



# ORDINARY MEETING OF COUNCIL

To be held at 5pm on

**Tuesday 17 April 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 & Community 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 meetings
- 18 Confidential Summary
- 19 Confidential Reports
- 20 Closure

## Members

His Worship the Mayor  
Councillor M Honey  
Councillor K Rice  
Deputy Mayor  
Councillor M Brown  
Councillor N Reilly  
Councillor A Sloan  
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

11 April 2018

To the Chairman & 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 17 April 2018** commencing at **5pm** for the consideration of the undermentioned business.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Kerry McMurray', written in a cursive style.

Kerry McMurray  
**General Manager**

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**AGENDA FOR THE  
ORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL  
TUESDAY 17 APRIL 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 meeting held on 20 March 2018

##### Attachments

- 1 Minutes - Ordinary Council - 20/03/18 [↓](#)

##### Enclosures

Nil

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

That the Minutes of the Ordinary Council Meeting held on 20 March 2018 be received and accepted.

Item 3.1



## **MINUTES OF THE ORDINARY MEETING OF COUNCIL**

commencing at 5pm on

**TUESDAY 20 MARCH 2018**

Council Chambers 11 Manning Street, KIAMA NSW 2533

Item 3.1

Attachment 1



MINUTES OF THE ORDINARY MEETING

20 MARCH 2018

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS, KIAMA, ON TUESDAY 20 MARCH 2018 AT 5PM

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

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

**1 APOLOGIES**

Apologies were tendered on behalf of Councillors Reilly and Rice.

*OC-18/050*

*Resolved that the apologies as tendered by accepted.*

*(Councillors Steel and Way)*

**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 on 6 February 2018**

*OC-18/051*

*Resolved that the Minutes of the Ordinary Council Meeting held on 6 February 2018 be received and accepted.*

*(Councillors Westhoff and Brown)*

**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

**3.2 Extraordinary Council meeting on 1 March 2018**

**OC-18/052**

**Resolved** that the Minutes of the Extraordinary Council Meeting held on 1 March 2018 be received and accepted.

(Councillors Way and Watson)

**OC-18/053**

**Resolved** that at this time 5.02pm that Council bring forward and deal with Item 3.1 of the Addendum to Reports.

(Councillors Brown and Way)

**3.1 Extraordinary Council meeting on 15 March 2018**

**OC-18/054**

**Committee recommendation** that the Minutes of the Extraordinary Council Meeting held on 15 March 2018 be received and accepted.

(Councillors Brown and Watson)

**4 BUSINESS ARISING FROM THE MINUTES**

Nil

**5 PUBLIC ACCESS**

<b>Name</b>	<b>Item No.</b>	<b>Subject</b>
Mark Hume	9.4	Jones Beach Kiama Downs – dune vegetation damage
Alex Kelly Rebecca Ryde Richard Ryde	10.3	10.2017.56.1 Lot 280 DP 14188 – 69 Werri Street, Werri Beach – 2 Lot Torrens Title Subdivision
Dimitri Khomoutov Steve Ellington	10.5	10.2017.304.1 – Lot 72 DP 1206414 No 79 Merrick Circuit Kiama – detached dual occupancy and 2 Lot Torrens Title subdivision

## MINUTES OF THE ORDINARY MEETING

20 MARCH 2018

Name	Item No.	Subject
James Wraith	14.3	Minutes – South Precinct Committee Meeting – 15/02/18, in particular Item 5 of the Minutes – Mayflower Development DA 10.2016.265.1
Tricia Ashelford Fiona Walmsley	14.22	Question for Future Meeting: Kiama Farmers Market – parking signs

**6 MAYORAL MINUTE****6.1 Passing of Brian Longbottom***OC-18/055*

**Resolved** that Council note Mr Longbottom's passing with regret and recognise his significant service to tourism and the community.

(Councillors Honey and Steel)

Note: The Mayor also offered Council's condolences to Councillor Steel on the recent passing of his brother.

A minute's silence was held in memory of Mr Brian Longbottom and Mr Peter Steel.

**6.2 Queen's Baton Relay - 5 February 2018***OC-18/056*

**Resolved** that Council .

1. Congratulate all Batonbearers on their participation.
2. Thank Otto Kamenzin and Alice Rozynski of the Gold Coast Organising Committee for bringing the Queen's Baton Relay through Kiama.
3. Thank all Kiama LGA Schools and their Principals for participating
4. Thank Kim Duffy and Gerard King of Kiama Coaches for acting as key contact with Transport NSW, Gerringong Bus Company and Premier Coaches for all transportation movements
5. Thank the following service organisations for their participation in providing community sausage sizzles: Rotary Clubs of Kiama and Gerringong; Lions Clubs of Minnamurra, Kiama and Gerringong; and the Men's Sheds of Gerringong and Kiama.
6. Thank the Men's Shed of Kiama for their work in providing the flagpoles for the Commonwealth Parade of Flags.
7. Thank NSW Police for their participation in community and road safety

**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

8. Thank NSW Ambulance for providing staff on location at the Pavilion for entry/exit of the Seahawk Helicopter
9. Thank LCDR Belinda Finlay for her assistance in arranging the participation of the HMAS Albatross's Seahawk M60HR Helicopter for the event
10. Thank WaveFM for providing Travis Winks & Mel Greig as MCs for the Showground finale
11. Thank Kate Daly and Mallory McLennan for their outstanding support of the event
12. Thank Tony & Greg Hardy and Wayne Blackall (and their teams) for the exceptional support provided in making this event a success
13. Thank Kiama Council Volunteers for their participation in making the event a great success
14. Extend congratulations to Special Events Coordinator Carole Johnston for her work in leading the project.

(Councillors Honey and Brown)

**6.3 Donation to local schools - Music Program**

**OC-18/057**

**Resolved** that Council receive and note the report.

(Councillors Honey and Watson)

**6.4 General Manager, Michael Forsyth - retirement**

**OC-18/058**

**Resolved** that Council formally thank General Manager, Michael Forsyth on his tenure and dedicated service to Council and the community over the past 27 years.

(Councillors Honey and Sloan)

**6.5 Hull FC Team visit**

**OC-18/059**

**Resolved** that Council:

1. formally thank and congratulate Megan Hutchison on her efforts in organising a highly successful visit to the region by Hull FC.
2. Formally thank Gerringong Rugby League Club and Gerringong Surf Life Saving Club for their assistance.

(Councillors Honey and Westhoff)

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**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

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**6.6 Sharon Parker – 2018 Kiama Electorate Woman of the Year**

*OC-18/060*

**Resolved** that Council formally congratulate Sharon Parker on being awarded the 2018 Kiama Electorate Woman of the Year.

(Councillors Honey and Way)

**6.7 New General Manager**

*OC-18/061*

**Resolved** that Council formally congratulate Kerry McMurray on his selection as the new General Manager of Kiama Municipal Council.

(Councillors Honey and Way)

**6.8 Bega Valley Shire Council Mayoral appeal – Tathra bushfires**

*OC-18/062*

**Resolved** that Council donate \$5,000 from Contingency Funds to the Bega Valley Shire Council Mayoral appeal fund for those affected by the Tathra bushfires.

(Councillors Honey and Watson)

**7 MINUTES OF COMMITTEES**

**7.1 Minutes - Walking Tracks and Cycleway Committee Meeting 14 February 2018**

*OC-18/063*

**Resolved** that the Minutes of the Walking Tracks and Cycleway Committee Meeting held on 14 February 2018 be received and accepted.

(Councillors Sloan and Way)

**7.2 Minutes - Kiama Local Traffic Committee - 6 March 2018**

*OC-18/064*

**Resolved** that the Minutes of the Kiama Local Traffic Committee Meeting held on 6 March 2018 be received and accepted.

(Councillors Brown and Way)

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**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

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**7.3 Minutes - Audit, Risk and Improvement Committee meeting - 27 February 2018**

**OC-18/065**

**Resolved** that the Minutes of the Audit, Risk and Improvement Committee Meeting held on 27 February 2018 be received and accepted and the recommendations therein be endorsed.

(Councillors Watson and Westhoff)

**7.4 Minutes - Blue Haven Advisory Committee meeting - 7 March 2018**

**OC-18/066**

**Resolved** that the Minutes of the Blue Haven Advisory Committee meeting held on 7 March 2018 be received and accepted.

(Councillors Westhoff and Brown)

**COMMITTEE OF THE WHOLE**

**OC-18/067**

**Resolved** that at this time, 5.17pm, 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 & Community Services
- Report of the Director Engineering and Works
- Report of the Director Blue Haven
- Addendum to Reports

(Councillors Way and Steel)

**8 PUBLIC ACCESS REPORTS**

**OC-18/068**

**Committee recommendation** that at this time, 5.17pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Steel and Brown)

**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

**9.4 Jones Beach Kiama Downs - dune vegetation damage**

**OC-18/069**

**Committee recommendation** that Council consider a number of strategies to redress the issue and deter any further vandalism which include the following:

1. Provide a reward for information leading to the identification of any person's deliberately damaging vegetation on the dune system which is not part of the approved Land Care project.
2. Placing signage in the affected areas advising of the damage to dune vegetation and the penalties under the Environmental Planning & Assessment Act that will be sought against any person carrying out damage.
3. Carrying out an education program advising of benefits of the dune system in terms of property protection and habitat.
4. Replacing vegetation with native species identified in the management plan on areas where Jones Beach Landcare group have removed lantana and other weeds plus areas where vegetation has been damaged or died. Planting to commence in April 2018, as per advice from Council staff.
5. Provide a quarterly budget of \$3,000 for Council to purchase native plants identified in point 4 above, to be delivered, as required, by the Jones Beach Land Care group for restoration of the affected areas. This amount to be reviewed in 12 months.
6. Selection of native plants from Management plan to be agreed to by Jones Beach Land Care.
7. Council to remove any dead vegetation in the area shown on the photo on page 107 of this report.
8. As a matter of urgency provide a new dune management plan for Jones Beach using as a base, updated advice from appropriate government agencies to produce a draft plan for Community consultation and adoption.
9. Council continue to pursue Grant funding for the implementation of an updated draft management plan.
10. In future all Councillors would be invited to attend any further meetings arranged between Council and members of public, other than Jones Beach Land Care group and Council to implement actions and/or investigations as outlined above.
11. That a progress update in October 2018 of the works being undertaken by the Jones Beach Landcare Group and the budget expenditure be presented to Council by the Director of Engineering & Works..

(Councillors Way and Steel)

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**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

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**10.3 10.2017.56.1 - Lot: 280 DP 14188 - 69 Werri Street, Werri Beach - 2 Lot Torrens Title subdivision**

**OC-18/070**

**Committee recommendation** that Council approve Development Application No 10.2017.117.1 under Section 4.16 of the Environmental Planning and Assessment Act, 1979, subject to conditions at the end of the report.

(Councillors Brown and Watson)

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

Against: Councillors Sloan and Westhoff

**10.5 10.2017.304.1 - Lot 72 DP 1206414 No 79 Merrick Circuit Kiama - Detached dual occupancy and 2 Lot Torrens Title subdivision**

**OC-18/071**

**Committee recommendation** that Council approve Development Application No 10.2017.304.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

(Councillors Brown and Watson)

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

Against: Nil

**14.3 Minutes - South Precinct Committee Meeting – 15 February 2018**

**OC-18/072**

**Committee recommendation** that Council note the minutes of the South Precinct Committee meeting held 15 February 2018

(Councillors Brown and Way)

**14.22 Question for Future Meeting: Kiama Farmers Market - parking signs**

**OC-18/073**

**Committee recommendation** that Council receive and note the information in the report.

(Councillors Brown and Way)



MINUTES OF THE ORDINARY MEETING

20 MARCH 2018

**9 REPORT OF THE GENERAL MANAGER**

**9.1 Byrnes Run, Curramore Road, Jamberoo**

*OC-18/074*

**Committee recommendation** that Council amend the Byrnes Run Community Title Neighbourhood Management Statement and relevant Section 88B Instrument applying to Byrnes Run, by removing the need for the designs of all buildings at Byrnes Run to be approved by the Byrnes Run advising architect before being submitted to Kiama Municipal Council.

(Councillors Sloan and Way)

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

Against: Nil

**9.2 National General Assembly 17-20 June 2018 - Registration and Call for Motions**

*OC-18/075*

**Committee recommendation** that Council endorse the General Manager or his representative's attendance at the National General Assembly of Local Government.

(Councillors Brown and Way)

**9.3 Flying Aboriginal Flag at half mast on 17 April**

*OC-18/076*

**Committee recommendation** that Council endorse the flying of the Aboriginal flag at half-mast on 17 April each year in recognition of the massacre of Dharawal people that took place at Appin in 1816. Further, that one minutes' silence also be held at 10am on 17 April each year for those who wish to participate.

(Councillors Brown and Watson)

**9.5 Cities Power Partnership Summit at Kiama Pavilion, 18-19 October, 2018**

*OC-18/077*

**Committee recommendation** that Council confirm its sponsorship of the event and thank the organisers for selecting Kiama Pavilion.

(Councillors Brown and Westhoff)

MINUTES OF THE ORDINARY MEETING

20 MARCH 2018

**10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES**

**10.1 Planning Proposal Policy to establish a new Development Control Plan Policy**

*OC-18/078*

**Committee recommendation** that Council endorse both the draft Planning Proposal Policy to replace the existing policy adopted in 2012, and the draft preparation of Development Control Plans Policy.

(Councillors Westhoff and Brown)

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

Against: Nil

**10.2 10.2017.236.1 – Lot 73 DP 1206414 – 7 Blair Street, Kiama – Attached Dual Occupancy with 2 lot Torrens Title Subdivision**

*OC-18/079*

**Committee recommendation** that Council approve Development Application No 10.2017.236.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of the report.

(Councillors Brown and Steel)

For: Councillors Brown, Steel, Watson and Way

Against: Councillors Honey, Sloan and Westhoff

**10.4 Supporting Initial Gateway Consideration of the Planning Proposal for Lot 3 DP 1018217, Dido Street, Kiama**

*OC-18/080*

**Committee recommendation** that Council:

1. Endorse this Planning Proposal to proceed to the Department of Planning and Environment for a Gateway determination
2. Request plan making delegations for this proposal as a part of the Gateway determination.
3. On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.

(Councillors Brown and Way)

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

Against: Nil

MINUTES OF THE ORDINARY MEETING

20 MARCH 2018

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

**11.1 Licence Renewal for Gosse Bros Pty Limited temporary site fencing adjoining Noble Street Development - Fern Street, Gerringong**

*OC-18/081*

**Committee recommendation** that Council enter into a licence agreement with Gosse Bros Pty Limited for a further twelve (12) months for the use of part Lot 53 DP884475 Fern Street, Gerringong to allow temporary site/safety fencing to be erected subject to the following:

1. Licence term of twelve (12) months.
2. Annual charge of \$50.00 per square metre excluding GST.
3. The temporary site fencing to be setback no more than three (3) metres from Lot 52 DP884475 boundary as outlined in the attached plan.
4. That the licence monies be set aside and utilised on the enhancement works to be carried out on the reserve.
5. The General Manager or Mayor be authorised to sign any documentation associated with this licence.

(Councillors Westhoff and Brown)

**11.2 Proposed Road Closure - Corner Gray and Bergin Street, Gerringong**

*OC-18/082*

**Committee recommendation** that:

1. Council approve the closure of the road reserve adjoining Lot 1 DP 797886 Gray Street, Gerringong as outlined in the attached survey.
2. Council approves a formal road closure application to be lodged with Crown Lands seeking closure of the subject road reserve adjoining Lot 1 DP 797886.
3. The subject parcel be classified as operational land upon closure and the issue of a Certificate of Title subject to public notice of the proposed classification under Section 34 of the Local Government Act.
4. The General Manager and Mayor have delegated authority to sign under seal any documentation associated with the road closure.
5. The applicant is required to meet all on-going relevant costs associated with the road closure and purchases of the subject land as determined in value by the registered Valuer.

(Councillors Westhoff and Sloan)

**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

**11.3 Health and Sustainability Grants – Round 2 – January 2018 and Minutes of Committee**

**OC-18/083**

**Committee recommendation** that Council

1. Note the minutes of the Committee meeting held 13 February 2018
2. Approve the following recommended Health and Sustainability Grants funding applications:
  - a. Kiama U3A: Live Long: Play Ping Pong - \$1,000
  - b. Landcare Illawarra: The Nature Weekend - \$1,000
  - c. Kiama Community Garden: Fascinating Fungi & Magnificent Mushrooms - \$1,000

(Councillors Brown and Way)

**11.4 Kiama Tourism Advisory Committee - Minutes of meeting held on 13 February 2018**

**OC-18/084**

**Committee recommendation** that Council receive and accept the draft Minutes of the Kiama Tourism Advisory Committee meeting held on 13 February 2018 and endorse the recommendations contained therein.

(Councillors Brown and Steel)

**11.5 Statement of Investments - February 2018**

**OC-18/085**

**Committee recommendation** that the information relating to the Statement of Investments for February 2018 be received and adopted.

(Councillors Westhoff and Brown)

**11.6 Sponsorship of Film project in Kiama**

**OC-18/086**

**Committee recommendation** that Council agree to provide sponsorship of \$10,000 from the Economic Development Budget as our contribution towards the attraction of the movie “Back of the Net” to be filmed in and around Kiama.

(Councillors Steel and Brown)

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**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

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

**12.1 Draft Pesticide Notification Plan - Public Exhibition**

**OC-18/087**

**Committee recommendation** that Council place the draft Pesticide Notification Plan on public exhibition for 28 days for comment and report to Council after consideration of submissions.

(Councillors Steel and Westhoff)

**13 REPORT OF THE DIRECTOR BLUE HAVEN**

**13.1 Blue Haven Advisory Committee**

**OC-18/088**

**Committee recommendation** that Council:

1. endorse the updated Terms of Reference for the Blue Haven Advisory Committee
2. endorse the advertising of Expressions of Interest for the community member positions on the Committee

(Councillors Brown and Watson)

**14 REPORTS FOR INFORMATION**

**OC-18/089**

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

- 14.1 Parking Statistics - January 2018
- 14.2 Southern Phone Company Ltd - 2016-2017 Dividend
- 14.4 Minutes - Kiama Liquor Accord meeting - Wednesday 21 February 2018
- 14.5 Minutes - Minnamurra Progress Association meeting 6 February 2018
- 14.6 Success with Heritage Near Me Expression of Interest.
- 14.7 Minutes - Youth Advisory Committee meeting held 15 February 2018
- 14.8 Minutes - Access Committee meeting held 2 February 2018
- 14.9 Community Engagement Strategy - Development Assessment - Quarterly Update
- 14.10 Illawarra Carer Respite Centre - Future of Carer funding programs
- 14.11 Blue Haven Care Introduction of new Aged Care Quality Standards
- 14.13 Kiama Library - School Holiday Activities

**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

- 14.14 Economic Development Committee Meeting - Minutes- meeting 27 February 2018
- 14.15 The 360 Illawarra Shoalhaven Economic Outlook
- 14.17 10.2016.304.1 - Lot 1 DP 50193, Lot 3 DP 1104857, Lot 200 DP 1017091, Lot 1 DP 506764, Lot 100 DP 1211384 – 100 Terralong Street Kiama, 3 Akuna Street Kiama, 55 Shoalhaven Street Kiama, 61 Shoalhaven Street Kiama
- 14.18 Question for Future Meeting: Aboriginal Cultural Heritage Management Development Assessment Toolkit
- 14.19 Question for Future Meeting: Gerringong CBD - parking issues
- 14.20 Question for Future Meeting: Arthur Campbell Reserve - funding
- 14.21 Question for Future Meeting: Noorinan Street -stairway safety
- 14.23 Question for Future Meeting: Summer Attire for Councillors
- 14.24 Jamberoo Valley Ratepayers & Residents Association meeting minutes – 5 December 2017 and 6 February 2018

(Councillors Brown and Sloan)

**14.12 Question for Future Meeting: SP3 Tourist Zone**

**OC-18/090**

**Committee recommendation** that this item be reported to the next meeting of Council to allow Councillors absent from this meeting the opportunity to comment.

(Councillors Sloan and Way)

**14.16 Illawarra Shoalhaven Joint Organisation**

**OC-18/091**

**Committee recommendation** that Council request the Illawarra Shoalhaven Joint Organisation executive to acknowledge the motion put by Kiama Council at its last meeting with regard to conducting engagement with the State Government to identify and protect food producing lands.

(Councillors Sloan and Westhoff)

**14.22 Question for Future Meeting: Summer attire for Councillors**

**OC-18/092**

**Committee recommendation** that Council agree in principle with the provision of summer attire for Councillors consisting of two short sleeve cotton shirts with the logo embroidered on the chest area and one Akubra Byron hat.

(Councillors Way and Brown)

**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

**14.25 North Precinct**

It was **moved** by Councillor Sloan and **seconded** by Councillor Westhoff that Council hold a meeting at the North Kiama Neighbourhood Centre to gauge community interest in the formation of a North Precinct.

The **MOTION** on being put to the meeting was **LOST**.

**15 ADDENDUM TO REPORTS**

Note: Item 3.1 of the Supplementary Paper was dealt with as part of Item 3 Confirmation of Minutes

**RESUMPTION OF ORDINARY BUSINESS**

**OC-18/093**

**Resolved** that at this time, 6.29pm, Council resume the ordinary business of the meeting with all Councillors and Staff present at the adjournment of the meeting being present.

(Councillors Way and Steel)

**ADOPTION OF COMMITTEE OF THE WHOLE REPORT**

**OC-18/094**

**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 OC 18/068 to OC 18/093 above.

(Councillors Brown and Sloan)

**16 NOTICE OF MOTION**

**16.1 Tree Preservation Order - 107 Hillview Circuit, Kiama**

Councillor Brown withdrew the Notice of Motion above.

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**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

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**17 QUESTIONS FOR FUTURE MEETINGS**

**17.1 Surf School Policy**

Councillor Steel requested a report be presented to the April meeting of Council to review the Surf School Policy.

The Mayor referred the matter to the Director Corporate, Commercial & Community Services for investigation and report.

**17.2 Community Energy Project at the Leisure Centre -**

On behalf of Councillor Reilly, Councillor Sloan requested a report on the feasibility of a Community Energy Project associated with the roof, carpark and any other suitable sites associated with our Leisure Centre.

The report should project costs and anticipated profits aligned with the ABC news story, where within six hours of release, 20 investors had pitched in almost \$400,000 to install a huge 230 kilowatt solar system on a roof in Western Sydney. Councillor Reilly would like also for the report to comment on the feasibility of such a project commencing within six months of this question.

The Mayor referred the matter to the Director Engineering & Works for investigation and report.

**17.3 No Stopping zone on Saddleback Mountain Road**

Councillor Sloan advised that the he had received a request from the Kiama High School P&C that the Traffic Committee please consider bringing forward to 2pm the start time of the "No Stopping" zone on Saddleback Mountain Road near the High School.

The Mayor referred the matter to the Director of Engineering & Works for investigation and report.

**17.4 Councillor conference attendance**

Councillor Way requested that a report be provided on the expenditure for each councillor on their attendance at conferences and training. Further, he also requested advice on whether Council has a policy regarding councillor conference attendance.

The Mayor referred the matter to the General Manager for investigation and report.



MINUTES OF THE ORDINARY MEETING

20 MARCH 2018

**18 CONFIDENTIAL SUMMARY**

*OC-18/095*

**Resolved** that at this time, 6.39pm, 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 Brown and Way)

**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-18/096*

**Committee 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 to deal with the following matters on the grounds as detailed below.

**19.1 ADVICE FROM SPARKE HELMORE LAWYERS – BYRNES RUN COMMUNITY TITLE SUBDIVISION**

**Reason for Confidentiality:** This matter deals with information that would, if disclosed, reveal a trade secret as per Section 10A(2)(diii) of the Local Government Act. .

**19.2 BLUE HAVEN – FUTURE BRANDING**

**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. .

**19.3 BLUE HAVEN VILLAGE – AGED CARE FACILITY REDEVELOPMENT**

**Reason for Confidentiality:** This matter deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council as per Section 10A(2)(dii) of the Local Government Act. .

**19.4 LOT 200 DP107091, LOT 100 DP1211389, LOT 1 DP50193 AND LOT 1 DP506764 (EXCLUDING LOT 3 DP40304) BETWEEN TERRALONG, AKUNA AND SHOALHAVEN STREETS, KIAMA**

**Reason for Confidentiality:** This matter deals with information that would, if disclosed, confer a commercial advantage on a competitor of the council as per Section 10A(2)(dii) of the Local Government Act. .

(Councillors Brown and Way)

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**MINUTES OF THE ORDINARY MEETING**

**20 MARCH 2018**

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**19 CONFIDENTIAL REPORTS**

**19.1 Advice from Sparke Helmore Lawyers – Byrnes Run Community Title Subdivision**

*OC-18/097*

**Committee recommendation** that Council receive and note the report.

(Councillors Sloan and Watson)

**19.2 Blue Haven – Future Branding**

*OC-18/098*

**Committee recommendation** that Council endorse the naming of the Blue Haven buildings as outlined in this report being:

- 1) Blue Haven Bonaira (Independent Living Units and whole of site)
- 2) Blue Haven Terralong (Independent Living Units)
- 3) Barroul Home (aged care facility)

(Councillors Brown and Watson)

**19.3 Blue Haven Village – Aged Care Facility Redevelopment**

*OC-18/099*

**Committee recommendation** that Council receive and note the information.

(Councillors Steel and Watson)

**19.4 Lot 200 DP107091, Lot 100 DP1211389, Lot 1 DP50193 and Lot 1 DP506764 (excluding Lot 3 DP40304) between Terralong, Akuna and Shoalhaven Streets, Kiama**

*OC-18/100*

**Committee recommendation** that Council endorse the valuation provided by Walsh & Monaghan for the sub stratum of the laneway that divides the side.

(Councillors Steel and Brown)

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

Against: Nil

MINUTES OF THE ORDINARY MEETING

20 MARCH 2018

19.5 KISS Arts Festival conflict with Makers & Growers Markets

OC-18/101

Committee recommendation that Council request the organisers of the KISS Arts Festival to approach the Makers & Growers Markets organisers to seek their agreement to move the markets to the School Flat area at Black Beach on 29 April 2018.

Further, that if the Makers & Growers Markets are not prepared to move to the suggested area, Council exercise Clause 3.8 of the Licence Agreement in which Council has the ability to direct the markets be held on an alternate date due to other endorsed use of the reserves or other event generally held.

(Councillors Brown and Steel)

Close of Confidential Committee of the Whole:

OC-18/102

Resolved that at this time, 6.41pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Steel 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-18/103

Resolved that that the Confidential Committee of the Whole recommendations numbered OC 18/096 to OC 18/101 be confirmed and adopted.

(Councillors Brown and Way)

20 CLOSURE

There being no further business the meeting closed at 6.43pm

These Minutes were confirmed at the Ordinary Meeting of Council held on 17 April 2018

.....  
Mayor

**4 BUSINESS ARISING FROM THE MINUTES**

**5 PUBLIC ACCESS SUMMARY**

**6 MAYORAL MINUTE**

Nil

## 7 MINUTES OF COMMITTEES

### 7.1 Catchment and Flood Risk Management Committee - meeting 20 March 2018

Responsible Director: Environmental Services

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#### Attachments

- 1 Catchment and Flood Risk Management Committee Minutes - meeting 20/03/18 [↓](#)

#### Enclosures

Nil

#### **RECOMMENDED**

That the Minutes of the Catchment and Flood Risk Management Committee Meeting held on 20 March 2018 be received and accepted.

#### **BACKGROUND**

The minutes of the Catchment and Flood Risk Management Committee meeting held on 20 March 2018 are attached for Councillors' information.

**Catchment and Flood Risk Management Committee Minutes**

**Kiama Council RSL Room – Tuesday 20 March 2018, 3pm – 4:30pm**

Attendance: Cllr Andrew Sloan, Cllr Mark Westhoff, Darren Brady (KMC), Byron Robinson (KMC), Graham Pike, Andrew Monk (RMS), John Murtagh (OEH), Warren Holder, Leonie Walsh, Barry Mahoney

Apology: Ben Pinch, Aimee Beardsmore (OEH), Andrew Williams (OEH)

<p>1. Minutes of previous meeting</p>	<p>Minutes of the previous meeting held on 21 November 2017 were accepted as accurate by the committee.</p> <p>Moved MW / Seconded GP</p>
<p>2. Flood study related issues</p>	<p>DB updated the committee on the current status of the Ooaree Creek / Werri Lagoon flood study. DB advised that there had been some delays to the project due to technical and contractual issues surrounding the information received through the community consultation phase of the project. While there was a quantity of information submitted by residents, most was quite dated with only general locations and timeframes provided, which does not allow for calibration of the flood model to real time events. By accessing the automated water level monitor in the lagoon, Council's lagoon opening records and BOM rainfall data, only one location was identified (post Highway construction) that could be used for the model calibration. The consultant is now utilising this information to complete the modelling works. DB indicated that the draft final report will probably not be available until later in the year.</p> <p>LW tabled photos of lagoon flooding from a recent event and indicated that many people she had spoken with had information but did not submit it as they did not consider it relevant. JM indicated that based on his past experience, that once the draft flood maps are produced people become very engaged in the process when it impacts them. LW raised a number of other concerns related to the water quality of the lagoon and it was agreed to hold these over until Item 5 discussion.</p>
<p>3. Update on progress of Minnamurra and Crooked River CZMP actions</p>	<p>BR provided an update of projects currently underway and planned projects relating to the Minnamurra and Crooked River CZMPs:</p> <p>Leachate management at Minnamurra Landfill – Council has had the leachate remediation pumps put in on March 12. Council will be commissioning and testing the pumps over the coming weeks, before starting the official monitoring, testing and irrigation of the extracted leachate affected groundwater.</p>

**Item 7.1**

**Attachment 1**

	<p>The coral tree management project at Gainsborough reserve will have further weed control undertaken to expend the project funding before the end of financial year.</p> <p>BR suggested a UOW representative be invited to the next committee meeting to discuss getting a successful honors project implemented.</p> <p><b>Action:</b> BR to contact UOW to see if a representative is available to attend the next committee meeting.</p> <p>BR informed the committee that we had received funding for the Minnamurra headland erosion control project which is expected to be undertaken in July / August. This project is mainly to stop further slumping in storm and flood conditions which will further damage the aboriginal cultural heritage asset which was exposed when the bank slumped in June 2016.</p> <p>There have been two projects submitted for funding by the OEH coast and estuary program. One to undertake weed control in the wetlands of the Minnamurra River at the end of Charles Avenue, one to undertake an options assessment for bank erosion control in the Blue Angle Creek, Gerroa. These are expected to be announced prior to June, as projects are expected to start in July 2018.</p>
<p>4. Minnamurra boardwalk / cycleway</p>	<p>DB advised that tenders had been advertised seeking a consultancy to undertake geotechnical and environmental studies, community consultation and other investigations and prepare a design for the boardwalk project. Tenders closed in late February with 9 submissions being received which ranged widely in price and services being provided. These are currently being assessed with a report on the matter proposed for the April 2018 Council meeting.</p> <p>DB indicated that this Committee had been listed as a stakeholder for consultation purposes. An indicative timeframe for the project is for the investigations and studies to be completed towards the middle of the year and designs completed towards the end of the 2018.</p> <p>Tenders would then be called for construction in early 2019 if the project is to proceed. A Review of Environmental Factors will be completed as part of the studies and it is anticipated that the design of the project could be such that environmental impacts are minimised and an Environmental Impact Study is not required. Further updates will be provided in future.</p> <p>GP raised concerns that an EIS was not compulsory.</p> <p>JM indicated that an EIS is only required if triggered by environmental impact, and designs which can avoid environmental impact are preferred and the review of</p>

Item 7.1

Attachment 1

	<p>environmental factors will identify the triggers and if they can be avoided.'</p> <p>GP wanted it noted in the minutes that he was concerned that it seemed the project was a foregone conclusion and that the project must not be rushed and must go through the correct legislative process with all required assessments.'</p> <p>DB indicated that the project was not a foregone conclusion and that the correct legislative process and all environmental assessments required of the project would be completed and assessed before proceeding.</p> <p>GP flagged that the committee may need to meet outside of the schedule to consider the environmental reports and discuss the issue.</p>
5. Werri Lagoon opening policy	<p>John Murtagh gave a presentation about the considerations around developing and reviewing entrance opening policies. The major considerations are around the flood impacts on infrastructure and property and the environmental impacts. Council will either deal with this under the flood management plan which follows a flood study or under a coastal management program which looks at estuary health.</p> <p>A copy of a recent paper around entrance management will be forwarded to the committee members for information.</p> <p>Once the Werri Beach flood study is complete, there will be a sophisticated hydrological model of the catchment, which will be able to be used to simulate a wide range of flood conditions and the impacts on surrounding property and land. Once the flood model and extents are known and published JM expects that there will be a large number of community members eager to engage in the process and provide input.</p>
6. Kiama Coastal Management Program	<p>BR gave the committee an update on the grant application submitted to the Office of Environment and Heritage to undertake a coastal management program for the Kiama LGA open coast. This application is currently being assessed. BR was confident the application would be successful, given there had been a request from the grant administrators to consider completing a CMP for the entire Kiama LGA which had been endorsed by Council.</p>
7. Next Meeting	<p>The next meeting was set for Tuesday 15 May 2018, 3:00pm in the RSL Room</p>



**7.2 Kiama Local Traffic Committee - meeting 3 April 2018**

Responsible Director: Engineering and Works

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**Attachments**

- 1 Minutes of Kiama Local Traffic Committee Meeting - 3 April 2018 [↓](#)

**Enclosures**

Nil

***RECOMMENDED***

That the Minutes of the Kiama Local Traffic Committee Meeting held on 3 April 2018 be received and accepted.

**BACKGROUND**

The Minutes of the Kiama Local Traffic Committee meeting held on the 3 April 2018 are attached for information.



# MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE MEETING

held electronically

## TUESDAY 3 APRIL 2018

Council Chambers  
11 Manning Street, KIAMA NSW 2533

Item 7.2

Attachment 1

MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE

3 APRIL 2018

MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE OF THE MUNICIPALITY OF KIAMA HELD ELECTRONICALLY ON TUESDAY 3 APRIL 2018

**PRESENT:** Councillor M Honey (Mayor) (Chairman), Amy Thomson (RMS Representative), Kevin Brown (NSW Police Representative), Darrell Clingan (Local Member's Representative), Gino Belsito (Director Engineering & Works), Darren Brady (Manager Design & Development), Janelle Burns (Kiama Council Road Safety Officer) 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 on 6 March 2018**

**Resolved** that the Minutes of the Kiama Local Traffic Committee Meeting held on 6 March 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 Jamberoo ANZAC March - Saturday 21 April 2018**

**Resolved** that recommendation that the Anzac March for Saturday 21 April 2018, be approved subject to organisers and suitably qualified traffic controllers complying with the following conditions:

1) the road closures to be undertaken by organisers in compliance with the Traffic

**MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE**

**3 APRIL 2018**

Management Plan No. NT-0011 prepared by Traffic Management Services Pty Ltd;

- 2) a Road Occupancy Licence being issued by the RMS,
- 3) notification of this closure be given to Police, Local Emergency Services, businesses and residents effected by the closure;
- 4) proof of public liability insurance complying with the Australian Prudential Regulatory Authority (APRA) being provided to Council prior to the event; and

an advertisement be placed in the local media advising of the closure.

(Councillor Honey and Amy Thompson)

**5.2 Kiama ANZAC Day Dawn Service and March - Wednesday 25 April 2018**

**Resolved** that recommendation that the Anzac Day dawn service and march for Wednesday 25 April 2018, be approved subject to organisers and suitably qualified traffic controllers complying with the following conditions:

- 1) the road closures to be undertaken by organisers in compliance with the Traffic Management Plan Nos. 6134 and T2305-0415 prepared by Traffic Logistics Pty Ltd and Traffic Management Services Pty Ltd;
- 2) notification of this closure be given to Police, Local Emergency Services, businesses and residents effected by the closure;
- 3) an advertisement be placed in the local media advising of the closure; and
- 4) proof of public liability insurance complying with the Australian Prudential Regulatory Authority (APRA) being provided to Council prior to the event.

(Councillor Honey and Amy Thompson)

**6 GENERAL BUSINESS**

**7 CLOSURE**

There being no further business the meeting closed electronically at 4pm  
Wednesday 4 April 2018.

These Minutes were confirmed at the Ordinary Meeting of Council held on 17 April 2018

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**MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE**

**3 APRIL 2018**

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.....  
Mayor

Director Engineering & Works

Item 7.2

Attachment 1

**7.3 Minutes - Long Term Financial Planning and Revenue Committee - meeting held 12 March 2018**

Responsible Director: Office of the General Manager

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**Attachments**

- 1 Long Term Financial Planning and Revenue Committee - Minutes of meeting held 12 March 2018 [↓](#)

**Enclosures**

Nil

***RECOMMENDED***

That the Minutes of the Long Term Financial Planning and Revenue Committee meeting held on 12 March 2018 be received and accepted and the recommendations contained therein be endorsed.

**BACKGROUND**

The minutes of the Long Term Financial Planning and Revenue Sub-Committee meeting held on 12 March 2018 are attached. Council is asked to receive and accept the Minutes and endorse the recommendations contained therein.



## LONG TERM FINANCIAL PLANNING AND REVENUE SUB-COMMITTEE - MINUTES

<b>Date:</b>	12 March 2018	<b>Time:</b>	10am	<b>Venue:</b>	CR1
<b>Chairperson:</b>	Kerry McMurray			<b>Minutes:</b>	Sue Wiaczek
<b>Meeting Objective:</b>	To consider Long Term Financial matters and identify opportunities for revenue streams for financial sustainability				
<b>Present:</b>	Councillors Honey, Rice, Reilly, Sloan and Steel, Michael Forsyth and Kerry McMurray				
<b>In Attendance:</b>	Linda Davis, Darren Brady and Brooke Ramaekers				
<b>Apologies:</b>	Nil				

### DECLARATION OF INTEREST

NIL

### MINUTES

The minutes of the previous meeting held on 4 September 2017 were received and adopted.

### BUSINESS ARISING FROM PREVIOUS MINUTES

#### Terms of Reference

The Terms of Reference were tabled, and the requirement to formally elect a Chair was highlighted to the Committee.

#### Election of Chair

Councillor Mark Honey was nominated by Councillor Neil Reilly and seconded by Councillor Andrew Sloan. Councillor Honey accepted and was declared Chair.

### NEW BUSINESS

#### 6. Register of Recommendations

Kerry advised the Committee that all the recommendations on the Register of Recommendations were either implemented or being presented at this meeting.

#### 7. Glenbrook Road Subdivision

The committee was advised that Sydney Trains is reluctant to lift the caveat over the land and, as it paid \$1M for the land and the creation of the caveat, Sydney Trains is requesting compensation from Council before it will lift the caveat. The Committee was

- 2 -

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**Minutes of the Long Term Financial Plan & Revenue committee meeting  
2 March 2018**

advised that the caveat only relates to blasting, and as the blasting has ceased, there is a strong argument the caveat is no longer relevant. There is a proposal to meet with Sydney Train's executive management in April for high level discussions.

**8. Iluka Reserve**

Council is still awaiting rezoning of the subject land. In the meantime, Council is in the process of preparing a photo collage in preparation for community engagement. There was discussion around the type of construction that would be allowed in the estate.

**9. 85 Attunga Avenue**

The Committee was updated on the process of divesting this surplus land, which has to first be reclassified from community land to operational land before it can be sold.

**Recommendation:**

That the Long Term Financial Planning and Revenue Committee and Council:

1. proceed with the reclassification of 85 Attunga Avenue, Kiama Heights (Lot 69A DP 30126)
2. subject to East's approval, investigate the incorporation of a footpath down one side of the property to provide access to the beach.

Sloan/Reilly

**11. Riverside Drive – Road Closure**

The Committee received information on the reasons for the road closure and the benefits of this course of action.

**Recommendation:**

That the Long Term Financial Planning and Revenue Committee and Council endorse the proposal to proceed with the road closure process on the western side of Riverside Drive, Kiama Downs.

Steel/Reilly

**12. Spring Creek Subdivision**

The committee was advised this subdivision is still in its preliminary stages, however, approval for the subdivision has been place since 1991.

The intention is for Spring Creek to be a showcase for a "best practice" subdivision, and to provide a benchmark for future developments in the Kiama LGA.



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Minutes of the Long Term Financial Plan & Revenue committee meeting  
2 March 2018

**GENERAL BUSINESS**

**a. Special Rate Variation**

The Committee was advised that IPART's SRV consultation process closed on 11 March 2018 - it is understood Kiama's application received only four submissions during this period, the content of which is unknown at this stage.

**b. South Kiama Drive**

Following discussion, it was identified that there might be the potential for acquiring surplus RMS land along South Kiama Drive.

**c. Quarry land – Bombo North**

Following discussion, it was moved by Councillor Steel, and seconded by Councillor Honey, that Council considers potential uses for the unused Quarry land at Bombo North.

The Motion was Put and Lost.

For: Councillors Honey and Steel  
Against: Councillors Rice, Reilly and Sloan

**d. Committee's name**

**Recommendation:**

That Council endorse the renaming of the Committee to remove the word "Sub".

Reilly/Sloan

**e. Long Term Financial Plan**

The details of the current Long Term Financial Plan will be discussed at the next meeting.

The meeting closed at 11:19am

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 & Community 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 Change of meeting date

CSP Objective: 4.0 Responsible civic leadership that is transparent, innovative and accessible

CSP Strategy: 4.2 Council embraces good governance and better practice strategies

Delivery Program: 4.2.1 Manage effective risk framework across council

#### Summary

This report seeks Council's endorsement to change the June meeting date from 19 June 2018 to 26 June 2018 to allow for the General Manager's attendance at the Australian Local Government Association Annual Conference and to allow additional time to consider community submissions on Council's Operational Plan and Budget.

#### Finance

Not applicable.

#### Policy

Code of Meeting Practice and adopted Meeting Schedule.

#### Attachments

Nil

#### Enclosures

Nil

### **RECOMMENDATION**

That Council endorse the change of the June meeting date to 26 June 2018.

### **BACKGROUND**

At its meeting on 20 March 2018 the Council resolved to endorse the attendance of the General Manager or his representative at the Australian Local Government Association Annual Conference in Canberra from 17-20 June 2018. The Conference dates clash with Council's meeting to be held on 19 June 2018.

In September 2017 Council resolved to adopt the proposed Meeting Schedule which includes the provision that the day of any Ordinary Meeting may, for good and sufficient reason, be altered by resolution of the Council at any preceding Ordinary Meeting.

It is proposed that Council will endorse the Draft 2018/19 Operational Plan, budget and fees and charges at its 15 May 2018 meeting and place these documents on public exhibition for 28 days. Submissions will close on Wednesday 13 June which is after the closing date for business paper reports for 19 June Council meeting. The shifting of the June meeting date to 26 June 2018 will also allow time for

Report of the General Manager

9.1 Change of meeting date (cont)

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consideration of public submissions on Council's Operational Plan and Budget. Bearing the above in mind, it is proposed to change the June meeting date from 19 June 2018 to 26 June 2018 to allow the General Manager or his representative and any councillors interested in attending the ALGA Annual Conference to attend the June Council meeting and to also allow time for consideration of public submissions on Council's Operation Plan and Budget.

**Item 9.1**

## 10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

### 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo

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

CSP Strategy: 2.1 Maintain the separation and distinct nature of local towns, villages and agricultural land

Delivery Program: 2.1.1 Develop and implement appropriate land use plans

#### Summary

This report seeks the final endorsement of the Planning Proposal for Lot 2 DP 626183, 15 Golden Valley Road, Jamberoo. The Department of Planning and Environment granted a Gateway Determination for this proposal on 7 August 2017. In accordance with the conditions of this determination Council placed the Planning Proposal and supporting information on exhibition for a period of not less than 28 days.

A total of 132 submissions were received by Council during the exhibition period, 114 objecting to and 18 supporting the proposal. This report seeks endorsement to proceed with the amendment to the *Kiama Local Environmental Plan (LEP) 2011*.

This report also seeks the endorsement to prepare amendments to Chapter 30 – Heritage of Kiama Development Control Plan 2012 to ensure the conservation of significant areas and items of Aboriginal Cultural Heritage.

#### Finance

A fee structure for submittal and review of Planning Proposals has been developed by Council and is contained in Council's fees and charges schedule. Relevant fees have been paid in regard to this proposal.

#### Policy

Consideration of requests for rezoning of land require consideration of a number of planning instruments, specifically the *Environmental Planning and Assessment Act 1979*, *Kiama Local Environmental Plan 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy and the Kiama Planning Proposal Policy.

#### Attachments

- 1 Site Map [↓](#)
- 2 LEP Plan Making Process [↓](#)
- 3 Rezoning Review Process [↓](#)
- 4 JRPP Recommendation [↓](#)
- 5 Gateway Determination [↓](#)

#### Enclosures

Nil

## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

**RECOMMENDATION**

That:

1. Council request that the Department of Planning & Environment make the amendment to the *Kiama Local Environmental Plan 2011* for Lot 2 DP 626183, 15 Golden Valley Road Jamberoo.
2. Council prepare amendments to Chapter 30 – Heritage of the Kiama Development Control Plan 2012 to ensure the conservation of significant areas and items of Aboriginal Cultural Heritage.

**BACKGROUND**

The Planning Proposal (PP) aims to rezone the entire site from RU2 Rural Landscape to R2 Low Density Residential and apply the associated controls in keeping with the adjacent land north and west of the site. The subject site is identified as Site 27b in the Kiama Urban Strategy and has been assessed as a site where a PP should be undertaken. The site was included as suitable following public notification and Council's receipt and consideration of submissions to the Urban Strategy. The site was identified in the Strategy as assisting in providing an appropriately defined and accessible southern boundary to Jamberoo Village.

The PP seeks the following amendments to the *Kiama Local Environmental Plan 2011* to ensure that the site is consistent with the existing residential land within Jamberoo Village. An outline of the existing and proposed controls is provided below:

Controls	Current controls	Proposed controls
Zone	RU2 Rural Landscape	R2 Low Density Residential
Floor Space Ratio (FSR)	FSR – none	FSR – C 0.45:1
Height of Building (HOB)	HOB – none	HOB – I 8.5
Lot Size	Lot size 40ha	Lot size – S 800 (m <sup>2</sup> )

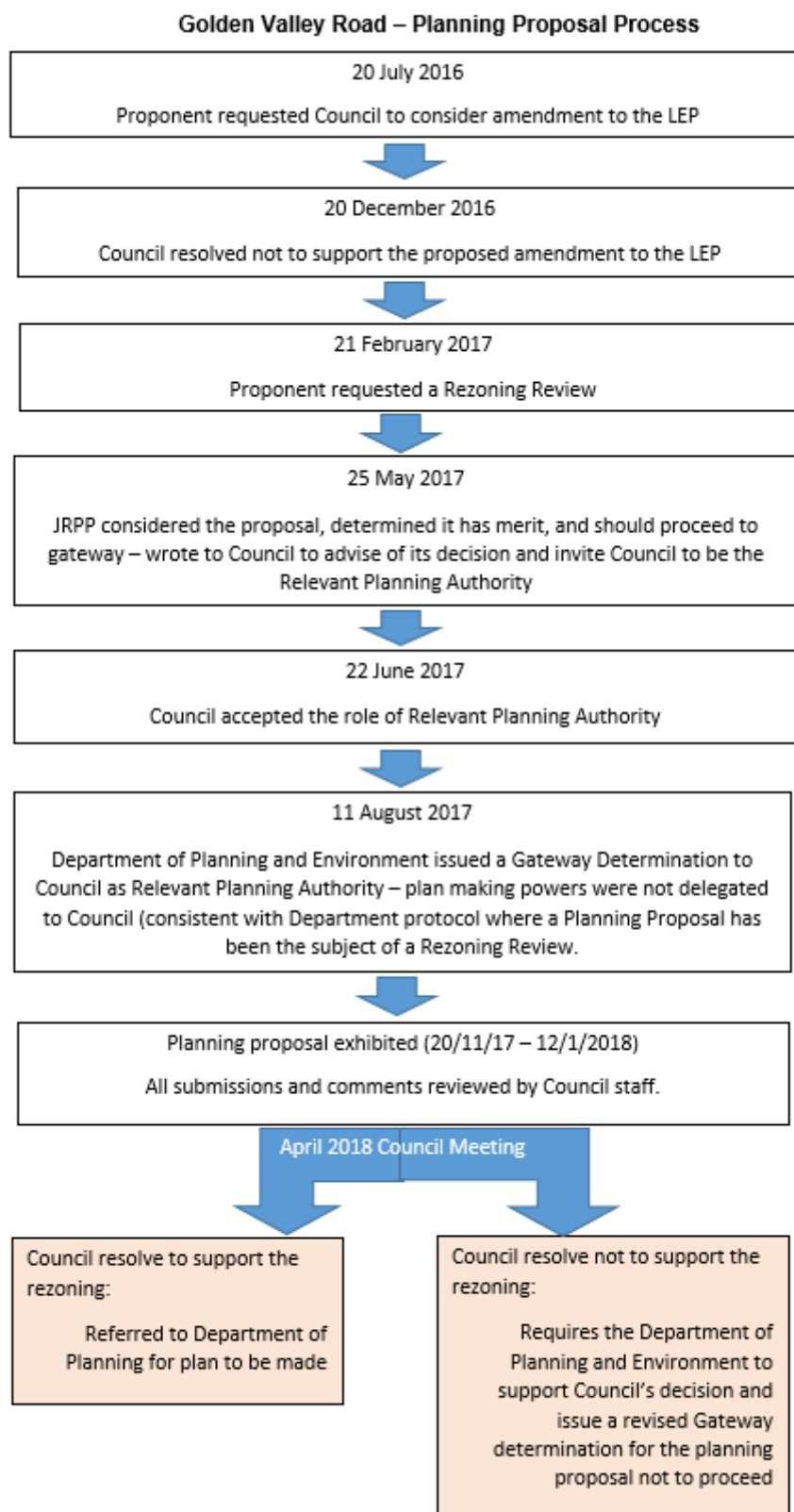
**History**

This Planning Proposal was originally reported to Council for endorsement in October 2016. At its October meeting Council resolved to defer consideration of the gateway proposal for one month to allow for community input. A non-statutory exhibition process was undertaken and comments were required to be received by Council by 4pm on 5 December 2016. A total of 148 submissions were received, 141 objecting to and 7 supporting the PP. At its December 2016 meeting Council resolved to reject the proposal. Following this resolution, the proponent submitted a request for a Rezoning Review on 21 February 2017. The following diagram illustrates the process that this proposal has followed to date and the two potential outcomes of the April Council Meeting.

Report of the Director Environmental Services

10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

Item 10.1



Report of the Director Environmental Services

10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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## Rezoning Review

### Rezoning Review Process

The Rezoning Review process (formerly known as the Pre-Gateway Review process) enables the proponent who has unsuccessfully sought the preparation of PP to have the proposal reviewed by an independent body being the Joint Regional Planning Panel (JRPP). The JRPP assumes the role of Council in determining if a PP should be forwarded to the DPE for a Gateway Determination or not.

### JRPP Decision

The JRPP met on 11 May 2017 to assess and determine if the proposal should be submitted for a Gateway Determination.

On 25 May 2017 Council received correspondence from the JRPP informing that the Panel had determined that the proposal should proceed to Gateway Determination stage. As part of this correspondence the JRPP invited Council to be the Relevant Planning Authority (RPA) for this proposal. At its June 2017 meeting Council resolved to accept the role of the RPA for this proposal. The RPA is responsible for consultation with public authorities and the community and the preparation of any required LEP maps.

In making its decision, the JRPP considered that the proposal has both strategic and site-specific merit. A copy of the JRPP's decision is attached to this report.

The JRPP noted that the site potentially forms the boundary of the village and as such suggested further consideration of the visual impact of any change in land use on the character of the village. The JRPP determined that submission of this proposal for a Gateway determination would allow for further consideration of this matter through consultation with the Department of Primary Industries (DPI) - Land. The JRPP noted that the site contained artefacts of Aboriginal cultural heritage. The JRPP recommended further consultation with the Aboriginal community. These recommendations were included as conditions of the DPE's Gateway Determination (see below).

The JRPP also recommended that the following additional requirements be considered as part of the DPE's Gateway Determination:

- Appropriate zoning and density at the interface with adjacent agricultural land;
- Cumulative traffic impacts;
- DCP controls;
- Zoning and controls that provide an appropriate interface to agricultural lands and provide clear demarcation to the limits of the village.

It is noted that Council resolved to adopt Draft Chapter 33 – Jamberoo Village of the Kiama DCP to be placed on public exhibition on 18 July 2017.

In addition to the specific recommendations in relation to the PP, the JRPP also recommended that Council and the DPE seek resourcing for the preparation of a Rural Lands Strategy that identifies regionally significant rural lands. The Illawarra Shoalhaven Regional Plan outlines that this is primarily the responsibility of the DPI.



## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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This recommendation is being pursued as a separate planning initiative at a regional context and is outside the scope of the Planning Proposal.

**Gateway Determination**

On 11 August 2017 Council received a Gateway Determination from the DPE. The DPE determined that this PP should proceed. A copy of the Gateway Determination is attached to this report.

As part of its Gateway Determination the DPE incorporated several of the JRPP's recommendations as well as outlining the required consultation and conditioning that a project timeframe and Visual Analysis be prepared prior to consultation.

The Gateway Determination also informed Council that it did not receive the delegation of the Minister to make this plan as this PP was subject of a rezoning review. This means that the Minister (or delegate) will:

- Consult with the NSW Parliamentary Counsel (State Government's legal service) regarding legal wording of LEP amendment;
- Authorise/sign the legal documents (this is usually done by Council's General Manager, Director of Environmental Services or Manager Strategic Planning); and
- Request publication of the LEP.

Council, as the RPA, may request the Minister to determine that the matter not proceed. The Minister (or delegate) would make a decision in relation to such a request.

Visual Analysis

Council staff have prepared the project timeframe required by the Gateway Determination. The proponent has prepared the Visual Analysis, required by the Gateway Determination, and paid Council the fee for the statutory processing of the PP.

The submitted Visual Impact Analysis (VIA) was prepared by Chris & Charlotte Webb Pty Ltd and examined the existing visual environment and reviewed the impacts on the existing urban and rural precincts of Jamberoo. The VIA concluded that the magnitude and sensitivity of the visual impact of the proposal, when viewed from Jamberoo Road and Golden Valley Road, was generally assessed as moderate to moderate-low. The submitted VIA provided the following recommendations to further minimise the impact on the visual environment arising from the rezoning of the site:

1. Consider the subdivision as an extension of the existing Jamberoo urban area.
2. Provide establishment of vegetation plantings as outlined in the mitigation section of this report to improve amenity and to reduce the apparent impact of the subdivision on external views into the developed site.
3. Planning controls should also discourage the use of lightly-coloured and/or highly reflective roofing and building materials to assist in minimizing the visual impact of the subdivision from a distance.

## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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These recommendations have already been included as controls in Chapter 33 – Jamberoo Village of the Kiama DCP (now in force) which will apply to this site if rezoned.

In this regards it is considered that the visual impact of the proposal, when viewed from Jamberoo Road and Golden Valley Road, is acceptable.

**Consultation**Public Authority Consultation

Copies of the PP and all supporting documentation, including the required Visual Analysis were forwarded to the NSW Department of Primary Industries – Land (DPI), Roads and Maritime Services (RMS), Office of Environment and Heritage (OEH) and Illawarra Local Aboriginal Lands Council (ILALC) as per the Gateway Determination requirements.

- NSW Department of Primary Industries – Land

DPI – Land informed Council on 15 November 2017 that it has no objection or requirements in the regard to this proposal.

- Roads and Maritime Services

RMS informed Council on 27 October 2017 that it has no object to this proposal in principle. The RMS outlined that Allowrie Street is a regional classified road, managed by Kiama Council. In 2015, the RMS reviewed its level of involvement on classified regional roads and determined it more appropriate for Councils to consider if proposed access arrangements are acceptable from a network perspective (i.e. no practical local road alternatives and acceptable in terms of safety and efficiency).

This matter will be considered by Council's Engineering staff as part of any future development application (DA) for subdivision. Council's Subdivision and Development Engineer has advised that the existing road network has the capacity to accommodate the additional traffic demand that would result from urban development of the site. Detailed consideration of any future development application for subdivision would determine if any road or intersection upgrades are required accommodate development. The nature and extent of any upgrades would depend on the proposed subdivision layout.

Office of Environment and Heritage

OEH informed Council on 24 October 2017 that it had no object to the proposal in principle. OEH has noted that two Aboriginal heritage sites, recorded as 52-5-0832 and 52-5-0833, have been identified on the site. OEH has recommended that Council and the proponent consider options for conservation of site 52-5-0832. OEH has suggested that this could include siting development to avoid impacts, alternative zoning for areas of high significance and/or incorporation within proposed open space/parkland. If harm to the recorded sites cannot be avoided OEH has recommended that an Aboriginal Heritage Impact Permit (AHIP) application, which complies with the relevant OEH guidelines, must be applied for. Ongoing consultation with the Registered Aboriginal Parties about this PP and any subsequent DA is also recommended.

## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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 form of 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 the Kiama DCP 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 though an assessment as being of high significance as a priority. This represents a gap in the existing policy and it is considered appropriate to amend the DCP in order 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 need for an AHIP is triggered by the listing on AHIMS database and the best option for conserving objects in lieu of an alternative zoning or DCP layer is to work with the developer from concept plan stage to develop a subdivision layout that best avoids sensitive areas.

- Illawarra local Aboriginal Lands Council

ILALC responded to Council on 1 November 2017. The response from ILALC, while not expressly raising any objections to the proposal, did raise some general concerns with the treatment of Aboriginal cultural heritage in Australia. From the ILALC response it is clear that it is preferable to avoid harming sites of Aboriginal cultural heritage.

As outlined above, Council should ensure that items or sites of Aboriginal heritage are conserved. It is considered that the actions outlined above to strengthen the existing controls of Chapter 30 – Heritage of the Kiama DCP 2012 and to work with the developer early in the development process are appropriate for the conservation of areas of high significance.

**Community Consultation**

The subject PP was placed on public exhibition from 20 November 2017 to 12 January 2018, exceeding the minimum period prescribed by the Gateway Determination. An advert was placed in *The Bugle*, notification was provided on Council's website and written notifications were sent to the Jamberoo Valley Residents and Ratepayers Association (JVRRRA) and all property owners in Hyam Place and Golden Valley Road between the subject site and Allowrie Street.

A total of 132 submissions were received by Council during the exhibition period, 114 objecting to and 18 supporting the proposal. It is noted that the submissions received reiterated many of the points raised in the previous round of non-statutory community consultation.

The submissions received that support the PP provided the following comments:

## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

- 
- No town can survive without growth;
  - Recent developments in Jamberoo have enhanced village;
  - Increased population of Jamberoo would facilitate increased services within the village;
  - 2.47 hectares cannot sustain livestock in isolation;
  - 25 plus new enrolments at School due to recent subdivisions;
  - Future housing types will be sympathetic due to the Jamberoo Village DCP Chapter;
  - During 1970 and 1980 Jamberoo Village grew significantly;
  - Subdivision of rural land for concessional dwelling allotments is responsible for loss of rural land not necessarily the conversion to residentially zoned land;
  - Site has been identified for urban expansion since 1977;
  - If new subdivisions don't occur where will future generation live;
  - A village is defined as having a population between 300 and 2000 and a viable shopping centre.

The submissions received that objected to the PP provided the following comments:

- Council and the community have already voted on and rejected this proposal;
- NSW Government has bypassed Council and Ministerial Directions;
- Proposed amendments to planning laws will contravene various provisions of the LEP, which are designed to prevent loss and fragmentation of agricultural land.
- Concerns with the Kiama Urban Strategy, including:
  - No public consultation when prepared,
  - Should've included land west of Churchill Street,
  - Land is 1.5km from School, which is too far to walk,
  - Should be updated before any more PPs are considered, and
  - There is more available land adjoining Kiama
- Imperative that clear residential boundaries need to be established for the village;
- Subdivision of rural areas into small acreage is more appropriate than unsympathetic suburban blocks;
- Jamberoo has already experienced significant growth;
- New residents will spoil the caring nature of our community, our roads and the facilities in the village;
- The proposal will result in further erosion of Jamberoo's village character;

## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

- 
- Additional residential allotments will not provide affordable housing;
  - No positive effect on commercial viability of Jamberoo;
  - Traffic Issues with concept subdivision layout;
  - Concerns regarding who will bear the cost of the infrastructure extension;
  - No public transport/taxi service in Jamberoo;
  - The site presents as a visual 'gateway' entrance to the Village;
  - The proposal will result in impacts on Aboriginal cultural heritage.
  - Existing dam is habitat for frogs;
  - Small pockets of beautiful land should be secured for peace & recreation;
  - The proposal will result in further loss of prime agricultural land; urbanisation is contrary to NSW Government's Policy for Sustainable Agriculture in NSW;

It is noted that approximately 72% (i.e. 95 out of 132) of submissions received were pro forma submissions and as such raised the same issues.

