



EXTRAORDINARY MEETING OF COUNCIL

To be held at 5pm on

Tuesday 23 February 2016

Council Chambers

11 Manning Street, KIAMA NSW 2533

Order of Business

- 1 Apologies
- 2 Acknowledgement of Traditional owners
- 3 Report of the Director Environmental Services
- 4 Report of the General Manager
- 5 Report of the Director Finance, Corporate and Commercial Services
- 6 Confidential Summary
- 7 Confidential Reports
- 8 Closure

Members

His Worship the Mayor
Councillor B Petschler
Councillor W Steel
Deputy Mayor
Councillor M Honey
Councillor G McClure
Councillor N Reilly
Councillor K Rice
Councillor D Seage
Councillor A Sloan
Councillor M Way

COUNCIL OF THE MUNICIPALITY OF KIAMA

Council Chambers
11 Manning Street
KIAMA NSW 2533

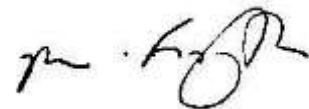
19 February 2016

To the Chairman & Councillors:

NOTICE OF EXTRAORDINARY MEETING

You are respectfully requested to attend an **Extraordinary Meeting** of the Council of Kiama, to be held in the **Council Chambers 11 Manning Street, KIAMA NSW 2533** on **Tuesday 23 February 2016** commencing at **5pm** for the consideration of the undermentioned business.

Yours faithfully



Michael Forsyth
General Manager

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**AGENDA FOR THE
EXTRAORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL
TUESDAY 23 FEBRUARY 2016**

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 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

3.1 Review of Determination - DA 10.2015.128.1 - Demolition of existing building, construction of 4 residential units & strata subdivision - Part Lot 19 DP156143 No 139 Manning Street, Kiama

CSP Objective: 2 Well Planned and Managed Spaces, Places and Environment

CSP Strategy: 2.9 Ensure the principles of sustainable development and legislative compliance underpin our land uses and the design of our buildings and subdivisions

Delivery Program: 2.9.1 Comply with Development Regulation

Summary

The subject request for review of determination was reported to the meeting of Council held on February 2, 2016, at which the following resolution was adopted:

“that Council defer development application 10.2015.128.1 to an extraordinary meeting to be held on 23 February 2016, due to additional information being received”

The request for review of determination followed on from Council’s decision to refuse the original development application at its meeting in August 2015. Copies of both reports previously submitted to Council are attached for information.

Finance

N/A

Policy

N/A

Attachments

- 1 Report to 18 August 2015
- 2 Report to 2 February 2016
- 3 A. Letter and compliance tables
- 4 B. SEPP65 Verification Statement
- 5 C. Amended drawings

Enclosures

Nil

RECOMMENDATION

That Council review the original determination of Development Application 10.2015.128.1 by granting conditional approval to the application subject to the conditions listed at the end of this report.

Report of the Director Environmental Services

- 3.1 Review of Determination - DA 10.2015.128.1 - Demolition of existing building, construction of 4 residential units & strata subdivision - Part Lot 19 DP156143 No 139 Manning Street, Kiama (cont)
-

BACKGROUND

Following on from the resolution of Council at its February 2 meeting, (referenced above), the applicant for the subject development application has submitted a full set of revised plans along with a SEPP 65 Design Verification Statement and a document addressing compliance with relevant provisions in Chapter 5 of Councils DCP and the Apartment Design Guide (ADG) referenced by SEPP65. These documents are attached to this report.

The original resolution of Council refusing the development application was as follows;

“The development fails to provide sufficient separation to ensure reasonable visual and acoustic privacy for future residents, and those in likely future neighbouring medium density developments, as required by Chapter 5 of the Kiama DCP and the primary building controls as specified in the SEPP 65 Residential Flat Design Code”

The principle issues in consideration of this application relate to the provision of privacy to adjoining properties/boundary setbacks, solar access and street presentation.

REPORT

The requirements of SEPP 65 are applicable to this development and it is considered that the referenced Apartment Design Guide provides the most relevant development standards for assessment of the proposal.

Privacy/boundary setbacks

The proposed development has utilised the following separation controls in formulating a building envelope;

- Side setbacks – non-habitable and obscured habitable – 3m, Habitable – 6m. Those windows located 3 metres from adjoining boundaries are translucent glass, highlight type windows with timber screening, thus have no adverse impact on privacy. None of the rooms in question rely on this highlight window for light, as all have alternate windows which do not face the boundary. In addition the following measures have also been proposed;
- private open spaces have been orientated to either the street or the rear
- of the site and setback 6m from the boundaries;
- side boundary setbacks of 6m from internal living areas to minimize overlooking issues;
- Window hoods within the 6m setback to focus views away from boundaries.

The above design response also meets the requirements of Chapter 5 of Kiama DCP which requires a minimum 3 metre setback.

Solar Access

The development standard of both the ADG and Kiama DCP in regard to solar access specifies that living rooms and private open spaces of at least 70% of

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apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid-winter. In the revised proposal each dwelling layout has been amended to provide additional glazing at the 6m setback line to introduce further sunlight into the building. All dwellings will comply with the development standard.

Streetscape

The development provides a residential presence to Manning Street via balconies and living areas which address the street frontage along with a legible entrance at the street level and defined entrance porch and awning. Roof forms have been altered to provide alternating gable and skillion roof forms which relate to existing buildings in Manning Street. The building complies with height requirements.

Private Open Space (POS)

Having regard to the abovementioned building revisions, particularly the increased boundary setback to balconies and living areas, amendments have been made to the size of private open space provided for each apartment. The ADG specifies that POS be provided as follows;

- 2 bedroom apartments – 10m² with minimum depth of 2m
- 3 bedroom apartments – 12m² with minimum depth of 2.4m.

All apartments comply with this standard.

It is noted however that Kiama DCP has a single requirement for the provision of 25m² POS for any size apartment.

As SEPP 65 and the referenced ADG are the relevant statutory assessment documents, and assessment of boundary setbacks, privacy, solar access and streetscape have been based on the criteria contained therein, it is reasonable to assess the provision of POS in accordance with the standards contained in the ADG. Accordingly, the provision of POS is considered to be satisfactory.

Other Development Standards

Other standards relevant to the assessment of the application have been addressed in previous reports which are attached hereto.

No public submissions were received in regard to the originally notified request for review.

Conclusion

As part of the request for review of determination, this application has been significantly amended to address the reasons for refusal by Council and the development standards contained in the Apartment Design Guide, which is referenced by SEPP 65.

Having addressed the abovementioned matters, it is considered that the original determination of refusal should be reviewed by amending the determination to granting conditional approval.

Report of the Director Environmental Services

- 3.1 Review of Determination - DA 10.2015.128.1 - Demolition of existing building, construction of 4 residential units & strata subdivision - Part Lot 19 DP156143 No 139 Manning Street, Kiama (cont)
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Draft Conditions**General**

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing endorsed by Council as 10.2015.128.1 and on the application form except as amended by the following conditions:
- (2) The development shall be completed in accordance with the approved colour schedule.
- (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.
- (4) The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority.
- (5) 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.
- (6) The developer shall provide a traffic control management plan complying with the design requirements of the Roads and Traffic Authority's (RTA) "*Traffic Control at Work Sites*" manual.

The traffic control management plan must be designed by an RTA accredited designer and must be provided to Council prior to the commencement of any demolition or construction work.
- (7) The developer shall under Section 138 of the Roads Act 1993 make application to the Road Authority for permission to access the public road reserve, Manning Street for the purpose of carrying out activities associated with the development.
- (8) The developer shall ensure that all construction work associated with the development is carried out in accordance with a Construction Environmental Management Plan (CEMP) approved by the Principal Certifying Authority. Such plan shall be approved prior to issue of Construction Certificate and a copy of the approved CEMP shall be kept on site at all times.
- (9) The developer shall not carry out any work, other than emergency procedures to control dust or sediment-laden runoff, outside the normal working hours, namely, 7.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm Saturday, without the prior written approval of the Principal Certifying Authority. Any request to vary these hours shall be submitted to the Principal Certifying Authority in writing detailing:
 - a The variation in hours required.

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- b The reason for that variation.
 - c The type of work and machinery to be used.
- (10) The development is to satisfy the recommendations of the Rail Noise and Vibration Assessment, prepared by Day Design Pty Ltd, dated 26 March 2015.

Transport Sydney Trains

- (1) The developer shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains representative.
- (2) An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".
- (3) Prior to the issue of a Construction Certificate the developer is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
- (4) The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains.

The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- (5) Prior to the issuing of a Construction Certificate the developer is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- (6)
 - a. Given the development site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.
 - b. Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.
- (7) No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with RailCorp.

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Where the developer proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from RailCorp confirming that its approval has been granted.

- (8) Prior to the commencement of works appropriate fencing shall be installed along the rail corridor to prevent unauthorised access to the rail corridor. Details of the type of fencing and the method of erection are to be to Sydney Trains satisfaction prior to the fencing work being undertaken. RailCorp may provide supervision, at the developer's cost, for the erection of the new fencing.

Contributions

- (1) A contribution pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. 1 & 2 shall be paid to Council prior to the issuing of the Construction Certificate. The total contribution required for the development is **\$19,778.62**.

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 developer shall lodge with Council a bond of **\$10,000** in the form of an unconditional bank guarantee or cash, prior to the commencement of any work, as a security for new and remedial work associated with the development proposal and covering all work within the public roads administered by Council under the Roads Act 1993 and compliance with the submitted Waste Management Plan during the course of construction.

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

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.

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- 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.
- (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) The developer shall obtain a Construction Certificate prior to the commencement of any civil engineering construction works.
- (6) The nominated adaptable housing unit (unit 1) shall as a minimum requirement meet "Adaptable house class C" requirements set out in Appendix A of Australian Standard As 4299-1995 Adaptable Housing. 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.
- (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

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- 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.

- (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 any reinforced concrete slabs, footings or structural steel.
- (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.
- (10) Prior to issue of the Construction Certificate, provision for source separation of waste (i.e. internal garbage and recycling bins) is shown on the unit floor plans.

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 driveway, ramp, car parking aisle and car parking modules;
- c The proposed pavement treatment to the access driveway, car parking aisle and car parking modules. The minimum surface treatment shall be concrete;
- d The location and reduced level of all services under the control of public utilities or agencies;
- e A Construction Environmental Management Plan (CEMP) shall be prepared in accordance with Australian Standard AS/NZS ISO 14001: 2004 for all civil engineering work associated with the development.

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All reduced levels shall relate to Australian Height Datum (AHD).

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.

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.
- (2) The developer shall submit to the Principal Certifying Authority for approval prior to the issue of the construction certificate, a detailed Soil and Water Management Plan (SWMP) designed in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction Volume 1* (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction Volume 2* (Department of Environment and Climate Change 2007).

All works on the site must be in accordance with the approved SWMP for the full duration of construction works and must provide an overall site detail. For staged development a SWMP shall be provided for each stage of the development.

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- (3) 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.

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.

- (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. 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

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-

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.

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*".
- (2) The developer shall restore any redundant vehicle crossing to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*".
- (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.
- (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.

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.
- (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, stenciled 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 Concrete access driveways shall be designed and constructed in accordance with the principles of the Cement, Concrete and Aggregates Australia technical notes.
- (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.
- (4) The concrete access driveway, ramp, car parking module and manoeuvring areas shall be designed and constructed in accordance with the principles of the Cement, Concrete and Aggregates Australia Technical Notes.

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- (5) The car wash bay/visitor parking space is to be appropriately sign posted as such.
 - (6) All vehicles shall leave the development site in a forward direction.

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 aluminum for roll kerb sections.
- (2) The developer shall provide a detailed stormwater drainage network in accordance with the design requirements of “*Section D5 Stormwater Drainage*” of Kiama Development Code as appended to Kiama Development Control Plan 2012. Full hydrological and hydraulic calculations and civil engineering drawings shall be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be

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provided to convey runoff from storms up to the 10% Annual Exceedance Probability (AEP). Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.

Civil Engineering Construction

- (1) The developer shall carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to residents of adjacent properties.
- (2) The developer shall control the emission of dust from the site and in this regard watering and dust suppression equipment shall be kept on the site and used for this purpose. The developer must ensure that the contractor is able to control emission of dust from the site on weekends when windy conditions prevail.
- (3) No vibratory rollers are to be used during the construction of this civil engineering work unless a geotechnical consultant has confirmed in writing that the use of vibratory rollers will not affect existing adjacent properties and the approval has been issued to the Certifying Authority.
- (4) The developer shall construct a cement concrete footpath of minimum width 1.2 in Manning Street. Details of the footpath must be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
- (5) The developer shall undertake civil engineering construction works in accordance with the requirements of Section C101 General – Development Construction Specification of the Kiama Development Code, as appended to Kiama Development Control Plan 2012, and civil engineering drawings approved by the Principal Certifying Authority.

Inspections

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

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

Building Construction

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council.
- (3) 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.

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3.1 Review of Determination - DA 10.2015.128.1 - Demolition of existing building, construction of 4 residential units & strata subdivision - Part Lot 19 DP156143 No 139 Manning Street, Kiama (cont)

-
- (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:
- Preserve and protect the building from damage;
 - Underpin and support the building in an approved manner, if necessary, and;
 - 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.
- (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.

Landscaping Works

- 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.
- The landscaping shall be maintained actively and regularly for a period of 26 weeks commencing from the date of issue of the Occupation Certificate.
- 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

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-

Utility Servicing

- (1) A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The Section 73 Certificate shall be submitted to Council prior to issue of the final Occupation Certificate.
- (2) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access.
- (3) The developer shall ascertain with Sydney Water Corporation details of the location of the existing water main in Manning Street and, if necessary, the developer will be responsible for the under boring of water services/conduits beneath the road to ensure that the proposed allotments are serviced with a connection to the existing water main.

A Plumber's Certificate shall be provided for each service and shall be submitted to the Certifying Authority prior to the release of the Subdivision Certificate.

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 development is to be provided with mail boxes in accordance with Australian Standard AS/NZS 4253 - 1994 which covers the dimensions, installation and positioning for mail boxes for receipt of mail.
- (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 civil engineering works 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.

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

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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.

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.
- (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.
 - i. 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 either on disc or thumbdrive.
 - d. An original Deposited Plan Administration Sheet and one copy, prepared in accordance with NSW Land & Property Information requirements.
 - 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. The payment of all required Section 94 Contributions identified in this consent.
 - h. An Occupation Certificate for each dwelling to be separately titled.
- (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:-

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- a Final locations and reduced levels for all works associated with the development on both public and private land; and
- b In contrasting coloured ink, all changes to the Approved Drawings and actual values of all levels shown on the Drawings.

