



ORDINARY MEETING OF COUNCIL

To be held at 5pm on

Tuesday 19 December 2017

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

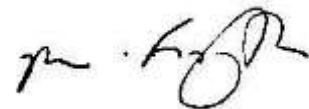
13 December 2017

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 19 December 2017** commencing at **5pm** for the consideration of the undermentioned business.

Yours faithfully

A handwritten signature in black ink, appearing to read 'm. Forsyth', is written over a light grey circular stamp.

Michael Forsyth
General Manager

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**AGENDA FOR THE
ORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL
TUESDAY 19 DECEMBER 2017**

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 Blue Haven Advisory Committee on 6 December 2017

Attachments

- 1 Minutes - Blue Haven Advisory Committee - 6 December 2017 [↓](#)

Enclosures

Nil

RECOMMENDED

That the Minutes of the Blue Haven Advisory Meeting held on 6 December 2017 be received and accepted.



MINUTES OF THE BLUE HAVEN ADVISORY COMMITTEE MEETING

commencing at 6pm on

WEDNESDAY 6 DECEMBER 2017

Blue Haven Independent Living Units
Stage 5 - Level 7

Item 3.1

Attachment 1

**BLUE HAVEN ADVISORY COMMITTEE MEETING
2017**

6 DECEMBER

**MINUTES OF THE BLUE HAVEN ADVISORY COMMITTEE OF THE
MUNICIPALITY OF KIAMA HELD AT BLUE HAVEN ILU,
KIAMA, ON WEDNESDAY 6 DECEMBER 2017 AT 6PM**

PRESENT: Mr A Fowlie (Chairman), Councillor D Watson, Mrs S McCarthy, Mrs P Waters, Mr B Wilson, Mr I Wilson, Mrs C Rogers, Mr S Dawson, Mrs T Sligar, Mrs M Parish and Mrs C Crow-Maxwell.

1 Apologies

Clr. M Honey (Mayor), Clr. K Rice, Mr I Pullar, Mrs J Bartlett, Mr M Forsyth, Mrs F Whittaker.

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 Minutes Blue Haven Advisory Committee on 6 September 2017

BLU-17/081

Committee recommendation that the Minutes of the Blue Haven Advisory Committee meeting held on 6 September 2017 be received and accepted.

4 BUSINESS ARISING FROM THE MINUTES

Nil

5 REPORT OF THE DIRECTOR BLUE HAVEN

5.1 Blue Haven Care Home

Organisational Structure

BLU-17/082

Committee recommendation that Council note the changes to the leadership structure at Blue Haven Care Home.

**BLUE HAVEN ADVISORY COMMITTEE MEETING
2017**

6 DECEMBER

5.2 Kiama Hospital Redevelopment Update

BLU-17/083

Committee recommendation that Council note the progress of the Kiama Aged Care Centre of Excellence project.

5.3 Financial Report

BLU-17/084

Committee recommendation that Council note and accept the budget report for Blue Haven Care.

6 REPORTS FOR INFORMATION

Nil

7 CONFIDENTIAL REPORTS

7.1 Blue Haven Independent Living Units

BLU-17/085

Committee recommendation that the report be received and noted.

7.2 Blue Haven Village - Waiting List Policy

BLU-17/086

Committee recommendation that the changes to the Blue Haven Retirement Village Waiting List policy identified in the report be implemented from 1 January 2018.

8 GENERAL BUSINESS

8.1 Blue Haven Care – Annual Fete

BLU-17/087

Committee recommendation that the committee extend its appreciation for all involved in the highly successful Blue Haven Fete.

Item 3.1

Attachment 1

**BLUE HAVEN ADVISORY COMMITTEE MEETING
2017**

6 DECEMBER

9 CLOSURE

There being no further business the meeting closed at 7.15pm

These Minutes were confirmed at the Ordinary Meeting of Council held on 19 December 2017

.....
Mayor

.....
General Manager

Item 3.1

Attachment 1

3.2 Ordinary Council Meeting on 21 November 2017

Attachments

- 1 Minutes - Ordinary Council - 21/11/17 [↓](#)

Enclosures

Nil

RECOMMENDED

That the Minutes of the Ordinary Meeting held on 21 November 2017 be received and accepted.

Item 3.2



**MINUTES OF THE
ORDINARY MEETING OF COUNCIL**

commencing at 5pm on

TUESDAY 21 NOVEMBER 2017

Council Chambers
11 Manning Street, KIAMA NSW 2533

Item 3.2

Attachment 1

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL OF THE
MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS,
KIAMA, ON TUESDAY 21 NOVEMBER 2017 AT 5PM

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

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

1 APOLOGIES

Nil

2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

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

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

3 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

3.1 Ordinary Council Meeting on 17 October 2017

OC-17/145

Resolved that the Minutes of the Ordinary Council Meeting held on 17 October 2017 be received and accepted.

(Councillors Way and Brown)

4 BUSINESS ARISING FROM THE MINUTES

Nil

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

5 PUBLIC ACCESS

For/ Against	Name	Item No.	Subject
Against	Peter Jeffries	10.4	10.2016.103.2 - Lot 3 DP 1123051, 1 Tasman Drive Gerringong – proposed modified dwelling
For	Margaret Pottie	10.5	10.2017.81.1 – Lot 2 DP 1190416 - 18 Wells Street, Gerringong – attached dual occupancy and 2 lot Torrens title subdivision
Against	Roger Collins	10.9	10.2017.115.1 - Proposed tennis court and pavilion - 40 Crooked River Road Gerroa
For	Ben Richardson Dr Philip Pollard	10.9	10.2017.115.1 - Proposed tennis court and pavilion - 40 Crooked River Road Gerroa
Against	Liat Drakos Jude Downie	10.10	10.2017.264.1 - 5 Lot Torrens title subdivision - Glenbrook Drive Kiama
Against	Howard H Jones	10.11	Planning Proposal - Rezoning or a portion of land from E2 to E3 - Part of Lot 1 DP 129766 and Part of Lot 144 DP 751279 - 144 Jamberoo Mountain Road, Jamberoo
For	Anita Dalkeith	10.11	Planning Proposal - Rezoning or a portion of land from E2 to E3 - Part of Lot 1 DP 129766 and Part of Lot 144 DP 751279 - 144 Jamberoo Mountain Road, Jamberoo
For	Michael Thompson	14.22	Question for future meeting: Potential use of Minnamurra Quarry site for a BMX track for local youth

Item 3.2

Attachment 1

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

6 MAYORAL MINUTE

OC-17/146

Resolved that at this time, 5.04pm, Council bring forward and deal with Mayoral Minutes 6.6 and 6.7.

(Councillors Steel and Rice)

6.6 Robert East Community Service Award - 2017

OC-17/147

Resolved that Council congratulates Carole Johnston on receiving the 'Robert East Community Service Award' for 2017.

(Councillors Honey and Steel)

6.7 Megan Dalley Memorial, Trainee of the Year Award - 2017

OC-17/148

Resolved that Council congratulates Bailey Boniface and Paidin Sinclair on the receipt of the 'Megan Dalley Trainee of the Year Award' for 2017.

(Councillors Honey and Steel)

6.1 Mayor's Giving Tree

OC-17/149

Resolved that Council endorses the Mayor's Giving Tree appeal.

(Councillors Brown and Westhoff)

6.2 Resident Darrell Clingan receives Premier's Community Service

OC-17/150

Resolved that Council formally congratulate Darrell Clingan on being awarded the Premier's Community Service Award.

(Councillors Watson and Sloan)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

6.3 Kiama and District Business Chamber awarded 2017 Local Chamber Commerce Award

OC-17/151

Resolved that Council formally congratulate the Kiama and District Business Chamber on being awarded the IMB Bank Illawarra Business Local Chamber of Commerce award for 2017.

(Councillors Reilly and Steel)

6.4 ANZ Gerringong branch closure

OC-17/152

Resolved that Council write to the ANZ Bank requesting they reconsider the decision to close the Gerringong ANZ branch.

(Councillors Westhoff and Sloan)

OC-17/153

Resolved that Council endorses the action of the South Precinct in initiating an appraisal of Gerringong as a future bank location by Bendigo Bank.

(Councillors Rice and Sloan)

6.5 University of Wollongong Fellowship and Alumni Awards

OC-17/154

Resolved that Council formally congratulate both Sandra McCarthy and Christine Thompson on being awarded a University of Wollongong Fellowship.

(Councillors Brown and Rice)

7 MINUTES OF COMMITTEES

7.1 Minutes of the Kiama Local Traffic Committee meeting held on 7 November 2017

OC-17/155

Resolved that the Minutes of the Kiama Local Traffic Committee meeting held on 7 November 2017 be received and accepted.

(Councillors Steel and Way)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

COMMITTEE OF THE WHOLE

OC-17/156

Resolved that at this time, 5.21pm, 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 Brown and Sloan)

8 PUBLIC ACCESS REPORTS

OC-17/157

Committee recommendation that at this time, 5.21pm, Council bring forward and deal with the matters pertaining to the Public Access Meeting.

(Councillors Steel and Way)

10.4 10.2016.103.2 - Lot 3 DP 1123051, 1 Tasman Drive Gerringong – Proposed modified dwelling

OC-17/158

Committee recommendation that Council refuse development application number 10.2016.103.2, pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 for the following reasons:

1. The proposed modified development is inconsistent with the provisions of Kiama DCP 2012 Chapter 25 – Site Specific Controls – Gerringong Headland Site – 6.3.1 Built Form Objectives:
 - (vi) Minimise the bulk and visual impact of dwellings.
2. The proposed modified development is inconsistent with the provisions of Kiama DCP 2012 Chapter 25 – Site Specific Controls – Gerringong Headland Site – 6.3.2 Built Form Controls:
 - (ii) The proposal does not comply with the Building Height Plane applicable to the site..

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

3. Having regard to the requested variations and submissions received approval of the modified development would not be in the public interest.

(Councillors Reilly and Brown)

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

Against: Nil

10.5 10.2017.81.1 – Lot 2 DP 1190416 - 18 Wells Street, Gerringong - Attached dual occupancy and 2 lot Torrens title subdivision

OC-17/159

Committee recommendation that Council refuse Development Application number 10.2017.81.1 pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979, for the following reasons:

1. It is considered that the proposed development is inconsistent with the Overall objectives of Chapter 4 of DCP 2012 as the development is not considered to be of an acceptable design standard and will result in poor end user amenity for residents of the proposed dual occupancy dwellings.
2. The proposed development breaches performance controls C46 of DCP 2012 Chapter 2 requiring a minimum 9m setback to rural zoned land and C17 of DCP 2012 Chapter 4 requiring a minimum 6m rear setback. These breaches are not considered to be acceptable in the circumstances.
3. The applicant has failed to provide stormwater concept plans, which are required by both DCP 2012 Chapter 4 control C50 and the registered Positive Covenant (DP 1190415).
4. The proposed development is not considered to be suitable for the site having regard to the site constraints and the DCP breaches brought about by the proposed dual occupancy development.
5. Submissions have been received making valid objection as to the suitability of the site for the development, the end user amenity of the dual occupancy dwellings and the DCP non-compliances.
6. It is considered that in the circumstances of the case, approval of the modified development would not be in the public interest.

(Councillors Westhoff and Brown)

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

Against: Nil

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

10.9 10.2017.115.1 - Proposed Tennis Court and Pavilion - 40 Crooked River Road Gerroa

It was moved by Councillor Brown and seconded by Councillor Watson that Council approve development application number 10.2017.115.1 pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979, subject to conditions at the end of the report.

The motion was put and **LOST**.

Motion

OC-17/160

Committee recommendation that development application number 10.2017.115.1 is rejected for its inability to comply with the Chapter 6 Development Control Plan overall controls on ridge location, as well as the further Rural Land controls, C7, not clustered nor protective of agricultural land, C10 excessive alteration of ground levels, C12 shared access for ancillary development being too distant, C20 less than 100m from neighbouring property, C75 excessive cutting below 1.0 metre.

(Councillors Rice and Reilly)

For: Councillors Reilly, Rice, Sloan, Steel, Way and Westhoff

Against: Councillors Brown, Honey and Watson

10.10 10.2017.264.1 - 5 Lot Torrens Title Subdivision - Glenbrook Drive Kiama

OC-17/161

Committee recommendation that Council approve Development Application number 10.2017.264.1 pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979, subject to conditions at the end of the report.

(Councillors Brown and Rice)

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

Against: Nil

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

10.11 Planning Proposal - Rezoning or a portion of land from E2 to E3 - Part of Lot 1 DP 129766 and Part of Lot 144 DP 751279 - 144 Jamberoo Mountain Road, Jamberoo

OC-17/162

Committee recommendation that Council endorse the request to prepare a Planning Proposal for the rezoning of part of the subject lots from E2 Environmental Conservation to E3 Environmental Management and forward the proposal to the NSW Department of Planning and Environment for Gateway Determination.

(Councillors Brown and Reilly)

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

Against: Councillor Rice

14.22 Question for Future Meeting: Potential use of Minnamurra Quarry site for a BMX track for local youth

OC-17/163

Committee recommendation that Council construct a BMX-Mountain bike/Bike Skills/Scooter Facility at Minnamurra Quarry based on best practice design and process as follows:

1. Finalise the concept design.
2. In accordance with legal advice provided in the report, apply the existing Plan of Management for implementation of this facility.
3. Confine operating times for this facility to daylight hours.
4. Accept the offer of assistance from the Minnamurra Lions Club to work on the facility.
5. Ensure that the requirements of Council's Community Engagement Plan are met and that includes local media and writing to each property owner within the adjoining area to the Quarry to address any additional issues that have not been raised and considered prior to commencement of work.
6. Continue to work with the local schools and stakeholder groups to ensure that the final design meets their expectations.
7. Commence work providing costs can be contained within the current financial constraints.

(Councillors Way and Steel)

The following addendum to the above motion was moved by Councillor Brown and seconded by Councillor Reilly.

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

Addendum

OC-17/164

7. That a detailed costing and funding sources be submitted to Council for approval prior to any works being undertaken, including costing options for the provision of toilets, additional car parking, signage and provision of water.
8. That Council commission a Contamination Report on the Quarry area once budget approval has been obtained and that any fill brought onto the site during construction be certified as clean fill prior to being delivered.
9. That Council prior to construction commencing a comprehensive risk assessment be carried out both for the construction component and the ongoing operation of the proposed facility including risk mitigation strategies.
10. That Council consider including the proposal in the 2018/2019 operational plan.

The addendum was put and also CARRIED.

9 REPORT OF THE GENERAL MANAGER

9.1 2016-17 Annual Report

OC-17/165

Committee recommendation that Council receives and endorses the 2016-17 Annual Report.

(Councillors Rice and Brown)

9.2 Kiama Municipal Council Information Guide

OC-17/166

Committee recommendation that Council approves:

1. The updated *Kiama Municipal Council Information Guide November 2017*.
2. A copy of the adopted Information Guide to be forwarded to the NSW Information and Privacy Commissioner.

(Councillors Steel and Rice)

9.3 Kiama Jazz & Blues Festival

OC-17/167

Committee recommendation that Council increase funding support for the 2018 Kiama Jazz and Blues Festival to \$20,000 and reduce the sponsorship to \$14,000 in 2019.

(Councillors Brown and Watson)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

10.1 10.2014.241.6 - Modification – Mixed use development comprising of 5 shops, 8 professional suites & 29 Residential Units – Lot 781 DP1179947 - 128 Belinda Street Gerringong

Disclosure of Interest - Councillor Sloan

Councillor Sloan declared a non-significant pecuniary interest in this matter. Councillor Sloan left the Chambers and took no part in discussion or voting on this matter.

Councillor A Sloan left the meeting at 6.07pm.

OC-17/168

Committee recommendation that Council approve modified development application 10. 2014.241.6 pursuant to Section 96(1a) of the Environmental Planning and Assessment Act 1979, by:

1. Approving modified drawing number 10.2014.241.6.
2. Substituting the development description on the title page of the consent notice with the following development description:
Mixed development comprising five (5) shops, four (4) professional suites, five (5) serviced apartments & twenty-nine (29) residential units
3. Inclusion of the following condition under the sub-heading 'General':
“(12) *The five (5) Serviced Apartments shall only be used for the purpose of short term rental accommodation. Accordingly, the apartments may only be occupied for a maximum period of 60 consecutive days in any 12 month period.*”
4. Inclusion of the following condition under the sub-heading 'Contributions':
“(2) *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 & 3 shall be paid to Council prior to the issuing of the Construction Certificate. The total contribution required for the Serviced Apartments is \$10,617.05.*”

(Councillors Brown and Way)

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

Against: Councillors Honey and Rice

Councillor A Sloan returned to the meeting at 6.12pm.

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

10.2 The Climate Council Cities Power Partnership Program - Kiama Council Partnership Action Pledges

OC-17/169

Committee recommendation that Council as part of the Climate Council Cities Power Partnership Program, Council adopt the five Partnership Action Pledges:

Renewable Energy

Pledge 1 - Install renewable energy systems (like solar PV and battery storage) on Council buildings, facilities, and managed land, for example childcare facilities, libraries, street lighting, recreation centres, sporting grounds and council offices.

Pledge 2 - Creation of a revolving green energy fund and other funding sources to finance internal projects and receive energy savings.

Energy Efficiency

Pledge 3 - Adopt best practice energy efficiency measures as part of all Council operations and at facilities, buildings, public lighting and transport and support community facilities and organisations to adopt these measures.

Transport

Pledge 4 - Provide fast or other charging infrastructure throughout the Kiama Municipality at key locations for electric vehicles.

Work Together and Influence

Pledge 5 - Set municipality level renewable energy or emissions reduction targets and sustainable energy policies to provide a common goal and shared expectations for local residents and businesses.

(Councillors Reilly and Watson)

10.3 10.2016.301.1 - Lot 34 DP 1181744 - 2 Surfleet Place, Kiama - Demolition of Existing Dwelling and Construction of 46 Townhouses and Car Park

OC-17/170

Committee recommendation that Council defer this matter to allow clarification of the issues of owner's consent for the use of the unmade section of Marsden Street, the proposed intersection design and the window treatments to the western elevations of the development.

(Councillors Sloan and Reilly)

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

Against: Nil

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

10.6 Funding opportunities for completion of a coastal management program for the Kiama LGA

OC-17/171

Committee recommendation that Council:

1. Determine to accept funding from the NSW Government for the Jones and Werri Beach Coastal Management Program if the application for funding is successful.
2. In addition to the 2017/2018, determine to allocate \$35,000 in 2018/19 and \$35,000 in 2019/20 funding to enable the completion of an LGA wide Coastal Management Program.
3. Determine to change the scope of the Jones and Werri Beach Coastal Management Program application to include the entire Kiama LGA.

(Councillors Steel and Way)

10.7 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama Local Environmental Plan 2011

OC-17/172

Committee recommendation that Council:

1. Endorse this Planning Proposal to amend the Kiama LEP 2011 in order to:
 - a. Permit Bed & Breakfasts with consent in the RU1, RU2 & E3 zones; and
 - b. Reduce the total floor area of secondary dwellings to no greater than 120 square metres of the total floor area of the principal dwelling.
2. Proceed to the Department of Planning and Environment for a Gateway determination.
3. Request plan making delegations for this proposal as a part of the Gateway determination.
4. On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.

(Councillors Brown and Reilly)

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

Against: Councillor Sloan

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

Motion

OC-17/173

Committee recommendation that Council defer consideration of 1(b) of the recommendation in the staff report relating to Eco Tourism facilities to enable a further report to Council.

(Councillors Sloan and Steel)

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

Against: Nil

10.8 10.2017.137.1 - Proposed Dual Occupancy & Strata Subdivision - Lot 27 DP 1193900 - 27 Chapel Lane, Jamberoo

OC-17/174

Committee recommendation that Council approve Development Application number 10.2017.137.1 pursuant to section 80(3) of the Environmental Planning & Assessment Act 1979 subject to the conditions attached to the end of this report.

(Councillors Brown and Way)

11 REPORT OF THE DIRECTOR CORPORATE, COMMERCIAL & COMMUNITY SERVICES

11.1 Community Gardens - policy revision and grants program

OC-17/175

Committee recommendation that Council:

1. note the minutes of the committee meeting held 10 October 2017
2. endorse the establishment of the Community Gardens Grants Program, and
3. endorse the revised Community Gardens policy.

(Councillors Westhoff and Brown)

11.2 Tourism Strategic Plan

OC-17/176

Committee recommendation that Council approves and adopts the 2018 – 2021 Tourism and Events Strategy.

(Councillors Brown and Reilly)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

11.3 Financial Report for the period ending 30 September 2017

OC-17/177

Committee recommendation that the revised budget for the period ending 30 September 2017 be received and adopted.

(Councillors Rice and Brown)

11.4 Statement of Investments - October 2017

OC-17/178

Committee recommendation that the information relating to the Statement of Investments for October 2017 be received and adopted.

(Councillors Westhoff and Rice)

11.5 Nomination of Management Representative on Consultative Committee

OC-17/179

Committee recommendation that Council:

1. appoints the Manager Commercial Services as a Management Representative on Consultative Committee.
2. acknowledges the service of Manager Design and Development, Darren Brady for his contribution to Consultative Committee since April 2008.

(Councillors Rice and Brown)

11.6 Minutes of the Cultural Board meeting held on 19 October 2017 and Gerringong Public Art

OC-17/180

Committee recommendation that Council:

1. approves acceptance of the sculptural donation from Michael Purdy, and
2. gives consideration to the location of the sculpture.

(Councillors Reilly and Steel)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

11.7 Operational Plan Quarterly Report - July to September 2017

OC-17/181

Committee recommendation that Council receives the Operational Plan Quarterly Report for July to September 2017.

(Councillors Watson and Westhoff)

11.8 Impact of NSW Department of Family and Community Services Funding Reforms

OC-17/182

Committee recommendation that Council make urgent representations to the Member for Kiama Gareth Ward MP regarding the impact the proposed Department of Family and Community Services funding cuts will have on services to the Kiama community.

(Councillors Brown and Rice)

11.9 Special Rate Variation

OC-17/183

Committee recommendation that Council notify IPART of its intention to apply for a Section 508A Permanent Special Rate Variation (SRV) of 6% including rate pegging for 3 successive years, to be retained permanently in the rate base.

(Councillors Brown and Reilly)

12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS

12.1 Road Safety Officer Projects 2017-2018 - Roads and Maritime Service Funding Grant

OC-17/184

Committee recommendation that Council accept the funding offer of \$13,600 for Road Safety Projects plus \$3,000 for NSW Bike Week from the NSW Roads and Maritime Services and Transport for NSW.

(Councillors Way and Rice)

MINUTES OF THE ORDINARY MEETING**21 NOVEMBER 2017****13 REPORT OF THE DIRECTOR BLUE HAVEN**

Nil

14 REPORTS FOR INFORMATION**OC-17/185**

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

- 14.1 Minutes of the Access Committee meeting held 8 September 2017
- 14.2 Parking Statistics - September 2017
- 14.3 Regional Illegal Dumping Investigations Officer - Quarterly Report - 1 July 2017 to 30 September 2017
- 14.4 Christmas / New Year - annual close down period
- 14.5 WSL Jeep World Junior Surfing Championship
- 14.6 2017 IMB Bank Illawarra Business Awards
- 14.7 Age Friendly Cities Australia 2nd National Forum - Report of Councillor Kathy Rice
- 14.8 Parking Statistics - October 2017
- 14.10 Economic Development Australia Conference Ballarat – October 2017
- 14.11 South Precinct Committee meeting minutes - 19 October 2017
- 14.12 Minutes of the Minnamurra Progress Association meeting held on 3 October 2017
- 14.13 Kiama Tourism Advisory Committee Meeting Minutes - 16 October 2017
- 14.14 South Coast Cooperative Library Service - Annual General Meeting 23 October 2017
- 14.15 2017 IMB Bank Illawarra Business Awards
- 14.16 ICTC Main Streets Conference
- 14.17 Councillors' Meetings Register - 10 October to 10 November 2017
- 14.18 Questions for Future Meetings Register as at 10 November 2017
- 14.19 Question for Future Meeting: Neighbourhood Character
- 14.21 SENTRAL Youth Worker Rubi Curran receives award
- 14.23 Model Code of Conduct - Proposed Amendments
- 14.24 Model Code of Conduct Complaints Statistics Report 2016-17
- 14.25 2017 Council Employee Christmas Functions
- 14.26 Planning Committee Minutes - 12 October 2017
- 14.27 Retirement of the Manager Development Assessment, Mr Chris Fuller
- 14.29 Joint Organisations
- 14.30 10.2017.116.1 - Mixed use development - 44 Manning Street Kiama - Results of Appeal to Land & Environment Court
- 14.31 Community Engagement Strategy - Development Assessment
- 14.33 Marine Estate Management Strategy.

(Councillors Brown and Steel)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

14.9 Central Precinct Motion

OC-17/186

Committee recommendation that Council consider the allocation of funding as part of the quarterly budget review to engage a consultant to prepare a Pedestrian Access Mobility Plan (PAMP) and to urgently undertake the recommended works identified in the PAMP this financial year.

(Councillors Rice and Reilly)

14.20 Question for future meeting: Local Environmental Plan

Councillor Reilly requested that this question be revised and point 2 of this question be deleted.

14.28 2018 Australian Coastal Councils Conference - registration

OC-17/187

Committee recommendation that Council cast its votes in the Australia Coastal Councils Association Council for Sharon Cadwallader of Ballina Shire Council to be the northern NSW coastal area representative and Councillor Reilly to be the southern NSW coastal representative.

(Councillors Sloan and Rice)

OC-17/188

Committee recommendation That Council endorse the attendance of Councillors Rice and Reilly at the Australian Coastal Councils Conference to be held in Geelong from 21 March to 23 March 2018.

(Councillors Brown and Reilly)

14.32 Christmas / New Year

OC-17/189

Committee recommendation that Council does not hold an Ordinary Council meeting in January 2018 and that the February meeting is held on 6 February 2018.

(Councillors Brown and Sloan)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

15 ADDENDUM TO REPORTS

OC-17/190

Committee recommendation that at this time, 7.15pm Council bring forward and deal with matters pertaining to the Addendum to Reports.

(Councillors Brown and Steel)

OC-17/191

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

- 15.1 Minutes – Jamberoo Valley Ratepayers & Residents Association – 5 September 2017, 3 October 2017 and 8 November 2017
- 15.2 Minutes – Kiama Central Precinct - 26 September 2017 and 25 July 2017
- 15.3 Minutes of the South Coast Cooperative Library Service Annual General Meeting held on 23 October 2017
- 15.4 Minutes of the Walking Tracks and Cycleways Committee meeting held on 15 November 2017.

(Councillors Brown and Steel)

RESUMPTION OF ORDINARY BUSINESS

OC-17/192

Committee recommendation that at this time, 7.16pm, 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 Westhoff)

ADOPTION OF COMMITTEE OF THE WHOLE REPORT

It was moved by Councillor Sloan and seconded by Councillor Rice 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 above with the exception of 10.7.

The Motion was put and **LOST**.

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

OC-17/193

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-17/157 to OC-17/192 above.

(Councillors Brown and Steel)

16 NOTICE OF MOTION

Nil

17 QUESTIONS FOR FUTURE MEETINGS

17.1 Use of rural sheds for low scale industrial manufacturing

Councillor Steel requests a report on the feasibility of allowing farmers in rural zoned land to utilise existing farm sheds by renting them to individuals for the purpose of low scale industrial manufacturing such as car trailers and the like. If this is found to be prohibited can information be provided as to how it might be made permissible.

The Mayor referred this matter to the Director Environmental Services for investigation and report.

17.2 Boat, trailer and caravan parking

Councillor Steel requests an update on the investigation into an area for boats, trailers and caravans to be parked/stored, in order to remove them from our streets and footpaths.

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

17.3 Aboriginal Cultural Heritage Management Development Assessment toolkit

Councillor Sloan requests a report on how the Aboriginal Cultural Heritage Management Development Assessment toolkit has been implemented.

The Mayor referred this matter to the Director Environmental Services for investigation and report.

MINUTES OF THE ORDINARY MEETING**21 NOVEMBER 2017****17.4 Jones Beach dune vegetation**

Councillor Way requests an update and advice on whether the re-planting of appropriate vegetation at Jones Beach to cover areas where the Jones Beach Land Care group have cleared lantana, could receive priority when funds become available from the grant funding submission.

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

18 CONFIDENTIAL SUMMARY**Public Representations:**

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

18.1 Exclusion Of Press And Public:**OC-17/194**

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

19.1 EXECUTIVE OFFICERS' PERFORMANCE AGREEMENTS - REVIEW FOR THE PERIOD FROM 1 JULY 2016 TO 30 JUNE 2017

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

19.2 BLOWHOLE POINT RETAINING WALLS - TENDER FOR REPLACEMENT OF RETAINING WALLS

Reason for Confidentiality: This matter deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it as per Section 10A(2)(di) of the Local Government Act.

19.3 KIAMA AGED CARE CENTRE OF EXCELLENCE - FUNDING

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.

19.4 BOMBO QUARRY TASK FORCE

Reason for Confidentiality: This matter deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it as per Section 10A(2)(di) of the Local Government Act.

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

19.5 OFFICE TELEPHONY TENDER

Reason for Confidentiality: This matter deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it as per Section 10A(2)(di) of the Local Government Act.

(Councillors Way and Brown)

OC-17/195

Resolved that at this time, 7.23pm, 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 Westhoff and Brown)

19 CONFIDENTIAL REPORTS

19.1 Executive Officers' Performance Agreements - Review for the period from 1 July 2016 to 30 June 2017

Determination of the matter was deferred until the end of the meeting when the General Manager and Directors declared a pecuniary interest in this matter and were absent from the Chambers during discussion and determination of the matter.

OC-17/196

Committee recommendation that Council endorse and adopt the report of the Performance Review Committee.

(Councillors Steel and Way)

19.2 Blowhole Point Retaining Walls - Tender for replacement of retaining walls

OC-17/197

Committee recommendation that Council reject all tenders for the replacement of retaining walls at Blowhole Point under the provisions of the Local Government (General) Regulation 2005 – Clause 178 and opt to undertake the works itself utilising Council staff and specialist subcontractors.

(Councillors Brown and Way)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

19.3 Kiama Aged Care Centre of Excellence - Funding

OC-17/198

Committee recommendation that Council

1. Accept the \$60 million Loan Facility offered and approved by New South Wales Treasury Corporation (TCorp) for the Kiama Aged Care Centre of Excellence (KACCOE) being a 5 year fixed interest loan, with the loan to be re-negotiated during Year 4.
2. Authorise the Mayor and General Manager to execute the Loan Agreement and affix the Council seal if required.

(Councillors Brown and Westhoff)

19.4 Bombo Quarry Task Force

OC-17/199

Committee recommendation that Council endorse the inclusion of the Chairman of the Kiama Central Precinct Committee as a member of the Bombo Quarry Task Force.

(Councillors Brown and Reilly)

19.5 Office Telephony Tender

OC-17/200

Committee recommendation that Council accept the Tender from Talkware for the VOIP/Telephony Solution

(Councillors Westhoff and Sloan)

Close of Confidential Committee of the Whole:

OC-17/201

Committee recommendation that at this time, 7.50pm, the Confidential Committee of the Whole revert to Open Council.

(Councillors Steel and Way)

MINUTES OF THE ORDINARY MEETING

21 NOVEMBER 2017

Adoption of Report

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

OC-17/202

Resolved that that the Confidential Committee of the Whole recommendations numbered OC-17/196 to OC-17/201 be confirmed and adopted.

(Councillors Steel and Way)

20 CLOSURE

There being no further business the meeting closed at 7.50pm

These Minutes were confirmed at the Ordinary Meeting of Council held on 19 December 2017

.....
Mayor

.....
General Manager

4 BUSINESS ARISING FROM THE MINUTES

5 PUBLIC ACCESS SUMMARY

6 MAYORAL MINUTE

6.1 Resident Amanda Reid receives NSW Athlete of the Year with a Disability award

Attachments

Nil

Enclosures

Nil

RECOMMENDED

That Council formally congratulate Amanda Reid on being awarded the NSW Athlete of the Year with a Disability award.

REPORT

The NSW Champions of Sport Awards recognises the commitment of athletes, coaches and administrators across the state and honours outstanding achievement at State, National and International level.

At the Awards gala dinner on 27 November 2017 local Warri Beach resident, Amanda Reid was presented with the award for Athlete of the Year with a Disability.

Amanda has had outstanding success as a paracyclist. At the Recent World Paracycling Championships Amanda has won her third World title in the C2 time trial and Scratch Race C2. Amanda has also represented Australia at the 2012 Summer Paralympics in swimming. She is Australia's top Indigenous Paralympian and is an exceptional role model for all athletes with a disability. Amanda also works hard in developing and promoting a strong sporting culture in regional areas.

I extend my congratulations to Amanda and wish her well in all future sporting competitions and endeavours.

7 MINUTES OF COMMITTEES

7.1 Minutes of the Streets and Reserve Naming Committee meeting held on 6 November 2017

Responsible Director: Engineering and Works

Item 7.1

Attachments

- 1 Streets and Reserve Naming Committee - Minutes - 6 November 2017 [↓](#)

Enclosures

Nil

RECOMMENDED

That the Minutes of the Streets and Reserve Naming Committee Meeting held on 6 November 2017 be received and accepted.

BACKGROUND

The Minutes of the Streets and Reserve Naming Committee held on the 6 November 2017 are attached for Councillors' information.

**MINUTES OF THE KIAMA STREETS AND RESERVES NAMING COMMITTEE MEETING
MONDAY 6 NOVEMBER 2017**

COMMENCING AT: 9am

PRESENT: Gino Belsito (Director Engineering & Works, Chair),
Councillor Andrew Sloan, Councillor Mark Westhoff,
Councillor Mark Way, Richard Payne, Susan Lark and
Suzanne Eggins

APOLOGIES: Sandra Hamblin

1 Minutes of the Previous Meeting – 30 March 2016

CR031

Committee recommendation that the Minutes of the 30 March 2017 meeting be received and accepted.

Business arising from minutes:

Nil.

2 Naming of existing road around Blowhole Point, Kiama

It was suggested that the name Lighthouse Road be an appropriate name for the section of existing road that loops Blowhole Point.

Lighthouse Road was the name indicated on historic maps.

CR032

Committee recommendation that the proposed road name is endorsed for use, reported to Council for adoption and then forwarded to the Geographical Names Board for their approval. The second option recommended by the Committee is Blowhole Road.

3 Naming of road that travels along Kiama Harbour, Kiama

It was suggested that the name Tulloch Road be an appropriate name for the section of existing road that links to Blowhole Point loop.

Thomas Tulloch was Kiama's first pilot and harbourmaster.

CR033

Committee recommendation that the proposed road name is endorsed for use, reported to Council for adoption and then forwarded to the Geographical Names

**MINUTES OF THE KIAMA STREETS AND RESERVES NAMING COMMITTEE MEETING
MONDAY 6 NOVEMBER 2017**

Board for their approval.

4. Road naming proposal – road leading off Fitzroy Street, Kiama

It was suggested that the name Gard Lane be an appropriate name for the section access road that is accessed off Fitzroy Street.

In September 1848, William Gard paid £16 (\$2043.00) for 4 parcels (8 roods) of land in Kiama. This land was comprised of lot numbers 13, 14, 15 & 16 in section 17 Kiama.

Gard went on to build the Fitzroy Hotel and Brewery on another block he acquired. It was at Gard's Hotel that the first meeting of the Kiama Agricultural Society was held.

William Gard drowned in the Minnamurra River 08 April 1853. William Gard was 36 years old at the time of his death. Historical documentation is attached.

CR034

Committee recommendation that the proposed road name is endorsed for use, reported to Council for adoption and then forwarded to the Geographical Names Board for their approval

5 Road naming proposal – access road behind Gainsborough Shops off Meehan Drive

It was suggested that the name Howe Lane be an appropriate name for the section of access road behind the Meehan Drive shops.

The Gainsborough estate has streets named after prominent pioneers to the area. In 1825, John Cowell was granted 800 acres of land at the site of the present day Kiama Downs. By 1828, John and Mary were living on the property along with 21 male convicts. As we have acknowledged John Cowell with a street at Kiama Downs (Cowell Place). It would be appropriate to acknowledge the pioneer spirit of his wife Mary Howe.

CR035

Committee recommendation that the proposed road name is endorsed for use, reported to Council for adoption and then forwarded to the Geographical Names Board for their approval

6 Road naming proposal – access road behind Kiama Downs Shops off Johnson Street

It was suggested that the name Wandama Lane be an appropriate name for the

**MINUTES OF THE KIAMA STREETS AND RESERVES NAMING COMMITTEE MEETING
MONDAY 6 NOVEMBER 2017**

existing lane way behind the Kiama Downs Shops.

Wandama was the 114-acre property owned by Charles Cameron, which abutted the Eureka Estate. A map of Kiama Downs shown the surrounding streets have names such as Kiarama, Kurrawa, Merindah & Talinga so Wandama could possibly be a good fit in this area.

CR036

Committee recommendation that the proposed road name is endorsed for use, reported to Council for adoption and then forwarded to the Geographical Names Board for their approval.

7 Road naming proposal – Road to Minnamurra Waste Depot off Riverside Drive

It was suggested that the name Saltwater Road be an appropriate name for the existing access road off Riverside Drive to the Minnamurra Waste Depot.

Early maps of the area show that Saltwater Creek runs in the area behind the recycling centre and Saltwater Creek Road might be an appropriate name for the road in question.

CR036

Committee recommendation that the proposed road name is endorsed for use, reported to Council for adoption and then forwarded to the Geographical Names Board for their approval

General Business

1. Susan Lark suggested some background research be done in anticipation of the Quarry site redevelopment. It was proposed that names of local employees who lost their lives during their work on site be used for future street names at this location. All committee members agreed and suggested the list be made in order of priority with local employees of greater importance. Once created the list will be electronically stored to be drawn upon when required.
 2. Mark Westhoff requested that a sign be put up in the reserve off Renfrew Road, Warri Beach (PR 12615). Mark believes the reserves name is Belonquill Reserve, however the reserve remains unnamed in Council records. A report will be made for the next meeting.
 3. Susan Lark, supported by Andrew Sloan, requested a follow up on the request to put WW1 badges on street signs named after fallen soldiers.
-

As there was no further business the meeting closed 9.33am.

7.2 Minutes of the Kiama Local Traffic Committee Meeting held electronically on 5 December 2017

Responsible Director: Engineering and Works

Attachments

- 1 Minutes of Kiama Local Traffic Committee Meeting - 5 December 2017 [↓](#)

Enclosures

Nil

RECOMMENDED

That the Minutes of the Kiama Local Traffic Committee Meeting held electronically on 5 December 2017 be received and accepted.

BACKGROUND

The Minutes of the Kiama Local Traffic Committee meeting held electronically on 5 December 2017 are attached for Councillors information.



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

held electronically

TUESDAY 5 DECEMBER 2017

Council Chambers
11 Manning Street, KIAMA NSW 2533

Item 7.2

Attachment 1

MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE 5 DECEMBER 2017

MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE OF THE MUNICIPALITY OF KIAMA HELD IN THE COUNCIL CHAMBERS, KIAMA, ON TUESDAY 5 DECEMBER 2017 AT 9.00AM

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 7 November 2017

Resolved that the Minutes of the Kiama Local Traffic Committee Meeting held on 7 November 2017 be received and accepted.

(Mr Brown and Mr Clingan)

4 BUSINESS ARISING FROM THE MINUTES

Nil

5 REPORT OF RMS DELEGATED FORMAL ITEMS

5.1 Bong Bong Street, Kiama - Temporary Closure - 2018 Commonwealth Games Queen's Baton Relay

Resolved that the Committee approve the closure of Bong Bong Street, Kiama on Monday 5 February 2018 as part of the Commonwealth Games Queen's Baton Relay, subject to organisers and suitably qualified traffic controllers complying with

MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE 5 DECEMBER 2017

the following conditions:

- The road closure is to be undertaken by suitably qualified traffic controllers in compliance with the traffic management plan No. AS14927 prepared by Traffic Logistics Pty Ltd;
- notification of this closure be given to Police, Local Emergency Services, businesses and residents effected by the closure;
- an advertisement be placed in the local media and signage be installed advising of the closure.

(Mr Clingan and Mr Brown)

5.2 Demolition of Existing Dwelling and Construction of 46 Townhouses and Car Park LOT: 34 DP: 1181744, 2 Surfleet Place, KIAMA (10.2016.301.1)

Resolved that the Committee approve the intersection design in-principle, subject to a detailed design including signage and linemarking plans in compliance with the Australian Standards, be provided for the Committee's future review.

(Mr Brown and Ms Thompson)

5.3 Time Limited "No Parking" Restrictions - Darien Avenue, Bombo

Resolved that Committee give approval for a 'No Parking' zone to be created in the cul-de-sac of Darien Avenue, Bombo to prohibit parking from 6am to 9am on Tuesdays only, through the installation of regulatory signage.

(Mr Brown and Ms Thompson)

5.4 Time limited "No Parking" Restrictions - Park Road, Gerroa

Resolved that the Committee recommend a 'No Parking' zone be created in the cul-de-sac of Park Road, Gerroa to prohibit parking from 6am to 2pm on Mondays only, through the installation of regulatory signage

(Ms Thompson and Mr Brown)

5.5 Time Limited "No Parking" Restrictions - 116 Shoalhaven Street, Kiama

Resolved that the Committee recommends a 'No Parking' zone be created at the frontage of 116 Shoalhaven Street, Kiama to prohibit parking from 6am to 9am on

MINUTES OF THE KIAMA LOCAL TRAFFIC COMMITTEE 5 DECEMBER 2017

Mondays only, through the installation of regulatory signage.

(Ms Thompson and Mr Clingan)

6 CONFIDENTIAL REPORTS

7 CLOSURE

There being no further business the meeting closed electronically at COB Tuesday 5 December 2017.

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

.....
.....
Mayor

Director Engineering & Works

Item 7.2

Attachment 1

7.3 Minutes of the Destination Kiama Tourism Advisory Committee Meeting held 6 December 2017 (Draft)

Responsible Director: Corporate, Commercial & Community Services

This report contains the draft minutes of the Destination Kiama Tourism Advisory Committee Meeting held 6 December 2017 are attached for councilors review.

Attachments

- 1 Destination Kiama Tourism Advisory Committee Meeting minutes held 6 December 2017 [↓](#)

Enclosures

Nil

DRAFT STRATEGIC NOTES

**DESTINATION KIAMA TOURISM ADVISORY COMMITTEE MEETING
HELD 6 DECEMBER 2017
MERCURE GERRINGONG**

PRESENT: Councillor Matt Brown, Ro Sciacchitano, Liz Lewis, Sue Thorley, James Cook, Perrie Croshaw, Kerry McMurray (Director Finance, Corporate and Commercial Services), Karen Ronning (Manager Tourism and Events)

Item 1 - Welcome to Country

Item 2 - Apologies: Councillor Warren Steele, Michael Forsyth (General Manager)

Item 3 – Kiama Arts Precinct Master Plan

Kerry presented an overview of the Kiama Arts Precinct Master Plan:

- This project has been developed by the Kiama Municipal Council staff in partnership with the Cultural Committee
- Four (4) years in the making
- Includes a construction of an Art Gallery, 240 seat theatre, restaurant, re-development of the Joyce Wheatley Centre
- Valued at \$12 million.
- Funding currently being pursued

ACTION: Kerry to forward an outline including concept plans to the Tourism Advisory Committee for their information.

Item 4 – Next Tourism After Hours

A very successful Christmas Tourism After Hours event was held on Monday December 4 at el Corazon, with approximately 100 guests in attendance.

The committee discussed holding five (5) Tourism After Hours events per annum. This would include one (1) per season + one (1) at Christmas.

The next Tourism After Hours event is scheduled for the week that the Hull Super League team are in Kiama. The suggested date would need to fit in with the team activities and the suggested date is Thursday February 8 with an alternative date being Tuesday February 6. The suggested venue is East Beach.

From 2018 there will be a charge of approximately \$25 per event per person for non-members to attend.

A reward and recognition program for our area's tourism industry personnel as part of Tourism After Hours was discussed. Ideas as to how this could and should be run, to be sent through to Karen for further development and discussion

Item 5 - Tourism and Events Strategy

The Kiama Tourism and Events Strategic Plan was endorsed by Kiama Municipal Council on November 21.

Item 6 - Event Co-ordinators

Keryn Calcraft and Peta Horner have recently commenced job sharing the new Event Co-ordinator (1) role.

Carole Johnstone remains the Kiama Municipal Council Event Co-ordinator responsible for the World Junior Surfing League, Australia Day and the Queens Baton Relay, through until early 2018.

Item 7 - Tourism Development Opportunities

As per the Tourism and Events Strategy:

Recommendation:

That Destination Kiama progress the development of a Tourism Opportunities Plan for the Kiama Municipality, for completion by June 30, 2018. To pursue external funding and partners to support the development of this Plan.

Moved: *Perrie Crshaw, Seconded James Cook*

Karen to develop a Project Brief

Item 8 - New Year's Eve

Arrangements are progressing for our New Year's Eve Celebrations. This is the first year that Council is organising this event and several sections of Council have been contributing significantly to these arrangements. The Program of Events has recently been printed and released and is also available online. Destination Kiama has partnered with the Kiama Chamber of Commerce who are organising an Eat Street and a live music. Sponsors for this year's event include; Wave FM, The Sebel, the Kiama Golf Club, Terralong Terrace Apartments, The Kiama Coast Holiday Parks

Item 9 - Corona Sunset Festival

Destination Kiama congratulates Destination Wollongong on securing 2018 Corona Sunset Festival. We were very pleased to have made it to one of the final two destinations being considered for this event, nationally. Kiama's can do attitude was extremely well received with good relationships formed with key suppliers and event professionals.

Item 10 - General Business

10.1 The training of hospitality staff and Chefs to be added to the Agenda of the next meeting

10.2 Karen to co-ordinate feedback on the Destination Sydney Surrounds South 'Destination Management Plan' Discussion Paper.

10.3 Recruitment for the Visitor Services staff is progressing.

Item 11 – Next Meeting - TBC

Reports for Information

7.4 Minutes of the Health & Sustainability Committee meeting held 5 December 2017

Responsible Director: Corporate, Commercial & Community Services

This report contains the minutes of the Health & Sustainability Committee meeting held 5 December 2017 for Councillors information.

Enclosures

- 1 Minutes of the Health & Sustainability Committee meeting held 5-12-17 [↗](#)

Item 7.4

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

Nil

10 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

10.1 Jamberoo DCP

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

At its Ordinary meeting on 19 December 2016, Council considered a request to prepare a Planning Proposal (PP) for the rezoning of land from RU2 Rural Landscape to R2 Low-Density Residential for Lot 2 DP 626183 Golden Valley Road. Due to the comments received during the preliminary community consultation, Council did not endorse the request to prepare a PP and instead recommended that a Jamberoo specific Development Control Plan (DCP) be developed. A similar number of submissions were received during the public exhibition of another PP of a similar nature in Drualla Road.

At the 18 July 2017 Ordinary meeting of Council, the draft Jamberoo DCP was endorsed for public exhibition. The exhibition period was longer than the mandatory 28 days due to the amount of public interest in the matter. Exhibition ran from 29 July to 29 September, a total of 62 days. Consultation with the public involved advertising in local media, Council's website and Facebook page, mail outs to local community groups, 2 information sessions and 2 workshops. 163 individuals and groups submitted their comments. In addition, an online survey was produced help identify what elements contribute to the village character of Jamberoo which received 49 responses (see attached). The Jamberoo Valley Residents and Ratepayers Association also conducted their own survey which received 149 responses. The survey was subsequently submitted to Council and the results considered in the preparation of the final version of the DCP Chapter.

A final version of the document has been produced which has been peer reviewed both internally and by an external urban design consultant and includes diagrams to give a visual representation of the how the controls can be complied with.

Finance

Additional amendments to the draft DCP will require further funds to be allocated to the project which have not been included in this year's budget.

Policy

N/A

Attachments

- 1 Development Control Plan - DCP - Chapter 33 - Jamberoo Village - Final Document v2 with Diagrams [↓](#)

Report of the Director Environmental Services

10.1 Jamberoo DCP (cont)

2 Survey results [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council adopt the final draft of the draft Kiama DCP Chapter 33 – Jamberoo Village as outlined in this report and attachments.

BACKGROUND

At its Ordinary meeting on 19 December 2016, Council considered a request to prepare a Planning Proposal (PP) for the rezoning of land from RU2 Rural Landscape to R2 Low-Density Residential for Lot 2 DP 626183 Golden Valley Road. The request was subject to public exhibition which received a large number of submissions, from which it was evident that there was a feeling within the Jamberoo community that they were losing their rural village character as a result of development within and around the village. As such, Council did not endorse the request to prepare a PP and recommended that a Jamberoo specific DCP be developed. A similar number of submissions were received during the public exhibition of another PP of a similar nature in Drualla Road.

Issues Raised During Public Exhibition

Community-led, not developer-led development:

Comments raised regarding recent developments have given rise to the perception that development outcomes are controlled by the developer and not Council and the Community.

Comment:

The submissions received during the consultation process for the DCP and the submission periods for developments such as Golden Valley Road, Wyalla Road and Drualla Road, in conjunction with the issues raised during the Community Workshops with the Jamberoo community held in early September, have been pivotal in shaping the controls that are reflected in the final draft of the Jamberoo DCP chapter. The extensive community consultation has ensured that the community has had a high degree of meaningful input into the document and the ideas raised have been incorporated into the finalised document where appropriate. New development that is required to follow these controls can be considered community-led development.

Residential development in keeping with village character:

Concerns were raised that residential development in recent times is not consistent with the desired future character of Jamberoo. Examples raised included the new Chapel Hill Estate and Wyalla Road subdivision. It should be noted that submissions were raised in support of small lots sizes such as the Seniors Living area within Wyalla Road.

Comment:

Report of the Director Environmental Services

10.1 Jamberoo DCP (cont)

The Community Workshops and survey have helped to identify what it is specifically about these subdivisions that parts of the community have objection to. In particular, it was the size of the dwellings, lack of separation between the dwellings and narrow streets (specifically the entrance into Chapel Hill) that gave a perceived suburban feel to these subdivisions that some people have an issue with. Controls have been included in the draft Chapter to increase the side boundary setbacks and provide dedicated parking bays in new subdivisions to prevent this issue from recurring.

With regard to the Wyalla Road subdivision, there were a number of submissions in support of this development. The smaller lots size allows for people to retire from the land and still be part of the community without having a large block of land to maintain. This mix in dwelling and lot sizes has its place and lessons can be learned from this development which can be used when planning for future Seniors Living development and the like around the Municipality.

No further fragmentation of rural land:

A number of submissions raised the issue that there was a perception that rural land being fragmented by residential developments.

Comment:

The DCP will not control the release of urban land as that is the role of the Kiama Urban Strategy. Future subdivision within the Jamberoo village will need to be on land identified within the Kiama Urban Strategy for it to be considered.

Protection of heritage:

Some of the submissions suggested that a Heritage Conservation Area be established covering all of Jamberoo and the escarpment to protect the village and surrounds from being subject to Complying Development which some feel is eroding the village character.

Comment:

The high heritage values of Jamberoo are acknowledged and have been a key driver of the content of the DCP chapter. The State Government, through a range of legislative amendments over recent years, is moving towards embedding planning controls to achieve appropriate local development outcomes into the relevant LEP, DCP and local guidelines. The Jamberoo DCP chapter incorporates local planning controls that respond to and protect the valuable heritage context of the village. To be identified formally as a Heritage Conservation Areas, a place would need to demonstrate that it met criteria that requires a range of heritage values to be met including historical, aesthetic, social and technical values. Discussions have been held with the NSW Department of Planning & Environment regarding the potential for the entire valley to be listed and it is considered that this proposal would not merit the establishment of a Heritage Conservation Area. Regardless of a formal listing as a Heritage Conservation Area, the values are able to be protected through the planning controls contained in the DCP.

Mechanisms to ensure DCP is not able to be bypassed:

Concerns were raised regarding the potential for the DCP to be bypassed by other approval pathways such as Complying Development.

Report of the Director Environmental Services

10.1 Jamberoo DCP (cont)

Comment:

The State Housing Code applies to all residential zoned land in NSW with the purpose of the Code being to provide streamlined assessment processes for development that complies with the State's specified development standards. Concerns have been raised that the resulting development from the use of the Code is unsympathetic to the character of Jamberoo village. Approximately 10% of applications for new dwellings are for Complying Development, which leaves the vast majority of development being subject to a Development Application. For example, over the 2016-17 financial year, 173 dwellings were approved in the Municipality, with only 19 being for Complying Development, 4 of which were in Jamberoo. Whilst it is acknowledged that the DCP cannot halt Complying Development, the controls that are contained within the DCP will go a significant step to ensuring that the village character is protected.

Front and rear yards

There was a general consensus that people in Jamberoo value having decent size front and rear yards and this should be captured within the DCP provisions.

Comment:

It was clear that some people value one or the other or both, but there was a difference between the opinion of younger families and older residents. Setbacks prescribed in Jamberoo will be slightly larger than in the Chapter 4 provisions and the rear yard will be required to have a greater area of private open space (40m²) than is currently prescribed in Chapter 4 (25m²) and a minimum of 30% of the site must be maintained as landscaped area which is defined in the Kiama LEP 2011 as below:

***landscaped area** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.*

Objection to dual-occupancy development

This was raised in both the submissions and community workshops as a significant issue that residents have an objection to, specifically the lack of separation between dwellings.

Comment:

Questions were asked of the community as to what it is about dual-occupancies that they disliked. The overwhelming response was the higher density appearance that took away from the otherwise low-density nature of Jamberoo. As dual-occupancies are a permissible use within the R2 zone, the most appropriate response is to create suitable controls to reduce the visual impact that these developments may have. This includes only having them side by side on blocks over a certain width, with all other dual-occupancies having to have one behind the other or located on a corner allotment. The creation of the driveway access handle also can double as a view corridor to rural land and the escarpment beyond. In addition, Council recently resolved to include in the LEP a Minimum Lot Size for dual-occupancy development on newly zoned residential land of 1200m² for Jamberoo which will further reduce the perceived density created by this type of development.

Unsympathetic commercial development

Report of the Director Environmental Services

10.1 Jamberoo DCP (cont)

Some concern was raised regarding the construction of unsympathetic commercial buildings such as the post office.

Comment:

Controls have been produced within the Chapter to ensure that development like the post office building does not recur. Examples of buildings that are considered to positively contribute to the streetscape have been included in the document to give guidance to how to achieve aims of the development controls.

Wide streets

Concerns have been raised regarding the lack of ability for 2 cars to pass when a vehicle is parked on the roadside.

Comment:

The street widths contained within Chapter 7 were only recently reviewed and are considered to be consistent with AustRoads Guidelines. Widening of the streets can have a negative impact as it generally leads to an increase in the speed of local traffic. This requirement would then have to be supplemented by introducing traffic-calming devices. Some additional provisions for on-street parking and street tree planting have been included in the Chapter and this combined with the 6m front boundary setback should ensure that the streets retain a wide 'feel'. The diagrams contained at the end of the subdivision section give a visual representation of how this will be achieved.

Restriction of size of Outbuildings

A control was created in the Acceptable Solutions in the draft which proposed a maximum size of outbuildings for residential lots to prevent the proliferation of sheds and the like. This was met with some criticism from individuals who store items such as machinery and vehicles, citing that it may prevent them from having adequate storage space for these items.

Comment:

It should be noted that this control will only apply within the residential zone of the village itself and will not affect those on land within the surrounding valley. The threshold was raised slightly in the DCP in response to the comments to 100m² for lots over 1000m² and 70m² for lots under 1000m². However, if an individual needed a larger shed for any reason and could demonstrate that it satisfied the objectives of the DCP Chapter and Performance Criteria, then it is possible for this to be varied in exceptional circumstances.

Lighting

Provision of street lighting was raised as a control missing from the original draft

Comment:

Street lighting is already present within the commercial area of Jamberoo. Controls have been included for both the residential and commercial sections of the DCP to address Safer by Design principles.

Other issues

Report of the Director Environmental Services

10.1 Jamberoo DCP (cont)

Other issues raised that were not considered relevant to the DCP but which may inform other decisions of Council include:

- Street furniture, gardens and public open spaces;
- Noise from the school bell;
- Increase in Myna birds;
- Provision of underground power lines

Late comments

Council staff have been approached by members of the community after the final version of the DCP was released for consideration prior to the December Council meeting. As a result, a few minor spelling errors were picked up which have since been amended. There were also requests to amend the side setback for outbuildings from 900mm to 1.5m which potentially has merit as it is consistent with the setback for dwellings. Council may wish to resolve to amend the attached DCP Chapter to require outbuildings to be setback from side boundaries by 1.5m.

Council staff also received requests to limit the height of outbuildings to 1 storey and to retrospectively register building envelopes and/or easements on all residential land within the Village. These requests are not considered reasonable. The intent of the existing control is to ensure that standalone outbuildings are subservient in scale when compared to the primary dwelling located on the site. The term 'storey' is ambiguous and may potentially enable the construction of an 8.5m high outbuilding that only contains 1 storey. In regards to building envelopes and/or easements Council has no legal mechanism to retrospectively register building envelopes and/or easements on all residential land within the village. Where no building envelopes and/or easements exist the controls of the attached DCP Chapter will apply.

Conclusion

As a result of the very extensive community consultation process, it is considered that the final version of the DCP Chapter meets the general expectations and concerns of the wider community and will ensure that the village of Jamberoo is able to retain its low density character. Concerns regarding the DCP being bypassed by developers using the Complying Development pathway have been addressed by the inclusion of easements in new subdivisions and appropriate controls have been included to ensure that the final built form of any new dwelling or commercial structure are consistent with the desired future character of the village. It is recommended that the DCP Chapter be adopted with no further amendments.



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- This Chapter was adopted as a draft by Council on 18 July 2017.

Draft Chapter 33 – Kiama Development Control Plan 2012 – Jamberoo Village

Relationship to other Plans, Codes and Legislation

The purpose of the Kiama Development Control Plan (DCP) 2012 is to support the *Kiama Local Environmental Plan (LEP) 2011* and provide guidance for applicants to achieve the aims and objectives of the *LEP 2011* in relation to development in specified zones.

In the event of an inconsistency between this Plan and any environmental planning instrument applying to the same land, the provisions of the environmental planning instrument prevail.

In addition to the provisions of this Chapter, Council must consider the matters for consideration specified in Section 79C of the *Environmental Planning and Assessment Act 1979*.

Purpose of the Chapter

Future development in the Jamberoo Village needs to reflect the existing development within the Village as well as satisfying the expectations of the community. Future development needs to provide opportunities for passive surveillance of streets and public open spaces, as well as visually connecting the Village to the adjoining agricultural land. Future development within Jamberoo needs to pay close attention to the importance of providing direct vehicular and pedestrian connections to the commercial centre of Jamberoo Village.

This chapter outlines the requirements for development within the residential and business zoned land of Jamberoo, having regard to the following objectives:

- To be sympathetic to the existing and desired future low density character of the Jamberoo Village;
- Conserve the agricultural potential of the Jamberoo Valley;
- Conserve areas of native vegetation;
- Protect items of environmental and cultural heritage and promote their restoration and enhancement;
- Preserve the scenic amenity of Jamberoo Village and views of the surrounding agricultural Valley;
- Ensure future development is sited, designed and of a scale that is consistent with the desired future character of the area.

Character of Jamberoo

The Village of Jamberoo is nestled within the historical agricultural Jamberoo Valley, through which the Minnamurra River flows. Jamberoo is located at the top of the valley which is edged to the south by Saddleback Mountain and the west by the Illawarra escarpment. Jamberoo district forms part of the Illawarra coastal plain between Albion Park and the Shoalhaven River. The plain in this location is about 12 km wide and is bounded on the West by the Illawarra escarpment forming the cliffed edge of the plateau behind. The Jamberoo basin is roughly semi-circular, bounded on the north and south by spurs extending toward the coast, the Southern spur ending at Saddleback Mountain, to the South west of Kiama.

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The upper reaches of the Jamberoo basin have steep benched slopes and numerous smaller spurs from which creeks drain down to join the Minnamurra River, the principal stream draining through the rich pasture lands on the floor of the basin towards the sea. The sharp escarpment of the enclosing range is tempered by rather softer foothills and spurs. Minnamurra Falls is situated at the head of the Jamberoo basin in a pocket of rainforest sheltered from wind and where humidity is high and the fertile soil is of volcanic origin. Spectacular views over the basin and the nearby coastline may be obtained from vantage points on the edge of the escarpment, and from Saddleback Mountain.

There is a historic and rather English feel to the Jamberoo area which is characterised by the town's charming churches and accentuated by the dry stone walls which separate the farms in the area. The prominent buildings in the Jamberoo Village include the Jamberoo Pub, which is distinguished by its faux-Elizabethan half-timbered façade, St Stephen's Presbyterian Church, with its square tower and rounded arches, the cement rendered Anglican Church of the Resurrection, St Matthews Catholic Church, and the rebuilt Frederick's General Store.

The style of residential development within the Village is characterised by an eclectic mixture of single and double storey dwellings. The predominant building materials utilised within the Village include brick and timber facades with older dwellings having tiled roofs compared to the corrugated iron being utilised in more recent developments. The older dwellings along Allowrie Street are setback a relatively smaller distance from their respective front boundaries compared to more recent developments within the Village. Dwellings generally incorporate pitched roof forms. Due to its siting within an agricultural valley residential development within Jamberoo directly neighbours and overlooks active farming land. This forms part of the Village character and it is important that this is maintained and preserved.

This small historic Village is set within the Jamberoo Valley and comprises many old cottages and other larger buildings, with some newer detached housing clustered around the western extent of the Village. The historic character of the Jamberoo Valley should be retained and the significant historic buildings located within the area preserved. Large sections of undeveloped rural and steep land surround the recently developed areas.

The Key Defining Elements of the Jamberoo Village are:

- Main street interspersed with historic buildings;
- The Village core area including large public open spaces and sporting facilities;
- Dry-stone walls adjoining agricultural land;
- Dry-stone walls positioned as entry features;
- Traditional European building styles;
- Small scale commercial development that addresses the street;
- Relatively large lots within a low density settlement pattern and good building separation;
- Generous front setbacks for residential development;
- Views between buildings of surrounding agricultural land; and
- Moderately pitched roofs;
- Traditional building elements (i.e. gables, eaves, vertical proportioned windows, front verandas, timber veranda posts, timber shading devices over west facing windows etc.);
- Half-timbered façades;
- Horizontal cladding; and
- Recessive garages located towards rear of properties.

Desired Future Character

The Desired Future Character of the Jamberoo Village is to maintain and enhance the rural village atmosphere surrounded by active farming land.

Development within the Village shall incorporate the Key Defining Elements of the Jamberoo Village in their design to maintain and enhance the charm of the established rural village context and character.

The design of new commercial development should:

- Be small scale which directly fronts the street;
- Contribute to the passing tourism economy; and
- Enhance the traditional rural village character

The design of new residential development should incorporate:

- Simple pitched and hipped roof designs;
- Generous separation from neighbours;
- Traditional European architectural elements;
- Light weight construction (i.e. timber cladding) in the upper half of the development;
- Heavy weight construction (i.e. masonry, face brick) in the lower half of the development;
- Horizontal cladding;
- Subservient garaging; and
- Design features which enhance and reflect the charm and character of the traditional rural village.

It is envisaged that over time existing undesirable development within the Village will be altered to conform with the Key Defining Elements of the Jamberoo Village.

Application of this Chapter

The Chapter applies to all categories of development carried out within the residential and business zones of the Jamberoo Village, with the exception of the area identified in Figure 1 of Chapter 31 – Site Specific Controls - Wyalla Road Residential Release Area of the DCP 2012.

This chapter should be read in conjunction with the *LEP 2011* and other relevant sections including (but not limited to) the controls listed in Chapter 2 – Overall Controls, Chapter 7 - Subdivision Requirements, Chapter 8 - Landscaping Requirements, Chapter 9 - Car Parking Requirements and Chapter 11 - Waste Management and.

This plan expresses the controls as Acceptable Solutions and/or Performance Criteria (with the exception of the subdivision section). The Acceptable Solutions provide a clear and simple measure by which development may achieve the intent of a particular development control and the Desired Future Character of the Jamberoo Village. Where a development does not meet the Acceptable Solutions, outlined below, the applicant must prepare a statement justifying how the development meets the relevant Performance Criteria, overall objectives of the control and Desired Future Character of the Jamberoo Village. These applications will be assessed on individual merit. This allows for some flexibility and innovation in design and caters for exceptional circumstances where strict compliance with the Acceptable Solution is considered either impractical or unnecessary. The intent of the controls and the aims and objectives of the LEP and DCP must be met whichever path is chosen.

Development Control

33.1.1 RESIDENTIAL DEVELOPMENT – Single Dwellings, alterations and additions and ancillary development (R2 LOW DENSITY RESIDENTIAL ZONE)			
Objectives			
<ul style="list-style-type: none"> To provide guidelines for the appropriate siting of dwellings and outbuildings. To protect the amenity of the Jamberoo Village. To protect the established character of the Jamberoo Village. To ensure new development is compatible with the Desired Future Character of the Jamberoo Village. To ensure views of the surrounding rural landscape are preserved. To ensure the occupants of future dwellings are provided with suitable areas of private open space and solar access. To ensure that outbuildings and garages are not dominant features in the Jamberoo Village streetscape. 			
Performance Criteria		Acceptable Solutions	
Siting of Development			
P1	New development should be designed and located to preserve view corridors between adjoining buildings and reinforce the Desired Future Character.	A1	Refer to acceptable setback solutions below.
P2	Buildings are setback from front boundaries (i.e. street frontage) to contribute to the existing or proposed streetscape character and are generally consistent with the prevailing setbacks in the area.	A2	In the absence of an established setback, dwellings are to be set back a minimum 6m from the front boundary. Refer to Figure 1.1.
		A2.1	Where an established setback exists, dwellings are to be set back from the front boundary the average distance of the setbacks of the nearest 2 dwelling houses having the same primary road boundary and located within 40m of the lot on which the dwelling house is erected. Refer to Figures 1.2 & 1.3.

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		A2.2	When located adjacent to a heritage item, the set back of the dwelling from the front boundary is to consider and respond to the visual curtilage of the item.
P3	Buildings are setback from side boundaries to reduce the impact on adjoining properties in terms of bulk and scale, privacy and overshadowing and view corridors to rural land and the escarpment.	A3	Side boundary setbacks for dwellings on land directly adjoining rural (RU1 or RU2) zoned land (whether or not separated by a road or Council reserve) shall be a minimum 1.5m to one side boundary and 3m to the other, or as prescribed by the building envelope or easement applying to the land. Refer to Figure 2.
		A3.1	In all circumstances the side boundary setbacks for dwellings shall be a minimum of 1.5m and within a 45 degrees projected plane from a vertical distance of 3.6m above the existing ground level at the side boundaries. Refer to Figure 3.
P4	Buildings are setback from rear boundaries so as not to reduce the visual amenity and privacy of adjoining properties and to reduce the impacts from overshadowing.	A4	In the absence of an established setback, buildings, with the exception of outbuildings (see below), are to be setback a minimum of 6m from the rear boundary. Refer to Figure 1.1.
		A4.1	Where an established setback exists, buildings, with the exception of outbuildings (see below), are to be set back from the rear boundary an average distance of the setbacks of the nearest 2 dwelling houses located within 40m of the lot on which the dwelling house is erected. Rear setbacks are not to inhibit the establishment of Private Open Space. Refer to Figures 1.2 & 1.3.
P5	Buildings should step down with slope to minimise their impact on the natural landscape and to preserve view corridors between adjoining buildings.	A5	Cut and fill on the site external to the perimeter of the building is limited to 900mm.
		A5.1	Retaining walls and earth batters must be located a maximum of 600mm from property

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		A5.2	boundaries. Retaining walls shall be constructed of dry stone.
Built Form (Materials & Finishes)			
P6	The bulk and scale of new development shall be consistent with the Desired Future Character of the Jamberoo Village.	A6	Maximum building height and Gross Floor Area is to be in accordance with the Kiama LEP 2011.
		A6.1	Roofs are to have a minimum pitch of 25° Refer to Figure 4.
		A6.2	Front entrances to dwellings are to be through covered front verandas/patios of a minimum depth of 1.5m Refer to Figure 4.
P7	Materials and finishes are to be sympathetic to the surrounding rural and natural settings.	A7	Materials and finishes comply with relevant BASIX requirements.
		A7.1	Dwellings are to incorporate building materials that are sympathetic to the established streetscape character into the facades. These may include stone, brick or timber elements with tile or corrugated metal roofs. Refer to Figure 5.
		A7.2	50% of each façade of a dwelling is to be clad in horizontal timber or similar light-weight cladding with a traditional profile. Refer to Figure 5.
P8	Development shall not result in large, expansive walls facing side boundaries.	A8	The maximum unbroken length of walls facing side boundaries must not exceed 10m. Refer to Figures 6.1 & 6.2.
		A8.1	A minimum of 1m indentation is required where a building exceeds the maximum length as identified above. Refer to Figures 6.1 & 6.2.
Landscaping & Private Open Space (POS)			
P9	Dwellings are to be provided with sufficient	A9	Each dwelling must be provided with a

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	POS, with the principal POS area preferably facing north and having direct access to the main living area	<p>A9.1 minimum principal POS of 40m² with a minimum dimension of 5m and have direct access to the main living area.</p> <p>Refer to Figure 7.</p> <p>The gradient of the principal POS shall not exceed 1:4.</p> <p>Refer to Figure 7.</p> <p>A9.2 POS shall receive a minimum of 3 hours of solar access between 9am and 3pm on 21st June.</p> <p>Refer to Figure 8.</p> <p>A9.3 Privacy screens are to be installed along the entire edges of balconies, patios, decks or verandas facing side and rear boundaries that are:</p> <ul style="list-style-type: none"> - within 3m of the side or rear boundary and have a finished floor level of more than 1m above existing ground level; or - within 6m of the side or rear boundary and have a finished floor level of more than 2m above existing ground level. <p>Privacy screens are to have a height of at least 1.7m, but not more than 2.2m, above the finished floor level of the balcony, patio, deck or veranda.</p> <p>Refer to Figure 7.</p> <p>A9.4 POS shall not be located forward of the front building line.</p> <p>Refer to Figures 7 & 8.</p>
P10	Adequate landscaping is to be provided to ensure the Desired Future Character of the Jamberoo Village is achieved.	A10 A minimum of 30% of the total site areas is to be provided as landscape area and 50% of the landscaped area is to be provided to enable deep soil planting.
Outbuildings		
P11	Outbuildings are to have minimal visual impact on adjoining properties and should	A11 Detached garages and outbuildings are to be located behind the front building line of the principal dwelling and located a

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	be of a suitable bulk and scale for the site.		minimum 900mm from the side and rear boundaries of the property.
		A11.1	Detached garages and outbuildings shall match the style of the dwelling and employ traditional building techniques and features.
		A11.2	The height of outbuildings is not to exceed the height of the primary dwelling located on the site.
		A11.3	Outbuildings are to be predominantly screened from the street by dwellings located on the site. Metal outbuildings visible from public areas will not be supported.
P12	The dimensions and built form of outbuildings including sheds, detached garages and the like shall not have any adverse impact on adjoining residences with regards to visual amenity, overshadowing or stormwater.	A12	Total floor area of outbuildings shall be: For lots 1000m ² or larger: 100m ² For lots below 1000m ² : 70m ²
P13	Stormwater systems should be designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property.	A13	Stormwater is discharged to the street, watercourse or approved inter-allotment drainage system.
P14	Materials and finishes are to be sympathetic to the surrounding rural and natural settings.	A14	Outbuildings are to incorporate building materials that are sympathetic to the main dwelling facades. Refer to Figure 5.
Garaging/Parking			
P15	Car parking complies with the requirements of Chapter 9.	A15	A total of two car parking spaces are to be provided for each dwelling with one dedicated space behind the building line and one space behind the front boundary.
		A15.1	Garages are to be set back a minimum of 6m from the front property boundary to allow for stacked parking without overhanging the nature strip. Refer to Figures 6.1 & 6.2
P16	Garages are to be located/designed so as not to be a dominant feature of the property when viewed from the street.	A16	Double bay garage doors shall face either the side or rear boundary of the site.

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		A16.1	<p>The visual dominance of garage openings can be reduced by any of the following design options:</p> <ul style="list-style-type: none"> • Garage and carports are located a minimum 1m behind the front building line; or • Avoid utilising standard roller doors; or • Avoid finishing garage door in different colour to front façade of dwelling; or • Continue the front verandas of dwellings across the front of the garage opening. <p>Refer to Figures 6.1 & 6.2</p>
Safer By Design			
P17	Developments are designed to enhance the community perception of safety and security.	A17	<p>The main entrance of the dwelling is to be clearly visible from the street;</p> <p>Refer to Figure 9.</p>
		A17.1	<p>Windows are to be provided to the front elevation to provide passive surveillance of the street.</p> <p>Refer to Figure 9.</p>
		A17.2	<p>Landscaping within the front setback is to be limited to low growing species or tree species with an elevated canopy which allows a clear view to the primary entry point of the building.</p>
		A17.3	<p>Sensor lights are to be installed to ensure that the front entrances to dwellings are illuminated, while not causing a nuisance to traffic.</p> <p>Refer to Figure 9.</p>
Fences			
P18	The design and construction of fences positively contributes to the streetscape, minimises the disruption of floodwaters and have has no adverse impact on the safe ingress and egress of properties.	A18	<p>Fences constructed forward of the front building line shall be a maximum height of 1.2m above existing ground level.</p>
		A18.1	<p>Front fences are either picket fence style or masonry fence style with a minimum transparency of 25% Post or piers may extend above the maximum height by 0.2m.</p>

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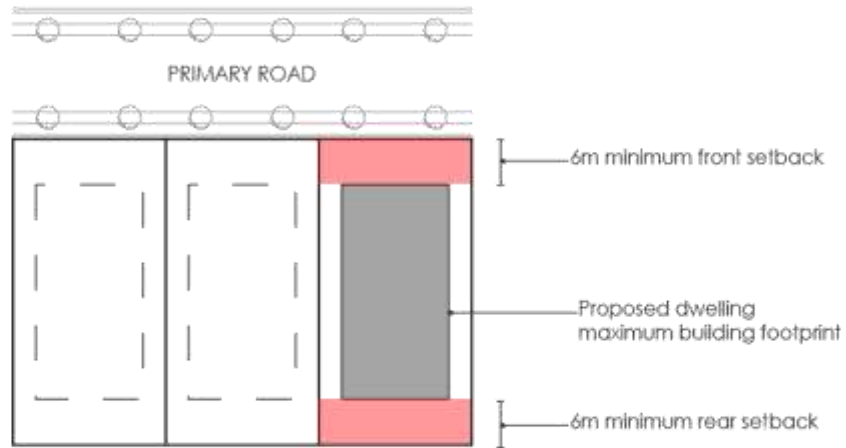
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			<p>Hedges located behind the fence shall be to a maximum height of 1.5m.</p> <p>Refer to Figures 9 and 10</p> <p>A18.2 Fences constructed behind the building line shall be a maximum 1.8m above existing ground level.</p> <p>A18.3 Shall not incorporate barbed wire in its construction or be electrified.</p> <p>A18.3 Fences shall not obstruct overland flow.</p> <p>A18.4 Fences forward of the front building line shall not incorporate sheet metal.</p> <p>A18.5 The colours and materials used for fences behind the front building line shall be compatible with neighbouring fences.</p>
Views			
P19	New development should be designed and located considering the view-sharing principles in Chapter 2 and building separation to preserve existing character and ensure views to farmland from the streetscape are maintained or introduced	A19	New development is located within registered development envelopes or outside of view sharing easements (where registered).
		A19.1	Development is to comply with acceptable setbacks outlined above.

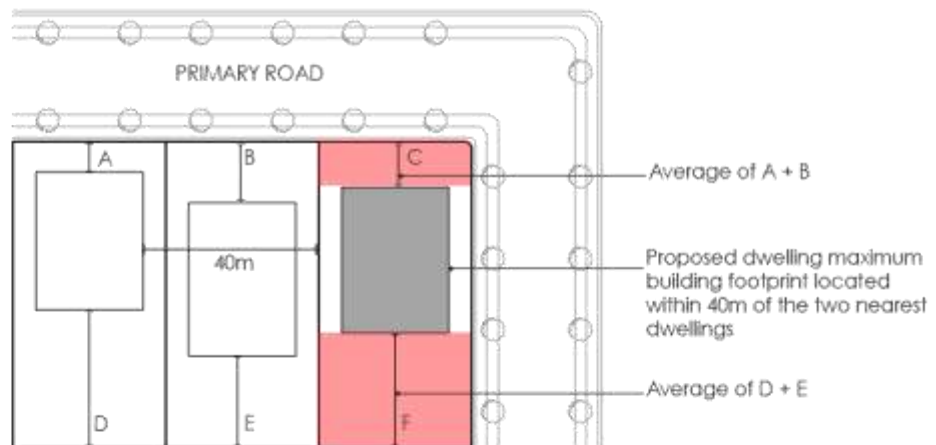
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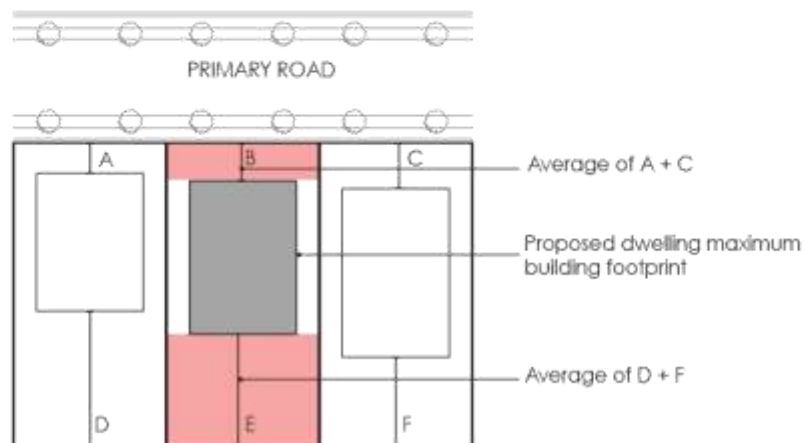
**FRONT AND REAR SETBACK REQUIREMENTS
IN THE ABSENCE OF AN ESTABLISHED SETBACK**
FIGURE 1.1



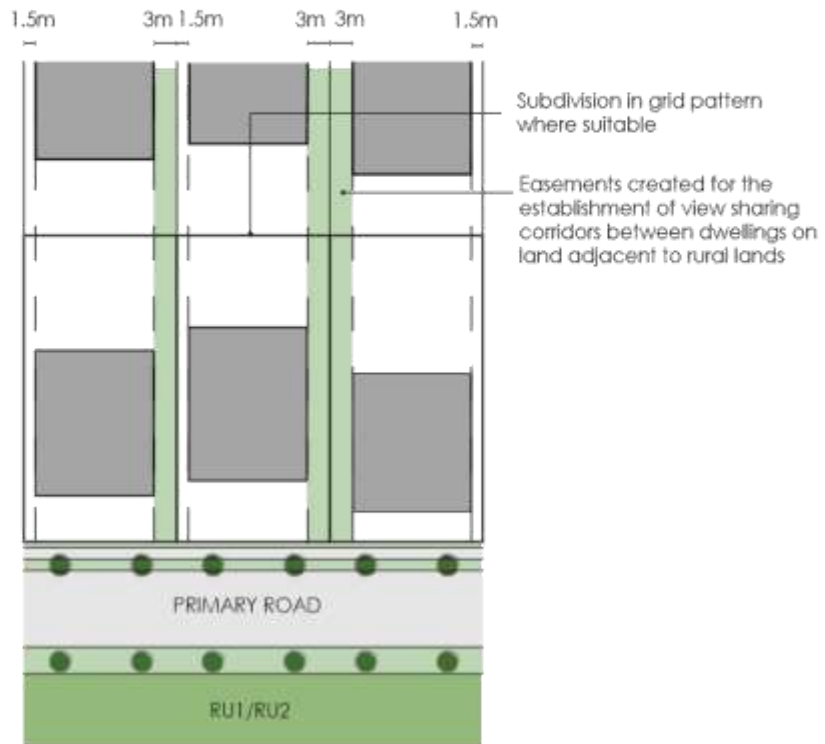
**FRONT AND REAR SETBACK REQUIREMENTS
WHERE AN ESTABLISHED SETBACK EXISTS (CORNER LOT)**
FIGURE 1.2



**FRONT AND REAR SETBACK REQUIREMENTS
WHERE AN ESTABLISHED SETBACK EXISTS (STANDARD LOT)**
FIGURE 1.3

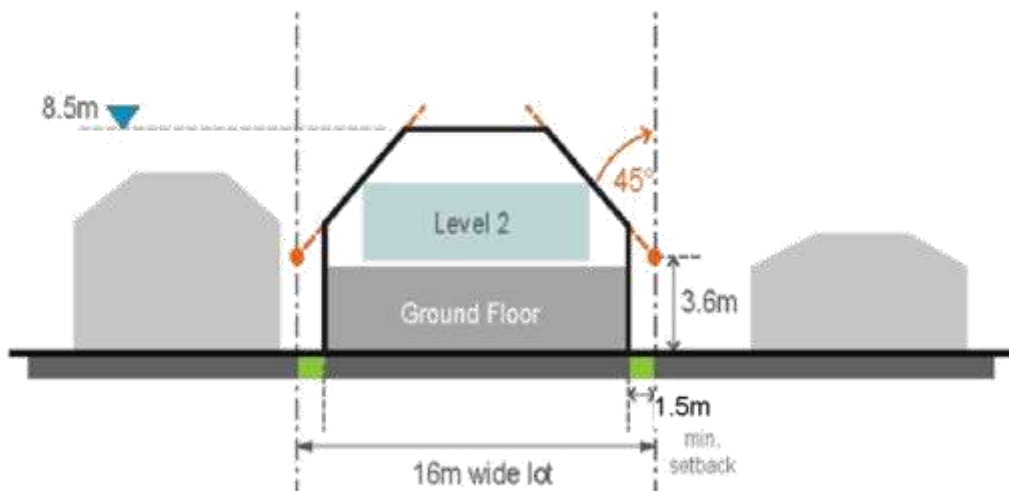


SIDE BOUNDARY SETBACKS FOR NEW DWELLINGS or ADDITIONS TO DWELLINGS ON LAND DIRECTLY ADJOINING RU1/RU2
 FIGURE 2



SIDE BOUNDARY SETBACKS FOR DWELLINGS or ADDITIONS TO DWELLINGS

FIGURE 3



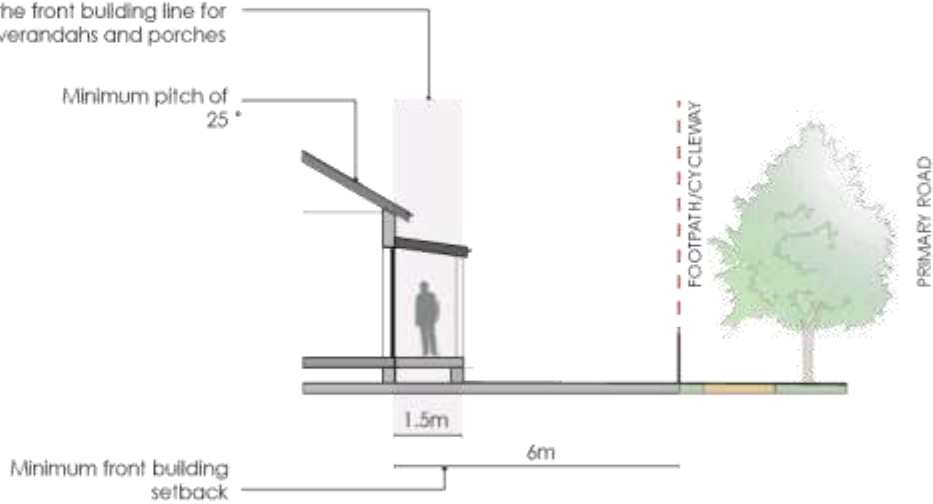
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FRONT ARTICULATION ZONE REQUIREMENTS

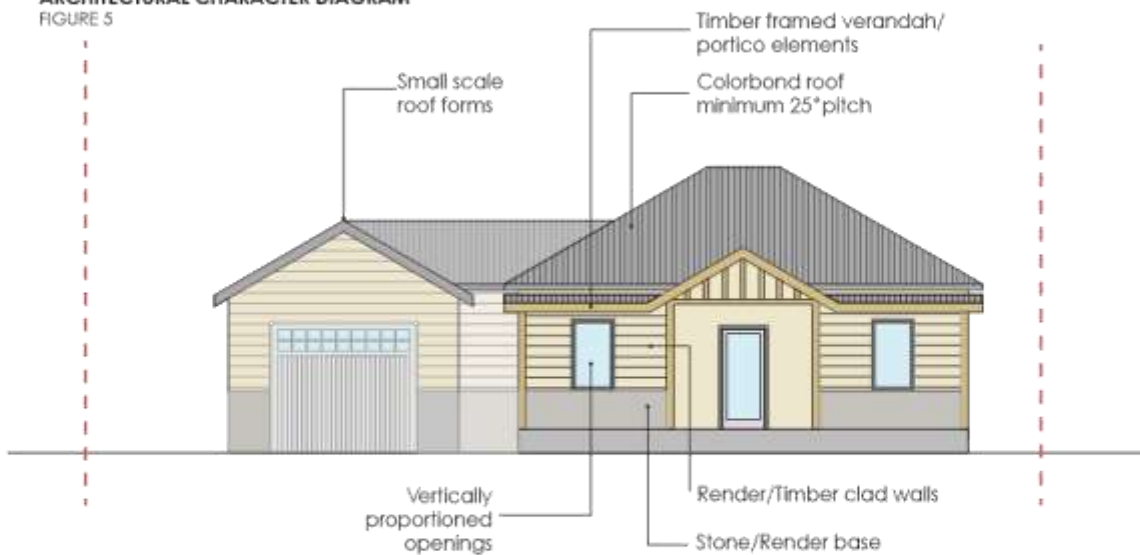
FIGURE 4

Articulation zone permitted forward of the front building line for verandahs and porches

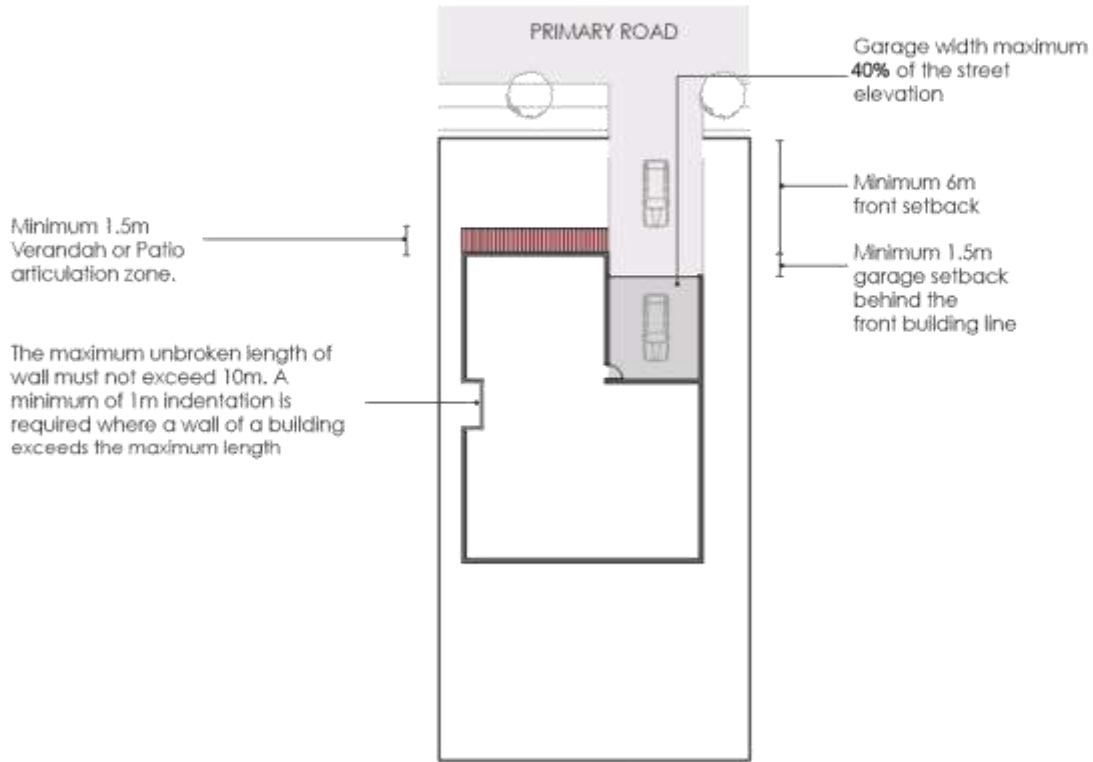


ARCHITECTURAL CHARACTER DIAGRAM

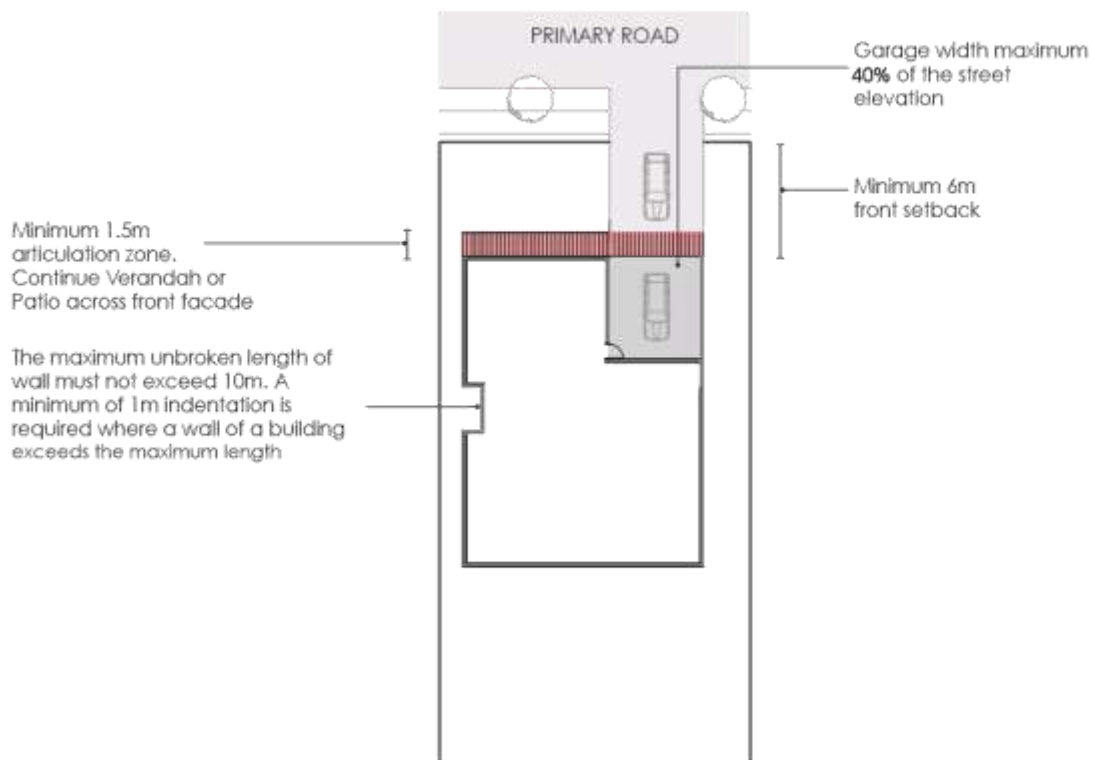
FIGURE 5



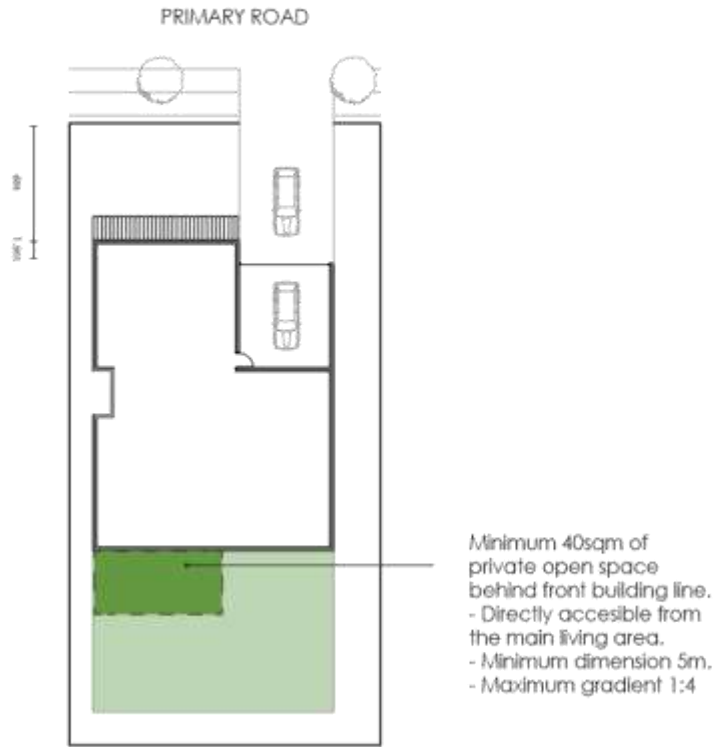
GARAGE AND VERANDAH SETBACKS: OPTION 1
FIGURE 6.1



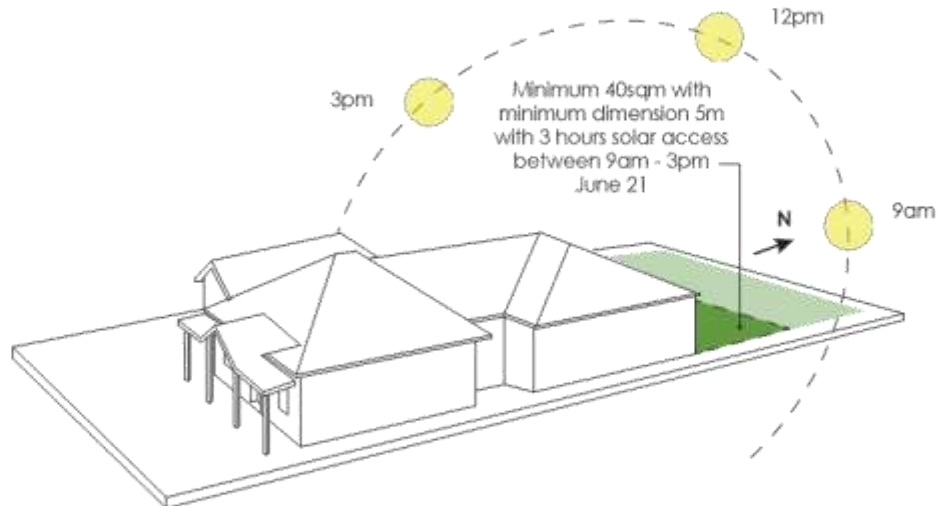
GARAGE AND VERANDAH SETBACKS: OPTION 2
FIGURE 6.2



PRIVATE OPEN SPACE
FIGURE 7



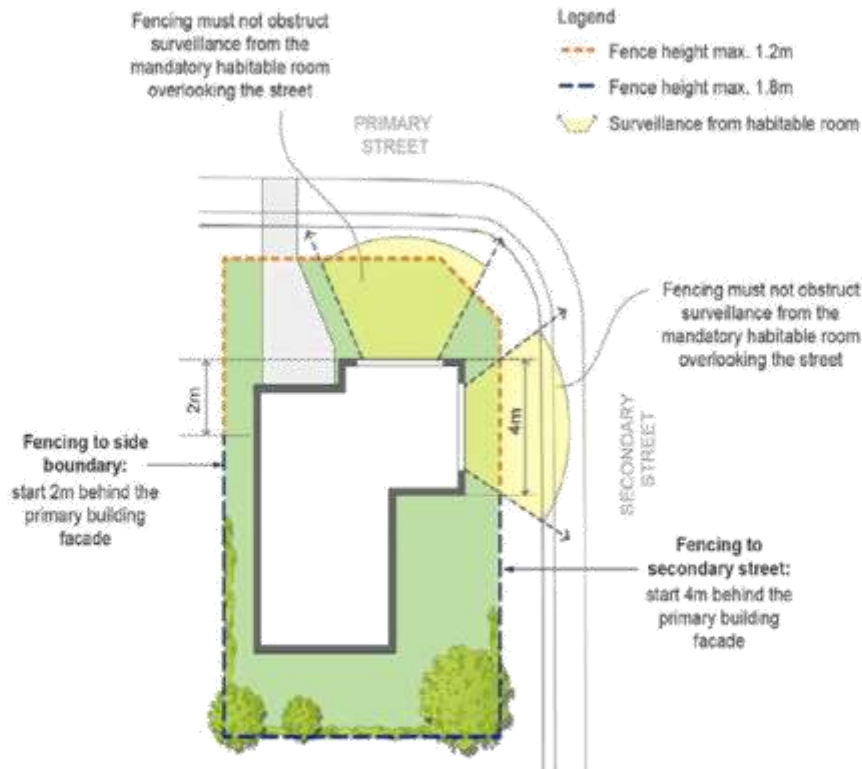
PRIVATE OPEN SPACE - SOLAR ACCESS
FIGURE 8



SAFETY DIAGRAM
FIGURE 9



FENCING DIAGRAM
FIGURE 10



33.1.2 RESIDENTIAL DEVELOPMENT – Dual Occupancy and Secondary Dwelling development (R2 LOW DENSITY RESIDENTIAL ZONE)			
Objectives			
<ul style="list-style-type: none"> • To provide guidelines for the appropriate siting of dual occupancies and associated outbuildings. • To protect the amenity of the Jamberoo Village. • To protect the established character of the Jamberoo Village. • To ensure that dual occupancy and secondary dwelling development remains as low density development compatible with the Desired Future Character of the Jamberoo Village. • To ensure views of the surrounding rural landscape are preserved. • To ensure the occupants of future dwellings are provided with suitable areas of private open space and solar access. • To ensure that outbuildings and garages are not dominant features in the Jamberoo Village streetscape. • To ensure that dual occupancy and secondary dwelling development does not become a dominant feature of the Jamberoo Village. 			
Performance Criteria		Acceptable Solutions	
Siting of Development			
P1	New development should be designed and located to preserve view corridors between adjoining buildings and reinforce the existing character.	A1	Refer to acceptable setback solutions below.
		A1.1	Dual-occupancy development will only be considered in the following circumstances: <ul style="list-style-type: none"> • where the allotment has a minimum width of 25m measured at the front building line; or • where the allotment has dual street frontage (i.e. corner allotment) and each dwelling will address a different street; or • where the development will result in one dwelling being located behind the other.