In addition to issues raised by the general community in the public submissions outlined above, the Jamberoo Valley Residents and Ratepayers Association also questioned the validity of using the KUS as a basis for supporting this rezoning as they believe it was not endorsed by the DPE and was never intended to justify new housing developments such as this rezoning.

Some of the comments raised above have already been dealt with (i.e. Aboriginal cultural heritage and visual and traffic impacts etc.) however, it is important to address the other comments raised above in submissions.

### **Rural Residential Land**

Some submissions suggested that the introduction of more rural residential land, as a means of providing additional residential development, would have less adverse impacts on productive agricultural land and the aesthetic character of the Jamberoo valley. Staff do not agree with this sentiment. As outlined below, staff have raised concerns with the DPE regarding the proposed State Environmental Planning Policy (SEPP) - Primary Production and Rural Development, specifically in regards to the potential to enable the subdivision of rural allotments into smaller lots for dwelling houses. Rural residential development requires more land per dwelling than traditional urban expansions as well as resulting in more land use conflicts between agricultural activities and dwelling houses.

### **Native Fauna Habitat**

Concerns have been raised over the potential presence of native frogs in the existing dam on site. While it is acknowledged that Green and Golden Bell Frogs have been recorded in the vicinity of the site, the OEH has not raised any concerns regarding the presence of threatened species on the site.

Report of the Director Environmental Services

10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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### Public Transport

Some submissions raised a concern over the lack of public transport to support an increase in population and a concern regarding who will bear the cost of the infrastructure (ie sewer, water and electricity) extension.

Public transport within the municipality is managed by the State Government. As outlined by the Illawarra Regional Transport Plan 2014 the State Government will continue to work with local bus operators to improve bus services, with routes and timetables that meet bus users' needs. In this regard an increased population base would likely encourage the State Government to increase bus services to and from Jamberoo. As part of any future DA the developer would be responsible for any costs associated with amplifying water, sewage and electrical infrastructure. This cost would not be borne by the ratepayers.

### Servicing

Sydney Water provided commentary for this proposal as an adjoining landowner. As part of its correspondence, Sydney Water outlined that its water infrastructure has the capacity to service the proposal but that the site is outside the Jamberoo Priority Sewerage Plan (PSP) area. Based upon a review of connections of developments within the area, this scheme has very limited capacity left and cannot accommodate additional customers outside the agreed boundary. Sydney Water advised that the proponent engage a Water Service Coordinator (WSC) and lodges a feasibility application to Sydney Water.

As part of the original application, the proponent provided a copy of a Feasibility Letter, dated 23 February 2016 (Case Number 151063) provided by Sydney Water. This Letter confirmed that the existing sewage infrastructure could not service the proposal. As part of the February correspondence Sydney Water confirmed that a WSC would be required to develop a wastewater servicing solution. Both the proponent and Council have been aware of this situation since this time. Sydney Water has outlined that the proponent would be responsible for the financial cost associated with developing and ultimately providing an acceptable wastewater servicing solution.

### Council and Community voted against proposal previously

As outlined above, Council has previously voted on this matter; resolving not to support the proposal. The proponent sought a review of Council's December 2016 resolution via the Rezoning Review process. The JRPP determined that the proposal has both strategic and site-specific merit. The JRPP's determination replaces Council's December 2016 resolution.

As part of the Rezoning Review process the proponent is required to submit the exact same proposal to the JRPP as the proposal originally considered by Council. In this regard the proposal being considered now, and previously by the JRPP, is required to the same proposal that was reported to the December 2016 Council meeting.

Community engagement was undertaken as required by the Gateway Determination. This engagement process was the first statutory exhibition process, the previous process for the PP having been non-statutory.

Report of the Director Environmental Services

10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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### Ministerial Directions

Section 9.1 (formerly Section 117) of the *Environmental Planning and Assessment Act 1979* enables the Minister to direct a Council to prepare LEPs in accordance with such principle as are specified in their direction.

Ministerial Direction 1.2 Rural Zones states that a PP must not rezone land from a rural zone to a residential. Ministerial Direction 1.5 Rural Lands states that a PP that will affect land within an existing rural zone must be consistent with the Rural Planning Principles listed in the SEPP (Rural Lands) 2008 must not rezone land from a rural zone to a residential.

A PP may be inconsistent with Directions 1.2 and 1.5 if it is in accordance with the relevant Regional Strategy prepared by the Department of Planning or is of minor significance.

In issuing the Gateway Determination the DPE determined that the subject PP was justifiably inconsistent with Directions 1.2 and 1.5 as it is considered minor and as it has been identified for residential development as part of the strategic planning for the KUS. The DPE outlined that the proposed residential development provides a logical extension to the existing residential area and will include a perimeter road which sets the village boundary for Jamberoo and the agricultural lands beyond. The DPE has confirmed that no further approval is required in relation to these Directions.

### Amendments to NSW Planning Laws

From the submissions received it is unclear exactly what proposed amendments to the planning laws are being referred to. It is assumed that the submissions are referring to the draft State Environmental Planning Policy (SEPP) - Primary Production and Rural Development. As outlined in Council's December 2017 Council meeting staff have raised concerns with the draft and have forwarded these concerns to the relevant section of the DPE. While Council share these concerns it should be noted that this proposed SEPP is not a valid reason for not supporting this proposal.

### Kiama Urban Strategy

As part of formulating the KUS, a draft was publicly exhibited in the Kiama Independent, Kiama Advertiser, the Illawarra Mercury, and on Council's website from 17 September 2010 until 31 January 2011, with late submissions accepted until 7 February 2011. Public information kiosks were located in 3 areas, including Jamberoo on 26 November 2010 from 9am-6pm. All exhibition documents were made available on Councils' website, Kiama Library, Jamberoo and Gerringong Public presentations were made to various community groups, including Jamberoo Valley Residents & Ratepayers Association on 8 December 2010.

At the 20 September 2011 Council meeting the site was included in Stage 2 of the KUS. Specific mention was made regarding the inclusion of this site as it is bounded by residential land to the north and west. The owner had originally requested that this land be zoned residential in the original 2011 LEP. As site specific studies had not been carried out, this land was not rezoned as part of the 2011 LEP. It was noted that a future Planning Proposal would be required to facilitate the zoning change.

## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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The KUS identifies that the subject site is to be the only urban expansion to occur in the next 5 years in Jamberoo and that only sites 27 and 27a remain as possible sites for urban expansion. In this regard the Jamberoo Village boundary has been defined within the KUS which was established in conjunction with community consultation.

A principal component of the KUS was the identification of potential locations for urban expansion options to cater for future population growth and housing needs. An intended purpose of the KUS was therefore the identification of sites for urban expansion.

While the final KUS was not endorsed by the DPE in its entirety, in responding to Council the DPE expressly stated that: “the Council has endorsed the consideration of a number of potential rezonings to contribute to housing supply in Kiama in the short-term. I can confirm that the Department is willing to consider Planning Proposals for these sites.” As discussed previously this, and other sites recently rezoned in Jamberoo, have been endorsed by the DPE.

The concerns raised regarding the KUS are not a valid reason for not supporting this proposal.

It should be acknowledged that Council has a legal obligation under the provisions of the *Environmental Planning and Assessment Act 1979* (the Act) to consider a request from a landowner to prepare a PP and as such, cannot prohibit landowners requesting the preparation of a PP. In this regard Council does not have an ability to refuse to accept requests for PPs.

**Village Character**

It is clear that the issue of the ‘village character’ is an important one for the Jamberoo community. As part of the process of preparing Chapter 33 – Jamberoo Village of the DCP 2012 Council and the community have established the desired future character. If rezoned, the controls of Chapter 33 – Jamberoo Village will apply to the site. Any future subdivision of the site will need to comply with the controls of Chapter 33.

**Agricultural Land**

Concerns have been raised over the loss of prime agricultural land. The site is not identified as being Biophysical Strategic Agricultural Land (BSAL) by the Department of Planning & Infrastructure’s Strategic Agricultural Land Map (Sheet STA\_041). BSAL is identified as land with high quality soil and water resources capable of sustaining high levels of productivity. In January 2014 the NSW Government finalised mapping for 2.74 million hectares across the State. These maps have been given legal effect via an amendment to the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* in order to safeguard prime agricultural from extractive industries.

As outlined above, the JRPP also recommended that Council and the DPE seek resourcing for the preparation of a Rural Lands Strategy that identifies regionally significant rural lands. The ISRP outlines that this is primarily the responsibility of the DPI. This recommendation is outside the scope of the Planning Proposal process and is being pursued as a strategic priority under the Illawarra Shoalhaven Regional Plan implementation.



## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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The Agricultural Land Classification maps are no longer in circulation but by utilising the NSW Agriculture's (now DPI – Agriculture) Agriculture Land Classification document (Agfact AC.25) would indicate that the site would meet the definition of a Class 3 agricultural land and would not be considered significant or prime agricultural land.

In response to the concerns raised by the community, Council requested advice from the Department of Primary Industries (DPI) – Agriculture regarding the loss of agricultural land. The DPI – Agriculture responded to Council on 25 January 2018 by confirming that the site is classified as Class 3 (of a 5 class system, 1 is highest). The DPI – Agriculture indicated that the land is considered to be good quality and if it had not been identified for urban development, it should be maintained for agriculture. Notwithstanding this advice, DPI – Agriculture confirmed that it does not object to the Planning Proposal and has indicated that if the proposal proceeds Council should consider mitigation measures from urban development on nearby BSAL lands. This may include appropriate edge treatments and management of cross water drainage.

Subsequent consultations with the DPI – Agriculture indicated that ideally the agricultural land would be retained but it has acknowledged the site has strategic merit for residential rezoning for the following reasons:

- The site is 4.7 hectares (i.e. relatively small in both a local and regional scale);
- The site is bounded by urban development on two sides;
- The land is not currently being used for agricultural purposes;
- The land has a mid-range agricultural land classification of 3;
- The KUS recommends a Planning Proposal be undertaken for the site as an urban expansion opportunity;
- The then Department of Planning and Infrastructure, in 2012, confirmed that the Department is willing to consider a Planning Proposal for the site;
- The Illawarra-Shoalhaven Regional Plan and the Illawarra-Shoalhaven Urban Development Program both note the lack of housing supply in the Kiama Municipality and the need to identify housing opportunities to respond housing demand; and
- The JRPP, in undertaking a Rezoning Review of the planning proposal, considered that the proposal has both strategic and site specific merit and recommended that the planning proposal should proceed to Gateway Determination stage. In assessing the site specific merit, the JRPP noted that *“Use for residential purposes would remove this resource from agricultural production. However the area proposed for rezoning is 4.662 Ha, representing a relatively small proportion of the resource in the Kiama LGA”*
- In issuing the Gateway Determination for the Planning Proposal to proceed, the DPE agreed that the *“Planning Proposal’s inconsistency with Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands are justified in accordance with*

## Report of the Director Environmental Services

## 10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo (cont)

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*the terms of the Direction. No further approval is required in relation to these Directions.”*

It is agreed that this proposal will result in the loss of agricultural land. However, as outlined above, this loss is considered acceptable due to the larger strategic merits outlined above. Mitigation measures will be put in place to manage urban impacts on adjoining high value agricultural lands.

**Conclusion**

The subject PP meets the criteria outlined in the Planning Proposal Policy, as it is an endorsed site, (Site 27b) under the Kiama Urban Strategy. The PP also assist Council in meeting its obligations under the Regional Plan.

It is important to recognise that while a significant number of submissions objecting to the proposal were received, the points of objection did not raise any planning reasons that should prevent the rezoning from proceeding.

None of the Government agencies consulted objected to the proposal. OEH's comments in regards to conserving items of Aboriginal cultural heritage are supported and it is a recommendation of this report to strengthen the existing controls of the DCP 2012 to ensure this occurs for this and other development across the Municipality. It is also agreed that the site is classified as good agricultural land, but the loss of this land is considered acceptable due to the larger strategic merits identified in the KUS, Regional Plan, JRPP's recommendation and the Gateway Determination.

The submitted Visual Impact Analysis (VIA) has addressed concerns relating to visual impact. The recently published Chapter 33 – Jamberoo Village of the DCP 2012 will also ensure that any future development that occurs on the site reflects the desired future character of the Jamberoo Village.

Having regard to the above and the fact that this will have no identified impact on the character of Jamberoo, the village streetscape nor general amenity levels, endorsement for the PP to proceed with the preparation and finalisation of the amendment to the LEP 2011 in conjunction with Parliamentary Counsel and the Department of Planning and Environment is recommended.

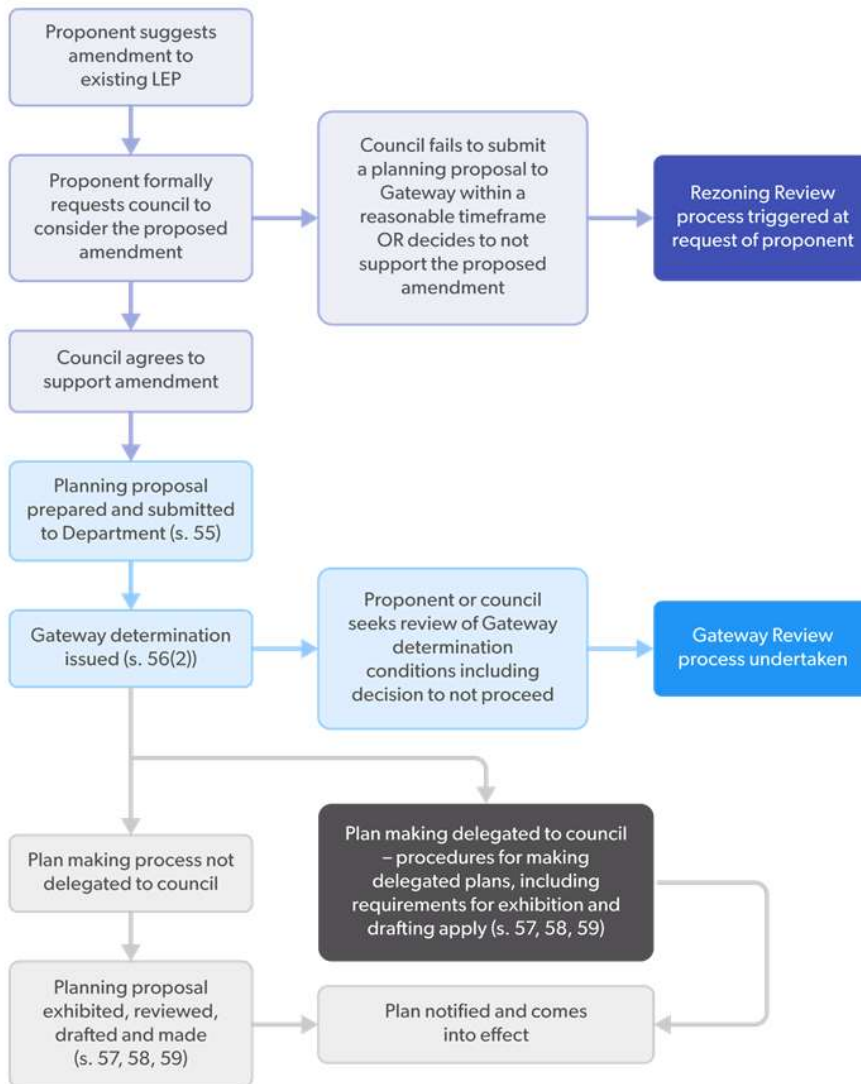


Item 10.1

Attachment 1

## 6 Attachments

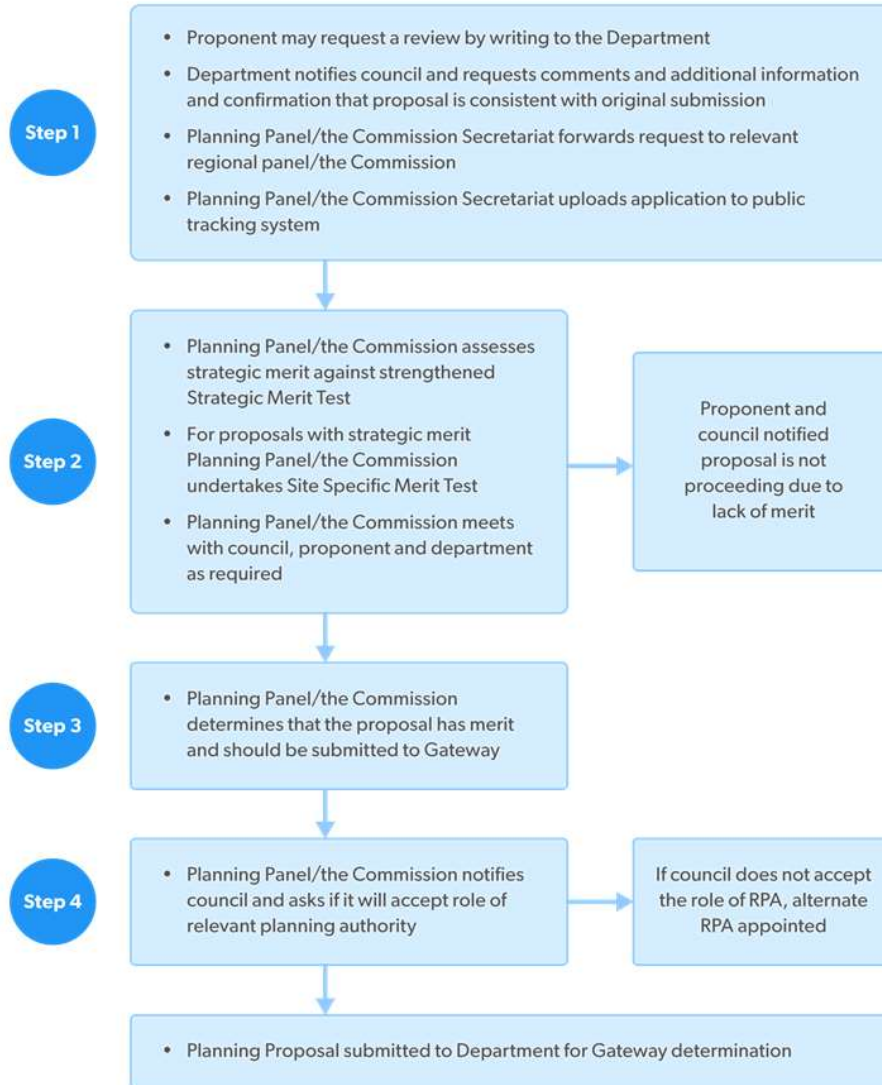
### Attachment 1 – LEP plan making process



Item 10.1

Attachment 2

Attachment 2 – Rezoning review process



Item 10.1

Attachment 3



Phil Costello  
Kiama Municipal Council  
PO Box 75  
Kiama NSW 2533

25 May 2017

Dear Phil

**Request for a Rezoning Review - 2017STH007 - PGR\_2017\_KIAMA\_001\_00**

I refer to the request for a Rezoning Review for a proposal at 123 Golden Valley Way, Jamberoo to amend the Kiama Local Environmental Plan 2011 to rezone land at 123 Golden Valley Way, Jamberoo, from RU2 Rural Landscape to R2 Low Density Residential, to amend the lot size map from 40ha to 800m<sup>2</sup> and to introduce a Floor Space Ratio of 0.45:1 and Height of Building control of 8.5 metres.

The Southern Joint Regional Planning Panel (Planning Panel) has determined that the proposal should proceed to Gateway determination stage. In making this decision, the Planning Panel considered the request and advice provided by Council. A copy of the Panel's decision is attached.

Consequently, Council is invited to be the Relevant Planning Authority (RPA) for this proposal and to advise within 42 days of the date of this letter whether it will accept the role of RPA for this proposal. Should Council agree to be the RPA, it will need to prepare a planning proposal under section 55 of the *Environmental Planning and Assessment Act 1979*, and submit it for a Gateway determination within 42 days after accepting this role.

If Council does not wish to progress this matter, the Planning Panel will be appointed as the RPA to prepare the planning proposal.

If you have any queries on this matter, please contact Stuart Withington, Manager, Planning Panels Secretariat on (02) 8217 2062 or via email to [stuart.withington@planning.nsw.gov.au](mailto:stuart.withington@planning.nsw.gov.au)

Yours sincerely

A handwritten signature in blue ink that reads 'Pam Allan'.

**Pam Allan**  
**Chair, Southern Joint Regional Planning Panel**

encl. Rezoning Review Record of Decision

**Planning Panels Secretariat**

320 Pitt Street Sydney | GPO Box 39 Sydney NSW 2001 | T 02 8217 2060 | [www.planningpanels.nsw.gov.au](http://www.planningpanels.nsw.gov.au)



**REZONING REVIEW  
RECORD OF DECISION**  
SOUTHERN JOINT REGIONAL PLANNING PANEL

<b>DATE OF DECISION</b>	12 May 2017
<b>PANEL MEMBERS</b>	Pam Allan (Chair), Alison McCabe, Renata Brooks
<b>APOLOGIES</b>	Michael Forsyth
<b>DECLARATIONS OF INTEREST</b>	Mark Honey and Andrew Sloan declared a conflict of interest and did not participate in the Panel's decision as they were both involved in Kiama Council's decision to reject the planning proposal. Mark Honey was not present during the proponent's presentation.

**REZONING REVIEW**

2017STH007 – Kiama Municipal Council – PGR\_2017\_KIAMA\_001\_00 AT 123 Golden Valley Way, Jamberoo (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- The council has notified the proponent that the request to prepare a planning proposal has not been supported
- The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

**PANEL CONSIDERATION AND DECISION**

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- should not** be submitted for a Gateway determination because the proposal has
  - not demonstrated strategic merit
  - has demonstrated strategic merit but not site specific merit

The decision was unanimous.

**REASONS FOR THE DECISION**

**Overview**

This proposal seeks to rezone a 4.662 hectare parcel of land on the edge of the Jamberoo Village from RU2 Rural Landscape to R2 Low Density Residential Development.

The Panel had the benefit of presentations from the proponent, submitters both for and against the proposal and a presentation from Councillors speaking against the Planning Proposal consistent with Council's resolution.

There was discussion around a black line in the now repealed Illawarra Regional Plan that suggested limits to the extent of development of the Jamberoo Village. There was also discussion about the character of the village and the population needed to ensure local services including schools and supermarkets remain as sustainable businesses that can service the village and surrounding area.

It was noted by the Panel that since the Kiama Urban Strategy 2011 (KUS), 62 additional allotments have been created in Jamberoo. Current population is in the order of 900 people. One of the presenters noted that in 1860's the population of Jamberoo was in the order of 2,300 people. The site was also zoned in 1977 as residential 2(b) – allowing for residential development subject to amplification of water and sewerage facilities. This was changed to a rural zone in the subsequent Kiama Local Environment Plan (KLEP) No. 5 1981 and KLEP 1996.

**Strategic merit**

The proposal is broadly consistent with the Illawarra Shoalhaven Regional Plan 2015 (ISRP) direction 2.1 to provide sufficient housing supply to suit the changing demands of the region, and action to identify housing opportunities in the Kiama Local Government Area, noting that Jamberoo is neither explicitly identified in nor excluded by the ISRP.

The proposal may not be consistent with the ISRP direction 4.1 to protect regionally important agricultural lands as an asset to food and fibre production. "Regionally important agricultural lands" have not yet been identified, however the site has been classified as Class 3 Agricultural Land suitable for grazing or well suited to pasture improvement with a moderate production level. The land may be a candidate for future consideration as being of regional importance, particularly given it is adjacent to land mapped as Biophysical Strategic Agricultural Land (BSAL) under State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

The proposal is consistent with the Kiama Urban Strategy 2011 (KUS), which was developed concurrently with the Kiama Local Environment Plan 2011 (KLEP) and which envisaged staged assessment of planning proposals for identified sites. The subject site is identified as 27b in the KUS, with an approximate yield of 47 lots and a planned timeframe of assessment of five (5) to ten (10) years from commencement of the KUS. The KUS has guided consideration of other planning proposals for Jamberoo and is not currently subject to review.

On balance, the Panel considers the proposal to have strategic merit because of the potential to contribute to strategic objectives for housing supply consistent with the ISRP and the KUS. Submission of the planning proposal for this site for Gateway determination would allow its merits to be properly considered and for appropriate community consultation to take place.

**Site specific merit**

The site is located in reasonable proximity to the commercial centre of Jamberoo and is adjacent on two (2) boundaries to existing residential development or sites identified in the KUS for consideration for residential development. However, the site potentially forms the boundary of the village, requiring consideration of the visual impact of any change in land use on the character of the village. It is also adjacent to land being used for agricultural production creating the potential for land use conflict.

Service provision and road infrastructure are not considered to be limiting factors but are likely to require augmentation and funding at cost to the developer and will need to be considered as part of the planning proposal.

The site is not of high biodiversity value and has no known significant hazards.

Two (2) potential Aboriginal archaeological deposits have been identified and registered. The Panel notes that Site 1 was rated as moderate-high significance by the consultants contracted by the proponent, with recommendations to avoid development or develop under a permit. Further consultation with the Aboriginal community should be undertaken in consideration of the proposal.



The land is productive agricultural land in a high rainfall area in current use and adjacent to land mapped as BSAL. Use for residential purposes would remove this resource from agricultural production. However, the area proposed for rezoning is 4.662 Ha, representing a relatively small proportion of the resource in the Kiama LGA.

On balance, the Panel considers the site to have site specific merit.

**Mitigation of Environmental Impact**

The Panel noted the significant community interest in the proposal.

In addition to the matters identified in the KUS, to address issues raised in submissions and address potential impacts and transition of landuse at a rural residential interface, the Panel recommends the Gateway assessment requires:

- A detailed visual assessment of the proposal to ensure a landscape entry point to the village.
- Appropriate zoning and density at the interface with adjacent agricultural land to manage risks of land use conflict, implementation of landscape buffer and consistency of visual presentation with village character and demarcation of the edge of the village boundary – this should involve consideration of a zoning other than residential.
- Further studies on cumulative traffic impact (taking into account the likely impact of the other residential developments which have been or may be progressed in line with the KUS), including pedestrian access and connectivity with the village centre.
- Additional consultation with Aboriginal communities.
- Review of density to provide for integration with existing village and form and scale of development.
- Preparation of DCP controls that reinforce the desired characteristics of the village, including lot sizes and architectural controls.

**Additional Strategic Studies**




It is considered that future consideration of Planning Proposals in the Jamberoo area consistent with the KUS would be assisted by:

- A coherent planning framework to support the village character of Jamberoo – noting Council advice that it is in the process of developing a draft Jamberoo specific Development Control Plan (DCP) which is to be exhibited but that this will not address zoning or the location of an appropriate boundary for the village. Neither the KLEP or the KUS fulfil this need.
- Resourcing for development of a rural strategy to complement the Kiama Urban Strategy, identifying regionally significant agricultural land and land to be preserved for rural landscape purposes, as envisaged by action 4.1.1 in the ISRP.

Engagement with the Jamberoo community on both of the above.

**Recommendations**

1. That the Planning Proposal proceed to Gateway.
2. That the following additional requirements as outlined in this report be considered as part of the Gateway Determination:
  - Cumulative traffic impacts;
  - DCP controls;
  - Visual Analysis; and
  - Zoning and controls that provide an appropriate interface to agricultural lands and provide clear demarcation to the limits of the village.
3. That Council and the Department seek resourcing for the preparation of a Rural Lands Strategy, that identifies regionally significant rural lands.

PANEL MEMBERS	
 Pam Allan (Chair)	 Alison McCabe
 Renata Brooks	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2017STH007 – Kiama Municipal Council – PGR_2017_KIAMA_001_00 AT 123 Golden Valley Way, Jamberoo
2	LEP TO BE AMENDED	Kiama Local Environmental Plan 2011
3	PROPOSED INSTRUMENT	The proposal seeks to rezone land at 123 Golden Valley Way, Jamberoo, from RU2 Rural Landscape to R2 Low Density Residential, to amend the lot size map from 40ha to 800m <sup>2</sup> and to introduce a Floor Space Ratio of 0.45:1 and Height of Building control of 8.5 metres.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Rezoning review request documentation.</li> <li>• Briefing report from Department of Planning and Environment.</li> <li>• Documents tabled by community representatives on 11 May 2017.</li> <li>• The Kiama Urban Strategy 2011.</li> <li>• The Illawarra Shoalhaven Regional Plan 2015.</li> <li>• A letter dated 28 January 2014 from the Department of Planning and Infrastructure to Council regarding repeal of the Illawarra Regional Environmental Plan No 2 Jamberoo Valley.</li> <li>• Additional information provided by Kiama Council with respect to zoning listing.</li> </ul>
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• <b>Site inspection: 16 March 2017.</b> Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks, Michael Forsyth</li> <li>○ <u>Department of Planning and Environment (DPE) staff</u>: Lisa Kennedy, Graham Towers</li> </ul> </li> <li>• <b>Briefing meeting with Department of Planning and Environment (DPE): 11 May 2017, 9.30am.</b> Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks</li> <li>○ <u>DPE staff</u>: Lisa Kennedy, Graham Towers</li> </ul> </li> <li>• <b>Briefing meeting with Council: 11 May 2017, 11.00am.</b> Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks</li> <li>○ <u>DPE staff</u>: Lisa Kennedy, Graham Towers</li> <li>○ <u>Council</u>: Edward Paterson, Phil Costello, Cr Neil Reilly, Cr Don Watson, Cr Andrew Sloan, Cr Mark Honey</li> </ul> </li> <li>• <b>Briefing meeting with Community Representatives (in favour of the Proposal): 11 May 2017, 1.15pm.</b> Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks</li> <li>○ <u>DPE staff</u>: Lisa Kennedy, Graham Towers</li> <li>○ <u>Council</u>: Edward Paterson, Phil Costello, Cr Mark Honey</li> <li>○ <u>Community representatives</u>: Geoff Boxsell, Ken Jeffrey</li> </ul> </li> <li>• <b>Briefing meeting with Community Representatives (against the Proposal): 11 May 2017, 1.45pm.</b> Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks</li> <li>○ <u>DPE staff</u>: Lisa Kennedy, Graham Towers</li> <li>○ <u>Council</u>: Edward Paterson, Phil Costello, <b>Cr Mark Honey</b></li> <li>○ <u>Community representatives</u>: Graham Pike, Garry Cochran</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li>• <b>Briefing meeting with Proponent: 11 May 2017, 2.30pm.</b> Attendees:<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks</li><li>○ <u>DPE staff</u>: Lisa Kennedy, Graham Towers</li><li>○ <u>Council</u>: Edward Paterson, Phil Costello</li><li>○ <u>Proponent</u>: Elaine Treglown (TCG Planning), Neville Fredericks (Fountaindale Project Management), Branko Simicic (Landowner), Tiana Simicic</li></ul></li></ul>
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## Planning & Environment

### Gateway Determination

*Planning Proposal (Department Ref: PP\_2017\_KIAMA\_004\_00): to rezone land at 123 Golden Valley Road, Jamberoo (Lot 2 DP 626183) from rural to residential and change the lot size, floor space ratio and building height controls.*

I, the Acting Executive Director, Regions, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under Section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kiama Local Environmental Plan (LEP) 2011 to rezone land at 123 Golden Valley Road, Jamberoo (Lot 2 DP 626183) from RU2 Rural Landscape to R2 Low Density Residential and change the lot size, floor space ratio and building height controls should proceed subject to the following conditions:

1. Prior to community consultation the Planning Proposal is to be updated to include:
  - the project timeframe and details on public exhibition, agency consultation and further studies; and
  - a visual analysis to address potential visual impacts of the proposal.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
  - (a) the Planning Proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of Planning Proposals and the specifications for material that must be made publicly available along with Planning Proposals as identified in Section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities and organisations under section 56(2)(d) of the Act:
  - NSW Department of Primary Industries – Land;
  - Roads and Maritime Services;
  - Office of Environment and Heritage; and
  - Illawarra local Aboriginal Lands Council

Each public authority/organisation is to be provided with a copy of the Planning Proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.



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4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 7 day of August 2017

A handwritten signature in cursive script that reads "Anthea Sargeant".

**Anthea Sargeant  
Acting Executive Director, Regions  
Planning Services  
Department of Planning and  
Environment**

**Delegate of the Minister for Planning**

**10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6 Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title Subdivision**

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 reviews DA 10.2017.300.1 which involves the construction of a detached dual occupancy & subsequent 2 lot Torrens Title subdivision.

The report recommends that Council approve DA 10.2017.300.1 as the proposal is:

- permissible in the R2 Low Density Residential zone and complies with the zone objectives even though it is inconsistent with the relevant development standards of the Kiama Local Environment Plan 2011 (LEP), including a 14.3% and 18.5% variation to the subdivision development standard restricting the size of the lots resulting from the subdivision to an area of not less than 450m<sup>2</sup> each; and
- generally consistent with the Kiama Development Control Plan 2012 (DCP), with the exception of the controls requiring the upper level building mass to be within 12.0m from the front building line which is considered acceptable in the circumstances of this development.

Requests to vary this LEP development standard and these DCP controls have been received.

It is noted that this matter is related to Council's resolution to amend the minimum lot size for resulting lots created as a result of subdividing dual occupancy development.

**Finance**

N/A

**Policy**

N/A

**Reason for the Report**

This report is submitted to Council because only the elected Council can assume concurrence of the Secretary of the Department of Planning and Environment under the LEP 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.

**Attachments**

1 10.2017.300.1 - plans [↓](#)

Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

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### Enclosures

Nil

### RECOMMENDATION

That Council approve Development application 10.2017.300.1 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 Lot 2 DP 1235469 (formerly Lot 100 DP618342 at the time the development application was lodged) which is located at No 6 Sanctuary Place, Minnamurra. The overall site measures 750.5m<sup>2</sup> is generally rectangular in shape. The site had an existing dwelling and swimming pool, and contains a number of mature trees.

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

In August 2017, Council approved DA No 10.2017.153.1 proposing the demolition of the existing dwelling, and a one into two lot subdivision.

The subdivision of the 1563 m<sup>2</sup> allotment proposed to create:

- Lot 1 with a width of 18.5m and an area of 813.4 m<sup>2</sup>. This part of the site is generally vacant with the exception of the existing driveway, a small portion of the existing dwelling and the swimming pool; and
- Lot 2 with a width of 18.5m and an area of 750.5 m<sup>2</sup> containing the majority of the existing dwelling.

The existing dwelling has since been demolished, and the subdivision was registered by the NSW Land Registry Service on 23 March 2018.

The site (Lot 2) is now vacant, and adjoins other residential allotments. The subject application involves the redevelopment of proposed Lot 2 with a detached dual occupancy, and its re-subdivision into Lot 2a and Lot 2b.

Lot 2 has a vertical rise of 3.5m from the street front at RL 21.5m to the rear of the allotment at RL 24m (8.3% or 4.74 degrees).

Lot 2 drains to the adjoining public road, that provide access to the property. The site is serviced with utilities.

The locality plan is shown below in Figure 1:



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10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6 Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title Subdivision (cont)

Item 10.2



Figure 1 – GIS Locality Plan



Figure 2 – Site Photograph (West View)

Description of the Proposed Development

The proposal involves the construction of a detached dual occupancy development with retaining walls & fencing along with a 2 lot Torrens Title subdivision.

The proposal is shown in Figures 3, 4, 5, 6, 7, and 8 below:

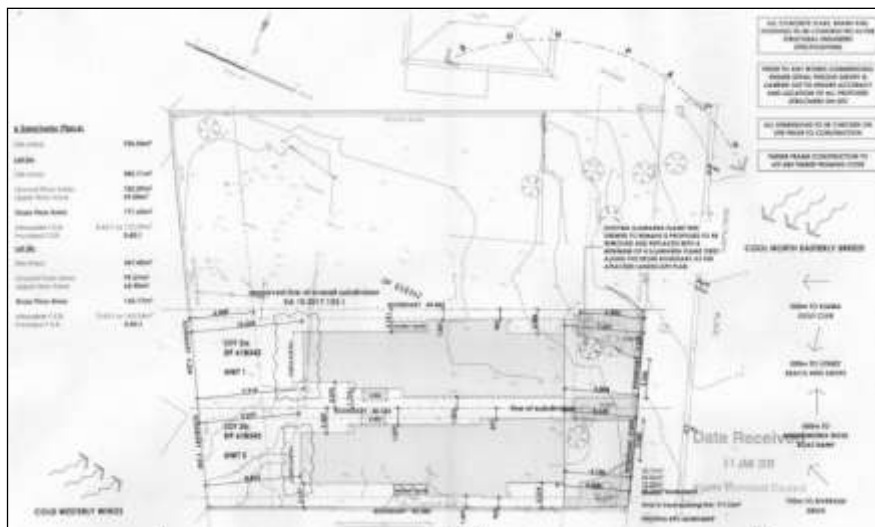


Figure 3 – Site Plan

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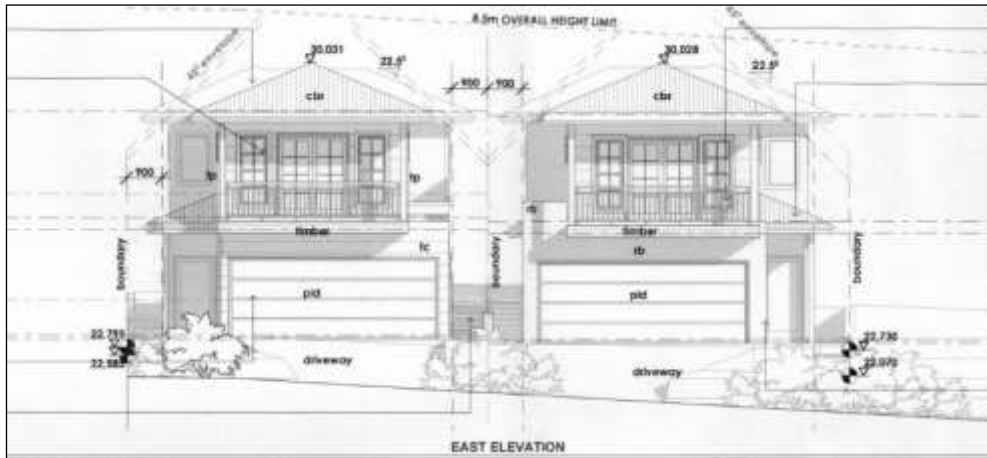


Figure 4 – Eastern Elevation (Sanctuary Place streetscape)



Figure 5 – Southern Elevation



Figure 6 – Northern Elevation Dwelling

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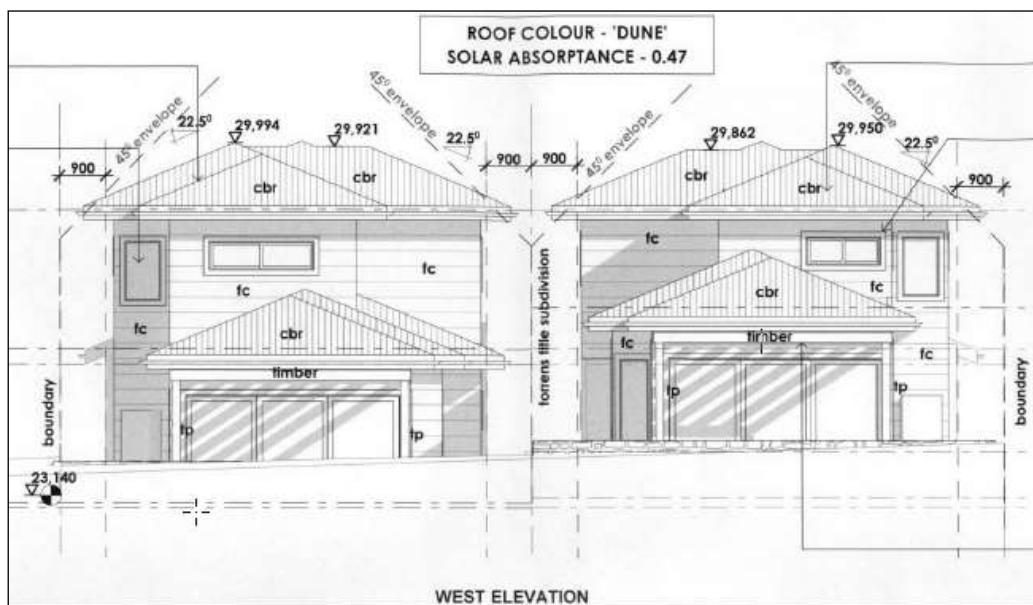


Figure 7 – West Elevation (rear view)



Figure 8 – Landscape Plan

The proposal is described as:

- Subdivision of Lot 2 into Lot 2a and 2b; each lot with an area of 383 m<sup>2</sup> and 367m<sup>2</sup> respectively.
- The construction of two free standing two-storey dwellings, one on each of the proposed allotments, with separate driveways and landscaped areas.
- The dwellings have a combined gross floor area (GFA) of 336.8 m<sup>2</sup>.

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The details of each of the dwellings is as follows:

<b>Dwelling 1 (Lot 2a)</b> 171.63 m <sup>2</sup> GFA	<b>Dwelling 2 (Lot 2b)</b> 165.17 m <sup>2</sup> GFA
<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Open plan kitchen, dining, living</li> <li>• Guest Room with WIR &amp; Ensuite</li> <li>• Laundry, Alfresco</li> <li>• Double car garage at Sanctuary Place</li> </ul> <p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• 3 x bedrooms</li> <li>• Balcony (external from Bed 1)</li> <li>• Bathroom with Separated WC</li> <li>• Children's Retreat Linen cupboard</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>• Open plan kitchen, dining, living</li> <li>• Guest Room with WIR &amp; Ensuite</li> <li>• Laundry, Alfresco</li> <li>• Double car garage at Sanctuary Place</li> </ul> <p><u>First Floor</u></p> <ul style="list-style-type: none"> <li>• 3 x bedrooms</li> <li>• Balcony (external from Bed 1)</li> <li>• Bathroom with Separated WC</li> <li>• Children's Retreat, Linen cupboard</li> </ul>

Item 10.2

#### 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 No 71 – Coastal Protection (SEPP 71)

In broad terms, the aims of the SEPP seek to protect and manage the unique attributes of the NSW coast by encouraging sensitive and appropriate development. The SEPP 71 is a means of implementing the State's *Coastal Policy*.

SEPP 71 aims to protect the unique attributes of the NSW Coast by ensuring that flora and fauna are protected, heritage is conserved and that development is appropriate. SEPP 71 applies to land and development within the coastal zone as defined by the *Coastal Protection Act 1979*.

The site is within the coastal zone as defined by the Coastal Protection Act being within 1km of the coastline, but is not within a coastal sensitive location.

Consideration has been given to the objectives of the SEPP and the matters prescribed by Clause 8. The proposed development is considered to be consistent with the objectives of the SEPP which are addressed further below under the heading "Clause 5.5 Development within the Coastal Zone".

The proposed development is not considered inconsistent with the aims of the SEPP 71 as the heads of consideration listed in clause 8 and part 4 are satisfied by the development or have no relevance to the subject site.

Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

- 
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate (No.866557S\_02) 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. The land is suitable for the proposed use. Council is unaware of any historic land use which would deem the site unsuitable for the proposed development.

- 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. No trees are proposed to be removed as part of this development.

- Kiama LEP 2011

#### Clause 2.1 Land Use Zones

The subject land is zoned R2 Low Density Residential under Kiama LEP 2011. The proposal is defined as a *dual occupancy* under the provisions of the LEP 2011, which is permitted with consent in the R2 Low Density Residential zone. As the proposal will provide for the housing needs of the community within a low density residential environment 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 resulting lot size is not less than the minimum size shown on the Lot Size Map. The proposal **does not comply** with the minimum resulting lot size of 450m<sup>2</sup> for subdivision requirement indicated on the Lot Size Map. Each of the proposed resulting lots has an area of 383.11 m<sup>2</sup> (Lot 2a – 14.8% undersized) and 367.42 m<sup>2</sup> (Lot 2b – 18.35% undersized).

#### 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 proposal has a height of 6.93 metres which does not exceed the maximum height of 8.5m shown on the Height of Buildings Map.

#### 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 map. The proposal has an FSR of 0.448:1 which does not exceed the maximum floor space ratio of 0.45:1 shown for land on the Floor Space Ratio map.

Report of the Director Environmental Services

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Subdivision (cont)

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#### Clause 4.6 Exceptions to Development Standards

Clause 4.6 provides for exceptions to development standards. The applicant has requested a 14.8% (Lot 2a) and 18.35% (Lot 2b) variation to the minimum lot size development standard.

The applicant has provided the following justification to varying the minimum lot size development standard:

##### Justification for non-compliance

*This submission demonstrates that the proposal will achieve the Clause 4.1 objectives despite non-compliance with the 450m<sup>2</sup> minimum lot size, in the specific circumstances of this case.*

- a) *This proposed subdivision resulting in two detached dwellings across the 18.5 metres frontage of the subject Lot 1. The outcome is a front boundary dimension of 9.25 metres for Unit 1, 9.25 metres for Unit 2.*
  - *The two proposed new lots will have a depth of approx. 40.744 metres, at point of subdivision.*
- b) *The dwelling proposed for each lot reflect the contemporary architectural character of neighbouring properties, including a mix of single and two storey components to the design.*
  - *Each lot created will have individual vehicular access driveways not impacting on sight lines to other adjoining sites and the existing road configuration off Sanctuary Place, Minnamurra*
  - *All lots will provide landscaping and building setbacks in accordance with Council requirements*
  - *Proposed dwelling designs for each lot will not produce overlooking or negative impact on amenity to adjoining properties. As two storeys portion is proposed, and this two storey component exceeds beyond the required 12 metres, highlight windows to the North/West and South elevations will prevent any overlooking of neighbours and maintain internal privacy from outside looking in.*
- c) *The two proposed lots are to be occupied with purpose designed dwellings to generally comply with the DCP 2012 provisions.*
  - *The proportion of frontage to depth ratio for each lot produces lot sizes that are capable of accommodating dwellings suitable and compatible with the local housing product, and recently approved Dual Occupancies within the immediate area.*
- d) *The proposed subdivision into two Torrens Title lots with associated dwellings will be connected individually to power, sewer & water, telecommunications, drainage, vehicular access with clothes drying areas and private open space requirements contained within the boundary of each proposed lot. Landscaping is proposed for each lot.*

## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

- 
- e) *The proposal will deliver no amenity impacts to adjoining and nearby residents.*
  - f) *The proposed lots 2a and 2b will have separate road frontages and form single depth lots. There are no 'battle-axe' type lots or dwellings to the rear of those fronting the street therefore there is no logical case to require strata subdivision as the title system for the development.*
  - g) *Proposed Lots 2a and 2b will deliver separate dwellings with a similar built form outcome to the other dwellings in the vicinity, plus they deliver a greater mix of housing diversity to the local housing market.*
  - h) *The greatest impact is the footprint of the dwellings. The subsequent subdivision of the lots into Torrens Title lots generates no additional impact to the environment nor does it require any additional works on the site.*

*Assessment of the project against the Clause 4.1 objectives demonstrates that compliance with the standard is unreasonable under these circumstances as the Clause 4.1 objectives will be achieved via the proposal.*

*The concept of Torrens Title subdivision enables the proposal to realise its full potential without the unreasonable constraints of additional management and associated costs under a Strata Title subdivision scheme.*

*Environmental planning grounds for non-compliance*

*This submission is also required to demonstrate that there are sufficient environmental planning grounds to justify non-compliance with the 450m<sup>2</sup> minimum lot size requirement.*

- *The proposal is consistent with state and regional planning provisions as they apply to the subject land.*
- *This proposal to create two additional dwellings on two Torrens Title lots complies with the overriding objectives of the R2 Low Density Residential Zone as follows:*
  - i. *The proposal provides housing on smaller Torrens Title lots that meet a community need at a low density.*
  - ii. *This proposal adds to the viability of the other land uses and facilities they may be provided to satisfy the needs of residents.*
  - iii. *This proposal adds to the range or mix of housing types that could be available for rental.*
- *The proposal in its current form is consistent with the Clause 4.1 objectives despite noncompliance with the 450m<sup>2</sup> minimum lot size requirement.*
- *The site is suited to the proposal for the dual occupancy development that results in two Torrens Title lots.*

## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

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*Considering the above detailed justification we are of the opinion that the project demonstrates that it is in the public interest as it is consistent with the zone objectives plus the objectives of the clause 4.1 development standard. The proposal avoids the imposition of unnecessary management costs associated with Strata Titling being delivered to future owners of the dwellings in the development.*

Compliance with the development standard is unreasonable as dual occupancies are permissible in the R2 Low Density Residential zone and the development satisfies the FSR and the building height requirements of the LEP 2011. The applicant has outlined that the proposal is consistent with the objectives of Clause 4.1.

The proposed variations will not result in a significant increased residential density in the area. Generally, the proposed dual occupancy complies with all of the relevant DCP controls.

In this regard the proposed variation is consistent with the objectives of Clause 4.1 as well as the objectives of the R2 Low Density Residential zone (i.e. provision of low density residential development).

Accordingly, it is considered that this variation is in the public interest. It is considered that the provision of additional housing is in the public interest. It is also important to note that Council has varied Clause 4.1 in the past for similar developments in the Municipality.

It is also noted that Council has prepared a Planning Proposal (draft EPI) for subdivision housekeeping amendments which would enable this type of proposal without the requirement to vary Clause 4.1. This Planning Proposal has been exhibited to the community. It is noted that the Planning Proposal was reported to the December 2017 Council meeting at which time the Council resolved to grant final endorsement.

In light of this it is considered appropriate to vary the minimum lot size requirements of Clause 4.1 of the LEP 2011.

Under clause 64 of the *Environmental Planning and Assessment Regulation 2000* the Director-General's concurrence has been assumed for the variations applied for, in accordance with Planning Circular PS 08-003.

#### Clause 5.5 Development within the Coastal Zone

The clause lists requirements for development within the coastal zone.

The development is on land that is wholly or partly within the coastal zone.

The proposal is not inconsistent with the objectives of the clause. The proposal does not cause increased coastal hazards or adverse impacts by way of diminished foreshore access, or its relationship with the surrounding area and natural scenic quality.

Development consent must not be granted unless the consent authority has considered the following provisions:



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Provision	Comment
<p>Existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:</p> <ul style="list-style-type: none"> <li>(i) maintaining existing public access and, where possible, improving that access, and</li> <li>(ii) identifying opportunities for new public access</li> </ul>	<p>Access to and along the foreshore for pedestrians is not affected by the proposal.</p>
<p>The suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:</p> <ul style="list-style-type: none"> <li>(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and</li> <li>(ii) the location, and</li> <li>(iii) the bulk, scale, size and overall built form design of any building or work involved</li> </ul>	<p>The colours and materials of the built form outcomes remain a consideration to ensure the visual impacts of the development are reasonably mitigated.</p> <p>Conditions of consent are recommended to ensure the scenic qualities of the coastline are reasonably protected, by restricting the use of whites, and highly reflective colours.</p>
<p>The impact of the proposed development on the amenity of the coastal foreshore including:</p> <ul style="list-style-type: none"> <li>(i) any significant overshadowing of the coastal foreshore, and</li> <li>(ii) any loss of views from a public place to the coastal foreshore</li> </ul>	<p>The coastal foreshore is not nearby the site of the development therefore its amenity is not affected as a result of overshadowing or loss of views from a public place.</p>
<p>How the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected</p>	<p>The site is not on the headland, and the scenic quality of any headland is therefore not adversely affected by the proposal.</p>
<p>How biodiversity and ecosystems, including:</p> <ul style="list-style-type: none"> <li>(i) native coastal vegetation and existing wildlife corridors, and</li> <li>(ii) rock platforms, and</li> </ul>	<p>The biodiversity and ecological values are not adversely affected by the proposal.</p>

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Provision	Comment
(iii) water quality of coastal waterbodies, and (iv) native fauna and native flora, and their habitats, (v) can be conserved	
The cumulative impacts of the proposed development and other development on the coastal catchment.	There are no foreseeable adverse cumulative effects of the development affecting the coastal zone.

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The development is on land that is wholly or partly within the coastal zone and the following matters have been satisfied:

Matter	Comment
Whether the proposed development will impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore	Access to the coast is not affected by the proposal
Whether if effluent from the development is disposed of by a non-reticulated system, it will have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform	The site is serviced by a reticulated sewerage system.
Whether the proposed development will discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform	Stormwater is proposed to be connected to the existing system constructed for the locality.
Whether the proposed development will: (i) be significantly affected by coastal hazards, or (ii) have a significant impact on coastal hazards, or (iii) increase the risk of coastal hazards in relation to any other land	The development is neither affected by coastal hazards, or adversely impacts on coastal hazards, or increases the risks of coastal hazards on any other land

Clause 6.1 – Acid Sulfate Soils

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Clause 6.1 lists requirements for land affected by Acid Sulfate Soils. The site is subject to Class 5 Acid Sulfate Soils. An Acid Sulfate Soils management plan has not been prepared and lodged with the development application for the proposed work, but the works are not likely to lower the water table, so the need for a preliminary assessment is not required.

This requirement has been satisfactorily addressed.

#### 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 both the R2 Low Density Residential zone.

#### **Any draft Environmental Planning Instruments**

##### Draft Kiama LEP 2011

Planning Proposal for administrative 'housekeeping' amendments to the subdivision controls.

On 21 March 2017 Council resolved to prepare a Planning Proposal (PP) for administrative 'housekeeping' amendments to the subdivision controls of the *Kiama Local Environmental Plan (LEP) 2011*. Accordingly, staff prepared the attached PP with the following objectives:

1. Increase the minimum lot size for the Torrens Title Subdivision of dual occupancies on land zoned R2 Low Density Residential and R3 Medium Density Residential; and
2. Retain the existing minimum lot size for the Torrens Title Subdivision of multi dwelling housing on land zoned R3 Medium Density Residential; and
3. Permit semi-detached dwellings within the R2 Low Density Residential zone; and
4. The adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

As outlined above once published this Planning Proposal (draft LEP) would negate the requirement for a clause 4.6 variation to the minimum lot size.

#### **Draft State Environmental Planning Policy (Coastal Management) 2016**

The draft Coastal Management State Environmental Planning Policy (SEPP), with accompanying maps, was on public exhibition until 23 December 2016 and 20 January 2017 (for the maps).

The 'coastal zone' is defined in the Coastal Management Act 2016 as four coastal management areas comprising: *Coastal Wetlands and Littoral Rainforests Area*; *Coastal Environment Area*; *Coastal Use Area*; and *Coastal Vulnerability Area*.

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Separate development controls apply to each area and focus on achieving specific objectives.

The site of the development is within the mapped *Coastal Use Area*.

In the *Coastal Use Area* the focus is on ensuring appropriate urban development for coastal areas, taking into account urban design issues such and maintaining scenic qualities, visual amenity and aboriginal cultural heritage and places.

The proposed location of the development:

- is not near, and does not impact access to a foreshore, beach, headland or rock platform, and
- does not cause overshadowing or wind funnelling; 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.

The draft SEPP was brought into effect on 3 April 2018. However, applications lodged before gazettal of the Instrument are not required to be reconsidered under the savings provisions.

**Development Control Plans (DCPs)**

- Kiama DCP 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
Chapter 4 – Low Density Development	
<p><i>C1 All applications for low density development must meet the following controls:</i></p> <ul style="list-style-type: none"> <li>• <i>all Principal development standards as set by LEP 2011.</i></li> <li>• <i>all development must be designed to minimise any environmental risks associated with its location.</i></li> </ul>	<p>The implications of the non-compliance with Clause 4.1 of the LEP have been discussed in the report above.</p> <p>The environmental risks of the development have been reasonably mitigated. The proposal exhibits a good streetscape appearance, and does not cause overshadowing or unreasonable privacy impacts on neighbours that cannot be resolved by the imposition of conditions of consent.</p>
<p><i>C2 Generally, where development greater than single storey is proposed, that component greater than one</i></p>	<p>The entirety of the development is greater than one storey, with upper levels positioned behind the street front building lines for a distance of 14.4m for Dwelling 1 (which <b>does not comply</b>) and 16m</p>

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Control	Comment
<p><i>storey shall be located within 12.0m of the applicable front building line:</i></p> <ul style="list-style-type: none"> <li>• <i>Development in excess of one storey beyond this point will be more critically analysed in respect to the amenity impacts on adjoining properties, by the development, with particular reference to the following:</i></li> <li>• <i>Maintenance of privacy into the adjoining dwellings and private open space areas</i></li> <li>• <i>Access to natural light and/or overshadowing</i></li> <li>• <i>Visual bulk</i></li> <li>• <i>Treatments to reduce the likely amenity impacts on adjoining properties might include, screens, opaque glazing, highlight windows, increased side setbacks, broken roof lines, split floor levels or a general height reduction.</i></li> </ul>	<p>for Dwelling 2 (which <b>does not comply</b>).</p> <p>The component of the two-storey development located beyond 12m of the front building line (by 2.4 to 4m length) is the upper level third bedroom for each dwelling. However, the third bedroom positioning does not adversely impact upon the privacy of adjoining neighbours because its upper level mass is about 20m from the rear boundary.</p> <p>The proposed arrangement means the upper level mass is generally distributed in the front half of the 42m deep lot, with the upper level building mass and bulk located towards the street-front property boundary, and away from the common boundaries with neighbouring allotments, thereby reasonably minimising the adverse effects of overlooking and overshadowing.</p> <p>The proposed upper level building separation from adjoining side boundaries and placement of windows ensures that the proposed development does not unreasonably adversely affect the privacy of adjoining properties.</p> <p>The submitted shadow diagrams show that the proposed development will cast shadows over the roof and side setbacks of the adjoining property to the south, and over the public road to the east of the site, therefore the overshadowing arising from the non-compliance does not generate an unreasonable impact, and does not significantly diminish the amount of sunlight received by neighbours mid-winter.</p> <p>This outcome achieves the underlying intention of the control to distribute the upper level mass towards the front of the site.</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**

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- 
- *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*

N/A

### **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 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.

The proposed separation between adjoining allotments and placement of windows will ensure that the proposed development does not unreasonably adversely affect the privacy of adjoining properties. The windows on the top floor of the development are either associated with bedrooms or the passageway areas.

- Overshadowing

The orientation of the allotment is such that the submitted shadow diagrams show that the proposed development will overshadow the front setbacks of the subject site and the adjoining site and adjoining public roads located to the south and east of the proposed dwellings.

Shadow diagrams have been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable as shown in Figure 9, 10 and 11 below:

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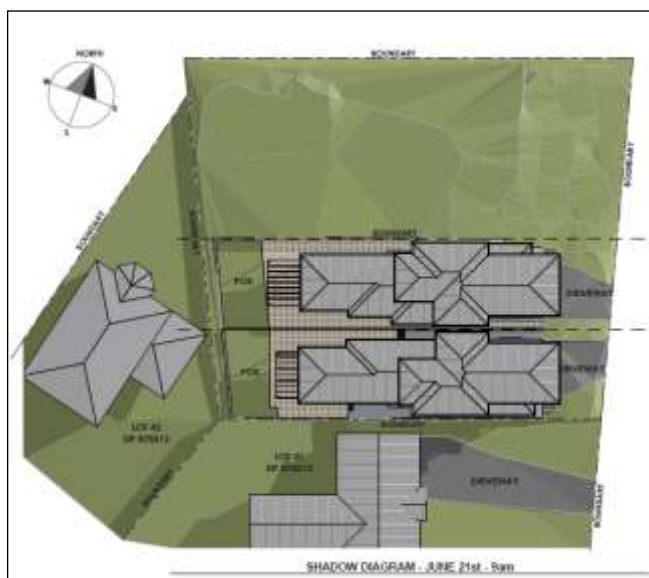


Figure 9 – 9am Shadows Mid-winter

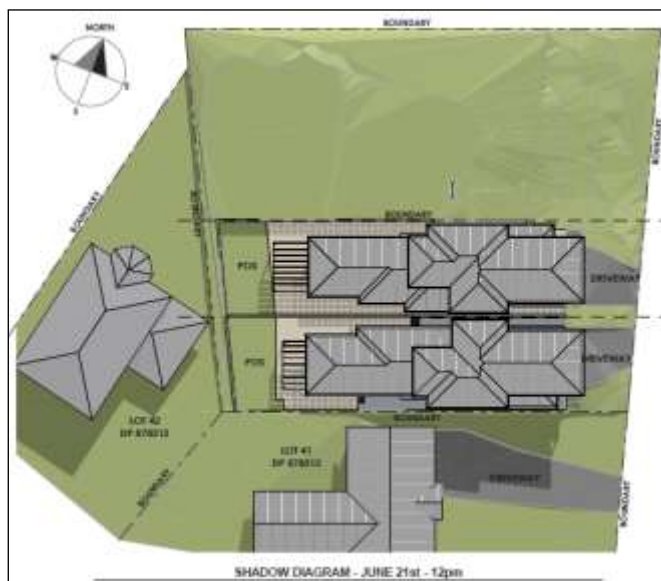


Figure 10 – 12 noon Shadows Mid-winter

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Figure 11 – 3pm Shadows Mid-winter

- Views

The proposal will have no unreasonable impact upon views currently available from neighbours.