The WAE drawing shall be signed by a Registered Surveyor or Chartered Professional Engineer and certified that all the work as completed, including variations, meets the original intent of the Approved Drawing and will have no adverse impact on adjacent properties.

- (4) A certified Works-As-Executed (WAE) drawing for all work shall be submitted to the Principal Certifying Authority prior to the release on an occupation certificate. The WAE drawing shall show 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 and certified by the Designer that all the work as completed, including variations, meets the original intent of the Approved Drawing and will have no adverse impact on adjacent properties.

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CSP Objective: 2 Well Planned and Managed Spaces, Places and Environment

CSP Strategy: 2.9 Ensure the principles of sustainable development and
legislative compliance underpin our land uses and the design of
our buildings and subdivisions

Delivery Program: 2.9.2 Ensure Council's Local Environment Plan and Urban
Strategy are current and incorporate the principles of sustainable
development

Summary

This report reviews the subject development application which seeks consent for the demolition of existing buildings and the construction of a residential flat building comprising four (4) residential units (3 x 3 bedrooms + 1 x 4 bedrooms), with subsequent strata subdivision.

The proposed development seeks a variation to the 11m building height limit applying to the site pursuant to Kiama Local Environment Plan (LEP) 2011, and also seeks variation to the 6m rear setback requirement of DCP 2012.

Finance

N/A

Policy

N/A

Reason for the Report

The development application is reported to Council as it was called up by Councilor Seage.

Attachments

- 1 Site Plan, Plans and Elevations
- 2 Height departure diagram

Enclosures

Nil

RECOMMENDATION

That Council approve Development Application No 10.2015.128.1 pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, subject to the draft conditions at the end of this report.

BACKGROUND

Applicant: BHI Architects
Owner: Mr D J & Mrs V G O'Brien

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Site Zoning: R3 Medium Density Residential

Development Site

The property is described as Part Lot 19 DP 156143 which is located at No 139 Manning Street Kiama.

The overall site measures 784.1m² and is rectangular in shape. The site currently contains a dwelling and detached garage and is bounded by residential land to the north-east and south-west, South Coast Railway line to the north-west and Manning Street to the south-east.

The site is zoned R3 Medium Density Residential pursuant to Kiama LEP.

The site slopes moderately from south-east downward to the north-west/north i.e. away from Manning Street. Two (2) trees are situated on the allotment.

Access to the property is obtained from Manning Street. The site is serviced by electricity, telecommunications, reticulated water and sewer. The site is subject to potential noise and vibration from the adjoining rail transport corridor.

Description of the Proposed Development

The proposal involves demolition of the existing buildings and the construction of a residential flat building comprising four (4) residential units (3 x 3 bedrooms + 1 x 4 bedrooms), seven (7) basement car parking spaces and subsequent strata subdivision.

The proposed development is configured as follows:

Level	Proposed use
Basement	<ul style="list-style-type: none">○ 7 car parking spaces (6 resident + 1 visitor);○ Residential storage areas; and○ Garbage bin enclosure;
Ground floor	<ul style="list-style-type: none">○ Entry foyer;○ Unit 1 (adaptable unit);○ bicycle storage room;
Level 1	<ul style="list-style-type: none">○ Units 2 & 3;
Level 2	<ul style="list-style-type: none">○ Unit 4

The proposed unit sizes are as follows:

- Unit 1 – 3 bedrooms – 173m²
- Unit 2 – 3 bedrooms – 132m²
- Unit 3 – 3 bedrooms – 119m²
- Unit 4 – 4 bedrooms – 185m²

Each of the proposed residential units open onto aboveground private open space areas that are directly accessible from internal living areas.

Vehicular access is obtained from Manning Street via a common entry/exit point to/from the basement car parking level. The basement level incorporates a waste storage room for the residential units, with garbage bin collection taking place kerbside from Manning Street.

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The exterior of the building is proposed to be finished in a combination of painted rendered walls (colour Dulux 'Whisper White' or similar), stained timber balconies, box windows (Colorbond 'Ironstone' or similar) and concrete block walls to the basement level with timber ventilation screening.

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.

Consideration has been given to the objectives of the SEPP 71 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 (Building Sustainability Index: BASIX) 2004 (BASIX)

A BASIX Certificate was lodged with the application which demonstrates that the dwellings have been designed in accordance with BASIX.

- State Environmental Planning Policy No 65 — *Design Quality of Residential Flat Development* (SEPP 65)

This Policy aims to improve the design quality of residential flat development in New South Wales.

A Design Verification Statement, signed by a suitably qualified architect was lodged in support of the application, as required by SEPP 65.

This statement verifies that the proposal satisfies the 10 design principles in SEPP 65 together with the supporting Residential Flat Design Code (RFDC).

At the time the development application was lodged with Council, draft SEPP 65 Amendment No 3 and the associated Apartment Design Code (replacing the RFDC) was on exhibition. The draft SEPP was considered in the assessment of this development application, pursuant to Section 79C(1)(a)(ii) and the proposed development does not represent any breach of the draft SEPP amendment (NB: The amended SEPP 65 and Apartment Design Code does not apply in this instance because the development application was lodged with Council prior to 19 June 2015).

- State Environmental Planning Policy (Infrastructure) 2007

The subject land backs onto the South Coast Railway corridor. The proposed development does not involve development of a type identified in Clause 85(1) or involve ground penetration >2m within 25m of the adjoining rail corridor (Clause 86). Concurrence from Transport Sydney Trains is thereby not required.

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Clause 87 of the SEPP states that where development consent is sought for development for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq (noise) levels are not exceeded:

- (a) in any bedroom in the building - 35 dB(A) at any time between 10.00 pm and 7.00 am,
- (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway) - 40 dB(A) at any time.

The development application is supported by a Rail Noise and Vibration Assessment, prepared by Day Design Pty Ltd which acknowledges the requirements of the SEPP and makes recommendations accordingly. Should consent be granted to the proposal, conditions will be imposed requiring compliance with the recommendations of the Acoustic Report.

- Illawarra Regional Environmental Plan No 1 (IREP 1)

Clause 139 of the REP imposes a maximum building height control of 11 metres measured vertically from any point on the ceiling of the top most floor of the building to the natural ground level immediately below that point. The proposed development has a maximum ceiling height of some 11.152 (ceiling of the awning of proposed unit 4), thereby exceeding the 11m height under the terms of the IREP by some 0.152m. The proposed building height breach is located in an awning area only and represents a minor portion of the ceiling area and is discussed in detail under Clause 4.6 of Kiama LEP 2011.

- Kiama LEP 2011

The subject land is zoned R3 Medium Density Residential pursuant to Kiama LEP 2011. The proposal (residential flat building) is permitted with consent in the zone and is considered to be consistent with the zone objectives, which include:

- To provide for the housing needs of the community within a medium density residential environment.

Comment: The proposed residential flat development creates four (4) dwellings, replacing the existing single dwelling-house. The development results in an increase of the housing density, as intrinsically sought by the medium density residential zone.

- To provide a variety of housing types within a medium density residential environment.

Comment: The proposed residential flat building, consisting of four single level units, represents one type of medium density residential development. Other types include attached dwellings, group homes and multi-dwelling housing. These types of medium density residential development exist elsewhere within the R3 zone. The proposed residential flat development contributes to the variety of medium density residential development.

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- To provide opportunities for multi-storey residential accommodation in locations close to shops, transport nodes, commercial services, public open space and employment opportunities.

Comment: The proposal represents multi-storey residential accommodation within the R3 zone. The R3 zones in Kiama have been selected because they are close to shops, transport nodes, commercial services, public open space and employment opportunities.

- To provide increased housing choice, particularly housing suited to older people and people with a disability.

Comment: The proposed residential flat development both adds to the stock of residential units within Kiama and increases the residential density in accordance with the zone objectives. The proposed units are all single level and the building is serviced by a lift, making it suitable for older people and people with a disability.

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 (being 11 metres in this instance – measured vertically from the highest point of the building to the existing ground level below). The maximum overall height of the proposed building is 11.452m. The proposed development thereby breaches the 11m building height development standard by up to 0.452m. The applicant has provided a diagrammatic representation of the two height breaches and this is included in attachment – “height departure diagram” attached. This forms part of a submission seeking an exception to the building height development standard pursuant to Clause 4.6 (see 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 map. In this instance the LEP permits an FSR of 1:1. The FSR of the proposed development is 0.87:1 as identified by the applicant, being compliant with the development standard. Council’s assessment verifies that the development satisfies the FSR development standard.

Clause 4.6 provides for exceptions to certain development standards where requested and justified in writing by the applicant. Pursuant to Clause 4.6(4)(a), in order to grant an exception Council is to be satisfied that:

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

In this instance it is proposed to construct to a height of up to 11.452m at the highest point of the building (the north-western corner of the unit 4 roof (at the rear of the unit)),

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thereby breaching the 11m building height development standard of Clause 4.3. A second height breach of 0.293m is proposed in connection with the Unit 4 Juliette side balcony.

The proposed building height breaches represent point encroachments brought about by the fall of the land away from Manning Street. In each instance the height breach tapers off to a complying height as ground level rises. The overall surface area involved with the height breach is approximately 28.6m², which represents 10% of the upper roof area.

The applicant has provided a submission, pursuant to LEP Clause 4.6, seeking exception to the building height development standard of Clause 4.3 of the LEP and provided diagrammatic.

Applicant's Submission

In addressing Clause 4.6 and seeking exception to Clause 4.3, the applicant has lodged a submission which, in summary, contends that:

- the proposed building height breaches are minor and imperceptible in the overall scheme of the proposal
- the proposed building height breaches will have no significant impacts in terms of residential and streetscape amenity
- being representative of the future character of the medium density residential precinct, the proposal makes a positive contribution to the area.
- the proposal complies with the LEP floor space ratio (FSR) development standard
- despite the building height breach the proposed development is within the public interest in that it provides a suitable built form on the site, in context with the intended scale and character of the street and local area (medium density precinct); will not result in unreasonable loss of sunlight to the adjoining residential development and will not hinder the attainment of the R3 Medium Density Residential zone objectives.

Response

In reference to the extent of the breach, in overall height terms the proposed 0.452m building height breach (at its worst) represents 4.1% of the 11m development standard and, in terms of area, the height breaches constitute some 10% of the upper roof area.

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

- The proposed building height breach does not contribute significantly to the gross floor area of the building or trigger any breach of the FSR development standard.
- The proposal does not result in any unreasonable additional amenity impacts, such as overshadowing, view loss, privacy loss and the like, as discussed within this report.

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- The proposed development, in overall terms, reasonably responds to the fall of the land away from Manning Street. The two identified point encroachments are a consequence of the fall of the land.

It is accepted, based on the above, that compliance with the development standard is unreasonable and unnecessary under the circumstances.

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

- The proposal is consistent with the R3 zone objectives as referenced previously in this report
- The proposal is consistent with the objectives of Clause 4.3 (height of buildings); being:
 - (a) to ensure future development is in keeping with the desired scale and character of the street and local area

Comment: The proposed building is compatible with the desired scale and character of the area, despite the minor height breaches. The applicant reasonably contends that the building height breaches will be largely imperceptible, which is agreed with in the overall scheme of the proposal. The height breaches involve a small 5.6m² roof area over a Juliette balcony element at the side of unit 4 (situated behind the front balcony awning); as well as a 23m² area of the roof over the north western corner of unit 4, being at the rear of that unit away from Manning Street. Under the circumstances described the height breaches involved with these elements will not be prominent from the street or, for that matter, from any other direction.

- (b) to allow reasonable daylight access to all developments and the public domain

Comment: Shadow diagrams have been provided by the applicant and are attached to this report. Overshadowing as a consequence of the proposed development is compliant with the permissible overshadowing thresholds (DCP 2012) and is considered to be acceptable. With that, the proposed height limit breaches, being primarily adjacent the northern property boundary, do not result in any unreasonable additional overshadowing impact beyond that of an otherwise height compliant development.

- Despite non-compliance with the building height development standard, the proposal is consistent with the objectives of Clause 4.6; being:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development

Comment: The proposed development balances the topography and constraints of the site with the permissible floor space ratio and requirements of SEPP 65, LEP 2011 and DCP 2012. As identified, the height limit breaches are brought about as a consequence of the fall of the land over the length of the site. For the reasons outlined the proposed height breaches are, on balance, considered to be reasonable as they

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result in negligible adverse impact on neighbouring development and the streetscape. Accordingly, an appropriate degree of flexibility in the application of the height limit control is warranted in such circumstances.

- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances

Comment: Compliance with the building height limit would be achieved by cutting back the Juliette balcony element and the rear awning of unit 4. These measures would; however, undermine the architectural rhythm of the proposal and, in relation to the awning roof element, reduce the amenity of unit 4. The impacts of the proposed height breaches are negligible in terms of additional impact to neighbours (in terms of view impact, overshadowing, privacy loss or the like) and visually imperceptible to the casual observer.

On this basis of the negligible impact of the requested variation, it is considered that there are sufficient environmental planning grounds to justify variation of the development standard.

Clause 5.5 lists requirements for development within the coastal zone. The proposal is consistent with the objectives of the clause. The proposal does not cause increased coastal hazards or adverse impacts by way of diminished foreshore access, treatment of effluent and disposal of stormwater.

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

Nil.

Development Control Plans (DCPs)

- Kiama Development Control Plan (DCP) 2012

Chapter 5 – Medium density development

The proposed development is generally consistent with the requirements of Chapter 5 of the DCP, except in relation to the following matters, where variation is sought:

- Control C11 - Rear 6m building line

A proposed rear building setback of 3m to the basement level is proposed. Accounting for the angle of the rear boundary from the parallel side boundaries, the maximum proposed rear setback is 5m, which results in an average proposed rear setback of 4m.

Comment: The section of the proposed building that breaches the rear building line is the basement garage component, which has a height of 3.1m and accommodates the proposed Unit 1 outdoor open space area (i.e. on the roof of the basement, being a design response to the fall of the site away from Manning Street, toward the rail line at the rear).

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As identified, the subject site backs onto the South Coast Rail line, not onto adjoining residential development. The objectives underpinning the 6m rear building line include protecting the amenity of the locality and to prevent inappropriate siting of buildings in relation to neighbouring dwellings. As there are no neighbouring dwellings along the rear boundary, the proposed setback does not undermine these objectives.

The rear setback of the neighbouring development to the south (141A Manning Street) is as little as 0.9m from the rear boundary with the rail corridor. The rear setback of the proposed development therefore does not result in a compromise of any established 6m rear building line for the surrounding area.

