

15 REPORT OF THE DIRECTOR PLANNING, ENVIRONMENT AND COMMUNITIES

15.1 10.2023.92.1 - 19 and 21 Bourrool Street, Kiama

CSP Objective: Outcome 4.2: We are well connected within our local community, and to our region.

CSP Strategy: 4.2.2 Manage landuse planning to retain distinct towns and villages.

Delivery Program: 4.2.2.1 Ensure Council's planning systems and processes are contemporary and transparent

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Summary

The purpose of this report is to seek Council's determination of Development Application No 10.2023.92.1 for the demolition of existing dwellings and associated structures and erection of a residential flat building comprising of: basement parking for 39 vehicles; 15 residential units; and associated works at Lot 1 DP 774101, Lot 2 DP 1065012, 21 Bourrool Street, Kiama and 19 Bourrool Street, Kiama.

The development application is reported to Council for determination because it proposes to vary a development standard in Kiama LEP by more than 10%. In accordance with a direction given by the Department on 15 December 2017 and Planning Circular PS18-003 dated 21 February 2018 which specifies that

'only the elected Council can assume concurrence of the Secretary of the Department of Planning & Environment under the LEP clause 4.6 to vary a development standard by more than 10%'.

Financial implication

Fees, in accordance with the Environmental Planning and Assessment Regulations 2000 and Council's adopted Fees and Charges have been paid.

Included in the draft conditions is a condition requiring the payment of infrastructure contributions, in accordance with the Kiama Section 7.12 Plan. These funds will be allocated towards the provision of public infrastructure and held in restricted reserves.

Risk implication

A risk analysis has been undertaken and it is considered that approval of the development application as recommended does not pose a significant risk to Council.

If Council chooses not to endorse the staff recommendation, there is a very likely risk the applicant will take the matter to the Land and Environment court. Given the recommendation for approval from staff this will make the matter difficult to defend in court. The risk of court costs and legal defence are a significant concern.

Policy

The statutory instruments relevant to the development include the following:

- State Environmental Planning Policy (Resilience and Hazards) 2021

- State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Kiama Local Environmental Plan 2011
- Kiama Development Control Plan 2020
- Kiama Community Participation Plan 2019

Consultation (internal)

Officer	Comments
Subdivision and Development	No objection raised to the proposed development. Conditions of development consent advised.
Building	No objection raised to the proposed development. Conditions of development consent advised.
Landscape	No objection raised to the proposed development with confirmation the three palm trees on the site are Mexican Fan Palms which are not native. Conditions of development consent advised
Waste	No objection raised to the proposed development. Conditions of development consent advised.
Property	No objection raised to the proposed development. Conditions of development consent advised.
GIS	No objection raised to the proposed development. Conditions of development consent advised.

Communication/Community engagement

Consultation has occurred in accordance with Section 8 of the Kiama Community Participation Plan 2019; namely by:

- Directly notifying adjoining property owners and the Precinct Committee/Community Association of the exhibition period,
- Making all information publicly available on Council’s DA Tracker between 8 and 22 August 2023.

During the exhibition period, Council received the following submissions:

Submissions	Number	Key Issues
Submissions - For	0	

Submissions	Number	Key Issues
Submissions - Against	9	<p>Privacy impacts – north and south facing balconies and living areas looking into neighbours balconies and windows.</p> <p>Potential excavation impacts associated with basement parking.</p> <p>Proposal exceeds height limits.</p> <p>Building setbacks – does not comply with DCP controls.</p> <p>Loss of vegetation.</p> <p>Construction noise.</p> <p>Overshadowing impacts to south.</p> <p>Isolation impact to 19A Bourrool Street.</p> <p>Impact on beach views from 19A Bourrool Street.</p> <p>Request to upgrade Bourrool Lane.</p> <p>Runoff impacts.</p>
Precinct/Community Group Submissions	0	

Attachments

- 1 10.2023.92.1 - 4.15 Assessment Report [↓](#)
- 2 10.2023.92.1 - Plans [↓](#)
- 3 10.2023.92.1 - Notice of Determination [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Support the request to vary a development standard made pursuant to Clause 4.6 of Kiama LEP 2011 for the variation to the height of building standard.
2. Approve Development Application No 10.2023.92.1 for the demolition and construction of a residential flat building with basement parking, drainage works and landscaping subject to the appropriate conditions of consent.
3. Advise persons who made a submission on Development Application No 10.2023.92.1 of Council's decision.

Background

APPLICATION DETAILS	
Application Type:	Development Application
Application Number:	10.2023.92.1
NSW ePlanning Portal Reference:	PAN-339910
Proposed Development:	Demolition and New residential flat building - Demolition of existing dwellings and associated structures and erection of a residential flat building comprising of: Basement parking for 39 vehicles; 15 residential units; and associated works.
Applicant:	SET Consultants
Property title:	Lot 1 DP 774101, Lot 2 DP 1065012
Property address:	21 Bourrool Street KIAMA, 19 Bourrool Street KIAMA

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The Site

The site is known as Lot 1 DP 774101, Lot 2 DP 1065012, 21 Bourrool Street, Kiama, 19 Bourrool Street, Kiama.

The total site area is 2,306.3m² and is irregular in shape with eastern frontage to Bourrool Street, secondary access from Bourrool Lane along its southern side boundary, and rear pedestrian lane to its western boundary.

The site has a diagonal cross fall to the rear north-western corner. The site is mostly cleared with landscaping comprising lawns and three established palms. The site currently contains a dwelling house on each lot with driveway access from Bourrool Street for No 21 and Bourroul Lane for No 19.

Neighbouring development comprises one (1) and two (2) storey dwellings to the west and a four (4) storey residential flat building to the north. Adjacent to the east is a holiday park comprising cabins and caravan sites, and to the south is a single storey dwelling.

The Development

Development Application No 10.2023.92.1 proposes demolition of two existing dwellings and erection of a four storey residential flat building comprising 15 residential units; basement parking over 2 levels for 39 vehicles; drainage works and landscaping.

Neighbouring development comprises one and two storey dwellings to the west and a four storey residential flat building to the north. Adjacent to the east is a holiday park comprising cabins and caravan sites, and to the south is a single storey dwelling.

Issues

The following table demonstrates the proposed development's compliance with the relevant controls of Kiama LEP 2011 and Kiama DCP 2020.

Control	Requirement	Comment
Kiama LEP 2011 Requirement		
Zoning - Permissibility	R3 Medium Density Residential Zone	Residential flat buildings permissible with consent, proposal is consistent with objectives of zone
Height of building	C.4.3 - 11m max	Maximum 13.5m proposed
Floor Space Ratio	Clause 4.4: 1:1	1:1 FSR proposed
Kiama DCP 2020 Requirement		
Control		Comment
Chapter 3 – Common Requirements		
<i>Chapter 3.1.21 – waste</i>		Complies – enclosed waste storage room provided as required, separating residential and commercial waste
<i>Chapter 3.2 Amenity - Protect amenity of neighbouring properties</i>		Complies – the proposal is designed to retain > 3 hours direct sunlight to neighbouring properties, with no direct overlooking and no impact on views/outlook
<i>Chapter 3.2.41 – Side Fencing - Maximum 1.8m height</i>		Complies – fencing to side and rear 1.8m high
<i>Chapter 3.2.32 - Landscape Plan</i>		Complies – the Landscape Plan is satisfactory
<i>Chapter 3.6.8 – parking</i> Resident parking: 2 spaces/3+ bedroom unit Proposal = 15 x 3bedroom units x 2 spaces/unit = 30 resident spaces required Visitor parking: 1 space/2 units = 7 (7.5) spaces required		Complies: 31 resident space + 8 visitor spaces

<i>Chapter 3.6.35 – manoeuvring - designed to accommodate largest likely vehicle</i>	Yes – Refer to Traffic Report and Council Engineering advice. Design is satisfactory.
<i>Chapter 3.6.46 – bicycle parking - 1 space/3 units (5 spaces)</i>	Complies – storage cages for each parking space allow secure bicycle storage
<i>Chapter 3.6.53 – Accessible paths</i> Pedestrian access max 15%	Yes – southern lobby flat access from street, northern lobby includes wheelchair lift for external stairs from street
<i>Chapter 3.7.5 – Crime prevention through environmental design</i>	Complies – resident lobby clearly visible from street
<i>Chapter 6.5.3 – lift access for 3+ storeys</i>	Complies – lift access to all residential units
<i>Chapter 6.5.4 – adaptable housing provided at ratio of 1: 4 dwelling - 3.75 units adaptable, rounded to 4 units)</i>	Complies – 4 adaptable units provided for 15 units
<i>Chapter 6.5.7 – cut/fill external maximum 900mm</i>	Complies – max 600mm cut for external terrace east side, 800mm fill for external terrace to west side
<i>Chapter 6.5.11 – setback</i> 6m to front 6m to side for balconies & living areas, 3m to walls 6m to rear or as per established rear BL	Complies – 8m to ground level 6m min to north side, 7m to west side living 4.2m to west side wall 4.5m to Bourrool Lane, consistent with setback of western neighbour fronting the lane (19A Bourrool Street)
<i>Chapter 6.5.26 – cross over apartments min width 4m</i>	Complies – all apartments have internal widths > 4m
<i>Chapter 6.5.28 – solar access - 70% of units’ living areas are to receive a minimum of 3 hours direct sunlight at the winter solstice between 9am – 3pm</i>	Complies – 11 of 15 units / 73% receive > 3 hours sunlight

<p><i>Chapter 6.5.30 – solar access – minimum 3 hours retained to neighbours living areas</i></p>	<p>Complies - > 3 hours sunlight retained to southern and western side neighbours at winter solstice</p>
<p><i>Chapter 6.5.36 – Storage</i></p> <ul style="list-style-type: none"> • 1br – 6m³ • 2 br – 8m³ • 3br – 10m³ 	<p>Complies – each unit provided with secure storage space in basement parking plus storage in each unit</p>
<p><i>Chapter 6.5.42 solar access to balconies - minimum 70% to receive minimum 3 hours direct sunlight between 9am – 3pm at winter solstice</i></p>	<p>Complies - > 3 hours sunlight achieved to 11 of 15 principle POS balconies</p>
<p><i>Chapter 6.5.50 – Safety/Security</i></p>	<p>Complies – Secure access provided to building with clear entries</p>
<p><i>Chapter 6.5.68 – Bin storage facilities</i></p>	<p>Complies – separate waste storerooms proposed, conditions of consent advised from Council’s Waste Officer</p>
<p>DCP Chapter 12.7 - Streetscape improvements</p> <ul style="list-style-type: none"> • create a more continuous streetscape • create interest in facades • clear entrance point • materials consistent with character of Kiama town centre 	<p>Yes – facade along front boundary increases activation to streetscape, with clear pedestrian entry points. Contrasting materials including timber, rendered slab edges, glass balustrades, and landscaping create interest</p>

The main assessment issues for the proposed development are:

- variation to the maximum building height under Clause 4.3 of Kiama LEP 2011;
- bulk and scale as a result of height variation.

These issues are detailed in the Section 4.15 Assessment Report attached to this report. A satisfactory request to vary the height standard has been submitted by the applicant with detailed consideration of this provided in the S.4.15 report.

Options

1. Adopt the recommendation thereby granting approval to the application, subject to conditions.
2. Refuse the application and list reasons for refusal.

Sustainability Assessment

Environment

A complete assessment of potential environmental impacts is provided in the Section 4.15 Assessment Report attached to this report.

Social

A complete assessment of potential social impacts is provided in the Section 4.15 Assessment Report attached to this report.

Civic Leadership

The proposed development is considered to be consistent with the ‘Kiama Community Strategic Plan’ particularly the ‘Well planned and managed spaces, places and environment’ objective, which requires amongst other things that development occur in a way that is environmentally, socially and economically responsible.

Economic – Broader Economic Implications

The proposed development is not expected to result in any significant broader economic implications.

Economic - Delivery Program/Operational Plan Implications

There are no implications for Council’s Delivery Program/adopted Operational Plan.

Consultation

The development was notified in accordance with the requirements of Council’s Community Participation 2019 Plan for a period of fourteen days.

At the conclusion of the notification period, a total of 9 submissions were received.

Engagement Summary

Submissions	Number	Key Issues
Submissions - For	0	
Submissions - Against	9	Privacy impacts – north and south facing balconies and living areas looking into neighbours balconies and windows Potential excavation impacts associated with basement parking Proposal exceeds height limit Building setbacks – does not comply with DCP controls Loss of vegetation

		<p>Construction noise</p> <p>Overshadowing impacts to south</p> <p>Isolation impact to 19A Bourrool Street</p> <p>Impact on beach views from 19A Bourrool Street</p> <p>Request to upgrade Bourrool Lane</p> <p>Runoff impacts</p>
Precinct/Community Group Submissions	0	0

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Community Comments/Concerns

Topic	Staff Response
Objection	Assessment Officer’s Comment
Privacy impacts – north and south facing balconies and living areas looking into neighbours balconies and windows	<p>The proposal is assessed as providing compliant separation of 12m to northern and southern neighbouring development under the Apartment Design Guidelines.</p> <p>Neighbours south facing windows are limited in size and have external screens for privacy.</p> <p>Outlook to southern neighbour is from south facing bedroom windows with no unreasonable privacy loss.</p>
Potential excavation impacts associated with basement parking	<p>This is acknowledged while noting the basement is well setback from each boundary. Conditions of consent are recommended requiring a Dilapidation Assessment prior to commencement of works and prior to issue of an Occupation Certificate.</p>
Proposal exceeds height limit	<p>The Cl.4.6 variation request to the height standard is considered well founded. The portion of the 4th level exceeding the height limit does not cause any adverse amenity impacts to neighbouring properties.</p>
Building setbacks – does not comply with DCP controls	<p>Proposal is assessed as complying with front, side and rear setback controls under Ch.6.5.11 of the DCP.</p>

Topic	Staff Response
Loss of vegetation	<p>No significant vegetation exists on the site that will be cleared, with replacement landscaping assessed by Council’s Landscape officer as satisfactory. It is noted that additional planting opportunities adjacent to the northern boundary is constrained by overshadowing from the neighbouring apartments.</p> <p>Removal of three established palms on the site adjacent to the northern boundary is assessed as acceptable and confirmed by Council’s Landscape Officer subject to replacement planting as shown on Landscape Plan.</p>
Construction noise	<p>Noise from excavation and construction will be commensurate with other recent apartment construction in the area, with conditions of consent to apply regulating hours/days of work.</p>
Overshadowing impacts to south	<p>Proposal has compliant height and setback adjacent to south side boundary. Shadow diagrams demonstrate 3 hours sunlight retained to southern neighbour between 12pm and 3pm at winter solstice.</p>
Isolation impact to 19A Bourrool Street	<p>Access is retained to No 19A. The proposal will not prevent redevelopment of this site in the future.</p>
Impact on beach views from 19A Bourrool Street	<p>Proposal has compliant setbacks and is permissible with consent. Existing narrow view line looking north from No 19A will be retained, looking past western side of proposal.</p>
Request to upgrade Bourrool Lane	<p>Noting the proposal seeks access from Bourrool Street with no vehicle access required from the lane, upgrades to the lane are not considered to be justified.</p>
Runoff impacts	<p>Council’s engineer has assessed the engineering plans including stormwater as satisfactory noting runoff is to be conveyed to the drainage easement at the north-western corner of the site.</p>

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Implementation Date/Priority

In the event that Council adopts the recommendation, a formal notice of determination will be issued for the development application. A formal notice of determination is valid for five years and the applicant can act on the development consent at any time within that period, subject to meeting any relevant conditions of the consent.

Conclusion

A comprehensive assessment of the Development Application has been undertaken in accordance with all statutory requirements and it is recommended that the application be approved subject to appropriate conditions of consent.

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SECTION 4.15 ASSESSMENT RESIDENTIAL FLAT BUILDINGS REPORT

APPLICATION NUMBER:	10.2023.92.1
NSW ePLANNING PORTAL REFERENCE:	PAN-339910
APPLICANT:	SET Consultants
OWNER:	Kiama Investments NO.1 Pty Ltd
PROPERTY DESCRIPTION:	LOT: 1 DP: 774101, LOT: 2 DP: 1065012, 19 & 21 Bourrool Street KIAMA
SITE ZONING:	R3 Medium Density Residential
DEVELOPMENT DESCRIPTION:	DEMOLITION AND NEW RESIDENTIAL FLAT BUILDING - DEMOLITION OF EXISTING DWELLINGS AND ASSOCIATED STRUCTURES AND ERECTION OF A RESIDENTIAL FLAT BUILDING COMPRISING OF: BASEMENT PARKING FOR 39 VEHICLES; 15 RESIDENTIAL UNITS; AND ASSOCIATED WORKS.
DATE:	15 February 2024

Summary

This report reviews DA 10.2023.92.1 which involves demolition of two existing dwellings and associated structures, and erection of a four storey residential flat building comprising basement parking for 39 vehicles; 15 x 3 bedroom residential units (including 4 adaptable units), common open space, landscaping; and associated works.

The proposal is assessed as consistent with the objectives of the R3 Medium Density Residential zone and complies with the floor space ratio development standard. A variation to the height standard is sought with part of the 4th level exceeding this limit, which results from the fall of the site to the side and rear boundaries. The applicant's request to vary the height standard is considered acceptable in this assessment.

The proposal is also assessed as satisfactory in consideration of SEPP 65 – Design Quality for Residential Apartment Development, and the relevant provisions of Kiama Development Control Plan 2020 (DCP).

Based on this assessment the report recommends that development consent be granted, with the development considered to suitably respond to the site and its setting, resulting in no adverse impacts to the site and surrounds.

Community Consultation

Required: Yes (newspaper advertisement, onsite notice and letter notification).

Notification Period: 14 days from 8 – 22 August 2023

Submissions: 9 submissions.

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Other Requirements

Kiama Section 7.12 Plan

Heritage Item or in the vicinity of site: Yes

Mapped Bushfire Prone Land: Not affected

Integrated Development

N/A

RECOMMENDATION

That Council approve Development Application No 10.2023.92.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions of consent.

Development Site

The property is described as Lot 1 DP 774101 and Lot 2 DP 1065012 which is located at 19 and 21 Bourrool Street, Kiama. Refer to Figures 1 and 2.

The total site area is 2,306.3m² and is irregular in shape with eastern frontage to Bourrool Street, secondary access from Bourrool Lane along its southern side boundary, and rear pedestrian lane to its western boundary. The site has a diagonal cross fall of approximately 6m / @ 10% from its front south-eastern corner to the rear north-western corner. The site is mostly cleared with landscaping comprising lawns, three established palms, and scattered shrubs. The site currently contains a dwelling house on each lot with driveway access from Bourrool Street for No 21 and Bourrool Lane for No 19.

Neighbouring development comprises one and two storey dwellings to the west and a four storey residential flat building to the north. Adjacent to the east is a holiday park comprising cabins and caravan sites, and to the south is a single storey dwelling.

The site drains to its rear north-western corner into an existing council stormwater line that flows north with discharge to the main stormwater channel under Barney Street and to the south end of Kiama Beach.

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Figure 1 – Locality Plan – aerial view



Figure 2 – Site aerial view – 19 & 21 Bourrool Street

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The site is serviced by reticulated water / sewer / electricity / telecommunications.



Figure 3 – Site Photograph – existing dwelling on No 21 Bourrool St looking west

Description of the Proposed Development

The proposal involves the demolition of the existing dwelling and construction of a four storey residential flat building with 15 x 3 bedroom units detailed as follows:

- two levels of basement parking with 28 resident parking spaces, 8 visitor spaces, waste storage rooms x 2, and driveway access from Bourrool Street;
- lower ground level comprising 3 x 3 bedroom units (including one adaptable unit);
- ground level comprising 5 x 3 bedroom units (including two adaptable units) and pedestrian entry with lobby from Bourrool Street;
- first floor comprising 5 x 3 bedrooms units (including one adaptable unit);
- second floor comprising 2 x 3 bedroom units, with unit 202 including a plunge pool and large terrace;
- solar panels to roof;
- lift and stair access to each level;
- ground level lawns, landscaping and a communal open space area.