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			<p>Mirror reversed or side by side dual occupancies will not be supported.</p> <p>Refer to Figures 11 & 12.</p>
P2	Buildings are setback from front boundaries (i.e. street frontage) to contribute to the existing or proposed streetscape character and are generally consistent with the prevailing setbacks in the area.	<p>A2</p> <p>In the absence of an established setback, dwellings are to be set back a minimum 6m from the front boundary.</p> <p>Refer to Figure 1.1.</p> <p>A2.1</p> <p>Where an established setback exists, dwellings are to be set back from the front boundary the average distance of the setbacks of the nearest 2 dwelling houses having the same primary road boundary and located within 40m of the lot on which the dwelling house is erected.</p> <p>Refer to Figures 1.2 & 1.3.</p> <p>A2.2</p> <p>When located adjacent to a heritage item, the set back of the dwelling from the front boundary is to consider and respond to the visual curtilage of the item.</p> <p>A2.3</p> <p>When both dwellings associated with a dual occupancy front the street each dwelling shall comply with the applicable front setbacks outlined above.</p> <p>A2.4</p> <p>When one dwelling is located behind the other the dwelling fronting the street is to comply with the applicable front setbacks outlined above while the rear dwelling is to be setback a minimum of 3m from the boundary separating the 2 dwellings.</p>	
P3	Buildings are setback from side boundaries to reduce the impact on adjoining properties in terms of bulk and scale, privacy and overshadowing and view corridors to rural land and the escarpment.	<p>A3</p> <p>Side boundary setbacks for new dwellings on land directly adjoining rural (RU1 or RU2) zoned land (whether or not separated by a road or Council reserve) shall be a minimum 1.5m to one side boundary and 3m to the other, or as prescribed by the building envelope or easement applying to the land.</p> <p>Refer to Figure 2.</p> <p>A3.1</p> <p>In all circumstances the side boundary setbacks for dwellings shall be a minimum of 1.5m and within a 45 degrees projected</p>	

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		A3.2	<p>plane from a vertical distance of 3.6m above the existing ground level at the side boundaries.</p> <p>Refer to Figure 3.</p> <p>When detached, individual dwellings associated with dual occupancy development are to be separated from one another by 1.8m.</p>
P4	Buildings are setback from rear boundaries so as not to reduce the visual amenity and privacy of adjoining properties and to reduce the impacts from overshadowing.	A4	<p>In the absence of an established setback, buildings, with the exception of outbuildings (see below), are to be setback a minimum of 6m from the rear boundary.</p> <p>Refer to Figure 1.1.</p>
		A4.1	<p>Where an established setback exists, buildings, with the exception of outbuildings (see below), are to be set back from the rear boundary an average distance of the setbacks of the nearest 2 dwelling houses located within 40m of the lot on which the dwelling house is erected. Rear setbacks are not to inhibit the establishment of Private Open Space.</p> <p>Refer to Figures 1.2 & 1.3.</p>
		A4.2	<p>Both dwellings associated with a dual occupancy shall comply with the rear setbacks outlined above.</p>
P5	Buildings should step down with slope to minimise their impact on the natural landscape and to preserve view corridors between adjoining buildings.	A5	<p>Cut and fill on the site external to the perimeter of the building is limited to 900mm.</p>
		A5.1	<p>Retaining walls and earth batters must be located a maximum of 600mm from property boundaries.</p>
		A5.2	<p>Retaining walls shall be constructed of dry stone.</p>
Built Form (Materials & Finishes)			
P6	The bulk and scale of new development shall be consistent with the Desired Future Character of the Jamberoo Village..	A6	<p>Maximum building height and Gross Floor Area is to be in accordance with the Kiama LEP 2011.</p>

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		A6.1	Roofs are to have a minimum pitch of 25° Refer to Figure 4.
		A6.2	Front entrances to dwellings are to be through front verandas/patios of a minimum depth of 1.5m Refer to Figure 4.
P7	Materials and finishes are to be sympathetic to the surrounding rural and natural settings	A7	Materials and finishes comply with relevant BASIX requirements.
		A7.1	Dwellings are to incorporate building materials that are sympathetic to the established streetscape character into the facades. These may include stone, brick or timber elements with tile or corrugated metal roofs. Refer to Figure 5.
		A7.2	50% of each façade of a dwelling is to be clad in horizontal timber or similar light-weight cladding with a traditional profile. Refer to Figure 5.
P8	Development shall not result in large, expansive walls facing side boundaries	A8	The maximum unbroken length of walls facing side boundaries must not exceed 10m. Refer to Figures 6.1 & 6.2.
		A8.1	A minimum of 1m indentation is required where a building exceeds the maximum length. Refer to Figures 6.1 & 6.2.
Landscaping & Private Open Space (POS)			
P9	Dwellings are to be provided with sufficient POS, with the principal POS area facing north and having direct access to the main living area	A9	Each dwelling must be provided with a minimum principal POS of 40m ² with a minimum dimension of 5m and have direct access to the main living area. Refer to Figure 7.
		A9.1	The gradient of the principal POS shall not exceed 1:4. Refer to Figure 7.

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		<p>A9.2 POS shall receive a minimum of 3 hours of solar access between 9am and 3pm on 21st June.</p> <p>Refer to Figure 8.</p> <p>A9.3 Privacy screens are to be installed along the entire edges of balconies, patios, decks or verandas facing side and rear boundaries that are:</p> <ul style="list-style-type: none"> - within 3m of the side or rear boundary and have a finished floor level of more than 1m above existing ground level; or - within 6m of the side or rear boundary and have a finished floor level of more than 2m above existing ground level. <p>Privacy screens are to have a height of at least 1.7m, but not more than 2.2m, above the finished floor level the balcony, patio, deck or veranda.</p> <p>A9.4 POS shall not be located forward of the front building line.</p> <p>Refer to Figures 7 & 8.</p> <p>A9.5 Adjoining POS's are to be suitably screened from one and other.</p>
P10	Adequate landscaping is to be provided to ensure the Desired Future Character of the Jamberoo Village is achieved.	A10 A minimum of 30% of the total site areas is to be provided as landscape area for each dwelling and 50% of the landscaped area is to be provided to enable deep soil planting.
Outbuildings		
P11	Outbuildings are to have minimal visual impact on adjoining properties and should be of a suitable bulk and scale for the site.	<p>A11 Detached garages and outbuildings are to be located behind the front building line of the principal dwelling and located a minimum 900mm from the property boundary.</p> <p>A11.1 Detached garages and outbuildings shall match the dwellings and employ traditional building techniques and features.</p> <p>A11.2 The height of outbuildings is not to exceed the height of the primary dwelling located on the site.</p>

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		A11.3	Outbuildings are to be predominantly screened from the street by dwellings located on the site. Metal outbuildings visible from public areas will not be supported.
P12	The dimensions and built form of outbuildings including sheds, detached garages and the like shall not have any adverse impact on adjoining residences with regards to visual amenity, overshadowing or stormwater.	A12	Total floor area of outbuildings shall be: For lots 1000m ² or larger: 100m ² For lots below 1000m ² : 70m ²
P13	Stormwater systems should be designed so as not to redirect the flow of any surface water or ground water, or cause sediment to be transported, onto an adjoining property.	A13	Stormwater is discharged to the street, watercourse or approved inter-allotment drainage system.
P14	Materials and finishes are to be sympathetic to the surrounding rural and natural settings.	A14	Outbuildings are to incorporate building materials that are sympathetic to the main dwelling facades. Refer to Figure 5.
Garaging/Parking			
P15	Car parking complies with the requirements of Chapter 9 and is located so as to have minimal impact on the streetscape.	A15	Two car parking spaces are to be provided for each dwelling, with at least one space located within a garage or carport behind the front building line.
		A15.1	Garages are to be set back a minimum of 6m from the front property boundary to allow for stacked parking without overhanging the nature strip.
P16	Garages are to be located/designed so as not to be a dominant feature of the property when viewed from the street.	A16	Double bay garage doors shall face either the side or rear boundary of the site.
		A16.1	The visual dominance of garage openings can be reduced by any of the following design options: <ul style="list-style-type: none"> • Garage and carports are located a minimum 1m behind the front building line; or • Avoid utilising standard roller doors; or • Avoid finishing garage door in different colour to front façade of dwelling; or

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			<ul style="list-style-type: none"> Continue the front verandas of dwellings across the front the garage opening. <p>Refer to Figures 6.1 & 6.2.</p> <p>A16.2 Single garages associated with a dual occupancy fronting the same street are not to be located immediately adjacent to one another.</p>
Safer By Design			
P17	Developments are designed to enhance the community perception of safety and security.	<p>A17 The main entrance of the dwelling is to be clearly visible from the street.</p> <p>Refer to Figure 8.</p> <p>A17.1 Windows are to be provided to the front elevation to provide passive surveillance of the street.</p> <p>Refer to Figure 8.</p> <p>A17.2 Landscaping within the front setback is to be limited to low growing species or tree species with an elevated canopy which allows a clear view to the primary entry point of the building.</p> <p>A17.3 Sensor lights are to be installed to ensure that the front entrances to dwellings are illuminated, while not causing a nuisance to traffic.</p> <p>Refer to Figure 8.</p> <p>A17.4 The main entrance for the front or each occupancy for corner sites are to be clearly identifiable as separate entrance points from the street.</p>	
Fences			
P18	The design and construction of fences positively contributes to the streetscape, minimises the disruption of floodwaters and have has no adverse impact on the safe ingress and egress of properties.	<p>A18 Fences constructed forward of the front building line shall be a maximum height of 1.2m above existing ground level.</p> <p>18.1 Front fences are either picket fence style or masonry fence style with a minimum transparency of 25% Post or piers may extend above the maximum height by 0.2m.</p>	

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			<p>Hedges located behind the fence shall be to a maximum height of 1.5m.</p> <p>Refer to Figures 9 and 10.</p> <p>A18.2 Fences constructed behind the building line shall be a maximum 1.8m above existing ground level.</p> <p>A18.3 Shall not incorporate barbed wire in its construction or be electrified.</p> <p>A18.4 Shall not obstruct overland flow.</p> <p>A18.5 Fences forward of the front building line shall not incorporate sheet metal.</p> <p>A18.6 The colours and materials used for fences behind the front building line shall be compatible with neighbouring fences.</p>
Views			
P19	New development should be designed and located considering the view-sharing principles in Chapter 2 and building separation to preserve existing character and ensure views to farmland from the streetscape are maintained or introduced	A19	New development is located within registered development envelopes or outside of view sharing easements (where registered).
		A19.1	Development is to comply with acceptable setbacks outlined above.

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DUAL-OCCUPANCY DEVELOPMENT
Where the allotment has dual street frontage
Figure 11



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DUAL-OCCUPANCY DEVELOPMENT
Where the development will result in one dwelling being located behind the other
Figure 12



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33.2 COMMERCIAL DEVELOPMENT (B2 LOCAL CENTRE ZONE)			
Objectives			
<ul style="list-style-type: none"> To provide guidelines for the appropriate siting of commercial development. To protect the amenity of the Jamberoo Village. To protect the established character of the Jamberoo Village. To ensure commercial development is compatible with the Desired Future Character of the Jamberoo Village. To ensure commercial development respects the surrounding residential development. To ensure adequate and safe off-street commercial car parking is provided. To ensure commercial development encourages and supports the tourism industry. 			
Performance Criteria		Acceptable Solutions	
Street Frontage			
P1	Buildings are designed to attract pedestrian traffic along ground floor street frontages.	A1	Development must have an active street frontage i.e. all premises on the ground floor of the building facing the street must be used for either business premises or retail premises.
		A1.1	New buildings are to maintain or enhance covered pedestrian access within Allowrie St.
		A1.2	New development is to include a continuous flat awning, with posts, which covers the public footpath at a minimum height of 3.2m.
		A1.3	The road reserve from the site boundary to the kerb is to be paved with Claypave Regal Tan pavers in a herringbone pattern, 90°, with soldier course along the kerb.
		A1.4	Commercial development is to incorporate Safer by Design Principles through lighting and passive surveillance.
Setbacks			
P2	New buildings are setback an appropriate distance to the front boundary to ensure interaction with the streets.	A2	Buildings can be setback zero metres from the front boundary.
P3	Side boundary setbacks of new buildings are to be consistent with the existing	A3	Side boundary setbacks can be zero metres subject to compliance with the

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	streetscape and shall not adversely impact on the amenity of adjoining land uses.		National Construction Code (as amended).
Design and colour			
P4	Materials and colours are to be compatible with the surrounding streetscape as identified on page 2 of this Chapter.	A4	New development utilises building materials in its design that are sympathetic to the established streetscape character into the facades. These may include stone, brick or timber elements with tiled or corrugated roofs as detailed in figures below.
		A4.1	Development on corner allotments must include architectural features to address both frontages.
		A4.2	Transparent glazing is to allow unobstructed views from the adjacent footpath to at least a depth of 4m within the building.
Waste Management			
P5	All waste associated with commercial development is to be managed to minimise impacts to adjoining private and public land.	A5	Refer to Chapter 11 for waste requirements.
Car Parking			
P6	Adequate and suitably positioned commercial car parking is to be provided with new development.	A6	Refer to Chapter 9 for car parking requirements.
		A6.1	Off-street car parking is not to be located forward of the front building line.

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Examples of commercial development which is compatible with Desired Future Character
of the Jamberoo Village



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33.3 Signage (all zones)			
Objectives			
<ul style="list-style-type: none"> To permit signage of high design quality that positively contributes to the amenity of the Jamberoo Village streetscape. To ensure signage compliments the character of the Jamberoo Village. To avoid signage clutter negatively impacting the Jamberoo Village streetscape. To ensure signs are positioned so as not to cause hazard or distraction to motorists or pedestrians. To ensure signage is compatible with the Desired Future Character of the Jamberoo Village. 			
Performance Criteria		Acceptable Solutions	
General Signage Controls			
P1	All signage it to be compatible and sympathetic with the Desired Future Character of the Jamberoo Village. Refer to Figure 13 for different signage types.	A1	Details of all signage, including free standing, fascia and wall signs must accompany Development Applications.
		A1.1	All signage must be attached to the building in which the business identified in the sign is located.
		A1.2	Signage must be compatible with the streetscape and the architectural character of the building or site upon which it is erected.
		A1.3	The signage is not to have a detrimental impact on the visual character of the building or surrounding area.
		A1.4	Materials used must be durable and fade proof and of a high aesthetic quality.
		A1.5	Signage is not to obscure other signage, or result in signage clutter.
		A1.6	Signage must not cause excessive glare or reflection.
		A1.7	Flashing or movable signage is not

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		A1.8	permitted. Where signage relates to multiple tenancy/occupancy, a director board must be used, rather than individual signage for each tenancy.
		A1.9	Illuminated signage must: i. Have its means of illumination, including any associated cables, concealed or integrated within the frame of the sign, and ii. Not be animated, flashing or moving, and iii. Comply with AS 4283-1997, <i>Control of the obtrusive effects of outdoor lighting</i> .
Specific Types of Signage Controls (refer to diagram below)			
P2	Certain types of signage is not permitted within the Jamberoo Village.	A2	Bunting or inflatable advertising signs, free standing pole signs, projecting wall signs, above awning signs and roof mounted signs are not permitted within the Jamberoo Village.
		A2.1	A-frame signage is not permissible on public footpaths.
Fascia Signs			
P3	Fascia signs are to be compatible and sympathetic with the Desired Future Character of the Jamberoo.	A3	Fascia signs must be located on the awning and must not project out from the edge of the fascia.
Hamper Signs			
P4	Hamper signs are to be compatible and sympathetic with the Desired Future Character of the Jamberoo Village.	A4	Hamper signs (located above the front door/window) must be located a minimum 2.1m above the existing ground level and have a maximum area of 2.5m ²
Under Awning Signs			
P5	Under awning signs are to be compatible and sympathetic with the Desired Future Character of the Jamberoo Village.	A5	Under awning signs must maintain a 2.6m clearance above ground level and must not project beyond the edge of the awning. One under awning sign is permitted per street frontage and the area of each sign is not to exceed 2.5m ²
Flush Wall Signs			
P6	Flush wall signs are to be compatible and sympathetic with the Desired Future Character of the Jamberoo	A6	Flush wall signs must not extend laterally from the wall or beyond the edges of the wall. Signs should be

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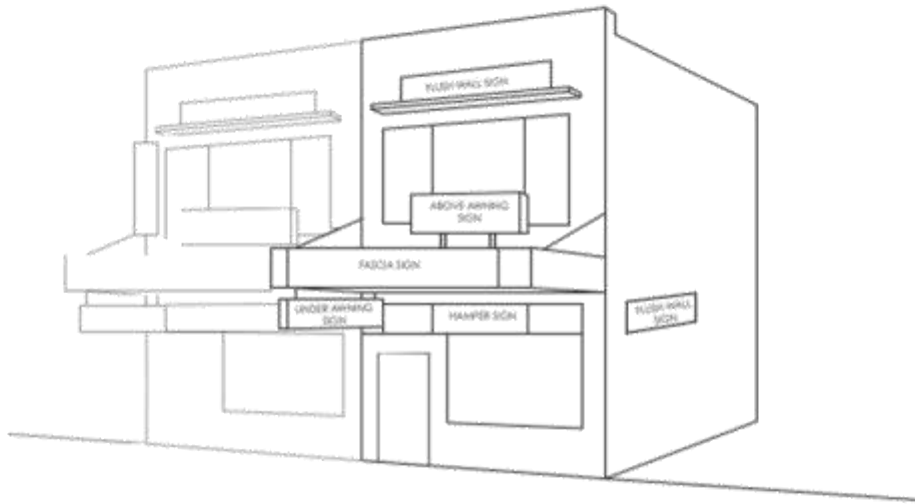
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	Village.	located 2.6m above ground level and must not occupy more than 25% of the wall area for each street frontage.
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EXAMPLES OF SIGNAGE TYPES
FIGURE 13



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33.3 RESIDENTIAL SUBDIVISION

Subdivision controls are contained within Chapter 7 of the Kiama DCP with the exception of the Jamberoo specific controls contained below. Where there is an inconsistency between the Jamberoo specific controls and the controls contained within Chapter 7, the Jamberoo specific controls prevail.

- C1 Future urban expansion will only be considered upon appropriately zoned residential land or land that has been identified for residential purposes in the Kiama Urban Strategy.
- C2 New lots shall have easements created adjacent to each side boundary measuring 3m wide, adjacent to one side boundary, and 1.5m wide, adjacent to the other side boundary, for the purpose of establishing landscape buffers/view corridors and increasing the separation between new dwellings to improve solar access and maintain general amenity.
- C3 Lots backing onto rural land shall also have a 3m wide easement, along the interface between the Rural and Residential zoned land, created for the purpose of establishing a landscape buffer to soften the visual impact of residential development when view from public areas and roads approaching the village and also reducing the risk of land-use conflict between the residential and rural areas.
- C4 When new road networks are proposed, street trees and on street car parking spaces are to be provided, in addition to the minimum road widths, stipulated in Chapter 7 of the DCP, for perimeter roads.
- C5 When new road networks are proposed, street planting must be provided within new streets at a rate of two (2) trees per allotment, species of which must comply with Council's Landscaping requirements in Chapter 8 of the DCP.
- C6 When new road networks are proposed, on road car parking spaces are to be provided parallel to the road, in between the street trees to allow two (2) cars to pass when cars are parked on both sides of the road.

Refer to Figure 14.
- C7 Subdivision where more than 20 lots are proposed shall ensure that all lots are within 400m of a local park, playground or passive open space. Where on-site detention basins area proposed to double as public open space the basin must include a sizeable raised level area which incorporates playground or fitness equipment or the like and shading landscaping to ensure that it can be activated for active and passive recreation by the public.
- C8 For infill developments in established residential areas, lots should be oriented

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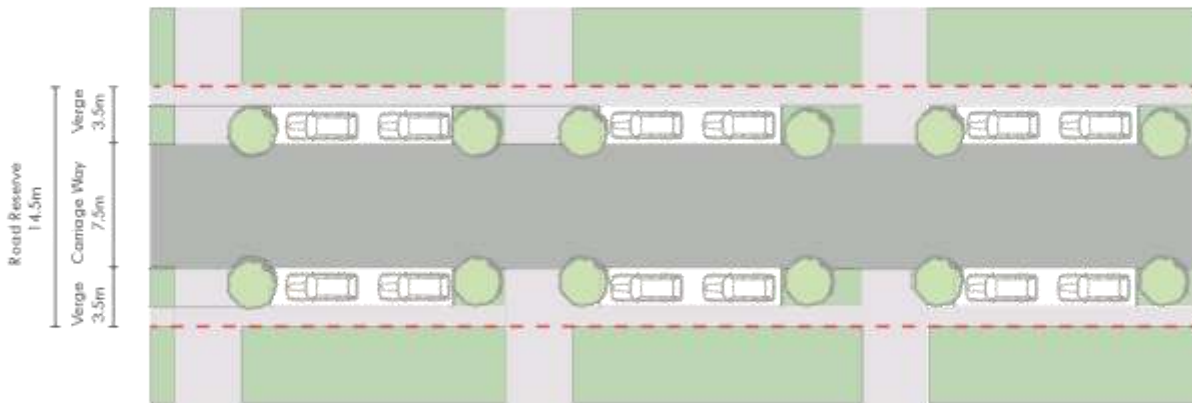
to optimise solar access while taking account of the existing pattern and solar orientation of development.

- C9 For subdivisions in new release areas and at the edge of established residential areas, orientation should maximise solar access by providing a north-south orientation within the range of 30° east of north or 20° west of north as the preferred option. Lots orientated east-west should have increased width at the midpoint of each lot with access to a minimum of 3 hours sunlight between 9.00am and 3.00pm on 21 June (Winter solstice).
- C10 Lots should be generally rectangular in shape. Lots on the southern side of the road should provide a greater frontage to allow better solar orientation of the future dwelling.
- C11 Corner lots should be created of a sufficient area to allow development for the purposes of dual occupancies with the supply of appropriately located independent utility connection points.

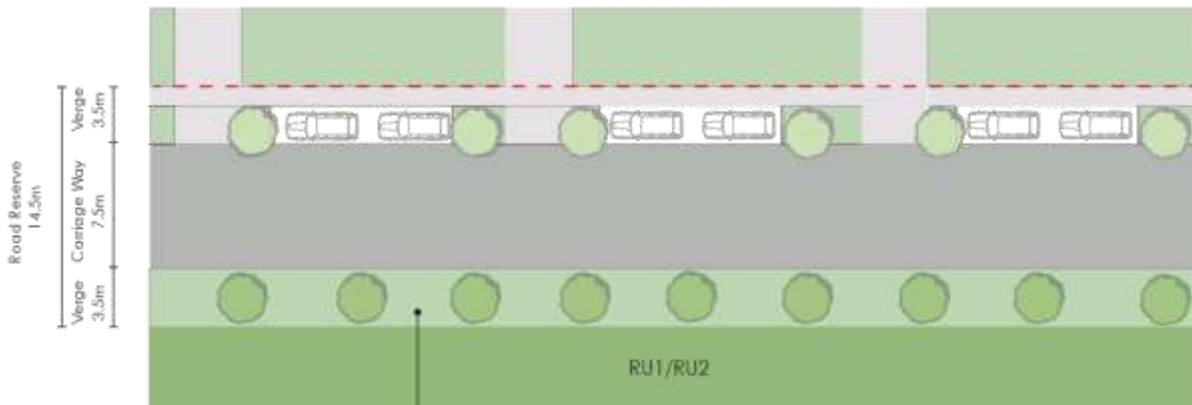
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PUBLIC ROAD SERVICING LESS
THAN 30 DWELLINGS/LOTS
FIGURE 14

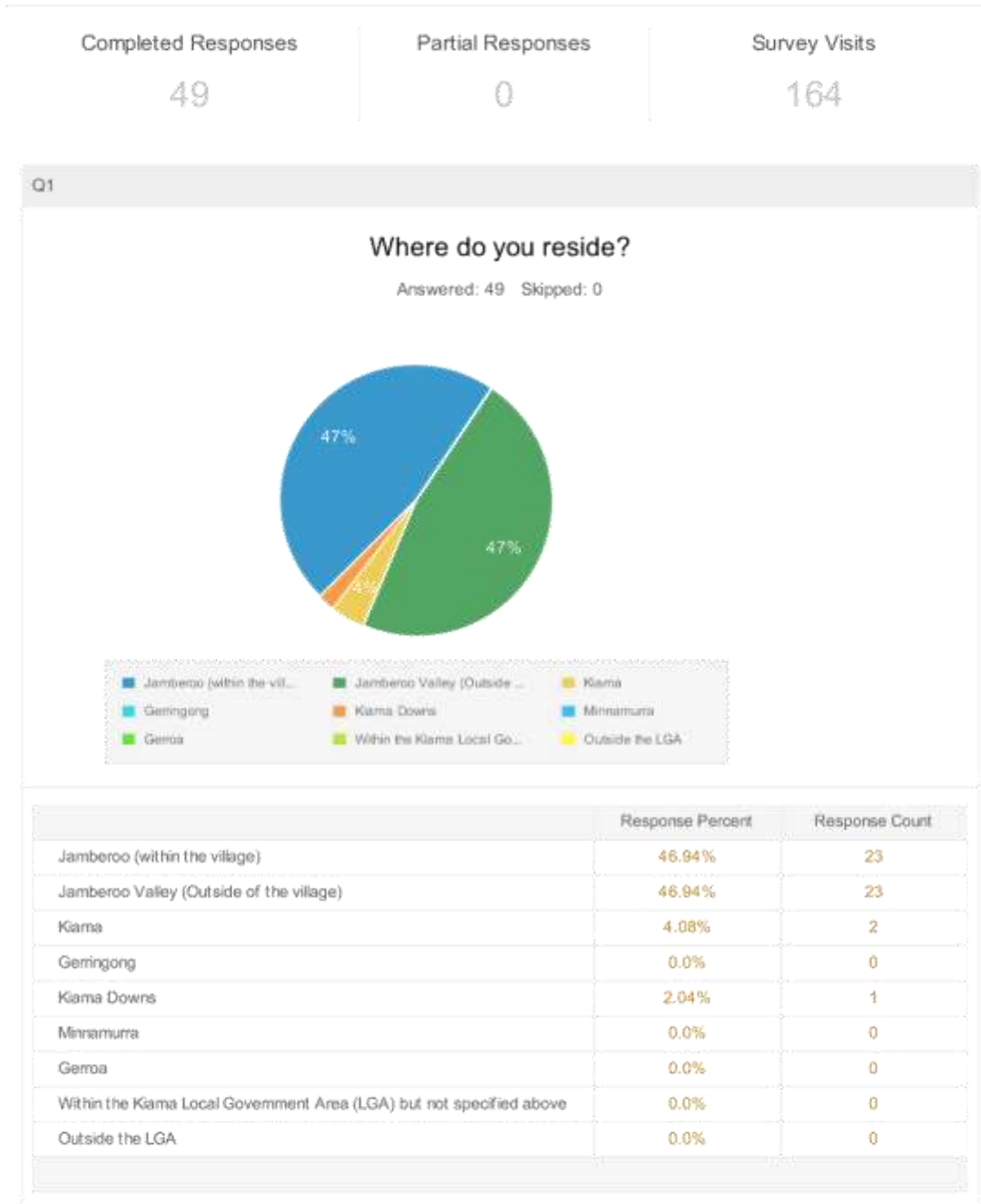


PERIMETER ROAD



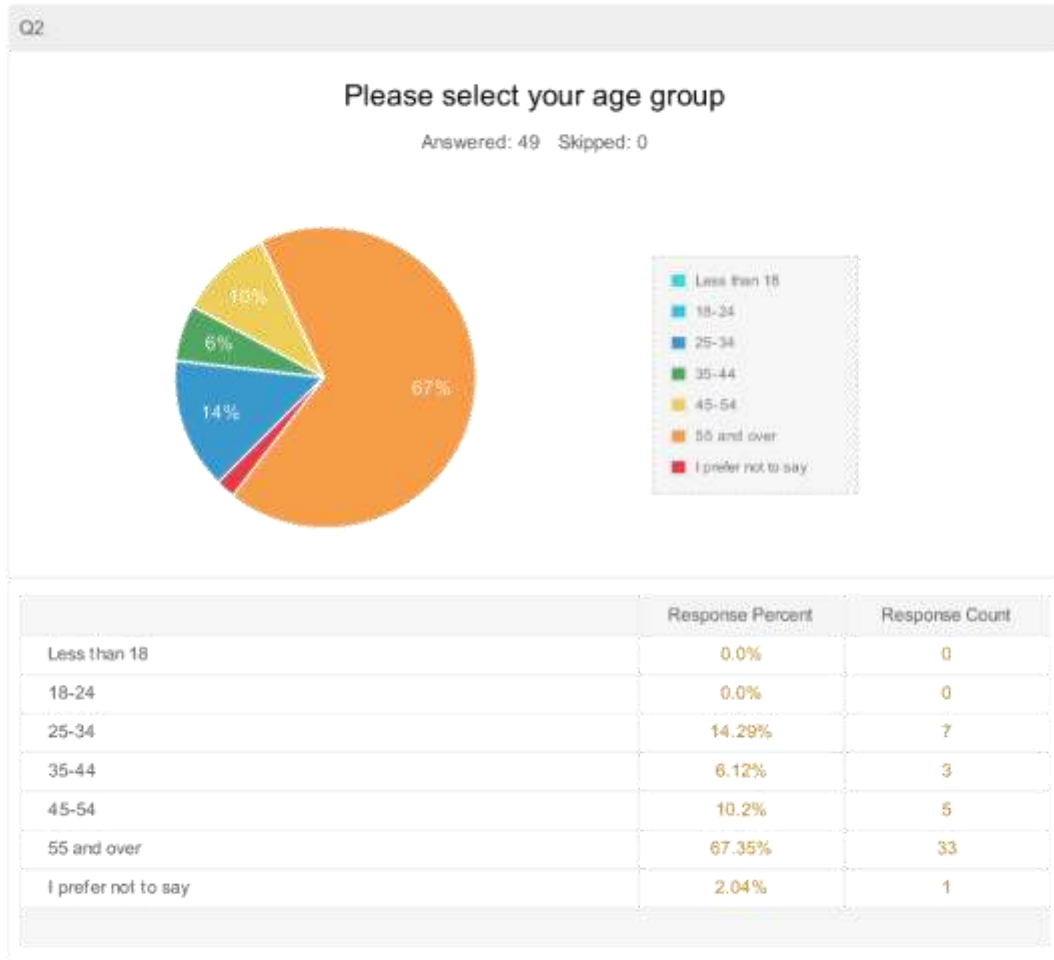
Perimeter Road +
Landscape
Buffer adjacent to
rural lands

Future Development of Jamberoo



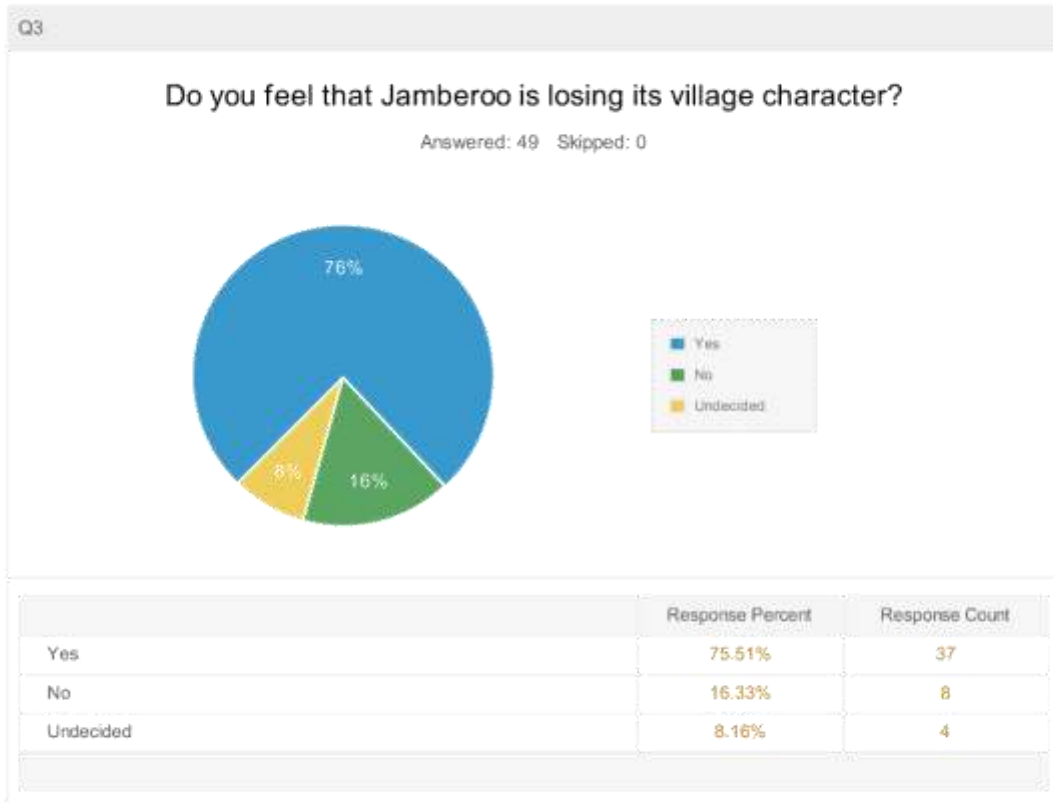
Item 10.1

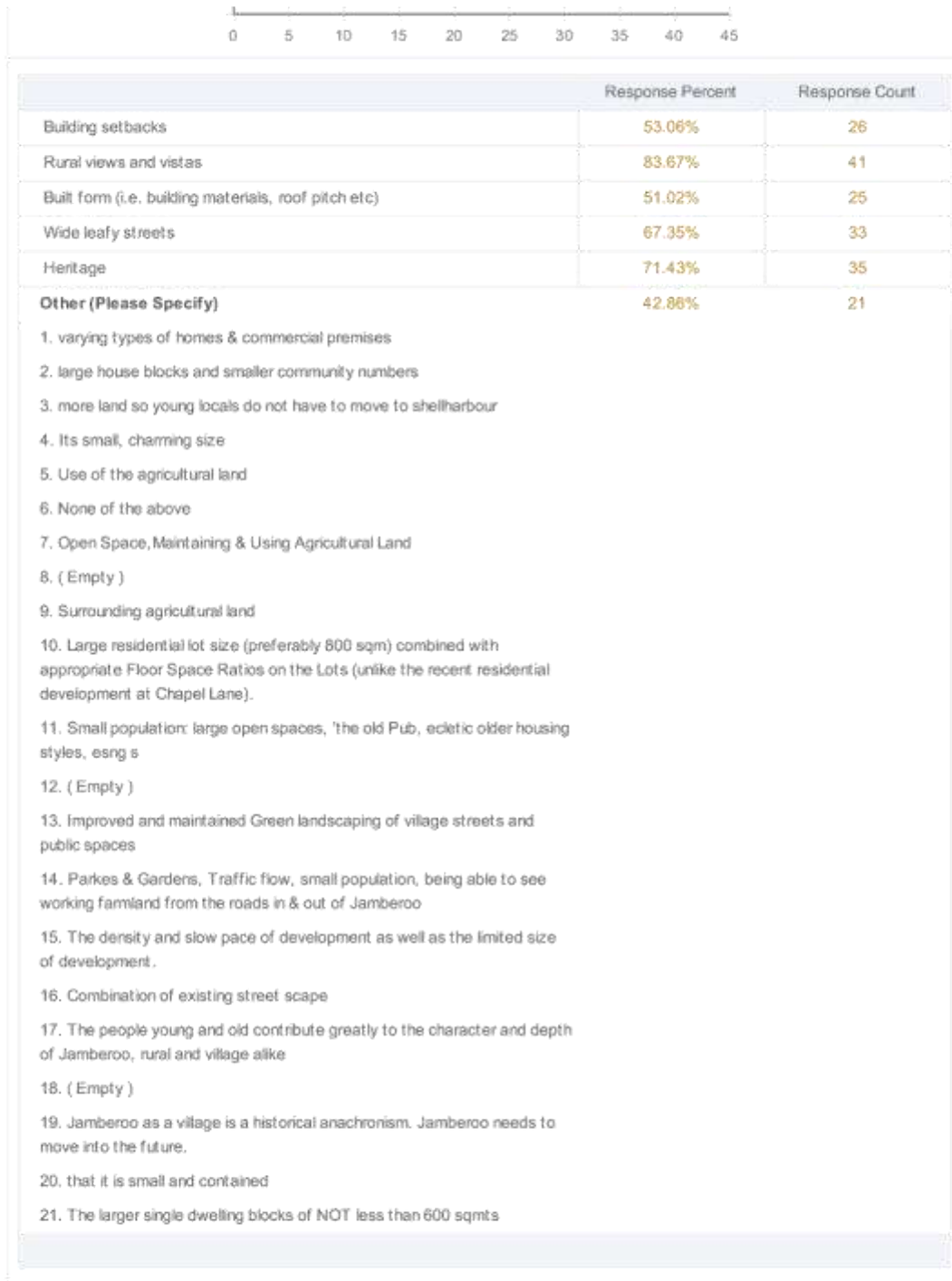
Attachment 2



Item 10.1

Attachment 2





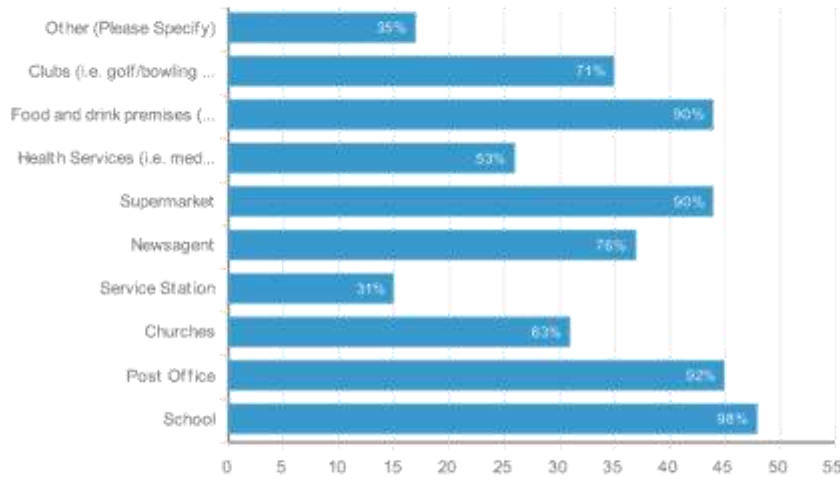
Q5

Item 10.1

Attachment 2

In your opinion, what businesses/commercial uses or essential services are required for sustaining the village?

Answered: 49 Skipped: 0



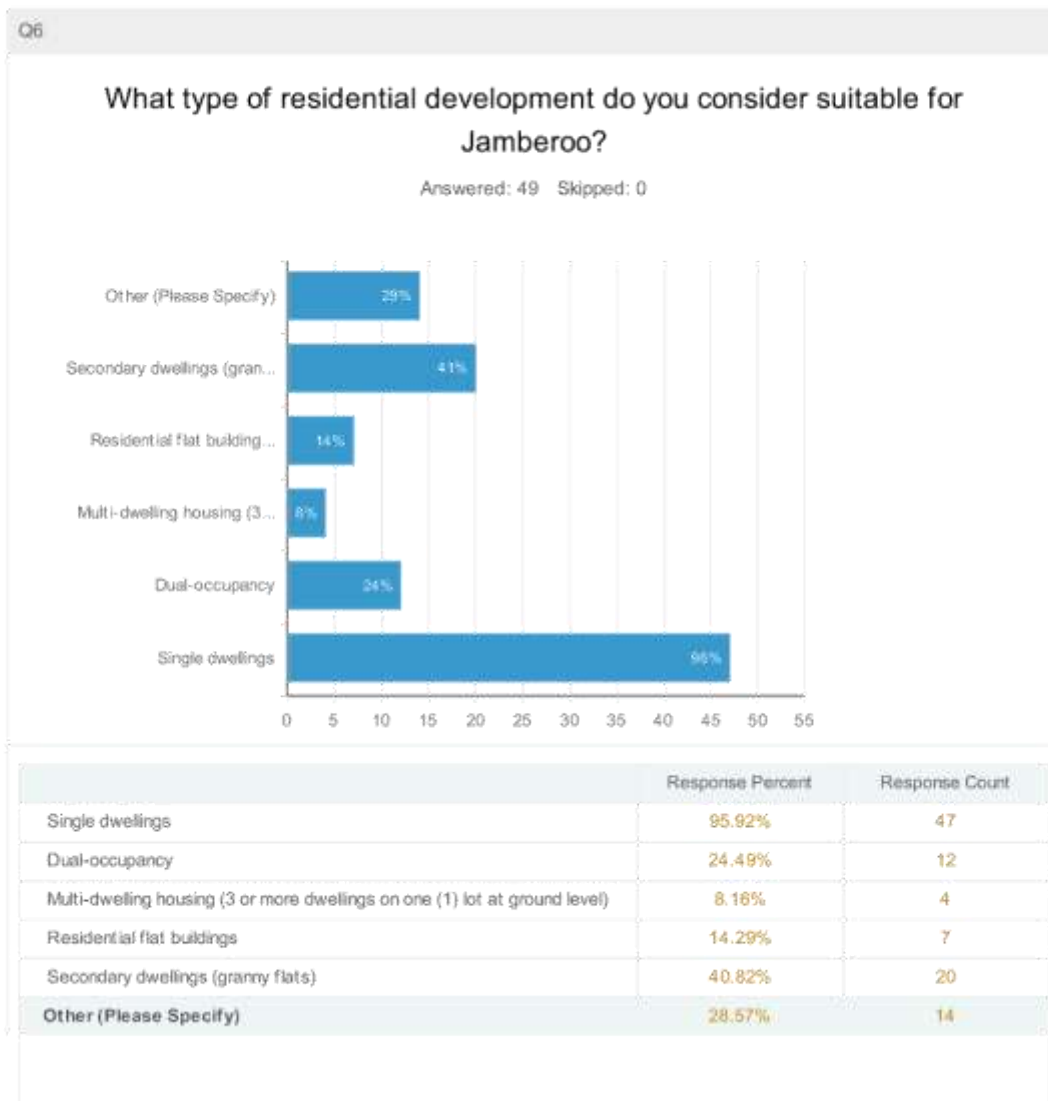
	Response Percent	Response Count
School	97.96%	48
Post Office	91.84%	45
Churches	63.27%	31
Service Station	30.61%	15
Newsagent	75.51%	37
Supermarket	89.8%	44
Health Services (i.e. medical centre, dentist, aged care, pharmacy)	53.06%	26
Food and drink premises (cafes, pub etc)	89.8%	44
Clubs (i.e. golf/bowling club)	71.43%	35
Other (Please Specify)	34.69%	17
1. Playing fields		
2. local sport		
3. Chemist		
4. Something to connect tourists with farmland - farm gate		
5. Some extra Cafe's, Something for Tourists to stop for other than a Pub, some activity perhaps		
6. Public transport for commuters, school children and on weekends. There is currently NO decent weekday commuter service and NO service on weekends whatsoever.		
7. sports facilities		
8. some tourist attractor retail		
9. Local arts/crafts; local framers' markets; art/music performances in public spaces; cafes and bars; fish and chips; increased community events		

Item 10.1

Attachment 2

public sports, water and sea, fire services, improved community-centred public green spaces	Response Percent	Response Count
10. Preschool, Daycare		
11. (Empty)		
12. Preschool, public transport, gym, Sports fields, swimming pool,		
13. Pharmacist to cope with ageing population		
14. small businesses with local owners and product and services for the growing community		
15. As much variety of shops and services as needed to modernise, sustain and grow.		
16. a club that is a combined sports country club.		
17. Community and Arts Centres; Rural and Agriculture Suppliers		

Item 10.1

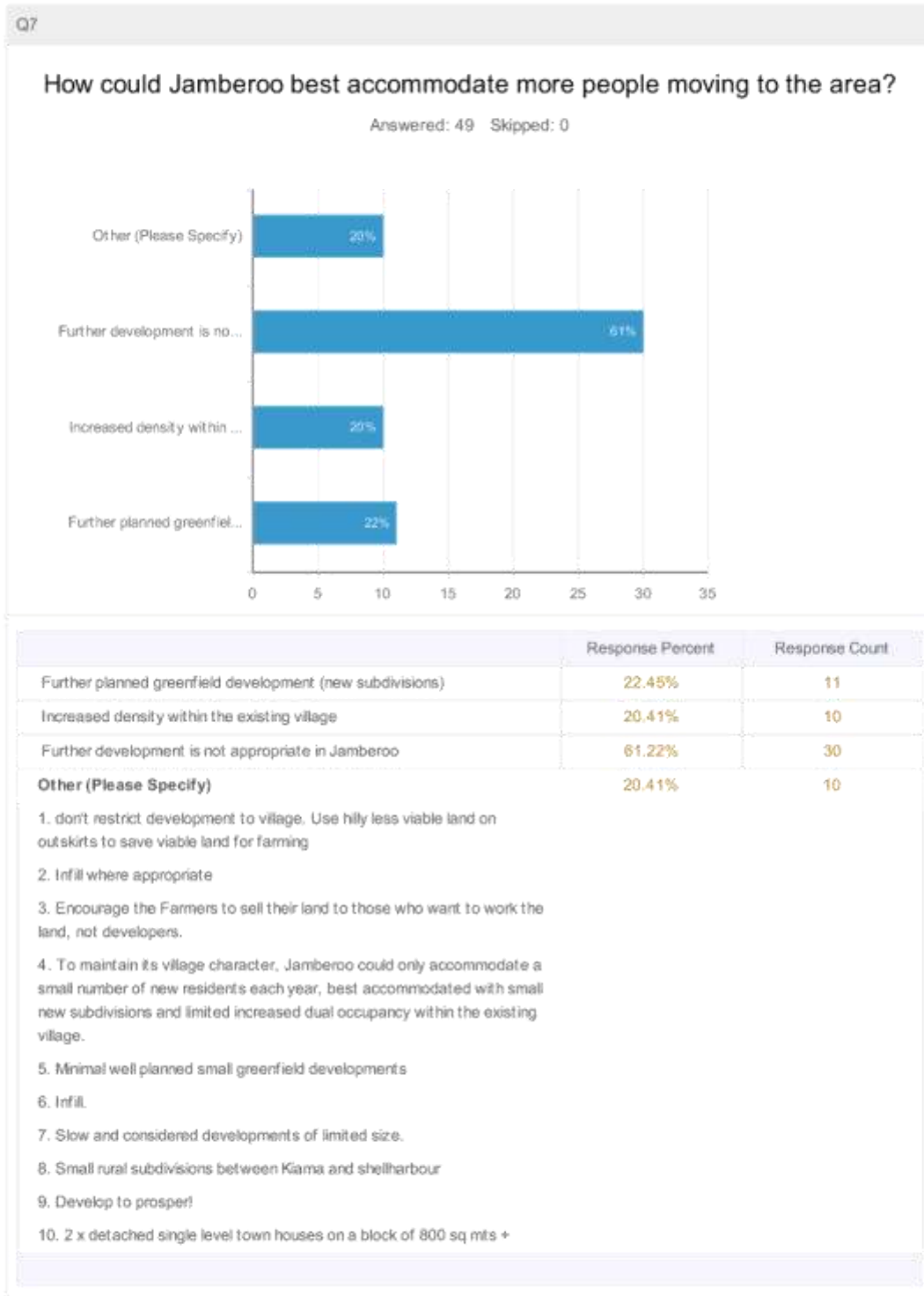


Attachment 2

	Response Percent	Response Count
1. anything that is tasteful looking & not imposing		
2. Occasional dual occupancy on at least 1200 m block single storrey		
3. use of land as its becoming rare and multi dwelling housing 3 or more dwellings on one lot two story		
4. Large allotments, no small blocks.		
5. Maybe occasional dual occupancy on appropriate size lots		
6. (Empty)		
7. Minimum size blocks and LIMITING the size of houses on those blocks. Its not enough to set minimum block sizes if people are going to put enormous energy consuming houses on them. Restrictions need to be as much on building envelope sizes as blocks.		
8. no more dual occupancy or multi dwelling housing, predominantly single level housing		
9. (Empty)		
10. Dual occupancies and granny flats may be appropriate provided they are on sufficiently sized blocks and have sufficient set backs		
11. that suitable for our demographics and the ongoing changes		
12. None, Jamberoo is big enough. It doesn't need to grow		
13. 5 acre lots		
14. 2 x detached single level town houses on a block of 800 sq mts +		

Item 10.1

Attachment 2



Q8

Do you have any further comments to add?

Answered: 27 Skipped: 22

- 1 . Chapel Lane & Wyaala Rd bad developments. The homes on small blocks or worse cramped dwellings and no substantial privacy as a dwelling. REAL ESTATE/DEVELOPER GREED that are potentially slums of the future.
- 2 . Development applications should be assessed on what is acceptable in terms of rural amenities i.e. Sheds etc should become competing development
- 3 . Jamberoo village requires some residential development to maintain suitable growth that enables those that come and those that currently reside, the lifestyle they came here for.
- 4 . I love my town, we need to grow at some stage but not on a large scale, We need our unique smallness. I am shocked at how close the buildings are massed on the Drualla rd development. please dont let this happen again.
- 5 . Jamberoo needs to to move forwards not backwards let alone remain stagnant.
- 6 . . if developing continues i strongly feel we are just becoming an ordinary suburb, which noone will want to visit to enjoy.
- 7 . Development of walking and recreation trails along existing fire trails would be beneficial and consistent with those that exist at kiama coast track and dunmore.
- 8 . Any developments on vacant land in Allowrie Street must be reserved only for future shops. NO private dwellings
- 9 . Against rezoning of rural land.
- 10 . New improved design standard for business/community street frontage and signage; enhance Main Street landscaping (greening, sculptures, art, indigenous & early history info etc); enhanced green landscaping of community public spaces
- 11 . Jamberoo Village is the "Green Jewel" in Kiamas crown. Development needs to very carefully undertaken , preferably on the Western side so the soft green on the Eastern side is kept for people driving into the village from Kiama
- 12 . Jamberoo should never have another Chapel Hill or Whalaby Hill development. They are bot appalling, far too dense and out of character in a village.
- 13 . The development allowed in J'roo has been poorly controlled. The greed of all involved is shameful. Attached article proposes a better way www.stuff.co.nz/the-press/business/the-rebuild/8575174/Expert-Suburban-sprawl-a-short-term-solution.
- 14 . Kiama Council must prevent further unsympathetic development in and around Jamberoo and the fragmentation and alienation of the surround Jamberoo valley agricultural land. Australia MUST retain public open space and village atmosphere such as in Jamberoo.
- 15 . For Jamberoo to stay viable we desperately need more residents. The school, businesses, sporting clubs, aged care etc need a larger population to keep going.
- 16 . keep lots 2 a min of 800m2 only let lots over 1000m2 2 have dual occ. more character into new houses not just build brick display homes. whats better for the town a huge brick display home with no character. or a weatherboard cottage on a smaller lot
- 17 . Rural sub divisions and land clearing should be managed and monitored more carefully.
- 18 . You cannot have Village Character is not looking like Shell Cove and Albion Park, the Municipality is the last bit of green space and farming land left from Sydney to Kiama.
- 19 . Minimise further development & only approve large allotments. Bery has encouraged country style architecture in their residential and commercial premises. We should do this too and keep the feel of this lovely old town.
- 20 . Keep it small, keep it rural.
- 21 . No more subdivisions like Chapel, no battlease blocks

22 . If we are take drastic control by stopping further developments on existing lots & limiting new subdivisions where are families going to live, let others share our town

23 . all you hear is big houses and no land but young these days would prefer small smaller blocks of land then paying afortune for big blocks

24 . I do not want to see Jamberoo become another Gerringong which has become an eyesore and does not reflect the rural aspect of the south coast

25 . Some development is inevitable, but slow down and let the current houses be filled. The community needs to settle into the numbers. Give it time and re-assess before making decision on further development.

26 . Filling blocks with homes almost to the boundaries seems unpleasant so trying to keep homes further away from each other would be better

27 . I moved from Gerringong to Jamberoo as it is too overcrowded and no longer has a special feel about it. It could be a place in Sydney.

10.2 Report to Council Seeking Endorsement of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011

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 housekeeping amendments to the subdivision controls of the LEP 2011.

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. As this Planning Proposal is being prepared internally no fees are payable.

Policy

Planning Proposals require consideration of a number of Acts, Government policies, Council environmental planning instruments and planning documents. Specifically, the *Environmental Planning and Assessment Act 1979*, *Kiama LEP 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy and the Kiama Planning Proposal Policy.

Reason for Report to Council

In accordance with adopted Kiama Planning Proposal Policy, the consideration of a Planning Proposal is required to be reported to Council in order for the proposal to proceed with the making of the LEP Amendment.

Attachments

- 1 Planning Proposal - June 2017 [↓](#)
- 2 Gateway Determination [↓](#)
- 3 Rural Fire Service - Comments [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council proceed with the preparation and finalisation of the draft *Kiama Local Environmental Plan*, for amendments to the subdivision controls, in conjunction with Parliamentary Counsel and the Department of Planning and Environment.

BACKGROUND

As a result of a recommendation from the Kiama Development Industry Committee staff have reviewed the types of subdivision currently permissible under the provisions of the *Kiama LEP 2011*. Specifically, the subdivision of existing and proposed dual

Report of the Director Environmental Services

10.2 Report to Council Seeking Endorsement of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

occupancy and multi dwelling housing was reviewed, along with the inability to adjust rural boundaries if a dwelling is present on the site.

The existing provisions of Clause 4.1A of the LEP enables the Torrens Title subdivision of residential zoned land into three (3) or more lots, each with an area greater to or equal to 150sqm, if an attached dwelling, semi-detached dwelling or dwelling house is erected on each lot. Applicants are utilising this provision as a mechanism to erect three (3) or more dwellings in the R2 Low Density Residential or R5 Large Lot Residential Zones where this level of density would otherwise be prohibited.

The existing provisions of Clause 4.1B of the LEP enables the Torrens Title subdivision of dual occupancies or multi dwelling housing, within residential zones, that were erected prior to the commencement of the LEP (i.e. December 2011) less than the prescribed minimum lot size. Currently under the provisions of the LEP any developer wishing to gain consent for both the erection of a dual occupancy and/or multi dwelling housing and subsequent Torrens Title subdivision is required to lodge an objection to the above standard under Clause 4.6 of LEP. The Committee noted that the need to lodge the objection was an added requirement to the applicant and also produced anxiety in prospective developers given the perception of a lack of certainty in the outcome of such a request.

Under the current provisions of both the LEP and the *State Environmental Planning Policy (Rural Lands) 2008* the boundary adjustment of rural and/or environmental zoned land which is already less than the prescribed minimum lot size is prohibited if the resultant lot decreases in size. Rural land holders who wish to align their allotment boundaries with existing fencing may not be able to do so under the current legislative provisions.

On 21 March 2017 Council resolved to prepare a Planning Proposal (PP) for administrative 'housekeeping' amendments to the subdivision controls of the *Kiama LEP 2011*. The March 2017 resolution is provided below:

Committee recommendation (17/070) that Council:

- “1) *endorse this Planning Proposal for housekeeping amendments to the Kiama LEP 2011 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, and*
- 3) *on receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.”*

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

Report of the Director Environmental Services

10.2 Report to Council Seeking Endorsement of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

-
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 PP was submitted to the NSW Department of Planning and Environment (DPE) for a Gateway Determination. DPE issued a Gateway Determination on 31 August 2017, with the following conditions:

1. Consultation is required with the NSW Rural Fire Service in accordance with the Act and S117 Direction 4.4 Planning for Bushfire. The Service 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. Any advice received and council's proposed response to this advice should be placed on public exhibition with the planning proposal.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - a) The planning proposal is to be made publicly available for 28 days; and
 - b) The relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for materials 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. A public hearing is not required to be held into the matter under section 56(2)(e) of the *Environmental Planning and Assessment Act 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example if reclassifying land).
4. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

A copy of the PP was forwarded to the NSW Rural Fire Service (RFS) on the 19 September 2017 for comments in accordance with the Gateway Determination. The RFS provided their comments to Council on 9 October 2017. The RFS raised no objections to the PP subject to a requirement that the future subdivision of land, boundary adjustments, dual occupancies and multi-dwelling housing development comply with 'Planning for Bush Fire Protection 2006'. It is noted that the existing provisions in both the *Environmental Planning and Assessment Act 1979 (Section 79BA)* and the *Rural Fires Act 1997 (Section 100B)* currently, and will continue to, ensure future development complies with 'Planning for Bush Fire Protection 2006'.

The subject PP was placed on public exhibition from 23 October to 20 November 2017 with an advert being placed in The Bugle, notification provided on Council's website and written notification sent to the Minnamurra Progress Association, Jamberoo Valley Residents and Ratepayers Association, Kiama Central Precinct Committee and South Precinct Committee. Two (2) submissions were received, requesting that Council strengthen the guidelines for dual occupancy dwellings to ensure that quality and amenity for the end user is paramount. It is noted that

Report of the Director Environmental Services

10.2 Report to Council Seeking Endorsement of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

Council has already commenced this process with its recent resolution to introduce a minimum lot size for the construction of dual occupancies in new greenfield sites. Kiama Development Control Plan (DCP) 2012 currently contains controls for dual occupancies. These controls could be further refined as part of a future comprehensive review of the DCP following publication of the new *Environmental Planning and Assessment Act and Regulation*.

In light of this, 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 sought.

Item 10.2



June 2017

Planning Proposal to Amend LEP 2011

Item 10.2

Attachment 1



With respect to:
Housekeeping
Amendments to
Subdivision Provisions

Planning Proposal to amend LEP 2011 with respect to:
Housekeeping Amendments to Subdivision Provisions

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Item 10.2

Attachment 1

Planning Proposal to amend LEP 2011 with respect to:
Housekeeping Amendments to Subdivision Provisions

Planning Proposal for housekeeping amendments to subdivision provisions of the *Kiama Local Environmental Plan 2011*.

Part 1 – Statement of the objectives

The Planning Proposal (PP) seeks to amend subdivision provisions in the Kiama Local Environmental Plan (LEP) 2011 to enable the subdivision of dual occupancies in residential areas and adjustment of rural allotment boundaries.

The objective of this PP is to:

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.

Part 2 – Explanation of provisions

The Kiama LEP 2011 is to be amended by:

1. Amending Clauses 4.1A and 4.1B to increase the size of the lot, created as part of a Torrens Title Subdivision, for each dwelling associated with a dual occupancy to at least 225m² for low density residential areas in Kiama Downs, Kiama, Kiama Heights, Gerringong and Gerroa and at least 400m² for low density residential areas in Jamberoo (i.e. no more than two lots); and
2. Amending Clauses 4.1A and 4.1B to retain the existing size of the lot, created as part of a Torrens Title Subdivision, for each dwelling associated with a multi dwelling housing of 150m² for medium density residential areas in the municipality (i.e. three or more lots); and
3. Amending the Land Use Table to make semi-detached dwellings permissible with consent within the R2 Low Density Residential zone; and
4. Adding a clause to enable the adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

Subdivision of Dual Occupancies

The existing provisions of Clauses 4.1A and 4.1B do not allow for the efficient subdivision of existing and proposed dual occupancies on certain residential zoned land. As both existing clauses seek to enable the subdivision of dual occupancies on residential zoned land the combining and subsequent editing of these clauses is considered the best means of achieving the intent of the PP.

It should be stressed that it is not the intent of this PP to alter the permissible built form of dual occupancies throughout the Municipality. Dual occupancies, both attached and

Planning Proposal to amend LEP 2011 with respect to:
Housekeeping Amendments to Subdivision Provisions

detached, are currently permissible in all residential zones throughout the Municipality. It is not the intent of this PP to change this.

The current provisions of Clauses 4.1A and 4.1B do not allow for the Torrens Title Subdivision of dual occupancies that were erected after December 2011. It is considered to be onerous to restrict the Torrens Title Subdivision of newer dual occupancies if they comply with all other built form controls.

Also, Clauses 4.1A and 4.1B enable existing dual occupancies to be Torrens Title Subdivided to a minimum lot size of 150m² uniformly across the Municipality. As different areas of the Municipality have different minimum lot sizes it is not considered appropriate to apply a uniform minimum lot size across the Municipality. In this regard it is considered that the amended clause should seek to utilise the prescribed minimum lot sizes, for specific locations, to ensure that future residential density reflects the desired residential character of those specific locations.

The minimum lot size prescribed for the R2 Low Density and R3 Medium Density Residential areas in Kiama Downs, Kiama, Kiama Heights, Gerringong and Gerroa is 450m². By comparison the minimum lot size prescribed for the residential areas of Jamberoo is 800m². In this regard, under the current provisions of Clauses 4.1A and 4.1B a lot could be created in Jamberoo with a minimum lot size of 150m², approximately 18% of the prescribed minimum lot size.

As this PP does not seek to alter the permissible built form of dual occupancies it is considered consistent to permit Torrens Title Subdivision of dual occupancies (i.e. 2 dwellings) in R2 Low Density Residential zoned land to 50% of the prescribed minimum lot size. This will mean that the lot for each dwelling associated with a dual occupancy will need to be at least 225m² for the R2 Low Density Residential areas in Kiama Downs, Kiama, Kiama Heights, Gerringong and Gerroa and at least 400m² for the R2 Low Density Residential areas in Jamberoo.

As the proposed clause will ultimately enable semi-detached dwellings to be located on land zoned R2 Low Density Residential it is considered appropriate to also amend the land use table to make semi-detached dwellings permissible with consent within the R2 Low Density Residential zone. These amendments are considered further appropriate as the former Kiama LEP 1996 did not prescribe a minimum lot size for Torrens Title subdivisions of dual occupancies and multi dwelling housing (previously referred to as integrated housing).

Subdivision – Boundary Adjustment of certain Rural and Environmental Land

The intent of this amendment is to allow the subdivision of land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management that will not increase the number of lots or the number of dwellings and dwelling entitlements on each lot. Subdivisions under this clause will need to demonstrate a continuation of rural/agricultural uses.

As several other standard instrument LEPs (i.e. Armidale Dumaresq, Shoalhaven, Snowy River, Tamworth and Wingecarribe) contain boundary adjustment clauses it is considered appropriate to draft similar a clause in line with these existing clauses.

Planning Proposal to amend LEP 2011 with respect to: Housekeeping Amendments to Subdivision Provisions

This Planning Proposal does not include mapping amendments to Kiama LEP 2011.

Part 3 – Justification for objectives

3.1: Is the planning proposal a result of strategic study or report?

The Planning Proposal is not the result of any strategic study or report. The Planning Proposal is the result of a Council resolution to endorse the subject amendments to the LEP 2011.

The necessity to make the intended amendments to the Kiama LEP 2011 has become evident as a result of the past five (5) years since the publication of the Kiama LEP 2011. At their meeting of 11 November 2014 the Kiama Development Industry Committee raised concerns over the difficulties and uncertainties relating to the subdivision of dual occupancies within the Municipality. In light of these concerns Council requested a report on likely administrative Planning Proposals required under Kiama LEP 2011 and potential time frames for same. The following advice was reported to the March 2017 Council meeting where it was resolved to prepare a Planning Proposal to enable:

- The efficient Torrens Title Subdivision of Dual Occupancies and Multi Dwelling Housing on land zoned R2 Low Density Residential and R3 Medium Density Residential; and
- The adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management.

Subdivision of Dual Occupancies

The current provisions of the LEP do not prescribe a minimum site area required to erect dual occupancies or multi-dwelling housing on residential zoned land. In this respect, dual occupancies and/or multi-dwelling housing can theoretically be erected on residential allotments of any size within the Municipality. The LEP definitions for dual occupancies and multi dwelling housing are provided below.

- **dual occupancy (attached)** means 2 dwellings on one lot of land that are attached to each other, but does not include a secondary dwelling.
- **dual occupancy (detached)** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.
- **Multi-dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

Dual occupancies are currently permissible with consent within the R2 Low Density Residential, R3 Medium Density Residential and R5 Large Lot Residential zones. Multi-dwelling housing is currently only permissible within the R3 Medium Density Residential zone.

Planning Proposal to amend LEP 2011 with respect to:
Housekeeping Amendments to Subdivision Provisions

Semi-detached dwellings and attached dwellings are dual occupancies and multi dwelling housing which have been Torrens Title subdivided to result in each dwelling being situated on its own allotment. The LEP definitions for semi-detached dwellings and attached dwellings are provided below.

- **semi-detached dwelling** means a dwelling that is on its own lot of land and is attached to only one other dwelling.
- **attached dwelling** means a building containing 3 or more dwellings, where:
 - (a) each dwelling is attached to another dwelling by a common wall, and
 - (b) each of the dwellings is on its own lot of land, and
 - (c) none of the dwellings is located above any part of another dwelling.

Semi-detached dwellings and attached dwellings are currently only permissible with consent within the R3 Medium Density Residential zone.

The problem that faces property owners and/or developers is that the Torrens Title subdivision of dual occupancies is restricted under the current provisions of the LEP.

Clause 4.1 of the *Kiama LEP 2011* establishes that the size of any lot resulting from a Torrens Title subdivision cannot be less than the minimum lot size shown on the Lot Size Map in relation to that land. Clause 4.1A and 4.1B provide exceptions to the prescribed minimum lot sizes for certain development in residential zones. The provisions of Clause 4.1A are provided below.

4.1A Exceptions to minimum lot sizes for development in Zone R2 and Zone R3

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *This clause applies to development on land in the following zones:*
 - (a) *Zone R2 Low Density Residential Zone,*
 - (b) *Zone R3 Medium Density Residential Zone.*
- (3) *Despite clause 4.1, development consent may be granted to a single development application for development on land to which this clause applies if the development is both:*
 - (a) *the subdivision of land into 3 or more lots, each lot being equal to or greater than 150 square metres, and*
 - (b) *the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision.*

Clause 4.1A enables the Torrens Title subdivision of residential zoned land into three (3) or more lots, each with an area greater to or equal to 150m², if an attached dwelling, semi-detached dwelling or dwelling house is erected on each lot. A development application lodged under the provisions of this clause must be both for the erection of the dwellings and subsequent subdivision. As such a Torrens Title subdivision under this clause cannot occur if the dwellings have been erected as part of a separate application. This clause also does not enable the Torrens Title subdivision of dual occupancies (i.e. 2 dwellings) as it would result in less than three (3) lots. Additionally, it is noted that currently the LEP prohibits attached dwellings and semi-detached dwellings in the R2 Low Density Residential Zone. In

Planning Proposal to amend LEP 2011 with respect to:
Housekeeping Amendments to Subdivision Provisions

this respect the provisions of Clause 4.1A are contrary to the land use table for the R2 Low Density Residential zone. It is also noted that the provisions of Clause 4.1A do not apply to land zoned R5 Large Lot Residential.

The provisions of Clause 4.1B are provided below.

4.1B Exceptions to minimum lot sizes for certain development in residential zones

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *Despite clause 4.1, development consent may be granted to subdivide land in any residential zone if at the time this Plan commenced and at the time the development application was made there existed on the land a dual occupancy or multi dwelling housing and each resulting lot from the subdivision:*
 - (a) *will be not less than 150m², and*
 - (b) *will contain a single dwelling.*

Clause 4.1B of the LEP enable the Torrens Title subdivision of dual occupancies or multi dwelling housing, within residential zones, that were erected prior to the commencement of the LEP (i.e. December 2011) less than the prescribed minimum lot size. The Torrens Title subdivision of dual occupancies or multi dwelling housing less than the prescribed minimum lot size is not currently permissible for dual occupancies or multi dwelling housing that were erected after December 2011. It is noted that currently the provisions of Clause 4.1B also apply to land zoned R5 Large Lot Residential.

Currently under the provisions of the LEP any developer wishing to gain consent for both the erection of a dual occupancy and/or multi dwelling housing and subsequent Torrens Title subdivision is required to lodge an objection, as per the provisions of Clause 4.6 of LEP, to the standards contained in Clause 4.1 of LEP. This requires a formal submission by the developer, together with justification stating why compliance with the standard is unreasonable or unnecessary. The Committee noted that the need to lodge the objection was an added requirement to the applicant and also produced anxiety in prospective developers given the perception of a lack of certainty in the outcome of such a request.

Since 2013 Council staff have received 34 separate formal requests to vary the minimum lot size in order to Torrens Title subdivide dual occupancies that were erected post December 2011. To date all of these variations have been granted approval in accordance with Clause 4.6 of the LEP. In light of this it is considered appropriate to amend the provisions of the LEP to more efficiently enable the Torrens Title subdivision of dual occupancies and multi dwelling housing to result in semi-detached dwellings and attached dwellings respectively on residential land, especially where the development satisfies all other requirements of the LEP and the Kiama DCP 2012.

Subdivision – Boundary Adjustment of certain Rural and Environmental Land

Clause 4.1 of the LEP establishes that the size of any lot resulting from a Torrens Title subdivision cannot be less than the minimum lot size shown on the Lot Size Map in relation to that land. Subdivision 38 of the *State Environmental Planning Policy (SEPP) (Exempt and*

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Complying Development Codes) 2008 allows the realignment of boundaries of rural and environmental zoned land. The provisions of Subdivision 38 are listed below.

Subdivision 38 Subdivision

2.75 Specified development

The subdivision of land, for the purpose only of any one or more of the following, is development specified for this code:

- (a) widening a public road,*
- (b) a realignment of boundaries:*
 - (i) that is not carried out in relation to land on which a heritage item or draft heritage item is situated, and*
 - (ii) that will not create additional lots or the opportunity for additional dwellings, and*
 - (iii) that will not result in any lot that is smaller than the minimum size specified in an environmental planning instrument in relation to the land concerned (unless a lot or lots whose boundaries are being realigned is or are already smaller than the minimum size and that lot or those lots will only increase in size at the completion of the subdivision), and*
 - (iv) that will not adversely affect the provision of existing services on a lot, and*
 - (v) that will not result in any increased fire risk to existing buildings, and*
 - (vi) if located in Zone RU1, RU2, RU3, RU4, RU6, E1, E2, E3 or E4 that will not result in more than a minor change in the area of any lot, and*
 - (vii) if located in any other zone that will not result in a change in the area of any lot by more than 10%,*
- (c) (Repealed)*
- (d) rectifying an encroachment on a lot,*
- (e) creating a public reserve,*
- (f) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public toilets.*

Under the current provisions of both the LEP and the SEPP the boundary adjustment of rural and/or environmental zoned land which is already less than the prescribed minimum lot size is prohibited if the resultant lot decreases in size. Rural land holders who wish to align their allotment boundaries with existing fencing may not be able to do so under the current legislative provisions.

The proposed amendments to the LEP will apply uniformly across the Municipality. The Planning Proposal (PP) aims to enable the efficient Torrens Title subdivision of existing and proposed dual occupancies, attached dwellings and semi-detached dwellings on residential zoned land and for small scale boundary adjustments between land zoned rural and/or environmental.

It is acknowledged that this PP seeks to make several amendments to the LEP. In light of this Council staff consulted with the Department of Planning and Environment (DoPE) regarding the bundling of these amendments into the one PP. The DoPE have confirmed

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that as the proposed amendments are all relating to the subdivision of land within the municipality that it is appropriate to combine these amendments into the one PP.

3.2: Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A Planning Proposal is the only mechanism available for amending the current provisions of the LEP.

3.3: Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including any exhibited draft plans or strategies)?

The applicable regional strategy for the area is the Illawarra-Shoalhaven Regional Plan (ISRP). It is considered that the proposed amendments to the LEP 2011 are consistent with Goals 2 and 4 of the ISRP.

By enabling the efficient subdivision of dual occupancies and multi dwelling housing the PP is consistent with Direction 2.1, 2.2 and 2.3 as it will assist in supplying sufficient housing, support housing opportunities close to existing services and deliver housing in new release areas.

By enabling the adjustment of allotment boundaries on land zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management the PP is consistent with Directions 4.1 and 4.2 as it will enable existing rural land holders to more efficiently manage their land and assets.

3.4: Is the Planning Proposal consistent with a council's local strategy or other local strategic plan?

Council's applicable local strategy is the Kiama Urban Strategy (KUS). It is considered that the proposed amendments to the LEP 2011 are consistent with Strategic Direction 4.1 of the KUS.

As part of formulating the KUS Council considered that urban infill was a priority and should be maximised as it would protect agricultural land resources and respond to changing housing needs of an ageing population. By enabling the efficient subdivision of dual occupancies and multi dwelling housing the PP is consistent with Strategic Direction 4.1 of the KUS as it will assist in providing for urban infill development.

3.5: Is the planning proposal consistent with applicable State Environmental Planning Policies?

The planning policy is consistent with applicable State Environmental Planning Polices, in particular:

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State Environmental Planning Policy	Assessment of Compliance
State Environmental Planning Policy No 55 – Remediation of Land	N/A as the PP does not seek to change the permissible land uses in any zones.

State Environmental Planning Policy	Assessment of Compliance
State Environmental Planning Policy No 71 – Coastal Protection	Clause 7 of SEPP No 71 requires Council to take into account the matters for consideration set out in Clause 8 when it prepared a PP that applies to land to which the SEPP applies.

2 Aims of Policy	
<i>This Policy aims:</i>	
<i>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and</i>	The PP will not alter the natural, cultural, recreational and economic attributes of the NSW coast.
<i>(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i>	The PP will not directly alter existing access to and along the coastal foreshore. The PP will not directly inhibit access to and along coastal foreshores.
<i>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</i>	As above.
<i>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</i>	The PP will not directly impact on items or places of Aboriginal cultural heritage.
<i>(e) to ensure that the visual amenity of the coast is protected, and</i>	The PP will not directly alter the visual amenity of the coast.
<i>(f) to protect and preserve beach environments and beach amenity, and</i>	The PP will not directly alter beach environments and beach amenity.
<i>(g) to protect and preserve native coastal vegetation, and</i>	The PP will not directly alter beach environments and beach amenity.
<i>(h) to protect and preserve the marine environment of New South Wales, and</i>	The PP will not directly alter the marine environment of NSW.

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State Environmental Planning Policy	Assessment of Compliance
<p>(i) to protect and preserve rock platforms, and</p> <p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and</p> <p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</p> <p>(l) to encourage a strategic approach to coastal management.</p>	<p>The PP will not directly alter rock platforms.</p> <p>While the PP will apply to areas within the coastal zone it will not result in irreversible damage to the environment, thus adhering to the precautionary principle. The PP will also ensure inter-generational equity and the conservation of biological diversity and ecological integrity. In this way the PP will ensure the site is managed in accordance with the principles of ecologically sustainable development.</p> <p>The PP is not proposing development. Any future development on the site will be assessed against the provisions of SEPP 71.</p> <p>The PP will not inhibit any future coastal management.</p>
<p>Clause 8 – Matters for consideration The matters for consideration are the following:</p>	
<p>(a) the aims of this Policy set out in clause 2,</p> <p>(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</p> <p>(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</p> <p>(d) the suitability of development given its type, location and design and its relationship with the surrounding area,</p> <p>(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore</p>	<p>The Planning Policy is consistent with the aims of SEPP 71 (see above).</p> <p>The PP will not directly alter existing access to and along the coastal foreshore. The PP will not directly inhibit access to and along coastal foreshores.</p> <p>As above.</p> <p>The subject PP will not alter development permissibility within the municipality.</p> <p>The PP will not directly alter the visual amenity of the coastal foreshore.</p>

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State Environmental Planning Policy	Assessment of Compliance
<p><i>and any significant loss of views from a public place to the coastal foreshore,</i></p>	
<p><i>(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,</i></p>	<p>The PP will not directly alter the scenic qualities of the NSW coast.</p>
<p><i>(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,</i></p>	<p>The PP will not alter any existing measures to conserve animals and plants and their habitat.</p>
<p><i>(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats</i></p>	<p>The PP will not alter any existing measures to conserve fish and marine vegetation and their habitat.</p>
<p><i>(i) existing wildlife corridors and the impact of development on these corridors,</i></p>	<p>The subject PP will not alter development permissibility within the municipality and as such is unlikely to impact upon existing wildlife corridors.</p>
<p><i>(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,</i></p>	<p>The subject PP will not alter development permissibility within the municipality. The likely impacts of coastal process and coastal hazards on development, and vice versa, will not be altered as a result of this PP.</p>
<p><i>(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,</i></p>	<p>The Planning Proposal will not alter the potential for conflicts between land-based and water-based coastal activities.</p>
<p><i>(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</i></p>	<p>The PP will not directly impact on items or places of Aboriginal cultural heritage.</p>
<p><i>(m) likely impacts of development on the water quality of coastal waterbodies,</i></p>	<p>The subject PP will not alter development permissibility within the municipality. As such, the likely impacts of development on the quality of coastal waterbodies will not be altered as a result of this PP.</p>
<p><i>(n) the conservation and preservation of items of heritage, archaeological or historic significance,</i></p>	<p>The PP will not directly alter the existing conservation and preservation of items of heritage, archaeological or historic significance.</p>
<p><i>(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,</i></p>	<p>The PP will encourage infill residential development within the existing Kiama township.</p>

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State Environmental Planning Policy	Assessment of Compliance
<p>(p) <i>only in cases in which a development application in relation to proposed development is determined:</i></p> <ul style="list-style-type: none"> i) <i>the cumulative impacts of the proposed development on the environment, and</i> ii) <i>measures to ensure that water and energy usage by the proposed development is efficient.</i> 	N/A

State Environmental Planning Policy	Assessment of Compliance
<p>State Environmental Planning Policy (Rural Lands)</p>	<p>Ministerial Direction 1.5 requires that the subject PP be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in SEPP (Rural Lands).</p>
<p>7 Rural Planning Principles</p> <p><i>The Rural Planning Principles are as follows:</i></p>	
<p>(a) <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i></p>	<p>The PP will enable a greater level of flexibility to manage rural properties as it will enable rural land holders to align their allotment boundaries with existing fencing, agricultural infrastructure etc. In this regard it is considered that the PP promotes and protects opportunities for current and potential productive and sustainable economic activities in rural areas.</p>
<p>(b) <i>recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,</i></p>	<p>By promoting agricultural production and diversification in the area this PP is consistent with this principle.</p>
<p>(c) <i>recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,</i></p>	<p>By providing opportunities to rural land holders to align their allotment boundaries with existing fencing, agricultural infrastructure etc the PP is consistent with this principle.</p>
<p>(d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community,</i></p>	<p>Not applicable as the PP is not proposing the provision of additional rural lands.</p>
<p>(e) <i>the identification and protection of</i></p>	<p>The subject PP will not alter the existing level</p>

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State Environmental Planning Policy	Assessment of Compliance
<p><i>natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,</i></p> <p><i>(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i></p> <p><i>(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i></p> <p><i>(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i></p>	<p>of protection for natural resources within the municipality.</p> <p>The subject PP will enable a greater level of flexibility to manage rural properties. However, the proposed amendments will not alter the existing opportunities for housing opportunities within rural areas.</p> <p>Not applicable as the subject PP will not provide for the opportunity for additional rural housing.</p> <p>The PP is considered to be consistent with both the Illawarra-Shoalhaven Regional Plan.</p>
<p>8 Rural Subdivision Principles</p> <p><i>The Rural Subdivision Principles are as follows:</i></p>	
<p><i>(a) the minimisation of rural land fragmentation,</i></p> <p><i>(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,</i></p> <p><i>(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,</i></p>	<p>The subject PP will not allow for the fragmentation of rural land as it will not enable the creation of additional allotments.</p> <p>The subject PP will not alter development permissibility within the municipality. Additionally the PP will enable a greater level of flexibility to manage rural properties whilst not impacting on neighbouring residential properties. It is envisioned that controls will be added to ensure boundary adjustments minimise land use conflicts.</p> <p>The subject PP will not enable the creation of additional allotments or additional dwelling entitlements. It is envisioned that controls will be added to ensure the nature of existing agricultural holdings etc. are considered.</p>

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State Environmental Planning Policy	Assessment of Compliance
<i>(d) the consideration of the natural and physical constraints and opportunities of land,</i>	It is envisioned that controls will be added to ensure the natural and physical constraints and opportunities of the land are considered.
<i>(e) ensuring that planning for dwelling opportunities takes account of those constraints.</i>	Not applicable as the subject PP will not provide for the opportunity for additional rural housing.

3.6: Is the planning proposal consistent with applicable Ministerial Directions (s 117 directions)?

A Section 117 Ministerial Directions - Compliance Checklist has been compiled by Kiama Council and is included in Appendix 1.

Council finds the proposal consistent with all applicable Section 117 Ministerial Directions.

3.7: Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The PP will not alter any existing measures to conserve that critical habitat or threatened species, populations or ecological communities, or their habitats.

Subdivision of Dual Occupancies & Multi Dwelling Housing

Due to the nature of the applicable zones it is unlikely that critical habitat will be present in these areas.

Subdivision – Boundary Adjustment of certain Rural and Environmental Land

It is envisioned that controls will be added to ensure that such boundary adjustments will not adversely affect critical habitat.

3.8: Are there any likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Due to the nature of the subject PP it is considered unlikely that any environmental effects will occur as a result of the proposed changes. However, it is envisioned that controls will be added to ensure that any potential environmental effects are managed.

3.9: Has the planning proposal adequately addressed any social and economic effects?

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The proposal is the result of both social and economic responses to the current provisions of the LEP 2011. The subject PP seeks to enable more efficient residential and rural development that will result in both a positive social and economic effects.

3.10: Is there adequate public infrastructure for the planning proposal?

The subject PP will not alter development permissibility within the municipality and as such no additional public infrastructure will be required as a direct result of the PP.

3.11: What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Pre Gateway consultation

The proposal is very minor in nature and as such, no State or Commonwealth authorities have been consulted as part of the preparation of this Planning Proposal.

Part 4 – Mapping

This Planning Proposal does not include mapping amendments to Kiama LEP 2011.

Part 5 – Community Consultation

Council requests that the planning proposal be exhibited for a period of 28 days and include:

- Advertisement in Local Newspaper,
- Hard copies made available at the Council Administration Building and relevant libraries,
- Electronic copy on Council’s website,
- Notification letters to adjoining and surrounding property owners,
- Notification letters to relevant State agencies and other authorities/agencies nominated by the DoPE.

Part 6 – Project Timeline

The timeframe for the Planning Proposal is that, from date of Gateway determination to date of submission to DoPE, to finalise the LEP is a period of 12 months.