It is considered that the proposed rear building line breach does not result in any unreasonable additional impact to neighbours. The use of the basement rooftop area that encroaches on the rear building line is an open space area associated with Unit 1. A privacy screen is proposed at the southern end of this open space area to protect the privacy of the southern neighbour's (141A Manning Street) backyard area. It is noted that no objection to the proposed development has been received.

Under these circumstances it is considered reasonable to vary the rear building line control as proposed.

- Control C32 – minimum 25m² private open space area for each dwelling.

Proposed units 3 & 4 each have a private open space balcony of 24m² in area.

Comment: Under the provisions of SEPP65 a 24m² balcony size is considered to be sufficient for a 3 bedroom unit (both units 3 & 4 are 3 bedroom units). The SEPP is the appropriate document for specification of development standards for this proposal. The standard called up by the SEPP in the Residential Flat Design Code states balconies should be “sufficiently large and well proportioned to be functional and promote indoor/outdoor living. A dining table and two chairs (smaller apartment) and four chairs (larger apartment) should fit on the majority of balconies in any development.” Council’s DCP, on the other hand, requires a blanket 25m² private open space area irrespective of the unit size or, for that matter, the type of medium density development.

Despite numeric non-compliance with the DCP private open space control for proposed units 3 & 4, it is generally accepted that these units are provided with usable and functional private open space balconies, being directly accessible from the living area of each unit, which enhances the functionality of the indoor/outdoor living/open space area. The proposed development provides a sufficient level of private open space consistent with that recommended by the NSW Residential Flat Design Code.

Chapter 9 – Car parking requirements

For residential flat building development the DCP draws on the RMS Guide to Traffic Generating Developments for medium density residential development. The Guide recommends a minimum number of off-street, residential parking spaces of:

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-
- 1 space for each unit (4 units = **4 spaces**), plus
 - an additional 1 space per each 2 x 3 (or more) bedroom unit or part thereof (4 x 3 bedroom = **2 spaces**), plus
 - an additional one space per each five units for visitor parking or part thereof (4 units = **1 visitor space**).

Consequently a total of seven (7) on-site car parking spaces are required and seven (7) are proposed in this instance.

A room is provided on the ground floor of the proposed development accommodating three (3) bicycles on a wall mounted rack.

The proposed development satisfies Council's DCP requirements for on-site parking.

Any Planning Agreement

Nil

Any Matters Prescribed by the Regulations

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

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

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

The proposal is not inconsistent with Australian Standard AS 2601—1991: *The Demolition of Structures*

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 having regard to the desired context of the designated medium density residential site. The bulk, scale and design of the proposal is consistent with relevant planning controls and anticipated character of the R3 zone. In relation to this point, the applicant makes the following comment:

"The current planning controls along Manning Street and the broader area to the south of the Kiama commercial area, reflects a desired future character of a medium density built form. Specifically, the 11 m height control and 1: 1 floor space ratio applicable to this area reflects the desired scale and character of the street and local area. These development standards do not align with the existing built form of low density detached housing.

While the proposal may appear larger in scale than the immediate development context of the existing streetscape, it represents a positive addition to Manning Street in accordance with this future planning and urban design vision envisaged by the 11 m height control. The development provides a sustainable built form

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*that increases population density and housing choice in close proximity to
existing infrastructure and public transport."*

In relation to 'facade' specifically, the NSW Residential Flat Design Code includes Better Design Practices including composing "*facades with appropriate scale, rhythm and proportion, which responds to the building use and the desired contextual character.*" The proposal is consistent with this, with the facade being articulated by varying materials and the balcony treatments protruding forward of the walls, which is notable for the street elevation.

- 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

Proposed Unit 1 has a rear 30m² terrace area that includes a privacy screen at the southern end to protect the privacy of the southern neighbor, which is considered to be adequate.

Proposed Units 1 and 2 each have a 24m² balcony at the north western corner of the unit and proposed top floor unit 4 has a 23m² balcony at the north western corner of the unit and adjoining northern terrace area. Each of these spaces overlook the backyard of the neighboring dwelling to the north at 133 Manning Street. In general terms, privacy and overlooking implications are inevitable where higher density development is proposed. Land & Environment Court planning principles recognize that the ease with which privacy can be protected is inversely proportional to the density of development. In this respect the planning principle outlines that whilst at low densities there is a reasonable expectation that a dwelling and some of its open space will remain private; at higher densities it is more difficult to protect privacy. It is anticipated that the neighbouring site to the north will itself be redeveloped to medium density residential development in the foreseeable future, whereby privacy issues will need to be considered in detail with such development at that time.

Proposed unit 4 also has 41m² roof top garden at the south-western corner of the unit. This green space incorporates a minimum 800mm wide landscape screen along the southern and western edge of the space, which adequately prevents looking down into the southern neighbours yard from the edge of the space, thereby protecting that neighbours privacy.

No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development and no objection on the grounds of privacy loss has been raised by neighbours.

- Overshadowing

Shadow diagrams have been supplied with the development application, which indicate that the overshadowing impacts of the proposed development will be reasonable. Overshadowing as a consequence of the proposed development is

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compliant with the permissible overshadowing thresholds (DCP 2012) and as such
are considered to be acceptable.

- Views

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

- Vehicular Access, Parking and Manoeuvring

Sufficient car parking is proposed on-site – see DCP 2012 Chapter 9 above.

Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply
with required gradients.

- Stormwater Management

Stormwater will drain to the on-site detention basin beneath the basement car park,
where it is proposed to be discharged to a trench at the northern corner of the site.
Stormwater surcharge from the drainage trench will be distributed evenly over the
length and width of the trench.

A satisfactory drainage design has been provided with the application, which has
been considered by Council's Engineers. No objection has been raised to the
proposed drainage design and method. Transport Sydney Trains and Council's
Engineers have recommended conditions be applied in relation to stormwater
management.

- Environmental Impacts

Vegetation Removal – The existing Jacaranda tree is proposed to be removed. This
issue has been considered by Council's Landscape Officer and no concerns have
been raised.

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

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

Impact on Water Resources – A rainwater tank will be provided, as required by
BASIX. Stormwater will be conveyed to an on-site stormwater dispersion trench via
the on-site detention system. 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 are raised. No submissions were received following
notification of the proposal.

The Suitability of the Site for the Development

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The proposed residential flat building is permissible within the R3 zone and satisfies the zone objectives.

- Traffic

The proposed four unit residential flat development is not expected to result in unacceptable levels of additional traffic movement. The existing local road network is capable of accommodating additional traffic movements generated by the proposed development. Council's Engineers have raised no concerns with the proposal on the grounds of traffic, parking, maneuvering and the like.

- Contamination from Previous Land Uses

There is no evidence on-site or known record of site contamination.

- Effect on Public Domain

The proposed development addresses the street, with its main entrance facing Manning Street. Proposed units 3 (Level 1) and 4 (Level 2) both have frontage to Manning Street with windows and balconies appropriately addressing the street.

The presentation of the building is contemporary and considered to be acceptable, as discussed above under 'Streetscape'.

- Utility Needs and Supply

The proposal is serviced by all essential services.

- Safety, Security and Crime Prevention

The proposal has been considered against Crime Prevention Through Environmental Design (CPTED) principles and is considered to be acceptable.

- Operational Waste

The proposal properly considers waste storage and retrieval. Council's Waste Services have considered the proposal and have not raised any concerns. Should development consent be granted, condition of consent will be applied requiring that, prior to issue of the Construction Certificate, provision for source separation of waste i.e. internal garbage and recycling bins is shown on the unit floor plans.

- Operational Noise

No on-going significant noise impacts are expected as a result of the development. The development application is supported by a Rail Noise & Vibration Assessment, prepared by Day Design Pty Ltd, which makes recommendations within the report to abate noise/vibration impacts from the adjoining rail corridor. Accordingly, should consent be granted to the proposal, conditions will be imposed requiring compliance with the recommendations of the Rail Noise & Vibration Assessment.

In addition, the matter has been referred to Transport Sydney Trains who have recommended conditions be applied should development consent be granted (dated 17 July 2015). The recommended conditions are included as conditions of consent should development consent be granted.

- Risks to People and Property from Natural and Technological Hazards

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There are no known natural & technological hazards on the land.

- Building Code of Australia Compliance

Council's building officer has reviewed the proposal and raises no issues in relation to BCA compliance.

- Construction Impacts

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.

Submissions

Public Submissions

Notification letters were sent to neighbouring property owners who were provided with fourteen (14) days in which to comment on the proposal. At the conclusion of the notification period, nil (0) submissions were received.

External Referrals

The application was referred to the following State Government Departments.

- Transport Sydney Trains

As previously outlined under SEPP (Infrastructure) 2007, the proposed development does not require concurrence from Transport Sydney Trains. The proposal was nonetheless referred to Transport Sydney Trains for comment and, by way of letter dated 17 July 2015, Transport Sydney Trains have recommended conditions be applied, should development consent be granted, relating to noise & vibration; stray currents and electrolysis from rail operations; drainage; fencing etc. The recommended conditions are included as conditions of consent should development consent be granted.

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.

- Environmental Health Officer - Waste
-

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

- GIS Officer

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

The Public Interest

The proposal is considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plans, is not likely to cause significant adverse impacts to the natural or built environment, is not likely to cause significant adverse social and economic impacts, is suitable for the site and therefore is considered to be consistent with the public interest.

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 R3 Medium Density Residential zone.

Consideration has been given to the social, economic and environmental impacts of the proposed development and no significant concerns are raised. No submissions were received following notification of the proposal.

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

Draft Conditions of Development Consent

(including Section 94 conditions)

General

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing endorsed by Council as 10.2015.128.1 and on the application form except as amended by the following conditions:
- (2) The development shall be completed in accordance with the approved colour schedule.
- (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.
- (4) The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority.
- (5) 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

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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.

- (6) The developer shall provide a traffic control management plan complying with the design requirements of the Roads and Traffic Authority's (RTA) "*Traffic Control at Work Sites*" manual.

The traffic control management plan must be designed by an RTA accredited designer and must be provided to Council prior to the commencement of any demolition or construction work.

- (7) The developer shall under Section 138 of the Roads Act 1993 make application to the Road Authority for permission to access the public road reserve, Manning Street for the purpose of carrying out activities associated with the development.
- (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 to that Plan approved by the Principal Certifying Authority. A copy of the approved CEMP shall be kept on site at all times.
- (9) The developer shall not carry out any work other than emergency procedures to control dust or sediment-laden runoff outside the normal working hours, namely, 7.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm Saturday, without the prior written approval of the Principal Certifying Authority. Any request to vary these hours shall be submitted to the Principal Certifying Authority in writing detailing:
- a The variation in hours required.
 - b The reason for that variation.
 - c The type of work and machinery to be used.
- (10) The development is to satisfy the recommendations of the Rail Noise and Vibration Assessment, prepared by Day Design Pty Ltd, dated 26 March 2015.

Transport Sydney Trains

- (1) The developer shall provide an accurate survey locating the development with respect to the rail boundary and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains representative.
- (2) An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines".
- (3) Prior to the issue of a Construction Certificate the developer is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the

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development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.

- (4) The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains.

The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- (5) Prior to the issuing of a Construction Certificate the developer is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- (6) (a) Given the development site's location next to the rail corridor, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.

(b) Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.

- (7) No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with RailCorp.

Where the developer proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from RailCorp confirming that its approval has been granted.

- (8) Prior to the commencement of works appropriate fencing shall be installed along the rail corridor to prevent unauthorised access to the rail corridor. Details of the type of fencing and the method of erection are to be to Sydney Trains satisfaction prior to the fencing work being undertaken. RailCorp may provide supervision, at the developer's cost, for the erection of the new fencing.

Contributions

- (1) A contribution pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. 1 & 2 shall be paid to Council prior to the issuing of the Construction Certificate. The total contribution required for the development is **\$19,778.62**.

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Prior to Commencement of Works

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

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

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

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

or

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

- (2) The developer shall lodge with Council a bond of **\$10,000** in the form of an unconditional bank guarantee or cash, prior to the commencement of any work, as a security for new and remedial work associated with the development proposal and covering all work within the public roads administered by Council under the Roads Act 1993 and compliance with the submitted Waste Management Plan during the course of construction.

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

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.

- (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

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d You **must** give at least two (2) days notice to Council of your intention to commence work.

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

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

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

(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) The developer shall obtain a Construction Certificate prior to the commencement of any civil engineering construction works.

(6) The nominated adaptable housing units (unit 1) shall as a minimum requirement meet "Adaptable house class C" requirements set out in Appendix A of Australian Standard As 4299-1995 Adaptable Housing. 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.

(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.

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.

(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 any reinforced concrete slabs, footings or structural steel.

(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.

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(10) Prior to issue of the Construction Certificate, provision for source separation of
waste (i.e. internal garbage and recycling bins) is shown on the unit floor plans.

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 driveway, ramp, car parking aisle and car parking
modules;
- c The proposed pavement treatment to the access driveway, car parking
aisle and car parking modules. The minimum surface treatment shall be
cement concrete;
- d The location and reduced level of all services under the control of public
utilities or agencies;
- e A Construction Environmental Management Plan (CEMP) shall be
prepared in accordance with Australian Standard AS/NZS ISO 14001:
2004 for all civil engineering work associated with the development.

All reduced levels shall relate to Australian Height Datum (AHD).

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 light
weight 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

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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.

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.
- (2) The developer shall submit to the Principal Certifying Authority for approval prior to the issue of the construction certificate, a detailed Soil and Water Management Plan (SWMP) designed in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction Volume 1* (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction Volume 2* (Department of Environment and Climate Change 2007).

All works on the site must be in accordance with the approved SWMP for the full duration of construction works and must provide an overall site detail. For staged development a SWMP shall be provided for each stage of the development.
- (3) 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.

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.
- (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

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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.

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".

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- (2) The developer shall restore any redundant vehicle crossing to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*".
 - (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.
 - (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.

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.
- (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, stenciled 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.
- (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.
- (4) The concrete access driveway, ramp, car parking module and manoeuvring areas shall be designed and constructed in accordance with the principles of the Cement, Concrete and Aggregates Australia Technical Notes.
- (5) The car wash bay/visitor parking space is to be appropriately sign posted as such.
- (6) All vehicles shall leave the development site in a forward direction.

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 aluminum for roll kerb sections.

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- (2) The developer shall provide a detailed stormwater drainage network in accordance with the design requirements of “*Section D5 Stormwater Drainage*” of Kiama Development Code as appended to Kiama Development Control Plan 2012. Full hydrological and hydraulic calculations and civil engineering drawings shall be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate.
 - (3) 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.
 - (4) 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.
 - (5) 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.
 - (6) 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.
 - (7) 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 10% Annual Exceedance Probability (AEP). Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.

