRV Council will meet all the benchmarks.

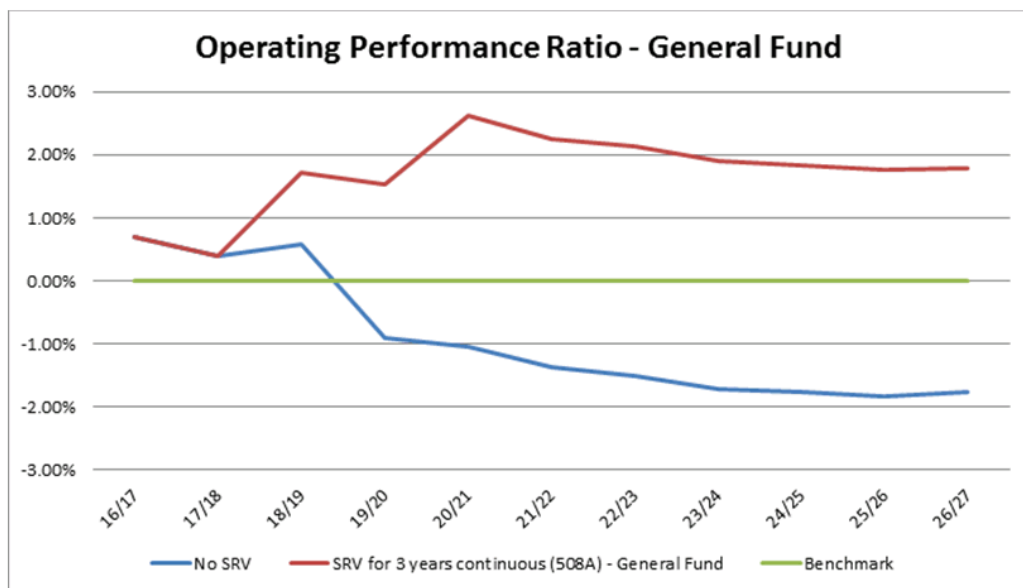
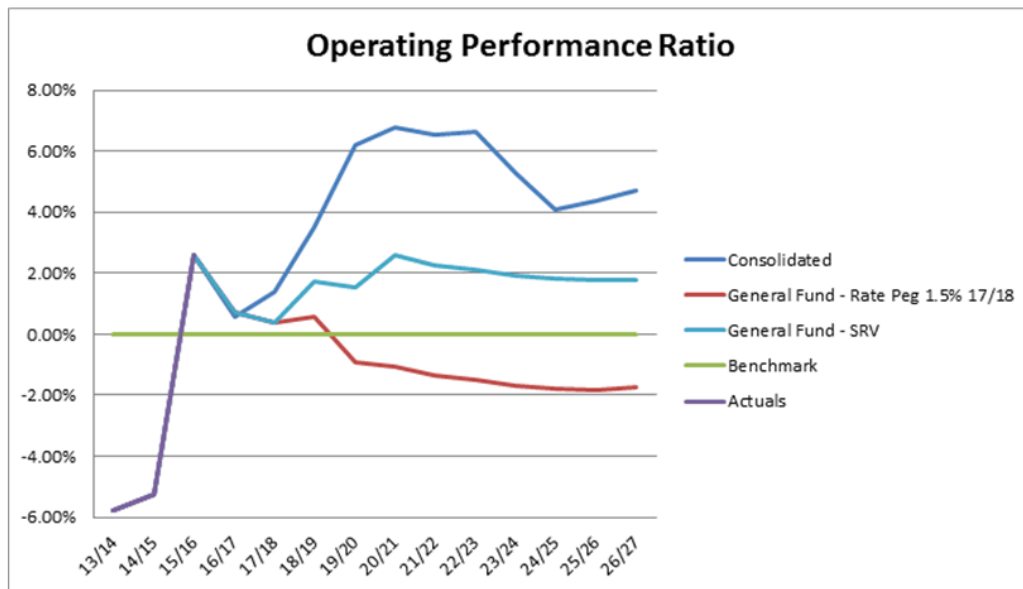
- The graphs with the consolidated line include our KACCOE projections.
- The graphs' 'General Fund' line will have the winding down of the old Aged Care Facility but not include KACCOE.
- Therefore, the graphs without the 'Consolidated' line give a better indication as to where Council is at in regards to our existing infrastructure.
- These graphs do not include impact of the operating costs (whole life costs) for any new capital expenditure.

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Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)



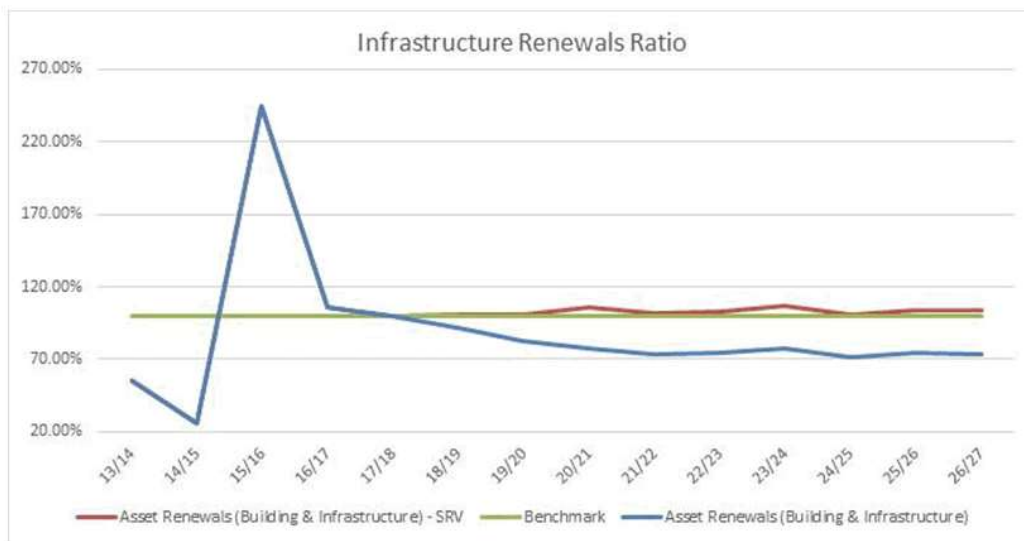
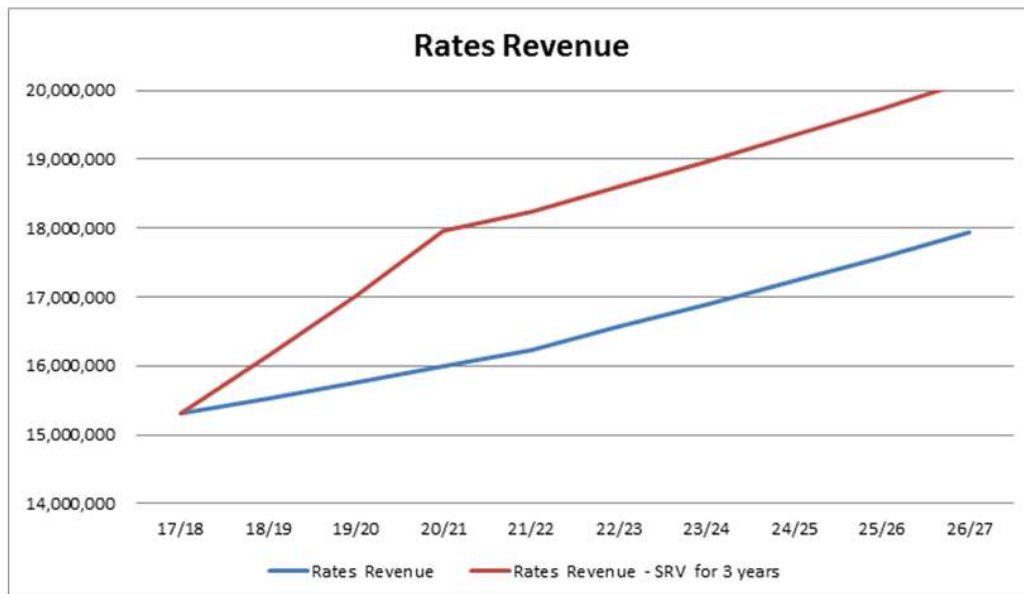
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11.9 Special Rate Variation (cont)



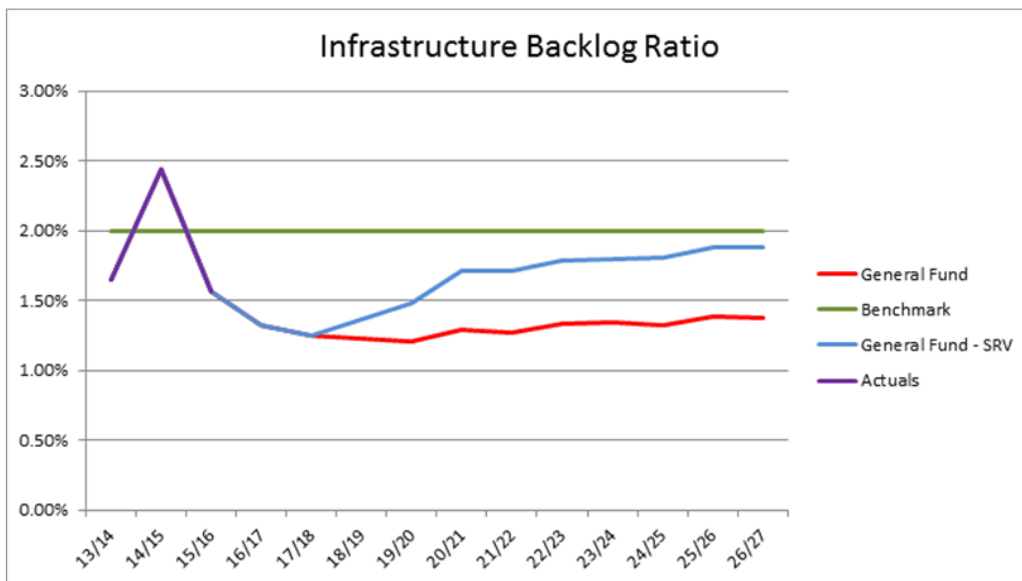
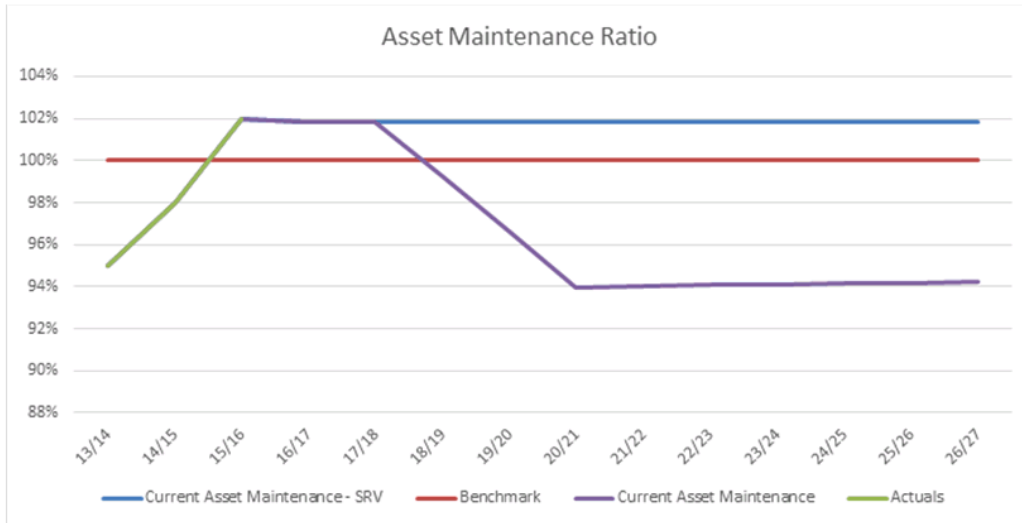
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11.9 Special Rate Variation (cont)