The proposal is shown in Figures 3 – 6 below:



Figure 3 – eastern perspective from Bourrool Street

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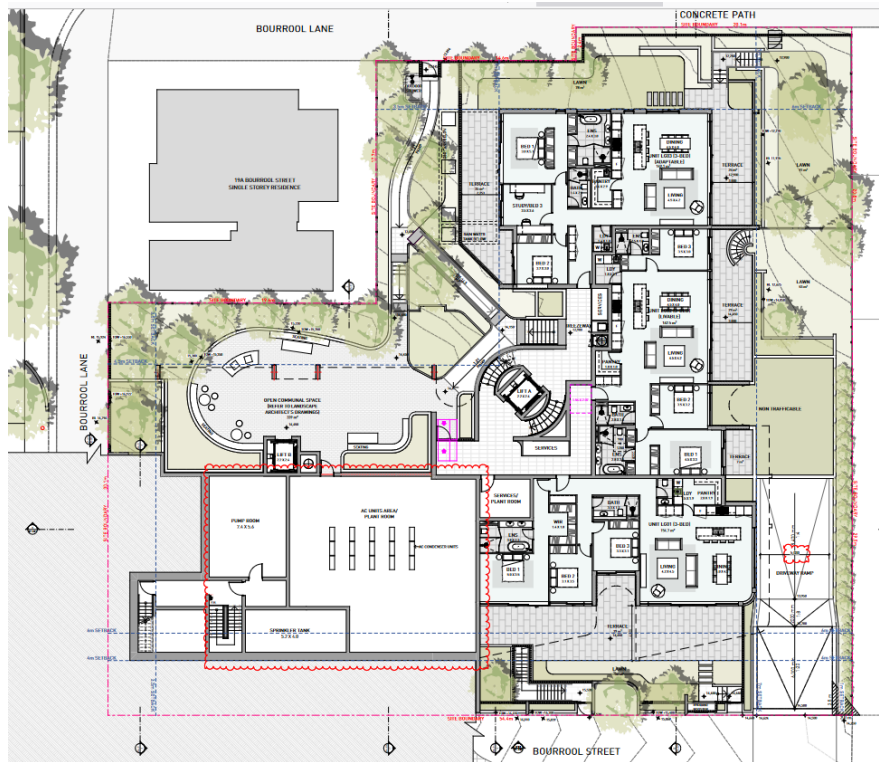


Figure 4 – Site / Ground floor plans



Figure 5 – north (side) & east (front) elevations

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Figure 6 – south (side) and west (rear) elevations

Section 4.15 Assessment

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

Relevant Environmental Planning Instruments

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 - Coastal Management

The site is within the mapped *Coastal Environment Area*; and *Coastal Use Area*.

Under Clause 2.10, development consent must not be granted to development on land that is within the ‘coastal environment’ unless the consent authority has considered the following matters:

2.10 Development on land within the coastal environment area

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*

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- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment

The development is considered to be acceptable in response to Cl.2.10 of the SEPP, being compatible with its existing residential developed surrounds. The proposal does not adversely impact the environmental values, visual amenity or scenic qualities of the coast, nor affect its use.

No adverse water quality impacts are considered to result with regards to stormwater quality and quantity. The proposal is located over a previously cleared part of the site and will not affect any existing natural values. Access to and use of open space and the surf zone is not affected.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Comment

Based on the assessment comments stated above the development is considered to be suitably designed to avoid any adverse impacts to the site and its surrounds.

2.11 Development on land within the coastal use area

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*
 - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following—*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
 - (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
 - (iv) *Aboriginal cultural heritage, practices and places,*
 - (v) *cultural and built environment heritage, and*

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Comment – The site is located within an established residential area approximately 90m from the foreshore area. The proposal will nestle into its existing built setting and will not affect the visual quality of the foreshore area or access to it. No adverse amenity impacts will result noting beach views from the street will not be affected. Noting existing site disturbance the proposal is unlikely to have any adverse impact on Aboriginal heritage.

(b) *is satisfied that—*

- (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
- (ii) *if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (iii) *if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

Comment – As commented on above the proposal causes no adverse impact on the coastal environment.

(c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment – The proposal complies with the Floor Space Ratio with a minor variation to the height standard considered acceptable on merit, being consistent with the scale of neighbouring residential apartments fronting the beach.

Chapter 4 – Remediation of land

Chapter 4 of the SEPP requires Council to consider whether the land is contaminated and if it is contaminated, whether remediation works are required for the site to be suitable for the proposed use. Council is unaware of any historic land use which would deem the site unsuitable for the proposed development noting its established use as residential for over 50 years as demonstrated in the SEE.

Subject to compliance with conditions regarding any remediation works identified during demolition and excavation, the site is considered suitable for the proposed development and its use as residential and commercial.

State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development)

SEPP 65 was repealed on 14 December 2023 by State Environmental Planning Policy Amendment (Housing) 2023. As the DA was submitted prior to SEPP 65 being repealed, it continues to apply to the proposal.

SEPP 65 aims to raise the design quality of residential apartments and mixed use development across NSW through the application of a series of design principles.

SEPP 65 applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component. The proposal is a *residential flat building* including 15 residential apartments over 3 – 4 storeys, therefore SEPP 65 applies.

The accompanying regulation, the Environmental Planning and Assessment Regulation 2000, requires the involvement of a qualified designer throughout the design, approval and construction stages for residential apartment developments.

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SEPP 65 also requires consideration of the Apartment Design Guide (ADG), NSW Planning and Environment Department 2015. The Code includes development controls and best practice benchmarks for achieving the design principles of SEPP 65.

Schedule 1 – Design quality principles of SEPP 65 prescribes nine design quality principles to guide architects designing residential flat buildings and to assist Councils in assessing such developments. The nine principles relate to key design issues including the context, scale, built form and building density, resource, energy and water efficiency, landscape design, amenity, safety/security, social impacts and aesthetics.

The EP&A Regulation 2000 (Clause 50) require that a Development Application for this form of development must be accompanied by:

- (a) *an explanation of how:*
 - (i) *the design quality principles are addressed in the development, and*
 - (ii) *in terms of the Apartment Design Guide, the objectives of that guide have been achieved in the development,*
- (b) *drawings of the proposed development in the context of surrounding development, including the streetscape,*
- (c) *development compliance with building heights, building height planes, setbacks and building envelope controls (if applicable) marked on plans, sections and elevations,*
- (d) *drawings of the proposed landscape area, including species selected and materials to be used, presented in the context of the proposed building or buildings, and the surrounding development and its context,*
- (e) *if the proposed development is within an area in which the built form is changing, statements of the existing and likely future contexts,*
- (f) *photomontages of the proposed development in the context of surrounding development,*
- (g) *a sample board of the proposed materials and coolers of the facade,*
- (h) *detailed sections of proposed facades,*
- (i) *if appropriate, a model that includes the context.*

Comment

This assessment concludes that the proposed building design satisfactorily addresses the design principles and is grounds for which the proposal is supported. Each of the design principles are addressed as follows:

Design Quality Principles

Principle 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.

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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.

Comment: The proposal at 4 storeys is considered consistent with the desired future character for development on the site noting neighbouring 4 storey apartment development neighbouring to the north.

Principle 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.

Comment: The proposal complies with the height limit apart from a portion of the 4th level where it is positioned over a lower part of the site. This results from the site having a considerable cross fall including within the proposed building envelope, with height increasing progressively with the fall of the site. The design is considered compatible in bulk and scale with new development in the surrounds, with its stepped form responding to the site slope, plus articulation of the façade to enhance interest.

Principle 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.

Comment: The proposal has a compliant Floor Space Ratio with a landscaped communal open space area and on-site parking provided. All 15 apartments are larger 3 bedroom dwellings resulting in a lesser yield than could have been achieved with 1 and 2 bedroom dwellings, which would generated greater parking and traffic. Accordingly, the proposal is considered acceptable in density.

Principle 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 livability 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.

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Comment: The proposal is considered satisfactory in response to the objectives for sustainability, for the following reasons:

- all apartments balcony areas benefit from direct sunlight at the winter solstice.
- Most apartments (11/15) are designed for cross-ventilation which is maximised for all corner apartments and walk-through apartments with a double aspect.
- Deep soil planting is proposed for the communal open space with landscaping to be provided.

Principle 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, coordinating 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 and provides for practical establishment and long term management.

Comment: As stated previously the proposal is considered to provide adequate landscaping, with deep soil planting proposed for the communal open space area, and around the perimeter of the site to support the proposed shrub and tree planting.

Principle 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.

Comment

The proposal is considered to provide adequate resident amenity, noting:

- functional balcony sizes which comply with the Australian Design Guidelines;
- provision of a landscaped communal open space area;
- apartments designed for solar access, cross ventilation and having an open outlook;
- provision of onsite parking for residents and visitors.

Principle 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.

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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.

Comment: The proposal is considered satisfactory with regards to providing passive surveillance opportunities from windows and balconies. The two lobby entries are clearly visible from the street for optimal surveillance and security.

Principle 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 and providing opportunities for social interaction among residents .

Comment: The proposal includes a mix of apartment designs including 4 adaptable apartments.

Principle 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 a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.

Comment: The proposal is considered to provide an interesting mix of finishes and materials to create design interest to the street. The articulated stepped form effectively controls massing and appropriately responds to the sloping form of the site.

Apartment Design Guide

SEPP 65 – Clause 28 requires that a consent authority take into consideration the Apartment Design Guide, prepared by the Department of Planning and Environment in 2015 with respect to the objectives, design criteria and design guidance set out in Parts 3 and 4 of the Apartment Design Guide.

ADG COMPLIANCE SUMMARY	
Ceiling Heights	Complies All apartments have ceilings at 2.7m height Kitchens which are open plan may have bulkheads for service coordination
Apartment Layouts	Complies Apartment layouts are designed to accommodate a variety of household activities and needs

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	<p>Every habitable room or open plan space has a window greater than 10% of the room area. In open plan layouts the maximum habitable room depth is generally 8m from a window</p> <p>Where the open plan exceeds 8m in depth, the apartments are orientated directly to the north</p>
South Aspect Units – 15% maximum exclusively south facing	Complies – no apartments exclusively face south
Natural Ventilation to Kitchens (minimum 25%)	<p>Complies</p> <p>All apartments have open plan living and kitchen areas allowing natural air flow from living room windows to the kitchen</p>
<p>Balcony Areas/Depths</p> <p>1 bed 8m² 2m depth</p> <p>2 bed 10m² 2m depth</p> <p>3+ bed 12m² 2.4m depth</p>	<p>Complies</p> <p>Each apartment has at 1–2 balconies with total area more than minimum area required</p> <p>Minimum 2.4m depth for all balconies serving as POS</p>
Daylight Access to living rooms and private open space (minimum 70%)	<p>Complies</p> <p>11 of 15 apartments achieve 3 hours direct sunlight to their living areas between 9am and 3pm mid-winter</p>
Cross Ventilation (minimum 60%)	<p>Complies</p> <p>12 of 15 (80%) have dual aspect for cross ventilation</p>
Common Circulation Space – maximum 8 apartments/floor	<p>Complies</p> <p>The maximum number of apartments off a common circulation core on a single level is 5</p>
Accessibility (minimum 20%)	<p>Complies</p> <p>4 of the 15 proposed apartments (26.7%) are designed as accessible</p>
Deep Soil Zone – minimum 7% site area with min 3m width	<p>Complies</p> <p>Deep soil landscaping located around the site perimeter for screening = 8.8% site area as calculated on the plans, and complements the communal open space</p>
Communal/Public Open Space: - 25% site area	<p>Complies</p> <p>@ 600m²/26% of site area = communal open space</p>

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p>Objective 1A - Apartment Building Types</p> <p>Row apartments are generally well suited to both urban and suburban contexts. They are characterised by a limited number of units arranged around an access core and can be single buildings or a series of building modules. This building type is best used when:</p> <ul style="list-style-type: none"> • smaller building footprints are desirable • live and work apartments or commercial/retail uses are encouraged at the ground floor level • continuation of the street edge is desirable • a vertical rhythm reinforcing existing subdivision or building patterns is desirable • rear landscape areas are desired including • keeping existing significant trees • built form needs to step down the street to respond to a slope 	<p>Consistent – the proposal fits the ‘row apartment’ type being on a relatively small infill site adjacent to existing 4 storey apartments, continuing this form along the street with stepping down the slope and perimeter landscaping.</p>
<p>Objective 1B Local Character and Context</p> <p>Good design responds and contributes to its context. Context is everything that has a bearing on an area and comprises its key natural and built features. Context also includes social, economic and environmental factors</p>	<p>Satisfactory – the proposal is compatible with neighbouring residential apartments</p>
<p>Objective 1C Precincts and Individual Site</p> <p>Precincts are characterised by large land parcels or a group of larger sites undergoing extensive change. These sites often need to be restructured to support a change of land use mix, building height and density. Precinct plans typically incorporate new streets and infrastructure, through-site links and public open spaces that relate in scale, location and character to the local context</p>	<p>Satisfactory – The site is a consolidation of two lots with access from front and rear</p>
<p>Objective 2A Primary Controls</p> <p>Primary development controls are the key planning tool used to manage the scale of development so that it relates to the context</p>	<p>Complies – with key controls of Kiama LEP and DCP, with a minor variation to height</p>

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
and desired future character of an area and manages impacts on surrounding development	considered acceptable on merit, and minimising impacts to neighbours
<p><i>Objective 2B Building Envelopes</i></p> <p>A building envelope is a three-dimensional volume that defines the outermost part of a site that the building can occupy. Building envelopes set the appropriate scale of future development in terms of bulk and height relative to the streetscape, public and private open spaces, and block and lot sizes in a particular location</p>	Satisfactory – the building envelope is well defined in plans, scale and bulk compatible with surrounds
<p><i>Objective 2C Building Height</i></p> <p>Height controls should be informed by decisions about solar access, roof design and use, wind protection, residential amenity and in response to landform and heritage</p>	Complies – solar access satisfactorily maintained to neighbours
<p><i>Objective 2D Floor Space Ratio</i></p> <p>Floor space ratio (FSR) is the relationship of total gross floor area (GFA) of a building relative to its total site area</p>	Complies – with maximum FSR permitted for site
<p><i>Objective 2E Building Depth</i></p> <p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line when precinct planning and testing development controls. This will ensure that apartments receive adequate daylight and natural ventilation and optimise natural cross ventilation.</p> <p>Coordinate building height and building depth:</p> <ul style="list-style-type: none"> • buildings that have smaller depths over a greater height deliver better residential amenity than those with greater depth and a lower height • greater building depths may be possible where higher ceiling heights are provided, for example adaptive reuse of an existing building. 	Complies – apartments designed in two connected podiums with depths for sunlight and ventilation

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p><i>Objective 2F Building Separation</i></p> <p>Building separation is the distance measured between building envelopes or buildings. Separation between buildings contributes to the urban form of an area and the amenity within apartments and open space areas. Minimum separation distances for buildings are:</p> <p>Up to four storeys (approximately 12m):</p> <ul style="list-style-type: none"> • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms <p>Five to eight storeys (approximately 25m):</p> <ul style="list-style-type: none"> • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms 	<p>Complies – 12m separation provided with neighbouring apartments</p>
<p><i>Objective 2G- Setbacks</i></p> <p>Determine street setback controls relative to the desired streetscape and building forms, for example:</p> <ul style="list-style-type: none"> • define a future streetscape with the front building line • match existing development • step back from special buildings • retain significant trees • in centres the street setback may need to be consistent to reinforce the street edge • consider articulation zones accommodating balconies, landscaping etc. within the street setback • use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street • manage corner sites and secondary road frontages <p>Align street setbacks with building use</p>	<p>Complies – front, side and rear setbacks compliant with Kiama DCP setback controls</p>
<p><i>Objective 3A-1 Site Analysis</i></p> <p>Site analysis illustrates that design decisions have been based on opportunities and</p>	<p>Satisfactory – site analysis provided</p>

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
constraints of the site conditions and their relationship to the surrounding context	
<i>Objective 3B-1 Orientation</i> Building types and layouts respond to the streetscape and site while optimising solar access within the development	Satisfactory – design oriented to optimise solar access, activate street
<i>Objective 3B-2</i> Overshadowing of neighbouring properties is minimised during mid winter	Complies – solar access retained to neighbours as per DCP solar controls
<i>Public Domain Interface - Objective 3C-1</i> Transition between private and public domain is achieved without compromising safety and security	Satisfactory – there is legible clear transition between street and building entry
<i>Objective 3C-2</i> Amenity of the public domain is retained and enhanced	Satisfactory – the proposal provides connectivity to street and to rear
<i>Communal and Public Open Space - Objective 3D-1</i> An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping 1. Communal open space has a minimum area equal to 25% of the site 2. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter)	Satisfactory - @ 25% of site is communal open space at ground and lower ground levels Communal open space area achieves > 2 hours sunlight. Space may be used for relaxing and communal gatherings Landscaping makes space attractive with balustrading for safety and potential for lighting
<i>Objective 3D-2</i> Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting	
<i>Objective 3D-3</i> Communal Open space is designed to maximise safety	
<i>Objective 3D-4</i> Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	Communal open space at ground level is for public access and is landscaped

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p><i>Objective 3E-1</i></p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality</p> <p>Deep soil zones are to meet the following minimum requirements:</p> <ul style="list-style-type: none"> • Site Area: Greater than 1500m² • Minimum dimensions: 6m • Percentage of site area: 7% 	<p>Complies – deep soil zones provided as part of landscaped areas, @ 19% of site area as shown on Landscape Plan</p>
<p><i>Objective 3F-2 Visual Privacy</i></p> <p>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:</p> <ul style="list-style-type: none"> • Building height: Up to 12m (4 Storeys). • Habitable rooms and balconies: 6m • Non-habitable rooms: 3m 	<p>Complies – front and rear building adequately separated for privacy, minimum 12m separation provided</p>
<p><i>Objective 3F-2</i></p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space</p>	<p>Satisfactory – privacy achieved with air circulation to living rooms from POS</p>
<p><i>Objective 3G-1 Pedestrian Access and Entries</i></p> <p>Building entries and pedestrian access connects to and addresses the public domain</p>	<p>Satisfactory - Entries and public open space open to street</p>
<p><i>Objective 3G-2</i></p> <p>Access, entries and pathways are accessible and easy to identify</p>	<p>Satisfactory - Accessible and legible from street</p>
<p><i>Objective 3H-1 Vehicle Access</i></p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscape</p>	<p>Satisfactory - access clear from street with footpath having clear view of traffic, does not dominate streetscape</p>

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p><i>Objective 3J-1 Bicycle and car parking</i></p> <p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas</p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800m of a railway station or light rail stop in the Sydney Metropolitan Area; or on land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant Council, whichever is less <p>The car parking needs for a development must be provided off street.</p>	<p>Complies – bicycle parking available within individual basement storage cages provided as per DCP requirements.</p> <p>Compliant car parking for residents and visitors provided</p>
<p><i>Objective 3J-2</i></p> <p>Parking and facilities are provided for other modes of transport</p> <p>Conveniently located and sufficient numbers of parking spaces should be provided for motorbikes and scooters</p> <p>Secure undercover bicycle parking should be provided that is easily accessible from both the public domain and common areas</p> <p>Conveniently located charging stations are provided for electric vehicles, where desirable</p>	<p>Complies - bicycle and motorbike parking available in basement parking area</p>
<p><i>Objective 3J-3</i></p> <p>Car park design and access is safe and secure</p>	<p>Complies - secure & safe design</p>
<p><i>Objective 3J-4</i></p> <p>Visual and environmental impacts of underground car parking are minimised</p>	<p>Complies - parking in basement to minimise visual impact</p>
<p><i>Objective 4A-1 Solar and Daylight Access</i></p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</p>	<p>Complies – 11/15 // 73% of apartments achieve 3 hours direct sunlight</p>

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p>In all other areas, 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>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter</p>	Complies – remaining 4/15 apartments receive 1 – 2 hours direct sunlight at mid winter
<p><i>Objective 4A-2</i></p> <p>Daylight access is maximised where sunlight is limited</p>	Satisfactory - Large windows provided for south facing units
<p><i>Objective 4A-3</i></p> <p>Design incorporates shading and glare control, particularly for warmer months</p>	Balconies have roofs over and screens to control glare and shade
<p><i>Objective 4B-1 Natural Ventilation</i></p> <p>All habitable rooms are naturally ventilated</p>	All rooms have window access
<p><i>Objective 4B-2</i></p> <p>The layout and design of single aspect apartments maximises natural ventilation</p>	Satisfactory – single aspect units have wide open side
<p><i>Objective 4B-3</i></p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed</p> <p>Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line</p>	<p>Complies – 12 of 15 apartments / 80% achieve cross ventilation requirements</p> <p>Complies - Depths < 18m</p>
<p><i>Objective 4C-1 Ceiling Heights</i></p> <p>Ceiling height achieved sufficient natural ventilation and daylight access</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> Habitable rooms – 2.7m Non-habitable 2.4m 	Complies – 2.7m ceiling heights for all units

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p>Objective 4C-2 Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms Objective 4C-3 Ceiling heights contribute to the flexibility of building use over the life of the building</p>	
<p>Objective 4D-1 Apartment Size and Layout The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity Apartments are required to have the following minimum internal areas:</p> <ul style="list-style-type: none"> • 2 bedroom – 70m³ • 3 bedroom – 90m³ <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p>	<p>Complies - all 3 bedroom units comply with minimum floor area</p>
<p>Objective 4D-2 Environmental performance of the apartment is maximised. Habitable room depths (other than rooms in open plan layouts) are limited to a maximum of 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window</p>	<p>Complies – maximum depth = 5m</p>
<p>Objective 4D-3 Apartment layouts are designed to accommodate a variety of household activities and needs</p> <ol style="list-style-type: none"> 1. Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space) 2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space) 3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	<p>Complies – bedrooms and living rooms all compliant in area and dimensions</p>