- 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 street.

- 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 the submitted BASIX Certificate. Stormwater will be conveyed to the drainage easement. Controls will be implemented during construction to minimise sedimentation.



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• 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.

• Effect on public domain

As the proposed development will be occurring entirely within the subject site it is unlikely that the proposed development will impact upon the public domain.

• Utility needs and supply

Utility services are already supplied to the subject site.

• Safety, security & crime prevention

As the proposed development seeks to establish two new occupancies the safety of the area will benefit from additional passive surveillance.

• Operational waste

It will be conditioned that the waste generated as part of the construction process is to be managed in accordance with the submitted Waste Management Plan.

• BCA compliance & Construction impacts

It is noted that impacts (i.e. noise etc.) are likely to occur during construction. Conditions will be added to mitigate construction impacts (i.e. construction hours) and compliance with the BCA.

**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, one submission was received which raised the following (summarised) matters of concern:

Item	Objection	Comment
Item 1	Loss of Sunlight	Shadow Diagrams have been submitted that show that 3 hours of sunlight is maintained to private open space and living areas of adjoining property mid-winter.

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Item 2	Loss of Privacy	The placement of the upper level mass contains a third bedroom and is located approximately 20m from the rear boundary. The potential impacts are considered reasonably mitigated by this distance from the rear boundary and the placement of windows with 1.6m high sill heights.
Item 3	Dust Nuisance from Demolition	The demolition of the existing dwelling was approved by Development Consent No 10.2017.153.1, and has been completed.

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**External Referrals**

Nil

**Internal Referrals**

The application was referred to the following Council Officers for their consideration.

- Development Assessment Officer - Building  
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 with all relevant Environmental Planning Instruments and Development Control Plans, 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.

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**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 Development Control Plans. The proposed development is consistent with the objectives of the LEP 2011 - R2 Low Density Residential.

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 10.2017.300.1 dated 17 April 2018 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 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) This Development Consent is limited to a period of 5 years from the endorsement date of consent. (g080.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, Sanctuary Place 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)

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- (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:
- Proposed Lot 2a – 6 Sanctuary Place
  - Proposed Lot 2b – 6A Sanctuary Place

**Amendments to Approved Plans**

- (1) Prior to the issue of any Construction Certificate by any Principal Certifying Authority the approved landscape plans are to be amended to ensure that:
- i. Sheet metal fencing along the side and rear boundaries of the site does not extend forward of the front building line.
  - ii. Gates returning into the buildings from a side or rear boundary that are visible from the street must not be constructed of sheet metal.
  - iii. Any fencing or gates forward of the building line or facing the street front must be constructed of powder coated aluminium battens, or timber batten screens, or timber pickets, or palisade style, or double lapped and capped timber palings.

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, and are to be installed/constructed prior to the issue of any Occupation Certificate.

**Bonds and Contributions**

- (1) A contribution pursuant to Section 94 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 **\$7,036.84**. (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.

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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 developer shall lodge with Council a bond of **\$3,600.00**, in the form of an unconditional bank guarantee or cash, prior to the commencement of any work, as a security for new and remedial work associated with the development proposal and covering all work within the public roads administered by Council under the Roads Act 1993 and compliance with the submitted Waste Management Plan during the course of construction.

The developer shall submit a dilapidation survey prior to commencement of any work within the road reserve.

The bond shall be refunded in full subject to the following:

a There being no damage to the infrastructure within the road reserve.

b Twelve (12) months has elapsed from the date of issue of the occupation certificate and/or subdivision certificate.

c The submission and approval by Council of a waste compliance certificate, inclusive of supporting documentation (dockets/receipts) verifying compliance with the Waste Management Plan as provided to Council. (pt013.doc)

- (3) 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. (pt017.doc)

- (4) 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

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- 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)

- (5) 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)

- (6) 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)

- (7) 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 any reinforced concrete slabs, footings or structural steel. (pt062.doc)

- (8) Submission of stormwater disposal details for disposal of stormwater on site, designed by a suitably qualified person. Details are to be provided to the satisfaction of the Principal Certifying Authority, prior to the release of the Construction Certificate. (pt067.doc)

- (9) 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)

### Access Construction

- (1) The developer shall construct the footpath access driveway in compliance with the Standards Australia publication AS/NZS 2890.1 Parking Facilities Part 1:

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Off Street Car Parking and Council's "*Driveway and Footpath Works Procedure Manual*". (ac001.doc)

- (2) The developer shall restore any redundant vehicle crossing to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*". (ac010.doc)
- (3) The applicant must provide, to Council, the appropriate fee for the inspections required for the construction of the footpath crossing/access driveway in accordance with Council's adopted fees and charges. This inspection fee must be paid prior to the commencement of works within the road reserve area.

Work undertaken within the road reserve may only be undertaken by a Council approved contractor. A list of approved contractors may be obtained from Council's Engineering and Works Department. (ac020.doc)

### Car Parking and Vehicular Access

- (1) Car parking and manoeuvring 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) All stormwater kerb and gutter connections to have a minimum of 40 millimetres cover of concrete finishing flush with the top of the existing kerb. Pipe size to achieve this should be 90 millimetres in diameter. (sm010.doc)
- (2) The developer shall provide stormwater outlets to kerb lines converting to 90 millimetre diameter uPVC for barrier kerbs and 127 x 64 x 4 millimetre steel rectangular hollow section hot dip galvanised or aluminium for roll kerb sections. (sm020.doc)
- (3) 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. (sm055.doc)
- (4) The developer shall provide on-site detention storage for stormwater runoff in conjunction with the proposed development drainage network. An on-site detention system shall be designed to ensure that post development flow rates from the site are no greater than pre-developed site runoff at each discharge point for all rainfall events up to 1% Annual Exceedance Probability. The applicant shall provide full hydrological and hydraulic computer modelling of the stormwater drainage system and provide this to the Principal Certifying Authority for assessment and approval prior to the issue of the construction certificate. (sm060.doc)
- (5) The developer shall provide compliance certification from the hydraulic engineer verifying that the constructed stormwater drainage infrastructure/water quality system meets with the approved design. The certification shall be provided to the Principal Certifying Authority prior to the release of any of the Occupation

## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

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Certificate. The engineering certification shall be supported with a set of works-as-executed drawings signed by a Registered Surveyor. (sm130.doc)

- (6) 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. The proposed treatments shall be submitted to the Principal Certifying Authority for assessment and approval prior to the release of the Construction Certificate. (sm135.doc)
- (7) 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. (sm150.doc)

- (8) 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 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)

**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. (us005.doc)
- (2) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access. (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. (gr050.doc)
- (2) 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)
- (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



## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

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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) 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)
- (6) 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)
- (7) 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)
- (8) 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

## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

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the boundaries of the site and in accordance with the approved plans. Such survey shall be submitted at peg out stage. (bu125.doc)

- (9) 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. (bu151.doc)

- (10) 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 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. (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 LC01-LC03 Rev.B) or otherwise required under the conditions of this consent, shall be landscaped and maintained in accordance with the approved plans and conditions. (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. (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

## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

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accordance with the approved landscape plans and the conditions of this development consent. (lw035.doc)

- (4) The landscape works shall remain in situ for the perpetuity of the development. (lw040.doc)
- (5) Prior to release of the Occupation Certificate or Subdivision Certificate the developer shall provide a Compliance Certificate from a suitably qualified landscape professional or Council's Landscape Officer stating that all landscape works have been completed in accordance with the approved landscape plans and the conditions of the development consent. (lw170.doc)

**Vegetation Management**

- (1) No existing 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)

**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)

## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

- 
- (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 Clause 109M 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 and drainage works prior to the issue of any occupation certificate. (po010.doc)

**Conveyancing Requirements**

- (1) Under the provisions of Section 88B/88E of the Conveyancing Act 1919 the developer shall provide a restriction on the use of land and a positive covenant in favour of Kiama Municipal Council detailing protection measures and long term maintenance requirements for on-site stormwater detention system and associated stormwater drainage infrastructure.

The document shall meet the standard terms applied by Council and shall be submitted to Council for assessment and approval and shall have these titles registered with NSW Lands & Property Management Authority under Sections 88B/88E of the Conveyancing Act 1919. (cr040.doc)

**Prior to Issuing of Subdivision Certificate**

- (1) The Subdivision Certificate shall not be released until all conditions of this Development Consent 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:
- All relevant Construction and Compliance Certificates (where these have not been issued by Council).
  - Payment of fees in accordance with Council's adopted fees and charges.
  - A Final Plan of Subdivision and four (4) copies.

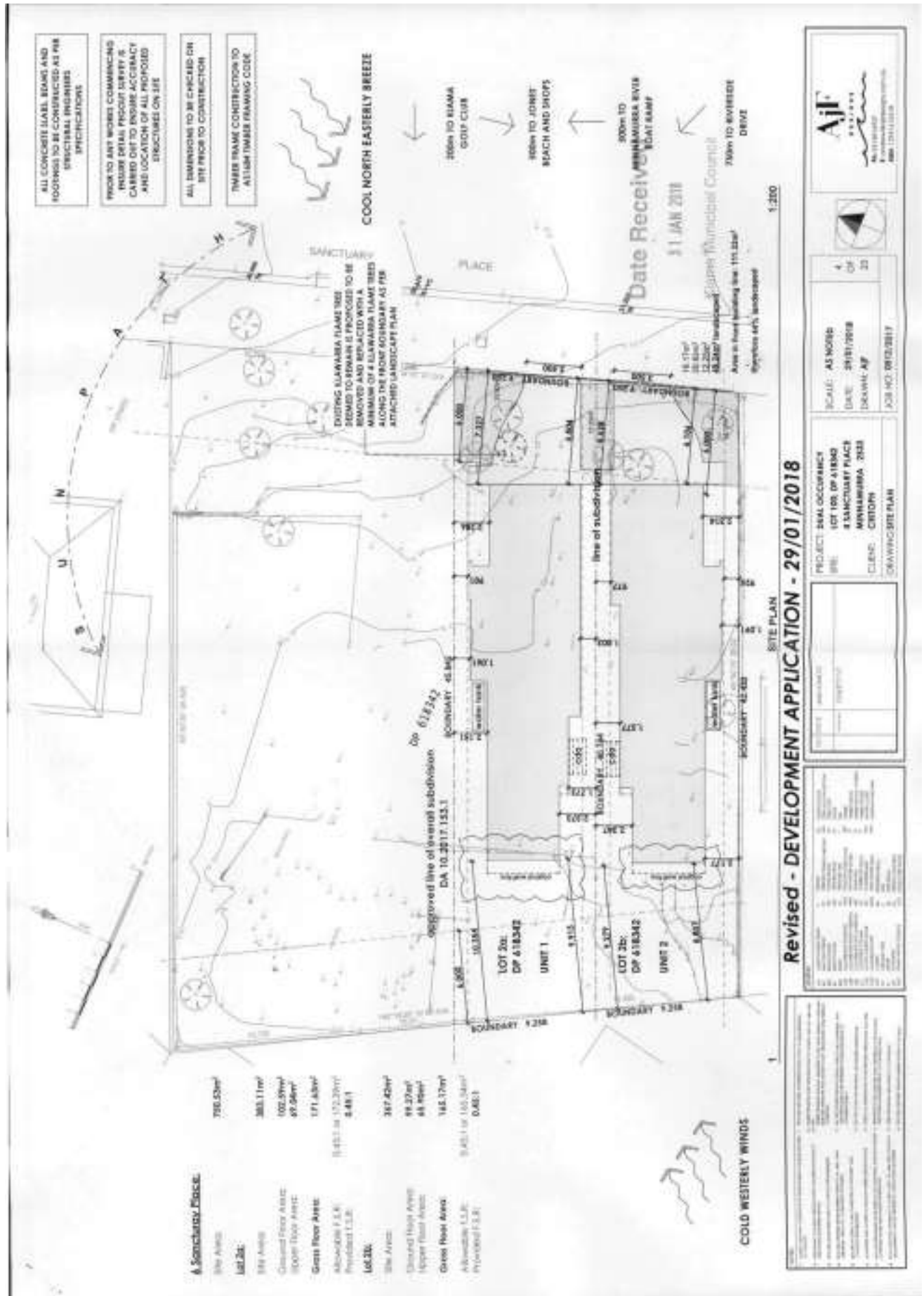
A copy of the satisfactory final plan of subdivision shall also be provided as an electronic file in either DXF or DWG format. In this regard the electronic copy must be on MGA (Zone 56) orientation, where this is required by the Surveying Regulation 2001, and should preferably use co-ordinates based 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.

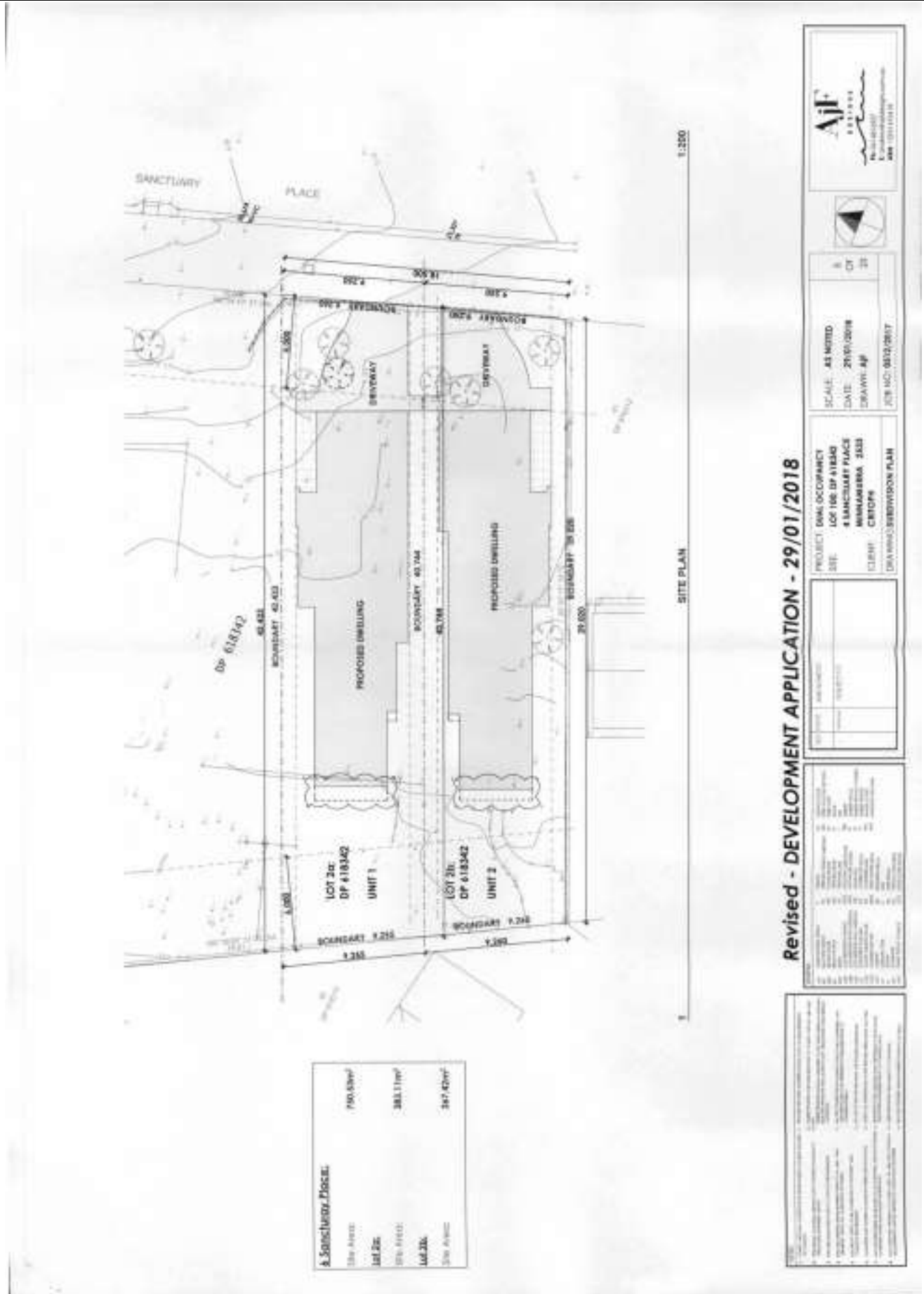
- An original Deposited Plan Administration Sheet and one copy, prepared in accordance with NSW Land & Property Information requirements.

## Report of the Director Environmental Services

10.2 10.2017.300.1 - Lot 2 DP 1235469 (formerly Lot 100 DP618342: No 4) 6  
Sanctuary Place Minnamurra - Detached Dual Occupancy and Torrens Title  
Subdivision (cont)

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- 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.
  - j) An Occupation Certificate for each dwelling to be separately titled. (sub020.doc)
- (3) The developer shall submit to the Principal Certifying Authority, prior to the release of the Subdivision Certificate, two (2) copies of a certified Works-as-Executed (WAE) drawing including (but not limited to) the following:-
- a Final locations and reduced levels for all works associated with the development on both public and private land; and
  - b In contrasting coloured ink, all changes to the Approved Drawings and actual values of all levels shown on the Drawings.
- The WAE drawing shall be signed by a Registered Surveyor or Chartered Professional Engineer and certified that all the work as completed, including variations, meets the original intent of the Approved Drawing and will have no adverse impact on adjacent properties. (sub025.doc)
- (4) The developer shall acknowledge all existing easements on the final plan of subdivision. (sub060.doc)
- (5) The developer shall acknowledge all existing restrictions on the use of the land on the final plan of subdivision. (sub070.doc)





6 Sanctuary Place:	
Site Area:	750.53sqm
Lot 2a:	383.11m <sup>2</sup>
Lot 2b:	367.42m <sup>2</sup>

**Revised - DEVELOPMENT APPLICATION - 29/01/2018**

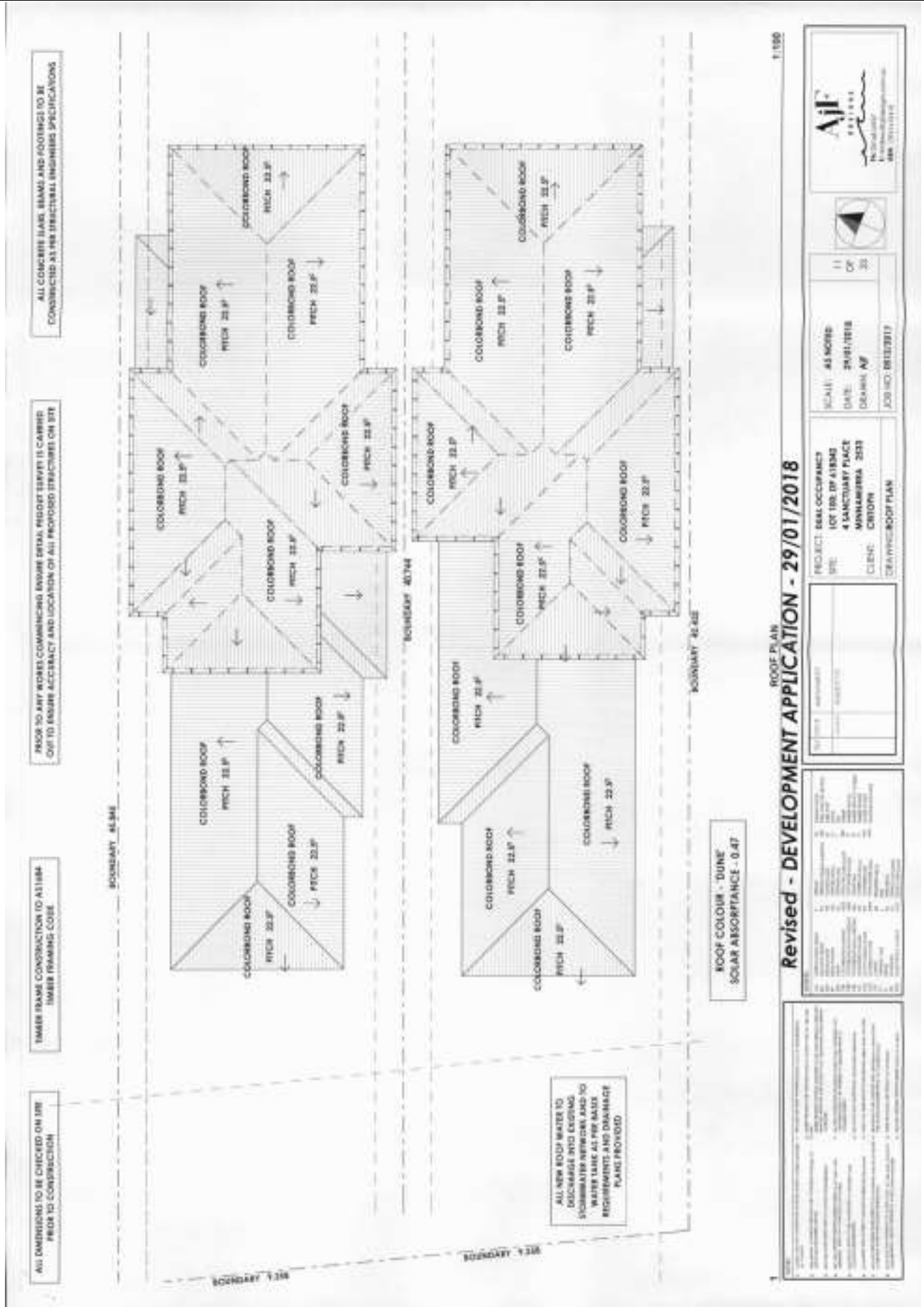
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 Client: CBTORR  
 Date: 29/01/2018  
 Scale: AS NOTED  
 Drawn: AP  
 Job No: 0512/2017

Project Name	6 Sanctuary Place, Minnamurra, 3633
Client	CBTORR
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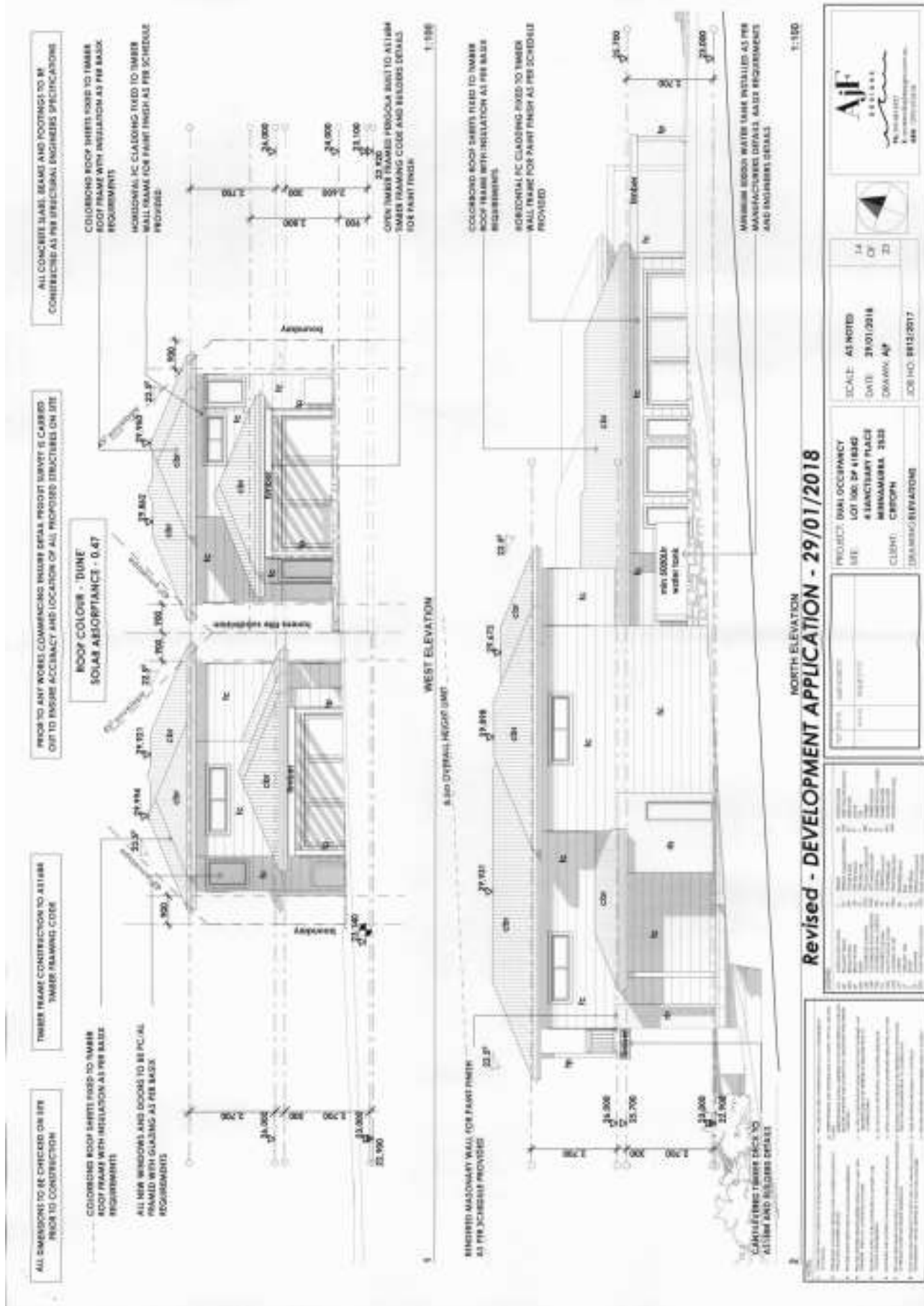
Project Name	6 Sanctuary Place, Minnamurra, 3633
Client	CBTORR
Date	29/01/2018
Scale	AS NOTED
Drawn	AP
Job No	0512/2017

AJP  
ARCHITECTS & PLANNERS  
100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000

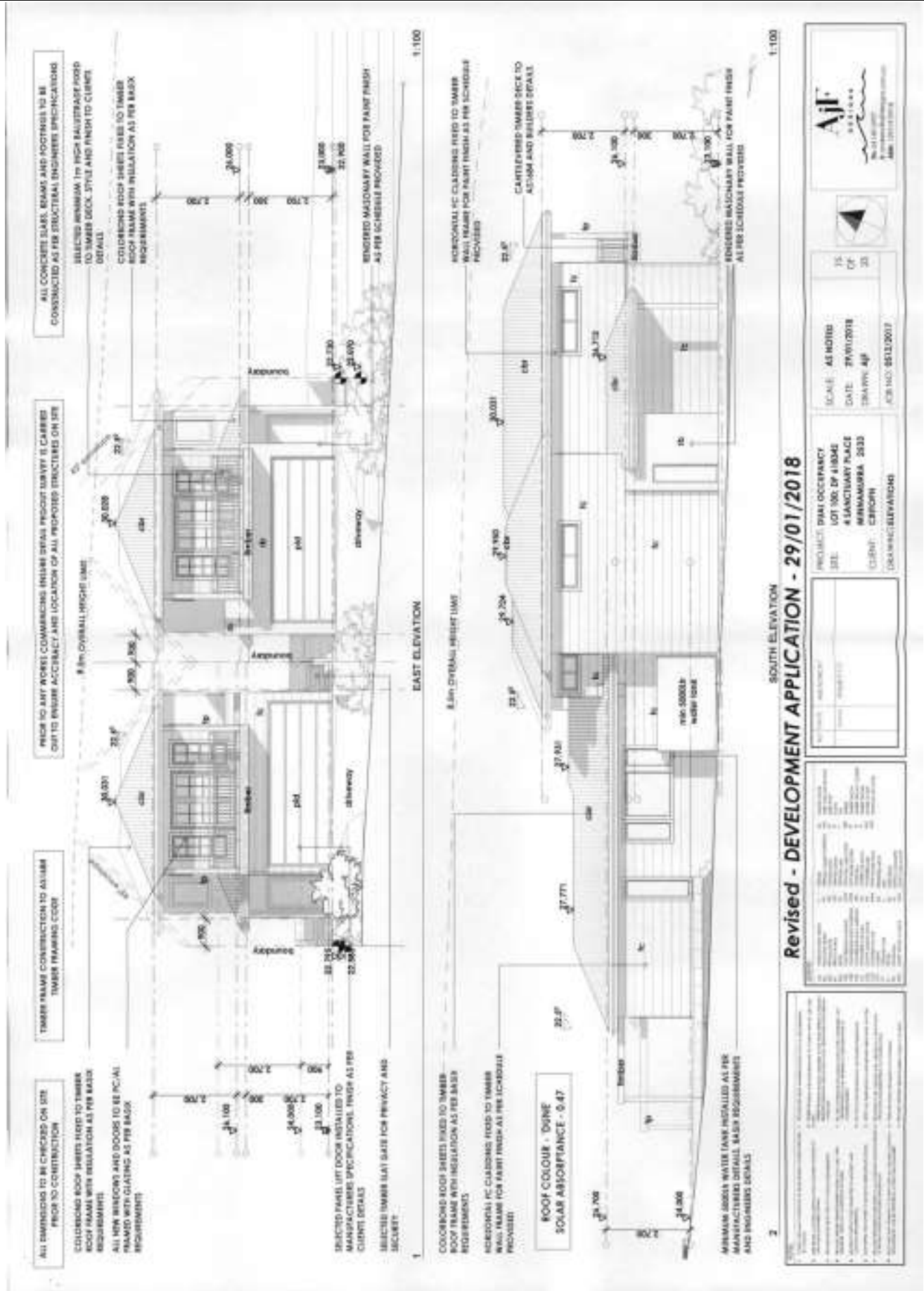


Attachment 1 Item 10.2

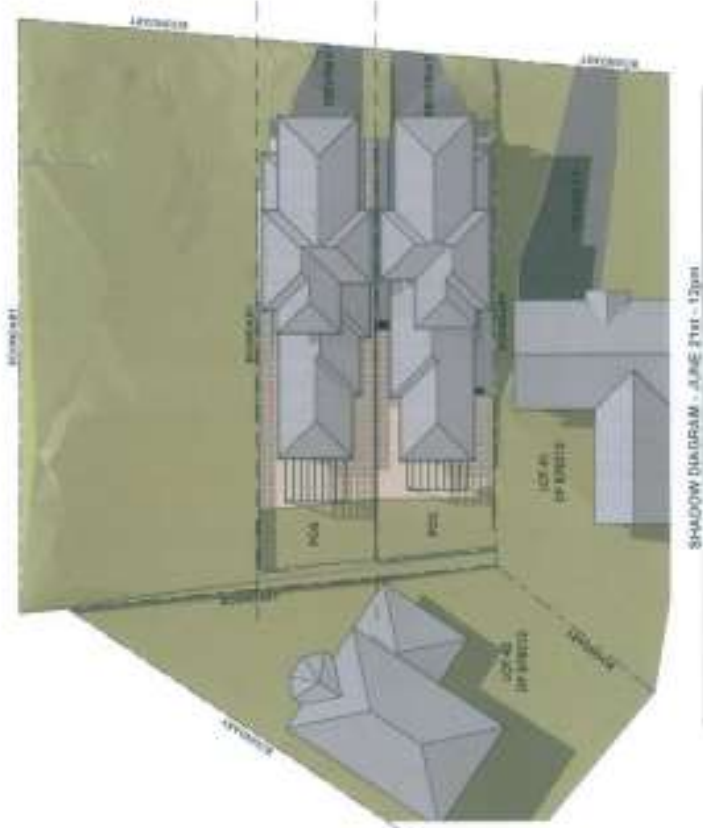




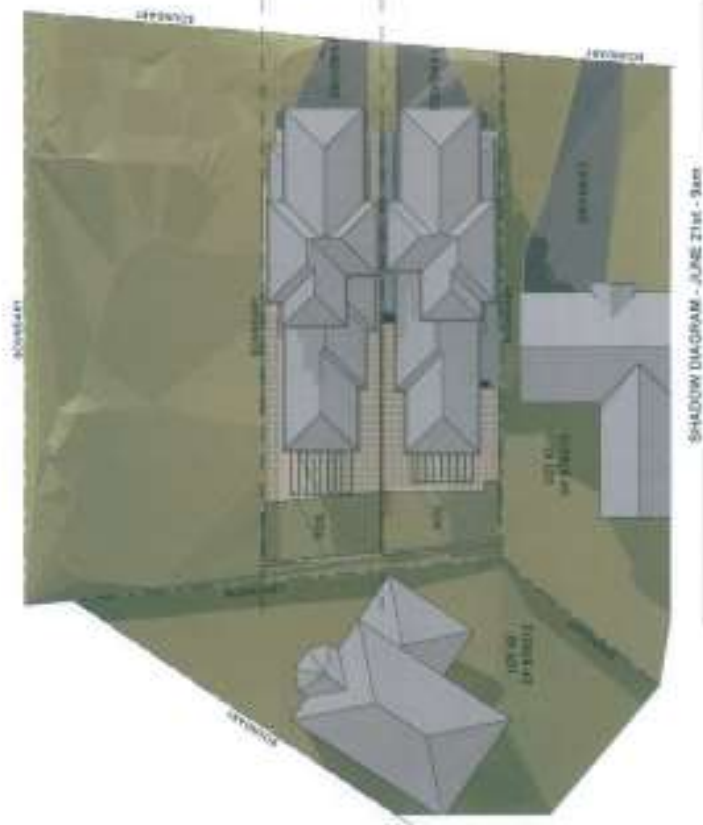
Attachment 1 Item 10.2







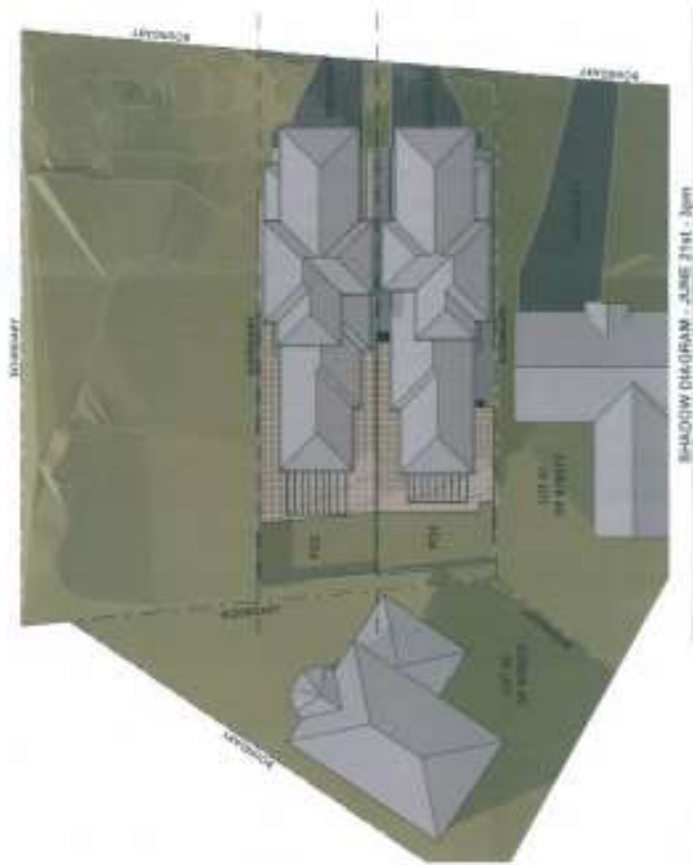
SHADOW DIAGRAM - JUNE 21st - 12pm



SHADOW DIAGRAM - JUNE 21st - 9am

Revised - DEVELOPMENT APPLICATION - 29/01/2018

<p>PROJECT: DUAL OCCUPANCY                  SITE: LOT 100 DP 1235469                  USE: 4 SANCTUARY PLACE                  MINNAMURRA 2533                  FILING: CHRON                  DRAWING: SHADOW DIAGRAM</p>		<p>SCALE: AS SHOWN                  DATE: 29/01/2018                  DRAWN: AP                  FOR NO: W612/2017</p>			
<p>APPROVED FOR CONSTRUCTION</p>		<p>APPROVED FOR CONSTRUCTION</p>		<p>APPROVED FOR CONSTRUCTION</p>	

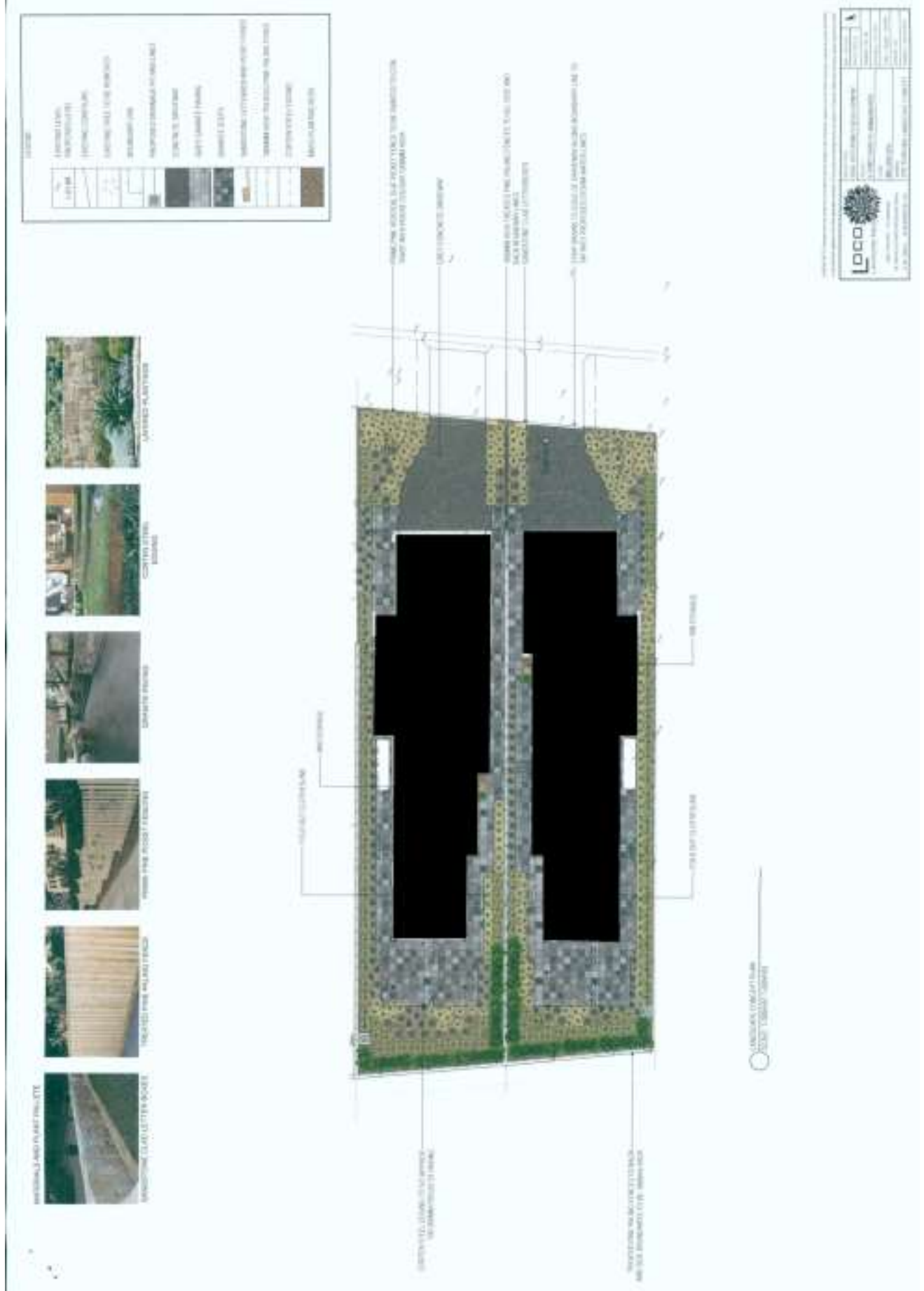


Revised - DEVELOPMENT APPLICATION - 29/01/2018

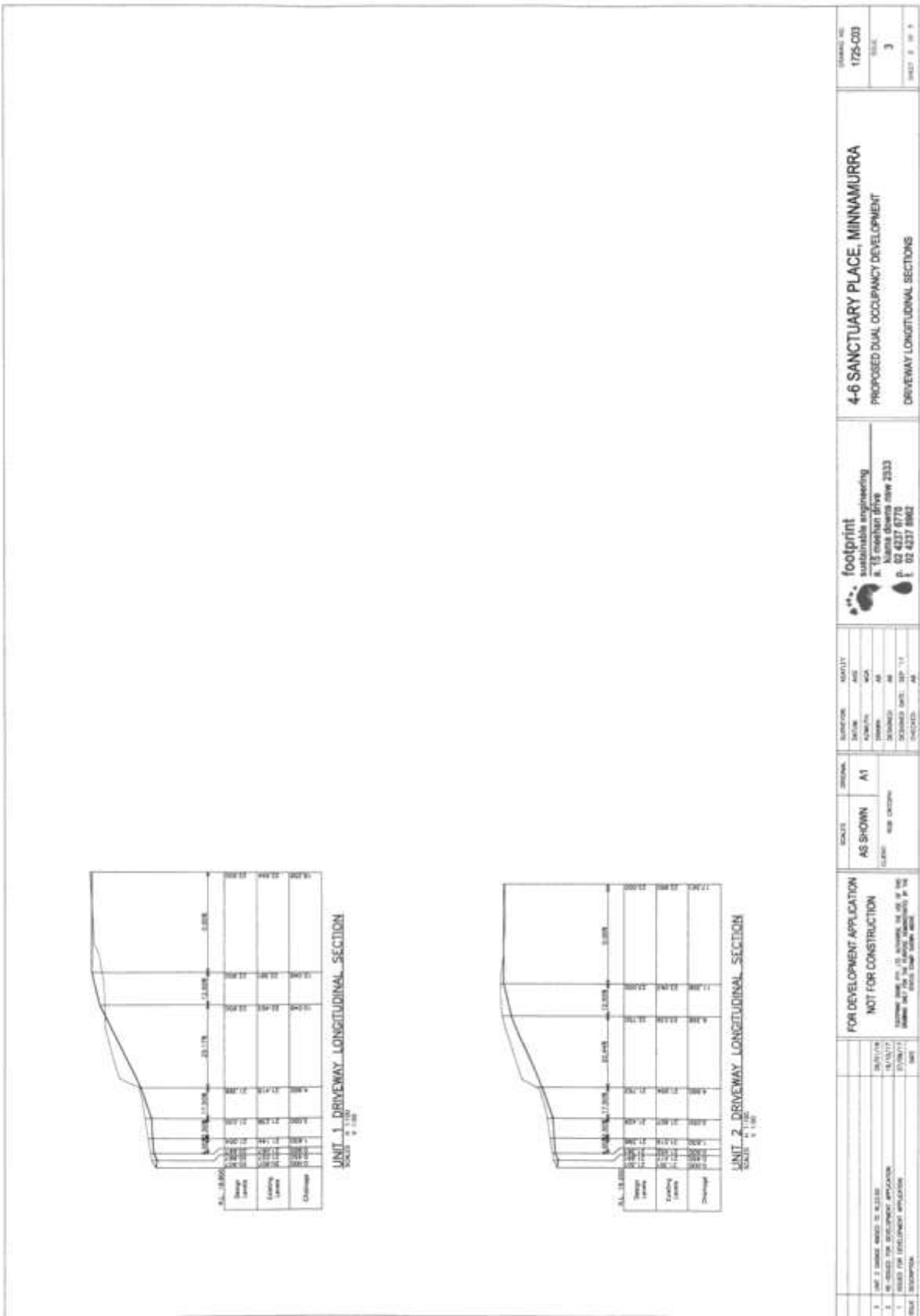
<p>Project Name: 6 SANCTUARY PLACE MINNAMURRA DD3 CENTRE                  Project No: 10.2017.300.1                  Date: 29/01/2018</p>	
<p>Scale: AS SHOWN                  Date: 29/01/2018                  Drawn: AP                  For: NOT BE AVAILABLE</p>	
<p>Project: DUAL OCCUPANCY                  (LOT 100 DP 1235469)                  6 SANCTUARY PLACE                  MINNAMURRA DD3                  CENTRE                  (DRAWING: SHADOW DIAGRAM)</p>	



19 OF 20



Attachment 1 Item 10.2



footprint sustainable engineering  
R. T. S. Mearns Drive  
Nanna Downs Drive 2533  
P. 02 4237 8770  
E. 02 4237 8862

4-6 SANCTUARY PLACE, MINNAMURRA  
PROPOSED DUAL OCCUPANCY DEVELOPMENT  
DRIVEWAY LONGITUDINAL SECTIONS

175-C03  
3  
SHEET 3 OF 3

FOR DEVELOPMENT APPLICATION  
NOT FOR CONSTRUCTION

DATE: 18/11/17  
BY: [Signature]  
CHECKED: [Signature]  
DATE: 18/11/17

SCALE: AS SHOWN  
AS SHOWN  
AS SHOWN

REVISION: A1  
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DATE: 18/11/17  
BY: [Signature]  
CHECKED: [Signature]  
DATE: 18/11/17

FOR DEVELOPMENT APPLICATION  
NOT FOR CONSTRUCTION

DATE: 18/11/17  
BY: [Signature]  
CHECKED: [Signature]  
DATE: 18/11/17



General Manager  
Kiama Municipal Council  
PO Box 75  
Kiama 2533  
NSW

29/01/18

### COLOUR SCHEDULE

Re: PROPOSED DUAL OCCUPANCY DEVELOPMENT  
LOT 100; DP 618342  
4 SANCTUARY PLACE  
MINNAMURRA 2533

Proposed Roof Colour:	Colorbond – 'Dune'
Gutters:	Colorbond – Surfmist
Downpipes:	PVC – Surfmist
Fascia:	Dulux – 'Lexicon'
Eaves:	Dulux - 'Lexicon'
Cladding:	Dulux - White Duck Half
Masonry:	Dulux - White Duck Half
Window Frames:	Lexicon
Garage Doors:	Lexicon
Front Door:	Timber
Posts:	Dulux - 'Lexicon'



**10.3 10.2017.263.1 - Lot 259 DP 30126 - 39 Elanora Road, Kiama Heights, Attached Dual Occupancy with 2 Lot Torrens Title Subdivision**

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 assesses DA 10.2017.263.1 which involves the construction of a 3 storey dual occupancy and subsequent 2 lot Torrens Title subdivision.

The report recommends that Council refuse 10.2017.263.1 as the proposal:

- Exceeds the floor space ratio requirements of Clause 4.4 of the Kiama LEP 2011,
- Fails to comply with the front building line control of Chapter 2 of the Kiama DCP 2012,
- Fails to comply with the rear building line control of Chapter 2 of the Kiama DCP 2012,
- Fails to comply with the private open space controls of Chapter 4 of the Kiama DCP 2012,
- Fails to comply with the earthwork controls of Chapter 4 of the Kiama DCP 2012,
- Fails to comply with the adaptable housing plans controls of Chapter 4 of the Kiama DCP 2012,
- Fails to provide the required amount of landscaped area as outlined in Chapter 7 of the Kiama DCP 2012,
- Is considered to be an over development of the site.

Requests to vary some of these LEP development standards and DCP controls have been received.

It is noted that this matter is related to Council's resolution to amend the minimum lot size for resulting lots created as a result of subdividing dual occupancy development.

**Zoning**

*Is the proposal permissible under zoning provisions?* Yes

**Development Standards (Statutory Requirements):**

Standard	Required	Proposed	Complies
Floor Space Ratio (max)	0.45:1	0.48:1	No
Height of Building (max)	8.5m	7.9m	Yes
Lot Size (min)	450m <sup>2</sup>	296.7m <sup>2</sup>	No

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278m<sup>2</sup>

**Departures from Development Control Plan:**

Control	Required	Proposed	Complies
Chapter 2 Section 12	6m front building line	5.376m	No
Chapter 2 Section 12	6m rear building line	2.823m	No
Chapter 2 Section 14	6m building line for garages/carports	5.376m	No
Chapter 4 C3	Maximum 900mm cut and fill on the site, external the building perimeter.	1.5m	No
Chapter 4 C17	Building line setbacks outlined in Chapter 2	See above	No
Chapter 4 C26	50% of the POS are to receive a minimum of 3hrs of sunlight between 9am and 3pm on 22 June.	The proposed balconies will not receive any direct sunlight	No
Chapter 4 C 29	A deck/balcony may count as part but not all of a dwelling's POS.	The POS is proposed to be entirely provided by the balconies.	No
Chapter 4 C35	Garages must be set back 6m.	5.376m	No
Chapter 4 C41	Dual occupancy must have regard to the overall control for low density development.	The proposal is considered to be an over development of the site due to the numerous non- compliances with the DCP setback and POS controls.	No
Chapter 4 C46	Provision of Adaptable Housing at a ratio of 1:2 dwellings for dual occupancy.	The applicant has elected not to provide any plans showing how one of the proposed dwellings satisfies the Adaptable Housing requirements of AS4299.	No

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Chapter 4 C56	50% of the POS are to receive a minimum of 3hrs of sunlight between 9am and 3pm on 22 June.	The proposed balconies will not receive any direct sunlight	No
Chapter 8 Section 5	A minimum of 25% of the site will be deep soil landscaped area.	Only 13% of the site will be landscaped.	No

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**Community Consultation**

Required: Yes (letter notification)

Submissions: 1 submission

**Other Requirements:**

Kiama Section 94 Contributions Plan 2014.

**Integrated Development:**

The application is not Integrated Development.

**Finance**

N/A

**Policy**

N/A

**Attachments**1 10.2017.263.1 - Plans [↓](#)**Enclosures**

Nil

**RECOMMENDATION**

That Council refuse Development Application 10.2017.263.1 under Section 4.16 of the Environmental Planning and Assessment for the following reasons:

- The development exceeds the floor space ratio requirements of Clause 4.4 of the Kiama LEP 2011,
- The development fails to comply with the front building line control of Chapter 2 of the Kiama DCP 2012,
- The development fails to comply with the rear building line control of Chapter 2 of the Kiama DCP 2012,
- The development fails to comply with the private open space controls of Chapter 4 of the Kiama DCP 2012,
- The development fails to comply with the earthwork controls of Chapter 4 of the Kiama DCP 2012,

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- The development fails to comply with the adaptable housing plans controls of Chapter 4 of the Kiama DCP 2012,
- The development fails to provide the required amount of landscaped area as outlined in Chapter 7 of the Kiama DCP 2012,
- The development is considered to be an over development of the site.

## BACKGROUND

### Development Site

The property is described as Lot 259 DP 30126 which is located at 39 Elanora Road Kiama Heights. The overall site measures 573.96m<sup>2</sup> and is generally rectangular in shape. The site contains an existing dwelling, and adjoins other residential allotments, principally containing single dwellings.

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

The site contains existing vegetation associated with the dwelling on the site, including a Norfolk Pine, and slopes moderately-steeply from the north-west corner to the south-east corner with a fall of 8m or 24%. The site drains to the adjoining public road that provide access to the property. The site is serviced with water, sewer, electricity and telecommunications.



Figure 1 – Locality Plan

### Description of the Proposed Development

The proposal involves the construction of an attached dual occupancy with 2 lot Torrens Title subdivision.

The proposal is described as:

- Subdivision of Lot 259 DP 30126 into Lot 1 and 2 each lot with an area of 296.7m<sup>2</sup> and 278m<sup>2</sup> respectively.
- The construction of 2 attached two-storey dwellings, one on each of the proposed allotments, with separate driveways and landscaped areas.

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- The dwellings have a combined gross floor area (GFA) of 273.5m<sup>2</sup> (excluding car parking and voids).

The details of each of the dwellings is as follows:

<b>Dwelling 1 (Lot 1) 136.75m<sup>2</sup> GFA</b>	<b>Dwelling 2 (Lot 2) 136.75m<sup>2</sup> GFA</b>
<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>Entrance and stairs</li> <li>Storage area (including bin storage)</li> <li>Double car garage at Elanora Road</li> </ul> <p><u>Level 1 Floor</u></p> <ul style="list-style-type: none"> <li>Open plan kitchen, dining, lounge</li> <li>Balcony (external from lounge)</li> <li>Laundry &amp; linen cupboard</li> <li>Bathroom</li> <li>2 x bedrooms</li> </ul> <p><u>Level 2 Floor</u></p> <ul style="list-style-type: none"> <li>1 x bedroom with Ensuite</li> </ul>	<p><u>Ground Floor</u></p> <ul style="list-style-type: none"> <li>Entrance and stairs</li> <li>Storage area (including bin storage)</li> <li>Double car garage at Elanora Road</li> </ul> <p><u>Level 1 Floor</u></p> <ul style="list-style-type: none"> <li>Open plan kitchen, dining, lounge</li> <li>Balcony (external from lounge)</li> <li>Laundry &amp; linen cupboard</li> <li>Bathroom</li> <li>2 x bedrooms</li> </ul> <p><u>Level 2 Floor</u></p> <ul style="list-style-type: none"> <li>1 x bedroom with Ensuite</li> </ul>

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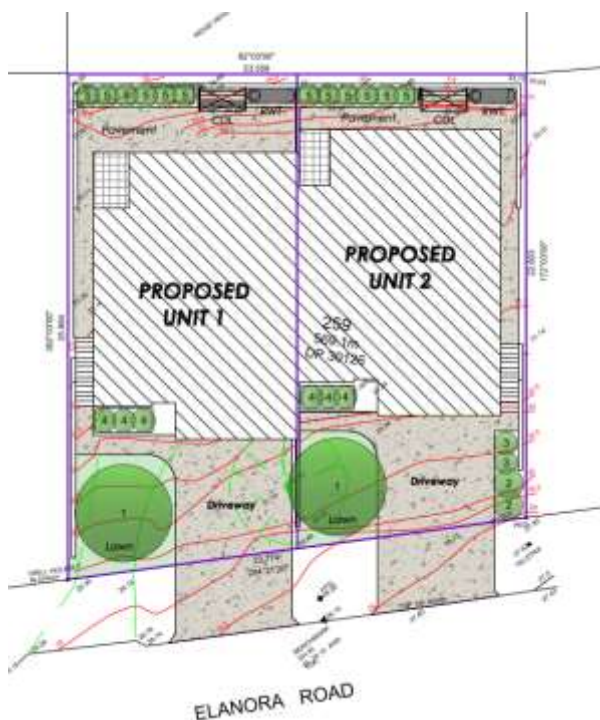


Figure 2 – Landscape Plan

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Figure 3 – Perspective View

**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 No 71 – Coastal Protection (SEPP 71)

In broad terms, the aims of the SEPP seek to protect and manage the unique attributes of the NSW coast by encouraging sensitive and appropriate development. The SEPP 71 is a means of implementing the State's *Coastal Policy*.

SEPP 71 aims to protect the unique attributes of the NSW Coast by ensuring that flora and fauna are protected, heritage is conserved and that development is appropriate. SEPP 71 applies to land and development within the coastal zone as defined by the *Coastal Protection Act 1979*.

The site is within the coastal zone as defined by the Coastal Protection Act being within 1km of the coastline, but is not within a coastal sensitive location.

Consideration has been given to the objectives of the SEPP and the matters prescribed by Clause 8. The proposed development is considered to be consistent with the objectives of the SEPP which are addressed further below under the heading "Clause 5.5 Development within the Coastal Zone".

The proposed development is not considered inconsistent with the aims of the SEPP 71 as the heads of consideration listed in clause 8 and part 4 are satisfied by the development or have no relevance to the subject site.

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate (Certificate Number 854643M) was lodged for the new dwellings with the application which demonstrates that each dwelling has been designed in accordance with BASIX.

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- 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. The land is therefore considered to be suitable for the proposed use. Council is unaware of any historic land use which would deem the site unsuitable for the proposed development.

- 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. The applicant is proposing to remove the existing juvenile Norfolk Pine, which is located within the current front setback, as part of this application. Council's Landscape Officer is comfortable with the removal of this tree as it is a mistake to place such a large tree in this location, as it will have detrimental impacts on the public domain and surrounding properties in the future.

- Kiama LEP 2011

Clause 2.1 Land Use Zones

The subject land is zoned R2 Low Density Residential pursuant to Kiama LEP 2011. The proposal is defined as a *dual occupancy* under the provisions of the LEP 2011, which are permitted with consent in the R2 Low Density Residential zone. As the proposal will provide for the housing needs of the community within a low density residential environment 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. Sheet *LZN\_013* identifies that a minimum lot size of 450m<sup>2</sup> applies to the site. As proposed Lot 1 will have an area of 296.7m<sup>2</sup> and proposed Lot 2 will have an area of 278m<sup>2</sup> both proposed allotments have areas less than 450m<sup>2</sup> the proposed development does not comply with the provisions of Clause 4.1. The applicant has requested a variation to Clause 4.1 under the provisions of Clause 4.6. The results of this request are covered below.

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. Sheet *HOB\_013* of the Kiama LEP 2011 identifies that a maximum building height of 8.5m applies to the site. The proposed dual occupancy will have a maximum height of 7.9m above existing ground level and therefore 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. Sheet *FSR\_013* 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* of

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the proposed development is 273.5m<sup>2</sup>. In this regard the proposed development has a FSR of 0.48:1 with the site and as such does not comply. The applicant has requested a variation to Clause 4.1 under the provisions of Clause 4.6. The results of this request are covered below.

#### Clause 4.6 Exceptions to Development Standards

Clause 4.6 provides for exceptions to development standards. The applicant has requested a variation to the minimum lot size and floor space ratio development standards.

#### *Clause 4.1 – Minimum Lot Size*

The applicant has provided the following justification to varying the minimum lot size development standard:

*The underlying objectives of the minimum lot size requirement are still achieved. A growing pattern in the immediate area is reflected in the approval and construction of at least four similar developments that involve Torrens Title subdivision. The proposed does not hinder the potential for future subdivision and development on neighbouring properties. The proposal demonstrates that the resulting lot sizes accommodates a suitable dual occupancy development with regards to the relevant DCP and natural site constraints.*

*Should council enforce the minimum lot size requirement, there would be a discrepancy between past approvals and this application. This development standard has been abandoned by council in the following four developments in the immediate local area.*

- 135 & 135a Attunga Ave Kiama Heights
- 103 & 103a Attunga Ave Kiama Heights
- 73 & 73a Attunga Ave Kiama Heights
- 9 & 9a Elanora Road Kiama Heights

*Each of the above dual occupancy developments result in subdivided lots sizes less than the required 450m<sup>2</sup>.*

*For the above reasons we see the minimum lot size requirement as unreasonable given the precedent of past approvals and unnecessary given that the objectives of the standard are still met.*

*The proposed development demonstrates that a lot size of less than 450m<sup>2</sup> is more than capable of accommodating a residential dwelling with a double car garage, three bedrooms and sufficient living rooms.*

Compliance with the development standard is unreasonable as dual occupancies are permissible in the R2 Low Density Residential zone. The applicant has outlined that the proposal is consistent with the objectives of Clause 4.1.

The proposed variation itself will not result in an increased residential density in the area. It is noted that the subdivision of other dual occupancies within Kiama Heights has already occurred.



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In this regard the proposed variation is consistent with the objectives of Clause 4.1 as well as the objectives of the R2 Low Density Residential zone (i.e. provision of low density residential development).

Accordingly, it is considered that this variation is in the public interest. Council has varied this clause in the past for similar developments.

It is also noted that Council has prepared a Planning Proposal (draft EPI) for subdivision housekeeping amendments which would enable this type of proposal without the requirement to vary Clause 4.1. This Planning Proposal has been exhibited to the community. It is noted that the Planning Proposal was reported to the December 2017 Council meeting at which time the Council resolved to grant final endorsement.

In light of this it is considered appropriate to vary the minimum lot size requirements of clause 4.1 of the LEP 2011.