Civil Engineering Construction

- (1) The developer shall carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to residents of adjacent properties.

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Report of the Director Environmental Services

9.2 Pt Lot 19 DP156143, 139 Manning St, Kiama (10.2015.128.1) - Demolition of Existing Building, Construction of 4 Units & Strata Subdivision
(cont)

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- (2) The developer shall control the emission of dust from the site and in this regard watering and dust suppression equipment shall be kept on the site and used for this purpose. The developer must ensure that the contractor is able to control emission of dust from the site on weekends when windy conditions prevail.
 - (3) No vibratory rollers are to be used during the construction of this civil engineering work unless a geotechnical consultant has confirmed in writing that the use of vibratory rollers will not affect existing adjacent properties and the approval has been issued to the Certifying Authority.
 - (4) The developer shall construct a cement concrete footpath of minimum width 1.2 in Manning Street. Details of the footpath must be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.
 - (5) The developer shall undertake civil engineering construction works in accordance with the requirements of Section C101 General – Development Construction Specification of the Kiama Development Code, as appended to Kiama Development Control Plan 2012, and civil engineering drawings approved by the Principal Certifying Authority.

Inspections

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

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

Building Construction

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council.
- (3) 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 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

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- 9.2 Pt Lot 19 DP156143, 139 Manning St, Kiama (10.2015.128.1) - Demolition of Existing Building, Construction of 4 Units & Strata Subdivision (cont)

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.
- (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.

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.
- (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.
- (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

Utility Servicing

- (1) A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The Section 73 Certificate shall be submitted to Council prior to issue of the final Occupation Certificate.
- (2) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access.

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9.2 Pt Lot 19 DP156143, 139 Manning St, Kiama (10.2015.128.1) - Demolition of Existing Building, Construction of 4 Units & Strata Subdivision
(cont)

-
- (3) The developer shall ascertain with Sydney Water Corporation details of the location of the existing water main in Manning Street and, if necessary, the developer will be responsible for the under boring of water services/conduits beneath the road to ensure that the proposed allotments are serviced with a connection to the existing water main.

A Plumber's Certificate shall be provided for each service and shall be submitted to the Certifying Authority prior to the release of the Subdivision Certificate.

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 development is to be provided with mail boxes in accordance with Australian Standard AS/NZS 4253 - 1994 which covers the dimensions, installation and positioning for mail boxes for receipt of mail.
- (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 civil engineering works 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.

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.

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(cont)

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.
- (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 either on disc or thumbdrive.
 - d) An original Deposited Plan Administration Sheet and one copy, prepared in accordance with NSW Land & Property Information requirements.
 - 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) The payment of all required Section 94 Contributions identified in this consent.
 - h) An Occupation Certificate for each dwelling to be separately titled.
- (3) The developer shall submit to the Principal Certifying Authority, prior to the release of the Subdivision Certificate, two (2) copies of a certified Works-as-Executed (WAE) drawing including (but not limited to) the following:-
 - a) Final locations and reduced levels for all works associated with the development on both public and private land; and
 - b) In contrasting coloured ink, all changes to the Approved Drawings and actual values of all levels shown on the Drawings.

The WAE drawing shall be signed by a Registered Surveyor or Chartered Professional Engineer and certified that all the work as completed, including variations, meets the original intent of the Approved Drawing and will have no adverse impact on adjacent properties.

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9.2 Pt Lot 19 DP156143, 139 Manning St, Kiama (10.2015.128.1) - Demolition of Existing Building, Construction of 4 Units & Strata Subdivision
(cont)

-
- (4) A certified Works-As-Executed (WAE) drawing for all work shall be submitted to the Principal Certifying Authority prior to the release on an occupation certificate. The WAE drawing shall show 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 and certified by the Designer that all the work as completed, including variations, meets the original intent of the Approved Drawing and will have no adverse impact on adjacent properties.

Item 3.1

Attachment 1

ORDINARY MEETING

2 FEBRUARY 2016

Report of the Director Environmental Services

9.2 Review of Determination - DA 10.2015.128.1 – Demolition of Existing Building, Construction of 4 Units & Strata Subdivision – Part Lot 19 DP 156143 No 139 Manning Street, Kiama

CSP Objective: 2 Well Planned and Managed Spaces, Places and Environment

CSP Strategy: 2.9 Ensure the principles of sustainable development and legislative compliance underpin our land uses and the design of our buildings and subdivisions

Delivery Program: 2.9.1 Comply with Development Regulation

Summary

This report considers a request by the applicant for a review of determination of the subject development application, which was refused by Council at its August 2015 meeting.

Finance

N/A

Policy

N/A

Attachments

- 1 10.2015.128.1 - Council Report - 18 August 2015
- 2 10.2015.128.1 - request for review of determination letter
- 3 10.2015.128.1 - plans
- 4 10.2015.128.1 - SEPP 65 Design Verification Statement

Enclosures

Nil

RECOMMENDATION

That Council confirm its original determination of development application 10.2015.128.1 by way of refusal.

BACKGROUND

The applicant for the subject development application has lodged with Council a request for a review of Councils decision to refuse development consent for the proposal. Development consent was refused by Council for the following reason:

“The development fails to provide sufficient separation to ensure reasonable visual and acoustic privacy for future residents, and those in likely future neighbouring medium density developments, as required by Chapter 5 of the Kiama DCP and the primary building controls as specified in the SEPP 65 Residential Flat Design Code.”

The original report to Council is attached to this report.

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2 FEBRUARY 2016

Report of the Director Environmental Services

- 9.2 Review of Determination - DA 10.2015.128.1 – Demolition of Existing Building, Construction of 4 Units & Strata Subdivision – Part Lot 19 DP 156143 No 139 Manning Street, Kiama (cont)
-

Under Section 82A of the Environmental Planning & Assessment Act 1979 the applicant is entitled to request a review of a determination of a development application. Section 82A(6) states:

“(6) If the council reviews the determination, the review must be made by:

- (a) if the determination was made by a delegate of the council - the council or another delegate of the council who is not subordinate to the delegate who made the determination, or*
- (b) if the determination was made by the council - the council.”*

In accordance with this section, since the determination was made by the Council, the Council is the body that must consider the redetermination.

History

In August 2015 Council considered a report which recommended conditional development consent be granted for a residential flat development comprising of 4 residential units with associated car parking and strata subdivision on the subject land.

The proposed development sought exception to Council's building height development standard as well as variation to the 6m rear setback requirement of Development Control Plan (DCP) 2012 Chapter 5 – Medium Density Development.

The report to Council discussed in detail the proposed building height breach and the DCP rear setback variation, which were supported by Council's assessment officers under the circumstances as outlined within the report.

Councillors expressed concern however, about the potential impact of visual and acoustic privacy loss to existing and potential future neighbours in the event the neighbouring land is redeveloped for medium density residential purposes. Development consent was subsequently refused for the reasons quoted above.

Report

The applicant has considered the reason for refusal and has amended the proposal. An amended SEPP 65 Design Verification Statement from BHI accompanies the amended proposal.

Response to Reason for Refusal

In response to the reason for refusal, the applicant has amended the proposed building as follows:

- Balconies have been cut back by 1m in width to be set back a minimum of 3m from the northern boundary, flush with the side of the building, with timber horizontal screening incorporated on the balcony parallel to the side boundary. Whilst there have been no specific details provided with respect to the timber screening it must be assumed that, if it provides a high level of visual privacy, it will also have a significant reduction in regard to solar access.
- Juliet balconies along the sides of the building have been removed;

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Report of the Director Environmental Services

9.2 Review of Determination - DA 10.2015.128.1 – Demolition of Existing
Building, Construction of 4 Units & Strata Subdivision – Part Lot 19 DP
156143 No 139 Manning Street, Kiama (cont)

- All windows to habitable rooms facing and within 6m of the side boundary have been removed. The only windows to habitable rooms facing the boundary are setback a minimum of 6m;
- Introduction of recessed landscaped 'courtyards' along the sides of the building (2 on the northern side and 1 on the southern side). All habitable rooms have windows only facing into the landscaped 'courtyards' or the east/west boundaries towards to the railway line or street;
- Windows to non-habitable rooms facing and within 6m of the side boundary incorporate highlight windows and/or obscured glass to prevent overlooking.

The changes described above have been made to the proposed building in an effort to address reasons for refusal of the original proposal. Although the amended proposal does address the reasons for refusal, in doing so, further issues are created which result in poorer outcomes in regard to liveability, amenity and in terms of its presentation.

The requirements of SEPP 65 and the Residential Flat Design Code (RFDC) are applicable to this proposal. The later document was subsequently replaced by the Apartment Design Guide (ADG) on 19 June 2015. Whilst the RFDC is the legally binding document for this application, it is reasonable to have regard to the requirements contained in both documents.

In regard to building separation and side boundary setback, both documents have basically the same criteria i.e. building separation should be a minimum of 9 metres between habitable rooms and balconies in one building and non-habitable rooms in an adjoining building and 12 metres in the case of habitable rooms/balconies to adjoining habitable rooms/balconies. If on adjoining allotments of land, the separation distance should be shared evenly on each allotment. A proposed 3 metre setback would not achieve this outcome.

DCP 2012 Chapter 5 – Medium Density Development, control C23, requires that “a minimum 70% of apartments receive a minimum of three hours direct sunlight between 9am and 3pm on 22 June to living rooms and private open spaces” (POS). This control is consistent with the design guidelines for daylight access under SEPP 65 Residential Flat Design Code and Apartment Design Guide. In an effort to address the privacy concerns, horizontal timber screening is proposed along the northern edge of each unit’s northern balcony (each of which is setback 3m from the side boundary), resulting in non-compliance in required level of solar access to POS areas and connected living rooms. The reduced solar access brought about by the privacy screens along the northern edge of the balconies diminishes the amenity and liveability of the internal living and external recreation space of the units. Whilst the timber screens do serve to reduce the privacy impacts for neighbour(s) to the north, this is achieved at the expense of solar access to the living room and POS areas of the units.

The balconies adjacent the northern property boundary have been cut back by 1m to be setback 3m (rather than 2m) from the northern boundary and flush with the side of the building. As a consequence, the corresponding size of these balconies is reduced from 24m² to 18m², meaning proposed units 2 & 3 do not satisfy either

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Report of the Director Environmental Services

9.2 Review of Determination - DA 10.2015.128.1 – Demolition of Existing
Building, Construction of 4 Units & Strata Subdivision – Part Lot 19 DP
156143 No 139 Manning Street, Kiama (cont)

Council's DCP 2012 (Chapter 5 control C32 – 25m² POS) or SEPP 65 Residential Flat Design Code, which recommends a minimum 24m² POS area for 3 bedroom units (which units 2 & 3 are). Notwithstanding this, the new SEPP 65 Apartment Design Guide prescribes a minimum balcony area of 12m² for 3+ bedroom apartments. It is reasonable to apply this new standard as it would be applicable to any new application and as such, the size of the amended balconies is considered to be acceptable having regard to the SEPP 65 requirements.

In relation to the presentation of the building, the deletion of the Juliet balconies and elimination of openings along the sides of the building (within 3m of the boundary) means the resulting building elevation to the north and south loses some architectural features in comparison to the original proposal. The side elevations essentially become a continuous plane, where previously the wall was punctuated and articulated by openings that added variation to the side facades. The removal of these openings results in an arguably more bulky building façade compared to the original proposal.

Some articulation to the side facades has been introduced in the amended proposal by way of recessed 'courtyard' landscape areas. These recesses in the wall provide for natural light and ventilation to bedrooms without the openings facing the neighbouring land. Although these recesses do articulate the northern and southern wall expanses, they do not compensate for the openings in the wall (and resulting punctuation/articulation) of the original proposal and significantly reduce the amenity of the interior spaces as they now open toward each other rather than to the north where they would receive solar exposure and views.

In relation to building height, although the building height breach initially proposed did not form part of Council's reason for refusal, the amended proposal has reduced the minor extent of building height breach previously proposed. The breach previously brought about by the Unit 4 Juliet balcony has been eliminated with the removal of the Juliet balconies and similarly the re-design of the Unit 4 and the resulting change in roof line has substantially reduced building height breach at the north western corner of the building.

Public Submissions

Notification letters were sent to neighbouring property owners, who were provided with fourteen (14) days in which to comment on the amended proposal. At the conclusion of the notification period, nil (0) submissions were received.

Conclusion

As outlined in this report, the applicant has sought to address the concerns raised by Council which led to refusal of the development proposal at the August 2015 Council meeting.

Whilst changes have been made to the proposal, this has in turn created different areas of noncompliance with nominated standards. Overall, the outcome of the amended proposal is a diminished standard of liveability, functionality, amenity and building presentation. This highlights the complex nature of achieving strict numeric compliance with standards for medium density development on infill allotments.

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The Apartment Design Guide referenced above provides benchmarks for achieving the design principles put forward in SEPP 65, and, being a relatively recent document, represents contemporary expectations in regard to residential flat buildings. It is considered that the solar access and separation provisions contained therein are relevant and significant for the ongoing amenity of residents, as such it is considered that the original determination of refusal should be confirmed.

Item 3.1

Attachment 2

ARCHITECTURE URBAN DESIGN INTERIORS RESEARCH + PLANNING



REF: 8420

4 February 2016

Attn: Mr Phil Costello
Director of Environmental Services
Kiama Municipal Council
PO Box 75
Kiama NSW 2533

Dear Mr Costello,

Re: Development Application 10.2015.128.1

Following my attendance at a meeting at Kiama Council on 02 February 2016 in regards to Development Application No 10.2015.128.1 at 139 Manning Street, Kiama, the following compliance clarifications were sought by councilors:

- Building separation in compliance with KDCP 2012 and the Apartment Design Guide (ADG);
- Design for privacy without compromising sunlight access and natural ventilation in compliance with KDCP 2012 and the ADG;
- Access to sunlight in compliance with KDCP 2012 and the ADG;
- Access to private open space in compliance with KDCP 2012 and the ADG;
- Façade design and architectural features with an appropriate scale, rhythm and proportion in compliance with KDCP 2012 and the ADG;

These compliance issues have been addressed below with reference to KDCP 2012 and the ADG, as well as a revised SEPP 65 Design Verification Statement and revised architectural drawings.

If you require any further clarification, regarding any of these issues please do not hesitate to contact me personally on 0416 212 582.