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow layouts	
<p><i>Objective 4E-1 Private Open Space and Balconies</i></p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity</p> <p>All apartments required to have primary balcony as follows:</p> <ul style="list-style-type: none"> • 1 bedroom – 8m³, minimum depth 2m. • 2 bedroom - 10m³, minimum depth 2m. • 3+ bedroom – 12m³, minimum depth 2.4m. <p>The minimum balcony depth to be counted as contributing to the balcony area is 1m</p> <p>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 3.</p>	Complies – all 3 bedroom units have compliant balcony areas and dimensions of 12m ² min / 2.4m min
<p><i>Objective 4E-2</i></p> <p>Primary private open space and balconies are appropriately located to enhance liveability for residents</p>	Satisfactory – balconies directly connected to combined living/dining/kitchen areas
<p><i>Objective 4E-3</i></p> <p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building</p>	Satisfactory – balconies integrate into façade of design
<p><i>Objective 4E-4</i></p> <p>Private open space and balcony design maximises safety</p>	Compliant - balconies BCA compliant

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p><i>Objective 4F-1</i></p> <p>Common circulation spaces achieve good amenity and properly service the number of apartments</p> <p>The maximum number of apartments off a circulation core on a single level is 8</p>	complies – no more than 5 apartments per level
<p><i>Objective 4F-2</i></p> <p>Common circulation spaces promote safety and provide for social interaction between residents</p>	Satisfactory – common lobby areas provided for each level
<p><i>Objective 4G-1</i></p> <p>Adequate, well designed storage is provided in each apartment</p> <p>In addition to storage in kitchens, bathrooms and bedrooms the following storage is provided:</p> <ul style="list-style-type: none"> • 1 bedroom – 6m³ • 2 bedroom – 8m³ • 3+ bedroom – 10m³ <p>At least 50% of the required storage is to be located within the apartment</p>	Complies – all units provide compliant storage areas
<p><i>Objective 4G-2</i></p> <p>Additional storage is conveniently located, accessible and nominated for individual apartments</p>	Satisfactory – storage is readily accessible
<p><i>Objective 4H-1 Acoustic Privacy</i></p> <p>Adequate building separation is provided within the development and from neighbouring buildings/adjacent uses</p>	Satisfactory – bedrooms adjoin bedrooms, insulated walls to living rooms
<p><i>Objective 4H-2</i></p> <p>Noise impacts are mitigated within apartments through layout and acoustic treatments</p>	Satisfactory – See above
<p><i>Objective 4J-1 Noise and Pollution</i></p> <p>In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings</p>	Satisfactory – surrounds not identified as a high noise area
<p><i>Objective 4K-1 Apartment Mix</i></p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future</p>	Satisfactory – mix of apartment sizes provided including 4 adaptable apartments and 3 liveable apartments

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p><i>Objective 4K-2</i> The apartment mix is distributed to suitable locations within the building</p>	Satisfactory – unit mix spread over development
<p><i>Objective 4L-1 Ground Floor Apartments</i> Street frontage activity is maximised where ground floor apartments are located</p>	Satisfactory – east facing apartments have balconies facing street for activation
<p><i>Objective 4L-2</i> Design of ground floor apartments delivers amenity and safety for residents</p>	Satisfactory - ground floor provides clear sightlines for surveillance
<p><i>Objective 4M-1 Facades</i> Building facades provide visual interest along the street while respecting the character of the local area</p>	Satisfactory – design is considered interesting and contemporary to street
<p><i>Objective 4M-2</i> Building functions are expressed by the facade</p>	Satisfactory – façade with balconies clearly defines use as residential
<p><i>Objective 4N-1 Roof Design</i> Roof treatments are integrated into the building design and positively respond to the street.</p>	Satisfactory – roof recessed from façade to create rooftop terrace form to 4 th level
<p><i>Objective 4N-2</i> Opportunities to use roof space for residential accommodation and open space are maximised</p>	Satisfactory – Communal Open Space provided on ground level
<p><i>Objective 4O-1 Landscape Design</i> Landscape design is viable and sustainable</p>	Satisfactory – species considered suitable
<p><i>Objective 4O-2</i> Landscape design contributes to the streetscape and amenity</p>	Satisfactory – landscape complements streetscape and site amenity
<p><i>Objective 4P-1 Planting on Structures</i> Appropriate soil profiles are provided</p>	Satisfactory – deep soil zones provided for planting
<p><i>Objective 4P-2</i> Plant growth is optimised with appropriate selection and maintenance</p>	Satisfactory – landscape species considered suitable

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p><i>Objective 4P-3</i></p> <p>Planting on structures contributes to the quality and amenity of communal and public open spaces</p>	Satisfactory – landscape complements front and rear of proposal to street
<p><i>Objective 4Q-1 Universal Design</i></p> <p>Universal design features are included in apartment design to promote flexible housing for all community members.</p>	Satisfactory – fitout required to be AS/BCA compliant
<p><i>Objective 4Q-2</i></p> <p>A variety of apartments with adaptable designs are provided</p>	Satisfactory – adaptable units included
<p><i>Objective 4Q-3</i></p> <p>Apartments layouts are flexible and accommodate a range of lifestyle needs</p>	See above
<p><i>Objective 4S Mixed Use</i></p> <p>Mixed use development to be concentrated around public transport and centres. Mixed use developments include active street frontages, diverse activities, diverse land uses, avoid blank walls etc</p>	N/A – applies to mixed use development
<p><i>Objective 4t Awnings and signage</i></p> <p>Awnings should be located along streets with high pedestrian activity and active frontages Signage should be integrated into the building design and respond to the scale, proportion and detailing of the development</p>	Satisfactory – awning to pedestrian entry clearly defines the entry
<p><i>Objective 4U-1 Energy Efficiency</i></p> <p>Development incorporates passive environmental design</p>	Satisfactory – BASIX Certificate provide
<p><i>Objective 4U-2</i></p> <p>Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer</p>	See above comment
<p><i>Objective 4U-3</i></p> <p>Adequate natural ventilation minimises the need for mechanical ventilation</p>	Satisfactory - adequate ventilation provided to all units
<p><i>Objective 4V-1</i></p> <p>Potable water use is minimised</p>	Satisfactory – BASIX Certificate provided

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Apartment Design Guidelines - Design Criteria	
Design Criteria	Comment
<p><i>Objective 4W-1 Waste Management</i></p> <p>Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents</p>	Satisfactory – waste to be collected from waste rooms in basement
<p><i>Objective 4W-2</i></p> <p>Domestic waste is minimised by providing safe and convenient source separation and recycling</p>	Satisfactory – recycling bins to be provided in waste storage rooms
<p><i>Objective 4X-1 - Building maintenance</i></p> <p>Building design detail provides protection from weathering</p> <p><i>Objective 4X-2</i></p> <p>Systems and access enable ease of maintenance</p> <p><i>Objective 4X-3 Materials selection reduces ongoing maintenance.</i></p>	<p>Satisfactory - materials and finishes chosen for low maintenance and durability</p> <p>See above</p>

SEPP 65 conclusion – In considering the design principles of SEPP 65 and the Apartment Design Guide, this assessment finds that the proposed residential apartments are satisfactory.

In determining the Development Application, Clause 30(2) below requires consideration:

- (2) *Development consent must not be granted if, in the opinion of the consent authority, the development or modification does not demonstrate that adequate regard has been given to the:*
- (a) *design quality principles, and*
 - (b) *objectives specified in the Apartment Design Guide for the relevant design criteria.*

Noting the assessment comments, Council may grant consent based on this assessment finding that the proposal is satisfactory.

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

A BASIX Certificate ref. 1386893M was submitted and demonstrates that the proposal has been designed in accordance with BASIX.

Kiama LEP 2011

Clause 2.3 - Zone objectives and Land Use Table

The subject land is zoned R3 Local Centre pursuant to Kiama LEP 2011. The proposal is defined as a *residential flat building* under the provisions of the LEP 2011, which is permitted with consent in the R3 zone. Consideration of the zone objectives is required as follows:

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- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide opportunities for multi-storey residential accommodation in locations 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.*
- *To increase the supply of affordable housing.*

Comment - In considering the objectives of the zone the development of 15 units will complement the locality including neighbouring apartments, providing new housing in walking distance of local employment and retail.

Specific clauses requiring consideration:

Clause 4.3 - Height of Buildings

Clause 4.3 requires that the height of the building does not exceed the maximum height shown on the Height of Buildings Map. The height of building map identifies that a maximum building height of 11m applies to the site. The 'Building Height Control' drawing in the architectural plans shown at Figure 7 identifies a maximum proposed height of 13.5m (shown as + 2.5m).

Consideration of the objectives of the height standard is also required, which are stated as follows:

- (a) *to ensure future development is in keeping with the desired scale and character of the street and local area,*
- (b) *to allow reasonable daylight access to all developments and the public domain.*

Comment – The proposal at 3 – 4 storeys is consistent with the scale of neighbouring apartment development which is also 3 – 4 storeys. Given it is comparable in scale the portion of the proposal exceeding the 11m height limit is not considered to result in excessive scale. The stepped form of the proposal as viewed from the street and neighbouring properties appropriately responds to the fall of the land to the north-west.

The design also demonstrates that the proposal does not cause any adverse amenity impacts with regards to solar access, privacy and views.

Based on these design merits a variation to the height standard is sought pursuant to Cl.4.6 of the LEP which is discussed below.

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Figure 7 – 11m height control analysis – note +2.5m at NW corner (Sheet DA530 pbd architects)

Clause 4.4 - Floor Space Ratio

Clause 4.4 requires that the floor space ratio does not exceed the maximum floor space ratio shown for land on the Floor Space Ratio (FSR) map. The Floor Space Ratio (FSR) map of Kiama LEP 2011 identifies that a maximum floor space ratio of 1:1 applies to the site.

Based on a site area of 2,306m² this permits a corresponding maximum Gross Floor Area of 2,306m². As per the definition provided in Kiama LEP 2011 the *gross floor area* of the proposed development is 2,300m² as demonstrated on the GFA Calculations Plan with a FSR of 1:1 which complies with the maximum FSR.

Clause 4.6 - Exceptions to Development Standards

As advised under Cl.4.3 Height of Buildings, the proposal has a maximum height of 13.5m which exceeds the maximum permitted height of 11m by 2.5m / 20%. Accordingly a variation to the Height standard is required to be assessed pursuant to Cl.4.6. In considering Cl.4.6 the applicant has submitted a formal request addressing the relevant provisions which are set out as follows:

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) *there are sufficient environmental planning grounds to justify the contravention of the development standard.*

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Comment – As discussed under the objectives for height, the proposal is consistent with the 3 – 4 storey scale of neighbouring apartments, with its stepped design following the fall of the land and appropriately following the scale and stepped form of the neighbouring apartment building to the north. The height of the proposal at 13.5m maximum is assessed as not resulting in any adverse amenity impacts to the site and neighbouring properties.

As demonstrated in Figure 7, the portion of the 4th level and roof which exceeds the 11m height limit correlates with the diagonal cross fall of the land to the rear north-western corner.

Noting the proposal complies with the maximum FSR this is an indicator that the proposal is not an overdevelopment of the site. Compliance with the height standard could only be achieved by deleting the 4th level which would remove two apartments, which is not in the interests of optimising housing supply in the R3 medium density zone. Furthermore in order for the GFA to be retained (by removing the 4th level), levels 1 – 3 would become wider, increasing the bulk of the development, reducing setbacks and internal amenity which are not desirable outcomes. Noting that no adverse impacts are considered to result from the variation to the height standard, strict compliance with the standard is considered both unnecessary and unreasonable.

Given the grounds for the variation as stated above, these are considered sufficient environmental planning grounds to justify the variation to the height standard.

Clause 5.10 - Heritage Conservation

Clause 5.10 lists requirements for heritage conservation for items listed in Schedule 5 of Kiama LEP 2011. The closest mapped heritage item to the site is the “Hartwell House Residence” property, listed as local significance and located approximately 50m south of the site. Given this separation distance, and that it is separated by two other dwellings between Hartwell Crecent and Bourrool Lane, the proposal is assessed as having minimal visual impact to the setting of this heritage item thereby having no adverse heritage impacts.

Clause 6.1 - Acid Sulfate Soils

Clause 6.1 lists requirements for land affected by Acid Sulfate Soils (ASS). The Acid Sulfate Soils Map indicates that the site is not affected by ASS with the closest mapped ASS being located approximately 1.1km to the north.

Clause 6.2 - Earthworks

Clause 6.2 lists considerations for proposals which involve earthworks. The proposal complies with the objectives of the clause as the proposed earthworks associated with the parking basement are ancillary to the proposed development, therefore separate development consent is not required.

In support of the proposal the Geotechnical Assessment makes recommendations on construction methods and dewatering.

The proposed earthworks and excavation are unlikely to have any adverse impact on any relics in the locality, with a condition of consent to address any ‘unexpected finds’. Given the excavation depth for the double level basement a condition of consent is also recommended requiring a Dilapidation Assessment prior to commencement of works and at the conclusion of works for neighbouring buildings.

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Clause 6.12 – Essential services

Clause 6.12 lists essential services for development that Council must be satisfied, before consent is granted, are available. In this regard the proposal replaces an existing dwelling in an established street, with all essential infrastructure including water, sewer, electricity, communications and access being available/provided.

Satisfactory arrangements are made in the development for stormwater disposal and Sydney Water and Endeavour Energy have raised no objections to the proposed development.

Any Draft Environmental Planning Instruments

There is no draft LEP that affects the site or proposal. A review of draft SEPPs on the NSW Planning website identifies no draft SEPPs that affect the site or proposed development.

Kiama Development Control Plan 2020

The proposed development is generally consistent with the relevant provisions of the Kiama DCP 2020. Controls relating to residential apartment design including size and balcony areas are addressed in the SEPP 65 assessment section of this report, noting the SEPP is the prevailing instrument for assessment of residential units.

Control	Comment
Chapter 3 – Common Requirements	
<i>Chapter 3.1.21 – waste</i>	Complies – enclosed waste storage room provided as required, separating residential and commercial waste
<i>Chapter 3.2 Amenity - Protect amenity of neighbouring properties</i>	Complies – the proposal is designed to retain > 3 hours direct sunlight to neighbouring properties, with no direct overlooking and no impact on views/outlook
<i>Chapter 3.2.41 – Side Fencing - Maximum 1.8m height</i>	Complies – fencing to side and rear 1.8m high
<i>Chapter 3.2.32 - Landscape Plan</i>	Complies – the Landscape Plan is satisfactory
<i>Chapter 3.6.8 – parking</i> Resident parking: 2 spaces/3+br unit Proposal = 15 x 3br units x 2 spaces/unit = 30 resident spaces required Visitor parking: 1 space/2 units = 7 (7.5) spaces required	Complies: 31 resident space +8 visitor spaces

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Control	Comment
<i>Chapter 3.6.35 – manoeuvring - designed to accommodate largest likely vehicle</i>	Yes – Refer to Traffic Report and Council engineers advice. Design is satisfactory.
<i>Chapter 3.6.46 – bicycle parking - 1 space/3 units (5 spaces)</i>	Complies – storage cages for each parking space allow secure bicycle storage
<i>Chapter 3.6.53 – Accessible paths Pedestrian access max 15%</i>	Yes – southern lobby flat access from street, northern lobby includes wheelchair lift for external stairs from street
<i>Chapter 3.7.5 – Crime prevention through environmental design</i>	Complies – resident lobby clearly visible from street
<i>Chapter 6.5.3 – lift access for 3+ storeys</i>	Complies – lift access to all residential units
<i>Chapter 6.5.4 – adaptable housing provided at ratio of 1:4 dwelling - 3.75 units adaptable, rounded to 4 units)</i>	Complies – 4 adaptable units provided for 15 units
<i>Chapter 6.5.7 – cut/fill external maximum 900mm</i>	Complies – max 600mm cut for external terrace east side, 800mm fill for external terrace to west side
<i>Chapter 6.5.11 – setback 6m to front 6m to side for balconies & living areas, 3m to walls 6m to rear or as per established rear BL</i>	Complies – 8m to ground level 6m min to north side, 7m to west side living 4.2m to west side wall 4.5m to Bourrool Lane, consistent with setback of western neighbour fronting the lane (19A Bourrool St)
<i>Chapter 6.5.26 – cross over apartments min width 4m</i>	Complies – all apartments have internal widths > 4m
<i>Chapter 6.5.28 – solar access - 70% of units' living areas are to receive a minimum of 3 hours direct sunlight at the winter solstice between 9am – 3pm</i>	Complies – 11 of 15 units / 73% receive > 3 hours sunlight

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Control	Comment
<i>Chapter 6.5.30 – solar access – minimum 3 hours retained to neighbours living areas</i>	Complies - > 3 hours sunlight retained to southern and western side neighbours at winter solstice
<i>Chapter 6.5.36 – Storage</i> <ul style="list-style-type: none"> • 1br – 6m³ • 2 br – 8m³ • 3br – 10m³ 	Complies – each unit provided with secure storage space in basement parking plus storage in each unit
<i>Chapter 6.5.42 solar access to balconies - minimum 70% to receive minimum 3 hours direct sunlight between 9am – 3pm at winter solstice</i>	Complies - > 3 hours sunlight achieved to 11 of 15 principle POS balconies
<i>Chapter 6.5.50 – Safety/Security</i>	Complies – Secure access provided to building with clear entries
<i>Chapter 6.5.68 – Bin storage facilities</i>	Complies – separate waste store rooms proposed, conditions of consent advised from Council's Waste Officer
DCP Chapter 12.7 - Streetscape improvements <ul style="list-style-type: none"> • create a more continuous streetscape • create interest in facades • clear entrance point • materials consistent with character of Kiama town centre 	Yes – facade along front boundary increases activation to streetscape, with clear pedestrian entry points. Contrasting materials including timber, rendered slab edges, glass balustrades, and landscaping create interest

DCP assessment summary

The proposed development generally complies with the relevant controls of Kiama DCP 2020, and where strict compliance is not achieved the objectives of the controls are maintained.

Any Planning Agreement

Nil.

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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

Biodiversity

The application does not propose clearing of native vegetation, and therefore the Environmental Planning and Assessment Act 1979 Part 1 Section 1.7 does not apply to the development.

Streetscape

The proposal is considered acceptable in bulk and scale in context of development in the surrounds. The design is considered well articulated with the façade providing a contemporary range of materials and finishes with landscaping.

Amenity

The proposed residential units are considered to provide satisfactory levels of amenity having regard to the SEPP 65 Design Principles.

Vehicular Access, Parking and Manoeuvring

Compliant resident and visitor car parking is proposed in the basement parking areas.

Noise

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

Privacy and Overlooking

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

Overshadowing

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

Views

The proposal is demonstrated in the view analysis that it will have no unreasonable impact upon views currently available from neighbouring dwellings.

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Vehicular Access, Parking and Manoeuvring

Sufficient car parking is proposed.

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

Stormwater Management

A satisfactory drainage design has been provided with the application.

All stormwater will drain to the drainage easement adjoining the site at the lower north-western corner. A condition of consent is recommended requiring approval from Council to connect into the stormwater easement.

Environmental Impacts

Vegetation Removal – No vegetation is to be removed.

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

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 the adjoining easement at the north-eastern corner of the site. Controls will be implemented during construction to minimise sedimentation.

Social and Economic Impacts

The proposed development will likely have minimal adverse social or economic impacts. The amenity impacts of the proposed development have been considered in detail and no concerns raised in submissions warrant refusal of the application.

The Suitability of the Site for the Development

The proposal fits within the locality and the site attributes are considered to be conducive to development.

Submissions

Public Submissions

Notification letters were sent to neighbouring property owners who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period, nine submissions were received which raised the following (summarised) matters of concern:

Objection	Assessment Officer’s Comment
Privacy impacts – north and south facing balconies and living areas looking into neighbours balconies and windows	Proposal is assessed as providing compliant separation of 12m to northern and southern neighbouring development under the Apartment Design Guidelines. Neighbours south facing windows are limited in size and have external screens for privacy. Outlook to southern neighbour is from south facing bedroom windows with no unreasonable privacy loss.

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Potential excavation impacts associated with basement parking	This is acknowledged while noting the basement is well setback from each boundary. Conditions of consent are recommended requiring a Dilapidation Assessment prior to commencement of works and prior to issue of an Occupation Certificate.
Proposal exceeds height limit	The Cl.4.6 variation request to the height standard is considered well founded. The portion of the 4 th level exceeding the height limit does not cause any adverse amenity impacts to neighbouring properties.
Building setbacks – does not comply with DCP controls	Proposal is assessed as complying with front, side and rear setback controls under Ch.6.5.11 of the DCP
Loss of vegetation	No significant vegetation exists on the site that will be cleared, with replacement landscaping assessed by Council's Landscape officer as satisfactory. It is noted that additional planting opportunities adjacent to the northern boundary is constrained by overshadowing from the neighbouring apartments. Removal of three established palms on the site adjacent to the northern boundary (suggested to be Cabbage Palms) is assessed as acceptable and confirmed by Council's Landscape Officer subject to replacement planting as shown on Landscape Plan.
Construction noise	Noise from excavation and construction will be commensurate with other recent apartment construction in the area, with conditions of consent to apply regulating hours / days of work.
Overshadowing impacts to south	Proposal has compliant height and setback adjacent to south side boundary. Shadow diagrams demonstrate 3 hours sunlight retained to southern neighbour between 12pm and 3pm at winter solstice
Isolation impact to 19A Bourrool St	Access is retained to No.19A. The proposal will not prevent redevelopment of this site in the future.
Impact on beach views from 19A Bourrool St	Proposal has compliant setbacks and is permissible with consent. Existing narrow view line looking north from No.19A will be retained, looking past western side of proposal
Request to upgrade Bourrool Lane	Noting the proposal seeks access from Bourrool Street with no vehicle access required from the lane, upgrades to the lane are not considered to be justified

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Attachment 1

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Runoff impacts

Council's engineer has assessed the engineering plans including stormwater as satisfactory noting runoff is to be conveyed to the drainage easement at the north-western corner of the site.