	Timeframe	Possible dates
Submit planning proposal to NSW		June 2017

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	Timeframe	Possible dates
Department of Planning & Environment (DoPE) seeking a Gateway Determination		
Receive Gateway Determination	4 weeks from submission date	July 2017
Preparation of any outstanding studies (if required)	6 weeks from notification of Gateway determination.	N/A
Consult with State/Commonwealth agencies	4 weeks from completing review of any outstanding studies	August 2017
Exhibition of PP and technical Studies (assuming no requirements to return to Gateway post additional studies)	4 weeks from completing review of any outstanding studies	September 2017
Date of Public Hearing (if applicable)	N/A	N/A
Review of Submissions and Preparation of report to Council	4 weeks	October 2017
Report to Council following exhibition	First available round after completion of review of submissions (allow 8 weeks)	February 2018
Submission to Parliamentary Counsel Office (PCO) to draft amendment.	4 weeks from Council meeting	March 2018
Submission to DoPE for finalisation of LEP	6 weeks from date of submission to PCO	Mid-April 2018
Anticipated date LEP will be notified.	6 weeks from date of submission to DoPE	June 2018

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Appendix 1 - Section 117 Ministerial Directions – Compliance Checklist prepared by Kiama Municipal Council

Ministerial Direction	Comment
1. Employment and Resources	
1.1 Business and Industrial Zones	This direction does not apply to the Planning Proposal
1.2 Rural Zones	<p>The subject PP does not seek to rezone land from rural zone to a residential, business, industrial, village or tourist zone.</p> <p>The subject PP does not contain provisions that will increase the permissible density of land within a rural zone.</p> <p>The Planning Proposal is consistent with Direction 1.2 – Rural Zones.</p>
1.3 Mining, Petroleum Production and Extractive Industries	This direction does not apply to the Planning Proposal
1.4 Oyster Aquaculture	This direction does not apply to the Planning Proposal
1.5 Rural Lands	<p>As shown above the subject PP is consistent with both the Rural Planning Principles and the Rural Subdivision Principles listed in <i>State Environmental Planning Policy (Rural Lands) 2008</i>.</p> <p>The Planning Proposal is consistent with Direction 1.5 – Rural Lands.</p>
2. Environment and Heritage	
2.1 Environment Protection Zones	<p>It is envisioned that controls will be added to ensure that subdivisions enabled by this PP will protect and conserve environmentally sensitive areas.</p> <p>The PP does not seek to reduce the environmental protection standards that apply to land within an environment protection zone.</p> <p>The Planning Proposal is consistent with Direction 2.1 – Environment Protection Zones.</p>

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Ministerial Direction	Comment
2.2 Coastal Protection	<p>The subject PP will not alter the existing provisions of the LEP which give effect to the NSW Coastal Policy etc.</p> <p>The Planning Proposal is consistent with Direction 2.2 – Coastal Protection.</p>
2.3 Heritage Conservation	<p>The subject PP will not alter the existing provisions of the LEP which give effect to the heritage conservation.</p> <p>The Planning Proposal is consistent with Direction 2.3 – Heritage Conservation.</p>
2.4 Recreation Vehicle Areas	<p>The subject PP will not alter existing development permissibility within the municipality, in particular recreation vehicle areas.</p> <p>The Planning Proposal is consistent with Direction 2.4 – Recreation Vehicle Area.</p>
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	<p>This direction does not apply to the Kiama Municipality.</p>
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	<p>The subject PP will enable the efficient Torrens title subdivision of existing and proposed residential development on residential zoned land, which is service ready.</p> <p>The Planning Proposal is consistent with Direction 3.1 – Residential Zones.</p>
3.2 Caravan Parks and Manufactured Home Estates	<p>The subject PP will not alter existing development permissibility within the municipality, in particular caravan parks and manufactured home estates.</p> <p>The Planning Proposal is consistent with Direction 3.2 – Caravan Parks and Manufactured Home Estates.</p>
3.3 Home Occupations	<p>Home Occupations are permitted without consent within both the R2 Low Density Residential and R3 Medium Density Residential zones under the LEP 2011. The subject PP would not alter this permissibility.</p> <p>The Planning Proposal is consistent with Direction</p>

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Ministerial Direction	Comment
	3.3 – Home Occupations.
3.4 Integrating Land Use and Transport	The subject PP will not create, alter or remove a zone or a provision relating to urban land. The Planning Proposal is consistent with Direction 3.4 – Integrating Land Use and Transport.
3.5 Development Near Licensed Aerodromes	This direction does not apply to the Planning Proposal
3.6 Shooting Ranges	This direction does not apply to the Planning Proposal
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Chapter 3.2 of the Acid Sulfate Soils Planning Guidelines state that an Acid Sulfate Soils Study should be prepared when an intensification of land use on acid sulfate soil is proposed. It is noted that this chapter specifically refers to a proposal for rezoning. In this regard it is not considered necessary to prepare an Acid Sulfate Soils Study as this PP does not involve an intensification of land uses on land identified as having a possibility of containing acid sulfate soils. The subject PP will not alter the existing acid sulfate soils controls contained in Clause 5.1 of the LEP 2011. The Planning Proposal is consistent with Direction 4.1 – Acid Sulfate Soils.
4.2 Mine Subsidence and Unstable Land	This direction does not apply to the Planning Proposal
4.3 Flood Prone Land	This direction does not apply to the Planning Proposal as it will not create, remove or alter a zone or a provision that affects flood prone land.
4.4 Planning for Bushfire Protection	The PP will apply to land identified as being bush fire prone land. Council will consult with the NSW Rural Fire Service following the receipt of a gateway determination. The subject PP will not alter the existing relationship between the LEP and <i>Planning for Bushfire Protection 2006</i> . The Planning Proposal is consistent with Direction 4.4 – Planning for Bushfire Protection.
5. Regional Planning	

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Ministerial Direction	Comment
5.1 Implementation of Regional Strategies	This direction does not apply to the Kiama Municipality.
5.2 Sydney Drinking Water Catchments	This direction does not apply to the Kiama Municipality.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	This direction does not apply to the Kiama Municipality.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	This direction does not apply to the Kiama Municipality.
5.8 Second Sydney Airport: Badgerys Creek	This direction does not apply to the Kiama Municipality.
5.9 North West Rail Link Corridor Strategy	This direction does not apply to the Kiama Municipality.
5.10 Implementation of Regional Plans	The Planning Proposal is consistent with the Illawarra-Shoalhaven Regional Plan (see Section 3.3 of this report). The Planning Proposal is therefore consistent with Direction 5.10 – Implementation of Regional Strategies.
6. Local Plan Making	
6.1 Approval and Referral Requirements	The PP does not propose any additional provisions that would require the concurrence, consultation or referral of future development applications to a Minister or public authority. The Planning Proposal is therefore consistent with Direction 6.1 – Approval and Referral Requirements.
6.2 Reserving Land for Public Purposes	The Planning Proposal does not include any provisions that relate to the use of land reserved for public purposes. The Planning Proposal is therefore consistent with Direction 6.2 – Reserving Land for Public Purposes.
6.3 Site Specific Provisions	This direction does not apply to the Planning Proposal
7. Metropolitan Planning	

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Ministerial Direction	Comment
7.1 Implementation of the Metropolitan Plan for Sydney 2036	This direction does not apply to the Kiama Municipality.
7.2 Implementation of the Greater Macarthur Land Release Investigation	This direction does not apply to the Kiama Municipality.
7.3 Parramatta Road Corridor Urban Transformation Strategy	This direction does not apply to the Kiama Municipality.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	This direction does not apply to the Kiama Municipality.

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Mr Michael Forsyth
General Manager
Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Attention: Mr Edward Paterson
Strategic Planner

Dear Mr Forsyth

**Planning Proposal (PP_2017_KIAMA_003_00) to amend Kiama Local
Environmental Plan 2011**

I am writing in response to Council's letter dated 6 June 2017 and additional information received on 17 August 2017 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* in respect of the planning proposal to amend provisions in the Kiama LEP 2011 relating to the subdivision of dual occupancies and multi-dwelling housing in residential areas, to permit semi-detached dwellings in the R2 zone and to enable the adjustment of rural allotment boundaries.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

In issuing this Gateway determination, I have found that the planning proposal is consistent with s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 2.2 Coastal Protection, 3.1 Residential Zones, 3.4 Integrating Land Use & Transport and 5.10 Implementation of Regional Plans. No further approval is required in relation to these or other Directions, while the proposal remains in its current form.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within nine months of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the

projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Lisa Kennedy of the Department's Southern Regional office to assist you. Lisa can be contacted on 4224 9457.

Yours sincerely



Fatima Abbas 31.8.17
Director Regions, Southern
Planning Services
Department of Planning and Environment

Encl:
Gateway Determination
Written Authorisation to Exercise Delegation
Delegated Plan Making Reporting Template



Gateway Determination

Planning proposal (Department Ref: PP_2017_KIAMA_003_00): to amend provisions in the Kiama LEP 2011 relating to the subdivision of dual occupancies and multi-dwelling housing in residential areas, to permit semi-detached dwellings in the R2 zone and to enable the adjustment of rural allotment boundaries.

I, Fatima Abbas, Director Regions, Southern 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* that an amendment to the Kiama Local Environmental Plan (LEP) 2011 as described above should proceed subject to the following conditions:

1. Consultation is required with the NSW Rural Fire Service in accordance with the Act and S117 Direction 4.4 Planning for Bushfire. The Service 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. Any advice received and council's proposed response to this advice should be placed on public exhibition with the planning 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. 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 if reclassifying land).
4. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

Dated 31st day of August 2017


Fatima Abbas
Director Regions, Southern
Planning Services
Department of Planning and Environment
Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Kiama Municipal Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2017_KIAMA_003_00	Planning proposal to amend provisions in the Kiama LEP 2011 relating to the subdivision of dual occupancies and multi-dwelling housing in residential areas, to permit semi-detached dwellings in the R2 zone and to enable the adjustment of rural allotment boundaries.

In exercising the Minister's functions under Section 59 of the Act, the Council must comply with the Department's "A guide to preparing local environmental plans 2016" and "A guide to preparing planning proposals 2016".

Dated 31 August 2017

Fatima Abbas
Director Regions, Southern
Planning Services
Department of Planning and Environment



NSW RURAL FIRE SERVICE



The General Manager
Kiama Municipal Council
PO Box 75
Kiama NSW 2533

Your reference: SC2084
Our reference: L10/0009

9 October 2017

Attention: Ed Paterson

Dear Sir/Madam,

Planning Proposal- Amendments to the Kiama Local Environmental Plan (KLEP) 2011 with respect to subdivision of dual occupancies and multi-dwelling housing and to enable the adjustment of rural allotment boundaries

Reference is made to Council's correspondence dated 19 September 2017 seeking comment in relation to the above planning proposal which seeks to amend the KLEP 2011 with respect to the following:

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

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 117(2) of the *Environmental Planning and Assessment Act 1979*.

The objectives of the direction are:

- (a) *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- (b) *to encourage sound management of bush fire prone areas.*

The direction provides that a planning proposal must:

- (a) *have regard to Planning for Bushfire Protection 2006,*
- (b) *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- (c) *ensure that bushfire hazard reduction is not prohibited within the APZ.*

Postal address
NSW Rural Fire Service
Records Management
Locked Bag 17
GRANVILLE NSW 2141

Street address
NSW Rural Fire Service
Planning and Environment Services (East)
42 Lamb Street
GLENDENNING NSW 2761

T 1300 NSW RFS
F (02) 8741 5433
E pes@rfs.nsw.gov.au
www.rfs.nsw.gov.au

Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision of land, boundary adjustments, dual occupancies and multi-dwelling housing developments comply with *Planning for Bush Fire Protection 2006*. This includes, but is not limited to:

- Provision of Asset Protection Zones (APZs) within the proposed lots in accordance with Table A2.4;
- Access to be provided in accordance with the design specifications set out in section 4.1.3; and,
- Services to be provided in accordance with section 4.1.3.

If you have any queries regarding this advice, please contact Emma Jensen, Development Assessment and Planning Officer, on 1300 NSW RFS.

Yours sincerely,



Nika Fomin
Manager, Planning and Environment Services (East)

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011

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 is requesting a reconsideration of a Planning Proposal for various housekeeping amendments to Kiama LEP 2011 as Council's resolution OC-17/172 legally cannot be carried out. The additional information requested in Council's resolution OC-17/173 has been provided in this report.

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. As this Planning Proposal is being prepared internally no fees are payable.

Policy

Requests for rezoning of land require consideration of a number of Acts, Government policies, Council environmental planning instruments and planning documents. Specifically, the *Environmental Planning and Assessment Act 1979*, *Kiama LEP 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy and the Kiama Planning Proposal Policy.

Reason for Report to Council

In accordance with adopted Kiama Planning Proposal Policy, the consideration of a planning proposal is required to be reported to Council in order for the proposal to proceed to the Department of Planning and Environment for consideration.

Attachments

- 1 Clause 5.13 of the Standard Instrument - Principal LEP [↓](#)
- 2 Byron Shire DCP 2014 - Chapter D3 - Tourist Accommodation [↓](#)
- 3 Blue Mountains DCP 2015 - Part F4.4 - Eco Tourist Facility [↓](#)
- 4 Snowy River DCP 2013 - Chapter E1 - Tourist Accommodation [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

- 1) Endorse this Planning Proposal to amend the Kiama LEP 2011 in order to:
 - a. Permit Bed & Breakfasts with consent in the RU1, RU2 & E3 zones;

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

-
- b. Permit Eco Tourist Facilities with consent in the RU2 & E3 zones; and
 - c. Reduce the total floor area of secondary dwellings to 25% of the total floor area of the principal dwelling.
- 2) Proceed to the Department of Planning and Environment for a Gateway determination.
 - 3) Request plan making delegations for this proposal as a part of the Gateway determination.
 - 4) On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.
 - 5) Concurrently prepare an amendment to Chapter 13 – Bed and Breakfast/Farm Stay of the Kiama Development Control Plan 2012 to include development controls for Eco Tourist Facilities. Report draft amendment to Council for endorsement to proceed with community consultation.

Item 10.3

BACKGROUND

The *Kiama LEP 2011* commenced in December 2011. The LEP consolidated planning controls into the one LEP and also transitioned existing controls into the NSW Government's Standard Instrument LEP format.

Since this time Council continually reviews its LEP to ensure that it aligns with local strategic documents and community expectations. Over the past 6 years some shortcomings have been identified with the current provisions of the LEP.

This matter was reported to Council at their November 2017 meeting, where Council resolved the following:

Committee recommendation (OC-17/172) that Council:

1. *Endorse this Planning Proposal to amend the Kiama LEP 2011 in order to:*
 - a. *Permit Bed & Breakfasts with consent in the RU1, RU2 & E3 zones; and*
 - b. *Reduce the total floor area of secondary dwellings to no greater than 120m² of the total floor area of the principal dwelling.*
2. *Proceed to the Department of Planning and Environment for a Gateway determination.*
3. *Request plan making delegations for this proposal as a part of the Gateway determination.*
4. *On receipt of the Gateway Determination, proceed with recommendations including requesting any further studies and public exhibition.*

It is noted that Council's resolution OC-17/172 legally cannot be carried due to the wording of the Standard Instrument LEP. This matter will be further discussed under the heading 'Secondary Dwellings'.

At the November 2017 meeting, Council also resolved the following:

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

Committee recommendation (17/173) that Council defer consideration of 1(b) of the recommendation in the staff report relating to Eco Tourism facilities to enable a further report to Council.

The additional information requested in Council's resolution OC-17/173 has also been provided in this report. This information is provided under the heading 'Eco-tourism facilities'.

Tourism & Visitor Accommodation – Current Arrangements

Currently the only form of tourism and visitor accommodation permissible in the rural/environmental areas of the Municipality is *farm stay accommodation*. It is considered that the inclusion of *bed and breakfast accommodation* and *eco-tourist facilities* as permissible types of tourism and visitor accommodation in the rural/environmental areas will contribute to the local tourism economy whilst ensuring the continuation/productivity of the rural/environmental areas.

Farm stay accommodation, bed and breakfast accommodation and eco-tourist facilities are all forms of *tourist and visitor accommodation*. *Farm stay accommodation* is currently permissible with consent within the RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management zones. The LEP 2011 definition for *farm stay accommodation* is provided below.

farm stay accommodation means a building or place that provides temporary or short-term accommodation to paying guests on a working farm as a secondary business to primary production.

Clause 5.4 of the LEP 2011 limits the number bedrooms associated with a *farm stay accommodation* to five (5).

Clause 6.10 of the LEP 2011 enables existing dwellings to be used as *tourist and visitor accommodation* (except *bed and breakfast accommodation*) for a maximum period of 60 consecutive days in any 12-month period without requiring development consent.

Chapter 13 of the Kiama DCP 2012 contains development controls for *bed and breakfast accommodation* and *farm stay accommodation*.

Tourism & Visitor Accommodation – Proposed Arrangements

The Kiama Rural Lands Study 2008, prepared by Edge Land Planning, outlines that tourism is an increasingly important activity in the Municipality and is an industry that should be actively encouraged in the rural areas. Tourism in the rural areas should be low impact and in keeping with the existing character of the area. In light of this recommendation it is considered appropriate to permit a wider range of *tourist and visitor accommodation* in the rural/environmental areas as long as they are low impact and in keeping with the existing rural/environmental character. *Bed and breakfast accommodation* and *eco-tourist facilities* are types of accommodation that will achieve this goal in certain zones.

Bed and breakfast accommodation

The LEP 2011 definition for *bed and breakfast accommodation* is provided below.

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

bed and breakfast accommodation means an existing dwelling in which temporary or short-term accommodation is provided on a commercial basis by the permanent residents of the dwelling and where:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

In accordance with the definition contained within the LEP 2011 *bed and breakfast accommodation* can only occur within existing dwellings. In this regard any *bed and breakfast accommodation* will be low impact as they will only be occurring within the curtilage of an existing dwelling. The definition also ensures that *bed and breakfast accommodation* are not used as a means of obtaining additional 'dwelling entitlements' on rural/environment properties.

Under the provisions of the previous Kiama LEP 1996 *bed and breakfast accommodation* would have been permissible in the Rural A zone (now RU1 and RU2 zones) as a type of tourist facility. This permissibility has not been carried over to the current LEP.

As a comparison it is noted that *bed and breakfast accommodation* is permissible in the Rural & E3 zones in, Shellharbour, Shoalhaven and Eurobodalla LEPs and in the RU1 and E3 zones in the Wollongong LEP.

It is considered that as *bed and breakfast accommodation* is only allowed to occur within existing dwellings it is consistent with the objectives of the RU1, RU2 and E3 zones, which are provided below, and the recommendations of the Kiama Rural Lands Study 2008.

Zone RU1 - Primary Production

1 Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect agricultural land for long term agricultural production.*
- *To provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing.*

Zone RU2 - Rural Landscape

1 Objectives of zone

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

-
- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
 - *To maintain the rural landscape character of the land.*
 - *To provide for a range of compatible land uses, including extensive agriculture.*
 - *To protect agricultural land for long term agricultural production.*
 - *To provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing and integrates with tourism.*

Zone E3 - Environmental Management**1 Objectives of zone**

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To allow limited types of agriculture subject to effective environmental safeguards and sound land management practices.*

Clause 5.4(1) of the LEP 2011 currently limits the number of bedrooms associated with *bed and breakfast accommodation* five (5). This development standard would not change as a result of this proposed LEP amendment. In this regard the most notable difference associated with this proposal and the current arrangements in the RU1, RU2 and E3 zones is the ability to prepare and provide meals for guests on site. This would ultimately require the applicant/operator to obtain the necessary approvals/licenses from the NSW Food Authority and Council as part of the Development Application process.

Eco-tourist facilities

The LEP 2011 definition for an *eco-tourist facility* is provided below:

eco-tourist facility means a building or place that:

- (a) *provides temporary or short-term accommodation to visitors on a commercial basis, and*
- (b) *is located in or adjacent to an area with special ecological or cultural features, and*
- (c) *is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.*

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

The Department of Planning and Environment issued the *Standard Instrument (Local Environmental Plans) Order 2006* which required all local governments in NSW to prepare a Standard Instrument LEP which would apply to their specific local government areas. A copy of the draft Kiama LEP 2011 was publicly exhibited in the

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

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. Following this exhibition period, the Department of Planning and Environment released Planning Circular PS 11-011, on 10 March 2010, which made amendments to the Standard Instrument LEP template. These amendments included the introduction of *eco-tourist facilities* as a new term that caters for low impact tourist use located in or adjacent to an area with special ecological or cultural features. As this definition was introduced after the draft LEP 2011 was publicly exhibited Council chose not to include it as a permissible land use in the Municipality.

While *eco-tourist facilities* are currently not a permissible land use in the Municipality PS 11-011 required the inclusion of the definition and any supplementary provisions in the LEP 2011 to ensure consistency with the Standard Instrument LEP template. Clause 5.13 (see attached) is a compulsory clause of the Standard Instrument LEP template that needs to be included if *eco-tourist facilities* are permitted with consent by the LEP. Council will not be able to grant consent to a Development Application for an *eco-tourist facility* unless it has satisfied the provisions of Clause 5.13. Complying with the provisions of Clause 5.13 will ensure consistency with the objectives of E3 zone; to protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. It will also ensure that *eco-tourist facilities* are consistent with the objectives of the RU2 and the recommendations of the Kiama Rural Lands Study 2008.

Chapter 13 of the Kiama Development Control Plan (DCP) 2012 contains development controls for *bed and breakfast accommodation* and *farm stay accommodation*. As part of this process, chapter 13 should also be amended to include development controls for *eco-tourist facilities*.

The DCPs for Byron Bay, The Blue Mountains and The Snowy Mountains, contain development controls that regulate the following:

- Density: i.e. Number of cabins/bedrooms per hectare;
- Environmental Management through the requirement to prepare:
 - Vegetation Management Plan;
 - Biodiversity Conservation Management Plan;
 - Water Management Plan; and
 - Waste Management Plan
- Ecological Sustainable Design through the requirement to use:
 - Recycled materials; and
 - Renewable power, water and waste infrastructure
- Education & Awareness through the requirement to provide:
 - Teaching or research facilities; or

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

-
- Opportunities for visitors to enhance appreciation of environmental and cultural values.

Any amendment to chapter 13 should include similar development controls to ensure development for *eco-tourist facilities* are carried out in an appropriate fashion.

Secondary Dwellings

At its September 2011 meeting Council requested the preparation of a report on the feasibility of a Planning Proposal to adjust Clause 5.4(9) of the LEP 2011 in such a way as to reduce the size permissible size of *secondary dwellings* from 100% to 25%. This report has been prepared to satisfy the requests of Council's September resolution.

Secondary dwellings are permissible in all residential and rural zones and the E3 Environmental Management zone under the provisions of the LEP 2011. The LEP 2011 definition for *secondary dwellings* is provided below.

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling.

Clause 5.4(9) of the LEP 2011 currently limits the total floor area (excluding any area used for parking) of *secondary dwellings* to either 60m² or 100% of the total floor area of the principal dwelling, whichever is the greater.

It should be noted that Council's ability to edit certain LEP clauses is restricted in accordance with the Standard Instrument – Principal Local Environmental Plan. When considering the size of *secondary dwellings* only the percentage of the total floor area of the principal dwelling is able to be specified by Council as follows:

(9) Secondary dwellings

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:

- (a) 60m²,
- (b) [insert number]% of the total floor area of the principal dwelling.

As can be seen above, Council can only change the percentage component of this clause and cannot come up with a new maximum square metre floor area. It is for this reason that Council's resolution OC-17/172, which sought to introduce a maximum 120m², cannot legally be carried out.

Secondary dwellings can be carried out as complying development under the provisions of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* in both the R2 and R3 zones within the Kiama Municipality. In order to be considered as complying development the floor area of a *secondary dwelling* must not be more than 60m² or the floor area permitted under another environmental planning instrument, which in this case is 100% of the total floor area of the principal dwelling as permitted by the LEP 2011.

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

The intent of *secondary dwellings* is to provide small, affordable housing in conjunction with a principal dwelling on a property. In general terms this sort of development would often be referred to as a 'granny flat'. Both the LEP 2011 and the *State Environmental Planning Policy (Affordable Rental Housing) 2009* indicate that 60m² is the acceptable size for 'granny flat' development. It is also noted that 60m² is the standard size of most prefabricated/project 'granny flats'. It is clear that 60m² is both the industry's and government's acceptable standard.

The current provisions of the LEP 2011 enable large *secondary dwellings* to be erected on properties. This sort of development reflects traditional dual occupancy rather than a 'granny flat'. This is especially the case in Kiama's rural and E3 Environmental Management zones where *secondary dwellings* are being used to create de facto dual occupancies that would otherwise be prohibited in the zones.

To put this issue into a broader context, there are only three (3) out of the twenty-three (23) coastal local government areas (LGA) (not in the Sydney area) which allow *secondary dwellings* to be greater than 50% of the principal dwelling; Kiama, Wollongong and Shoalhaven.

Local Government Area	Size of Secondary Dwelling	Population
Ballina	50%	42,626
Bega Valley	30%	33,946
Bellingen	25%	12,893
Byron	35%	32,790
Clarence Valley	18%	51,367
Coffs Harbour	11%	74,641
Eurobodalla	45%	37,968
Gosford [†]	20%	335,309*
Great Lakes *	20%	91,958*
Greater Taree *	43%	91,958*
Kempsey	30%	29,454
Kiama	100%	22,044
Lake Macquarie	25%	202,847
Nambucca	50%	19,521
Newcastle	20%	160,919
Port Macquarie	33%	79,905
Port Stephens	40%	71,118
Richmond Valley	25%	23,164
Shellharbour	25%	70,511
Shoalhaven	60%	101,777
Tweed	20%	93,458

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

Wollongong	67%	211,201
Wyong ^t	30%	335,309*

*^t amalgamated Councils

The most common size of *secondary dwellings* across these LGAs is either 25% or 30%.

As the LEP 2011 does not prescribe a maximum total floor area for dwellings in rural and E3 Environmental Management zones, larger dwellings are generally more likely to occurring in rural settings as opposed to the residential areas of the municipality. In residential areas the prescribed maximum floor space ratio will have greater bearing on the size of *secondary dwellings*.

On average, a standard project home would have a gross floor area of approximately 275m². If Council were to reduce the size of *secondary dwellings* to 25% of the principal dwelling this would enable *secondary dwellings* to have a gross floor area of 68.75m². Reducing the size of *secondary dwellings* to 30% would enable a gross floor area of 82.5m². From this it is clear that reducing the size of *secondary dwellings* to 25% of the total floor area of the principal dwelling would bring *secondary dwellings* in the Kiama Municipality into line with the 60m² acceptable size.

Planning Proposal

A Planning Proposal is the mechanism for and document which explains the intended effect of, and justification for, a proposed amendment to the LEP. As outlined above it is considered that there are administrative errors with the current provisions of the LEP that warrant amending via the preparation of a Planning Proposal.

The proposed amendments to the LEP will apply uniformly across the Municipality. The Planning Proposal (PP) will aim to:

1. Permit Bed & Breakfasts with consent in the RU1, RU2 & E3 zones;
2. Permit Eco Tourist Facilities with consent in the RU2 & E3 zones; and
3. Reduce the total floor area of secondary dwellings to 25% of the total floor area of the principal dwelling.

If Council agrees with the outlined intended amendments, staff will prepare a Planning Proposal which is consistent with the requirements of the Kiama Planning Proposal Policy, the Department of Planning and Environment's (DPE) 'Guide to Preparing Planning Proposals, the Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy (KUS), relevant *State Environmental Planning Policies (SEPPs)*, and applicable Section 117 Ministerial Directions. The Planning Proposal will then be forwarded to the DPE for a Gateway Determination. Council staff will carry out the necessary consultation with the community and relevant government agencies in accordance with the Gateway Determination. The matter will then be reported back to Council for a final endorsement prior to the final drafting and publication of the proposed amendment to the LEP 2011.

DCP Amendment

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

As outlined above, it is recommended that chapter 13 of the DCP concurrently be amended to include development controls for *eco-tourist facilities*.

Council's normal process for the preparation/amendment of a DCP chapter has been as follows:

1. Resolution to prepare/amended DCP chapter,
2. Draft chapter reported to Council,
3. Resolution to publicly exhibit draft chapter,
4. Draft chapter exhibited in accordance with resolution,
5. Draft chapter amended to reflect results of public exhibition,
6. Amended draft chapter reported to Council, and
7. Resolution to adopt amendment draft chapter.

In light of this, it is considered appropriate to include the preparation of draft DCP controls for *eco-tourist facilities* as part of the proposed recommendations of this report. The draft amended chapter will be reported back to Council for endorsement to publicly exhibit. It is envisioned that the draft amended chapter will be publicly exhibited and subsequently reported back to Council for final endorsement at the same time as the Planning Proposal. This will ensure that the development controls will be in place by the same time *eco-tourist facilities* are permissible.

Plan Making Delegations

Council has received delegations for local plan making powers under Planning Circular PS16-005 and Section 59 of the *Environment Planning and Assessment Act 1979*. It is intended to request delegations Plan making powers for planning proposals consistent with an endorsed strategy and /or surrounding zones such as this PP.

Conclusion

The necessity to make the intended amendments to the Kiama LEP 2011 has become evident as a result of the past 6 years since the publication of the Kiama LEP 2011. The proposed amendments will

1. Permit Bed & Breakfasts with consent in the RU1, RU2 & E3 zones;
2. Permit Eco Tourist Facilities with consent in the RU2 & E3 zones; and
3. Reduce the total floor area of secondary dwellings to 25% of the total floor area of the principal dwelling.

If Council agree with the outlined intended amendments, staff will prepare a Planning Proposal and subsequently submit it to the Department of Environment and Planning for a Gateway Determination. If a positive Gateway Determination is issued the Planning Proposal will be placed on public exhibition and subsequently reported back to Council for final endorsement.

Concurrently if Council agrees to an amendment to chapter 13 of the DCP, it will be prepared to include development controls for *eco-tourist facilities*. The draft amended chapter will be reported back to Council for endorsement to publicly exhibit. It is

Report of the Director Environmental Services

10.3 Report to Council Supporting Initial Gateway Consideration of the Planning Proposal for Housekeeping amendments to the Kiama LEP 2011 (cont)

envisioned that the draft amended chapter will be publicly exhibited and subsequently reported back to Council for final endorsement at the same time as the Planning Proposal. This will ensure that the development controls will be in place by the same time *eco-tourist facilities* are permissible.

Item 10.3

Standard Instrument—Principal Local Environmental Plan

Current version for 1 September 2017 to date (accessed 3 November 2017 at 09:18)

Part 5 ▶ Clause 5.13

5.13 Eco-tourist facilities [compulsory if eco-tourist facilities permitted with consent]

- (1) The objectives of this clause are as follows:
 - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
 - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.
- (2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.
- (3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that:
 - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and
 - (b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and
 - (c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and
 - (d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and native flora and fauna will be minimal, and
 - (e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
 - (f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and
 - (g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours, materials and landscaping with local native flora, and
 - (h) any infrastructure services to the site will be provided without significant modification to the environment, and
 - (i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and
 - (j) the development will not adversely affect the agricultural productivity of adjoining land, and
 - (k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment:
 - (i) measures to remove any threat of serious or irreversible environmental damage,
 - (ii) the maintenance (or regeneration where necessary) of habitats,

Standard Instrument—Principal Local Environmental Plan [NSW]

- (iii) efficient and minimal energy and water use and waste output,
- (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
- (v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.

Item 10.3

Attachment 1

- g) One of the bedrooms within the **rural tourist accommodation** structure must have disabled access.
- h) The siting of **rural tourist accommodation** must be such that:
 - i) adequate separation distances are incorporated to minimise the potential for land use conflict between the proposed rural tourist facility and existing or potential conflicting land uses such as intensive agriculture, quarries, animal establishments, on adjoining or adjacent land in accordance with Chapter B6 Buffers and Minimising Land Use Conflict;
 - ii) all **rural tourist accommodation** is to be located on land having either a North, Northwest,/Northeast or Easterly aspect to maximise solar energy collection and minimise energy use;
 - iii) **rural tourist accommodation** is to be arranged in a 'cluster' pattern and located on average no further than 80 metres apart with adequate vegetation screening between for privacy and amenity purposes;
 - iv) on-site sewage management to be designed in accordance with Chapter B3 Services;
 - v) it is located and operated so that it does not adversely affect the conduct and productivity of agricultural operations on the site. Determination of location and siting will depend on assessment of potential conflicts and buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
- 3. All development applications for **farm stay accommodation** to include suitable details demonstrating that the accommodation is secondary to farming activity on the land.
- 4. Night time lighting for outdoor recreational facilities such as tennis courts or sporting facilities is prohibited. All other external lighting should be limited to protect the dark night sky and the rural atmosphere of the locality (e.g. lighting located around pool areas).

D3.3.5 Eco-Tourist Facility

Objectives

1. To facilitate and support the establishment of **low scale** nature based tourism.
2. To ensure that the size and scale of **eco-tourist facilities** are consistent with the goal of protecting and enhancing the natural environment or scenic amenity of the locality.
3. To ensure that **eco-tourist facilities** are sympathetically designed and sited such that the development does not impinge on the amenity or agricultural productivity of adjoining properties.

Performance Criteria

1. The development must be located and operated so that it does not:
 - a) adversely affect the conduct and productivity of agricultural operations on the site;
 - b) create potential for conflict with adjoining land uses;
 - c) disrupt environmental enhancement projects on the land;
 - d) impact on the ecological or environmental values of the land;



- e) impact upon the scenic qualities of the landscape;
 - f) conflict with buffer requirements pursuant to Chapter B6 Buffers and Minimising Land Use Conflict.
2. The development is to be **low scale** and designed and located to be compatible with the surrounding rural environment and of minimal environmental impact.
 3. Car parking for guests must be provided in accordance with Chapter B4 Traffic Planning, Vehicle Parking, Circulation and Access. Provision of recycling and **waste** management facilities must be in accordance with Chapter B8 Waste Minimisation and Management.
 4. The development must observe the road and boundary **setback** requirements specified in Chapter D2 Residential Accommodation and Ancillary Development in Rural Zones (D2.2.2) and the character and visual impact requirements (D2.2.3).
 5. The development is to be suitably sited in accordance with the requirements of Chapter C3 Visually Prominent Sites, Visually Prominent Development & View Sharing.

Prescriptive Measures

1. To ensure the development respects the environmental values of the land and is sensitively located, the density of accommodation to be provided is as follows:

Table D3.2 – Density of Ecotourism Accommodation

Land Size	Max Number of Bedrooms
0 – 3 ha	3
1 additional bedroom for every 1.5 ha to a maximum of 12 bedrooms	
20 ha or greater	12

2. In the event that free standing buildings or structures are proposed, the prescriptive measures for **rural tourist accommodation** in Section D3.3.4 (Prescriptive Measure 2) apply.
3. In the event that camping sites are proposed the performance criteria in Section D3.3.3 for **caravan parks** and **camping grounds** apply.
4. In the event that a purpose-built building is constructed or an existing building is converted into guest accommodation, such a building is to have a gross floor area not exceeding 40 m² per bedroom.
5. A plan for the environmental repair and enhancement of the property (i.e. a **vegetation management plan** or **biodiversity conservation management plan**) should be submitted with any application. Works can incorporate a mixture of weed removal and/or tree planting dependant upon the environmental and ecological qualities and features of the property.
6. A water management plan shall be submitted with the development application demonstrating how rain water is to be harvested from the roofs of buildings or other sources and stored in tanks for use. Potable Water is to be stored and distributed in accordance with the Private Water Supply Guidelines prepared by NSW Health.
7. Where possible, power shall be provided by renewable sources including wind and solar generators. Details to be submitted with the application.
8. A waste management plan shall be submitted with the development application which sets out as a minimum, measures to separate and dispose of green waste, paper and cardboard, glass bottles, metal cans, plastics, and putrescible waste.



9. A demonstrated connection between the development and the ecological, environmental, or cultural values of the site or area must include that the site or area is not more than 1km from the development and that it is accessible to visitors so they can experience it in a tangible way.

D3.3.6 Hotel or Motel Accommodation

Objectives

1. To ensure that **hotel or motel accommodation** development is compatible with the character and amenity of development in the locality.
2. To ensure that establishment of **hotel or motel accommodation** development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and community areas and precincts.

Performance Criteria

1. The design and operation of **hotel or motel accommodation** must be compatible with the streetscape and character of development in the locality.
2. Development applications must demonstrate that the proposed development will be appropriately designed and landscaped consistent with the requirements of Chapters B11 Planning for Crime Prevention and B9 Landscaping.
3. **Hotel or motel accommodation** development must not adversely affect the amenity of the precinct in which it is located. Development applications may need to be accompanied by a Social Impact Assessment prepared pursuant to Chapter B12 Social Impact Assessment, where applicable.
4. External pedestrian access must be provided between accommodation units and other facilities associated with the development, including car parking. The access must comprise covered connecting pathways or access **balconies** with an all-weather surface and must be integrated with the overall landscape plan for the development.
5. Motels must incorporate eating and living areas and facilities, together with outdoor recreation/ living areas with access to winter sun and summer shade. They may also include self-contained cooking facilities.
6. Development must be designed and constructed to minimise noise and vibration impacts on occupants of adjoining or nearby **dwellings** or buildings.

Prescriptive Measures

There are no Prescriptive Measures.

D3.3.7 Serviced Apartments

Objectives

1. To ensure that **serviced apartment** development is compatible with the character and amenity of development in the locality.
2. To ensure that establishment of **serviced apartment** development does not adversely affect the social and economic robustness, diversity and vitality of retail, business and community areas and precincts.



F4.4. Eco-tourist Facility

Explanation

An eco-tourist facility is a low scale form of tourist accommodation, intended to provide guests with a direct experience of special ecological or cultural features, while being sensitively located within the environment. To ensure this type of development respects the environmental values of the land, factors including the scale of the development, the management of waste, and impacts on visual and landscape values must be appropriately considered.

Objectives

Eco-tourist facilities are to comply with the general objectives at Part F4.1 related to all Tourist and Visitor Accommodation, as well as those listed below:

- O1. To comply with the provisions of clause 5.13 (Eco-tourist facilities) of LEP 2015
- O2. To facilitate and support the establishment of low scale nature based tourism in accordance with clause 6.28 (Rural and nature-based tourism facilities) of LEP 2015.
- O3. To ensure the size and scale of eco-tourist facilities is consistent with the aim of protecting and enhancing the natural environment or scenic amenity of the locality.
- O4. To ensure that eco-tourist facilities are sympathetically designed and sited such that development does not impinge on the amenity of adjoining properties.

F4.4.1. Design and Operation

Controls

- C1. The development is to be designed to utilise building materials that blend with the surrounding landscape. The use of recycled materials and materials sourced from the region is also encouraged.
- C2. A plan for the environmental repair and enhancement of the property (vegetation management plan or biodiversity conservation management plan) is to be submitted with any development application for an eco-tourist facility.

Note: In line with clause. 5.13 (Eco-tourist facilities) of LEP 2015, an approval for an eco-tourist facility will generally be conditioned to require that the operation of the facility is undertaken in accordance with a management strategy which will, among other things, prescribe ongoing evaluation practices, procedures and processes.

F4.4.2. Services

Controls

- C1. A water management plan is to be submitted with any development application for an eco-tourist facility. The plan is to demonstrate how rain water is to be stored and reused within the facility.
- C2. A waste management plan is to be submitted with any development application for an eco-tourist facility. The plan is to set out at a minimum, measures to separate and dispose of green waste, paper products, and other recyclable materials.



4 Eco-tourist Facility

Eco-tourist facilities provide for a combination of tourism, education and hands-on activities relating to the natural or cultural environment. An *eco-tourist facility* is defined in the Snowy River LEP 2013:

Eco-tourist facility means a building or place that:

- Provides temporary or short-term accommodation to visitors on a commercial basis, and
- Is located in or adjacent to an area with special ecological or cultural features, and
- Is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

The Snowy River LEP 2013 (clause 5.13 Eco-tourist facilities) provides detailed considerations for the development of *eco-tourist facilities*.

*As there is no maximum number of guests set for an **eco-tourist facility**, the onus is on the applicant to demonstrate that the development is specifically located and designed for eco-tourist purposes and demonstrates a significant practical reliance on renewable energy and water uses.*

4.1 Design of Eco-Tourist Facilities

4.1.1 Objective SITE DESIGN

To improve the environment of a site and incur minimal site disturbance through integrative design which reflects rather than alters the natural existing landscape.

Controls

Eco-tourist facilities will:

- Be designed to utilise building materials that blend in with the surrounding landscape, promoting the use of recycled materials and materials sourced from the region.
- Maximise energy efficiency and use a minimum of non-renewable energy.
- Be designed on the basis of ecological sustainability and an understanding of the potential environmental impacts.
- Not dominate the visual landscape through any component buildings and infrastructure and will be compatible with the local cultural character.
- Reduce the footprint of development components to the minimum required for development to proceed.
- Acknowledge and consider the social fabric of the locality and the need to respect, support, and not adversely affect, the local community.
- Avoid the use of non-renewable resources where practical.

Tourism Development

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4.1.2 Objective PARKING

To ensure that suitable and sufficient car parking is provided on the site.

Controls

Eco-tourist facilities will:

- Provide adequate on-site car parking and bus parking and maneuvering space to cater for the peak use of the facility. (Refer to Chapter C3 Car Parking & Access for parking rates and design)
- Require a traffic assessment prepared by a suitably qualified traffic engineer to support the development application at Council's discretion. Any such traffic assessment must demonstrate that adequate parking is provided for the peak use of the facility.

4.1.3 Objective EDUCATION AND AWARENESS

To incorporate and promote visitor education and environmental awareness as integral components of eco-tourist development.

Controls

Eco-tourist facilities will:

- Contain facilities for the teaching, researching or dissemination of knowledge in respect of the natural and cultural history of the area.
- Provide opportunities for visitors to experience nature and culture in ways that lead to a greater understanding, appreciation and enjoyment.
- Recognise the importance of key natural features to the visitor experience, and where these are off site (eg National Parks), recognise and address the potential indirect impacts associated with a development.

4.1.4 Objective ACCESS

To ensure reasonable provision is made within the building and access areas for the movement and circulation of people with disabilities.

Controls

Eco-tourist facilities will:

- Demonstrate consistency with the provisions of the Disability Discrimination Act 1992 (Commonwealth).
- Comply with the Building Code of Australia with respect to access and circulation for persons with a disability.

4.2 Operation of Eco-Tourist Facilities

4.2.1 Objective MANAGEMENT

To achieve appropriate standards for the operation and management of eco-tourist accommodation.

Controls

Eco-tourist facilities will:

Tourism Development

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- Be centrally managed by on-site management, where that eco-tourist facility accommodates over 15 guests. All structural and land components will be the responsibility of one management whether or not individual structures are owned by different entities.
- Use an existing or proposed dwelling as the manager's residence (where possible), where a manager's residence is provided as part of the eco-tourist facility.
- Be permitted only one manager's residence on land on which the eco-tourist facility is proposed.
- Operate on a year-round basis.
- Be used solely for the provision of temporary holiday accommodation (no more than three (3) consecutive months).
- Incorporate ongoing monitoring of the development in total and continually assess cumulative impacts, striving to improve the environment within which the development is situated.

4.3 Waste Management

4.3.1 Objective WASTE

To integrate waste minimization and energy efficiency within the design and operation of a development.

Controls

Eco-tourist facilities will:

- Manage waste in a safe, tidy and environmentally responsible manner and in accordance with legislative requirements.
- Base waste management on the principles of waste avoidance and maximising reuse and recycling of materials.
- Submit details of the waste management strategy for the eco-tourist facility (both construction and operational phases) to Council when a Development Application is lodged. (Refer to Chapter A2 Development Application Requirements).

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

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

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

Item 10.4

Summary

This report reviews DA 10.2017.215.1 which is for the demolition and relocation of part of Gerringong Historical Society museum building and restoration of Gerringong School of Arts building, which will include construction of a library and community facilities.

The report recommends that Council approve DA 10.2017.215.1 as it is permissible in the R2 Low Density Residential and RE1 Public Recreation zones and is consistent with all relevant development standards of the Kiama LEP 2011 and Kiama DCP 2012.

Finance

N/A

Policy

N/A

Reason for the Report

This report is submitted to Council as the cost of works exceeds \$2 million and more than 3 submissions have been received. Additionally, staff do not have delegation to approve this development on community land as per the provisions of Clause 47E of the *Local Government Act 1993*.

Attachments

1 10.2017.215.1 - Plans [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council approve Development Application 10.2017.215.1 under Section 80 of the Environmental Planning and Assessment Act 1979 subject to conditions at the end of the report.

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(cont)
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BACKGROUND

The subject development application (DA) was lodged 8 August 2017. Adjoining landowners were notified of the DA on 17 August 2017. Council received 8 submissions to the proposed development. The subject proposal is similar to a previous DA (10.2010.125.1) which was approved by Council at its meeting on 28 June 2011. Consent for this DA lapsed as no works had been carried out within 5 years of the date of approval.

Development Site

The property is described as Lots 1 & 2 DP1108823 and Lot E DP38381 which is located at 8 and 10 Blackwood Street Gerringong. It is noted that following lodgement of the subject application these allotments have been consolidated into Lot 100 DP1230058.

The overall site measures 1.077ha and is irregular in shape. The site currently contains the heritage listed Gerringong School of Arts building and Gerringong Historical Society museum. The site provides access to community sporting fields (ie Dorothy Bailey Oval). The site is bounded by residential land, principally containing single dwellings, to the north, east and west. The site is bounded by business land on the southern side of Blackwood Street that contains a mixture of retail and residential uses.

The site is zoned R2 Low Density Residential and RE1 Public Recreation under Kiama LEP 2011.

The site contains trees adjacent to the Gerringong School of Arts building and the rear of the site. The site slopes moderately from south to north.

The site drains through a piped watercourse to the adjoining public road.

Access to the property is gained via direct frontage to Blackwood Street (ie a Public Road).

The site is serviced by water, sewer, electricity and telecommunications infrastructure.

The site is subject to the following constraints.

- Heritage item indicated in the Kiama LEP 2011 on the land
- Areas mapped in Kiama LEP 2011 as acid sulphate soils.

Description of the Proposed Development

The proposal involves the demolition and relocation of part of Gerringong Historical Society museum building and restoration of Gerringong School of Arts building, which will include construction of a library and community facilities.

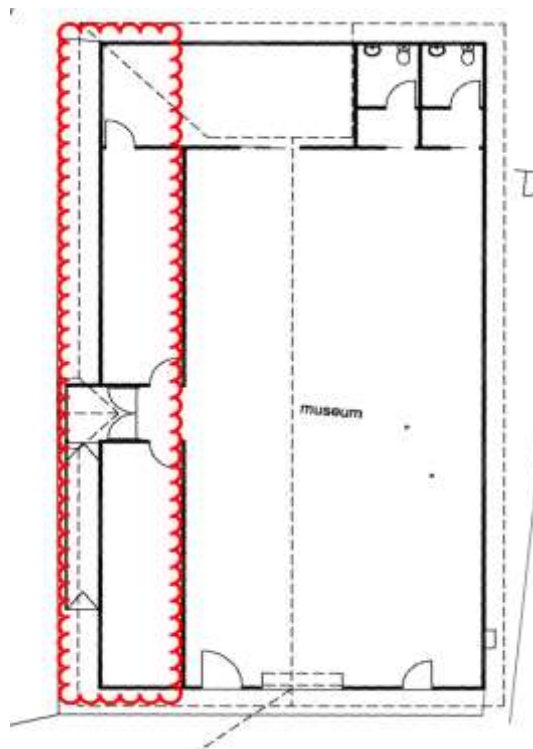
Demolition & Relocation

It is proposed to remove the existing Gerringong Historical Society museum building from the site. The portion of the building highlighted below is to be demolished. The

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remainder of the building is to be relocated to another site as part of DA 10.2017.288.1.



The proposed development also includes external and internal demolition of the Gerringong School of Arts building. Proposed is the removal of the internal stage and storage units in the existing store and kitchen areas. Both the external store room and attached toilets will also be demolished.

Restoration and New Library & Community Facility

The existing Gerringong School of Arts building will be converted to a museum, with separate storage, office and research space. The exterior of the Gerringong School of Arts building will be restored to reflect the heritage nature of the building.

A new 500m² library will be attached to the northern façade of the Gerringong School of Arts building. The new library will contain workstations and kitchen facilities for employees as well as a community office and large meeting room. Storage and toilet facilities will also be included within the new library. The new library will primarily be accessed via a terrace and entry foyer on the western façade. Access to the museum will be via the same entrance as the library.

As a result of the proposed development the library and museum, including associated raised courtyards and decks, will be setback from the eastern boundary by 3.8m, the western boundary by 15.3m and the northern boundary by 52.3m. The proposal will not alter the existing setback to the front (southern) boundary.

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The proposed development will not alter the existing building of the Gerringong School of Arts. The new library will have a maximum building height (excluding the roof ventilators) of 8.16m.

The exterior of the Gerringong School of Arts building will be restored with the existing roof sheeting and galvanised wall cladding to be replaced and repaired. The new library will be clad in a combination of corrugated steel wall and panelised timber cladding and corrugated steel roofing.

Extensive soft and hard landscaping is proposed. The entire building will be surrounded by decking and paving. A combination of trees and shrubbery will be planted along the eastern boundary of the site. Trees and shrubbery will also be integrated into the paved areas adjacent to the western façade of the development. Shrubby will be planted between the proposed designated off-street car parking spaces and the western boundary.

The existing vehicular access and parking arrangements will be formalised with a total of 17 designated off-street car parking spaces being provided between the development and the western boundary of the site. The provision of 20 'overflow' off-street car parking spaces has been made at the rear of the proposed development.

It proposed that the opening hours of the library and/or the museum will be Monday to Sunday 8am to 10pm.

Section 79C Assessment

The proposed development has been assessed in accordance with Section 79C 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)

The site is located within the coastal zone, as defined by SEPP 71.

The site is not located within a 'sensitive coastal location' as defined by SEPP 71.

Consideration has been given to the objectives of the SEPP71 and the matters prescribed by Clause 8.

"8 Matters for consideration

The matters for consideration are the following:

- the aims of this Policy set out in clause 2,*
- existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*

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- (d) *the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) *any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,*
- (i) *existing wildlife corridors and the impact of development on these corridors,*
- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*
- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) *only in cases in which a development application in relation to proposed development is determined:*
- (i) *the cumulative impacts of the proposed development on the environment, and*
- (ii) *measures to ensure that water and energy usage by the proposed development is efficient.”*

While the site is located within the ‘coastal zone’ it is not located within a ‘sensitive coastal location’ as defined by SEPP 71. As the site is not located immediately adjacent to the coastal foreshore the proposed development will not:

- affect existing public access to and along the coastal foreshore;

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- provide new access to and along the coastal foreshore;
 - add to the visual amenity of the coast;
 - impact upon the amenity of the coastal foreshore;
 - impact upon coastal processes and coastal hazards and vice versa;
 - result in conflicts between land-based and water-based coastal activities; or
 - impact upon the water quality of coastal waterbodies.

The development is considered to be suitable as it is a use permissible within the zone and is consistent with the zone objectives. While submissions have been received, objecting to the proposal, it is noted that the submissions were primarily concerned with access across the site. This matter will be discussed further in this report.

The site does not contain any species listed under the *Threatened Species Conservation Act 1995* (Now the *Biodiversity Conservation Act 2017*) or the *Fisheries Management Act 1994*. Nor does the site contain native coastal vegetation.

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 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.

The site does contain an item of heritage/historic significance. The proposed development is considered to be sympathetic to the existing item of heritage/historic significance. The proposed development will ensure the item of heritage/historic significance is utilised and maintained into the future.

There are no cumulative impacts of the proposed development on the environment as the development will be occurring entirely within the bounds of the site and is not considered to be an intensification of the use on the site. The proposed development does not require excessive water or energy supply.

In this regard the development is consistent with the aims of SEPP 71.

- 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 DCP 2012 outlines that certain trees can be removed without requiring consent. The

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DCP 2012 outlines that consent is required for the removal of the 2 paperbark trees. Council's Landscape Officer has agreed to the removal of these trees.

- Kiama LEP 2011

The subject land is zoned R2 Low Density Residential and RE1 Public Recreation pursuant to Kiama LEP 2011. The proposal is defined as a *community facility* under the provisions of the LEP 2011.

“community facility means a building or place:

- (a) *owned or controlled by a public authority or non-profit community organisation, and*
- (b) *used for the physical, social, cultural or intellectual development or welfare of the community,*

but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.”

Community facilities are permitted with consent in both the R2 Low Density Residential and RE1 Public Recreation zones. As the proposal will enable a land use that provides facilities or services to meet the day to day needs of residents it is considered to be consistent with the zone objectives.

Specific clauses requiring consideration:

Clause 4.3 requires that the height of the building does not exceed the maximum height shown on the Height of Buildings Map. With a maximum building height of 8.16m the proposal does not exceed the maximum height of 8.5m, as shown on the Height of Buildings Map.

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. It is noted that a maximum floor space ratio has only been applied to the front portion of the site zoned R2 Low Density Residential. The portion of the site zoned R2 Low Density Residential has an area of 2153m². The proposed development will have a gross floor area of approximately 718m². In this regard the proposed development will result in a floor space ratio of 0.33:1 with the portion of the site zoned R2 Low Density Residential. As such the proposal does not exceed the floor space ratio of 0.45:1 shown for land on the Floor Space Ratio map.

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.

Clause 5.10 lists requirements for heritage conservation for items listed in Schedule 5 of the Kiama LEP 2011. An item (I10) of heritage exists on the property and is listed in Schedule 5 as *Gerringong School of Arts (former)*. The proposal meets the objectives of the clause and is not likely to adversely affect the heritage significance

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of the item. Council's Heritage Advisor has provided the following comments in regards to the proposed development:

“Overall the development proposal is considered acceptable in heritage terms. I will support demolition of the timber floor in the front room of the former Gerringong School of Arts and the construction of a new suspended timber floor at the same level as the Hall subject to conditions below.

- 1) *The French doors to the front façade are to be reconstructed based on documentary and archaeological evidence, and are to remain locked.*
- 2) *Timber flooring and skirting allowed to be removed is to be salvaged and reused in the construction of the new floor.*
- 3) *The new floor is to be constructed in a reversible manner, allowing for the existing floor to be reconstructed in the future.*
- 4) *Two existing internal door cases are to be relocated to suit new floor levels.*
- 5) *New wall lining in the front room is to be dissimilar to the existing timber boarding.*
- 6) *As previously requested, in support of the proposed changes to the Stage and Utility Room, the applicant is to provide a succinct heritage impact statement which provides sound reasons and justification for the proposed works.”*

Clause 6.1 lists requirements for land affected by Acid Sulfate Soils. The site is subject to Acid Sulfate Soils and the proposal required that an Acid Sulfate Soils management plan be prepared and lodged with the development application for the proposed work. This requirement has been satisfactorily addressed.

Clause 6.2 lists considerations for proposals which involve earthworks. The proposal meets with the objectives of the clause and the matters prescribed for consideration are satisfied.

The proposed development is consistent with the relevant provisions of the KLEP 2011 and is permissible within in both the R2 Low Density Residential and RE1 Public Recreation zones.

Any draft Environmental Planning Instruments

In accordance with Section 79C(1)(a)(ii) the relevant provisions of any proposed instrument that has been the subject of public consultation was must be taken into consideration.

- 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 LEP 2011*. Accordingly, staff prepared the attached PP with the following objectives:

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-
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.

The Planning Proposal was placed on public exhibition from 23 October to 20 November 2017. It is noted that this Planning Proposal is being also being reported to this month's Council meeting seeking final endorsement. The Draft Kiama LEP 2011 is not relevant to this application.

- Draft SEPP (Coastal Management) 2016

The draft Coastal Management SEPP was on public exhibition from 11 November 2016 until 20 January 2017. Under the provisions of the draft Coastal Management SEPP the site is located within the 'Coastal Use Area'.

Consideration must be given to the Sections 15–17 of the draft Coastal Management SEPP.

“Division 4 Coastal use area

15 Development on land within the coastal use area

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.*

Division 5 General

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16 Development in coastal zone generally-development not to increase risk of coastal hazards

- (1) *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Note. *Clause 13 (2) (b) contains a development control provision that substantially mirrors the effect of this provision.*

- (2) *This clause ceases to have effect at the end of 31 December 2021.*

17 Development in coastal zone generally-coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of the following:

- (a) *a coastal management program that applies to the land,*
(b) *a coastal zone management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.”*

The development controls associated with the ‘coastal use area’ are primarily concerned with public access to the foreshore, overshadowing and view loss of public areas, scenic qualities of the coast, Aboriginal cultural heritage, and use of the surfzone. As such the subject site is approximately 700m from the foreshore and no items of Aboriginal Cultural Heritage have been identified on the site it is considered that the proposed development would satisfy the development controls contained within Division 4 of the draft Coastal Management SEPP. It is noted that no coastal management program applies to the site nor is it considered likely that the proposal will increase the risk of coastal hazards; as such the proposal satisfies the requirements of Division 5.

- Draft State Environmental Planning Policy No 64 (Advertising and Signage)

The draft amendments to SEPP No 64 – Advertising and Signage are on public exhibition until 30 June 2017. The draft amendments to SEPP No 64 – Advertising and Signage include the following changes:

- Banning trailer advertising on roads, road shoulders, footpaths and nature strips.
- Council approval required for parked trailer advertising on private land seen from roads, road shoulders, footpaths and nature strips.
- Council can issue fines for trailer advertising on roads, road shoulders, footpaths and nature strips and private land without valid consent.

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- Repealing SEPP No 64 Clause 16(4)(b) to allow transport corridor advertising with consent.

The draft amendments to SEPP No 64 provide development standards for advertising and signage. As such the draft amendments to SEPP No 64 do not provide any provision relevant to the proposed development as no signage has been proposed.

- Draft State Environmental Planning Policy (Infrastructure)

The draft amendments to SEPP (Infrastructure) 2007 are on public exhibition until 7 April 2017. The draft amendments to SEPP (Infrastructure) 2007 are primarily a result of educational provisions being transferred to the draft SEPP (Education and Child Care). The draft amendments to SEPP (Infrastructure) 2007 provide development standards for infrastructure (i.e. hospitals, electrical, telephone etc.). As such the draft amendments to SEPP (Infrastructure) 2007 do not provide any provision relevant to the proposed development.

- Draft State Environmental Planning Policy (Environment)

The draft SEPP (Environment) is on public exhibition from 31 October 2017 until 15 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. These environmental policies will be accessible in one location, and updated to reflect changes that have occurred since the creation of the original policies. As the site does not fall within a water catchment the draft SEPP (Environment) do not provide any provision relevant to the proposed development.

- Draft State Environmental Planning Policy (Primary Production and Rural Development)

The draft SEPP (Primary Production and Rural Development) is on public exhibition until 18 December 2017. The NSW Government is proposing changes to the planning system to further support sustainable agriculture, aquaculture and rural development. These changes will help ensure planning proposals affecting rural land are properly assessed and provide greater certainty to farmers on the types of activities that will require development consent. As the proposed development is not being carried out on rural land the draft SEPP (Primary Production and Rural Development) does not provide any provision relevant to the proposed development.

Development Control Plans (DCPs)

- Kiama DCP 2012

The proposed development is not inconsistent with Kiama DCP 2012.

Chapter 2- Overall controls

Demolition: Conditions of consent will be generated to ensure the proposed part demolition is carried out in accordance with the DCP.

During Construction: conditions to be added to ensure compliance.

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Adaptable Housing: N/A.

Views & Vistas: No existing views from the site, including the public area (i.e. Dorothy Bailey Oval), will be impacted by the proposal. No objections have been received in regards to view loss.

Building height plane (low density development only): N/A

Building lines: The subject site is not identified by the DCP 2012 Building Lines maps. The proposed development will not alter the existing front setback.

The proposed rear setback as a guide must be 6m or shall reflect the established rear building line. The proposed development will have a rear building line of 52.3m.

As a result of the proposed development the library and museum, including associated raised courtyards and decks, will be setback from the eastern boundary by 3.8m, the western boundary by 15.3m and the northern boundary by 52.3m. The proposal will not alter the existing setback to the front (southern) boundary.

The required side boundary setbacks are 900mm to a side wall and 675mm to an eave or fascia. The proposed development will have a minimum 3.8m side setbacks.

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

Reflectivity in building materials: The exterior of the Gerringong School of Arts building will be restored with the existing roof sheeting and galvanised wall cladding will be replaced and repaired. The new library will be clad in a combination of corrugated steel wall and panelised timber cladding and corrugated steel roofing. This is considered to be acceptable.

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

Onsite 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: A new 800mm high picket fence is proposed along portions of the front boundary. This fencing complies with Chapter 2 of the DCP.

Applications for variations: No Applications have been applied for.

Chapter 8 – Landscaping Requirements

Design Guidelines for Commercial Developments: A landscape plan has been provided. Council's Landscape Officer is satisfied with the submitted landscape plan.

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 1 car parking space is to be provided for each 5m² of gross leasable floor area. It should be noted that the DCP

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outlines that, alternatively, parking requirements will be determined by Council following the completion of and submission of a Parking Impact Study prepared by a suitably qualified and experienced professional person.

A Traffic Impact Assessment, which satisfies the requirements of the Parking Impact Study, prepared by Bitzios Consulting, has been submitted as part of the application. The following has been provided in regards to the number of required parking spaces:

“5. PARKING AND ACCESS ASSESSMENT

5.1 CAR PARKING REQUIREMENTS

The Kiama Municipal Council Development Control Plan (DCP) stipulates that community facility land uses shall provide vehicle parking at a minimum rate of 1 car parking space per 5m² GFA. Table 5.1 below details the parking requirement and provision for the proposed development.

Table 5.1: Car Parking Requirements and Provision

Land Use	Quantity	Rate	Requirement	Provision
Community Facility (Library and Museum)	501m ²	1 car parking space per 5m ² GFA	100	17
Total			100	17

The rates prescribed by Kiama Municipal Council DCP for this land use are considered excessive as these would typically represent a higher capacity/more intensive level of community facility. The suggested rate of 1 car space per 5m² is physically not possible in a library due to the spatial requirements within the building associated with tables, bookshelves etc. The rate of 1 per 5m² GFA more so relates to community halls, or venues where large volumes of patrons can congregate. It also does not align with parking requirements imposed upon similar nearby developments as outlined below.

In order to estimate an appropriate parking rate for the proposed development, provisions of similar developments within the Gerringong area have been analysed. The Kiama Library which is located in Kiama, approximately 10km north of Gerringong has 1,280m² GFA (this includes the Family History Centre downstairs) and provides 12 off-street car parking spaces. For the purpose of this assessment, it has been assumed that 50% of the GFA stated is associated with Kiama Library, which equates to a car parking rate of approximately 1 space per 50m² GFA. This requirement is in line with the parking requirements provided by surrounding local government areas such as Shellharbour City Council.

The Shellharbour City Council’s DCP provides a car parking rate of 1 space per 50m² GFA for a library within the city centre, and a car parking rate of 1 per 40m² GFA plus one (1) space per staff member for community facilities. As the proposed

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development is considered a community facility, the rate appropriate for the off-street parking provision under Shellharbour City Council's DCP is 1 space per 40m² GFA plus one (1) space per staff member. This rate is also consistent with rate included within Wollongong City Council's assessment for Library and Community Facilities (October 2004). This rate is considered more appropriate for the proposed development and the revised car parking requirements and provision are detailed in Table 5.2.

Table 5.2: Revised Car Parking Requirements and Provision

Land Use		Quality	Rate	Requirement	Provision
Community Facility	Library staff	2	1 car parking space per 5m ² GFA plus 1 space per staff member	2	17
	Library patrons	233m ²		6	
	Community room	20m ²		1	
	Meeting room	48m ²		2	
	Museum staff	2		2	
	Museum patrons	200m ²		5	
	Total				

As mentioned in Section 3, the library is proposed to operate on Tuesday, Thursday and Saturday with only 20% of the weekday patronage expected on a Saturday. Table 5.2 shows a weekday parking demand of 11 spaces which results in a surplus of 6 spaces. The weekend parking demand for the library is only 2 spaces. The museum is only expected to operate on Saturdays and Sundays and has an associated parking demand of 7 spaces. It is estimated that the patronage of the library during the operating times of the museum is only 20% of the weekday patronage. Therefore, the total parking demand on a Saturday and Sunday for the proposed development is 9 spaces which results in a surplus of 8 spaces.

In the event that further parking spaces are required, the development proposes to provide an overflow parking area to the north which can accommodate up to 20 vehicles (refer to Appendix A for full details of the overflow parking area).

Based on the above, the proposed number of car parking spaces provided by the development is sufficient and is likely to result in a surplus during periods where both land uses are operational. As such, no adverse external parking issues are expected as a result of the development.

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In accordance with the Building Code of Australia (BCA), one (1) car parking space per 50 provided car parking spaces is required to be capable of adaption for disabled or elderly persons. The proposed development proposes to provide two (2) PWD bays with an adjacent shared area in accordance with AS2890.6 requirements.”

The data contained within Table 5.2 makes the assumption that the museum will only operate on weekends. The concept of limiting the opening hours of the museum to Saturdays and Sundays was raised with the applicant. Bitzios Consultants, via the applicant, provided the following response:

“Traffic and Car Parking

Response (a):

The applicant has proposed changes to the operating hours of the museum in order to align them with the operating hours (and days) of the library, whereby the library will be open Tuesday, Thursday, Saturday and Sunday.

As detailed in the submitted Traffic Impact Assessment, the proposed development is required to provide 18 car parking spaces in order to satisfy the parking requirement for the library and museum land uses, which are now proposed to operate concurrently. The development proposes to provide 17 formal car parking spaces with an additional 20 car parking spaces provided as overflow parking in the event to additional car parking is required. Access to the overflow parking area is proposed to be unrestricted, as patrons to the development will be able to utilise this area at any time within the operating hours of the development. Through the use of the overflow car parking area, the proposed development has a surplus of 19 car parking spaces on a weekday (i.e. Tuesday and Thursday), and a surplus of 28 on the weekend (i.e. Saturday and Sunday). Figure 1.1 shows the daily car parking demand for the proposed development.



Figure 1.1: Proposed Development Parking Demand

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Based on the above, the proposed number of car parking spaces provided by the development, with the inclusion of the unrestricted access to the overflow parking area, is sufficient and very likely to result in a surplus during the operating times for the proposed development.”

Response (b):

As the safety of the driveway has been raised in submissions to Council, the proposed ‘No Stopping’ zone has been provided to enhance driver sight lines to vehicles approaching / exiting the driveway and thus increase the overall safety of the driveway. The implementation of these zones is consistent with driveways which provide access to other large nearby developments, such as the adjacent IGA supermarket.

A total of 17 off-street car parking spaces being have been designated between the development and the western boundary of the site. The provision of 20 ‘overflow’ off-street car parking spaces has also been made at the rear of the proposed development. In light of this and the information provided by Bitzios Consultants it is considered that sufficient off-street car parking spaces are proposed.

Location: the proposed parking is easily accessible via direct frontage to Blackwood Street.

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”. The applicant proposes to utilise the existing driveway crossover. The crossover appears to be cracked and damaged. It will require replacement.

Chapter 11 – Waste Requirements

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

Roadside Bin Collection Point: Space has been provided for the external storage of waste and recycling bins adjacent to the eastern façade of the development. A paved path will enable the manoeuvrability of bins to the street.

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 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.

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Cultural Heritage Management (Historical): As per Council's Heritage Advisor's advice it is considered that the proposed development complies with Section 3 of Chapter 30.

As can be seen the proposed development complies with the relevant controls of the DCP 2012.

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 & 94A do not apply to the proposed development as it does not involve a change of use or the erection of a temporary structure.

In accordance with Clause 94 of the Regulation, conditions of consent will be added to ensure the development is carried out in accordance with the *Building Code of Australia*.

Any Coastal Zone Management Plan

Nil

The Likely Impacts of the Proposed Development

- Streetscape

The design of the proposed development is considered to be reasonable when considered in relation to the context of the site. The bulk, scale and design of the proposal is consistent with relevant planning instruments and is not inconsistent with the streetscape.

- Noise

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

- Privacy and Overlooking

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

- Overshadowing

Due to the setbacks associated with the proposal any overshadowing impacts associated with 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.

- Environmental Impacts

The existing paperbark trees near the eastern side of the building 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 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 – Stormwater will be conveyed to the street. 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.

- 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.

In this regard it is considered that the land is suitable for the proposed use.

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- Effect on public domain

It is considered that the proposed development will not affect the public domain. The submitted Traffic Impact Assessment outlines that parking demand resulting from the proposed development can be accommodated within the site. The submitted Traffic Impact Assessment outlines that the proposed development will not result in any unacceptable outcomes with respect to traffic and transport.

- Safety, security & crime prevention

Increased patronage of the site will increase passive surveillance of the area.

- Operational waste

Conditions of consent will be added to ensure that operational waste is handled in an appropriate method.

- 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 can ensure that the proposal is not affected by technological hazards associated with the rail corridor and vice versa.

- BCA compliance & Utility needs and supply

The applicant has provided a preliminary Section J Report which concludes that the proposed development can be constructed to meet the 'deemed-to-satisfy' provisions of Section J of Volume One of the National Construction Code Series and in turn changing weather events. Conditions of consent will be added to ensure the development is carried out in accordance with the *Building Code of Australia*.

The site is serviced by Sydney Water's water and sewer infrastructure, Endeavour Energy's electricity infrastructure and Telstra's telecommunications infrastructure.

- Construction impacts

It is noted that impacts (i.e. noise, traffic etc.) are likely to occur during construction. It is noted that the site sits on the periphery of the Gerringong CBD. Never the less, 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.

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

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notification period, 8 submissions were received which raised the following (summarised) matters of concern:

Item 1:- Retention of historical access to the rear of neighbouring properties (access gate).

Response:- This issues has been raised previously when a similar application was assessed (DA 10.2010.125.1). A number of properties along Fern Street have historically utilised the subject site as a means of obtaining rear access to their properties. It should be stressed that this has occurred despite any legal right-of-way ever being established across the site. Council has obtained legal advice regarding this issue in the past. No prescriptive easement (right-of-way) has been created because of the protection afforded to the site by Clause 178 of the *Conveyancing Act 1919*.

“178 No way by user against Crown etc

No dedication or grant of a way shall be presumed or allowed to be asserted or established as against:

(a) *the Crown, or*

(b) *persons holding lands in trust for any public purposes,*

by reason only of user, and this whether in proceedings instituted by or on behalf of the Crown or not, and whether such user commenced before or after the eighteenth day of October, one thousand eight hundred and sixty-one (being the day of the commencement of the Crown Lands Alienation Act of 1861).”

For this reason, the applicant has no responsibility to maintain any historical access arrangements. However, it is recommended that Council not prevent reasonable access requests on a needs basis and that the gate proposed on the driveway leading to the overflow parking not be installed.

Item 2:- An interim Traffic Control assessment should be presented to the community and implemented for operation during the construction period.

Response:- It is noted that a Traffic Impact Assessment has been prepared and submitted as part of this application. This assessment has been available for any interested community member to view. Council’s Subdivision & Development Engineer has recommended conditions of consent that require the provision of a Traffic Control Management Plan, which complies with the requirements of the Roads and Maritime Service’s (RMS) “Traffic Control at Work Sites” manual. This is a standard condition that is applied to all developments which, during construction, are likely to impact upon surrounding traffic.

Item 3:- A loop road should be provided around the building to provide separate entrance and exit points.

Response:- The provision of a loop road is up to discretion of the applicant. No concerns have been raised by Council’s Subdivision & Development Engineer in regards to utilising the existing access point off Blackwood Street as the access point

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for the proposed development. It is noted that the provision on an additional entry/exit point onto Blackwood Street would reduce the amount of on-street parking available.

Item 4:- Concerns regarding noise impacts associated with air-conditioning units.

Response:- The submitted plans do not show the installation of air-conditioning units. It will be conditioned that any air-conditioning units are to be installed in accordance with the development standards for exempt air-conditioning units contained in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. This will ensure that any air-conditioning units are designed so as not to operate:

- (i) During peak time – at a noise level that exceeds 5 dB(A) above the ambient background noise level measured at any property boundary, or
- (ii) During off peak time – at a noise level that is audible in habitable rooms of adjoining residences.

Item 5:- Non-native coral trees and rotting lemon trees should be removed.

Response:- The desire to remove trees and vegetation on the site is up to the preference of the owner. Council's Landscape Officer has not raised any concerns in regards to the existing vegetation on the site.

Item 6:- Concerns are raised regarding the potential impacts of stormwater generated by the car parking area on 77 and 79 Fern Streets.

Response:- It is noted that the proposed designated car parking area is separated from 77 and 79 Fern Streets by the proposed building. A stormwater plan has been submitted which shows that all stormwater generated by the development will be directed, through an onsite detention basin, to Council's stormwater infrastructure in Blackwood Street.

Item 7:- Restrict on-site parking to patrons of facility not adjoining businesses.

Response:- It is acknowledged that at times parking spaces on site will be occupied by people using town facilities not associated with the site. It will be the responsibility of the on-going operation management team of the facility to ensure the development's designated off-street car parking spaces are only used by patrons of the proposed facilities. This is standard practice.

Item 8:- Proposal will reduce the number of public car parking whilst increasing the demand.

Response:- The proposed development will formalise and designate spaces on the site. As outlined above, adequate on-site car parking for the development has been proposed. The site is not a designated public car park, however the provision of overflow parking in excess of the normal requirements for the development will assist in managing the broader parking demand in the area.

Item 9:- Vehicular access point to the site is dangerous.

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Response:- No concerns have been raised by Council's Subdivision & Development Engineer in regards to utilising the existing access point off Blackwood Street as the access point for the proposed development.

Item 10:- Neighbours will be subject to 18 months of noise and dust impacts.

Response:- There will be some unavoidable impacts associated with the construction of the development. Conditions of consents are imposed restricting works to certain hours of the day and days of the week to ensure that these impacts are contained. Conditions of consent are also imposed requiring the management of sedimentation and dust during the construction process. Noise and dust (air) pollution is regulated by the *Protection of the Environment Operations Act 1997*. Penalty Infringement Notices (PINs) can be issued by both Council and The Environment Protection Authority when excessive dust and noise is generated by a construction.

Item 11:- Libraries are not heavily patronised. Money should be spent on aged care facility.

Response:- This is not a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*. Each application is to be assessed on its merits as submitted. It is not the role of Council's assessing officers to determine what type of community facility is required in a locality.

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.

- Waste Management Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Property Manager

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(cont)

Council's Property Manager has been raised the following points in relation to the proposed development:

Development of Land: Council's records indicate that Lots 1 DP1108823 Lot 2 DP1108823 and Lot E DP 38381 are classified as "community land". The Plan of Management that applies to the site aims to achieve balanced, responsible and sustainable use of land that addresses the needs of the community. The proposed development is consistent with this aim.

Lease: Following approval and construction of the building there will need to be a lease with the Gerringong Historical Society. There may also be provision in the lease for proportional insurance contributions and outgoings. The amount of outgoings/insurance is indeterminable at this stage. It is considered that the lease term will be for a 5 year period.

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 DCPs, 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 79C of the Environmental Planning and Assessment Act, 1979. The proposal is consistent with Kiama LEP 2011 and relevant DCPs. The proposed development is consistent with the objectives of both the R2 Low Density Residential and RE1 Public Recreation zones.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised. Concerns raised in submissions have been considered and do not warrant refusal of the application.

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

Draft Conditions of Development Consent

General

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as 10.2017.215.1 dated - except as amended by the following conditions: (g005.doc)
- (2) The applicant shall submit engineer's details of the foundation based on geotechnical advice prepared by a suitably qualified geotechnical engineer.

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Such detail/advice is to be provided prior to the issue of a Construction Certificate. (g015.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) Full details of the external materials of construction and a schedule of finishing colours shall be submitted prior to the release of the Construction Certificate and shall be to the satisfaction of the Director of Environmental Services. (g035.doc)
- (5) The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority. (g040.doc)
- (6) The property owners shall be made aware that all Aboriginal relics in NSW are protected under Section 90 of the National Parks and Wildlife Act 1974, which makes it an offence to knowingly damage, disturb, deface or destroy an Aboriginal relic or site, without first obtaining the written consent of the Director-General of the National Parks and Wildlife Service. If such a site is discovered, the Southern Zone Archaeologist of the National Parks and Wildlife Service shall be contacted immediately. (g050.doc)
- (7) This Development Consent is limited to a period of five (5) years from the endorsement date of consent. (g080.doc)
- (8) 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)
- (9) 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)
- (10) 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, Blackwood 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)
- (11) 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 Roads and Traffic Authority permit (Including Compulsory Third Party insurance). Primary producer's

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registration is not valid registration for use on Public Road construction work.

- b Workers Compensation Insurance.
 - c Ten Million Dollar Public Liability Insurance. (g155.doc)
- (12) 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)
- (13) The French doors to the front façade are to be reconstructed based on documentary and archaeological evidence, and are to remain locked.
- (14) Timber flooring and skirting allowed to be removed is to be salvaged and reused in the construction of the new floor.
- (15) The new floor is to be constructed in a reversible manner, allowing for the existing floor to be reconstructed in the future.
- (16) Two existing internal door cases are to be relocated to suit new floor levels.
- (17) New wall lining in the front room is to be dissimilar to the existing timber boarding.
- (18) In support of the proposed changes to the Stage and Utility Room, the applicant is to provide a succinct heritage impact statement which provides sound reasons and justification for the proposed works.
- (19) The Applicant shall prepare and provide plans, which show the removal of the gate which restricts access to the Dorothy Bailey Oval and adjoining properties, to the satisfaction of Council's Director of Environmental Services. At no time is such a gate to be installed.

Prior to Commencement of Works

- (1) Building work must not commence until the Principal Certifying Authority for the development to which the work relates has been informed of:
- i The licensee's name and contractor licence number;
 - ii That the licensee has complied with Part 6 of the Home Building Act 1989.
- In the case of work to be done by any other person, the Principal Certifying Authority:
- a Has been informed in writing of the person's name and owner builder permit number;

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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 \$8,000, 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.
- 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) 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.

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

- (4) Protection fencing shall be erected around the trees to be retained on site so as to prevent damage to the roots of the tree. The fencing shall be erected prior to the commencement of works. The fencing shall consist of 1.8 metres high cyclone wire supported on galvanised steel posts at a minimum 3.0 metre centres. The fencing shall be maintained and shall remain in situ until all building works are completed. No machinery, builder's materials and/or waste shall be located inside the fencing. (pt035.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) 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. (pt070.doc)

Demolition Works

- (1) Throughout the demolition operations, adequate safety shall be maintained in public places adjoining the site. Safety of the public shall be maintained by providing street closures, hoardings, scaffolding and other types of overhead protection, either singularly or in combination, in accordance with the requirements of Council and AS 2601. (dw005.doc)
- (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**

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No later than seven 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 AS2601-1991; and
- (b) A hazardous substances management plan prepared by a competent and appropriately qualified person in compliance with AS2601-1991.

Asbestos – Licensed Contractors

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Demolition Licence or a current WorkCover Class 2 (Restricted) Asbestos Licence.

Asbestos – Notification of Neighbours

Fourteen 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.

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 10m² of Bonded Asbestos Sheeting

Demolition works involving the removal of less than 10m² 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)

- (4) The techniques adopted for stripping out and for demolition shall minimise the release of dust into the atmosphere. (dw030.doc)

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- (5) 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)

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 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 Australian Standards AS 1742.2, AS 1743, AS 1744, AS/NZS 1906.1, AS 1906.2, AS 1906.3 and AS 4049.1. (c025.doc)
- (2) The access driveway, car parking and manoeuvring areas shall be paved in materials other than plain concrete or asphaltic concrete (eg brick pavers, exposed aggregate, coloured concrete, stencilled concrete etc). Details of the proposed paving material, including colour, shall be submitted to the Principal Certifying Authority prior to the issuing of the construction certificate. In this regard;
- a Masonry pavers shall comply with design requirements of AS/NZS 4455 and AS/NZS 4456.
 - b Cement concrete access driveways shall be designed and constructed in accordance with the principles of the Cement, Concrete and Aggregates Australia technical notes. (c030.doc)
- (3) 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)

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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 Certificate. (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)

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- (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)

Utility Servicing

- (1) 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)
- (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 (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)
- (3) All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with AS 4482.2 and tested by a certified National Association of Testing Authorities Australia (NATA) registered laboratory for contaminants. Based on the test results certification shall be provided to the Principal Certifying Authority prior to the issue of any occupation certificates by a suitably qualified geotechnical engineering consultant confirming the imported fill is suitable for use in residential development. Any imported fill found to not be suitable for residential use shall be removed / remediated in accordance with the NSW Department of Environment, Climate Change and Water requirements. (gr065.doc)
- (4) 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) 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) The Reduced Levels (RL) of the proposed development must be in accordance with the approved plans. Certification of these levels by a registered surveyor must be submitted to an accredited certifier or Council prior to proceeding past that level. (bu120.doc)
- (7) A survey shall be undertaken and a copy be made available to Council or an accredited certifier, certifying that the building is correctly located in relation to the boundaries of the site and in accordance with the approved plans. Such survey shall be submitted at peg out stage. (bu125.doc)
- (8) Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;
Monday to Friday - 7.00 am to 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)
- (9) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, construction and/or subdivision work. All waste nominated for disposal must be disposed of at a licensed landfill facility. All waste nominated for recycling must be reused or recycled. (bu153.doc)

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Erosion and Sedimentation Controls/Soil and Water Management

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

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 week landscape maintenance period and after any defects that occurred during that period have been corrected, a final Compliance Certificate shall be provided from a suitably qualified landscape professional stating that all landscape works have been completed and maintained in accordance with the approved landscape plans and the conditions of this development consent. (lw035.doc)

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(cont)

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- (4) Prior to release of the Occupation 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)
- (5) The camellia bush in front of the existing building shall be relocated to the proposed sculpture garden as shown on the concept landscape plan drawing number 1216-LD01. Should the camellia bush be unable to be relocated successfully then a new bush, a Camellia japonica, with white semi-double flowers shall be planted in the position in the sculpture garden.
- (6) The two paperbark trees near the eastern side of the building shall be removed as shown on the Demolition plan drawing number 17-0014 DA03.

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) A contribution pursuant to Section 94A of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94A (Indirect Contributions) Plan shall be paid to Council prior to the issuing of any Occupation Certificate. The total contribution required for the development is **\$29,000.00**.

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

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

Where:

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

CPI_P =The *Consumer Price Index: All Groups Index for Sydney* as published by the Australian Bureau of Statistics and which applied at the time of payment.

CPI_c =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)

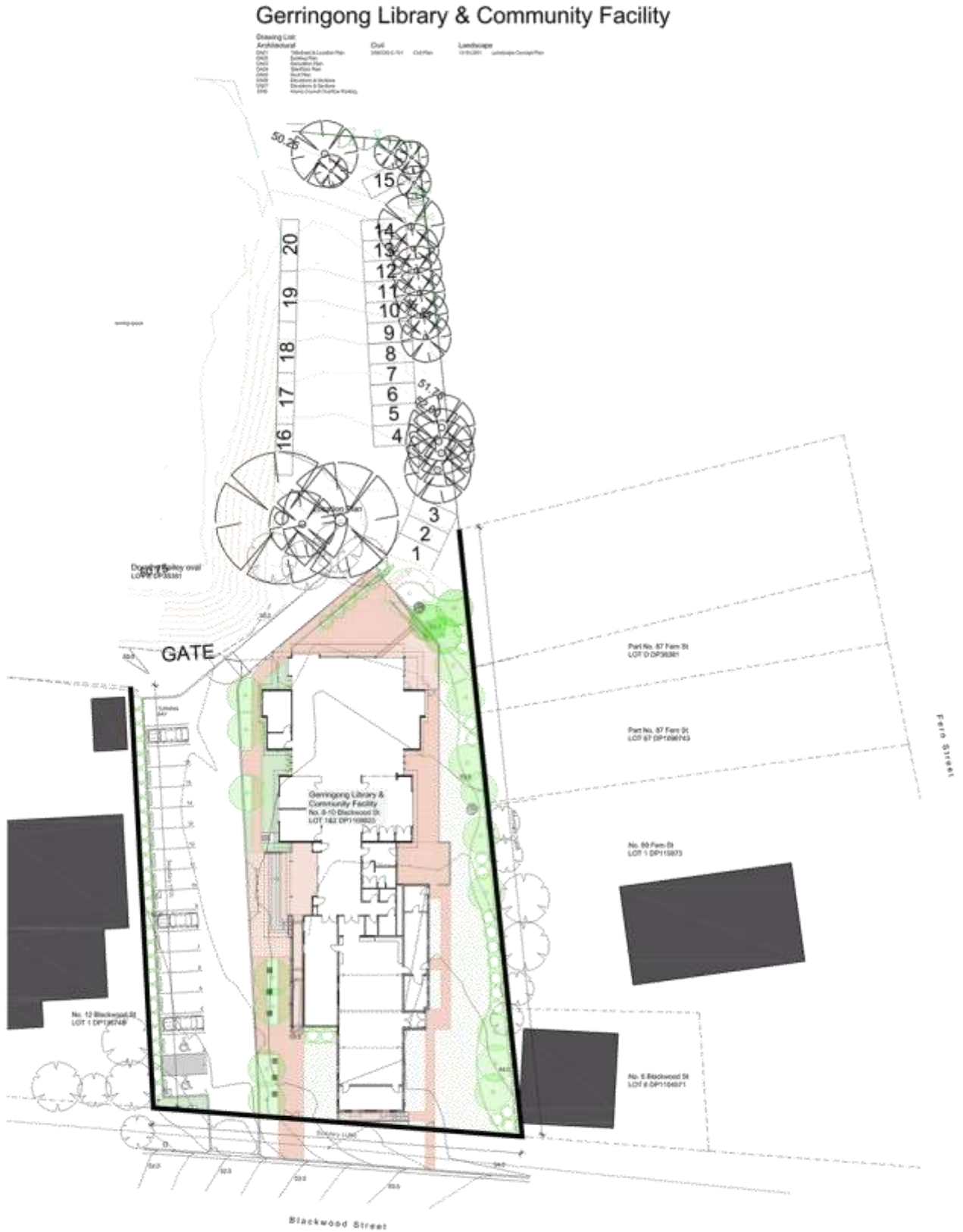
- (2) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to release of the Final Occupation Certificate.