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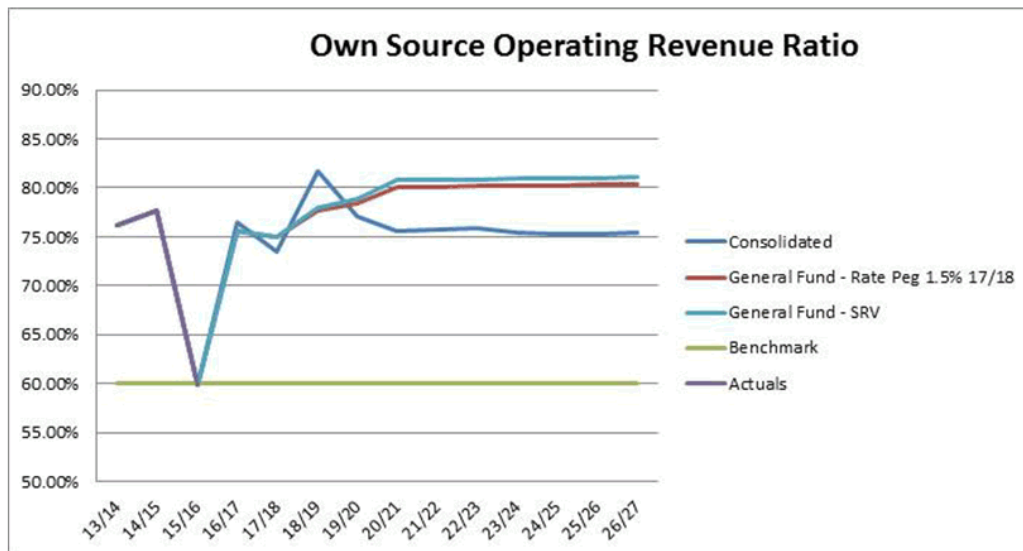


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Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)



**What is the impact on ratepayers?**

In order to implement the proposed SRV consistently across the entire LGA, the decision has been made to not adjust the current rate mix or structure. After the 3 years of SRV, the rates for each property, will have increased a total of 19.1%. Having said that, using the rate pegging level of 2.5% per year, which is included in the total 6% SRV, the rate pegging accumulated increase is 7.68%, meaning the actual SRV increase above the rate pegging compounded over the 3 years is 11.42%.

Below is a table outlining the impact based on the average land values for each rate category;

Rate Type	Average Land Value	% of Assessments under Average	Year	Rate Peg impact/ week	SRV Impact/ week	Combined Impact/ week
<b>Residential</b>	\$418,274	63%	2018/2019	\$0.68	\$0.95	\$1.63
			2019/2020	\$1.38	\$1.98	\$3.36
			2020/2021	\$2.09	\$3.10	\$5.19
<b>Rural Residential</b>	\$1,056,740	61%	2018/2019	\$1.31	\$1.83	\$3.14
			2019/2020	\$2.65	\$3.82	\$6.47
			2020/2021	\$4.02	\$5.97	\$9.99

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11.9 Special Rate Variation (cont)

<b>Business Commercial Industrial</b>	\$429,798	91%	2018/2019	\$1.03	\$1.44	\$2.47
			2019/2020	\$2.09	\$3.01	\$5.10
			2020/2021	\$3.17	\$4.71	\$7.88
<b>Business Ordinary</b>	\$268,512	78%	2018/2019	\$0.44	\$0.62	\$1.06
			2019/2020	\$0.90	\$1.30	\$2.20
			2020/2021	\$1.37	\$2.03	\$3.40
<b>Farmland</b>	\$1,394,638	55%	2018/2019	\$1.17	\$1.64	\$2.81
			2019/2020	\$2.38	\$3.43	\$5.81
			2020/2021	\$3.61	\$5.36	\$8.98

Overall, excluding Mixed Residential/ Business (46 Assessments) the table above covers 64% of the total assessments. In other words, 6621 assessments (out of 10,424 assessments) will have rate rises less than those shown in the table above. More detailed impact calculations are contained in the spreadsheets found at the following enclosures:

Enclosure 2	SRV Income Summary
Enclosure 3	Residential 3 Year Summary
Enclosure 3 a	Residential Detailed
Enclosure 4	Rural Residential 3 Year Summary
Enclosure 4 a	Rural Residential Detailed
Enclosure 5	Farmland 3 Year Summary
Enclosure 5 a	Farmland Detailed
Enclosure 6	Business Comm.-Ind. 3 Year Summary
Enclosure 6 a	Business Comm.-Ind. Detailed
Enclosure 7	Business Ordinary 3 Year Summary
Enclosure 7 a	Business Ordinary Detailed
Enclosure 2	SRV Income Summary
Enclosure 3	Residential 3 Year Summary
Enclosure 3 a	Residential Detailed
Enclosure 4	Rural Residential 3 Year Summary
Enclosure 4 a	Rural Residential Detailed
Enclosure 5	Farmland 3 Year Summary
Enclosure 5 a	Farmland Detailed

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11.9 Special Rate Variation (cont)

Enclosure 6	Business Comm.-Ind. 3 Year Summary
Enclosure 6 a	Business Comm.-Ind. Detailed
Enclosure 7	Business Ordinary 3 Year Summary
Enclosure 7 a	Business Ordinary Detailed

**How is the impact on pensioners going to be minimized?**

As part of the SRV proposal, in order to help reduce the impact on pensioners, there will be an additional pensioner rebate provided fully funded by Council from the SRV. This additional pensioner rebate will incrementally increase over the 3 years and be capped after 2020/2021.

The additional annual pensioner rebate proposed is as follows;

2018/2019	\$10.00
2019/2020	\$17.00
2020/2021	\$25.00

The additional pensioner rebate of \$25 will be retained permanently after 2020/2021. Based on current pensioner numbers in residential category the cost of the rebate will be \$16,570 (2018/2019), \$28,169 (2019/2020) and then \$41,425 from each year forward. This will be funded from the SRV levy.

There are 1657 pensioner rebates in the residential category out of 9485 residential assessments. Of those claiming pensioner rebates 1118 (68%) have a land value less than the average land value for this category. Using the average residential land value of \$418,274, this means that 68% of the pensioner rebate residential properties will have less than the following increases;

	Rate Peg impact/week	SRV Impact/week	Combined Impact/week	Combined Impact/Annual	Additional Rebate %
2018/2019	\$0.68	\$0.95	\$1.63	\$84.76	11.79%
2019/2020	\$1.38	\$1.98	\$3.36	\$174.72	9.72%
2020/2021	\$2.09	\$3.10	\$5.19	\$269.88	9.26%

Obviously, there is also going to be 533 residential pensioner assessments where the impact will be greater than that detailed in the table above.

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Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

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**Additional Impact Minimisation**

In addition to providing an additional pensioner rebate, Council is also able to reduce some of the impact of the SRV through limiting increases in Domestic Waste Management Charges (DWM). Costs in DWM have increased on average by 5% per year. With the strong support of the community in relation to the Organics initiative and business improvements in the waste area, which has resulted in efficiencies Council is now in a position to limit the increases in DWM to 2.5% per annum over the period of the proposed SRV.

In 2017/2018 the standard residential service costs \$730.55. If the past trend had continued of 5% increases by 2020/2021 this cost would have risen to \$845.70. As a result of the above mentioned improvements in DWM the proposed increase by 2020/2021 will be \$786.75, a saving of \$58.95.

This results in a 22% offset of the impact of the SRV in 2020/2021 for the average residential property value. In other words, the cumulative impact of the SRV (including rate pegging) by 2020/2021 would be \$269.88 less the DWM reduction with a net impact of \$210.93.

On the basis that rate pegging will occur regardless, the actual cumulative impact of the SRV (excluding rate pegging) on an average residential property value by 2020/2021 is \$161.20 less the DWM reduction with a net impact of \$102.25.

**Community Engagement and Consultation**

As highlighted earlier in the report Council must notify IPART by the 15 December, 2017 of its intention to apply for a Special Rate Variation and must lodge the full application by the 12 February 2018. On the basis that Council resolves to notify IPART there is significant work to be done around community engagement and consultation.

The SRV proposal formed part of Council's Fit for the Future submission and was communicated to the community during the potential merger period. The proposal is also included in Council's Integrated Planning and Reporting documents and is contained in adopted Council's Long Term Financial Plan. These documents were publically exhibited and submissions sought. No submissions were received in relation to the proposed SRV.

However, as Council is committed to engaging and consulting with the community, and the community has high expectations in this regard it is going to be important to maximize this engagement and consultation, despite it being during the holiday period. To this end a full strategy will need to be developed urgently. Some thought has already been given to the following possible initiatives are proposed;

1. Development of a Rate Estimator on Council website
2. Attendance at Precinct meetings in December
3. Bring forward the January 2018 Kimunico and issue in early December 2017 detailing the SRV
4. Issue various press releases, information, interviews with all forms of media
5. Use of Social Media

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Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

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**Kiama Council Special Rate Variation History**

Council undertook a comprehensive consultation process with its community in late 2009 and early 2010 on a proposal to seek a special variation of 6.5% per annum (inclusive of the rate peg) over the 4-year period from 2009/10, and to permanently retain these increases in its income base. In 2009/10, it applied for the first 6.5% increase under section 508(2) of the Act. The Minister for Local Government approved the increase, but decided that the council could retain it for 5 years only.

In 2010/11, Council applied for the 3 further increases of 6.5% per annum under section 508A of the Act (which if approved, would have been permanently retained in its general income base). The Minister approved only 1 of these increases under section 508(2), and decided the council could retain it for 3 years only. This was because the council had not completed its IP&R process and documents, as required for applications under section 508A.

In 2013/2014 Council made an application for 9.74% SRV to continue these 2 existing special variations, which were due to expire on 30 June 2013 and 30 June 2014, and permanently incorporate them in the income base. This effectively cancelled the last year of the 2009/10 special variation. Council also indicated in its application that it has decided not to seek the additional 2 increases of 6.5% it originally proposed and consulted its community on, partly because it has been successful in applying for low interest loans under the NSW Government's Local Infrastructure Renewal Scheme (LIRS), which has enabled it to bring forward asset renewal works.

The net impact of the 2013/2014 SRV changes to rates as indicated in Council's application, was average rates across all categories, increased by the rate peg of 3.4% in 2013/14:

- average residential rates increased by \$44
- average rural residential rates increased by \$90
- average business rates increased by \$24
- average commercial/industrial rates increased by \$69
- average farmland rates increased by \$62.29

This is less than the increase in general income of 9.74% because the special variation allowed council to continue 2 expiring special variations already included in rates. If the special variation had not been approved, average rates would have decreased in 2013/14 and 2014/15 when these 2 special variations expired.

**Comparable Special Rate Variations in the Region**

The proposed SRV application of 6% (including rate pegging) for 3 years and then retaining permanently is based on the development of detailed Asset Management Plans and comprehensive financial modelling in the Long Term Financial Plan (LTFP). Council has now an integrated model between the Asset Management Plans and the Long Term Financial Plan.

In terms of the size and scale of the proposed SRV in Kiama LGA the following information regarding SRV's approved in the region is set out below;

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11.9 Special Rate Variation (cont)

Council	SRV increases	Cumulative Impact
Wollongong	14/15 6.13%, 15/16 6.23%, 16/17 6.24%	19.78%
Shellharbour	13/14 8-10% for 4 years	41.15%
Shoalhaven	17/18 13.2% Application for a further 3 years at 5% currently being prepared	31%
Wingecarribee	16/17 8.55%, 17/18 9.25%, 18/19 9.25%, 19/20 12.15	45.3%
Kiama (proposed)	18/19 6%, 19/20 6%, 20/21 6%	19.1%

**Average Residential Rate**

There has been comment for a number of years regarding that Kiama Municipal Council has one of the highest residential rates in the State. An analysis has now been undertaken to compare what rates would be in adjoining local government areas based on the Kiama average residential land value of \$418,274. It is important to understand that Councils have the ability to determine their own rate mix which has a significant impact on each rate category depending on what percentage of the total rates are to be collected from each rate category.