External Referrals

Nil

Internal Referrals

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

Subdivision & Development Engineer

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

Building Officer

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

Waste Officer

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

Landscape Design Officer

No objection has been raised in relation to the proposed development, with confirmation the three palm trees on the site are Mexican Fan Palms which are not native. Conditions of development consent have been recommended should the application be approved.

Property Manager

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 the Kiama Development Control Plan, is not likely to cause significant adverse impacts to the natural or built environment, is not likely to cause significant adverse social and economic impacts, is suitable for the site and therefore is considered to be consistent with the public interest.

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Final Comments and Conclusions

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposal is satisfactory with regards to the objectives of the R3 Medium density zone. A variation to the building height standard has been considered and assessed as acceptable on merit. The proposal is also assessed as consistent with SEPP 65 and the Apartment Design Code and complies with the relevant provisions of Kiama DCP.

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

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

RECOMMENDATION

I declare that I have no pecuniary or non-pecuniary conflict of interest in the application, and recommend that Development Application No 10.2023.92.1 be approved under Section 4.16 of the Environmental Planning and Assessment Act, 1979, subject to conditions.

Ben Rourke
Assessment Officer

15/02/2024

Cheryl Lappin
Manager Planning & Economic Development

05/03/2024

PROPOSED RESIDENTIAL FLAT BUILDING
19-21 BOURROOL STREET, KIAMA



DRAWING LIST:

- DA000 COVER PAGE
- DA001 PROJECT SUMMARY
- DA002 SITE PLAN
- DA003 SITE ANALYSIS
- DA004 SITE PLAN
- DA100 BASEMENT 2
- DA101 BASEMENT
- DA102 GROUND FLOOR
- DA103 GROUND FLOOR PLAN
- DA104 LEVEL 1 PLAN
- DA105 LEVEL 2 PLAN
- DA106 ROOF PLAN
- DA200 NORTH & EAST ELEVATION
- DA201 SOUTH & WEST ELEVATION
- DA300 SECTION A-B
- DA302 SECTION C
- DA310 DRIVEWAY SECTION
- DA311 EXCAVATION & FILL
- DA400 MATERIALS & FINISHES SCHEDULE
- DA410 PHOTO MONTAGE 1
- DA411 PHOTO MONTAGE 2
- DA500 FSR CALCULATIONS
- DA510 DEEP SOIL CALCULATION- LOWER GROUND
- DA520 DEEP SOIL CALCULATION- UPPER GROUND
- DA521 DEEP SOIL LANDSCAPE- LOWER GROUND
- DA530 BUILDING HEIGHT CONTROL DIAGRAM
- DA540 CROSS VENTILATION DIAGRAM
- DA550 COMMUNAL & PRIVATE OPEN SPACE
- DA570 STORAGE CALCULATION SHEET 1
- DA580 STORAGE CALCULATION SHEET 2
- DA590 VENT ANALYSIS
- DA600 SOLAR ACCESS DIAGRAM SHEET 1
- DA610 SOLAR ACCESS DIAGRAM SHEET 2
- DA611 SHADOW DIAGRAM - JUNE 21
- DA700 ADAPTABLE UNIT TYPE A
- DA701 ADAPTABLE UNIT TYPE B

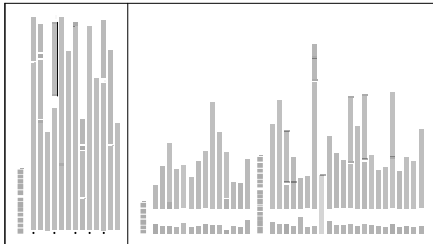
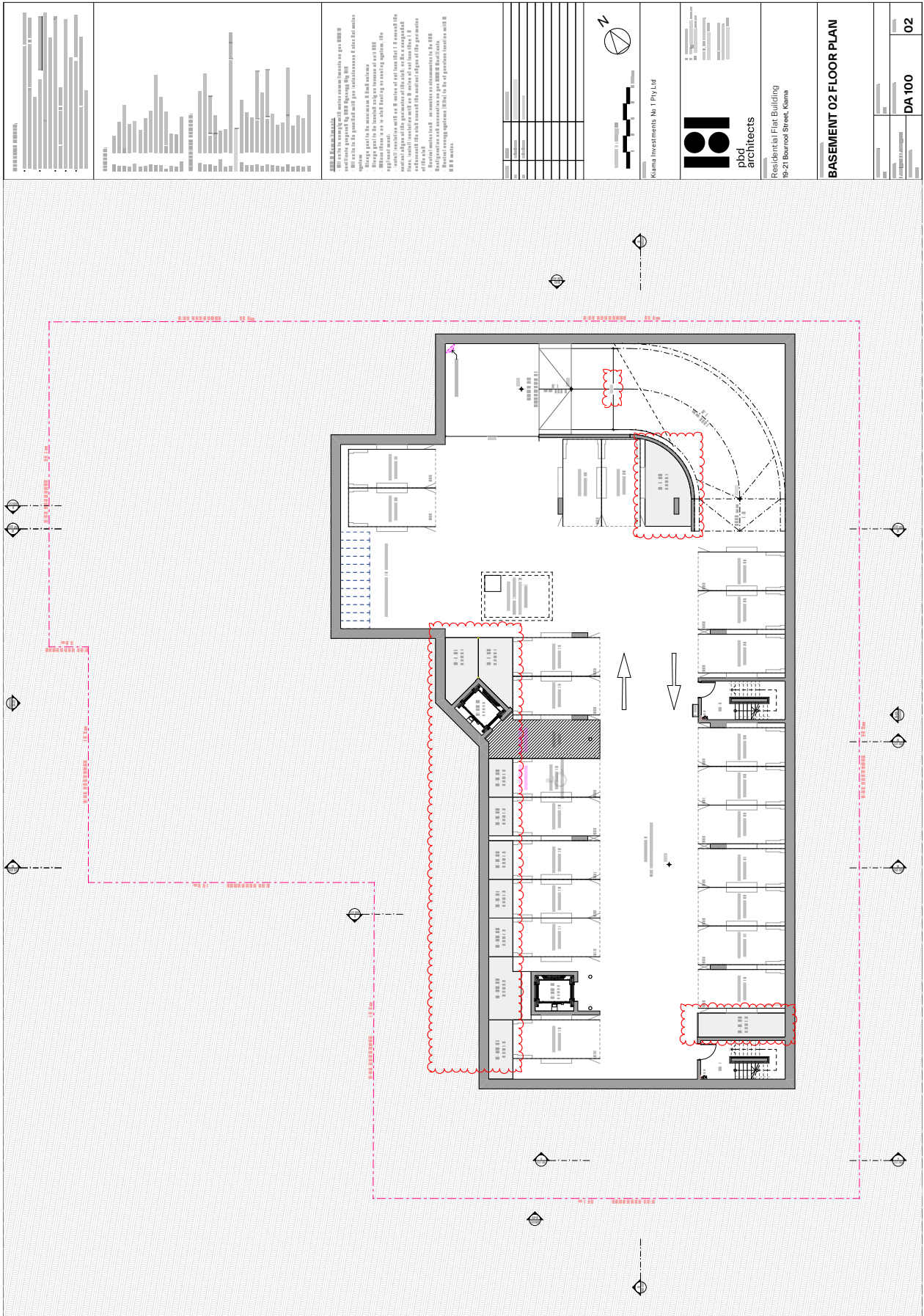
AREA SCHEDULE

Level	Unit No	Type	Adaptable	Liability	Internal Area (m ²)	Terrace/ Balcony (m ²)	Storage within Unit (m ³)	Carpark Storage (m ³)	Total Storage Provided (m ³)
LOWER GROUND	UNIT 001	3 BED			155	79	8.1	13.2	21.3
	UNIT 002	3 BED			142	50	6.9	8.6	20.5
	UNIT 003	3 BED	✓	✓	149	60	7.1	8.6	15.7
GROUND	UNIT 001	3 BED			128	33	8.7	8.6	17.3
	UNIT 002	3 BED	✓		142	50	5.1	8.6	13.7
	UNIT 003	3 BED	✓		155	50	8.1	8.6	16.7
	UNIT 004	3 BED	✓	✓	143	38	6.9	8.6	15.5
	UNIT 005	3 BED	✓		149	25	6.4	8.6	15.0
	UNIT 006	3 BED	✓		149	25	6.4	8.6	15.0
LEVEL 1	UNIT 101	3 BED			128	22	8.7	8.6	25.9
	UNIT 102	3 BED			142	22	5.1	8.6	23.3
	UNIT 103	3 BED			155	50	8.1	8.6	38.5
	UNIT 104	3 BED	✓	✓	143	38	6.9	8.6	21.3
	UNIT 105	3 BED	✓		149	25	6.4	8.6	15.0
LEVEL 2	UNIT 201	3 BED			128	22	8.7	8.6	17.3
	UNIT 202	3 BED			128	216	5.1	8.6	24.2

Kiama Investments No 1 Pty Ltd

Residential Flat Building
19-21 Bourrool Street, Kiama

COVER PAGE



GENERAL NOTES

1. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

2. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

3. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

4. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

5. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

6. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

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8. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

9. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

10. ALL WORK TO BE DONE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2018.

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	10/2023
2	ISSUED FOR PERMIT	10/2023
3	ISSUED FOR PERMIT	10/2023
4	ISSUED FOR PERMIT	10/2023
5	ISSUED FOR PERMIT	10/2023
6	ISSUED FOR PERMIT	10/2023
7	ISSUED FOR PERMIT	10/2023
8	ISSUED FOR PERMIT	10/2023
9	ISSUED FOR PERMIT	10/2023
10	ISSUED FOR PERMIT	10/2023

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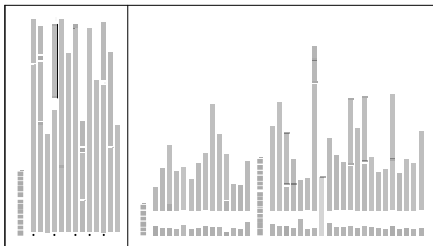
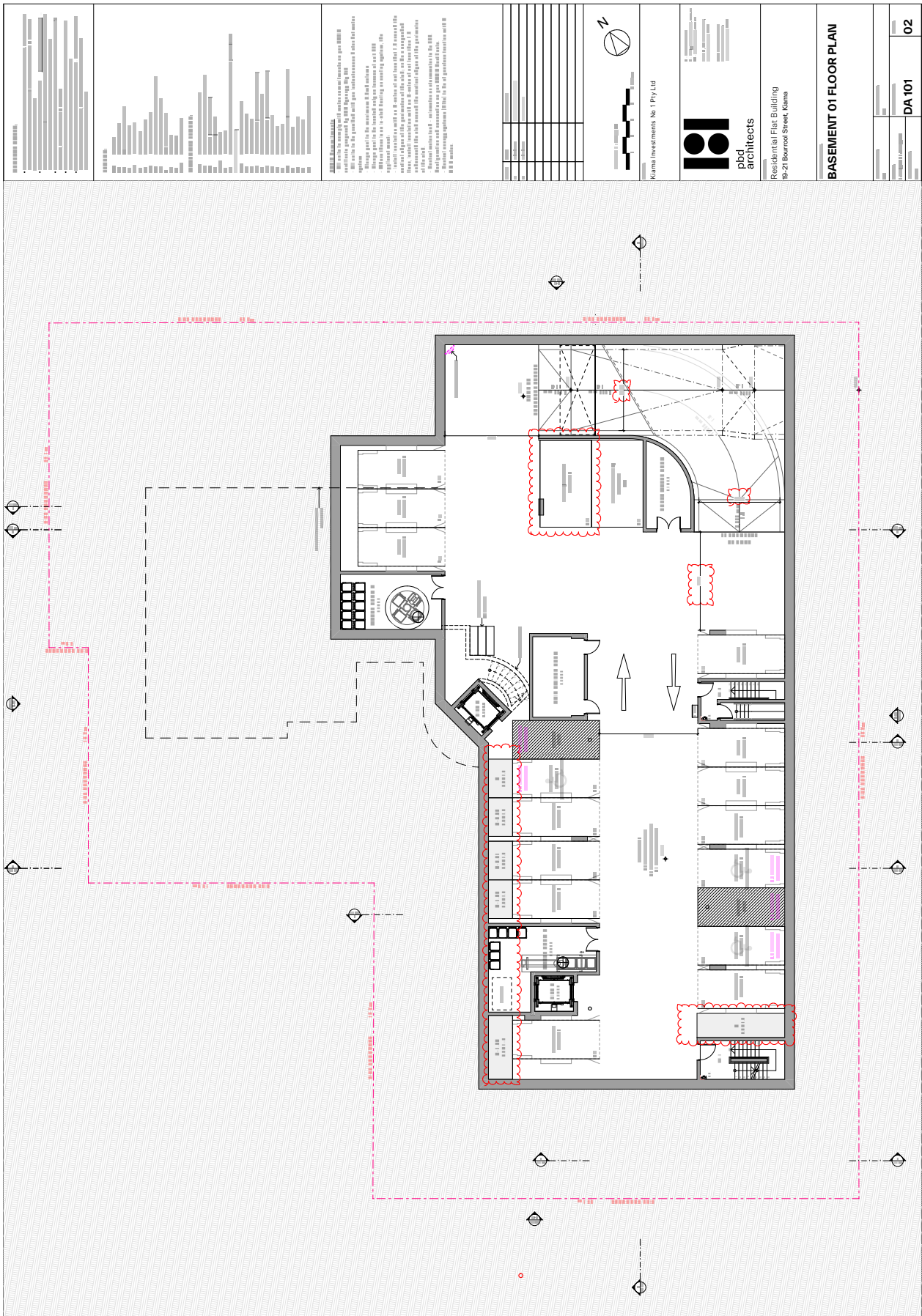
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Residential Flat Building
19-21 Bourrool Street, Kiama

BASEMENT 02 FLOOR PLAN

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	10/2023
2	ISSUED FOR PERMIT	10/2023
3	ISSUED FOR PERMIT	10/2023
4	ISSUED FOR PERMIT	10/2023
5	ISSUED FOR PERMIT	10/2023
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7	ISSUED FOR PERMIT	10/2023
8	ISSUED FOR PERMIT	10/2023
9	ISSUED FOR PERMIT	10/2023
10	ISSUED FOR PERMIT	10/2023

Attachment 2 Item 15.1



NOTES:

1. All work to be done in accordance with the relevant Australian Standards and the relevant Building Code of Australia (BCA).
2. All work to be done in accordance with the relevant Australian Standards and the relevant Building Code of Australia (BCA).
3. All work to be done in accordance with the relevant Australian Standards and the relevant Building Code of Australia (BCA).
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NO.	DESCRIPTION	DATE
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3	ISSUED FOR PERMIT	10/2023
4	ISSUED FOR PERMIT	10/2023
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6	ISSUED FOR PERMIT	10/2023
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9	ISSUED FOR PERMIT	10/2023
10	ISSUED FOR PERMIT	10/2023

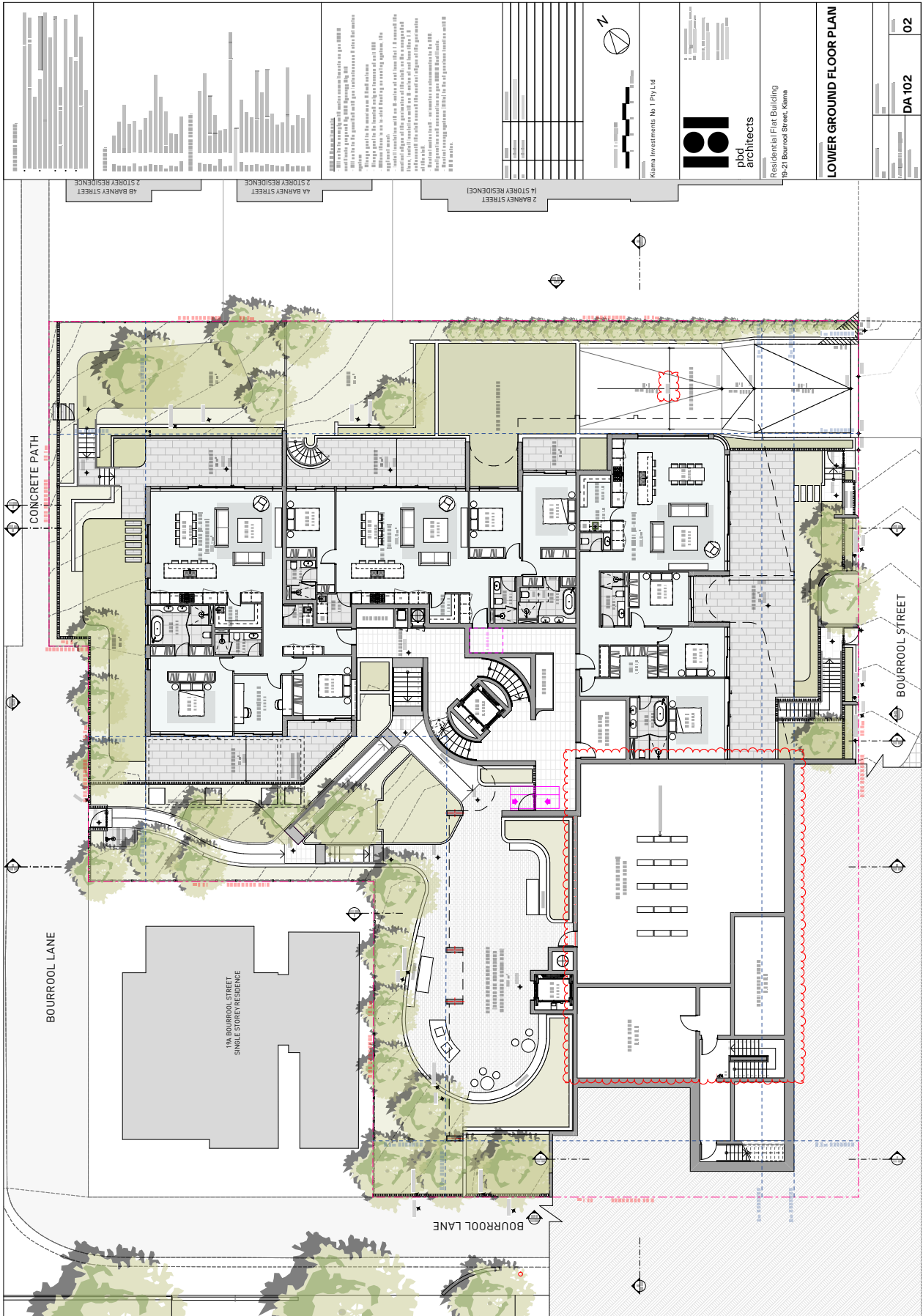
Kiama Investments No 1 Pty Ltd
 19-21 Bourrool Street, Kiama
 NSW 2533



Residential Flat Building
 19-21 Bourrool Street, Kiama

BASEMENT 01 FLOOR PLAN

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMIT	10/2023
2	ISSUED FOR PERMIT	10/2023
3	ISSUED FOR PERMIT	10/2023
4	ISSUED FOR PERMIT	10/2023
5	ISSUED FOR PERMIT	10/2023
6	ISSUED FOR PERMIT	10/2023
7	ISSUED FOR PERMIT	10/2023
8	ISSUED FOR PERMIT	10/2023
9	ISSUED FOR PERMIT	10/2023
10	ISSUED FOR PERMIT	10/2023



LOWER GROUND FLOOR PLAN

Kiama Investments No 1 Pty Ltd

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Residential Flat Building
19-21 Bourrool Street, Kiama