Yours Sincerely,

Mark Hitchcock

Mark Hitchcock | Director
BHI ARCHITECTS
Registered Architect NSW 4763
Member AIA, PIA, GSAP





KIAMA COUNCIL DCP 2012		
Clause	Assessment	Compliance
<p>Chapter 5. C9 – Setback controls for development up to 8.5m in height above natural ground:</p> <ul style="list-style-type: none"> • Front setback - 4.5m • Side setback - Refer to Chapter 2 • Rear setback - 6m <p>C11 – Setbacks for development >8.5m – 11m in height above ground:</p> <ul style="list-style-type: none"> • Front setback - 6m • Side Setback – 3m • Rear Setback – 6m 	<p>The proposed development has utilised the C11 setback controls in designing its building envelope. The blue dotted line provided on the architectural drawings illustrate the following setbacks:</p> <ul style="list-style-type: none"> • Front setback - 6m • Side setbacks - 3m • Rear setback - 6m <p>The built form of the development has been designed around these setbacks and has utilised an articulation zone to break up the façade, bulk and scale of the development. Balconies on the eastern elevation extend up to 1m into the setbacks (as allowed by Section 10 of Chapter 2).</p> <p>The basement level extends above the natural ground level as the building moves away from Manning Street due to the fall of the site from east to west. This basement is setback 1.3m from the side boundary, which is in accordance with the Section 13 Chapter 2 requirement of 900mm as this portion of the site is below 8.5m from natural ground.</p> <p>The side setbacks have been made compliant, being 3m or greater from the site boundary.</p>	Yes
<p>Chapter 5. C13 – All development must be designed to provide a high level of privacy for end users without compromising access to light and airflow. Design detailing should include:</p> <ul style="list-style-type: none"> • Offset windows to adjoining sites • Double glazing • Recessed balconies and/or vertical fins between balconies • Solid or semi-solid balustrades on balconies • Operable louvers or screen panels to windows and/or balconies • Screening through 1.5m high fences, landscaping between areas • Utilising pergolas or shading devices to limit overlooking of lower apartments or private open space 	<p>The design of the development has been informed via a site analysis which considered the location of adjoining developments, solar access, view corridors and prevailing breezes. Consequently, the design has maximised privacy for residents and adjoining residents through the following features:</p> <ul style="list-style-type: none"> • Locating private open spaces which are orientated to either the street or the rear of the site; • Appropriate side setbacks of 6m from internal living areas to minimize overlooking issues; • Translucent windows to habitable and non-habitable spaces at the 3m setback line to avoid overlooking; • Installation of louvers to translucent windows at the 3m setback line; • Offsetting windows to adjoining sites; • Window hoods within the 6m setback to focus views away from boundaries and protects occupants' privacy; • Landscaping screening to side boundaries to provide visual and acoustic privacy. 	Yes
<p>Chapter 5. C14 – Design should not unreasonably reduce the sunlight permeation to adjacent development by greater than 30% of existing levels</p>	<p>The Shadow Diagrams submitted with the architectural drawings illustrate that the two dwellings to the south of the site will receive adequate sunlight, primarily in accordance with existing levels.</p>	Yes



	The further reduction of building bulk in this design revisions will further ensure sunlight penetration to adjacent sites.	
Chapter 5. C23 – A minimum of 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm on 22 June to living rooms and private open spaces	Each dwelling layout has been orientated to maximize its solar access. Design revisions have resulted in additional glazing at the 6m setback line to introduce further sunlight access into the building. The dwellings will have adequate solar access to the private open space (balconies and terraces) and living room areas on June 22.	Yes
Chapter 5. C32 – Private open space may be provided in the form of a balcony, deck terrace, garden, yard, courtyard or roof terrace and must meet the following specifications: <ul style="list-style-type: none"> • A minimum area of 25m² for each dwelling • A minimum dimension in one direction of 5m • Not include drying facilities or garbage storage areas • Be directly accessible from an indoor living area 	<p>Each unit contains a principal private open space balcony that is which is accessed via the living room areas of each unit. These balconies have a minimum width dimension of 4.5m and will not be used for drying or garbage storage.</p> <p>Unit 4 has access to 50m² of balcony, terrace and trafficable roof garden space.</p> <p>It is noted that the balconies/terrace of units 1, 2 and 3 fall short of the DCP space requirement, however these balconies meet and exceed the requirements listed in the Apartment Design Guide (ADG) for residential flat buildings, and provide adequate space for residents to accommodate outdoor furniture and to entertain.</p> <p>If the private open spaces of these apartments were to be incorporated into the design they would either have to encroach into the side, front or rear setbacks, which would compromise visual and acoustic privacy and violate compliance with the DCP and ADG. To expand these spaces into the apartments would render the apartment layout unusable and unreasonably compromise resident amenity.</p> <p>Overall, it is considered that this departure from the controls is reasonable as the size requirements and dimensions are in accordance with the ADG and will not impact upon the amenity and usability of these areas future residents.</p>	Justified
Chapter 5. C48 – All new development must incorporate facades with an appropriate scale, rhythm and proportion, which respond to the building's use and the desired contextual character. Design solutions may include, but are not limited to: <ul style="list-style-type: none"> • Defining a base, middle and top related to the overall proportion of the building, expressing key lines in the context using cornices • Utilising a change in material or building setbacks • Articulating building entries with awnings, porticos, recesses, blade walls and projecting bays • Selecting balcony types which respond to the street context, building orientation and residential amenity • Using a variety of window types to create a 	<p>The development has been architecturally designed using a range of architectural treatments to break up the bulk of the development, ensuring it integrates with the existing and future context of the surrounding area. These treatments include:</p> <ul style="list-style-type: none"> • Clearly defined basement podium/base through the provision of a wraparound balcony on the southern elevation; • Defining a clear top to the building in alternating gable and skillion roof forms; • Use of a range of façade materials and finishes including coloured glazing, timber, rendered brickwork, steel roofing and window hoods and blockwork; • Creation of a legible building entrance via a clearly defined entrance portico; • Articulation of the form with protruding balconies, window hoods and louvres; 	Yes



<p>rhythm or express the building uses</p>	<ul style="list-style-type: none"> • Terraced on-structure planting breaks up the building form; • Provision of corner balconies on the north eastern and north western sides of the development to break up the lines and bulk of the development; • Provision of alternating window types with a defined rhythm, timber and zinc façade treatments on the northern and southern elevations to add visual interest to the building; • Blank walls have been eliminated through articulation of fenestration, materiality, landscaping and the projection and recession of the building form; • The use of appropriate setbacks to the side boundaries to respect the privacy and solar access concerns of adjoining properties; • The stepping of the development towards the rear to ensure solar access is provided to the rear dwelling at 141 Manning Street; • The materials selected correspond with the coastal location of the site; • Further assessment of the future and existing context of the area is provided in the SEPP65 Design Verification Statement. 	
<p>Chapter 5, C49 – All development must incorporate architectural features which give human scale to the design of the building at the street level. These can include entrance porches, awnings, colonnades, pergolas and the like</p>	<p>The development provides a legible entrance at the street level through a clearly defined entrance porch and awning. A timber letterbox plinth augments this space and makes it a communal space. This ensures the development has a good relationship with the human scale and streetscape.</p>	<p>Yes</p>



APARTMENT DESIGN GUIDE (ADG)		
Clause	Assessment	Compliance
<p>Objective 3F-1.1 Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows: Up to 12m - 6m between habitable rooms - 3m between non-habitable rooms</p>	<p>The proposed development has utilised the separation controls in designing its building envelope. The blue dotted line provided on the architectural drawings illustrate the following side setbacks:</p> <ul style="list-style-type: none"> • Side setbacks – non-habitable and obscured habitable - 3m • Habitable – 6m <p>Consequently, the design has maximised privacy for residents and adjoining residents through the following features:</p> <ul style="list-style-type: none"> • Locating private open spaces which are orientated to either the street or the rear of the site and 6m from the boundaries; • Appropriate side setbacks of 6m from internal living areas to minimize overlooking issues; • Translucent windows to habitable and non-habitable spaces at the 3m setback line to avoid overlooking; • Installation of louvers to translucent windows at the 3m setback line; • Window hoods within the 6m setback to focus views away from boundaries and protects occupants' privacy; 	Yes
<p>Objective 4A-1.2 Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter</p>	<p>Each dwelling layout has been orientated to maximize its solar access. Design revisions have resulted in additional glazing at the 6m setback line to introduce further sunlight access into the building. The dwellings will have adequate solar access to the private open space (balconies and terraces) and living room areas on June 22.</p>	Yes
<p>Objective 4E-1.1 All apartments are required to have primary balconies as follows:</p> <ul style="list-style-type: none"> • 2 bedroom apartments - 10sqm - 2m min depth • 3+ bedroom apartments - 12sqm - 2.4m min depth <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p>	<p>Unit 2 (2 bedroom) has a primary balcony of 15m² with a minimum depth of 3.5m; Unit 3 (2 bedroom) has a primary balcony of 10m² with a minimum depth of 2.5m; Unit 4 (3 bedroom) has a primary terrace of 40m² with a minimum depth of 10.1m;</p>	Yes
<p>Objective 4E-1.2 For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m</p>	<p>A 15m² terrace has been provided to unit 1 on the ground floor, with a minimum depth of 3.5m.</p>	Yes



**SEPP65 DESIGN VERIFICATION STATEMENT
ISSUE C**

For

RESIDENTIAL FLAT DEVELOPMENT
139 MANNING STREET
KIAMA NSW 2533
LOT 19 DP 156143

For Daniel O'Brien

Prepared by
BHI ARCHITECTS 4 February 2016



ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY



INTRODUCTION

The documents prepared describe a further revised design for a residential apartment development which aims to address the concerns raised by councilors. The documents have been prepared in response to a deemed refusal on 18th August 2015 and subsequent deferred decision on 2nd February 2016 after a revised design was presented on that day.

The proposed development aims to address Manning Street in a way that is consistent with the changing and future character in terms of bulk, scale and landscaping, whilst mandating privacy to neighbouring properties.

Residential apartments are located over three storeys, which are designed to create a terraced effect with landscaped roof gardens and landscaping, reflecting the sloping nature of the site and its setting.

Residential apartments 1, 2 and 3 are all tri aspect, while apartment 4 enjoys outlook in all four directions. All apartments enjoy a northern aspect as well as privacy, solar access and cross and natural ventilation.

Using a broad range of ecologically sustainable design principles, the architecture and urban design language express a contemporary residential apartment development with simplicity and elegance, that respects the privacy of neighbouring properties.

The residential component has been designed to meet the quality design principles of the Apartment Design Guide and SEPP 65.



DESIGN QUALITY PRINCIPLES

1. CONTEXT AND NEIGHBOURHOOD CHARACTER

Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.

The apartment development is located in the context of a residential street, with a motel located directly opposite. Manning Street is one of the main streets in Kiama, and is currently undergoing transformation to a higher density street with a number of other townhouse and residential apartments approved, including a submission for a large scale townhouse development at the neighbouring property, 133 Manning Street. The proposal at 139 Manning Street adds to the variety of housing in the locality and promotes increased residential density.

The development contains four residential apartments, and is three storeys with basement car parking.

Directly to the North of the site is a boating business which has been slated for redevelopment into 7 townhouses. This development is of a larger scale than the proposed residential apartment building, which comes within 1500mm of the boundary. Further North are a furniture retailer and funeral home, and further medium density developments are located beyond this.

To the East of the site is low density detached residential housing, with a motel directly opposite.

Located to the South are single storey residential dwellings, with small commercial and retail spaces located further South along Manning Street. In addition, another large scale modern townhouse development proposed at 178 Manning Street, which is typical of the future characteristics of the area.

ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY



To the West of the site is a rail corridor and railway line utilised by both passenger and cargo trains. This is raised and vegetated, providing visual separation.

The proposed residential apartment building reflects the changing character of Manning Street, its R3 Medium Density Residential zoning, and the future desired character of the area.

2. BUILT FORM AND SCALE

Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.

The proposed development is situated along Manning Street, Kiama which is currently undergoing transition to a higher density.

The proposed bulk and height suits the Medium Density Residential zoning requirements which guide the future character of the area.

The four apartments create a terraced effect in section down the site, with the composition of the proposed building reflecting the sloping nature of the site. This reduces the scale of the proposed development, while roof gardens, terraces, balconies, varied materials and the roof line enable increased articulation.

The form of the proposed residential apartments responds to the bulk and scale of the street character, both existing and future desired, as well as the sloping nature of the site. This is also expressed through the façade, landscaping, and privacy/screening elements. The proposed development provides a visually articulated frontage to the street which is less bulky than other proposed over-developed townhouses in the area.

The residential form of the development is expressed to the street by the main entry and landscape treatment, similar to the garage and front door presentation to the street of traditional houses. The roof form presented to the street is divided into three distinct sections, with a central higher gable and lower skillion roofs reflective of the current roof characteristics of the area. The timber treatment to the central section of the building further emphasizes the breaking up of the building form.

ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY



The bulk of the long northern and southern elevations is broken up by variances in roof form, protrusions from the main building line, terraced planting and fenestration. A gabled roof approximately centred in the building form break the building into three distinct components. The building form also steps back from the exterior built line to achieve the required building separation which further emphasise the breaking up of the building form. A further breaking up of these three main components occurs with planting at different levels, consistent window modules and a contrast of the four main building materials in the timber, white rendered brick, grey steel roofs and window hoods and basement level blockwork. All large expanses of blank wall space have been replaced with a well-articulated building form and materiality.

All residential apartments enjoy a Northerly aspect, having at least a tri-directional aspect, with Unit 4 addressing all four sides of the development. This ensures a high internal amenity and multiple points of outlook. Landscaping on site contributes to the amenity and outlook of the Units, as well as providing visual and acoustic separation to the railway line.

Unit 1 is located on Ground Floor, behind the main entry, main circulation and services, providing separation between the street and ensuring visual and acoustic privacy to the occupants. A main balcony, large outdoor area, and small courtyards create a landscaped and private face to the exterior.

Units 2 and 3 are located on the First Floor, each featuring articulated balconies.

Unit 4 is located on the Second Floor, and enjoys both tiled and decked areas as well as a generous landscaped roof garden.

3. DENSITY

Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.

The proposed development has a density consistent with the density of the changing streetscape of Manning Street.

The overall FSR for the site of 0.64:1 is significantly below the maximum permissible FSR of 1:1, and is therefore appropriate in terms of the local context.



ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY

The site on Manning Street has good access to bus transport systems and is within walking distance of rail transport. It is also located nearby community and retail facilities which are accessible by foot or public transport.

High environmental quality is maintained by the setbacks to all boundaries, particularly to the rear facing the rail line, as well as by privacy from Manning Street and separation between units.