<b>Assumptions</b>					
Councils do not change their rate mix					
Additional SRV applications are not lodged except Kiama					
Using Kiama Average residential Land Value \$418,274					
Rate Pegging level 2.5%					
Council	Value	2017/2018 Rates	2018/2019 Rates	2019/2020 Rates	2020/2021 Rates
Wingecarribee Shire Council	\$418,274	\$1,614.08	\$1,763.38	\$1,977.64	\$2,027.07
Wollongong City Council	\$418,274	\$1,765.16	\$1,819.29	\$1,854.52	\$1,900.88
Shellharbour City Council	\$418,274	\$1,844.49	\$1,890.61	\$1,937.87	\$1,986.32
Shoalhaven City Council	\$418,274	\$1,486.99	\$1,561.34	\$1,639.41	\$1,721.37
Kiama Council	\$418,274	\$1,412.65	\$1,497.41	\$1,587.26	\$1,682.49

**ORDINARY MEETING**

**21 NOVEMBER 2017**

Report of the Director Corporate, Commercial & Community Services

11.9 Special Rate Variation (cont)

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**Conclusion**

Whilst any Special Rate Variation proposed by any Council, is not a popular decision with the community, Kiama Council has flagged this issue for a long period of time. Due to the efforts being made within the organisation to streamline processes, increase efficiencies and improve customer service, the quantum of the proposed SRV, is significantly lower than the majority of Councils. The compounding effect of the 6% SRV over 3 years, including a rate peg level is 19.1%.

Our community has over a very long period of time, been provided with a high level of infrastructure, both in quantum and standard, this results in significant costs annually in both renewal and maintenance. As previously advised, every time new infrastructure is built there is a whole of life cost which must be funded.

Whilst different assets have different useful lives, if we build a new asset for \$3M that has a useful life of 40 years, the annual renewal cost impact is \$75,000 and the annual maintenance cost is \$75,000 (based on 2.5% of asset cost). Therefore, the ongoing annual funding required for this asset is \$150,000 or \$1.5M over the term of the Long Term Financial Plan.

As shown above, which excludes unknown new capital expenses, Council requires the SRV in the proposed amount in order to be able to fund asset renewal and maintenance for the assets already constructed and for those included in the current Long Term Financial Plan and Capital Works Plan. The SRV also ensures that Council's Fit for the Future status is maintained by meeting the required benchmarks.

An important point to make is the required funding needs to be recurrent.



**11.3 Statement of Investments - September 2018**

CSP Objective: 4.0 Responsible civic leadership that is transparent, innovative and accessible

CSP Strategy: 4.1 Council is financially sustainable

Delivery Program: 4.1.2 Identify opportunities to diversify and maximise funding sources

**Summary**

This report recommends receipt and adoption of the Statement of Investments for September 2018.

**Finance**

N/A

**Policy**

Clause 625 of the Local Government Act 1993 (NSW)

Clause 212 of the Local Government (General) Regulation 2005

Kiama Municipal Council – Investment Policy

**Communication/Community Engagement**

N/A

**Attachments**

1 Statement of Investments - September 2018 [↓](#)

**Enclosures**

Nil

**RECOMMENDATION**

That Council receive and adopt the information relating to the Statement of Investments for September 2018.

**BACKGROUND**

Attached is a copy of the Statement of Investments for September 2018.

**Investment commentary**

Council's direct investments are often rolled over on maturity with the same financial institution, if competitive, and based on whether funds are required for operations.

The investment portfolio is regularly reviewed in order to maximise investment performance and minimise risk. Comparisons are made between existing investments with available products that are not part of Council's portfolio. Independent advice is sought on new investment opportunities.

A decision by the Reserve Bank board meeting on 7 September 2018 has seen the cash rate unchanged at 1.50%. *"The low level of interest rates is continuing to*

Report of the Director Corporate & Commercial Services

11.3 Statement of Investments - September 2018 (cont)

*support the Australian economy*". As progress in lowering unemployment and having inflation return to the midpoint of the target was expected to be only gradual, members also agreed that there was not a strong case for a near-term adjustment in monetary policy. (Minutes of the Monetary Policy Meeting of the Reserve Bank Board, Reserve Bank Australia, 4 September 2018)

The National Australia Bank is quoting the following rates:

3 Months	6 Months	9 Months	12 Months	24 Months
2.46%	2.47%	2.50%	2.51%	2.60%

As part of Council's medium-term investment strategy a Floating Rate Note has been added to the current portfolio. A Floating Rate Note (FRN) is a type of bond. Bonds are commonly called 'fixed-income investments'. The interest payment is based on a fixed percentage above the BBSW, therefore referred to as 'floating' due the BBSW rate being variable.

BBSW is an abbreviation for the 'bank bill swap rate'. It is the wholesale interbank rate within Australia and is published by the Australian Financial Markets Association (AFMA). It is the borrowing rate among the country's top market makers, and is widely used as the benchmark interest rate for loans.

#### **Certification – Responsible Accounting Officer**

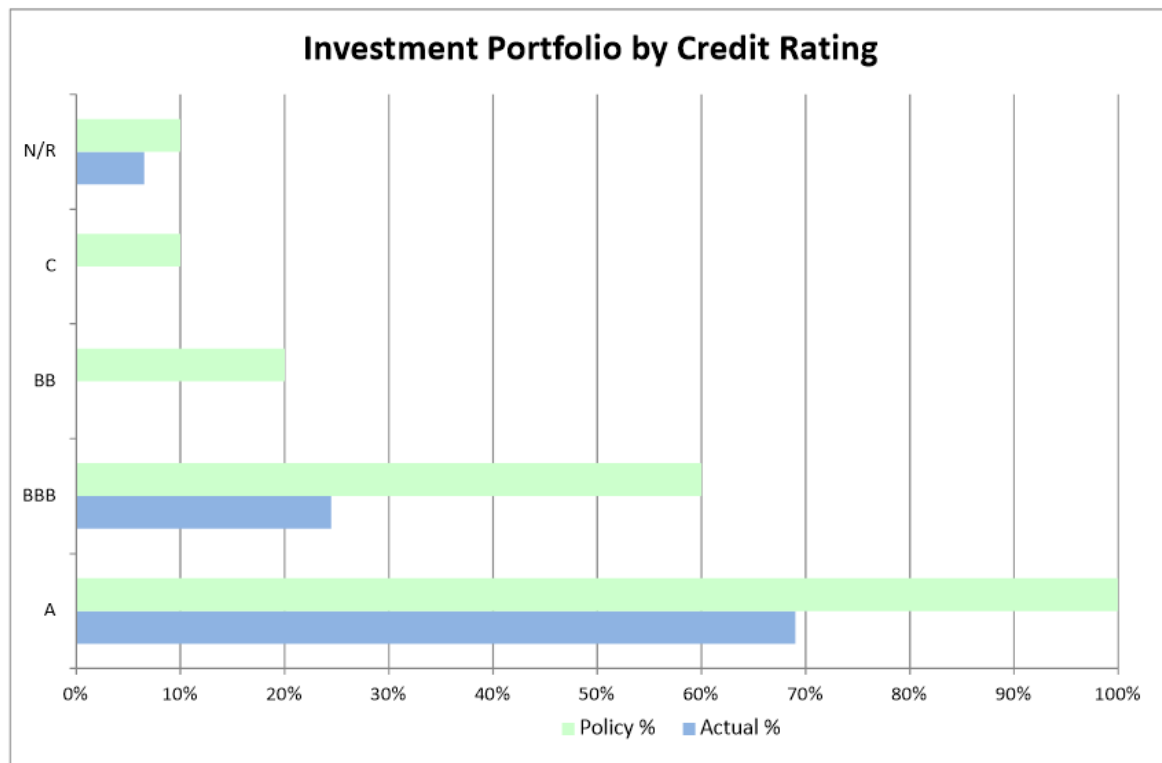
I hereby certify that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

(b) Council Investments as at 30 September, 2018

DIRECT INVESTMENTS: INSTITUTION	S & P RATING	MARKET VALUE \$	INVESTMENT TYPE	DATE LODGED	MATURITY DATE	TERM (DAYS)	RATE %
AMP	A	1,000,000	Term Deposit	21/02/18	21/11/18	273	2.65
AMP	A	1,000,000	Term Deposit	06/06/18	12/12/18	189	2.75
AMP	A	500,000	Term Deposit	18/10/17	24/10/18	371	2.60
Beyond Bank	BBB+	1,000,000	Term Deposit	11/07/18	16/01/19	189	2.80
Bankwest	AA-	1,000,000	Term Deposit	13/06/18	19/12/18	189	2.75
AMP	A	2,000,000	Term Deposit	22/08/18	18/02/19	180	2.80
Bank of Qld	BBB+	1,500,000	Term Deposit	29/08/18	27/02/19	182	2.60
Bank of Qld	BBB+	1,500,000	Term Deposit	28/09/18	26/06/19	271	2.75
Bank of Us	N/R	1,000,000	Term Deposit	14/09/18	13/02/19	152	2.85
Bendigo	BBB+	1,000,000	Term Deposit	04/07/18	09/01/19	189	2.70
Community Alliance Credit Union	N/R	1,000,000	Term Deposit	12/09/18	28/11/18	77	2.75
Community Alliance Credit Union	N/R	1,000,000	Term Deposit	12/09/18	28/11/18	77	2.75
ME Bank	BBB	1,500,000	Term Deposit	25/07/18	30/01/19	189	2.60
ME Bank	BBB	1,000,000	Term Deposit	18/07/18	23/01/19	189	2.60
NAB	AA-	1,000,000	Term Deposit	04/07/18	05/12/18	154	2.76
NAB	AA-	1,000,000	Term Deposit	13/06/18	10/12/18	180	2.76
NAB	AA-	2,000,000	Term Deposit	25/10/17	24/10/18	364	2.55
Suncorp	A+	1,000,000	Term Deposit	13/06/18	17/10/18	126	2.80
Suncorp	A+	1,000,000	Term Deposit	11/07/18	06/02/19	210	2.70
Newcastle Permanent FRN	BBB	1,000,000	Floating Rate Note	28/09/18	27/09/23	1825	3.26
<b>Total Term Deposits</b>		<b>23,000,000</b>					<b>2.74</b>
TcorpIM Cash Fund	AAA	3,104,997	Cash Fund		AT CALL		<b>2.04%</b>
Westpac	AA-	6,446,157	Bank Account	-	AT CALL		1.79
Westpac	AA-	81,579	Maxi Account	-	AT CALL		0.50
<b>Total 'At Call' Funds</b>		<b>9,632,733</b>					<b>1.15</b>
<b>TOTAL CASH &amp; INVESTMENTS</b>		<b>32,632,733</b>			Average Rate- Sep 2018		2.59
					Average Rate- Sep 2017		2.60
<b>TOTAL INVESTMENTS Aug 2018</b>		<b>32,816,478</b>					<b>-0.56%</b> Change in total investment over prev 1 month
<b>TOTAL INVESTMENTS Sep 2017</b>		<b>41,302,092</b>					<b>-20.99%</b> Change in total investment over prev 12 months

Note: The Westpac Bank Account balance shown above of \$6.45M includes deposits at month-end not processed to Council's financial system and excludes cheques that have not been presented.