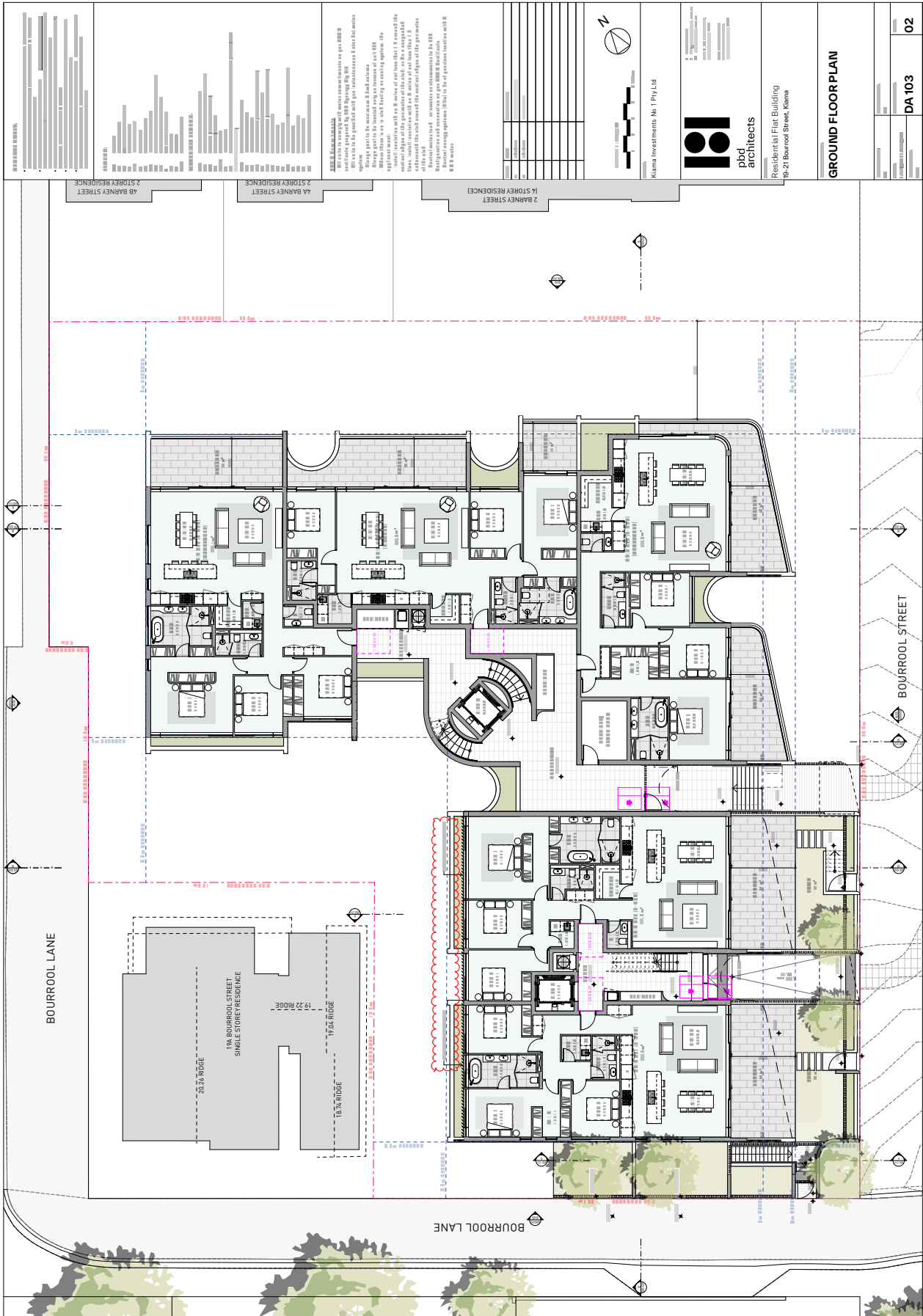
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NOTES:

1. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
2. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
3. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
4. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
5. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
6. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
7. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
8. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.
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10. ALL ROOMS TO BE FINISHED TO THE FINISHES SHOWN ON THE FINISHES SCHEDULE.

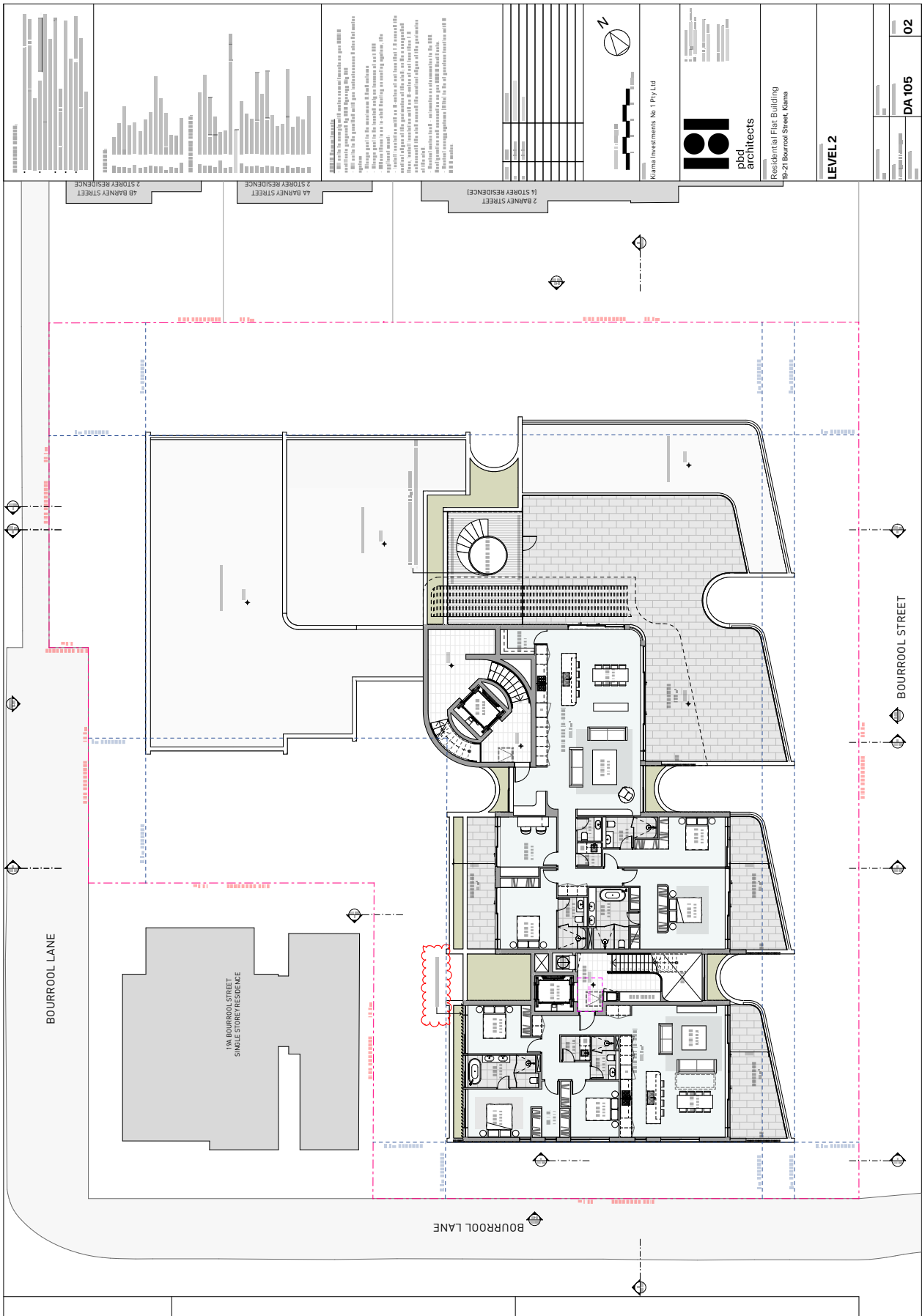
Item 15.1

Attachment 2



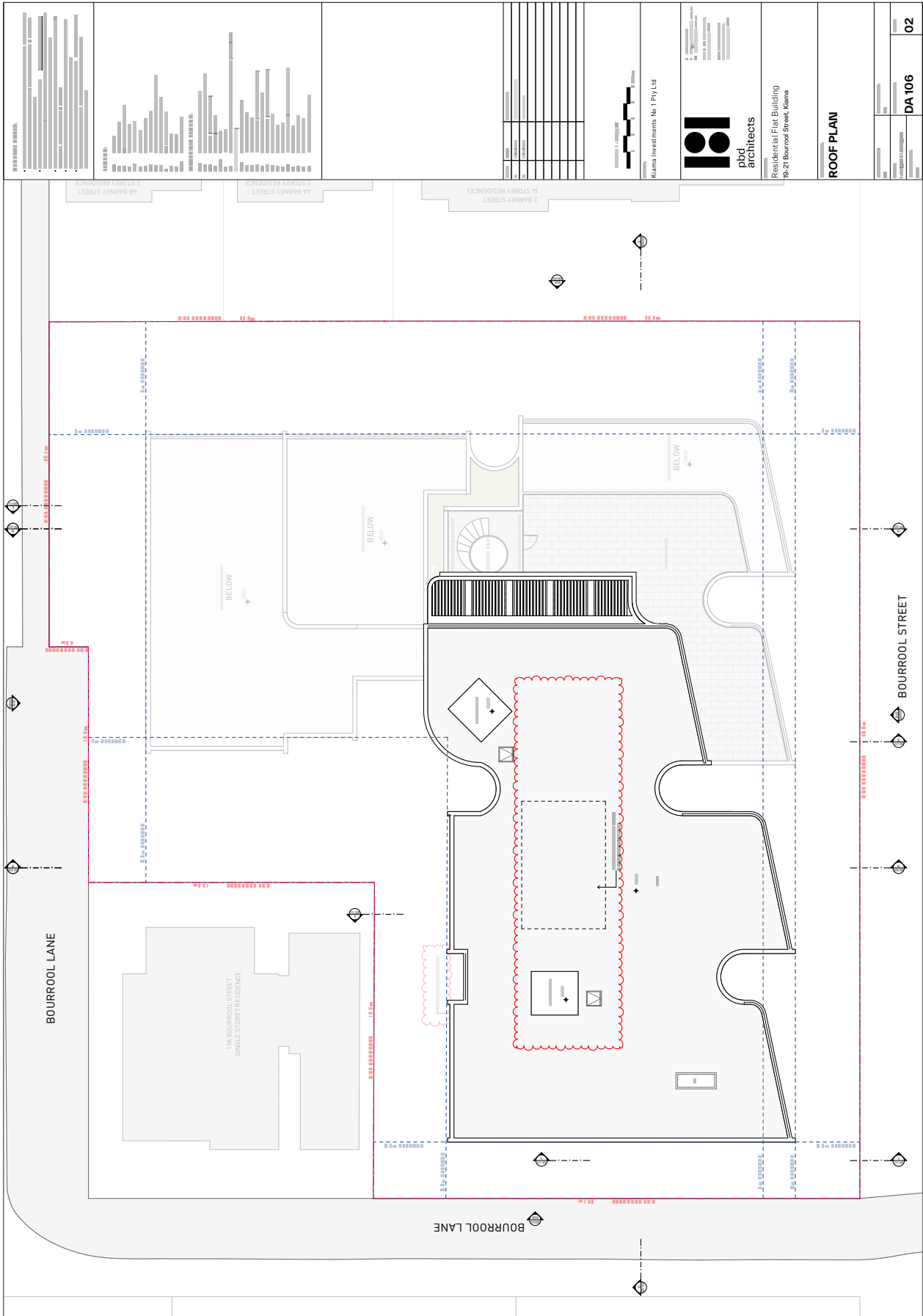
Item 15.1

Attachment 2



Item 15.1

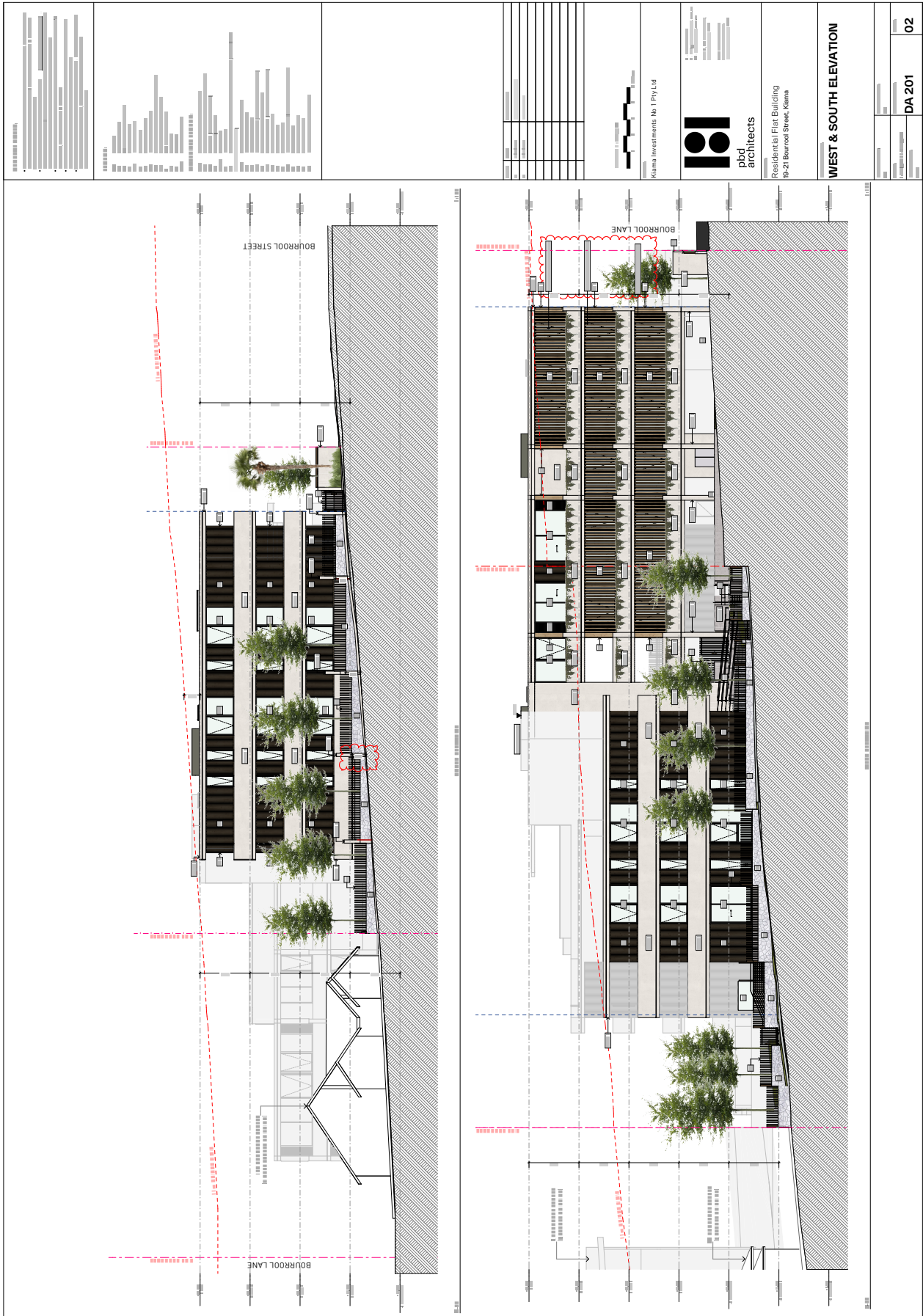
Attachment 2

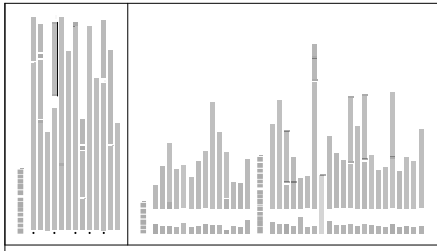
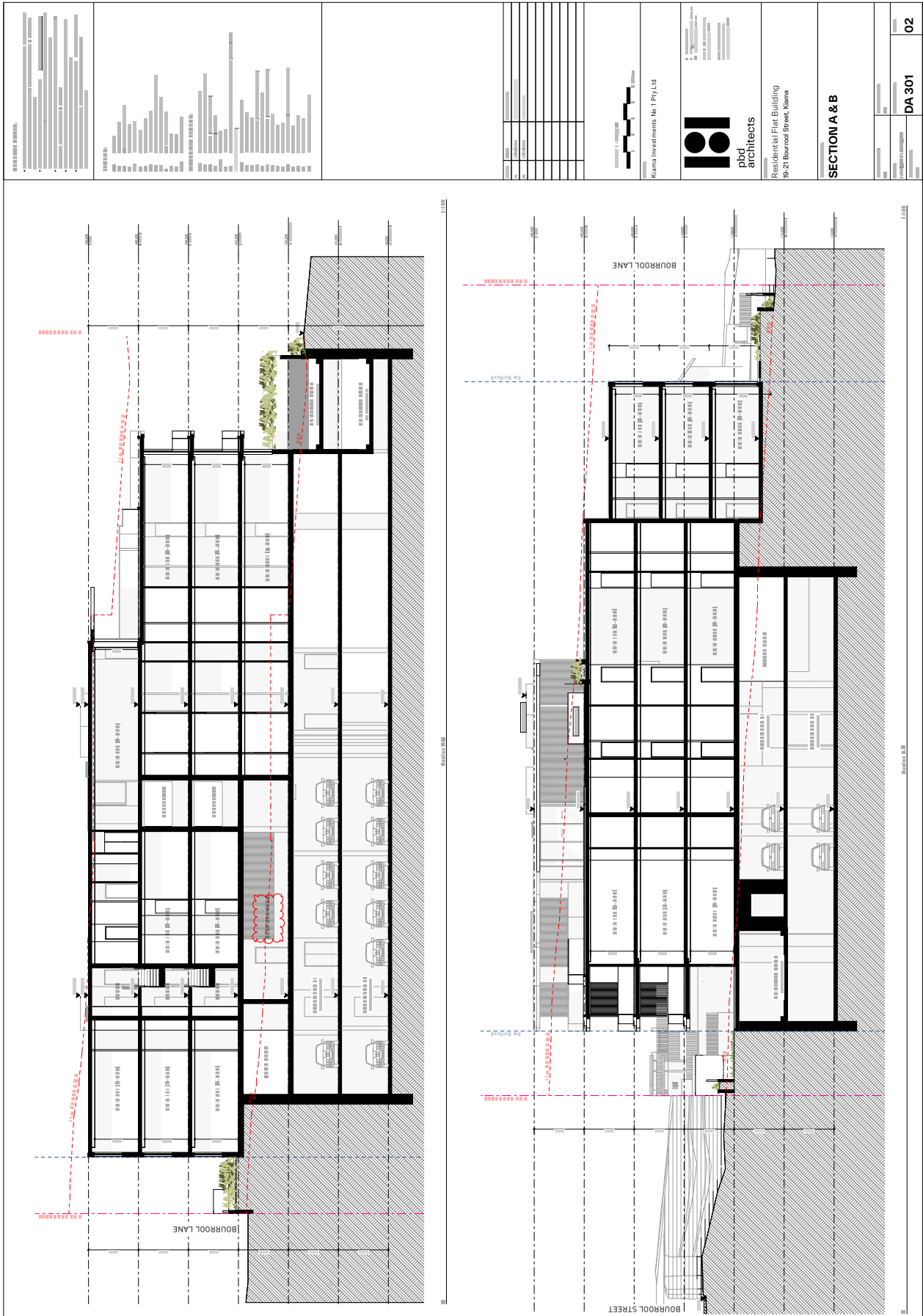