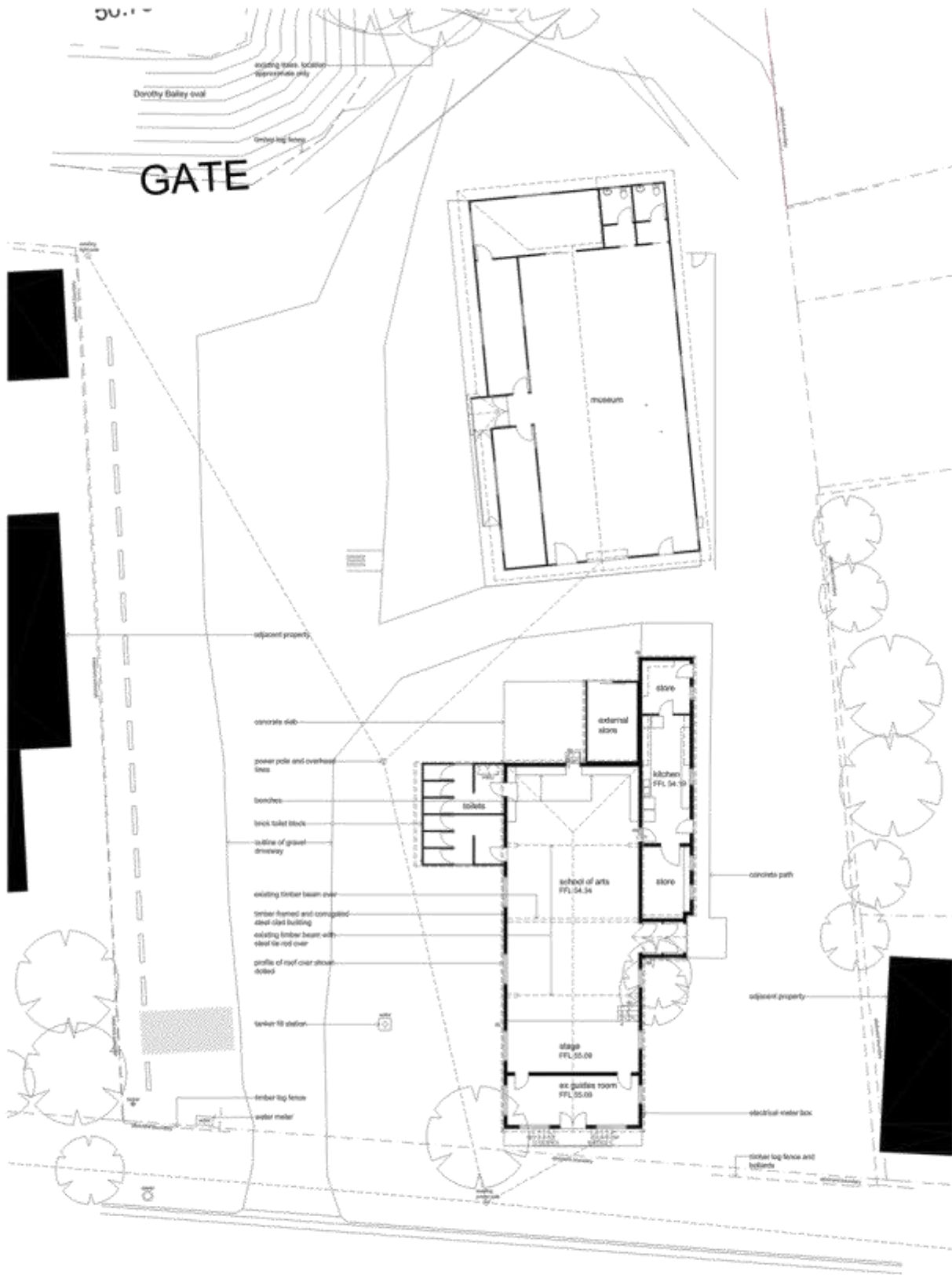
Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)

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





Item 10.4

Attachment 1



Heritage and Historical Services Pty. Ltd. No. 1488
 No. 10 Blackwood St, Gerringong
 VIC 3620 (03) 49822

Client
Kiama Municipal Council
 Gerringong Library, Museum &
 Community Facility

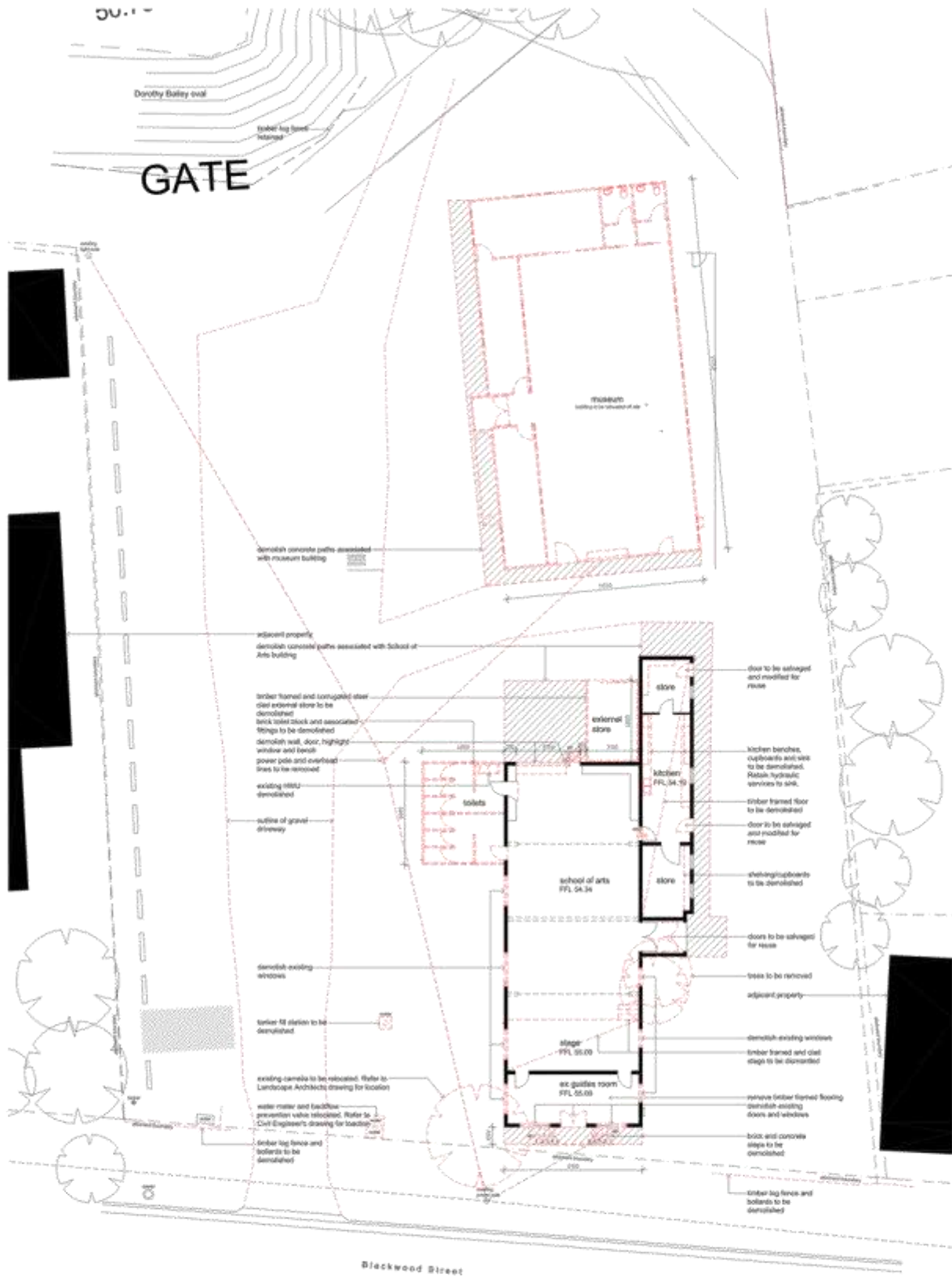


Orientation Scale
 1:100 @ A1
 0m 1m 2m 3m 4m 5m

Drawing
Existing Plan

A. Development Application		04/01/17
Issue	Description	Date
Issue	Date	Drawn
R2	May 2017	chr

Drawing No.
17-0014 DA02



Item 10.4

Attachment 1



Heritage Asset Item from No. 1000
 No. A 10 Blackwood St, Gerringong
 LOT 100 DP 1230058

Kiama Municipal Council
**Gerringong Library, Museum &
 Community Facility**

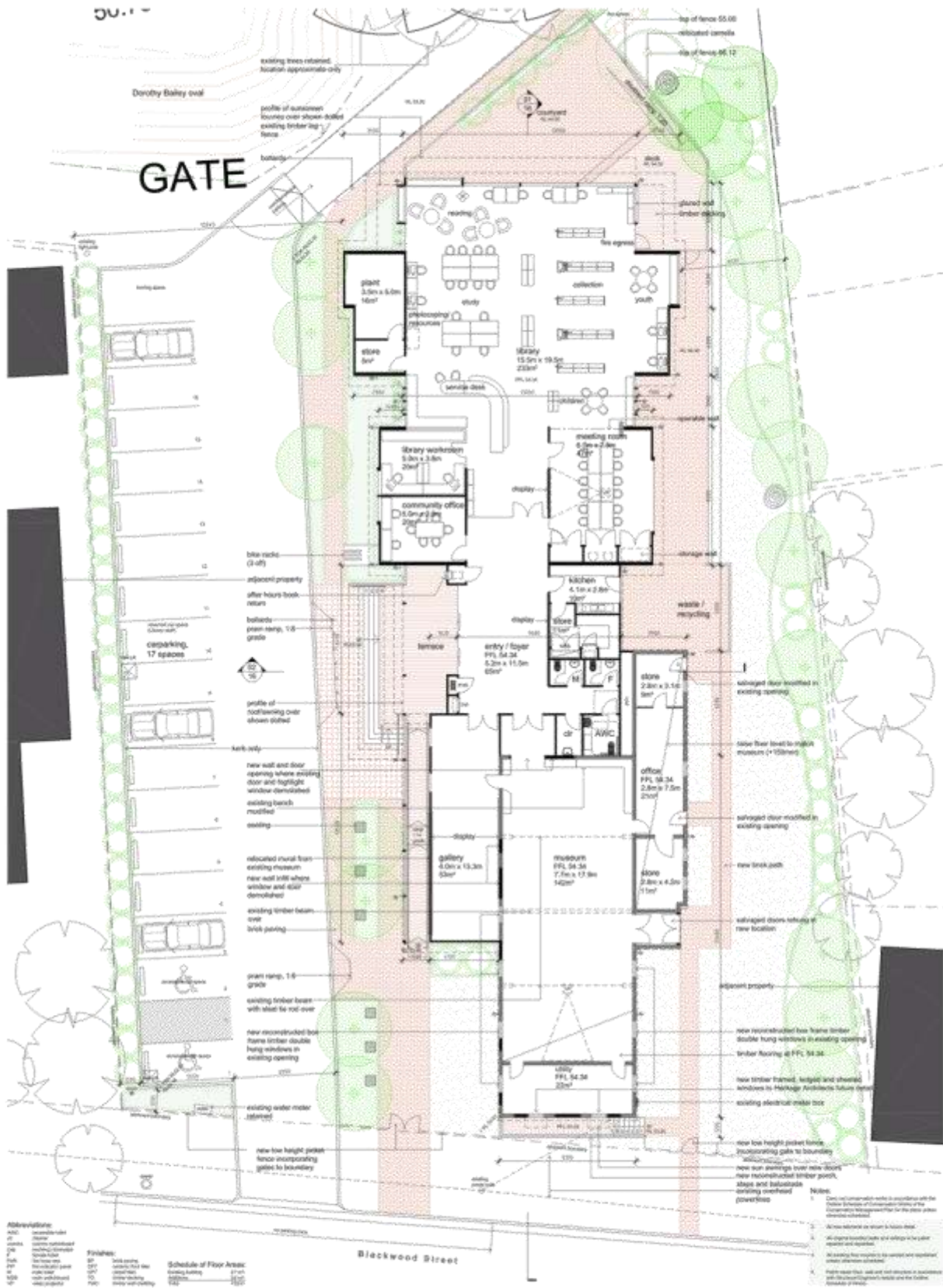


Drawing
Demolition Plan

Issue	Date	Drawn	Checked
17-0014 DA03	May 2017	car	

**Item 10.4 - 10.2017.215.1 - Lot 100 DP 1230058 - 8 and 10
 Blackwood Street Gerringong – part demolition and relocation
 of part of Gerringong Historical Society museum building and
 restoration of Gerringong School of Arts building, which will
 include construction of a library and community facilities**

Attachments 1 - 10.2017.215.1 - Plans



Item 10.4
Attachment 1

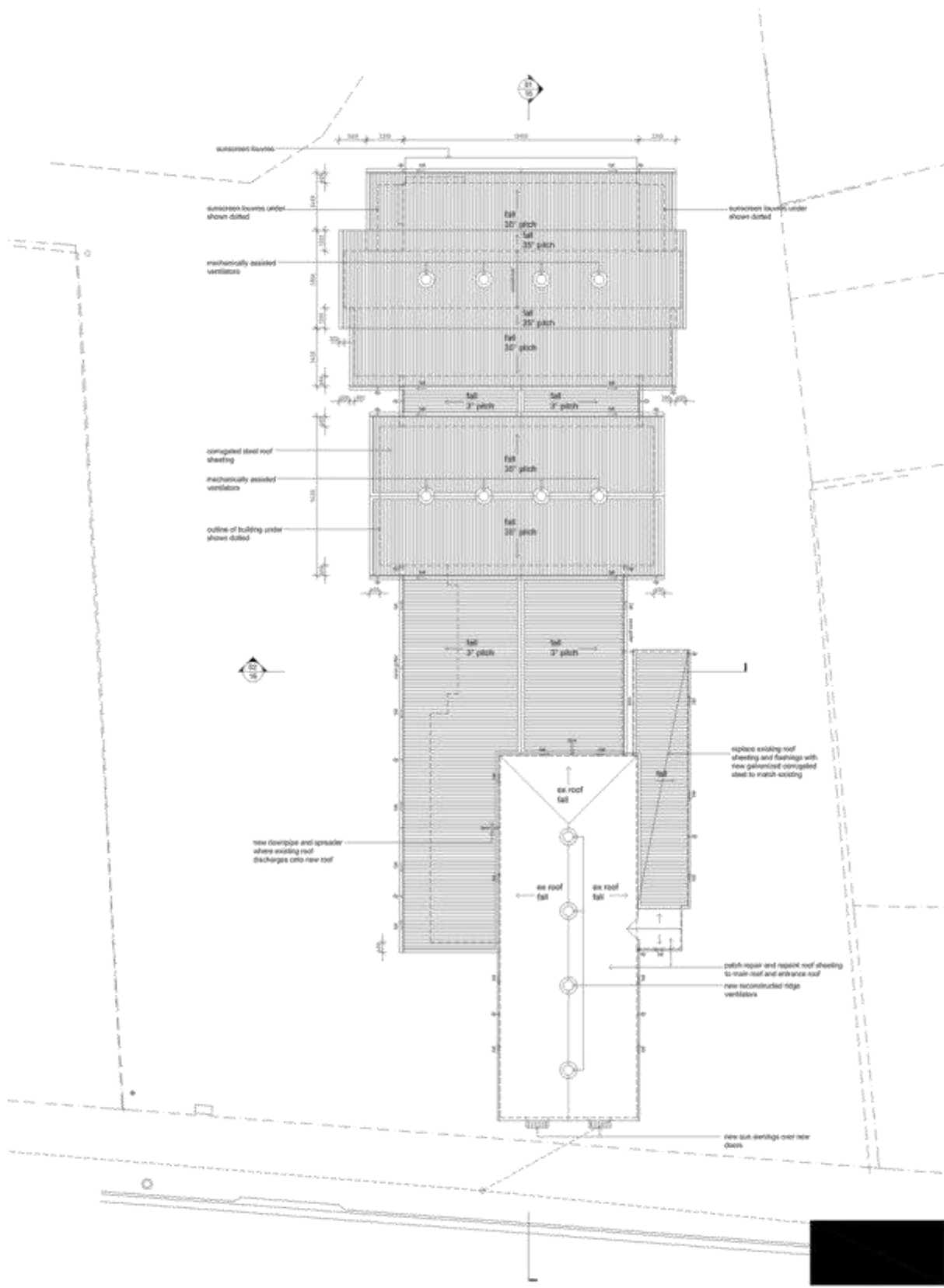
Edimiston apb JONES

Kiama Municipal Council
 Gerringong Library, Museum & Community Facility

Site/Floor Plan

17-0014 DA04

May 2017



Item 10.4

Attachment 1



Professional Surveyors No. 100
 No. 10 Blackwood St, Gerringong
 VIC 3620 (03) 4422

Client
Kiama Municipal Council
 Gerringong Library, Museum &
 Community Facility

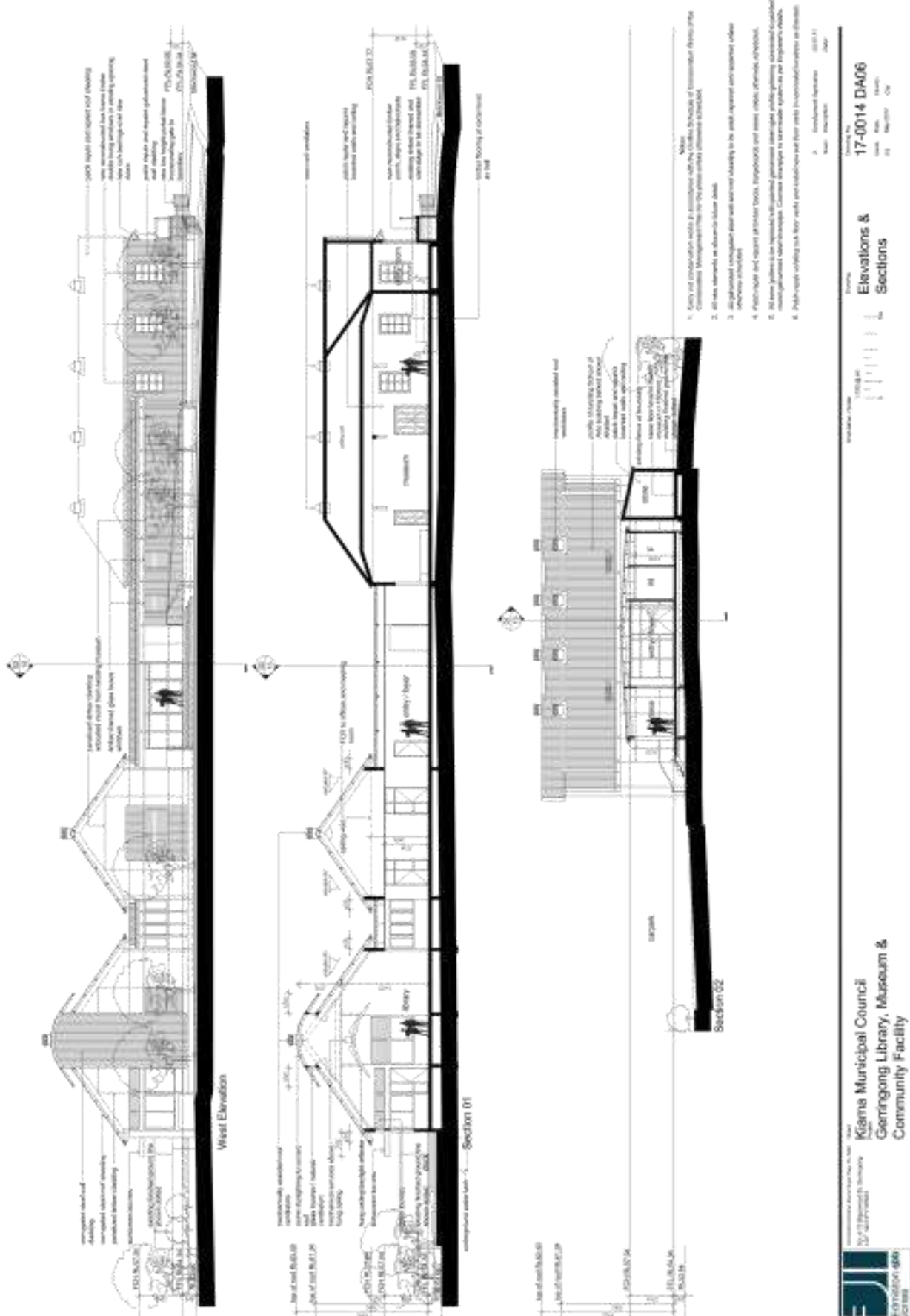


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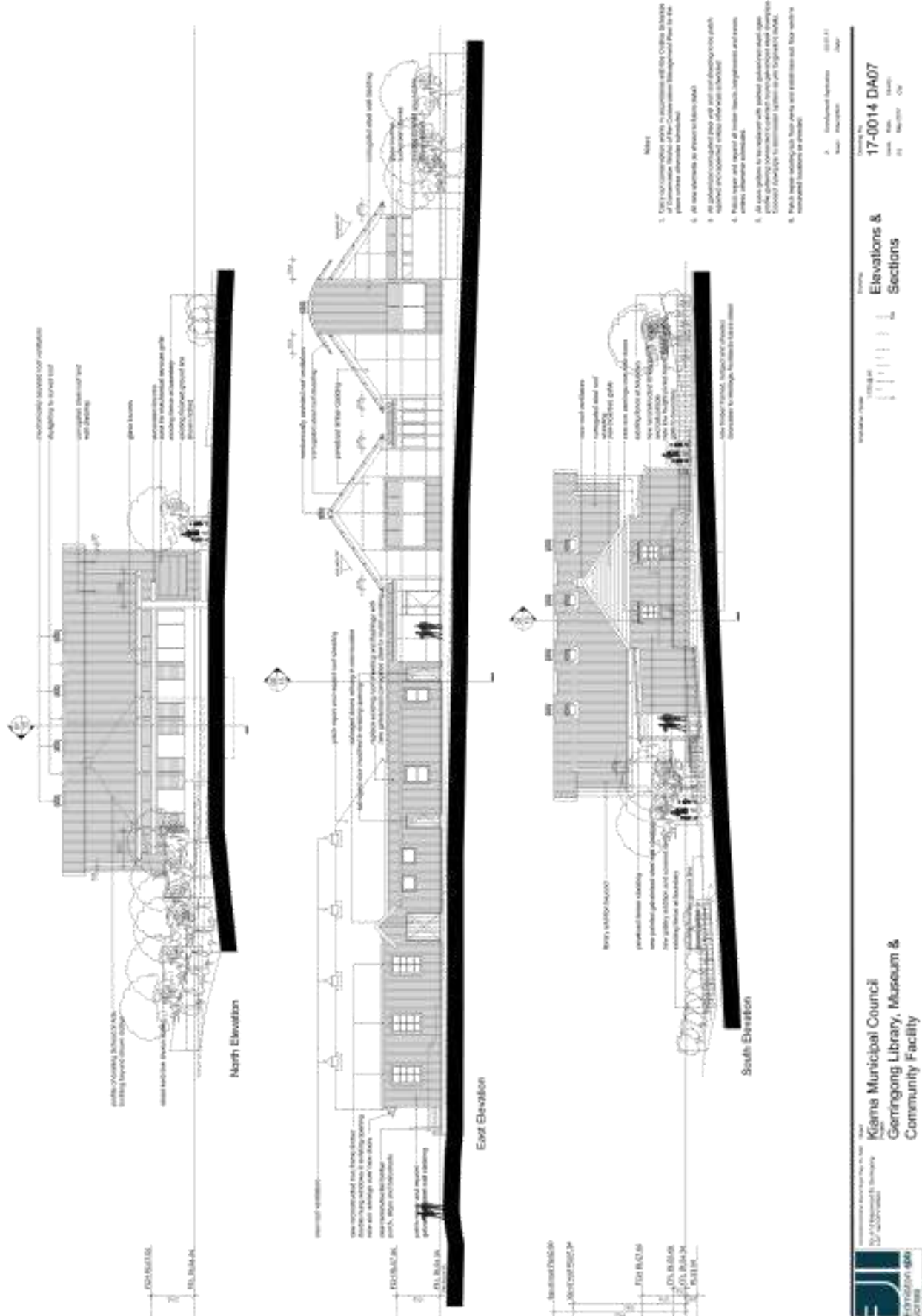
Drawing
Roof Plan

A. Development Application 17-0014 DA05
 Issue: 04/01/17 Date: 04/01/17

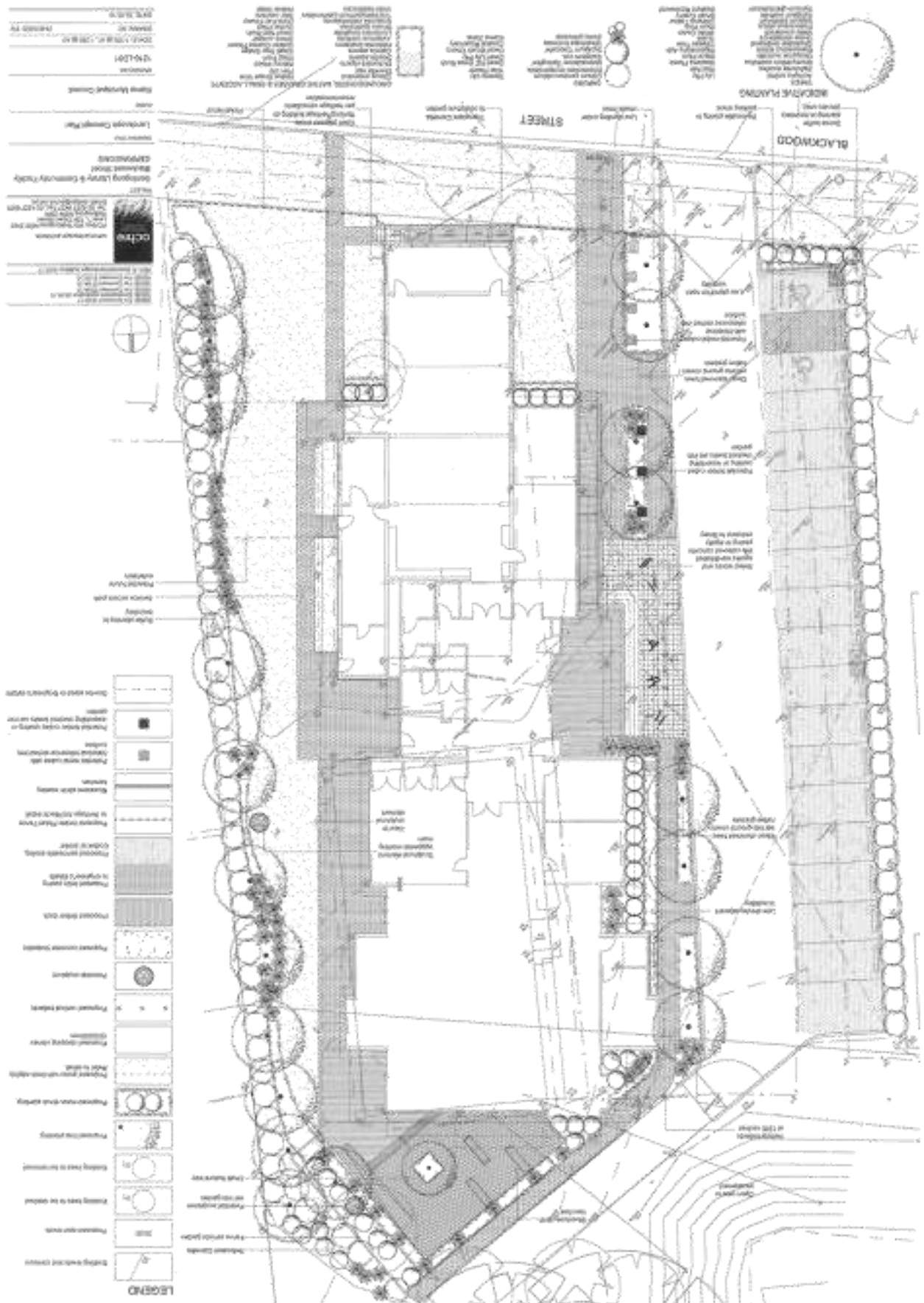
Issue: 04/01/17 Date: 04/01/17
 By: [Signature] Drawn: [Signature]



Attachment 1 Item 10.4

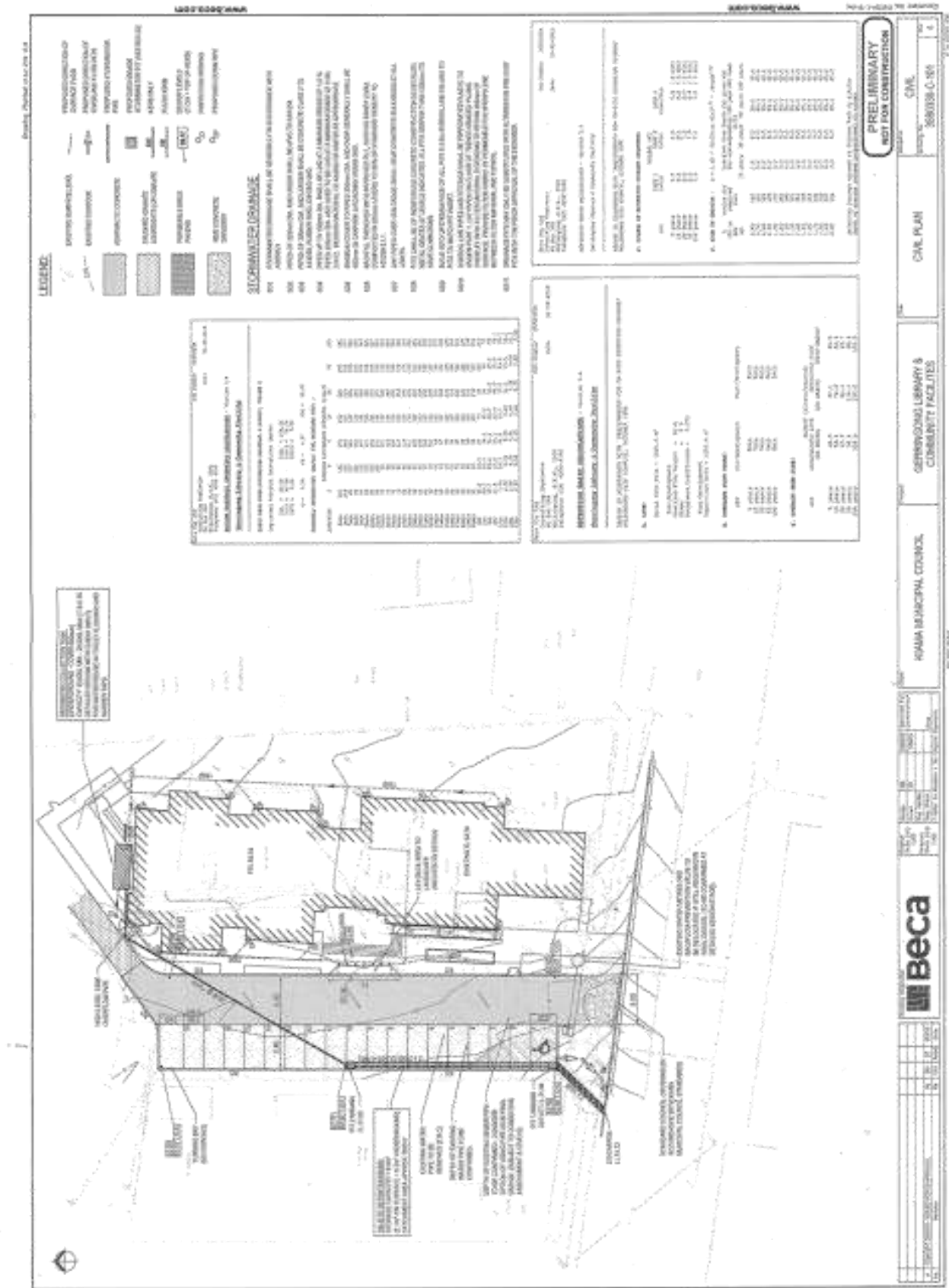


Attachment 1 Item 10.4



Item 10.4

Attachment 1



10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 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

Item 10.5

Summary

This report reviews the DA 10.2017.241.1 which involves the construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision.

The report recommends that Council approve DA 10.2017.241.1 as it is permissible in the R2 Low Density Residential zones and is consistent with all relevant development standards and the Kiama DCP 2012. The application is consistent with all relevant development standards of the Kiama LEP 2011 with the exception of the minimum lot size and height of building standards. Requests to vary these standards have been received.

It is noted that this matter is related to Council's resolution to amend the minimum lot size for 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 at the request of Councillor Steel.

Attachments

1 10.2017.241 - plans [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council approve Development application 10.2017.241.1 pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

BACKGROUND

The subject DA was lodged 23 August 2017. Adjoining landowners were notified of the DA on 29 August 2017. Council received 3 objections to the proposed development.

Development Site

The property is described as Lot 16 DP 1206612 which is located at 11 Northpoint Place Bombo.

The overall site measures 571.1m² and is irregular in shape. The site is currently vacant and is bounded by residential land principally containing dwellings and dual occupancies. The site is zoned R2 Low Density Residential pursuant to Kiama LEP 2011.

The site is cleared and slopes steeply from south to north.

The site currently drains overland to the adjoining public road

Access to the property is gained through a right of carriageway in favour of the property to Northpoint Place (ie Public Road).

The site is serviced by water, sewer, electricity and telecommunications infrastructure.

The site is subject to the following constraints:

- Geotechnical instability.
- Easements/Restrictions on the Use of Land established under DP 1206612.
 1. Restriction on Use of Land requiring footings and foundations to be erected in accordance with plans and specifications which have been prepared by a suitably qualified Structural and/or Civil Engineer and approved by the Kiama Municipal Council or a Private Certifier.
 2. Easement to drain water 2.5m wide

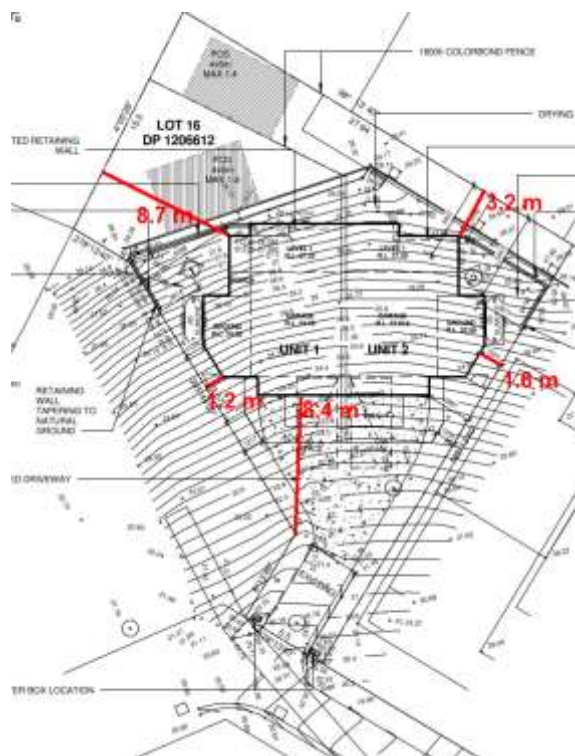
Description of the Proposed Development

The proposal involves the construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision.

The proposed development will incorporate 3 storeys and will have a maximum height of 9.5m. The proposed development will be setback a minimum of 3.1m from the northern boundary of the site, 8.8m from the western boundary and 1.5m from the eastern boundary. Due to the irregular shape of the site it is difficult to define its front boundary. The proposed development will be setback 8.4m from the end of the battle-axe handle.

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)



Item 10.5

The proposed development will have a gross floor area (including garaging) of 319.865m².

Proposed Unit 1 will have a gross floor area (including garage) of 158.57m², while proposed Unit 2 will have a gross floor area (including garage) of 149.04m².

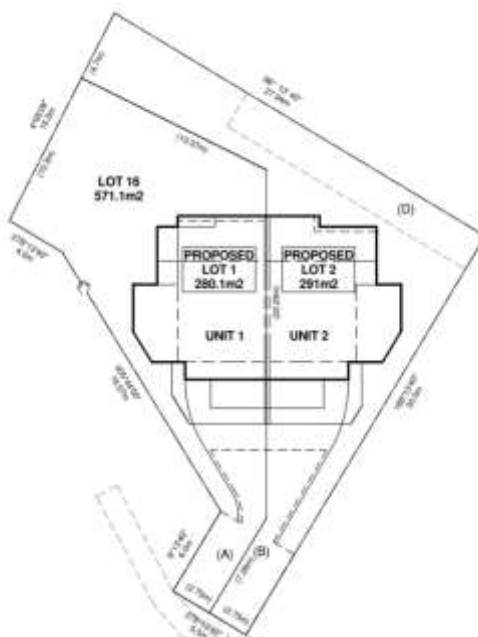
The ground floor of each unit will contain an attached double-bay garage, entry foyer with elevator and staircase providing access to the floors above. Storage space has been provided under the staircase. The first floor of each unit will contain open plan kitchen, living and dining room, water closet and laundry. A 22m² balcony will be accessible off each living room. The first floor of each unit will provide direct access to the rear of the site. The second floor of each unit will contain 3 bedrooms, bathroom, separate water closet and ensuite and walk-in-robe associated with each master bedroom. A 5.5m² balcony will be accessible off each master bedroom.

The proposed development will be clad in Brampton Austral Bricks, Light Grey Linea Cladding and Off White window frame and trimming and dune colorbond roofing.

The proposed development involves the subdivision of the proposed dual occupancy into 2 separate lots. Proposed Unit 1 will have an area of 280.1m² and proposed Unit 2 will have an area of 291m².

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)



Item 10.5

Section 79C Assessment

The proposed development has been assessed in accordance with Section 79C 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)

The site is located within the coastal zone, as defined by SEPP 71.

The site is not located within a 'sensitive coastal location' as defined by SEPP 71.

Consideration has been given to the objectives of the SEPP71 and the matters prescribed by Clause 8:

"8 Matters for consideration

The matters for consideration are the following:

- the aims of this Policy set out in clause 2,*
- existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- the suitability of development given its type, location and design and its relationship with the surrounding area,*
- any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal*

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

-
- foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) *measures to conserve animals (within the meaning of the [Threatened Species Conservation Act 1995](#)) and plants (within the meaning of that Act), and their habitats,*
- (h) *measures to conserve fish (within the meaning of Part 7A of the [Fisheries Management Act 1994](#)) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) *existing wildlife corridors and the impact of development on these corridors,*
- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*
- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) *only in cases in which a development application in relation to proposed development is determined:*
- (i) *the cumulative impacts of the proposed development on the environment, and*
- (ii) *measures to ensure that water and energy usage by the proposed development is efficient.”*

While the site is located within the ‘coastal zone’ it is not located within a ‘sensitive coastal location’ as defined by SEPP 71. As the site is not located immediately adjacent to the coastal foreshore the proposed development will not:

- affect existing public access to and along the coastal foreshore;
- provide new access to and along the coastal foreshore;
- add to the visual amenity of the coast;
- impact upon the amenity of the coastal foreshore;
- impact upon coastal processes and coastal hazards and vice versa;
- result in conflicts between land-based and water-based coastal activities; or

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

-
- impact upon the water quality of coastal waterbodies.

The development is considered to be suitable as it is a use permissible within the zone and is consistent with the zone objectives. While submissions have been received, objecting to the proposal, it is noted that the submissions were primarily concerned with perceived non-compliances the maximum building height, building height plane and rear setback. This matter will be discussed further in this report.

The site does not contain any species listed under the *Threatened Species Conservation Act 1995* (Now the *Biodiversity Conservation Act 2017*) or the *Fisheries Management Act 1994*. Nor does the site contain native coastal vegetation.

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 previous subdivision of the site 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.

The site does not contain an item of heritage/historic significance.

There are no cumulative impacts of the proposed development on the environment as the development will be occurring entirely within the bounds of the site and is not considered to be an intensification of the use on the site. The proposed development does not require excessive water or energy supply.

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

A BASIX Certificate (808473M) 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

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

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

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 requires that the minimum subdivision lot size is not less than the minimum size shown on the Lot Size Map. Sheet *LZN_012* identifies that a minimum lot size of 450m² applies to the site. As proposed Unit 1 will have an area of 280.1m² and proposed Unit 2 will have an area of 291m² both proposed allotments have areas less than 450m² 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 4.1B permits relaxation of the minimum size shown on the Lot Size Map for R2 & R3 zones for subdivisions of dual occupancy and multi-unit housing which existed before 16 December 2011. While this clause is not relevant to the proposed development as the dual occupancy on the site did not exist before 16 December 2011 it is important to recognise that the proposal could have been possible were it not for the age of the dual occupancy on site.

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 8.5m applies to the site. The proposed dual occupancy will have a maximum height of 9.5m above existing ground level and as such does not comply with the requirements of Cl4.3. 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 4.4 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 0.45:1 applies to the site. As per the definition provided in the Kiama LEP 2011 the *gross floor area* of the proposed development is 256.85m². In this regard the proposed development has a FSR of 0.449:1 with the site and as such complies with the requirements of Cl4.4.

Clause 4.6 provides for exceptions to development standards. The applicant has requested a variation to the minimum lot size and height of building development standards.

- Clause 4.1 – Minimum Lot Size

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

Extent of Variation: *The minimum lot size as set by Clause 4.1 of the Kiama LEP 2011 is 450m². The size of the proposed lots is 291m² and 280m².*

What are the Objectives of the applicable land use zone: *The objectives of the R2 zone are as follows:*

- To provide for the housing needs of the community within a low density residential environment.*

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

- b) *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- c) *To increase the supply of secondary dwellings for affordable rental housing stock.*
- d) *To provide economic and employment opportunities for people who conduct business activities from their homes where these will not adversely affect the amenity of neighbours or the neighbourhood.*

What are the Objectives of the Development Standard being varied: *The objectives of Clause 4.1 are as follows:*

- a) *to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,*
- b) *to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
- c) *to ensure that lot sizes and shapes are able to accommodate development consistent with relevant development controls,*
- d) *to restrict the fragmentation of land for rural residential purposes.*

*The proposal is consistent with the objectives of the **R2 zone** for the following reasons:*

- *The proposal contributes towards providing additional saleable housing in the locality.*
- *The proposal cannot reasonably be regarded as one that will substantially alter the low density nature of the existing residential environment. There properties within the locality that are of similar size to those proposed as part of this application;*
- *The proposal to construct the dual occupancy and subdivide will in no way result in development that would be incompatible with the existing built environment.*
- *Development for the purpose of an attached dual occupancy is permissible with consent. The proposal to subdivide the completed development will provide for the housing needs of the community as each lot is on-sold to new owners.*
- *Retaining the land as one allotment is inconsistent with the objectives of improving housing affordability.*

*The proposal is consistent with the objectives of the **development standard** for the following reasons:*

- *The proposal is to construct and then subdivide a dual occupancy. The construction of the new buildings is permissible within the zone and the act of subdividing the finished development will in no way impact on the character of the area.*

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

-
- *There is no reason to believe that the subdivision will not be compatible with the established subdivision pattern.*
 - *The Lot sizes and dimensions proposed have been designed to accommodate each new dwelling proposed. The dual occupancy generally complies with the relevant development controls applicable under the Kiama DCP.*

Reasons why compliance with the standard is unreasonable or unnecessary in the circumstances of the case:

- i. The site is within a residential area comprising a range of lot sizes and development types.*
- ii. As outlined above, the proposed subdivision if approved will not result in development taking place that would be contrary to the objectives of the R2 zone or the objectives of Clause 4.1.*
- iii. It is clear that the proposed subdivision element of the proposal will not impact on either the built or natural environment in any way.*
- iv. The proposal to subdivide the finished development will enable each new dwelling to be on-sold to new owners following completion of the build. There is strong demand for low maintenance lots in well-serviced localities throughout the Illawarra region. The subject land is located within reasonable proximity to Kiama's village centre which includes a retail supermarket, post office, hair salons, cafes, takeaway food outlets and medical professionals. The locality is therefore considered appropriate for the proposal.*
- v. The contravention of the 450m² development standard in no way known to the author of this report raises any matter of significance for State or regional environmental planning. Further, there are no identifiable public benefits of the maintaining the 450m² development standard in this instance. The proposal does not represent a substantial departure to said standard and this report demonstrates the merits of the application justify approval of the same.*
- vi. It is understood that the Council is in the process of amending the KLEP to permit the subdivision of dual occupancies by way of Torrens title in circumstances where dual occupancies are a permissible land use.*
- vii. Due to the size, scale and nature of the development coupled with the minor variation sought, the proposal will not hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the EP&A Act.*
- viii. The site is not one that is sensitive to threatened species issues, it is generally free of other major environmental constraints. The site is not steep or unstable land and for these reasons, it is considered that there are sufficient environmental planning grounds to approve the proposal.*
- ix. The proposal is within the public interest for reasons outlined above.*

It is requested that for reasons outlined above the Council approve the creation of the lots proposed pursuant to Clause 4.6 of the Kiama LEP 2011.

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

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 generally 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 variation itself will not result in an increased residential density in the area. It is noted that the subdivision of other dual occupancies within this estate has already occurred. Generally, the proposed dual occupancy complies or can comply with 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). As such 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 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 this Planning Proposal is being also being reported to this month's Council meeting seeking 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.

- Clause 4.3 – Height of Building

The applicant has provided the following justification to varying the maximum height of building:

Maximum Building Height: 8.5m. (Refer to submitted plans – 8.5m building height limit shown on Elevations and Sections. The height of the proposed building is generally under this, however, one part of the roof structure exceeds the 8.5m by as much as 1m.

In relation to the height of the proposed dwelling exceeding 8.5m from natural ground level, it is requested that the Council approve the proposal pursuant to Clause 4.6 of the Kiama LEP 2011 and allow a variation to the 8.5m height limit for the following reasons:

- 1) *The 8.5 m height limit is set by Clause 4.3 of the Kiama LEP and its objectives are to;*
 - a. *ensure future development is in keeping with the desired scale and character of the street and local area,*
 - b. *to allow reasonable daylight access to all developments and the public domain.*

The proposal despite exceeding the height limit is consistent with these objectives as:

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

-
- *The exceedance is minor and only for a small portion of the dwelling roof structure;*
 - *The fact that the height limit has been exceeded will not mean that the development would be incompatible with the character of the area compared to a fully compliant development. The reason for this is that the vast majority of the dwelling sits below the 8.5m height line and only a small portion of the roof exceeds the limit.*
 - *The breach to the height limit has not resulted in the development overshadowing adjoining development in an unacceptable way.*
- 2) *Compliance with the 8.5m height limit is unreasonable in the circumstances of the case because:*
- a. *The extent of the encroachment is very minor. Refer to submitted plans.*
 - b. *The site is steep and designing a new development of this nature for the property has not been a straight forward task. Despite this, the design of the building is such that the vast majority of the structure is within the 8.5m height limit.*
 - c. *The building will be one that is compatible with other development in the locality despite the encroachment made over the 8.5m height limit.*
 - d. *The structure will not be visually prominent from any public places.*
 - e. *The extent to which to the building is expected to overshadow adjoining dwellings is minimal and within allowable limits. The height limit exceedance has not in any substantial way changed the way in which the proposed building would overshadow any adjoining property. Refer to submitted shadow diagrams.*
 - f. *The height of the proposed structure, in particular reference to the affected part which breaches the height limit, will not impact upon views from surrounding properties or result in any additional loss of views. Dwellings located towards the rear of the site are elevated much higher than the proposed building. In this regard, the submitted site plan provides information on balcony floor heights of adjoining dwellings (to the rear of the site). The two dwellings located to the rear of the site have balcony levels of 35m AHD and 38.8m AHD. The highest part of the roof of the proposed dwelling is only 33.66m. Views from the neighbouring dwellings to the rear towards the ocean should therefore remain available from both a sitting and standing position.*
- 3) *The proposal if approved, will not result in any inconsistencies with other environmental planning instruments or the remainder of the provisions of the Kiama LEP. The proposal remains consistent with the relevant objectives of the R2 Residential zone as the proposed dwelling, whilst exceeding the 8.5m height limit, does represent low density residential development.*
- 4) *The proposal if approved will not set an undesirable precedence for reasons outlined above.*
-

Report of the Director Environmental Services

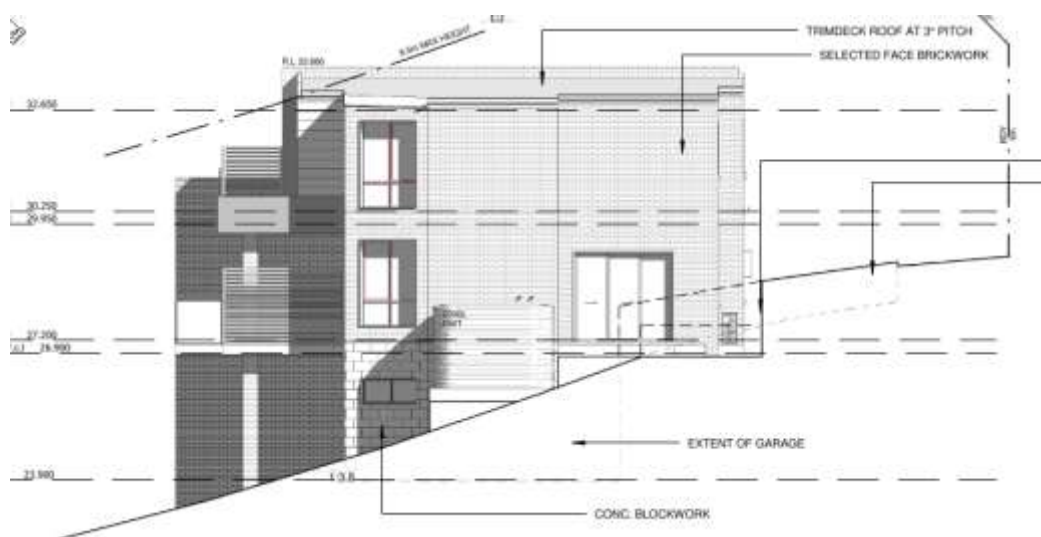
10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

Item 10.5

Based on the justification provided above, it is requested that Council approved the proposed dwelling and vary the 8.5m height limit as set by Clause 4.3 of the Kiama LEP.

The provisions of the Kiama LEP are such that the proposed subdivision of the finished development as proposed is allowable (see clause 4.1B of the Kiama LEP 2011).

Compliance with the development standard is considered unreasonable as the small portion of the development which exceed the height limit will not impact upon views or result in any additional overshadowing impacts. The applicant has outlined that the proposal is consistent with the objectives of clause 4.3.



As the top floor of the proposed development will be recessed 3 metres the development will appear as a two-storey development from the front of the property. The proposed development will be seen as a two-storey development from the rear and side boundaries.

Exceeding the height limit will reduce the amount of earthworks required. This is considered to be a desirable outcome. The development is being dug into the rear of the site to reduce any privacy issues associated with the development.

In light of this it is considered appropriate to vary the maximum building height requirements of clause 4.3 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 PS 08-003.

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.

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

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 KLEP 2011 and is permissible within the R2 Low Density Residential zone.

Any draft Environmental Planning Instruments

In accordance with Section 79C(1)(a)(ii) the relevant provisions of any proposed instrument that has been the subject of public consultation must be taken into consideration.

- 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 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.

The Planning Proposal was placed on public exhibition from 23rd October to 20th November 2017. It is noted that this Planning Proposal is being also being reported to this month’s Council meeting seeking final endorsement. As outlined above once published this Planning Proposal (draft EPI) would negate the requirement for a clause 4.6 variation to the minimum lot size for future similar DAs (but, due to timing, not for this DA).

- Draft State Environmental Planning Policy (Coastal Management) 2016

The draft Coastal Management SEPP was on public exhibition from 11 November 2016 until 20 January 2017. Under the provisions of the draft Coastal Management SEPP the site is located within the ‘Coastal Use Area’.

Consideration must be given to the Sections 15 – 17 of the draft Coastal Management SEPP.

Division 4 -Coastal use area

15 Development on land within the coastal use area

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

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-
- (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.*

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Division 5 - General**16 Development in coastal zone generally—development not to increase risk of coastal hazards**

- (1) *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Note. *Clause 13 (2) (b) contains a development control provision that substantially mirrors the effect of this provision.*

- (2) *This clause ceases to have effect at the end of 31 December 2021.*

17 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of the following:

- (a) *a coastal management program that applies to the land,*
- (b) *a coastal zone management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.*

The development controls associated with the 'coastal use area' are primarily concerned with public access to the foreshore, overshadowing and view loss of public areas, scenic qualities of the coast, Aboriginal cultural heritage, and use of the surfzone. As such the subject site is approximately 250m from the foreshore and no items of Aboriginal Cultural Heritage have been identified on the site it is considered that the proposed development would satisfy the development controls contained within Division 4 of the draft Coastal Management SEPP. It is noted that no coastal management program applies to the site nor is it considered likely that the proposal

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will increase the risk of coastal hazards; as such the proposal satisfies the requirements of Division 5.

- Draft State Environmental Planning Policy (Infrastructure)

The draft amendments to SEPP (Infrastructure) 2007 are on public exhibition until 7 April 2017. The draft amendments to SEPP (Infrastructure) 2007 are primarily a result of educational provisions being transferred to the draft SEPP (Education and Child Care). The draft amendments to SEPP (Infrastructure) 2007 provide development standards for infrastructure (i.e. hospitals, electrical, telephone etc.). As such the draft amendments to SEPP (Infrastructure) 2007 do not provide any provision relevant to the proposed residential development.

- Draft State Environmental Planning Policy (Environment)

The draft SEPP (Environment) is on public exhibition from 31 October 2017 until 15 January 2018. This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. These environmental policies will be accessible in one location, and updated to reflect changes that have occurred since the creation of the original policies. As the site does not fall within a water catchment the draft SEPP (Environment) do not provide any provision relevant to the proposed residential development.

- Draft State Environmental Planning Policy (Primary Production and Rural Development)

The draft SEPP (Primary Production and Rural Development) is on public exhibition until 18 December 2017. The NSW Government is proposing changes to the planning system to further support sustainable agriculture, aquaculture and rural development. These changes will help ensure planning proposals affecting rural land are properly assessed and provide greater certainty to farmers on the types of activities that will require development consent. As the proposed development is not being carried out on rural land the draft SEPP (Primary Production and Rural Development) does not provide any provision relevant to the proposed residential development.

Development Control Plans (DCPs)

- Kiama DCP 2012

The proposed development is not inconsistent with Kiama DCP 2012.

Chapter 2- Overall controls

Demolition: N/A

During Construction: conditions to be added to ensure compliance.

Adaptable Housing: one of the proposed dwellings has been designed to comply with AS 4299 for adaptable housing.

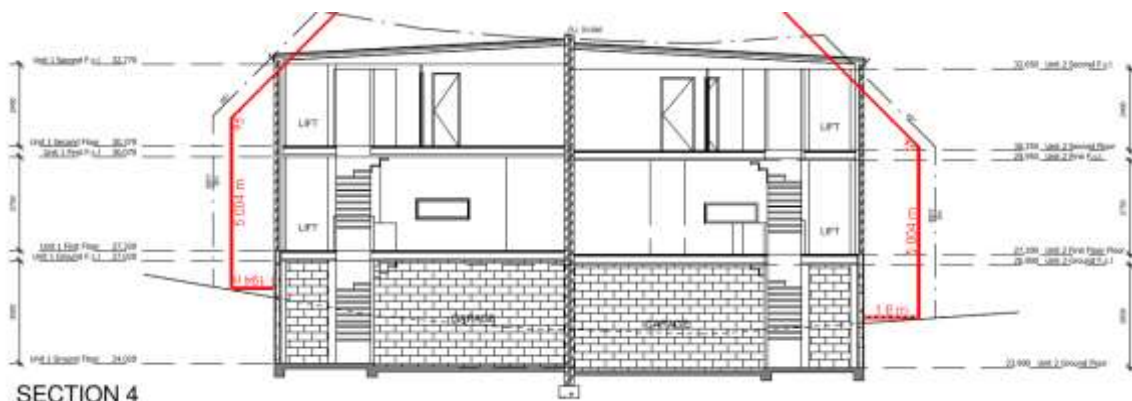
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Views & Vistas: Due to the slope of the land the proposed development will not significantly detract from any existing views of Bombo beach. No objections have been received in regards to view loss.

Building height plane: Due to the unorthodox design of the proposed development the submitted elevation plans do not accurately show the development’s compliance with Council’s building height plane. The submitted section plans provide a more accurate picture. The submitted section plans show that only the fascia to a maximum width of 600mm exceed the building height plane. This is compliant with Section 6 of Chapter 2 of the DCP 2012.



Building lines: The subject site is not identified by the DCP 2012 Building Lines maps. However, contextually the surrounding residential land has been assigned a 6m front building line. In this regard it is considered appropriate to apply a consistent approach. The proposed development will be setback 8.4m from the end of the battle-axe handle (i.e. front building line).

The proposed rear setback as a guide must be 6 metres or shall reflect the established rear building line. Due to the irregular shape of the site it is difficult to define the rear boundary of the site. The proposed development will be setback a minimum of 3.1m from the northern boundary of the site and 8.8m from the western boundary. It is considered that while the proposed development will be setback a minimum of 3.1m from the northern boundary it will not result in any unreasonable privacy issues due to the slope of the site. The adjoining properties to the north sit higher in the landscape. It is also noted that top floor windows are all associated with bedrooms rather than living spaces, thus further reducing any privacy issues.

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 1.2m side setbacks.

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

Reflectivity in building materials: The proposed development will be clad in Brampton Austral Bricks, Light Grey Linea Cladding and Off White window frame and trimming and dune colorbond roofing. This is considered to be acceptable.

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

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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 shall comply with the requirements of SEPP (Exempt and Complying Development Codes) 2008.

Applications for variations: No Applications have been applied for.

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 13.5 metres. The component of the two-storey development located beyond 12 metres of the front building line will not impact on the privacy of adjoining neighbours as the windows on the top floor are either associated with bedrooms or the passageway areas from the proposed lifts. Due to the orientation of the site the component of the two-storey development located beyond 12 metres of the front building line will not result in any overshadowing issues. The topography of the site will reduce the overall visual bulk of the development.

Limited earthworks have been proposed. No excavation external to the perimeter of the building has been proposed as the site has already been excavated as part of the previous subdivision.

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 either associated with bedrooms or the passageway areas from the proposed lifts.

The submitted shadow diagrams show that the proposed development will overshadow approximately half of the adjacent property to the south at 9am on the winter solstice. By 1pm the proposed development will not overshadow the adjacent property to the south. In light of this the proposed overshadowing is considered acceptable. It is noted that at present this site is vacant. In a residential context dwellings are bound to overshadow one another and it is not reasonable to assume that one is entitled to uninterrupted solar access at all times.

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 surrounding areas.

Site Coverage: the proposed dual occupancy will have a building footprint of 249m² which equates to a site coverage of 31%, which is below the maximum 60%.

Setbacks: setback requirements have been covered above.

Solar Access: with the exception of the southern elevation all windows will be placed within 30° east and 20° west of north. Overshadow of the adjoining property has been discussed above and is considered to be reasonable.

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Private open Space: Both dwellings have been provided with a 24m² area of private open space (POS) in their respective rear yard. The rear yards are accessed from the main living areas of each unit. As both POS are located north of the proposed development they will receive adequate solar access. Each unit will also be provided with a 22m² balcony, which will be accessible off each living room

Garaging/car parking: a double-bay garage will be provided for each dwelling. The proposed garaging constitutes 14% of the front elevation.

Storage: Each dwelling will be provided with storage areas beneath the stairs in the garage. Additional space exceeding a total volume of 10m³ has also been provide within each garage

Drying Areas: 20 linear meters of clothes drying space has been provided within the rear yard of each dwelling.

Letterboxes: 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 16.7m at the building line. The site has an average gradient of approximately 19.98°. Plans have been provided that show that the new dwelling can meet the requirements of Adaptable Housing. Separate bin storage areas have been provided for each dwelling and an on-site storm water 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.

Battle-Axe Allotments: N/A

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. Council's Landscape Officer is satisfied with the submitted landscape plan.

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

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each dwelling. An additional car parking space is provided between the garage and the front boundary for each dwelling.

Location: the proposed parking is easily accessible via a right-of-way to Northpoint Place.

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. 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: The proposed dwellings will be provided, by Council, with its own garbage, recycling and garden waste bins upon obtaining an Occupation Certificate. Space has been shown on the submitted landscape plan for on site for bin storage for each dwelling.

As can be seen the proposed development complies with the relevant controls of the DCP 2012.

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

N/A

Clauses 93, 94 & 94A

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

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proposal is consistent with relevant planning instruments and is not inconsistent with the streetscape.

- Noise

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

- Privacy and Overlooking

No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development. 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 either associated with bedrooms or the passageway areas from the proposed lifts.

- Overshadowing

Shadow diagrams have been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable. The submitted shadow diagrams show that the proposed development will overshadow approximately half of the adjacent property to the south at 9am on the winter solstice. By 1pm the proposed development will not overshadow the adjacent property to the south. In light of this the proposed overshadowing is considered acceptable. It is noted that at present this site is vacant. In a residential context dwellings are bound to overshadow one another and it is not reasonable to assume that one is entitled to uninterrupted solar access at all times.

- 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 drainage easement.

- 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.

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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.

- 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, 3 submissions were received which raised the following (summarised) matters of concern:

Item 1:- Non-compliance with 6m rear setback.

Response:- The subject site is not identified by DCP 2012 Building Lines maps. However, contextually the surrounding residential land has been assigned a 6m rear building line.

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Due to the irregular shape of the site it is difficult to define the rear boundary of the site. The proposed development will be setback a minimum of 3.1m from the northern boundary of the site and 8.8m from the western boundary. It is considered that while the proposed development will be setback a minimum of 3.1m from the northern boundary it will not result in any unreasonable privacy issues due to the slope of the site. The adjoining properties to the north sit higher in the landscape. It is also noted that top floor windows are all associated with bedrooms rather than living spaces, thus further reducing any privacy issues.

Item 2: - Non-compliance with 8.5m maximum building height.

Response:- This non-compliance has been acknowledged by the applicant who is seeking a variation to this development standard. This matter has been discussed at length above.

Item 3:- Non-compliance with building height plane.

Response:- Due to the unorthodox design of the proposed development the submitted elevation plans do not accurately show the development's compliance with Council's building height plane. The submitted section plans provide a more accurate picture. The submitted section plans show that only the fascia to a maximum width of 600mm exceed the building height plane. It would appear that the objectors have misinterpreted the requirements of Section 6 of Chapter 2 of the DCP 2012. The building height plane is to be measured from the site boundary. As outlined above the proposal is compliant with Section 6 of Chapter 2 of the DCP 2012.

Item 4:- Privacy Issues associated with large windows adjacent to southern boundary.

Response:- 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 1.2m side setbacks.

The windows adjacent to the southern and northern boundaries are associated with the passageway areas from the proposed lifts. The proposed separation between adjoining properties and the placement of windows will ensure that the proposed development does not adversely affect the privacy of adjoining properties.

Item 5:- Overshadowing of adjoining properties.

Response:- Shadow diagrams have been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable. The submitted shadow diagrams show that the proposed development will overshadow approximately half of the adjacent property to the south at 9am on the winter solstice. By 1pm the proposed development will not overshadow the adjacent property to the south. In light of this the proposed overshadowing is considered acceptable. It is noted that at present this site is vacant. In a residential context dwellings are bound to overshadow one another and it is not reasonable to assume that one is entitled to uninterrupted solar access at all times.

External Referrals

Nil

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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, with the exception of the minimum lot size and height of building standards. These exceptions have been adequately justified. The proposal is not likely to cause significant adverse impacts to the natural or built environment, is not likely to cause significant adverse social and economic impacts, is 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 79C of the Environmental Planning and Assessment Act, 1979. The proposal is considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plans, with the exception of the minimum lot size and height of building standards. These exceptions have been adequately justified. The proposed development is consistent with the objectives of the LEP2011 - R2 Low Density Residential zone.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised. Concerns raised in submissions have been considered and do not warrant refusal of the application.

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

Draft Conditions of Development Consent

General

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as

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- 10.2017.241.1 dated XXXX 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) 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. (g015.doc)
 - (4) With the subject property being adjacent to an active State Rail Line, it is suggested that this new dwelling be designed to satisfy the requirements of Australian Standard 2107. This Australian Standard relates to the satisfactory and maximum standard for noise levels for relevant rooms and recreation areas. (g025.doc)
 - (5) 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)
 - (6) 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)
 - (7) 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)
 - (8) This approval is in respect of the plans submitted with the development application and as modified by the terms of this consent. If for any reason, including the making of alterations necessary to meet the requirements of another Authority, changes to the approved building design layout are proposed, then the approval of Council shall be obtained prior to commencement of any works on site. (g065.doc)
 - (9) This Development Consent is limited to a period of five (5) years from the endorsement date of consent. (g080.doc)
 - (10) 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)
 - (11) 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, Northpoint 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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- (12) 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 Roads and Traffic Authority 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 Ten Million Dollar Public Liability Insurance. (g155.doc)
- (13) 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)
- (14) 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)
- (15) 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)

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 Plan No. 1 shall be paid to Council for tree planting prior to issuing of the Subdivision Certificate. The total contribution required for the subdivision is \$179.1. (bo010.doc)

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- (2) 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 and 2 shall be paid to Council prior to the issuing of the Subdivision Certificate. The total contribution required for the development is \$6,678.64. (bo015.doc)

Prior to Commencement of Works

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

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

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

- 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 \$one (1), 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 applicant shall nominate on the Construction Certificate plans, a minimum of one (1) adaptable housing units. All nominated adaptable housing units shall as a minimum requirement meet "Adaptable house class C" requirements set out in Appendix A of Australian Standard AS 4299-1995 Adaptable housing.

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Certification from a suitably qualified professional stating that the Construction Certificate plans have met the requirements listed above shall be submitted to the Certifying Authority prior to the issue of any Construction Certificate. (pt015.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. (pt016.doc)

- (5) 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)

- (6) 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)
- (7) 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.

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- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

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)

- (8) The setback from the edge of the gutter to the boundaries of the site shall be a minimum of 675 millimetres to comply with Kiama Development Control 2012. Submission of details to the Principal Certifying Authority, prior to the release of the Construction Certificate. (pt061.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 any reinforced concrete slabs, footings or structural steel. (pt062.doc)
- (10) Details of compliance with conditions of consent under the heading Bush Fire Hazard Management and AS3959 – Building in Bush Fire Prone Areas shall be provided to the Accredited Certifier prior to the release of the Construction Certificate. (pt065.doc)
- (11) 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)
- (12) 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. (pt070.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: 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)

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)
-

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) 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)
- (2) Surface water which is likely to discharge from the development site onto the road reserve shall be intercepted at the property boundary and conveyed to the kerb via a pipe outlet. (sm025.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 Certificate. (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.

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

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)
- (9) The Drainage Plan prepared by Westlake Punnett - Reference 17366-C01 – dated 08/08/2017 shall be approved by way of a Construction Certificate by the Certifying Authority prior to any works commencing on site. The Principal Certifying Authority shall ensure that all works on the Drainage Plan are fully completed prior to the issue of any Occupation Certificate.

Utility Servicing

- (1) 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)
- (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 (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)
- (3) All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with AS 4482.2 and tested by a certified National Association of Testing Authorities Australia (NATA) registered laboratory for contaminants. Based on the test results certification shall be provided to the Principal Certifying Authority prior to the issue of any occupation certificates by a suitably qualified geotechnical engineering consultant confirming the imported fill is suitable for use in residential development. Any imported fill found to not be suitable for residential use shall be removed / remediated in accordance with the NSW Department of Environment, Climate Change and Water requirements. (gr065.doc)
- (4) 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

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo –
construction of an attached dual occupancy & subsequent 2 lot Torrens title
subdivision (cont)

-
- (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 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

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

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)

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 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

Report of the Director Environmental Services

- 10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

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)
- (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)
- (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)

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo – construction of an attached dual occupancy & subsequent 2 lot Torrens title subdivision (cont)

-
- (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. The above requirement shall be undertaken prior to the issue of any Occupation Certificate (cr040.doc)

- (2) Standard Torrens Title addressing applies. Letterboxes to be located at access point and public road boundary. Proposed house numbers to be allocated:
- Lot 1 – 11 Northpoint Place
 - Lot 2 – 11A Northpoint Place

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:
- a) All relevant Construction and Compliance Certificates (where these have not been issued by Council).
 - b) Payment of fees in accordance with Council's adopted fees and charges.
 - c) A Final Plan of Subdivision and four (4) copies.

A copy of the satisfactory final plan of subdivision shall also be provided as an electronic file in either DXF or DWG format. In this regard the electronic copy must be on MGA (Zone 56) orientation, where this is required by the Surveying Regulation 2001, and should preferably use co-ordinates based upon the MGA values of the nearest established permanent survey mark connected as part of the survey. It is preferred the raw boundary line work only be provided, excluding final page layout and text where possible. This must be provided electronically by email to council@kiama.nsw.gov.au including a clear reference to the relevant Development Application number.

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

Report of the Director Environmental Services

10.5 10.2017.241.1 - Lot 16 DP 1206612 11 Northpoint Place Bombo –
construction of an attached dual occupancy & subsequent 2 lot Torrens title
subdivision (cont)

-
- 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 not adverse impact on adjacent properties. (sub025.doc)
- (4) The developer shall submit to the Principal Certifying Authority, prior to the release of the Subdivision certificate an electronic copy of the Works-as-Executed drawing as follows:
- a A full set of engineering drawings in either DWG or DXF format;
 - b An ASCII point file database of all surveyed points in PENZD (point number, easting, northing, elevation, description) format in MGA coordinates.
 - c An Infrastructure Asset Register template (as provided by Council) that lists all constructed assets within the development that are to be transferred to, and maintained by Council in future. (sub030.doc)
- (5) The developer shall acknowledge all existing easements on the final plan of subdivision. (sub060.doc)
- (6) The developer shall acknowledge all existing restrictions on the use of the land on the final plan of subdivision. (sub070.doc)

LEGEND

AI	ENERGY ARTICULATION JOINT
AJ	WALL JOINT (HEIGHT)
C.T.	COINTEGRATION
D.W.	DEHWASHER
F.W.	FLOOR WASTE
H.W.	HOT WATER UNIT
L.W.	LEFT CISTERNETS
L.M.	MICROWAVE SPACE
M.W.	MICROWAVE
M.S.	MARKER SLABES/SLON
M.P.	APPROPRIATION SPACE
R.H.	RANGE HOOD
S.D.	SMOKE DETECTOR
S.F.	UPRIGHT COOKER
S.O.	WATER SPLITTER/COINTEGRATION
S.L.	WALL LOWN
S.C.	WASHING MACHINE SPACE
S.E.	SQUARE SET OPENING AT 2400 HIGH
S.P.	DOWNDOWN IN SLAB

BASIC COMMITMENTS

WATER

- Minimum 5.000 litre retention tank collecting 70% of roof water with connections to gardens, toilet & Laundry
- 2 star rated showerheads
- 4 star rated toilets & taps

THERMAL COMFORT

- Walls post date
- Minimum R1.5 insulation to external walls(excludes garage)
- R1.5 insulation to ceiling(excludes Garage)
- R1.5 insulation to walls between house & garage
- R1.5 insulation to floor of upper levels where it remains (not lower levels)
- Slating in entirety of roof
- Light roof colour
- Roof access to all exterior doors including insured access to garage
- Default floor coverings used in high/efficiency rating
- Insulation must be retained in accordance with MQC and relevant Australian Standards
- Fluorescent downlights have been included in the NHERFHS ratings for winter LED downlights
- All above has been made in use energy rating for required cooling insulation compliance above light fittings and fixtures is appropriate with the main light layout
- All windows & glass doors to be single glazed Low-E coated with aluminium frame(MQNC U.5.0E, SHGC 0.410.30)

ENERGY

- Low maintenance & low MWQ
- Single phase reverse cycle ducted overhead air conditioning with EER 2.5-3.0
- Ducted overhead to kitchen with manual on/off switch
- Ducted overhead fan to bathroom, ensuite & WC with manual on/off switch
- One ceiling & inline oven
- Wall mounted fridge space
- Permanent outdoor switchgear
- Compact fluorescent fluorescent or LED lights to throughout/excluding bathrooms & tennis

ISSUE: **J**
SHEET NO: **1/19**

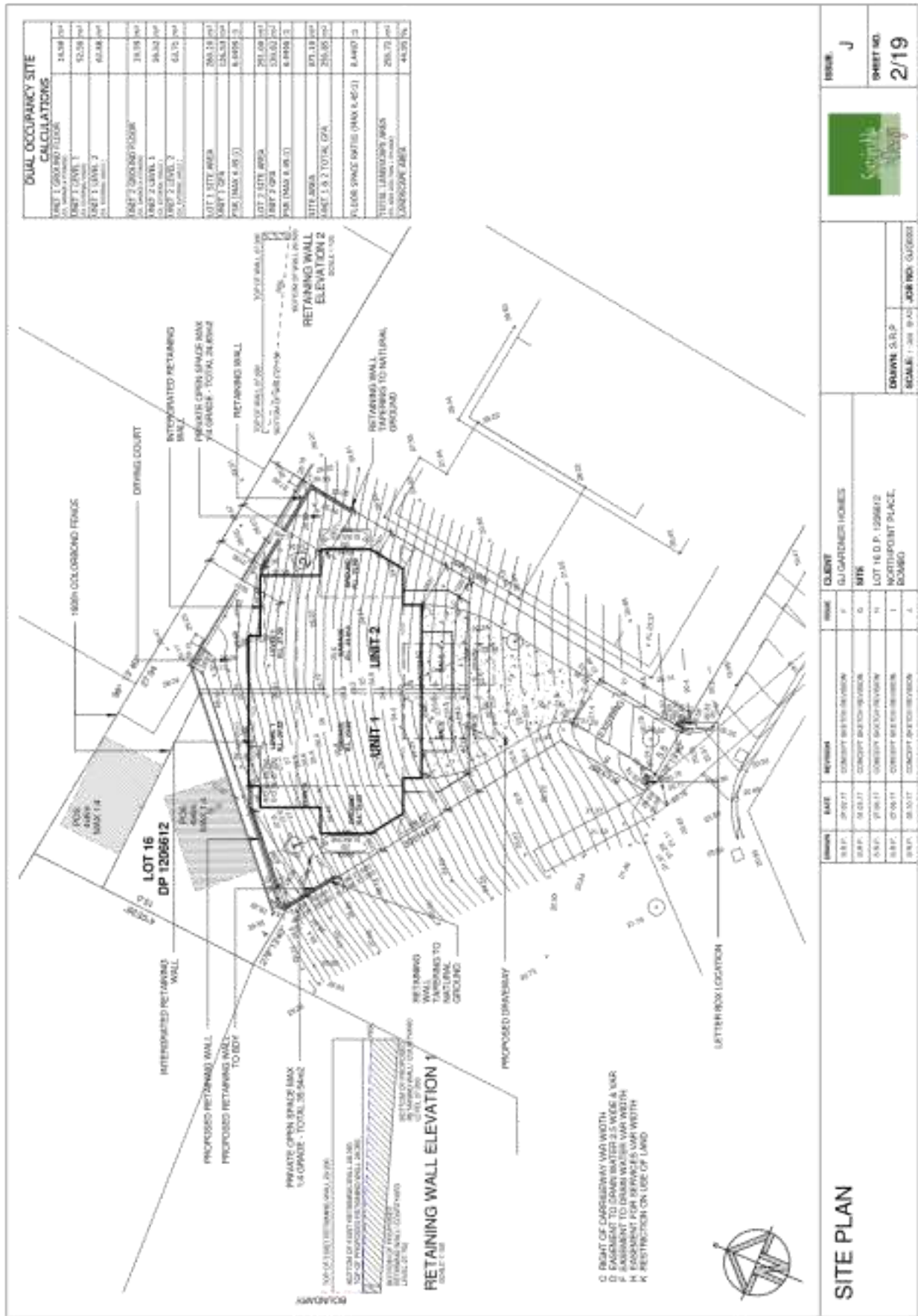
CLIENT: **GI GARDNER HOMES**
DRAWN: **G.D.P.**
SCALE: **1/40** JOB NO: **GJG002**

ISSUE	DATE	REVISION	BY	CHKD
R.1.P.	17/01/17	CONCEPT DESIGN REVISION	F	
R.A.P.	01/02/17	CONCEPT DESIGN REVISION	D	
R.A.P.	17/04/17	CONCEPT DESIGN REVISION	H	
R.P.T.	07/05/17	CONCEPT DESIGN REVISION	I	
R.P.T.	08/05/17	CONCEPT DESIGN REVISION	A	

COVER

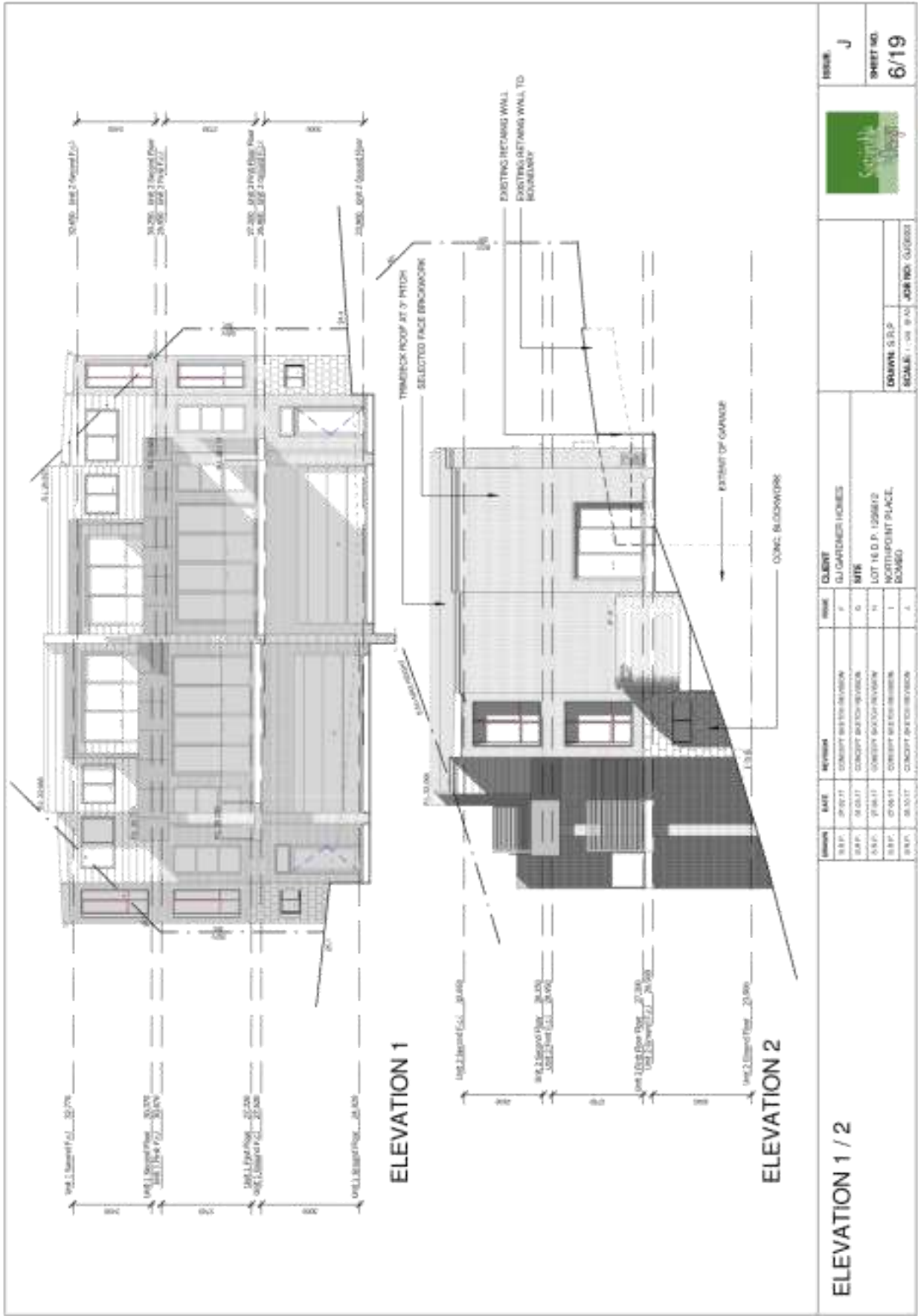
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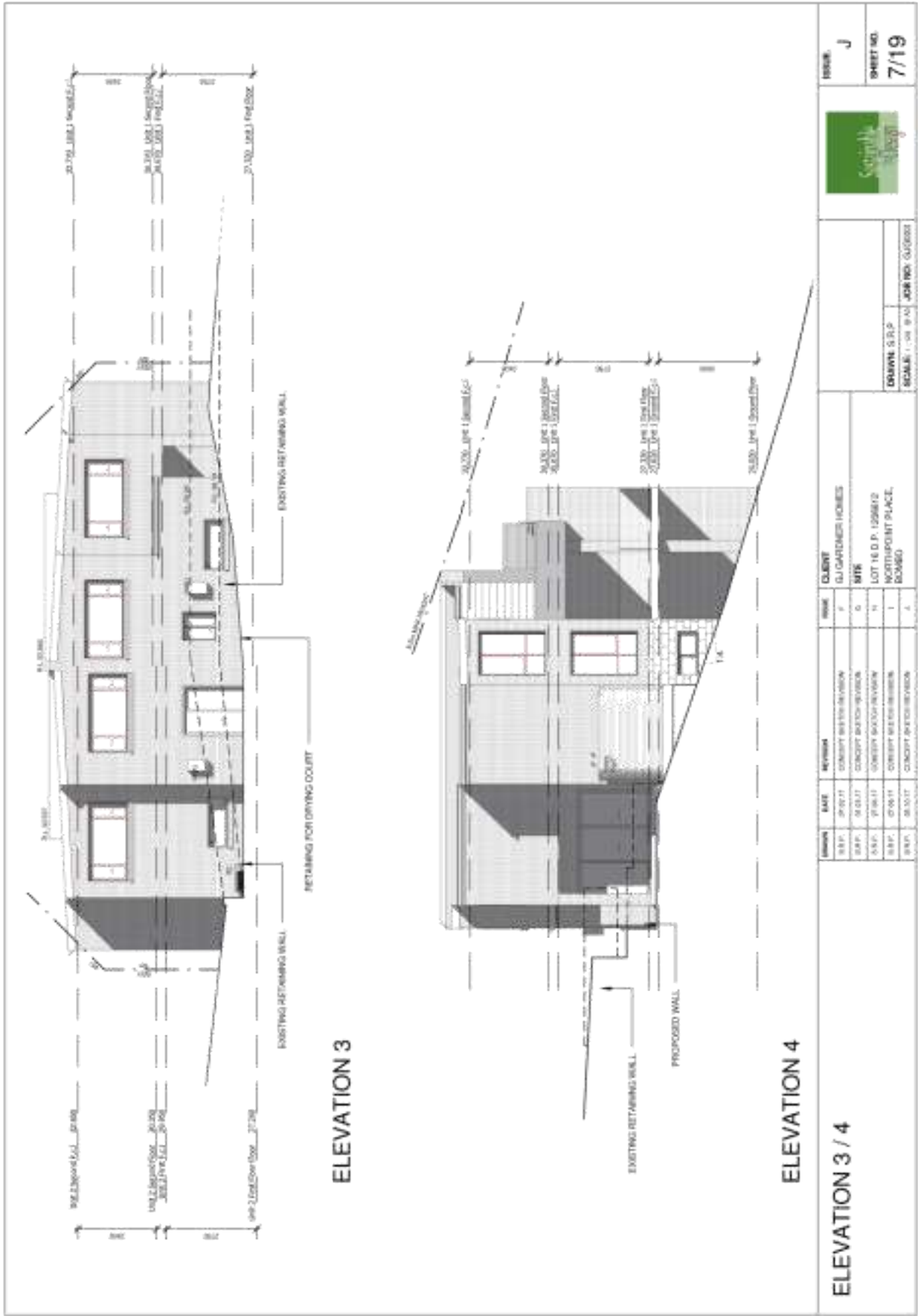
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Attachment 1



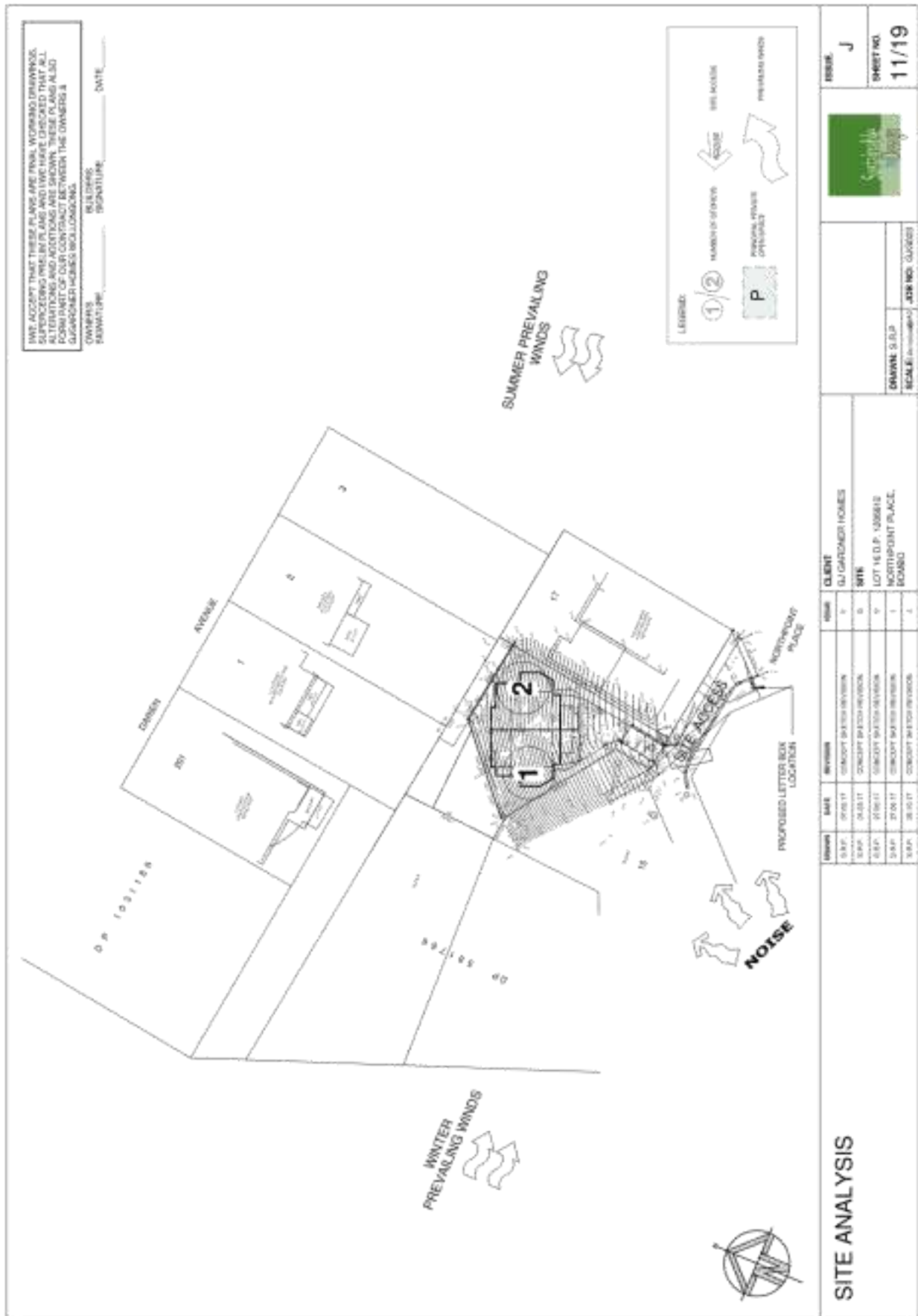


ELEVATION 3

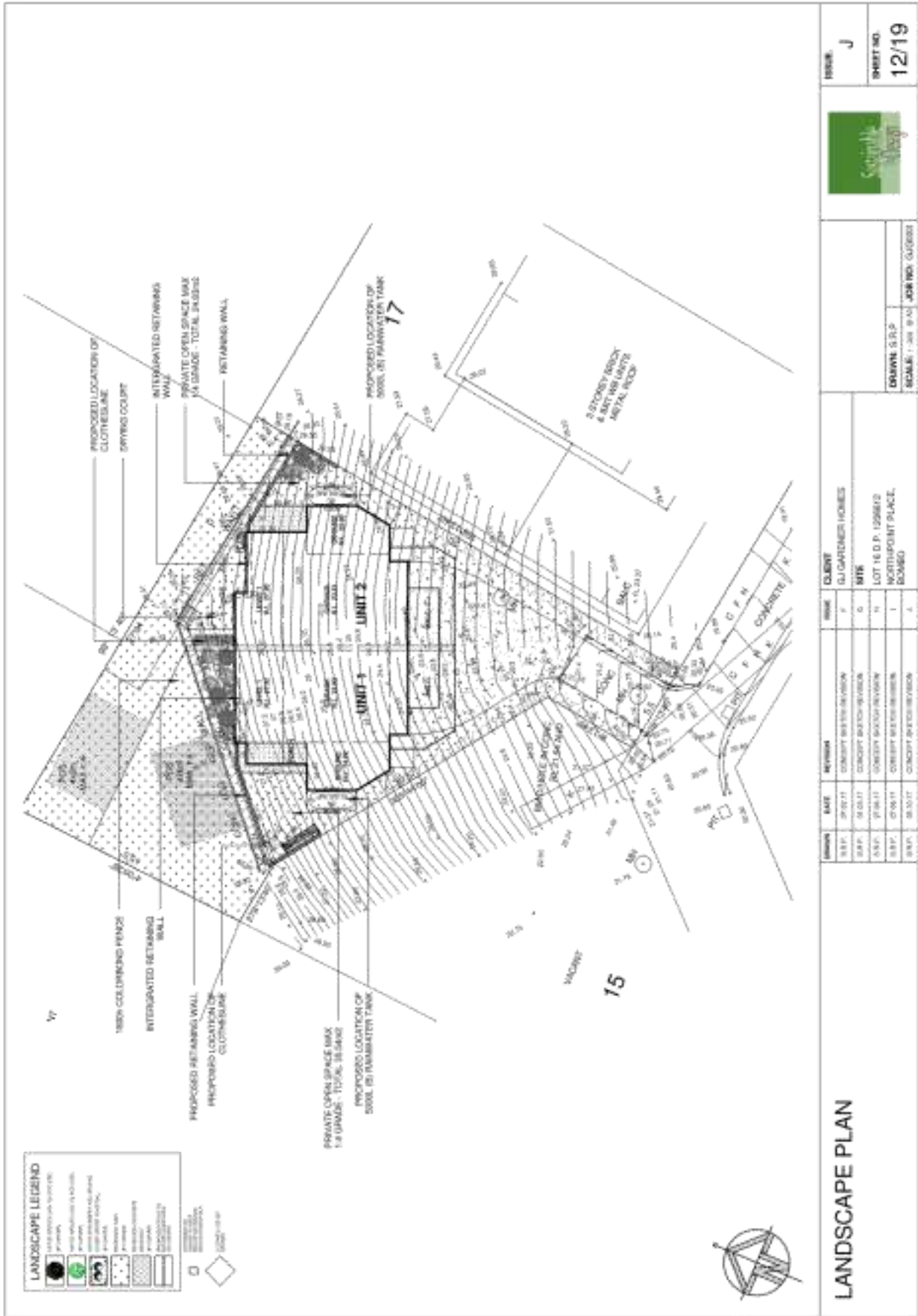
ELEVATION 4

ELEVATION 3 / 4

		ISSUE: J SHEET NO: 7/19
DRAWN: S.D.P. SCALE: 1:100 (A4)		CLIENT: GJ CARTERS HOMES MTR: LOT 16 DP 1206612 NORTHPOINT PLACE, BOMBO
DATE: 17/01/17 DRAWN: S.D.P. CHECKED: S.D.P.	REVISION: 1 REVISION: 2 REVISION: 3 REVISION: 4	RISK: F D: 0 H: 1 A: 1



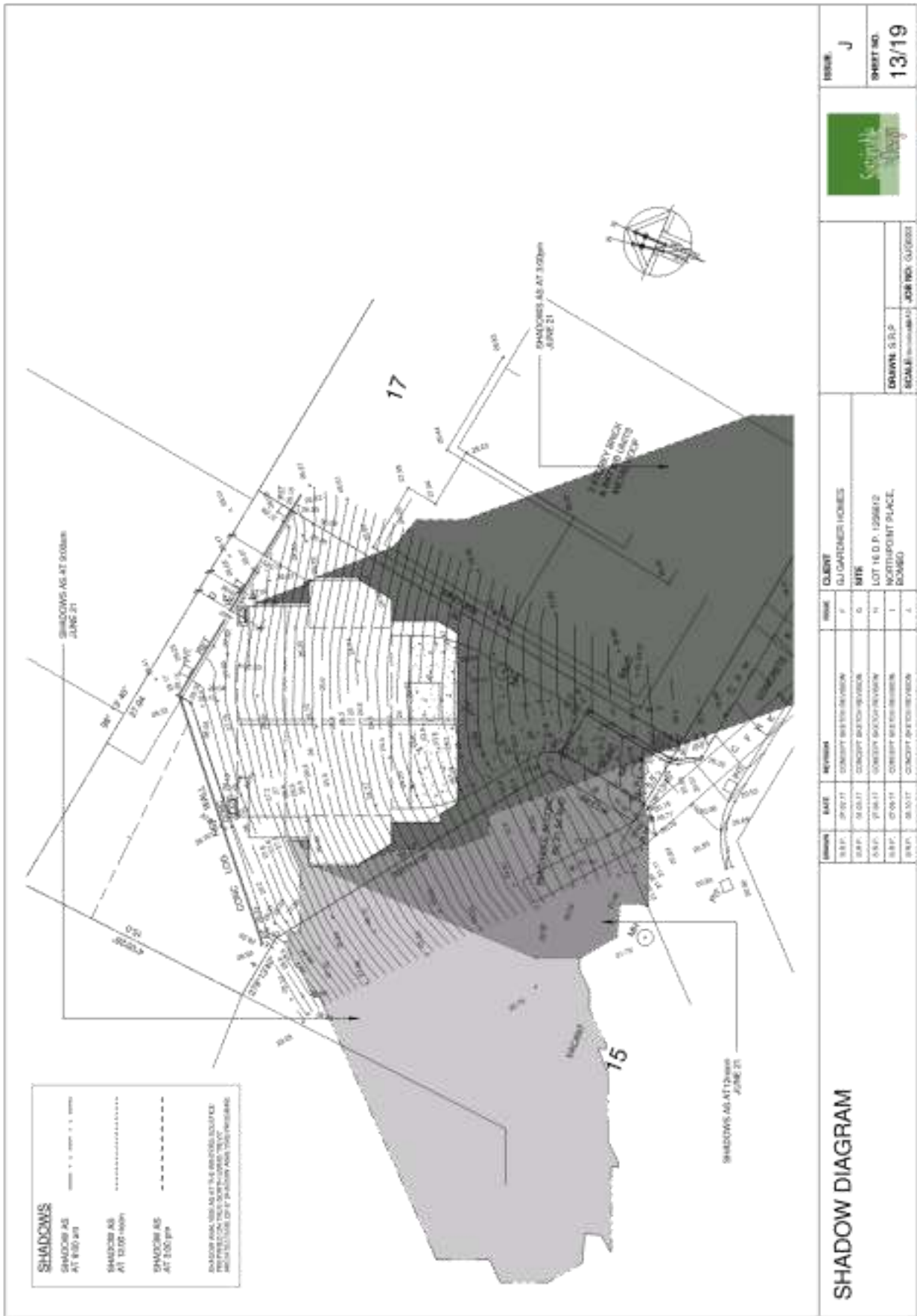
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		ISSUE:	J
		SHEET NO.	12/19
CLIENT: GJ CARTERS HOMES MTR LOT 16 D.P. 1206612 11 NORTHPOINT PLACE, BOMBO.		DRAWN: G.D.P. SCALE: 1:200 @ A3 JOB NO: GJ0002	
DATE	REVISION	BY	DESCRIPTION
12/11/17	CONCEPT DESIGN REVISION	F	GJ CARTERS HOMES
01/02/17	CONCEPT DESIGN REVISION	D	MTR
12/11/17	CONCEPT DESIGN REVISION	H	LOT 16 D.P. 1206612
07/01/17	CONCEPT DESIGN REVISION	I	NORTHPOINT PLACE,
03/01/17	CONCEPT DESIGN REVISION	A	BOMBO.