Item 11.3  
Attachment 1



**(c) Application of Invested Funds**

Restricted Funds:	Description	Value (\$)
Externally Restricted	S94 Developer Contributions	4,246,009
	Grants	486,156
	Domestic Waste	2,813,863
	Waste & Sustainability	403,006
	Blue Haven ILU*	151,138
Internally Restricted	Blue Haven Care-Residential*	1,417,602
	Risk Improvement Incentive	78,749
	Carer Respite Centre	1,216,663
	Land Development	3,823,466
	Waste Business Unit (Plant Replacement)	740,367
	Plant Replacement	2,160,252
	Employee Leave Entitlements	3,000,000
	S94 Recoupments	2,320,784
	Carry-over works*	3,025,420
	Holiday Parks	2,741,301
	Contingencies	779,730
	Computer	879,698
	Property Insurance	120,000
	Community Bus	365,086
	CACP	263,581
	Organisational Development	200,000
	Fleet Replacement	100,000
	Council Election	100,000
	Leisure Centre Renewal	180,000
	Revolving Energy Fund	315,000
Future Project Development	70,000	
Arts Precinct	59,000	
The Pavilion	113,149	
Loan Funds	KACCOE Loan Drawdown unexpended	2,092,382
<b>Unrestricted Funds:</b>	<b>Funds to meet current budgeted expenditure</b>	<b>- 1,684,669</b>
<b>TOTAL INVESTMENTS</b>		<b>32,632,733</b>

**Note:**

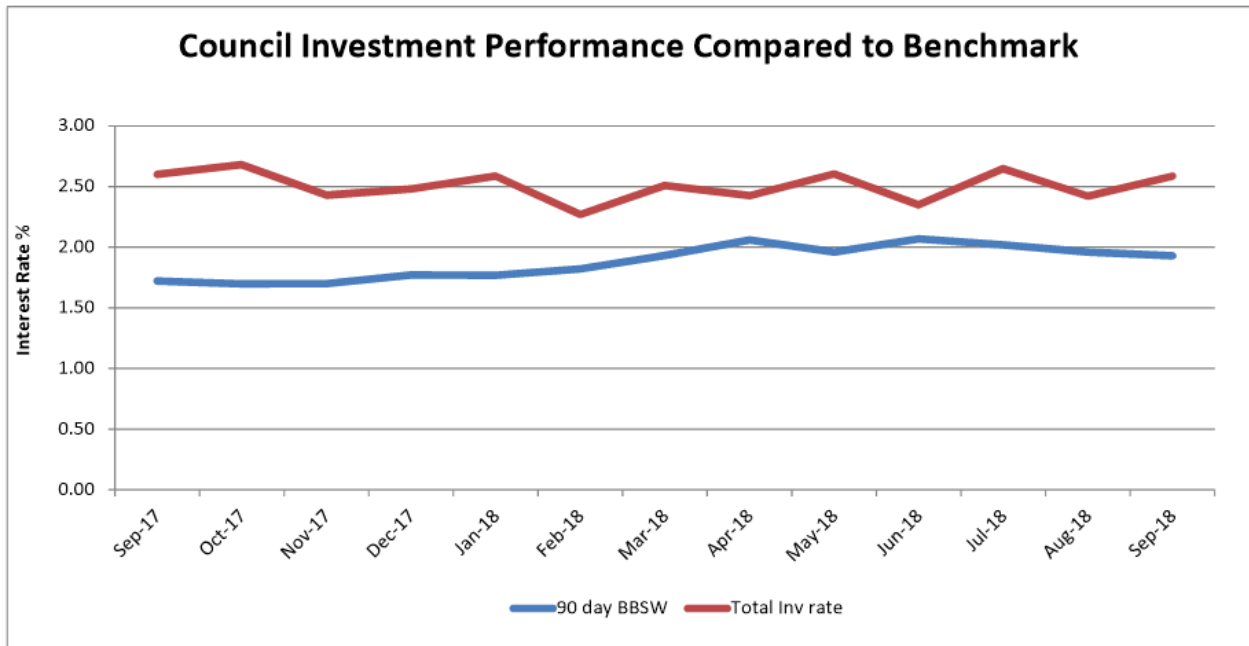
The above Application of Invested Funds are preliminary and are subject to change during the 2018 end of financial year audit process.

The Unrestricted Funds balance forms available cash to fund Council's ongoing budget operations.

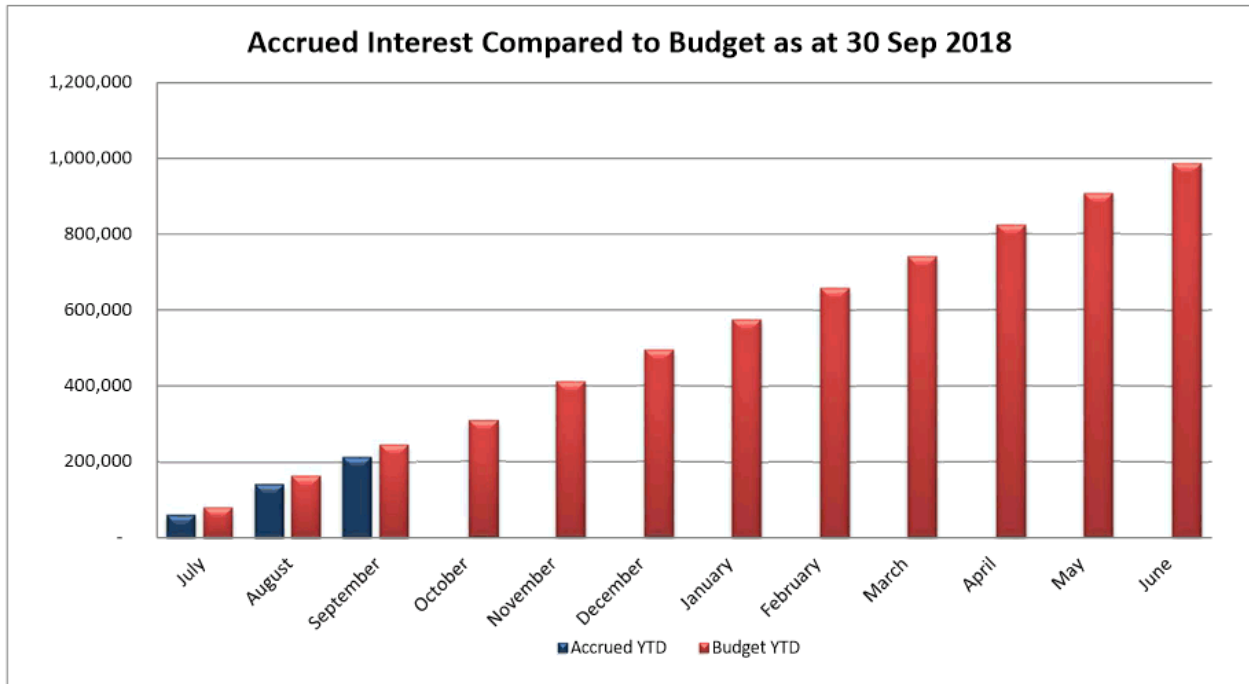
(d) Investment Portfolio Performance

Investment Performance vs Benchmark

	Investment Portfolio Return (%pa)	Benchmark: BBSW 90 day Bank Bill Index (source RBA)
1 month	2.59	2.07
3 months	2.55	1.97
6 months	2.51	2.00
12 Months	2.50	1.89



Council has been able to consistently perform above the Reserve Bank 90 day Bank Bill Index.



**12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS**

Nil

## 13 REPORT OF THE DIRECTOR BLUE HAVEN

### 13.1 Blue Haven Advisory Committee - Updated Terms of Reference

CSP Objective: 1.0 A healthy, safe and inclusive community

CSP Strategy: 1.2 Planning for and assisting specific needs groups

Delivery Program: 1.2.1 Operate Blue Haven Care

#### Summary

The Terms of Reference have been updated to provide for representation from the Friends of Blue Haven on the Committee.

#### Finance

Nil

#### Policy

Nil

#### Communication/Community Engagement

Nil

#### Attachments

1 Terms of Reference (ToR) - Blue haven Advisory Committee - October 2018 [↓](#)

#### Enclosures

Nil

### **RECOMMENDATION**

That Council accept the updated Terms of Reference of the Blue Haven Advisory Committee.

### **BACKGROUND**

The Friends of Blue Haven (the Friends) are an independent body that fundraise for the aged care facility. The members are committed to providing items that enhance the lifestyle and comfort of residents, beyond the necessities that are provided by the Home itself. Over many years the Friends have contributed significantly to the Home and their support is highly valued. Large TV's, soft furnishings, comfortable chairs and financial support for music programs have all been purchased by the Friends over recent years. Each October the Friends hold a fete at Blue Haven, which is their major annual fundraiser.

The Friends of Blue Haven have traditionally always nominated a representative to attend the Advisory Committee meetings. Originally, this was in the form of being able to attend but not in a voting capacity and not able to participate in confidential sections of the meeting. The Terms of Reference (TOR) have been modified several



Report of the Director Blue Haven

13.1 Blue Haven Advisory Committee - Updated Terms of Reference (cont)

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times since 2015, and in this process the reference to the Friends membership was removed. However, it was agreed by the Committee members that a representative of the Friends should continue to attend and so their informal representation has continued.

As the new Committee has recently been formed it is timely to update the TOR to formally acknowledge that the membership will include a 'representative nominated by the Friends of Blue Haven'. They would have equal participation in meetings as all other Committee members. The current nominated representative is Carolyn Crowe-Maxwell.

**Item 13.1**



Terms of Reference

<b>Name of committee</b>	<b>Blue Haven Advisory Committee</b>
<b>Status</b>	Council committee <input checked="" type="checkbox"/> Statutory committee <input type="checkbox"/> Sunset committee <input type="checkbox"/> (specify the end date ..... )
<b>Purpose</b>	To monitor the operational activities of Blue Haven (comprising Blue Haven Village, Blue Haven Care Home and Blue Haven Care In Home Support) and provide relevant advice to the Blue Haven Board (Council).  To provide transparency in decision making relating to Blue Haven and encourage inclusive planning processes
<b>Objectives</b>	The Kiama Council's Blue Haven Advisory Committee forms part of the governance structure of Blue Haven, assisting the organisation to meet the aged care accreditation standards. The role of the committee will be to assist Blue Haven maintain a high quality service. The Committee will: <ul style="list-style-type: none"> <li>• Provide consumer feedback on the development of the Operational Plan for Blue Haven Bonaira</li> <li>• Have regard to the Aged Care Quality Standards provided by the Commonwealth Department of Health</li> <li>• Provide input into the implementation of new Aged Care Standards</li> <li>• Receive relevant reports from the Executive Officer/General Manager, Director Blue Haven, Manager Operations and Strategy, ILU Manager, ILU Residents Committee, Manager Community Programs and Chief Financial Officer and provide advice and feedback on issues raised including:                         <ul style="list-style-type: none"> <li>- Work health and safety issues</li> <li>- New and revised policies</li> <li>- Provide opportunity for consumer representation in decision making about service delivery, enhancement and coordination</li> <li>- Strategic planning - give consideration and provide advice regarding new service development and service expansion</li> <li>- Give feedback and recommendations based on information exchanged with relevant groups or community members represented by the Committee</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>- Consider management and practice issues, in accordance with Council policies and procedures</li> <li>• Matters to be considered may be referred to the Committee by the Blue Haven Board (Council). Committee members may raise any other matters of relevance to Blue Haven operations at Committee meetings</li> <li>• Unless authorised by the General Manager, Committee members have no authority to represent the Committee, Blue Haven, or Council (the Board), nor to expend funds or incur liabilities</li> <li>• Committee members have no authority to direct staff</li> <li>• While Committee members must act in accordance with the Committee’s Charter and exercise due diligence, individual Committee members have no personal liability for the Committee’s recommendations to Council</li> </ul>
<b>Committee Meetings</b>	Meetings are to be held bi-monthly on the 1 <sup>st</sup> Wednesday
<b>Venue</b>	Meetings will be held at the Blue Haven Terralong Independent Living Units meeting room
<b>Membership</b>	<ul style="list-style-type: none"> <li>• Mayor plus minimum of two nominated Councillors</li> <li>• Up to seven non Councillor representatives</li> <li>• Staff representation from the following Council departments: Blue Haven and General Manager</li> <li>• Other Council officers as required.</li> <li>• A representative nominated by the Friends of Blue Haven</li> </ul>
<b>Meeting Quorum</b>	A Quorum will be deemed to have been met under the following criteria: <ul style="list-style-type: none"> <li>i. Minimum of 50% plus 1</li> </ul>
<b>Meeting administration</b>	<ul style="list-style-type: none"> <li>• Meetings are to be chaired by a Councillor or Chairperson elected by the committee and endorsed by Council.</li> <li>• Minutes will be taken by a representative of Council.</li> <li>• Minutes are required to be submitted for the next Blue Haven Board (Council) meeting immediately following the committee meeting.</li> <li>• Minutes and agendas will be circulated no less than seven days prior to next scheduled meeting.</li> </ul>
<b>Selection of members</b>	When positions become vacant the selection of new committee members will be undertaken: <ul style="list-style-type: none"> <li>i. through a public invitation for EOI by applicants</li> <li>ii. by consideration of applications by Council</li> </ul>