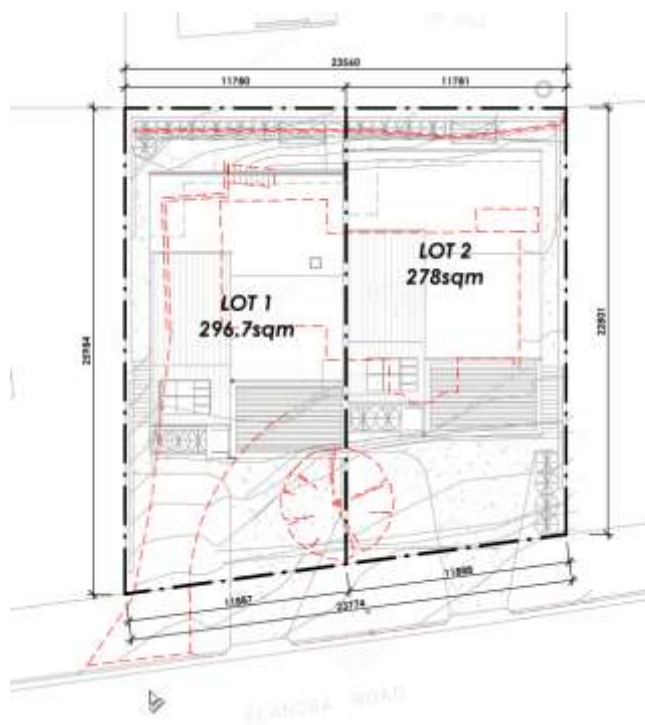


Figure 4 – Subdivision Plan

Clause 4.4 – Floor Space Ratio

The applicant has provided the following justification to varying the floor space ratio development standard:

*The underlying objectives of the floor space ratio requirement are also achieved. The optimum capacity of this particular site is increased due to the steep nature of the site and stepping the building to suit. Additional floor area is therefore achievable within the footprint of the building without increasing the visual impact of the development.*

*The proposed building is two attached townhouses which fits within the allowable building type within the zone.*

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*Although the proposed development doesn't strictly comply with the numerical requirements of the development standard, it is demonstrated that the proposed development is suitable by meeting the underlying objectives of each standard and responding to the existing nature of the site. For these reasons we believe the optimum capacity of the site is achieved with the proposed development.*

*The steep nature of the site allows for additional floor area to be hidden within the footprint of the building as it is stepped up the site. This is demonstrated in the storage room adjoining the rear garages. The additional 10% of floor area is taken up within this hidden room and therefore has no visual or privacy impact on neighbouring properties and doesn't change the visual appearance on the streetscape.*

*The shadow diagrams provided, demonstrate that the building does not overshadow neighbouring properties for more than 3 hours a day.*

*The overall design of the development is attractive and modern and effectively utilises the steep nature of the site to provide for the residential needs of this zone. The additional floor area allows for ample internal storage for occupants. It can also be the best location for the waste bins as the steep nature of the site does not allow for sufficient level land along the side boundaries. The development would be substantially the same if the storage rooms were not part of the dwellings. The storage rooms provide a more usable space rather than subfloor area.*

The applicant is arguing that as the additional floor space is provided in the basement/subfloor area it does not result in any noticeable additional bulk and scale when compared to a compliant development. The applicant has calculated the gross floor area as 284m<sup>2</sup> which results in an FSR of 0.5:1.

In calculating the FSR staff have excluded the ground floor storage areas as they satisfy the definition of a basement as per the Kiama LEP 2011. Basement storage areas do not contribute to a development's gross floor area. Staff have determined that the gross floor area of the development is 273.5m<sup>2</sup> which results in an FSR of 0.48:1. In light of this, the applicant's argument is not justified as the proposal is still non-compliant even when the ground floor storage areas are excluded from the gross floor area calculations.

If this was the only variation sought for the development it may be considered supportable. However, it is noted that the increased gross floor area is directly responsible for the numerous other non-compliances with the Kiama Development Control Plan 2012 (see below). In light of this it is considered that the proposal represents an overdevelopment of the site.

In light of this it is considered unacceptable to vary the floor space ratio requirements of clause 4.4 of the LEP 2011.

Under Clause 64 of the *Environmental Planning and Assessment Regulation 2000* the Director-General's concurrence has been assumed for the variations applied for, in accordance with Planning Circular PS 08-003.

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Clause 5.5 Development within the Coastal Zone

The clause lists requirements for development within the coastal zone.

The development is on land that is wholly or partly within the coastal zone.

The proposal is consistent with the objectives of the clause. The proposal does not cause increased coastal hazards or adverse impacts by way of diminished foreshore access, or its relationship with the surrounding area and natural scenic quality. The bulk and scale of the development may be considered to be generally compatible with the coastal setting of the area.

Development consent must not be granted unless the consent authority has considered the following provisions:

Provision	Comment
<p>Existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:</p> <ul style="list-style-type: none"> <li>(i) maintaining existing public access and, where possible, improving that access, and</li> <li>(ii) identifying opportunities for new public access</li> </ul>	<p>Access to and along the foreshore for pedestrians is not affected by the proposal.</p>
<p>The suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:</p> <ul style="list-style-type: none"> <li>(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and</li> <li>(ii) the location, and</li> <li>(iii) the bulk, scale, size and overall built form design of any building or work involved</li> </ul>	<p>The bulk and scale of the development may be considered to be generally compatible with the coastal setting of the area.</p> <p>The exceedance of the development controls, such as boundary setbacks and floor space ratio, may indicate that the development is of excessive bulk and scale at a site scale.</p>
<p>The impact of the proposed development on the amenity of the coastal foreshore including:</p> <ul style="list-style-type: none"> <li>(i) any significant overshadowing of the coastal foreshore, and</li> <li>(ii) any loss of views from a public place to the coastal foreshore</li> </ul>	<p>The coastal foreshore is nearby. The development has been designed to ensure that the coastal foreshore is not overshadowed. No views from public places are effected. Therefore the amenity is not</p>

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Provision	Comment
	affected as a result of overshadowing or loss of views from a public place.
How the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected	The site is not on the headland, and the scenic quality of the headland is therefore not adversely affected by the proposal.
How biodiversity and ecosystems, including: (i) native coastal vegetation and existing wildlife corridors, and (ii) rock platforms, and (iii) water quality of coastal waterbodies, and (iv) native fauna and native flora, and their habitats, (v) can be conserved	The biodiversity and ecological values is not adversely affected by the proposal.
The cumulative impacts of the proposed development and other development on the coastal catchment.	There are no foreseeable adverse cumulative effects of the development affecting the coastal zone.

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The development is on land that is wholly or partly within the coastal zone and the following matters have been satisfied:

Matter	Comment
Whether the proposed development will impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore	Access to the coast is not affected by the proposal.
Whether if effluent from the development is disposed of by a non-reticulated system, it will have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform	The site is serviced by a reticulated sewerage system.
Whether the proposed development will discharge untreated stormwater into the sea,	Stormwater is proposed to be connected to the existing

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<p>or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform</p>	<p>system constructed for the subdivision, which includes water quality control measures.</p>
<p>Whether the proposed development will:</p> <ul style="list-style-type: none"> <li>(i) be significantly affected by coastal hazards, or</li> <li>(ii) have a significant impact on coastal hazards, or</li> <li>(iii) increase the risk of coastal hazards in relation to any other land</li> </ul>	<p>The development is not neither affected by coastal hazards, or adversely impacts on coastal hazards, or increases the risks of coastal hazards on any other land.</p>

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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.

Kiama LEP Summary

The proposal is permissible within in the R2 Low Density Residential zone. However, the proposed development is not consistent with the provisions of Clauses 4.1 and 4.4 of Kiama LEP 2011. The applicant has provided an adequate written request to vary the minimum lot size as outlined by Clause 4.1. The written request to vary the floor space ratio as outlined by Clause 4.4 has not adequately demonstrated why compliance is unreasonable or unnecessary. The bulk and scale of the development may be considered to be generally compatible with the coastal setting of the area.

The exceedance of the development controls, such as boundary setbacks and floor space ratio, may indicate that the development is of excessive bulk and scale at a site scale.

**Any Draft Environmental Planning Instruments**

- Draft Kiama LEP 2011

Planning Proposal for administrative ‘housekeeping’ amendments to the subdivision controls.

On 21 March 2017 Council resolved to prepare a Planning Proposal (PP) for administrative ‘housekeeping’ amendments to the subdivision controls of the *Kiama Local Environmental Plan (LEP) 2011*. Accordingly, staff prepared the attached PP with the following objectives:

1. Increase the minimum lot size for the Torrens Title Subdivision of dual occupancies on land zoned R2 Low Density Residential and R3 Medium Density Residential; and
2. Retain the existing minimum lot size for the Torrens Title Subdivision of multi dwelling housing on land zoned R3 Medium Density Residential; and

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3. Permit semi-detached dwellings within the R2 Low Density Residential zone; and
  4. The adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

The Planning Proposal was endorsed by Council in December 2017. Once published this Planning Proposal (draft EPI) would negate the requirement for a clause 4.6 variation to the minimum lot size.

- Draft State Environmental Planning Policy (Coastal Management) 2016

The draft Coastal Management State Environmental Planning Policy (SEPP), with accompanying maps, was on public exhibition until 23 December 2016 and 20 January 2017 (for the maps).

The draft Coastal Management SEPP:

- Seeks to balance social, economic and environmental interests by promoting a coordinated approach to coastal management, consistent with the objectives of the Coastal Management Act 2016.
- Is part of the NSW Government's commitment to improving the way the coastal zone is managed, due to its unique environmental, social and economic values.
- Reviews and consolidates existing SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection). These older policies will be repealed once the Coastal Management SEPP is finalised.
- Seeks to redefine the coastal zone into four areas, rather than by a single fixed area along the entire coastline, to enable more targeted management of the diversity of environments and interests in the coast.

Separate development controls apply to each area and focus on achieving specific objectives.

The 'coastal zone' is defined in the Coastal Management Act 2016 as four coastal management areas comprising: *Coastal Wetlands and Littoral Rainforests Area*; *Coastal Environment Area*; *Coastal Use Area*; and *Coastal Vulnerability Area*.

The site is within the mapped *Coastal Use Area*.

In the *Coastal Use Area* the focus is on ensuring appropriate urban development for coastal areas, taking into account urban design issues such and maintaining scenic qualities, visual amenity and aboriginal cultural heritage and places.

The draft SEPP states:

*Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:*

- a) *is satisfied that the proposed development:*
  - i. *if near a foreshore, beach, headland or rock platform-maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*

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- ii. *minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
  - iii. *will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
  - iv. *will not adversely impact on Aboriginal cultural heritage and places, and*
  - v. *will not adversely impact on use of the surf zone, and*
- b) *has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

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The proposed location of the development:

- is not near, and does not impact access to a foreshore, beach, headland or rock platform, and
- does not cause overshadowing or wind funnelling; 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.

The draft SEPP was brought into effect on 3 April 2018. However, applications lodged before gazettal of the Instrument are not required to be considered under the savings provisions.

### **Development Controls Plans**

- Kiama Development Control Plan (DCP) 2012

The proposed development is considered to be consistent with the requirements of the Kiama DCP 2012.

### Chapter 2- Overall controls

*Demolition:* The applicant has provided the required information, including a demolition plan and an Asbestos and Hazardous Material Assessment Audit. This audit has detected asbestos within the existing dwelling to be demolished. If approved, conditions of consent shall be imposed ensuring this asbestos is handled appropriately.

*During Construction:* If approved, conditions to be added to ensure compliance.

*Adaptable Housing:* The applicant has not provided plans which demonstrate that the proposal can be adapted to satisfy the requirements of AS 4299 and has requested a variation this development control. This will be discussed below.

*Views & Vistas:* Due to the slope of the land and the positioning of the proposed development, the proposal will not unreasonably detract from any existing views of properties along Kalang Road. An objection was initially received from an adjoining neighbour concerning potential view loss. Following the provision of amended plans, which showed the positioning of neighbouring dwellings in regards to the proposal this objection, was withdrawn.

Report of the Director Environmental Services

10.3 10.2017.263.1 - Lot 259 DP 30126 - 39 Elanora Road, Kiama Heights, Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

*Building height plane:* The submitted section plans show that only the fascia to a maximum width of 480mm exceed the building height plane. This is compliant with Section 6 of Chapter 2 of the DCP 2012.

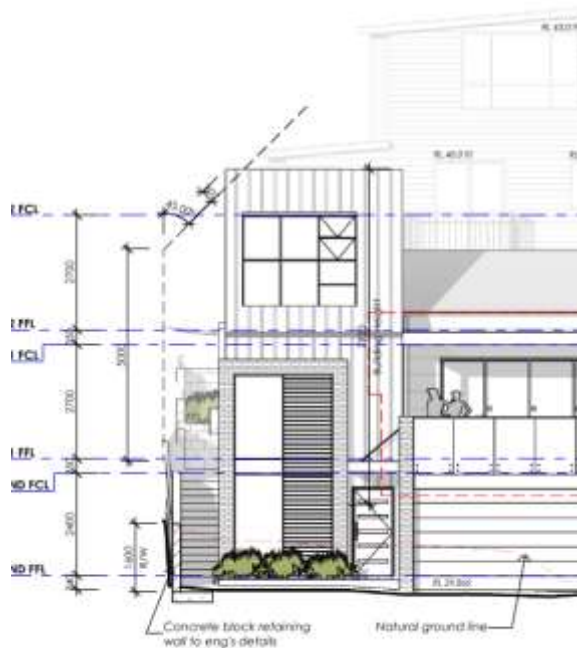


Figure 5 – Elevation Plans

*Building lines:* The subject site is identified by the DCP 2012 Building Lines maps as having a 6m front building line. The proposed development will be setback a minimum of 5.3m from the Elanora Road boundary (i.e. front building line). The applicant has requested a variation to this development control. This will be discussed below.

Section 12 of Chapter 2 outlines that all habitable structures shall be sited on the established rear building line or 6m from the rear boundary, whichever is the greater. The established rear building line is approximately 4m. In this case all habitable structures need to be sited 6m from the rear boundary. The proposed Unit 1 will be setback a minimum of 4.013m from the rear boundary of the site and proposed Unit 2 will be setback a minimum of 2.823m. The applicant has requested a variation to this development control. This will be discussed below.

The required side boundary setbacks are 900mm to a side wall and 675mm to an eave or fascia. The proposed development will result in a minimum 1.305m side setbacks.

*Foreshore Building Lines (FSBL):* the site is not within a foreshore area.

*Reflectivity in building materials:* The submitted 'perspective view' plan shows that the proposed development will be clad in dark and medium coloured bricks, light rendered cladding, natural timber colour garage doors and Dune Colorbond cladding and roofing. This is considered to be acceptable.



Report of the Director Environmental Services

10.3 10.2017.263.1 - Lot 259 DP 30126 - 39 Elanora Road, Kiama Heights,  
Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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*Right to farm:* the site is not within rural land.

*On Site Sewage Management (OSSM):* the proposed development does not include an OSSM.

*Neighbour notification:* the adjoining land holders were notified of the proposed development. The results of the notification process are discussed below.

*Fencing:* No fencing is proposed. It will be conditioned that any proposed fencing comply with the requirements of SEPP (Exempt and Complying Development Codes) 2008.

*Applications for variations:* The applicant has requested variations to several development controls:

- 6m front building line

The applicant has provided the following justification:

*Unit 1 - Front setback = 5.58m*

*Unit 2 - Front setback = 5.37m*

#### ***Variation Request***

*We ask that the variation to the front and rear setbacks be accepted for the following reasons:*

- *The average setback from the front boundary for unit 1 is 7.1m and unit 2 is 6.9m. This is because the front of the units are staggered and the front boundary is on an angle. For this reason only a small portion of the building for both units encroaches beyond the front setback.*

On its own, this request may be acceptable. However, this breach is not acceptable as the proposal also results in non-compliances with the rear setback and POS controls of the DCP as well as the floor space ratio standards of the LEP. In light of this, this report recommends that Council not vary the front building line control of Chapter 2 of the DCP 2012.

- 6m rear building line

The applicant has provided the following justification:

*Unit 1 - Front setback = 4.013m*

*Unit 2 - Front setback = 2.923m*

#### ***Variation Request***

*We ask that the variation to the front and rear setbacks be accepted for the following reasons:*

- *The rear setback is to the single storey part of the building. The second part of the building for both units is over 6m from the rear boundary.*
- *There is no overlooking from the rear of the units as they are below ground level. Similarly, there is no adverse overshadowing.*

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Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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Breaches the rear building line are granted where it can be demonstrated that suitable POS has been provided and where the proposal will not result in any privacy or overshadowing impacts. As outlined, inadequate POS has been proposed as part of this development. The applicant has failed to demonstrate the special circumstances that apply to the development site which justifies this building line variation. This breach is directly related to the non-compliances with the POS controls of the DCP as well as the floor space ratio standards of the LEP. In light of this, this report recommends that Council not vary the rear building line control of Chapter 2 of the DCP 2012.

- Earthworks

The applicant has provided the following justification:

***Variation Request***

*We ask that this variation to the code be accepted for the following reasons.*

- *The proposed retaining walls at the rear of the site are replacing old dilapidated retaining walls.*
- *The new walls will be offset from the boundaries and designed by a structural engineer.*
- *Due to the steep nature of the site, a maximum height cut of 900mm is not achievable.*
- *The new retaining walls due not cause any overlooking or overshadowing of adjoining neighbours.*
- *Only part of the side retaining walls will be visible from the street and therefore not having a detrimental impact on the streetscape.*
- *A retained planter box is proposed on the rear boundary to reduce the visual impact and height of the rear boundary retaining wall.*

It is agreed that the steepness of the site warrants a greater amount of earthworks than prescribed by the DCP. Generally Council varies this control where the earthworks are required for the development to comply with other controls of the DCP, for example the maximum gradient for areas of POS. If the proposed development were to comply with the required rear building line it is possible that additional terracing of the rear of the site could be achieved thus negating the need to vary this control. In light of this, this report recommends that Council not vary the earthwork control of Chapter 4 of the DCP 2012.

- Private Open Space

The applicant has provided the following justification:

***Variation Request***

*The DCP states that the private open space shall receive a minimum 3 hours sunlight between 9am and 3pm on 22nd June and that it ideally should be at ground level with a maximum of 1/3 being in the form of a balcony. We ask that the proposed POS balcony be accepted for the following reasons:*

## Report of the Director Environmental Services

10.3 10.2017.263.1 - Lot 259 DP 30126 - 39 Elanora Road, Kiama Heights,  
Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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- *This particular site has ocean views to the front, which faces south. Although the private open space should face north, it would be a poor design to locate it at the rear where it would have no views at all. We believe that this design should be looked at on merit in regards to the oceans views to the south.*
  - *An adjustable awning covers both balcony's to allow for direct natural sunlight.*
  - *The steep nature of the site doesn't allow for a large flat outdoor area at ground level.*
  - *The balconies have enclosed sides to improve privacy and reduce overlooking.*

It is agreed that the balconies with ocean views is a desirable design feature and this sort of design is encouraged in the area. The submitted shadow diagrams show that the proposed adjustable awning covers over the balconies will be overshadowed by the roofline of the proposed development. The argument that the steep nature of the site doesn't allow for a large flat outdoor area at ground level is incorrect. It is the fact the applicant is proposing a dual occupancy on the site which creating the numerous non-compliances. This would indicate that the proposal is not suitable on the site. In light of this, it is not recommended that Council not vary the private open space controls of Chapter 4 of the DCP 2012.

- Adaptable Housing

The applicant has provided the following justification:

***Variation Request***

*We ask that the above variation to the code be accepted for the following reasons:*

- *The steep slope of the land does not lend itself to any development that is suitable for adaptable housing. AS 4299 talks about accessible housing avoiding level changes and steps. On a site like ours, this is impossible to achieve.*
- *The units are designed for families as demonstrated by the number of bedrooms. They are not aimed at the elderly market.*
- *The site and unit design would not attract people with disabilities due to the steepness and number of stairs.*
- *A stair inclinators could be installed at a later date if the new occupant needed one. It shouldn't be up to the developer to provide one if it is only going to be removed by an occupant who doesn't need it.*
- *Drawings could be provided to demonstrate the potential for adaption. That way, a future occupant would be aware of what is involved to convert the unit to an adaptable state.*

It is not onerous to provide plans that would satisfy the provision of this control. As outlined by the applicant's request "drawings could be provided to demonstrate the

Report of the Director Environmental Services

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Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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potential for adaption". These plans have not been provided. Continually referring to the steepness of the site as justification for non-compliance with development controls and standards would indicate that the proposal is not suitable on the site. The applicant has failed to demonstrate the special circumstances that apply to the development site which justify not complying with this control. In light of this, this report recommends that Council not vary the adaptable housing control of Chapter 4 of the DCP 2012.

#### **Chapter 4- Low Density Development**

*General Controls:* The entirety of the development is greater than one storey. The proposed development has a maximum length of 14.73m. There is no component of the two-storey development located beyond 12m of the front building line.

Significant earthworks have been proposed. Excavation to a depth of 1.5m external to the perimeter of the building has been proposed as the site. The applicant has requested a variation this development control. This has been discussed above.

The proposed separation between adjoining dwellings and placement of windows will ensure that the proposed development does not adversely affect the privacy of adjoining properties. The windows on the top floor of the development are associated with bedrooms.

The submitted shadow diagrams show that the proposed development will overshadow approximately 1/3 of the adjacent property to the west at 9am on the winter solstice. By 12pm the proposed development will not overshadow the adjacent property to the west.

In an urban residential context a degree of overshadowing is unavoidable, and it is not reasonable to ensure uninterrupted solar access at all times. In light of this the proposed overshadowing is considered acceptable as the proposed development will not unduly overshadow the adjoining properties living areas or private open space.

The proposed development incorporates a good level of articulation and results in no walls in excess of 15 metres in length.

Dual occupancies are present in the Kiama Heights area.

*Site Coverage:* the proposed dual occupancy will have a compliant building footprint of 232.79m<sup>2</sup> which equates to a site coverage of 40%.

*Setbacks:* setback requirements have been covered above.

*Solar Access:* in order to provide suitable solar access to the proposed living areas the applicant has proposed a pitched roof with northern facing sky lights. Overshadowing of the adjoining property has been discussed above and is considered to be reasonable.

*Private open Space:* Both dwellings have been provided with a 24m<sup>2</sup> balcony directly accessed off each lounge room as the only sources of usable areas of private open space (POS). The DCP allows balconies to be counted as part but not all of a dwelling's POS. In this regard it is considered that the proposed dwellings have not been provided with suitable POS. The balconies will be located on the southern side of the proposed development and face Elanora Road. This means that the POSs will

Report of the Director Environmental Services

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not receive the minimum required amount of sunlight. The applicant has requested variations to these development controls. This has already been discussed above.

*Garaging/car parking:* a double-bay garage will be provided for each dwelling.

The proposed garaging constitutes 17% of the front elevation, which complies with the 50% requirement.

*Storage:* Each dwelling will be provided with storage areas in the subfloor/basement areas with a total volume of 10m<sup>3</sup>.

*Drying Areas:* 20 linear meters of clothes drying space has been provided within the rear yard of each dwelling. It is noted that the shadow diagrams, supplied by the applicant, show that these clothes drying spaces will not receive any sunlight. However, it should be noted that this is not a requirement of the DCP.

*Letterboxes:* If approved, it will be conditioned that letterboxes are installed in accordance with Australia Post requirements.

*Dual Occupancy and Secondary Dwellings:* The subject site has a minimum width of 24m at the building line. The site has an average gradient of approximately 13° (24%). The applicant has not provided plans which demonstrate that the proposal can be adapted to satisfy the requirements of AS 4299 and has requested a variation this development control. This has been discussed above. Separate bin storage areas have been provided for each dwelling and an acceptable onsite stormwater management system has been proposed.

## **Chapter 7 – Subdivision Requirements**

*Residential Land Subdivision:* The proposed allotments have been designed to enable the detention and reuse of rainwater for domestic purposes.

The other controls contained within this section relate to large residential subdivision and as such as not applicable to the proposed development.

*Allotment Size Requirements:* The proposed lots do not comply with the prescribed minimum lot sizes. This matter has been discussed above and is acceptable.

The other sections contained within this chapter relate to large residential subdivision and as such as not applicable to the proposed development.

## **Chapter 8 – Landscaping Requirements**

*Design Guidelines for Residential Developments:* A landscape plan has been provided. The submitted landscape plan does not comply with Chapter 7 as only 13% of the site will be landscaped. No requests to vary this control have been received.

## **Chapter 9 – Car Parking Requirements**

*General Controls:* Parking spaces for cars have been provided on site. The proposed development is not defined as ‘traffic generating development’.

*Parking numbers:* Kiama DCP 2012 requires that each of the dual occupancies has one car parking space behind the property boundary and one space behind the boundary line. The current plans show that a double-bay garage will be provided for each dwelling.

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Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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*Location:* the proposed parking is easily accessible with direct frontage to Elanora Road.

*Layout & access:* The grade of the driveway satisfies the requirements of AS2890 and therefore is generally deemed to be satisfactory for car parking. The width of the proposed driveway at the site boundary complies the maximum width outlined by Council's "Driveway and Footpath Works Procedure Manual".

### **Chapter 11 – Waste Requirements**

*Internal Bins/Containers:* Space has been provided within the kitchen for separate storage containers. If approved, a condition will be added to ensure compliance with this section of the DCP.

*Roadside Bin Collection Point:* Space for roadside collection has already been provided as part of the original subdivision to create the site.

*Low Density Developments:* If approved, the proposed dwellings will be provided with its own garbage, recycling and garden waste bins upon obtaining an Occupation Certificate. Space has been shown on the ground floor plan for on site for bin storage for each dwelling.

### **Conclusion**

As discussed in detail it is considered that the proposed development fails to comply with numerous relevant controls of the DCP 2012. While individually, some of these non-compliances maybe supported, the cumulative effect of these non-compliances indicates the development is an over-development of the site.

### **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 adopted within the *NSW Coastal Policy 1997*.

- Australian Standard AS 2601-1991: The Demolition of Structures

If approved, conditions of consent shall be imposed ensuring compliance with AS 2601-1991: *The Demolition of Structures*.

- Clauses 93, 94 and 94A

Clause 93, 94 and 94A do not apply to the proposed development does not involve a change of use nor additions and alterations to an existing building on the site.

### **Any Coastal Zone Management Plan**

Nil

Report of the Director Environmental Services

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Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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### Impacts of the Development

- Streetscape

The design of the proposed development is considered to be reasonable when considered in relation to the context of the site. However, the bulk and scale of the proposal is not consistent with relevant planning instruments and plans. This has been discussed at length above.

- 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.

The proposed separation between adjoining allotments and placement of windows will ensure that the proposed development does not unreasonably adversely affect the privacy of adjoining properties. The windows on the top floor of the development are either associated with bedrooms or the passageway areas, with the upper level balcony proposed for Dwelling 1 facing Merrick Street.

- Overshadowing

The orientation of the allotment is such that the submitted shadow diagrams show that the proposed development will overshadow the front setbacks of the subject site and the adjoining site and adjoining public roads located to the south of the proposed dwellings.

Shadow diagrams have been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable.

- Views

The proposal will have no unreasonable impact upon views currently available from neighbours.

- 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 street.

## Report of the Director Environmental Services

10.3 10.2017.263.1 - Lot 259 DP 30126 - 39 Elanora Road, Kiama Heights,  
Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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- Environmental Impacts

*Vegetation Removal* – The applicant is proposing to remove the existing juvenile Norfolk Pine, which is located within the current front setback, as part of this application. Council's Landscape Officer is comfortable with the removal of this tree as its size and location is not compatible with the urban use of the property and surrounding properties.

*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 the submitted BASIX Certificate. 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 concerns raised in submissions warrant refusal of the application.

- Effect on public domain

As the proposed development will be occurring entirely within the subject site it is unlikely that the proposed development will impact upon the public domain.

- Utility needs and supply

Utility services are already supplied to the subject site.

- Safety, security & crime prevention

The proposed development provides passive surveillance to the street and will not impact on safety, security and crime prevention of the area.

- Operational waste

If approved, it will be conditioned that the waste generated as part of the construction process is to be managed in accordance with the submitted Waste Management Plan.

- BCA compliance & Construction impacts

It is noted that impacts (i.e. noise etc.) are likely to occur during construction. If approved, conditions can be added to mitigate construction impacts (i.e. construction hours) and ensure compliance with the BCA.

### **Suitability of the Site**

Due to the numerous non-compliances with the development standards and controls of the LEP 2011 and DCP 2012 it would appear that the proposed development is not suitable for site.



Report of the Director Environmental Services

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Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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### 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.

This objection was initially received from an adjoining neighbour concerning potential view loss. Following the provision of amended plans, which showed the positioning of neighbouring dwellings in regards to the proposal this objection, was withdrawn.

### External Referrals

Nil

### Internal Referrals

The application was referred to the following Council Officers for their consideration.

- Development Assessment Officer - Building

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 not consistent with all relevant Environmental Planning Instruments and Development Control Plans and as such is not considered to be in 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 permissible within in the R2 Low Density Residential zone. However, the proposed development is not consistent with the provisions of Clauses 4.1 and 4.4 of Kiama LEP 2011. The applicant has provided an adequate written request to vary the minimum lot size as outlined by Clause 4.1. The written request to vary the floor space ratio as outlined by Clause 4.4 has not adequately demonstrated why compliance is unreasonable or unnecessary in the circumstances.

Report of the Director Environmental Services

10.3 10.2017.263.1 - Lot 259 DP 30126 - 39 Elanora Road, Kiama Heights,  
Attached Dual Occupancy with 2 Lot Torrens Title Subdivision (cont)

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The applicant has requested to vary the front and rear building lines, earthwork, private open space, solar access and adaptable housing controls of the DCP. Due to the nature and number of non-compliances with the relevant controls of the DCP this report recommends that Council not vary these controls.

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 alone do not warrant refusal of the application.

The proposed development is not considered to be reasonable and refusal is recommended.

**Item 10.3**

# PROPOSED TWO TOWNHOUSES

39 Elanora Road Kiama Heights, Lot 259 in DP 30126



SUBJECT SITE

## DRAWING NOTES

This plan is to be read in conjunction with all other consultants and statutory plans. That is, surveys, deposited plans, engineering plans, landscaping plans and relevant council approvals.  
 It is the builder's responsibility to cross check both existing site conditions and proposed site conditions, the location of both existing and proposed buildings prior to work commencing.  
 All dimensions are in millimeters, all dimensions shall be site checked prior to commencement of construction. Any obvious work required but not specified on the plan or on the specification is understood to be included.  
 All construction shall be in conformity with the building code of Australia.  
 This plan remains the property of the design group and is subject to Australian copyright laws &.

## SHEETS

- A01 COVER SHEET
- A02 SITE PLAN / SITE ANALYSIS PLAN
- A03 GROUND FLOOR PLAN
- A04 LEVEL 1 FLOOR PLAN
- A05 LEVEL 2 FLOOR PLAN
- A06 ELEVATIONS
- A07 SECTION & BAUX NOTES
- A08 PERSPECTIVE VIEW
- A09 DEMOLITION PLAN
- A10 SHADOW DIAGRAMS
- A11 SUBDIVISION PLAN
- A12



## LOCATION PLAN

<p><b>tasman design</b> Pty Ltd                  1/111-113 Elanora Road, Kiama Heights, NSW 2533                  Phone: 02 4422 1111                  Email: info@tasmandesign.com.au                  Website: www.tasmandesign.com.au</p>	<p>PROJECT: PROPOSED TWO ATTACHED TOWNHOUSES                  ADDRESS: 39 Elanora Road Kiama Heights, Lot 259 in DP 30126                  DRAWN BY: C. HALL                  CHECKED BY: C. HALL                  DATE: 10/12/17                  SCALE: 1:100</p>	<p>DEVELOPMENT APPLICATION DRAWINGS                  A01</p>
	<p>DATE: 10/12/17                  TIME: 10:00 AM                  DRAWN BY: C. HALL                  CHECKED BY: C. HALL                  DATE: 10/12/17                  SCALE: 1:100</p>	<p>DATE: 10/12/17                  TIME: 10:00 AM                  DRAWN BY: C. HALL                  CHECKED BY: C. HALL                  DATE: 10/12/17                  SCALE: 1:100</p>



SITE DATA	
Site No:	505 (incl) By City
Lot Area:	374.2m <sup>2</sup> (40,144 sq ft)
Lot 1 Area:	216.2m <sup>2</sup> (23,242 sq ft)
Lot 2 Area:	158.0m <sup>2</sup> (17,102 sq ft)
Building - House:	142m <sup>2</sup> + 20m <sup>2</sup> garage
Unit 1:	142m <sup>2</sup> + 10m <sup>2</sup> garage
Unit 2:	216m <sup>2</sup> + 10m <sup>2</sup> garage
Pool Building Area:	33m <sup>2</sup>
Gross Floor Area:	544m <sup>2</sup>
Site Coverage:	8.82%
Site Area:	374.2m <sup>2</sup> (40,144 sq ft)

**Tasman design** 11/11/2017 11:11:11 AM

**DEVELOPMENT APPLICATION DRAWINGS**

Project: PROPOSED TWO ATTACHED TOWNHOUSES  
 Address: 39 Elanora Road Kiama Heights, Lot 259 in DP 30126  
 Date: 11/11/2017  
 Scale: 1:200  
 Author: C. Kelly  
 Drawn by: SITE PLAN / SITE ANALYSIS PLAN

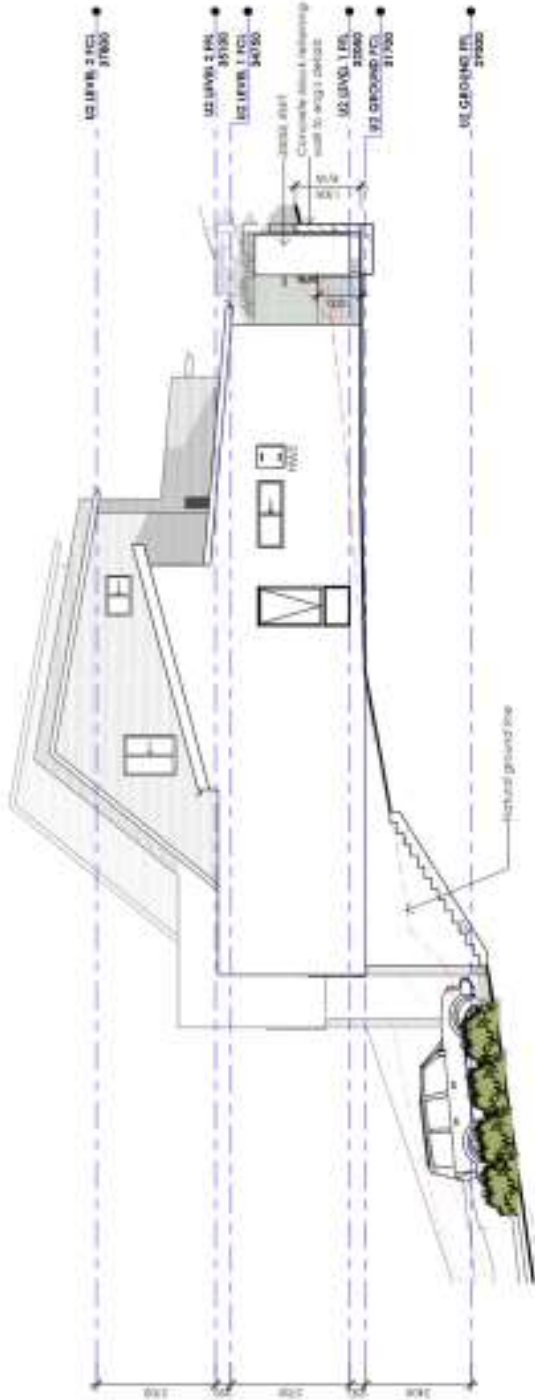
Scale: 1:200  
 Date: 11/11/2017  
 Author: C. Kelly  
 Drawn by: SITE PLAN / SITE ANALYSIS PLAN



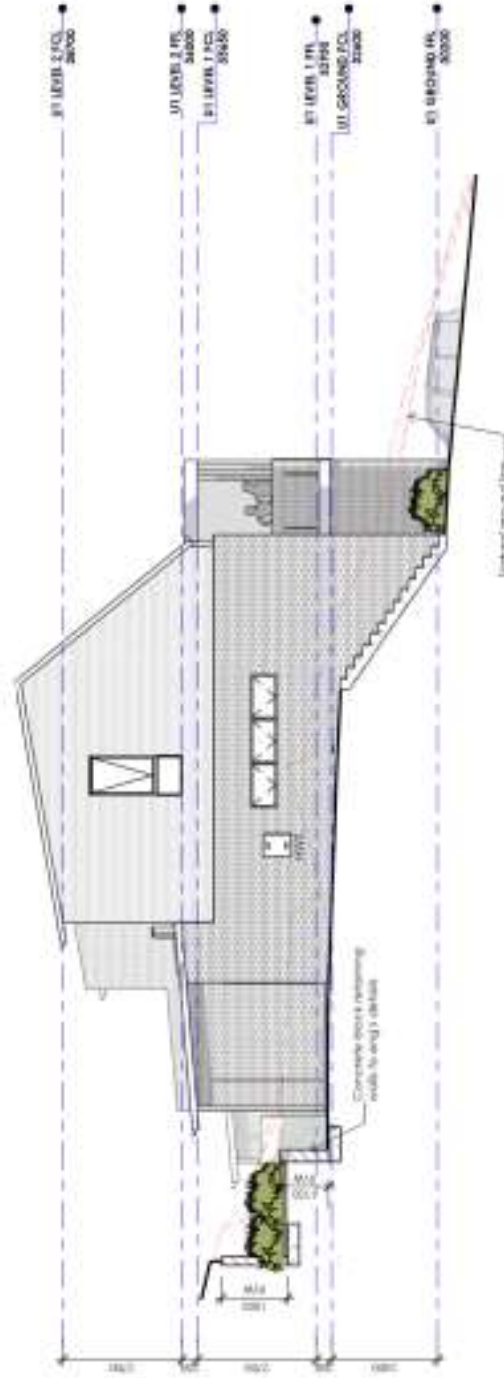
1 | SOUTH ELEVATION  
1 : 100

2 | NORTH ELEVATION  
1 : 100

	PROJECT NO: 10217 DATE: 10/10/17 DRAWN BY: [Name] CHECKED BY: [Name]	DEVELOPMENT APPLICATION DRAWINGS 10217 10/10/17 1:100	
	PROPOSED TWO ATTACHED TOWNHOUSE 39 Elanora Road Kiama Heights, Lot 259 in DP 30126	SHEET NO: 10217-01 SHEET TITLE: ELEVATIONS	SCALE: 1:100



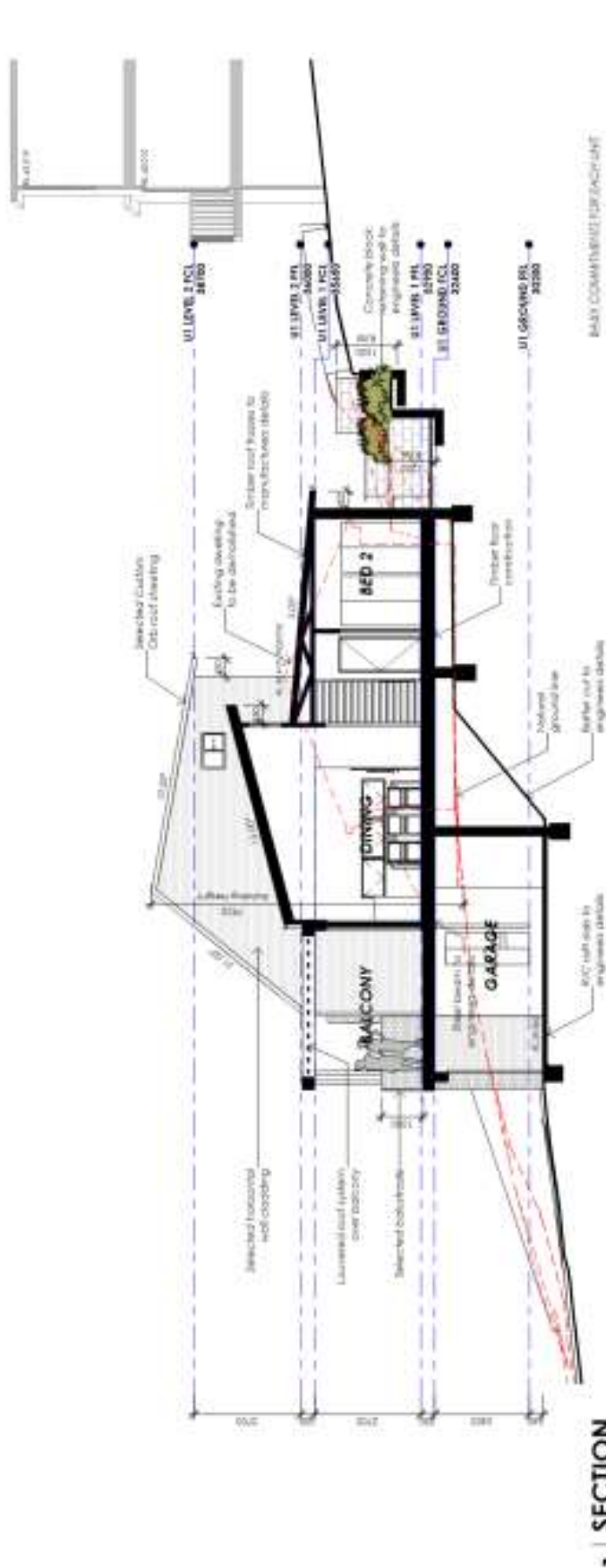
1 | EAST ELEVATION  
1 : 100



2 | WEST ELEVATION  
1 : 100



<p><b>Tasman design</b> ARCHITECTS</p> <p>11/11/2017 11/11/2017 11/11/2017 11/11/2017</p>		<p><b>DEVELOPMENT APPLICATION DRAWINGS</b></p> <p>11/11/17 11/11/17 11/11/17 11/11/17</p>	
<p>PROJECT: PROPOSED TWO ATTACHED TOWNHOUSES</p> <p>ADDRESS: 39 Elanora Road Kiama Heights, Lot 259 in DP 30126</p> <p>SCALE: As Shown</p> <p>DATE: 11/11/17</p> <p>BY: C. Kelly</p> <p>FOR: ELEVATIONS</p>		<p>DATE: 11/11/17</p> <p>SCALE: As Shown</p> <p>DATE: 11/11/17</p> <p>BY: C. Kelly</p> <p>FOR: ELEVATIONS</p>	



1 | SECTION  
1 : 100

**BASIC COMMENTS FOR CONTRACT**

Higher Classifications  
 Rainwater tank minimum capacity 2000L (position indicated on drawings)  
 77 LPM of roof area to be collected into tank  
 Rainwater tank to be fixed to an equal or higher load-bearing studs  
 Shower heads 2.0LPS. Maximum 2.0LPS (between 1000 & 1000) only  
 basin 1000 x 400

**General Comments**  
 Client not to be responsible for any P/L  
 All work to be done in accordance with the relevant Australian Standards  
 The client is responsible for obtaining all necessary permits  
 Minimum 100mm ground clearance

**Energy Comments**  
 Can installation - 100% - 100%  
 Ceiling fans in all living areas  
 2.3 star / 1 phase air conditioning  
 Each bedroom to have an individual room  
 master en-suite with shower, attached to master bedroom  
 Kitchen individual fan, in-line with sink, attached to facade of roof  
 All floor lighting to be 240V certified  
 One master en-suite, even  
 A fixed outdoor clubhouse must be included  
 Pool 1000 x 4000 (minimum for unit 1)

**PROPOSED TWO ATTACHED TOWNHOUSES**  
 39 Elanora Road Kiama Heights, Lot 259 in DP 30126

**SECTION 8 BASEX NOTES**

1. All work to be done in accordance with the relevant Australian Standards  
 2. The client is responsible for obtaining all necessary permits  
 3. The client is responsible for obtaining all necessary permits  
 4. The client is responsible for obtaining all necessary permits  
 5. The client is responsible for obtaining all necessary permits

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
101	Excavation	100	m <sup>2</sup>	100	10000
102	Concrete	100	m <sup>3</sup>	100	10000
103	Brickwork	100	m <sup>2</sup>	100	10000
104	Roofing	100	m <sup>2</sup>	100	10000
105	Painting	100	m <sup>2</sup>	100	10000
106	Electrical	100	hr	100	10000
107	Plumbing	100	hr	100	10000
108	Landscaping	100	hr	100	10000
109	Other	100	hr	100	10000

**tasman design**

**DEVELOPMENT APPLICATION DRAWINGS**

10/17/2017  
 10/17/2017  
 10/17/2017

10/17/2017  
 10/17/2017  
 10/17/2017

10/17/2017  
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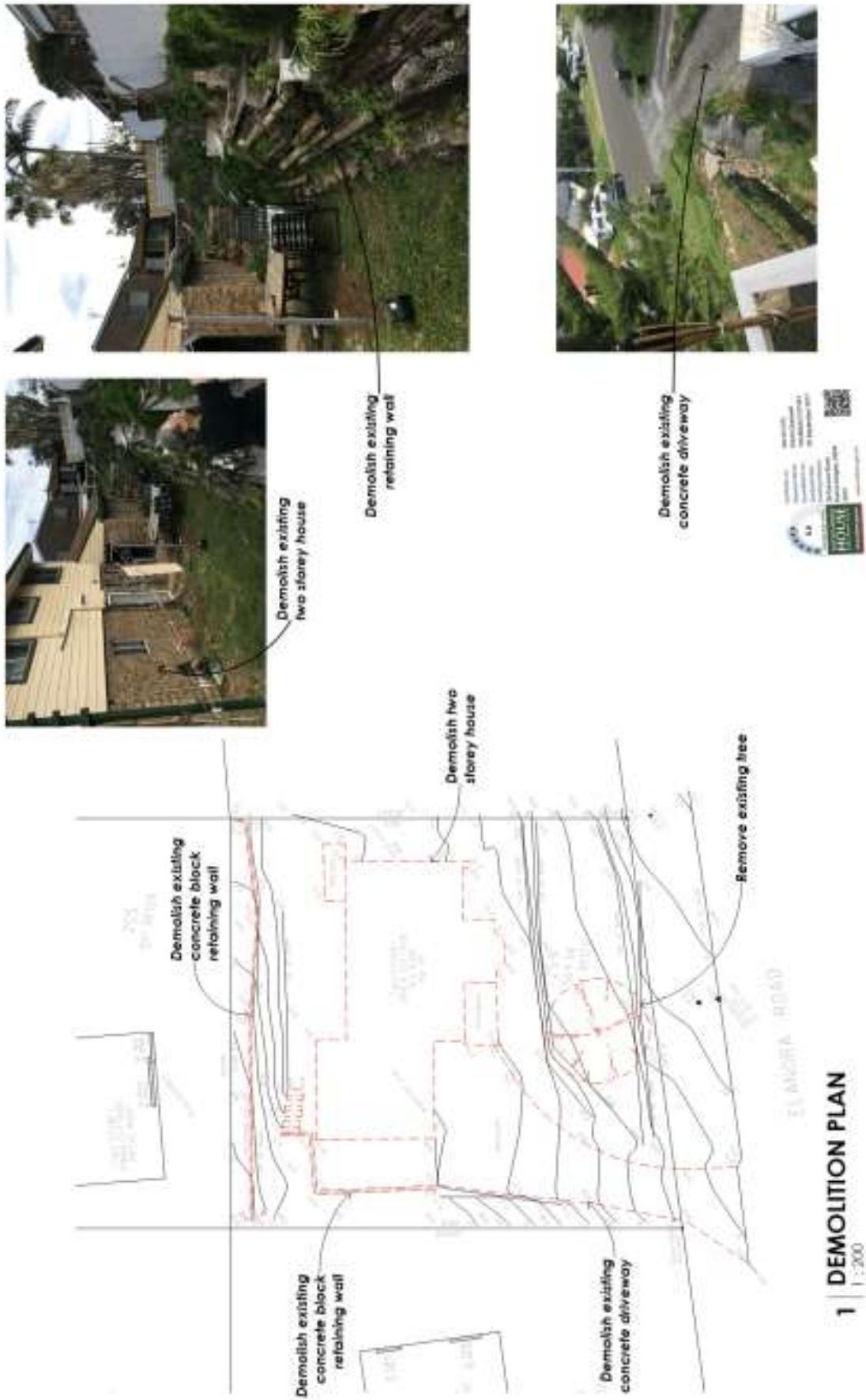
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 10/17/2017



<p><b>tasman design</b> 10/11-13/15 Elanora Road, Kiama Heights, NSW 2533                  Tel: (02) 4451 1111 Fax: (02) 4451 1112                  Email: info@tasmandesign.com.au Website: www.tasmandesign.com.au</p>		<p><b>PROPOSED TWO ATTACHED TOWNHOUSE</b>                  39 Elanora Road Kiama Heights, Lot 259 in DP 30126                  Date: 10/12/17                  Scale: 1:50                  Drawn by: C. Kelly                  Check by: M. Kelly</p>	
<p>DATE: 10/12/17                  PROJECT: 10/11-13/15 Elanora Road, Kiama Heights, NSW 2533                  DRAWN BY: C. Kelly                  CHECKED BY: M. Kelly                  SCALE: 1:50</p>		<p>DEVELOPMENT APPLICATION DRAWINGS                  AOS                  10/11-13/15 Elanora Road, Kiama Heights, NSW 2533                  Tel: (02) 4451 1111 Fax: (02) 4451 1112                  Email: info@tasmandesign.com.au Website: www.tasmandesign.com.au</p>	

Attachment 1 Item 10.3





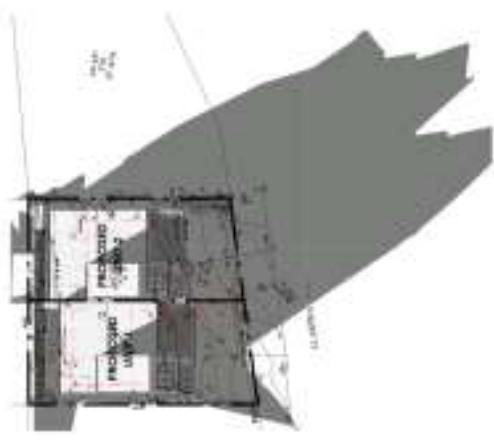
<b>Tasman Design</b> 10/11-13/15 Elanora Road, Kiama Heights, NSW 2533 Phone: 02 4422 1111 Email: info@tasmandesign.com.au Website: www.tasmandesign.com.au		<b>PROPOSED TWO ATTACHED TOWNHOUSES</b> 39 Elanora Road Kiama Heights, Lot 259 in DP 30126 Project: C-1611 Date: 10/12/17 Scale: 1:200 Drawn by: [Name] Checked by: [Name]	
1   DEMOLITION PLAN Scale: 1:200		DEVELOPMENT APPLICATION DRAWINGS A10	



**1** | 9am SHADOW DIAGRAM  
1:500



**2** | 12pm SHADOW DIAGRAM  
1:500



**3** | 3pm SHADOW DIAGRAM  
1:500



22nd of June Shadow Diagrams

<p><b>Tasman design</b> Pty Ltd                  1/111-113 Elanora Road, Kiama Heights, NSW 2533                  Phone: 02 4422 1111                  Email: info@tasmandesign.com.au</p>		<p><b>PROPOSED TWO ATTACHED TOWNHOUSES</b>                  39 Elanora Road Kiama Heights, Lot 259 in DP 30126                  Client: C-44161                  Date: 20/11/2017                  Scale: 1:500                  Drawn by: A.T.</p>	
<p><b>DATE:</b> 20/11/2017</p>	<p><b>SCALE:</b> 1:500</p>	<p><b>PROJECT:</b> PROPOSED TWO ATTACHED TOWNHOUSES</p>	<p><b>CLIENT:</b> C-44161</p>
<p><b>DESCRIPTION:</b> Shadow Diagrams</p>	<p><b>DATE:</b> 20/11/2017</p>	<p><b>PROJECT:</b> PROPOSED TWO ATTACHED TOWNHOUSES</p>	<p><b>CLIENT:</b> C-44161</p>
<p><b>DATE:</b> 20/11/2017</p>	<p><b>SCALE:</b> 1:500</p>	<p><b>PROJECT:</b> PROPOSED TWO ATTACHED TOWNHOUSES</p>	<p><b>CLIENT:</b> C-44161</p>
<p><b>DATE:</b> 20/11/2017</p>	<p><b>SCALE:</b> 1:500</p>	<p><b>PROJECT:</b> PROPOSED TWO ATTACHED TOWNHOUSES</p>	<p><b>CLIENT:</b> C-44161</p>



1 | TORRENS TITLE SUBDIVISION PLAN  
1:200



DATE:	2017/07/27
Site Area:	344.1m <sup>2</sup> (by DP)
Lot Area:	278.1m <sup>2</sup> (by calculation)
Lot 1 Area:	296.7m <sup>2</sup> (by calculation)
Lot 2 Area:	278.1m <sup>2</sup> (by calculation)

<p><b>tasman design</b></p> <p>100/101 Market Street, Hobart, TAS 7000                  Phone: (03) 6233 1111                  Fax: (03) 6233 1112                  Email: info@tasmandesign.com.au                  Website: www.tasmandesign.com.au</p>	<p>PROPOSED TWO ATTACHED TOWNHOUSES</p> <p>39 Elanora Road Kiama Heights, Lot 259 in DP 30126</p> <p>Client: C-4444</p> <p>Project: SUBDIVISION PLAN</p>
	<p>DATE: 2017/07/27</p> <p>SCALE: 1:200</p> <p>BY: [Signature]</p> <p>CHECKED: [Signature]</p>
<p><b>DEVELOPMENT APPLICATION DRAWINGS</b></p> <p>DATE: 2017/07/27</p> <p>SCALE: 1:200</p> <p>BY: [Signature]</p> <p>CHECKED: [Signature]</p>	



#### 10.4 10.2017.292.1 - Lot 31 DP 574051, Lot 2 DP 907763 & Lot 1 DP 128011 - 31 Bong Bong Street, Kiama - Demolition of Existing Building and Erection of Hotel

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 assesses DA 10.2017.292.1 which involves the demolition of existing backpackers building at 31 Bong Bong Street, Kiama and the beer garden associated with the adjoining Grand Hotel and construction of a 3 storey building containing guest accommodation and 2 levels of basement parking at 31 Bong Bong Street, Kiama.

The report recommends that Council approve 10.2017.292.1 as the proposal is:

- permissible in the B2 Local Centre Zone and is consistent with the relevant development standards of the Kiama Local Environment Plan 2011 (LEP), with the exception of the maximum building height development standard; and
- consistent with Kiama Development Control Plan 2012 (DCP).

A request to vary the LEP maximum building height development standard has been received.

#### Zoning

Is the proposal permissible under zoning provisions? Yes

#### Development Standards (Statutory Requirements):

Standard	Required	Proposed	Complies
Floor Space Ratio (max)	1.5:1	1.48:1	Yes
Height of Building (max)	11m	12.155m	No

#### Departures from Development Control Plan

Nil

#### Community Consultation

Required: Yes (letter notification, sign, newspaper and website)

Submissions: 2 submissions

#### Other Requirements

Kiama Section 94A Contributions Plan 2014

#### Integrated Development

The application is not Integrated Development.

Report of the Director Environmental Services

10.4 10.2017.292.1 - Lot 31 DP 574051, Lot 2 DP 907763 & Lot 1 DP 128011 -  
31 Bong Bong Street, Kiama - Demolition of Existing Building and Erection of  
Hotel (cont)

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#### **Development requiring concurrence:**

Under the provisions of the *State Environmental Planning Policy (Infrastructure) 2007* the concurrence of Sydney Trains is required for this development. The concurrence of Sydney Trains has been sought and obtained.

#### **Finance**

N/A

#### **Policy**

N/A

#### **Reason for the Report**

This report is submitted to Council as the cost of works exceed \$2 million and because only the elected Council can assume concurrence from the Department of Planning and Environment under the LEP clause 4.6 to vary a development standard by more than 10%, and staff do not have delegation to determine a development application which presents significant departures from the DCP.

#### **Attachments**

- 1 10.2017.292.1 - Plans [↓](#)
- 2 10.2017.292.1 - Concurrence from Sydney Trains [↓](#)

#### **Enclosures**

Nil

### **RECOMMENDATION**

That Council approve Development Application 10.2017.292.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979 subject to conditions at the end of this report.

### **BACKGROUND**

Council formally refused DA 10.2016.243.1 at the April 2017 Council Meeting. This application sought the demolition of existing backpackers building at 31 Bong Bong Street Kiama and additions and refurbishment of the existing Grand Hotel, including construction of a 4 storey building containing guest accommodation (i.e motel) and 2 levels of basement parking at 49 Manning Street Kiama.

On 15 March 2017 Council was notified that the applicant has assumed that the DA has been refused, in accordance with Section 113(1)(a) of the *Environmental Planning and Assessment Regulation 2000* and had commenced proceedings in the NSW Land & Environment Court. Staff attended the hearing at the end of February 2018. The Court handed down its judgement on 6 April 2018 by refusing the application. The Court was not satisfied that the applicant had provided sufficient consideration to the means of mitigating its offsite impacts on the locality to ensure reasonable accessibility to onstreet parking for other local enterprises. The Court

## Report of the Director Environmental Services

10.4 10.2017.292.1 - Lot 31 DP 574051, Lot 2 DP 907763 & Lot 1 DP 128011 -  
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found that there was insufficient evidence for the heritage experts to undertake an assessment and that a deferred commencement condition would be inappropriate as it would defer this essential assessment post consent.

During the Section 34 Mediation Hearing, held in August 2017, the applicant indicated that they would shortly be lodging a separate DA just for the motel and would therefore not include any works associated with the Grand Hotel. Accordingly, the subject DA 10.2017.292.1 was lodged in October 2017 for a 3 storey motel at 31 Bong Bong Street. In consultation with Council staff the applicant has modified the design of the proposed motel to satisfy heritage and access & manoeuvring concerns.

**Development Site**

The property is described as Lot 31 DP 574051 which is located at 31 Bong Bong Street, Kiama and Lot 2 DP 907763 which is located at Bong Bong Street, Kiama. While not indicated on the DA form it is noted that the submitted plans also propose development on Lot 1 DP: 128011 which is located at Bong Bong Street, Kiama. The applicant has subsequently provided owner's consent for the inclusion of this Lot in the DA. Lots 1 & 2 are known as the beer garden for the Grand Hotel Kiama, while Lot 31 contains the existing backpackers building. The overall site measures 830.79m<sup>2</sup> and is irregular in shape. The site is bounded by commercial land containing principally offices and businesses. Some residential development is also present in the surrounding area, most notably the Bathers development.

The site is zoned B2 Local Centre under Kiama LEP 2011.

Three trees are located at the rear of the site which slopes moderately from north-west to south-east with a fall of 2m or 10%. The site drains through a piped watercourse to the adjoining public road (Bong Bong Street), which provides access to the property. The site is serviced by Sydney Water's water and sewer infrastructure, Endeavour Energy's electricity infrastructure, Jemena's natural gas infrastructure and Telstra's telecommunications infrastructure.

The site is subject to the following constraints:

- The adjoining Grand Hotel (Lot 1 DP 71530) is identified as a local Heritage Item (I116) by Schedule 5 of the *Kiama Local Environmental Plan 2011*. It is noted that several other heritage items are located on surrounding allotments, notably: Kiama Uniting Church (I114 & I115) at 48 Manning Street, the Former ANZ Bank (I113) at 33 Manning Street, the Westpac Bank (I112) at 32 Manning Street, the former Commercial Banking Company of Sydney (I110) at 18 Manning Street, the former Council Chambers (I109) at 11 Manning Street, the Kiama Post Office (I150) at 24 Terralong Street and the Kiama Railway Station Group (I133).
- Right-of-way burdening Lot 1 DP 128011
- Noise and vibration from adjoining transport corridor

## Report of the Director Environmental Services

- 10.4 10.2017.292.1 - Lot 31 DP 574051, Lot 2 DP 907763 & Lot 1 DP 128011 -  
31 Bong Bong Street, Kiama - Demolition of Existing Building and Erection of  
Hotel (cont)



Figure 1 – Locality Map - Heritage Overlay

### Description of the Proposed Development

The proposal involves the demolition of existing backpackers building at 31 Bong Bong Street Kiama and the beer garden associated with the Grand Hotel and construction of a 3 storey building containing guest accommodation and 2 levels of basement parking at 31 Bong Bong Street, Kiama.

It is noted that commentary within the submitted Statement of Environmental Effects implies that the 3 allotments which form the subject site will be consolidated. Consolidation of these allotments will be required due to the fact that side and rear boundaries are considered to be a fire-source feature by the National Construction Code. Clear reference to this is made within the submitted Statement of Environmental Effects.

In conjunction with Council staff, the applicant has modified the design of the proposed motel to satisfy heritage and access and manoeuvring concerns.

### Demolition

As part of the proposed development all structures on Lot 31 DP 574051, Lot 2 DP 907763 and Lot 1 DP 128011 will be demolished.