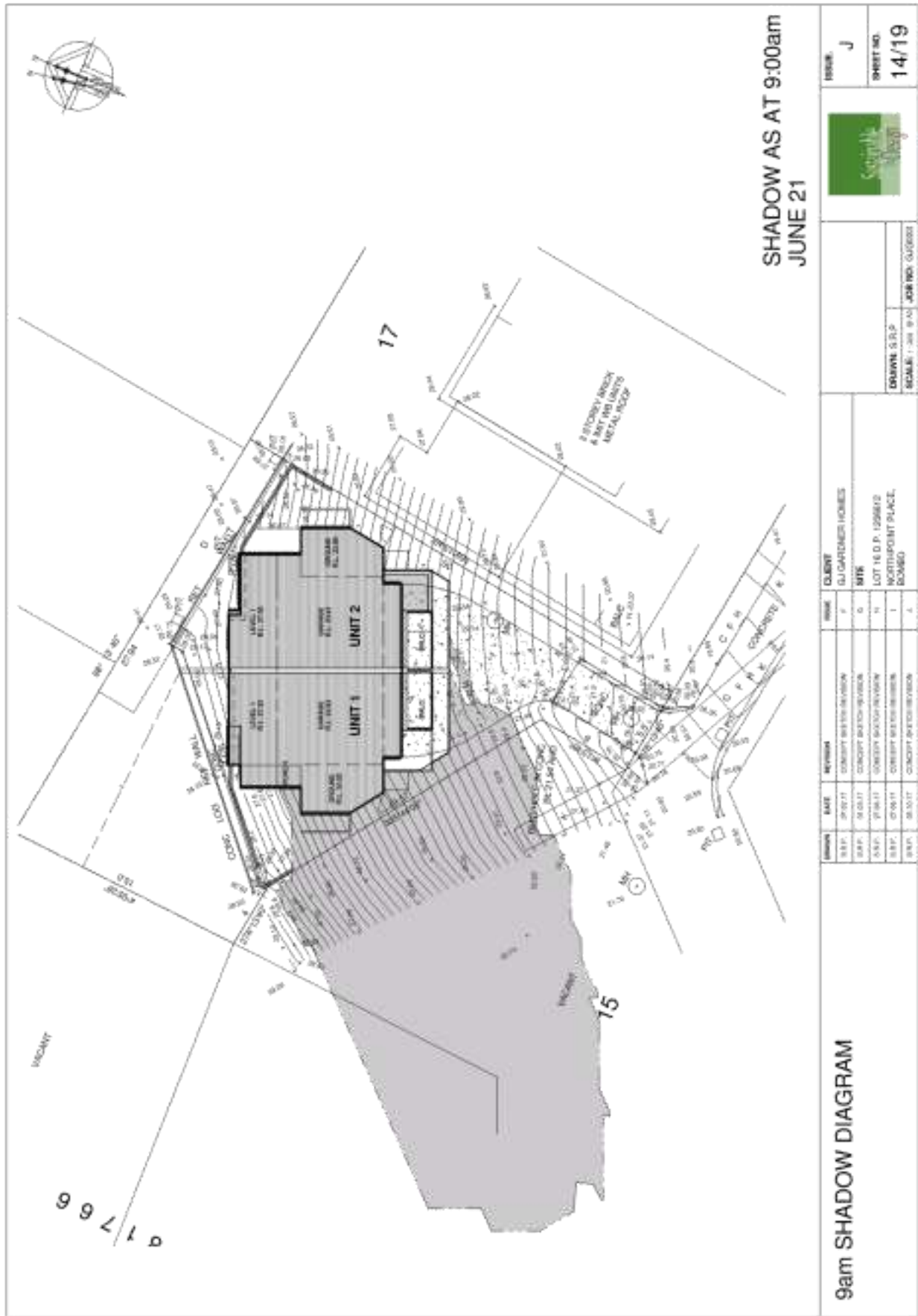
LANDSCAPE PLAN

Attachment 1 Item 10.5

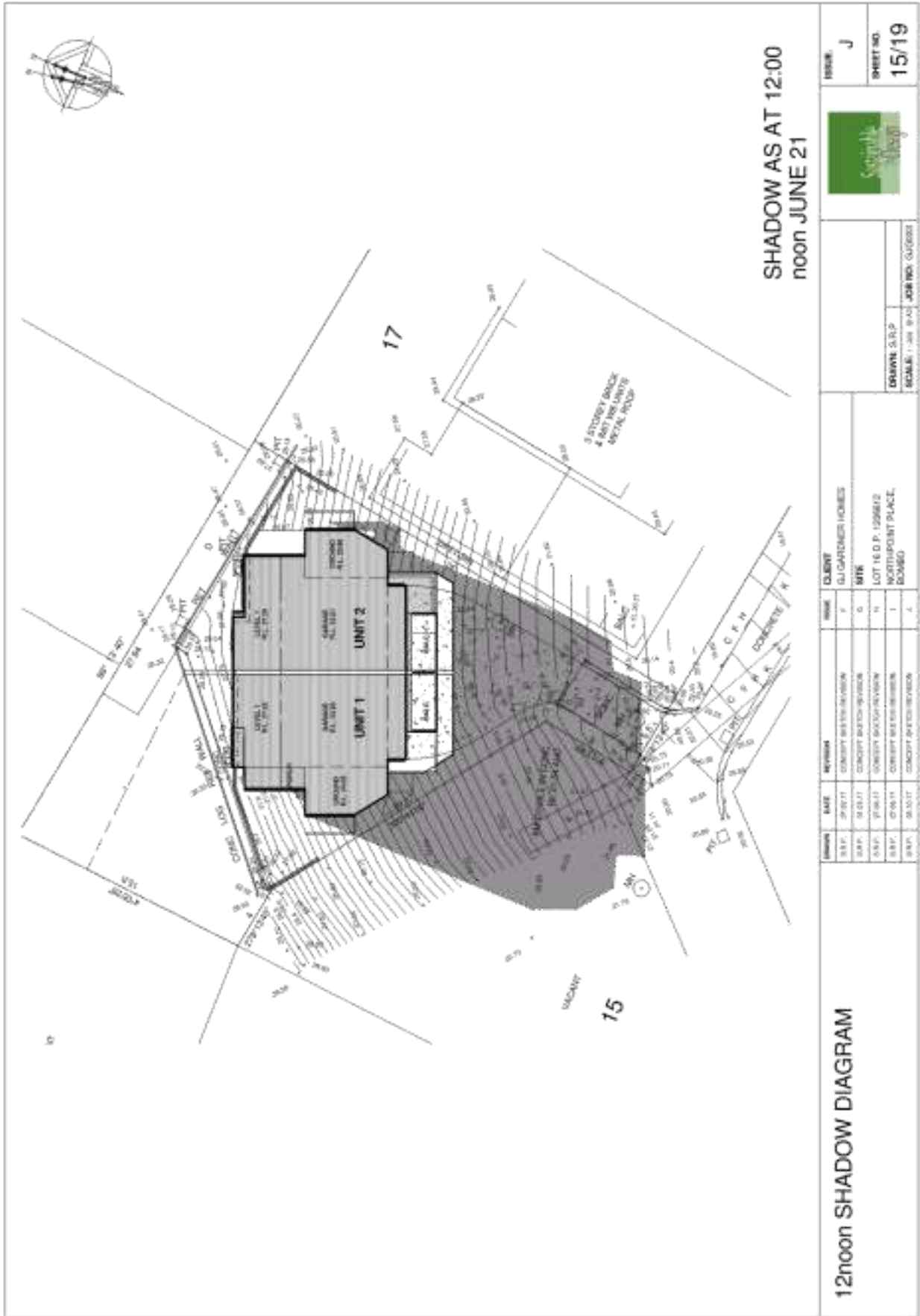


Item 10.5

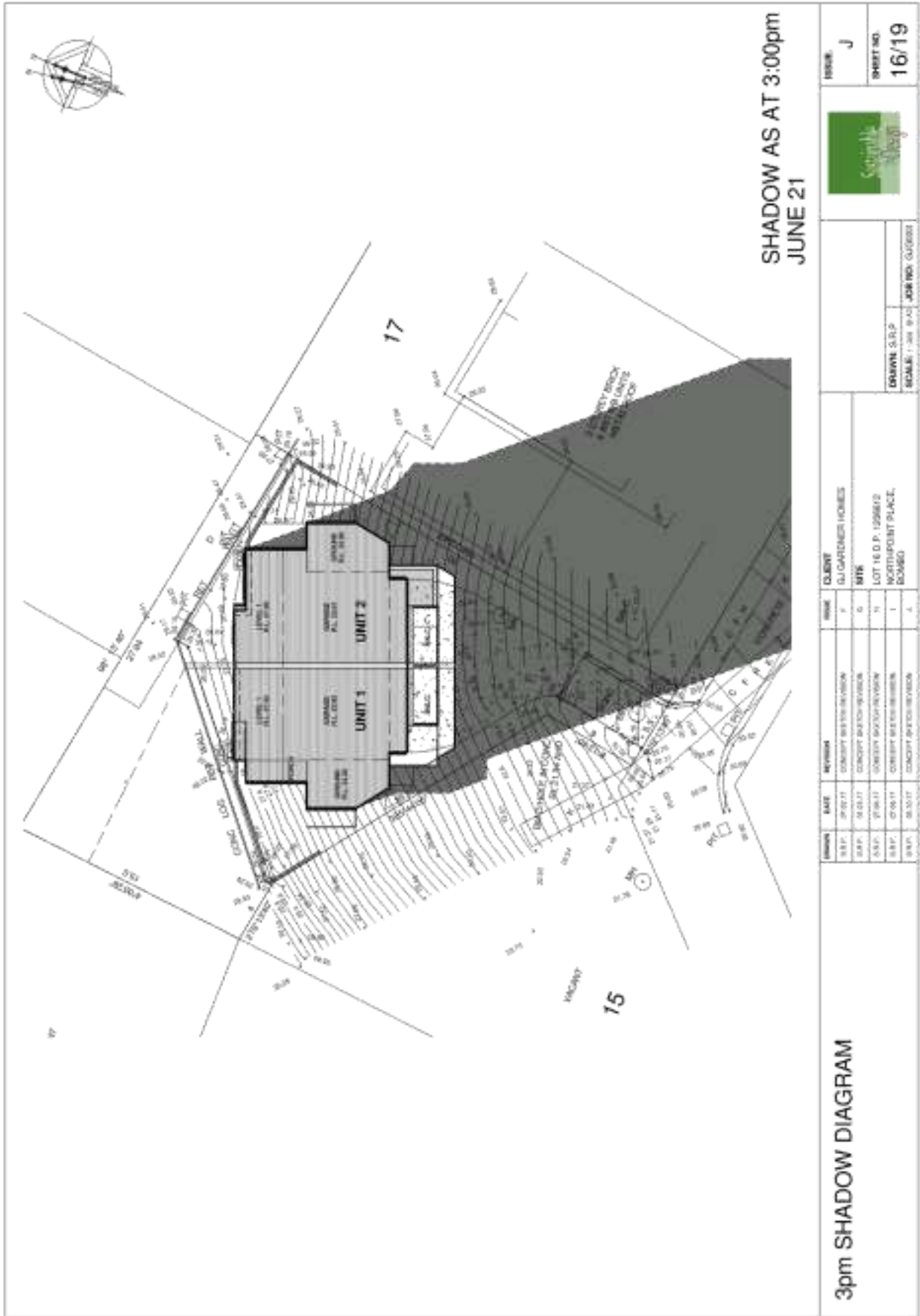
Attachment 1



Attachment 1 Item 10.5

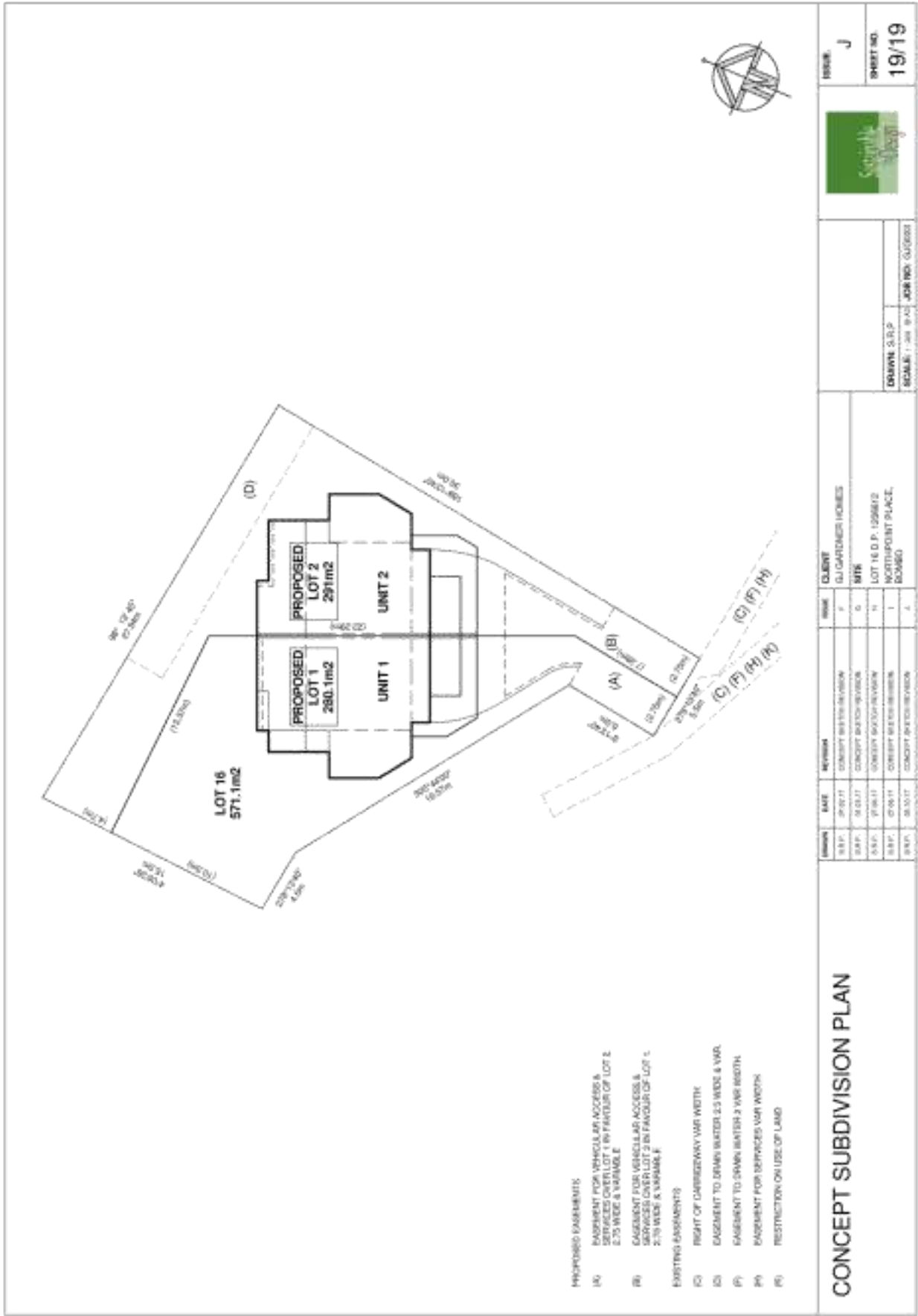


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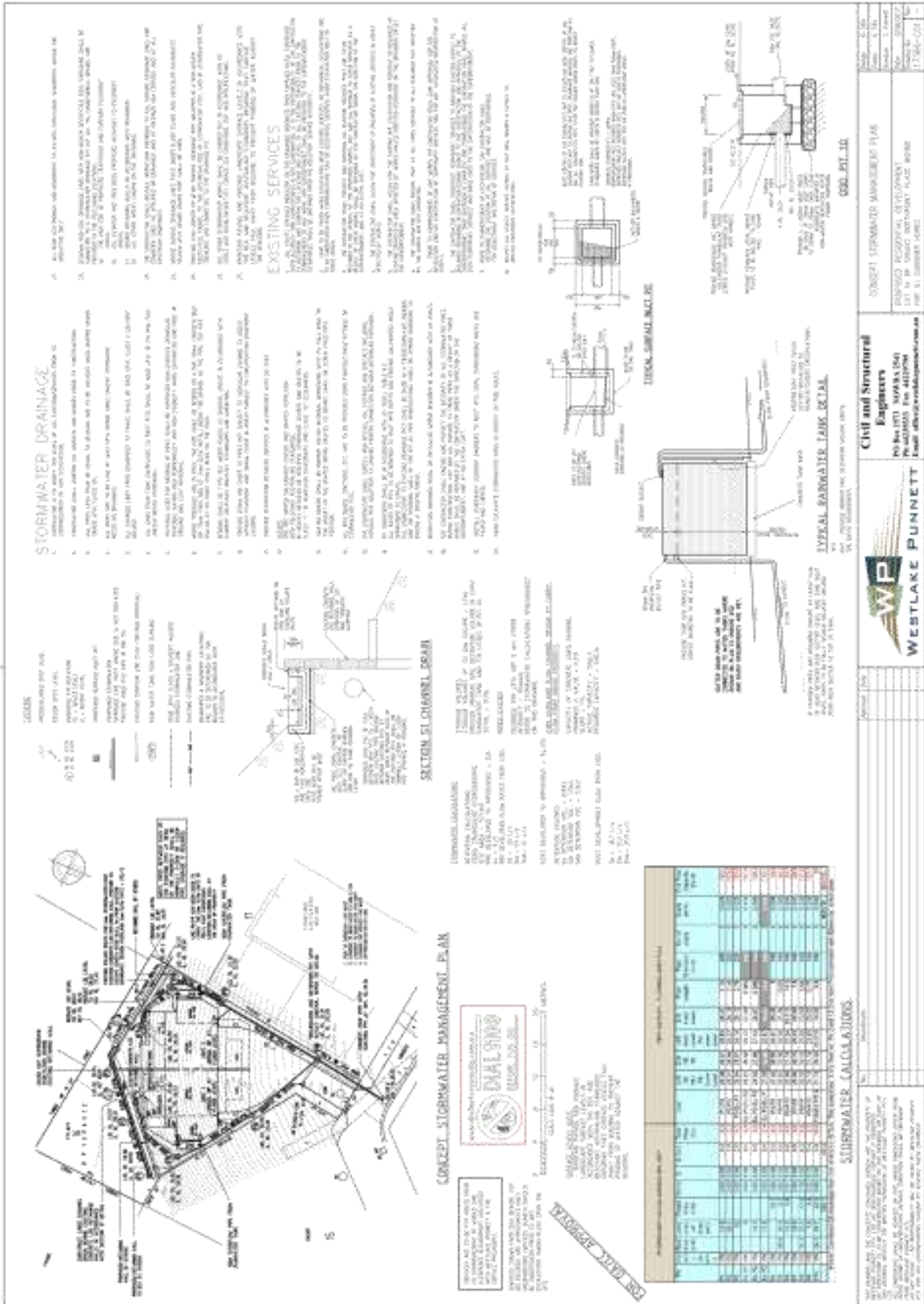


Item 10.5

Attachment 1



Attachment 1 Item 10.5



10.6 10.2017.156.1 - Lot 17 DP 1123051 – 29 Tasman Drive Gerringong – dwelling & swimming pool

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

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

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

Item 10.6

Summary

This report reviews DA 10.2017.156.1 which seeks consent for a dwelling & swimming pool. The report recommends that Council approve DA 10.2017.156.1 subject to conditions.

Finance

N/A

Policy

NA

Reason for the report

This report is submitted to Council following the receipt of 4 submissions objecting to the application.

Attachments

- 1 10.2017.156.1 - plans [↓](#)
- 2 10.2017.156.1 - letter from PDC Lawyers - 26 July 2017 [↓](#)
- 3 10.2017.156.1 - letter from applicant in response to letter to request for additional information [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council approve Development Application 10. 2017.156.1, under Section 80 of the Environmental Planning and Assessment Act 1979, subject to the conditions at the end of this report.

BACKGROUND

Applicant: South Coast Drafting

Owner: Mr P W & S Johnston

An application has been received for the construction of a dwelling & swimming pool on the above property.

Report of the Director Environmental Services

10.6 10.2017.156.1 - Lot 17 DP 1123051 – 29 Tasman Drive Gerringong –
dwelling & swimming pool (cont)

The site is currently vacant land and is bounded by residential dwellings to the south and across a road to the north and also to the west, with the Gerringong Headland Reserve land to the east.

Property information

The property is described as Lot 17 DP 1123051 – 29 Tasman Drive Gerringong. The zoning of the property is R2 Low Density Residential under Kiama LEP 2011. The area of the property is approximately 809.5m² and is rectangular in shape.

The site is currently vacant land and slopes gently downwards from front to rear.

Description of the proposed development

The proposal involves the erection of a new dwelling with a swimming pool.

Section 79C assessment

The proposed development has been assessed in accordance with Section 79C 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)

The site is located within the coastal zone, as defined by SEPP 71.

The site is not located within a 'sensitive coastal location' as defined by SEPP 71.

Consideration has been given to the objectives of the SEPP71 and the matters prescribed by Clause 8.

"8 Matters for consideration

The matters for consideration are the following:

- the aims of this Policy set out in clause 2,*
- existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- the suitability of development given its type, location and design and its relationship with the surrounding area,*
- any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*

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-
- (g) *measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*
 - (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,*
 - (i) *existing wildlife corridors and the impact of development on these corridors,*
 - (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
 - (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
 - (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
 - (m) *likely impacts of development on the water quality of coastal waterbodies,*
 - (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
 - (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
 - (p) *only in cases in which a development application in relation to proposed development is determined:*
 - (i) *the cumulative impacts of the proposed development on the environment, and*
 - (ii) *measures to ensure that water and energy usage by the proposed development is efficient.”*

The development is consistent with the aims of the SEPP.

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

A BASIX Certificate was lodged with the application which demonstrates that the dwelling has been designed in accordance with BASIX.

- Kiama LEP 2011

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

Clauses 4.3 Height of Buildings

The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map

The Height of Buildings Map does not cover the Gerringong Headland Estate. The height limitations for development in Tasman Drive are controlled by the Gerringong Headland Master Plan 6.3.2 Built Form Controls Building Height Plane which is called up by Chapter 25 – Gerringong Headland in Kiama DCP 2012.

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The proposed building heights are within the Building Height Plane.

Clause 4.4 Floor space ratio (FSR) maximum of 0.45:1.

The floor space ratio on any land is not to exceed the maximum allowed shown for the land on the Floor Space Ratio map.

The Floor Space Ratio map does not cover the Gerringong Headland Estate. The maximum floor space ratio allowed is 0.40:1

The proposed FSR is 0.39:1

Any draft environmental Planning instruments

In accordance with Section 79C(1)(a)(ii) the relevant provisions of any proposed instrument that has been the subject of public consultation must be taken into consideration.

- Draft SEPP (Coastal Management) 2016

The draft Coastal Management SEPP was on public exhibition from 11 November 2016 until 20 January 2017. Under the provisions of the draft Coastal Management SEPP the site is located within the 'Coastal Use Area'.

Consideration must be given to the Sections 15–17 of the draft Coastal Management SEPP.

“Division 4 Coastal use area

15 Development on land within the coastal use area

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.*

Division 5 General

16 Development in coastal zone generally—development not to increase risk of coastal hazards

- (1) *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the*

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consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Note. Clause 13 (2) (b) contains a development control provision that substantially mirrors the effect of this provision.

(2) This clause ceases to have effect at the end of 31 December 2021.

17 Development in coastal zone generally-coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of the following:

- (a) *a coastal management program that applies to the land,*
- (b) *a coastal zone management plan (within the meaning of the Coastal Protection Act 1979) that applies to the land that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.”*

The development controls associated with the ‘coastal use area’ are primarily concerned with public access to the foreshore, overshadowing and view loss of public areas, scenic qualities of the coast, Aboriginal cultural heritage, and use of the surfzone. As such the subject site is approximately 700m from the foreshore and no items of Aboriginal Cultural Heritage have been identified on the site it is considered that the proposed development would satisfy the development controls contained within Division 4 of the draft Coastal Management SEPP. It is noted that no coastal management program applies to the site nor is it considered likely that the proposal will increase the risk of coastal hazards; as such the proposal satisfies the requirements of Division 5.

Development Control Plans (DCPs)

- Kiama DCP 2012

Chapter 25 Site Specific Controls- Gerringong Headland Site

The proposed development satisfies the Built Form objectives within the DCP.

See specific comments below regarding the non - compliance with certain controls within the document

6.3 Built Form

Built form must be tailored to reinforce the public domain and respond decisively to specific site elements.

On this important coastal site, priority should be given to the provision of strong architectural definition to the Headland Foreshore Reserve as well an innovative response to site topography that maximize amenity and minimize building bulk

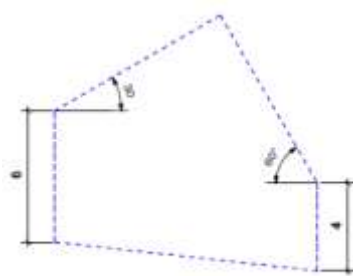
6.3.1 Built Form Objectives

- (i) Reinforce the spatial definition of the Headland Foreshore Reserve by providing dwellings with strong architectural character and massing that maximize views to and surveillance of the reserve.

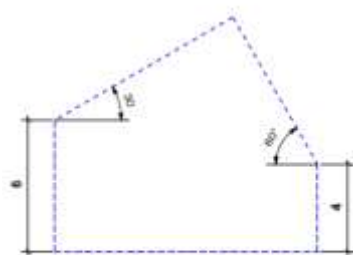
- (ii) Coordinate building footprints, finished level, excavation, cut and fill between all lots to provide equitable access to sunlight, outlook and privacy to all dwellings.
- (iii) Provide thin cross section buildings, modulating side boundary setbacks and incorporating courtyards, atria and the like to maximize solar access and cross ventilation.
- (iv) Form dwellings from rectangularly proportioned elements or discrete pavilions sited to relate specifically to site topography and generally oriented to present their long side to north. Deep square plans that disregard site levels and create bulk forms are not permitted.
- (v) Develop the cross sections of buildings to respond to site topography, incorporating split levels, mezzanines and the like.
- (vi) Minimise the bulk and visual impact of dwellings, particularly roofs. Design roofs to provide a fine, attenuated silhouette to buildings as viewed against the headland. Avoid complex roof forms.
- (vii) Design corner dwellings to reinforce their prominent location and address both primary and secondary street frontages

Section 6.3.2 Built Form Controls

- (i) Comply with the maximum rates for Site Coverage and FSR in Figure 6.3(i)
 Site Coverage includes all areas within the inner face of external enclosing walls of all levels of the building that meet Ground level, including garages and excluding entry porches, terraces, columns, fin wall and sun control devices, expressed as a percentage of the site area.
- (ii) Height limits are controlled by a Building Height Plane. A detailed explanation of the Building Height Plane is provided below:



Building Height Plane – applied to sloping site



Building Height Plane – applied to level site

Figure 6.3 (ii) Building Height Plane

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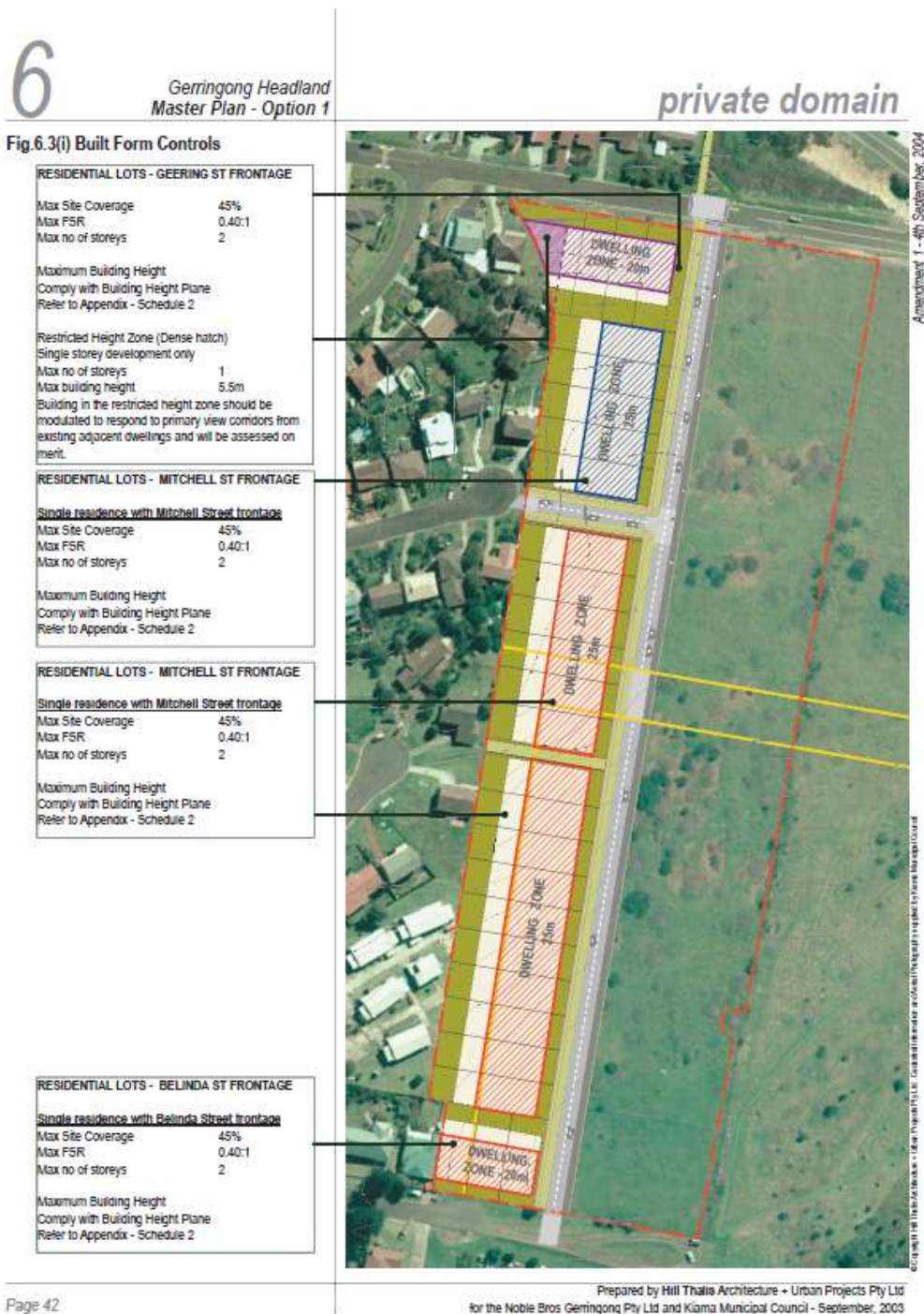
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For east-west oriented lots, the building height plane is calculated from a 30° angle 6m above ground level along the southern boundary and 60° from a distance of 4m above ground level along the northern boundary. Refer to Figure 6.3(ii)

Ground level is defined as the level on a site existing at the date on which an application for consent to erect a dwelling is lodged.

- (iii) Habitable attics are not permitted where they form a third storey

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dwelling & swimming pool (cont)

Variation request from Applicant

PDC Lawyers (on behalf of the applicant) provided the following justification for the non-compliance with the DCP controls (see attached letter dated 26 July 2017).

Comment: The proposed dwelling is of a size and scale that will not alter the amenity within the locality. However, it has been identified that there is a third storey element within the building that does not comply with the DCP control of only 2 storeys. The dwelling generally presents as 2 storeys when viewed as the third storey component is contained within the building's footprint and will not lead to an unreasonable impact on the views and scenic qualities of the site and the surrounding area.

The justification provided has been considered and deemed to be well founded and therefore supported in this instance.

Section 6.4.2 Setback Controls

- (ii) Comply with the Front Setbacks documented in Figure 6.4(i);
- (ii) Balconies, terraces, verandahs, porches and the like may project 2.4m from the Front Setback Line into the Front Garden Area, to a maximum width of 6m.
- (iii) Comply with the Building Zone dimensions in Figure 6.4(I);
- (iv) Comply with the Side Setbacks on corner lots as documented in Figure 6.4(i) The setbacks documented in Fig6.4(i) take precedence over the controls in clause 6.4.2(v);
- (v) Comply with the following Side Setbacks:

East-West oriented lots

- A minimum 450mm setback is permitted along the Southern Boundary only to a maximum length of 10m. A minimum 1.0m setback is required along the remaining boundary.
- Lots 10m to 12m – A minimum 2.0m setback is required along the Northern Boundary Setbacks in excess of 2.0m are strongly encouraged along the Northern boundary to modulate building form and maximize solar access to the dwelling.
- Lots greater than 12m wide – A minimum 3.0m setback is required along the Northern Boundary Setbacks in excess of 3.0m are strongly encouraged along the northern boundary to modulate building form and maximize solar access to the dwelling.

Designers should give particular attention to the location of openings on the northern building elevation relative to the permitted Building Height Plane on the adjoining lot to the north to ensure solar access to habitable rooms is achieved.

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6

Gerringong Headland
Master Plan - Option 1

private domain

Fig.6.4(i) Setback Control Drawing

- Front Setback to Geering Street 7.5m
- Western side setback 3.0m
- Permissible Building Zone 20m
- Rear Garden Setback 10.0m
- Front/Side Setback to Mitchell Street 5.0m
- Permissible Building Zone 25.0m
- Rear Garden Setback 10.0m
- Side Setback 1.0m
- Side Setback 1.0m
- Rear Garden Setback 10.0m
- Front Setback to Mitchell Street 5.0m
- Permissible Building Zone 25m
- Side Setback 1.0m
- Side Setback 1.0m
- Rear garden Setback 7.0m
- Side Setback 1.0m
- Front Setback to Belinda Street 5.0m



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Prepared by Hill Thaire Architecture + Urban Projects Pty Ltd
for the Noble Bros Gerringong Pty Ltd and Kiama Municipal Council - September, 2003

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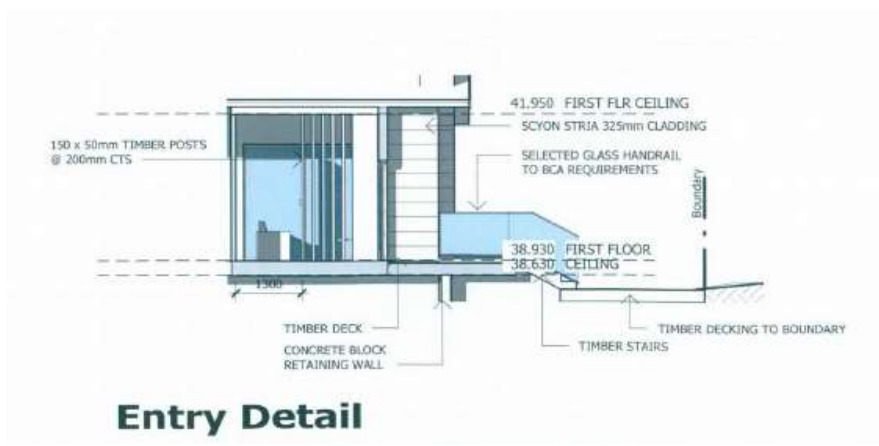
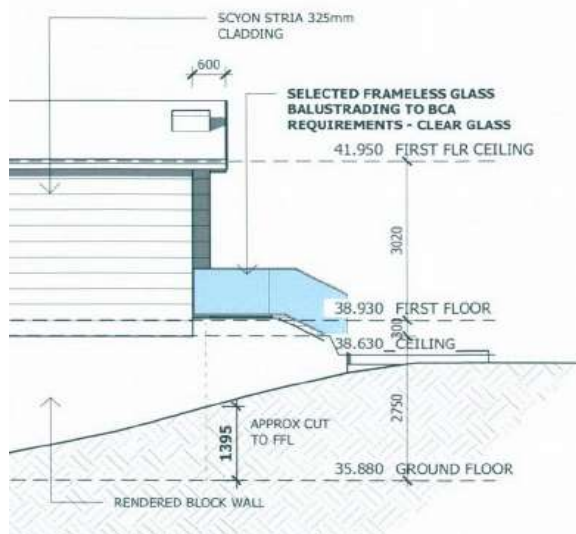
Variation request from Applicant

The applicant provided the following justification for the non-compliance with the DCP controls. (see attached response to letter to request for additional information)

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Entry Detail

Comment: The proposed stairs access forward of the building line is of a size and scale that will not alter the amenity within the locality. It has been identified that the balustrading associated with the access for safety and BCA requirements is to be that of clear glass and will not lead to an unreasonable impact on the views and scenic qualities of the site and the surrounding area.

The timber entry consists of various components, being that of a 1.8m wide timber pathway a distance of 2.5m from the front property boundary and relatively level with the existing ground levels. It then consists of 5 steps leading to a porch and front door entry with clear glass balustrading for a distance of 2.7m

The justification provided has been considered and deemed to be well founded and therefore supported in this instance.

Any planning agreement

Nil

Any matters prescribed by the regulations

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

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

Any Coastal Zone Management Plan

Nil

The likely impacts of the proposed development

Visual Impact

Comment: The proposed development will have limited impact on views. The visual impact concerns raised in submissions have been assessed and are not considered to be significant enough to warrant refusal of the application.

Public domain

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

- Noise

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

- Privacy and Overlooking

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

- Overshadowing

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

- Views

The proposal is considered to be of a scale and size that is not out of character with the surrounding area. The proposed development is consistent with other development in the street with the roof designed to be in keeping with the streetscape and to minimise view loss. The dwelling has been designed such that the building remains under the permissible height. Given the topography of the land, the views from neighboring properties will not be unreasonably obstructed by the proposal.

View from the public road reserve in Tasman Drive

The site has been vacant for some time and the proposed dwelling, swimming pool will not obstruct views currently enjoyed from the public domain of Gerringong Headland Reserve.

- Vehicular Access, Parking and Maneuvering

Sufficient car parking is proposed. Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.

- Stormwater Management

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A satisfactory drainage design has been provided with the application.

- Environmental Impacts

Vegetation Removal – No vegetation is to be removed.

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

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

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

- Social and Economic Impacts

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

The suitability of the site for the development

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

Submissions

Public Submissions

Notification letters were sent to neighboring property owners who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period, 4 submissions were received which raised the following (summarised) matters of concern:

Item 1:- “Inaccurate Plans- they do not accurately depict the outline of the proposed building.”

Comment: - The notification plans are accurate and do convey the correct and clear information with regards to setbacks.

Item 2: - “Building Height- being unnecessarily elevated”

Comment: - The applicant provided amended plans with the dwelling being compliant with the Building Height Plane The dwelling is not unnecessarily elevated.

Item 3:- “Location of Windows-reducing the level of privacy”

Comment: - Translucent glazing to windows and hi-light style windows have been provided facing the dwelling to the south.

Item 4: - “Overshadowing impacts”

Comment: - The overshadowing impacts are not unreasonable. The Master plan controls with regards to dwellings to the south of lots provides for a 3m northern side

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boundary separation to allow for solar access as the blocks run from an east west direction. The applicant provided shadow projection plans which shows compliance with the DCP requirements of achieving a minimum of 3.5 hours of direct sunlight into the two main primary living areas in mid-winter.

Item 5:- “Development Forward of the Adopted Front Building Line- elevated pathway, stairs and entry and front chimney being an unnecessary visual intrusion forward of the building line”

Comment: - The applicant has requested a variation to the front setback control and this matter has been discussed in detail previously within this report and it is considered that the development will not have a substantial or unacceptable impact on the streetscape. The chimney element for a gas fire has been shown to be setback 5m from the front boundary and does not protrude above the roofs ridge line.

Item 6: - “Development Adjacent Common Boundary”

Comment: - The proposal does not provide for retaining walls to accompany the dwelling. There is no indication of any changes to the existing fence currently on the southern side boundary.

Item 7: - “View Impacts- view loss”

Comment: - Main views are not affected, some view loss will occur from the dwelling to the south but these views are across the side boundary and the losses are not considered to be unreasonable.

Item 8:- “Height Poles/Building Profile”

Comment: - It has been considered that the proposed dwelling impacts are not of an extent that would warrant the applicant to provide poles/profiles.

Item 9:- “Discharges from Flue/Chimney”

Comment: - The matter was referred to Council’s Health Officer who advised that there are no public health risks considered to neighbouring properties with the use of a flued gas heater.

Item 10:- “Three storeys in height, exceeding that allowed under Chapter 25 Of the Kiama DCP”

Comment: - It has been acknowledged that there is a 3 storey component associated with the proposed dwelling and the applicant has requested a variation to the DCP’s 2 storey maximum. The 3 storey element is concealed within the footprint of the dwelling and does not present as a 3 storey dwelling. This has been previously addressed early in the document and supported in this instance.

Item 11:- “Probability of accidents occurring due to the elevated pathways, stairs and entrance height, exceeding that allowed under Chapter 25 Of the Kiama DCP”

Comment: - This matter was referred to Council’s Engineering Officer who advised that the elevated pathway, stairs and entrance do not present a concern to traffic safety.

External referrals

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Nil

Internal referrals

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

- 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.

- Health Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Landscape 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 relevant Environmental Planning Instruments and DCP 2012 and is not expected to cause significant adverse impacts on the visual amenity of the area or streetscape. The proposal is considered to be suitable for the site having regard to the zoning. The proposed development is therefore 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 79C of the Environmental Planning and Assessment Act, 1979. The proposed development is consistent with Kiama LEP 2011 and relevant DCP 2012.

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

Concerns raised in the 4 submissions have been considered and do not warrant refusal of the application.

The variations to the Gerringong Headland DCP controls have been carefully considered and although do not numerically comply with some of the controls they are considered to be that of a minor nature as previously discussed in the report and warrant support on this occasion.

The proposed development is considered to be acceptable and approval is recommended.

Draft conditions of development consent

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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 10.2017.156.1 dated xxxxxx except as amended by the following conditions:
- (2) The development shall be completed in accordance with the approved colour schedule.

Prior to commencement of works

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

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

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

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

or

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

- (2) 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.

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

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

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

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

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

- (4) 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.

- (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.
- (6) Details of compliance with condition of consent (1) under the heading Swimming Pool shall be shown on the plans and provided to the Accredited Certifier prior to the release of the Construction Certificate.
- (7) The Stormwater Drainage Plan prepared by MSL Consulting Engineers - Reference 17251 – Sheets C01 to C03 (inclusive) - Issue B – dated 26/07/2017 shall be issued with a Construction Certificate by an accredited Certifying Authority prior to any works commencing on site.
- (8) 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.

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-
- (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 any reinforced concrete slabs, footings or structural steel.

Access Construction

- (1) Driveways and external parking areas shall be designed to minimise their visual impact and preserve streetscape continuity and shall be constructed of **lightly washed concrete**.

NOTE: Stencil concrete treatments, pebblecrete and unit pavers are not permitted.

NOTE: The access driveway shall be installed prior to the issue of a Final Occupation Certificate.

- (2) 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.
- (3) 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*".
- (4) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access

Stormwater management

- (1) Stormwater shall be disposed of in accordance with the approved stormwater drainage plan *prepared by MSL Consulting Engineers*.

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.

Flued Gas Heater

- (1) Only certified gas appliances are to be installed as part of the development. All gas appliances and gas fitting work including the installation of and any associated duct, piping and chimney work is to be carried out by a suitably qualified person in accordance with the *Gas Supply (Consumer Safety) Regulation 2012* and any other associated applicable Australian Standards including AS5601-2004 *Gas installations*.
- (2) All gas appliances are to be operated and maintained as per manufacturers instructions, manuals and specifications.

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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.
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council.
- (3) All excavations and backfilling must be executed safely in accordance with appropriate professional standards.
- (4) All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.
- (5) If an excavation extends below the level of the base of the footings of ANY structure on an adjoining allotment of land, the person causing the excavation to be made must:
 - a Preserve and protect the structure from damage;
 - b Underpin and support the structure 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 structure 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.
- (6) The Reduced Levels (RL) of the proposed development must be in accordance with the approved plans. Certification of these levels by a registered surveyor must be submitted to an accredited certifier or Council prior to proceeding past that level.
- (7) A survey shall be undertaken and a copy be made available to Council or an accredited certifier, certifying that the building is correctly located in relation to the boundaries of the site and in accordance with the approved plans. Such survey shall be submitted at peg out stage.
- (8) Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;
Monday to Friday - 7.00 am to 6.00 pm
Saturdays - 8.00 am to 1.00 pm
No construction work is to take place on Sundays or Public Holidays.
- (9) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, construction and/or subdivision work. All waste nominated for disposal must be disposed of at a licensed landfill facility. All waste nominated for recycling must be reused or recycled.

Swimming pool

- (1) The swimming pool shall be fenced in accordance with the NSW Swimming Pools Act 1992.

Report of the Director Environmental Services

10.6 10.2017.156.1 - Lot 17 DP 1123051 – 29 Tasman Drive Gerringong –
dwelling & swimming pool (cont)

-
- (2) The fences, gates and latches for the swimming pool shall be provided and constructed in accordance with the provisions of Australian Standards AS 1926 - Fences and Gates for Private Swimming Pools.
 - (3) All excavations shall be enclosed with a temporary fence during construction of the pool.
 - (4) The swimming pool shall not be filled with water until the permanent safety fence has been erected.
 - (5) 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.
 - (6) The pool pump must be housed in an enclosure that is sound proofed.
 - (7) The swimming pool overflow water is not to interfere with any adjoining properties.

Landscaping Works

- (1) All landscape areas shown on the approved landscape plans, shall be landscaped in accordance with the approved plans drawing 17-1339/1 and conditions.
- (2) The Eucalyptus trees shall not be planted directly over the proposed stormwater pipe.

Erosion and sedimentation controls/soil and water management

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

Site facilities

- (1) An appropriate temporary toilet facility shall be provided on site, located inside the property boundaries, prior to commencement of works. The temporary toilet shall be maintained in a clean/sanitary condition at all times.

Report of the Director Environmental Services

10.6 10.2017.156.1 - Lot 17 DP 1123051 – 29 Tasman Drive Gerringong –
dwelling & swimming pool (cont)

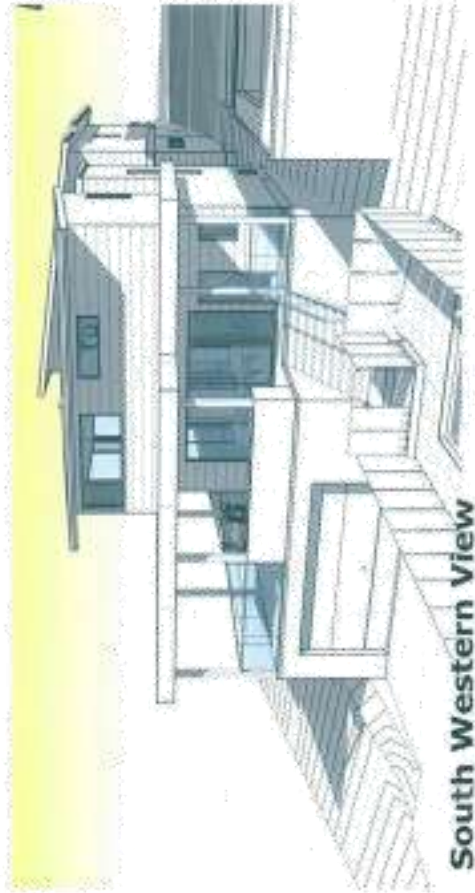
-
- (2) During construction the applicant shall provide, inside the property boundaries, a suitable waste container for the disposal of all papers, plastics and other lightweight materials.
 - (3) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
 - a Stating that unauthorised entry to the premises is prohibited; and
 - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

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

Prior to Occupation

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

Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet.
- (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.
- (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.
- (4) All works on the Drainage Plan are to be fully completed prior to the issue of any Occupation Certificate.
- (5) 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 for South Headland Gerringong, prior to the issue of any Occupation Certificate.
- (6) Prior to release of the Occupation 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.



PERSPECTIVES 2

SOUTH COAST DRAFTING PTY LTD.
 Suite 6, Level 3, 180 West St, Wollongong, NSW, 2500
 P: 044 085 888 E: ping@scdrafting.com.au
 24/11/2017 11:23:05 AM
 2017/01/17/1123051/10.6

South Coast Drafting

PROPOSED SPLIT LEVEL HOME
 SR & SRS DIRECTION
 29 TASMAN DRIVE
 GERRINGONG, NSW 2534
 LOT 17, DP-1123051

DATE: 14/11/17
 DRAWN: S.C.P.
 CHECKED: S.C.P.
 SCALE: 1:50
 PROJECT NO: 2017/01/17/1123051/10.6

DATE: 14/11/17
 DRAWN: S.C.P.
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 SCALE: 1:50
 PROJECT NO: 2017/01/17/1123051/10.6

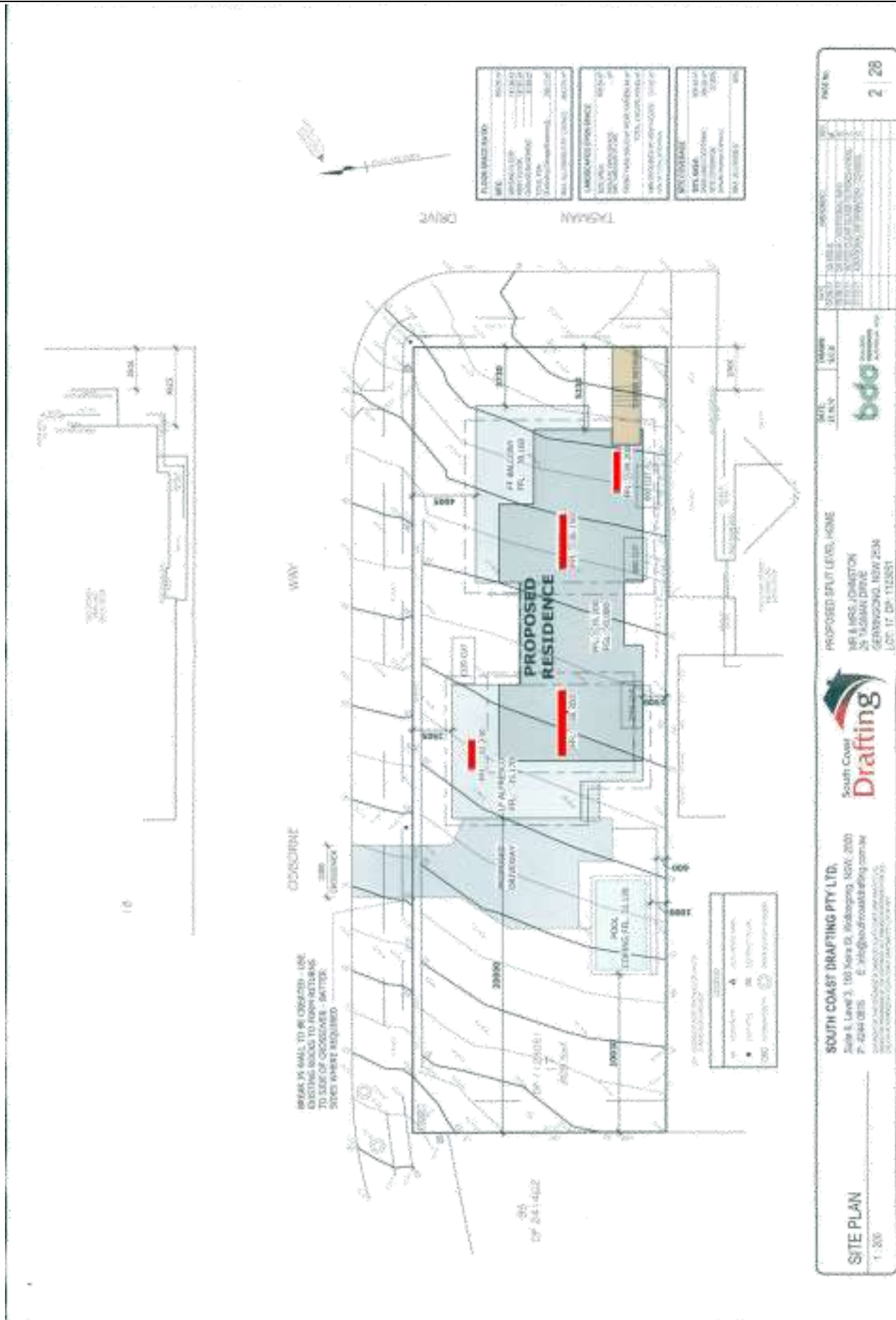
bda

DATE: 14/11/17
 DRAWN: S.C.P.
 CHECKED: S.C.P.
 SCALE: 1:50
 PROJECT NO: 2017/01/17/1123051/10.6



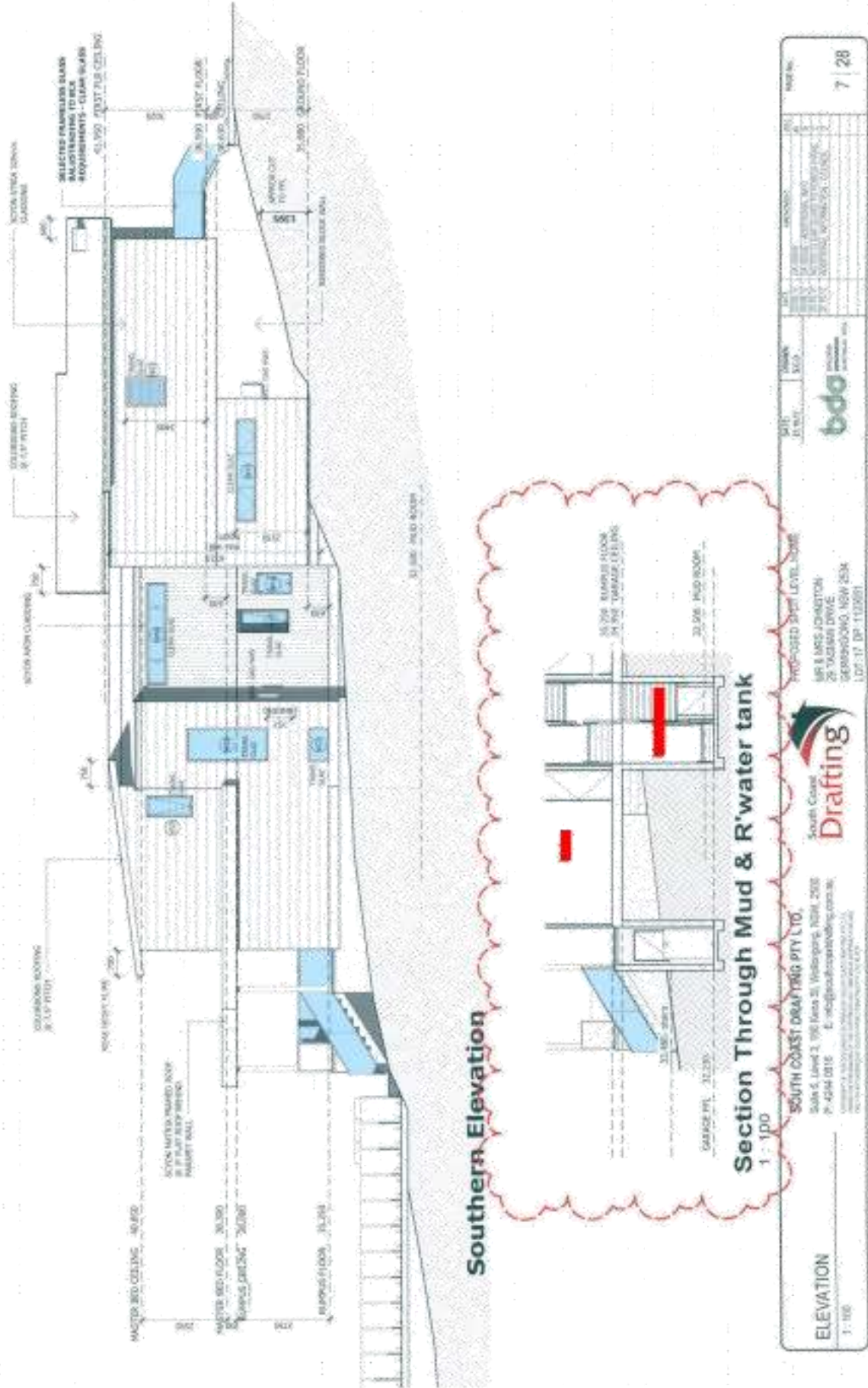
Northern Elevation

PERSPECTIVES	SOUTH COAST DRAFTING PTY LTD. Suite 6 Level 3 152 Maca St. Warrongong, NSW 2506 P: 041 8915 E: info@southcoastdrafting.com.au www.southcoastdrafting.com.au				PROPOSED SPLIT LEVEL HOME MR & MRS JOHNSTON 29 TASMAN DRIVE GERRINGONG, NSW 2534 LOT 17 DP: 1123051		DATE: 21.11.17 DRAWN: ALZ 	SHEET NO. 13 TOTAL SHEETS 28
	SOUTH COAST DRAFTING PTY LTD. Suite 6 Level 3 152 Maca St. Warrongong, NSW 2506 P: 041 8915 E: info@southcoastdrafting.com.au www.southcoastdrafting.com.au							



Attachment 1

Item 10.6

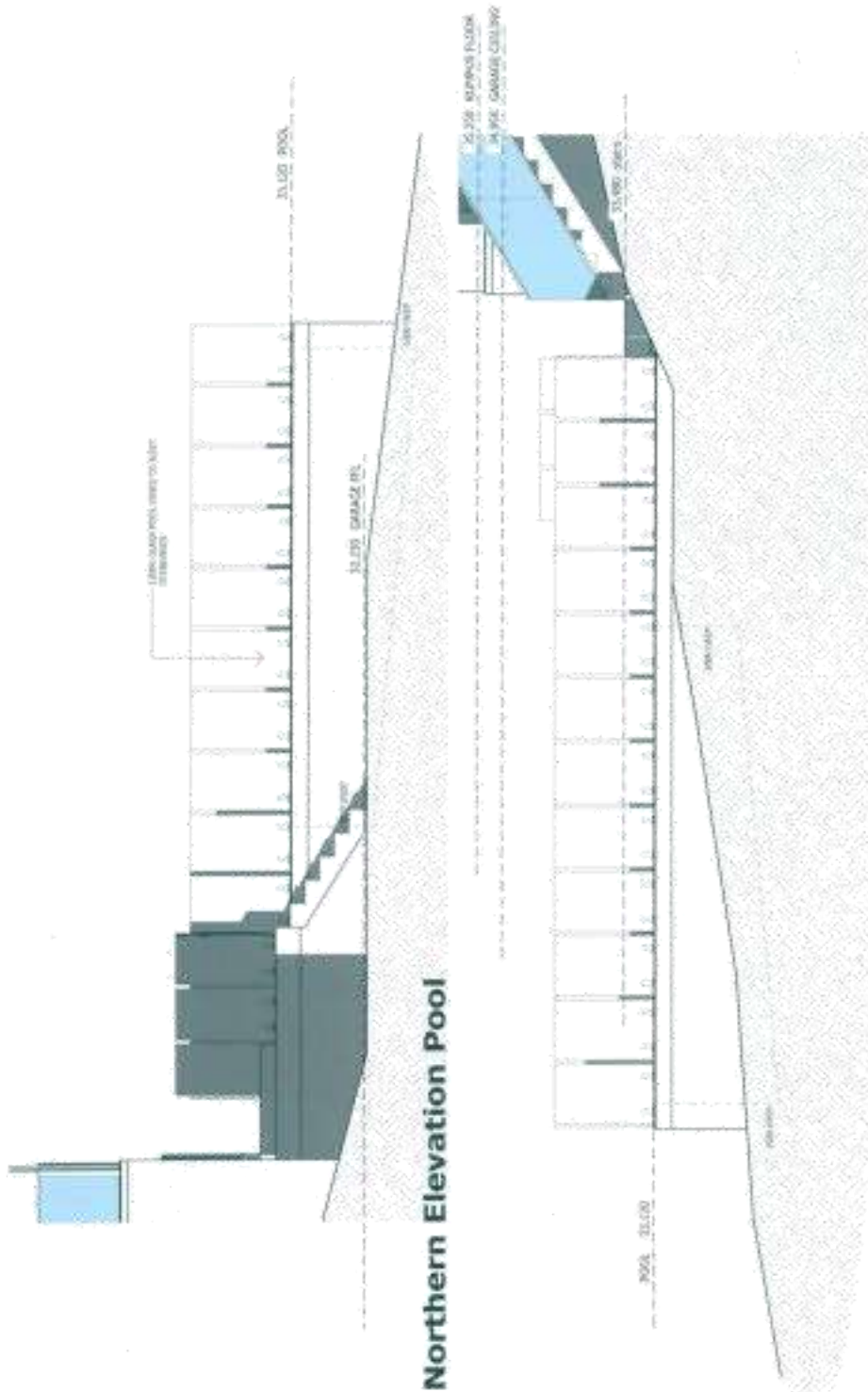


Attachment 1 Item 10.6



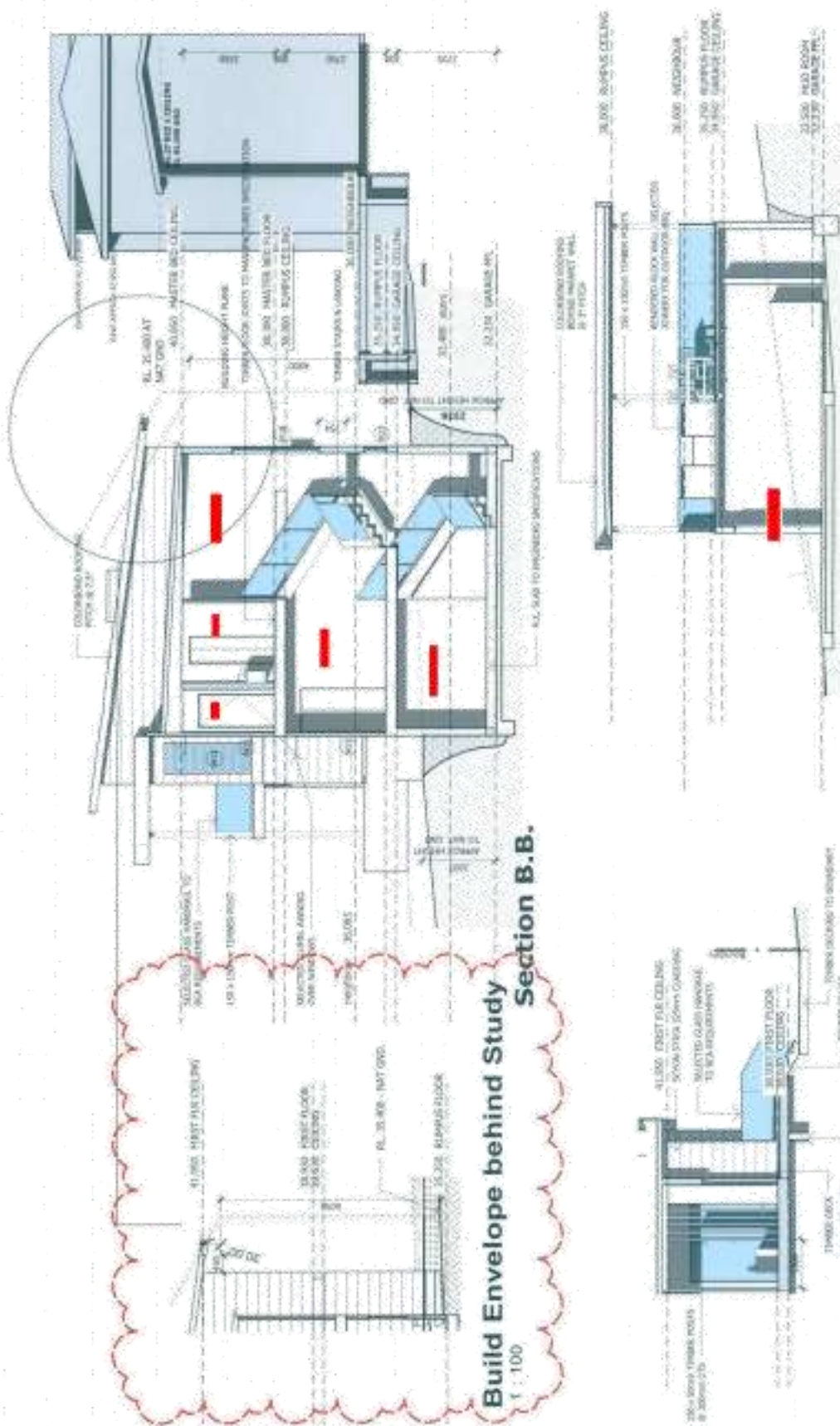
Northern Elevation

ELEVATION 1 / 100	SOUTH COAST DRAFTING PTY LTD, Suite 6 Level 3, 155 Kewada, Wollongong, NSW 2520 P: 0444 2015 87 info@southcoastdrafting.com.au www.southcoastdrafting.com.au		PROPOSED SPILT LEVEL HOME MR & MRS J D BRITTON 28 TAMARA DRIVE GERRINGONG, NSW 2538 (LOT 17, DP 1123051)	DATE:	SCALE:	PROJECT NO.:	FILE NO.:
				17.10.17	1:100	1001	8_28



Southern Elevation Pool

POOL ELEVATIONS		SOUTH COAST DRAFTING PTY LTD.		PROPOSED SPLIT LEVEL HOME		DATE		SCALE		PROJECT		NO. 9	
1:50		Suite 5, Level 3, 150 Katoomba Way, Werrington NSW, 2800 P: 4344 0816 E: info@southcoastdrafting.com.au		MR & MRS JOHNSTON 29 TASMAN DRIVE GERRINGONG, NSW 2574 LOT 17 DP 1123051		20/10/2017		A1/A2		29 TASMAN DRIVE GERRINGONG NSW 2574		9 28	
		South Coast Drafting		bdo									



Alfresco Detail

Entry Detail

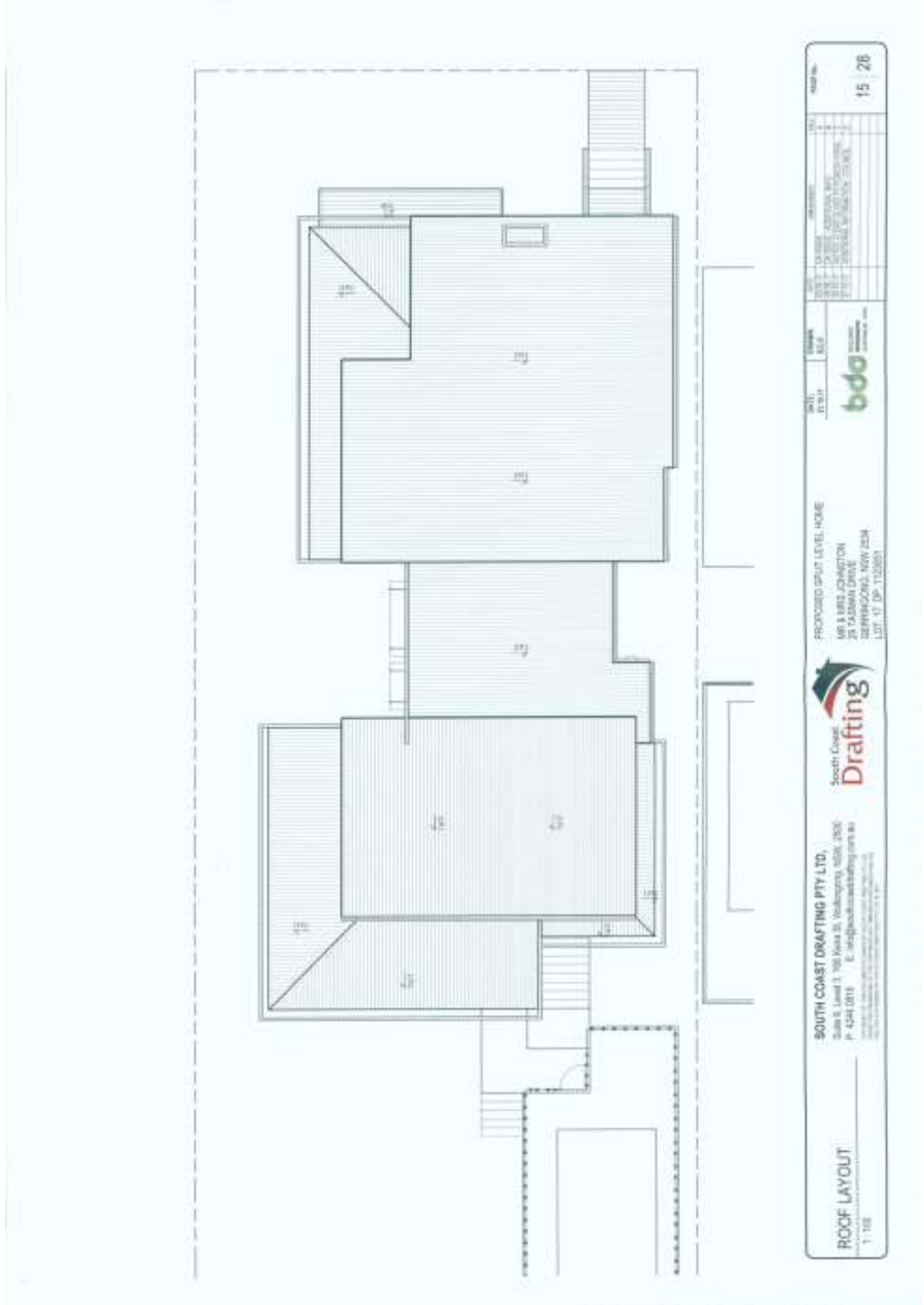
SOUTH COAST DRAFTING PTY LTD.
Suite 2, Level 1, 140-142a Stirling Highway, North Sydney
P: 424 0816 E: info@southcoastdrafting.com.au

South Coast Drafting

PROPOSED SPILT LEVEL, HEAVE
MR & MRS JOHNSTON
25 DUNDON DRIVE
GERRINGONG, NSW 2524
LOT 17 DP 1123051

bda

DATE	DESCRIPTION	BY	CHECKED
11/28			



ROOF LAYOUT
1:100

SOUTH COAST DRAFTING PTY LTD.
Suite 8 Level 1, 100 West St, Wollongong, NSW, 2500
P: 4241 0813 E: info@southcoastdrafting.com.au

South Coast Drafting

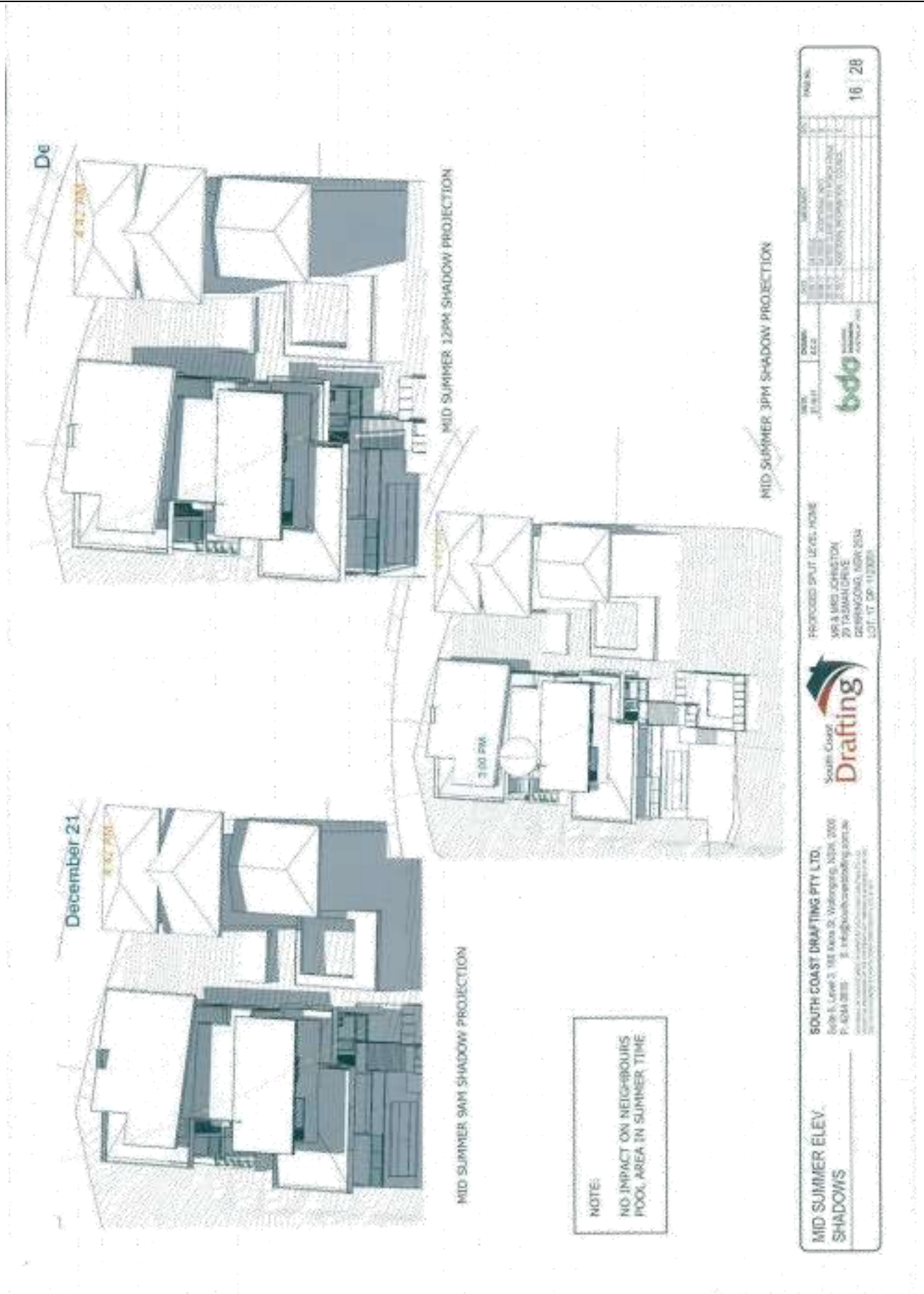
PROPOSED GRU LEVEL HOKE
MR & MRS JOHNSTON
29 TASMAN DRIVE
GERRINGONG, NSW 2524
LOT 17 DP 1123051

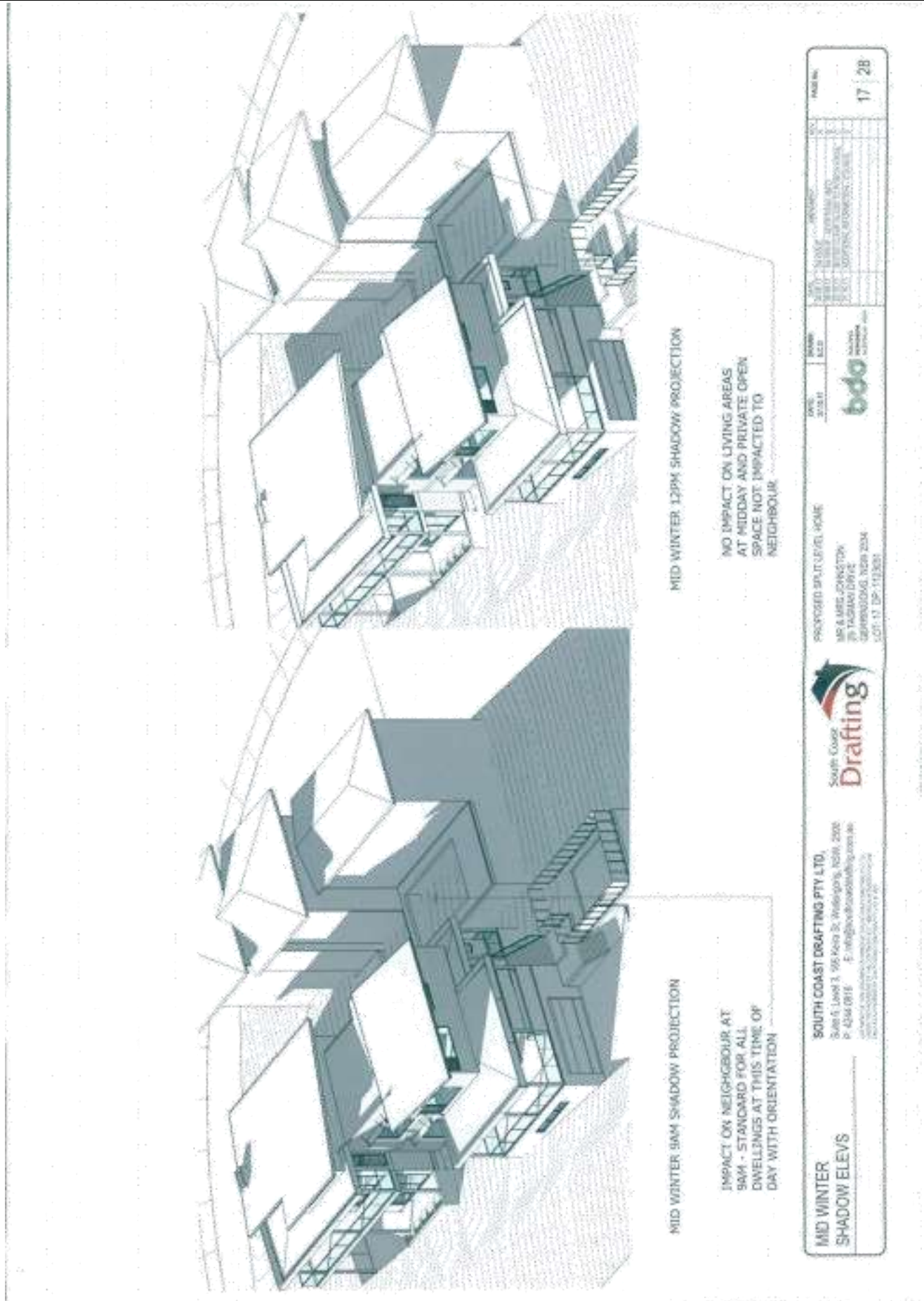
DATE: 14/08/2018
DRAWN BY: ADRIAN WILSON
CHECKED BY: ADRIAN WILSON
SCALE: AS SHOWN

bda

DATE: 15/08/2018

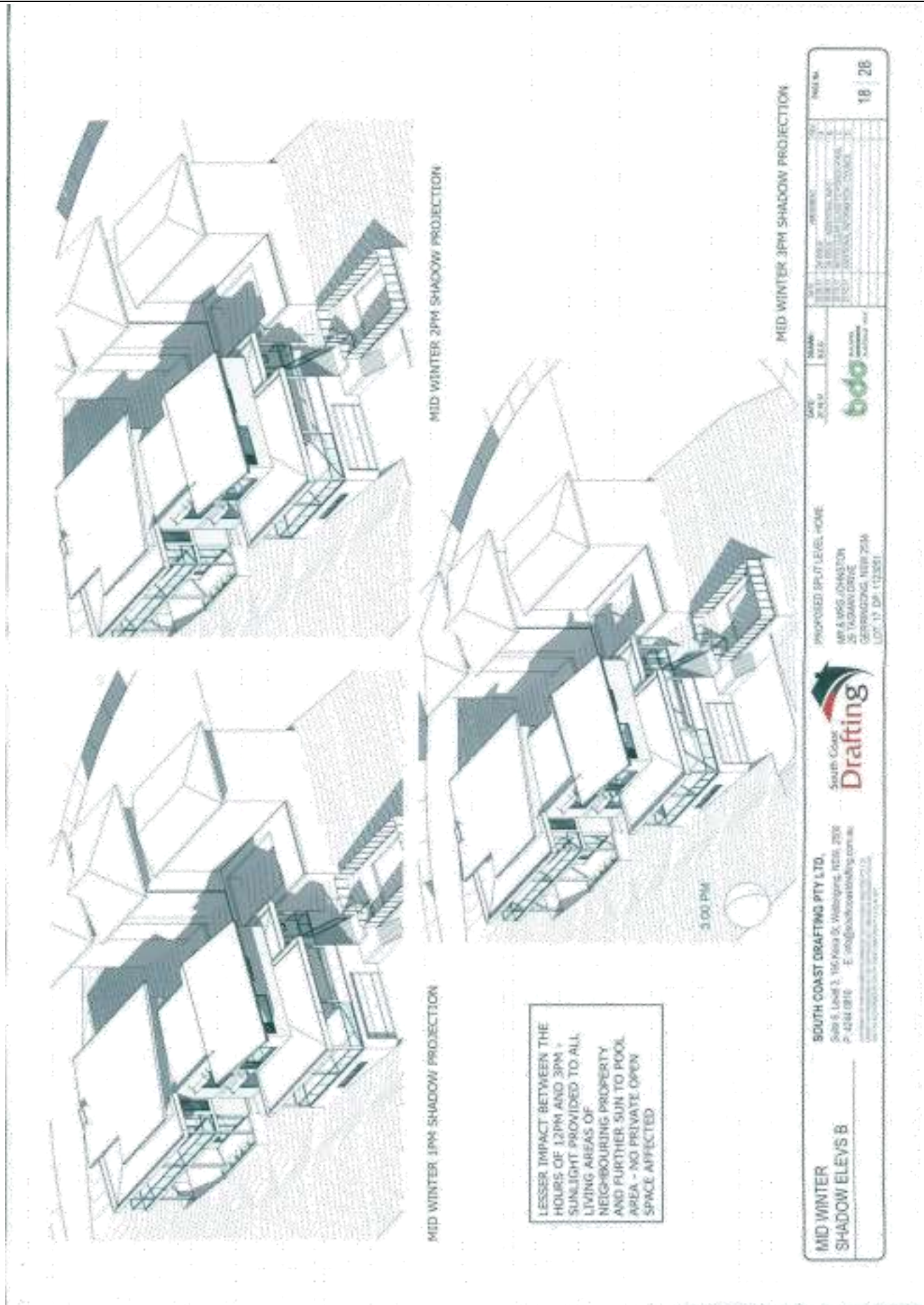
Attachment 1 Item 10.6





MID WINTER SHADOW ELEVATIONS	SOUTH COAST DRAFTING PTY LTD, Suite 1, Level 1, 95A New St, Wollongong, NSW, 2500 P: 4244 0815 E: info@scdrafting.com.au			PROPOSED SPATIAL HOME MR ALAN JOHNSTON 29 TASMAN DRIVE GERRINGONG, NSW 2534 5/01/17 DP-1123051	DATE	SCALE	BY	CHKD	APP'D	DATE
	17/28	1:1			AL	AL	17/28			

Attachment 1 Item 10.6



Attachment 1 Item 10.6



26 July 2017

Your Ref: 10/2017.156.1
Our Ref: ADK:17/0187

The General Manager
Kiama Municipal Council
44 Manning Street
KIAMA NSW 2533

Attention: Greg Herbert

By email: council@kiama.nsw.gov.au

Dear General Manager

RE: DEVELOPMENT APPLICATION 10.2017.156.1 | 29 TASMAN DRIVE,
GERRINGONG NSW | 17/1123051 | DWELLING AND SWIMMING POOL

1. I act for Paul Johnston, the registered proprietor of 29 Tasman Drive, Gerringong, NSW, also known as Lot 17 DP1123051 (**the Land**), in relation to development application 10.2017.156.1 for the construction of a dwelling and swimming pool (**the DA**).
2. I have to hand a copy of a letter received by my client from Kiama Municipal Council (**Council**), dated 4 July 2017. The letter requests additional information and clarification on certain points related to the DA.
3. Chief among Council's concerns, listed as item 1(a) is my client's asserted non-compliance with Chapter 25 of the *Kiama Development Control Plan 2012* (**the KDCP**), in that my client proposes to construct a 3-storey dwelling.
4. I am instructed that the balance of the additional information requested has either been submitted, or is withheld, pending my advice here on the permissibility of the proposed 3-storey development.
5. I am instructed to write to Council addressing the permissibility of 3-storey dwellings on the Land.
6. I note that there is nothing in the *Kiama Local Environmental Plan 2011* (**KLEP**) that would prohibit or otherwise prevent the construction of a 3-storey dwelling on the Land, having regard to relevant provisions in relation to floor space ration (FSR), building height and the Land Use Table.



Planning Development Commercial Lawyers
Level 21, 133 Castlereagh Street, Sydney NSW 2000
Level 2, 73 Church Street, Wollongong NSW 2500
PO Box 214 Wollongong NSW 2520
ABN 64 612 774 848

Liability limited by a scheme approved under Professional Standards Legislation
Legal practitioners employed by Planning Development Commercial Lawyers are members of the scheme.



Chapter 25 of the KDCP

7. Chapter 25 of the KDCP is a site-specific chapter, with only a single clause which states:
C.1 All development must meet the controls relating to Option 1 contained in the technical document Gerringong Headland Master plan.
8. The 'Gerringong Headland Master Plan – Option 1', was prepared by Hill Thalix Architecture + Urban Projects Pty Ltd for Noble Bros Pty Ltd, and is dated September 2003 (the **Master Plan**).
9. The Chapter then goes on to provide a list of controls for development which is 'prohibited' by the KDCP and includes the following:
A summary of some major controls for development that is prohibited:
 - *Residential subdivision or the erection of dwellings otherwise than in accordance with the Adopted Master Plan or an amended master plan adopted under the provisions of this plan*
10. In effect, Chapter 25 of the KDCP is stating that the provisions of the Master Plan prescribe the only development that is permissible on the Land and anything other than what is prescribed by that plan is prohibited.
11. Clause 6.3.2 of the Master Plan requires all development to comply with the maximum site rates for Site Coverage and FSR as depicted in Figure 6.3(i). Figure 6.3(i) provides that dwellings constructed on my client's Land must not exceed two storeys.

Lawful Application of Chapter 25

12. Despite being 'site-specific', Chapter 25 does not expressly identify, in its terms, the land to which it is intended to apply. Instead, it refers to a separate policy document, the Master Plan. The Master Plan identifies Lots 4 and 6 of DP541889 as the 'Land covered by this Master Plan', from which my client's Land was subsequently subdivided.
13. Chapter 25 states that it prohibits all development carried out otherwise than in accordance with the Master Plan.
14. A DCP is not capable of prohibiting development. To the extent that the KDCP purports to prohibit development, it is **invalid**.
15. The scope, purpose and function of DCPs have been expressly clarified by the legislature in amendments made to the *Environmental Planning and Assessment Act 1979 (EPA Act)*, in July 2015. Notably, section 74BA of the EPA Act provides:

74BA Purpose and status of development control plans

(1) *The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:*

- (a) *giving effect to the aims of any environmental planning instrument that applies to the development,*
- (b) *facilitating development that is permissible under any such instrument,*
- (c) *achieving the objectives of land zones under any such instrument.*

The provisions of a development control plan made for that purpose are not statutory requirements.

(2) *The other purpose of a development control plan is to make provisions of the kind referred to in section 74C (1) (b)–(e).*



16. Additionally, section 74C of the EPA Act also provides:

74C Preparation of development control plans

(1) *The relevant planning authority may prepare a development control plan (or cause such a plan to be prepared) if it considers it necessary or desirable:*

(e) *to make provision for anything permitted by this Act to be prescribed by a development control plan.*

17. In *Elachi v Council of the City of Shoalhaven* [2016] NSWCA 15, it was held by the Court of Appeal that a DCP can only operate within the limited bounds it is set by the EPA Act. The Court found (at [20]) that to the extent that the Shoalhaven DCP operated outside its prescribed scope, it was 'invalid'.
18. In this case, the KDCP purports to prohibit development in certain circumstances. This is not the function or purpose which the EPA Act assigns to DCPs. DCPs have the limited function of giving effect to environmental planning instruments, facilitating permissible development and achieving the objectives of land zones. Unless the EPA Act prescribes to DCPs the function of prohibiting certain development, then DCPs are not capable of doing so.
19. Accordingly, to the extent that Chapter 25 of the KDCP attempts to 'prohibit' development that is carried out otherwise than in accordance with the Master Plan, it is invalid and of no effect.

Application of DCPs Generally

20. The Court is consistent in its approach to the application of DCPs, invariably holding that:
- a) DCPs do not prescribe standards;
 - b) the provisions of a DCP are to be applied flexibly;
 - c) a development application will not be refused for failure to comply with one, or even several, controls within a DCP; and
 - d) where the objectives of the control are met, notwithstanding the technical non-compliance, the development should not be refused on the basis of non-compliance with the control.
21. This position is reflected in various determinations of the Land and Environment Court. In *Tonne Legge v Council of the City of Sydney* [2016] NSWLEC 1424, the Court described, at [46] the non-determinative character of the provisions of a DCP and also how councils are not permitted to substitute a provision of the DCP with what it considers to be reasonable. (see also decisions in *DeAngelis v Pepping* [2014] NSWLEC 108, at [151]; *Stamford Property Services Pty Ltd v City of Sydney & Anor* [2015] NSWLEC 1189 at [170]; *Kninloch v Newcastle City Council* [2016] NSWLEC at [78]-[79]; and *Bannerman v Lane Cove Council* [2016] NSWLEC 1116 at [60]).
22. DCPs are intended to be applied flexibly. Section 79C(3A) of the EPA Act specifically provides that where a DCP sets standards that the application does not meet, Council must 'be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development'. To apply a DCP in any other way would offend the directive of the EPA Act.

Lawful Application of the Master Plan

23. The Master Plan does not form part of the KDCP. It is simply called up by the KDCP. It does not hold the same weight as a DCP, nor is it interpreted in the same way.



24. The Master Plan is best identified as a 'Policy' document, adopted by Council for the purpose of regulating development.
25. Policies and studies are relevant to the development assessment process. The Court has held previously that those matters listed in section 79C of the EPA Act are not the only relevant things to which an assessing officer may have regard in determining a development application (see *Carstens v Pittwater Council* [1999] NSWLEC 249 at [22] and [25]).
26. It was held in *Terrace Tower Holdings Pty Limited v Sutherland Shire Council* [2003] NSWCA 289 at [81] that 'a consent authority may range widely in the search for material as to the public interest (see generally *Shoalhaven City Council v Lovell* (1996) 136 FLR 58 at 63; *Patra Holdings Pty Ltd v Minister for Land and Water Conservation* (2001) 119 LGERA 231 at 235).
27. In *The Village McEvoy Pty Limited v Council of the City of Sydney* (No 2) [2010] NSWLEC 17 at [478], the Court considered that 'both the Background Paper and Retail Study were substantial and relevant policy documents to which the Commissioner was entitled to have regard in considering the public interest of the proposed development.'
28. The extent to which the Master Plan is relevant to the assessment of the development application, is determined by the planning principle established in *Stockland Development Pty Ltd v Manly Council* [2004] NSWLEC 472 (*Stockland*). *Stockland* provided that the matters that are relevant when determining the weight to be given to a policy (or study) adopted by a council include the following:
 - a) the extent, if any, of research and public consultation undertaken when creating the policy;
 - b) the time during which the policy has been in force and the extent of any review of its effectiveness;
 - c) the extent to which the policy has been departed from in prior decisions;
 - d) the compatibility of the policy with the objectives and provisions of relevant environmental planning instruments and development control plans;
 - e) the compatibility of the policy with other policies adopted by a council or by any other relevant government agency;
 - f) whether the policy contains any significant flaws when assessed against conventional planning outcomes accepted as appropriate for the site or area affected by it.

Stockland Considerations

29. I have outlined below those parts of the considerations identified in *Stocklands* that are most relevant in this case.

Public Consultation

30. From the information available to me, there does not appear to be any process of public consultation having been engaged in prior to the implementation of the Master Plan for the purpose of the current KDCP. Although the Master Plan itself anticipates a consultation process, there is no evidence that one was observed prior to the Master Plan being implemented for its present purposes.
31. The document identifies collaboration with several government agencies and related bodies, but not with members of the local community in the process of either its drafting or review.
32. It is possible that a public consultation process was observed prior to the Master Plan being incorporated into Schedule 5 of the *Kiama Local Environmental Plan 1996*, but I see no evidence of public consultation prior to implementation for the purpose of the 2011 KDCP. The effect of the Master Plan varies depending on its implementation for the purpose of an LEP or



a DCP. A process of public consultation should have been observed prior to the Master Plan's inclusion in the 2011 KDCP.

Time in Force and Any Review of Effectiveness

33. The Master Plan appears to have been operational since 2003, which is approximately 14 years. However, it has only operated in conjunction with the current KDCP since 2011.
34. From a preliminary search of Council's online records, I cannot see any evidence of the Master Plan having been reviewed to gauge its effectiveness as a document.

Consistency with Existing LEP and DCP Provisions

35. Clause 6.3.2 of the Master Plan, is designed to regulate density and height of buildings by restricting the floor space of dwellings as well as the maximum number of storeys. Density and height are already regulated by the Land Use Table of the KLEP, as well as minimum lot size requirements under clause 4.1, height of buildings requirements under clause 4.3 and floor space ratio limitations under clause 4.4.
36. Additionally, Chapter 4 of the KDCP specifically addresses the relevant factors for determining development applications proposing the construction of dwellings of more than a single storey, in low-density areas. My client's Land is zoned R2 – Low Density Residential. Importantly, Chapter 4 does not attempt to restrict development to a certain number of storeys, but introduces additional considerations as part of the merit assessment, including maintenance of privacy, access to sunlight and visual bulk – all of which are addressed in detail in the Statement of Environmental Effects prepared by SET Consultants, dated 4 May 2017.
37. In my opinion, the terms of the Master Plan are inconsistent with relevant terms of both the KLEP and the KDCP.

Significant Flaws with the Master Plan

38. It appears to me as though the Master Plan is still in a state of draft and is somewhat incomplete. There are sentences throughout the document that are left unfinished, suggesting that the document was not intended to be adopted in its current form.
39. One such example is contained at clause 1.4 of the Master Plan, which provides:

The Gerringong Headland Master Plan 2003, was adopted by Kiama Local Environmental Plan 1996 (Amendment No 40) which commenced..... [sic]
40. Additionally, the Master Plan is drafted in such a way as to contemplate potential adoption as one of three (3) master plan options (see clause 2.5). It does not present as a final document which has been adopted by Council. Rather, it presents as a document submitted for consideration and review. However, it is not clear whether any review was carried out, or whether the document was subject to any amendment or change as a consequence of public consultation. In fact, it appears not.

Conclusion

41. In my opinion, the Master Plan does not hold significant weight in the determination of the DA presently before Council. I have formed this view for the following reasons:
 - a) the Master Plan is not a DCP;
 - b) the Master Plan is, at best, a policy document, the interpretation and weight of which is determined as part of the consideration of the public interest and in accordance with the decision in *Stockland*;



- c) having regard to the planning principle established by *Stockland*, the weight to be given to the Master Plan must be limited due to:
 - i. the apparent lack of public consultation in the preparation and review of the document;
 - ii. its inconsistency with the provisions of the KLEP and the KDCP;
 - iii. how the Master Plan fails to present as a final document, suggesting that it was never intended to be applied in its current form; and
 - d) even if it were arguable that the terms of the Master Plan are embodied in the terms of the KDCP, it would be subject to the provisions of section 79C(3A) of the EPA Act, which demands that the controls be applied flexibly. To do otherwise would offend the directive of the that section.
42. For the reasons outlined above, Council must not refuse the DA on the basis that it fails to comply with the terms of the Master Plan.
43. Notwithstanding Council's asserted non-compliance, the 3-storey dwelling remains consistent with the objectives of the R2 zone, as well as the objectives of the KDCP, as articulated in Chapter 1, which include the following:
- a) To ensure future development responds positively to the qualities of the site and the character of the surrounding locality;
 - b) To promote development that is accessible and adaptable to meet the existing and future needs of all residents;
 - c) To ensure that development contributes to the quality of the natural and built environments;
 - d) To promote development that encourages livable, safe and sustainable living and working environments; and
 - e) To promote development that adds to the character of Kiama and assists in promoting a livable, sustainable environment.
44. I invite Council to consider the relevant matters outlined in this letter prior to determining the DA. If so, I am confident, having regard also to the merits of the proposed development generally, that Council will see clear to determining the application by way of consent.