4. SUSTAINABILITY

Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.

The proposal aims to make efficient use of natural resources, energy and water.

The built form is orientated to minimise energy usage through passive solar design. All living areas enjoy a Northerly aspect and are set back 6m from the boundaries to allow adequate privacy and ensure maximum solar gain. All apartments are tri-aspect allowing for cross and natural ventilation.

A combination of passive design and active sustainable systems are proposed to minimise the environmental impact of the building, while maximising the amenity of the occupants.

5. LANDSCAPE

Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.



ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY

The landscape treatments for the proposed development enhance the visual and environmental amenity of the local area. The landscape responds to and reflects the local coastal character, and is consistent with the existing landscape character of Manning Street.

The proposed landscaping is utilised to soften the development at boundaries, increasing amenity to both the proposed development and neighbouring properties.

The combination of landscape, courtyards and the façade treatments and architectural features located within the 1m articulation zone serve to soften the appearance of the development.

Shared and private lawn, balconies, gardens, paving and decked areas contribute to the visual character of the whole site development as well as benefitting individual residential units. These areas create an attractive setting for each residential dwelling.

6. AMENITY

Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.

The proposal allows for a high standard of outlook, natural ventilation, sunlight, visual and acoustic privacy, storage, indoor and outdoor space, and ease of access. All apartments are single level with 2 or 3 bedrooms and have individual configurations.

Each residential apartment has the opportunity for outlook in at least three directions, including to the North, the vegetated rail corridor and to Manning Street. This provision of outlook allows for natural and cross ventilation, maximizing amenity. All apartments have a Northern aspect and large setbacks, maximising solar access. The proposed screening allows warm winter sun into the units, whilst protecting the outdoor areas and apartments from harsh summer suns.

Separation between apartments by floor allows for both visual and acoustic separation, while Units 2 and 3 are visually and acoustically separated via choice in building material and share only 2 common walls. A number of measures have been implemented to ensure privacy between neighbouring properties and the proposed development. The include:

ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY



- All balconies are set back a minimum of 6m from the boundary, as required by the Apartment Design Guide;
- All windows to habitable and non-habitable rooms facing the boundary within the 6m setback are highlight windows with translucent glazing to ensure privacy of residents and neighbours. The only clear windows to habitable rooms facing the boundary are setback a minimum of 6m;
- All habitable rooms have windows facing landscaped 'courtyards' or the east/west boundaries towards to the train line and street;

Each apartment has adequate storage located to both the interior and basement parking area. Waste and recycling facilities are located in the basement.

The proposal allows for good access to both indoor and outdoor private and shared spaces.

Access to and from the development is provided both via car and by foot. Basement carparking with lift and stair access is provided, as well as a main double door entrance on street level. Lift and stair access is provided all levels of the development, with Unit 1 on the Ground Floor able to be adapted to meet accessible housing requirements.

Each apartment is well above the minimum dimensions as outlined in SEPP65 and all balconies meet or exceed the minimum size of 10m² with 2m minimum depth for two bedroom apartments and 12m² with 2.4m minimum depth for three bedroom apartments.

7. SAFETY

Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.

The proposed development employs all necessary techniques of passive surveillance to optimise safety and security both internal to the development and for the public domain.

Passive surveillance of the public domain to Manning Street and to communal areas on site is maximised by clear sight lines to these areas and appropriate levels of lighting.



ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY

Physical barriers provide a clear demarcation of access points to the development, and each individual unit, with easy and secure access to storage areas and internal building circulation.

The location of the site along Manning Street ensures regular pedestrian activity past the residential units.

8. HOUSING DIVERSITY AND SOCIAL INTERACTION

Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.

The proposed development responds to the social context and needs of the local community through its medium density design and scale to suit both the current needs of the neighbourhood and the desired future community. The oversized apartments also cater to a community with high numbers of ageing residents. The apartment development allows older families to have a single floor plate that caters for visiting family and guests. The apartments also suit the large number of young families in Kiama, allowing the option of a low maintenance family home.

9. AESTHETICS

Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

ARCHITECTURE INTERIORS URBAN DESIGN HERITAGE SUSTAINABILITY



The selected and compositional elements inclusive of materials, colour, texture and form employed for this proposed development will achieve a high standard of aesthetic quality and a responsive design solution. Both the use and aesthetic fit of the built and natural environment will allow for the desired future community.

The northern and southern facade is articulated through the wooden balcony at the eastern and western corners, with a timber clad courtyard between the two. The front and rear facades are articulated through a number of balconies, awnings and pergolas.

All facades of the building break the building form down into smaller components, including formal extrusions of the gable-roofed elements, recession of the main living facades to the 6m setback line, introduction of terraced landscaping components between recesses, introduction of repetitive fenestration elements and articulated and contrasting materiality.

The choice of materials is from a limited palette of timber, white rendered brick, grey steel roofs and window hoods and basement level blockwork, with the architectural expression carefully modulated to achieve harmony and reflect the coastal setting.

DEVELOPMENT APPLICATION
RESIDENTIAL APARTMENT BUILDING
139 MANNING STREET, KIAMA
LOT 19 DP 156143

ADDITIONAL INFORMATION

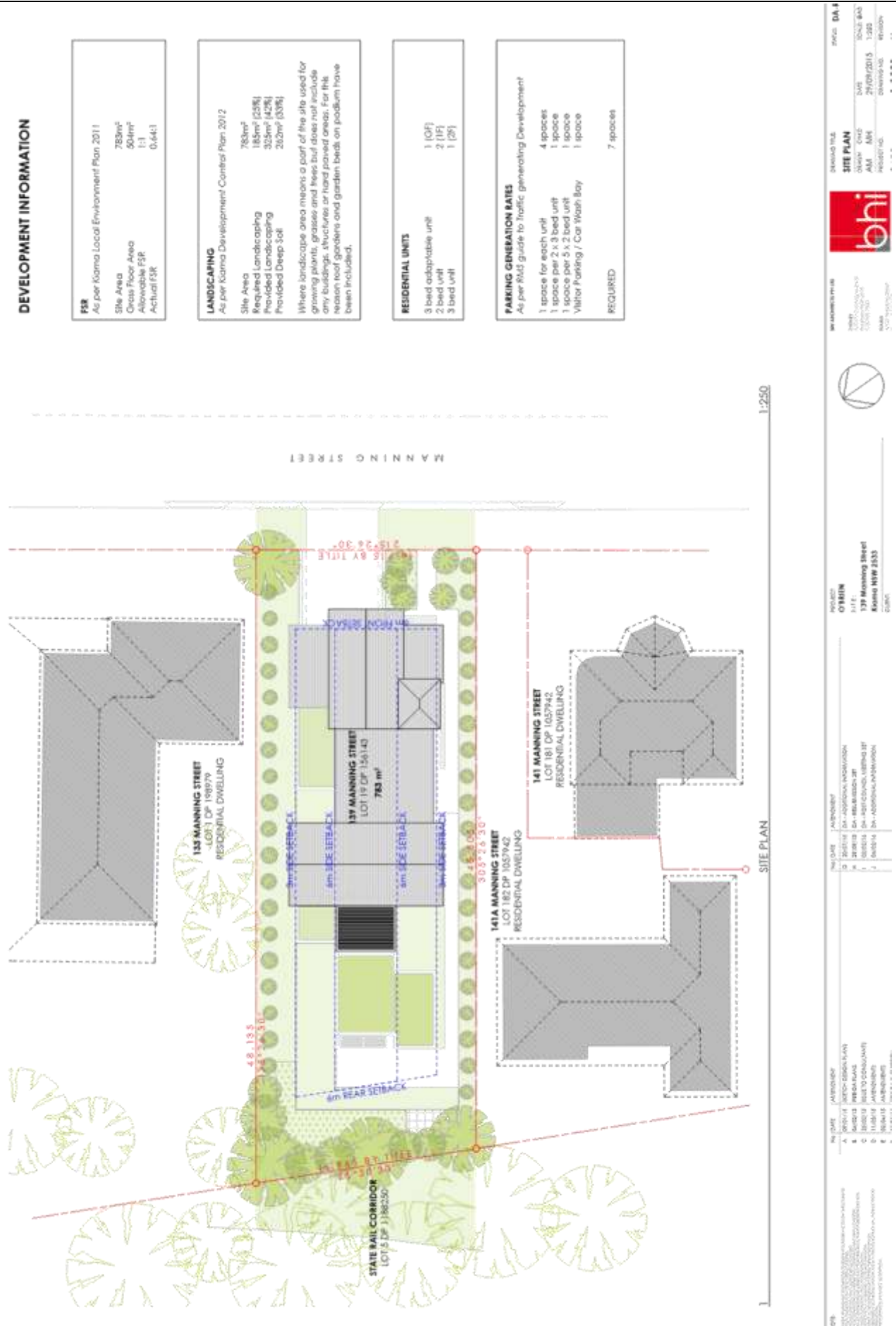
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A.1001 SITE PLAN	1:250
A.2001 BASEMENT FLOOR PLAN	1:200
A.3002 GROUND FLOOR PLAN	1:200
A.2003 FIRST FLOOR PLAN	1:200
A.2004 SECOND FLOOR PLAN	1:200
A.3001 EAST & WEST ELEVATIONS	1:200
A.3002 NORTH & SOUTH ELEVATIONS	1:200
A.3101 EAST-WEST SECTION	1:200
A.7001 MANNING STREET PERSPECTIVE	NTS



DATE: 27/07/2015
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 KIAMA NSW 2533
 CLIENT: O'BRIEN
 PROJECT NO: 139 MANNING STREET
 KIAMA NSW 2533
 DRAWING NO: 139 MANNING STREET
 KIAMA NSW 2533
 SCALE: B43
 DATE: 27/07/2015
 DRAWN BY: ALB
 CHECKED BY: ALB
 PROJECT NO: 139 MANNING STREET
 KIAMA NSW 2533
 DRAWING NO: 139 MANNING STREET
 KIAMA NSW 2533

bhi

COVER SHEET / LOCATION PLAN



bhi

PROJECT
O'BRIEN
139 Manning Street
Kiama NSW 2533

DATE
20/09/2015

SCALE
1:250

REV
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2
3

DESCRIPTION
1. SITE PLAN
2. SITE PLAN
3. SITE PLAN

DATE
20/09/2015

SCALE
1:250

REV
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DESCRIPTION
1. SITE PLAN
2. SITE PLAN
3. SITE PLAN





KEY
 Site Boundary
 Site Setbacks

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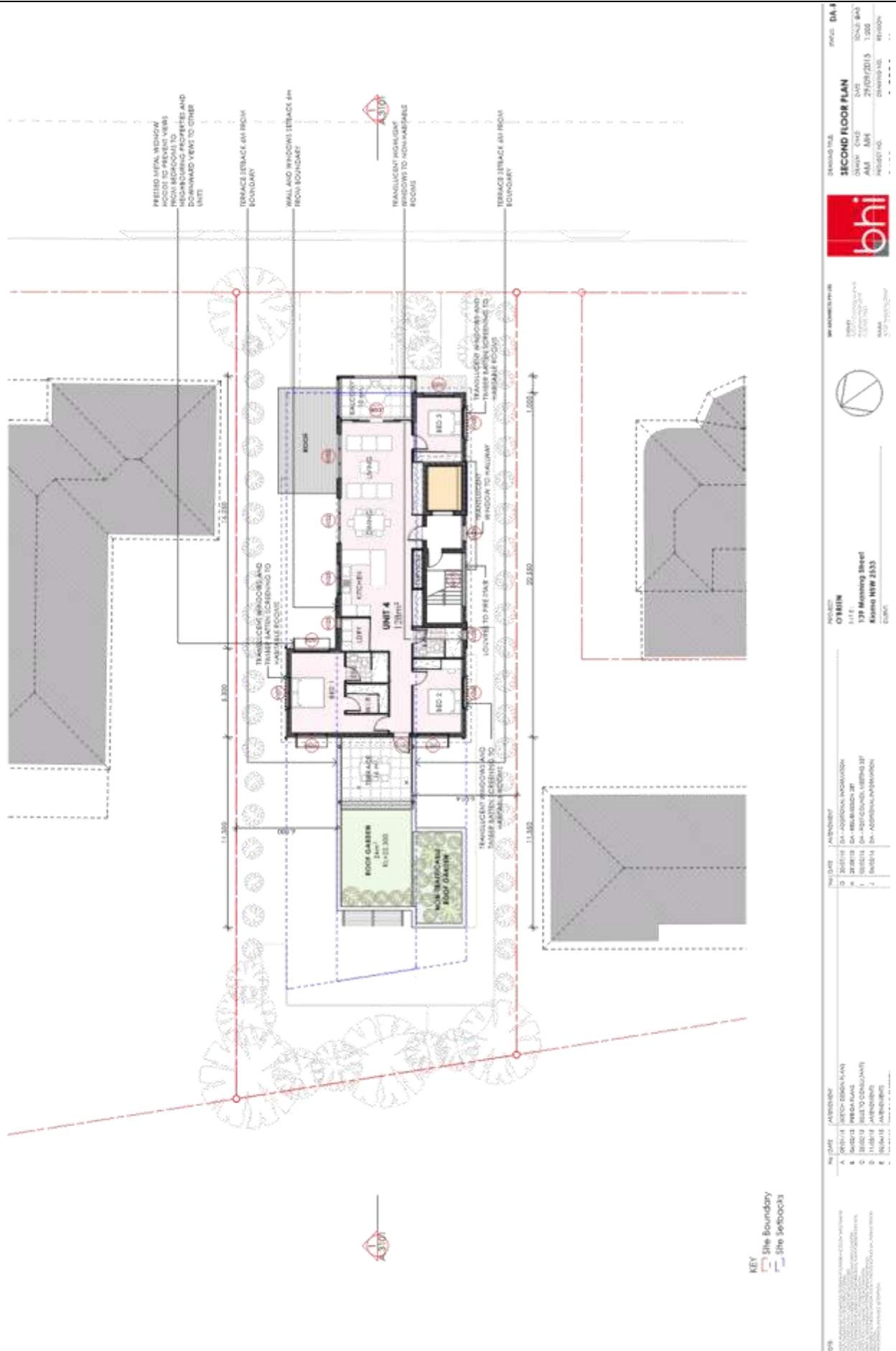
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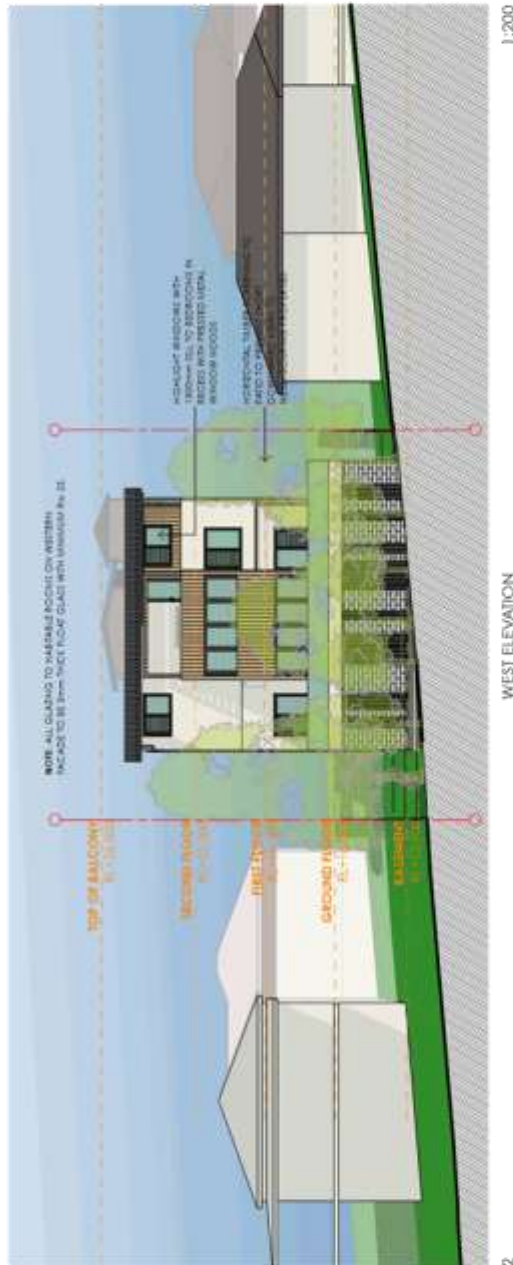
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20	20/12/15