Item 15.1

Attachment 2







NO.	DESCRIPTION
1	SECTION A & B

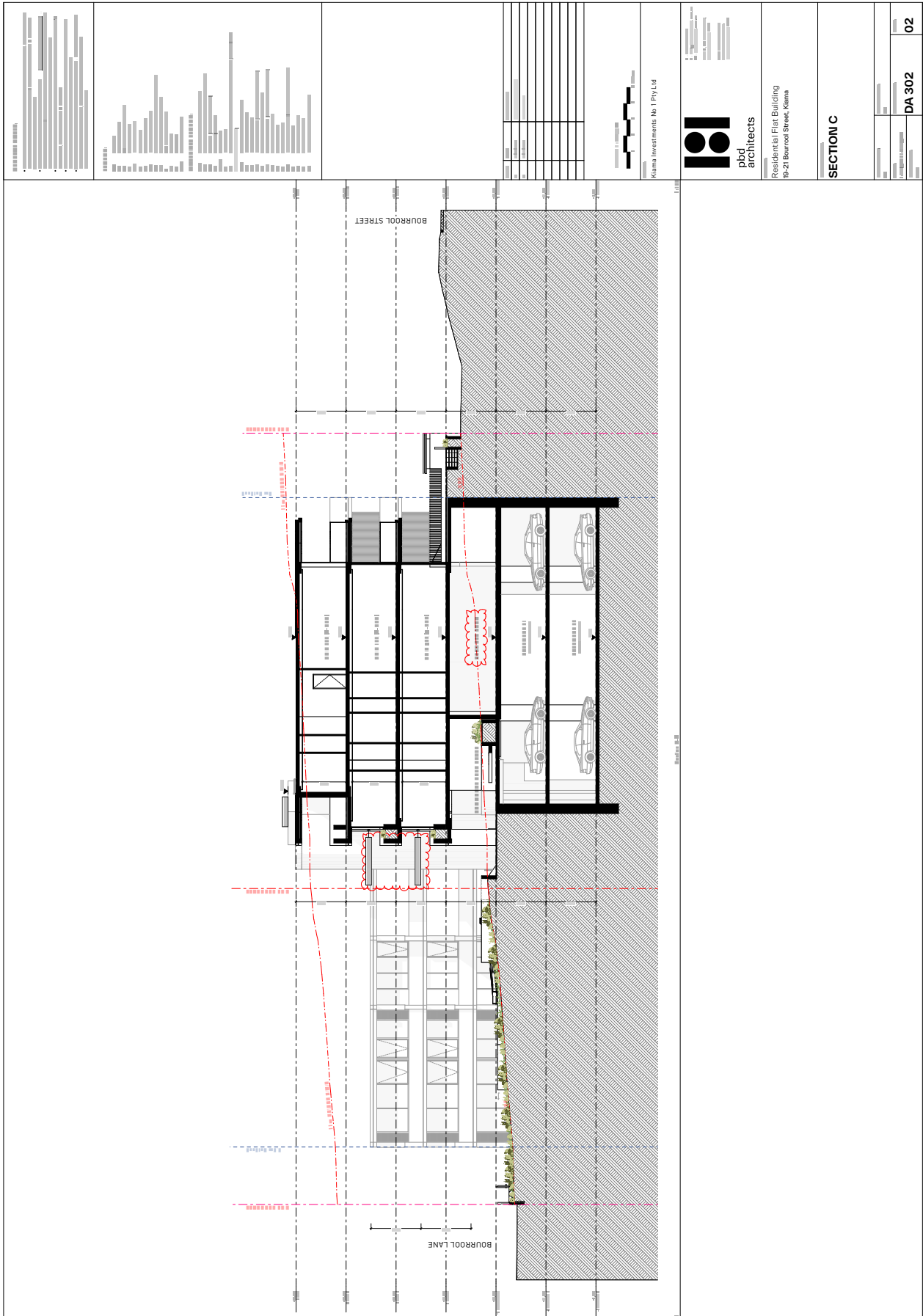
Kiama Investments No 1 Pty Ltd

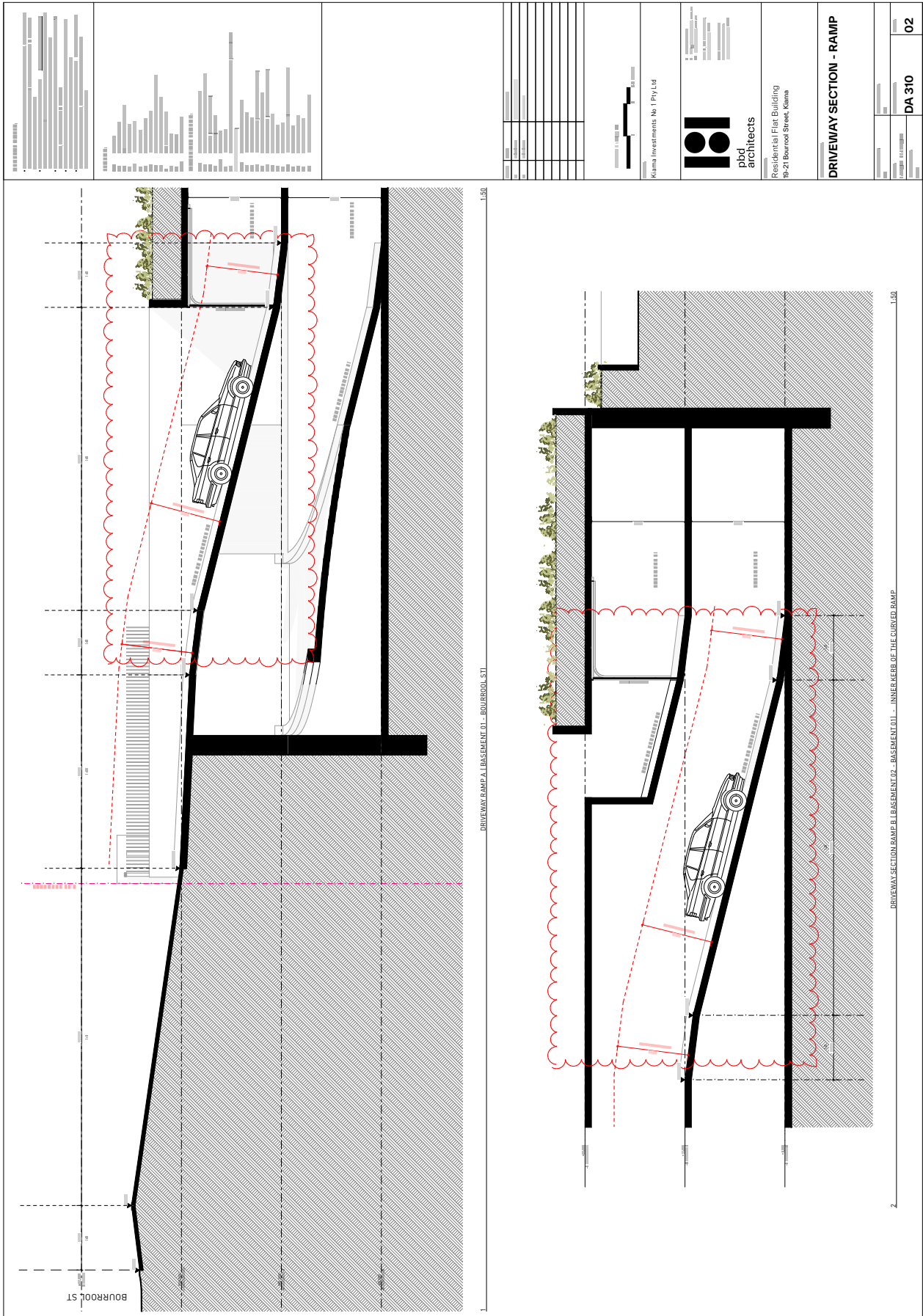
rbd architects

Residential Flat Building
19-21 Bourrool Street, Kiama

SECTION A & B

DA 301	02
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Item 15.1

Attachment 2



Architectural floor plans of a residential flat building, showing two levels with room layouts, furniture, and structural elements. The plans are oriented vertically on the page.

1.00	1.01	1.02	1.03	1.04	1.05	1.06	1.07	1.08	1.09	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	1.18	1.19	1.20	1.21	1.22	1.23	1.24	1.25	1.26	1.27	1.28	1.29	1.30	1.31	1.32	1.33	1.34	1.35	1.36	1.37	1.38	1.39	1.40	1.41	1.42	1.43	1.44	1.45	1.46	1.47	1.48	1.49	1.50	1.51	1.52	1.53	1.54	1.55	1.56	1.57	1.58	1.59	1.60	1.61	1.62	1.63	1.64	1.65	1.66	1.67	1.68	1.69	1.70	1.71	1.72	1.73	1.74	1.75	1.76	1.77	1.78	1.79	1.80	1.81	1.82	1.83	1.84	1.85	1.86	1.87	1.88	1.89	1.90	1.91	1.92	1.93	1.94	1.95	1.96	1.97	1.98	1.99	2.00	2.01	2.02	2.03	2.04	2.05	2.06	2.07	2.08	2.09	2.10	2.11	2.12	2.13	2.14	2.15	2.16	2.17	2.18	2.19	2.20	2.21	2.22	2.23	2.24	2.25	2.26	2.27	2.28	2.29	2.30	2.31	2.32	2.33	2.34	2.35	2.36	2.37	2.38	2.39	2.40	2.41	2.42	2.43	2.44	2.45	2.46	2.47	2.48	2.49	2.50	2.51	2.52	2.53	2.54	2.55	2.56	2.57	2.58	2.59	2.60	2.61	2.62	2.63	2.64	2.65	2.66	2.67	2.68	2.69	2.70	2.71	2.72	2.73	2.74	2.75	2.76	2.77	2.78	2.79	2.80	2.81	2.82	2.83	2.84	2.85	2.86	2.87	2.88	2.89	2.90	2.91	2.92	2.93	2.94	2.95	2.96	2.97	2.98	2.99	3.00	3.01	3.02	3.03	3.04	3.05	3.06	3.07	3.08	3.09	3.10	3.11	3.12	3.13	3.14	3.15	3.16	3.17	3.18	3.19	3.20	3.21	3.22	3.23	3.24	3.25	3.26	3.27	3.28	3.29	3.30	3.31	3.32	3.33	3.34	3.35	3.36	3.37	3.38	3.39	3.40	3.41	3.42	3.43	3.44	3.45	3.46	3.47	3.48	3.49	3.50	3.51	3.52	3.53	3.54	3.55	3.56	3.57	3.58	3.59	3.60	3.61	3.62	3.63	3.64	3.65	3.66	3.67	3.68	3.69	3.70	3.71	3.72	3.73	3.74	3.75	3.76	3.77	3.78	3.79	3.80	3.81	3.82	3.83	3.84	3.85	3.86	3.87	3.88	3.89	3.90	3.91	3.92	3.93	3.94	3.95	3.96	3.97	3.98	3.99	4.00	4.01	4.02	4.03	4.04	4.05	4.06	4.07	4.08	4.09	4.10	4.11	4.12	4.13	4.14	4.15	4.16	4.17	4.18	4.19	4.20	4.21	4.22	4.23	4.24	4.25	4.26	4.27	4.28	4.29	4.30	4.31	4.32	4.33	4.34	4.35	4.36	4.37	4.38	4.39	4.40	4.41	4.42	4.43	4.44	4.45	4.46	4.47	4.48	4.49	4.50	4.51	4.52	4.53	4.54	4.55	4.56	4.57	4.58	4.59	4.60	4.61	4.62	4.63	4.64	4.65	4.66	4.67	4.68	4.69	4.70	4.71	4.72	4.73	4.74	4.75	4.76	4.77	4.78	4.79	4.80	4.81	4.82	4.83	4.84	4.85	4.86	4.87	4.88	4.89	4.90	4.91	4.92	4.93	4.94	4.95	4.96	4.97	4.98	4.99	5.00	5.01	5.02	5.03	5.04	5.05	5.06	5.07	5.08	5.09	5.10	5.11	5.12	5.13	5.14	5.15	5.16	5.17	5.18	5.19	5.20	5.21	5.22	5.23	5.24	5.25	5.26	5.27	5.28	5.29	5.30	5.31	5.32	5.33	5.34	5.35	5.36	5.37	5.38	5.39	5.40	5.41	5.42	5.43	5.44	5.45	5.46	5.47	5.48	5.49	5.50	5.51	5.52	5.53	5.54	5.55	5.56	5.57	5.58	5.59	5.60	5.61	5.62	5.63	5.64	5.65	5.66	5.67	5.68	5.69	5.70	5.71	5.72	5.73	5.74	5.75	5.76	5.77	5.78	5.79	5.80	5.81	5.82	5.83	5.84	5.85	5.86	5.87	5.88	5.89	5.90	5.91	5.92	5.93	5.94	5.95	5.96	5.97	5.98	5.99	6.00	6.01	6.02	6.03	6.04	6.05	6.06	6.07	6.08	6.09	6.10	6.11	6.12	6.13	6.14	6.15	6.16	6.17	6.18	6.19	6.20	6.21	6.22	6.23	6.24	6.25	6.26	6.27	6.28	6.29	6.30	6.31	6.32	6.33	6.34	6.35	6.36	6.37	6.38	6.39	6.40	6.41	6.42	6.43	6.44	6.45	6.46	6.47	6.48	6.49	6.50	6.51	6.52	6.53	6.54	6.55	6.56	6.57	6.58	6.59	6.60	6.61	6.62	6.63	6.64	6.65	6.66	6.67	6.68	6.69	6.70	6.71	6.72	6.73	6.74	6.75	6.76	6.77	6.78	6.79	6.80	6.81	6.82	6.83	6.84	6.85	6.86	6.87	6.88	6.89	6.90	6.91	6.92	6.93	6.94	6.95	6.96	6.97	6.98	6.99	7.00	7.01	7.02	7.03	7.04	7.05	7.06	7.07	7.08	7.09	7.10	7.11	7.12	7.13	7.14	7.15	7.16	7.17	7.18	7.19	7.20	7.21	7.22	7.23	7.24	7.25	7.26	7.27	7.28	7.29	7.30	7.31	7.32	7.33	7.34	7.35	7.36	7.37	7.38	7.39	7.40	7.41	7.42	7.43	7.44	7.45	7.46	7.47	7.48	7.49	7.50	7.51	7.52	7.53	7.54	7.55	7.56	7.57	7.58	7.59	7.60	7.61	7.62	7.63	7.64	7.65	7.66	7.67	7.68	7.69	7.70	7.71	7.72	7.73	7.74	7.75	7.76	7.77	7.78	7.79	7.80	7.81	7.82	7.83	7.84	7.85	7.86	7.87	7.88	7.89	7.90	7.91	7.92	7.93	7.94	7.95	7.96	7.97	7.98	7.99	8.00	8.01	8.02	8.03	8.04	8.05	8.06	8.07	8.08	8.09	8.10	8.11	8.12	8.13	8.14	8.15	8.16	8.17	8.18	8.19	8.20	8.21	8.22	8.23	8.24	8.25	8.26	8.27	8.28	8.29	8.30	8.31	8.32	8.33	8.34	8.35	8.36	8.37	8.38	8.39	8.40	8.41	8.42	8.43	8.44	8.45	8.46	8.47	8.48	8.49	8.50	8.51	8.52	8.53	8.54	8.55	8.56	8.57	8.58	8.59	8.60	8.61	8.62	8.63	8.64	8.65	8.66	8.67	8.68	8.69	8.70	8.71	8.72	8.73	8.74	8.75	8.76	8.77	8.78	8.79	8.80	8.81	8.82	8.83	8.84	8.85	8.86	8.87	8.88	8.89	8.90	8.91	8.92	8.93	8.94	8.95	8.96	8.97	8.98	8.99	9.00	9.01	9.02	9.03	9.04	9.05	9.06	9.07	9.08	9.09	9.10	9.11	9.12	9.13	9.14	9.15	9.16	9.17	9.18	9.19	9.20	9.21	9.22	9.23	9.24	9.25	9.26	9.27	9.28	9.29	9.30	9.31	9.32	9.33	9.34	9.35	9.36	9.37	9.38	9.39	9.40	9.41	9.42	9.43	9.44	9.45	9.46	9.47	9.48	9.49	9.50	9.51	9.52	9.53	9.54	9.55	9.56	9.57	9.58	9.59	9.60	9.61	9.62	9.63	9.64	9.65	9.66	9.67	9.68	9.69	9.70	9.71	9.72	9.73	9.74	9.75	9.76	9.77	9.78	9.79	9.80	9.81	9.82	9.83	9.84	9.85	9.86	9.87	9.88	9.89	9.90	9.91	9.92	9.93	9.94	9.95	9.96	9.97	9.98	9.99	10.00	10.01	10.02	10.03	10.04	10.05	10.06	10.07	10.08	10.09	10.10	10.11	10.12	10.13	10.14	10.15	10.16	10.17	10.18	10.19	10.20	10.21	10.22	10.23	10.24	10.25	10.26	10.27	10.28	10.29	10.30	10.31	10.32	10.33	10.34	10.35	10.36	10.37	10.38	10.39	10.40	10.41	10.42	10.43	10.44	10.45	10.46	10.47	10.48	10.49	10.50	10.51	10.52	10.53	10.54	10.55	10.56	10.57	10.58	10.59	10.60	10.61	10.62	10.63	10.64	10.65	10.66	10.67	10.68	10.69	10.70	10.71	10.72	10.73	10.74	10.75	10.76	10.77	10.78	10.79	10.80	10.81	10.82	10.83	10.84	10.85	10.86	10.87	10.88	10.89	10.90	10.91	10.92	10.93	10.94	10.95	10.96	10.97	10.98	10.99	11.00	11.01	11.02	11.03	11.04	11.05	11.06	11.07	11.08	11.09	11.10	11.11	11.12	11.13	11.14	11.15	11.16	11.17	11.18	11.19	11.20	11.21	11.22	11.23	11.24	11.25	11.26	11.27	11.28	11.29	11.30	11.31	11.32	11.33	11.34	11.35	11.36	11.37	11.38	11.39	11.40	11.41	11.42	11.43	11.44	11.45	11.46	11.47	11.48	11.49	11.50	11.51	11.52	11.53	11.54	11.55	11.56	11.57	11.58	11.59	11.60	11.61	11.62	11.63	11.64	11.65	11.66	11.67	11.68	11.69	11.70	11.71	11.72	11.73	11.74	11.75	11.76	11.77	11.78	11.79	11.80	11.81	11.82	11.83	11.84	11.85	11.86	11.87	11.88	11.89	11.90	11.91	11.92	11.93	11.94	11.95	11.96	11.97	11.98	11.99	12.00	12.01	12.02	12.03	12.04	12.05	12.06	12.07	12.08	12.09	12.10	12.11	12.12	12.13	12.14	12.15	12.16	12.17	12.18	12.19	12.20	12.21	12.22	12.23	12.24	12.25	12.26	12.27	12.28	12.29	12.30	12.31	12.32	12.33	12.34	12.35	12.36	12.37	12.38	12.39	12.40	12.41	12.42	12.43	12.44	12.45	12.46	12.47	12.48	12.49	12.50	12.51	12.52	12.53	12.54	12.55	12.56	12.57	12.58	12.59	12.60	12.61	12.62	12.63	12.64	12.65	12.66	12.67	12.68	12.69	12.70	12.71	12.72	12.73	12.74	12.75	12.76	12.77	12.78	12.79	12.80	12.81	12.82	12.83	12.84	12.85	12.86	12.87	12.88	12.89	12.90	12.91	12.92	12.93	12.94	12.95	12.96	12.97	12.98	12.99	13.00	13.01	13.02	13.03	13.04	13.05	13.06	13.07	13.08	13.09	13.10	13.11	13.12	13.13	13.14	13.15	13.16	13.17	13.18	13.19	13.20	13.21	13.22	13.23	13.24	13.25	13.26	13.27	13.28	13.29	13.30	13.31	13.32	13.33	13.34	13.35	13.36	13.37	13.38	13.39	13.40	13.41	13.42	13.43	13.44	13.45	13.46	13.47	13.48	13.49	13.50	13.51	13.52	13.53	13.54	13.55	13.56	13.57	13.58	13.59	13.60	13.61	13.62	13.63	13.64	13.65	13.66	13.67	13.68	13.69	13.70	13.71	13.72	13.73	13.74	13.75	13.76	13.77	13.78	13.79	13.80	13.81	13.82	13.83	13.84	13.85	13.86	13.87	13.88	13.89	13.90	13.91	13.92	13.93	13.94	13.95	13.96	13.97	13.98	13.99	14.00	1
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NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	10.2023.92.1 PAN-339910
Applicant	SET Consultants PO Box 495 NOWRA NSW 2541
Description of development	Demolition and New residential flat building- Demolition of existing dwellings and associated structures and erection of a residential flat building comprising of: Basement parking for 39 vehicles; 15 residential units; and associated works.
Property	21 Bourrool Street KIAMA, 19 Bourrool Street KIAMA LOT: 1 DP: 774101, LOT: 2 DP: 1065012
Determination	Deferred Commencement Approved Consent Authority - Council
Date of determination	-
Date on which the consent lapses	19/03/2024
Date on which the consent lapses	19/03/2029
Date if deferred matters have not been finalised	19/04/2024

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of deferred commencement consent using the power in section 4.16(3) of the EP&A Act, subject to the conditions set out in this notice.

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

Compliance with deferred commencement consent condition 1

Section 76(3) of the EP&A Regulation enables a consent authority to specify the period within which the applicant must produce evidence to the consent authority sufficient enough to enable it to be satisfied as to the relevant matter(s) that it requires before a deferred commencement consent can operate. Where a period is specified under section 76(3), a deferred commencement consent will lapse if the applicant has not produced sufficient evidence for the consent authority to be satisfied of the relevant matters on the expiration of the specified period.

Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the applicant's evidence, the consent authority is taken to have notified the applicant that it is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

A deferred commencement consent will lapse within the relevant period set out in sections 4.53(6)(a)-(c) of the EP&A Act, if the applicant fails to satisfy the consent authority as to the matter(s) specified in the deferred commencement condition.

Reasons for approval

The proposal:

- is considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plans, and
- is not likely to cause significant adverse impacts to the natural or built environment, and
- is not likely to cause significant adverse social and economic impacts.