Yours sincerely

Alex Kelly
Director and Lawyer

Office: (02) 4288 0150
Email: alex@pdclawyers.com.au

Response letter to request for Additional information

For:

Development Application No: 10.2017.156.1
LOT: 17 DP: 1123051, 29 Tasman Drive GERRINGONG
Dwelling & Swimming Pool

Prepared by:
South Coast Drafting Pty Ltd
Suite 1, Level 3, 166 Keira St, Wollongong, NSW 2500
Ph: (02) 4244 0816

The site and development are subject to the provisions of Chapter 25 of Kiama Development Control Plan 2012. That Chapter refers to the Gerringong Headland Masterplan – Option 1, which sets controls for development.

Correspondence with Development Assessment Officer – Building Kiama Municipal Council, Greg Herbert on the 20th October 2017 about a meeting with Kathy O'Connor of 27 Tasman Drive, has formed the basis of these planning considerations.

As per the allowance stipulated in Control 6.4.2(ii), "Balconies, terraces, verandahs, porches and the like may project 2.4m from the Front Setback Line into the Front Garden Area, to a maximum width of 6m." Thus, porches and balconies are permitted beyond the building line.

The porch and balcony of the proposed development project both 1.5m forward of the building line (900mm short of the allowable encroachment), and hence, should have the same concession afforded.

As the projection of the balcony and porch is 1.5m rather than the 2.4m allowable by virtue of this control, I am seeking variation to transfer the 900mm of left-over allowance for the front setback to accommodate for the minor additional width of the Porch.

Along with this, clear frameless glass balustrading conforming to BCA requirements is proposed for the porch and balcony. This selection will ensure no visual obstruction and therefore, no impact to neighbours or the streetscape.

Please see the accompanying revised plans dated 20.10.17 demonstrating the abovementioned considerations attached.

Should you wish to clarify any matter, do not hesitate to contact me.

Yours Faithfully,



Adam Roser
South Coast Drafting.

10.7 10.2017.38.1 - Lot 1 DP 709368 - 4 Dido Street, Kiama - alterations and additions to existing dwelling for a change of use to childcare facility for 39 children and onsite car parking

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 10.7

Summary

This report reviews DA 10.2017.38.1 and recommends approval of the DA subject to conditions.

Finance

N/A

Policy

NA

Reason for the report

This report is submitted to Council following the receipt of 11 submissions.

Attachments

1 10.2017.38.1 - plans [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council approve Development Application 10.2017.38.1 under Section 80 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

BACKGROUND

Applicant: Develop My Land

Owner: Mr C A & Mrs K J Christodoulou

Development Site

The property is described as Lot 1 DP 709368 which is located at 4 Dido Street Kiama. The property is on the corner of Dido Street and Glenbrook Drive in an existing residential housing estate.

The overall site measures approximately 1116m² and is irregular in shape. The site currently contains a dwelling house and is bounded by residential zoned land

Report of the Director Environmental Services

10.7 10.2017.38.1 - Lot 1 DP 709368 - 4 Dido Street, Kiama - alterations and additions to existing dwelling for a change of use to childcare facility for 39 children and onsite car parking (cont)

containing principally dwellings on 3 sides. Land to the west of Dido Street is zoned RU1 and is currently vacant.

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

The site has existing landscaping and slopes steeply from the north-west corner to the south-east corner falling approximately 8m.

The site drains to Council's stormwater system within Glenbrook Drive.

Access to the property is currently gained from Dido Street but as mentioned the property enjoys frontage to Glenbrook Drive. Access to the premises from Jamberoo Road is via a causeway in Dido Street that is cut by flood waters during heavy rainfall events.

The site is serviced by water, sewer, electricity and telecommunications.

The property is affected by an Easement for Transmission Line 30.48m wide for high and low voltage overhead electrical distribution infrastructure that traverse the property.

Description of the Proposed Development

The proposal is to convert an existing two storey residence into a childcare centre for 39 pre-school children serviced by 6 staff members with 11 car parking spaces. The facility will incorporate the existing ground floor and the proposal aims to take advantage of the site slope to create a lower floor within the existing building subfloor area with a disabled compliant lift to service all three proposed floors. Primary car parking area will be located to the southern side of the existing building adjacent to Glenbrook Drive. The outdoor play areas for the 0-3 year olds will be located to the south west of the facility abutting Dido Street and the play areas for the 4-6 year olds will be located to the rear or north east side of the facility.

The existing upper floor area is to be utilised predominantly for equipment storage but may be utilised occasionally for meetings. This area is not required for the general day to day function of the facility.

The proposed development has a total gross floor area of approximately 415sqm with a resultant Floor Space Ratio of 0.37:1.

The proposal includes parking for 11 cars located within two car parking areas:

- 5 staff car parking spaces accessed from Glenbrook Drive
- 4 client car parking spaces accessed from Glenbrook Drive
- 1 staff parking space accessed from Dido Street
- 1 AS2890 compliant disabled car parking space accessed from Dido Street.

The lower carpark is the primary car parking area and is accessed from Glenbrook drive. This car parking area allows for two-way traffic circulation on site with cars entering and exiting in a forward direction.

The upper car parking area contains two parking spaces. One space is a dedicated disabled car parking space, which will only be used intermittently and the second

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space is a nominated staff parking space both of these spaces have no onsite manoeuvring and are reliant upon vehicles reversing onto Dido Street.

Staff numbers comply with the Department of Education and Training ratios of:

- Birth to 24 Months - 1 staff member per 4 children;
- Over 24 months but less than 36 months - 1 staff member per 5 children; and
- Over 36 Months but not yet attending school - 1 staff member per 10 children.

Based on these ratios the 39 place centre will require 6 staff.

One staff member catering to 4 children aged between new born and 24 months, 3 staff members catering to 15 children aged between 24 months and 36 months and 2 staff members catering to 20 children over 36 months but not yet attending school.

The hours of operation of the proposed facility shall generally be limited to 7.30 am to 6.00 pm, Monday to Friday. Generally, children will be dropped off between the hours of 8am - 9am and picked up from 3pm onwards. No trading is proposed on Saturdays, Sundays or Public Holidays.

The proposal is to retain the existing masonry residence with only minor external alterations. No change is proposed to the existing colour palette or external materials as part of this application. The carpark concrete will have a smooth float finish and the crossover and pedestrian pathways will be finished in a contrasting charcoal smooth float finished concrete.

Section 79C Assessment

The proposed development has been assessed in accordance with Section 79C 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)

The site is located within the coastal zone as defined by SEPP 71.

The site is not located within a 'sensitive coastal location' as defined by SEPP 71.

Consideration has been given to the objectives of the SEPP71 and the matters prescribed by Clause 8. The proposed development is considered to be consistent with the objectives of the SEPP.

- State Environmental Planning Policy No 55 - Remediation of Land

A desktop study of past land uses by the proponents has determined that site contamination is unlikely to be an issue based on the existing use of the land for residential purposes and its former use as agricultural land. However, guidelines associated with SEPP – 55 identify past agricultural uses as being a potentially contaminating land use. It is also believed that the site was once used for onsite effluent disposal before connecting to sewer so this potential for contamination and the past agricultural usage needs to be explored further.

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Whilst it is considered that the risk of site contamination is relatively low and the land is considered to be likely suitable for the proposed use, extra precaution is required given the proposed use will involve children. Children are considered to be an extra sensitive group to soil contamination because they have greater interaction with the soil during their periods of outdoor play. Accordingly, a condition will be applied to the development consent, if granted, requiring Phase 1 Contamination Assessment Report be prepared by a suitable qualified and experienced land contamination consultant to validate that the site is suitable for the proposed use prior to the issue of the construction certificate. This will ensure that there was no contaminants present that may harm the children before the use commences.

- Kiama LEP 2011

The subject land is zoned R2 Low Density Residential pursuant to Kiama LEP 2011.

The Objectives of R2 zone include the following:

To provide for the housing needs of the community within a low density residential environment.

To enable other land uses that provide facilities or services to meet the day to day needs of residents.

To increase the supply of secondary dwellings for affordable rental housing stock.

To provide economic and employment opportunities for people who conduct business activities from their homes where these will not adversely affect the amenity of neighbours or the neighbourhood.

It is considered that the proposal is consistent with second and fourth objective subject to the proposal being conducted in accordance with any conditions of development consent to minimise the impact on the amenity of neighbours and the neighbourhood.

Under Kiama LEP the use would be defined as “*Child Care Centre*”:

“*Child Care Centre*” means a building or place used for the supervision and care of children that:

- a) *provides long day care, pre-school care, occasional child care or out-of-school-hours care, and*
- b) *does not provide overnight accommodation for children other than those related to the owner or operator of the centre,*

but does not include:

- c) *a home-based child care or family day care home, or*
- d) *an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children’s Guardian, or*
- e) *a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*

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- f) *a service provided for fewer than five children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or*
- g) *a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or*
- h) *a service that is concerned primarily with the provision of:*
- i. lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or*
 - ii. private tutoring, or*
- i) *a school, or*
- j) *a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998, such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises."*

Item 10.7

Child care centres are a permissible land use with consent in the zone and as stated above the proposal is considered to be consistent with two of the zone objectives.

Specific clauses requiring consideration:

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 does exceed the height shown on the Height of Buildings Map of 8.5m but the dwelling house is existing and the height will not change as part of this application.

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 of 0.45:1. The total area of the development is approximately 415sqm which constitutes an FSR of 0.37:1. The proposal therefore does not exceed the floor space ratio shown for land on the Floor Space Ratio map.

Clause 5.9AA stipulates that trees or vegetation which are not of a species or kind prescribed for preservation in a development control plan may be cut down, lopped or removed. The proposal includes species on the site which are not included within the development control plan and are permitted to be removed as part of the development approval.

Clause 6.1 lists requirements for land affected by Acid Sulfate Soils. The site is subject to Acid Sulfate Soils class 5 and the proposal will not lead to undue impact. This requirement has therefore been satisfactorily addressed.

Clause 6.2 lists considerations for proposals which involve earthworks. The proposal meets with the objectives of the clause and the matters prescribed for consideration are satisfied.

Any draft Environmental Planning Instruments

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- Draft State Environmental Planning Policy (Coastal Management) 2016

The site is located within the coastal zone as defined by this draft SEPP.

The site is not located within a 'sensitive coastal location' and the proposed development is considered to be consistent with the objectives of the SEPP and will not give rise to undue negative impact.

- Draft State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017

The child care centre is subject to the requirements of the abovementioned planning policy that was draft at the time of lodgement of the DA and that has since been adopted by the State Government. The policy encourages the use of a self-assessment checklist based on the Early Childhood Education and Care National Quality Framework which consists of the National Quality Standards, National Early Childhood Education and Care Services Law, National Early Childhood Education and Care Services Regulations, and the curriculum framework, 'Belonging, Being and Becoming: The Early Years Learning Framework for Australia'.

The Early Childhood Education and Care National Quality Framework seeks to ensure that any proposed childcare centre meets all the requirements of the Draft Education and Child Care - State Environmental Planning Policy 2017 and Draft National Childcare Planning Guidelines and complies with the following:

- National Regulations and Quality Standards,
- Indoor Space,
- Ventilation and Natural Light,
- Laundry,
- Administrative Space,
- Toilets,
- Outdoor Environment,
- Fencing,
- Design to Facilitate Supervision,
- Emergency and Evacuation,
- National Construction Code,
- Soil Assessment, and
- Industry Best Practice.

The proponents of the development engaged the services of qualified Early Childhood educational and quality assurance consultant who has extensive experience in the field of early childhood educational services to undertake the self-assessment checklist in collaboration with the proposed owner/operator and provider of the Early Childhood Education and Care Service. The assessment found that the proposed childcare centre has been designed in accordance with the Early

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Childhood Education and Care Law and Regulations including supporting the provision of the National Quality Standards and the delivery of the mandated 'Belonging, Being and Becoming: The Early Years Learning Framework for Australia', a framework for delivering curriculum to children aged 0-5 years.

The proponents of the development also prepared a Design Statement consistent with Part 4.3 of the National Early Childhood Education and Care Regulations. The Design Statement seeks to demonstrate that development as proposed was designed to satisfy the following overarching design criteria:

1. Context

The proposed facility is located in a residential area. It is a re-fit of an existing house and as such will maintain its existing built form which is appropriate to the existing character of its residential context.

2. Built Form

The proposed facility has been designed with the clear brief of creating a centre that evokes feelings of home for the children. The building will utilise materials internally and externally that are consistent with residential development. It will maintain its existing form and therefore is appropriate in terms of scale, bulk and height to the existing and future residential character of the surrounding area.

3. Adaptive Learning Spaces

The proposed facility has been designed with the intent of delivering high quality learning spaces and amenity for children and staff. The re-fit of the existing building has been carefully designed to ensure the building and associated infrastructure are fit for purpose, enjoyable and easy to use.

4. Sustainability

Where possible the re-fit of the existing building ensures natural cross ventilation, solar access and passive thermal design to reduce reliance on technology and operation costs. Building materials will be re-used or recycled where possible to reduce waste. The centre will also ensure there are learning opportunities for students in relation to sustainability, resource efficiency and design innovation.

5. Landscape

The design of the landscape will result in an attractive environment which ensures the centre is well integrated into the landscape character of the streetscape and neighbourhood. There are two outdoor learning areas which will provide outdoor learning environments that are engaging and stimulating. The outdoor learning/play areas will create a setting where children are encouraged to experience a variety of education and play activities in addition to regular activities such as digging, gardening and water play. There is diversity in function and use, age-appropriateness and amenity.

6. Amenity

The proposed facility has been designed to maximise internal and external amenity for children, staff and neighbours. Well-designed internal spaces allow solar access,

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natural ventilation, outlook, ease of access, acoustic privacy and storage. External spaces ensure privacy through screening plants and acoustic fencing. Shade requirements have been met with shade sails and trees. Internal and external spaces are designed to provide comfortable, diverse and attractive spaces to learn.

7. Safety

The proposed facility has been designed with to ensure a safe and secure environment for children and staff. Internally, public and private spaces are clearly defined to allow controlled access for children and members of the community. The external spaces have designed to incorporate CPTED principles to allow for passive surveillance, illumination and to reduce opportunities for antisocial behavior. Play spaces are designed for safety and incorporate surface and plant materials that ensure a low health and safety risk to the children.

Education and Care Services National Regulations for Indoor/Outdoor Space Requirements

The design was found to comply with the specific minimum area requirements referred to in the Education and Care Services National Regulations 107 and 108 relating to unencumbered indoor and outdoor space required to conduct an early childhood education and care service in NSW. On this basis the proposal is considered to meet the requirements of the draft policy.

Development Control Plans (DCPs)

- Kiama DCP 2012

The proposed development is largely consistent with relevant provisions of Kiama DCP 2012 any areas where the proposal fails to comply with the relevant controls are discussed further below.

Chapter 1 – Background, Section 3 - Requirements for all Development Applications, C6 Depending on the type of development, Council may require other specialist consultant reports and to support the application such as a Geotechnical Report. The proponents were requested to provide a Geotechnical Report but declined stating that a Geotechnical Consultant has undertaken an inspection and a Geotechnical Report would be provided at a later stage as a condition of development consent.

Chapter 1 – Background, Section 5 - Site Waste Minimisation and Management Plan (SWMMP) requires a SWMMP be submitted with all development applications in accordance with the SWMMP Template detailing the types of materials, estimated quantities, reuse and recycling opportunities on and off site and for disposal the contractors and destinations the materials will be taken to. The proponents have prepared a SWMMP that details the quantities and destination of waste generated during the construction of the centre.

Chapter 2 – Overall Controls, Section 23 – Importation or Export Off-Site of Soil/Materials to be Used as Fill requires a Soil Analysis Report be prepared and submitted to Council if soil is to be taken off the site for reuse or disposal or if soil is to be imported onto the site. The proponents have prepared a cut and fill

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management plan identifying that approximately 7.22 cubic meters of excavation material is required to be removed to create the lower ground floor level in the existing subfloor of the dwelling. A Site Waste Minimisation Plan provides that the excavated material will largely be distributed on site with 7.22 cubic meters of excess material being taken to an approved landfill site.

A conditions will be applied to the development consent, if granted, requiring a Soil Analysis Report be prepared prior the issue of the construction certificate.

Chapter 9 – Car parking Requirements, Section 2 - Parking Demand and Servicing Requirements, Schedule of Requirements states childcare centres shall provide 1 space per 7 children in care plus 1 space for each staff member on shift. In this instance based on 39 children and 6 staff members a total of 11.57 car parking spaces would be required and C4 of Chapter 9 requires all calculations to be rounded up to the nearest whole number giving a total of 12 spaces being required. RMS's Guide to Traffic Generating Developments requires off-street parking must be provided at the rate of one space for every four children in attendance with no allowance for staff. The proponents of the development have supplied a Traffic and Parking Impact Assessment which concludes that the 11 car parking spaces provided is considered adequate in the circumstances and exceeds by 1, the 10 car parking spaces required by the RMS Guide to Traffic Generating Development.

Whilst the RMS does not outline the required ratio of staff to visitor parking, it is accepted that the rate of 1 space per 4 children provides parking for both parent pick-up/drop-off activity and staff parking with an even split (50/50). This split of parking results in 6 staff spaces and 5 parent pick-up/drop-off spaces. It should be noted that 6 staff spaces have been provided for the proposed child care centre, ensuring all staff cars are accommodated on site at all times.

The site provides a shortfall of 1 car parking space from Council's DCP and a surplus of 1 car parking spaces above the RMS rate. If there is an overflow of car parking it can reasonably be expected to be contained along the sites frontages of Dido Street and Glenbrook Drive which includes parking for a minimum of 4 on-street car parking spaces, ie 2 spaces on Dido Street, 2 spaces on Glenbrook Drive). On this basis the variation is considered to be reasonable.

Chapter 9 – Kiama DCP 2012, Section 3 - Parking Layout and Design Requirements C19 Parking areas shall be designed so that all vehicles enter and leave the subject land in a forward direction and that all manoeuvring of vehicles takes place within the subject site and not the road reserve. The development proposes a primary parking area that complies with this control accessed from Glenbrook St. There are however 2 parking spaces located to the west of the site accessed from Dido St that include 1 disabled space and 1 staff space. All vehicles from these 2 spaces reverse directly onto Dido St. The proponents seek a variation on the basis that there will typically be a minimal number of vehicle movements per day in Dido Street. Furthermore, Dido St is an access only street which services a small number of low density residential houses. The flow along Dido Street would be very low and the impact of vehicles reversing out of the child care centre would be similar to that of the neighbouring domestic properties given that it only serves 2 car spaces, one a staff space and the other a disabled car parking space. Furthermore, the existing garage provides car

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parking in the same location and these vehicles use forward entry and reverse exit onto Dido Street. Finally, it is likely that the one disabled space would be used at a lower frequency than normal child care centres spaces further reducing traffic movements. On this basis the variation is considered to be reasonable.

Chapter 15 – Child Care Centre Uses, Section 1 C2 Child care centres will not be permitted on land within 500m of High voltage telecommunications lines. It is considered that this is a drafting error and the intention was to preclude the establishment of a childcare centre within 500m of High voltage *transmission* lines. The property is affected by an Easement for Transmission Line 30.48m wide for high and low voltage overhead electrical distribution infrastructure that traverse the property. The proponents provided an Electromagnetic Field Assessment in support of their application. The highest readings on the property taken as part of the assessment was 7 milligauss directly below the LV and HV lines. The report's author concluded:

“The readings within the greater part of the areas tested are no more than could be found from common household electrical appliances such as a microwave oven or electric range.”

Based on this report it is considered is reasonable to permit a variation to this spatial separation requirement.

Chapter 15 – Child Care Centre Uses, Section 2 – Access, C3 Access to child care centres should be provided in the form of a separate entry and exit incorporating a one-way traffic flow through the site. The proponents seek a variation on the basis that the site slope makes a dual driveway arrangement unsuitable. A double width driveway is proposed allowing for vehicles to circulate safely on site and enter and exit the site in a forward motion. To reduce conflict between vehicles and young pedestrians a designated footpath has been provided from the Glenbrook Drive carpark to the child care centre. Hence, the footpath has reduced the potential conflicts between vehicles and young pedestrians.

A traffic and car parking impact assessment accompanies this application supporting the variation arguing that to provide a compliant one-way system would require the site to be at a level grade. The existing level (RL) of the site changes rapidly throughout the site. The current levels do not provide an acceptable grade for which vehicles can stop without activating the handbrake which for child care centres is not an acceptable outcome. Hence, to create a car park on level grade would require excessive earthworks to enable car parking to be on an acceptable level grade as per the Australian Standard resulting in an elevated carpark which would be undesirable from streetscape perspective. The current design provides a 5.5m wide driveway complying with the requirement set out in the Australian Standard AS2890.1:2004 Table 3.1 and Table 3.2. Based on the above the Australian Standard the site does not require two separate driveways with a one-way system and the proposed 5.5m driveway width is supportable on traffic, parking and road safety considerations. On this basis the variation is considered to be reasonable. As an efficiency and safety measure the proponents are prepared to provide sensors to ensure clients are aware of vacant parking spaces on site prior to entering the site.

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Chapter 15 – Child Care Centre Uses, Section 4 – Manoeuvring C6 Traffic shall be encouraged to move through the site via a one-way drive through, sealed driveway and footpath crossings constructed to Councils engineering standards. The proponents seek a variation to the one-way drive through design due to the site constraints discussed above. The driveway will be sealed and the driveway and crossings will be constructed to Council’s engineering standards. On this basis the variation is considered to be reasonable.

Chapter 15 – Child Care Centre Uses, Section 7- Building Design C22 requires that to reduce potential noise impact of childcare centres external play areas directly adjoining nearby dwellings should be avoided. The proposal has 2 outdoor play spaces 1 of which is located adjacent to 2 adjoining dwellings. The applicants have little choice to locate at least 1 of the play areas adjacent to adjoining dwellings as the childcare centre is being established through the adaptive reuse of an existing dwelling house which limits site planning options. To counter the close proximity of the outdoor play spaces to neighbouring dwellings the proponents have proposed acoustic mitigation measures such as acoustic fencing and limiting the play space to 10 children at a time. Whilst not ideal if the acoustic measures are satisfactorily employed then the noise impact should be acceptable. On this basis the variation is considered to be reasonable.

Any Planning Agreement

Nil

Any Matters Prescribed by the Regulations

Nil

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 dwelling to be adapted for reuse as a childcare centre is largely existing and subject to relatively minor modification so there will not be a great change to the streetscape in this regard. The car park in Glenbrook Drive is proposed to be landscaped around the periphery tying in with the landscape plan for the centre. Opposite the car park entry is heavily landscaped as is the frontage of 1 Glenbrook Drive. The impact upon the streetscape is reasonable and not considered to be unduly negative as no real established streetscape exists in this section of Glenbrook Drive. Overall the proposal is not considered to be inconsistent with the existing 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. Operational noise has the capacity to disturb the

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neighbours if not appropriately attenuated and managed. The proponents of the development submitted a Noise Impact Assessment Report in support of the application which concluded there will not be any significant ongoing noise impacts arising from the development subject to the adoption of some recommended acoustic attenuation measures and the implementation of Noise Management Policy.

The Noise Impact Assessment Report was prepared by acoustic consultants but the author of the report is not a fully qualified Acoustic Engineer. The report is largely presumptive and lacks critical designed detail for the sound attenuation measures and the expected performance of the sound attenuation measures. However, Council's environmental officers have reviewed the report and are satisfied that it provides a sufficient level of detail to enable informed decision making. Proceeding on the basis that the reports finding and recommendations are correct a number of conditions will be applied to the development consent, if granted, to protect neighbourhood amenity from noise intrusion.

These include a general noise condition stating that the development, including operation of vehicles, shall be conducted so as to avoid the generation of unreasonable noise and cause no interference to adjoining or nearby occupants. Noise from plant, amplified music/speaking/singing and children playing associated with the development shall not exceed the values contained within the Protection of the Environment Operations (Noise Control) Regulation 2017 or 10dBA above background at the closest residential receiver whichever is the lesser.

A Noise Management Plan for the operation of the centre was also submitted in support of the application. The Noise Management Plan supplements the acoustic attenuation measures recommended by the Noise Impact Assessment report to ensure the childcare centre is actively managed to minimise noise disturbance. In this regard the plan limits outdoor play to 2 hours per day maximum ten (10) children at a time. The plan is required to be included in staff training and a summary of the rules for outdoor play displayed in both outdoor play spaces at all times. Signage is to be erected in the car parking areas and the gates reminding parents and staff to keep noise to a minimum.

A condition requiring certification from a suitably qualified and experienced acoustic engineer shall be submitted to the accredited certifying authority, certifying that the design specification of the structural sound attenuation measures erected have been completed in accordance with the Noise Impact Assessment prepared by South East Acoustics Environmental Consulting and the relevant Environmental Protection authority prior to the release of any Occupation Certificate.

As an additional safeguard a condition requiring an overall Acoustic Compliance Report to be prepared by a suitably experienced and qualified acoustic engineer within 90 days after the commencement of full scale operation of the site will be imposed. This will confirm the noise projections made in the Noise Impact Assessment prepared by South East Acoustics Environmental Consulting, that the acoustic compliance of the operating development will address any resulting noise issues. The report shall be submitted to Council.

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Should the development not achieve the acoustic compliance with the applicable guidelines and standards, amendments to the development may be required (with the consent of Council) which may include but are not limited to, changes to the hours of operation, installation of further acoustic treatment, modification of operational procedures, reduction in the number of enrolled children, etc.

- 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 and will not change a great deal from the existing overshadowing created by the dwelling house.

- Views

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

- Vehicular Access, Parking and Manoeuvring

Whilst a shortfall of 1 car parking space is proposed over Council's DCP requirements the proponents have justified a variation and the car parking to be provided is considered to be reasonable in the circumstance.

Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients. As discussed above 2 car parking spaces adjacent to Dido Street will reverse onto the road but this is consistent with the current arrangement from the double garage of the dwelling house and is unlikely to lead to any undue negative impacts in the locality.

- Stormwater Management

A satisfactory drainage design has been provided with the application.

All stormwater will drain to the street.

- Environmental Impacts

Vegetation Removal – Some of the existing trees on the nature strip are proposed to be removed to create the Glenbrook Drive carpark access and to improve site distances from the carpark egress point to the Dido Street intersection. This issue has been considered by Council's Landscape Officer and no concerns have been raised.

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

Impact on Soil Resources – Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent should be imposed, if consent is granted, in relation to soil and water management controls to

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be implemented during construction. Satisfactory implementation of these controls will prevent significant impacts on soil resources.

- 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 is sufficient to warrant refusal of the application. The creation of a childcare centre will have a positive impact socially and economically providing a service to local families along with employment opportunities.

- Contamination from previous land uses

As mentioned above a desktop study of past land uses by the proponents has determined that site contamination is unlikely to be an issue based on the existing use of the land for residential purposes and its former use as agricultural land. However, guidelines associated with SEPP – 55 identify past agricultural uses as being a potentially contaminating land use. It is also believed that the site was once also used for onsite effluent disposal before connecting to sewer so this potential for contamination and the past agricultural usage needs to be explored further.

Whilst it is considered that the risk of site contamination is relatively low and the land is considered to be likely suitable for the proposed use, extra precaution is required given the proposed use will involve children. Children are considered to be an extra sensitive group to soil contamination because they have greater interaction with the soil during their periods of outdoor play. Accordingly, a condition will be applied to the development consent, if granted, requiring Phase 1 Contamination Assessment Report be prepared by a suitable qualified and experienced land contamination consultant to validate that the site is suitable for the proposed use prior to the issue of the construction certificate. This will ensure that there was no contaminants present that may harm the children before the use commences.

- Safety, security & crime prevention

The centre has been designed to have two clear access points. These access points will be well constructed from concrete and will utilise clear sight lines and low impact lighting to allow clients to safely enter and exit the centre. The centre is fully fenced and all accessible gates will be locked outside of centre hours. Landscape abounding access paths and parking areas will not exceed 1m in height to ensure sight lines are not impacted. Areas out of view from entry points will have a gate access which will be locked at all times.

Whilst it is considered that the security risk of the premises is relatively low, given that the centre will be unattended on evenings, during weekends and public holidays the proponents were asked to submit a Crime Prevention through Environmental Design report. This report concluded that proposed design was satisfactory and a condition of consent has been applied requiring that the report be used to inform the Construction Certificate plans & specifications. Detailed plans and supporting documentation demonstrating compliance with this report must be submitted to the accredited certifier prior to the release of the Construction Certificate.

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- Risks to people & property from natural & technological hazards

The property is affected by an Easement for Transmission Line 30.48m wide for high and low voltage overhead electrical distribution infrastructure that traverse the property. The proponents provided an Electromagnetic Field Assessment in support of their application.

The results of the report found the highest readings on the property taken as part of the assessment was 7 milligauss directly below the LV and HV lines.

The report also states:

“This Laboratory is not qualified to comment on the possible effect on the human body by electromagnetic radiation, however the limits set by “Interim guidelines on limits of exposure to 50/60 Hz electric and magnetic fields (1989)” issued by the National Health and Medical Research Council sets the safe limit at 0.1 milliTesla (equals 1000 milliGauss) for continuous safe exposure for “General Public” areas.

It is in our experience and from information published by ARPANSA that higher levels would normally be detected below the distribution assets such as these. Up to 12 milligauss below the 415/240 distribution and up to 80 milligauss below the HV lines. It is probable that the readings could increase with an increase in load on the lines.

It should be noted that the intensity of electromagnetic radiation decreases by a factor of x^2 where x is the distance away from the line under test.

The readings within the greater part of the areas tested are no more than could be found from common household electrical appliances such as a microwave oven or electric range.”

Based on this report it is considered that the risks to people and property from natural and technological hazards is reasonable.

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, 11 submissions were received which raised the following summarised matters of concern:

Traffic and Road Safety

Concern – The road network and local topography make it unsafe for other road users and centre customers. The Glenbrook Drive and Dido St intersection is unsafe due to the topography so putting such an intense use so close to the intersection will only worsen the situation leading to accidents. The Jamberoo Rd and Dido St intersection is already unsafe. Vehicles doing U-turns outside the centre in

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Glenbrook Drive will be hit by cars turning into Glenbrook Drive. Vehicles have nowhere to turn around in Dido Street if they drive past the centre as road is too narrow and no turning head exists. Dido Street road surface is very poor and unsafe extra traffic will cause it to deteriorate further. Vision from driveway is unsafe when exiting via a right turn due to topography. The lack of foot path from Jamberoo Road, Dido Street and Glenbrook Drive means pram users will be forced to walk along the road leading to conflict with vehicles.

Response - Council's Subdivision and Development Engineer has undertaken a review of the development application and advises that:

- The existing road system surrounding the development site is a low traffic area and raises no safety concerns. Satisfactory sight distances exist;
- Drivers making U-turns or three-point turns shall need to drive to the conditions and allow for traffic to pass before completing the turn;
- The road surface is the responsibility of Council to maintain and/or upgrade; and
- It is unlikely that users of the facility will need to walk prams in the existing road system.

The Council's Engineer has concluded that the concerns raised do not warrant a refusal of the application.

Flooding

Concern - Flooding of causeway will preclude access during flood events trapping the children and centre staff until flood waters recede causing the children undue distress or causing parents to risk flood water to get to their children. Flooding of causeway will preclude evacuation during an emergency situation potentially leading to a child's death, examples include choking or anaphylactic reaction.

Response

Council's Subdivision and Development Engineer has undertaken a review of the development application and advises that:

- Refusal of the application cannot be justified based on infrequent closure of Dido Street due to rising floodwaters. A special condition of consent has been recommended for inclusion if the application is approved which reads as follows:

Prior to the issue of any Occupation Certificate the applicant shall submit to the Principal Certifying Authority an Emergency Management Plan and Response Procedures which has been prepared by a suitably qualified and experienced person in the event of the facility becoming inaccessible due to floodwaters crossing Dido Street causeway trapping children at the centre after closing. The Plan should consider the management of a medical emergency at the centre coinciding with restricted access due to flood waters. The final document shall be provided to all parents/carers/guardians at the time of enrolment of their child with the

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childcare facility and the centre shall keep a record of the Plan and Procedures document being issued.

The condition ensures that parents, carers, guardians are well informed of the potentiality of Dido Street being closed to flooding during larger rainfall events and are aware of the Emergency Management Plan and Response Procedures adopted.

- Vehicles can safely ingress and egress the site in a forward direction. Any potential increase in traffic volumes on Glenbrook Drive in the future shall not negatively impact on the safe ingress and/or egress of vehicles from the site.

Car parking

Concern - The carpark proposed is inadequate for a 39 place centre and the single access and maneuvering area will lead to congestion meaning time poor parents will park on street rather than use centre's car park. Insufficient car parking is being provided forcing staff and users to park on Dido Street and Glenbrook Drive. No single entry/exit and drop off area is provided on site leading to congestion and safety issues. The Glenbrook Drive carpark entry/exit is poorly located creating conflict with vehicle entering Glenbrook Drive from Dido Street.

Response – Council's Subdivision and Development Engineer has undertaken a review of the development application and advises:

- The number of spaces for staff and parents is not inconsistent with the requirements of Kiama Development Control Plan 2012;
- It is not possible to restrict parents from parking on the public road system, unless timed parking restrictions are installed; however, this requirement is not warranted at this time;
- The maneuvering areas for vehicles meets relevant Australian Standards;
- A single entry and exit has not been provided in accordance with Control C3 of Chapter 15 of Kiama DCO 2012; however, the relevant objectives have been met through the provision of adequate vehicular access and safe maneuvering on site. It is considered that refusal of the application based on non-compliance with the control could not be justified should the applicant appeal the refusal; and
- Sight lines into and out of the proposed car park are considered satisfactory after removal of street trees.

Noise

Concern - The centre will create excessive noise through both the children playing outdoors and extra traffic disturbing the peaceful nature of the neighbourhood. Early morning drop-off and late pick up will create excessive noise disturbing the neighbours.

Response – As discussed above operational noise has the capacity to greatly disturb the neighbourhood if not appropriately attenuated and managed. The proponents submitted a Noise Impact Assessment Report prepared by acoustic

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consultants but the author of the report is not a fully qualified Acoustic Engineer. The report is largely presumptive and lacks critical designed detail for the sound attenuation measures and the expected performance of the sound attenuation measures. However, Council's environmental officers have reviewed the report and are satisfied that it provides a sufficient level of detail to enable informed decision making. Proceeding on the basis that the reports finding and recommendations are correct a number of conditions will be applied to the development consent, if granted, to protect neighbourhood amenity from noise intrusion. Details about the proposed conditions of consent are discussed earlier in this report.

Use is inappropriate for Residential Area

Concern - Childcare Centre is a commercial use not a residential use and should be in a commercial area

Response - Child care centres are a permissible land use in the R2 Low Density Residential zone.

Concern - Loss of landscaping and creation of car park ruins the residential streetscape.

Response – The car park in Glenbrook Drive is proposed to be landscaped around the periphery tying in with the landscape plan for the centre. Opposite the car park entry is heavily landscaped as is the frontage of 1 Glenbrook Drive. The impact upon the streetscape is reasonable and not considered to be unduly negative as no real established streetscape exists in this section of Glenbrook Drive.

Site is Inappropriate

Concern - Due to the road network, local topography, flood affected access, lack of onsite parking and residential neighbourhood the site is inappropriate for a child care centre of this size.

Response - As discussed above in addressing the concerns raised by objectors and in other sections of this report the site is considered to be appropriate for a child care centre of this size.

External Referrals

The application was referred to the following:

- Endeavour Energy.

The application was referred to Endeavour Energy who are the beneficiary of the easement who raised no objection in relation to the proposed development subject to multiple conditions that have been applied to the development consent.

Internal Referrals

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

- Senior 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.

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- Environmental Health Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Subdivision & Development Engineer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Landscape Design Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Waste Management Officer

No objection has been raised in relation to the proposed development. Conditions of development consent have been recommended should the application be approved.

- Environment 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.

Final Comments and Conclusions

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 79C 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 R2 Low Density Residential zone.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised. 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 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 10.2017.38.1 dated xxxxxxxx except as amended by the following conditions.

(g005.doc)

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- (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)
- (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 two (2) years from the endorsement date of consent after which time the consent lapses unless a further extension of time is granted by Council. (g080.doc)
- (5) 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)
- (6) Road Occupancy approval, under to Section 138 of the Roads Act 1993 shall be obtained from Council prior to any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of the development. This shall include, but is not limited to the following activities:
- erect a structure or carry out work in, on or over a public road;
 - dig up or disturb the surface of a public road;
 - remove or interfere with a structure, work or tree on a public road;
 - pump water into a public road from any land adjoining the road; or
 - connect a road (whether public or private) to a classified road

The following items shall be submitted to Council with the Road Occupancy application a minimum of five days before approval is required:

- A completed application form;
- Fees in accordance with Council's adopted fees and charges;
- A traffic control plan endorsed by a person with Roads & Maritime Services accreditation. The traffic control plan shall satisfy the requirements of the latest versions of Australian Standard AS1742 – Traffic Control Devices for Works on Roads and the RTMS Traffic Control at Worksites Manual. This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development;
- Public liability insurance for an amount of no less than \$20M;
- Where excavation will take place, a security bond in accordance with Council's adopted fees and charges; and
- Where road and footpath levels will be varied or the surface is altered, plans and specifications to Council's requirements.

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- (7) A suitably qualified person shall prepare a Construction Environmental Management Plan (CEMP) and shall be provided to the Principal Certifying Authority for their written endorsement, prior to any works commencing on site. The CEMP shall include, but not be limited to, the following items:
- timing and duration of works;
 - location of work sites offices, compounds, stockpiles and refuelling areas;
 - a description of the site and surrounds and location of environmentally sensitive areas;
 - description of the impacts associated with the construction; activities and control measures;
 - legislative requirements;
 - on-site staff structure and responsibility;
 - staff training, awareness and competency requirements;
 - emergency planning and response;
 - auditing and monitoring; and
 - the supplementary plans:
 - Soil and Water Management Plan;
 - Noise and Vibration Management Plan;
 - Air Quality (Dust Control) Management Plan;
 - Waste Management Plan; and
 - Traffic Management Plan.
- (8) The developer shall ensure that all construction work associated with the development is carried out in accordance with the approved Construction Environmental Management Plan (CEMP) and any variations are approved by the Principal Certifying Authority. A copy of the approved CEMP shall be kept on site at all times.
- (9) The developer shall construct a 1.2m wide concrete footpath along the entire road frontage adjoining the site. Prior to commencing any works, a Road Occupancy approval shall be obtained from the Roads Authority. Certification from the Roads Authority stating that the works have been completed in accordance to its requirements shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.
- (10) The rubbish, green waste and recycling bins shall not be stored within vehicle parking, vehicle manoeuvring areas or landscaped areas.
- (11) The development, including operation of vehicles, shall be conducted so as to avoid the generation of unreasonable noise and cause no interference to adjoining or nearby occupants. Noise from plant, amplified

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music/speaking/singing and children playing associated with the development shall not exceed the values contained within the Protection of the Environment Operations (Noise Control) Regulation 2017 or 10dBA above background at the closest residential receiver whichever is the lesser.

- (12) An overall Acoustic Compliance Report prepared by a suitably qualified and experienced acoustic engineer shall be prepared within 90 days after the commencement of full scale operation of the site, to confirm both the noise projections made in the Noise Impact Assessment prepared by South East Acoustics Environmental Consulting and the performance of the acoustic attenuation measures. The Acoustic Compliance Report shall confirm that the operation of the development is in accordance with Protection of the Environment Operations (Noise Control) Regulation 2017 or 10dBA above background at the closest residential receiver whichever is the lesser. The Acoustic Compliance Report shall address any shortcomings in the acoustic performance of the centre and address any resulting noise issues. The report shall be submitted to Council for review.

Should the development not achieve the acoustic compliance with the applicable guidelines and standards, amendments to the development may be required (with the consent of Council) which may include but are not limited to, changes to the hours of operation, installation of further acoustic treatments, modification of operational procedures, reduction in the number of children enrolled in the centre, etc.

- (13) The childcare centre is to be managed in strict accordance with the Noise Management Plan. The Noise Management Plan shall be included in all staff training and a summary of the rules for outdoor play displayed in both outdoor play areas at all times. Users of the facility are required to enter and leave the facility quietly, signage shall be erected on gates and in the car park reminding users of this requirement.
- (14) The development shall be undertaken in strict accordance with the recommendations, conclusions and recommended actions of the following reports: -
- a Crime Risk Assessment Report prepared by Michael Brown Planning Strategies, dated November 2017.
 - b Operational Management Plan and Noise Management Policy prepared by Dido Street Early Learning Centre, dated November 2017.
 - c Noise Impact Assessment Report prepared by South East Acoustics, dated 9/11/2017.
 - d HAZMAT Register Report prepared by Clearsafe Environmental Solutions, dated 9/11/2017.
- (15) The following acoustic recommendations shall be implemented:
- a. Install a 2.1m high solid fence about the 3 – 6 year old's outdoor play area constructed of Colorbond or a lapped and capped timber fence. The fence

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- shall be located on a base retaining wall on the northern and eastern boundary adjoining residences.
- b. A dense hedge planting of advanced plants will be planted in front of the opens style pool fence to the 0 – 3 old's play area on the Dido Street and Glenbrook Drive frontage.
 - c. Mechanical plant will be enclosed with an acoustic screen and will be fitted with silencers.
 - d. All external gates will be fitted with self-closing polycarbonate soft close gate latches.
 - e. The centre management director, staff and parents be made aware and agree to the centre noise management policy.
 - f. Signage is to be erected in the car parking areas and the gates reminding parents and staff to keep noise to a minimum.
 - g. The centre noise management policy limits outdoor play to 2 hours per day for maximum of ten (10) children at a time in each of the outdoor play spaces.
 - h. The rules for outdoor play shall displayed in both outdoor play spaces at all times.

Endeavour Energy Easement Requirements

- (1) Lowering the existing ground level within the easement is permitted but if an Endeavour Energy a pole or other Endeavour Energy structure is within the designated easement area a five metre square must be retained around it at the present ground level.
- (2) No signage, retaining walls, playground equipment, shade structures or any other structure shall be located within five metres of any poles or wires.
- (3) All ground materials within the easement will be turf, concrete, mulch and timber.
- (4) The construction of any building or structure (including playground equipment, fencing, signage, poles for shade structures, flag poles etc.) that is connected to or in close proximity to Endeavour Energy's electrical network is required to comply with AS/NZS 3000:2007 'Electrical installations' to ensure that there is adequate connection to the earth. Inadequate connection to the earth places persons and the electricity network at risk. Any metal structures or poles located within or adjacent to the easement shall be earthed.
- (5) All clearances within the easement over the property shall comply with the Ausgrid NS220 Overhead Design Manual which require a minimum of 6.0m clearance from any structures located under 33KV transmission lines.
- (6) Prior to release of the Occupation Certificate a survey of the changes in the height of the ground level and including any structures erected with the easement shall be sent to Endeavour Energy for their written approval before the release of the Occupation Certificate.

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- (7) Not do or permit to be done anything that restricts access to the easement site without the prior written permission of Endeavour Energy and in accordance with such conditions as Endeavour Energy may reasonably impose.
- (8) The planting of large trees in the vicinity of electricity infrastructure is not supported by Endeavour Energy. Suitable planting needs to be undertaken in proximity of electricity infrastructure. Only low growing shrubs not exceeding 3.0 metres in height, ground covers and smaller shrubs, with non-invasive root systems are the best plants to use. Larger trees should be planted well away from electricity infrastructure (at least the same distance from overhead power lines as their potential full grown height) and even with underground cables, be installed with a root barrier around the root ball of the plant. Landscaping that interferes with electricity infrastructure may become subject to Endeavour Energy's Vegetation Management program and/or the provisions of the Electricity Supply Act 1995 (NSW) Section 48 'Interference with electricity works by trees' by which under certain circumstances the cost of carrying out such work may be recovered.
- (9) Access to the existing electrical infrastructure adjacent and on the site shall be maintained at all times to ensure that the supply electricity is available to the community. Endeavour Energy and its agents/contractors reserve the right to access the electrical assets as required at any time within the easement.
- (10) Dial before You Dig - before commencing any underground activity the applicant is required to obtain advice from the Dial before You Dig 1100 service in accordance with the requirements of the Electricity Supply Act 1995 (NSW) and associated Regulations. This should be obtained by the applicant not only to identify the location of any underground electrical and other utility infrastructure across the site, but also to identify them as a hazard and to properly assess the risk.

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Bonds and Contributions

- (1) A contribution pursuant to Section 94A of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94A (Indirect Contributions) Plan shall be paid to Council prior to the issuing of any Construction Certificate. The total contribution required for the development is **\$4,000**.

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

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

Where:

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

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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 10.7

Prior to Commencement of Works

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

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

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

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

or

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

(2) The developer shall lodge with Council a bond of \$5,000, 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.

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 applicant must provide, to Council, the appropriate fee for the inspections required for the construction of the footpath crossing/access driveway in

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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. (pt016.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
 - 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 developer shall submit to the Principal Certifying Authority written consent from affected property owners prior to any work being undertaken on adjoining land. (pt050.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)

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- (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. Such detail/advice is to be provided prior to the issue of a Construction Certificate. (pt062.doc)
 - (8) 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. Such detail/advice is to be provided prior to the issue of a Construction Certificate. (pt068.doc)
 - (9) 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. (pt070.doc)
 - (10) The existing building must be upgraded to comply with a Class 9B (assembly building) as defined under the National Construction Code Series 2016. Detailed plans and supporting documentation demonstrating compliance with this condition must be submitted to the accredited certifier prior to the release of the Construction certificate.
 - (11) The proposed new work and access to the new work from the principal entry must comply with the Disability (Access to Premises - Buildings) Standards 2010. Detailed plans and supporting documentation demonstrating compliance with this condition must be submitted to the accredited certifier prior to the release of the Construction certificate.
 - (12) The applicant shall demonstrate by way of detailed design, compliance with the relevant access requirements of the BCA and AS 1428 – Design for Access and Mobility. Detailed plans and supporting documentation demonstrating compliance with this condition must be submitted to the accredited certifier prior to the release of the Construction certificate.
 - (13) A Soil Analysis Report shall be prepared and submitted to Council for written approval prior to soil be taken from or imported to the site. Supporting documentation demonstrating compliance with this condition must be submitted to the accredited certifier prior to the release of the Construction certificate.
 - (14) Detailed plans and supporting documentation demonstrating compliance with the Lighting Plan prepared by Vision Lighting dated 2/11/2017 must be submitted to the accredited certifier prior to the release of the Construction Certificate.
 - (15) The Crime Prevention through Environmental Design report shall be used to inform the Construction Certificate plans & specifications. Detailed plans and supporting documentation demonstrating compliance with this report must be submitted to the accredited certifier prior to the release of the Construction Certificate.

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- (16) A Phase 1 Contamination Assessment shall be prepared by a suitably experienced and qualified contaminated land consultant to investigate the potential for land contamination arising from past land uses. Such a report shall investigate the site for contaminants and recommended remediation measures should contamination be encountered and verifying that the subject site is suitable for the proposed land use. Such detail/advice is to be provided prior to the issue of a Construction Certificate.

Demolition Works

- (1) 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)

- (2) **Asbestos – Statement Required**

No later than seven 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 AS2601-1991; and
- (b) A hazardous substances management plan prepared by a competent and appropriately qualified person in compliance with AS2601-1991.

Asbestos – Licensed Contractors

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Demolition Licence or a current WorkCover Class 2 (Restricted) Asbestos Licence.

Asbestos – Notification of Neighbours

Fourteen 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.

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.

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Asbestos – Less than 10m² of Bonded Asbestos Sheeting

Demolition works involving the removal of less than 10m² 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 have been satisfied. (dw015.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)

Civil Engineering Design

- (1) 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 driveways, car spaces & aisles;
- c The proposed pavement treatment to the access driveways, car spaces & aisles. The minimum surface treatment shall be exposed aggregate or coloured cement concrete, plain concrete and bitumen shall not be used;
- d The location and reduced level of all services under the control of public utilities or agencies.

All reduced levels shall relate to Australian Height Datum (AHD). (ced030.doc)

Access Construction

- (1) The developer shall restore any redundant vehicle crossing to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*". (ac010.doc)
- (2) The applicant must provide, to Council, the appropriate fee for the inspections required for the construction of the footpath crossing/access driveway in

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- 10.7 10.2017.38.1 - Lot 1 DP 709368 - 4 Dido Street, Kiama - alterations and additions to existing dwelling for a change of use to childcare facility for 39 children and onsite car parking (cont)
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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) Parking shall be provided on site for a minimum of eleven (11) vehicles in conjunction with the development proposal and as indicated on the approved plans. (c010.doc)
- (2) The car parking and manoeuvring area shall be line marked and signposted in compliance with the requirements of the Australian Standards AS 1742.2, AS 1743, AS 1744, AS/NZS 1906.1, AS 1906.2, AS 1906.3 and AS 4049.1. (c025.doc)
- (3) Prior to the issue of any Construction Certificate, written certification from a suitably qualified civil engineer and/or traffic engineer (accredited by Engineers Australia) shall be submitted to the accredited Certifying Authority which certifies that parking spaces, access driveways, parking aisles & blind aisles comply with:
 - Australian Standard AS2890.1:2004 - Parking Facilities Part 1: Off-street parking;
 - Australian Standard AS2890.6:2009 - Parking Facilities Part 6: Off-street for people with disabilities
- (4) The car parking spaces accessed from Glenbrook Drive shall have car parking sensors installed advising drivers if spaces are available or occupied.

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) Surface water which is likely to discharge from the development site onto the road reserve shall be intercepted at the property boundary and conveyed to the kerb via a pipe outlet. (sm025.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

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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 Chartered Professional Engineer's certification for the structural design and construction of detention tanks to the Principal Certifying Authority prior to the release of any occupation certificate. (sm080.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)

- (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)
- (10) Prior to issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the design of the development causes no adverse effects to adjoining properties as a result of stormwater run-off.
- (11) Prior to issue of any Construction Certificate, the accredited Certifying Authority shall ensure that allowance is made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other adjoining properties.

Environmental Health**(1) Fixtures and Fittings**

Every fixture, fitting or appliance shall be so constructed as to be:

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- impervious, durable, non-toxic, and resistant to corrosion;
 - free from cracks and crevices;
 - capable of being easily and thoroughly cleaned; and
 - so constructed as to prevent the harbourage of vermin.

(2) Cooking equipment

Cooking equipment and similar heating appliances shall be:

- supported on approved wheels or castors; or
- supported on 150mm high legs and separated from all walls and other equipment or fixtures by a minimum of 150 millimetres; or
- fixed or butted against walls or other equipment and supported on 150mm high legs. All joints between the appliances and walls shall be suitably flashed and imperviously sealed in such a manner as to eliminate any open joint, space, crevice or cavity which may allow liquids, food particles, grease or other refuse to collect.

(3) Floors

Floors shall be:

- appropriate for the area;
- able to be effectively cleaned;
- non-absorbent;
- laid according to the relevant Standards (see AS 3958.1 for ceramic tiles) so that there is no ponding of water and harbouring of pests;
- finished with surfaces as specified in Table 3.1 of AS 4674-2004;
- coved providing a continuous uninterrupted surface between the floor and the wall refer to Figure 3.1 of AS4674-2004.

(4) Walls and Ceilings

Walls and ceilings must be:

- a) sealed to prevent the entry of dirt, dust and pests;
- b) unable to absorb grease, food particles or water; and
- c) able to be easily and effectively cleaned. Thus it is recommended food storage areas be finished with one or a combination of the following materials:
 - glazed tiles;
 - stainless steel or aluminium sheeting;
 - laminated thermosetting plastic sheeting;
 - similar impervious material adhered directly to the wall.

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The finishing materials of the wall surfaces shall provide a smooth even surface, free of buckles or legs, fixing screws, picture rails, open joint spaces, cracks or crevices.

The use of feather edge skirting is not permitted and the junction between adjacent wall finishes shall not form a ledge upon which dust or grease can accumulate.

(5) Food Storage

The applicant must when storing food, store the food in such a way that:

- (a) It is protected from the likelihood of contamination; and
- (b) The environmental conditions under which it is stored will not adversely affect the safety and suitability of the food.

The applicant must when storing potentially hazardous food:

- (a) Store it under temperature control; and
- (b) If it is food that is intended to be stored frozen, ensure the food remains frozen during storage.

The premises must have sufficient storage space and shelving 150mm off the floor as no food, packaging or equipment is to be stored on the floor so as to ensure ease of cleaning.

(6) Specific Requirements

Food storage and cutting of fruit and vegetables only (no food processing or preparation to occur on-site). This proposal is approved on the condition that no food processing or preparation other than cutting of fruit and vegetables occurs on site. It has been advised that children will be bringing food from home for consumption at the day care. The definition of "food processing" in relation to food, means activity conducted to prepare food for sale including chopping, cooking, drying, fermenting, heating, pasteurising, thawing and washing, or a combination of these activities.

(7) Potentially Hazardous Foods

To allow for potentially hazardous foods to be prepared in the kitchen you will be required to install another sink and ensure the fit-out complies with AS 4674-2004 Design, construction and fit out of food premises.

(8) Prior to Operating

- Prior to opening the proprietor must contact Council's Environmental Health Officer to organize a final inspection.
- Prior to opening complete Councils Food Registration Form.

(9) Compliance with the Following is Required

- Design, construction and fit-out of food premises AS4674-2004
- Food Act 2003

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- 10.7 10.2017.38.1 - Lot 1 DP 709368 - 4 Dido Street, Kiama - alterations and additions to existing dwelling for a change of use to childcare facility for 39 children and onsite car parking (cont)
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- Food Safety Standards 3.2.3
- Food Regulations 2015
- Development Control Plan Chapter 11 – Waste requirements

Utility Servicing

- (1) 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)
- (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) The developer shall engage a Chartered Professional Engineer practising in the field of geoscience to supervise all filling activity and submit to the Principal Certifying Authority, prior to the issue of the subdivision certificate, certification that all filling has complied with the approved plans and specifications. The certification shall include appropriate test results, a test location diagram and the date of testing. (gr045.doc)
- (2) 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)
- (3) All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with AS 4482.2 and tested by a certified National Association of Testing Authorities Australia (NATA) registered laboratory for contaminants. Based on the test results certification shall be provided to the Principal Certifying Authority prior to the issue of any occupation certificates by a suitably qualified geotechnical engineering consultant confirming the imported fill is suitable for use in residential development. Any imported fill found to not be suitable for residential use shall be removed / remediated in accordance with the NSW Department of Environment, Climate Change and Water requirements. (gr065.doc)

Inspections

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

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) 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 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 - 7.30 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)

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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) 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:
- 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)

Energy Efficiency

- (1) 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)

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- (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 accordance with the approved landscape plans and the conditions of this development consent. (lw035.doc)
 - (4) Prior to release of the Occupation 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 tree(s) shall have backfill placed around its base or have the original ground level altered. (vm010.doc)
- (2) Protection fencing shall be erected around the two (2) street trees to be retained on site so as to prevent damage to the roots of the tree. The fencing shall be erected prior to the commencement of works. The fencing shall consist of 1.8 metres high cyclone wire supported on galvanised steel posts at a minimum 2.0 metre centres. The fencing shall be maintained and shall remain in situ until all building works are completed. No machinery, builder's materials and/or waste shall be located inside the fencing. (pt035.doc)
- (3) The trees and shrubs shown for removal on the landscape plan shall be removed for the development. The Eucalyptus microcorys (Tallow wood) and the Eucalyptus racemosa (Scribbly gum) in the road reserve of Glenbrook Drive near the corner of Dido Street shall be removed for the driveway crossover and sightlines. The Photinias and other shrubs in the road reserve of Glenbrook Drive shall be removed for vehicle sightline safety. The ground shall be made even and turfed suitable for pedestrian access.

Site Facilities

- (1) An appropriate temporary toilet facility shall be provided on site, if required, 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

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- 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 developer shall complete all drainage, access driveways, car spaces & aisles works prior to the issue of any occupation certificate. (po010.doc)
- (3) Prior to the issue of any Occupation Certificate the applicant shall submit to the Principal Certifying Authority an Emergency Management Plan and Response Procedures which has been prepared by a suitably qualified and experienced person in the event of the facility becoming inaccessible due to floodwaters crossing Dido Street causeway trapping children at the centre after closing. The Plan should consider the management of a medical emergency at the centre coinciding with restricted access due to flood waters. The final document shall be provided to all parents/carers/guardians at the time of enrolment of their child with the childcare facility and the centre shall keep a record of this plan and procedures document being issued.
- (4) Certification from a suitably qualified and experienced acoustic engineer shall be submitted to the accredited certifying authority, certifying that the design specification of the structural sound attenuation measures erected have been completed in accordance with the Noise Impact Assessment prepared by South East Acoustics Environmental Consulting and the relevant Environmental Protection authority prior to the release of any Occupation Certificate.
- (5) Prior to the issue of any Occupation Certificate the applicant shall install a vehicle safety barrier in the form of a guardrail, designed and built in accordance with Council standards. The guardrail shall be situated behind the existing kerb line and extend from the proposed driveway crossing in Dido Street to the proposed driveway crossing in Glenbrook Drive, or a lesser length as determined by the Roads Authority. The work shall not be commenced until approval is issued by the Roads Authority (pursuant to the requirements of the Roads Act 1993). The Principal Certifying Authority shall not issue any Occupation Certificate unless the Roads Authority has provided confirmation that the guardrail has been constructed in accordance with the requirements of the Road Authority.

Site Operations

- (1) The hours of operation of the centre shall be restricted to between 7.30am and 6.00pm Monday to Friday, inclusive. The centre is not permitted to operate

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outside of these times and shall be closed, Saturdays, Sunday and all public holidays. Any operation outside of these times requires separate approval from Council. (sop005.doc)

- (2) The maximum number of staff permitted on the site at any one time is restricted to six (6). Separate approval is required to increase the number of staff attending the centre. No approval is given for a centre manager.
- (3) The maximum number of children permitted on the site being cared for by centre staff at any one time is restricted to a maximum of thirty nine (39). Separate approval is required to increase the number of children attending the centre. Siblings of children in care are permitted to briefly attend the site with their parents/guardians and carers during drop off and pick up of children receiving care.
- (4) Outdoor play is not permitted before 8am or after 5.30pm. Only ten (10) children are permitted to be playing in each outdoor play space at any time. Children are required to be supervised by a staff member when playing outside at all times. Noisy behaviour and rowdy play is to be discouraged by staff, upset and crying children are to be directed back inside the centre for comforting.

Conveyancing Requirements

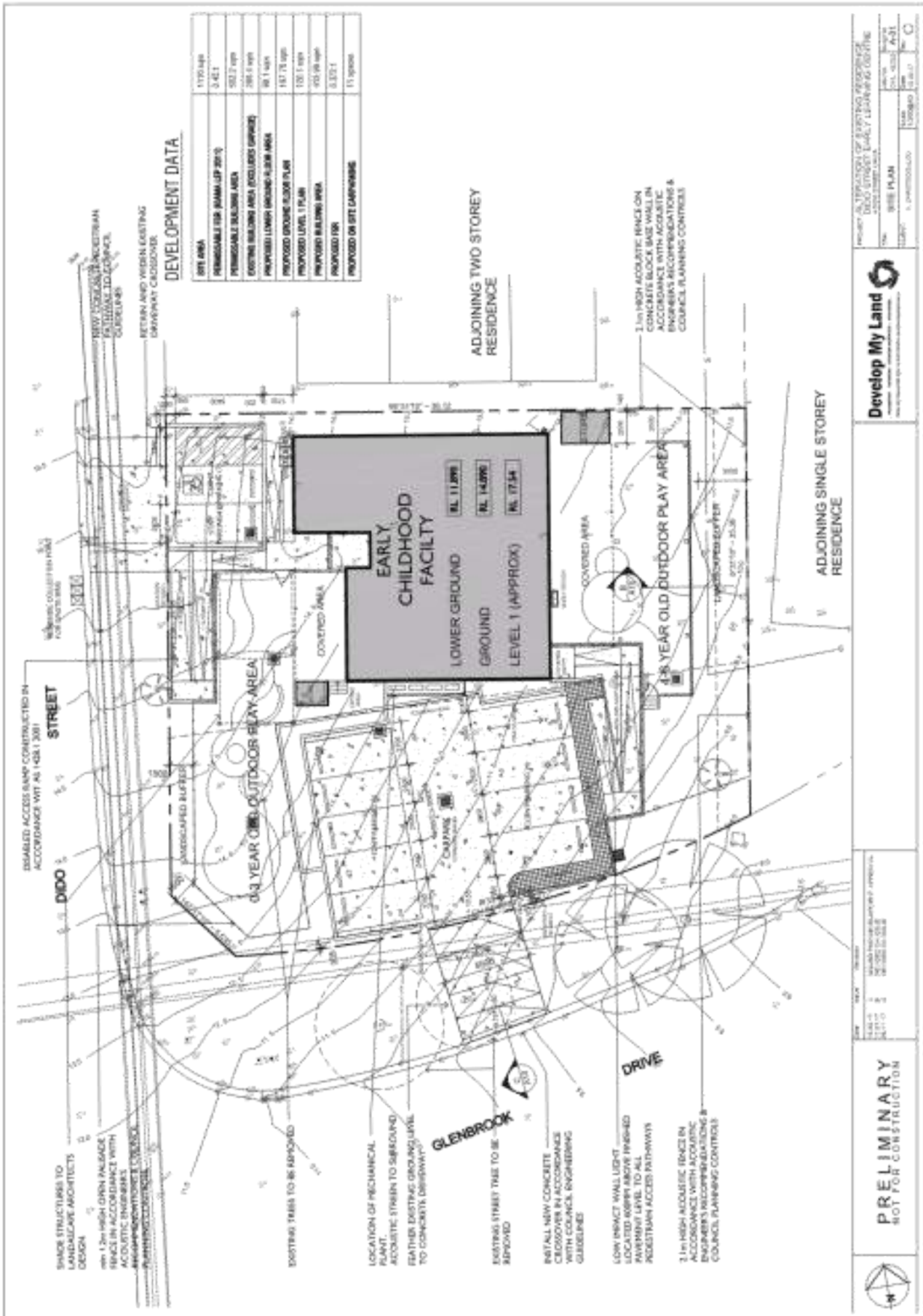
- (1) Under the provisions of Section 88B/88E of the Conveyancing Act 1919 the developer shall provide a restriction on the use of land and a positive covenant in favour of Kiama Municipal Council detailing protection measures and long term maintenance requirements for onsite stormwater detention and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

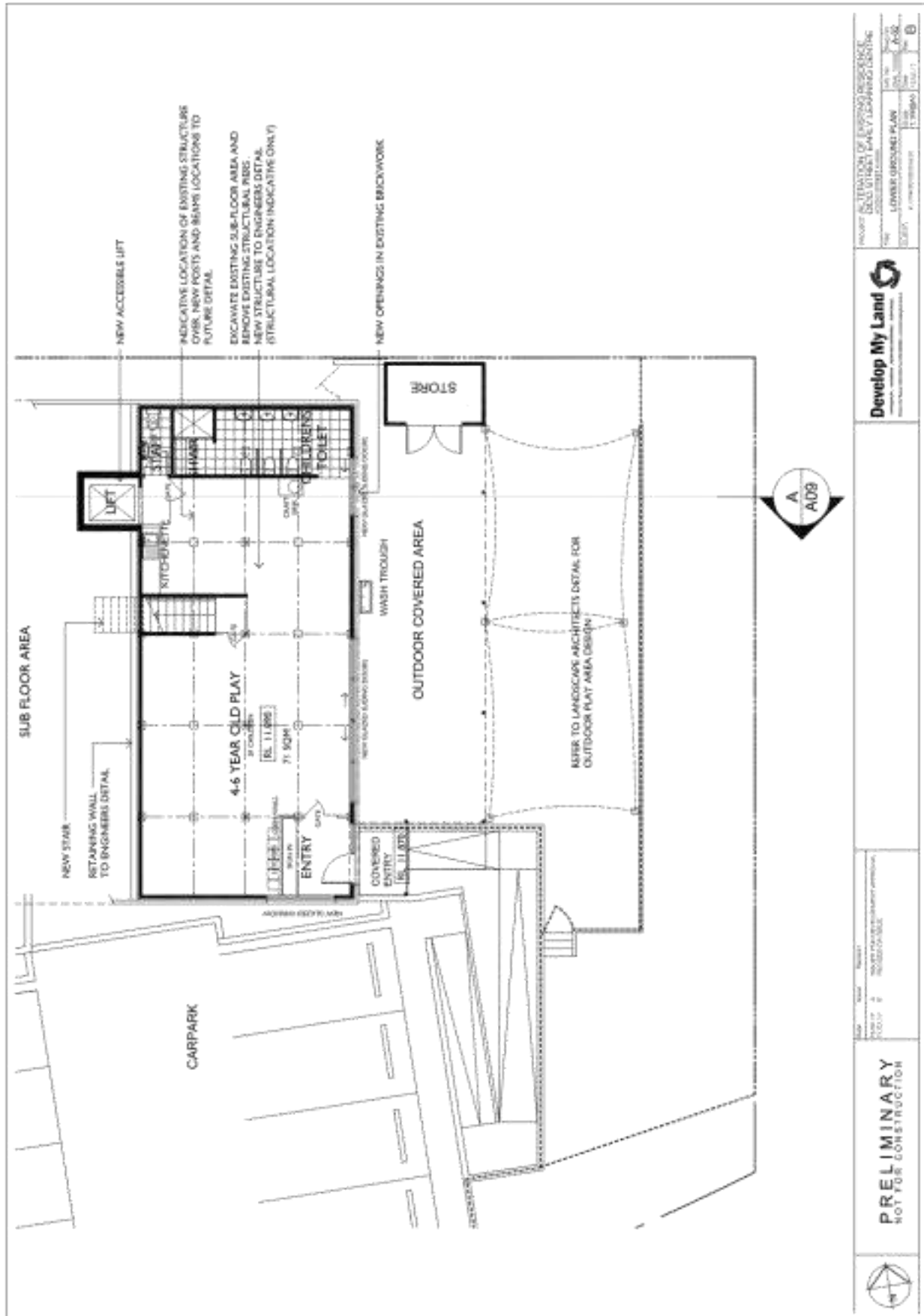
The document shall meet the standard terms applied by Council and shall be submitted to Council for assessment and approval and shall have these titles registered with NSW Lands & Property Management Authority under Sections 88B/88E of the Conveyancing Act 1919.

The above requirements shall be undertaken prior to the issue of any Occupation Certificate. (cr040.doc)



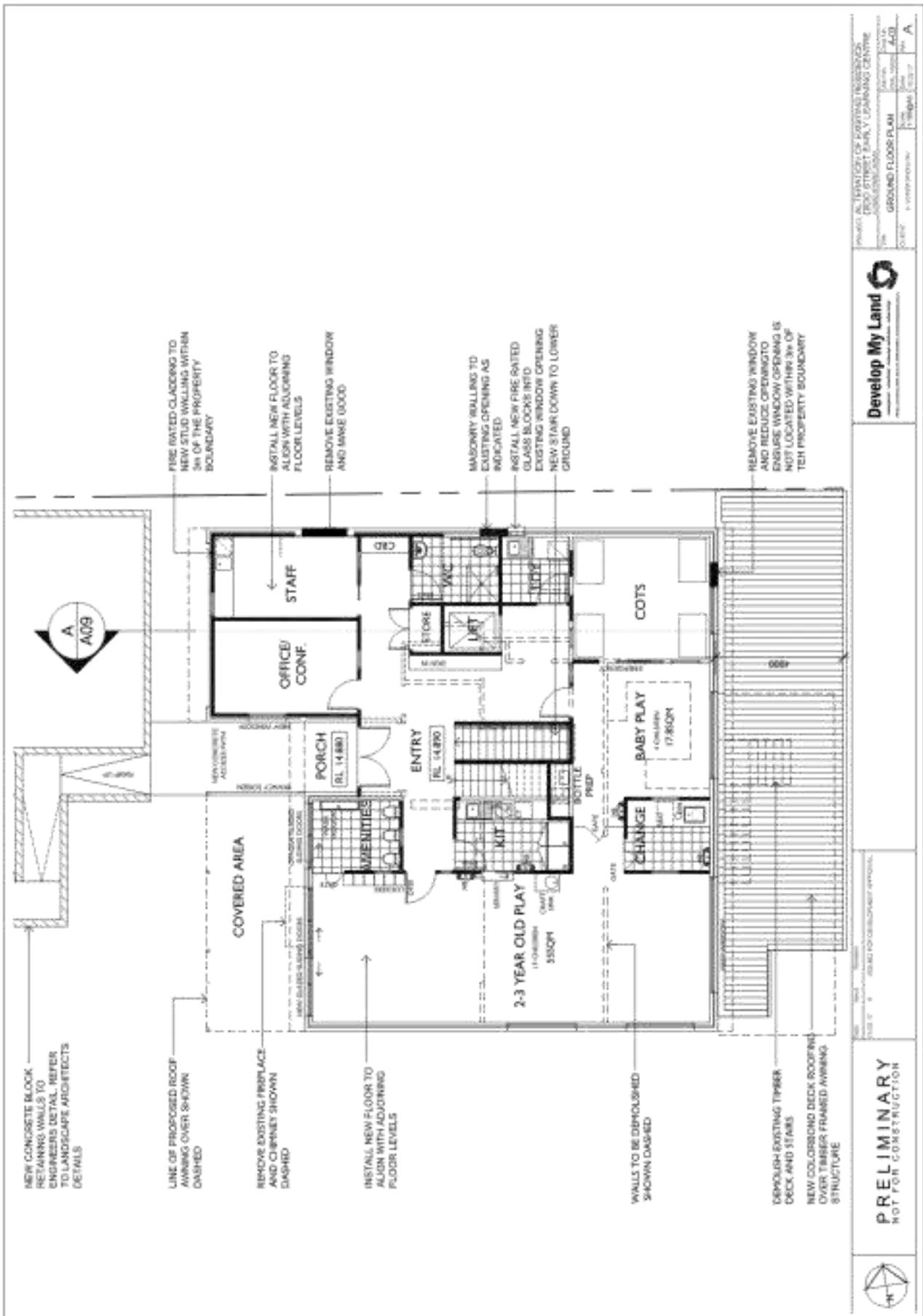
<p>PROJECT: ALI PARTITION OF EXISTING RESIDENCE 4 DIDO STREET EARLY LEARNING CENTRE 10.2017.38.1 CLIENT: JAMES COOPER LOGICAL BUILD DATE: 10/05/17 SHEET: 1 OF 1</p>	<p>Develop My Land CONSULTANTS 10/05/17</p>		<p>DATE: 10/05/17 DRAWN BY: JAMES COOPER CHECKED BY: JAMES COOPER</p>	<p>PRELIMINARY NOT FOR CONSTRUCTION</p>
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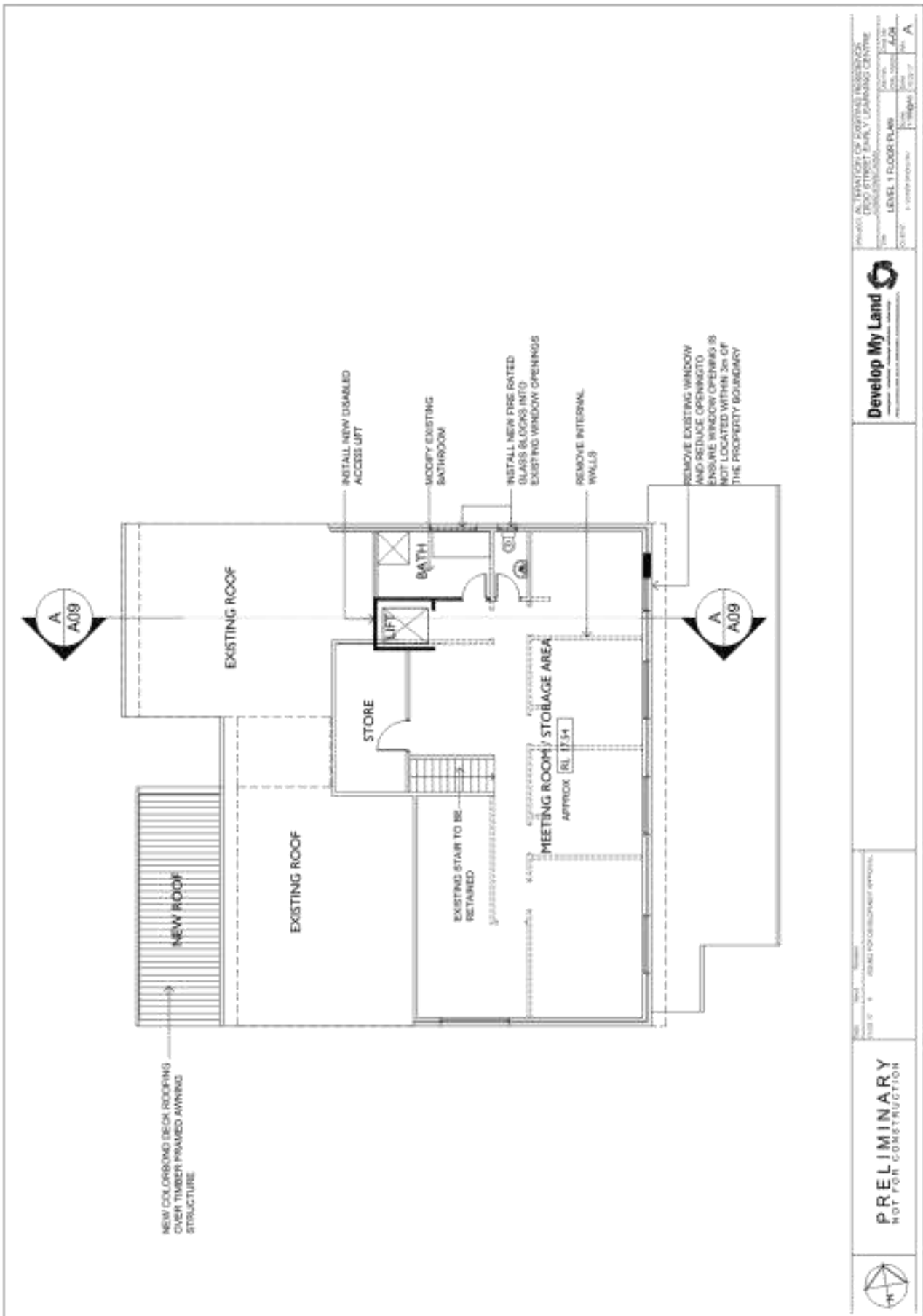


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Attachment 1

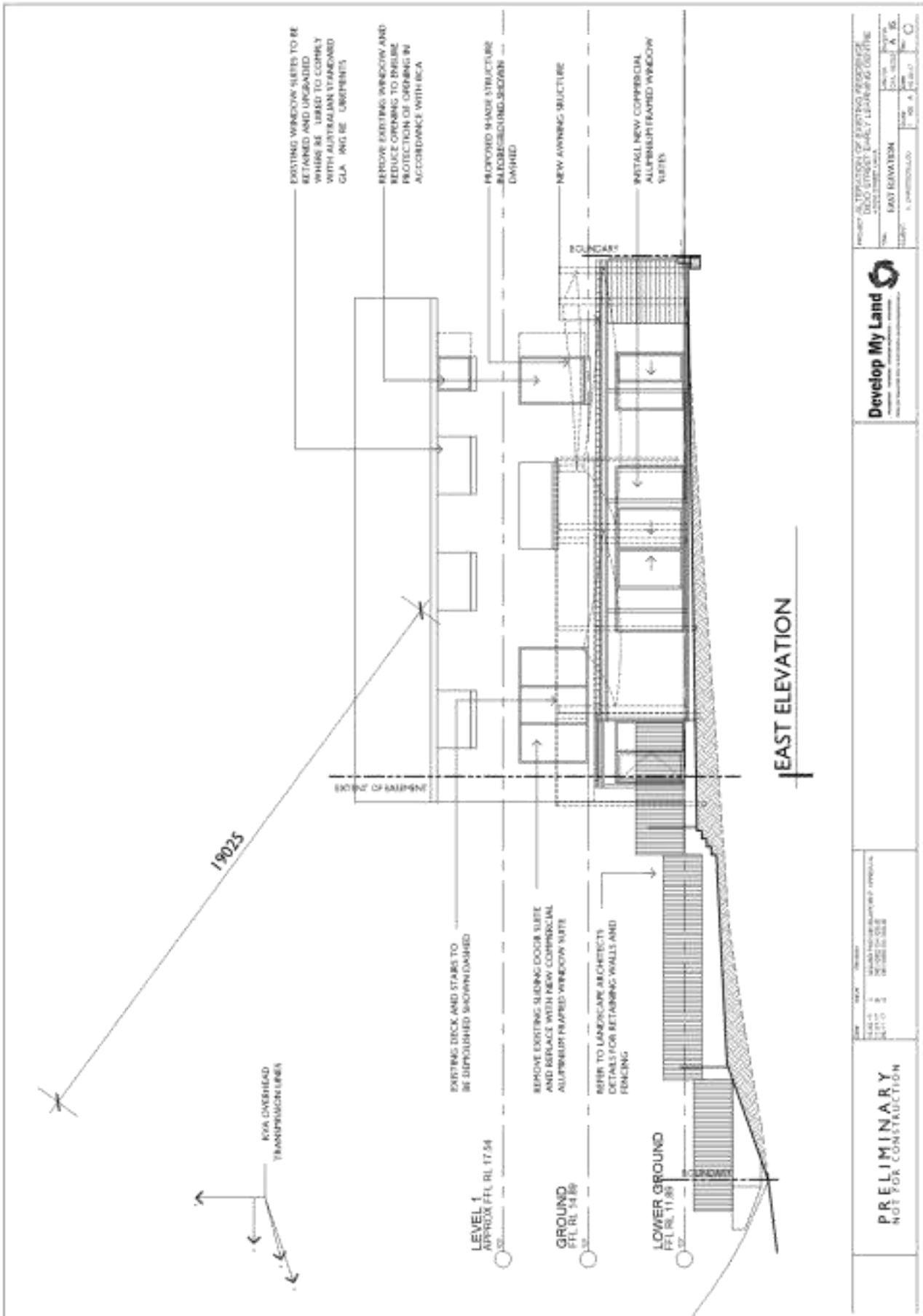


Attachment 1 Item 10.7



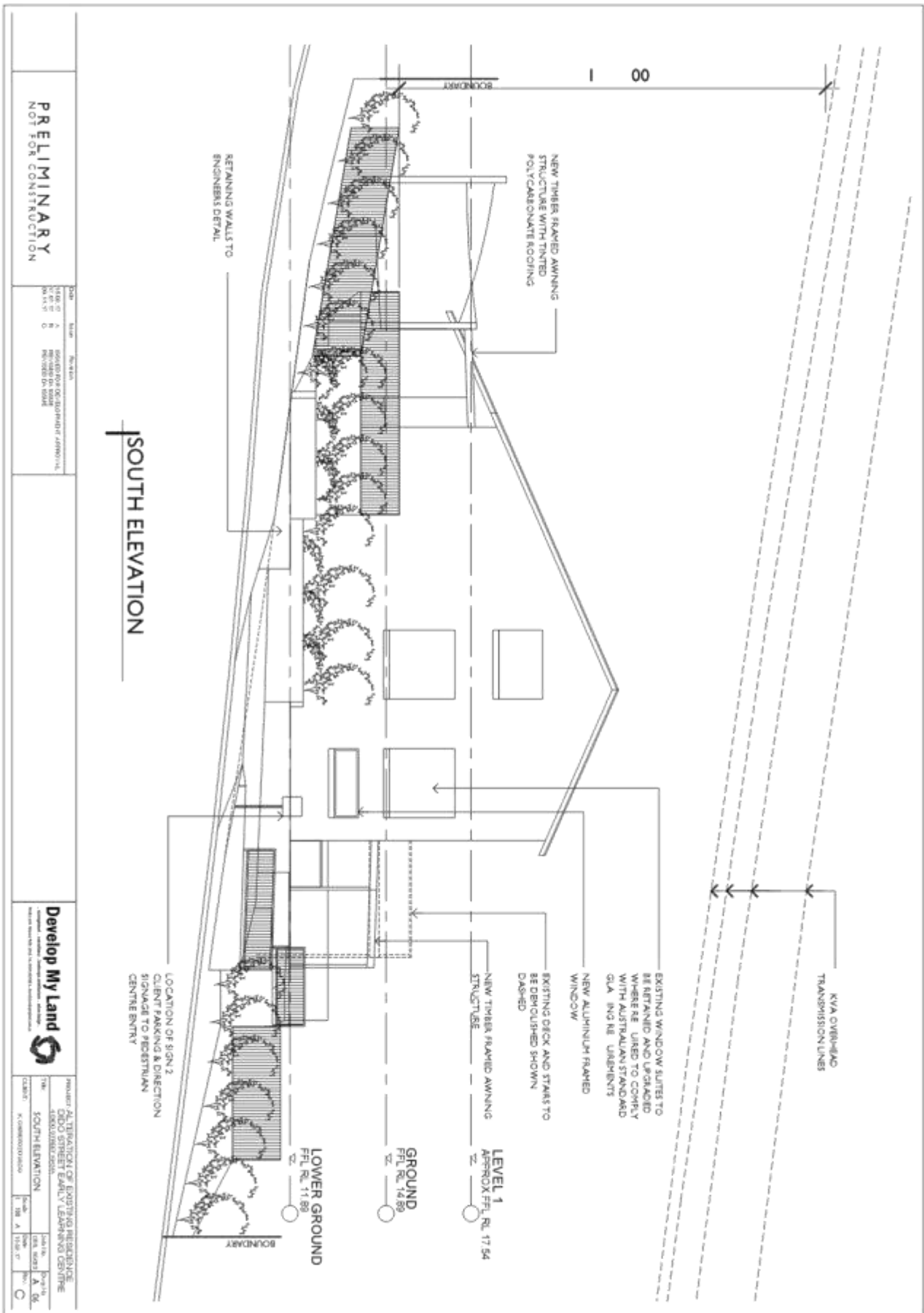
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Attachment 1