Attachment 5
 Item 3.1



Attachment 5
 Item 3.1



PROJECT O'BRIEN 1/1 E. 139 Manning Street Kiama NSW 2533 NSW		DRAWING TITLE EAST & WEST ELEVATION		DWG NO. DA 3
PREPARED BY ARCHITECT DATE 21/07/2015		CHECKED BY ARCHITECT DATE 21/07/2015		SCALE 1:200
DRAWN BY ARCHITECT DATE 21/07/2015		CHECKED BY ARCHITECT DATE 21/07/2015		DRAWING NO. DA 3
PROJECT NO. O'BRIEN		DRAWING NO. DA 3		SHEET NO. 01



<p>4/19</p> <p>PROJECT: O'BRIEN 139 Manning Street Kiama NSW 2533 CONF.</p>		<p>DATE: 29/07/2015</p> <p>SCALE: 1:200</p> <p>PROJECT NO: DA 10.2015.128.1</p>	
<p>PROJECT: O'BRIEN 139 Manning Street Kiama NSW 2533 CONF.</p>		<p>DATE: 29/07/2015</p> <p>SCALE: 1:200</p> <p>PROJECT NO: DA 10.2015.128.1</p>	
<p>PROJECT: O'BRIEN 139 Manning Street Kiama NSW 2533 CONF.</p>		<p>DATE: 29/07/2015</p> <p>SCALE: 1:200</p> <p>PROJECT NO: DA 10.2015.128.1</p>	



<p>PROJECT: O'BRIEN 1/1 E.L. 139 Manning Street Kiama NSW 2533</p>		<p>DATE: 21/07/2015 TIME: 1:00 PM DRAWING NO: 100000</p>	
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<p>PROJECT: O'BRIEN 1/1 E.L. 139 Manning Street Kiama NSW 2533</p>		<p>DATE: 21/07/2015 TIME: 1:00 PM DRAWING NO: 100000</p>	



MANNING STREET PERSPECTIVE

PROJECT O'BRIEN 139 Manning Street Kiama NSW 2533 NSW		DRAWING TITLE MANNING STREET PERSPECTIVE		DWG NO DA 10.2015.128.1	
PROJECT NO 139		DATE 29/07/2015		SCALE 1:100	
PROJECT NAME 139 Manning Street Kiama NSW 2533		DRAWING NO 04		SHEET NO 01	
PROJECT LOCATION 139 Manning Street Kiama NSW 2533		DRAWING DATE 29/07/2015		SHEET DATE 29/07/2015	
PROJECT DESCRIPTION Demolition of existing building, construction of 4 residential units & strata subdivision		DRAWING AUTHOR BHI		SHEET AUTHOR BHI	
PROJECT ARCHITECT BHI		DRAWING CHECKER BHI		SHEET CHECKER BHI	
PROJECT ENGINEER BHI		DRAWING APPROVER BHI		SHEET APPROVER BHI	

4 REPORT OF THE GENERAL MANAGER

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission

CSP Objective: 4 Responsible Civic Leadership that is Transparent, Innovative and Accessible

CSP Strategy: 4.1 Ensure we remain a strong, independent and sustainable local government authority to plan, deliver and advocate for the needs of our community

Delivery Program: 4.1.1 Undertake a program of engagement with State, regional and local authorities and organisations, and community members to ensure Council remains an independent and viable entity

Summary

This report presents the draft submission to be made to the Delegate holding the public inquiry.

Finance

Not applicable.

Policy

Council has resolved to oppose the proposed merger of Kiama and Shoalhaven Councils.

Attachments

Nil

Enclosures

Nil

RECOMMENDATION

That Council:

1. endorse the draft submission to be made to the Delegate appointed to hold the public inquiry into the proposed merger of Kiama and Shoalhaven Councils.
2. make minor changes to the submission if required before the submission date.

BACKGROUND

At an extraordinary meeting held at the Kiama Pavilion on 12 January 2016, and attended by a very large audience, Council resolved to formally oppose the proposed merger of Kiama and Shoalhaven Councils and to make a formal submission.

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

Public hearings regarding the proposed merger were held on 3 February 2016 at the Kiama Leagues Club from 9am – 12noon (carpark) and 7pm – 10pm as well as at the Nowra Ex-Servicemen's Club from 2pm – 5pm.

Approximately 90 people addressed the Kiama meetings and approximately 23 people addressed the Nowra meeting with all speakers opposed to the proposed merger. There were a large number of organisations represented with a broad range of issues raised.

The meeting held in the morning at Kiama was held under totally unsatisfactory conditions in a marquee without air-conditioning and toilet facilities. A number of people left the morning meeting due to the unacceptable conditions.

The General Manager made a presentation on behalf of Council at the morning hearing.

Another public meeting is now proposed to be held at Ulladulla in response to concerns raised by residents in that area and the difficulty they had in accessing the other hearings.

The submission to be made to the inquiry should address the following criteria:

- the financial advantages or disadvantages of the proposal to the residents and ratepayers of the areas concerned;
- the community of interest and geographic cohesion in the existing areas and in any proposed new area;
- the existing historical and traditional values in the existing areas and the impact of change on them;
- the attitude of the residents and ratepayers of the areas concerned;
- the requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as considered relevant in relation to the past and future patterns of elected representation for that area;
- the impact of the proposal on the ability of the council to provide adequate, equitable and appropriate services and facilities;
- the impact of the proposal on the employment of the staff by the council;
- the impact of the proposal on any rural communities in the resulting area;
- the desirability (or otherwise) of dividing the resulting area or areas into wards
- the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented; and
- any other factors relevant to the provision of efficient and effective local government in the existing and proposed new areas.

Consultants, Morrison Low and Judith Stubbs & Associates were engaged to assist Council in preparing and making the submission. The Delegate has emphasized the importance of submissions being evidence based and the work of the consultants

Report of the General Manager

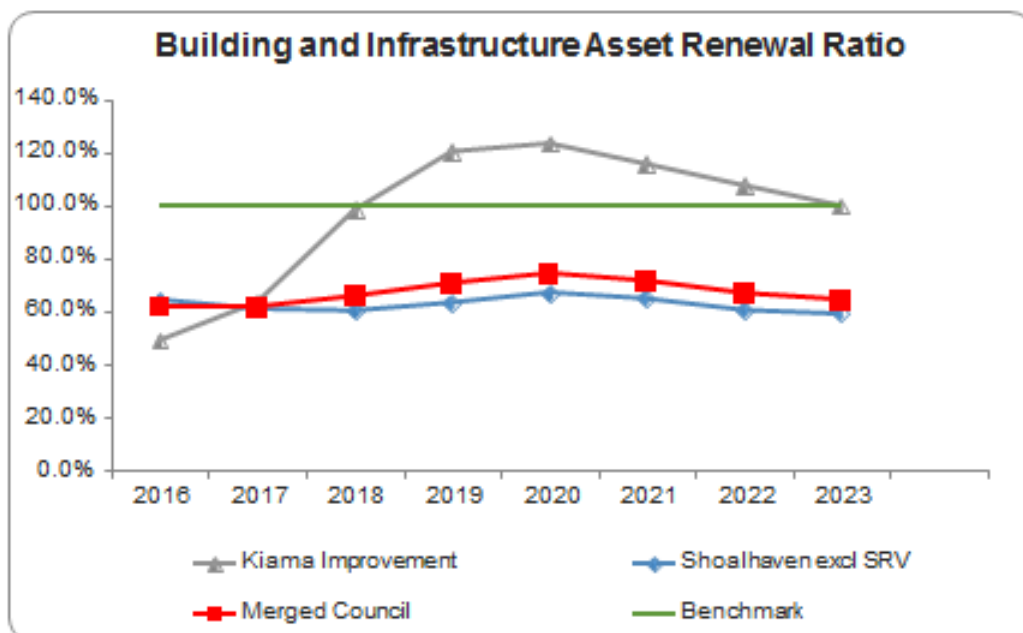
4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

will assist in providing additional evidence in substantiating Kiama Council standing alone.

The submission is based on the following points made under each criterion. The submission contains strong and convincing evidence that the proposed merger is not suitable for either Council, and the disadvantages significantly outweigh any advantages.

The financial advantages or disadvantages of the proposal to the residents and ratepayers of the areas concerned

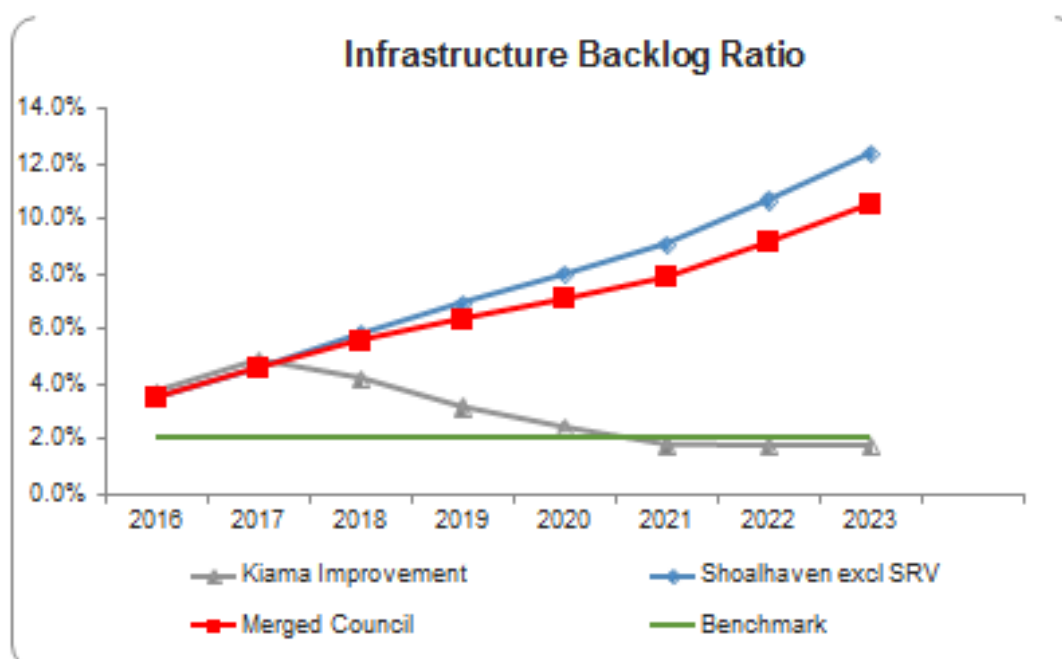
- There are significant concerns regarding the credibility and tenacity of the KPMG report underpinning the merger proposal including assumptions and methodology used as a basis of the report. The NSW Government has not provided a full report to enable proper assessment and scrutiny. A number of the assumptions appear to be not correct or substantiated.
- The costs of the merger are likely to be significantly higher and not offset by the NSW Government grant of \$5 million.
- Council in partnership with the Illawarra Pilot Joint Organisation is already making financial gains through joint procurement without the need for a merger.
- Kiama Council is in a sound financial position with significant reserves and assets. The financial health indicators are trending positively.
- Kiama Council has prepared a reviewed 'Fit for the Future' Action Plan showing that all financial health and sustainability criteria will be met by 2019/2020.
- The proposed merger is likely to have a negative impact on the important branding of each area for tourism.
- The proposed four year rate freeze will make Shoalhaven City Council not 'Fit for the Future' with a merged council having a serious asset renewal gap and worsening infrastructure backlog as shown by the following graphs:



Item 4.1

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)



Item 4.1

The community of interest and geographic cohesion in the existing areas and in any proposed new area

- The Kiama Municipality is geographically defined as being part of the Illawarra and separate from the Shoalhaven.
- In each of the existing councils there are significantly different socio-economic profiles and levels of council service (Judith Stubbs & Assoc. report)
- Commute and travel patterns confirm that there is no real community of interest between Kiama and Shoalhaven Councils.
 - Only 10% of Kiama LGA residents commute to the Shoalhaven for work.
 - 90% of residents work in Kiama or travel north for work.
 - Kiama residents mostly shop, attend schools and carry out medical and other appointments in Kiama, Shellharbour and Wollongong to the north.
 - Nowra is not seen by most Kiama residents as a centre for business or culture.
 - Only 3% of Kiama Council staff lives in the Shoalhaven.
- Kiama Council and Shoalhaven Council are within different and important administrative areas.
 - Kiama Council is part of the Sydney Water Region. Shoalhaven City Council is not.
 - Kiama Council is in the Lake Illawarra Local Area Command. Shoalhaven City Council is in the Shoalhaven Area Command.
 - Kiama is part of the Illawarra Emergency Management Organisation while Shoalhaven Council is not.
 - Kiama is part of the Illawarra Noxious Weeds Authority. Shoalhaven City Council is not.