### New Motel (Lot 31 DP 574051, Lot 2 DP 907763 and Lot 1 DP 128011)

The other component of the proposed development is the construction of a three-storey motel with 2 levels of basement car parking. The proposed 2 levels of basement car parking will contain 35 car parking spaces (including 2 disabled car parking spaces), bicycle parking, 2 motorcycle parking spaces, a waste services room, a mechanical room and service room. Two stairwells and an elevator will connect the basement levels to the floors above. Vehicles will access the basements via a ramp down from Bong Bong Street, between the Grand Hotel and the proposed Motel. This access ramp is proposed to be constructed within the existing right-of-way. The existing right-of-way will be constructed and will continue to provide access to the benefitted allotments.

The ground floor of the proposed motel will contain the motel's lobby, reception and office and will be accessed off Bong Bong Street. An ancillary commercial space,



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gym, outdoor pool and Jacuzzi will also be incorporated into the ground floor. The proposed ground floor has been designed around a central courtyard.

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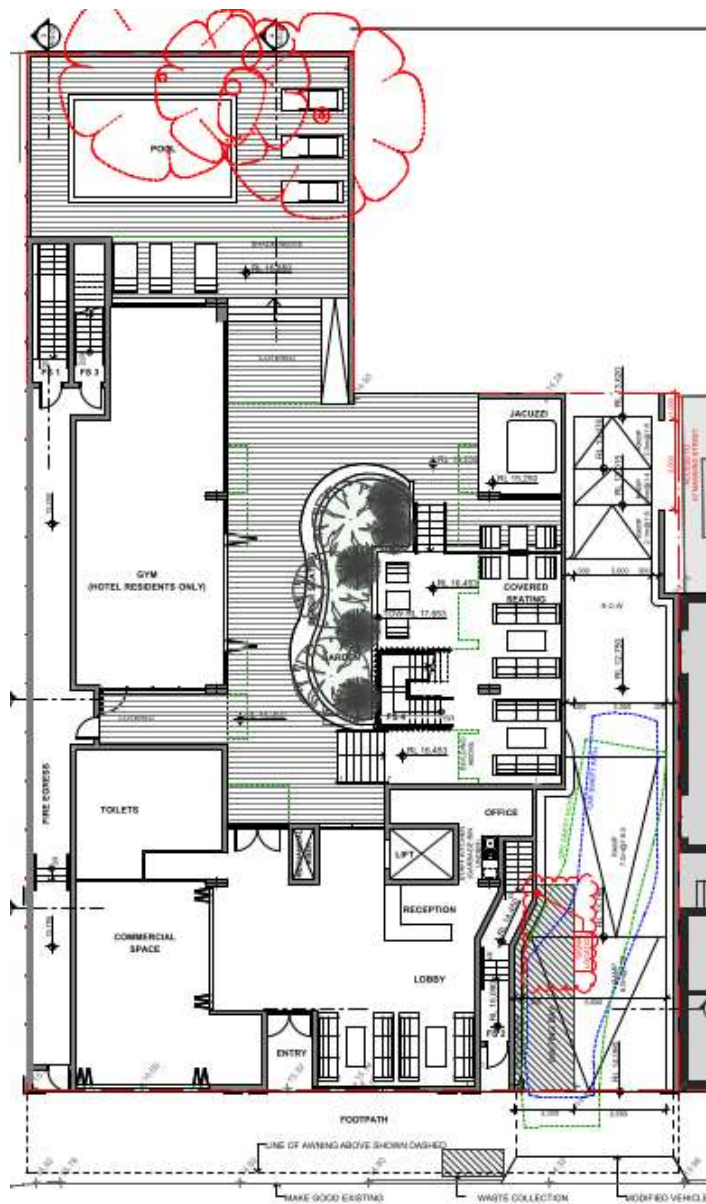


Figure 2: Proposed Ground Floor – Motel

The first and second floors of the proposed motel will be identical and will each contain 2 family rooms and 14 queen rooms.

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Figure 3: Proposed First and Second Floors – Motel

The proposed motel will contain a total of 4 family rooms and 28 queens (i.e. 32 rooms). The submitted plans indicate that the proposed motel will have a maximum building height of 12.155m and a gross floor area of 1,262.03m<sup>2</sup> (excluding elevator voids, stairwell voids, terrace, basement car parking, storage and mechanical services).

The proposed first and second floors will be constructed over the existing right-of-way contained within Lot 1 DP 128011.



Figure 4: Proposed Bong Bong Street Elevation

The facade of the proposed motel will be constructed out of a mixture of Boral PGH brickwork, Dulux 'Homebush' and 'Chapignion' painted façade and 'Spotted Gum'

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balconies. The colour scheme of the proposed motel consists of a modern grey and black palette.

At the request of Council's Heritage Advisor the applicant has further accentuated the 3-bayed facade by picking out the recessed wall planes in a contrasting colour or material to the vertical pilasters and parapet.

#### **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 No 71 – Coastal Protection (SEPP 71)

In broad terms, the aims of the SEPP seek to protect and manage the unique attributes of the NSW coast by encouraging sensitive and appropriate development. The SEPP 71 is a means of implementing the State's *Coastal Policy*.

SEPP 71 aims to protect the unique attributes of the NSW Coast by ensuring that flora and fauna are protected, heritage is conserved and that development is appropriate. SEPP 71 applies to land and development within the coastal zone as defined by the *Coastal Protection Act 1979*.

The site is within the coastal zone as defined by the Coastal Protection Act being within 1km of the coastline, but is not within a coastal sensitive location.

Consideration has been given to the objectives of the SEPP and the matters prescribed by Clause 8. The proposed development is considered to be consistent with the objectives of the SEPP which are addressed further below under the heading "Clause 5.5 Development within the Coastal Zone".

The proposed development is not considered inconsistent with the aims of the SEPP 71 as the heads of consideration listed in Clause 8 and part 4 are satisfied by the development or have no relevance to the subject site.

- State Environmental Planning Policy No 55 - Remediation of Land

This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment. Clause 7 of this Policy outlines when the issue of contamination and remediation is to be considered in determining a development application.

Council is not aware of any evidence that would suggest that the site is contaminated. As per Clause 7(2) of this Policy, a preliminary investigation of the land is not required as the land is not within an investigation area, has not contained development for a purpose referred to in Table 1 of the contaminated land planning guidelines and the proposed development is not for residential, educational, recreational, child care purpose or for a hospital. The submitted Statement of Environmental Effects outlines that soils beneath the new building will mostly be removed and disposed at a licensed facility and the hotel footprint will not be

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disturbed thereby minimising the risk of exposure of potentially contamination materials to the public and environment.

In this regard it is considered that the land is suitable for the proposed use and no remediation of the site is required under the provisions of this Policy. As such, it is considered that the proposed development is consistent with the relevant sections of this Policy.

The land is suitable for the proposed use.

- State Environmental Planning Policy (Infrastructure) 2007

This Policy aims to facilitate the effective delivery of infrastructure across the State as well as identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development.

Division 15 provides matters of consideration for development adjacent to rail corridor. Clause 86 of this Policy applies to this proposal as it involves the penetration of ground to a depth of at least 2m below existing ground level and is within 25m of a rail corridor. As per the provisions of Clauses 85 and 86 written notice was provided to Sydney Trains (i.e. Rail Authority) who granted its concurrence to the proposed development subject to Council imposing deferred commencement and operational conditions. It should be noted that under Clause 86(3), Council is not able to grant development consent without the concurrence of Sydney Trains and as such the imposition of the Sydney Trains conditions is mandatory. Sydney Trains comments have been included in this document under the heading of Submissions.

It is noted that the submitted Statement of Environmental Effects incorrectly refers to Clause 87 of this Policy. The provisions of Clause 87 do not apply to the proposed development as it is not for a residential use, place of public worship, hospital or an educational establishment of child care centre.

In light of the commentary above it is considered that the proposed development is consistent with the relevant sections of this Policy.

- 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. The applicant is proposing to remove the existing *Eucalyptus saligna* (Sydney blue gum), one *Agonis flexuosa* (Willow myrtle) and one *Callistemon citrinus* (Bottlebrush), which are located at the rear of the site, as part of this application. Council's Landscape Officer is comfortable with the removal of these trees.

- Kiama LEP 2011

Clause 2.1 Land Use Zones

The subject land is zoned B2 Local Centre under Kiama LEP 2011. The proposal is defined as *hotel or motel accommodation* under the provisions of the LEP 2011,

## Report of the Director Environmental Services

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which is permitted with consent in the B2 Local Centre zone. As the proposal seeks to provide a range of business and entertainment uses that maximises public transport patronage due to the site's proximity to the Kiama Train Station it is considered to be consistent with the zone objectives.

Specific clauses requiring consideration:

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. Sheet *HOB\_012* of the Kiama LEP 2011 identifies that a maximum building height of 11m applies to the site. The proposed motel will have a maximum height of 12.115m above existing ground level and as such does not comply. The applicant has requested a variation to Clause 4.3 under the provisions of Clause 4.6. The results of this request are covered below.

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. Sheet *FSR\_012* of the Kiama LEP 2011 identifies that a maximum floor space ratio of 1.5:1 applies to the site. As per the definition provided in the Kiama LEP 2011 the *gross floor area* of the proposed development is 1262.03m<sup>2</sup>. In this regard the proposed development has a FSR of 1.48:1 with the site and as such complies.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 provides for exceptions to development standards. The applicant has requested a variation to the minimum lot size and floor space ratio development standards.

*Clause 4.4 – Height of Building*

The applicant has provided the following to show why compliance with the maximum height of building development standard is unreasonable or unnecessary:

*Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):*

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

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- 
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

*Having regard to all of the above, it is our opinion that compliance with the maximum height development standard is unnecessary in the circumstances of this case as the development meets the objectives of that height of buildings standard and the zone objectives. A new hotel accommodation will provide a benefit to the local area with additional tourist accommodation in a highly accessible location and creating new employment opportunities.*

*Objective for Building Height Control Clause 4.3*

*The role of the height control as specified in Clause 4.3 and on the Height of Buildings map is noted as an objective in achieving the specified building height. The proposal has been carefully designed with consideration to:*

- the building height control as the majority of the building is compliant with the 11m height limit;*
- the public and streetscape benefits of a new building scale and floor to ceiling levels aligned with the neighbouring heritage hotel;*
- the height, scale and form of existing buildings in the locality of which heritage buildings are prominent features to the character of Kiama town centre as well as new buildings which are predominantly three storeys;*
- maintaining a building scale which is consistent with the rooflines of the town centre buildings;*
- maintaining outlooks and views towards the ocean from surrounding properties;*
- matching the desired scale and character of the street and town centre and new three storey buildings in the immediate surroundings; and*
- the reasonable and feasible redevelopment of the site in a manner compatible with the context and setting of surrounding development and its location within the township.*

*The proposed building height is therefore in part the result of acknowledging the height of the original Grand Hotel and ensuring that the new hotel accommodation relates appropriately to the scale and form of this important building.*

*The new hotel accommodation building incorporates building scale and proportions that are compatible with the existing hotel including similar floor to ceiling heights and window proportions. The buildings uses will be highly compatible with tourist, recreational and entertainment services and facilities offered by both the hotel and the hotel accommodation.*

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*Notwithstanding that the height of the new building slightly exceeds the 11m height limit, the design and siting of the hotel accommodation ensures that its scale and character will be in keeping with the neighbouring heritage building and the adjoining streetscape thereby meeting the requirements of objective (a).*

*A recent development approval for the opposite corner of Manning and Bong Bong Streets (DA10.2015.28.1) permitted a building height of 12.9m, which allowed the building to transition in height towards the roundabout. A similar approach is taken on this site as the proposed hotel accommodation building is three storeys matching the scale of DA10.2015.28.1.*

The applicant has provided the following environmental planning grounds to justify contravening the maximum height of building development standard:

*Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, the assessment of this numerical non-compliance is guided by the recent decision of the NSW LEC Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 whereby Justice Pain ratified the decision of Commissioner Pearson. As discussed above it is considered that there are no negative impacts of the proposed height non-compliance on the amenity of future building occupants, on streetscape and the public domain and upon neighbouring properties.*

*Specifically, the minor breach of the height control for the southern corner of the building relates to the lowest existing ground level beneath the building footprint. This lowest ground level coincides with the right of carriageway that extends along the south eastern side boundary. The finished ground level at this point is determined by the need to achieve suitable vehicle access compatible with the footpath and road reserve levels and grades for vehicle movement. Therefore this existing ground level results in the southern corner of the hotel accommodation building exceeding the 11m height control for practical vehicular access design.*

*The lift overrun exceeds the height control by 870mm. The overrun structure is well recessed from the perimeter of the building footprint and will not be visible from sight lines from the adjoining public road reserve and therefore will not contribute to the overall bulk and scale of the development.*

*The majority of the built form is compliant with the height control.*

*The proportions and detailing of the new building in terms of floor to ceiling heights, fenestration, vertical and horizontal proportions and parapet height have been designed in consultation with a heritage consultant to achieve a street faced which is compatible with and subservient to, the streetscape appearance of the neighbouring hotel and the minor sections of the proposed building which exceed the height control to not detract from this relationship to the hotel.*

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*The hotel occupies a prominent site within Kiama township being located on a major road intersection which is the Gateway entry from the south and along the main thoroughfare from the railway station to the town centre and foreshore. The broad road reserves and roundabout create an open visual setting for the hotel to be appreciated and identified as a local landmark. The proposed hotel accommodation will not detract from this setting and will in fact enhance the visual significance of the hotel in the streetscape by replacing incompatible existing buildings with a new building that coordinates in appearance and function with the hotel.*

*The hotel accommodation will add to the range and quality of accommodation available within the township with direct and indirect social benefits to the local community through tourism and employment. There are also positive economic benefits generated from increased employment generation and local spending by tourists and hotel patrons.*

*On “**planning grounds**” and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that the proposal represents building heights that are compatible with the heritage context and setting of the hotel and the broader township. The hotel accommodation will be visually recessive in its height, proportions and scale yet will enhance the vitality and diversity of tourist related services and activities available in the locality. The height of the building will have no detrimental impacts to the amenity of neighbouring properties, the streetscape or the function and amenity of the public domain. Strict compliance would be counterproductive in terms of heritage integrity, internal amenity, streetscape and impacts to neighbouring properties.*

*The proposal will also activate the Bong Bong Street frontage providing a commercial premises and hotel accommodation lobby which interface with the public domain and provide passive surveillance of the street. The proposed finished floor levels and finished ground levels of the new building are also constrained by the natural slope of the land and retention of the right of carriageway for vehicle access.*

***The merits of the proposal on “environmental planning grounds” need to be balanced with the burden that strict compliance places on the site and whether strict compliance will result in a better or neutral outcome. The development has been designed to relate to the scale and form of the neighbouring Grand Hotel. Lowering the building height would achieve no amenity, environmental or urban design improvements. Insisting on strict compliance would not result in the proposal being any more consistent with the objectives for controlling building height.***

*Therefore, on environmental planning grounds, the site location and its proximity to the corner and the heritage items allows for building heights that are not in conflict with similar variations to building height in the locality and delivers a building which has been purposefully design to be compatible with the exterior of the neighbouring heritage listed building. The new hotel*



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*accommodation will reflect the scale and proportions of the heritage hotel, with a subservient street facade. The activation of the site frontage to Bong Bong Street will improve the public domain and provide passive surveillance of the street towards the railway station. To require strict compliance would therefore result in an unreasonable burden on the development with no demonstrable built form benefits and as such the proposal results in a better outcome relative to the site. Clause 5.5 lists requirements for development within the coastal zone. The proposal is not inconsistent with the objectives of the clause. The proposal does not cause increased coastal hazards or adverse impacts by way of diminished foreshore access, treatment of effluent and disposal of stormwater.*

Compliance with the development standard is unreasonable due to the extent of the breach proposed. Figure 5 illustrates the extent of the proposed breach of the 11m maximum building height. The breach is considered minor as the majority of the building complies with the maximum building height with the exception of southern edge of the building where the ground slopes more steeply adjacent to the Grand Hotel. As outlined above Council has varied this development standard in the past where proposals comply with the relevant floor space ratio requirements (i.e. 9 Bong Bong Street), as this proposal does. The applicant has outlined that the proposal is consistent with the objectives of Clause 4.3.

In this regard the proposed variation in itself is consistent with the objectives of Clause 4.3 as well as the objectives of the B2 Local Centre zone, as it seeks to provide a range of business and accommodation uses that maximises public transport patronage due to the site's proximity to the Kiama Train Station.

Accordingly, it is considered that this variation is in the public interest. It is considered that the provision of motel accommodation is in the public interest. It is also important to note that Council has varied this clause in the past for neighbouring developments.

In light of this it is considered appropriate to vary the maximum building height requirements of clause 4.3 of the LEP 2011.

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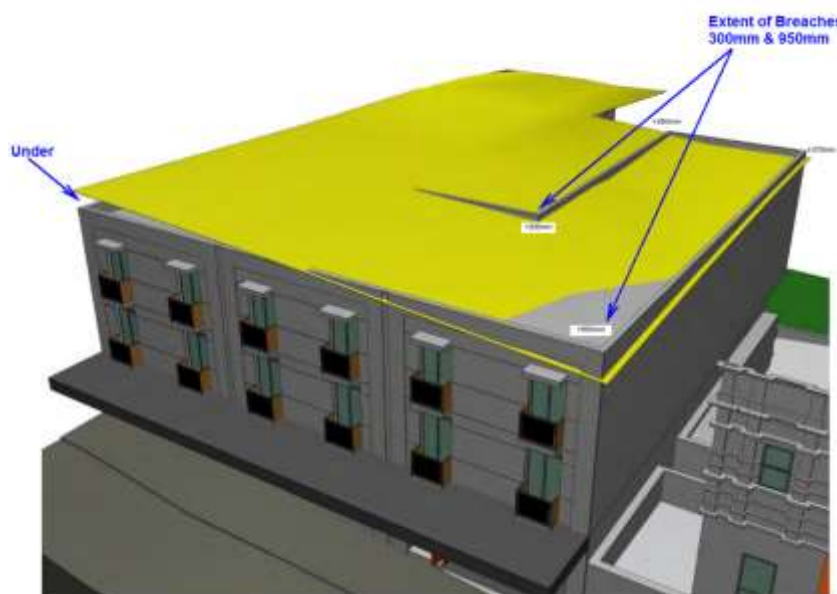


Figure 5: 11m height plane blanket

Clause 5.5 Development within the Coastal Zone

The clause lists requirements for development within the coastal zone.

The development is on land that is wholly or partly within the coastal zone.

The proposal is not inconsistent with the objectives of the clause. The proposal does not cause increased coastal hazards or adverse impacts by way of diminished foreshore access, or its relationship with the surrounding area and natural scenic quality.

Development consent must not be granted unless the consent authority has considered the following provisions:

Provision	Comment
Existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to: <ul style="list-style-type: none"> <li>(i) maintaining existing public access and, where possible, improving that access, and</li> <li>(ii) identifying opportunities for new public access</li> </ul>	Access to and along the foreshore for pedestrians is not affected by the proposal.

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Provision	Comment
<p>The suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:</p> <ul style="list-style-type: none"> <li>(i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and</li> <li>(ii) the location, and</li> <li>(iii) the bulk, scale, size and overall built form design of any building or work involved</li> </ul>	<p>As the development predominantly complies with the relevant bulk and scale controls of the LEP it is considered that the development is suitable.</p>
<p>The impact of the proposed development on the amenity of the coastal foreshore including:</p> <ul style="list-style-type: none"> <li>(i) any significant overshadowing of the coastal foreshore, and</li> <li>(ii) any loss of views from a public place to the coastal foreshore</li> </ul>	<p>The coastal foreshore is nearby. The development has been designed to ensure that the coastal foreshore is not overshadowed. No views from public places are effected. Therefore the amenity is not affected as a result of overshadowing or loss of views from a public place.</p>
<p>How the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected</p>	<p>The site is not on the headland, and the scenic quality of the headland is therefore not adversely affected by the proposal.</p>
<p>How biodiversity and ecosystems, including:</p> <ul style="list-style-type: none"> <li>(i) native coastal vegetation and existing wildlife corridors, and</li> <li>(ii) rock platforms, and</li> <li>(iii) water quality of coastal waterbodies, and</li> <li>(iv) native fauna and native flora, and their habitats,</li> <li>(v) can be conserved</li> </ul>	<p>The biodiversity and ecological values is not adversely affected by the proposal.</p>

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Provision	Comment
The cumulative impacts of the proposed development and other development on the coastal catchment.	There are no foreseeable adverse cumulative effects of the development affecting the coastal zone.

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The development is on land that is wholly or partly within the coastal zone and the following matters have been satisfied:

Matter	Comment
Whether the proposed development will impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore	Access to the coast is not affected by the proposal
Whether if effluent from the development is disposed of by a non-reticulated system, it will have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform	The site is serviced by a reticulated sewerage system.
Whether the proposed development will discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform	Stormwater is proposed to be connected to the existing system, which includes water quality control measures.
Whether the proposed development will: <ul style="list-style-type: none"> <li>(i) be significantly affected by coastal hazards, or</li> <li>(ii) have a significant impact on coastal hazards, or</li> <li>(iii) increase the risk of coastal hazards in relation to any other land</li> </ul>	The development is not neither affected by coastal hazards, or adversely impacts on coastal hazards, or increases the risks of coastal hazards on any other land

- Clause 5.10 Heritage Conservation

Clause 5.10 lists considerations for proposals which include works to heritage items, land within a heritage conservation area or land that is within the vicinity of a heritage item or conservation area. The proposal complies with the objectives of the clause as the proposed development is sympathetic to the adjoining, heritage listed, Grand Hotel.

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At the request of Council's Heritage Advisor the applicant has further accentuated the 3-bayed façade by picking out the recessed wall planes in a contrasting colour or material to the vertical pilasters and parapet. Council's Heritage Advisor has concluded that the proposed colours and materials are considered to be acceptable and that the proposal is acceptable from a heritage point of view.

- 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 motel, separate development consent is not required.

- Clause 6.8 Active Street Frontages

Clause 6.8 lists considerations for proposals within the B1 Neighbourhood Centre and B2 Local Centre zones. Clause 6.8 requires that the ground floor of a building that faces the street, in either the B1 Neighbourhood Centre or B2 Local Centre Zones, must have an 'active street frontage'. In order to have an 'active street frontage' all premises on the ground floor must be used for the purposes of business premises or retail premises. This does not apply to parts of the building used for vehicle access, access for fire services and entrances and lobbies. In this regard the lobby of the motel is not required to have an 'active street frontage'. The proposed development complies with the requirements of Clause 6.8 as the commercial space associated with the motel can be conditioned to only be used for the purposes of business premises or retail premises.

The proposal is permissible within in the B2 Local Centre Zone. However, the proposed development is not consistent with the provisions of Clause 4.3 of the Kiama LEP 2011. The applicant has provided an adequate written request to vary the maximum building height as outlined by Clause 4.3.

The proposal's bulk and scale are considered to be suitable in relation the surrounding coastal area and adjacent heritage item.

### **Any draft Environmental Planning Instruments**

- Draft State Environmental Planning Policy (Coastal Management) 2016

The draft Coastal Management State Environmental Planning Policy (SEPP), with accompanying maps, was on public exhibition until 23 December 2016 and 20 January 2017 (for the maps).

The draft Coastal Management SEPP:

- Seeks to balance social, economic and environmental interests by promoting a coordinated approach to coastal management, consistent with the objectives of the Coastal Management Act 2016.
- Is part of the NSW Government's commitment to improving the way the coastal zone is managed, due to its unique environmental, social and economic values.
- Reviews and consolidates existing SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection). These older policies will be repealed once the Coastal Management SEPP is finalised.

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- Seeks to redefine the coastal zone into four areas, rather than by a single fixed area along the entire coastline, to enable more targeted management of the diversity of environments and interests in the coast.

Separate development controls apply to each area and focus on achieving specific objectives.

The 'coastal zone' is defined in the Coastal Management Act 2016 as four coastal management areas comprising: *Coastal Wetlands and Littoral Rainforests Area*; *Coastal Environment Area*; *Coastal Use Area*; and *Coastal Vulnerability Area*.

The site is within the mapped *Coastal Use Area*.

In the *Coastal Use Area* the focus is on ensuring appropriate urban development for coastal areas, taking into account urban design issues such as maintaining scenic qualities, visual amenity and aboriginal cultural heritage and places.

The draft SEPP states:

*Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:*

- a) *is satisfied that the proposed development:*
  - i. *if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
  - ii. *minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
  - iii. *will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
  - iv. *will not adversely impact on Aboriginal cultural heritage and places, and*
  - v. *will not adversely impact on use of the surf zone, and*
- b) *has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

The proposed location of the development:

- is not near, and does not impact access to a foreshore, beach, headland or rock platform, and
- does not cause overshadowing or wind funnelling; 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.

The draft SEPP was published on 23<sup>rd</sup> March and came into effect on 3 April 2018. The subject DA is consistent with the provisions of the draft SEPP and under savings provisions does not need to be reconsidered.

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### **Development Control Plans (DCPs)**

- Kiama Development Control Plan (DCP) 2012

The proposed development is inconsistent with Kiama DCP 2012.

#### Chapter 2- Overall controls

*Demolition:* The applicant has provided the required information, including a demolition plan and a Waste Management Plan for the hotel operations. If approved, it will be conditioned that prior to the commencement of work a Waste Management Plan for the demolition and construction be provided in accordance with Council's checklist.

*During Construction:* conditions to be added to ensure compliance.

*Changing Weather Events:* A Section J Report has been supplied which indicates that the proposed development satisfies the energy efficient requirements of Volume 1, Section J of the Building Code of Australia.

*Adaptable Housing:* N/A as no residential development proposed.

*Views & Vistas:* Due to the existing slope of the site and the surrounding area the proposed development will not result in any unreasonable view loss from neighbouring properties or from public places. A View Impact Assessment has been carried out by Planning Ingenuity Pty Ltd which confirms this.

*Building height plane:* N/A as no residential development proposed.

*Building lines:* N/A as no building lines prescribed.

*Foreshore Building Lines (FSBL):* N/A as site does not fall within the foreshore area.

*Reflectivity in building materials:* The materials and colours proposed will not result in excessive reflectivity or glare.

*Right to farm:* N/A as farming is not permissible within B2 Local Centre Zone

*On Site Sewage Management (OSSM):* N/A as site is connected to Sydney Water's reticulated system.

*Importation or Export Off-Site of Soil:* If approved, a condition of consent will be imposed to ensure a Soil Analysis Report is provided to Council prior to the release of a Construction Certificate.

*Neighbour notification:* The adjoining land holders were notified of the proposed development. The results of the notification process are discussed below.

*Fencing:* No fencing is proposed as part of this development.

*Applications for variations:* No variations have been applied for.

#### Chapter 8 - Landscaping

Landscaping plans have been submitted that satisfy the design guidelines contained within Control 2.

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### Chapter 9 – Car Parking Requirements

*General Parking Requirements:* Calculations of the proposed development car parking requires are provided below:

**Table 1:** DCP Schedule of Requirements

Land Use Type	Minimum Car Parking Standards
Hotel or Motel Accommodation	1 space for each occupancy plus 1 space per staff
Business/office/retail premises	1 space per 35m <sup>2</sup> of gross leasable floor area.

Tables 2 below illustrate what parking would be required for proposed motel.

**Table 2:** Proposed Motel – Car Parking Requirements

Floor	Use	Area/Occupancy	Required Parking
Ground	Business/office/retail premises	46m <sup>2</sup>	2
First	Hotel or Motel Accommodation	16	16
Second	Hotel or Motel Accommodation	16	16
			<b>34 plus 3 staff spaces</b>

In this regard 37 car parking spaces are required as part of the proposed development. The submitted plans show that 34 car parking spaces and 1 motorcycle space will be provided as part of the proposed development. This reflects a shortfall of 3 car parking spaces.

It is noted that at present the existing backpackers accommodation onsite requires the provision of 4 off-street car parking spaces. At present, these are not formally provided on site and as such patrons are utilising the existing on-street car parking spaces. A Traffic Impact Assessment, prepared by Ason Group, has outlined that the commercial area will essentially be ancillary to the accommodation facility and as such will not generate significant car parking demands.

Car parking associated with the commercial area are more likely to utilise the existing on-street car parking spaces. In this regard the proposed shortfall is acceptable in the circumstances. Council's Subdivision & Development Engineer has assessed the design of the proposed basement car parking and has determined that while the proposal is extremely 'tight' it does satisfy the requirements of the DCP and AS 2890.1.

Control 37 of Chapter 9 requires that bicycle parking be provided in line with the following requirements:



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**Table 5:** Bicycle parking provision

Land Use	Employee parking spaces	Visitor/shopper parking spaces
Motel	1 per 40 rooms	-

While no bicycle parking is required for the proposed development, it is acknowledged that a 2.5m x 2.5m bicycle parking area has been shown on the upper basement level plan. This space would generally accommodate 5 bicycles.

Control 40 of Chapter 9 outlines that Council will allow no more than 10% of parking required in a commercial development is to be stacked. It is noted that of the 35 spaces proposed two spaces will be stacked, this equates to 5% of the parking provided. The Traffic Impact Assessment and the Statement of Environmental Effects have indicated that these spaces will primarily be used by staff of the motel. If the motel reaches capacity, guest parking in these spaces will utilise valet services.

The issue of the right-of-way has also been raised by adjoining neighbours and will be discussed further in this report.

The proposed development satisfies the requirements and objectives of Chapter 9 of the DCP 2011.

**Chapter 11 – Waste Requirements****Section 5 - Garbage, Recycling Bin Storage Room**

The submitted plans and the Waste Management Plan demonstrate that the proposed waste services room complies with this control.

**Section 7 – Roadside Bin Collection Point**

It is noted that a roadside collection point has been shown on the submitted plan adjacent to the right-of-carriageway. It is considered that this location could be problematic due to the existing on-street car parking arrangements on Bong Bong Street and the proposed awning over Bong Bong Street. Unlike residential premises, commercial operators are able to choose either Council or a private waste contractor to service the premises. The Waste Management Plan shows that a private contractor will service the proposal. In this regard, Council has no role in determining the suitability of the roadside collection point. During the Court proceedings, the applicant suggested that smaller vehicles, at a higher frequency, could be used to collect waste from the basement recycling bin storage room rather than the proposed roadside collection point.

Section 13 reinforces the demolition requirements of Chapter 2 of the DCP. The applicant has provided the required information, including a demolition plan and a Waste Management Plan for the hotel operations. If approved, it will be conditioned that prior to the commencement of work a Waste Management Plan for the demolition and construction be provided in accordance with Council's checklist.

Section 17 of Chapter 11 outlines Council's waste requirements for commercial development including hotel, motels and licensed clubs.

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*Internal Bins/Containers:* Space is available for the provision of a garbage and recycling cupboard for any of the kitchen areas in the motel rooms.

*Collection Bins:* The provision of these bins can be enforced by way of a condition of consent.

*Waste, Recycling Bin Storage Room:* A separate waste, recycling bin storage room has been provided in accordance with Section 5 of Chapter 11 (see above).

*Roadside Bin Collection Point:* Submitted plans indicate that waste will be collected on roadside (see above).

*On-site Bin Collection Point:* Not proposed.

*Grease Trap:* N/A.

*Ongoing Management:* The submitted Waste Management Plan complies with Controls 36 and 37 of Chapter 11.

The proposed development satisfies the requirements and objectives of Chapter 11 of the DCP 2011.

#### Chapter 26 – Kiama Town Centre

*Future Building Design:* The proposed development is consistent with this section as a three (3) storey buildings are proposed.

*Heritage:* It is considered that the proposed development does represent a well-designed development in a heritage context (see Heritage Advisor comments above) and as such is consistent with this section.

*Building Alignment:* The proposed development is consistent with this section as the buildings will extend to the property boundaries and represent a continuous street frontage.

*Facade Design:* As previously outlined that proposed development does reflect the 3 storey height limit. The proposed motel will have a lower roof level than the Grand Hotel. In this respect the proposal is consistent with this section.

*Colour:* As outlined above (see Heritage Advisor's comments), the colours of the proposed development are appropriate. The darker colour palette of the proposed motel is considered to be appropriate within the Kiama Town Centre. In this respect the proposal is consistent with this section.

*Landscape:* A suitable landscape plan has been provided. In this respect the proposal is consistent with this section.

*Advertising and Signage:* No proposed signage has been shown on the submitted plans.

*Lighting:* The submitted plans do not indicate if lighting of the buildings is proposed. In this respect it is unclear if the proposal is consistent with this section or not. If approved, conditions of consent will be imposed requiring all signage and lighting be installed in accordance with SEPP (Exempt and Complying Development Codes) 2008 or any subsequent development consent. This will ensure that all signage and lighting is installed and operated appropriately.

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*Environmental Factors:* A Section J Report has been supplied which indicates that the proposed development satisfies the energy efficient requirements of Volume 1, Section J of the Building Code of Australia.

*Disabled Persons Access:* The National Construction Code will require that all floors of the proposed development be accessible.

*Car parking:* Car parking is proposed to be provided below ground. The proposed access point to the basement car parking is considered to traverse an active pedestrian frontage, at Bong Bong Street, due to its proximity to the Kiama Railway Station. However it is noted that there are no other alternative locations for access.

The proposed development is consistent with the objectives of Chapter 26.

### Chapter 30 - Heritage

*Aboriginal Cultural Heritage:* An Aboriginal Heritage Information Management System (AHIMS) Basic Search found no records of Aboriginal sites or places in or near the subject site. Additionally the site is highly disturbed as a result of the existing commercial use and contains no unique geographical features, the likelihood of disrupting or damaging an aboriginal object or place is low. Council is not aware of any additional information that would suggest the presence of an item or place of aboriginal heritage being on the site.

*Cultural Heritage Management (Historical):* As per Council's Heritage Advisor's advice it is considered that the proposed development does comply with Section 3 of Chapter 30.

The recessive bulk, scale and height of the proposal as well as the selected building materials and colours comply with Controls 8, 9, 10, 11, 16, 17 and 18 of Chapter 30 of the DCP 2012.

The proposed development satisfies the requirements and objectives of Chapter 30 of the DCP 2011.

### **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

Conditions of consent can be generated to ensure the proposal complies with Australian Standard AS 2601-1991: *The Demolition of Structures*

- Clauses 93, 94 & 94A

Clauses 93 and 94A do not apply to the proposed development as it does not involve a change of use of an existing structure, or the erection of a temporary structure.

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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 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 been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable.

- Views

The proposal will have no unreasonable impact upon views currently available from neighbours.

- 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.

Concerns have been raised by both staff and neighbours about the existing right-of-carriageway. The proposed structure over the right of way will limit vehicles to a maximum height of about 3.5m. This would be inconsistent with the terms of the easement for a right of way given the allowable height limit for general access vehicles in the *Road Transport (Vehicle Registration) Regulation 2007* is 4.5m. However, as discussed below, the legal width right-of-carriageway restricts the type of vehicle currently able to utilise the right-of-carriageway. The current design provides a greater access width and would enable the parties benefitted by the right-of-carriageway to drive a small rigid vehicle (i.e. light truck) through the right-of-carriageway. The applicant has redesigned the proposal to ensure that access to the benefitted allotments is not restricted by this development.

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In light of this, the proposed development will result in a better outcome for the parties benefitted and burdened by the right-of-carriageway.

- Stormwater Management

A satisfactory drainage design has been provided with the application.

All stormwater will drain to the street.

- Environmental Impacts

The 3 existing trees at the rear of Lot 31 DP 574051 are 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 native fauna or its habitat due to the development occurring within a commercial zone with minimal environmental values.

*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, including conditions of consent provided by Sydney Trains, will prevent significant impacts on soil resources.

*Impact on Water Resources* – Controls will be implemented during construction to minimise sedimentation.

- Social and Economic Impacts

The proposed development will likely have a positive social impact due to the provision of motel accommodation within the Kiama area. The recessive bulk, scale and height of the proposal as well as the selected building materials and colours are sympathetic with the heritage significance of the existing Grand Hotel.

It is considered that the proposed development will result in positive economic impacts for both the applicant and the local economy.

- Contamination from previous land uses

Council is not aware of any evidence that would suggest that the site is contaminated. The site has not contained development for a purpose referred to in Table 1 of the contaminated land planning guidelines and the proposed development is not for residential, educational, recreational, child care purpose or for a hospital. The submitted Statement of Environmental Effects outlines that soils beneath the new building will mostly be removed and disposed of at a licensed facility and the hotel footprint will not be disturbed thereby minimising the risk of exposure of potentially contamination materials to the public and environment.

In this regard it is considered that the land is suitable for the proposed use.

- Effect on public domain

The proposed development will not adversely affect the public domain.

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- Utility needs and supply

A Section J Report has been supplied which indicates that the proposed development satisfies the energy efficient requirements of Volume 1, Section J of the Building Code of Australia.

The site is serviced by Sydney Water's water and sewer infrastructure, Endeavour Energy's electricity infrastructure, Jemena's natural gas infrastructure and Telstra's telecommunications infrastructure. Sydney Water has confirmed that adequate water pressure is available for the proposed development.

- Safety, security & crime prevention

The addition of a motel will increase passive surveillance of the area.

- Operational waste

The submitted Waste Management Plan shows that waste will be managed appropriately during the operation of the proposed motel.

- Risks to people & property from natural & technological hazards

The siting of the proposed development on an elevated position will protect it from natural hazards associated with climate change events. The conditions of consent recommended by Sydney Trains will ensure that the proposal is not affected by technological hazards associated with the rail corridor and vice versa.

- BCA compliance

The proposed motel would need to fully comply with the relevant standards of the BCA.

The proposed motel will result in BCA issues for the owners of 47 Manning Street. The building at 47 Manning Street has been constructed up to its allotment boundaries. Windows have been installed at the rear of 47 Manning Street. The proposed motel will be constructed immediately adjacent to the building at 47 Manning Street, up against the existing windows. If not already, these windows will need to be fire rated in accordance with the BCA.

It is acknowledged that it is the right of any commercial land holder to building up their allotment boundaries and that neither the BCA or Council's DCP prescribes a minimum amount of sunlight for commercial buildings. As this section of the proposed motel will not contain any windows this design will not result in any privacy issues but it will block the existing windows at 47 Manning Street. Due to the commercial setting of 47 Manning Street it is unreasonable to assume that these windows will remain unimpeded.

- Construction impacts

It is noted that impacts (i.e. noise, traffic etc.) are likely to occur during construction. Due to the fact that the adjoining allotments do not contain dwellings these impacts are considered to be minimal. Nevertheless, if approval were to be granted conditions would be added to mitigate construction impacts (i.e. construction hours, traffic control etc.) and compliance with the BCA. It will also be conditioned that

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access to Lot 5 DP 578577 and Lot 1 DP 907762 (lots benefitted by the right of way) shall not be restricted during and after construction at any time.

### **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, 2 submissions were received which raised the following (summarised) matters of concern:-

Item 1:- Approximately half of the building exceeds the 11m height restriction

Response:- As outlined above this statement is incorrect. Only a small portion of the proposal exceeds the 11m height restriction. The applicant has submitted a variation request in accordance with Clause 4.6 of the LEP. Staff are satisfied that this request is valid and should be accepted.

Item 2:- The development's appearance is inappropriate with the facades and colours not being in harmony with the surrounding heritage building.

Response:- Council's Heritage Advisor has outlined that the appearance of the proposal is acceptable. A new building need not replicate the design style of an adjacent heritage item but should be sympathetic. As the proposed motel is subservient to the Grand Hotel it is acceptable in terms of its heritage significance.

Item 3:- This DA does not include the renovation of the Grand Hotel. Council should encourage the development to redevelop the hotel concurrently.

Response:- Council has no ability to influence what is included in an applicant's DA. While it would be desirable for the proposal to include the appropriate renovation of the Grand Hotel, the applicant has chosen to lodge this DA for consideration and determination.

Item 4:- While the DA provides appropriate parking for guests, there is not parking provided for commercial staff or shoppers or gym users.

Response:- The gym will only be utilised by motel guests. As outlined above the amount of car parking spaces is considered to be acceptable.

Item 5:- Development will reduce the access to adjoining properties provided via the Existing Right-of-way

Response:- Submissions were received from the adjoining property owners who have confirmed that their properties benefit from the existing right-of-way. It is acknowledged that this right-of-way has been a matter of contention for some years with gates having been installed at either end of the right-of-way restricting use by the benefitted parties in the past. Some confusion has arisen from the submitted plans as to how free access through the right-of-way will be maintained. From the

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submitted plans it would appear that one wishing to utilise the right-of-way will enter off Bong Bong Street travel down a ramp to the entry of the basement car parking and then up another ramp to the rear of 45 Manning Street.

As outlined previously, the proposed structure over the right-of-way will limit vehicles to a maximum height of about 3.5m. This would be inconsistent with the terms of the easement for a right of way given the allowable height limit for general access vehicles in the *Road Transport (Vehicle Registration) Regulation 2007* is 4.5m. A small rigid vehicle (i.e. light trucks) require a clearance height of 3.5m, clearance width of 2.3 (excluding wing mirrors), and maximum length of 6.4m. A medium rigid vehicle (i.e. common service trucks) require a clearance height of 4.5m, clearance width of 2.5 (excluding wing mirrors), and maximum length of 8.8m.

The width of the existing right-of-carriageway is 2.5m wide which would only allow a small rigid vehicle to currently utilise the right-of-carriageway. The current design provides a greater access width (i.e. 3.6m) and would enable the parties benefitted by the right-of-carriageway to drive a small rigid vehicle (i.e. light truck) through the right-of-carriageway. The applicant has redesigned the proposal to ensure that access to the benefitted allotments is not restricted by this development.

In light of this, the proposed development will result in a better outcome for the parties benefitted and burdened by the right-of-carriageway than what exists under the current arrangements of the right-of-carriageway.

### External Referrals

The application was referred to the following State Government Departments.

- Sydney Trains

As per the provisions of Clauses 85 and 86 of the SEPP (Infrastructure) 2007 written notice was provided to Sydney Trains (i.e. Rail Authority) who granted its concurrence to the development proposed subject to Council imposing deferred commencement and operational conditions. Under Clause 86(3) Council is not able to grant development consent without the concurrence of Sydney Trains and as such the imposition of the Sydney Trains conditions is mandatory. Sydney Trains comments have been included in this document under the heading of Submissions (see Attachment 2).

### Internal Referrals

The application was referred to the following Council Officers for their consideration.

- Development Assessment Officer - Building

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

As a result of design changes to the proposed basement car parking, including rearranging the parking layout, Council's Subdivision & Development Engineer's original concerns have been satisfied. No objection has been raised in relation to



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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.

### **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 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 generally consistent with Kiama LEP 2011 and relevant Development Control Plans. The proposed development is consistent with the objectives of the B2 Local Centre zone. The non-compliance with Clause 4.4 Height of Buildings under the Kiama LEP 2011 is considered to be minor and acceptable for this development.

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**

#### **Schedule A**

The Applicant has 12 months from the date of this consent to forward to Council the necessary information as to the following matters:

#### **Deferred Commencement Conditions – Imposed by Sydney Trains**

This deferred commencement consent is issued pursuant to section 80(3) of the *Environmental Planning and Assessment Act 1979*. The consent is not operational until written notice is provided from Council, verifying the following matters have been satisfactorily addressed:

- A. The Applicant shall prepare and provide to Sydney Trains for approval/certification the following final version items:
  1. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
  2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney

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- Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
  4. Detailed Survey Plan showing the relationship of the proposed development with respect to Sydney Trains easement and rail corridor land.
  5. If required by Sydney Trains, and FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

**Conditions of Development Consent****General**

- (1) The development shall be carried out in accordance with approved documents/plans listed in the Schedule below except where amended by the conditions of this consent as set out in the following conditions or by any subsequently approved Section 96 modification.

Document/Plan Schedule		
Ref	Description	Prepared/Drawn By
A-105	Demolition Plans	MKD Architects
A-106	Site Management Plan	MKD Architects
A-301	Lower Basement Level Plan	MKD Architects
A-302	Upper Basement Level Plan	MKD Architects
A-303	Ground Level Plan	MKD Architects
A-304	Level 1 Plan	MKD Architects
A-305	Level 2 Plan	MKD Architects
A-306	Roof Level Plan	MKD Architects
A-401	Elevations SW & NW	MKD Architects
A-402	Elevations NE & Courtyard NE	MKD Architects
A-403	Courtyard Elevations SE & NW	MKD Architects
A-501	Sections A-A & B-B	MKD Architects
A-502	Carpark Sections	MKD Architects

- (2) 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)

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- (3) 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)
  - (4) This Development Consent is limited to a period of five (5) years from the endorsement date of consent. (g080.doc)
  - (5) The developer shall prepare a traffic management plan and meet the cost of providing or modifying any regulatory signage within Bong Bong and/or Manning Street that is necessary as a result of the development. The signage shall comply with the requirements of the *Standards Australia AS 2890.5 – Parking Facilities Part 5: On-Street Parking*. (g100.doc)
  - (6) The developer shall provide a Traffic Control Management Plan complying with the design requirements of the Roads and Maritime Services (RMS) “*Traffic Control at Work Sites*” manual. The traffic control management plan must be designed by an RMS accredited designer and must be provided to Council prior to the commencement of any works. (g130.doc)
  - (7) Where this Consent requires both civil engineering and building works to be undertaken, a separate Construction Certificate shall be issued for each category of works, that is, a separate engineering Construction Certificate (for any on-site detention, inter allotment drainage, public road works, bulk earthworks, etc) and a separate building Construction Certificate (for all works relating to the erection and fit-out of a structure). The Construction Certificate for the civil works must be issued prior to the issue of a building Construction Certificate with the certified plans of the civil engineering works also incorporated into the building plans. (g135.doc)
  - (8) 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)
  - (9) 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, Bong Bong and/or Manning Street 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)
  - (10) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this development consent on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
    - a Motor Vehicle Insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RMS permit (Including Compulsory Third Party insurance). Primary producer’s registration is not valid registration for use on Public Road construction work.
    - b Workers Compensation Insurance.
    - c \$20,000,000.00 Public Liability Insurance. (g155.doc)

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- (11) 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:
- The variation in hours required.
  - The reason for that variation.
  - The type of work and machinery to be used. (g165.doc)
- (12) Plans submitted with the Construction Certificate application shall be prepared having regard to the State Rail publication "*Rail Related Noise and Vibration: Issues to Consider in Local Government Planning – Development Applications and Building Applications*" (1995). In this regard, construction techniques and materials shall be adopted to ensure the maximum noise levels experienced within internal living and sleeping areas do not exceed 40dB(A) and 30dB(A) respectively. (g170.doc)
- (13) Prior to the commencement of work, the developer shall consult with Rail Corporation NSW (RailCorp) with respect to the design of the proposed development to ensure that the proposal does not, in any way, interfere with the safe and efficient operation of the adjacent railway or the future development of the adjacent railway, including both existing and new railway infrastructure.
- The development shall be undertaken strictly in accordance with the conditions and requirements of the RailCorp. (g175.doc)
- (14) The three (3) trees in the footprint of the proposed swimming pool may be removed for the development. The trees are; one (1) *Eucalyptus saligna* (Sydney blue gum), one (1) *Agonis flexuosa* (Willow myrtle) and one (1) *Callistemon citrinus* (Bottlebrush).
- (15) Access to Lot 5 DP 578577 and Lot 1 DP 907762 shall not be restricted during and after construction at any time.
- (16) Any signage or illumination of the development is to be installed in accordance with the relevant development standards of Part 2 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any subsequent development consent.
- (17) Any air-conditions units are to be installed in accordance with the relevant development standards of Part 2 of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any subsequent development consent.

**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:
- The licensee's name and contractor licence number;

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- 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) The developer shall obtain a Construction Certificate prior to the commencement of any civil engineering construction works. (pt045.doc)
- (4) The developer shall lodge with Council a bond of \$10,000, in the form of an unconditional bank guarantee or cash, prior to the commencement of any work, as a security for new and remedial work associated with the development proposal and covering all work within the public roads administered by Council under the *Roads Act 1993* and compliance with the submitted Waste Management Plan during the course of construction.

The developer shall submit a dilapidation survey prior to commencement of any work within the road reserve.

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The bond shall be refunded in full subject to the following:

- a There being no damage to the infrastructure within the road reserve.
  - b Twelve (12) months has elapsed from the date of issue of the occupation certificate and/or subdivision certificate.
  - c The submission of a waste compliance certificate, inclusive of supporting documentation (dockets/receipts) verifying compliance with the Waste Management Plan as provided to Council. (pt013.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 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)
- (7) A detailed Waste Minimisation Plan in accordance with the provisions of Chapter 11 *Kiama Development Control Plan 2012* – covering the construction phases of the development and on-going waste management shall be provided to Council prior to the release of the Construction Certificate. (pt064.doc)
- (8) Before the commencement of any stripping or demolition, the structure and all parts of the site shall be examined, by competent specialists, to determine, as far as it is practicable, the presence of noxious, toxic or explosive materials or conditions, which would be hazardous to the health of the public if disturbed by stripping or demolition. (pt066.doc)
- (9) Submission of stormwater disposal details for disposal of stormwater on site, designed by a suitably qualified person. Details are to be provided to the satisfaction of the Principal Certifying Authority, prior to the release of the Construction Certificate. (pt067.doc)
- (10) 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)

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- (11) The use of a wet edge forming part of a swimming pool is not considered to be an effective barrier under Part 2 Division 7 of the *Swimming Pools Act 1992* and therefore the swimming pool must be surrounded by a child resistant barrier. Fully compliant barrier fencing details are required to be shown on the Construction Certificate plans to the satisfaction of the Accredited Certifier prior to the issue of the Construction Certificate. (pt074.doc)
  - (12) The front beam supports are to be so designed to prevent the covered veranda collapsing if any post is damaged or removed by accident. Details from a structural engineer are to be provided to the Accredited Certifier prior to the issue of the Construction Certificate.
  - (13) Prior to the erection of any awning structures over the public footpath (road reserve) of Bong Bong Street, the developer must obtain consent under section 139 of the *Roads Act 1993* for the proposed awning over the footpath attached to the proposed development.
  - (14) An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
  - (15) Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
  - (16) If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
  - (17) Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
  - (18) Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.
  - (19) No rock anchors/bolts are to be installed into Sydney Trains property or easements.

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- (20) If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.
- (21) If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- (22) Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- (23) Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.
- (24) Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.
- (25) A contribution pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* (as amended) and Kiama Municipal 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 **\$50,150.0**.

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

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



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## Where:

- C = The original contribution amount as shown in the development consent.
- CPIP = 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.
- CPIc = 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)

Item 10.4

**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 *Australian Standard 2601-2001 – Demolition of Structures*. (dw005.doc)
- (2) Security fencing shall be provided around the perimeter of the demolition site and any additional precautionary measures taken, as may be necessary to prevent unauthorised entry to the site at all times during the demolition period. (dw010.doc)
- (3) **Asbestos – Statement Required**

No later than seven (7) days prior to the demolition of any building or structure, a written statement must be provided to Council indicating whether the building or structure contains asbestos or material containing asbestos and, if so, the following must also be provided:

- (a) A Hazardous Substances Audit Report prepared by a competent and appropriately qualified person in compliance with *Australian Standard 2601-2001 – Demolition of Structures*; and
- (b) A Hazardous Substances Management Plan prepared by a competent and appropriately qualified person in compliance with *Australian Standard 2601-2001 – Demolition of Structures*.

**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.

**Asbestos – Notification of Neighbours**

Fourteen (14) days prior to the commencement of any demolition works involving asbestos, all immediate neighbours should be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and provided to Council.

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### **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**

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)

- (1) Safe access to and egress from adjoining buildings shall be maintained at all times for the duration of the demolition work. (dw020.doc)
- (2) The techniques adopted for stripping out and for demolition shall minimise the release of dust into the atmosphere. (dw030.doc)
- (3) 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)
- (4) 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)
- (5) Where the demolition site adjoins a public thoroughfare, the common boundary between them shall be fenced for its full length with a hoarding unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding shall be constructed of solid materials to a height of not less than 2.4 metres above the level of the thoroughfare at its junction with the hoarding.

Notices lettered in accordance with *Australian Standard 1319-1994 – Safety Signs for the Occupational Environment* and displaying the words “DANGER! DEMOLITION IN PROGRESS”, or a similar message, shall be fixed to the fencing at appropriate places to warn the public. (dw050.doc)

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**Civil Engineering Design**

- (1) The proposed pavement treatment must be identified and the design detail shall be submitted to the Principal Certifying Authority for assessment prior to the release of the Construction Certificate. (ced015.doc)
- (2) The developer shall submit details of all civil engineering works on engineering drawings to the Principal Certifying Authority for approval prior to the issue of the construction certificate.

The drawings shall include, but shall not be limited to, the following detailed information:

- a The hydrologic modelling and hydraulic treatment detail including detailed calculations, drainage network layout, environmental controls (including the post-development first flush mechanism, water quality and sedimentation controls), all stormwater drainage structures and, where required, the proposed method of accessing the existing public stormwater drainage system. All drainage calculations are to be carried out in accordance with *Australian Rainfall and Runoff* published by Engineers Australia, and are to include a contoured catchment diagram and delineation of flow paths for storms of 1% Average Exceedance Probability (AEP);
- b Plan, longitudinal and cross sectional detail shall be provided for the proposed access driveway/ramps/car parking aisles;
- c The proposed pavement treatment to the access driveway/ramps/car parking aisles. The minimum surface treatment shall be cement concrete;
- d Strategically located passing bays, where required, shall be positioned within the access driveway to accommodate minimum design requirements;
- e The location and reduced level of all services under the control of public utilities or agencies;
- f A Construction Environmental Management Plan (CEMP) shall be prepared in accordance with Australian Standard AS/NZS ISO 14001: 2004 for all civil engineering work associated with the development.

All reduced levels shall relate to Australian Height Datum (AHD). (ced030.doc)

- (3) The developer shall provide design swept paths on detailed civil engineering drawings for all internal and public road intersections. The modelling shall meet with the design requirements of the *Australian Standard 2890-2009 Accessible Car Parking* and the *Austrroads Design Vehicle and Turning Path Templates*. (ced040.doc)
- (4) A Chartered Professional Engineer shall provide details of any retaining walls required to support proposed vehicle parking areas wherever the drop from the edge of the access driveway/ramps/car parking aisles to a lower level exceeds 600 millimetres. The designing engineer must certify that the proposed retaining walls can withstand the impact of a vehicle on the safety barrier in

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accordance with *Australian Standard 2890-2009 Accessible Car Parking* and *AS/NZS 1170-2009 Structural Design Actions Wind Actions*. The details shall be submitted to the Principal Certifying Authority for assessment and approval prior to the release of the construction certificate for that structure. The design detail shall include but is not limited to, plans, sections, provision and method of attachment of safety barriers, method of sub-surface drainage and jointing.

(ced060.doc)

Item 10.4

### Access Construction

- (1) The developer shall construct the footpath access driveway in compliance with the Standards Australia publication *AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking* and Council's "*Driveway and Footpath Works Procedure Manual*". (ac001.doc)
- (2) The developer shall restore any redundant vehicle crossing to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*". (ac010.doc)
- (3) The access driveway 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)
- (4) The applicant must provide, to Council, the appropriate fee for the inspections required for the construction of the footpath crossing/access driveway in accordance with Council's adopted fees and charges. This inspection fee must be paid prior to the commencement of works within the road reserve area.

Work undertaken within the road reserve may only be undertaken by a Council approved contractor. A list of approved contractors may be obtained from Council's Engineering and Works Department. (ac020.doc)

### Car Parking and Vehicular Access

- (1) The car parking and manoeuvring area shall be line marked and signposted in compliance with the requirements of the *AS 1742.2 Manual of Uniform Control Traffic Devices – Traffic Control Devices for General Use*, *AS 1743 Road Signs-Specification*, *AS 1744 Standard Alphabets for Road Signs*, *AS/NZS 1906.1 Retroreflective materials and devices for road traffic control purposes – Retroreflective sheeting*, *AS 1906.2 Retroreflective materials and devices for road traffic control purposes – Retroreflective devices (non-pavement application)*, *AS 1906.3 Retroreflective materials and devices for road traffic control purposes – Retroreflective devices (retroreflective and non-Retroreflective)* and *AS 4049.1 Paints and related materials—Pavement marking materials*. (c025.doc)
- (2) Car parking and manoeuvring shall comply with the requirements of the Standards Australia publication *AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking*. (c035.doc)
- (3) The developer shall provide for the manoeuvring of the service vehicle including refuse and recycling collection vehicles. The minimum vehicle to be accommodated shall be the *Australian Standard 2890.2 Small Rigid Vehicle*,

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and must be able to enter, circulate and leave the development site in a forward direction. (c165.doc)

- (4) Any proposal to remove or install signage and/or line-marking in a public road shall be approved by way of a Road Occupancy Approval from the Roads Authority prior to undertaking the work. Any re-design of car spaces shall be prepared in accordance with *Australian Standard 2890.5:1993 - Parking Facilities Part 5: On-street parking*.

**Stormwater Management**

- (1) Stormwater shall be connected to the existing system. (sm005.doc)
- (2) Stormwater shall be completed in accordance with the submitted Stormwater Drawings prepared by Australian Consulting Engineers Pty Ltd.
- (3) All stormwater kerb and gutter connections to have a minimum of 40 millimetres cover of concrete finishing flush with the top of the existing kerb. Pipe size to achieve this should be 90 millimetres in diameter. (sm010.doc)
- (4) The developer shall provide stormwater outlets to kerb lines converting to 90 millimetre diameter uPVC for barrier kerbs and 127 x 64 x 4 millimetre steel rectangular hollow section hot dip galvanised or aluminium for roll kerb sections. (sm020.doc)
- (5) 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. (sm055.doc)
- (6) The developer shall provide compliance certification from the hydraulic engineer verifying that the constructed stormwater drainage infrastructure/water quality system meets with the approved design. The certification shall be provided to the Principal Certifying Authority prior to the release of any of the Occupation Certificate. (sm130.doc)
- (7) 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. The proposed treatments shall be submitted to the Principal Certifying Authority for assessment and approval prior to the release of the Construction Certificate. (sm135.doc)
- (8) 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. (sm150.doc)

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- (9) 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 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)

### 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 any Occupation Certificate. (us005.doc)
- (2) All electricity, telecommunications and natural gas services shall be located underground. Common or shared trenching and the document “*A Model Agreement for Local Councils and Utility/Service Providers*” prepared by the NSW Streets Opening Conference are policies adopted for the Kiama Municipal Council Local Government Area. (us035.doc)
- (3) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access. (us045.doc)
- (4) The developer shall ascertain with Sydney Water Corporation details of the location of the existing water main in Bong Bong and/or Manning Street and, if necessary, the developer will be responsible for the under boring of water services/conduits beneath the road to ensure that the proposed allotments are serviced with a connection to the existing water main.