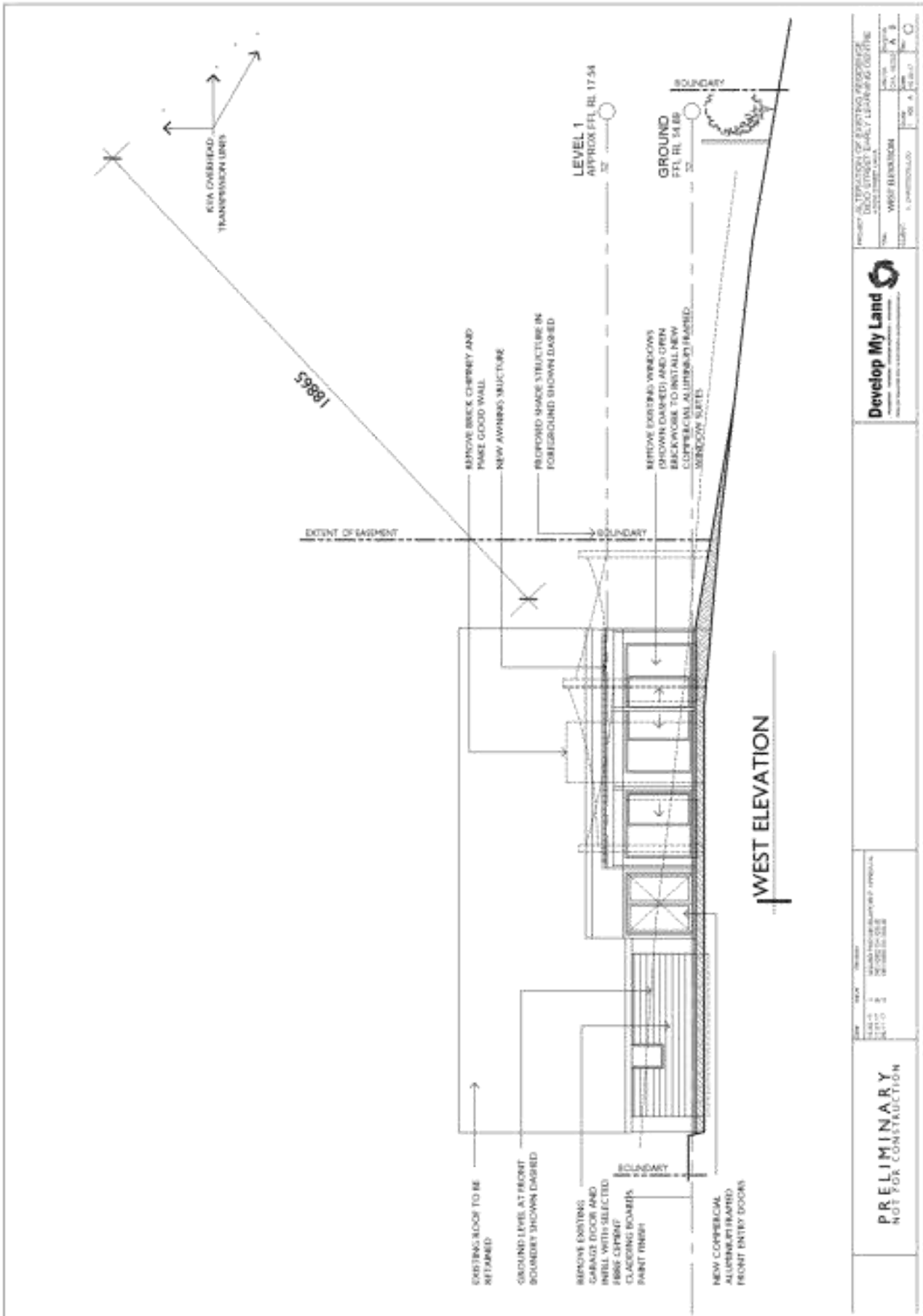


PRELIMINARY
NOT FOR CONSTRUCTION

DATE	ISSUE	REVISION
10/11/17	A	ISSUED FOR DOCUMENTATION APPROVAL
10/11/17	C	REVISED FOR ISSUE

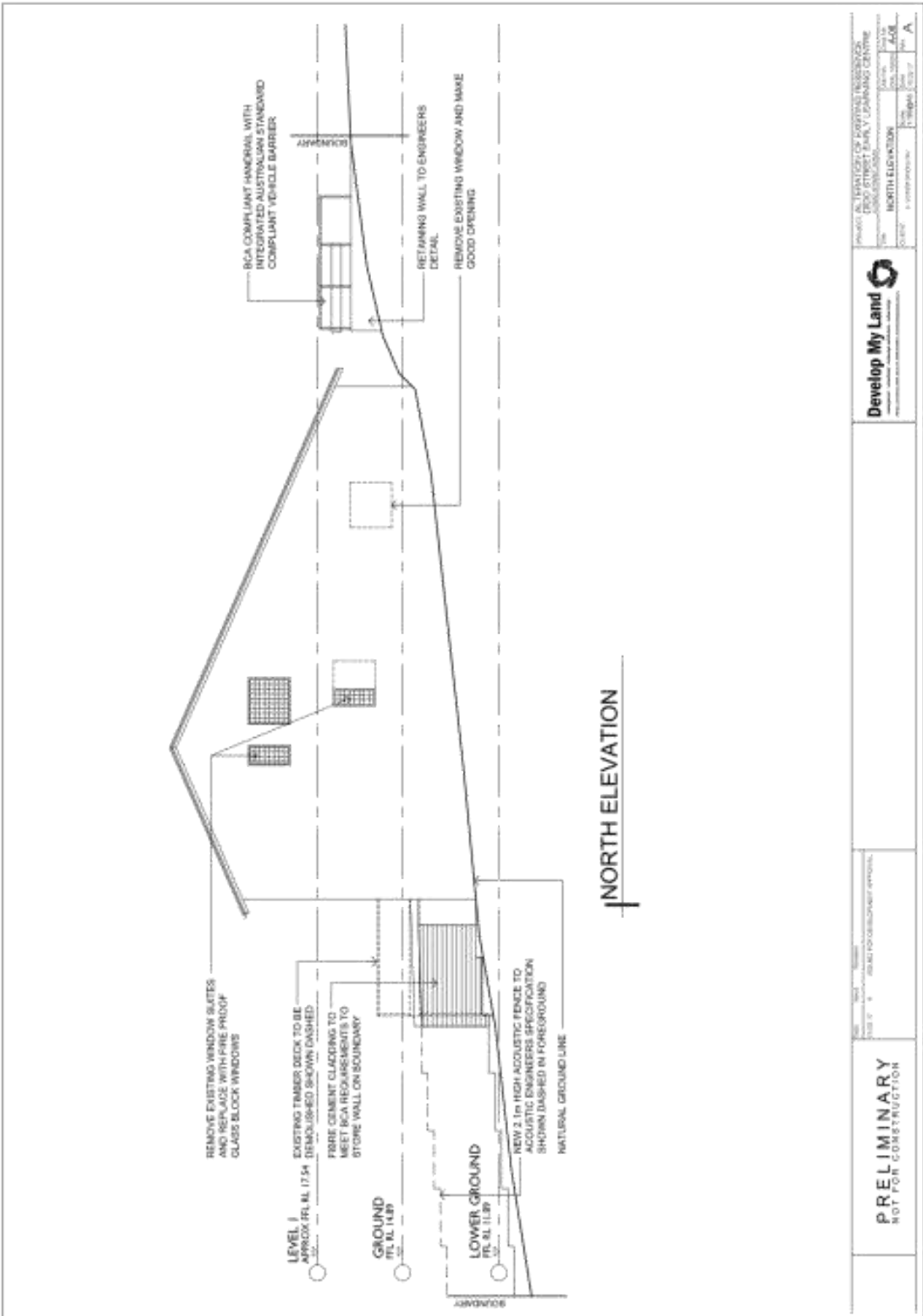


PROJECT ALTERNATIVE OF EXISTING RESIDENCE	
THE	SOUTH ELEVATION
DATE	10/11/17
SCALE	1:50
BY	A 06
CHECKED	C



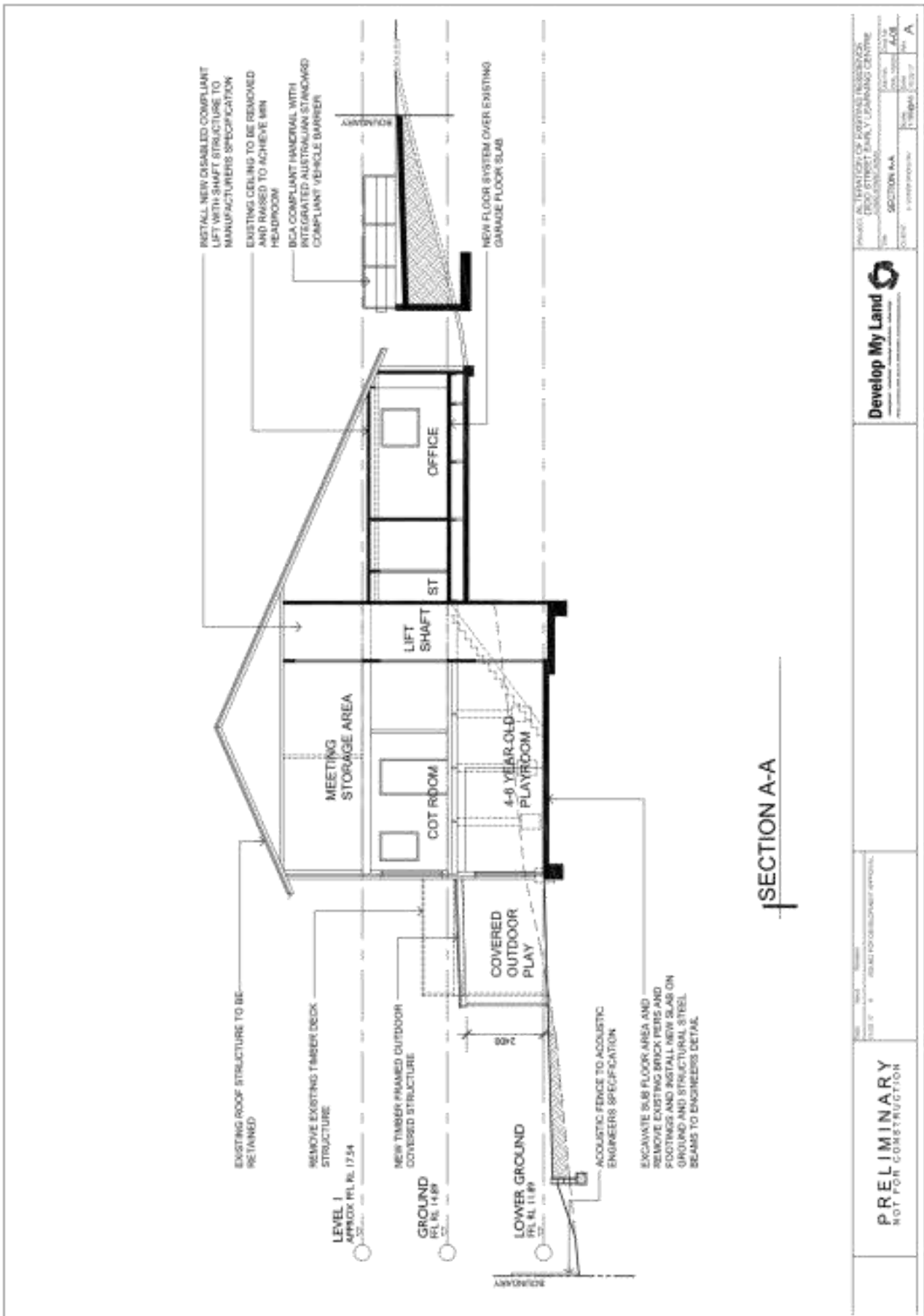
Item 10.7

Attachment 1



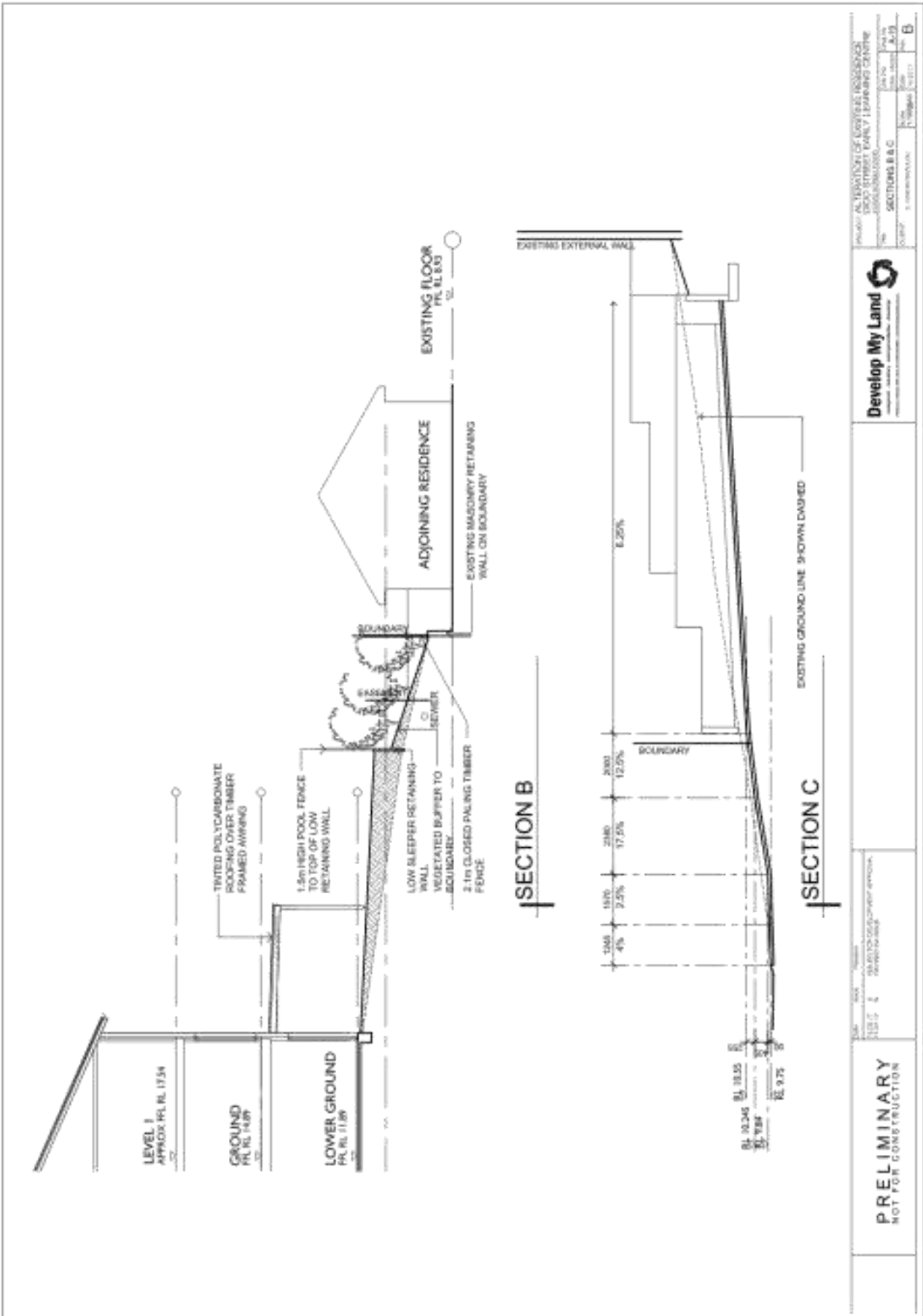
Item 10.7

Attachment 1

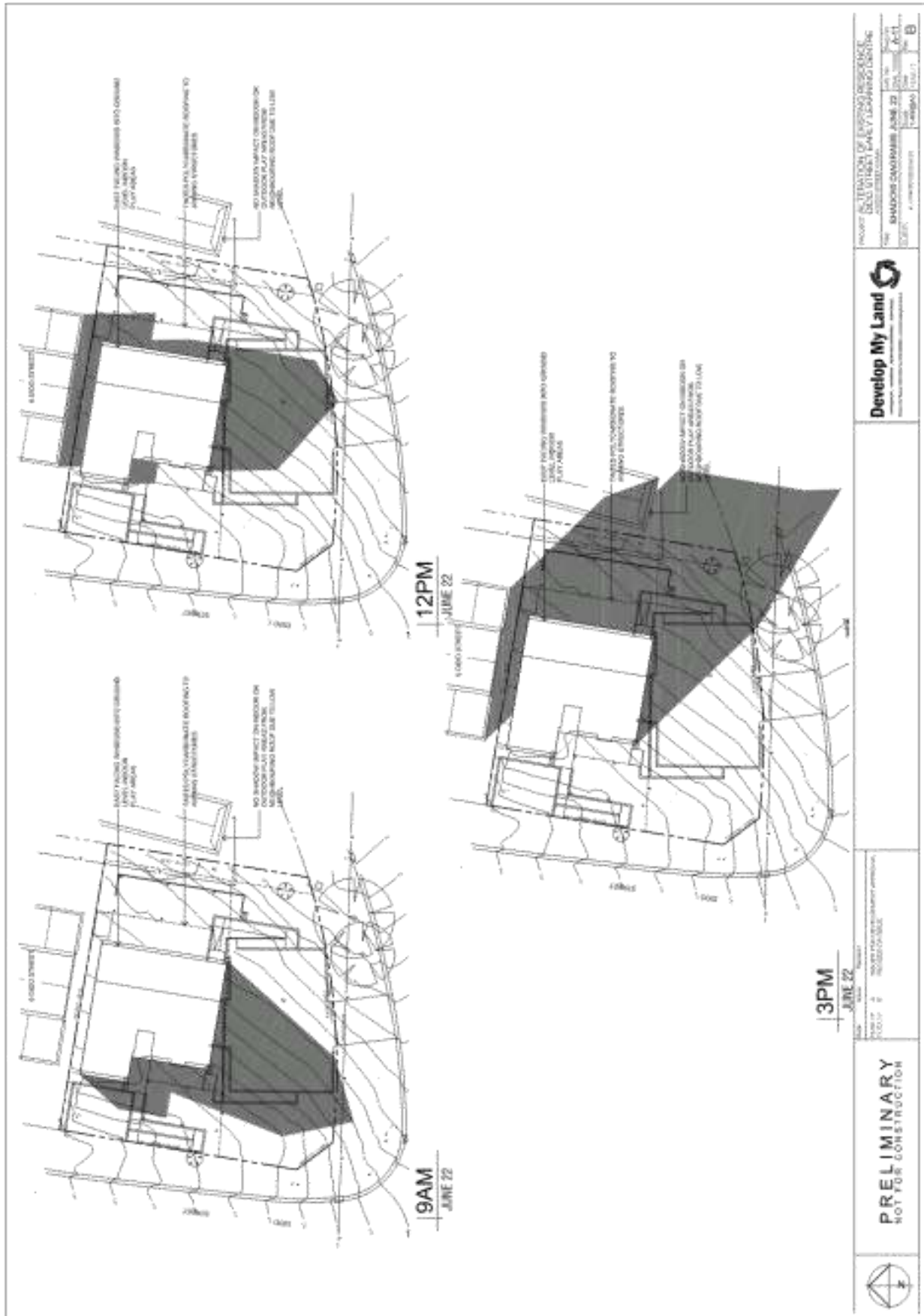


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Attachment 1

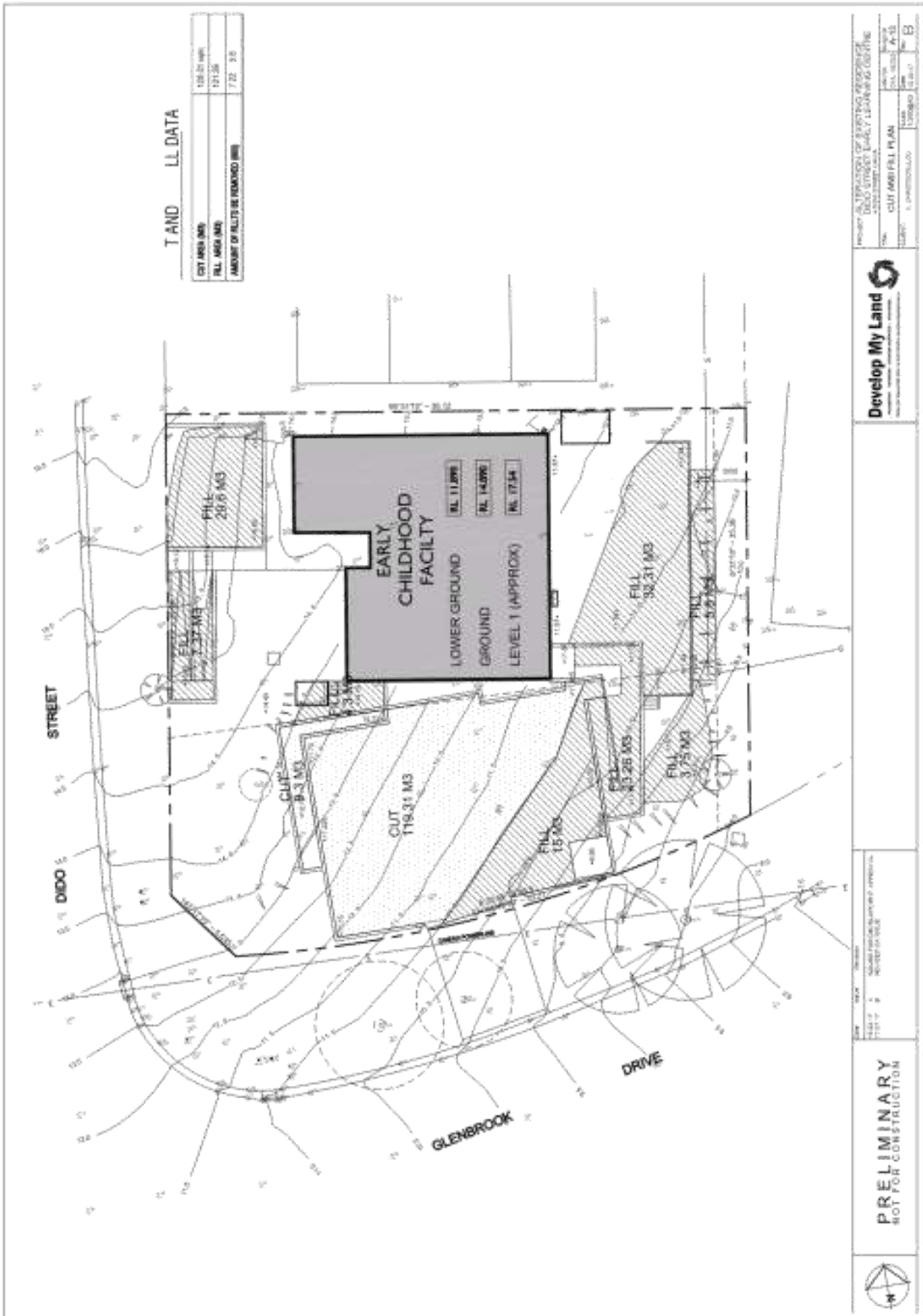


Attachment 1 Item 10.7



Item 10.7

Attachment 1



T AND LL DATA

CUT AREA (M2)	108.21 (M3)
FILL AREA (M2)	121.56
AMOUNT OF FILL TO BE REMOVED (M3)	7.22 3.0

PROJECT: ALTERATION OF EXISTING RESIDENCE 4 DIDO STREET, EARLY LEARNING CENTRE	
DATE: 10/2017	SCALE: A-10
NAME: CUT AND FILL PLAN	NO. 10.7
DATE: 10/2017	NO. B

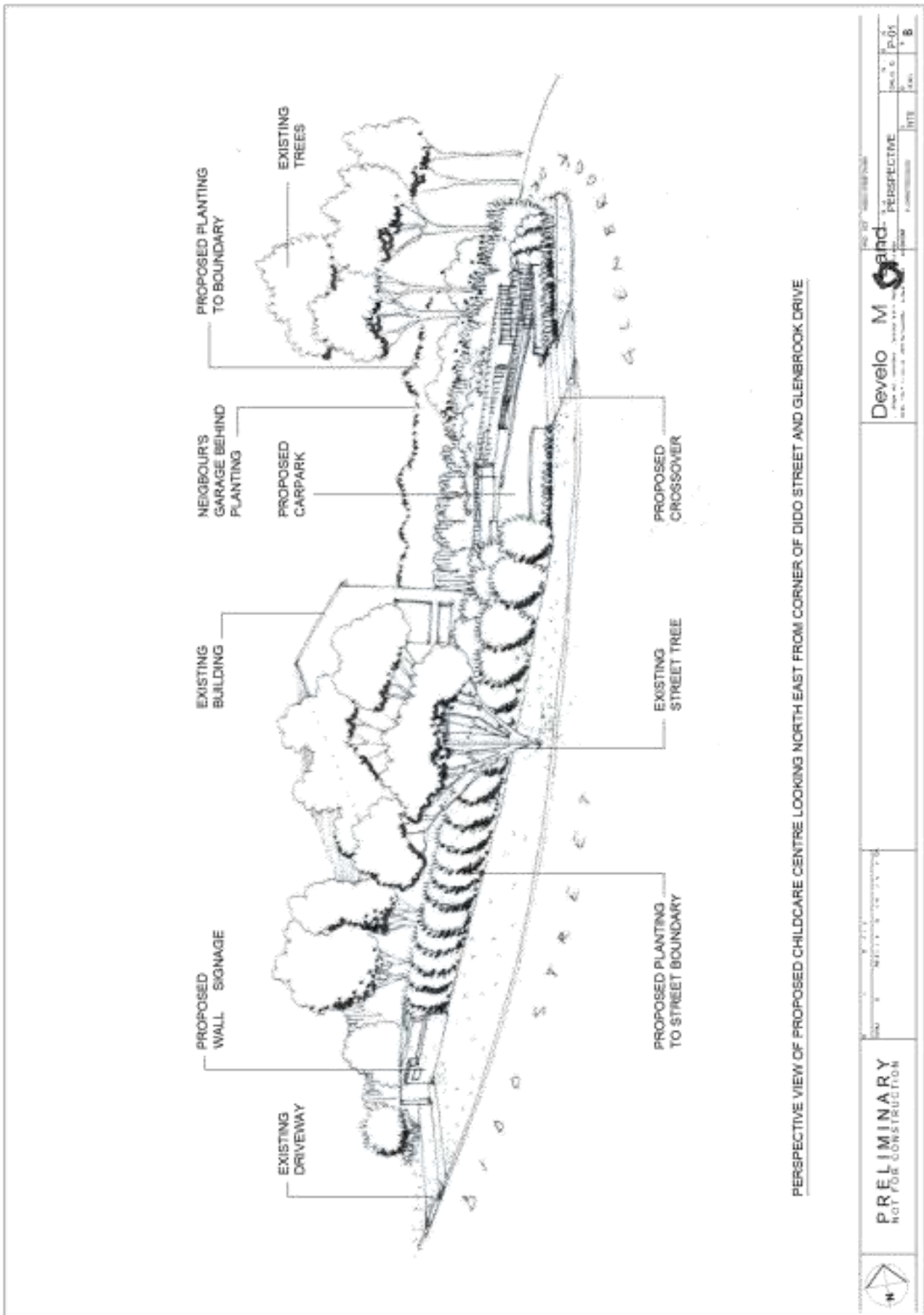


PRELIMINARY
NOT FOR CONSTRUCTION

10.7 - 2
SCALE: PRELIMINARY NOT FOR CONSTRUCTION

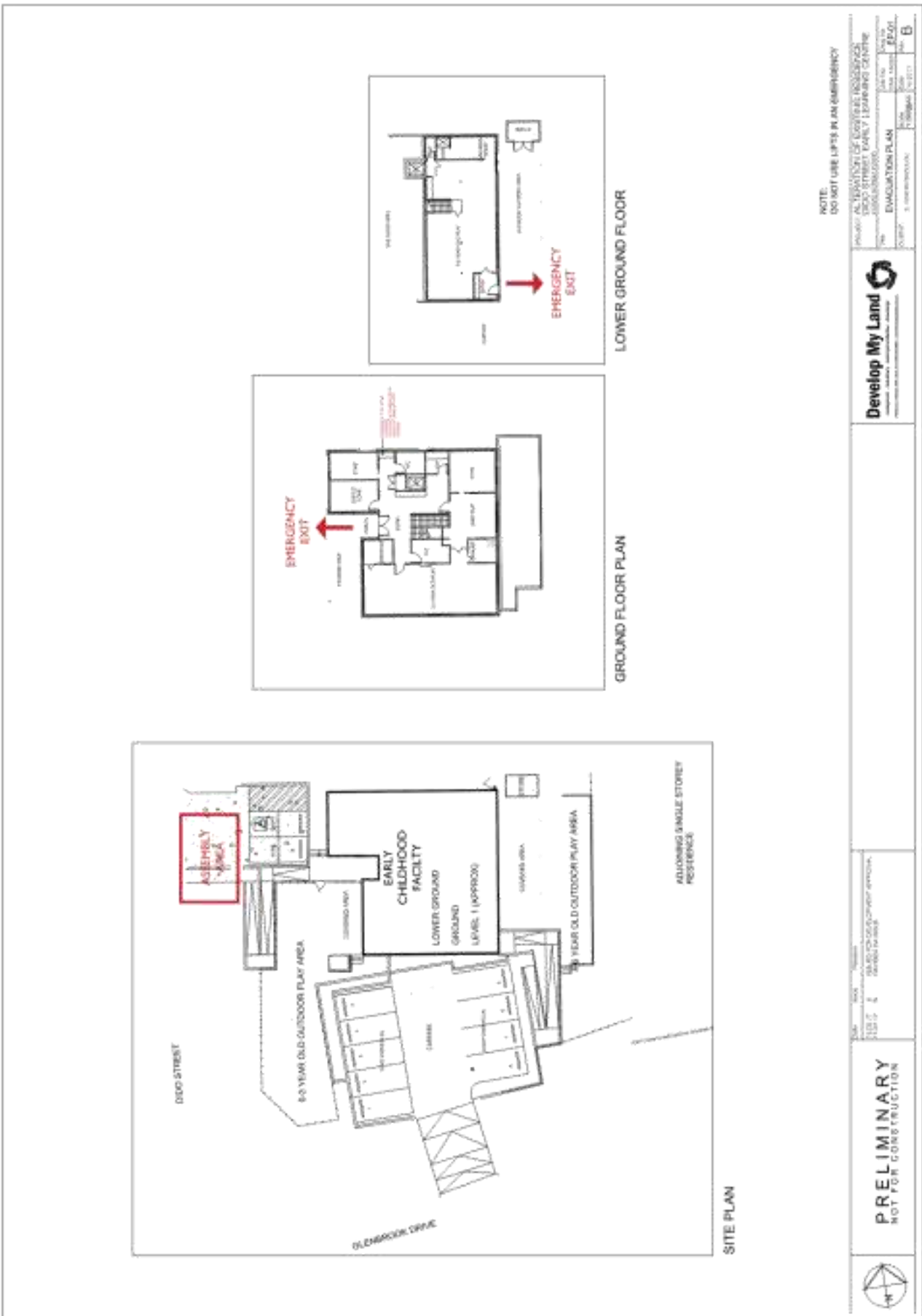


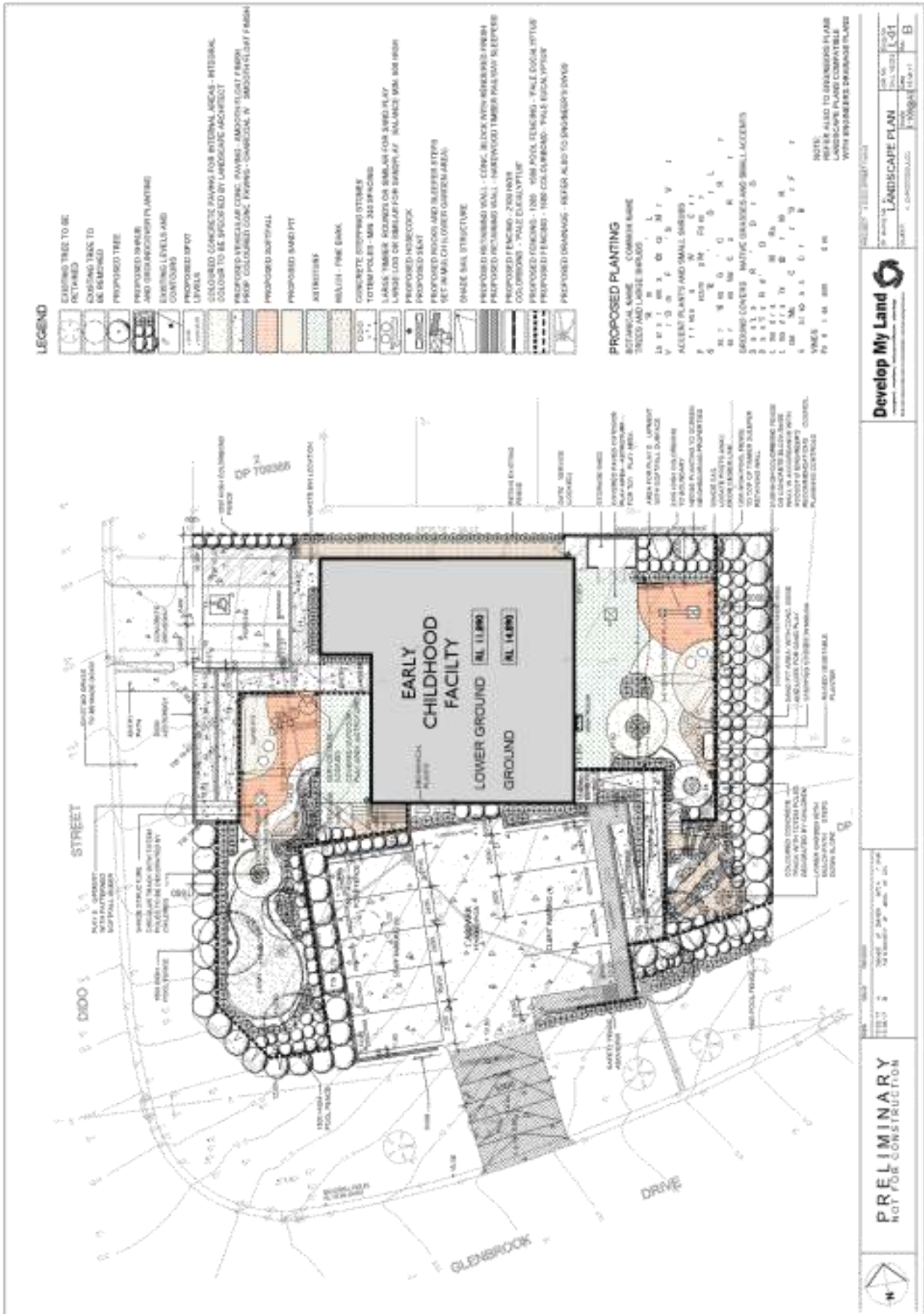
Attachment 1 Item 10.7



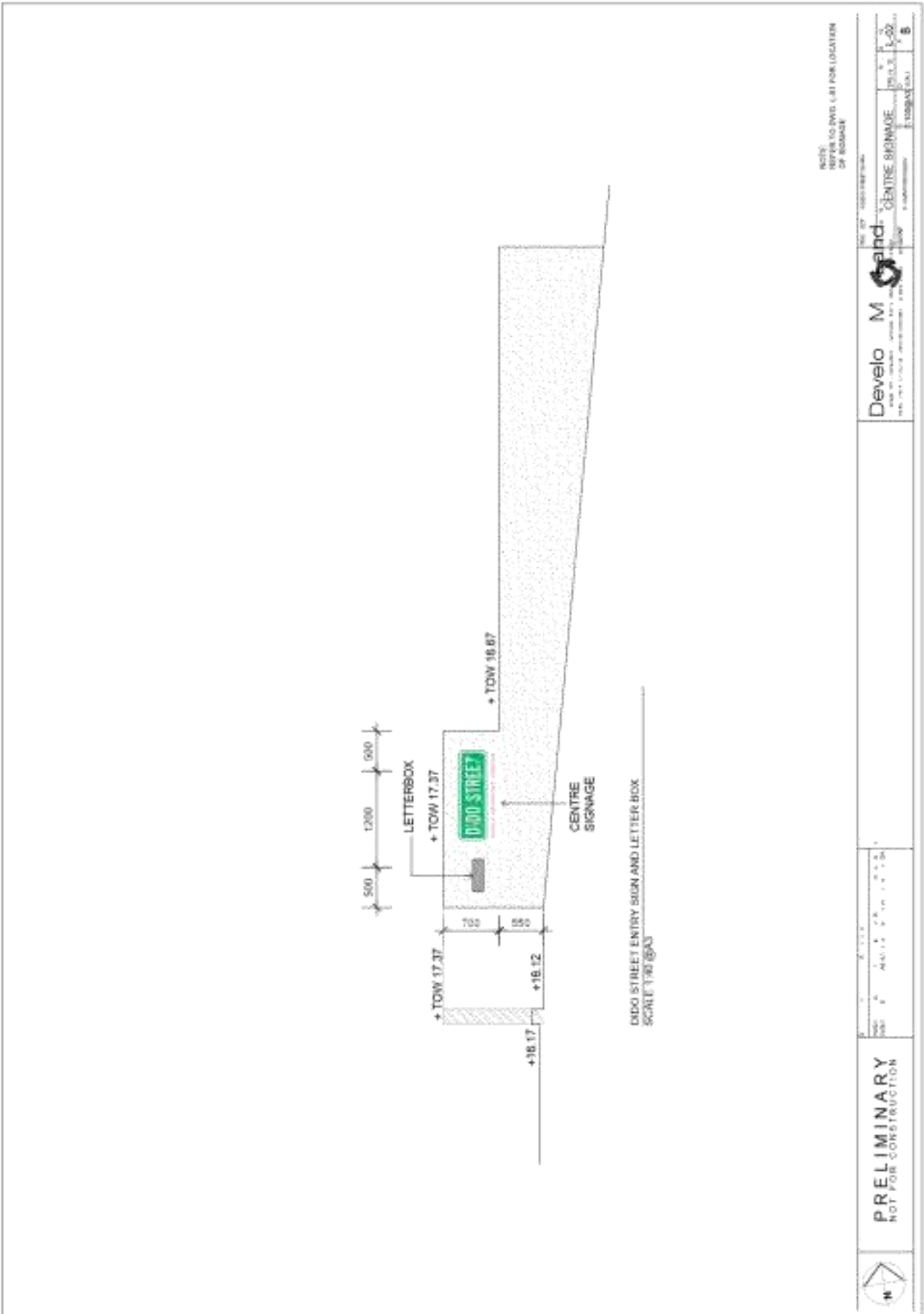
PERSPECTIVE VIEW OF PROPOSED CHILDCARE CENTRE LOOKING NORTH EAST FROM CORNER OF DIDO STREET AND GLENBROOK DRIVE

	PRELIMINARY NOT FOR CONSTRUCTION	DEVELOPMENT NUMBER: 10/17/38/1 LOT: 1	PROJECT NAME: CHILDCARE CENTRE	DRAWING TITLE: PERSPECTIVE	DATE: 10/17/2017	SCALE: 1:50	SHEET: 8
					DEVELOPER: Develo M and ARCHITECT: [Firm Name]		





Attachment 1



Attachment 1 Item 10.7

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling

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 10.8

Summary

This report reviews DA 10.2017.225.1 which seeks consent for a dwelling. The report recommends that Council approve DA 10.2017.225.1 subject to conditions.

Finance

N/A

Policy

NA

Reason for the report

This report is submitted to Council following the receipt of 4 submissions objecting to the application.

Attachments

1 10.2017.225.1 - plans [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council approve development application 10. 2017.225.1, pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, subject to the conditions at the end of this report.

BACKGROUND

Applicant: Raymond Vincent Constructions Pty Ltd

Owner: Mr A W & Mrs M A Kirk

An application has been received for the construction of a dwelling on the above property.

The site is currently vacant land and is bounded by residential dwellings to the north, east and west and also opposite to the south, across the road of Jupiter Street.

Property information

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling (cont)

The property is described as Lot 2 DP 1073383 - 31 Jupiter Street Gerringong. The zoning of the property is R2 Low Density Residential under Kiama LEP 2011. The area of the property is approx. 506 m² and is irregular in shape.

The site is currently vacant land and slopes gently upwards from front of the block at Jupiter Street to the rear.

Description of the proposed development

The proposal involves the erection of a new dwelling.

Section 79C assessment

The proposed development has been assessed in accordance with Section 79C 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)

The site is located within the coastal zone, as defined by SEPP 71.

The site is not located within a 'sensitive coastal location' as defined by SEPP 71.

Consideration has been given to the objectives of the SEPP71 and the matters prescribed by Clause 8.

"8 Matters for consideration

The matters for consideration are the following:

- the aims of this Policy set out in clause 2,*
- existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- the suitability of development given its type, location and design and its relationship with the surrounding area,*
- any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,*

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

-
- (h) *measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,*
- (i) *existing wildlife corridors and the impact of development on these corridors,*
- (j) *the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) *measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) *measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) *likely impacts of development on the water quality of coastal waterbodies,*
- (n) *the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) *only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) *only in cases in which a development application in relation to proposed development is determined:*
- (i) *the cumulative impacts of the proposed development on the environment, and*
- (ii) *measures to ensure that water and energy usage by the proposed development is efficient.”*

The development is consistent with the aims of the SEPP.

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

A BASIX Certificate was lodged with the application which demonstrates that the dwelling has been designed in accordance with BASIX.

- Kiama LEP 2011

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

Clauses 4.3 Height of Buildings maximum of 8.5m. The proposed maximum height is 8.5m.

The proposal complies with Clause 4.4 Floor space ratio (FSR) maximum of 0.45:1. The proposed FSR is 0.45:1

The proposal is permissible with consent.

Any draft environmental planning instruments

Nil.

Development Control Plans (DCPs)

- Kiama Development Control Plan (DCP) 2012

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

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

Chapter 2 – overall controls

Section 5 - Maintenance of Views and Vistas

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

The following objectives have been considered:

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

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

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

Comment – The proposal will, but not unreasonably, interfere with the views currently enjoyed by neighbouring properties.

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

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

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

Comment – Primary views will not be affected.

- *To protect conserve and maintain the landform of the municipality*

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

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

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

- *To encourage sensitive siting of housing.*

Comment – The dwelling is not unreasonably sited on the property

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

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

Response: There are no breaches to the Kiama LEP 2011 and Kiama DCP 2012.

The proposal as presented complies with the building line setbacks and the design response is considered to be appropriate and reasonable in the circumstances.

Section 7 – Building Lines

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

Comment: The proposed development complies with required building line setbacks.

Variation Chapter 2 – Section 12 – Design Standards- Building Lines in Urban Areas

Rear Building Lines for Properties with a 6.0m Front Building line.

In the case of allotments affected by a 6.0m front building line, habitable structures shall be generally sited on the established rear building line of the adjoining development or 6m, whichever is the greater: subject to such development having a reasonable economic life. It must be demonstrated that the objectives of this plan are satisfied where a departure from an established building line is sought. Single storey structures including garages, pools, pergolas and barbecue areas may be sited at a lesser distance from the rear property boundary where such a structure satisfies the objectives of this plan and where, in the opinion of Council, no unreasonable impacts on neighbouring properties will result.

Comment: The rear deck is set back a distance of only 5.62m from the rear boundary and cut into the existing ground level. Concerns have been raised in submissions with regards to the reduced setback not being that of 6m. However, the proposal is for an open deck being a width of 9m which is considered to be reasonable and satisfies the criteria for varying the setback. As such the reduced setback is supported in this instance.

Section 6 – Building Height Plane – Low Density Development

No part of the structure (excluding the eaves, fascia and roof gutter to a maximum width of 600mm) within the built upon area of the site shall exceed a building height plane projected at an angle of 45° over the actual land to be built upon from a vertical distance of 5m above the existing ground level at any boundary of the site.

Comment: The proposed development complies with the building height plane.

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*.

Any Coastal Zone Management Plan

Nil

The likely impacts of the proposed development

Visual Impact

The proposed development will have limited impact on views.

Public domain

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

- Noise

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

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

- Privacy and Overlooking

Concerns are raised in relation to privacy loss and overlooking resulting from the proposed development the upper level balcony shall be conditioned to install 1.6m high privacy screens on the east and west side locations of the balcony.

- Overshadowing

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

- Views

The proposal is considered to be of a scale and size that is not out of character with the surrounding area. The proposed development is consistent with other development in the street. The dwelling has been designed such that the building remains under the permissible height. Given the topography of the land, the views from neighboring properties will not be unreasonably obstructed by the proposal.

- 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.

- Environmental Impacts

Vegetation Removal – No vegetation is to be removed.

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

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

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

- Social and Economic Impacts

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

The suitability of the site for the development

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

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

by residential dwellings. The site is considered to be suitable for the proposed development.

SubmissionsPublic Submissions

Notification letters were sent to neighboring property owners who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period, 4 submissions were received which raised the following (summarised) matters of concern:

Item 1:- “Plans lacked any accurate or useful information.”

Comment: - The notification plans provided allowed for the proposal to be assessed against the LEP & DCP controls and it was found that non-compliance to certain matters was identified and the applicant was requested to address these and subsequently provided amended plans.

Item 2:- “1.8m Retaining wall”

Comment: - This is not a retaining wall but that of a 1.8m high brick fence on the rear boundary.

Item 3: - “Rear boundary setback”

Comment: - The encroachment is only minor being 380mm of a rear deck and considered is to be reasonable.

Item 4:- “*Building Envelope*”

Comment: - The dwelling is within the building height envelope.

Item 5: - “Maximum allowable height 8.5m”

Comment: - Amended plans were provided reducing the overall height to comply with the 8.5m requirement.

Item 6:- “Overshadowing”

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

Item 7: - “Privacy”

Comment – Privacy screens to the upper level balcony shall be conditioned to be provided on the 2 side locations.

Item 8:- “front building line setback”

Comment: - The proposal complies with the setback controls.

Item 9:- “is 3 Storeys permissible”

Comment: - The LEP does not identify the number of storeys which are permissible. But provides for an overall height control of 8.5m in this instance.

External referrals

Nil

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

Internal referrals

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

- 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 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 relevant Environmental Planning Instruments and DCP 2012 and is not expected to cause significant adverse impacts on the visual amenity of the area or streetscape. The proposal is considered to be suitable for the site having regard to the zoning. The proposed development is therefore 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 79C of the Environmental Planning and Assessment Act, 1979. The proposed development is consistent with Kiama LEP 2011 and relevant DCP 2012.

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

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

The proposed development is considered to be acceptable and 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 10.2017.225.1 dated xxxxxx except as amended by the following conditions:
- (2) The upper level rumpus room wet bar shall not be provided with any cooking or kitchen facilities.
- (3) The upper level of the dwelling shall not be used as a separate occupancy.

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;

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

-
- 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.
- (2) 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.
- (3) Under the provisions of the Act, work may not commence on the development until the following is carried out:
- a Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
- b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
- c You **must** notify the Council of the appointment; and
- 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.
- (4) The BASIX commitments shall be indicated on the plans to the satisfaction of Council or an Accredited Certifier prior to the release of the Construction Certificate.
- (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:

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling (cont)

-
- 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.

- (6) The applicant shall provide a privacy screen 1.6m on the upper floor level balcony on the east and west side locations. Such detail is to be provided on the Construction Certificate plans to the satisfaction of the Accredited Certifier prior to the issue of a Construction Certificate.
- (7) The applicant shall provide details of the proposed 1.8m high wall proposed at the rear of the property. Such detail is to be provided on the Construction Certificate plans to the satisfaction of the Accredited Certifier prior to the issue of a Construction Certificate.
- (8) 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.
- (9) No building work is to commence until details prepared by a practicing structural engineer have been submitted to and accepted by the Principal Certifying Authority for any reinforced concrete slabs, footings or structural steel.

Access

- (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*".
- (2) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access.
- (3) The driveway crossover shall be minimum 2.5 metres from the trunk of the Norfolk Island Pine street tree.

Stormwater management

- (1) Stormwater shall be discharged into Jupiter Street directly into the rear of the kerb inlet pit via a neat core drilled hole or directly into the kerb via a 127 x 64 x 4 mm steel rectangular hollow hot dip galvanised section. Details shall be shown on plans approved by the Certifying Authority prior to commencement of any works.

Inspections

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

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

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

Building construction

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.

Tree Management

- (1) Protection fencing shall be erected around the Norfolk Island Pine street trees to be retained on site so as to prevent damage to the roots of the tree. The fencing shall be erected prior to the commencement of works. The fencing shall consist of 1.8 metres high cyclone wire supported on galvanised steel posts at a minimum 3.0 metre centres. The fencing shall be maintained and shall remain in situ until all building works are completed. No machinery, builder's materials and/or waste shall be located inside the fencing.

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

Report of the Director Environmental Services

10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling (cont)

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.

Item 10.8

Site facilities

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

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

Prior to occupation

- (1) A contribution pursuant to Section 94A of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94A (Indirect Contributions) Plan shall be paid to Council prior to the issuing of any Occupation Certificate. The total contribution required for the development is \$7,330.00

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

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

Where:

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

CPI_t = 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.

Report of the Director Environmental Services

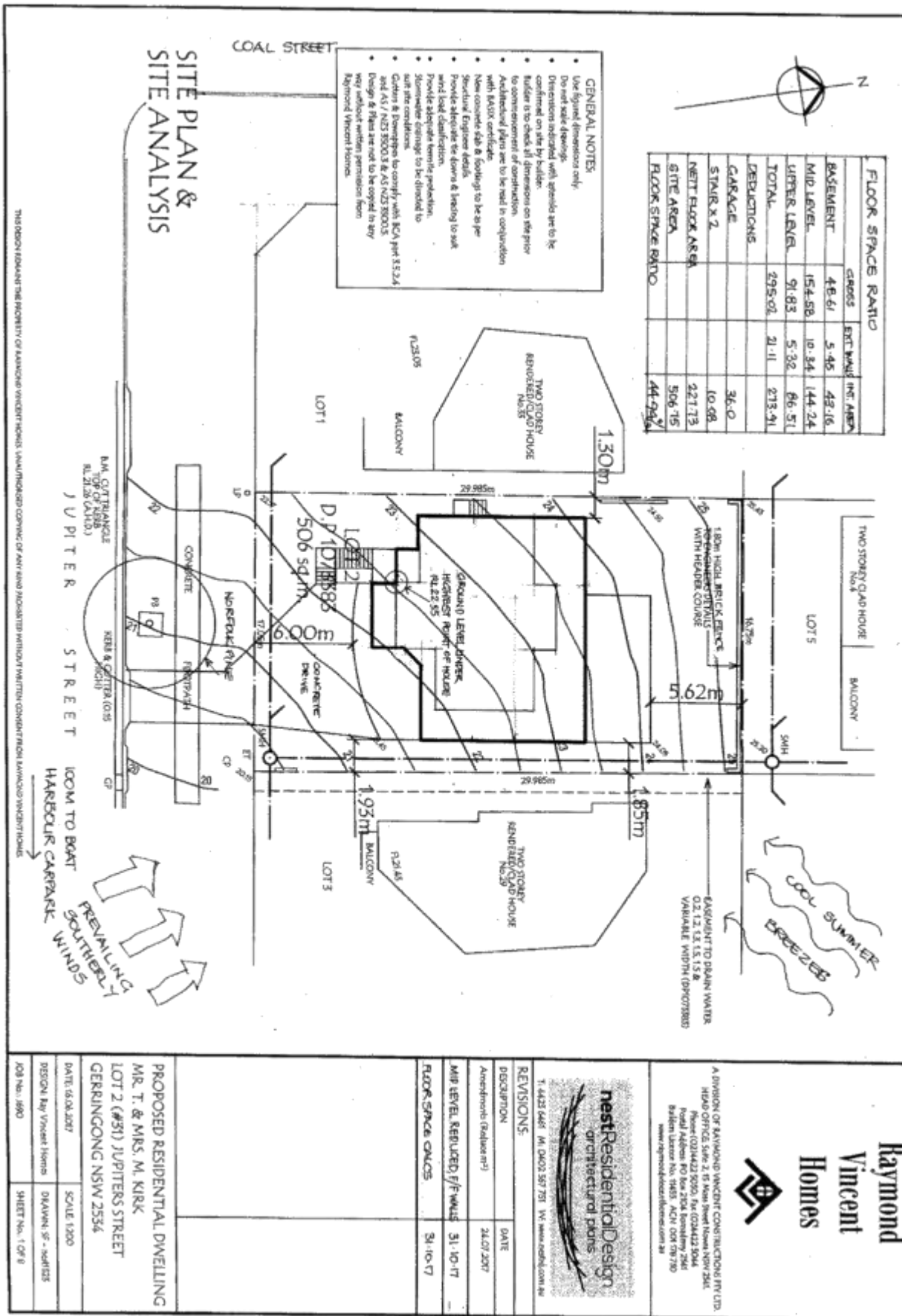
10.8 10.2017.225.1 - Lot 2 DP 1073383 – 31 Jupiter Street Gerringong – dwelling
(cont)

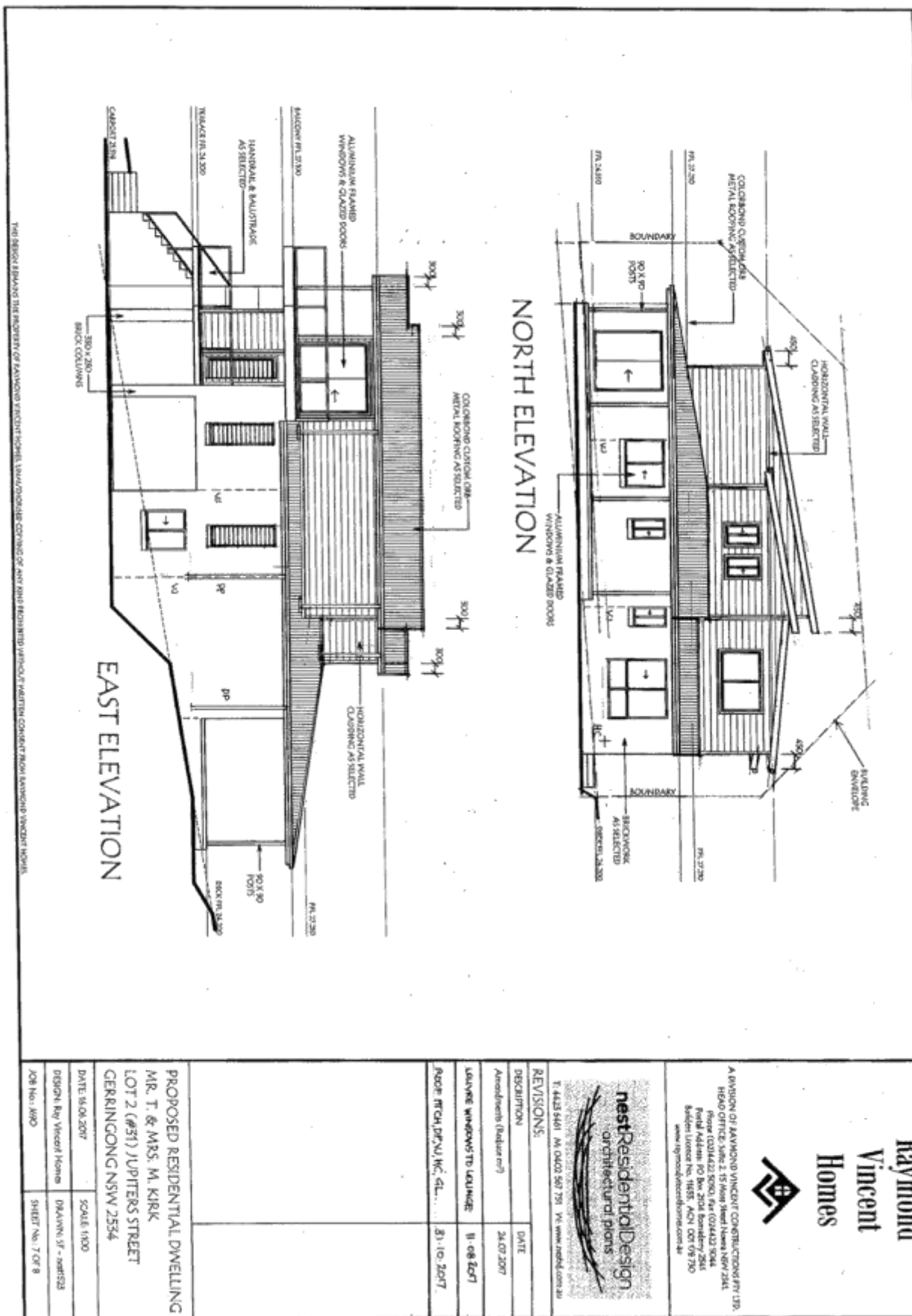
CPIc = The *Consumer Price Index: All Groups Index for Sydney* as published by the Australian Bureau of Statistics and which applied at the time of issue of the development consent.

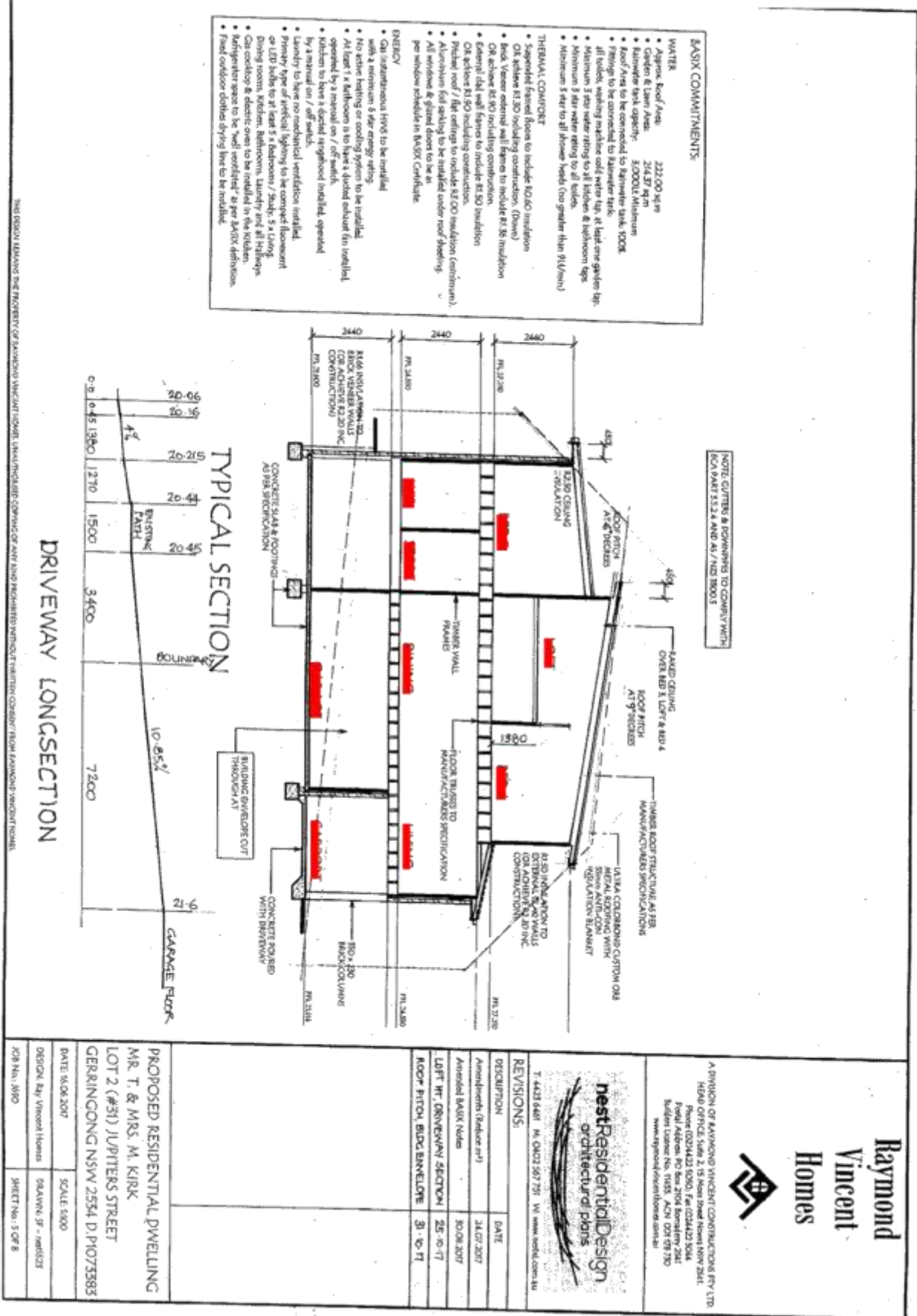
- (2) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to release of the Final Occupation Certificate.

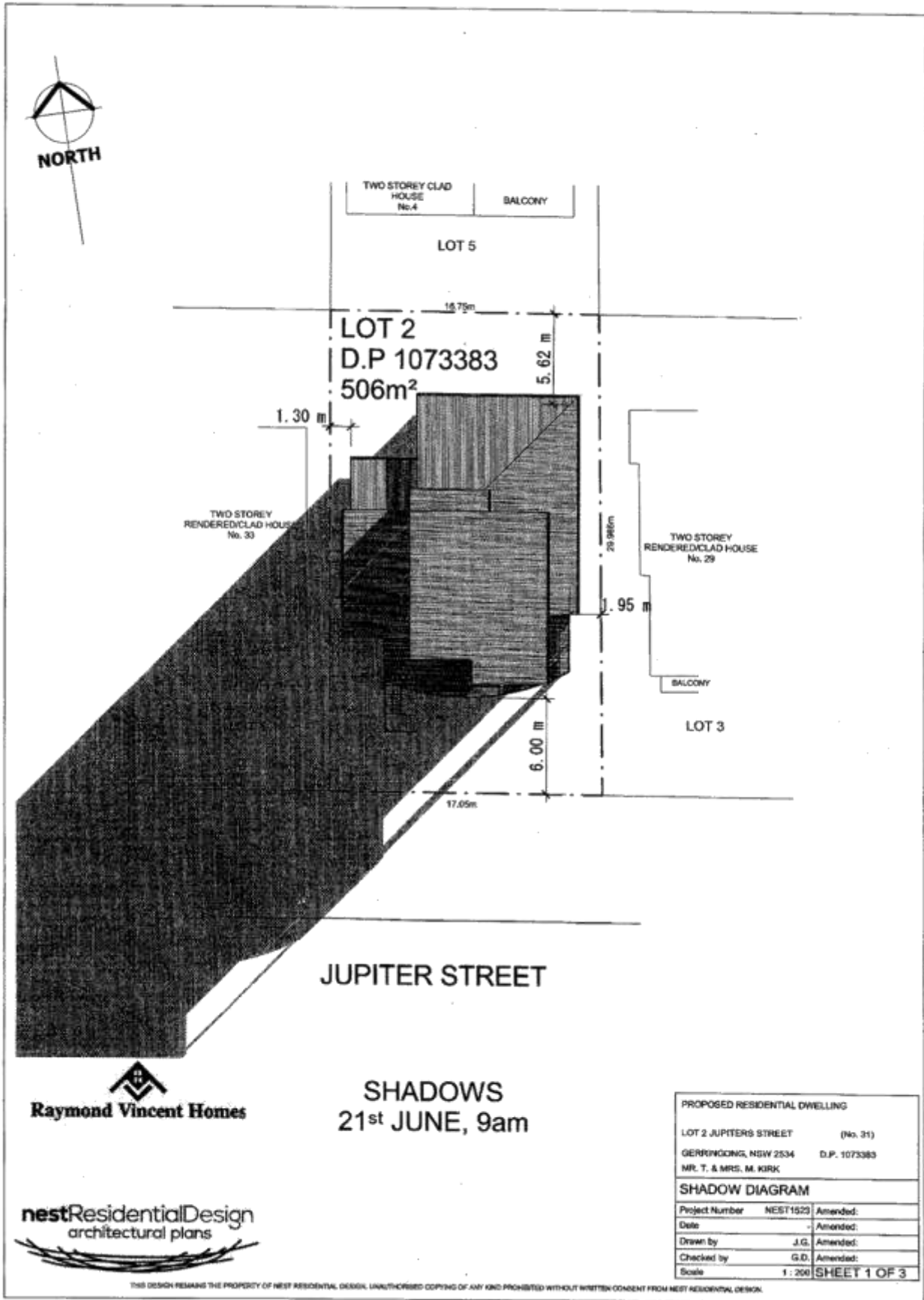
Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet.

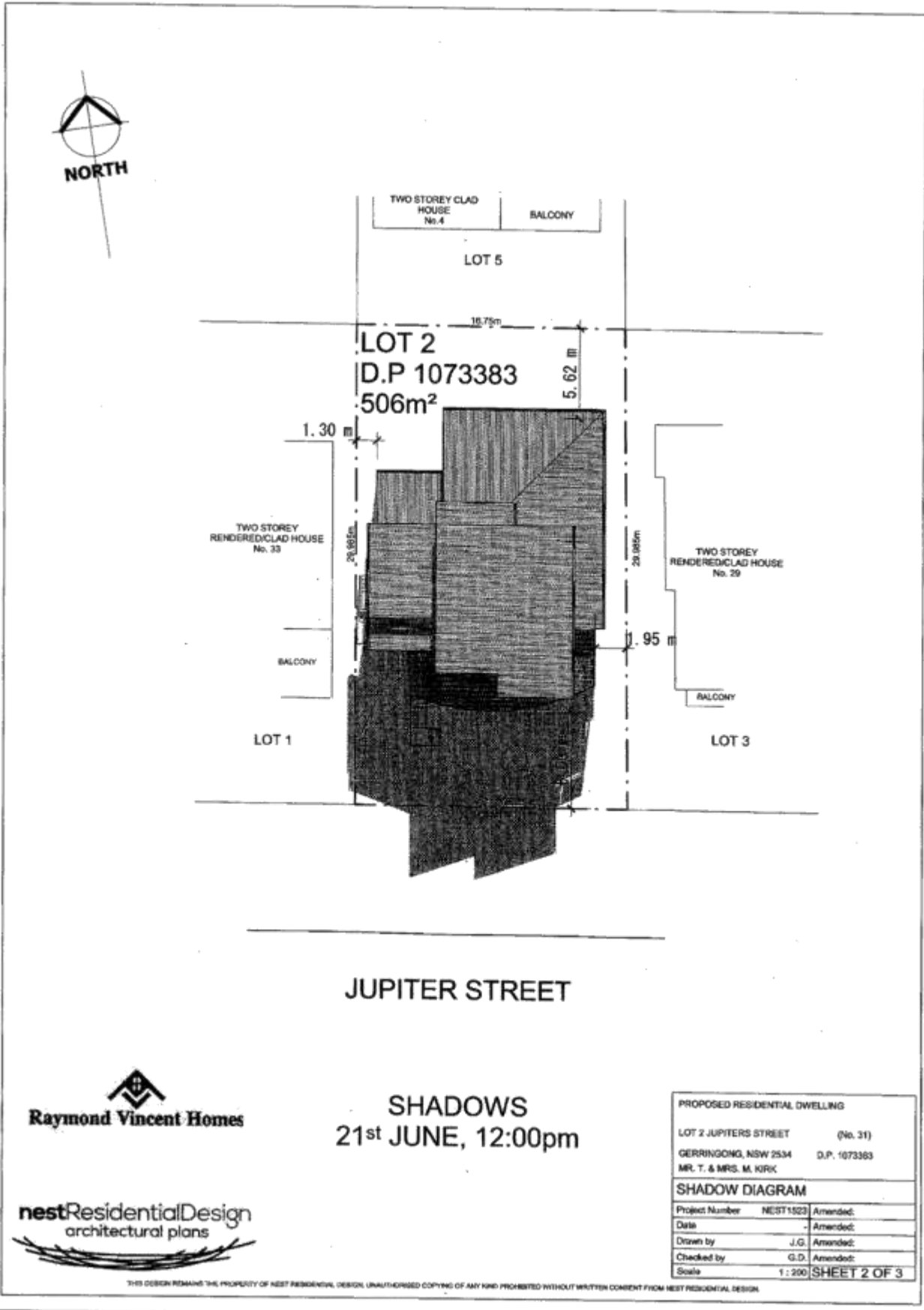
- (3) The BASIX schedule of commitments shall be complied with prior to the issue of a Final Occupation Certificate for the development and if required a certificate shall be provided to the Principal Certifying Authority from a properly qualified person to certify that the BASIX schedule of commitments have been provided and/or installed.
- (4) 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.
- (5) The developer shall complete all access and drainage works prior to the issue of any occupation certificate.











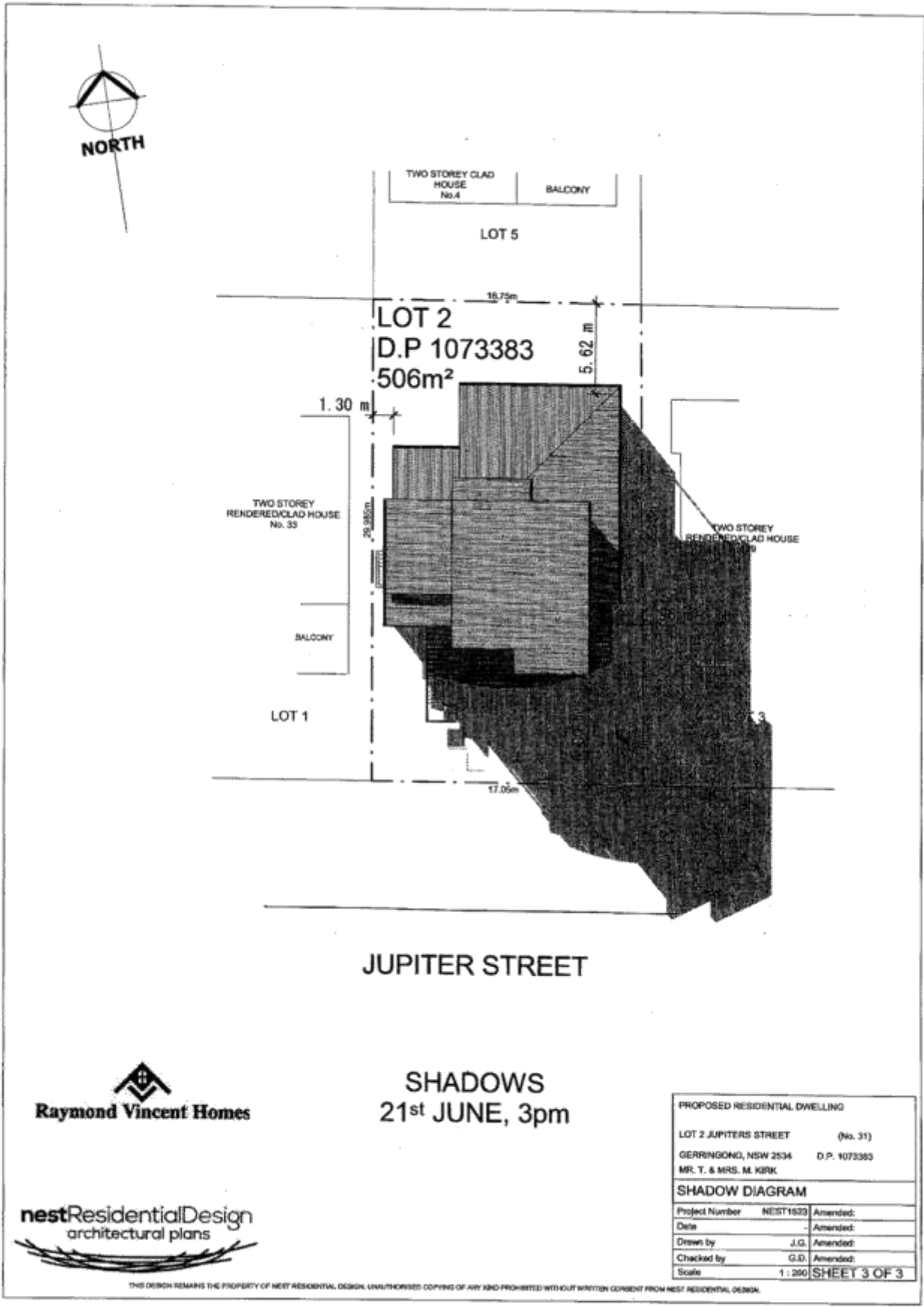
Raymond Vincent Homes

SHADOWS
21st JUNE, 12:00pm

nest Residential Design
architectural plans

PROPOSED RESIDENTIAL DWELLING		
LOT 2 JUPITERS STREET		(No. 31)
GERRINGONG, NSW 2534		D.P. 1073383
MR. T. & MRS. M. KIRK		
SHADOW DIAGRAM		
Project Number	NEST1523	Amended:
Date	-	Amended:
Drawn by	J.G.	Amended:
Checked by	G.D.	Amended:
Scale	1 : 200	SHEET 2 OF 3

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Raymond Vincent Homes

SHADOWS
21st JUNE, 3pm

nestResidentialDesign
architectural plans

PROPOSED RESIDENTIAL DWELLING	
LOT 2 JUPITERS STREET	(No. 31)
GERRINGONG, NSW 2534	D.P. 1073383
MR. T. & MRS. M. KIRK	
SHADOW DIAGRAM	
Project Number	NEST1523 Amended:
Date	Amended:
Drawn by	J.G. Amended:
Checked by	G.D. Amended:
Scale	1 : 200 SHEET 3 OF 3

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11 REPORT OF THE DIRECTOR CORPORATE, COMMERCIAL & COMMUNITY SERVICES

11.1 Music in the Park

CSP Objective: 1.0 A healthy, safe and inclusive community

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

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

Summary

This report provides feedback on the 2017 season of Music in the Park and seeks Council's approval for moving the Music in the Park season from June to December to May to November and the commissioning of a three-year contract with an appropriate contractor for the 2018, 2019 and 2020 seasons.

Finance

Current 2017/18 Budget

Impact for 2018/19, 2019/20 and 2020/21 budgets

Policy

BISI Cultural Planning Document – 2016 - 2020

Attachments

Nil

Enclosures

Nil

RECOMMENDATION

That Council approve:

- call for Expressions of Interest for a three-year contract
- the Music in the Park season to run from May to November each year.

BACKGROUND

During 2014 Council trialed a new program of music in Hindmarsh Park called Music in the Park. Following evaluation of the project in July 2014 Council approved the continuation of the project.

After a tendering process, the Kiama Jazz and Blues Club were awarded a one-year contract to organise, stage and sound engineer the seven sessions held in 2015.

Report of the Director Corporate, Commercial & Community Services

11.1 Music in the Park (cont)

The Music in the Park sessions build on Kiama's catalogue of music events by providing a two hour music event in Hindmarsh Park each month, over a seven month period from June to December.

Local musicians are provided with the opportunity to perform in addition to their evening and night time gigs and are able to showcase their own original music, an opportunity often not available to them when required to do covers in pubs and clubs. The small fee provided to each musician demonstrates Council's ongoing commitment to supporting our local arts industry.

The Kiama Jazz and Blues Club were also awarded the Music in the Park contract for 2015 and 2016 and have seen increasing patronage of the program with more and more participants coming specifically for each month's event.

An evaluation survey was undertaken at the 2017 December session with 74 audience members responding. This survey showed that:

- 72% of respondents were from outside of Kiama
- 55% were in town and heard the music so came to participate
- 55% had attended a previous Music in the Park session
- 97% said the event was great or awesome
- 74% said they would definitely attend again

Comments received included:

- Awesome to come down from the Gong with the family and enjoy free great entertainment, keep it up.
- Good to see family things happening in parks
- Great community event. Would come again.
- We are from Canada and just passing through - we think it is a great idea to have Music in the Park! Keep it going mate!
- Thank you Kiama Council for a free event for families
- The music creates a positive friendly and welcoming environment and I wish I saw more like this back in Melbourne (Vic)

Feedback from the Kiama Jazz and Blues Club has indicated an increasing number of audience members and people attending specifically for the Music in the Park session each month. The sessions have given the Club the opportunity to showcase a range of both young and older members of the Kiama music industry and develop professional relationships with new musicians coming into the scene.

A suggestion for improvement from the Club has been that as Music in the Park was originally designed as an event for the off season, consideration might be given to moving the program period from the current June to December period to May to November to more effectively cover the off season.

To date the Music in the Park has been a yearly contract renewed each April/May. Due to the ongoing success of the program it is requested that Council consider moving to a three-year contract. This would reduce administrative load for both

Report of the Director Corporate, Commercial & Community Services

11.1 Music in the Park (cont)

Council and the selected contractor each year and provide opportunity for better forward planning and bookings at the beginning of each new season.

Item 11.1

11.2 Statement of Investments - November 2017

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 November 2017.

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 - November 2017 [↓](#)

Enclosures

Nil

RECOMMENDATION

That the information relating to the Statement of Investments for November 2017 be received and adopted.

BACKGROUND

Attached is a copy of the Statement of Investments for November 2017.

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 November 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 with sustainable growth in the economy and achieving the inflation target overtime." (November 2017 Monetary Policy Decision, Media Release, No. 2017- 23).

The Commonwealth Bank is quoting the following rates:

3 Months	6 Months	9 Months	12 Months	18 Months
2.40%	2.52%	2.58%	2.61%	2.66%

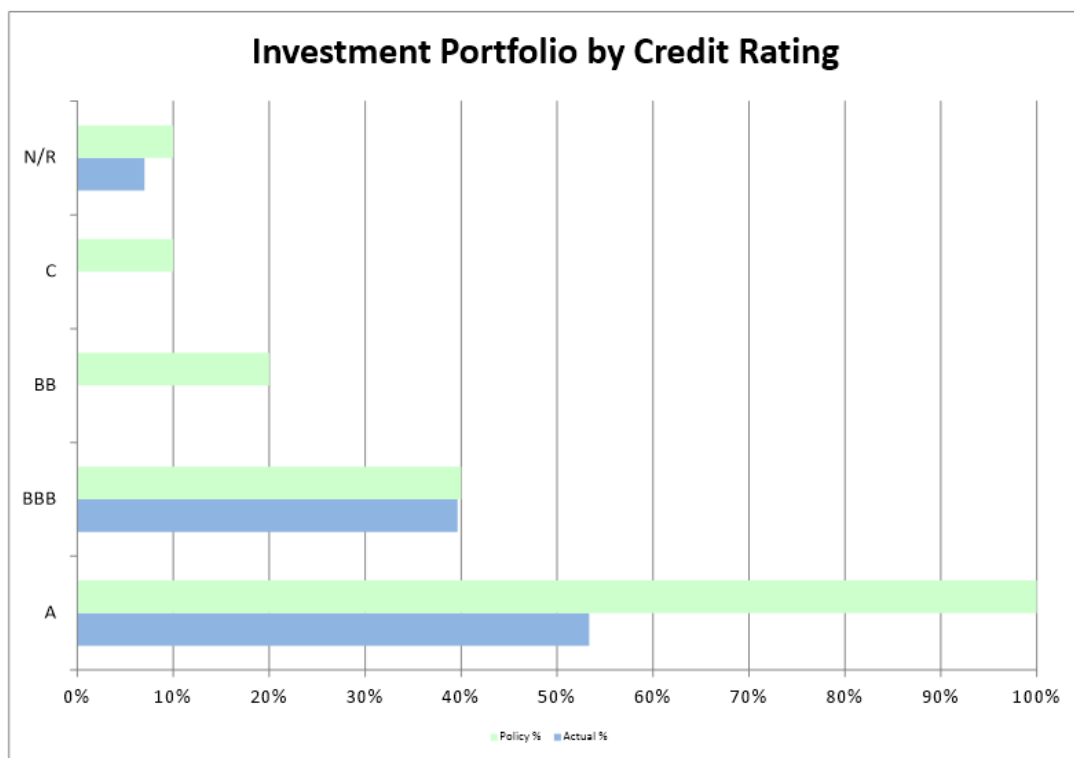
Certification – Responsible Accounting Officer

I hereby certify that the investments listed in this report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policy.

(b) Council Investments as at 30 November, 2017

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	22/11/17	21/02/18	91	2.30
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
Banana Coast Credit Union	N/R	1,000,000.00	Term Deposit	14/06/17	20/12/17	189	2.82
Beyond Bank	BBB+	1,000,000.00	Term Deposit	11/10/17	10/01/18	91	2.40
Bankwest	AA-	1,000,000.00	Term Deposit	08/08/17	11/01/18	156	2.40
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+	1,000,000.00	Term Deposit	09/08/17	14/02/18	189	2.60
Bank of Qld	BBB+	1,500,000.00	Term Deposit	08/11/17	09/05/18	182	2.60
Bank of Qld	BBB+	1,000,000.00	Term Deposit	31/08/17	07/03/18	188	2.55
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	15/03/17	13/12/17	273	2.60
ME Bank	BBB	1,500,000.00	Term Deposit	23/08/17	24/01/18	154	2.50
ME Bank	BBB	1,000,000.00	Term Deposit	18/10/17	18/04/18	182	2.52
NAB	AA-	1,000,000.00	Term Deposit	04/01/17	03/01/18	364	2.74
NAB	AA-	1,000,000.00	Term Deposit	14/12/16	13/12/17	364	2.73
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	AA-	1,000,000.00	Term Deposit	14/06/17	20/06/18	371	2.92
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	31/05/17	06/12/17	189	2.60
Suncorp	A+	1,000,000.00	Term Deposit	05/07/17	10/01/18	189	2.50
Suncorp	A+	1,000,000.00	Term Deposit	18/01/17	17/01/18	364	2.70
Total Term Deposits		37,000,000					2.59
TcorpIM Cash Fund	AAA	3,035,417	Cash Fund		AT CALL		1.96
Westpac	AA-	2,258,022	Bank Account	-	AT CALL		1.57
Westpac	AA-	581,579	Maxi Account	-	AT CALL		0.60
Total 'At Call' Funds		5,875,017					1.09
TOTAL CASH & INVESTMENTS		42,875,017			Average Rate- Nov 2017		2.43
					Average Rate- Nov 2016		2.77
TOTAL INVESTMENTS Oct 2017		41,302,092	3.67%	Change in total investment over prev 1 month			
TOTAL INVESTMENTS Nov 2016		45,048,679	-4.83%	Change in total investment over prev 12 months			

Note: The Westpac Bank Account balance shown above of \$2.26M 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	5,042,094
	Grants	298,611
	Domestic Waste	2,346,477
	Waste & Sustainability	403,006
	Southern Council's Group	2,730,925
Internally Restricted	Blue Haven ILU	5,738,423
	Blue Haven Care-Residential	2,990,179
	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	2,398,657
	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	
Unrestricted Funds:	Funds to meet current budgeted expenditure	3,758,498
TOTAL INVESTMENTS		42,875,017

Note:

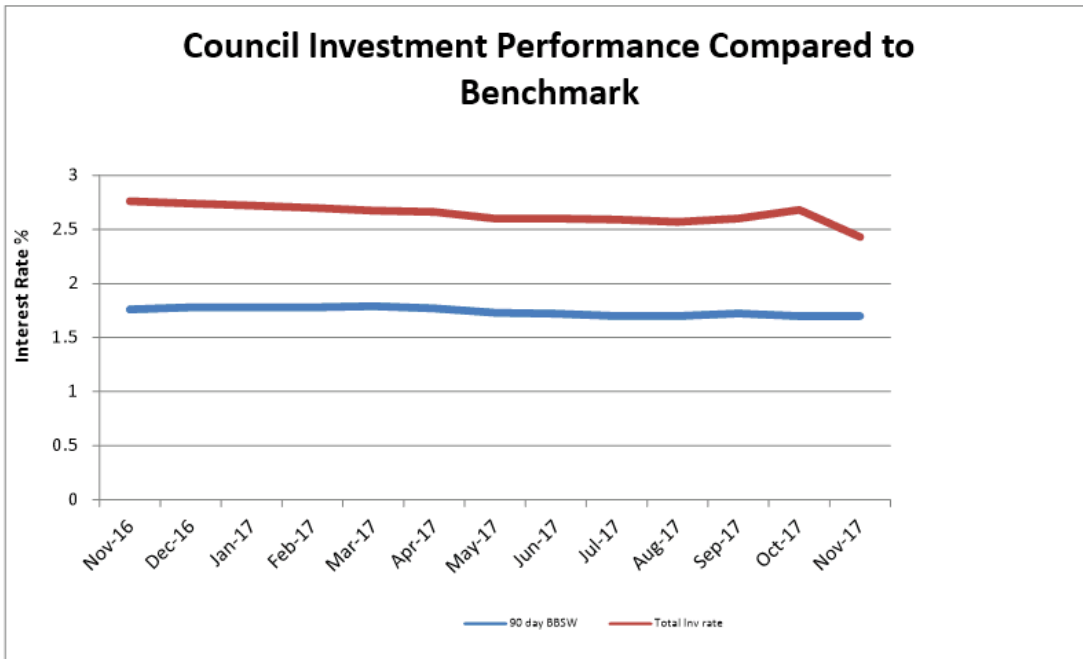
The above Application of Invested Funds reflects audited balances as at 30 June 2017. Actual movement in these balances are recorded at the end of the financial year.

The Unrestricted Funds balance forms available cash to fund Council's ongoing budget operations.

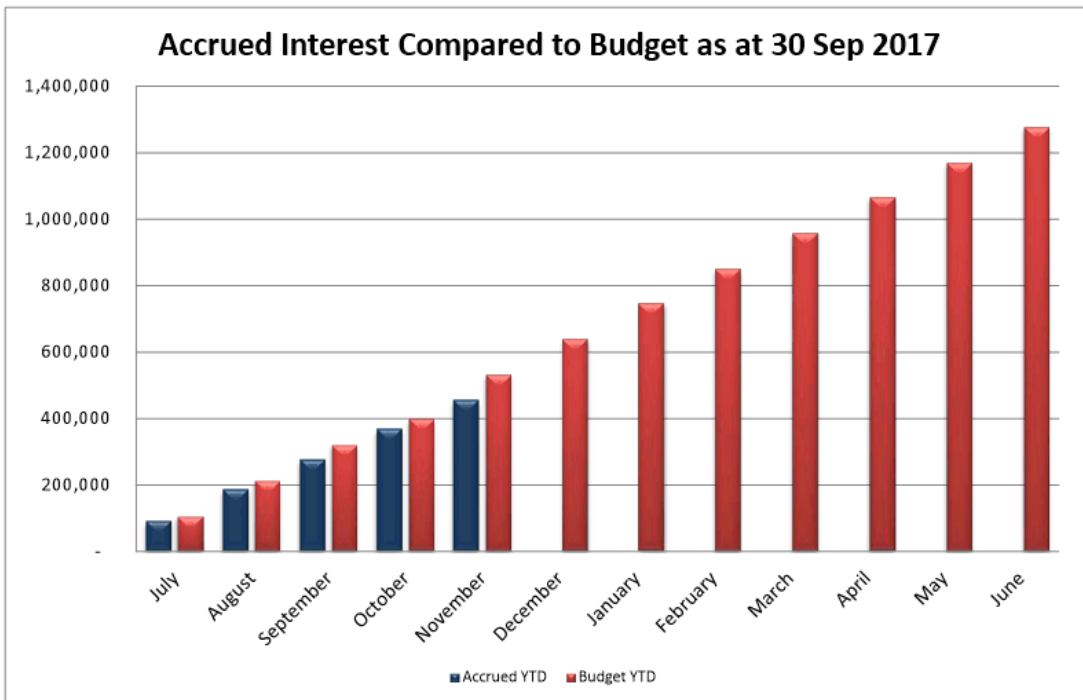
(d) Investment Portfolio Performance

Investment Performance vs Benchmark

	Investment Portfolio Return (%pa)	Benchmark: BBSW 90 day Bank Bill Index (source RBA)
1 month	2.43	1.70
3 months	2.57	1.71
6 months	2.58	1.71
12 Months	2.63	1.74



Council has been able to consistently perform above the Reserve Bank 90 day Bank Bill Index.



11.3 Audited Annual Financial Statements 2016/2017

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: 4.2.1 Ensure all Statutory accounting and reporting is carried out to meet legislation

Item 11.3

Summary

This report advises that a public notice was placed in the local paper on 2 December 2017 advertising that the Audited Financial Statements will be tabled for consideration at this meeting.

Finance

Audit costs are covered in Council's budget.

Policy

This report is a requirement of the Local Government Act and Local Government (General) Regulations 2005.

RECOMMENDATION

That:

- (1) The Annual Financial Statements and Audit Reports for the period ended 30 June 2017 be received and adopted.

- (2) The Audited Financial Statements and Audit Reports be forwarded to the Office of Local Government.

BACKGROUND

Council at its meeting held on 19 September 2017 resolved to refer the Annual Financial Statements to Council's auditors in accordance with Section 413(1) of the Local Government Act 1993.

Council's auditors are required to report on the General Purpose and Special Purpose Financial Statements, which include the five main Statements, Significant Accounting Policies and Notes to the Financial Statements. They are also required to report on the conduct of the audit.

Report on General Purpose Financial Statements

Report of the Director Corporate, Commercial & Community Services

11.3 Audited Annual Financial Statements 2016/2017 (cont)

The audit report by NSW Audit Office advises that Council has complied with all Australian Accounting Standards and obligations and responsibilities under the Local Government Act 1993, and the Local Government (General) Regulation 2005.

NSW Audit Office have issued an unqualified audit report for the General Purpose Financial Statements.

A summary of the Financial Statements is provided below:

Audited Financial Statements Summary	2017 \$'000	2016 \$'000
Income Statement		
Total income from continuing operations	73,953	68,513
Total expenses from continuing operations	53,221	53,177
Operating result from continuing operations	20,732	15,336
Net operating result for the year	20,732	15,336
Net operating result before grants and contributions provided for capital purposes	3,877	1,002
Statement of Financial Position		
Total current assets	45,409	43,028
Total current liabilities	(76,237)	(72,688)
Total non-current assets	440,358	419,116
Total non-current liabilities	(3,261)	(3,917)
Total equity	406,269	385,539
Other financial information		
Unrestricted current ratio (times)	3.86x	4.38x
Operating performance ratio (%)	4.4%	2.6%
Debt service cover ratio (times)	8.68x	4.85x
Rates and annual charges outstanding ratio (%)	1.5%	2.2%
Infrastructure renewals ratio (%)	199.2%	244.1%
Own source operating revenue ratio (%)	60.4%	59.8%
Cash expense cover ratio (months)	10.71 mths	8.7 mths

COMMENTS ON THE GENERAL STATEMENTS

The Income Statement for the twelve-month period ending 30 June 2017 discloses a net operating surplus for the year of \$20,732K (2015/2016 \$15K surplus). The surplus of \$20,732K includes contributed assets of \$13.6m.

A review of residual values for plant items has seen a slight decrease in depreciation of \$264k.

Rates and annual charges represent approximately 26.83% of Council's revenue (2015/2016 27.45%). This percentage is also affected by the contributed assets received from the RMS.

Fit for the Future Indicators

	Meets FFTF	Bench mark	2017	2016	2015
Operating Performance Ratio	✓	>0.0%	4.43%	2.61%	-5.27%
Own Source Operating Revenue Ratio	✓	>60%	60.43%	59.84%	77.75%
Building & Infrastructure Renewals Ratio	✓	100%	199.22%	244.07%	25.81%
Infrastructure Backlog Ratio	✓	<2%	0.25%	1.56%	2.44%
Asset Maintenance Ratio	x	100%	96%	102%	98%
Debt Service Ratio	✓	<20%	2.44%	3.13%	2.65%
Real Operating Expenditure per capita	✓	Trending ↓	\$1,932	\$1,959	\$1,995

The Operating Performance Ratio has improved significantly from 2015 due to a reassessment of asset conditions resulting in a reduction in depreciation and Councils commitment to finding efficiencies.

The Own Source Operating Revenue Ratio is above the benchmark. This indicates Councils flexibility necessary to manage external shocks and challenges and Councils ability to control and manage financial sustainability.

The Debt Service Ratio has trended favourably as Council continues to meet loan payment requirements.

The Building & Infrastructure Renewals Ratio was quite high in 2016/17 due to another large value of Gerringong Bypass road assets being contributed to Council. Future asset renewal is fully funded in future budgets based on the Ten Year Asset Management Strategy and the Long Term Financial Plan.

The Asset Maintenance Ratio benchmark is 100%, Council has been unable to meet this ratio in 2016/17.

The Real Operating Expenditure per capita is trending downwards. This is a reflection of Council's process improvements and commitment to gaining efficiency in operations.

GENERAL

The Financial Statements for the period ended 30 June 2017 reveal that Council's finances provide a reasonable basis for funding the coming year's operations.

12 REPORT OF THE DIRECTOR ENGINEERING AND WORKS

Nil

13 REPORT OF THE DIRECTOR BLUE HAVEN

13.1 Illawarra Academy of Sport sponsorship proposal Athlete access to Leisure Centre

CSP Objective: 1.0 A healthy, safe and inclusive community

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

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

Summary

This report requests that Council include as part of their sponsorship of the Illawarra Academy of Sport membership to the Leisure Centre for our resident elite athletes that are current scholarship holders.

Finance

In kind - \$6,720

Policy

N/A

Attachments

Nil

Enclosures

Nil

RECOMMENDATION

That Council, as part of its sponsorship to the Illawarra Academy of Sport, provide silver student membership to the Kiama Leisure Centre for scholarship holders in the Kiama LGA.

BACKGROUND

Council have been partners in the Illawarra Academy of Sport (IAS) since its inception in 1985. The IAS have produced many elite athletes including our own Grace Stewart, Shaun Timmins, Josh and Brett Morris, and Sally Fitzgibbons just to name a few.

Currently, Kiama athletes are required to travel to Shellharbour if they wish to make use of the complimentary gymnasium facilities that are included as part of their scholarship. Representation has been made from the IAS requesting that council provide silver student memberships to Kiama Leisure Centre so that they can access a gym locally. This year there are 20 eligible athletes.

The current annual financial council sponsorship commitment of to the IAS is \$6,000. This proposal would not incur an actual cost to Council but would provide an

Report of the Director Blue Haven

- 13.1 Illawarra Academy of Sport sponsorship proposal
Athlete access to Leisure Centre (cont)
-

additional benefit of \$6,720 to our athletes and demonstrate support and commitment to our elite athletes. The Manager of the Leisure Centre and the Manager of Commercial Services are supportive of this proposal as it would also provide excellent PR opportunities to promote the services and facilities at the Leisure Centre to attract additional members.

Item 13.1

14 REPORTS FOR INFORMATION

14.1 NSW Coastal Conference 2017 - Councillor Neil Reilly report

Responsible Director: Office of the General Manager

Attached for Councillors' information is the conference report from Councillor Neil Reilly's attendance at the 2017 NSW Coastal Conference in Port Stephens from 8-10 November 2017.

Attachments

- 1 Councillor Neil Reilly report on attendance at NSW Coastal Conference 2017 [↓](#)

Councillor Report on Attendance at Conference

Responsible Councillor:	Neil Reilly
Conference:	NSW Coastal Conference
Location:	Port Stephens
Date:	7-10 November 2017

Value of Conference

This conference provided an opportunity to:

- meet and exchange information with other councils (staff and elected councillors) regarding issues specific to coastal management
- examine the new NSW legislative framework relating to the way coastal environments are managed
- receive presentations from leading specialists covering a diverse range of fields including: all aspects of coastal, estuarine and marine management, science and research, education, planning policy and law, representatives from government, the private sector and community groups
- explore the detail and methodology of developing effective Cost Benefit Analysis and specifically how this tool informs coastal hazard management decisions by local councils.

Key Messages/Highlights

(Outline issues raised by key note speakers or main themes discussed)

- Pre-Conference Workshop
 - *"How Cost Benefit Analysis (CBA) informs Coastal Hazard Management Decisions by Local Councils"*
 - If properly carried out, CBA can underpin decisions on coastal hazard management by identifying the net economic, social and environmental impacts of different management options for responding to coastal hazards.
 - I found the methodology is appropriate to much wider applications (outside coastal management and in the broader spectrum of council life) and I will be using some form of this tool (combined with others) when the time comes to pick between competing alternatives.
 - While there were some difficulty ascribing dollar values to non-market impacts, the overall outcome can be monetised after a fashion.¹

¹ I undertook some research on this and found an excellent document that clarified a lot of this from the Victorian State Government at <http://www.infrastructurevictoria.com.au/sites/default/files/images/Moving%20from%20evaluation%20to%20valuation.PDF>

- "Marine wonders of the Port Stephens-Great Lakes Marine Park"
Dr David Harasti, Fisheries NSW - Department of Industry
 - The doctor is a keen diver and photographer and provided a passionate insight into the dynamics of marine protected areas and the benefits to contiguous open fishing areas. In one area he pointed out the decline of seahorses in the protected area due to high predation. The predators, their numbers high through being in a catch zone, took many more seahorses than in the no catch zone where their numbers were reduced. The overall 'take' in unprotected zones was higher as the breeding grounds were sensibly located in the protected zones.
- Raewyn Peart, Policy Director, Environmental Defence Society NZ
 - For those who think that it's better to let the market control coastal development, Ms Peart has some sobering historical evidence that a neo-liberal attitude to our coastal management delivers ugly, self-defeating development with perverse outcomes...such as declining property values because of too many 'Mansions on the Hills'.
- Risky Business – Who is Legally Liable on the Coast? Karen Coleman King and Wood Mallesons
 - Court decisions in Australia make it clear that councils and other statutory authorities can be liable for misfeasance².
 - The Supreme Court of NSW has found that council resolutions can be invalid. In part, if recommendations were contrary to the applicable rule and found also to be made worse by a lack of fairness, including a failure to give notice to nearby property owners who could be affected. Any act, or omission, done or made by a public official in performance of the functions of office in such a case can found in action for misfeasance in public office.

Benefits to Kiama Municipal Council

- Awareness of proven strategies to increase coastal protection awareness and encourage participation in developing sustainable environments.
- Latest knowledge and research in coastal management, strategies and initiatives.
- Be careful of making judgements without proper due diligence.

Suggestions for Future Action

Council should review the Estuary and Flood Plain Management Plans to ensure that new coastal protection strategies and initiatives are incorporated.

Cost benefit analysis should form a part of recommendations for capital works.

² A transgression, especially the wrongful exercise of lawful authority. In an action for misfeasance both individual public officers and authorities can be found liable in damages.

Overall Rating

(Please indicate a rating for future attendance between 1 – 5 where 1 = not relevant and 5 = highly relevant)

5

Attachments

(Attach conference program, presentations or relevant notes as necessary)

Conference program available at: <http://www.coastalconference.com/program.php>

14.2 Conference Report - NSW Coastal Conference - Councillor Sloan and Reilly

Responsible Director: Office of the General Manager

Attached for Councillor information are reports on the NSW Coastal Conference held in Port Stephens from 7-10 October, and attended by Councillor Sloan and Councillor Reilly.

Item 14.2

Attachments

- 1 Councillor Report - NSW Coastal Conference 2017 - Andrew Sloan [↓](#)
- 2 Councillor Report - NSW Coastal Conference 2017 - Neil Reilly [↓](#)

Councillor Report on Attendance at Conference

Responsible Councillor: Andrew Sloan
Conference: NSW Coastal Conference
Location: Port Stephens
Date: 7-10 November 2017

Value of Conference

Opportunity to learn about the latest in practical solutions and the application of the new Coastal Management Manual for Councils to the Kiama regions' coastal zones and estuaries.

Over three days, topics ranged from geomorphology, sea level rise impacts and council planning responses, community values for the coastal zone, risk management and engineering options available for asset protection.

The latest in science and practical responses to issues were presented by representatives of key agencies, academics and council officers from coastal NSW.

Key Messages/Highlights

- Ms Jocelyn Dela-Cruz, Office of Environment and Heritage NSW.
 - Presented nutrient and sediment studies and targets for Lake Illawarra sub-catchments. The areas of greatest concern and opportunities for water quality improvement were modelled and discussed.
 - An opportunity for similar modelling and assessment of Kiama LGA catchments such as the Minnamurra River can result in targeted goals that identify best bang for buck actions to improve water quality.
- Mr Scot McDonald MLC, representing the Minister.
 - Announced the members of the Coastal Council Advisory Panel and summarised the new Coastal Management Manual that will guide all future planning for the coastal zone.
 - Coastal Management Programs (as KMC approved proceeding with at the last meeting) go beyond the previous management plans. They seek to protect community and ecological values and set the overarching goals and objectives for each council area. They will be audited by the new Panel.
- Mr Tom Davies, Edge Environment (Consultant)
 - Presented guidelines for maximising community resilience to the impacts of climate change. He noted that home insurance policy costs have doubled for higher risk areas over the past 4 years and explained the direct correlation between higher temperatures and frequency and intensity of storms, floods and fires.
 - Explained how Development Controls can be changed to make home more resilient see www.buildingresilience.org

- Mr M Hughes, NSW Office of Environment and Heritage
 - Presented a new modelling tool that predicts whether the shoreline will recede and by how much. He tested the model on the Central Coast and also at 7-Mile Beach south of Gerroa...where the model predicts shoreline recession inland of up to 70 metres by 2100.
- Field Trip – Tomago Wetland Rehabilitation, Automated Floodgates, Drainage Union
 - Sea Level Rises have been making it difficult for the Anna Bay drainage scheme to continue to function properly. The low tides are often not low enough to enable water to escape from the pasture land and some areas "are flooding from the inside out". Retreat is occurring slowly and salt marsh communities re-establishing, which are prime fish breeding fingerling habitat.
 - Wetland rehabilitation showed benefits of reducing acid sulfate soil issues (fish kills), significant increases in wildlife and associated increases in eco-tourism

Benefits to Kiama Municipal Council

Gained a deeper understanding of the range of potential solutions (including costs) to address the issues that council is likely to experience over the next decade and in the longer term.