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

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- Kiama is part of the Illawarra Zone Rural Fire Service and Shoalhaven is not.
 - Kiama is part of the Illawarra Regional Development Australia (RDA) Committee. Shoalhaven is part of the South Coast RDA Committee.
 - Kiama is part of the Illawarra Aboriginal Land Council. Shoalhaven is not.
 - The Kiama Municipality has a broad range of sporting, social and service organisations with residents not needing to travel outside of the Municipality to become members or participate in such organisations.
 - The combined area will be 4,825 sq. km and will have a coastline of 179km extending from Minnamurra to just north of Batemans Bay creating significant management and representative challenges. The length of the coastline is equivalent to the distance from Kiama to the Gosford City area.
 - Shoalhaven City Council stated in their IPART submission that “geographically, if Shoalhaven were to merge with adjoining Councils the distances for effective management could be excessive, and social and economic mixes would be quite different.”

The existing historical and traditional values in the existing areas and the impact of change on them

- The Kiama Municipality historically has been part of the Illawarra region which is separate from the Shoalhaven region.
- The Kiama Municipality has been in existence since 1859.
- The social and economic development of the municipality is intertwined with the Council.
- There have been very long term associations and partnerships between Council and a range of very important agricultural, social, charitable and sporting groups. Council has historically provided in-kind and financial support to these organisations. The organisations include the Kiama Show Society, Kiama-Jamberoo and Gerringong RSL Sub Branches, Red Cross, CWA, Surf Clubs and Kiama Sports Association and a broad range of sporting groups.
- The merging of Kiama Council with Shoalhaven Council will undermine historical arrangements, potentially reduce support for important social and cultural events and lead to the loss of important local identity.
- A merged entity is likely to centralise support, and for financial and practical reasons, traditional events held in the Municipality may cease.
- The Kiama Council area has a history of a very high level of volunteering. The loss of local identity and close connection between the Council and community will threaten the existing level of volunteering.
- There has been a long history of active participation between Council and the community in the democratic process. The community is able to access councillors and have always been able to have meaningful engagement with councillors. This level of accessibility, engagement (and accountability) has been a long standing demonstration of a cohesive, engaged and cooperative community.

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

The attitude of the residents and ratepayers of the areas concerned

- Past IRIS community surveys show a high level of satisfaction of Kiama Council residents with Kiama Council.
- A recent IRIS survey of more than 500 residents shows:
 - 92% oppose a merger
 - More than 92% do not believe the amalgamation will benefit the community
 - 86.5% agreed that Kiama Council best understands and represents their community of interest
 - Only 16.5% consider that they have any community of interest with Shoalhaven City Council
- The overwhelming opposition to the merger by Kiama residents is reinforced by:
 - More than 6500 signatories to petitions stating opposition to the proposal; and
 - More than 1500 form letters and other correspondence completed and submitted to Council
 - The member for Kiama, Gareth Ward receiving more than 1500 pieces of correspondence.
 - More than 1000 people attending a public meeting at very short notice and during the January holiday period. The meeting voted to oppose the proposed merger.
 - Resident groups organising various events and meetings including a community concert.
 - More than 90 people, a number of whom were representing various organisations, speaking at the public hearing in opposition to the proposal.

The requirements of the area concerned in relation to elected representation for residents and ratepayers at the local level, the desirable and appropriate relationship between elected representatives and ratepayers and residents and such other matters as considered relevant in relation to the past and future patterns of elected representation for that area

- Kiama Council presently has 9 councillors for 21,314 residents or 2,368 residents per councillor.
- Shoalhaven Council presently has 13 councillors for 99,016 residents or 7,617 residents per councillor.
- The proposed merged council will result in 9,256 per councillor if 13 councillors are to be elected.
- The proposed merged council will have one councillor per 371 sq.km (nearly 1.5 times the size of Kiama).
- It is likely that if wards are adopted with any proposed merger the existing Kiama LGA will have a maximum of two representatives significantly reducing representation and influence.

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

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- The proposed representation will significantly diminish historic representation within the existing Kiama Council area and severely impact relationships between elected representatives and the local community.
 - The merged council is an elongated area with significant distance (170km) and travelling time from one end of the proposed merged area to the other, connected by one major road.
 - The combined area has many separate towns and villages faced by a wide range of issues, challenges and problems.
 - There will be great difficulty for elected representatives in terms of access and gaining interest and understanding of issues that may be remote from them.
 - In their IPART submission Shoalhaven Council stated that 'geographically, if Shoalhaven were to merge with adjoining councils the distances for effective management would be excessive, and social and economic mixes would be quite different'.

The impact of the proposal on the ability of the council to provide adequate, equitable and appropriate services and facilities

- There are significant differences between a number of services and facilities each council provide.
 - Shoalhaven City provides water and sewerage services to their area. Kiama Council is within the Sydney Water region. This creates administrative and equity challenges as residents from the existing local government areas will be subject to different pricing, service arrangements and benefits.
 - Kiama Council is a major aged and disability provider with associated assets and other resources. The Kiama community and in particular, residents who benefit from the services, have an expectation and support the continuation of the service by Council. Shoalhaven City Council does not provide such services.
 - Kiama Council provides its own waste business service including an effective green and organic waste service. Shoalhaven City Council contracts out the waste service and does not provide a green waste service.
 - Kiama Council - 62% diversion from landfill
 - Shoalhaven Council – 49% diversion from landfill
 - Kiama Council employs professional lifeguards while Shoalhaven City Council contracts out this service.
 - The Shoalhaven City Council area has a large rural road network sealed and unsealed. Kiama Council has limited unsealed road network. As such the two Councils have different operational and plant needs and there will be insignificant efficiency gains in use of plant. Other than the Princes Highway and the regional 7 Mile Beach Road, the two local government areas are connected by only one other road being Toolijooa Road. This road is sealed in the Kiama Municipality and unsealed in the Shoalhaven City Council area.
 - Kiama Library provides a range of highly valued services to the Kiama Community including a home library service, children's and outreach

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

service, local studies/information librarian and IT librarian. Kiama presently has 450 home library customers while Shoalhaven City Council delivers a home library by mobile bus. They have trouble delivering across their vast geographical area. A merged and centrally managed service is likely to lead to reduction of existing Kiama service levels.

- Kiama Council directly provides a range of youth services while Shoalhaven Council does not.
- Community surveys undertaken on behalf of each council shows a distinct difference in resident satisfaction levels in relation to the provision of services and facilities.
- There are different levels of service at an operational level and the harmonising of services will be a major challenge.

The impact of the proposal on the employment of the staff by the council

- Economic modelling shows the on flow effect of the reduction in local council employment in terms of local spend and associated employment.
- Kiama Council is a major employer for the area. The proposed merger will remove opportunities for locals to gain employment within a reasonable distance from their residence.
- Council currently participates in the training and education of trainees, apprentices and cadet. The proposed merger would result in a loss of training and education opportunities for locals.
- The Illawarra and Shoalhaven regions are under employment stress with the downturn of the steel and manufacturing industry. The loss of local employment will deepen that stress.

The impact of the proposal on any rural communities in the resulting area;

- Kiama Council has had a long term policy of protecting agricultural land for rural production, scenic values and tourism attraction.
- The residents of the Kiama LGA provided the highest number of submissions in relation to the Illawarra/Shoalhaven Regional Growth Plan many focusing on the need for urban containment and protection of the agricultural land.
- The uniqueness of Kiama including its rural area is reinforced in the Independent Local Government Review Report. The only council singled out for this comment.
- The importance of the Kiama rural area was identified in the Jamberoo Valley Regional Environmental Plan.
- There are significant differences between the Shoalhaven and Kiama Local Environmental Planning instruments in terms of the objectives, permissible uses and provisions relating to rural areas.

The desirability (or otherwise) of dividing the resulting area or areas into wards and the need to ensure that the opinions of each of the diverse communities of the resulting area or areas are effectively represented

- Kiama Municipal Council has been operating successfully throughout its history without a ward system. All councillors are accessible and accountable and are not parochial in their attitudes and decision making.

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

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- A ward system would potentially erode the very strong links the community have with all the councillors and the very strong collaboration and engagement between the community and the council.

Any other factors relevant to the provision of efficient and effective local government in the existing and proposed new areas

- Kiama Council has been determined as having scale and capacity.
- The Independent Local Government Review Panel referred to Kiama's unique characteristics.
- IPART found that they could not find a better alternative for Kiama Council and Shoalhaven City Council to stand alone.
- The Illawarra and Shoalhaven Councils have participated in the Southern Council Group and the recently formed Illawarra Pilot Joint Organisation (IPJO).
- The IPJO provides additional regional capacity and is already achieving a number of benefits including joint procurement suggested as benefits of the merger proposal.

Conclusion

Kiama Municipal Council has embraced appropriate and sensible local government reform. Kiama Council has been the host organisation for the Southern Councils Group and Illawarra Pilot Joint Organisation. Council has been a highly active member and driver of initiatives including joint regional procurement.

Kiama Council has a proud history of being innovative and is an industry leader in a number of areas including waste management and aged care services. Kiama Council has substantially implemented one of the first organic waste services in NSW. Kiama Council in recognition of the need to address ageing communities provides a highly successful and comprehensive aged care service at no cost to ratepayers with substantial returns to the community. Kiama Council has been seen as a role model for other Councils and has been the recipient of many National and State awards.

The proposed merger of Kiama and Shoalhaven Councils is not appropriate or sensible for the following reasons.

- There is clearly a risk that the merger will result in a net cost to the community rather than delivering any significant benefits.
- A resounding and overwhelming number of Kiama residents (92%) oppose a merger involving Kiama and Shoalhaven Council. More than 70% of Shoalhaven residents also oppose the proposal.
- The Kiama Municipality and Shoalhaven City Council areas have no real levels of communities of interest.
- The merged area is geographically too large and elongated posing serious and significant management and representative challenges.
- The merger proposal will not address infrastructure renewal issues and the infrastructure backlog for a merged council will deteriorate.
- Kiama as a stand-alone council has a better
 - Operating performance ratio
 - Infrastructure renewal ratio

Report of the General Manager

4.1 Proposed Merger of Kiama and Shoalhaven Councils - Proposed Submission (cont)

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- Backlog ratio
 - Maintenance ratio
 - The Kiama improvement model meets all of the Fit for the Future ratios.
 - The two existing councils provide different services in a number of key areas and at different service levels.
 - Historical and traditional values including important local identity are at risk.
 - Local representation and influence on decision making for Kiama Municipality residents will be significantly and unreasonably reduced.
 - The proposal is likely to lead to loss of employment with negative flow on effects to the Illawarra and Shoalhaven economies.
 - Kiama and Shoalhaven Councils do not support the proposal.
 - The Illawarra Pilot Joint Organisation is already achieving a number of the benefits of the proposal including joint procurement.

A copy of the Judith Stubbs & Associates report has been circulated to Councillors. The Morrison Low submission and report will be circulated to Councillors shortly.

5 REPORT OF THE DIRECTOR FINANCE, CORPORATE AND COMMERCIAL SERVICES

5.1 Sponsorship Proposal - Elite Energy

CSP Objective: 3 A Diverse, Thriving Economy

CSP Strategy: 3.6 Encourage and Support Tourism in the Kiama Municipality

Delivery Program: 3.6.2 Develop and promote conference and event opportunities within the local area

Summary

This report informs Council of a sponsorship proposal from Elite Energy to run the Kiama Coastal Classic Running Festival, 31st July 2016, and for a triathlon training camp during 2015/16.

Finance

Financial support of \$10 000 + GST plus in-kind accommodation is being sought.

Policy

Not applicable

Attachments

Nil

Enclosures

Nil

RECOMMENDATION

That Council enter into a sponsorship arrangement committing to expenditure of \$5000 per annum + gst plus in-kind accommodation as detailed in the report.

BACKGROUND

Elite Energy has approached Council to hold the Kiama Coastal Classic Running Festival, a one day event which will consist of a 2.5km run followed by a 10km run around the Blowhole and back with the last race of the day being the 15Km Kiama Coastal Classic from Gerringong Surf Club, along the coastal walking trail to Black Beach in July 2016.

The Kiama Coastal Classic will be marketed as THE MOST SCENIC RUN IN AUSTRALIA. Elite energy has a database of 28 000 individuals and promote triathlon, running and cycling events. Their focus is on creating events to promote a happy healthy lifestyle for all ages and abilities that promote Kiama and increase visitation and awareness of the area.

The event will be held on a Sunday to encourage visitors to spend the weekend in the Kiama region (off peak) as they also schedule the registrations, seminars and giveaways to encourage multi night stays in the area.

Report of the Director Finance, Corporate and Commercial Services

5.1 Sponsorship Proposal - Elite Energy (cont)

Elite Energy is also pursuing the potential of bringing a Kiama Aquathon to the region as part of a 5 race season (Manly/ Dolls Point/ Wollongong x 2/Kiama) during the Summer of 2016/17 and a triathlon training camp for 65 attendees in which they would be seeking accommodation for 3-5 staff from Council owned parks only.

Elite Energy will run an expo during the event inviting the Chamber and other local businesses to participate and showcase their products.

An analysis of economic impact based on conservative projected figures of attendance at the Kiama Coastal Classic using the Remplan model indicates that the direct and indirect economic impact would be the injection of an additional \$112,000 to the local economy.

With competitors and spectators from all over NSW, interstate and potentially overseas, Council will look to leverage other tourism opportunities to promote Kiama and encourage extended and repeat visitation.

Elite Energy is seeking \$10000 financial support plus Council holiday park accommodation for 3-5 staff during the triathlon training camp.

To attract the event to the Municipality which has the potential to grow into a significant tourism and fitness event with associated health and economic benefits, some support is recommended. As Council has a limited events budget and the event is also a commercial activity, \$5 000 funding support and accommodation for 3-5 staff during the triathlon training camp is recommended.

6 CONFIDENTIAL SUMMARY

CONFIDENTIAL COMMITTEE OF THE WHOLE

Submitted to the Ordinary Meeting of Council held on 23 February 2016

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.

6.1 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.

7.1 100 TERRALONG STREET KIAMA (MITRE 10) - FUTURE LEASING AND OFFER TO PURCHASE THE PROPERTY

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 and 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. .

7 CONFIDENTIAL REPORTS

7.1 100 Terralong Street Kiama (Mitre 10) - future leasing and offer to purchase the property

CSP Objective: 2 Well Planned and Managed Spaces, Places and Environment

CSP Strategy: 2.13 Effectively manage other assets to cater for current and future generations (including car parks, community buildings, cemeteries and dams)

Delivery Program: 2.13.2 Manage other assets and infrastructure by the creation and implementation of the Other Assets and Infrastructure Asset Management Plan actions

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

8 CLOSURE