A Plumber's Certificate shall be provided for each service and shall be submitted to the Certifying Authority prior to the release of the subdivision certificate. (us050.doc)

### Geotechnical Requirements

- (1) The developer shall engage a Chartered Professional Engineer practising in the field of geoscience to prepare a report to be submitted to the Principal Certifying Authority for approval prior to the issue of the construction certificate. The report shall cover, but not be limited to:
- a Extent and stability of proposed embankments (particularly those acting as retarding basins) and if any of the land is subject to subsidence/slip;
  - b Soil dispersibility;
  - c Slope failure and erosion where excavation and/or filling is to exceed 600 millimetres in depth including land that has been previously filled;
  - d Recommended geotechnical testing requirements;
- Required level of geotechnical supervision for each part of the works as defined under *Australia Standard 3798 - Guidelines on Earthworks for Commercial and Residential Developments*;
- f Compaction specification for all fill within private subdivisions;

## Report of the Director Environmental Services

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The level of risk to existing adjacent properties as a result of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent properties, high risk areas shall be identified on a plan and the engineering drawings shall be amended to indicate that no vibratory rollers shall be used within that zone;

- h The impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation;
  - i Recommended treatment methods for rectification / remediation of any deficiencies identified in the analysis and in conjunction with the civil engineering works planned;
  - j Requirements for sub-surface drainage lines; and
  - k Overall suitability of the engineering drawings for the proposed development. (gr010.doc)
- (2) There shall be no loss of support or encroachment of fill onto adjoining properties as a result of excavation or filling within the site. (gr050.doc)
- (3) Only clean fill (ie 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)
- (4) All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with *AS 4482.2 Guide to the sampling and investigation of potentially contaminated soil* 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)
- (5) All earthworks associated with the development shall be completed in accordance with *AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*. (gr075.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)

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**Building Construction**

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia. (bu010.doc)
- (2) No building materials or refuse shall be stored on Council's reserve adjacent to the proposed development site. (bu085.doc)
- (3) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (4) All excavations and backfilling must be executed safely in accordance with appropriate professional standards. (bu090.doc)
- (5) All excavations must be properly guarded and protected to prevent them from being dangerous to life or property. (bu095.doc)
- (6) 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)
- (7) 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)
- (8) 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)
- (9) A survey certificate, signed by a registered surveyor, showing the completed building complying with the building height plane and height requirements of Council's existing height policy must be provided to the Principal Certifying Authority prior to fixing of the roof cladding. (bu130.doc)
- (10) 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. (bu151.doc)



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- (11) 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)
  - (12) Disabled persons access shall be provided to, and facilities shall be provided within, the building in accordance with *AS1428 Design for Access and Mobility Series* and D3.2 of the *Building Code of Australia*. (bu155.doc)
  - (13) A 1:20 scaled detail of the disabled person sanitary facility, including all internal wall elevations shall be submitted for approval prior to commencement of works. (bu160.doc)
  - (14) 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)
  - (15) All excavations shall be enclosed with a temporary fence during construction of the pool. (bu255.doc)
  - (16) The swimming pool shall not be filled with water until the permanent safety fence has been erected. (bu260.doc)
  - (17) 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)

**Fire Safety**

- (1) A Fire Safety Schedule is to be issued specifying the fire safety measures (both current and proposed) that are to be implemented in the building. A copy of each schedule is to be attached to the Construction Certificate in accordance with the provisions of clause 168 of the *Environmental Planning and Assessment Regulation 2000* (as amended). (fs005.doc)
- (2) The building must comply with the Category 1 Fire Safety Provisions as defined under the provisions of the *Environmental Planning and Assessment Act 1979* (as amended). (fs010.doc)
- (3) Prior to the issue of a Construction Certificate the applicant shall provide the Principal Certifying Authority with the following information:
  - a A list of any existing fire safety measures provided in relation to the existing building, and
  - b A list of proposed fire safety measures provided in relation to the building as a consequence of the building work. (fs015.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:

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- 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. (esc005.doc)
- (2) The developer shall submit to the Principal Certifying Authority for approval prior to the issue of the construction certificate, a detailed Soil and Water Management Plan (SWMP) designed in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction Volume 1* (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction Volume 2* (Department of Environment and Climate Change 2007).
- All works on the site must be in accordance with the approved SWMP for the full duration of construction works and must provide an overall site detail. For staged development a SWMP shall be provided for each stage of the development. (esc010.doc)
- (3) The developer shall submit to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate for the development, a detailed Erosion and Sedimentation Control Plan (ESCP) applying to the whole development site designed in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction Volume 1* (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction Volume 2* (Department of Environment and Climate Change 2007). The ESCP shall consider the following, but not be limited to:
- a Minimise the extent of exposed areas at any time.
- b Placement of temporary fill to fabric barriers down slope of exposed areas.
- c Diverting surface run-off from upstream works as necessary to minimise to sediment pick-up.
- d Provide temporary slope drainage as appropriate to avoid scour of embankments.
- e Covering of stockpiles.
- f Early installation of landscaping and water quality controls.
- g Revegetation/resetting disturbed areas.
- h Filtration of stormwater inlets and outlets.

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All works on the site must be in accordance with the approved ESCP for the full duration of construction works and must provide an overall site detail. For staged development an ESCP shall be provided for each stage of the development. (esc015.doc)

- (4) 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)

**Energy Efficiency**

- (1) For the purpose of water conservation all water closets installed within the building/addition are to have a maximum 6/3 litre dual flush cistern. This condition does not apply to existing cisterns unless that cistern and its pan are being replaced by the works under this approval. (ee010.doc)
- (2) For the purpose of water conservation all shower heads fitted with reduced water flow devices are to be at least AAA Rated. Certification is to be provided to the Principal Certifying Authority prior to occupation of the building. (ee015.doc)
- (3) For the purpose of energy efficiency and child safety, all new or replacement hot water systems shall deliver hot water to a maximum of 50° Celsius at the outlet of all sanitary fixtures used for personal hygiene. (ee020.doc)

**Landscaping Works**

- (1) A detailed landscape plan shall be approved by Council prior to release of the Construction Certificate. The plan shall be prepared in accordance with Chapter 8 of *Kiama Development Control Plan 2012* and shall be consistent with the landscape concept plan. (lw010.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. (lw020.doc)
- (3) At the end of the 26 weeks 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. (lw035.doc)
- (4) Prior to release of the Occupation Certificate or Subdivision Certificate the developer shall provide a Compliance Certificate from a suitably qualified landscape professional or Council's Landscape Officer stating that all landscape works have been completed in accordance with the approved landscape plans and the conditions of the development consent. (lw170.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)

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- 
- (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 any Occupation Certificate.

Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)

- (2) The licensed plumber shall provide to the Principal Certifying Authority a Compliance Certificate to certify:
- Compliance with Sydney Water requirements in regard to rainwater tank installations
  - Compliance with technical specifications for rainwater tanks and associated plumbing configurations prior to the issue of any Occupation Certificate. (po004.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 109M 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 drainage and access works prior to the issue of any occupation certificate. (po010.doc)
- (5) A Chartered Professional Engineer's compliant certificate for all civil engineering works carried out within the development site shall be provided to the Principal Certifying Authority prior to the issue of any Occupation certificate. (po030.doc)
- (6) Prior to the issue of any occupation certificate for the approved development, the developer must enter into a lease under section 149 of the *Roads Act 1993* for the occupation of airspace (balcony extensions) above the Bong Bong Street road reserve.

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- (7) Lot 31 DP 574051, Lot 1 DP 128011 and Lot 2 DP 907763 are to be consolidated. Evidence of registration of consolidation with the NSW Registrar General is to be provided to the Principal Certifying Authority prior to any Occupation Certificate being issued.
  - (8) A public positive covenant must be registered on the 88B instrument covering the following aspects of the development prior to the issue of the Subdivision Certificate:
    - a) A right of carriageway from Bong Bong Street benefiting Lot 5 DP 578577 and Lot 1 DP 907762 with a minimum width of 3.6 metres and minimum height of 3.5 metres.

**Site Operations**

- (1) There shall be no display or storage of merchandise or advertising structures outside the curtilage of the premises. (sop020.doc)
- (2) There shall be no storage, parking or depositing of goods, material or machinery external to the building. (sop025.doc)
- (3) The footpath shall be kept in a neat and tidy state at all times. The developer shall be responsible for ensuring all waste materials, rubbish, spillages, stains etc are cleaned and disposed of into appropriate waste receptacles. (sop060.doc)
- (4) The use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to an "offensive noise" as defined under the provisions of the POEO Act 1979. (sop065.doc)
- (5) The development shall not interfere with the amenity of the neighbourhood by reason of noise emissions. (sop085.doc)
- (6) The waste room, shown on Upper Basement Level Plan (A-3.02) is to be constructed and operated in accordance with Section 5 of Chapter 11 of the Kiama Development Control Plan 2012.
- (7) Roadside and/or on-site waste collection is to be carried out in accordance with Chapter 11 of the Kiama Development Control Plan 2012.

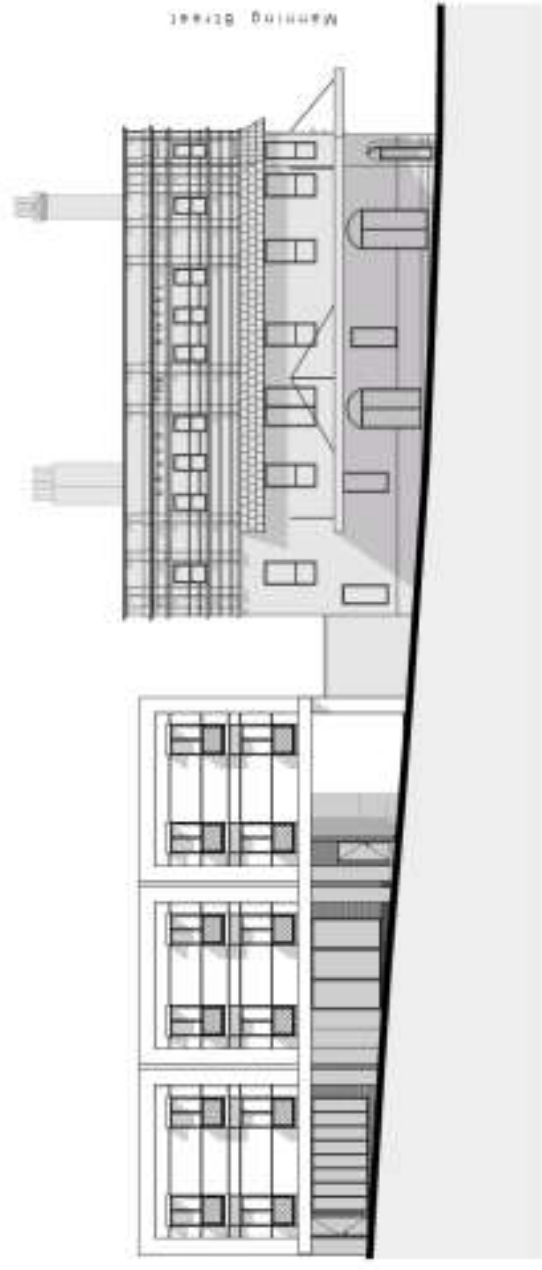
**31 BONG BONG STREET & LOT 2 ON DP907763, KIAMA, NSW 2533**  
**DEVELOPMENT APPLICATION - HOTEL**

CLIENT: SALIM GROUP  
 PROJECT NO: 17840  
 DATE: SEPTEMBER 2017

**SHEET SCHEDULE**

ID	Name
A-100	COVER SHEET
A-101	SURVEY
A-102	SITE ANALYSIS PLAN 1
A-103	SITE ANALYSIS PLAN 2
A-104	SITE ANALYSIS PLAN 3
A-105	SITE ANALYSIS PLAN 4
A-106	DEMOLITION PLAN
A-107	SITE MANAGEMENT PLAN
A-108	LOT 1 & LOT 2 LEVEL PLAN
A-109	LOT 1 & LOT 2 LEVEL PLAN
A-110	GROUND LEVEL PLAN
A-111	LEVEL 1 PLAN
A-112	LEVEL 2 PLAN
A-113	ROOF PLAN
A-114	SEPARATORS & INT.
A-115	SEPARATORS & INT. & COURTYARD
A-116	COURTYARD ELEVATIONS IN 3/4V

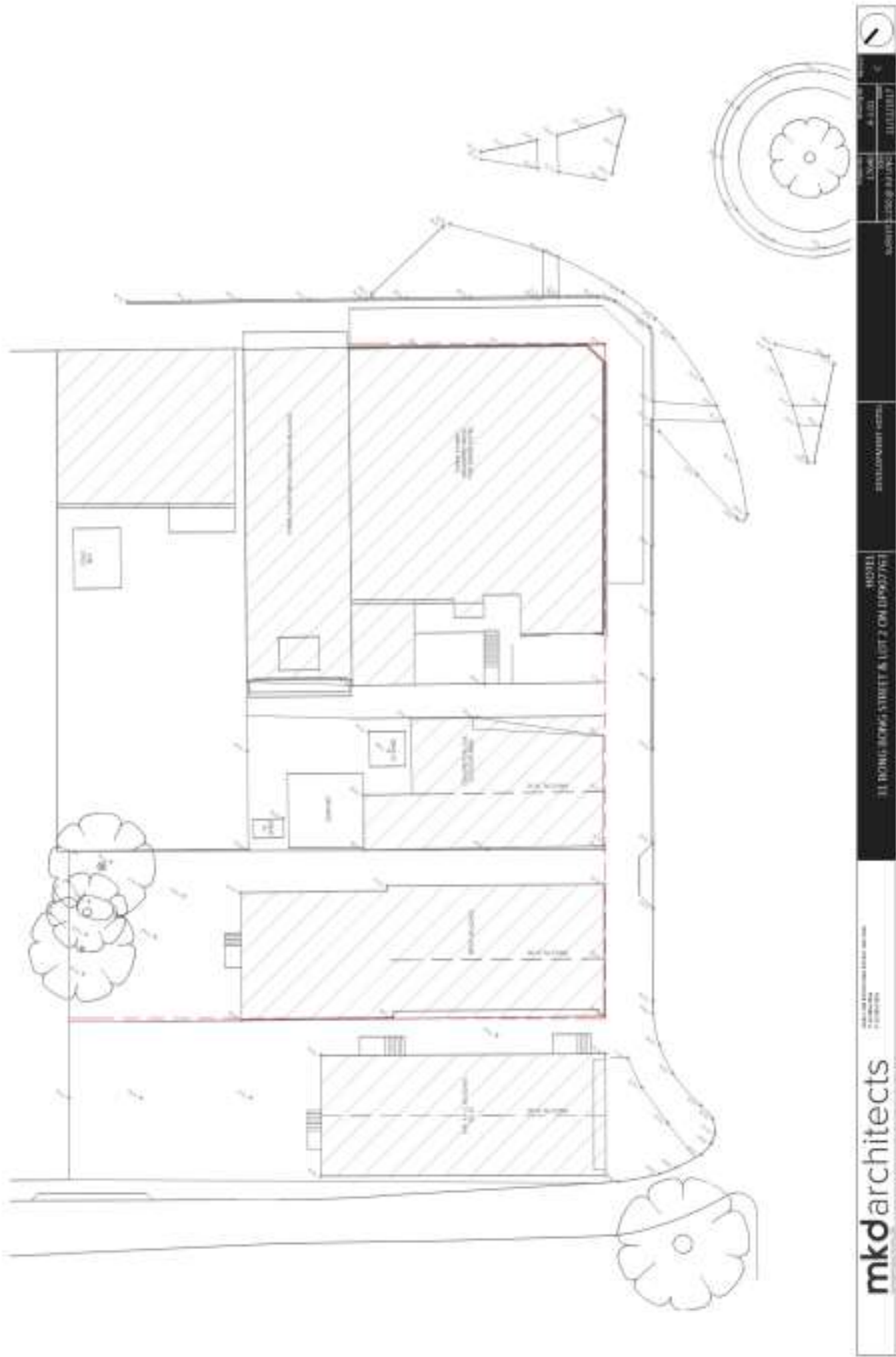
A-117	SECTION A-A & B-B
A-118	CARPENTER SECTIONS
A-119	FINISH SCHEDULE
A-120	SHADOW DIAGRAM (JOB 210)
A-121	SHADOW DIAGRAM (JOB 210)
A-122	SHADOW DIAGRAM (JOB 210)
A-123	SHADOW DIAGRAM (JOB 210)
A-124	TIERS (HIGHS) PLANS (JOB 210)



**mkdarchitects**

11 BONG BONG STREET & LOT 2 ON DP907763 - HOTEL

DRAWN BY: [Name] CHECKED BY: [Name] DATE: [Date]



**mkdarchitects**  
11 BONG BONG STREET & LOT 2 ON DP907763  
KIAMA NSW 2586  
TEL: 02 4422 1111  
WWW.MKDARCHITECTS.COM.AU

Attachment 1  
Item 10.4



AERIAL PHOTOGRAPH OF SITE  
NOT TO SCALE



SITE CONTEXT PLAN  
NOT TO SCALE



- ROCKNORTHKIAMA
- KIAMA EMPORIUM CENTRE
- KIAMA SPORTS COMPLEX
- KIAMA LIGHTHOUSE
- PILOTS COTTAGE MUSEUM
- THE SHAM BLOWHOLE (TOURIST ATTRACTION)
- KIAMA TRAIN STATION
- 48 MANNING STREET, KIAMA
- KIAMA ANGLICAN CHURCH
- THE PROBLEM MAKER
- KIAMA BOULING AND RECREATION CLUB
- KIAMA BEACH

GOOGLE AERIAL  
NOT TO SCALE

mkdarchitects

11 BONG BONG STREET & LOT 2 ON DP907763 - HOTEL

DATE OF PREPARATION: 10/01/2018

DRAWN BY: J. HARRIS

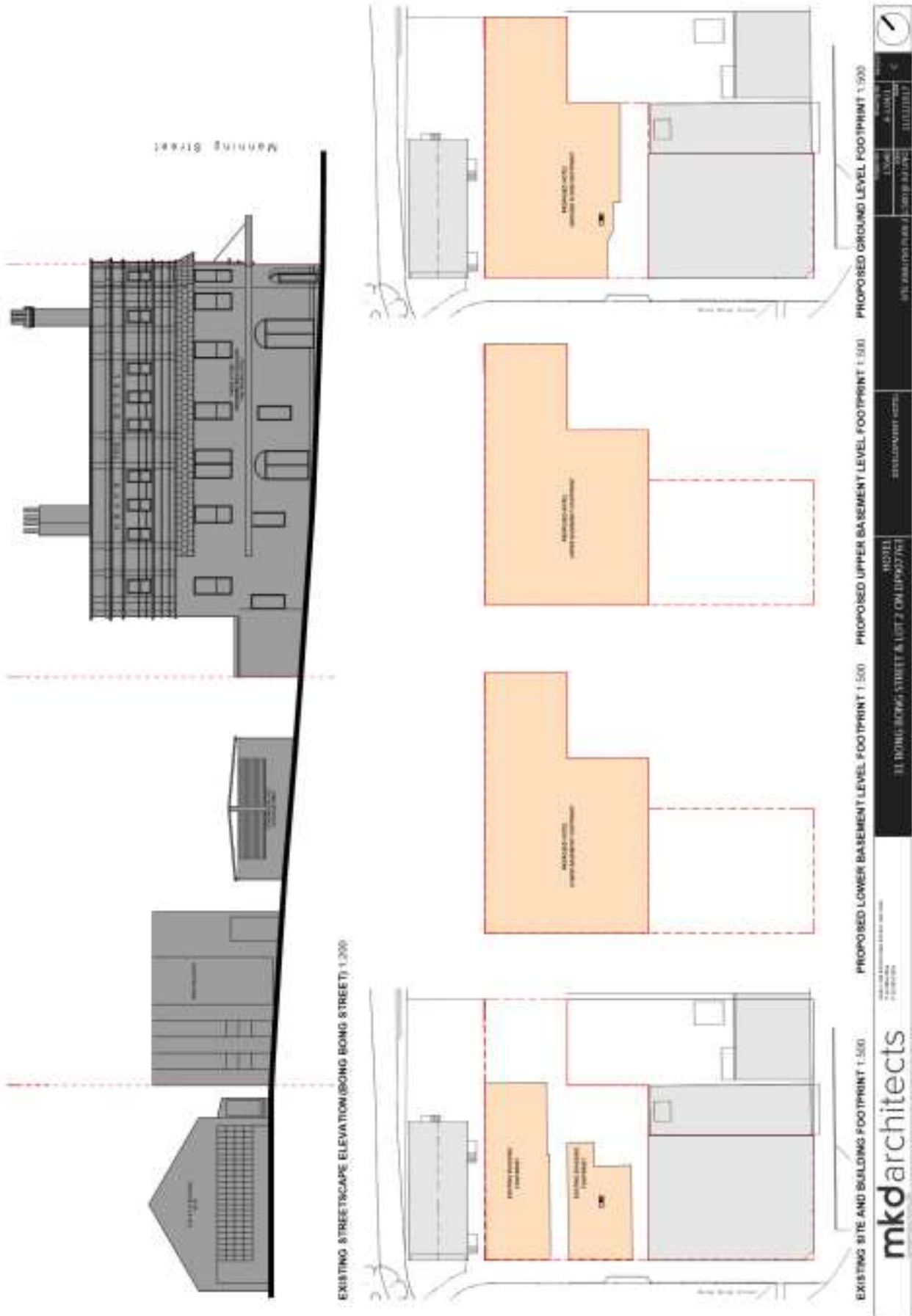
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PROJECT NO: 10/01/2018

REV: 01

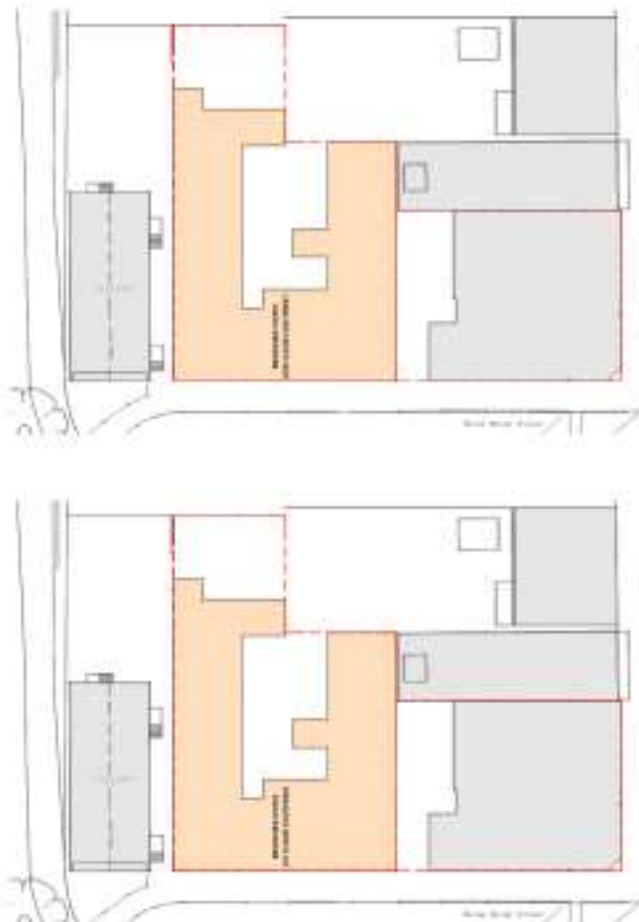








PROPOSED STREETSCAPE ELEVATION (BONG BONG STREET) 1:200



PROPOSED FIRST LEVEL FOOTPRINT 1:500



PROPOSED SECOND LEVEL FOOTPRINT 1:500

mkdarchitects

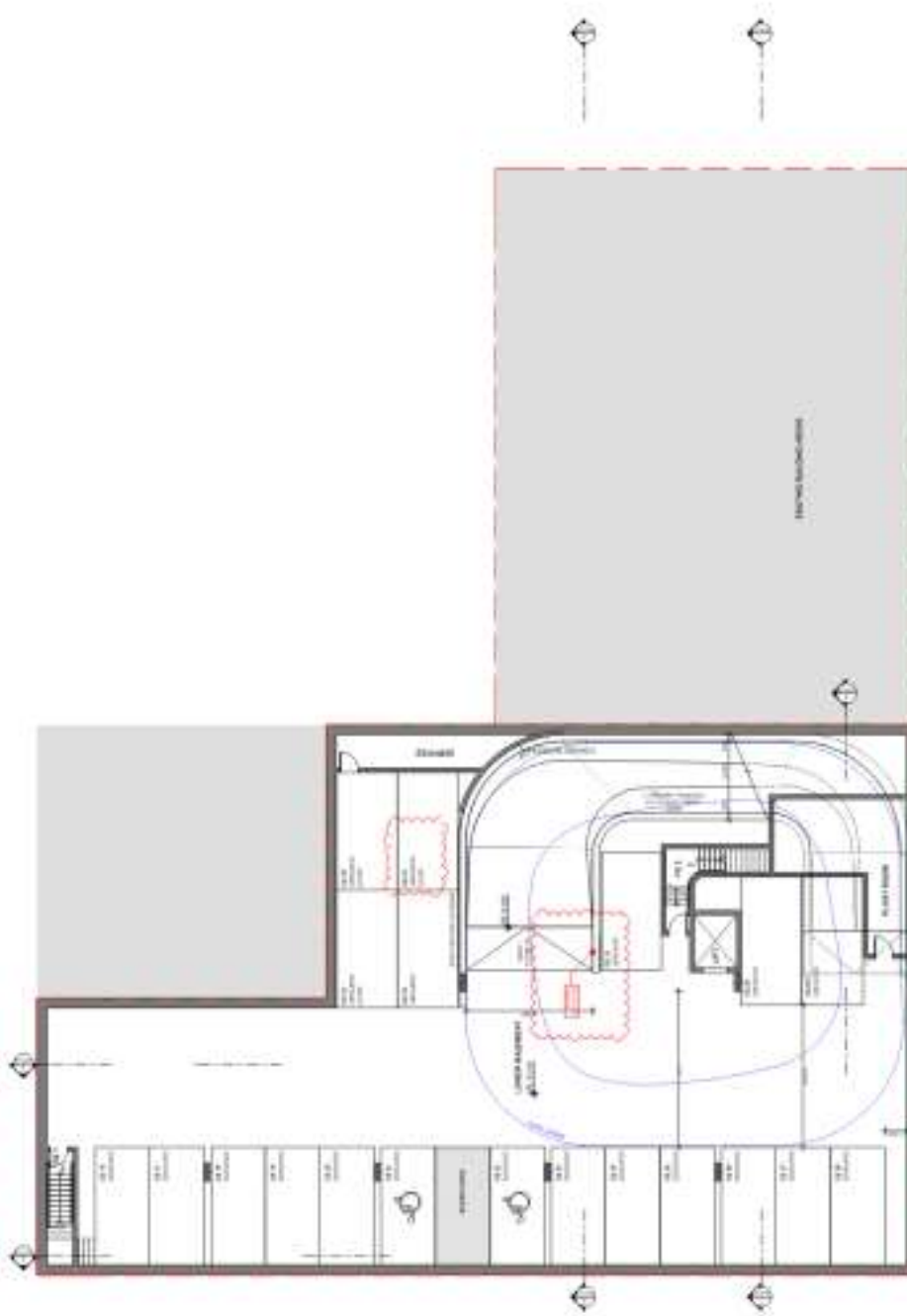
11 BONG BONG STREET & LOT 2 ON DP907763 - HOTEL

ARCHITECTURAL ELEVATION

DATE	10/11/2017
SCALE	1:500
PROJECT NO.	10.2017.292.1





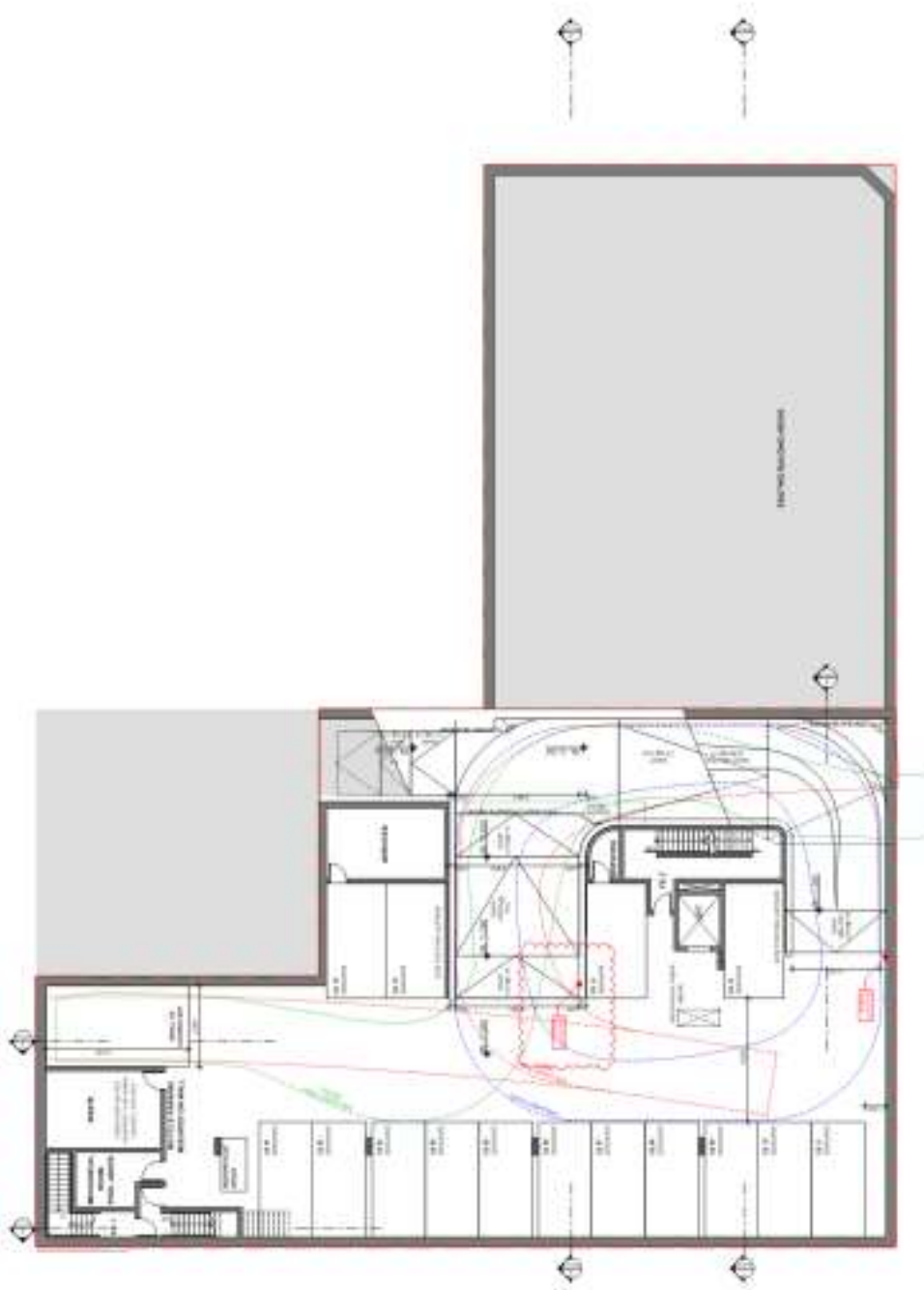


LOWER BASEMENT LEVEL  
 1/200

**mkd**architects

1/1 BONG BONG STREET & LOT 1 ON DP907763		HOTEL		10.2017.292.1		10.2017.292.1		10.2017.292.1	
10.2017.292.1		10.2017.292.1		10.2017.292.1		10.2017.292.1		10.2017.292.1	
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Attachment 1 Item 10.4



UPPER BASEMENT LEVEL  
1:200

**mkd**architects

11 BONG BONG STREET & LOT 1 ON DP907763 HOTEL  
mkd architects  
11 BONG BONG STREET & LOT 1 ON DP907763 HOTEL  
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11 BONG BONG STREET & LOT 1 ON DP907763 HOTEL  
mkd architects



Item 10.4

Attachment 1







Item 10.4

Attachment 1



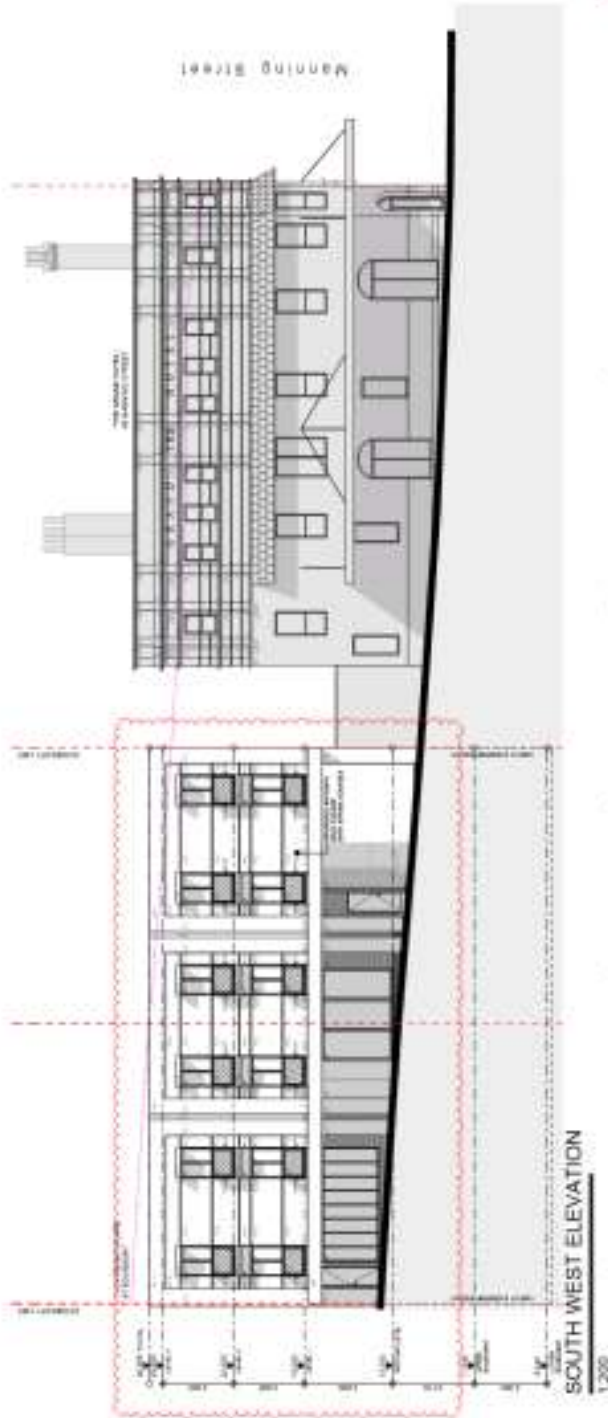
Item 10.4

Attachment 1



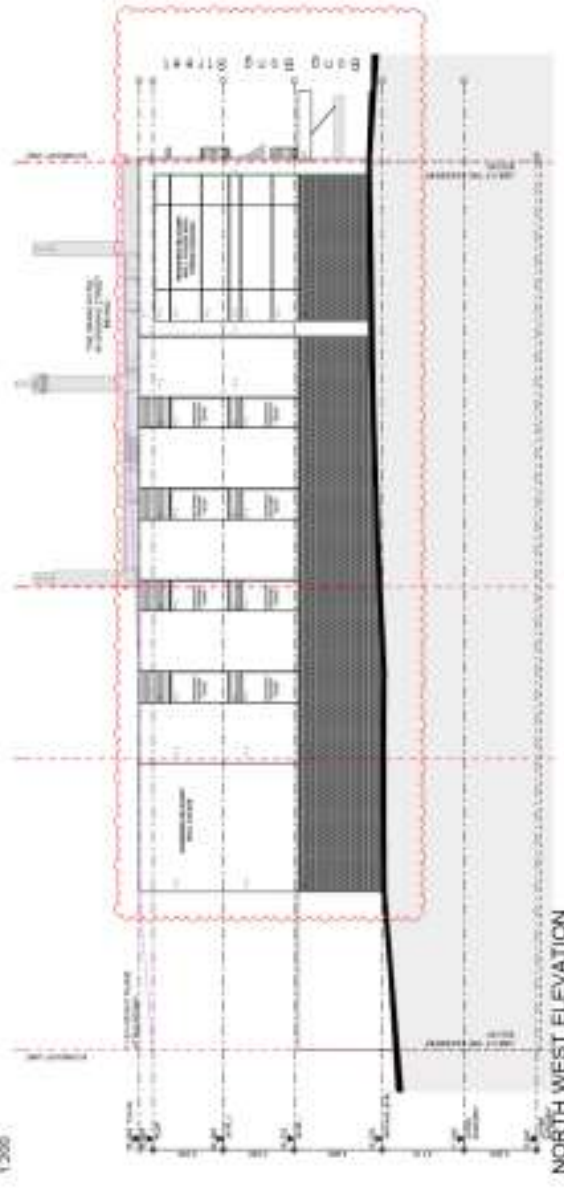
Item 10.4

Attachment 1



**SCHEDULE OF MATERIALS**

<b>AW W 003</b>	ANNEAL INDEPENDENT STEEL SHEET INTERLOCKED COLOR BLACK MATTE
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<b>P 01 02</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
<b>P 01 03</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
<b>P 01 04</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
<b>P 01 05</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
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<b>P 01 09</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
<b>P 01 10</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
<b>P 01 11</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
<b>P 01 12</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
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<b>P 01 14</b>	TRIPLEX CLEAR BLENDED POLYURETHANE WALL COLOUR
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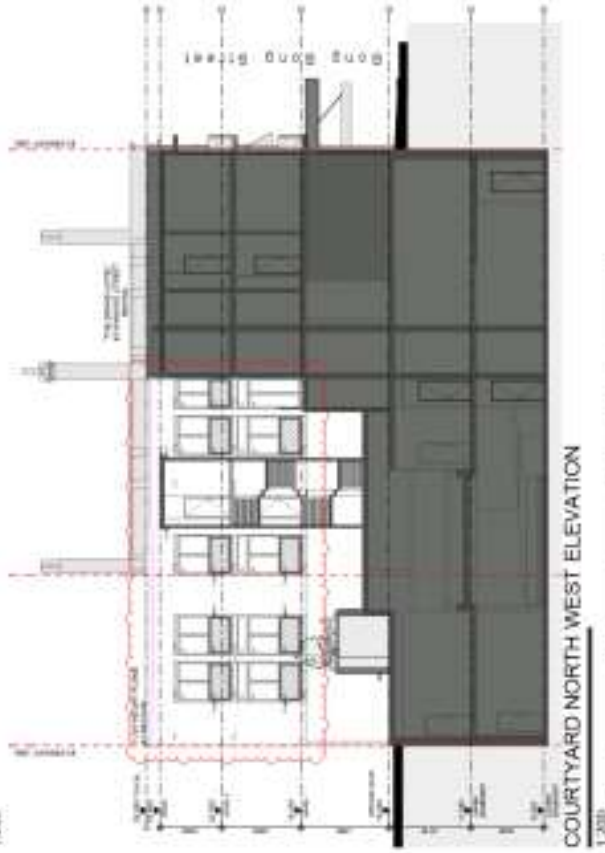
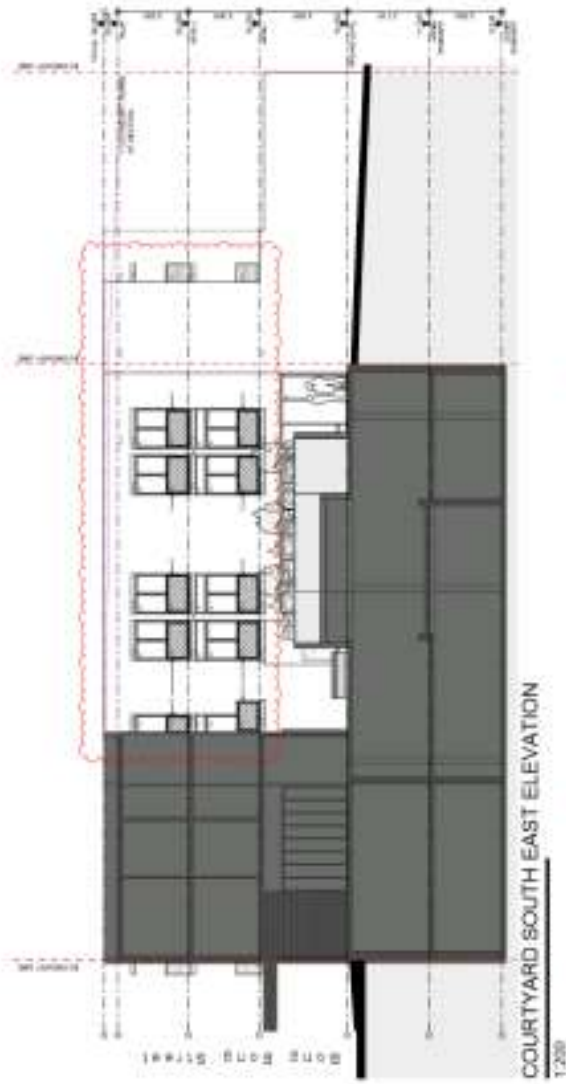


**mkdarchitects**

11 BONG BONG STREET & LOT 2 ON DP907763  
KIAMA NSW 2586  
PH: 02 4422 1000  
WWW.MKDARCHITECTS.COM.AU

PROJECT: HOTEL  
DRAWING NO: 10.2017.292.1-01  
DATE: 11/11/17

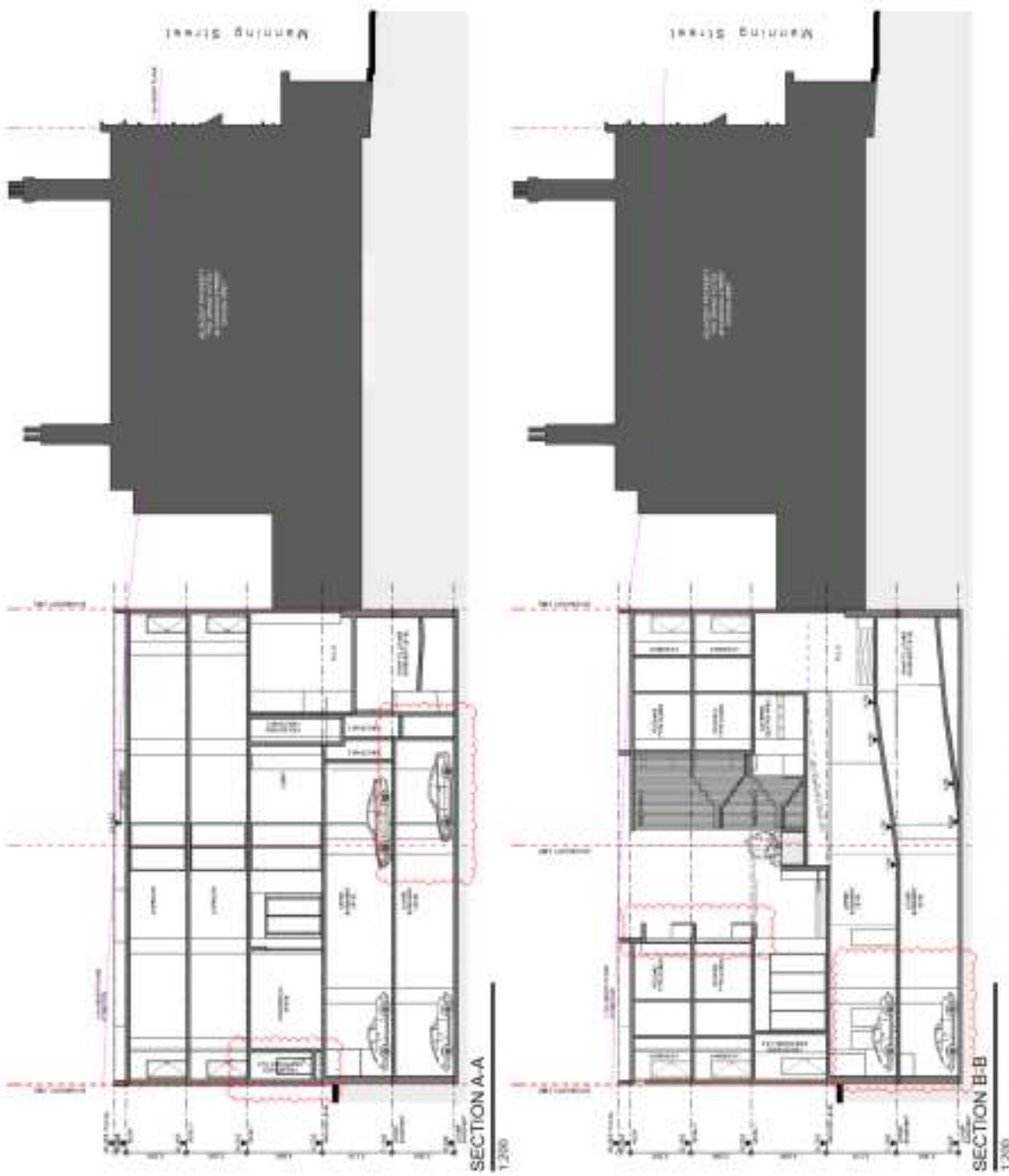




**SCHEDULE OF MATERIALS**

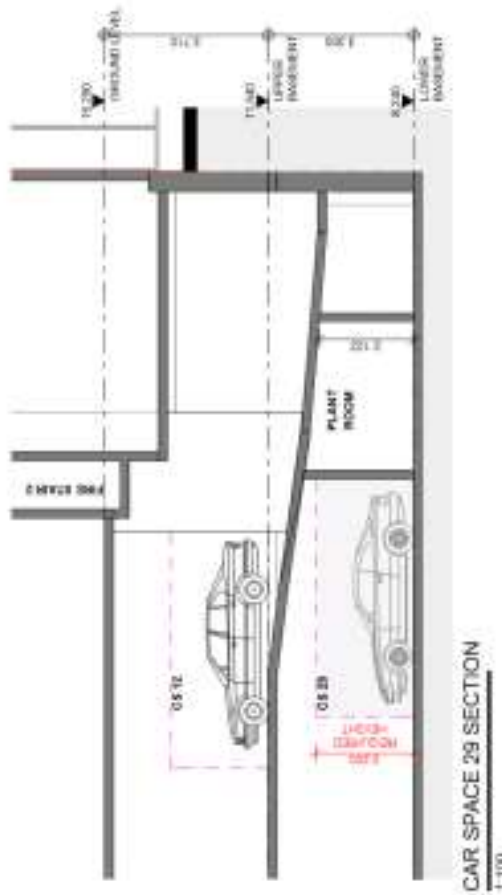
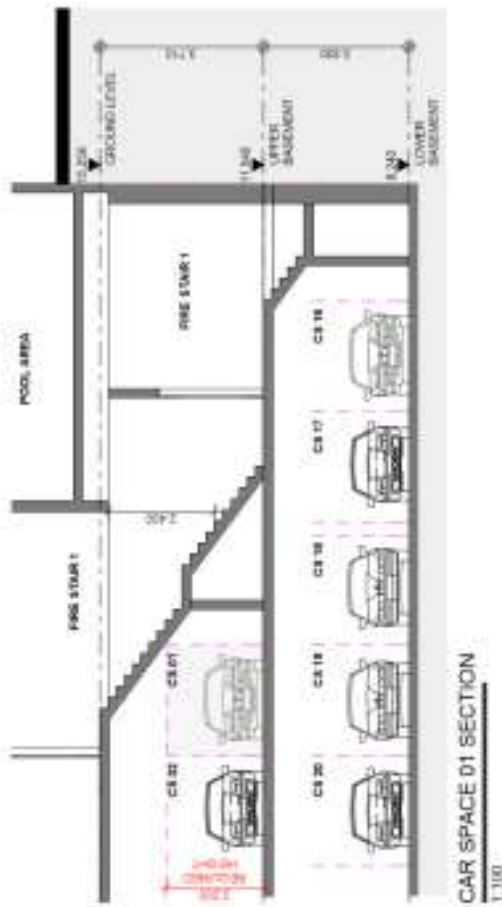
	<b>AW W MS</b> ANNEAL INVERTED STEEL WITH INTERCOATED COLLE BLACK PAINT
	<b>P70, P7</b> TEXTURED SLURRY FINISH PAINT WALL COLOUR
	<b>P71</b> SMOOTH PAINT WALL COLOUR IN USE
	<b>P72</b> SMOOTH PAINT WALL COLOUR IN USE
	<b>P8</b> ALU BRIDG ROOF JOIST BRIDGE JOIST
	<b>T8</b> TIMBER CLADDING SIPRA TANGOR CLADDING BRIDGE JOIST

**mkdarchitects**  
 11 BONG BONG STREET & LOT 2 ON DP907763  
 - HOTEL  
 11 BONG BONG STREET & LOT 2 ON DP907763  
 11/11/2017  
 4:00  
 11/11/2017



**mkdarchitects**  
11 BONG BONG STREET & LOT 2 ON DP907763 - HOTEL  
SECTION A-A & B - 10.2017.292.1 - 10.11.18  
A 3.00  
11/11/18

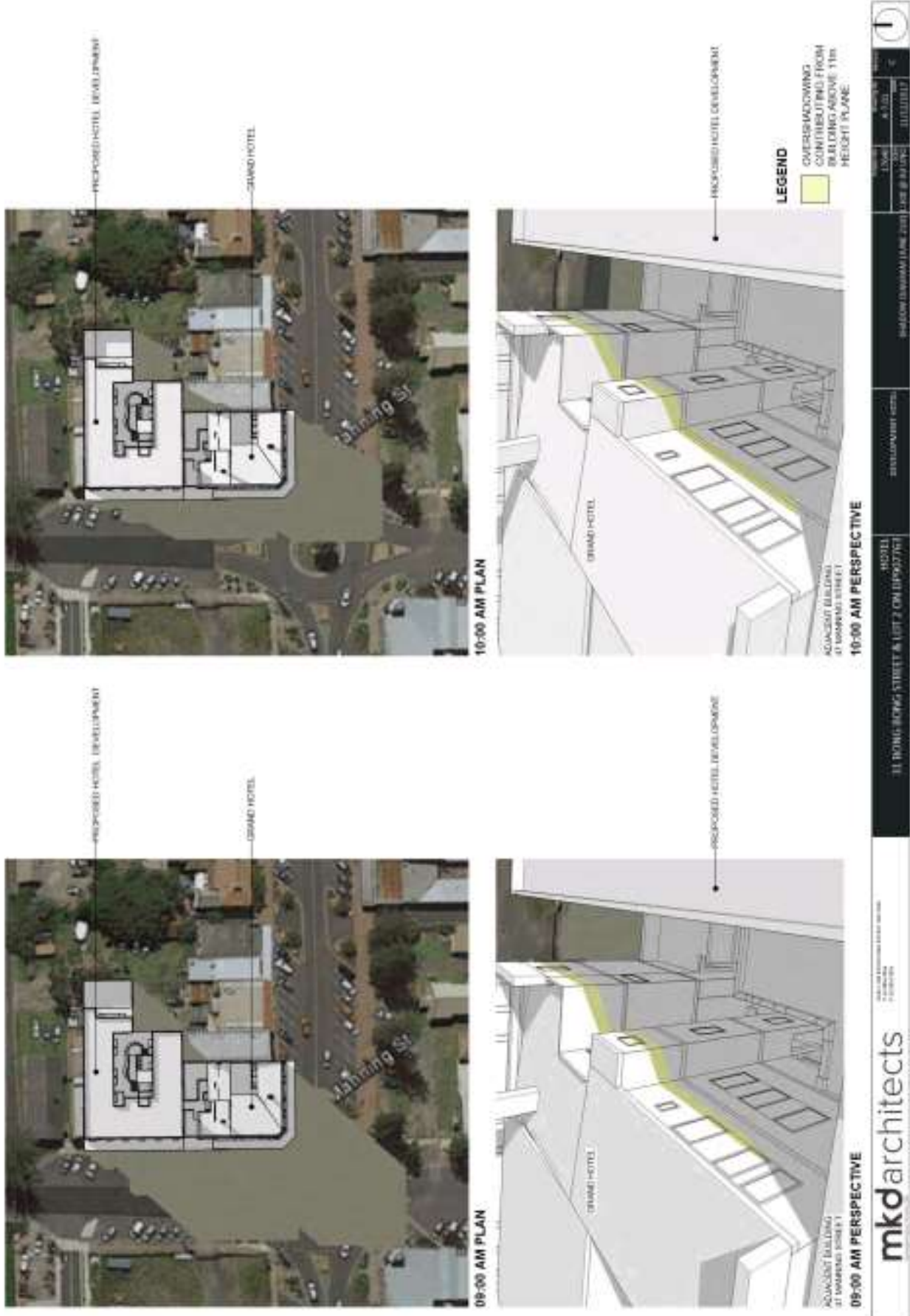


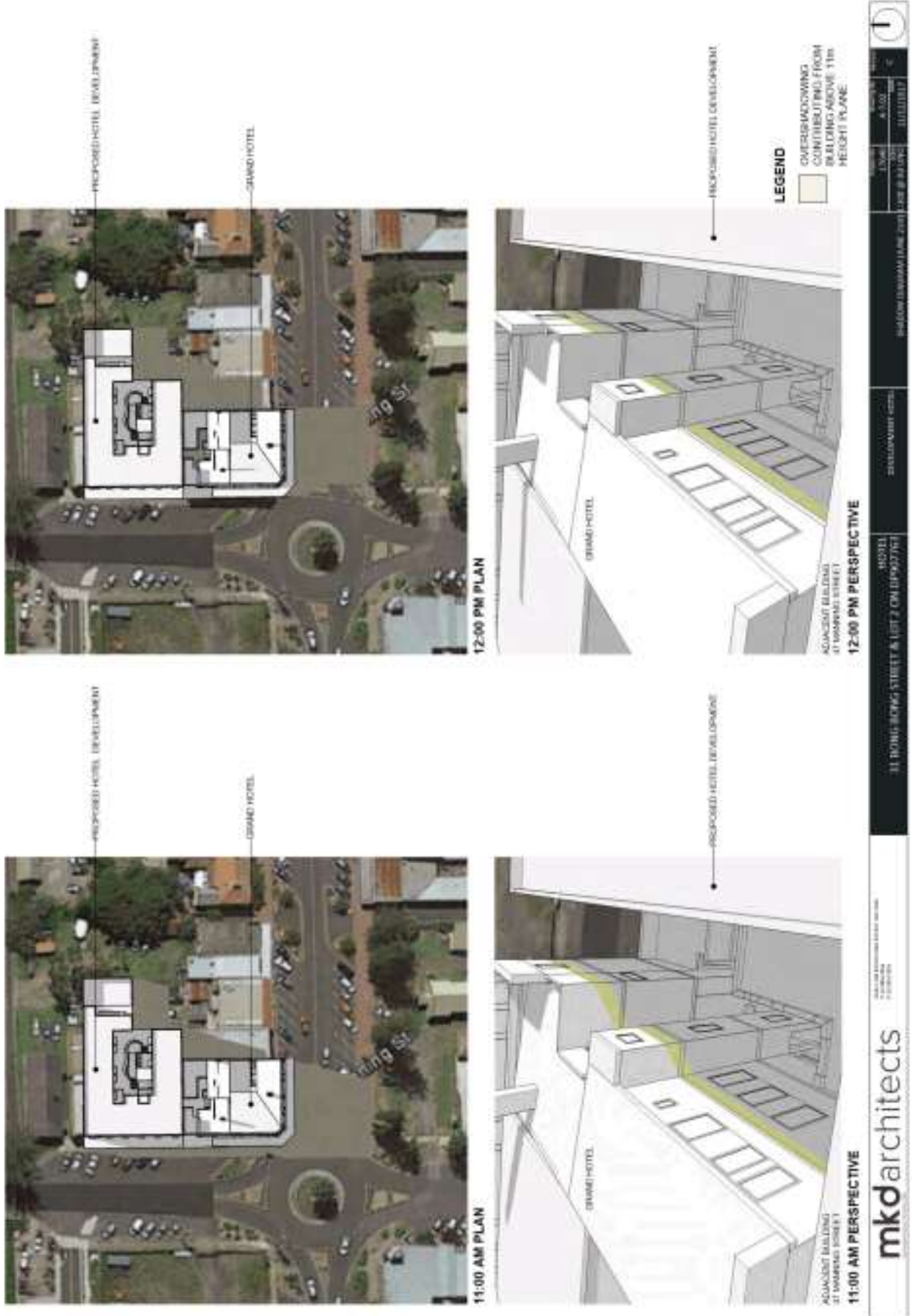


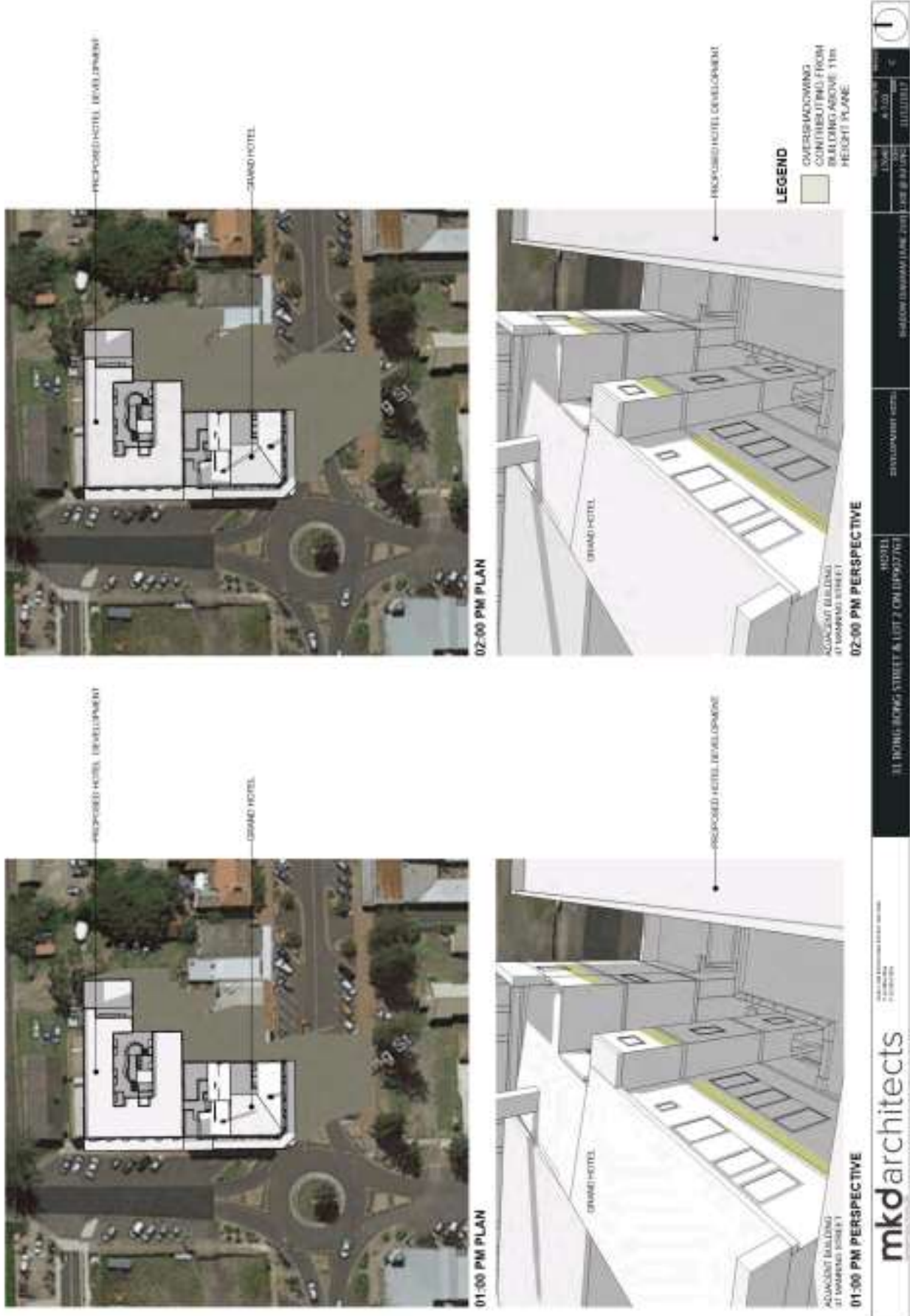


31 BONG BONG STREET & LOT 2 ON DP907763 - HOTEL  
 EXISTING FLOOR PLAN  
 LIFTED SECTION  
 DATE: 21/01/17  
 DRAWN: A.S.M.  
 CHECKED: H.L.S.