	<p>iii. by Council approval of successful applicants</p> <p>The following factors will be taken into consideration when determining members:</p> <ul style="list-style-type: none"> <li>i. the person's relevant experience and expertise</li> <li>ii. whether the person is a resident of the Kiama Local Government Area</li> <li>iii. there is a gender balance</li> <li>iv. there is representation from across the full Kiama geographical area</li> <li>v. cultural and age diversity is represented</li> <li>vi. committee members are able to demonstrate that they are "connected and representative" of the community</li> </ul>
<b>Responsibility</b>	<p>Committee members will:</p> <ul style="list-style-type: none"> <li>i. act in an advisory role to Council staff</li> <li>ii. provide strategic guidance on implementation of programs and initiatives</li> <li>iii. participate in working parties as needed</li> <li>iv. at all times comply with Councils Code of Conduct</li> <li>v. at all times contribute in a positive and respectful manner</li> <li>vi. avoid disruption, contrary conduct or being wasteful of time and resources</li> </ul>
<b>Term of membership</b>	<p>Non-Councillor membership of the Blue Haven Advisory Committee will for a four year term, commencing September, mid-term of the elected Council.</p> <p>NB: Committee members may reapply to serve on consecutive terms.</p>
<b>Termination of membership</b>	<p>Non Councillor member positions will be declared vacant/terminated when a member:</p> <ul style="list-style-type: none"> <li>i. completes their designated term and retires from the committee</li> <li>ii. competes their term and is not re appointed</li> <li>iii. resigns their membership, in writing, to the Chairperson</li> <li>iv. fails to attend more than 75% of scheduled meetings unless granted special leave of absence by the Chairperson</li> <li>v. acts in a way that is contrary to their responsibility as outlined (above).</li> </ul> <p>NOTE: Council on the recommendation of the committee chairperson reserves the right to terminate appointments in instances where behaviour is considered excessively disruptive and contrary, is a breach of the Code of Conduct, is deemed inappropriate or is regarded as failing to provide productive and valued input.</p>

Item 13.1

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<p><b>Process for termination</b></p>	<p>Where a (non-Councillor or staff) committee member's behaviour is considered unsatisfactory and contrary to their responsibilities (identified above), the Chairperson will draw this to the attention of the relevant committee member and reinforce the required level of conduct. The Chairperson will make a written record of this and provide to a relevant council officer for recording. The committee member will be able to sight and sign the written record.</p> <p>Where there is re-occurrence of unsatisfactory behaviour the committee member will be warned formally in writing by the Chairperson. Counselling (to be provided by the General Manager or Public Officer) will reinforce the standard of conduct expected as well as the implications of the behaviour on the committee members and Council. In addition counselling will reinforce potential for termination from the committee should the behaviour continue. A written record shall be kept of the formal warning and counselling.</p> <p>If the committee member's behaviour does not improve after the formal warning and counselling, the committee member's appointment may, on the recommendation of the Chairperson, be terminated by Council resolution.</p>
<p><b>Code of Conduct</b></p>	<p>At all times Councillors, employees, Council officials and Advisory Committee members must comply with Council's Code of Conduct.</p>

**Item 13.1**

**Attachment 1**

## 14 REPORTS FOR INFORMATION

### 14.1 Annual tabling of Designated Persons Returns

Responsible Director: Office of the General Manager

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Under Section 449 of the *Local Government Act 1993*, a Councillor or Designated Person holding that position as at 30 June of any year, must complete and lodge with the General Manager, within three months after that date, a return of disclosure and interest in the form prescribed by the regulations.

Under Section 450A of the Act the General Manager must keep a register of the returns lodged under Section 449 and they must be tabled at a meeting of the Council being the first meeting held after the last day for lodgement which was 30 September 2018.

The Register of Designated Persons' Disclosures will be tabled at the meeting.

**14.2 Clause 4.6 Variations to LEP Development Standards**

Responsible Director: Environmental Services

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Attached for information is a table listing all clause 4.6 variations for July, August and September 2018.

**Attachments**

- 1 Clause 4.6 variations table - July, August and September 2018 [↓](#)



### Variations to Development Standards – July/August/September 2018 Reporting Period

Council DA reference number	Street No	Street name	Suburb/Town	Category of development	Zoning of land	Development standard to be varied	Extent of variation	Date DA determined	Approved by Council or Delegation
10.2018.103.1	16	Greta Street	Gerringong	Medical Centre	R3 – Medium Density	Height of Building Clause 4.3	4.5%	18/09/2018	Council
10.2018.148.1	3	Fadden Street	Kiama	Dwelling & Swim Pool	R2 – Low Density Residential	Floor Space Ratio Clause 4.4	4.4%	18/09/2018	Delegation
10.2017.348.1	8	Pheasant Point Drive	Kiama	Dwelling & Swim Pool	R2 – Low Density Residential	Height of Buildings Clause 4.3 & Floor Space Ratio Clause 4.4	9.4% 8.2%	07/08/2018	Delegation
10.2017.255.1	17	Ocean Street	Kiama	Dwelling	R2 – Low Density Residential	Floor Space Ratio Clause 4.4	5%	12/07/2018	Delegation

Reports for Information

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**14.3 Minutes: South Precinct Committee meeting held on 20 September 2018**

Responsible Director: Office of the General Manager

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Attached for Councillors' information are the minutes of the South Precinct Committee meeting held 20 September 2018.

**Communication/Community Engagement**

Councillors and staff regularly attend and address Precinct meetings.

**Attachments**

- 1 South Precinct Meeting Minutes 20/09/18 [↓](#)

**MINUTES OF THE SOUTH PRECINCT MEETING  
held on Thursday 20 September 2018 at  
Gerringong Town Hall**

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**Attendance:** As per the Attendance Book (17 present)

**Apologies:** Stephen Brazier; Linda Brazier; Shirley Cody;

**Executive:** Raewyn Thomson and Chris Cassidy in Attendance.

**Meeting opened:** 7.30 pm

**Welcome to Special Guests:** Nil

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**Minutes of Previous Meeting:**

**MOVED:** Rob Cody/Eric George that the Minutes of the previous Meeting held on July 19 be accepted as true and correct.

**CARRIED.**

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**Business Arising:** Rob Cody asked about the Parking in Figtree Lane. The Mayor made mention of this at the last Meeting, nothing commenced as yet.

**MOVED:** Rob Cody/Eric George that the Minutes be adopted.

**CARRIED.**

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**Correspondence IN:**

- 1. Letter from Strategic Planner/Development Assessment Officer concerning a Planning Proposal to amend the Kiama LEP 2011 to permit certain types of Tourist & Visitor Accommodation in Non-Urban Areas, and an Amendment to Chapter 13 of the Kiama DCP 2012 to introduce Eco Tourist Facilities Controls. The Planning proposal will be on exhibition to September 16, 2018. Any comments should be in writing and directed to the General Manager by 4.00pm on 20 November 2018.
- 2. Letter from Gareth Ward MP concerning the Berry-Bomaderry upgrade. Major work has commenced on the 10.5 kilometre upgrade of the Princes Highway between Berry and Bomaderry.

- 3. Letter from Gareth Ward MP concerning Kiama Council's Library being able to expand their collections and carry out major upgrade work to extend their service.
- 4. Letter from Gareth Ward MP concerning the provision of extra Train carriages on the South Coast Line on the 3.24pm and 3.54pm weekly Train Service. He is calling on the Minister for Transport to provide 4 extra carriages on each service to alleviate over crowdedness.
- 5. Letter from Gareth Ward MP concerning the 2018 Kiama Electorate Community Recognition Awards. They will be on the 22<sup>nd</sup> of October at the Kiama Pavilion. Nominations will remain open until 5.00pm on Monday 15 October.
- 6. Letter from Gareth Ward MP concerning an approach made to him by the Gerringong Community Garden in relation to funding the initial setup of the garden. Support for funding can be done by accessing his online partition.
- 7. Correspondence from Lauren Watkins Library Officer now permanently situated at Gerringong Library. It had been suggested that she contact the South Precinct to see if there was anything that the Library and the South Precinct could get involved in, e.g. occasional market stalls, Christmas Parade. Seeking a contact for any such involvement.

On being advised of the outcome of the Mayoral Election, the Meeting requested that letters of congratulations be sent to Councillor Mark Honey on his re-election as Mayor and Councillor Andrew Sloan on his election as Deputy Mayor.

**Correspondence OUT**

- Nil

**EXECUTIVE REPORT**

**Raewyn Thomson** presented the following Report:

Tuesday's Council Meeting saw Councillor Mark Honey re-elected as Mayor and Councillor Andrew Sloan elected as Deputy Mayor. Kiama Council raised some objections to the State Government's 20 Year Economic Vision for Regional NSW. In particular, Council objected to the categorisation of Kiama as a Metro Satellite Region. Council had not been consulted about this and requested that Kiama be re-categorised as a Coastal Region. Council will also seek support from the Local Member, Gareth Ward MP on this matter as well. Council will seek confirmation that the green space boundary between Gerringong and Gerroa be retained.

There has been an \$89,000 Boost for Coastal and Estuary Protection Projects across our Region. \$13,500 for the Minnamurra Coastal Wetlands rehabilitation program, \$12,500 for the Blue Angle Creek erosion controls options analysis. These Grants are part of 19 approved Coastal and Estuary implementation Grants to 16 Councils

totalling over \$2.6 Million for a range of projects from beach erosion mitigation to Coastal Wetland rehabilitation.

Council recommended as part of the 2018-19 Quarterly Budget Review process to resolve to allocate \$11,500 from the Holiday Parks Reserve and \$4,500 from the Environment and Sustainability Reserve, as it's contributions to each of the Funding offers submitted under the NSW Estuary Program.

In a **Mayoral Minute** at the Council Meeting of 18 September, Council formally congratulated Mrs. Doreen Woods for her dedication and years of service to the Gerringong Senior Citizens Club and the Local Community. Doreen's involvement with the Club has spanned over 30 years, and for most of that time has performed the duties of Secretary. Doreen was awarded the Commonwealth Recognition Award for Senior Australians in 1991 and was the recipient of the Kiama Council Award for Service to the aged in 2009.

Council has resolved to provide a Donation of \$1,000 to LP Entertainment for the Rural Aid Concert on November 15. Council also resolved to provide free reserve hire for a local sporting ground and assistance with Traffic control if needed.

#### **Access Committee Report**

Chris Cassidy advised that there has been no Meeting of the Committee since the last South Precinct Meeting, the Committee next meets on October 5 and a Report can be presented at the October meeting.