Right of appeal / request a review of the determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

Mr B Rourke
Assessment Officer
Person on behalf of the consent authority

For further information, please contact Kiama Council on 02 4232 0444 or by emailing council@kiama.nsw.gov.au

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

DEFERRED COMMENCEMENT CONDITION

1.	<p>Deferred commencement</p> <p>Pursuant to section 4.16(3) of the <i>Environmental Planning and Assessment Act 1979</i>, the applicant must satisfy the following deferred commencement condition of consent before this development consent becoming operative:</p> <ul style="list-style-type: none"> a) An application under section 6.22 and 6.23 of the <i>Environmental Planning and Assessment Act 1979</i> (Building Information Certificate) must be lodged. b) An easement for drainage of water must be obtained over the connection to the existing drainage system on Lot 4 DP 774101. <p>Evidence that will sufficiently enable Council to be satisfied as to the compliance of these matters must be submitted to Council within twenty-eight (28) days of the date of determination of this deferred commencement consent, failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>This development consent will not become operative until such time that the Council notifies the applicant in writing that the requirements of deferred commencement have been satisfied.</p> <hr/> <p>Condition Reason: To comply with the provisions of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
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GENERAL CONDITIONS

1.	<p>Approved plans and supporting documentation</p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 10px;"> <thead> <tr> <th colspan="5" style="text-align: left; padding: 2px;">Approved Plans</th> </tr> <tr> <th style="width: 10%;">Plan number</th> <th style="width: 10%;">Revision number</th> <th style="width: 40%;">Plan title</th> <th style="width: 20%;">Drawn by</th> <th style="width: 20%;">Date of plan</th> </tr> </thead> <tbody> <tr><td>DA000</td><td>02</td><td>Cover Page</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA001</td><td>02</td><td>Project Summary</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA002</td><td>02</td><td>Demolition Plan</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA004</td><td>02</td><td>Site Plan</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA100</td><td>02</td><td>Basement Plan 2</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA101</td><td>02</td><td>Basement Plan 1</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA102</td><td>02</td><td>Lower Ground Floor</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA103</td><td>02</td><td>Ground Floor Plan</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA104</td><td>02</td><td>Level 1 Plan</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA105</td><td>02</td><td>Level 2 Plan</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA106</td><td>02</td><td>Roof Plan</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA200</td><td>02</td><td>North & East Elevation</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA201</td><td>02</td><td>South & West Elevation</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA301</td><td>02</td><td>Section A & B</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA302</td><td>02</td><td>Section C</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA310</td><td>02</td><td>Driveway Section</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA311</td><td>02</td><td>Excavation Cut & Fill</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td>DA400</td><td>02</td><td>Materials & Finishes</td><td>Pdp architects</td><td>17/10/2023</td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="4" style="text-align: left; padding: 2px;">Approved Documents</th> </tr> <tr> <th style="width: 40%;">Document title</th> <th style="width: 10%;">Version number</th> <th style="width: 30%;">Prepared by</th> <th style="width: 20%;">Date of document</th> </tr> </thead> <tbody> <tr> <td>Concept Stormwater Drawings</td> <td>C</td> <td>Smart Structures Australia</td> <td>29/05/2023</td> </tr> <tr> <td>Landscape Plan</td> <td>D</td> <td>Site Image</td> <td>17/05/2023</td> </tr> </tbody> </table> <p>In the event of any inconsistency between the approved plans and documents, the approved documents prevail.</p> <p>In the event of any inconsistency with the approved plans and the condition of this consent, the condition prevails.</p> <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Approved Plans					Plan number	Revision number	Plan title	Drawn by	Date of plan	DA000	02	Cover Page	Pdp architects	17/10/2023	DA001	02	Project Summary	Pdp architects	17/10/2023	DA002	02	Demolition Plan	Pdp architects	17/10/2023	DA004	02	Site Plan	Pdp architects	17/10/2023	DA100	02	Basement Plan 2	Pdp architects	17/10/2023	DA101	02	Basement Plan 1	Pdp architects	17/10/2023	DA102	02	Lower Ground Floor	Pdp architects	17/10/2023	DA103	02	Ground Floor Plan	Pdp architects	17/10/2023	DA104	02	Level 1 Plan	Pdp architects	17/10/2023	DA105	02	Level 2 Plan	Pdp architects	17/10/2023	DA106	02	Roof Plan	Pdp architects	17/10/2023	DA200	02	North & East Elevation	Pdp architects	17/10/2023	DA201	02	South & West Elevation	Pdp architects	17/10/2023	DA301	02	Section A & B	Pdp architects	17/10/2023	DA302	02	Section C	Pdp architects	17/10/2023	DA310	02	Driveway Section	Pdp architects	17/10/2023	DA311	02	Excavation Cut & Fill	Pdp architects	17/10/2023	DA400	02	Materials & Finishes	Pdp architects	17/10/2023						Approved Documents				Document title	Version number	Prepared by	Date of document	Concept Stormwater Drawings	C	Smart Structures Australia	29/05/2023	Landscape Plan	D	Site Image	17/05/2023
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2.	<p>Prescribed conditions</p> <p>The development must comply with Part 4, Division 2, Subdivision 1, of the Environmental Planning and Assessment Regulation 2021, as applicable.</p> <p>Condition Reason: To ensure the development is carried out in accordance with the relevant legislation.</p>																																																																																																																									

3.	<p>Property addressing and site facilities – urban</p> <p>Property addresses in accordance with the NSW Address Policy and User Manual published by the Geographical Names Board of NSW are allocated as follows and must be clearly shown on the Construction Certificate drawing:</p> <ul style="list-style-type: none"> a) Communal letterbox as indicated on architectural plans drawing DA103 (subject to Australia Post) b) Unit numbering to be allocated as per approved architectural plans drawings c) Street numbers must be clearly shown in a position that identifies the property access and property, and ideally should be of a reflective material for high visibility at night. d) Location points for mail delivery must satisfy the requirements of Australia Post and include the street number for identification.
	<p>Condition Reason: To ensure property addressing complies with the relevant legislation, guidelines and requirements.</p>

BUILDING WORK - BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

4.	<p>Civil engineering works</p> <p>Before the issue of a Construction Certificate, details of all civil engineering works must be provided to the Certifier. The drawings must include the following:</p> <ul style="list-style-type: none"> 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). <p>All Reduced Levels (RLs) must relate to Australian Height Datum (AHD).</p>				
	<p>Condition Reason: To ensure compliance with relevant standards.</p>				
5.	<p>Local infrastructure contributions</p> <p>In accordance with section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> and the Section 7.12 Contribution Plan, a contribution as shown in the table below must be paid to Council before the issue of a Construction Certificate:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">7.12 Contribution Plan</td> <td style="text-align: right;">\$51,000.00</td> </tr> <tr> <td>Total Contribution Amount:</td> <td style="text-align: right;">\$51,000.00</td> </tr> </table> <p>The contribution amount will be indexed until the date of payment in accordance with the contribution plans. Evidence of payment must be provided to the Certifying Authority. The Contribution Plan can be accessed on Council’s website www.kiama.nsw.gov.au.</p>	7.12 Contribution Plan	\$51,000.00	Total Contribution Amount:	\$51,000.00
7.12 Contribution Plan	\$51,000.00				
Total Contribution Amount:	\$51,000.00				
	<p>Condition Reason: To ensure contributions are levied toward the provision of public infrastructure.</p>				

<p>6.</p>	<p>Construction Site Management Plan</p> <p>Before the issue of a Construction Certificate, a Construction Site Management Plan must be prepared, and provided to the Certifier. The plan must include the following matters</p> <ul style="list-style-type: none"> a) Details of construction traffic management including: <ul style="list-style-type: none"> i) Proposed truck movements to and from the site; ii) Estimated frequency of truck movements; and iii) Measures to ensure pedestrian safety near the site; b) Details of bulk earthworks to be carried out; c) The location of site storage areas and sheds; d) The equipment used to carry out works; e) The location of a garbage container with a tight-fitting lid; f) Dust, noise and vibration control measures; g) The location of temporary toilets; <p>A copy of the Construction Site Management Plan must be kept on-site at all times while work is being carried out.</p> <hr/> <p>Condition Reason: To require details of measures that will protect the public and the surrounding environment, during site works and construction.</p>
<p>7.</p>	<p>Design amendments</p> <p>Before the issue of a Construction Certificate, the certifier must ensure the Construction Certificate plans and specifications detail the following required amendments to the approved plans and documents:</p> <ul style="list-style-type: none"> a) The loop detector system recommended in the Traffic Report 23.063r02v02 By Traffix Dated 23 January 2023 must be supplemented by a manual trigger to allow the system to be activated for vehicles that don't automatically trigger the loop detector. <hr/> <p>Condition Reason: To ensure ongoing compliance.</p>
<p>8.</p>	<p>Driveway design</p> <p>Before the issue of a Construction Certificate details of how the driveway meets 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, must be provided to the Certifier.</p> <hr/> <p>Condition Reason: To ensure the driveway design complies with the required standards.</p>
<p>9.</p>	<p>Erosion and sediment control plan</p> <p>Before the issue of a Construction Certificate, an Erosion and Sediment Control Plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Certifier:</p> <ul style="list-style-type: none"> a) the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time),

	<p>b) the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time), and</p> <p>c) measures to ensure any excavated material deposited on public roads from works is removed within the same day.</p>
	<p>Condition Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.</p>
10.	<p>Impervious run-off</p> <p>Before the issue of a Construction Certificate, the applicant must submit details to the Certifier for approval, that provide:</p> <ul style="list-style-type: none"> • stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system; • a piped drainage system shall be provided to convey runoff from storms up to the 20% Annual Exceedance Probability (AEP); and • defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.
	<p>Condition Reason: To ensure impervious run-off does not affect adjoining properties.</p>
11.	<p>Long Service Levy</p> <p>Before the issue of the relevant Construction Certificate, the Long Service Levy must be paid to the Long Service Corporation of Council under the <i>Building and Construction industry Long Service Payment Act 1986</i>, section 34, and evidence of the payment is to be provided to the Certifier.</p>
	<p>Condition Reason: To ensure the long service levy is paid.</p>
12.	<p>Nuisance overland flow</p> <p>Before the issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the design of the development causes no adverse effects to adjoining properties as a result of stormwater run-off and allowance is made for surface run-off from adjoining properties in the design.</p>
	<p>Condition Reason: To ensure adequate provisions are made for stormwater run-off.</p>
13.	<p>Parking areas</p> <p>Before the issue of any Construction Certificate, the Certifier shall ensure that the following requirements have been met:</p> <p>a) car parking spaces, parking aisles, blind aisles, access driveways, circulation roadways and ramps comply with the requirements of the following Australian Standards:</p> <ul style="list-style-type: none"> i) AS 2890.1 - Off-street car parking; ii) AS 2890.3 – Bicycle Parking; and iii) AS 2890.6 – Off-street for people with disabilities.

	<p>b) the car parking area shall be line marked and signposted in compliance with the requirements of the Australian Standards AS 1742.2, AS 1743, AS 1744, AS1906.1, AS 1906.2, AS 1906.3 and AS 4049.1.</p> <p>Condition Reason: To ensure the car parking area requirements are met.</p>
14.	<p>Pavement design</p> <p>Before the issue of the Construction Certificate, the applicant must provide a Pavement Design plan, designed by a registered civil engineer, taking into account the traffic loads and design life to the Certifier for approval.</p> <p>Condition Reason: To ensure the pavement design is adequate for the development.</p>
15.	<p>Release of securities</p> <p>When Council receives an Occupation Certificate, an application may be lodged to release the securities held.</p> <p>Condition Reason: To allow release of securities where the terms and conditions for the securities have been met to Council’s satisfaction.</p>
16.	<p>Section 73 Compliance Certificate</p> <p>Before the issue a Construction Certificate, a Compliance Certificate under section 73 of the <i>Sydney Water Act 1994</i>, must be obtained.</p> <p>Condition Reason: To ensure the compliance with Sydney Water requirements have been met.</p>
17.	<p>Drainage and stormwater</p> <p>Before the issue of a Construction Certificate, a Detailed Drainage Plan generally in accordance with the Concept Drainage Plans approved under this consent must be submitted to the Certifier for approval.</p> <p>This plan must show the connection of stormwater into the easement.</p> <p>All drainage works shall be undertaken in accordance with the requirements of Australian Standard AS 3500.3:2018.</p> <p>Condition Reason: To ensure stormwater disposal is adequate for the site.</p>
18.	<p>Swept paths</p> <p>Before the issue of a Construction Certificate, design swept paths must be detailed for all internal and public road intersections. The modelling must meet with the design requirements of the Standards Australia AS/NZS 2890.1 – Parking Facilities Off-street Car Parking and the AUSTROADS Design Vehicle and Turning Path templates.</p> <p>Condition Reason: To ensure compliance with relevant standards.</p>

19.	<p>Utilities and services</p> <p>Before the issue of the relevant Construction Certificate, written evidence of the following service provider requirements must be provided to the Certifier:</p> <ul style="list-style-type: none"> a) a letter from Endeavour Energy demonstrating that satisfactory arrangements can be made for the installation and supply of electricity and b) a response from Sydney Water as to whether the plans accompanying the application for a Construction Certificate would affect any Sydney Water infrastructure, and whether further requirements need to be met c) other relevant utilities or services – that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, the changes that are required to make the development satisfactory to them. <p>Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.</p>
20.	<p>Wash bay</p> <p>The wash bay shall be bunded and connected to the Sydney Water Corporation's sewer and be subject to a licensed trade waste agreement with the Corporation. The wash bay shall be provided with a cold water tap and power point.</p> <p>Condition Reason: To manage wastewater impacts to the environment.</p>
21.	<p>Waste Management Plan – an approved document of this consent</p> <p>Before the issue of a Construction Certificate, a Waste Management Plan for the development must be provided to the Certifier.</p> <p>Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
22.	<p>Waste storage room</p> <p>Before the issue of a Construction Certificate, detailed plans must be submitted to the Certifier that demonstrate that the waste storage room has been designed to be constructed in accordance with the Waste Minimisation and Management Guidelines, and that:</p> <ul style="list-style-type: none"> a) the floor to be constructed of concrete at least 75mm thick and adequately graded to drain to an approved drainage fitting. b) the floor to be finished so that it is non-slip and has a smooth and even surface covered at all intersections. c) the ceilings and walls to be finished with smooth faced non-absorbent material capable of being cleaned. d) the room to be provided with artificial light controllable within the room and adequate ventilation. e) the room to be provided with an adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock. <p>Condition Reason: To comply with the Waste Minimisation and Management Guidelines.</p>

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BEFORE BUILDING WORK COMMENCES

23.	<p>Protection of adjoining land</p> <p>A temporary hoarding or temporary construction site fence must be erected between the work site and the adjoining land before works commence. The temporary hoarding or temporary construction site fence must be kept in place until the works are completed if the works –</p> <ul style="list-style-type: none"> a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or b) could cause damage to adjoining land by falling objects, or c) involve the enclosure of a public place or part of a public place.
	Condition Reason: To ensure public safety.
24.	<p>Construction Certificate</p> <p>A Construction Certificate must be obtained from either Council or a Certifier before any building work can commence.</p>
	Condition Reason: To comply with Council’s requirements before the commencement of works.
25.	<p>Deliveries</p> <p>While site work is being carried out, deliveries of material and equipment must only be carried out between—</p> <ul style="list-style-type: none"> • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays <p>No deliveries are to take place on Sundays or Public Holidays.</p>
	Condition Reason: To protect the amenity of neighbouring properties.
26.	<p>Erosion and sediment controls in place</p> <p>Before any site work commences, the Certifier must be satisfied the erosion and sediment controls in the Erosion and Sediment Control Plan are in place. These controls must remain in place until any bare earth has been stabilised in accordance with ‘Managing Urban Stormwater: Soils and Construction’ prepared by Landcom (the Blue Book) (as amended from time to time).</p>
	Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
27.	<p>Appointment of Principal Certifier</p> <p>Before building work commences a Principal Certifier must be appointed.</p>
	Condition Reason: To ensure ongoing compliance.

Item 15.1

Attachment 3

28.	<p>Pre-construction Dilapidation report</p> <p>Before work commences a Pre-construction Dilapidation report must be prepared by a suitably qualified engineer for all adjoining properties and submitted to the Certifier.</p> <p>A copy of the Pre-construction Dilapidation report must be provided to Council (where Council is not the Principal Certifier or a Principal Certifier is not required) and to the relevant adjoining property owner(s).</p>
	<p>Condition Reason: To identify any existing damage to adjoining properties before site work commences.</p>
29.	<p>Retaining walls</p> <p>Before any work commences, details prepared by a practising structural engineer must be submitted to and accepted by the Principal Certifying Authority for any retaining walls in excess of 1.0 metre high.</p>
	<p>Condition Reason: To ensure adequate design provisions are met.</p>
30.	<p>Toilet facilities - temporary</p> <p>Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.</p> <p>Each toilet must:</p> <ul style="list-style-type: none"> • be a standard flushing toilet connected to a public sewer, or have an on-site effluent disposal system approved under the <i>Local Government Act 1993</i>, or • be a temporary chemical closet approved under the <i>Local Government Act 1993</i>.
	<p>Condition Reason: To ensure appropriate amenities onsite.</p>
31.	<p>Works within the road reserve</p> <p>Before undertaking any works within an existing road reserve, approval under section 138 of the <i>Roads Act, 1993</i> must be obtained.</p> <p>The following details must be submitted to Council as part of the application:</p> <ol style="list-style-type: none"> a) any civil works design required by this consent, b) evidence of the contractor's Public Liability Insurance to an amount of \$20 million, c) name and contact information of the person responsible for all relevant works, d) a Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.
	<p>Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.</p>
32.	<p>Waste Management Plan – an approved document of this consent</p> <p>Before site work commences, a Waste Management Plan for the development must be provided to the Certifier.</p>
	<p>Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>

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DURING BUILDING WORK

33.	<p>Procedure for critical stage inspections</p> <p>While building work is being carried out, the work must not continue after each critical stage inspection unless the Principal Certifier is satisfied the work may proceed in accordance with this consent and the relevant Construction Certificate.</p> <hr/> <p>Condition Reason: To require approval to proceed with building work following each critical stage inspection.</p>
34.	<p>Earthworks</p> <p>All earthworks associated with the development shall be completed in accordance with AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.</p> <hr/> <p>Condition Reason: To ensure all earthworks are carried out in accordance with the Australian Standards.</p>
35.	<p>Hours of work</p> <p>Site work must only be carried out between the following times:</p> <ul style="list-style-type: none"> • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays <p>No work is to be carried out on Public Holidays.</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <hr/> <p>Condition Reason: To protect the amenity of the surrounding area.</p>
36.	<p>Implementation of the Site Management Plans</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> a) the measures required by the Construction Site Management Plan and the Erosion and Sediment Control Plan (plans) must be implemented at all times, and b) a copy of these plans must be kept on site at all times and made available to Council officers upon request. <hr/> <p>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</p>
37.	<p>Swimming pool safety during construction</p> <p>A child-resistant barrier must be erected during the construction of the swimming pool. The barrier must comply with:</p> <ol style="list-style-type: none"> a) the requirements of the <i>Swimming Pools Act 1992</i>, b) the <i>Swimming Pools Regulation 2018</i>, c) AS 1926.2 Swimming pool safety – Location of safety barriers for swimming pools, d) AS 1926.1 Swimming pools safety – Safety barriers for swimming pools.