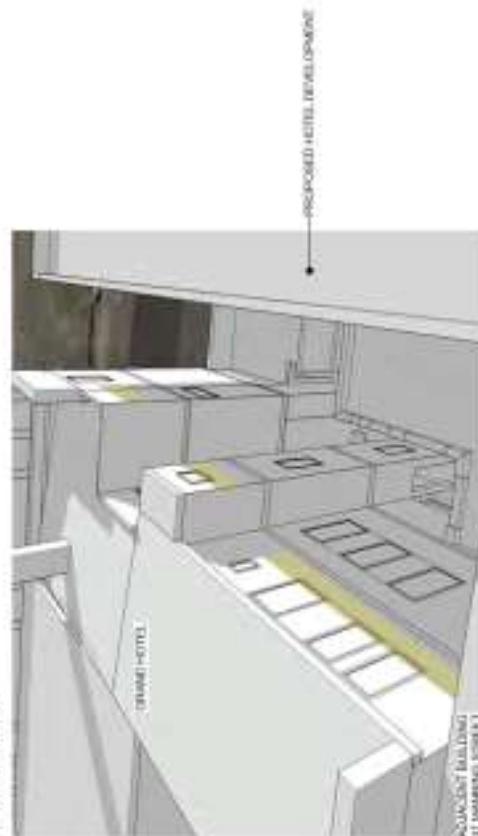




Attachment 1 Item 10.4



03:00 PM PLAN

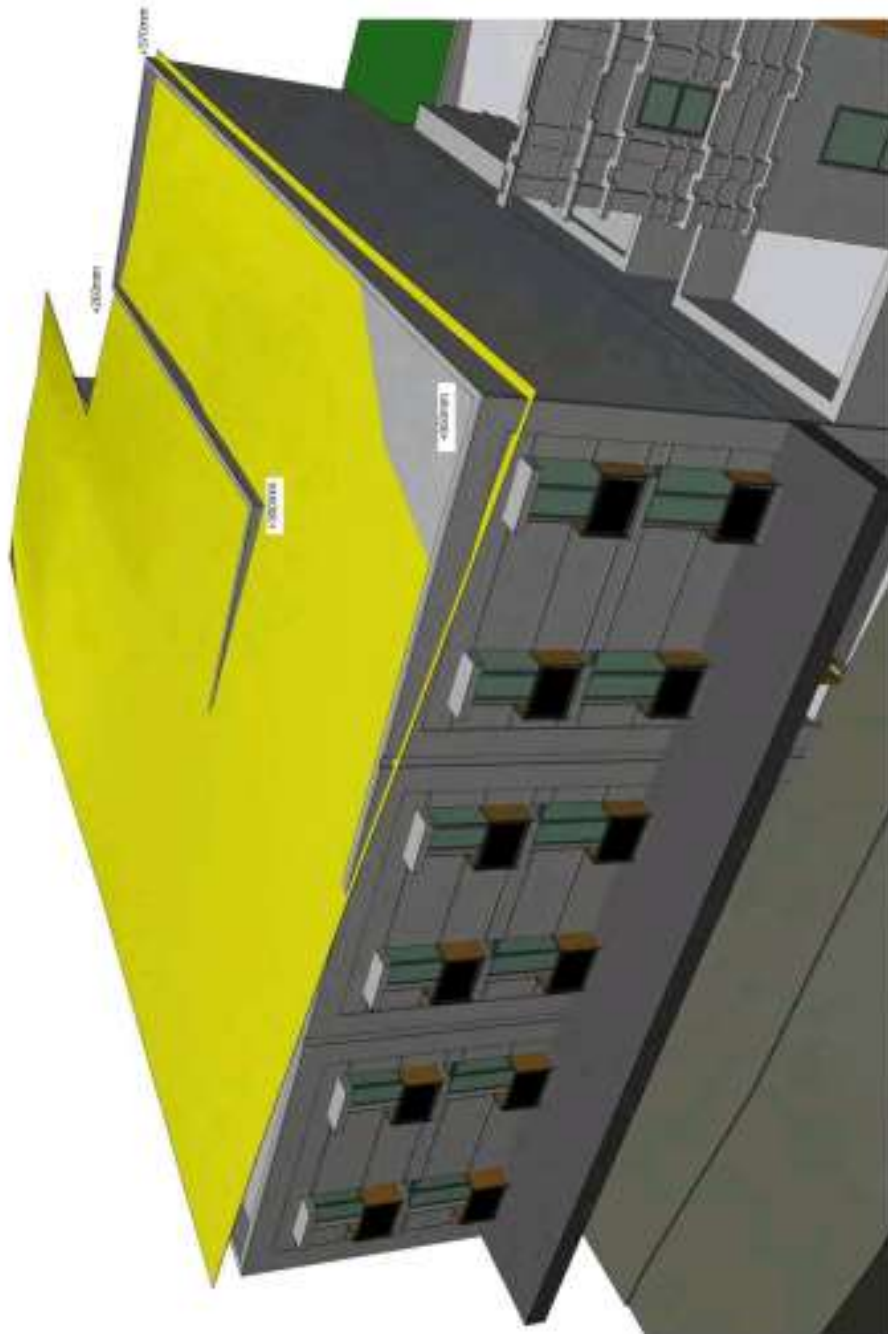


03:00 PM PERSPECTIVE

**LEGEND**  
 OVERSHADOWING CONTRIBUTING FROM BUILDING ABOVE 11th FLOOR HEIGHT PLANE

11 BONG BONG STREET & LOT 2 ON DP907763 - HOTEL  
 11 BONG BONG STREET & LOT 3 ON DP574051 - HOTEL  
 11 BONG BONG STREET & LOT 1 ON DP128011 - HOTEL  
 11 BONG BONG STREET & LOT 2 ON DP907763 - HOTEL  
 11 BONG BONG STREET & LOT 3 ON DP574051 - HOTEL  
 11 BONG BONG STREET & LOT 1 ON DP128011 - HOTEL

mkdarchitects  
 11 BONG BONG STREET, KIAMA NSW 2534  
 PH: 02 4422 1111  
 WWW.MKDARCHITECTS.COM.AU



**mkdarchitects** ARCHITECTS  
11 BONG BONG STREET & LOT 2 ON DP907763  
KIAMA NSW 2586  
TEL: 02 4422 1111  
WWW.MKDARCHITECTS.COM.AU

Project No.	10.2017.292.1
Client	Lot 31 DP 574051, Lot 2 DP 907763 & Lot 1 DP 128011
Site No.	31 BONG BONG STREET, KIAMA NSW 2586
Scale	1:100
Date	11/11/17

**Attachment 1**  
**Item 10.4**



1 February 2018

The General Manager  
Kiama Council  
PO Box 75  
Kiama NSW 2533

**ATTENTION: EDWARD PATERSON**

Dear Sir/Madam,

**STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007  
DEVELOPMENT APPLICATION – 2017/292 (10.2017.272.1)  
31 Bong Bong Street, Kiama**

I refer to Council's letter requesting RailCorp's concurrence for the above development application in accordance with clause 86(1) of the above SEPP.

As of 1 July 2014 the property functions of RailCorp have been transferred to Sydney Trains. Whilst RailCorp still exists as the legal land owner of the rail corridor, its concurrence function under the above SEPP has been delegated to Sydney Trains.

As such, Sydney Trains now advises that the proposed development is being assessed in accordance with the requirements of Clause 86(4) being:

- a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
  - i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
  - ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

In this regard, Sydney Trains has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in development application **2017/292 (10.2017.272.1)** subject to Council imposing the deferred commencement condition provided in Attachment A and operational conditions listed in Attachment B that will need to be complied with upon satisfaction of the Deferred Commencement Condition.





Should Council choose not to impose the deferred commencement condition in Attachment A and the operational conditions provided in Attachment B (as written), then concurrence from Sydney Trains has not been granted to the proposed development.

In the event that this development proposal is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 97A of the Environmental Planning and Assessment Act 1979 which requires Council to give notice of that appeal to a concurrence authority. Sydney Trains therefore requests that Council comply with this requirements should such an event occur.

Please contact Mr Jim Tsirimiagos on 8575 0780 should you wish to discuss this matter. Finally, Sydney Trains requests that a copy of the Notice of Determination and conditions of consent be forwarded to Sydney Trains.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "John Camarda".

**John Camarda**  
**Executive Manager**  
**Commercial Property**



Attachment A

**Deferred Commencement Condition**

*This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:*

**A1.** *The Applicant shall prepare and provide to Sydney Trains for approval/certification the following final version items:*

- 1. Geotechnical and Structural report/drawings that meet Sydney Trains requirements. The Geotechnical Report must be based on actual borehole testing conducting on the site closest to the rail corridor.*
- 2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.*
- 3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.*
- 4. Detailed Survey Plan showing the relationship of the proposed developed with respect to Sydney Trains easement and rail corridor land.*
- 5. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.*

*Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.*



**Attachment B**

- *An acoustic assessment is to be submitted to Council prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".*
- *Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.*
- *If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- *Unless advised by Sydney Trains in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects.*
- *No rock anchors/bolts are to be installed into Sydney Trains property or easements.*
- *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for public liability insurance cover. If insurance cover is deemed necessary this insurance be for sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.*



- *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains Rail Corridor Management Group to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.*
- *Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, are entitled to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and these conditions of consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.*
- *Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains must be submitted to Council for its records prior to the issuing of a Construction Certificate.*
- *Any conditions issued as part of Sydney Trains approval/certification of any documentation for compliance with the Sydney Trains conditions of consent, those approval/certification conditions will also form part of the consent conditions that the Applicant is required to comply with.*

--o0o--

**11 REPORT OF THE DIRECTOR CORPORATE, COMMERCIAL & COMMUNITY SERVICES****11.1 Cultural Grants Summer 2018**

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 11.1

**Summary**

This report seeks approval for recommendations concerning the February round of Council's Cultural Grants, and provides the minutes of the Cultural Board meeting held 22 March 2018.

**Finance**

Cultural Contributions Budget 2017/18

**Policy**

Cultural Grants Guidelines

**Attachments**1 Kiama Cultural Board - Minutes - March 2018 [↓](#)**Enclosures**

Nil

***RECOMMENDATION***

That Council approve the following recommended Cultural Grants funding applications:

- |   |         |
|---|---------|
| • Rock of Ages (with condition)                     | \$3,000 |
| • The Water Runner Album and Video (with condition) | \$3,000 |
| • Jones Beach Mural                                 | \$3,000 |

**BACKGROUND*****CULTURAL GRANTS***

Kiama Council provides a total of \$20,000 per annum to support the development and delivery of arts and cultural projects within the Kiama local government area.

## Report of the Director Corporate, Commercial &amp; Community Services

## 11.1 Cultural Grants Summer 2018 (cont)

This funding is distributed across two application rounds in summer and winter each year, closing in late February and August. Applicants are able to apply for up to \$3,000 per project.

All applications are initially assessed by Council's Cultural Board Cultural Grants Sub-committee, then reported to a full Cultural Board meeting where the applications are considered for recommending to Council for approval. The minutes of the Cultural Board meeting held 22 March 2018 are attached for Councillors' information.

Applications are assessed using the following criteria, including the relative merit of the project, and likelihood of success of the project.

Funding criteria:

- provides a strong sense of community spirit
- stimulates opportunities for participation and positive community connections
- improves community and individual self-esteem and wellbeing
- encourages participants to explore and pursue positive arts experiences
- acknowledges and promotes cultural diversity
- supports local artists in their development within the arts

The Kiama Council Cultural Board Sub-committee met on 1 March 2018, to assess seven Cultural Grant applications, seeking funding totalling \$20,000.

The Sub-committee recommended three Cultural Grants totalling \$9,000. The full Cultural Board met on 22 March 2018 and considered the Sub-committee's recommendations with three subsequently approved for recommendation to Council.

All the applications have been circulated under separate cover for Councillors consideration, however a summary of them is provided below.

**The following four applications are recommended to Council for funding.**

*Rock of Ages*

Illawarra Youth Arts Project (iYAP) \$3,000

The Illawarra Youth Arts Project (iYAP) is staging a regional premiere of the Broadway smash rock musical 'Rock of Ages'. To be held 12-15 July 2018 at The Pavilion Kiama. 'Rock of Ages' is built around classic rock songs from the 1980s, especially from the famous glam metal bands of that decade.

Condition: That 10 free tickets be made available for young people or those in need.

*Album Recording and Video Clip*

The Water Runners \$3,000

The Water Runners are a local band that have become well known in the Kiama area and beyond for their unique, high energy brand of original music that incorporates elements of bluegrass, country and traditional folk and draws on local

11.1 Cultural Grants Summer 2018 (cont)

themes and stories. This project will help fund the creation of an album of original music that will include songs that highlight Kiama, its history and its people and a video clip that will help promote the music to a wider audience. The local element of these resources will engage and inform the local community in a positive way, enhancing community pride and well-being.

Condition: That the Water Runners provide a free gig at a Council event, to be decided in discussion with Council’s Community and Cultural Development Officer

*Jones Beach Mural*

Michael Lothian \$3,000

A mural combining our nostalgic past and hopeful present to create a contemporary public artwork to adorn the exterior walls of the Jones beach public toilet block, situated on North Kiama Drive, Kiama Downs

Concept design



Condition: To be undertaken after toilet refurbishment has been completed

**The following applications are not recommended for funding**

*Artist in Residency*

Becky Guggisberg \$3,000

Kiama based artist Becky Guggisberg is exploring the concept of comparing the vital river systems within the environment with the flow within our own circulatory system. She wants to create an embodiment of this connection. The body of work will begin largely as work on paper and will then continue to explore and develop as larger sized paintings on return from India to the studio in Kiama, Australia. The hope and potential will then be to exhibit the work in a gallery locally and to take the work further to regional, national and international galleries.

Report of the Director Corporate, Commercial & Community Services

11.1 Cultural Grants Summer 2018 (cont)

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*Art Business Development*

Gitte Backhausen \$3,000

The project will develop Gitte Backhausen Art into a sustainable ongoing business within the Kiama economy. Thereby supporting the ongoing development and growth of the arts industry within the Kiama Local Government Area.

*Young Women's Choir – Ineligible due to incomplete application*

Michele Broad \$3,000

Side by Side is a young women's choir open to girls and women 16-30 years who enjoy music and singing.

*Kiama Arts Trail Awareness* \$2,000

Kiama Art Trail

This project provides a marketing boost to increase awareness of the arts and artists in the Kiama area through advertising support, social media marketing and professional input. The members are Kiama based artists of all mediums and entry to all venues is free.



**Minutes of the Kiama Cultural Board Committee meeting held on Thursday 22 March 2018 in the Council Chambers Committee Room 1 at 5.30pm.**

**Present:** Terri Rowe, Gail Morgan, Gregor Cullen, Mayor Mark Way, Kerry McMurray, Paula Gowans, Louise Croker

**Apologies:** Mike Lothian, Judy White, Bruce Ferguson, Nick Guggisberg, Cr Neil Reilly, Cr Cathie Rice, Tamara Campbell, Nick Guggisberg

**2. Minutes of previous meeting**

**Motion:** That the minutes of the previous meeting held 11 January 2018 be accepted as an accurate record of the meeting

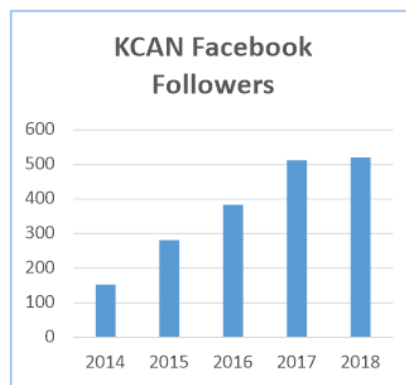
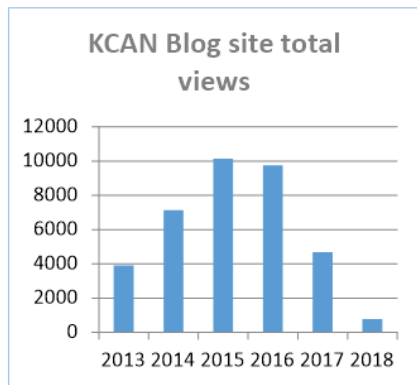
**Moved:** Mayor Mark Honey      **Seconded:** Gail Morgan      **CARRIED**

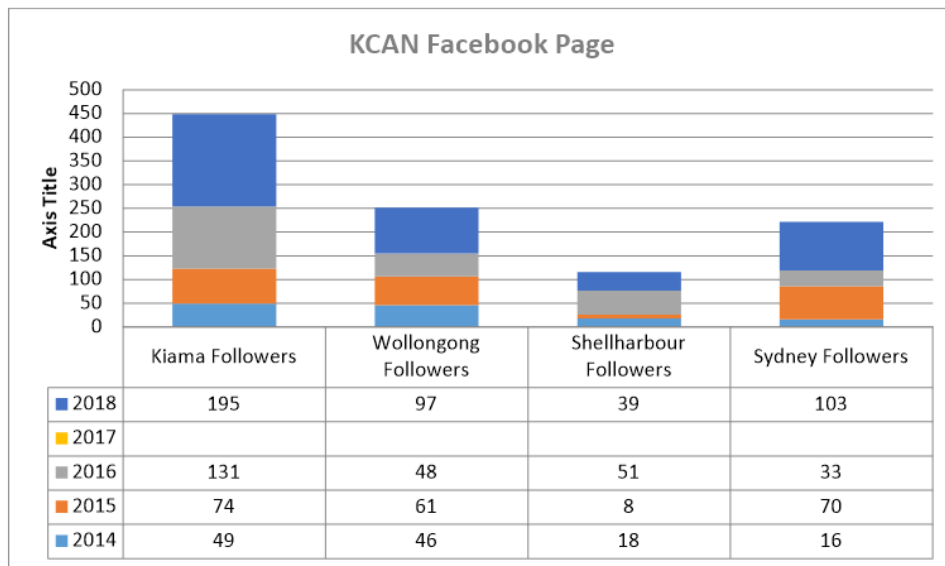
**3. Community and Cultural Development Officer Report**

**Funding for new arts centre**

Work has been undertaken to build information for future funding submissions including; proof of community engagement, consultation and arts development to date. To assist this process an online survey has been distributed with 69 responses having been received so far.

**Kiama Cultural Arts Network Blog and FB Page**





Item 11.1

Attachment 1

**Collaborate with Kiama tourism to promote and market cultural tourism**

The Old Fire Station and Daisy the Decorated Dairy Cow have been listed on the Australian Tourism Data Warehouse, a distribution point for all tourism related products.

**Sorry Day - May**

As it is the 10th anniversary of the government, public apology to the Stolen Generation this will be acknowledged as part of this year’s commemorations.

Dhinawan (Mick Baker) has been booked as a guest speaker. Dhinawan is an actor, dancer and speaker and speaks with children within the school system, he will hopefully bring a strong and knowledgeable presence to this years event.

**Artist Gatherings**

An expression of interest was called for potential venue hosts for the 2018 series of Artist Gatherings, with the Little Blowhole Art Bar being the successful venue.

Artist Gatherings will be held at the Art Bar, Thursdays, 5.30 - 7.00pm on:

- 31 May,
- 19 July and
- 29 Nov.

With a special Gathering held in Council Chambers on Monday 17 Sept which will include the announcement for the Arts Honour Roll.

**Music in the Park**

Expressions of Interest for the Music in the Park contract for the next 3 years have closed, with the Jazz and Blues Club being the successful applicant.

[17/37443]

**Weave Artist Directory**

Following a cross Council regional meeting of Cultural Development Officers, Wollongong and Wingecarribee Councils both expressed in interest in extending the Weave directory to include their areas. Quotes from Handmade Web are currently being sourced.

**Art Collection**

The Council Art Collection has been audited and is in the process of having artist information updated thanks to research undertaken by Catherine Carr.

In the process of this review it was identified a need to consolidate the collection and identify the pieces that befit a formal local government collection. Consideration should be given to the possibility of a further review and decommissioning process to be put in place.

**5. General Business****Resignations**

The Board received resignations from Bruce Ferguson and Paula Gowans, the process to fill these vacancy will proceed in the coming months.

**KISStopia**

Paula Gowans discussed the project idea of KISStopia and community planning activity that will be run in conjunction with the KISS Arts Festival. Paula invited Board members to volunteer as support role for the project.

**Art Centre Precinct**

To date funding applications have been submitted to two State Government funding pools, the:

- Regional Cultural Fund, and
- Environment and Tourism Fund

**Regional Cultural Fund**

An expression of interest was submitted in 2017 for \$2.7M, in December Council was advised that the EOI was unsuccessful.

Feedback received was:

- Solid project with good planning and broad community support.
- The panel's primary concern is with the large portion of funding coming from state government (75%) and much of that unconfirmed.
  - This places a large portion of risk of the project not proceeding on the outcome of the RGETF. Additional funding should be sought if the RGETF is not forthcoming.
  - Consideration could be given to staged project and/or scale down for the purposes of the RCF.

[17/37443]

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This is **Page 3** of the Kiama Cultural Board Committee meeting held on 11 January 2018

**Regional Growth - Environment and Tourism Fund**

An expression of interest was submitted in 2017 for \$6.3M, in March 2018 Council was advised that the EOI was unsuccessful.

Application assessed against the four criteria of; Alignment with state government strategic plans, Economic – cost/benefit, Affordability, Deliverability.

Feedback received was:

- Application was strong on strategic alignment, affordability and deliverability but failed in the cost/benefit analysis (economic)
  - The benefit (combination of what residents are prepared to pay plus, potential interstate and overseas tourist expenditure) does not exceed the cost.
- Given the strength of the other three criteria, Council was advised to seek funding through funding opportunities where the focus is on culture and arts.

**Moving Forward**

Director Corporate, Commercial and Community Services Kerry McMurray address the Board regarding options for moving forward.

Council has been given the opportunity to resubmit to the Regional Cultural Fund through a separate funding pool. However, given that the application for \$6.3M has been unsuccessful, it is highly unlikely that we would be successful in this additional funding round for 2.7M.

Putting more resources towards the application with a high likelihood of being unsuccessful or being successful and unable to fulfil the project was not considered a viable way forward.

Council will need to explore other funding opportunities and options while further work is undertaken to bring the Art Centre plans to DA level.

**The Kazadore**

Tamara Campbell sought support from the Cultural Board via a letter of support for the installation of the Kazadore performance space at Black Beach. The Board did not feel that they could not support this at this time. It was suggested that Chapman Reserve at Kendalls Beach could be another location option.

**Cultural Grants**

**Motion:** That the Kiama Cultural Board accept the recommendations of the Cultural Grants subcommittee that Rock of Ages (with condition), The Water Runner Album and Video (with condition), and the Jones Beach Mural applications be recommended to Council for funding.

**Moved** Cr Mark Honey                      **Seconded** Gail Morgan                      CARRIED

- 6. **Next meeting**                      Thursday 24 May, 5.30pm, Committee Room 1

**There being no further business the meeting closed at 7.15pm**

[17/37443]

**11.2 Business Service Partnership with Service NSW - Easy to do Business program**

CSP Objective: 3.0 A diverse, thriving economy

CSP Strategy: 3.1 Promote and encourage business development and economic prosperity in the local area

Delivery Program: 3.1.1 Implement the Kiama Economic Development Strategy

**Summary**

The purpose of this report is for Council to consider joining the *Easy to do Business* program in partnership with Service NSW.

**Finance**

The Easy to do Business program is a free service with no cost to Council to sign up and participate in the program.

**Policy**

NIL

**Attachments**

Nil

**Enclosures**

Nil

**RECOMMENDATION**

That council agrees to enter into a partnership with Service NSW to deliver the Easy to do Business program and allow Service NSW to support Council's customer service functions.

**BACKGROUND**

The *Easy to do Business* program is a joint initiative between the NSW Department of Premier and Cabinet, the Customer Service Commissioner, the Office of Small Business Commissioner, and Service NSW that brings together agencies, local councils and industry bodies to make the process of opening or expanding a small business simpler and faster.

The initiative was initially piloted at the City of Parramatta Council during May 2016 focusing on the cafe, restaurant and small bar sector, and in February 2017 the pilot program was expanded to incorporate Dubbo, Georges River and Northern Beaches councils.

The pilot program has been a success and demonstrated that a business can open in 90 days rather than 18 months and is now available for other councils to join as partners.

Report of the Director Corporate, Commercial & Community Services

11.2 Business Service Partnership with Service NSW - Easy to do Business program (cont)

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In accordance with the Service NSW (One- stop Access to Government Service) Act 2013, a resolution of Council is required to allow Council to enter into a Service Partnership Agreement and to delegate the relevant customer service functions related to the administration of the Easy to do Business Program to the Chief Executive Officer, Service NSW.

The *Easy to do Business* program aims to streamline the process of opening a new business, which typically requires a business owner to deal with 13 agencies (including Council) and to complete 48 forms, with the entire process taking up to 18 months.

Service NSW provides a digital platform and upfront information regarding what is required by a potential new business owner from all the approval authorities, including Council. A single digital form replaces the 48 existing forms. A business concierge service (staffed by Service NSW) via a single phone number is also provided to support customers through the process.

Benefits of the partnership with Service NSW as part of the *Easy to do Business* program include:

- improved support and a single source of information regarding what is required by a potential new business owner from all of the approval authorities.
- a business concierge team to provide support for businesses with new business ideas which should promote economic activity within the area.
- a single digital form will assist businesses to enter information quickly and to avoid the need for repeated entry of the same data.
- improved quality of information provided to Council, helping to reduce development application processing and assessment times.
- streamlining of the processes associated with opening and growing a business.

Participating in the *Easy to do Business* program has four main phases as follows:

1. Passing of a Council resolution – the Service NSW Act requires a resolution of Council to allow Service NSW to support Council’s customer service functions.
2. Operational readiness – operational readiness workshops with Council and Service NSW Business Concierge team to understand each other’s requirements and role.
3. Launch and Announcement – go live with the *Easy to do Business* service for the café, small bar and restaurant sector.
4. Maintain and Build – work to maintain and build the capability to include other subsectors such as clothing retail, housing construction, print businesses and road freight, in the future.

**11.3 Sponsorship Request Kiama Show Society - Kiama Show 2019**

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: 1.1.1 Improving the liveability of Kiama for those with diverse backgrounds and abilities

**Summary**

The Kiama Show Society has requested Council sponsorship for the 2019 Kiama Show, Show Ball, Trivia Night and the 2018 Kiama Show Artisan Food Festival (11 and 12 August).

**Finance**

Funded from Council's General Donations Policy

**Policy**

Council's Community Donations Policy is relevant.

**Attachments**

- 1 Kiama Show Society - request for sponsorship for the 2019 Show [↓](#)

**Enclosures**

Nil

**RECOMMENDATION**

That Council provide sponsorship of the Kiama Show and the Kiama Show Artisan Food Festival through:

1. Donating the Pavilion hire fee for the 2018 Kiama Show Trivia Night, booked for Friday 28 September 2018.
2. Donating the Leisure Centre hire fee for the 2018 Kiama Show Ball, booked for Saturday 17 November 2018.
3. The provision of waste services for the 2018 Kiama Show Ball on Saturday 17 November 2018.
4. The provision of waste services for the 2019 Kiama Show, on Friday 25 January and Saturday 26 January 2019.
5. Donating The Pavilion hire fee for the 2018 Kiama Show Artisan Food Festival, for Saturday 11 August and Sunday 12 August, in return for:
  - 5.1 Recognition of Destination Kiama and The Pavilion as major sponsors of this event and agreement to meet with the Manager Tourism and Events to discuss sponsorship benefits and details.
  - 5.2 Agreeing to partner with other tourism providers and businesses to leverage promotion of this event and facilitate visitation from outside our local area.

**BACKGROUND**

As in previous years the Kiama Show Society has written to Council requesting support to hold the Kiama Show (letter attached).

The Show is a popular fixture in the Kiama calendar, well supported by the community, including a large number of volunteers.

For many years Council has provided assistance to the Kiama Show by meeting the costs of the waste disposal and by carrying out the maintenance and upgrade of the grounds and associated buildings.

This year the Kiama Show has created a new event called the Kiama Show Artisan Food Festival, which has been strategically scheduled for an off peak period. This is an exciting new event which will celebrate and showcase local produce and people.

The Kiama Show is a major community event which has a long history and tradition. It is proposed that Council continues to provide assistance by providing the requested sponsorship.





President  
Michael Brennan  
P.O. Box 354 Kiama NSW 2533

Phone: 02 42331597  
Email: [secretary@kiamashow.com.au](mailto:secretary@kiamashow.com.au)  
Website: [www.kiamashow.com.au](http://www.kiamashow.com.au)  
ABN: 53 539 060 852

14 March 2018

The General Manager  
Kiama Council  
P.O Box 75  
Kiama NSW 2533

Dear Michael

The Kiama Show is a Kiama icon and 2019 will be the 171st celebration and promotion of the agricultural and horticultural resources of Kiama and surrounding areas and the advancements through exhibition, competition and entertainment. Over 12,000 people will enter the gates of the Showground on the 25 and 26 of January.

The members of the Kiama Show Society are all volunteers who donate their time and efforts in organising a quality family event for Kiama. Some volunteers have had families involved over generations. Other community groups and individuals assist at show time in the setup, organisation and clean up. All costs are covered through membership of the Kiama Show Society and sponsorship. Money raised from one show is used for the next Kiama Show – to keep entry fees to a minimum and to provide entertainment.

Sponsors, large and small, have loyally supported the Kiama Show Society each year thus enabling this quality and much loved family event to be enjoyed by the community for 168 years. However, this year the Show Society is again under considerable financial pressure with a financial loss for the past financial year.

As sponsorship is vital to the operation of the Kiama Show, the Society is again requesting Councils financial assistance through "in kind" sponsorship for 2019 Kiama Show. As such we would again request the waiving of the following fee's and charges;

- Pavilion hire fee for the 2018 Kiama Show Artisan Food Festival booked for Saturday 11 and Sunday 12 August
- Pavilion hire fee for the 2018 Kiama Show Trivia Night booked for Friday 28 September 2018
- Leisure Centre hire fee for the 2018 Kiama Show Ball booked for Saturday 17 November.
- Waste removal fees and charges for the 2018 Kiama Show Ball for Saturday 17 November.
- Waste removal fees and charges for the 2019 Kiama Show to be held on Friday 25 and Saturday 26 January 2019.



We consider ourselves very fortunate to have a wonderful working relationship with Council and appreciate the valued support we receive each year. Your consideration of this request is appreciated.

Yours faithfully,

David Young  
Sponsorship Coordinator  
Kiama Show Society Inc.

**11.4 Statement of Investments - March 2018**

CSP Objective: 4 Responsible Civic Leadership that is Transparent, Innovative and Accessible

CSP Strategy: 4.2 Ensure finances are managed responsibly to meet the goals of the Community Strategic Plan and to protect financial investments and assets

Delivery Program: 4.2.3 Ensure maximum revenue return is achieved

**Summary**

This report recommends receipt and adoption of the Statement of Investments for March 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

**Attachments**

1 Statement of Investments - March 2018 [↓](#)

**Enclosures**

Nil

**RECOMMENDATION**

That the information relating to the Statement of Investments for March 2018 be received and adopted.

**BACKGROUND**

Attached is a copy of the Statement of Investments for March 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 in December has seen the cash rate unchanged at 1.50%. "*The low level of interest rates is continuing to support the Australian economy*". There does not appear to be any likelihood of any change in rates moving upward in the short term and the hold on the cash rate is "consistent

Report of the Director Corporate, Commercial & Community Services

11.4 Statement of Investments - March 2018 (cont)

with sustainable growth in the economy and achieving the inflation target overtime.” (March 2018 Monetary Policy Decision, Media Release, No. 2018-5).

The Commonwealth Bank is quoting the following rates:

<b>3 Months</b>	<b>6 Months</b>	<b>9 Months</b>	<b>12 Months</b>	<b>18 Months</b>
2.62%	2.66%	2.67%	2.70%	2.74%

**Item 11.4**

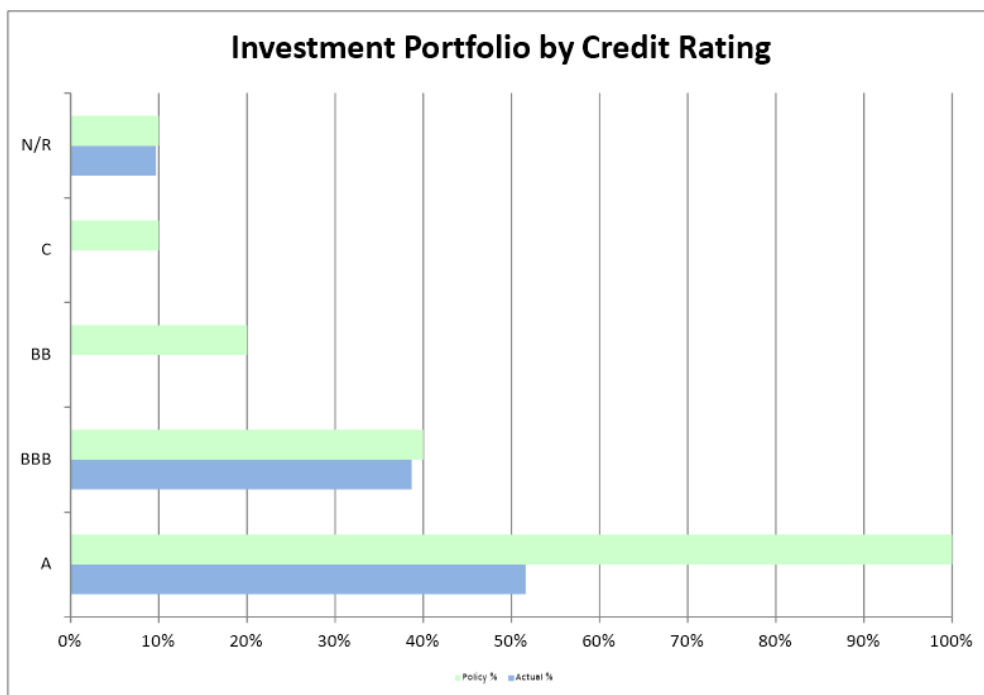
**Certification – Responsible Accounting Officer**

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 31 March, 2018

DIRECT INVESTMENTS: INSTITUTION	S & P RATING	MARKET VALUE \$	INVESTMENT TYPE	DATE LODGED	MATURITY DATE	TERM (DAYS)	RATE %
AMP	A	500,000.00	Term Deposit	13/09/17	13/06/18	273	2.60
AMP	A	1,000,000.00	Term Deposit	30/08/17	30/05/18	273	2.60
AMP	A	1,000,000.00	Term Deposit	30/08/17	30/05/18	273	2.60
AMP	A	1,000,000.00	Term Deposit	21/02/18	21/11/18	273	2.65
AMP	A	1,000,000.00	Term Deposit	06/09/17	06/06/18	273	2.60
AMP	A	500,000.00	Term Deposit	18/10/17	24/10/18	371	2.60
Beyond Bank	BBB+	1,000,000.00	Term Deposit	10/01/18	11/07/18	182	2.55
Bankwest	AA-	1,000,000.00	Term Deposit	11/01/18	13/06/18	153	2.55
Bank of Qld	BBB+	1,000,000.00	Term Deposit	12/07/17	11/04/18	273	2.65
Bank of Qld	BBB+	2,000,000.00	Term Deposit	22/11/17	22/08/18	273	2.60
Bank of Qld	BBB+	1,500,000.00	Term Deposit	29/11/17	29/08/18	273	2.60
Bank of Qld	BBB+	1,500,000.00	Term Deposit	08/11/17	09/05/18	182	2.60
Bendigo	BBB+	1,000,000.00	Term Deposit	02/08/17	02/05/18	273	2.55
Bendigo	BBB+	1,000,000.00	Term Deposit	04/10/17	04/07/18	273	2.55
Bendigo	BBB+	1,000,000.00	Term Deposit	31/08/17	31/05/18	273	2.50
Community Alliance Credit Union	N/R	1,000,000.00	Term Deposit	13/09/17	12/09/18	364	2.65
Community Alliance Credit Union	N/R	1,000,000.00	Term Deposit	13/09/17	12/09/18	364	2.60
Credit Union Australia	BBB	1,500,000.00	Term Deposit	29/11/17	26/09/18	301	2.55
ME Bank	BBB	1,000,000.00	Term Deposit	13/12/17	13/06/18	182	2.55
ME Bank	BBB	1,500,000.00	Term Deposit	24/01/18	25/07/18	182	2.60
ME Bank	BBB	1,000,000.00	Term Deposit	18/10/17	18/04/18	182	2.52
ME Bank	BBB	1,000,000.00	Term Deposit	15/01/18	18/07/18	184	2.60
NAB	AA-	1,000,000.00	Term Deposit	03/01/18	04/07/18	182	2.50
NAB	AA-	1,000,000.00	Term Deposit	13/12/17	13/06/18	182	2.45
NAB	AA-	1,000,000.00	Term Deposit	27/09/17	26/09/18	364	2.60
NAB	AA-	2,000,000.00	Term Deposit	25/10/17	24/10/18	364	2.55
NAB	AA-	1,000,000.00	Term Deposit	11/10/17	11/04/18	182	2.57
SA Police Credit Union	N/R	1,000,000.00	Term Deposit	14/06/17	20/06/18	371	2.92
SA Police Credit Union	N/R	1,000,000.00	Term Deposit	14/02/18	15/08/18	182	2.61
Suncorp	A+	1,000,000.00	Term Deposit	15/11/17	13/06/18	210	2.61
Suncorp	A+	1,000,000.00	Term Deposit	06/12/17	06/06/18	182	2.55
Suncorp	A+	1,000,000.00	Term Deposit	10/01/18	11/07/18	182	2.45
<b>Total Term Deposits</b>		<b>35,000,000</b>					<b>2.58</b>
TcorpIM Cash Fund	AAA	3,053,040	Cash Fund		AT CALL		<b>1.97</b>
Westpac	AA-	3,223,343	Bank Account	-	AT CALL		1.62
Westpac	AA-	81,579	Maxi Account	-	AT CALL		0.50
<b>Total 'At Call' Funds</b>		<b>6,357,962</b>					<b>1.06</b>
<b>TOTAL CASH &amp; INVESTMENTS</b>		<b>41,357,962</b>			Average Rate- Mar 2018		2.51
					Average Rate- Mar 2017		2.67
<b>TOTAL INVESTMENTS Feb 2018</b>		<b>42,063,050</b>					
<b>TOTAL INVESTMENTS Mar 2017</b>		<b>43,955,025</b>					
							Change in total investment over prev 1 month
							Change in total investment over prev 12 months

Note: The Westpac Bank Account balance shown above of \$3.22M includes deposits at month-end not processed to Council's financial system and excludes cheques that have not been presented.



**(c) Application of Invested Funds**

Restricted Funds:	Description	Value (\$)	
Externally Restricted	S94 Developer Contributions	5,116,008	
	Grants	298,611	
	Domestic Waste	2,346,477	
	Waste & Sustainability	403,006	
	Southern Council's Group	2,730,925	
	Internally Restricted	Blue Haven ILU	5,732,557
		Blue Haven Care-Residential	5,833,996
		Carer Respite Centre	1,379,706
		Land Development	2,913,984
		Waste Business Unit (Plant Replacement)	1,081,912
Plant Replacement		2,006,982	
Employee Leave Entitlements		2,400,000	
S94 Recoupments		2,182,802	
Carry-over works*		1,604,488	
Holiday Parks		1,779,238	
Contingencies	779,730		
Computer	879,698		
Property Insurance	120,000		
Community Bus	263,239		
CACP	110,856		
Organisational Development	200,000		
Fleet Replacement	100,000		
Council Election	55,000		
Leisure Centre Renewal	180,000		
Revolving Energy Fund	315,000		
Future Project Development	70,000		
Arts Precinct	85,000		
The Pavilion	210,000		
<b>Unrestricted Funds:</b>	<b>Funds to meet current budgeted expenditure</b>	<b>123,746</b>	
<b>TOTAL INVESTMENTS</b>		<b>41,357,962</b>	

**Note:**

The above Application of Invested Funds reflects audited balances as at 30 June 2017. Actual movement in these balances are recorded at the end of the financial year.

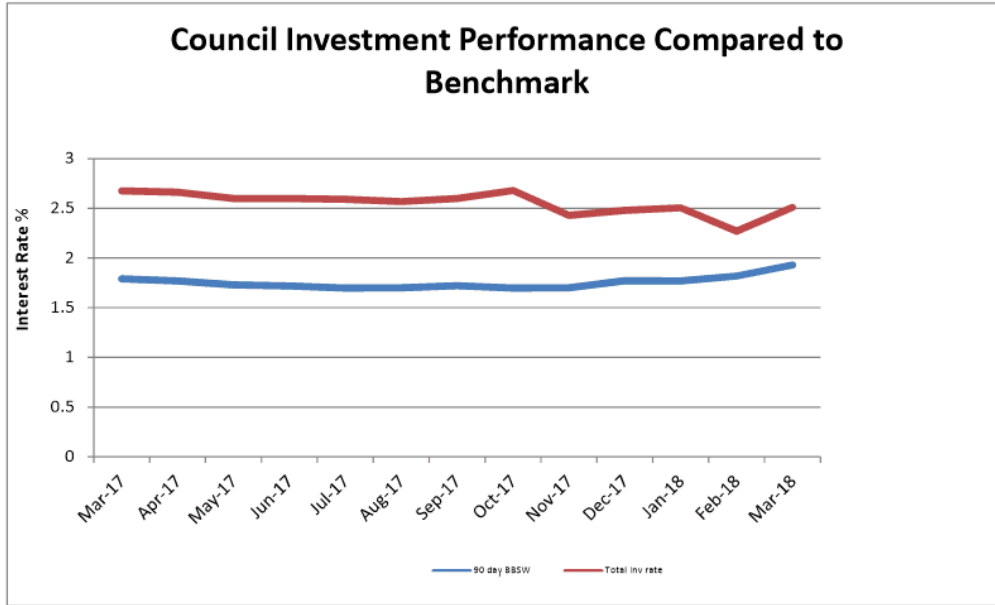
The Unrestricted Funds balance forms available cash to fund Council's ongoing budget operations.

\*Adjusted as expensed during financial year.

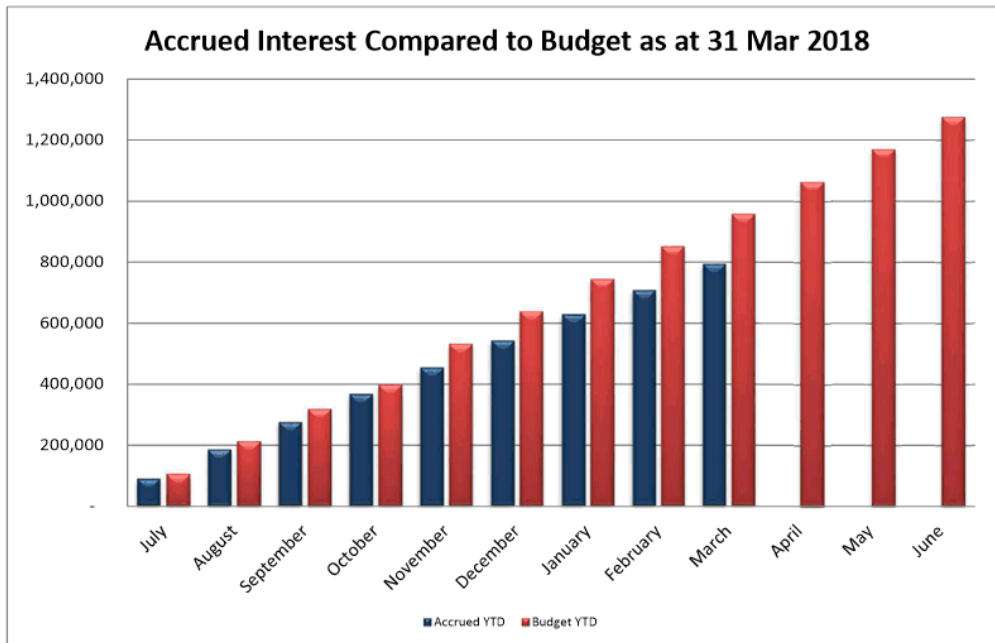
(d) Investment Portfolio Performance

Investment Performance vs Benchmark

	Investment Portfolio Return (%pa)	Benchmark: BBSW 90 day Bank Bill Index (source RBA)
1 month	2.51	1.93
3 months	2.43	1.84
6 months	2.48	1.78
12 Months	2.54	1.75



Council has been able to consistently perform above the Reserve Bank 90 day Bank Bill Index.



\*Interest forecast will be adjusted once cash flow expenditure for the KACCOE project is finalised.

**11.5 Interstate Conference - 2018 Caravan Industry Association of Australia National Conference**

CSP Objective: 3.0 A diverse, thriving economy

CSP Strategy: 3.3 Promote and support tourism in the local area

Delivery Program: 3.3.1 Management of Kiama Coast Holiday Parks as viable business entities

**Summary**

This report outlines the reasons for attendance of Council's Holiday Parks Coordinator, Marianne Hazell, another Council officer and up to two Councillors from the Holiday Parks Advisory Committee, at the 2018 Caravan Industry Association of Australia (CIAA) National Conference on the Gold Coast from 16-18 May 2018.

**Finance**

Cost of registration, travel, accommodation and out of pocket expenses for Council staff to be met by the Holiday Parks Budget.

**Policy**

All interstate conference attendance required Council approval.

**Attachments**

Nil

**Enclosures**

Nil

***RECOMMENDATION***

That Council grants approval for Council's Holiday Parks Coordinator, another Council officer and up to two Councillor's from the Holiday Parks Advisory Committee, to attend the 2018 Caravan Industry Association of Australia National Conference on the Gold Coast from 16-18 May 2018.

**BACKGROUND**

The Caravan Industry Association of Australia National Conference is the only national conference held that brings together all sectors of the Caravan and Camping Industry (Parks, Trades and Manufacturers) from around the country.

This conference will enable Council staff and Councillors to engage with industry colleagues, learn from industry and business leaders, find out about the latest industry trends and receive the most up-to-date industry data and statistics over two full days of focused presentations and workshops.

The interactive trade show is set to be the biggest and most comprehensive display of industry suppliers ever seen at the National Conference, and will be of particular



Report of the Director Corporate, Commercial & Community Services

11.5 Interstate Conference - 2018 Caravan Industry Association of Australia  
National Conference (cont)

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value to Council in respect to the current planning and design stages of the Business Development Strategies for the Kiama Coast Holiday Parks.

The information and ideas presented at this conference, together with the invaluable networking opportunities will further improve the operation of Council's Holiday Parks Business Unit, whilst supporting the objectives of Council's Integrated Planning and Reporting Framework.

The cost for attendance per delegate is a maximum of \$2,100 (based on a 3 night stay), which includes attendance at the 2 full day conference sessions and workshops, 3 evening events, accommodation, breakfasts, flights and airport parking.

Approval is therefore sought for the Holiday Parks Coordinator, Marianne Hazell, another Council officer and up to two Councillor's from the Holiday Parks Advisory Committee, to attend the 2018 Caravan Industry Association of Australia National Conference on the Gold Coast from 16-18 May 2018.

An information report will be provided upon return from this conference.

**Item 11.5**

**11.6 Enterprise Risk Management Policy**

CSP Objective: 4.0 Responsible civic leadership that is transparent, innovative and accessible

CSP Strategy: 4.2 Council embraces good governance and better practice strategies

Delivery Program: 4.2.1 Manage effective risk framework across council

**Summary**

Council's Enterprise Risk Management Policy review is due.

**Finance**

n/a

**Policy**

Enterprise Risk Management Policy

**Attachments**

1 Enterprise Risk Management Policy [↓](#)

**Enclosures**

Nil

***RECOMMENDATION***

That Council review the attached policy and provide endorsement.

**BACKGROUND**

The initial Enterprise Risk Management Policy was adopted in March 2014 and is due for review at a maximum of four year intervals.

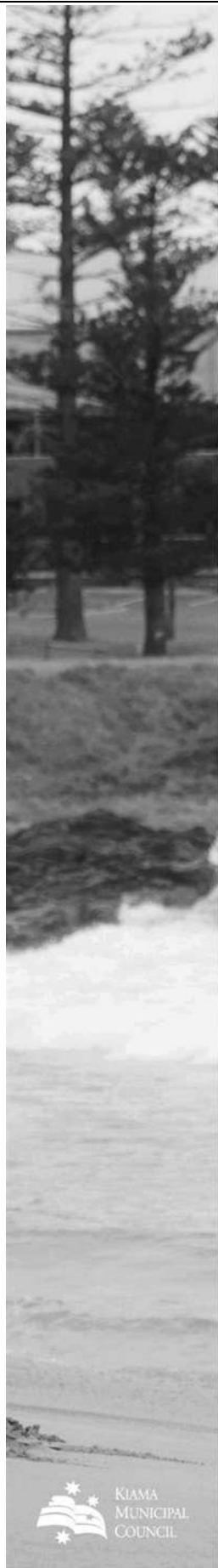


Item 11.6

Attachment 1

**Enterprise Risk Management Policy**  
Adopted March 2014





## Enterprise Risk Management Policy

### 1.0 Objective

The purpose of the Enterprise Risk Management Policy is to provide:

- a framework for the management of risk to support the achievement of corporate objectives, protect staff and business assets and ensure financial sustainability
- a systematic, proactive and enterprise wide approach to managing risk.

### 2.0 Scope

This Policy applies to all Councillors, employees, contractors and volunteers of Council activities and processes.

### 3.0 References

This document should be read in conjunction with:

- Enterprise Risk Management Strategy
- AS/NZS ISO 31000:2009 Risk Management Principles and Guidelines

### 4.0 Policy

Council is committed to the formal, systematic, structured and proactive management of risks across the organisation. This includes financial, reputational, safety, environmental, service delivery and strategic risks.

#### 4.1 Risk Management Framework

Council is committed to maintaining an effective, efficient and tailored risk management framework that consists of:

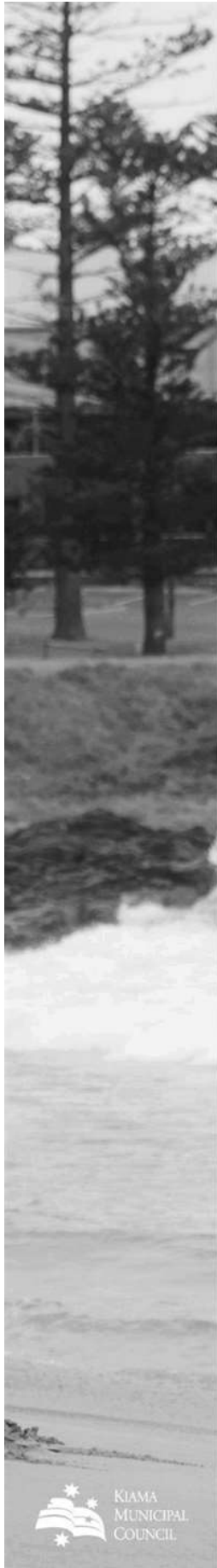
- this Policy
- an enterprise risk management framework strategy
- supporting policies that compliment risk management such as audit, fraud prevention, business continuity management, project management and WH&S management systems.

The framework will enable:

- a formal, structured approach to risk management that is appropriate to Council's activities and operating environment; and
- a risk management approach consistent with the principles of AS/NZS ISO 31000:2009 Risk Management Principles and Guidelines.

#### 4.2 Risk Appetite

Council's risk appetite can be summarised as follows: *Council has little or no appetite for known and avoidable operational risks that might have a significant or greater impact on the safety and wellbeing of staff and the community, security of Council and public assets, Council's reputation and/or service delivery. **Whilst Council will take all reasonable steps to control such risks, it is recognised that Council has limited resources and may not always be able to mitigate risk to the lowest***



**possible level.** Council acknowledges that it will have to take some calculated risks in order to achieve its strategic objectives. However, in taking such risks Council must consider current financial and human capacity and the potential impact on longer term financial, environmental and social sustainability.

#### 4.3 Implementing Risk Management

Council is committed to ensuring that a strong risk management culture exists and will develop and maintain an enterprise risk management strategy that:

- aligns risk management processes to existing planning and operational processes;
- allocates sufficient funding and resources to risk management activities;
- provides staff with appropriate training in risk management principles;
- assigns clear responsibilities to staff at all levels for managing risk;
- embeds key controls to manage risks into business processes;
- establishes appropriate mechanisms for measuring and reporting risk management performance;
- communicates risk management policies, plans and issues to staff and other stakeholders;
- takes human and cultural factors into account; and
- is dynamic, iterative and facilitates continual improvement

#### 4.4 Accountabilities and Responsibilities for Managing Risk

**The Council** is ultimately responsible for adopting and committing to this Enterprise Risk Management Policy, identifying and monitoring emerging risks and fully considering risk management issues contained in Council reports.

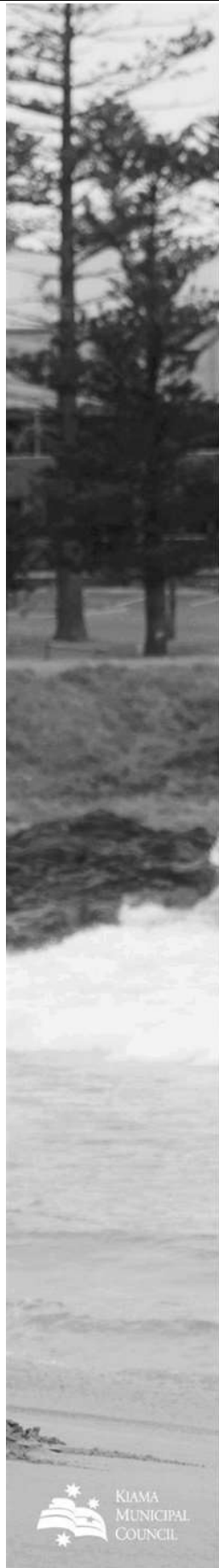
**The Audit, Risk & Improvement Committee** is responsible for reviewing whether management has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of business and financial risks, including fraud.

**MANEX (Executive Management)** is responsible for establishing and reviewing the framework for identifying, monitoring and managing significant business risks, periodically reviewing the Enterprise Risk Management Policy and Strategy and ensuring risk management practices operate within the framework provided by AS/NZS ISO 31000: 2009, relevant legislation and Council Policy or Protocol

**The General Manager**, with the assistance of senior management, is responsible for leading the development of an enterprise risk management culture across the organisation and ensuring that the Enterprise Risk Management Policy and Strategy are being effectively implemented.

**Directors** are responsible for ensuring that the Enterprise Risk Management Policy and Strategy are being effectively implemented within their areas of responsibility, and ensure due consideration is given to other impacted areas across Council or the community.

**Managers** at all levels, are the risk owners and are required to create an environment where the management of risk is accepted as the personal



responsibility of all staff, volunteers and contractors. Managers are accountable for the implementation and maintenance of sound risk management processes and structures within their area of responsibility in conformity with Council’s risk management framework.

**The Risk Management Coordinator** is responsible for coordinating the processes for the management of risk throughout the organisation within available resources. This may include the provision of advice and service assistance to all areas on risk management matters. It is recognised that the Risk Management Coordinator and Council more broadly, will have the support of Civic Risk Mutual, Claims Management Australasia & Willis Towers Watson that provides risk management assistance and software to member councils.

**All staff and contractors** are required to act at all times in a manner, which does not place at risk the health and safety of themselves or any other person in the workplace. Staff are responsible and accountable for taking practical steps to minimise Council’s exposure to risks in so far as is reasonably practicable within their area of activity and responsibility.

**5.0 Review History**

Council reserves the right to review or vary this Policy in consultation with the Union representatives of employees affected by this Policy. Once the consultative process has been finalised, the Policy will be referred to the MANEX for endorsement.

This Policy is subject to regular review at a maximum interval of four years.

Date	Source	Reference	Detail
March 2014	Council		Adopted by Council
April 2018	Manex		Policy review

**6.0 Document control**

<b>Directorate:</b>	Finance, Corporate and Commercial
<b>Policy name:</b>	Enterprise Risk Management
<b>Date adopted by Council or N/A:</b>	March 2014
<b>Date endorsed by MANEX:</b>	March 2014
<b>Last revision date:</b>	April 2018
<b>Next review date:</b>	April 2022
<b>Trim document number:</b>	

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

Nil

## 13 REPORT OF THE DIRECTOR BLUE HAVEN

### 13.1 Blue Haven Care - Community Care Support Program - Third Party Verification

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

Blue Haven Care recently underwent a Third Party Verification audit to assess the provision of services against the NSW Disability Service Standards and was found to satisfy the requirements of the Standards.

#### Finance

\$3,113 from CCSP budget

#### Policy

N/A

#### Attachments

1 Certificate - Third Party Verification [↓](#)

#### Enclosures

Nil

### **RECOMMENDATION**

That Council note the successful outcome of the Third Party Verification audit undertaken by SAI Global.

### **BACKGROUND**

On 23 March Blue Haven Care underwent a Third Party Verification audit by SAI Global, to assess the services provided under the Community Care Support Program (CCSP) against the NSW Disability Service Standards. A team of two assessors spent the day reviewing evidence provided by Blue Haven Care as well as interviewing care recipients. All staff contributed to achieving the outcome, although particular acknowledgement goes to Eileen Brown, Alana Lord and Marianna Parish for their work both before and on the day.

The certificate from SAI Global is attached for Council's reference and the full report can be provided on request.

This will be the last audit of its type as the CCSP will not exist after 30 June 2018. The NDIS Quality and Safeguards Commission will begin in July 2018 but to date there has been no indication of what compliance monitoring NDIS providers will be required to complete.





# CERTIFICATE OF VERIFICATION

This is to certify that:

## Kiama Municipal Council - Blue Haven Care

ABN 22 379 679 108

Joyce Wheatley Community Centre, Hindmarsh Park Kiama NSW 2533 AUSTRALIA

complies with the requirements of the

### NSW Disability Services Standards

for the following scope

The provision of community and disability services: Social and Community Participation: (1.04: Assistance with Social and Community Participation); Daily Living: (1.01: Assistance with Daily Living); Choice and Control: (3.07: Support Coordination).

**Certificate No: HDS40272**

Issued: 03 April 2018

Nicole Grantham  
General Manager SAI Global Certification Services

**This certificate fulfils the obligations of the Department of Family and Community Services Funding Agreement (2015-2018)**

**Registered by:**

SAI Global Certification Services Pty Ltd (ACN 108 716 669) 660 George Street, Sydney NSW 2000 Australia with SAI Global Pty Limited 660 George Street Sydney NSW 2000 Australia ("SAI Global") and subject to the SAI Global Terms and Conditions for Certification. While all due care and skill was exercised in carrying out this assessment, SAI Global accepts responsibility only for proven negligence. This certificate remains the property of SAI Global and must be returned to SAI Global upon its request. To verify that this certificate is current please refer to SAI Global On-Line Certification register at <http://www.seiglobal.com>



Item 13.1

Attachment 1

**13.2 Blue Haven Care Home - Accreditation**

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**

Council is advised that Blue Haven Care has received notification of the dates that assessors from the Aged Care Quality Agency will be undertaking the three day full accreditation review of the Home.

**Finance**

\$17,124

**Policy**

N/A

**Attachments**

Nil

**Enclosures**

Nil

**RECOMMENDATION**

That Council note that the accreditation review of Blue Haven Care Home will occur from 5 – 7 June 2018.

**BACKGROUND**

Blue Haven Care Home will be audited by the Aged Care Quality Agency from 5-7 June for the purpose of re-accreditation. Two assessors will be present on site for the three days. The assessment will include a review of documentation, policies and procedures, and interviews with staff, residents and family members.

The Accreditation Standards are detailed in the *Quality of Care Principles 2014*. There are four Standards:

Standard one: Management systems, staffing and organisational development

Standard two: Health and personal care

Standard three: Care recipients lifestyle

Standard four: Physical environment and safe systems

Each Standard consists of a principle and a number of expected outcomes. Standard one also has an 'intention' which indicates it acts as the umbrella for the other three Standards. There are 44 expected outcomes across the four Standards. Homes must comply with all 44 expected outcomes at all times.

Report of the Director Blue Haven

13.2 Blue Haven Care Home - Accreditation (cont)

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As is required, information is being made available to staff, residents and families to inform them of the accreditation review. Posters have been displayed to advertise the date of the review and the opportunity for families to request to meet with the assessors.

**Item 13.2**

## 14 REPORTS FOR INFORMATION

### 14.1 Minutes - Jamberoo Valley Ratepayers and Residents Association - meeting 6 March 2018

Responsible Director: Office of the General Manager

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The minutes of the Jamberoo Valley Ratepayers and Residents Association meeting held on 6 March 2018 are attached for Councillors' information.

#### Attachments

- 1 Minutes - Jamberoo Valley Ratepayers and Residents Association - meeting 06/03/18 [↓](#)

JAMBEROO VALLEY RATEPAYERS AND RESIDENTS ASSOCIATION Inc

PO Box 146  
Jamberoo  
NSW 2533

[JVRRASecretary@gmail.com](mailto:JVRRASecretary@gmail.com)

**MINUTES OF THE JVRRAS MONTHLY GENERAL MEETING  
TUESDAY 6 MARCH AT 7.30 PM  
CLUB JAMBEROO**

**Attendees**

Rob McKinnon, John Zimmer, Glenys Day, Geoff Reid, Mary Lou Reid, Vivienne Marris, Colin Hollis, Gordon Streek, Veronica Baker, Graham Pike, Phil Lewis, Geoff Boxsell, Mark Honey, Max Brennan, Narelle Day, Paul Rogers, Ray Nolan, Roger Lyle, Gary Byrne, Peter Casl, Gina Casl, Penny Morris, Paul Morris, A Waugh, Jo Osborne, Jeannie Lyall, Robyn Letham, Graham Letham, John Osborne

**Apologies**

Ros Neilson, Bob Neilson, Ros McKinnon, Marea Gardner, Stan Judd, Susie Nash, Margaret Stephens, Sidney Baker, Hazel Lewis, Tony Day, Sally Rogers, Julie McDonald, Ann Pike, Garry Cochrane, Helen Cochrane

**Meeting opened by Chairman, Rob McKinnon at 7.30**

**GUEST PRESENTATION**

Kerry McMurray, Director Corporate, Commercial and Community Services at Kiama Council presented a Power Point presentation on the Special Rate Variation which will ensure that Kiama Council continues to be Fit for the Future. He stated that Kiama does not have some of the highest rates in NSW and the SRV will have on average a \$5.19 increase on rates at the end of year 3. Copies of the presentation are available for members [here](#).

**1. [Minutes](#) of the previous general meeting of 6 February 2018.**

The Minutes as published were carried

**Moved: Graham Pike**

**Seconded: Rob McKinnon**

**2. Any Matters arising from the previous Minutes not listed elsewhere in the Agenda.**

There were no matters arising.