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#### **Council Papers**

##### **DA's**

Expressions of Interest called for 15-17 Blackwood St. Gerringong. This is an opportunity to acquire the site comprising the amalgamation of two residential properties. Zoned B2 Local Centre, 3445m<sup>2</sup>. Large scale Development opportunity for Child Care, Medical Centre and Commercial/Retail. Restricted Zoning and Height surrounding the site, next door to Gerringong IGA and other Retail Shops.

17 Noble St. Gerringong. 8 lot strata subdivision of existing mixed use Development

14 Croft Place Gerringong. Uniting Church Site. This will be discussed later in General Business

**TRAFFIC COMMITTEE**

Darryl indicated that there was nothing officially to report, he advised that issues concerning the Croft Place DA will come before the Traffic Committee for consideration.

**Treasurer's Report**

A short update was presented that noted our current Balance of \$444.97 reported to the last Meeting remains unchanged.

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**Motions of which prior Notice had been Given**

Rob Coady was the first Speaker for the evening. Rob was speaking against a **Council approval for a Medical Centre** in Gerringong. The approval was to construct a Medical Centre in a Residential allotment Zoned R3- Medium Residential. He indicated that this Zoning specifically excludes Medical Centres and also contravenes Kiama Council's own LEP and DCP. Rob spoke to his Motion pointing out the Zoning and DCP issues. The Motion was seconded by Ken Sandy who did not speak to the Motion. Notwithstanding the Zoning and DCP issues, it was pointed out that a SEPP overrides these matters and that Council had recently lost a similar argument in the Land and Environment Court. The following Motion was put:

**MOVED:** Rob Coady **SECONDED:** Ken Sandy that "South Precinct is very disturbed that Kiama Council ignored its own Planning Zone conditions in that it approved DA 10.2018.103.10 an application to construct a Medical Centre in a residential allotment Zoned R3".

**MOTION: LOST**

The next speaker was James Wraith. James addressed the meeting on the ongoing issues concerning the construction of a Residential Care Facility at 14 Croft Place. This matter has been the subject of earlier Meetings and James had provided extensive Documentation to outline the concerns shared by James and the other residents of Croft Place. Whilst indicating support for the improvements to this business and recognising the benefits to the Community, there were still matters of concern. It was put by James that information during the public consultation period was lacking in critical details and that there were inconsistencies within the DA documents. Further that the traffic conditions had changed and the current location access point is no longer appropriate in that it is now located on a blind corner where a high volume of children walk and cycle. Other issues raised by James were noise and disturbance from business activities and a 24 hour service, lack of a Construction Waste Management Plan. The following Motion was put:

**MOVED:** James Wraith **SECONDED:** Darryl Clingan that " the South Precinct endorse the attached Letter ( letter forwarded to Council); community concerns and the relocation of the access point to this business need serious consideration by Kiama Councillors and Staff. Moreover, we ask that the South Precinct support our request that Kiama Council defer a decision on

this DA until (1) alternate designs that relocate the access point are formally submitted and (2) a Public Exhibition of accurate and comprehensive associated Documents are available for public consideration and comment”.

**MOTION CARRIED.**

Arising from discussions on this matter a **further Motion** was proposed relating to Documentation concerning the proposed DA. The following motion was put:

**MOVED:** Darryl Clingan **SECONDED:** Raewyn Thomson that “an invitation be extended to the General Manager of Kiama Council together with Senior Planning Staff, if required, to indicate to the South Precinct about what is contained in the Master Plan for this Development”.

**CARRIED.**

The next issue for discussion was the **Kiama Coastal Walking Track – Gerringong to Gerroa**. Howard Jones advised that the Walking Tracks and Cycleways Committee identified options that would allow Council to take full advantage of Funding opportunities that may arise early in 2019. He went on to say that the Committee gave a top priority to an extension of this Track. He further noted that the Tourism Opportunities Plan made reference to the completion of the Track. It may also be the case that the NSW Government could provide Funding for such Ecotourism projects and that considerable work had been done on completion of Stage 1. There is no mention of these matters in Council’s Operational Plan for 2019. At the conclusion of debate the following Motion was put:

**MOVED:** Howard Jones **SECONDED:** Michael Hindmarsh that “ South Precinct notes;

- (1) the Reference in the Tourism Opportunities Plan to completion of the extension of the Coastal Walking Track from Gerringong to Gerroa;
- (2) that this extension is top of the priorities established by the Kiama Council Walking Tracks and Cycleways Committee;
- (3) that Funding for the ecotourism projects could be available from the NSW Government prior to the next State Election;
- (4) that Council and the State Government have considerable expertise flowing from the successful completion of Stage 1 from Loves Bay to Kiama to Werri Beach in Gerringong”.

And requests:

“Council, through the Director of Engineering and Works, to prepare a Report for Council and the Walking Tracks and Cycleways Committee which identifies options which allow Council to take full advantage of Funding opportunities that may arise early in 2019”.

**CARRIED.** The Meeting also requested that a copy of this Motion also be sent to Gareth Ward MP.

Our next speaker was Ken Sandy who gave a brief update on **the proposed Abattoir for Rose Valley**. Ken has addressed many previous Meetings and outlined some further issues causing concern. Ken expressed the view that there has been a lack of Documentation forthcoming even though many changes have been made to the original proposal. An Application was made under **GIPA** ( Government Information Public Access) for information, Council indicated that release of such Documentation may prejudice Council’s



deliberations on the matter. An Application was then made to the Information and Privacy Commission. Their view was that Council needs to reconsider their position, and that is now taking place. The Meeting remained concerned about transparency of Documentation provided to residents on DA matters. **The Meeting also requested that we write to Councillor Mark Westhoff** regarding this matter.

**GENERAL BUSINESS**

Darryl Clingan spoke about the issue of indemnity for South Precinct and whether members are covered by Kiama Council. The matter has been raised at CCAG Meetings. It does not appear that Precinct Committees are governed by Legislation. There is a view that it was originally intended that such Committees come under the umbrella of Council. Further clarification is still required.

Michael Hindmarsh distributed a one page Document that he had forwarded to The Mayor on the topic of the “ Chinese wasp” and the deleterious effect that it was having on our environment. Council’s Environment Manager is aware of the dangers caused by this infestation and it was requested that South Precinct informs Council that it is **urgent** that the matter be attended to for the protection of our unique Environment.

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**Meeting closed:** 9.05 pm

**NEXT MEETING:** Thursday October 18, 2018.

.....  
Chairperson

.....  
Secretary

Reports for Information

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**14.4 Minutes: Minnamurra Progress Association meeting held on 2 October 2018**

Responsible Director: Office of the General Manager

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The minutes of the Minnamurra Progress Association meeting held on 2 October 2018 are attached for Councillors' information.

**Communication/Community Engagement**

Councillors and staff regularly attend and address Association meetings.

**Attachments**

- 1 Minnamurra Progress Association - minutes - meeting 02/10/18 [↓](#)

MINNAMURRA PROGRESS ASSOCIATION -----MINUTES 2<sup>nd</sup> OCTOBER 2018.

PRESENT: Cliff MASON, Bruce COLE, Graeme COLLINSON-SMITH, Nellie DELHAAS, Aapo SKORULIS, Robert WESTLEY, Rae McCYLMONT, Peter MASON, Sarah & Debbie BLAIR, Arthur and Robyn SMITHERS, John & Kath LeBAS, Selwyn & Cathy HOLLAND, Wayde SIEMSEN, Ray SMITH, Vicki & Murray STEELE, Andrew WILSON [21 members] + **Guests** Deputy Mayor Andrew SLOAN & Brodie BOLTON & Ben WILLIAMS (Boral) & **visitor** Wayne NICHOLSON. **Total attendance: 25.**

APOLIGIES: Mayor Mark HONEY, Cncl Mark WAY, Pat PHELAN, Ian DODSWORTH, Barry MAHONEY, Janice WESTLEY, Del DRAXL. Apologies were accepted.

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MEETING OPENED 7.15 PM.

\*Cliff MASON in the Chair. He welcomed the new Deputy Mayor Andrew SLOAN, and our guests from BORAL (Dunmore Quarries), Members and visitors.

MINUTES 4<sup>th</sup> SEPTEMBER: Moved: Ray S., Seconded: Nellie D., CARRIED.

\*Cliff & Aapo met with the new School Principal, Ms Linda Wilbraham, to renew hall rental agreement at a cost of \$166.15. We discussed concerns re the safety of children drop-off in front of the school, and possibility of using school land for a drive-in drop-off area. The School P&C has mentioned this, so the Principal undertook to try and arrange a meeting with the P&C.

\*A meeting will be organised with Gareth Ward once we've spoken to the P&C, and also discuss with him use of Railway land for parking at Minnamurra Station.

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CORRESPONDENCE: 1. From KMC re changes to LEP 2011 and DCP 2012 for holiday rentals, tree policy. Interested members should inspect the changes at Council. D/Mayor Andrew asked us to lookout for community workshops discussing long-term strategic planning for Kiama.

2. Letter of appreciation sent to Norma Gore, Minnamurra Progress Ladies Auxiliary upon receipt of \$30.60 being 50% of insurance/rent.

3. Letters of congratulation sent to both Mayor Honey & D/Mayor Sloan on their recent election.

4. Email to Kiama Council re DA, querying position of proposed Telstra mobile tower opposite Federal St intersection (behind Minnamurra sign).

Moved: Robert W., Seconded: Nellie D., CARRIED.

The Treasurers report was deferred until after our guests from Boral spoke.

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GUEST SPEAKERS: President Cliff introduced and welcomed Brodie Bolton, Boral Quarry Manager and Ben Williams, Boral Environmental Co-ordinator to the meeting explaining that some concerns had been expressed at our last meeting regarding dust settling on Minnamurra from the quarry.

Brodie distributed a "Boral Dunmore Quarry Community Update" bulletin prepared for this meeting and spoke about "What we do", the current state of their operations, plans for expansion and

environmental monitoring. The basalt quarry is the second biggest in NSW (after Bass Point) extracting 2.5 million tonnes annually with planning approvals in place until 2034, to extract 30 million tonnes of aggregate for the Sydney market. They are trialling a new system to blast once per month, rather than smaller weekly blasts, to reduce noise and any vibration.

In dry weather, most of the dust is caused by truck movement on the access roads so they have a watering truck to reduce this. They also dampen the blast area to minimise dust. They have committed to upgrading their dust monitoring system to replace it with an EPA recommended real-time system, so they can be more pro-active depending upon weather conditions. When questioned, they advised that it would be another 6 – 18 months before this came online, which caused some concern amongst members.

Following questions, they described the current sand mining operation at Dunmore with three pond areas. They are currently backfilling the topsoil around the backs and tree planting to restore the area. Questions were raised regarding king tides and large rain events potentially causing flooding and siltation. Concern was also expressed about “milky water” seeping into the smaller creek tributaries. They stated that they monitored ground water levels (over the last 1 years) and ceased operations during major rain or flood events but stated that their ponds would not overflow into the river.

After all questions, Pres. Cliff thanked the speakers & presented a copy of Minnamurra Memories and this was carried with acclamation. Members were invited to ring them with any future queries.

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TREASURERS REPORT: Presented by Aapo (as shown below)

Moved: Aapo S, Sec: Ray S., CARRIED.

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GENERAL BUSINESS:

1. Telstra Mobile Tower DA Proposal: Pres. Cliff described Telstra’s application to Kiama Council to replace the current 8m light pole overlooking the tennis courts in James Oates Reserve with an 8.5m pole that would hold a mobile phone antennae (and the light fitting) and install a 1 cubic metre junction box at ground level opposite the Federal St and Charles Ave intersection, overlooking the Minnamurra River entrance. He noted that their plans conflicted with each other one indicating that the new pole would be erected behind the old Minnamurra Railway Station sign, which is not acceptable. The DA is 10.2018.226.1 and plans can be downloaded from Councils DA website. It was noted that the electromagnetic radiation from the proposed tower appeared to be minimal and that the new tower would certainly improve mobile reception for many Minnamurra residents, and not just for Telstra customers. The meeting agreed that Pres. Cliff should continue discussions with Council to clarify details of the installation and if necessary, make a submission on behalf of the Association.
2. 200<sup>th</sup> Anniversary of the Minnamurra Massacre: Some members attended the gathering on 1<sup>st</sup> October, however, the Association had not been advised of the event, and so was not formally represented. They indicated that it was well attended and found it interesting and informative. The Mayor announced that commemorative plaques for this and other historical items are to be installed on the new boardwalk.
3. Raffle won by Robert Westley.
4. Tea hosted by Rae McClymont with thanks.
5. Ina Dodsworth., to host next meetings supper. 6<sup>th</sup> NOVEMBER.