Numerous opportunities through networking to encourage researchers and funding agencies to prioritise works in the Kiama LGA, to advance knowledge or implement actions that are identified in the Minnamurra, Crooked River and Werri Lagoon Coastal Zone Management Plans, and also the Beach Management Plans.

Suggestions for Future Action

Members of Councils Catchment and Flood Risk Management Committee will follow up on funding opportunities to prepare a new Coastal Management Program in accordance with new State requirements, and will also continue to actively seek researchers and funding opportunities to implement solutions identified in existing plans.

Most councils had multiple staff members in attendance at this conference and it is recommended that key staff be offered the opportunity to attend next year.

Overall Rating

5 out of 5. This is a highly relevant conference to my role as a member of Estuary, Flood Risk and the Planning Committees, which is why I prioritise attendance at this conference above any other.

Attachments

<http://www.coastalconference.com/>

Note that the full conference papers and notes from the sessions I attended are available to any-one interested in more details.

Councillor Report on Attendance at Conference

Responsible Councillor:	Neil Reilly
Conference:	NSW Coastal Conference
Location:	Port Stephens
Date:	7-10 November 2017

Value of Conference

This conference provided an opportunity to:

- meet and exchange information with other councils (staff and elected councillors) regarding issues specific to coastal management
- examine the new NSW legislative framework relating to the way coastal environments are managed
- receive presentations from leading specialists covering a diverse range of fields including: all aspects of coastal, estuarine and marine management, science and research, education, planning policy and law, representatives from government, the private sector and community groups
- explore the detail and methodology of developing effective Cost Benefit Analysis and specifically how this tool informs coastal hazard management decisions by local councils.

Key Messages/Highlights

(Outline issues raised by key note speakers or main themes discussed)

- Pre-Conference Workshop
 - *"How Cost Benefit Analysis (CBA) informs Coastal Hazard Management Decisions by Local Councils"*
 - If properly carried out, CBA can underpin decisions on coastal hazard management by identifying the net economic, social and environmental impacts of different management options for responding to coastal hazards.
 - I found the methodology is appropriate to much wider applications (outside coastal management and in the broader spectrum of council life) and I will be using some form of this tool (combined with others) when the time comes to pick between competing alternatives.
 - While there were some difficulty ascribing dollar values to non-market impacts, the overall outcome can be monetised after a fashion.¹

¹ I undertook some research on this and found an excellent document that clarified a lot of this from the Victorian State Government at <http://www.infrastructurevictoria.com.au/sites/default/files/images/Moving%20from%20evaluation%20to%20valuation.PDF>

- "Marine wonders of the Port Stephens-Great Lakes Marine Park"
Dr David Harasti, Fisheries NSW - Department of Industry
 - The doctor is a keen diver and photographer and provided a passionate insight into the dynamics of marine protected areas and the benefits to contiguous open fishing areas. In one area he pointed out the decline of seahorses in the protected area due to high predation. The predators, their numbers high through being in a catch zone, took many more seahorses than in the no catch zone where their numbers were reduced. The overall 'take' in unprotected zones was higher as the breeding grounds were sensibly located in the protected zones.
- Raewyn Peart, Policy Director, Environmental Defence Society NZ
 - For those who think that it's better to let the market control coastal development, Ms Peart has some sobering historical evidence that a neo-liberal attitude to our coastal management delivers ugly, self-defeating development with perverse outcomes...such as declining property values because of too many 'Mansions on the Hills'.
- Risky Business – Who is Legally Liable on the Coast? Karen Coleman King and Wood Mallesons
 - Court decisions in Australia make it clear that councils and other statutory authorities can be liable for misfeasance².
 - The Supreme Court of NSW has found that council resolutions can be invalid. In part, if recommendations were contrary to the applicable rule and found also to be made worse by a lack of fairness, including a failure to give notice to nearby property owners who could be affected. Any act, or omission, done or made by a public official in performance of the functions of office in such a case can found in action for misfeasance in public office.

Benefits to Kiama Municipal Council

- Awareness of proven strategies to increase coastal protection awareness and encourage participation in developing sustainable environments.
- Latest knowledge and research in coastal management, strategies and initiatives.
- Be careful of making judgements without proper due diligence.

Suggestions for Future Action

Council should review the Estuary and Flood Plain Management Plans to ensure that new coastal protection strategies and initiatives are incorporated.

Cost benefit analysis should form a part of recommendations for capital works.

² A transgression, especially the wrongful exercise of lawful authority. In an action for misfeasance both individual public officers and authorities can be found liable in damages.

Overall Rating

(Please indicate a rating for future attendance between 1 – 5 where 1 = not relevant and 5 = highly relevant)

5

Attachments

(Attach conference program, presentations or relevant notes as necessary)

Conference program available at: <http://www.coastalconference.com/program.php>

Item 14.2

Attachment 2

14.3 Legislative Updates to the Environmental Planning and Assessment Act 1979 and supporting Regulation

Responsible Director: Environmental Services

Amendments to the NSW Environmental Planning and Assessment Act 1979 have been passed by State Parliament in what are the most comprehensive changes to the Act in 40 years. The updates are based on four underlying objectives:

- to enhance community participation;
- to promote strategic planning;
- to increase probity and accountability in decision-making; and
- to promote simpler, faster processes for all participants.

Due to the extensive changes proposed, the Bill's commencement will take a staged approach to allow for a smooth transition and to allow time for Councils to understand and prepare for the new requirements. Most of these changes will begin in the first quarter of 2018, with other more complicated changes such as community participation plans and local strategic planning statements introduced at a later date after further consultation with relevant stakeholders.

The following is a breakdown of the impending changes:

Modernised Structure

The Bill:

- gives the Act a clear structure of 10 principal parts, with decimal numbering of all provisions;
- moves some detailed provisions to schedules and the regulations where appropriate;
- updates the language of the objects of the Act while maintaining their substance.

New Objectives

The new objects reflect the Government's commitment to thriving, safe and well-designed communities with local character and heritage. When performing functions under the Act, authorities will now be guided by additional objects promoting:

- good design and amenity of the built environment;
- the sustainable management of built and cultural heritage (including Aboriginal cultural heritage);
- the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

Community Participation

The Bill will make it clearer and easier for the community to understand how it can participate in planning decisions.

- all planning authorities – every council and NSW agency with a function under the Act – will need to prepare a community participation plan. This will spell out

Reports for Information

14.3 Legislative Updates to the Environmental Planning and Assessment Act 1979 and supporting Regulation (cont)

-
- when and how they will engage with their communities across all the planning functions they perform;
- the plans will have to meet the minimum requirements for community participation that will be set out in Schedule 1 to the Act. In their plans, authorities can commit to go beyond the minimum requirements, to suit the needs of their communities;
 - in preparing their plans, authorities will have to take into consideration new community participation principles, which set the bar for how the community should be engaged. The principles state, among other things, that the community has a right to be informed about planning matters that affect it, and it should be given opportunities to participate as early as possible in strategic planning;
 - to improve accountability to all stakeholders, decision-makers will have to give reasons for their decisions.

Local Strategic Planning

For the first time, the Act recognises the critical role of councils in strategic planning. This is the process of working with the community to set out what is special about the local area, what its future should look like, and what actions are needed to get there. Under the new provisions:

- each Council will prepare a local strategic planning statement. This will set out the 20-year vision for land-use in the local area, the special character and values that are to be preserved, and how change will be managed into the future. The statements will need to align with the regional and district plans, and the council's own priorities in the community strategic plan it prepares under local government legislation;
- the statements will shape how the development controls in the local environmental plan (LEP) evolve over time. This means the LEP will be a tool to deliver the council and community's plan for the future;
- to ensure local views are reflected in the statements, ward councillors will have a lead role in preparing and endorsing the statements.

Up to date Development Controls

The Bill helps to ensure this by:

- requiring Councils to do a 'LEP check' at least every 5 years – they will consider whether the LEP is still fit for purpose given any changes in population, infrastructure, strategic plans and other key indicators. This check may prompt some updates to the LEP, or it may find that a comprehensive review of the LEP is needed;
- allowing the creation of a standard format for DCPs – there are currently over 400 different DCPs across NSW and these vary significantly from council to council. The Bill will allow the Government to establish a standard, online format for DCPs. The content will remain up to councils, but they will be able to draw on model provisions prepared by the Department.

Reports for Information

14.3 Legislative Updates to the Environmental Planning and Assessment Act 1979 and supporting Regulation (cont)

Enforcement of Complying Development Provisions

To improve confidence in complying development:

- Councils will be able to impose a levy on complying development certificates to fund monitoring and enforcement of complying development standards in their area;
- councils will be able to stop work for up to seven days on a complying development site to investigate whether the construction is in line with the certificate. From there, the council can take more formal action – such as a development control order – if warranted;
- the courts will be able to declare a complying development certificate invalid if it does not meet the approved standards.

Stakeholders also raised concerns about instances where developers have constructed works that go beyond the approval, then retrospectively applied for a modification to authorise the extra works. To address this, Councils will be able to impose an additional fee to deter retrospective modification applications. This fee will be set in the EP&A Regulations.

Increased Probity and Independence of Decision Makers

The Government recently introduced changes to make independent hearing and assessment panels (IHAPs) compulsory in Greater Sydney and Wollongong. This means panels of qualified, independent experts will be determining the most sensitive and complex development applications. The changes in this Bill build on the recent reforms by:

- strengthening the rules for Sydney and joint regional planning panels in line with the local IHAPs – this includes ensuring property developers and real estate agents cannot sit on the panels, and that meetings are held in public;
- emphasising the independence and decision-making role of the Planning Assessment Commission, which will now be known as the Independent Planning Commission. The Commission will continue to make decisions about the most complex State significant development applications. It will no longer perform duplicative review functions, and its public hearing process will be improved to allow more scope for the community to present their concerns at an early stage of the assessment, and for the Commission to more rigorously test the development proposal.

Increased Efficiency from NSW Agencies

NSW agencies often have a role in providing advice or concurrences where development has the potential to affect the environment, infrastructure or public safety. Stakeholders have raised concerns that this process can add delays to the assessment process. To address this:

- the Bill gives the Planning Secretary the power to ‘step-in’ and give approvals, concurrence or advice on behalf of another NSW agency, where the agency has not met statutory timeframes or where two agencies hold conflicting views;

Reports for Information

14.3 Legislative Updates to the Environmental Planning and Assessment Act 1979 and supporting Regulation (cont)

-
- this will be supported by an online platform that provides better information to Councils and applicants about the status of referrals to NSW agencies.

Increased Efficiency for State Significant Developments

The Bill contains measures to achieve this and to simplify and clarify the process for State significant development.

- because of their complexity and potential impacts, State significant projects are often regulated by multiple agencies. This Bill introduces 'transferrable conditions'. These are consent conditions that can become dormant where they are also imposed by an environment protection licence or other instrument. This reduces regulatory duplication while ensuring the impact is regulated using the most up-to-date instrument;
- the Bill also clarifies that the conditions of consent can require proponents to put up bonds, or other financial assurances, to fund rehabilitation work if needed;
- the Government is closing off the transitional arrangements for former Part 3A projects. All future modifications to these projects will be assessed under the State significant development or State significant infrastructure pathways. Consent holders will be given a short transition window to lodge any final modification applications under the old pathway (two months from the passage of the Bill, or one year if environmental assessment requirements have been issued).

Conclusion

Many of these changes are welcome, such as modernising the planning system, increased efficiencies and additional enforcement powers for Complying Development. However, changes such as the implementation of Standard Format Development Control plans and the preparation of Local Strategic Planning Statements will need to be budgeted for to ensure these mandatory changes can be effectively undertaken by Council staff. The standard format DCP, the template of which has not yet been released, will likely require the redrafting of the entire document to meet State requirements.

14.4 Parking Statistics - November 2017Responsible Director: Environmental Services

CBD Parking

Parking patrols conducted 19 specific – 30 general area

Infringements issued – 62

Vehicle spaces inspected – 884

Morton Street Various – 1 patrol

Terralong Street 1/2P – 9 patrols

Terralong Street 2P – 3 patrols

Terralong Street 1P – 1 patrol

Manning Street 1/2P – 1 patrol

Railway Parade 2P – 2 patrols

Fern Street 1/2P – 1 patrol

Fern Street 1 P – 1 patrol

School Zone Patrols

Kiama High School – 2 patrols – 1 penalty notice

Minnamurra Public School – 3 patrols – 3 penalty notices

Kiama Public School – 2 patrols – Nil

Reactive Issues

Kiama Fair Path – 11 penalty notices

No Stopping – 2 penalty notices

Motor Bike Only – 1 penalty notice

No Parking – 1 penalty notice

90 Front to Kerb – 1 penalty notice

Divided Line – 2 penalty notices

Total amount of infringements issued = \$ 8035

Specific patrols for December will be for locations nominated above.

14.5 Catchment and Flood Risk Management Committee - Minutes - 21 November 2017

Responsible Director: Environmental Services

A copy of the minutes of the Catchment and Flood Risk Management Committee meeting held on 21 November 2017 is enclosed in Councillors' envelopes.

Enclosures

- 1 Catchment and Flood Risk Management Committee - 21/11/17 - Minutes [↔](#)

14.6 Questions for Future Meeting - Neighbourhood Character and Kiama LEP 2011Responsible Director: Environmental Services

At Council's Ordinary meeting held on 17 October 2017, Councillor Reilly asked two questions relating to assessing neighbourhood character and possible additional controls in the *Kiama LEP 2011*:

17.2 Neighbourhood character

Councillor Reilly requested a report on assessing context and the neighbourhood character of the Kiama LGA and how this can be integrated into our planning controls. He referred officers to the Torquay-Jan Juc neighbourhood character study review 2012 and to consider consultation with the Planning Institute of Australia, Diana Griffiths – Director Urban Design, Studio GL.

Comment:

Neighbourhood character refers to the aspects that make up the appearance and feel of an area. This takes in every property, public place and piece of infrastructure and the cumulative impact of all of these make up the neighbourhood character.

Neighbourhood character is already a consideration in the assessment of development applications in the LGA, with controls contained within the Development Control Plan 2012 specifically addressing this issue. For example, in Chapter 26 – Kiama Town Centre, Sections 3 and 4 specifically relate to residential form within the town centre, addressing both the existing character and the desired future character. Similar controls have been included in the Gerringong Chapter and the draft Jamberoo Chapter.

Council staff are currently in the process of having a consultants' brief prepared for a Kiama Town Centre Study to be undertaken in 2018 which will, amongst other things, consider the neighbourhood character. It would be untimely to consider any changes to the existing DCP controls until this study is concluded as this would provide valuable information to help shape the future direction of Kiama. It should also be noted that, with the introduction of a standard template for Development Control Plans recently passed by NSW parliament, there may be a chance in 2018 for a comprehensive review of the entire document.

17.3 Local Environmental Plan

Councillor Reilly requested that the following points be included in the Kiama LEP:

- 1. To maintain the architectural excellence and respect the character of our towns and villages.*
- 2. Dual occupancies only be permitted on corner blocks.*

Comment:

1. Controls of a similar nature are already contained within the LEP 2011, specifically under clauses 1.2 (2)(e) 'Aims of Plan' and 5.5 (1)(b)(ix) 'Development Within the Coastal Zone' (see below). It is recommended that

Reports for Information

14.6 Questions for Future Meeting - Neighbourhood Character and Kiama LEP 2011 (cont)

any proposed amendments to the aims and objectives of the LEP 2011 be first discussed at the Planning Committee to ascertain the need for such change prior to any motion being put to Council for endorsement.

1.2 Aims of Plan

(2)(e) *to protect and enhance the coastal and rural character of Kiama's rural towns, neighbourhoods and villages, and the characteristic scenic landscapes that contribute to its liveability and identity,*

5.5 Development within the coastal zone

(1)(b)(ix) *ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area,*

2. Council recently adopted a new minimum lot size for dual-occupancies in newly rezoned residential areas which will help address the issue. The perceived higher density created by dual-occupancies can be addressed through other planning controls such as locating one dwelling behind the other or having a minimum lot width prescribed in the DCP. This is the approach taken with the Jamberoo DCP Chapter. Dual-occupancies are an important element in the housing mix and to limit this land-use to corner allotments would sterilise a large proportion of land in the LGA which may be suitable for such development.

14.7 Kiama Liquor Accord Meeting Minutes - 29 November 2017

Responsible Director: Engineering and Works

The Minutes of the Kiama Liquor Accord Meeting held on Wednesday 29 November 2017 are attached for Councillors information.

Attachments

- 1 Kiama Liquor Accord Meeting - minutes - Wednesday 29 November 2017 [↓](#)



**KIAMA LIQUOR ACCORD
Minutes of meeting**

Date & time	Wednesday 29 November 2017	
Location	Kiama Council Chambers, 11 Manning Street, KIAMA	
Present (indicate name & venue/organisation)	David Rootham Doug McCallum Steven Zilizi Rohan Adderley Lauren Parker Andrew Broadwood Janelle Burns Connie Graf David Hoade Peter Grogan Nick Guggisberg Jeremy Blue Simon Blue Leigh Drydon Jamie Warren Jesse O'Brien Mark Schmidt Gary Keevers Clr Don Watson Mark Gilmore David O'Brien	Kiama Golf Club Gerroa Fishermans Club BWS Kiama IGA Kiama Downs and Jamberoo Gerringong Bowling Club Kiama Bowling Club Kiama Municipal Council Drink Drive Prevention Co Ordinator IGA Kiama Downs and Jamberoo Gerroa Fishermans Club Kiama Municipal Council Kiama Inn Kiama Inn Decant This Jamberoo Pub Kiama Leagues Club Lake Illawarra Police Lake Illawarra Police Kiama Municipal Council Grand Hotel Manning Street Cellars
Apologies	Tyler Wakefield, Liquor and Gaming NSW Clr Matt Brown, Kiama Municipal Council Ron Sullivan Gerringong Bowling Club Daniel Dewhurst Blue Swimmer Restaruant Gerroa	
Agenda		
	<p>2. Minutes of last meeting</p> Adopted with minor adjustment to attendance list Moved: Leigh Drydon 2 nd : Peter Grogan Carried unapposed	

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<p><i>Business arising: Nil</i></p>
<p>3. Business Arising</p> <p>Red Hot Summer Tour – Accord members were advised of the upcoming Red Hot Summer Tour to be held at the Kiama Showground on Saturday 14 April 2018.</p> <p>Members were advised that the event organisers are in constant contact with Licencing Police with regard to policing and liquor licensing issues.</p> <p>Leigh Dryden requested that representatives from the Office of Liquor and Gaming be invited to future Accord Meetings to be held in 2018.</p> <p>ACTION ITEMS</p> <p>Accord Members requested further information to be distributed prior to the event as follows:</p> <ul style="list-style-type: none">• Event plan detailing the timing, policing and traffic management.• Letter to be distributed to residents around the Showground• Minutes of the last Traffic Committee meeting
<p>4. Correspondence</p> <ul style="list-style-type: none">• NIL
<p>5. Treasurer's Report</p> <ul style="list-style-type: none">○ As tabled Financial Report for period 1 July 2016-31 October 2017○ Opening Balance \$5272.06○ Closing Balance \$1423.41 <p>Moved: Jeremy Blue</p> <p>2nd: Peter Grogan</p> <p>Carried unopposed</p> <p><i>Membership invoices to be sent.</i></p> <ul style="list-style-type: none">• <i>Membership drive may be beneficial</i>

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<p>6. OLGR (Update)</p> <ul style="list-style-type: none">• Not in attendance <p><i>ACTION ITEMS</i></p> <ul style="list-style-type: none">• <i>NIL</i>
<p>7. Alternative transport</p> <p>Members were advised that the Summer Service was ceased on Saturday 29 March 2017. This program will no longer be supported by Kiama Liquor Accord due to a reduction in passenger numbers and cost effectiveness for the Kiama Liquor Accord.</p> <p><i>ACTION ITEMS</i></p> <ul style="list-style-type: none">• <i>Council's Road Safety Officer has provided Roads and Maritime Services an evaluation of the 2016-2017 Summer Service.</i>
<p>8. Constitution update</p> <ul style="list-style-type: none">• Amended and adopted.• Carried unopposed

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Attachment 1

9. Policing Matters

The Following Police matters were discussed by Sergeant Garry Keevers Licencing Sargent from Lake Illawarra Local Area Command

- New Commander of Police at Lake Illawarra Command
- Lake Illawarra Police- Re Enginnering no amalgimation of current Command
- Operation Alert – Police Operation relation to the threat of terrorist attacks
- Domestic Voilence and Gun Crime
- Changes to legislation such as Responsible Service of Alcohol
- Three strike laws and the inpact for venues
- Responsible Service of Alcohol
- Risk Assessments for events and concerts in Kiama
- Alcohol related crime and how to manage and report assaults
- Drug Use
- Police advised that they will be targeting intoxicification over the Christmas New Year period and advised that extra Police will be present over the holiday period in Kiama and that fines would apply for non compliance
- Consequence of Policing crackdowns
- Joint Banning Policies for venues
- Minors in licenced venues

ACTION ITEMS

- *Police were invited attend to next meeting date TBA*

Item 14.7

Attachment 1

10. Council

Many questions were raised about the new container Deposit Scheme and its implementation into the Kiama municipality. Ms Josephine St John from Kiama Council's Waste Management Unit will be invited to the February 2018 Accord meeting to help answer questions relating to the scheme and Kiama Municipal Councils involvement.

More information can be found here:

- <http://epa.nsw.gov.au/waste/cds-works.htm>

ACTION ITEMS

Council Officers to be invited attend to next meeting of Kiama Liquor Accord date TBA

11. General business

- Driverless Bus for Kiama Municipal Council
- Kiama Municipal Council representatives attended an automated shuttle demonstration at Newington Armory on Wednesday 8 November 2017, and was the first Council to visit the trial of a driverless shuttle bus in NSW.
 - Kiama Council is hopeful of becoming the first to test-ride this new technology on local roads and take part in Regional Automated Vehicle Trials.

ACTION ITEMS

- *NIL*

12. Next meeting

February 2018 Venue TBA

Meeting closed: 11.45am

Item 14.7

Attachment 1

Please contact Councils Road Safety Officer on 42 320444 or at janelleb@kiama.nsw.gov.au to:

1. place items on agendas (deadline 2 weeks prior to scheduled meeting)
2. tender your apologies for a meeting – please send an apology if unable to attend
3. obtain copies of minutes of previous meetings
4. notify of a change of member details

OFFICE USE ONLY

Please include the OLGR Liquor Accord Delivery Unit in your minute's distribution at either accords@communities.nsw.gov.au or at your individual Liquor Accord Project Officer email address.

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14.8 Minutes of the Kiama Liquor Accord AGM held on Wednesday 29 November 2017

Responsible Director: Engineering and Works

The Minutes of the Kiama Liquor Accord AGM held on Wednesday 29 November 2017 are attached for Councillors information.

Attachments

- 1 Kiama Liquor Accord AGM Minutes held Wednesday 29 November [↓](#)



KIAMA LIQUOR ACCORD
Minutes of meeting AGM Wednesday 29 November 2017

Item 14.8

Attachment 1

Date & time	24 August 2016, 10am	
Location	Gerringong Bowling Club, Pacific Ave WERRI BEACH NSW 2534	
Present (indicate name & venue/organisation)	David Rootham Doug McCallum Steven Zilizi Rohan Adderley Lauren Parker Andrew Broadwood Janelle Burns Connie Graf David Hoade Peter Grogan Nick Guggisberg Jeremy Blue Simon Blue Leigh Drydon Jamie Warren Jesse O'Brien Mark Schmidt Gary Keevers Clr Don Watson Mark Gilmore David O'Brien	Kiama Golf Club Gerroa Fishermans Club BWS Kiama IGA Kiama Downs and Jamberoo Gerringong Bowling Club Kiama Bowling Club Kiama Municipal Council Drink Drive Prevention Co Ordinator IGA Kiama Downs and Jamberoo Gerroa Fishermans Club Kiama Municipal Council Kiama Inn Kiama Inn Decant This Jamberoo Pub Kiama Leagues Club Lake Illawarra Police Lake Illawarra Police Kiama Municipal Council Grand Hotel Manning Street Cellars
Apologies	Tyler Wakefield, Liquor and Gaming NSW Clr Matt Brown, Kiama Municipal Council Ron Sullivan Gerringong Bowling Club Daniel Dewhurst Blue Swimmer Restaruant Gerroa	
Agenda		
<p>1. Minutes of last meeting</p> <ul style="list-style-type: none"> • Adopted without change <p>Moved: Jeremy Blue 2nd: Peter Grogan Carried unopposed</p>		

<p>2. Correspondence</p> <ul style="list-style-type: none">• Nil
<p>3. Treasurers Report</p> <ul style="list-style-type: none">• As tabled Financial Report for period 1 July 2016-30 June 2017• Opening Balance \$1539.00• Closing Balance \$5272.06 <p>Moved: Jeremy Blue 2nd: Peter Grogan Carried unopposed</p> <p><i>Membership invoices to be sent.</i> <i>Membership drive may be beneficial</i></p>
<p>4. Chair Report</p> <p>Kiama Liquor Accord President David Rootham welcomed members and discussed ways that Kiama Liquor Accord could be involved in targeting new memberships and planning strategically for key events.</p> <p>Mr Rootham also asked members to consider new directions for the Accord.</p>
<p>5. Constitution Update.</p> <p>A marked up copy of the OLGR template constitution was tabled for comment and minor adjustments were made, amended and adopted.</p> <p>Motion The Accord members accepted the updated constitution as tabled.</p> <p>Moved: David Rootham 2ND: Leigh Drydon Carried unopposed</p>
<p>6. Election of Officers</p> <p>Committee members were elected as per the constitution adopted for 2017</p> <ul style="list-style-type: none">• David Rootham - Accord President.• Leigh Drydon - Accord Secretary.• Lauren Parker - Accord Treasurer
<p>7. Next meeting AGM</p> <p>To be held August 2018</p>

Item 14.8

Attachment 1

14.9 Legislative Updates to a number of State Environmental Planning PoliciesResponsible Director: Environmental Services

Summary

As part of the program to simplify and streamline the New South Wales (NSW) planning system, the NSW Government has commenced a review of existing *State Environmental Planning Policies (SEPPs)* and *Regional Environmental Plans (REPs)*.

A number of draft SEPPs are currently on public exhibition and have been reviewed by Council staff and concerns have been identified with the Draft SEPP (Coastal Management) and Draft SEPP (Primary Production and Rural Development). Submissions have been made to the Department of Planning and Environment concerning these draft SEPPs.

Background

The NSW Government has commenced a review of the existing *State Environmental Planning Policies (SEPPs)* and *Regional Environmental Plans (REPs)*. All REPs are deemed to be SEPPs in accordance with clause 15 of the *Environmental Planning and Assessment Regulation 2000*. The role of the SEPPs and REPs are to deal with matters of State or regional environmental planning significance. Prior to the commencement of this review process a total of 46 SEPPs and 25 REPs were in force across the State.

The NSW Department of Planning and Environment (DPE) has outlined that the review process will modernise, simplify and improve the effectiveness and usability of policies. The review intends to remove policy and controls that are duplicated in strategies, regional plans and local environmental plans. Delivery of policies through the Standard Instrument local environmental plans is a priority, where possible and appropriate. The role and importance of SEPPs to deal with matters of State or regional environmental planning significance will not be diminished.

The review will be rolled out in several phases. Stage 1 is now complete with amendments commencing on 5 August 2016.

The following SEPPs were repealed in Stage 1:

- Hunter Regional Environmental Plan 1989 (Heritage);
- Illawarra Regional Environmental Plan No 1;
- Illawarra Regional Environmental Plan No 2 – Jamberoo Valley;
- Jervis Bay Regional Environmental Plan 1996;
- Lower South Coast Regional Environmental Plan (No 2);
- North Coast Regional Environmental Plan;
- Orana Regional Environmental Plan No 1 – Siding Spring;
- Riverina Regional Environmental Plan No 1;
- State Environmental Planning Policy (SEPP 53 Transitional Provisions) 2011;

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies (cont)

-
- State Environmental Planning Policy No 15 – Rural Landsharing Communities;
 - State Environmental Planning Policy No 29 – Western Sydney Recreation Area;
 - State Environmental Planning Policy No 32 – Urban Consolidation (Redevelopment of Urban Land);
 - State Environmental Planning Policy No 39 – Spit Island Bird Habitat;
 - State Environmental Planning Policy No 59 – Central Western Sydney Regional Open Space and Residential;
 - Sydney Regional Environmental Plan No 18 – Public Transport Corridors;
 - Sydney Regional Environmental Plan No 19 – Rouse Hill Development Area.

Of most relevance to the Kiama Municipality is the repeal of the Illawarra REP No 1 and Illawarra REP No 2 – Jamberoo Valley in August 2016. To a large extent the provisions of Illawarra REP No 1 were included in the *Kiama LEP 2011*. The most notable change as a result of these repeals was the removal of the ‘black broken line’ around the Jamberoo Village, which limited the expansion of the Jamberoo Village, contained within the Illawarra REP No 2 – Jamberoo Valley. The Kiama Urban Strategy now provides the limitation of expansion possible for the Jamberoo Village.

Stage 2 of the review is now underway. A range of SEPPs are progressively being reviewed in Stage 2 of the SEPP Review Program. So far the DPE has sought public comment on proposed amendments comprising:

- New SEPP (Vegetation in Non-Rural Areas) 2017;
- New SEPP (Educational Establishment and Child Care Facilities) 2017;
- Draft SEPP (Coastal Management);
- Amendments to SEPP No.44 – Koala Habitat Protection;
- Amendments to SEPP (Infrastructure) 2007;
- Amendments to SEPP No.64 – Advertising and Signage;
- Draft SEPP (Primary Production and Rural Development);
- Draft SEPP (Environment);
- Amendments to SEPP (Housing for Seniors or People with a Disability) 2004;
- Repeal of Operational SEPPs.

SEPP (Vegetation in Non-Rural Areas) 2017 & SEPP (Educational Establishment and Child Care Facilities) 2017 have both been publicly exhibited and subsequently published on the NSW legislation website.

- [SEPP \(Vegetation in Non-Rural Areas\) 2017](#)

The SEPP (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) was published on 25 August 2017. The Vegetation SEPP works together with the *Biodiversity*

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies (cont)

Conservation Act 2016 and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW.

The Vegetation SEPP will ensure the biodiversity offset scheme (established under the Land Management and Biodiversity reforms) will apply to all clearing of native vegetation that exceeds the offset thresholds in urban areas and environmental conservation zones that does not require development consent.

- SEPP (Educational Establishment and Child Care Facilities) 2017

The SEPP (Educational Establishment and Child Care Facilities) 2017 (Education SEPP) was published on 1 September 2017. The Education SEPP has provisions that will make it easier for child-care providers, schools, TAFEs and universities to build new facilities and improve existing ones by streamlining approval processes to save time and money and deliver greater consistency across NSW. The SEPP balances the need to deliver additional educational infrastructure with a focus on good design.

The Education SEPP aims to:

- streamline the planning system for education and child care facilities including changes to exempt and complying development;
- make NSW the first State to bring National Laws regulating early childhood education and care into a state planning system;
- bring the Department of Education into the planning process and give child care providers and developers upfront information about all national and state requirements for new child care services;
- streamline the delivery of new schools and upgrading existing facilities, with a focus on good design; and
- assist TAFEs and universities to expand and adapt their specialist facilities in response to the growing need, and to maintain our reputation for providing world class tertiary education, while allowing for more flexibility in the use of their facilities.

The DPE have prepared design guides for both child care facilities and schools, as well as a Planning Circular which provides guidance to consent authorities when imposing consent conditions seeking to limit the number of students and staff at a school site.

The following SEPPs have been exhibited but are yet to be published on the NSW legislation website:

- SEPP (Coastal Management)

The SEPP (Coastal Management) was on public exhibition between 11 November 2016 and 20 January 2017. The SEPP (Coastal Management) seeks to make the following changes:

1. Repeal and replace:
 - SEPP 14 (Coastal Wetlands),
 - SEPP 26 (Littoral Rainforests), and

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies
(cont)

-
- SEPP 71 (Coastal Protection).
2. New 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*.
 3. *Coastal Management Act 2016* redefines the 'coastal zone' into four coastal management areas:
 - Coastal wetlands and littoral rainforests area;
 - Coastal environment area;
 - Coastal use area;
 - Coastal vulnerability area.
 4. Separate development controls apply to each area and focus on achieving specific objectives.
 5. Update Ministerial Directions to require consideration of the objectives of the *Coastal Management Act 2016* when preparing LEP.

Staff have reviewed the proposed SEPP (Coastal Management) and provided the following comments to the DPE regarding the proposed changes:

Council is generally supportive of consolidating the existing Coastal Protection, Coastal Wetland and Littoral Rainforest SEPP's into one document and returning the approval powers for certain works back to local Councils, provided sufficient objective assessment criteria is available to all involved to make consistent determinations. Council is also fully supportive for existing technical expertise built up by the NSW Government to be retained and such expertise being made freely available to Local Government for advice and assistance.

It is expected that all councils that have not yet undertaken local coastal hazard mapping will do so over the next 5 years. This will be in line with the Coastal Management Manual which provides a toolbox and overarching methodology. Whilst Council is supportive of such mapping, the cost burden on local communities could be significant and Council requests the Government to put forward what funding arrangements are to be put forward in order that Local Government can specifically comment on this aspect. In this regard, there may be cost savings available utilising such things as joint appointments, Regional studies or the like.

To date, Council has not been informed when the draft SEPP (Coastal Management) will be published on the NSW legislation website.

- Amendment to SEPP No 44 – Koala Habitat Protection

The amendments to SEPP No 44 – Koala Habitat Protection were placed on public exhibition between 18 November 2016 and 3 March 2017. The amendments to SEPP No 44 – Koala Habitat Protection seeks to make the following changes:

- redefine koala habitat;
- update list of tree species;

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies (cont)

-
- update list of councils; and
 - update development assessment process.

Guidelines are also being prepared that clearly:

- Set out the requirements for preparing comprehensive plans of management; and
- Direct the consistent assessment of development applications.

The strategic planning outcomes in SEPP 44 will be transferred to the Local Planning Directions under section 117 of the *Environmental Planning and Assessment Act 1979*.

The SEPP No 44 – Koala Habitat Protection does not apply to the Kiama Municipality. To date, Council has not been informed when the proposed amendments to SEPP No 44 will be published on the NSW legislation website.

- Amendment to SEPP (Infrastructure)

The amendments to SEPP (Infrastructure) were placed on public exhibition between 3 February 2017 and 7 April 2017. The amendments to SEPP (Infrastructure) seek to make the following changes:

- Supporting health infrastructure to allow delivery of hospital beds more quickly;
- Changes to correctional facilities and police services to provide for a safer and more secure community;
- Optimising the use of commuter hubs by providing more services and conveniences at transport interchanges;
- Enabling Councils to manage and maintain their lands better, including their operational lands.

Proposed changes also include other operational and housekeeping improvements to ensure the policy remains up to date and effective.

Educational provisions will be transferred from the Infrastructure SEPP into a new standalone SEPP.

Staff have reviewed the proposed amendments to SEPP (Infrastructure) and raise no objections to the proposed amendments. To date, Council has not been informed when the proposed amendments to SEPP (Infrastructure) will be published on the NSW legislation website.

- Amendment to SEPP No 64 – Advertising and Signage

The amendments to SEPP No 64 were placed on public exhibition between 5 May 2017 and 30 June 2017. The amendments to SEPP No 64 seeks to make the following changes:

- Banning trailer advertising on roads road shoulders footpaths and nature strips.
- Council approval for parked trailer advertising on private land seen from roads, road shoulders, footpaths and nature strips.

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies (cont)

-
- Council can issue fines for trailer advertising on roads, road shoulders, footpaths and nature strips and private land without valid consent.
 - Repealing SEPP 64 Clause 16(4)(b) to allow transport corridor advertising with consent.

Councils will continue to decide if advertising is permitted on land outside transport corridors.

Staff have reviewed the proposed amendments to SEPP No 64 and raise no objections to the proposed amendments. To date, Council has not been informed when the proposed amendments to SEPP No 64 will be published on the NSW legislation website.

- Proposed SEPP (Primary Production and Rural Development)

The explanation of intended effects for the draft SEPP (Primary Production and Rural Development) is currently on public exhibition from 23 October 2017 to 18 December 2017. The proposed draft SEPP (Primary Production and Rural Development) seeks to make the following changes:

1. Repeal and replace:
 - State Environmental Planning Policy (Rural Lands) 2008 (Rural Lands SEPP)
 - State Environmental Planning Policy 30 - Intensive Agriculture (SEPP 30)
 - State Environmental Planning Policy 52 - Farm Dams and Other Works in Land and Water Management Plan Areas (SEPP 52)
 - State Environmental Planning Policy 62 - Sustainable Aquaculture (SEPP 62)
 - Sydney Regional Environmental Plan 8 - Central Coast Plateau Areas (SREP 8)
2. Update planning principles currently contained in Rural Lands SEPP and include into Ministerial Direction 1.5. These principles will also be extended to include the rural lands in the Central Coast LGA.
3. The existing mechanism to identify agricultural lands of state significance will be included in the new SEPP.
4. Clause 9 of the Rural Lands SEPP and clause 4.2 of the Standard Instrument LEP both currently provide flexibility in subdivision for agricultural purposes in rural zones. Clause 9 of the Rural Lands SEPP will be repealed. Clause 4.2 of the Standard Instrument will be revised to clarify that a lot created by a subdivision which contains an existing dwelling does not need to meet the minimum lot size.
5. Matters for consideration for DAs for rural subdivision and rural dwellings currently contained in clause 10 of the Rural Lands SEPP will be transferred to the Standard Instrument LEP.

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies
(cont)

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6. The existing provisions in SREP 8, dealing with the assessment of DAs on prime agricultural land, extractive industries, rural tourist facilities, land clearing and rural residential development, will remain in place until new LEPS for the Central Coast are proposed.
 7. The permissibility for pond-based and tank-based aquaculture shall be transferred from SEPP 62 to the Standard Instrument LEP.
 8. Provisions to guide the assessment of aquaculture projects and provisions for natural water-based aquaculture will be moved from SEPP 62 to the new SEPP.
 9. Revise the Standard Instrument LEP definitions of 'intensive livestock agriculture', 'extensive agriculture', 'feedlot', 'water reticulation system' and 'water storage facility'.
 10. Include a new clause in the Standard Instrument LEP to clarify development consent thresholds for intensive livestock agriculture. Some thresholds (for cattle feedlots and piggeries) are currently in SEPP 30.
 11. SEPP 30 provides that temporary livestock feeding and housing arrangement following droughts, fire or similar events do not require development consent. The new SEPP will retain the intent of this provision but differentiate between emergency and planned events.
 12. Provisions to enable irrigation corporations to carry out maintenance and emergency works without requiring development consent will be included in the new SEPP.
 13. The provisions currently contained in SEPP 52 identifying artificial waterbodies in irrigation areas and districts that require consent will be included in the Standard Instrument LEP.

Staff have reviewed the proposed draft SEPP (Primary Production and Rural Development) and have noted that the proposed changes to clause 4.2 of the Standard Instrument could potential undermine the objective of the Kiama LEP 2011 to protect agricultural land and restrict its fragmentation for purposes other than primary production. The proposed changes would enable landholders to subdivide and create small rural allotments containing dwellings. This has the potential to further fragment rural lands for residential purposes. The published explanation of intended effects outlines that the amendment will include a mechanism to ensure 'double dipping' cannot occur. Staff are uncertain how 'double dipping' would be prevented as this proposed mechanism has not been exhibited. It is also noted that once subdivided the small allotment containing the dwelling could be sold to a new owner not associated with the existing primary production. This could create land use conflicts as it would result in dwellings, not associated with primary production, being located immediately adjacent to primary production.

In line with the concerns raised above, staff have prepared and forwarded the attached submission to DPE regarding the proposed SEPP (Primary Production and Rural Development).

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies
(cont)

To date, Council has not been informed when the proposed amendments to SEPP (Primary Production and Rural Development) will be published on the NSW legislation website.

- Proposed SEPP (Environment)

The explanation of intended effects for the draft SEPP (Environment) is currently on public exhibition from 31 October 2017 to 15 January 2018. The proposed draft SEPP (Environment) seeks to make the following changes:

1. Repeal and replace:
 - State Environmental Planning Policy No 19 - Bushland in Urban Areas;
 - State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;
 - State Environmental Planning Policy No 50 - Canal Estate Development;
 - Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment;
 - Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2 - 1997);
 - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
 - Willandra Lakes Regional Environmental Plan No 1 - World Heritage Property.
2. Deliver a modern policy instrument that is consistent with the Standard Instrument Local Environmental Plan Order 2006 and contains a single set of planning provisions for:
 - Catchments;
 - Waterways;
 - Bushland;
 - Protected areas.
3. Continue existing protections for the Sydney Drinking Water Catchment.
4. Deliver consolidated heads of consideration for assessment of Development Applications that will continue to protect Sydney Harbour Catchment, Hawkesbury-Nepean River Catchment and Georges River Catchment.
5. Improve protections for Sydney Harbour by:
 - reaffirming the vision for Sydney Harbour as an outstanding natural, public asset of national and international significance to be maintained and enhanced for current and future generations.
 - maintaining the current principles for the Foreshores and Waterways Area, such that:
 - the Harbour is to be recognised as a public resource, owned by the public, to be protected for the public good.

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies (cont)

-
- the public good has precedence over the private good whenever and whatever change is proposed for Sydney Harbour or its foreshores.
 - protection of the natural assets of Sydney Harbour has precedence over all other interests.
 - better reflecting the current uses, needs and future of Sydney Harbour in the aims of the new SEPP by providing a framework for appropriate uses that are consistent with the vision for the Harbour.
 - better aligning waterway zones with the Standard Instrument LEP.
 - removing inconsistencies in the current instrument in regard to boat storage facilities
 - refining heads of consideration for consent authorities when assessing Development Applications in the Foreshores and Waterways Area.
 - updating critical habitat provisions to be consistent with the Biodiversity Act 2016.
6. Permitting the subdivision of Sydney Harbour foreshore land to allow Roads and Maritime Services, who is the owner and consent authority of Sydney Harbour, to undertake its existing policy of subdivision on the Sydney Harbour foreshore for the purposes of managing lawfully reclaimed Harbour land.
7. Improving public urban bushland protections in Sydney by revising the term 'bushland zoned or reserved for public open space purposes' to 'public bushland', which will include all land that is:
- zoned non-rural, and
 - owned or managed by a council or a public authority, or reserved for acquisition for open space or environmental conservation by a Council or a public authority, and
 - that has vegetation which meets a clear definition of bushland.
8. Improve protection of urban bushland in the Sydney metropolitan area by expanding current protections and modernising provisions to align with other planning instruments.
9. Improving protections for Willandra Lakes World Heritage Area by:
- giving effect in the planning system to new World Heritage Area management processes.
 - aligning LEPs and SEPP provisions.
 - updating the provisions to reflect the Plan of Management prepared under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

Related amendments will include:

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies (cont)

-
- a new Ministerial Direction to guide councils when preparing local environmental plans in the Hawkesbury Nepean, Georges River and Sydney Harbour catchments
 - a new Ministerial Direction to guide councils when preparing local environmental plans affecting urban bushland in Sydney.
 - an amendment to Ministerial Direction 2.3 Heritage Conservation to include additional considerations for planning authorities when preparing local environmental plans which might impact the Willandra Lakes World Heritage Area
 - updating the definition of canal estate development in the Standard Instrument LEP consistent with changes proposed in this Explanation of Intended Effect.
 - moving heritage items listed in the Hawkesbury-Nepean Regional Environmental Plan to the relevant LEP.
 - moving provisions in the Willandra Lakes Regional Environmental Plan to the relevant Standard Instrument LEP.
 - moving the prohibition of extractive industries in parts of the Hawkesbury Nepean Catchment to SEPP (Mining, Petroleum and Extractive Industries) to provide a consistent location for these types of provisions
 - moving Sydney Opera House provisions in the Harbour Regional Environmental Plan to SEPP (State Significant Precincts) to consolidate planning provisions for the Sydney Opera House in a single instrument.
 - moving consultation requirements for public authorities under the Willandra Lakes Regional Environmental Plan to SEPP (Infrastructure).
 - amending SEPP (Seniors) to allow seniors housing and housing for people with a disability development proposal on urban land in water catchments including drinking water catchments to be assessed under the SEPP (Seniors).

The amendments to local environmental plans are necessary to ensure that current protections are maintained and delivered through the most appropriate and accessible level of the planning system. Moving provisions from existing SEPPs to new Ministerial Directions will consolidate plan making requirements in a single location. Stakeholders will be consulted on the development of new local environmental plan provisions and Ministerial Directions.

Staff have reviewed the proposed draft SEPP (Environment) and raise no objections to the proposed draft SEPP. The only provisions that currently relate to the Kiama Municipality are contained within the SEPP (Sydney Drinking Water Catchment) 2011. These provisions will be included in the draft SEPP (Environment).

To date, Council has not been informed when the proposed amendments to SEPP (Environment) will be published on the NSW legislation website.

- Amendments to SEPP (Housing for Seniors or People with a Disability) 2004

The amendments to SEPP (Housing for Seniors or People with a Disability) 2004 were placed on public exhibition from 10 November 2017 until 24 November 2017.

Reports for Information

14.9 Legislative Updates to a number of State Environmental Planning Policies
(cont)

The proposed amendment addresses the practice of incremental expansion of land for seniors housing through Site Compatibility Certificates. The amendment will clarify that:

- a SCC cannot be issued for additional land, unless that land independently meets all the SCC criteria
- a SCC cannot be amended to include additional land, unless the additional land meets the SCC criteria
- a SCC can be reissued for a site to which the original SCC applied if that SCC is no longer current, but it cannot be extended to include additional land unless the additional land independently meets the SCC criteria

Staff have reviewed the proposed amendments to SEPP (Housing for Seniors or People with a Disability) 2004 and raise no objections to the proposed amendments. To date, Council has not been informed when the proposed amendments to SEPP (Housing for Seniors or People with a Disability) 2004 will be published on the NSW legislation website.

- Repeal of Operational SEPPs

The repeal of operational SEPPs has been placed on public exhibition from 10 November 2017 until 22 December 2017. The DPE proposes to improve and simplify NSW development standards by repealing:

- SEPP No 1 - Development Standards; and
- SEPP (Miscellaneous Consent Provisions) 2007.

The planning provisions contained in these policies will be incorporated in local planning controls.

Staff have reviewed the repeal of operational SEPPs and raise no objections. SEPP No 1 does not apply to the Kiama Municipality as clause 4.6 of the Kiama LEP 2011 is now the legal mechanism for varying development standards. The provisions of SEPP (Miscellaneous Consent Provisions) 2007 are also included in the Kiama LEP 2011. To date, Council has not been informed when the repeal of operational SEPPs will be published on the NSW legislation website.

Enclosures

- 1 Letter to Department of Planning and Environment [⇒](#)

14.10 Question for Future Meeting: Aboriginal Cultural Heritage Management Development Assessment Toolkit

Responsible Director: Environmental Services

At its meeting held on 21 November 2017, Councillor Sloan requested a report on how the Aboriginal Cultural Heritage Management Development Assessment toolkit has been implemented.

This matter is currently being investigated and a report will be presented to the February 2018 Council meeting.

14.11 Question for Future Meeting: Use of rural sheds for low scale industrial manufacturingResponsible Director: Environmental Services

At its Ordinary Council meeting held on 21 November 2017, Councillor Steel requested a report on the feasibility of allowing farmers on rural zoned land to utilise existing farm sheds by renting them to individuals for the purpose of low scale industrial manufacturing such as car trailers and the like.

Farmers can currently utilise their existing farm sheds for the purpose of home based industry with the consent of Council which would capture the abovementioned activities. The definition of a home industry is:

home industry means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

The use of sheds by a third party would trigger a different land use and would most likely be classified as a light industry which is prohibited in the zone. The reason for this is that the industrial use by a third party would have the potential to create land use conflict between the industry and the agricultural use of the land. By permitting only home industries, it keeps the use to a relatively small scale and helps preserve the viability of the agricultural land.

If Council were of a mind to make light industry permissible in rural zones, this would require the preparation of a Planning Proposal (PP) to amend the Kiama LEP 2011. This, however, should be discussed with Councils' Planning Committee prior to any decision on whether the prepare the PP is made.

14.12 Kiama Regional Economic Development StrategyResponsible Director: Corporate, Commercial & Community Services

Consultation for the development of the Kiama Regional Economic Development Strategy (REDS) has commenced with a discussion paper developed by consultants AgEcon Plus.

The NSW Government has offered to assist local councils to develop their REDS to enable a more comparative approach to projects and to ensure that smaller local governments have access to comprehensive plans. This will then allow them to assess future funding applications under the Growing Local Economies fund. This fund has been established to provide vital infrastructure and to activate regional economies and support local jobs and small businesses.

The key change in this particular fund is a move away from the rounds-based, whole-of-State competitive process to a new process that will see a notional allocation made to each regional economic area. This approach gets rid of racing to meet deadlines or competing against other regional areas, and will enable a planned, whole-of-region approach to growing your community and economy. In collaboration with Infrastructure NSW, The Department of Premier and Cabinet will also provide support and assistance to get our business cases and applications right the first time.

Whilst the 2014 Kiama Economic Development Strategy is being used as a starting point, new ideas would be welcomed and Council is seeking feedback on the REDS discussion paper which can be located on council's website.

For more information please contact Councils Economic Development Manager Megan Hutchison.

14.13 The 2017 Global Eco Asia-Pacific Tourism ConferenceResponsible Director: Corporate, Commercial & Community Services

The 2017 Global Eco Asia-Pacific Tourism Conference was held 27-29 November 2017 in Adelaide, South Australia. Kiama was represented at the conference by Councillor Brown and Manager Tourism and Events, Karen Ronning.

The definition of eco-tourism (by Ecotourism Australia) is as follows:

"Ecotourism is ecologically sustainable tourism with a primary focus on experiencing natural areas that fosters environmental and cultural understanding, appreciation and conservation."

Key Themes and Presentations at this year's Conference included:

1. Ecotourism and private conservation

- Atticus Fleming, Chief Executive Australian Wildlife Conservancy
- Brendan Bevan, Manger Arkaba Conservancy

2. Tourism and the Chinese dream

- Professor David Simons, Lincoln University NZ

3. Tourism in protected areas

- Dr Russell Reichelt, Chairman and CEO Great Barrier Reef Marine Park Authority
- Cameron Miller, CEO, Ngurratjura/Pmara Ntjarra Aboriginal Corporation

4. Tourism and protected area management

- Sandy Pitcher, Chief Executive, Department of Environment, Water and Natural Resources, South Australia
- Hayden Bromley, Presiding Member, Aboriginal Lands Trust

5. Wildlife and ecotourism

- Dr Jenny Gray, CEO of Zoos Victoria and President of the World Association of Zoos and Aquariums
- Elaine Bensted, Chief Executive, Zoos South Australia
- Andrew Wright, General Manager, Calypso Star Charters
- Cameron Kerr, CEO, Taronga Conservation Society

6. Community ecotourism and social license

- Alfred Wellington and Delia Lowe, Jerinja Local Aboriginal Council
- Joselito Costas, Provincial Tourism Officer, Cebu
- Shu Tan, Founder and Director, Sapa O'Chau

Reports for Information

14.13 The 2017 Global Eco Asia-Pacific Tourism Conference (cont)

7. Ecotourism Australia report

- Rod Hillman, Chief Executive, Ecotourism Australia

8. Ecotourism and philanthropy

- Andrew Fairley AM, Chairman, The Sir Andrew and Lady Fairley Foundation
- Hiran Cooray, Owner, Jetwing
- Keith Sproule, Executive Director, Abercrombie and Kent Philanthropy
- Anthea Hammon, Managing Director, Scenic World
- Atticus Fleming, Chief Executive, Australian Wildlife Conservancy

9. Geotourism

- Dr Young Ng, Standing Committee Member, Geological Society of Australia
- Derek Tse, General Manager, Hong Kong Ecotourism and Travel Professionals Training Centre

10. Sustainable tourism development

- Dr. Chuwit Mitrchob, Deputy Director-General, Thailand

11. Innovation and ecotourism futures

- Joep Koster, Managing Partners, Soel Yachts
- Karl Plunkett, Eco Structures Australia
- Keith Sproule, Executive Director, Abercrombie and Kent

12. Building and Marketing ecotourism experiences

- Janet Mackay, Director TRC Tourism – Niue’s Approach
- Nicholas Bishop, Nature Theatre Manager, Zoo’s SA
- Claire Sim, South Australian Tourism Commission
- Russell Boswell, Manager, Savannah Guides
- Julie Bishop, Director, Visitor Experiences NSW National Parks and Wildlife Services
- Charlotte Prouse, Partner, Destination Marketing Store

13. Indigenous ecotourism

- Renata Lowe, Director Destination Development and Projects, Western Australia Tourism

14. Community involvement and strategic partnerships

- Chris Thomas, Program Manger
- Innes Larkin, Owner, Mt Barney Lodge
- Stuart Ord, Director Tourism NT

Reports for Information

14.13 The 2017 Global Eco Asia-Pacific Tourism Conference (cont)

-
- Randall Owens, Manager Reef Guardians, Great Barrier Reef Marine Park Authority

15. Destination planning and development

- Matthew Flynn, Design Director, VIDA Planners and Architects
- Fiona McKenzie, Director, Superpod Pty Ltd

16. Ecotourism operators – raising the bar

Key take outs for Kiama:

1. The natural world (globally) is experiencing significant pressures. The existing model of natural resource management is considered by many conference speakers to be inadequate, hence the rise of private conservation.
2. As the world becomes more urbanized, there is increasing demand for nature based (and non-urban) experiences. As Kiama is located close to Australia's most urbanized city which is also an International gateway, we are well placed to capitalize on this trend. Continuation of the UNSPOILT Campaign is thereby very important.
3. To capitalize on this growing demand, destinations need to be well organized, strategic and innovative.
4. Consumers are more discerning than ever before. They demand quality service, information, interpretation and experiences. It's not simply a matter of offering or creating experiences, its ensuring they are exceptional in every aspect
5. There is global growth in 'localhood' and the importance of community engagement was stressed
6. Wildlife encounters need to be managed in accordance with best practice
7. There is both a growth in demand and growth in offerings of indigenous owned and operated tourism businesses
8. Partnerships are key – private/public, inter-regional, educational etc.
9. Interpretation of the natural environment is important. The Savannah Guides training program is one that should be promoted to our tourism industry.
10. Organisational culture, is king
11. Architecture and Design are critically important for:
 - Aligning the look and feel of infrastructure to the destination 'unique selling proposition' and locale, and delivering on a destination promise
 - Good environmental management
 - Delivering exceptional experiences
 - Standing out in a very crowded market

Reports for Information

14.13 The 2017 Global Eco Asia-Pacific Tourism Conference (cont)

12. The Kiama Strategic Tourism and Events Plan has already identified many of the above opportunities, which we will continue to work towards achieving in coming years.

Thank you to Council for the opportunity to attend, this very valuable and interesting conference. The full conference papers will soon be available from (www.globaleco.com.au)

Item 14.13

14.14 Question for Future Meeting: Relocation of Administration CentreResponsible Director: Office of the General Manager

At the meeting on 17 October 2017 Councillor Reilly requested a report examining the relocation of Council's Administration Centre from Manning Street suggesting alternative sites including Belvedere Street and concurrent with this report produce a report on the adaptive re-use of the current structure considering a multi-level carpark for public use and boutique hotel and penthouse apartments.

Council owns three other sites in the vicinity of the town centre which could potentially be redeveloped for an administration centre. They are:

1. Council's Works Depot in Belvedere Street has a site area of 11580sqm and zoned Industrial. Redevelopment of this site would be dependent on the relocation of the Works Depot possibly to the Bombo Quarry area or the existing Minnamurra Waste Facility. However, both sites may require rehabilitation. Decontamination of the Works Depot site and the constraints with the existing large drainage infrastructure plus the challenge required for a gateway proposal to rezone the Belvedere Street will need to be considered.
2. The Blue Haven Aged Care Facility site in Havilah Place, Kiama which has a site area of approximately 7000sqm and is presently zoned R3 Medium Density. The site has a maximum floor space ratio of 7:1 and height control of 8.5 metres. The existing aged care facility is to be vacated in late 2019 when the Kiama Aged Care Centre of Excellence is completed. Council staff are carrying out a preliminary assessment of potential uses of the site which includes the redevelopment as an administration centre. The site is within walking distance of the town centre and is served by buses. The proximity of the Leisure Centre, available parking and proximity of the site to the town centre support this potential use. Following the completion of the short listing of potential uses of the aged care facility a workshop will be held with Councillors to determine the feasibility of the options.
3. The Kiama Library site in Railway Parade which has a site area of 2085sqm and is zoned Special Uses (Library). This site does not appear to have a height or floor space control. The Library building could be potentially redeveloped as an administration centre with the library and community college potentially relocated to the Blue Haven Aged Care Facility site in Havilah Place when that becomes available. Due to the popularity of the library at its present location and the costs of a double relocation, this option is least favoured.

Council also owns Barney Street Quarry however, this site was discounted due to the distance from the town centre, poor access and surrounding residential uses.

The existing administration centre building has a floor area of 1242sqm and is presently zoned Special Uses (Council Chambers). There is an 11 metre height restriction presently applying to the site. The site which has views towards the harbour and Black Beach is close to a number of tourist attractions including Blowhole Point, Surf Beach, Kiama Harbour and the Showgrounds. It has very good amenity and location for use as a tourist facility with adaptive re-use of the heritage building at the front. It also adjoins the railway station.

Reports for Information

14.14 Question for Future Meeting: Relocation of Administration Centre (cont)

Based on the footprint of the existing administration centre and with the opportunity to at least add another storey it is estimated that a 60-70 room boutique hotel could be accommodated on site. The principal challenge may be the cost of provision of additional basement parking with rock likely to be within 1-2 metres of the ground surface.

With all of the above options there will be at least a 2-5 year lead time, however there is an urgent need to improve the existing office accommodation and this is currently being developed. These improvements and the capital costs could potentially consolidate the remote locations into the one office building and any improvements including new office furniture, light fittings, air-conditioning units could potentially be relocated to any new location in the future.

14.15 Election of Local Government NSW BoardResponsible Director: Office of the General Manager

Council has recently received notification from the Chief Executive of Local Government NSW, Donna Rygate that the Australian Electoral Commission have declared the election of LGNSW directors.

The newly elected Directors (Metropolitan/Urban) are:

Karen McKeown, Mazhar Hadid, Julie Griffiths, Khal Asfour, George Greiss, Lesley Furneaux-Cook and Michael Regan.

In addition, Darriea Turley, Phyllis Miller, Marianne Saliba, Ruth Fagan, Ben Shields, Rod Kendall and Paul Harmon were elected as Directors (Rural/Regional)

They join Councillor Linda Scott (President), Councillor Marjorie Spooner O'Neill (Treasurer), Councillor Angelo Tsirekas (Vice President - Metro/Urban), Councillor Lindsay Brown (Vice President - Rural/Regional) and Councillor Keith Rhoades (Immediate Past President) on the Board of LGNSW.

14.16 Australian Coastal Council Association AGM Minutes - 24 November 2017

Responsible Director: Office of the General Manager

Attached for Councillors' information are the minutes of the Australian Coastal Councils Association.

Attachments

- 1 AGM Minutes 24/11/17 [↓](#)



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MINUTES

ANNUAL GENERAL MEETING

9.00am 24 November 2017

Hyatt Place Essendon Fields,
1 English Street Essendon Fields Victoria 3041

In attendance

Sharon Cadwallader	Councillor	Ballina Shire Council
Pat Chigwidden	Councillor	City of Victor Harbor
Jenifer Crawford	Councillor	Glamorgan Spring Bay Council
Jeska Dee	Coastal Planner	Mornington Peninsula Shire Council
Richard Ellis	Councillor	East Gippsland Shire Council
Susan Faulkner	Secretariat	Australian Coastal Councils Association
Peter Flannery	Councillor	Moreton Bay Regional Council
Adam Folkers	Mgr Health Env't. & Climate	Whitsunday Regional Council
Caroline Knight	Deputy Mayor	City of Mandurah
Julia Leu	Mayor	Douglas Shire Council
Jill Parker	Councillor	Moyne Shire Council
Keith Parkes	Mayor	Alexandrina Council
Ralph Roob	Snr Environmental Engineer	City of Greater Geelong
Neil Reilly	Councillor	Kiama Municipal Council
Barry Sammels	Mayor	City of Rockingham
Alan Stokes	Secretariat	Australian Coastal Councils Association
Sharyn von Bertouch	Alderman	Clarence City Council
Michael Whelan	Councillor	Bass Coast Shire Council
Julia Wright	Director Community & Env't.	Whitsunday Regional Council

Prior to the commencement of the meeting a count of delegates confirmed that a quorum was present.

1. OPENING AND WELCOME

Chair Barry Sammels welcomed those in attendance on behalf of the Association Committee of Management.

2. APOLOGIES

Alan Stokes reported the following apologies:

Lorraine Brunt – South Gippsland Shire Council
Andrew Boardman - Kangaroo Island Council
Rosie Clark – Mornington Peninsula Shire Council
Bev Colomb – Mornington Peninsula Shire Council
Troy Green – Tweed Shire Council
Bill Jamieson – City of Onkaparinga
John McCallum, City of Busselton
Ron Petterson - Whitsunday Regional Council
Paul Sheedy - Shire of Capel
David Wright – Ballina Shire Council

3. MINUTES OF PREVIOUS MEETING

MOVED: Dick Ellis/Jeni Crawford

THAT the minutes of the Australian Coastal Councils Association Inc. Annual General Meeting held at the Conference Room, Mantra Tullamarine Hotel, Tullamarine on Wednesday, 30 November 2016 be confirmed as a true and accurate record of proceedings.

CARRIED

4.1 CHAIR'S REPORT

Chair Barry Sammels provided the following report on activities of the organisation in 2016-17:

Overview

Over the course of the year the Association worked towards its objectives by advocating in support of initiatives to help coastal councils deal with a number of major challenges. These included:

- The shortfall in resources to meet increasing demand for infrastructure and services;
- Coastal erosion and the projected impacts of climate change; and
- Significant changes occurring in holiday accommodation arrangements in coastal communities.

Chair Sammels said that as an organisation we have helped to facilitate the exchange of information and experiences between our member councils on issues affecting coastal planning and management with highlights of the year included:

- The Association successfully advocated for the retention and maintenance of the online management tool *CoastAdapt*, which was developed to assist coastal councils deal with a growing range of coastal hazards, including the projected impact of climate change;
- The organization played a lead role in advocating against a recommendation by the Productivity Council that the share of Commonwealth Government contributions to natural disaster recovery costs should be reduced significantly;
- The Association also initiated a nation-wide study aimed at identifying effective planning responses to the impact of rapid growth in listings on short-term holiday rental platforms, such as Airbnb and Stayz.

He said that during the year the Australian Coastal Councils Association had also staged what a number of delegates described as one of the most successful annual conferences to date, at Redcliffe in Queensland.

Current priorities

Natural Disaster Recovery Funding

Chair Sammels said that looking back over the year there are several issues that stand out. The first is the issue concerning recommendations of the Productivity Commission, which were released in May, 2015. The Commission proposed that:

- the Australian Government share of disaster recovery costs be reduced from the current level of 75% to 50%;
- the threshold at which the Australian Government begins sharing recovery costs with states and territories be increased; and
- the small disaster criterion be increased from \$240,000 to \$2 million per event.

He said these changes would have had a devastating impact on coastal councils – which bear the brunt of natural disasters – and on state governments. Both these tiers of government would have had to fund the enormous shortfall that would have been created by these changes and that following the release of the Productivity Commission's recommendations the Association commenced an intensive advocacy campaign aimed at retaining the current arrangements, which provide for the Commonwealth to cover 75% of natural disaster funding.

Chair Sammels pointed out that earlier this year, the Government indicated new funding arrangements would be introduced from 1 July, 2018, but that due to the high level of concern

about the effect of cutting back on the Commonwealth's share of recovery funding the Federal Government 'does not propose to pursue these recommendations at this stage' and that the new approach to funding arrangements would be based on upfront damage assessments and estimated reconstruction costs, rather than the reimbursement of actual costs, which had sometimes occurred years after the disaster.

He said that we see the rejection of the Productivity Commission's recommendations to cutback the Commonwealth share of natural disaster funding as a win for the Association and for the other organisations that campaigned against the changes. The Government has indicated it will be testing certain aspects of the new funding arrangements over the next two disaster seasons, together with the states and territories. The Association will continue to monitor this issue in order to safeguard the interests of our members.

CoastAdapt

Chair Sammels flagged that another issue of concern during the year was the lack of certainty about the future of the National Climate Change Adaptation Research Facility, and the online adaptation management tool developed by the facility called *Coast Adapt*. He said the release of the *CoastAdapt* web tool in 2016 proved to be of great assistance to councils attempting to deal with the projected impact of climate change and was seen as an important development because coastal councils are at the forefront of dealing with climate risks around the coastline and need the expert advice provided through *CoastAdapt*.

He said the Association and individual member councils made strong representations to both the Prime Minister and Environment Minister Frydenberg, calling on the government to extend funding for NCCARF beyond July 2017, when its funding was scheduled to run out and that the response to this campaign was mixed. When the 2017 Federal Budget was handed down in May it indicated that the Government had allocated a total of only \$550,000 in 2017-18, and none thereafter, to support climate resilience and adaptation research through the National Climate Change Adaptation Research Facility (NCCARF) and CSIRO.

Chair Sammels said the vigorous lobbying campaign did produce a positive response, however, in relation to the *CoastAdapt* web tool in that as the 2016-17 year came to a close the Federal Government announced it would build on existing tools and guidance that support improved climate risk management, including enhancement of the online adaptation tool, *CoastAdapt*. So, while the Association was disappointed that funding for NCCARF would not be extended beyond the 2017-18 financial year, he said it was pleased to learn that the Commonwealth was committed to enhancing *CoastAdapt* in the longer term. Once again, we consider this is a win for the advocacy efforts on behalf of coastal councils and once again we will continue to monitor the issue closely.

Short-term holiday rental platforms

He said that another important issue that emerged during the year was the impact of rapid growth in listings on short-term holiday rental platforms such as Airbnb and Stayz with this issue first raised with the Association at the end of 2016 and as a result, the Committee decided to initiate a process aimed at identifying effective planning responses to the increase in listings on these platforms for the guidance of coastal councils.

Chair Sammels said the first step in this process was to conduct a survey of coastal councils to collect information on how the growth in listings on these platforms is affecting their communities with a questionnaire developed in association with Professor Nicole Gurran, Professor of Urban and Regional Planning at the University of Sydney which was designed to survey coastal councils about experiences with online short term holiday rental platforms in their local area and to identify responses that have already been developed. He reported that the survey was conducted in March

and April 2017 with the results forming the basis for a keynote address and workshop session presented by Professor Nicole Gurrán at the 2017 Australian Coastal Councils Conference, at Redcliffe in May this year.

He said that having considered the findings of the survey, the Association decided to commission a national research study to identify relevant planning responses and that the study, which involves the participation of 12 coastal councils that have agreed to participate in the project as case study areas, has already commenced and is considered of international significance.

He said the third step in the process is a national forum on short-term holiday rental platforms, which is to be held in March next year, in conjunction with the 2018 Australian Coastal Councils Conference at Geelong with the forum structured around a presentation by Professor Gurrán on the initial findings of the national research project and providing an opportunity for presentations on the planning responses already adopted by coastal councils and concluding with a workshop with input from all participants. He said the forum will also provide an opportunity for input from state governments and short-term holiday rental service operators.

Australian Coastal Councils Conference

Chair Sammels said one of the highlights of the year for the Association was the 2017 Australian Coastal Councils Conference, held at Redcliffe, Queensland, in May this year which was a very successful event and provided an excellent opportunity for coastal councils to share information and common experiences concerning the issues they are facing. He said the event was attended by representatives of coastal councils from all states, in addition to members of the coastal research community and representatives of relevant government agencies and apart from providing a forum for sharing the latest developments relating to coastal planning and management, the annual conference also makes an important contribution to revenue for the organisation, which enables us to maintain membership fees at a modest level.

He said that the delegates attending the 2017 Australian Coastal Councils Conference adopted a communiqué calling on the Australian Government to play a lead role in developing an intergovernmental agreement on the coastal zone, involving all three levels of government, and a national coastal policy.

The Year Ahead

Chair Sammels said the members of the Association's Committee of Management look forward to the remainder of 2017-18 with confidence and that there are a number of issues which continue to be of concern to coastal councils as we commence a new year of operations.

He said one major concern is the ongoing lack of a coordinated national approach to planning and managing the coastal zone. As indicated earlier, he said we have called on the Australian Government to develop an Intergovernmental Agreement on the Coastal Zone in consultation with the state, territory and local governments and that we believe this is an essential step towards establishing a national approach, with national leadership and national funding, to managing the coast on behalf of all Australians. He said this approach would include defining the roles and responsibilities of each tier of government in relation to coastal zone management and that this is vital, because the current methods of planning and managing the coastal zone are inconsistent and inadequate. We will continue to advocate for this intergovernmental agreement, and a National Coastal Policy, as we move forward.

Chair Sammels said one other objective that the Association will continue to pursue is for a more equitable formula for the allocation of resources for infrastructure and services in coastal areas with one of the contributing factors to the current arrangements being the methodology currently used

for collecting population data in the National Census, which is conducted at five yearly intervals in August. He said that as member councils know, this is the time of year when the number of people in coastal areas is at its lowest level for the year and that collecting Census data at this time places coastal communities at a severe disadvantage, because it does not capture data on the large number of visitors and absentee property owners who are present at other times of the year meaning that the permanent population figures for coastal communities is greatly understated, and this has a major bearing on the level of Financial Assistance Grants received by coastal councils.

He said that it was for that reason that the organisation commissioned a study of the impact of non-resident populations on coastal communities conducted by researchers at The University of Adelaide which found that populations in coastal communities are as much as 30% higher than the permanent population figures based Census data and that the Australian Bureau of Statistics took note of these findings, and has since been conducting its own research into the impact of temporary populations in coastal areas and other communities affected by temporary population movements.

He noted that at the 2017 conference earlier this year delegates heard that ABS demographers are exploring new and better ways of developing more relevant population data, some of which is based on aggregated data from mobile telecommunication devices and that since then, the ABS demographers have made further progress in this work and will present their most recent findings at the 2018 conference to be held at Geelong in March next year. He said that the Association remains in contact with the Bureau in relation to this matter, and looks forward to making significant input into the new study which is aimed at improving estimates of temporary populations in specific localities at given points in time.

Chair Sammels said that he would once again like to highlight the value we get out of the Association and its activities, noting that the total cost of funding the organisation is less than the contribution some individual councils pay to other Local Government organisations on an annual basis.

He said he would like to acknowledge the tremendous effort and support of the members of the Association's Committee over the past year, in particular the contributions of Deputy Chair Sharon Cadwallader and Treasurer Jill Parker. He acknowledged the contribution and support of all members of the Committee of Management.

On behalf of the Committee he also acknowledged the efforts on behalf of the Association by Alan Stokes and Susan Faulkner over the course of the year.

Finally, in closing, he noted that the Association remains the only organization that specifically represents the interests of Australia's coastal councils at a national level.

MOVED: Jeni Crawford/Pat Chigwidden
THAT the Chair's Report be received.
CARRIED

4.2 Financial Report

Treasurer Cr. Jill Parker presented the audited Financial Statements of the Australian Coastal Councils Association Inc. for the Financial Year 2016-2017 and reported on the following key aspects contained in the statements.

Treasurer Parker reported that at last year's Annual General Meeting Precipio Chartered Accountants were appointed auditors for the 2016-17 financial year. During the financial year, that firm merged with Rothsay Chartered Accountants who undertook this audit.

She reported on some key aspects contained in these statements:

- The Financial Statements record that the total assets of the Taskforce as at 30 June 2017 were \$37,855.
- In addition, there were receivables of \$4,413
- Total income for the year was \$234,302 and total expenses were \$248,452.
- The result for the financial year ending on 30 June 2017 was an operating loss of \$14,150.
- There are no liabilities to report.
- The main source of income for the Association continues to be membership fees with the annual conference providing additional support.

Treasurer Parker said the ACCA has a unique low-cost operating model which has enabled membership fees to be kept at a modest level compared to other local government organisations.

She said that as Treasurer, had monitored the use of the monies received and spent by the Association to achieve maximum return for member councils. At each monthly meeting the Committee of Management receives reports on the operating results/estimates as the financial year progresses. Cash Flows are also prepared on a regular basis.

Treasurer Parker said that a final matter to be considered by this Annual General Meeting is the appointment of auditors for this current financial year and she would recommend that we engage Rothsay Chartered Accountants.

MOVED: Jill Parker/Dick Ellis

THAT the financial statements be accepted and that Rothsay Chartered Accountants be appointed as auditors for the current financial year.

CARRIED

4.3 Membership Report

Alan Stokes reported that membership of the Association had remained stable over the year. At the end of the 2016-17 year the Association had 43 financial member councils. During the course of the current year the organization had welcomed the City of Greater Geelong, District Council of Yankalilla, Port Macquarie-Hastings Council and Whitsunday Regional Council as new members. The Association is in the process of introducing the organization to potential member councils, and the forthcoming 2018 Australian Coastal Councils Conference at Geelong will be an opportunity to promote membership to non-member coastal councils.

MOVED: Peter Flannery/Pat Chigwidden

THAT the Membership Report be received

CARRIED

5. GENERAL BUSINESS

There being no further business Chair Barry Sammels declared the Annual General Meeting concluded at 9.26am

At the conclusion of the meeting Barry Sammels called on Alan Stokes to conduct the election of the Committee of Management and Taskforce office bearers. The following State representatives were elected to the Committee of Management:

NSW: Cr Sharon Cadwallader, Ballina Shire Council
Clr James Thomson, Eurobodalla Shire Council

- QLD: Cr Peter Flannery, Moreton Bay Regional Council
Mayor Julia Leu, Port Douglas Shire Council
- SA: Cr Pat Chigwidden, City of Victor Harbor
Mayor Keith Parkes, Alexandrina Council
- TAS: Cr Jenifer Crawford, Glamorgan Spring Bay Council
Ald Sharyn von Bertouch, Clarence City Council
- VIC: Cr Richard Ellis, East Gippsland Shire Council
Cr Jill Parker, Moyne Shire Council
- WA: Cr Caroline Knight, City of Mandurah
Mayor Barry Sammels, City of Rockingham

Following the election of the Committee of Management, the following office bearers were elected for 2017-19:

- Chair – Mayor Barry Sammels, City of Rockingham (WA)
Deputy Chair – Cr Sharon Cadwallader, Ballina Shire Council (NSW)
Treasurer – Cr Jill Parker, Moyne Shire Council (VIC)

14.17 Letter of Appreciation - Remembering Kiama District Hospital HeydaysResponsible Director: Office of the General Manager

Council recently received a letter of appreciation from Lorraine Ettingshausen, a member of the committee formed to record and publish information and stories on the old Kiama Hospital.

Council recently contributed \$2500 towards the publishing of the book. A copy of the book is available from the General Manager's office for those Councillors who wish to read about the "heydays" of the Kiama District hospital.

Item 14.17

Attachments

- 1 Letter of appreciation [↓](#)

28 November 2017

210/55 Thomson Street
KIAMA 2533

Mr Michael Forsyth
General Manager
Kiama Municipal Council

Dear Michael

I am happy to report that the Book Launch of Remembering Kiama District Hospital's 'Heydays' was a great success with over 130 people in attendance and the publication being very well received on the day.

We are immensely grateful to Council for the grant that made the publication of this piece of Kiama History possible. Please find enclosed a copy of our book for Kiama Council records.

I would also like to take this opportunity to acknowledge the enormous amount of work done by Michelle Hudson of Kiama Library to help make our day such a success. I have thanked Michelle personally.

Kindest regards


Lorraine Ettingshausen
On behalf of the Book Committee

Item 14.17

Attachment 1



Kiama District Hospital - Bonaira Street, Kiama c1978

**REMEMBERING
KIAMA DISTRICT HOSPITAL'S
'HEYDAYS'**

**SERVICING THE PEOPLE OF KIAMA, JAMBEROO,
ALBION PARK-OAK FLATS, SHELLHARBOUR
AND GERRINGONG MUNICIPALITIES**

Item 14.17

Attachment 1

14.18 Health in All Councils SurveyResponsible Director: Office of the General Manager

In 2016 several Council staff and Councillors responded to a request by Kara Lilly, a student at Curtin University, to complete an online survey to share their thoughts and experience regarding health in Councils.

Kara has written to Council thanking them for their participation and support and providing a brief summary of the survey results.

Item 14.18

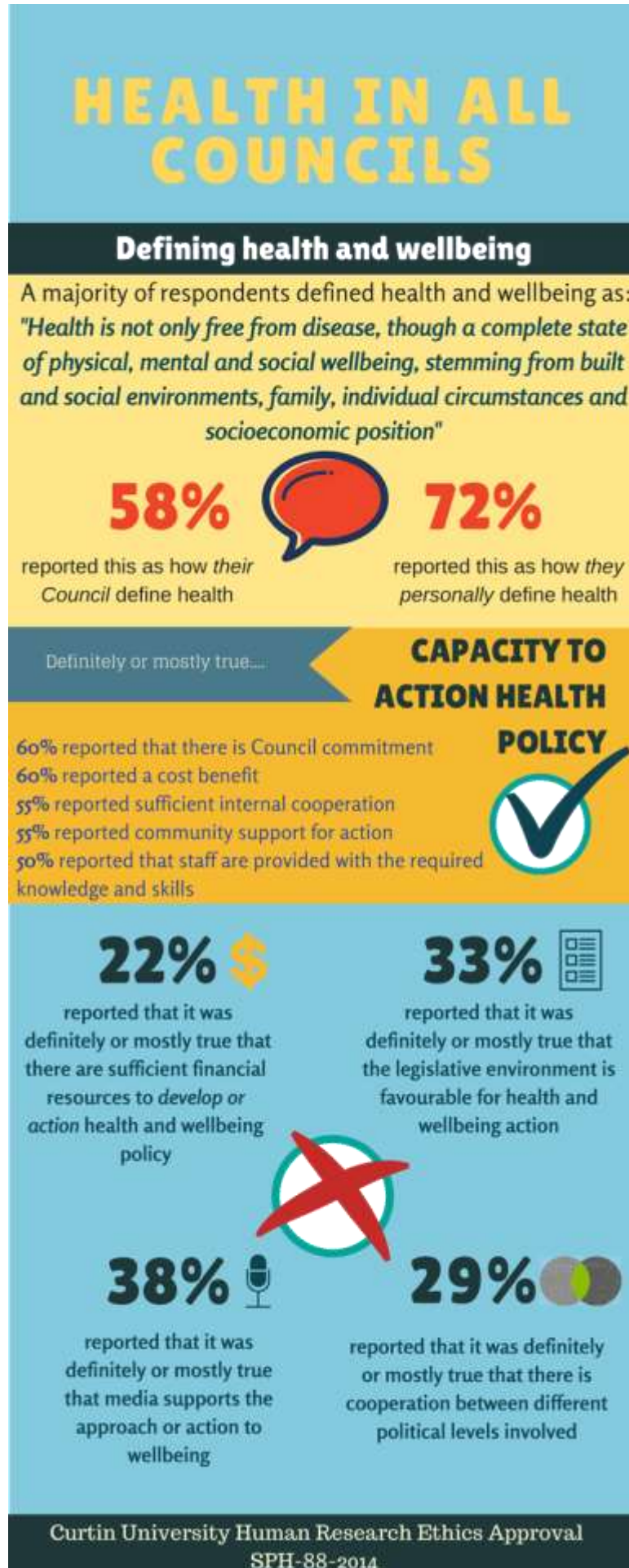
Attachments

- 1 Health in all Councils survey summary [↓](#)



Item 14.18

Attachment 1



14.19 Questions for Future Meetings register as at 12 December 2017

Responsible Director: Office of the General Manager

Attached for Councillors' information is the Questions for Future Meetings register as at 12 December 2017.

Attachments

- 1 Questions for Future Meetings Register as at 12/12/17 [↓](#)

Questions for Future Meetings Register

16/73192

No	Details	Actions
18 July 2017		
17.1	Bombo walking track – name 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 & Works for investigation and report.	Report to future Council meeting
19 September 2017		
17.1	Signage strategy The Mayor, Councillor Honey, requested that Council staff prepare a signage strategy for the Local Government area for tourism and directional signage giving due regard to SEPP 64 incorporating a style guide and identification for future treatments in signage. The Mayor referred the matter to the Director Corporate, Commercial & Community Services for investigation and report.	Report to future Council meeting
17 October 2017		
17.1	Relocation of Council's Administration Centre Councillor Reilly requested a report examining the relocation of Council's Administration Centre from Manning Street suggesting alternative sites including Belvedere Street and concurrent with this report produce a report on the adaptive re-use of the current structure considering a multi-level carpark for public use and boutique hotel and penthouse apartments. The old council chambers should remain and become a focal point of the adaptive re-use of the complex. The Mayor referred the matter to the General Manager for investigation and report.	Report to December Council meeting
17.2	Neighbourhood character Councillor Reilly requested a report on assessing context and the neighbourhood character of the Kiama LGA and how this can be integrated into our planning controls. He referred officers to the Torquay-Jan Juc neighbourhood character study review 2012 and to consider consultation with the Planning Institute of Australia, Diana Griffiths – Director Urban Design, Studio GL. The Mayor referred the matter to the Acting Director Environmental Services for investigation and report.	Report to December Council Meeting
17.3	Local Environmental Plan Councillor Reilly requested that the following points be included in the Kiama LEP: 1. To maintain the architectural excellence and respect the character of our towns and villages. 2. Dual occupancies only be permitted on corner blocks. The Mayor referred the matter to the Acting Director Environmental Services for investigation and report.	Report to December Council meeting.

21 November 2017		
17.1	<p>Use of rural sheds for low scale industrial manufacturing Councillor Steel requests a report on the feasibility of allowing farmers in rural zoned land to utilise existing farm sheds by renting them to individuals for the purpose of low scale industrial manufacturing such as car trailers and the like. If this is found to be prohibited can information be provided as to how it might be made permissible.</p> <p>The Mayor referred this matter to the Director Environmental Services for investigation and report.</p>	Report to December Council Meeting
17.3	<p>Aboriginal Cultural Heritage Management Development Assessment toolkit Councillor Sloan requests a report on how the Aboriginal Cultural Heritage Management Development Assessment toolkit has been implemented.</p> <p>The Mayor referred this matter to the Director Environmental Services for investigation and report.</p>	Report to February 2018 Council Meeting

14.20 Councillor Meetings Register as at 12 December 2017

Responsible Director: Office of the General Manager

Attached for Councillors' information is the Councillor Meetings Register as at 12 December 2017.

Attachments

- 1 Meetings Register as at 12/12/17 [↓](#)

Meetings - 11/11/17 - 12/12/17

Officer Name	Meeting Date	Councillor Name	Subject	Duration
Gino Belsito	15/11/2017	Mark Way	catch up	10
Sum				10
Michael Forsyth				
	13/11/2017	Mark Honey	Discussion regarding camping at harbour, permitted land uses and Akuna street development	30
	20/11/2017	Mark Honey	Various matters	45
	27/11/2017	Mark Honey	Various matters	30
	4/12/2017	Mark Honey	Various matters	30
	12/12/2017	Mark Honey	Akuna Street	30
	12/12/2017	Don Watson	Various matters	15
Sum				180
Paul Czulowski				

Item 14.20

Attachment 1

Officer Name	Meeting Date	Councillor Name	Subject	Duration
	30/11/2017	Mark Honey	CPP Speech Brent Blackburn and Byron Robinson also attended	90
Sum				90
Grand Total				280

Item 14.20

Attachment 1

14.21 Acting General Manager

Responsible Director: Office of the General Manager

The General Manager will be on leave from 2-5 January 2018 and from 22-25 January 2018. It is proposed that the Director Engineering & Works be Acting General Manager from 2-5 January 2018 and the Director Corporate, Commercial and Community Services from 22-25 January 2018.

Please also note that the Director Corporate, Commercial and Community Services will be on leave from 2–15 January 2018 and that the Acting Director role will be shared by the Manager Library Services (2-5 January) and the Chief Financial Officer (8-12 January).

Item 14.21

14.22 South Precinct Committee Meeting Minutes - 16 November 2017

Responsible Director: Office of the General Manager

Attached for Councillors' information are the minutes of the South Precinct Committee meeting held on 16 November 2017.

Attachments

- 1 Minutes - South Precinct - 16/11/17 [↓](#)

MINUTES OF THE SOUTH PRECINCT MEETING

held on Thursday 16 November 2017 at Gerringong Town Hall

Meeting Opened: with Raewyn Thomson in the chair

Attendance: 33 people present

Chair: Raewyn Thomson

Minutes: Linda Brazier

Apologies: Mayor, Cr Mark Honey, Cr Andrew Sloane, Helen Mc Dermott

Special welcome extended to Cr Cathy Rice, Deputy Mayor and Cr Neil Reilly.

Minutes of Previous Meeting:

Moved: that the minutes of the ordinary meeting of 19 October 2017 be accepted.

Irene Clingan/Hedi Stein

carried

Business Arising From Minutes: deferred to general business

Correspondence IN

1. GM re. Cooke Park, use by exercise groups
2. ANZ bank re. closure, acknowledging our objection
3. Cathy O'Connor, resident, re DA at 29 Tasman drive
4. KMC re. public exhibition of Planning Proposal to amend KLEP 2011 with respect to Subdivision amendments

Correspondence OUT

1. To GM and councillors re. Cooke Park
2. To ANZ bank re closure
3. To GM and Cr Neil Reilly re. Bendigo Bank proposal

Executive's Report:

Congratulations were extended to Darrell Clingan (past chair/president) who recently received the "Premier's Community Service Award" presented by Kiama MP Gareth Ward.

Treasurer's Report: Balance at 31/10/17 \$785.97

Donation from KMC of \$500 to cover operating expenses for precinct.

Council Papers: not available

Special address

Shane Douglas, manager of Parkwood Retreat, Gerringong, and member of Kiama Business Chamber spoke on Bendigo bank. Franchise structure, Community bank 80% profits to community 20% to shareholders

Setting up will involve feasibility study by the bank. More information and public meeting is planned.

Traffic Committee: nil

Traffic concerns raised:

1. Elambra estate 10 tonne limit is to be reduced to 5 tonne – signage yet to be changed.
2. Fern St pedestrian crossing, poor visibility. Explore possible flashing lights. Fatality recently near this crossing is currently under investigation.
3. Elambra estate being used as a detour – traffic calming devices have been suggested. Darrell Clingan to follow up.

General Business

1. Exercise groups in Cooke park – still some concern over no. of participants. It appears that there are inconsistencies in policy.

Cr Reilly to take up with Gino Belsito and report back.

2. DA 115.1 Tennis court and pavilion at 40 Crooked River Road Gerroa - Council officers have recommended this for approval.

Residents have consistently expressed objections as the proposal breaches the DCP on 3 grounds:

1. within 100 metres of neighbour's dwelling,
2. located on a ridge,
3. does not consolidate/cluster buildings on a rural property

Concerns were also raised re.noise levels from a large group using the facility, which is essentially outdoors with no noise mitigation. It was noted that the stated sound levels in the application had not been realistically assessed to reflect actual use of such a facility.

Moved: that in light of the recommendation by Council officers to approve DA 115.1, 40 Crooked River Road Gerroa, South Precinct again expresses our strongest objections to this DA on the grounds that it compromises three significant guidelines in our DCP and so undermines the intent of the planning document. We request that clustering be recommended so that the pavilion and tennis court be relocated near the primary residence. Furthermore we ask councillors to protect the viability of our DCP by reducing the number of compromises conceded in development applications.

Roger Collins/ Hedi Stein **carried unanimously**

This is to be communicated to all councillors ASAP.

3. DA 10.2017.81.1- 18 Wells Street Gerringong

Moved:

That SP supports the staff recommendation in relation to DA 10.2017.81.1 , 18 Wells Street Gerringong for an attached dual occupancy and 2 lot Torrens title subdivision.

In particular the precinct acknowledges and supports the reasons provided for the refusal, as the proposal:

1. is an overdevelopment of the site,
2. is non-compliant with the Kiama DCP 2012,
3. provides poor amenity for the end user,
4. is of poor design standard, and
5. establishes a precedent for the creation of poor quality housing.

In addition, that to permit such a development would further compound traffic problems.

Howard Jones/Darrell Clingan **carried unanimously**

4. Planning Proposal to amend KLEP 2011 with respect to Subdivision amendments

Moved:

In view of the planning proposal currently on exhibition, which looks to establish minimum lot sizes for subdivision of dual occupancies which will result in Torrens title subdivision into lots as small as 225 square metres, that Council be requested to *strengthen* the guidelines for dual occupancy dwellings to ensure that quality and amenity for the end user is paramount.

Howard Jones/Shane Douglas **carried unanimously**

5. DA 10.2017.156.1 29 Tasman Drive DA: Cathy O'Connor, Tasman Dr resident, spoke in opposition on a number of grounds including height (3 storeys proposed), setbacks, placement of chimney; and that it breaches Kiama DCP and the Gerringong Headland Masterplan.

6. Footpath from Greta Street to IGA carpark

Moved:

Noting that some older residents are having difficulty negotiating the steeper part of the new path from Greta Street to the IGA carpark without the risk of falling, South Precinct requests that Council install a hand rail next to the path.

Trevor Cuthbertson/ Darrell Clingan **carried**

7. Noted: Linda Davis is the newly appointed Director, Environmental Services, KMC

8. Noted: an update was given on plans for Arthur Campbell Reserve, which go to Council next week. Council have allocated \$20,000 for this project. A number of local groups are involved.

Meeting closed: 9.20pm

Next Meeting: Thursday 21 December 2017 at 7.30pm.

15 ADDENDUM TO REPORTS**16 NOTICE OF MOTION**

Nil

17 QUESTIONS FOR FUTURE MEETINGS**18 CONFIDENTIAL SUMMARY****CONFIDENTIAL COMMITTEE OF THE WHOLE**

Submitted to the Ordinary Meeting of Council held on 19 December 2017

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 AKUNA STREET DEVELOPMENT

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. .

19.2 KIAMA AGED CARE CENTRE OF EXCELLENCE

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 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 person with whom the Council is conducting (or proposes to conduct) business as per Section 10A(2)(c) of the Local Government Act. .

19.4 GERRINGONG LIBRARY, MUSEUM AND COMMUNITY FACILITY

Reason for Confidentiality: This matter deals with details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property as per Section 10A(2)(f) of the Local Government Act. .

19 CONFIDENTIAL REPORTS

19.1 Akuna Street Development

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: 3.1.3 Encourage business innovation, creativity and diversification opportunities

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.

19.2 Kiama Aged Care Centre of Excellence

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

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.

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

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: 3.1.3 Encourage business innovation, creativity and diversification opportunities

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.

19.4 Gerringong Library, Museum and Community Facility

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: 1.1.4 Provide a range of library resources and services that support our community in recreational and lifelong learning

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 details of systems and/or arrangements that have been implemented to protect council, councillors, staff and Council property.

20 CLOSURE