**3. Correspondence In and Out**

**[Correspondence In:](#)**

- DA and letters re Croom Farm stay proposal (further discussion under General Business)
- Golden Valley Road issues: timing
- Replies from Ministers re Special Meeting Feb 2018
- Garbage bin collection (further discussion under General Business)
- Graham Pike: Comments on draft of minutes and letters

- Graham Pike: Letter to Gareth Ward

**Correspondence Out:**

- Congratulations to Barbara Adams and Jamberoo Red Cross re Australia Day Awards
- Letters re Croom Farm Stay proposal
- Letters to Ministers and Council re Golden Valley Road Proposal
- Letter to Council re Campers
- Letter to Council re Off-leash dog area
- NB: Letters from Graham Pike re Heritage Conservation area – see section below, General Business, Item 12.

**Matters Arising from the Correspondence**

Vivienne Marris raised the issue of a letter Graham Pike wrote to Gareth Ward saying 4 dairy farmers had sold their farms to developers. When asked to name the farmers, he declined.

Geoff Boxsell also raised the matter of a letter Graham Pike had written to the Chair, Secretary and JVRRA Committee which he felt was inappropriate.

Andy Waugh also spoke on the matter of letter written by Graham Pike to JVRRA and felt both the tone and comments were inappropriate.

**MOTION:** JVRRA has confidence in the Secretary

MOVED: Geoff Boxsell

SECONDED: Rob McKinnon, Chair.

Motion carried.

**4. Treasurer's Report**

The Treasurer's Report as published was accepted

**5. Infrastructure Sub-Committee Report – Roger Lyle**

Roger Lyle and Glenys Day met with Council's Gino Belsito to discuss the outstanding items:

1. Wyalla Road footpaths – the developer has made a contribution towards the cost. Council will follow up with the developer and check on his contributions and Council will make up the difference.
2. Chapel Lane Footpaths – as above. There is another issue of which side of the road will accommodate a footpath.
3. Hyams Creek Bridge – there is \$191k in the budget for the bridge and footpath which is available this financial year.
4. Drain at the corner of Chapel Lane and Churchill Street – the erosion site was acknowledged and will be mended.
5. Mowing of Grass at Brookwood Estate – this is the responsibility of the developer. Council will follow up with the Developer.
6. Butcher's footpath – there is currently no budget but it is on the list.
7. Camping Issues – Signage will go up to clearly indicate where people can and can't park. Sensor lights are being installed around the tennis courts to hopefully prevent people from using this area as a toilet.
8. Air conditioning in the School of Arts – Costs are being submitted to Council prior to the 18/19 Budget.
9. Swimming Pool – Signs have been installed re hours. The issue of the ducks is being addressed with a net over the water and also with sensor water jets activated when the ducks attempt to land.
10. **Finally – Gino Belsito agreed to have a quarterly meeting with the Infrastructure Sub-Committee to save multiple trips to Jamberoo and to keep our reports current.**

**6. Publicity subcommittee Report – Glenys Day**

Discussion with both the Bugle and Kiama Independent have taken place and when articles of wider community interest are available they will be published.

**GENERAL BUSINESS**

**7. Developers' Contributions to Council revenue – Mary Lou Reid**

Following Kerry McMurray's discussion of Council rates and sources of revenue, Mary Lou Reid raised the issue of Section 94 Plans, relating to the size of the contributions paid by developers to Kiama Council to support infrastructure developments, and the use to which the contributions are put. It has been noted that several of the ongoing JVRRA infrastructure projects (footpaths, bridges, drains, etc.) are directly related to new housing developments in the village. ACTION: JVRRA to write to Council to request clarification of the current position of developers' contributions to infrastructure as they affect Jamberoo facilities.

**8. Update on Golden Valley Road – Glenys Day**

This matter is scheduled to come before Council's Meeting of 17 April 2018. This was confirmed by the Mayor, Mark Honey.

**9. Update of Precinct/Community Association with Mayor and General Manager, Kiama Council on 27 February.**

Rob McKinnon attended a meeting regarding CCAG at which there was discussion of general problems involving the Council. The matter of representation from other CCAG groups was discussed and whether North Kiama needs a reconstituted precinct committee. There is another meeting on Tuesday 13 March 2018.

**10. [Heritage Conservation Area \(HCA\) Listing of Jamberoo Village and Valley](#) – Graham Pike**

Graham Pike has submitted an application for a conservation area as in IREP2 boundaries. The National Trust and JVRRA have submitted a proposal to have an HCA application sent to the State Government for the Village and Valley to be included. Kiama Council have declined the National Trust classification. Graham said that if Council don't proceed then JVRRA should act to have the area classified. He is awaiting a response from the National Trust.

Penny Morris said she had discussed the HCA application with Michael Forsyth. His comment was that the Valley including the Village would be difficult because of all the new development which had taken place in the last year or so. One result of having the classification effective would be to limit 'complying' development proposals. The application should go through Kiama Council.

We need to decide if Kiama Council will take the initiative or JVRRA. Either way, we will have to work with the Heritage Council.

The process for making the application is simple and can be done online.

This matter is to be considered for a Motion for the next meeting.

**11. [DA 10.2018.7.1 LOT: 12 DP:866128 - Jamberoo Road Croom Development](#)- Graham Pike**

Kiama Council have rejected the DA because of environmental issues and because it was a Designated Development. However, the general feeling is that it will be resubmitted.

Graham Pike spoke of issues arising from similar causes in Canada.

Graham Pike put the following motion:

**Motion:**

That the JVRRA opposes the current Croom Farm Stay development (Kiama Council DA no. 10.2018.7.1) proposed for 55ha (136ac) of agricultural land two km north of Jamberoo, and any future modified and similar proposal for that land, on these grounds:

1. The development breaches a significant number of key provisions of the Kiama LEP and the Kiama (and Jamberoo) DCP, which the proponents are requesting Kiama Council to vary just for this development to enable it to proceed.
2. The development is inconsistent with provisions of the Kiama LEP which seek to prevent the fragmentation and loss of the primary production capacity of agricultural land.
3. The size and style of the development, particularly the principal residence, is totally inappropriate for and unsympathetic to the nature, character and heritage exemplified by surrounding farms, rural landscapes and the long history of food production in the Jamberoo valley.
4. In his application, the development's proponent asserts but does not show that the development will be predominantly a working farm, as required. The proponent's costings show that more than half the \$13.3 million cost of the development will go into the principal residence of the landowner and most of the balance into "farm stay accommodation", including a residence for a manager who, the documentation says, will manage the farm stay operation.
5. The development is located in the catchments of a number of watercourses and will generate large quantities of waste water but no Environmental Impact Statement has been prepared for the development.
6. There is no certainty or guarantee provided that the development will start or continue as a "farm stay" operation.
7. No guarantee is provided that any "farm stay" accommodation offered at the development would be available in perpetuity to all residents of and all visitors to Australia.

Further, the JVRRA informs Kiama Council, the NSW Planning Minister, the MP for Kiama and the local news media of its opposition to the proposed development and any future similar proposal.

**MOVED: Graham Pike**

**SECONDED: Penny Morris**

**Motion carried – in favour 17, Against 1**

**12. Collection of red garbage bins – Veronica Baker**

Veronica Baker would like the red garbage bins collected weekly instead of fortnightly. Council's Kerry McMurray pointed out the cost of garbage collection was \$77,500 for 8 days over Christmas period as an indication of increased costs in increased collections.

**MOTION: Weekly collection of red garbage bins –**

**MOVED: Veronica Baker**

**SECONDED: Graham Pike**

**2 votes in favour. Motion lost.**

**13. Mary Lou raised the issue of the cost of hiring the Jamberoo School of Arts.**

As the Mayor and the Director of Finance etc were present this was a timely issue. They agreed to review the hiring costs.

**14. DATE OF THE NEXT JVRRA MEETING – Tuesday 3 April 2018, 7.30 pm in Club Jamberoo (Bowling Club)**

**The meeting closed at 8.45 pm.**



**14.2 Clause 4.6 Variations to LEP Development Standards**Responsible Director: Environmental Services

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Planning Circular PS 18-003 which was released by the Department of Planning and Environment on 21 February 2018 provides new requirements for the procedures and reporting requirements for the use of clause 4.6 variations to Local Environmental Plan development standards. This circular requires the following measures:

- Written application supporting the variation to be provided with the development application
- A publicly available register of variations approved by Council
- A report of all variations approved to be submitted to the Department of Planning and Environment at the end of each reporting quarter
- A quarterly report of all variations approved under delegation to be provided to Council

Attached are tables listing all clause 4.6 variations for the December 2017 and March 2018 quarters.

**Attachments**

- 1 Variations Report [↓](#)

Variations to Development Standards - October/November/December 2017 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
10.2017.194.1	25	Michael Cres	Kiama Downs	Dual Occupancy	R2 -Low Density Residential	Minimum subdivision lot size clause 4.1	45%	9/10/2017	delegation
10.2017.192.1	52	Gipps Street	Kiama	Dual Occupancy	R2 -Low Density Residential	Minimum subdivision lot size clause 4.1	10%	11/09/2017	delegation
10.2017.228.1	4	Blair Street	Kiama	Dual Occupancy	R2 -Low Density Residential	Minimum subdivision lot size clause 4.1	25%	10/11/2017	delegation
10.2017.234.1	10	Northpoint Place	Bombo	Dual Occupancy	R2 -Low Density Residential	Minimum subdivision lot size clause 4.1	50%	21/11/2017	delegation
10.2017.184.1	5	Alison Street	Kiama	Dwelling	R2 -Low Density Residential	Floor Space Ratio clause 4.4	9%	16/10/2017	delegation
10.2017.87.1	9	Johnson Street	Kiama Downs	Shop Top Housing	B1 Neighbourhood Centre	Floor Space Ratio clause 4.4	20%	7/12/2017	delegation
10.2017.248.1	21	Pacific Ave	Werri Beach	Dual Occupancy	R2 -Low Density Residential	Minimum subdivision lot size clause 4.1	10.0%	12/12/2017	delegation
10.2017.270.1	8	Merrick Circuit	Kiama	Dwelling	R2 -Low Density Residential	Height of Buildings clause 4.3	5.6%	13/12/2017	delegation
10.2017.294.1	111	Riverside Drive	Kiama	Dual Occupancy	R2 -Low Density Residential	Minimum subdivision lot size clause 4.1	33.3%	13/12/2017	delegation

Variations to Development Standards - January/February/March 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
10.2017.310.1	98	Altunga Avenue	Kiama Heights	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	35.9%	06/02/2018	Council
10.2017.331.1	43	Surfleet Place	Kiama	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	38% (lot 1) 39% (lot 2)	01/03/2018	Council
10.2017.221.1	53	Merrick Circuit	Kiama	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	37%	01/03/2018	Council
10.2017.222.1	96	Merrick Circuit	Kiama	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	8% (lot 1) 9% (lot 2)	01/03/2018	Council
10.2017.322.1	29	Gibson Crescent	Jamberoo	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	41% (lot 1) 47% (lot 2)	01/03/2018	Council
10.2017.211.1	83	Merrick Circuit	Kiama	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	32% (lot 1) 29% (lot 2)	01/03/2018	Council
10.2017.176.1	47	Merrick Circuit	Kiama	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	28%	01/03/2018	Council
10.2017.138.1	13	Fadden Street	Kiama	Dual Occupancy	R2-Low Density Residential	Minimum subdivision lot size clause 4.1	31% (lot 1) 47% (lot 2)	01/03/2018	Council

**14.3 Parking Statistics - February and March 2018**Responsible Director: Environmental Services

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**CBD Parking**

Parking patrols conducted 39 specific – 28 general area

Infringements issued – 61

Vehicle spaces inspected – 1760

Shoalhaven Street 2P – 1 patrol

Terralong Street 1P – 2 patrols

Terralong Street 2P – 2 patrols

Terralong Street 1/2P – 8 patrols

Manning Street 2P – 3 patrols

Rosebank Place 2P – 3 patrols

Collins Street 2P – 1 patrol

Railway Parade 2P – 1 patrol

Fern Street 1/2P – 3 patrols

Fern Street 1P – 3 patrols

Noble Street 2P – 1 patrol

**School Zone Patrols**

Kiama High – 7 patrols – 4 penalty notices

Gerringong Public – 3 patrols – 5 penalty notices and 2 cautions

St Peter and Paul – 2 patrols – 1 penalty notice

Minnamurra Public – 6 patrols – 3 penalty notices and 1 caution

**Reactive Issues**

Path/Strip – 1 penalty notice

No Stopping – 7 penalty notices

Disabled – 1 penalty notice

Driveway – 1 penalty notice

Divided Line – 1 penalty notice

Wrong Angle – 1 penalty notice

No Parking – 3 penalty notices

Total amount of infringements issued = \$13,824

Specific patrols for April 2018 will be for locations nominated above.

**14.4 2018 Destination Australia Conference**Responsible Director: Office of the General Manager

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The annual one-day Destination Australia Conference run by Tourism Australia was held in Melbourne on 15 March 2018 and was attended by the Manager for Tourism and Events, Karen Ronning.

This Conference attracts tourism leaders from across Australia and is a big picture, outward looking event that brings together for a key learning and networking opportunity.

The highlights of this year's Conference were many, however please find below a summary of a small selection:

**1. Making Australia the most desirable destination on earth – John O'Sullivan, Managing Director of Tourism Australia**

- Importance of Business Events highlighted
- Business Events 16% of all travellers
- New Boosting Business Events Fund
- China now #1 in visitor expenditure. Regional dispersal is however limited.
- India experiencing 16% growth
- International Visitor Survey (IVS) indicate however a shorter length of stay trend
- 3 key themes – Food & Wine, Aquatic and Coastal, Nature and Wildlife
- Australian people our biggest attribute
- Overtourism – Australia has one visitor to every three residents. Barcelona has three visitors to every one resident.

**2. Reaching the right consumer – Adam Ferrier, Founder Tinkerbelle**

- What is cool? Confidence, caring for others, ability to connect with others, understated
- More money people have, the more selfish they become and the more mean
- Moving from conspicuous to inconspicuous consumption
- Marketing Australia - Too bogged at one end of the scale and too pretentious on the other
- Inconspicuous consumer – personal services, enlightenment (not impressing someone) and education
- High value travellers – purchase through to retention
- Passive consideration – Byron Sharp
- Active consideration – communicate value

## Reports for Information

## 14.4 2018 Destination Australia Conference (cont)

- 
- Market like Batman
  - Amplify weakness (Carl Yung)
  - Collective unconscious
  - Embrace shadow
  - Amplify your weakness
  - Enriching experiences
  - Strong loyalty via strong investment
  - Want experiences not possessions
  - Active and not passive experiences
  - The importance of visitor contribution, connection, co-creation
  - The importance of Authenticity
  - Do stuff that makes your destination and community proud
  - Create emotional connections
  - Single minded with message

**3. Dealing with Disruption – Claudia Kotchka, Strategy and Innovation Advisor**

- Understand your consumer and what they want, our role to satisfy the customer
  - Insight through empathy
  - Challenge the question
  - Prototyping and iterations
  - Multi-disciplinary collaboration
  - Benefits of centred innovation
- Inspiration from extreme consumers
- The importance of Design Thinking for Managers / Leaders
- Relentless focus on the consumer
- Patience

The Destination Australia presentations are all now available on line:

<http://www.tourism.australia.com/en/news-and-industry-tools/events/previous-industry-events/destination-australia-2018.html?cid=DM1101&bid=10678358>

**14.5 2018 Australian Coastal Councils Conference - Councillor Rice**Responsible Director: Office of the General Manager

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**Responsible Councillor:** Kathy Rice  
**Conference:** Australian Coastal Councils Conference  
**Location:** Geelong  
**Date:** 21-23 March 2018

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**Value of Conference**

This Conference is a powerhouse of information and investigation that is relevant to all coastal councils. Presentations cover coastal planning and management, economic development in coastal regions, short-term holiday rental (STHR) industry, sustainable coastal development, tourism and coastal policy. Conference organisers are extremely generous with conference resources and they have made the conference program, a full report and the PowerPoint presentations available at [www.coastalcouncilsconference.org.au/reports/](http://www.coastalcouncilsconference.org.au/reports/)

I urge readers to look at the conference program and investigate those areas of special interest to them. Due to the detailed nature of this resource I will keep my recount of conference proceedings to a minimum.

**Key Messages/Highlights**

A pre-conference forum on the impact of online short-term holiday rental (OSTHR) platforms took place on 20 March. All resources are available online, using the link above.

Kiama Council has participated in related research conducted by Sydney University Academic, Professor Nicole Gurrán. Nicole outlined her findings, representatives of high tourism councils presented their case studies and representatives of the short-term holiday rental industry sector outlined their perspective on the issues councils face regarding OSTHR.

Councils report a fairly common suite of impacts from STHR in peak times, but these impacts are perceived differently across councils. Benefits, challenges or a combination of both may be expressed. What is certain is that this type of accommodation is increasing rapidly. Registration of STHR's can occur in Western Australia and Victoria. Bass Coast, Victoria reports directing this revenue into their tourism and marketing budgets. One emerging issue is the possible reluctance of traditional accommodation providers to make new investments in holiday areas due to the inequity in applying regulatory charges across all accommodation providers. Another concerning issue is how water views are used to market STHR's. In the Daintree area, an unprecedented surge in tree poisoning has occurred and increased deterrents and penalties are now being called for.

Representatives of the holiday rental industry expressed their willingness to support increased regulation of the industry, but they were reluctant to provide the information identifying properties that is necessary to do this. The Parliamentary Inquiry into the industry in Victoria has recommended further investigation be conducted into legal implications, regulatory and enforcement options. The NSW

## Reports for Information

## 14.5 2018 Australian Coastal Councils Conference - Councillor Rice (cont)

Inquiry has not reported yet. Participants at this forum broadly agreed that STHR registration is something to be pursued. The next step in Professor Gurrans' work is to release a local guidance checklist. Currently only Kiama's B2 zones permit Tourist and Visitor accommodation so most of our properties are technically illegal.

Highlights from the remainder of the conference were:

**Tim Womersley**, DHI Water and Environment, described the offshore construction of artificial reefs to improve surf breaks

**Prof. Barbara Norman**, Canberra University, urged councils to harness the UN Sustainable Development Goals through Adaptive Integrated Town Planning. Greener, energy self sufficient and active towns are the future. She has just released a new book, 'Sustainable Pathways for our Cities and Regions' for planners seeking more sustainable pathways ahead.

**Dr Mitchell Horley**, Engineering Faculty UNSW, presented a fascinating paper that outlined the connection between storm direction and the extent of beach erosion. Storm systems are changing. New erosion hotspots are likely to occur. 'Coast Snap' involves citizen scientists in the long term monitoring of Manly and North Narabeen beaches.

**Ray Green**, of the Faculty of Architecture, University of Melbourne reported on a study identifying how coastal residents perceive character and place in their local community. Usage and classification of photographic images assisted residents to define what was appropriate in their area and guide local planners. Ray's book "Coastal Towns in Transition" addresses this important topic.

**Martin Hartigan**, The Nature Conservancy Australia, spoke on the Melbourne Metropolitan Forest Strategy which is an adaptive response to the impacts of increased population and changing climate. Cities are not apart from nature, they are a part of nature. Shade provides affordable cooling for the most vulnerable communities. Wildlife corridors have numerous benefits, not just for animal life.

Representatives of The **Australian Bureau of Statistics** spoke on methods of population estimation including that for seasonal peaks in population. Usage of Telco data is vital to this and the peak population estimates produced in this manner correspond very well in time to known population densities, such as that during business hours in the city or during a major game in a football stadium. As yet it is still difficult to provide this data in a form that can convincingly demonstrate population peaks for FAG grant purposes.

**Hon Mark Butler**, Shadow Minister for Climate Change and Energy confirmed that the extent of sea level rise varies across localities but is increasing Australia wide. Ice sheet melt is accelerating and Australia is falling short of its Paris agreement to reduce carbon emissions. There is risk of litigation from people suffering loss from climate change. It is time for Australia to put serious thought into these issues.

**Professor Bruce Thom**, stated that NSW's new Coastal Management Platform includes elements that are vital to protecting assets and integrating change management with future development. In doing so, the meaning of Environmentally Sustainable Development and how it will be implemented must be spelt out.



## Reports for Information

## 14.5 2018 Australian Coastal Councils Conference - Councillor Rice (cont)

**Rebekha Sharkie MP**, Member for Mayo highlighted that 85% of Australia's population lives in the coastal zone and many significant items of community infrastructure are within 200 metres of the coast. We must do all that we can to protect the assets of our coastal towns. Australia shows a lack of systemic planning for the coastal threats of sea level rise. Rebekha is committed to keep this matter before Federal Parliament and seeks the continued representations of Local Government.

**Field Trip 1** - I attended the Geelong Economic Development Initiatives Field Tour and was somewhat disappointed by the lack of ideas that were transferable to other locales. What we saw required a wealthy investor and the opportunity to co-locate their 3 tourism businesses within a few kilometres of each other. These were Curlewis, a privatised golf course that had upgraded all facets of its operation, retained its membership base and planned to diversify into tourist accommodation. Jack Rabbit, a winery that offered tastings and a café menu, hosted helicopter tours from Melbourne and boasted its own upmarket restaurant. Flying Brick, a large cider brewery and café which also accommodated the area's tourist information service. The brewery was conveniently located opposite the Adventure Park theme park, which was the only business we saw that was not owned by the same family. Adventure Park also had plans to expand into tourist accommodation. The tour demonstrated how much the Greater Geelong Council has embraced these types of tourist offerings to increase overnight stays.

Every day, my walk between the hotel and the conference venue demonstrated another valuable form of economic development. With Little Malop Street as its spine, a Laneway Precinct has been established. It offers numerous small shops and simple, user friendly street furniture that invites outdoor socialising and dining.

**Field Trip 2** – The other field tour I attended was inspiring. It visited several locations where the community actively volunteers in ecological preservation. Protection of endangered coastal birds - the Hooded Plover, at Breamlea, natural bush regeneration - weed management at Point Lonsdale, and Estuary observation and management - Barwon Estuary. There was deep commitment shown by the volunteers who greeted us and proudly demonstrated the breadth of their projects.

Inspired by the television series Sea Change, the population living along the Barwon Estuary has boomed ever since. Many of the new locals had little initial understanding of the significance of the estuary so the Barwon Heads Sustainability Group designed The Barwon Estuary Project and successfully achieved grant funding for it. The project blended environmental education workshops and field trips with photography and creative writing.

A Universal Diary that contained a variety of estuary related stimulus material was distributed free to interested community members for use over the first year and a half of the project. People using the diary entered observations of their environment at each time of the year, as they walked or went about their daily life. There was plenty of room to add photographs and writing. At the end of the time frame, the sustainability group invited people to submit their completed diaries for compilation (with permission) into a community-generated Journal of the Barwon Estuary. This is a terrific community development project, it brings the community together and generates community ownership of their natural environment. Kiama could learn from this.

Reports for Information

14.5 2018 Australian Coastal Councils Conference - Councillor Rice (cont)

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### **Benefits to Kiama Municipal Council**

The conference highlighted issues that impact Kiama Council where ongoing responsiveness, policy development and regulation being necessary over time - holiday rentals, tree vandalism and tree preservation, preservation of town character, coastal management and sea-level rise. The vast extent of resources made available on these issues by the Australian Coastal Councils Association is a great benefit to Kiama Council.

### **Suggestions for future action**

- Council could become more familiar with the UN's Sustainable Development Goals and visibly respond to them through our Integrated Planning.
- Council could acknowledge and become more aware of the work of its various environmental volunteers who are doing their work with pride, yet are likely unknown to each other or feeling unsupported by inconsistent recognition.
- Council could consider a community development project such as that for the Barwon Estuary.

### **Overall Rating**

5

### **Attachments**

- 1 Program 2018 Australian Coastal Councils Conference [↓](#)

## PROGRAM

### WEDNESDAY 21 MARCH 2018

- 09:00 WELCOME TO COUNTRY – Corrina Eccles, Wadawurring Women
- WELCOME TO THE CITY – Mayor Bruce Harwood, City of Greater Geelong
- 09:10 CONFERENCE OPENING  
Mayor Barry Sammels, Chair, Australian Coastal Councils Association Inc. and Mayor, City of Rockingham (See speech page 12 in this report)
- 09:20 INTRODUCTION TO THE GEELONG AND BELLARINE REGION  
Presentation by Dr Geoff Russell, Manager Corporate Communications and Marketing Services, City of Greater Geelong
- 09:35 SUSTAINABLE ECONOMIC DEVELOPMENT BY PROTECTING AND ENHANCING SURFING AMENITY  
Presentation by Mr Timothy Womersley, Senior Coastal Engineer, DHI Water & Environment
- 10:00 GREAT OCEAN ROAD AND ITS LANDSCAPES – PLANNING AND MANAGEMENT  
Keynote address by The Hon Richard Wynne, Victorian Minister for Planning. (See keynote speech, page 14 in this report)
- 10:30 *Morning tea*
- 11:00 FORUM REPORT - ONLINE SHORT-TERM HOLIDAY RENTAL PLATFORMS  
Report and panel discussion on the previous day's National Forum on Online Short Term Holiday Rental Accommodation with Professor Nicole Gurran of The University of Sydney and panel members.
- 11:30 SEVEN SUSTAINABLE PATHWAYS FOR OUR COASTAL CITIES AND REGIONS: ADAPTIVE INTEGRATED PLANNING  
Professor Barbara Norman - Foundation Chair, Urban and Regional Planning at The University of Canberra - outlines the positive contribution planning can make to prepare coastal communities for change in the 21<sup>st</sup> century
- 11:55 COASTAL PLANNING IN ACTION  
CALOUNDRA 'CITY OF BEACHES' - Presentation by Mr Matthew Stevenson, Coordinator Regional Planning and Advocacy, Sunshine Coast Council
- 12:30 *Lunch*
- 13:10 CONCURRENT SESSION ONE  
Geelong Economic Development Initiatives Field Tour - Departs from Foyer, Level 5, Geelong Library and Heritage Centre
- 13:30 CONCURRENT SESSION TWO – Collaborative Climate Adaptation Case Studies  
*The Challenge of Collaborating on Coastal Policy in 3 Frameworks*. Mr Stuart Waters, Managing Director, collaboration specialists Twyfords
- A Collaborative Approach to Coastal Adaptation by 9 Councils in the Peron Naturaliste region of Western Australia*. Ms Joanne Ludbrook, Coastal Adaptation Coordinator, Peron Naturalist Partnership

- A More Resilient and Insurable Built Environment in Coastal Towns.* Ms Maisie Auld,  
Senior Consultant, Edge Environment.
- 15:00      *Afternoon tea*
- 15:30      CONCURRENT SESSION ONE – Field tour continued off site
- CONCURRENT SESSION THREE – Coastal Hazard Assessment Case Studies
- Prioritising Coastal Hazard Studies – Managing Risks and Quantifying Funding  
Needs.* Dr Christine Lauchlan Arrowsmith, Group Manager, Coasts and  
Environment, Water Technology Pty Ltd
- The ‘Consequence’ of Risk-based Coastal Management and Adaptation.* Mr  
Matthew Barnes, Principal Coastal Engineer, BMT
- Port Fairy Coastal and Structure Plan.* Ms Chris Renkin, Project Manager, Port Fairy  
Coastal and Structure Planning, Moyne Shire Council
- 17:00      CONFERENCE DAY ONE CONCLUDED
- 19:00      WELCOME RECEPTION – The Carousel, 1 Eastern Beach Rd, Geelong

**THURSDAY 22 MARCH 2018 - CONFERENCE DAY TWO**

- 09:00 EXTREME COASTAL EROSION INTENSIFIED BY STORM WAVE DIRECTION  
Dr Mitchell Harley, of the School of Civil and Environmental Engineering at the University of NSW, presents findings of a study into the effect of changing storm patterns on coastal areas
- 09:30 ADVANCING LOCAL COASTAL CLIMATE ADAPTATION THROUGH REGIONAL COLLABORATION  
Presentation on the Association of Bayside Municipalities' Bay Blueprint 2070 project for Port Phillip Bay, presented by Ms Jacquie White, Executive Officer of the Association.
- 09:50 OUR COAST - A LOCAL RESPONSE TO THE CHALLENGES OF CLIMATE CHANGE  
Presentation by Mr Leigh Dennis, Coastal Adaptation Program Manager - City of Greater Geelong, concerning the Our Coast project which addresses the projected impacts of climate change on local coastal zones
- 10:15 PANEL DISCUSSION – THE CHALLENGE OF COASTAL ADAPTATION
- 10:30 *Morning tea*
- 11:00 CHARACTER AND SENSE OF PLACE IN COASTAL TOWNS  
Professor Ray Green, Faculty of Architecture, Building and Planning at The University of Melbourne, presents the findings of a recent study of the importance of character and place to residents of coastal towns.
- 11:30 MELBOURNE METROPOLITAN URBAN FOREST STRATEGY  
Presentation by Mr Martin Hartigan, Urban Conservation Manager, The Nature Conservancy, who is the project manager for the Melbourne Metropolitan Urban Forest Strategy in conjunction with Resilient Melbourne.
- 12:00 LIVING SHORELINE RESPONSE TO BUILDING COASTAL RESILIENCE  
Presentation by Mr Ralph Roob, Senior Environmental Engineer, City of Greater Geelong
- 12:30 SPECIAL GENERAL MEETING – Australian Coastal Councils Association Inc.
- 12.35 *Lunch*
- 13:05 CONCURRENT SESSION FOUR  
Coastal field tour of the Bellarine Peninsula – returns at 5pm  
Depart from Foyer, Level 5, Geelong Library & Heritage Centre
- CONCURRENT SESSION FIVE  
Management of the natural values of the Bellarine Peninsula – returns at 5pm  
Depart from Ground Floor, outside Geelong Library & Heritage Centre
- 13.30 CONCURRENT SESSION SIX  
Venue: City Hall
- Challenging Coastal Issues Case Studies  
*Adaptation and Collaboration: a Multi-agency Approach. Searching for Common Ground in a Contested Place – A Venus Bay Story.* Ms Alyson Skinner, Coastal Ward Councillor, South Gippsland Shire Council and Manager, Venus Bay Community Centre

*The Pillars: Managing Complex Coastal Issues with Multi-Government Agencies.* Ms  
Jeska Dee, Coastal Planner, Mornington Peninsula Shire Council.

*The Shorebirds of the Clarence Coast and Yuraygir National Park.* Dr Greg Clancy,  
ecologist and Councillor, Clarence Valley Council.

- 15:00      *Afternoon tea*
- 15:30      CONCURRENT SESSION FOUR & FIVE – Field tours continued off-site
- CONCURRENT SESSION SEVEN – Walking tour of the Geelong waterfront  
                 precinct
- 17:00      CONFERENCE DAY TWO CONCLUDES
- 19.00      GALA CONFERENCE DINNER including presentation of 2018 Australian Coastal  
                 Awards  
                 The Pier, Cunningham Pier, 10 Western Foreshore Rd, Geelong

**Item 14.5**

**Attachment 1**

## 14.6 2018 Australian Local Government Women's Association Conference - Councillor Rice

Responsible Director: Office of the General Manager

**Responsible Councillor:** Kathy Rice  
**Conference:** NSW ALGWA Conference  
**Location:** Gundagai  
**Date:** 16-17 March 2018

Item 14.6

### Value of Conference

The NSW Australian Local Government Women's Association (ALGWA) conference provides an opportunity for women in Local Government to meet and consider their experience in the local government setting. The conference is open to staff, elected members and interested members of the public. It focuses on common experiences and provides motivation for continued professional and personal development.

### Key Messages/Highlights

The conference began with a welcome from the Mayor of Gundagai, **Abb McAlister** and an address from the Member for Cootamundra, **Steph Cooke**. Her message to councillors was to always be alert as to how your skills can be refined through training. By understanding your individual weaknesses and chasing up every opportunity to strengthen your ability in these areas, the hard work will reap rewards.

The MC for the conference was **Anna Daniels**, journalist and author. In her presentation she encouraged listeners to be prepared to try out new things as it is the only way to find out our capabilities. Negative self-talk should be put aside, because we are more likely to achieve our goals if we can unconditionally set our minds to it.

**Freda Nicholls** a local author spoke on 'Our Stories'. Everyone has a story. Being open to tell yours requires trust and confidence. To hear the stories of other people, create a trusting environment and listen carefully.

**Robyn Henderson**, a professional networking strategist and author, advised that when networking it is better to aim for a few high quality conversations than many small ones. She encouraged listeners to use the networks they engaged in to mentor and support others and recommended acting more like the host than the guest, often, to help people connect. Through stimulating these connections we could probably interest more women in local government.

Robyn also conducted a workshop on presentation skills. Her key points were: being authentic is very important; inject humour; make sure your embedded stories are VERY current; don't let negative self-talk discourage; and believe you are up to it.

**Vivien Thompson** was rural firefighter and incident controller, through the 2003 Canberra bushfire. She spoke on how important it was to be concise and calm in giving direction in such circumstances. When being persuasive in politics, we may only have a very short time to get our point across. For maximum outcome, choose your demeanour, don't speak too fast, make sure to include who you are, what your key message is and why it is important. Practice this.

## Reports for Information

14.6 2018 Australian Local Government Women's Association Conference -  
Councillor Rice (cont)

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**Neryl East**, Media and speaking professional, also spoke on communication. She reminded us that in this time of digital media, anyone in local government will always be near the spotlight and it can turn on to you very rapidly. She recommended being aware of all that is going on in your community. When telling the current story to your readership or any other channel, be present, know your mindset and make sure you impart your main points succinctly.

**Coral Ross**, ALGWA National President, spoke of ALGWA's 60 year history and its current interest in the MeToo, women's superannuation and Childcare Award issues in Australia. Coral talked about ALGWA's ongoing concern regarding the low overall representation of women in senior or elected local government roles and cited studies that show the positive impact of women on boards. In 2014, 30.4% of elected members in Australia were women. Of these, NSW sits with SA well below this when broken down by State, with each having approximately 27% women of elected members being women.

**Leigh Bowden**, Cootamundra Councillor delivered a powerful finale, with a fascinating story of her progression from an accepting evangelical Christian background through an extensive study of feminist and indigenous literature before moving to Cootamundra and forming a local social justice and environment group. She was elected to Council in September 2017. Her passion and ability was infectious.

**Benefits to Kiama Municipal Council**

This conference is accessible to all women and does not exclude men. It is good value to councillors like myself who are outnumbered in a male council or to female staff, because it creates a support network and reinforces motivation for ongoing achievement.

**Suggestions for Future Action**

Since 2012 Kiama Council has had only one female councillor. That is an 11% representation of women which is well below the NSW average of 27%. In advance of the 2020 election Council could encourage enquiries from potential female candidates and ensure that they are aware of the support materials that ALGWA and the Office of Local Government have available.

**Overall Rating**

4



**14.7 World Surf League World Junior Championship 2017 - Post Event Report**

Responsible Director: Corporate, Commercial & Community Services

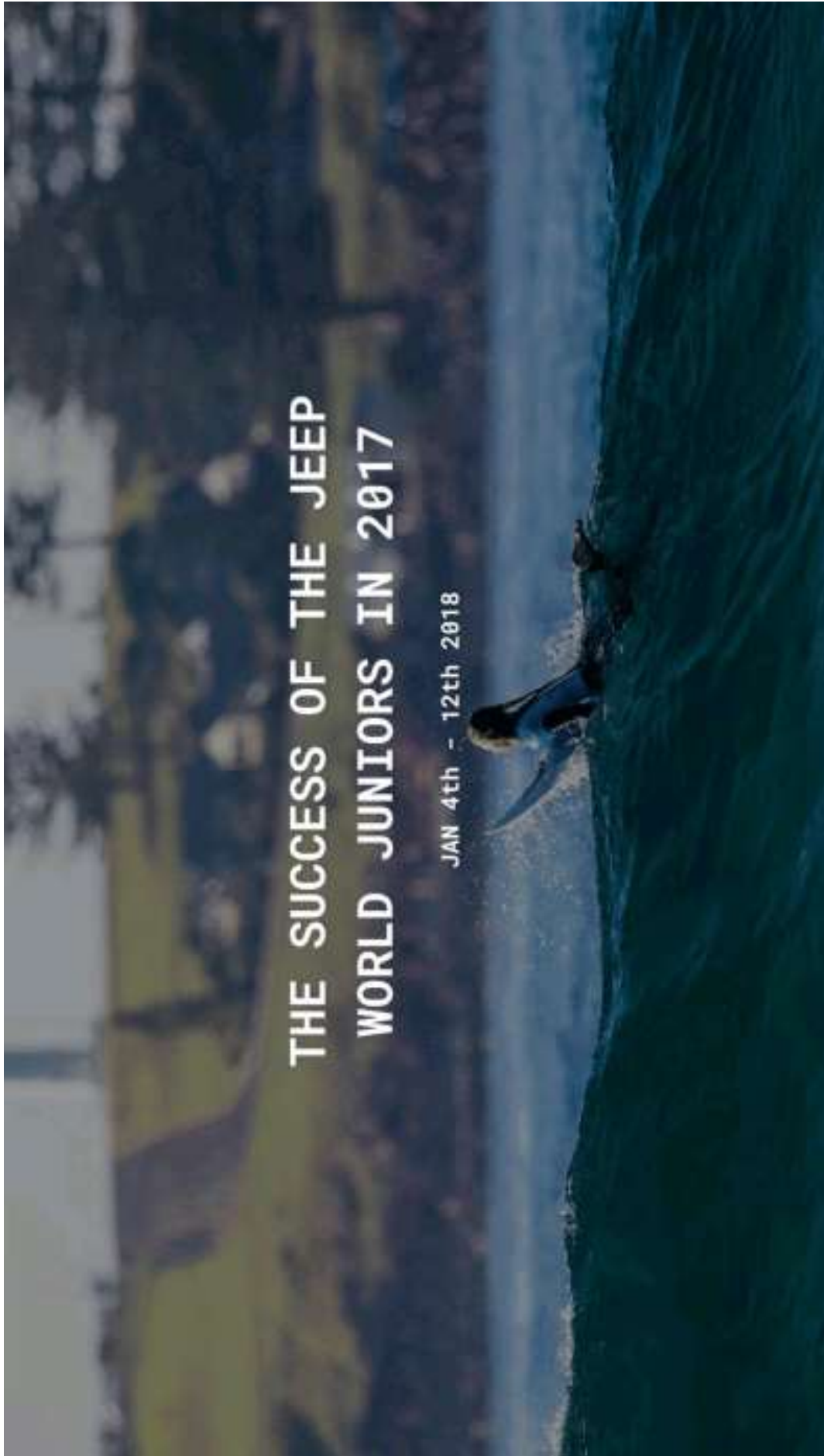
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Attached please find the Post Event Report presentation from the World Juniors Championship, which was supplied by World Surf League.

**Attachments**

- 1 WSL - World Junior Championship 2017 - Post Event Report [↓](#)

**Item 14.7**



Item 14.7

Attachment 1



## REACH

All eyes were on this year's Jeep World Junior Championship. From an enthusiastic and passionate on-site audience, to a tuned in fanbase across various platforms, this event was hard to miss.

### WEBSITE

- 5.84M total digital video plays

### UNIQUES

- 696.6K live viewers on WSL web/app

### PRESS

- 293+ press mentions in both local and global coverage

### SOCIAL

- 38M+ social impressions

\*See Appendix for numerical breakdowns



## SOCIAL MEDIA HIGHLIGHTS

### FACEBOOK

- 37,892,400 Total Facebook Impressions
- 30,027,700 Total Facebook reach
- 6,289,400 Total Facebook video plays

### TWITTER

- 86,900 Total Twitter Impressions
- 2,000 Total Twitter Engagements
- 12,500 Total Twitter Media Views

### INSTAGRAM

- 688,600 Total Instagram Video Views



# JEEP WORLD JUNIOR CHAMPIONSHIP

Jan 04 - Jan 12, 2018  
Kiama, New South Wales, Australia

	Live	VOD	Total
Views	474,490 <small>164% YOY GROWTH</small>	5,364,707	5,839,197
Hours	81,125 <small>21% YOY GROWTH</small>	141,455	222,580

Watch Hours By Content	Device Breakdown	Top Global Markets
VOD: 64% LIVE: 36%	DESKTOP: 60% MOBILE: 40%	1. USA 2. AUS 3. BRA 4. JPN 5. FRA 6. POR

Page/Screen Views	3,446,570
Visits	792,641
Unique Visitors	357,852
Facebook Live Impressions	7,862,440
Facebook Live Audience	540,000
Redirects From Facebook to Web/App	201,000

SOURCES: PROGRAM ANALYTICS, GOOGLE ANALYTICS, FACEBOOK ANALYTICS, YOUTUBE ANALYTICS GLOBAL  
\*\*VOD CONTENT IS STILL AVAILABLE ON WSL.COM/PROGRAMS.COM. THIS REFLECTS ONLY JAN 04 - JAN 12, 2018



Item 14.7

Attachment 1

**THE JEEP WORLD JUNIOR CHAMPIONSHIP WAS FEATURED IN PUBLICATIONS SUCH AS**

Publication	Reach
Los Angeles Times	17.8M
Yahoo! Sports	12.9M
L'EQUIPE	4.43M
World Journal	2.71M



Item 14.7

Attachment 1



**14.8 Question for future meeting: No Stopping zone on Saddleback Mountain Road**

Responsible Director: Engineering and Works

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At Council's meeting held on the 20 March 2018 Councillor Sloan requested that the Traffic Committee consider bringing forward to 2pm the "No Stopping" zone on Saddleback Mountain Road near the High School.

As requested by Councilor Sloan, the matter will be raised at the Kiama Local Traffic Committee meeting to be held on 1 May 2018.

Item 14.8

**14.9 Question for Future Meeting: Bathers Development - Parking**Responsible Director: Environmental Services

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At its meeting held on 6 February 2018, a question was asked by Councillor Rice on how street parking in the vicinity of the Bathers development is proposed to be regulated following its occupancy.

Parking arrangements currently in place in the vicinity of the Bathers development site vary and include:

- 2 hour time limited parking between 9am and 5pm Monday to Friday on the eastern side of Manning Street, fronting Coronation Park and in the adjacent North Coronation Park car park.
- 2 hour time limited parking between 8:30am and 6pm on the eastern side of Manning Street opposite the Bathers development north of the North Coronation Park car park.
- Bus zone between 7am and 6pm Monday to Saturday and between 7am and 4:30pm Sunday on the eastern side of Manning Street opposite the Bathers development immediately south of Bong Bong Street.
- 2 hour time limited parking between 9am and 5pm Monday to Friday and between 9am and 12noon Saturday on the western side of Manning Street, south of the Bathers development.
- 2 hour time limited parking between 8:30am and 6pm Monday to Friday on the northern side of Bong Bong Street opposite the Bathers development (in front of the Grand hotel).
- There are also some areas of no stopping and disabled parking in the vicinity of the Bathers development.

The area immediately fronting the Bathers development on Manning Street is currently a restricted construction zone, with no parking restrictions in place in the area immediately fronting the Bathers development on Bong Bong Street. At the completion of the Bathers development, appropriate parking arrangements will be put in place in consultation with the Kiama Local Traffic Committee. This will be the subject of a report to the May 2018 Committee meeting and will include the re-introduction of 2 hour time limited parking consistent with the arrangements in place to the south, along with a dedicated bus and loading zone fronting the development in Manning Street.

The performance of all of the parking restrictions in place within the vicinity of the Bathers development are able to be monitored and reviewed if necessary in consultation with the Kiama Local Traffic Committee. Enforcement of parking restrictions would include scheduled Ranger patrols to identify any breaches.

**14.10 Question for future meeting: - Kiama Farmers Market - possible relocation**

Responsible Director: Corporate, Commercial & Community Services

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This report is in response to a Question for Future Meetings from Councillor Steel regarding the possible relocation of the Kiama Farmers Market from Coronation Park to an area at The Pavilion Kiama.

The Pavilion Kiama is the largest conference, wedding and event venue in the municipality. As such it is used extensively for mid-week conferences and meetings. The car park is often heavily occupied by attendees at these events. If there were to be a market in the car park or surrounds of the venue, this would create a buildup of traffic and parking required in and around the showground.

If the Farmers markets were to be relocated to the car park at the showground, this would also have implications for attracting large conferences at The Pavilion with noise and loss of amenity for the conference attendees. Conferences are a key target market for the venue and this would hinder their ability to attract events.

The Pavilion is currently used as a wet weather back up option for the Farmers Markets however, due to the number of bookings for the venue that occur on a Wednesday, it is often unavailable for this purpose.

During the months of February to September, the fields are also heavily utilised by the Kiama Rugby Club (seniors and juniors) and the Kiama Knights Rugby League Club (seniors and juniors). Wednesday afternoons from 4pm would see not only many children in the area, but also many car movements which would create a heavy flow of traffic which could result in some safety concerns.

**14.11 Question for Future Meeting: Councillor Conference Attendance**Responsible Director: Office of the General Manager

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At the Council meeting on 20 March 2018 Councillor Way requested that a report be provided on the expenditure for each councillor on their attendance at conferences and training. Further, he also requested advice on whether Council has a policy regarding councillor conference attendance.

Like many other roles, the one of councillor is varied and often includes attending conferences and undertaking training to ensure that knowledge of legislation and methodologies remains current as well as keeping abreast of the latest information on topical and relevant matters.

Most councillors are delegates to external bodies and organisations such as Healthy Cities Illawarra and the Illawarra Bushfire Management Committee. They are also members or various Council committees such as Kiama Tourism Advisory Board and the Estuary and Floodplain Management Committee. As such councillors are encouraged to attend conferences, workshops and seminars relating to the purpose of those committees and organisations as one of the many ways in which they can remain current, gain ideas or network.

Councillors are also encouraged to undertake training which will provide them with the skills and knowledge required to perform the duties of a councillor in a confident and knowledgeable manner. Councillors in this and previous terms have undertaken the Executive Certificate for Elected Members and the Company Directors Foundation courses. Both courses are offered and sponsored by Local Government NSW for the express purpose of assisting councillors to perform their duties.

Council does not have a specific policy relating to councillor conference attendance however, the Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and other Councillors adopted on 14 February 2017 contains clauses specifically relating to conference, seminar and training course attendance and reimbursement of expenses incurred to attend.

In accordance with Clause 7.0 of the above policy, conference and seminar attendance where possible, is approved by a full meeting of the Council. Part 2 of the abovementioned policy relates to the payment of expenses for both general and specific provisions such as registration, accommodation and travel for councillors when attending conferences, seminars and training courses. A copy of the policy has been previously circulated to councillors.

The table below shows the expenditure for each councillor on their attendance at conferences and training for the current council term (September 2016 to date). Councillors in this term have attended various conferences, including but not limited to the Local Government NSW Annual Conference, the ALGA National General Assembly, the Australian and NSW Coastal Council Conferences, the LGNSW Tourism Conference. Councillors have also undertaken the AICD Company Directors Course, various LGNSW councillor workshops and the Executive

## Reports for Information

## 14.11 Question for Future Meeting: Councillor Conference Attendance (cont)

Certificate for Elected Members. This is in accordance with the Office of Local Government's directive that Council's provide mandatory training for councillors.

<b>Councillor</b>	<b>Total \$</b>	
Matt Brown	16,392.54	(includes \$7699 for AICD Full Directors Course)
Mark Honey	6,546.59	
Neil Reilly	14,250.79	(includes \$3884.47 for AICD Foundation Directors Course and associated accommodation and travel costs)
Kathy Rice	16,831.04	
Andrew Sloan	4,420.91	
Warren Steel	4,489.75	
Don Watson	11,841.90	(includes \$9109.86 for AICD Full Directors Course and associated accommodation and travel costs)
Mark Way	0	
Mark Westhoff	10,924.73	(includes \$3984.23 for AICD Foundation Directors Course and associated accommodation and travel costs)
<b>Total</b>	<b>\$88,533.25</b>	

Council includes in the annual budget an amount for councillor conference, seminar and training course attendance and for the 2 years of this current term the budgeted amount has totaled \$45,000.

Increased costs in the current expenditure can be attributed to training of new councillors as well as the introduction by LGNSW of the AICD Directors Course which has a higher registration cost than many other training courses but provides more in-depth training to councillors in complex areas such as fiscal responsibility, governance and risk management. The AICD Full and Foundation Directors courses were offered to all councillors with Councillors Brown, Reilly, Watson and Westhoff taking up the offer at a total cost of \$24,677.56.

**14.12 Question for Future Meeting: SP3 Tourist Zones**

Responsible Director: Environmental Services

Item 14.12

At its Ordinary meeting dated 6 February 2018, Councillor Reilly requested a report be prepared to amend the Kiama Local Environmental Plan (LEP) to include an SP3 Tourist zone.

**Background**

There has been substantial pressure on dedicated tourist and visitor accommodation providers from Short-Term Rental Accommodation platforms such as Stayz and Airbnb. This combined with the high value of residential accommodation in the town centre has led to a decline in available specialty tourist accommodation in the Kiama area.

The previous Kiama LEP 1996 had a tourist related zone which was located on the eastern end of Bong Bong Street and along Manning Street between Bong Bong Street and Ss Peter and Paul Catholic Church (see 3(d) zone in figure 1 below):



**Figure 1: Kiama LEP 1996**

The Kiama LEP 2011 applied the B2 Local Centre zone which permitted tourist and visitor accommodation as well as commercial and business related development types.

Council staff are currently in the process of preparing a consultants brief for a holistic study of the Kiama Town Centre. The results of the study will help inform whether there is a need for a dedicated tourism zone in Kiama.

The decision of whether or not an SP3 Tourist zone warrants inclusion in the Kiama LEP 2011 will be revisited once the results of the Town Centre Study are finalised.

**14.13 Councillor Meetings Register as at 10 April 2018**

Responsible Director: Office of the General Manager

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Attached for Councillors' information is the Councillor Meetings Register as at 10 April 2018.

**Attachments**

- 1 Councillor meetings register - 13/12/17 to 10/04/18 [↓](#)

### Meetings - 13/12/17 - 10/04/18

Officer Name	Meeting Date	Councillor Name	Subject	Duration
Carlie Sulter	25/01/2018	Mark Honey	GM recruitment	45
	<b>Sum</b>			<b>45</b>
Clare Rogers	6/03/2018	Mark Honey	monthly catch-up	60
	2/04/2018	Mark Honey	monthly catchup	60
<b>Sum</b>			<b>120</b>	
Gino Belsito	18/12/2017	Mark Way	catch up	10
	5/03/2018	Mark Honey	Minnamurra Lions projects with General Manager	60
	3/04/2018	Mark Honey	monthly catchup	60
	5/04/2018	Mark Way	catch up	16

Item 14.13

Attachment 1



Officer Name	Meeting Date	Councillor Name	Subject	Duration
	9/04/2018	Mark Way	unscheduled meeting	45
<b>Sum</b>				<b>191</b>
<hr/>				
<b>Joanne Skofic</b>				
	27/03/2018	Neil Reilly	Regarding Councillors Events calendar - also in attendance Narelle Mousdale, Scott Kermode and Cathie Bax	20
<b>Sum</b>				<b>20</b>
<hr/>				
<b>Karen Ronning</b>				
	26/03/2018	Mark Honey	Speaking with Tourism Manager from Victoria	60
<b>Sum</b>				<b>60</b>
<hr/>				
<b>Kerry McMurray</b>				
	6/03/2018	Mark Honey	monthly catch-up	60
	27/03/2018	Mark Honey	Draft code of conduct - Michael Forysth also in attendance	60
<b>Sum</b>				<b>120</b>
<hr/>				
<b>Linda Davis</b>				
	19/12/2017	Mark Honey	Meeting with Alan Smith (resident) about DA challenges and proposal	75

Item 14.13

Attachment 1

Officer Name	Meeting Date	Councillor Name	Subject	Duration
	7/02/2018	Mark Honey	monthly catchup	60
	8/02/2018	Mark Honey	Trevor Symonds (resident) DA issue	60
	21/02/2018	Mark Honey	Gareth Ward, David Friedlieb regarding Kiama Urban Strategy	60
	7/03/2018	Mark Honey	monthly catch-up	60
	27/03/2018	Mark Honey	Meeting with Alan Smith at Gareth Ward's office	60
	4/04/2018	Mark Honey	monthly catchup	60
<b>Sum</b>				<b>435</b>

Megan Hutchison				
	27/02/2018	Mark Honey	With Precinct and Association representatives	60
<b>Sum</b>				<b>60</b>

Michael Forsyth				
	10/01/2018	Mark Honey	GM Recruitment with Carlie Sulter in attendance	60

Officer Name	Meeting Date	Councillor Name	Subject	Duration
	11/01/2018	Mark Honey	GM Recruitment with Carlie Sulter in attendance	45
	18/01/2018	Mark Honey	Kiama Readers Festival organising Committee	60
	4/04/2018	Mark Way	General issues	30
	5/04/2018	Mark Way	General issues	20
Sum				215
Tony Hardy	7/02/2018	Mark Honey	Acting DEW catchup	60
Sum				60
Grand Total				1326

Item 14.13

Attachment 1

**14.14 Questions for Future Meetings Register as at 11 April 2018**

Responsible Director: Office of the General Manager

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Attached for Councillors' information is the Questions for Future Meetings Register as at 11 April 2018.

**Attachments**

- 1 Questions for Future Meetings Register as at 11 April 2018 [↓](#)

**Questions for Future Meetings Register**

16/73192

No	Details	Actions
<b>18 July 2017</b>		
17.1	<p><b>Bombo walking track – name</b> Councillor Steel requested that a report be provided on suggested names for the walk between Darien Avenue and the Bombo quarry look out, where the new signs will be placed. The Mayor referred this matter to the Director Engineering &amp; Works for investigation and report.</p>	To be reported to future Council meeting
<b>6 February 2018</b>		
17.4	<p><b>Kiama Farmers Market – possible relocation</b> Councillor Steel requests a report on the possibility of the Kiama Farmers Market moving to an area at the Pavilion Kiama. The Mayor referred this matter to the Director Corporate, Commercial and Community Services for investigation and report.</p>	Reported to 17 April 2018 Council meeting
17.5	<p><b>Bathers Development – parking</b> Councillor Rice requests a report on how street parking in the vicinity of the Bathers development is proposed to be regulated following its occupancy. The Mayor referred this matter to the Director Engineering and Works for investigation and report.</p>	Reported to 17 April 2018 Council Meeting
<b>20 March 2018</b>		
17.1	<p><b>Surf School Policy</b> Councillor Steel requested a report be presented to the April meeting of Council to review the Surf School Policy. The Mayor referred the matter to the Director Corporate, Commercial &amp; Community Services for investigation and report.</p>	To be reported to May Council meeting
17.2	<p><b>Community Energy Project at the Leisure Centre</b> On behalf of Councillor Reilly, Councillor Sloan requested a report on the feasibility of a Community Energy Project associated with the roof, carpark and any other suitable sites associated with our Leisure Centre. The report should project costs and anticipated profits aligned with the ABC news story, where within six hours of release, 20 investors had pitched in almost \$400,000 to install a huge 230 kilowatt solar system on a roof in Western Sydney. Councillor Reilly would like also for the report to comment on the</p>	Further investigation required. To be reported to future Council meeting

No	Details	Actions
17.3	<p>feasibility of such a project commencing within six months of this question. The Mayor referred the matter to the Director Engineering &amp; Works for investigation and report.</p> <p><b>No Stopping zone on Saddleback Mountain Road</b> Councillor Sloan advised that he had received a request from the Kiama High School P&amp;C that the Traffic Committee please consider bringing forward to 2pm the start time of the "No Stopping" zone on Saddleback Mountain Road near the High School. The Mayor referred the matter to the Director of Engineering &amp; Works for investigation and report.</p>	Reported to 17 April 2018 Council Meeting
17.4	<p><b>Councillor conference attendance</b> Councillor Way requested that a report be provided on the expenditure for each councillor on their attendance at conferences and training. Further, he also requested advice on whether Council has a policy regarding councillor conference attendance. The Mayor referred the matter to the General Manager for investigation and report.</p>	Reported to 17 April 2018 Council Meeting

**15 ADDENDUM TO REPORTS**

## 16 NOTICE OF MOTION

### 16.1 Notice of Rescission Motion: Jones Beach Kiama Downs - dune vegetation damage (OC-18/069) of 20 March 2018 meeting

The Councillors identified have submitted the following Notice of Motion of Rescission:-

#### *OC-18/069*

**MOTION** that Council consider a number of strategies to redress the issue and deter any further vandalism which include the following:

1. Provide a reward for information leading to the identification of any person's deliberately damaging vegetation on the dune system which is not part of the approved Land Care project.
2. Placing signage in the affected areas advising of the damage to dune vegetation and the penalties under the Environmental Planning & Assessment Act that will be sought against any person carrying out damage.
3. Carrying out an education program advising of benefits of the dune system in terms of property protection and habitat.
4. Replacing vegetation with native species identified in the management plan on areas where Jones Beach Landcare group have removed lantana and other weeds plus areas where vegetation has been damaged or died. Planting to commence in April 2018, as per advice from Council staff.
5. Provide a quarterly budget of \$3,000 for Council to purchase native plants identified in point 4 above, to be delivered, as required, by the Jones Beach Land Care group for restoration of the affected areas. This amount to be reviewed in 12 months.
6. Selection of native plants from Management plan to be agreed to by Jones Beach Land Care.
7. Council to remove any dead vegetation in the area shown on the photo on page 107 of this report.
8. As a matter of urgency provide a new dune management plan for Jones Beach using as a base, updated advice from appropriate government agencies to produce a draft plan for Community consultation and adoption.
9. Council continue to pursue Grant funding for the implementation of an updated draft management plan.
10. In future all Councillors would be invited to attend any further meetings arranged between Council and members of public, other than Jones Beach



## Notice of Motion

## 16.1 Notice of Rescission Motion: Jones Beach Kiama Downs - dune vegetation damage (OC-18/069) of 20 March 2018 meeting (cont)

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Land Care group and Council to implement actions and/or investigations as outlined above.

11. That a progress update in October 2018 of the works being undertaken by the Jones Beach Landcare Group and the budget expenditure be presented to Council by the Director of Engineering & Works.

Councillors: Kathy Rice  
Andrew Sloan  
Mark Westhoff

Received 9 April 2018

If the above rescission motion is carried we propose to move the following motion:

That Council consider a number of strategies to redress the issue and deter any further vandalism which include the following:

1. Provide a reward for information leading to the identification of any person's deliberately damaging vegetation on the dune system which is not part of the approved Land Care project.
2. Placing signage in the affected areas advising of the damage to dune vegetation and the penalties under the Environmental Planning & Assessment Act that will be sought against any person carrying out damage.
3. Carrying out an education program advising of benefits of the dune system in terms of property protection and habitat.
4. Replacing vegetation with native species identified in the management plan in areas where Jones Beach Landcare group have removed lantana and other weeds but replanting with a proportion of similar species where vegetation has been deliberately damaged or killed. Planting to commence in April 2018, as per advice from Council staff.
5. Provide a quarterly budget of \$3,000 for Council to purchase native plants identified in point 4 above, to be delivered, as required, by the Jones Beach Land Care group for restoration of the affected areas. This amount to be reviewed in 12 months.
6. Selection of native plants from Management plan to be agreed to by Jones Beach Land Care and Landcare Illawarra.

Notice of Motion

16.1 Notice of Rescission Motion: Jones Beach Kiama Downs - dune vegetation damage (OC-18/069) of 20 March 2018 meeting (cont)

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7. As a matter of urgency provide a new dune management plan for Jones Beach using as a base, updated advice from appropriate government agencies to produce a draft plan for Community consultation and adoption.
8. Council continue to pursue Grant funding for the implementation of an updated draft management plan.
9. In future all Councillors would be invited to attend any further meetings arranged between Council and members of public, other than Jones Beach Land Care group and Council to implement actions and/or investigations as outlined above.
10. That a progress update in October 2018 of the works being undertaken by the Jones Beach Landcare Group and the budget expenditure be presented to Council by the Director of Engineering & Works.

**Item 16.1**

**17 QUESTIONS FOR FUTURE MEETINGS****18 CONFIDENTIAL SUMMARY****CONFIDENTIAL COMMITTEE OF THE WHOLE**

Submitted to the Ordinary Meeting of Council held on 17 April 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 MINNAMURRA RIVER CYCLEWAY / WALKWAY - TENDER FOR CONSULTANCY SERVICES FOR INVESTIGATION AND DESIGN**

**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 Minnamurra River Cycleway / Walkway - Tender for Consultancy Services for Investigation and Design

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

CSP Strategy: 2.5 Effectively manage our transport, drainage and other infrastructure and assets

Delivery Program: 2.5.4 Manage other assets and infrastructure through the Other Asset and Infrastructure Asset Management Plan

#### **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