6. Guest speaker will be Byron Robinson (KMC) – update on the Minnamurra River Estuary Plan.

MEETING CLOSED 8.30 PM FOR SUPPER.

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Treasurer update

*49 Members recorded to date for 2018/19.*

*4 September meeting raffle raised \$27.*

*Deposited \$50.00 on 5 September 2018 and \$345.60 on 24 September 2018.*

*Finalised hall rental agreement with NSW Dept of Education for 2018/19 – paid annual sum of \$166.15 and the cheque was presented on 27 September 2018.*

*Received a contribution of \$340.60 - from the Minnamurra Progress Association Ladies Auxiliary being a 50% contribution towards the hall rental and public liability insurance.*

*Commonwealth Bank was approached to increase our term deposit interest from 1.25%pa to 1.9%pa – this was agreed, and the term extended for an additional 12 months.*

*We received \$13.75 interest on our term deposit account.*

*We have:*

*\$1,113.75 in a term deposit trust account,*

*\$1,070.69 in our cheque account, and*

*\$10 in cash*

*– a total of \$2,194.44*

*All receipts have been delivered*

Reports for Information

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**14.5 Minutes: Central Precinct Committee meeting held on 25 September 2018**

Responsible Director: Office of the General Manager

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The minutes of the Kiama Central Precinct committee meeting held on 25 September 2018 are attached for Councillors' information.

**Communication/Community Engagement**

Councillors and staff regularly attend and address Precinct meetings.

**Attachments**

- 1 Kiama Central Precinct - minutes - 25/09/18 [↓](#)

**Minutes of KCP Meeting - September 25 2018****Joyce Wheatley Centre****Attendance**

Annette Levering, Chris George, Bruce Ryan, Marianne Ryan, Andrew Sloan, Denise Credaro, Gwyneth Rhys, Geoff Pratt, Heather Bell, Gordon Bell, Ron Parkinson, Sue Eggins, Ian Yabsley, Laraine Conder, Gail Stewart, Betty Makin, Jean Onions, Carolyn Worthy, Anne Greaves, Mark Greaves, Andy Higgins, Kim Elder, Bruce Elder, Geoff Wilson, Karen Fowler, Neill Reilly, Peter O'Neill, Karen Lang.

Opened 7.00pm

1. Welcome to everyone - thank you Andrew Sloan for coming tonight as our guest  
Speaker
2. I would like to acknowledge the traditional owners of the land on which we meet. I would also like to pay my respects to the elders past and present.
3. Apologies  
Margaret Watson, Roz Davies, Laurie Madden, Doug Faulkner, Heather O'Neill and Chris Murray, Libby Eggins, Vicky Murray, Dave Evans, Tamara Campbell, Fran Carter
4. Minutes of the last meeting – everyone received copies
5. No Business from the last meeting
6. Correspondence  
Public Exhibition letter of 17 September, 2018
  - Peter O'Neill talked about the possibility of major Eco Tourism development.
  - Andrew Sloan said he had heard that National Parks would like to put an Eco Tourism resort at Minnamurra Falls.
  - Issue raised about development at Jamberoo Recreation Park.
  - Andrew Sloan explained that the development had been rejected.
  - Letter attached and members asked to comment on proposal.
7. Akuna St
  - Kim Elder explained that she and Peter had spoken to Linda Davis at Kiama Council.
  - The JRPP asked for a number of changes, that have largely been implemented. There are now 96 units, all 1 and 2 bedroom – down from 100 units. Nicholas Daoud has now taken away the 3-bedroom units to allow for communal open space.
  - Existing Objections
    - a) No additional car parking space and no replacement for the lost public car parking.
    - b) Traffic issues still remain the same.



- c) The commercial space in the blocks is still reduced
- d) All the blocks are still over the 11m height limit.
- e) Commercial ceiling height hasn't been complied with
- f) There is still no deep soil zone and the majority of trees are still being removed.
- g) Ticketed parking may cause problems for traffic flow entering and leaving Shoalhaven St, which is currently 1 lane each way. This hasn't been addressed in the DA traffic report.
- h) Old objections to the development still apply but they can be resubmitted in light of the modified DA.

- Mr Daoud has changed the façade and pedestrian access and added a lift. He has stated that he is not applying for affordable housing status.
- Susie Eggins suggested that Council could sell their site as two lots.
- Question about Aldi – this is a commercial decision and not related to the DA.
- Question about Council's ownership and what plans the Council has for the site.
- Karen asked "Should we invite Nicholas Daoud to a meeting to explain his proposal?"
- Comment from Chris George that Kiama Council should never have let Daoud get involved. He has the council hopping and dancing to his tune. Karen argued that he should still be invited. Put to a vote. It was voted down 13 against, 12 for.

#### 8. Late opening of Blue Diamond

Susie Eggins spoke about the late opening. The following points were raised,

- It is a new hotel in an old residential area
- They now they want to stay open to 2.00 am, when there are currently problems with midnight closing.
- She requested that the KCP write a letter to the Liquor and Gaming Board requesting the application be refused.  
Bruce Ryan spoke:
- A re-run of an old issue. They have not been incident free. Listed all the incidents involved.
- Alcohol-fuelled incidents increase with late night drinking – used figures from Newcastle and Sydney. Kiama should not open up another late-night venue.
- Meredith Yabsley made the point that the bar area can be very noisy.
- Susie Eggans – proposed that Kiama Central Precinct opposes the application for a liquor license to Sebel to open until 2.00 am.
- Moved: Bruce Ryan
- Seconded: Meredith Yabsley
- Vote – Unanimous against the additional hours.
- Letter will go to the Liquor and Gaming Board.

#### 9. Andrew Sloan spoke to the group on his vision for the future of Kiama.

- talked about planning and development issues. Better planning and development to protect the unique character of Kiama needed.
- talked about the uniqueness of the district – green rolling hills. Protection of Heritage sites around town should be high priority.
- wants to enhance the reputation of the Council
- sustainability – set goals for Council, solarise the Council, initiatives to reduce carbon and use of energy. Can Council become carbon neutral?
- need to get traffic out of west Terralong Street
- issue of drainage at sports venues
- praised the development at the southern end of Surf Beach as a model of good development
- determining what needs to be protected with a 20 year vision and strategic plan.
- encouraged people to get involved in a vision for the future of the town
- the town centre study – will look at streetscapes as well as business priorities.

Chris George made the point that the Council cannot seem to control development and that the council is not fighting to protect the green space around their town.

Andrew pointed out that it was a fight with the State Government. They have control and have tried to increase development. One of the problems is that Gareth Ward does not seem to support control of Kiama development.

Andrew pointed out that the State Government can take control away from the Council and that developers can always appeal against Council decisions.

Karen raised the issue about population as a growth area. Pointed out that on 2016 figures Kiama is averaging 152 dwellings per annum that would satisfy government dwelling numbers. Why are we developing so fast?

Andrew pointed out that Council did try and control the boom. It is a constant fight against the State Government.

Neil Reilly pointed out that the numbers of dwellings were handed down by State Government. We have a population of 19,700 to 20,400. We are a creature of the State government and we can do very little about.

Karen pointed out that a development in Sydney had been refused by the JRPP as it wasn't considered necessary to meet government targets.

Meeting finished at 8.20 pm

Next meeting: 23rd October.

**14.6 Appointment of Auditor - year ending 30 June 2019 and beyond**

Responsible Director: Office of the General Manager

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Attached for Councillors' information is a letter from the Auditor-General of NSW advising that Deloitte Touche Tohmatsu (Deloitte) have been appointed as the audit service provider to perform the annual financial audit of Kiama Municipal Council.

Deloitte will carry out the annual financial audit for a period of four years, with an option to extend a further two years. This arrangement will begin the year ending 30 June 2019.

**Communication/Community Engagement**

N/A

**Attachments**

- 1 Appointment of Audit Service Provider [↓](#)

Item 14.5

Attachment 1



Mr Kerry McMurray  
General Manager  
The Council of the Municipality of Kiama  
PO Box 75  
KIAMA NSW 2533

Contact: Dominika Ryan  
Phone no: 9275 7336  
Our ref: D1821656

25 September 2018

Dear Mr McMurray

**Audit arrangements for the year ending 30 June 2019 and beyond**  
**The Council of the Municipality of Kiama**

In June this year, I wrote to inform you of my intention to appoint a suitably qualified and experienced audit service provider (ASP) to perform the annual financial audit of The Council of the Municipality of Kiama.

Following a competitive open tender process, I am pleased to inform you that my Office has appointed Deloitte Touche Tohmatsu (Deloitte) to carry out the annual financial audit of The Council of the Municipality of Kiama for a period of four years, with an option to extend a further two years. This new arrangement will begin the year ending 30 June 2019. The lead partner from Deloitte is Stewart Thompson. Deloitte has also been appointed as the ASP for several other local councils in the same region.

The Audit Office director responsible for your audit will introduce you to Stewart Thompson at the end of the current audit cycle. They will also work with the current ASP to ensure a seamless transition.

My Office looks forward to working in collaboration with your council and Deloitte to deliver a high-quality audit service that maximises value for money and generates insights that challenge and inform government to improve outcomes for citizens.

Should you require any further information, please call Dominika Ryan, Director Financial Audit on 9275 7336 or via email at [Dominika.Ryan@audit.nsw.gov.au](mailto:Dominika.Ryan@audit.nsw.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Margaret Crawford'.

Margaret Crawford  
Auditor-General of NSW

**14.7 Capital Works Schedule Update**Responsible Director: Engineering and Works

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As per the 2018/2019 Capital Works Program the following activities completed are:

**Capital Renewal**

- South Bombo Beach access footpath
- Coronation Park seating replacement

**Road Surface Capital Renewal**

- Hillview Circuit AC reseal Seg 01 South Kiama Drive to Hillview Circuit
- Kaleula Crescent AC reseal Seg 01 Marsden Street to Marsden Street
- Marks Street AC reseal Seg 01 to Seg 02 South Kiama Drive to railway bridge
- Wilson Street AC reseal Seg 01 to Seg 02 Marks Street to Ocean Street
- Burnett Avenue AC reseal Seg 01 to Seg 04 Fern Street to Carinya Way
- Moore Street AC reseal Seg 01 Pacific Avenue to Renfrew Road
- Ocean Street AC reseal Seg 01 Wilson Street to end
- Renfrew Road AC reseal Seg 01 Park Lane to Sandy Wha Road
- Robson Place AC reseal Seg 01 Armstrong Avenue to end
- Sandy Wha Road AC reseal Seg 01 Pacific Avenue to Renfrew Road
- Sharpe Place AC reseal Seg 01 to Seg 02 Rowllins Road to end
- Wells Street AC reseal Seg 01 to Seg 02 Short Street to end east
- Werri Street AC reseal Seg 01 Renfrew Road to Pacific Avenue
- Park Lane AC reseal Seg 01 Pacific Avenue to Renfrew Road
- Holt Street AC reseal Seg 01 Johnson Street to Eureka Avenue
- Talinga Avenue AC reseal Seg 01 to Seg 02 North Kiama Drive to Merindah Avenue
- Charles Avenue AC reseal Seg 01 to Seg 06 Railway Avenue to Rangoon Road
- Railway Avenue AC reseal Seg 02 to Seg 05 Links Street to Charles Avenue
- Riversdale Avenue AC reseal Seg 01 Oxley Avenue to Hoolong Avenue

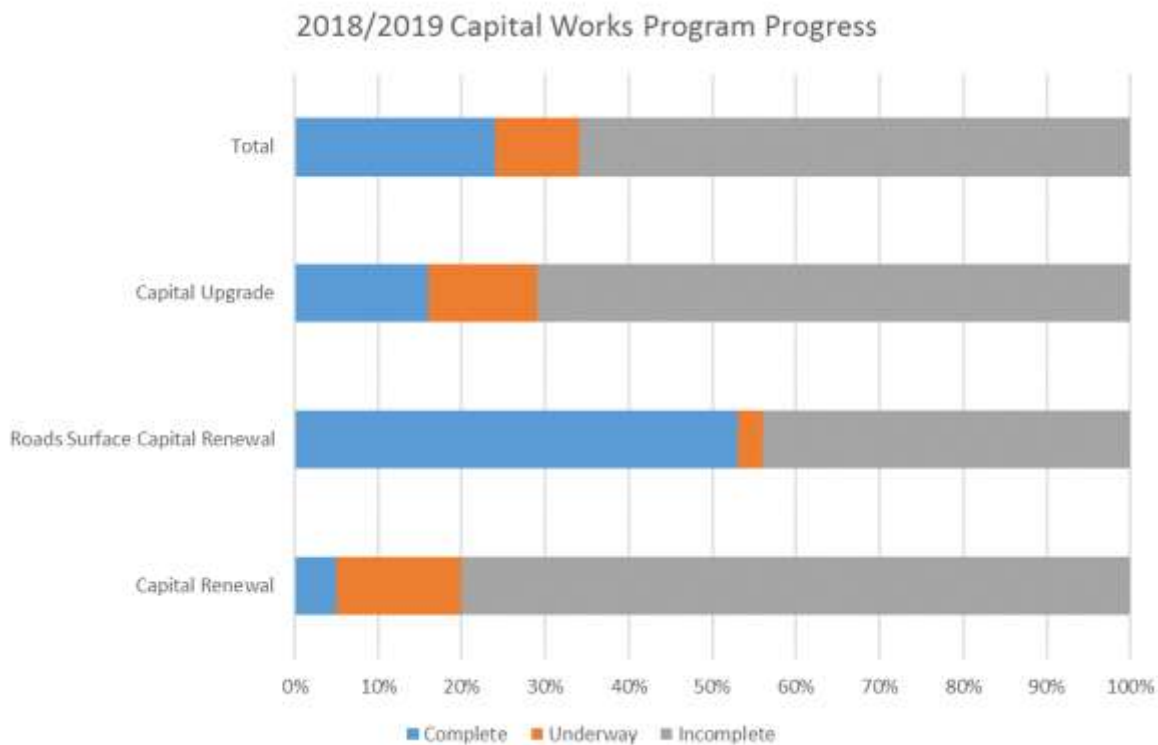
**Capital Upgrade New**

- Gerringong Library and Museum (shed move complete)
- Bonaira Oval - Allambie Crescent - cycleway extension
- Footpath 9 Nile Close to Fern Street

Reports for Information

- Kiama Sports Complex Carpark 2
- Water bubbler station - Blowhole Point near Visitors Information Centre
- Water bubbler station - Gainsborough Skate Park

The following chart summarises the percentage of work completed or in progress at the end of the first quarter:



Approximately 35% of the total works program has been completed or is currently due to be completed, which is well ahead of the program for the 1<sup>st</sup> quarter.

**14.8 Councillor Reilly report - Local Government NSW course: Community and Stakeholder Engagement**

Responsible Director: Office of the General Manager

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Attached for Councillors' information is the report from Councillor Neil Reilly on his attendance at the Local Government NSW course, Community and Stakeholder Engagement, on 21 September 2018.

**Communication/Community Engagement**

A Councillor is required to furnish a report on any attendance at a course, workshop or conference.

**Attachments**

- 1 Report on Community and Stakeholder Engagement course [↓](#)



# Community and Stakeholder Engagement

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## A Report By Councillor Neil Reilly

Local Government NSW (LGNSW) is the peak organisation that represents the interests of local government in NSW. New legal requirements are currently being introduced to promote a systematic and planned approach to professional development for Mayors and Councillors, as such this single day course on engagement not only satisfies that need in part, but the requirements of the Office of Local Government that state: *'The community is involved in each stage of the strategic planning process, including in the development of alternative strategies, identification of preferred solutions, and prioritisation.'*

The view from our council used to be 'The act says that we must seek the community's opinion, but it does not say we must head it.' Now the NSW government insists on 'a combination of representative and participatory democracy'

**"If information changes form – take it back to the people"** Martin Bass

Many tasks at the core of a council's operations require effective engagement with local communities, the business sector and other levels of government. These engagement tasks can often be challenging, with a need to balance and respond to many different points of view. This program was designed to give the participants improved skills and insights into effective community and stakeholder engagement. I am happy to say it achieved this goal.

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### **Program Content:**

1. Insights into the principles of effective stakeholder engagement
2. Consideration and analysis of the different levels of engagement
3. Practical approaches to enable effective stakeholder identification
4. Tools for effective evaluation of agency practices
5. and processes in stakeholder engagement
6. A detailed account of stakeholder engagement methods and when to apply them
7. Practical experience in planning stakeholder engagement activities and processes
8. An account of processes for effective facilitation of groups and meetings

**2** Report by Councillor Neil Reilly 24/9/2018

## Strong principles for good practice:

Martin Bass who delivered the program has had a wealth of practical experience in local government and developed a set of principles that when followed will help ensure councils get the most of their engagement strategies, stay on the right side of legislation and ensure informed decision making. At the heart of these principles are *openness* and *transparency*. Many may think that the aim of engagement is to diminish the role of staff and elected representatives. It is not. Good community engagement empowers those groups by providing information that is the anchoring point for great decisions and strategy. Staff and elected members will always make the call and accept the consequences, best that is done in an informed way, not in isolation using our own prejudices and self-interest.

	Activity	Reasoning
<b>First Step</b>	Identify Stakeholders	Identify and manage diverse interests, agendas and potential conflict
<b>Second Step</b>	Determine level of engagement	Do we need to Inform, Consult, Involve or Collaborate?
<b>Third Step</b>	Select appropriate engagement techniques	To identify the level of input, control, resources we require to effectively engage.
<b>Fourth Step</b>	Identify potential conflict	To manage this with respect and use it as a source of ideas and innovation.
<b>Fifth Step</b>	Develop an engagement plan	This considers: Communication, preparation, resources, facilitation, evaluation of outcomes

**3** Report by Councillor Neil Reilly 24/9/2018

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## The risks and rewards of community and stakeholder engagement:

### Rewards

Council policies, projects and decision making will be well directed and relevant and responsive to stakeholder needs.

Responsibility for outcomes will be shared

Council will receive 'advanced notice' of emerging issues

Strong partnerships and good relationships

Problem solving and decision making capacities of council will be increased

Council reputation will be enhanced

Council will be better able to anticipate and manage conflict

### Risks

Can elongate and complicate decision making

Stakeholders may not be willing to participate

Objectives and ultimate goals of engagement may be misunderstood

Council and stakeholder objectives may be in direct conflict

Staff may lack skills and capacity and council support to properly manage process

Financial resources may be stretched by elongated process

**4** Report by Councillor Neil Reilly 24/9/2018

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## Some innovative options we could consider:

### Stakeholder panels

Regular deliberations on broad and specific issues over a fixed period of time

### Design Workshops

Effective means for addressing complex issues

### Fishbowls

Great for contentious issues

### Policy action teams

Drawing three groups together to address policy on a specific issue (Admin, Theorists and Users)

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## Conclusion:

The course sparked a number of thoughts and means where Kiama Council could really benefit from Community and Stakeholder Engagement, done well. Our community has backed us 100% during our threatened amalgamation...we have a moral obligation to return this trust, and a legal obligation to follow our legislation in deed and spirit.

Here are some matters we should address with appropriate engagement:

1. Surf School Policy
2. Kiama Local Strategic Planning Statement
3. Town Centre Study
4. Art Space
5. Blowhole Point
6. Jerrara Options

**5** Report by Councillor Neil Reilly 24/9/2018

**14.9 Parking Statistics - September 2018**Responsible Director: Environmental Services

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**CBD Parking**

Parking patrols conducted 12 specific – 21 general area.

Infringements issued – 21.

Vehicle spaces inspected – 980.

Manning Street 2P - 1 patrols.

Manning/Surf Beach 2P – 1 patrols.

Railway Parade and Library 2P – 2 patrols.

Terralong Street 2P – 3 patrols.

Terralong Street 1/2P – 3 patrols.

Collins Street 2P – 2 patrols.

Farmer Street 2P – Nil patrols.

**School Zone Patrols**

St Peter and Paul's – 1 patrol – NIL.

Kiama High – 2 patrols – 2 PINS.

Jamberoo Public – 3 patrols – 2 PINS.

Gerringong – 2 patrols – 6 Cautions.

Kiama Public – 1 patrol – Nil.

Minnamurra – 1 patrol – 1 PIN.

**Reactive Patrols**

Bus Zone – 2 penalty notices.

No Stopping - 2 penalty notices.

No Stopping Yellow Line – Nil penalty notices.

Motor Bike – Nil penalty notices.

Not Angle Park – Nil penalty notices.

No Parking – 1 penalty notice.

Path/Strip – Nil penalty notices.

Specific patrols for October will be for locations as nominated, including school zones in response to a matter arising from the September 2018 Council meeting.

**15 ADDENDUM TO REPORTS****16 NOTICE OF MOTION**

Nil

**17 QUESTIONS FOR FUTURE MEETING****18 CONFIDENTIAL SUMMARY****CONFIDENTIAL COMMITTEE OF THE WHOLE**

Submitted to the Ordinary Meeting of Council held on 16 October 2018

**PROCEDURE**

- Recommendation to go into Closed Committee.
- Mayoral call for Public Representations.
- Consideration of Representations and issues to be removed from Closed Committee.
- Recommendation to exclude Press and Public if required.
- Closed Committee discussions if required.

**18.1 Exclusion Of Press And Public:*****RECOMMENDATION***

That in accordance with Sections 10 and 10A of the Local Government Act, 1993 as amended, Council close the meeting of the Confidential Committee of the Whole to the Press and Public on the grounds detailed under the report headings as detailed below.

**19.1 LAND AND ENVIRONMENT COURT CLASS 1 APPEALS - LEGAL STATUS REPORT - JULY, AUGUST AND SEPTEMBER 2018**

**Reason for Confidentiality:** This matter deals with advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege as per Section 10A(2)(g) of the Local Government Act. .

**19.2 LEASE RENEWAL - 100 TERRALONG STREET, KIAMA "THE COLLECTIVE KIAMA"**

**Reason for Confidentiality:** This matter deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business as per Section 10A(2)(c) of the Local Government Act. .



## 19 CONFIDENTIAL REPORTS

### 19.1 Land and Environment Court Class 1 Appeals - Legal Status Report - July, August and September 2018

Responsible Director: Environmental Services

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#### **REASON FOR CONFIDENTIALITY**

*This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.*

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### 19.2 Lease Renewal - 100 Terralong Street, Kiama "The Collective Kiama"

CSP Objective: 2 Well Planned and Managed Spaces, Places and Environment

CSP Strategy: 2.13 Effectively manage other assets to cater for current and future generations (including car parks, community buildings, cemeteries and dams)

Delivery Program: 2.13.2 Manage other assets and infrastructure by the creation and implementation of the Other Assets and Infrastructure Asset Management Plan actions

#### **REASON FOR CONFIDENTIALITY**

*This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.*

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## 20 CLOSURE