	<p>In addition to any signage that may be required under the <i>Environmental Planning and Assessment Act 1979</i>, or any other Act, the occupier of any premises in or on which a swimming pool (not including a spa pool) is being constructed must ensure that a sign is erected and maintained that:</p> <ul style="list-style-type: none"> a) bears a notice containing the words “This swimming pool is not to be occupied or used”, b) is located in a prominent position in the immediate vicinity of that swimming pool, c) continues to be erected and maintained until a relevant Occupation Certificate or a Certificate of Compliance has been issued for that swimming pool. <p>Condition Reason: To ensure compliance with relevant safety measures.</p>
<p>38.</p>	<p>Pool backwash</p> <p>Pool backwash from the filtration unit shall be drained to the sewer system.</p> <p>Condition Reason: To manage impacts to stormwater quality.</p>
<p>39.</p>	<p>Responsibility for change to public infrastructure</p> <p>While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.</p> <p>Condition Reason: To ensure payment of approved changes to public infrastructure.</p>
<p>40.</p>	<p>Discovery of relics and Aboriginal objects</p> <p>While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:</p> <ul style="list-style-type: none"> a) the work in the area of the discovery must cease immediately b) the following must be notified <ul style="list-style-type: none"> i) for a relic – the Heritage Council; or ii) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the <i>National Parks and Wildlife Act 1974</i>, section 85. <p>Site work may recommence at a time confirmed in writing by:</p> <ul style="list-style-type: none"> a) for a relic – the Heritage Council; or b) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the <i>National Parks and Wildlife Act 1974</i>, section 85. <p>Condition Reason: To ensure the protection of objects of potential significance during works.</p>

<p>41.</p>	<p>Soil management</p> <p>While site work is being carried out, the Certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <p>a) All excavated material removed from the site must be classified in accordance with the NSW Environmental Protection Authority’s (EPA’s) Waste Classification Guidelines before it is disposed of at an approved waste management facility. The classification and volume of material removed must be reported to the Certifier.</p> <hr/> <p>Condition Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.</p>
<p>42.</p>	<p>Drainage and stormwater works – approved plans</p> <p>The stormwater drainage system must be completed in accordance with the detailed plans approved by the Certifier.</p> <hr/> <p>Condition Reason: To ensure stormwater disposal is adequate for the site.</p>
<p>43.</p>	<p>Surveys by a registered surveyor</p> <p>While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the Principal Certifier:</p> <p>a) all footings/foundations in relation to the site boundaries and any registered and proposed easements,</p> <p>b) at other stages of construction – Reduced Levels (RLs) and any marks that are required by the Principal Certifier.</p> <hr/> <p>Condition Reason: To ensure buildings are sited and positions in the approved location.</p>
<p>44.</p>	<p>Waste management</p> <p>While site work is being carried out:</p> <p>a) all waste management must be undertaken in accordance with the Waste Management Plan, and;</p> <p>b) upon disposal of waste, records of the disposal must be compiled and provided to the Certifier, detailing the following:</p> <ul style="list-style-type: none"> i) The contact details of the person(s) who removed the waste ii) The waste carrier vehicle registration iii) The date and time of waste collection iv) A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill v) The address of the disposal location(s) where the waste was taken vi) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>If waste has been removed from the site under an Environmental Protection Authority Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the Principal Certifier and Council.</p> <hr/> <p>Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste.</p>

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BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

45.	<p>Access work prior to Occupation Certificate</p> <p>Before the issue of an Occupation Certificate all access work must be completed.</p>
	<p>Condition Reason: To ensure access work is completed.</p>
46.	<p>BASIX</p> <p>Before the issue of the Occupation Certificate, documentary evidence prepared by a suitably qualified person must be submitted to the Certifier confirming that all commitments listed in the BASIX Certificate(s) are fulfilled in accordance with Clause 75 of the <i>Environmental Planning and Assessment Regulation 2021</i>.</p>
	<p>Condition Reason: To ensure compliance with the <i>Environmental Planning and Assessment Regulation 2021</i>.</p>
47.	<p>On-site detention system</p> <p>Before the issue of an Occupation Certificate, the developer must:</p> <p>a) provide a certificate from a professional engineer, (as defined in the National Construction Code) to verify the structural adequacy of the on-site detention facility and that the facility has been constructed in accordance with the approved Construction Certificate plans;</p> <p>The expression ‘on-site stormwater detention system’ must include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to temporarily detain stormwater as well as all surfaces graded to direct stormwater to those structures.</p>
	<p>Condition Reason: To ensure suitable detention.</p>
48.	<p>Fire safety</p> <p>Before the issue of an Occupation Certificate the certifier must be provided with a Final Fire Safety Certificate showing compliance with the Fire Safety Schedule.</p>
	<p>Condition Reason: To comply with the requirements of the <i>Environmental Planning and Assessment Regulation 2021</i> and the <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>.</p>
49.	<p>Geotechnical Report – compliance</p> <p>Before the issue of the Occupation Certificate, a Chartered Professional Engineer practising in the field of geoscience must prepare a report to confirm that all works have been completed in accordance with the requirements of the geotechnical report referenced as an approved document of this consent.</p>
	<p>Condition Reason: To ensure compliance with the reported requirements.</p>

50.	Hydraulic compliance Before the issue of the Occupation Certificate, compliance certification from the hydraulic engineer, or a suitably qualified person, verifying that the constructed stormwater drainage infrastructure/water quality system meets with the approved design must be provided to the satisfaction of the certifier.
	Condition Reason: To ensure the approved system has been correctly installed.
51.	Completion of landscape and tree works Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.
	Condition Reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).
52.	Swimming pool barrier Before issue of an Occupation Certificate, the swimming pool is to be surrounded by a permanent barrier in accordance with: a) the provisions of the <i>Swimming Pools Act 1992</i> , b) the <i>Swimming Pools Regulation 2018</i> , c) AS1926.2 Swimming pool safety – Location of safety barriers for swimming pools, d) AS1926.1 Swimming pools safety – Safety barriers for swimming pools.
	Condition Reason: To ensure compliance with relevant safety measures.
53.	Swimming pool register The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at www.swimmingpoolregister.nsw.gov.au Note: Penalties may apply if a swimming pool is not registered.
	Condition Reason: To ensure compliance with relevant safety measures.
54.	Repair of infrastructure Before the issue of an Occupation Certificate: a) any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council, or b) if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance, will be paid using the security deposit required to be paid under this consent.
	Condition Reason: To ensure any damage to public infrastructure is rectified.

<p>55.</p>	<p>Stormwater system – long-term maintenance</p> <p>Before the issue of any Occupation Certificate, an 88B Instrument must be prepared and submitted to Council for assessment and approval.</p> <p>The Instrument must meet the standard terms applied by Council and:</p> <ul style="list-style-type: none"> • be prepared under section 88B of the <i>Conveyancing Act 1919</i>; and • provide a restriction on the use of the land and a positive covenant in favour of Kiama Municipal Council detailing protection measure and long-term maintenance requirements for the on-site stormwater detention system and associated stormwater drainage infrastructure. <p>Condition Reason: To ensure restrictions are applied to the land.</p>
<p>56.</p>	<p>Works-as-executed plans and any other documentary evidence</p> <p>Before the issue of the relevant Occupation Certificate, works-as-executed (WAE) plans, any compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the Principal Certifier:</p> <ol style="list-style-type: none"> a) All stormwater drainage systems and storage systems, and b) All access works, and c) The following matters that council requires to be documented. <ol style="list-style-type: none"> i) Final locations and reduced levels for all works associated with the development on both public and private land. ii) In contrasting coloured ink, all changes to the Approved Drawings and actual values of all levels shown on the Drawings. iii) The WAE drawing must 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. d) A copy of the plans must be provided to Council with the Occupation Certificate. <p>Condition Reason: To confirm the location of works that once constructed will become Council assets.</p>
<p>57.</p>	<p>Removal of waste upon completion</p> <p>Before the issue of an Occupation Certificate:</p> <ol style="list-style-type: none"> a) all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved Waste Management Plan; and b) written evidence of the waste removal must be provided to the satisfaction of the Certifier. <p>Condition Reason: To ensure waste material is appropriately disposed or satisfactorily stored.</p>

58.	<p>Post-construction Dilapidation report</p> <p>Before the issue of an Occupation Certificate a Post-construction Dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the Certifier, detailing whether:</p> <ul style="list-style-type: none"> a) after comparing the Pre-construction Dilapidation report to the Post-construction Dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and b) where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent; and c) a copy of the Post-construction Dilapidation report must be provided to Council (where Council is not the Principal Certifier or a Principal Certifier is not required) and to the relevant adjoining property owner(s).
	<p>Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>

OCCUPATION AND ONGOING USE

59.	<p>Maintenance of wastewater and stormwater treatment device</p> <p>During occupation and ongoing use of the building, all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) must be regularly maintained to remain effective and in accordance with any positive covenant (if applicable).</p>
	<p>Condition Reason: To protect sewerage and stormwater systems.</p>
60.	<p>Occupation Certificate</p> <p>The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier.</p> <p>If an Occupation Certificate is not required, the use must not commence until all conditions of development consent have been met or other satisfactory agreements have been made with Council (i.e., a security).</p>
	<p>Condition Reason: To ensure that the development is completed as per this consent and the approved plans.</p>
61.	<p>Swimming pool – ongoing use</p> <p>The approved swimming pool and associated structures must be maintained in accordance with:</p> <ul style="list-style-type: none"> a) the National Construction Code, b) the <i>Swimming Pools Act 1992</i>, c) the <i>Swimming Pools Regulation 2018</i>.
	<p>Condition Reason: To ensure the structure remains compliant.</p>

62.	<p>Post-construction Dilapidation report</p> <p>After completion of all site works a Post-construction Dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the Certifier, detailing whether:</p> <ol style="list-style-type: none"> a) after comparing the Pre-construction Dilapidation report to the Post-construction Dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and b) where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent; and c) a copy of the Post-construction Dilapidation report must be provided to Council (where Council is not the Principal Certifier or a Principal Certifier is not required) and to the relevant adjoining property owner(s).
	<p>Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>

**DEMOLITION WORK
BEFORE DEMOLITION WORK COMMENCES**

63.	<p>Protection of adjoining land</p> <p>A temporary hoarding or temporary construction site fence must be erected between the work site and the adjoining land before works commence. The temporary hoarding or temporary construction site fence must be kept in place until the works are completed if the works –</p> <ol style="list-style-type: none"> a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or b) could cause damage to adjoining land by falling objects, or c) involve the enclosure of a public place or part of a public place.
	<p>Condition Reason: To ensure public safety.</p>
64.	<p>Deliveries</p> <p>While site work is being carried out, deliveries of material and equipment must only be carried out between—</p> <ul style="list-style-type: none"> • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays <p>No deliveries are to take place on Sundays or Public Holidays.</p>
	<p>Condition Reason: To protect the amenity of neighbouring properties.</p>

<p>65.</p>	<p>Payment of security deposits</p> <p>Before demolition work commences, the applicant must:</p> <p>a) make payment of \$47,000 for a security deposit to the consent authority, and</p> <p>b) if a Principal Certifier is required to be appointed for the development, provide the Principal Certifier with written evidence of the payment and the amount paid.</p> <hr/> <p>Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.</p>
<p>66.</p>	<p>Toilet facilities - temporary</p> <p>Toilet facilities must be available or provided at the work site before demolition works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.</p> <p>Each toilet must:</p> <ul style="list-style-type: none"> • be a standard flushing toilet connected to a public sewer, or have an on-site effluent disposal system approved under the <i>Local Government Act 1993</i>, or • be a temporary chemical closet approved under the <i>Local Government Act 1993</i>. <hr/> <p>Condition Reason: To ensure appropriate amenities onsite.</p>
<p>67.</p>	<p>Utilities and services</p> <p>Before demolition work commences, the developer shall ensure that service utilities such as water, electricity or any other relevant utilities or services are safely disconnected in accordance with the relevant service providers requirements.</p> <hr/> <p>Condition Reason: To ensure appropriate safety measures are undertaken.</p>
<p>68.</p>	<p>Works within the road reserve</p> <p>Before undertaking any works within an existing road reserve, approval under section 138 of the <i>Roads Act, 1993</i> must be obtained.</p> <p>The following details must be submitted to Council as part of the application:</p> <p>a) any civil works design required by this consent,</p> <p>b) evidence of the contractor’s Public Liability Insurance to an amount of \$20 million,</p> <p>c) name and contact information of the person responsible for all relevant works,</p> <p>d) a Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation.</p> <hr/> <p>Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.</p>

DURING DEMOTION WORK

<p>69.</p>	<p>Demolition Any demolition must be carried out in accordance with AS 2601-2001 The demolition of structures.</p> <hr/> <p>Condition Reason: To ensure safety and other appropriate measures are undertaken.</p>
<p>70.</p>	<p>Handling of asbestos during demolition While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:</p> <ul style="list-style-type: none"> a) Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material; b) Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and c) Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m² or more of asbestos sheeting, must be registered with the Environmental Protection Authority (EPA) online reporting tool WasteLocate. <hr/> <p>Condition Reason: To ensure the removal of asbestos is undertaken safely and professionally.</p>
<p>71.</p>	<p>Hours of work Site work must only be carried out between the following times:</p> <ul style="list-style-type: none"> • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays <p>No work is to be carried out on Public Holidays. Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <hr/> <p>Condition Reason: To protect the amenity of the surrounding area.</p>
<p>72.</p>	<p>Implementation of the site management plans While site work is being carried out:</p> <ul style="list-style-type: none"> a) the measures required by the Construction Site Management Plan and the Erosion and Sediment Control Plan (plans) must be implemented at all times, and b) a copy of these plans must be kept on site at all time and made available to Council officers upon request. <hr/> <p>Condition Reason: To ensure site management measures are implemented during the carrying out of site work.</p>

73.	<p>Noise – demolition and construction</p> <p>The noise from all demolition and construction activities associated with the approved development must comply with the work practices as outlined in the NSW Department of Environment and Climate Change Interim Construction Noise Guideline. The LA10 level measured over a period of not less than 15 minutes during works must not exceed the background (LA90) noise level by more than 10dB(A) when assessed at any sensitive noise receiver.</p>
	<p>Condition Reason: To ensure consideration of neighbouring uses.</p>
74.	<p>Waste management</p> <p>While demolition work is being carried out:</p> <ul style="list-style-type: none"> a) all waste management must be undertaken in accordance with the Waste Management Plan, and; b) upon disposal of waste, records of the disposal must be compiled and provided to Council, detailing the following: <ul style="list-style-type: none"> i) The contact details of the person(s) who removed the waste ii) The waste carrier vehicle registration iii) The date and time of waste collection iv) A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill v) The address of the disposal location(s) where the waste was taken vi) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>If waste has been removed from the site under an Environmental Protection Authority Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the Principal Certifier and Council.</p>
	<p>Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste.</p>

ON COMPLETION OF DEMOTION WORK

75.	<p>Waste disposal verification statement</p> <p>On completion of demolition work:</p> <ul style="list-style-type: none"> a) a signed statement must be submitted to Council verifying that demolition work, and any recycling of materials, was undertaken in accordance with the Waste Management Plan approved under this consent, and b) if the demolition work involved the removal of asbestos, an Asbestos Clearance Certificate issued by a suitably qualified person, must be submitted to Council within 14 days of completion of the demolition work.
	<p>Condition Reason: To provide for the submission of a statement verifying that demolition waste management and recycling has been undertaken with the approved Waste Management Plan.</p>

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a Construction Certificate or Subdivision Works Certificate, respectively, has been issued and a Principal Certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a Council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction Certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means the Council of the Municipality of Kiama (Kiama Council).

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation Certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal Certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata Certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Subdivision Certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

Subdivision Works Certificate means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Sydney district or regional planning panel means Southern Regional Planning Panel.

15.2 Endorse for public exhibition: draft Grants and Donations Policy and Guidelines

- CSP Objective: Outcome 1.1: We want a strong sense of community and belonging, where social and cultural life can flourish; and our families, friends and visitors feel welcome and included.
- CSP Strategy: 1.1.1 Provide spaces, services and initiatives that foster a proud, inclusive, and connected community for all.
- Delivery Program: 1.1.1.2 Partner with the community, other levels of government and key stakeholders to provide support to community and cultural engagement sectors, community groups and organisations.

Item 15.2

Summary

Kiama Council recognises the vital contributions that community members, interest groups and businesses make to the wellbeing of our community. One way of displaying this is through the provision of financial assistance in the form of grants and donations. These grants support several community- led programs and projects that contribute to a vibrant, inclusive, resilient, innovative and sustainable community across the Kiama Local Government Area (LGA). They are also provided to address identified need or to improve the development of the community.

An internal audit of the Council's Community Grants and Sponsorships was conducted. At the completion of the audit, a report was produced detailing the findings and it made 32 recommendations relating to compliance, processes and accountability. The top three high risk findings included Council not having a grants policy, inadequate process to manage conflict of interest and the lack of grants procedures. The internal audit report recommended "an overarching policy to cover all community grants, donations, and sponsorship", and multiple recommendations on key improvements to decision making, assessment, reporting and review procedures.

In addition to the internal audit report finding, further benchmarking of how other council manage their grants programs and an overall review of current Council's grant policies and procedures was undertaken in late 2023. During this time key internal staff were consulted to explore options to adequately manage and administer Council's grants program and its allocated budget.

This report presents the draft Grants and Donations Policy and Guidelines (Grants Program) for Council's consideration.

This report also provides a response to Cr Reilly's question for future meeting from the September 2023 Council meeting – "that Council review existing policies and deliver a revised Grants Policy".

Financial implication

Council had previously dedicated a budget of \$262,500 toward grants, contributions and civic events program. This budget has been reviewed and revised to ensure the funds allocated under grants are specifically for the grant purpose aligned to the new draft policy. The review has identified:

Report of the Director Planning, Environment and Communities

15.2 Endorse for public exhibition: draft Grants and Donations Policy and Guidelines (cont)

-
- Approximately \$215,000 of the funds allocated require an application process and are included in the Grants Program.
 - \$19,500 of the funds allocated is annual contribution to Regional Arts Development Office through a Council resolution 2022 and is not subject to application process.
 - \$12,000 of the funds allocated are civic events related budget and should not be classified as a grant or sponsorship, rather operational budget.
 - \$17,000 of the funds allocated were identified as Economic Development contribution. Noting the majority of the funds make significant contribution to economic outcomes and activities, this category is not recommended as a separate category in the new Grants Program.
 - Funds allocated under Destination Events Program are a form of sponsorship of major events, therefore a separate sponsorship category is not recommended.

This report recommends a revised total of \$234,500 be allocated to the Grants Program as per the draft Policy. The remainder of the allocated funds will still remain in operational budgets to support agreed programs.

Risk implication

The draft Grants and Donations Policy and Guidelines have been developed to reduce and eliminate the existing risks identified and associated with distribution of public funds, and as per Section 365 of the Local Government Act. In the absence of a robust Policy and Guidelines Council is likely to be exposed to compliance and reputational risks. The Policy and Guidelines aims to support Council and applicants to follow and adhere to an integrated and streamlined process and to minimise risk. There is also a risk that in Council's current circumstance, the donation of funds may not be sustainable.

Policy

- Local Government Act 1993
- Kiama Municipal Council Strategies and Plans:
 - Code of Conduct
 - Community Strategic Plan
 - Disclosure of Conflict of Interest
 - Donations Policy 2012
 - Gifts and Benefits Policy
 - Tourism and Events Strategic Plan 2022-2026
- Internal Audit of Community Grants and Sponsorship 2021 Report
- Draft Grants and Donations Policy

Consultation (internal)

- Community Hubs

Report of the Director Planning, Environment and Communities

15.2 Endorse for public exhibition: draft Grants and Donations Policy and Guidelines (cont)

- Library and Cultural Hubs
- Tourism and Events
- Office of CEO
- Health and Compliance
- Governance and Corporate Planning
- Finance

Communication/Community engagement

It is recommended that Council place the draft Policy and Guidelines on public exhibition. During this period, staff will distribute copies to the wider community networks and previous grant recipients for feedback.

Attachments

- 1 Draft Grants and Donations Policy 2024 [↓](#)
- 2 Draft Guidelines for applicants - Grants and Donations 2024 [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Place the draft Grants and Donations Policy and Guidelines on public exhibition for a period of 28 days.
2. Note if submissions are received during the exhibition period a further report will be provided on any proposed amendments to policy and guideline.
3. Adopt the Grants and Donations Policy and Guidelines, if no submissions are received, on the day after the completion of the public exhibition period.

Background

Over the years, Council has provided financial support to community programs and projects that contribute to vibrant, inclusive, resilient, innovative and sustainable goals across the Kiama Local Government Area (LGA). The administration of Council's Grants Program has been evolving and changed from time to time.

Following the internal audit of the Grants Program, individual funding programs were improved by introducing new procedures and templates for applicants. The development of a Policy and procedure has been undertaken to meet the requirements and recommendations of the internal audit.

Report of the Director Planning, Environment and Communities

15.2 Endorse for public exhibition: draft Grants and Donations Policy and Guidelines (cont)

In addition to the above, consultation with relevant departments and a benchmark of other councils in regional and metropolitan of NSW has been undertaken to support the draft Policy and Guidelines.

To ensure the Grants Program is delivered efficiently and in accordance with the new Policy and Guidelines (once endorsed), except for Destination Events Funding, administration of all Grants Programs are to be managed by the Community Hubs team. This includes overseeing the promotion, application, assessment, reporting, acquittal, documentation and review cycle. This change will ensure defined accountability and adequate resource to administer the Grants Program and provide support to applicants.

Upon the endorsement of the new Policy and Guidelines, staff will update and/or develop a grants package for successful applicants, including:

- Grant application forms
- Grant Agreement;
- Budget Template;
- Project Plan/milestones template;
- Reporting and acquittal forms;
- Design and print the guidelines for applicants;
- Implement a series of information sessions to brief/educate current and potential future applicants on the new Grants Program and the Guidelines.

Conclusion

The draft Grants Policy and Guidelines has been developed in line with the recommendations from the Internal Audit, in consultation with key internal stakeholders, benchmarking against other councils and best practice models. The Policy provides the framework for Council to manage the allocated funds to the Grants Program in an effective, efficient and equitable manner and in compliance with the Local Government Act Section 356 for use of public funds. The Guideline will assist applicants, when applying for Council grants and ensure they understand their obligations.

It is recommended that Council endorsed the draft Policy and Guidelines for public exhibition and community input.



KIAMA MUNICIPAL COUNCIL
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Grants and Donations Policy

Policy Owner/Responsible Officer	Community Hubs
Department	Community Hubs
Date adopted/endorsed	XX/XX/2024
Resolution number (if applicable)	XX
Next review date	XX
TRIM reference	SC4430 -

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RESPECT • INTEGRITY • INNOVATION • TEAMWORK • EXCELLENCE •

1. Policy Statement and Objectives

Kiama Municipal Council (Council) recognises the vital contributions that community members, interest groups, event professionals and businesses make to the wellbeing of our community. One way of this recognition is to provide financial assistance in the forms of grants and donations to address identified needs and foster community development. Council supports programs and projects that contribute to a vibrant, inclusive, resilient, innovative and sustainable goals across the Kiama Local Government Area (LGA).

Through the provision of the Grants and Donations Program (Grants Program), Council supports the implementation of community led initiatives that align with the Kiama Community Strategic Plan (CSP), corporate priorities and that meet the funding criteria. The **Strategic Objectives** of Council's Grants Program are to support and invest in initiatives that:

- Align with at least one Pillar¹ of Council's **Community Strategic Plan** (CSP) and other key social, cultural, economic, and environmental policies and plans.
- Facilitate and maintain **partnerships and collaboration** between Council, community as well as those with propositions that bring positive social or economic outcomes to the community (in the case of Destination Event Funding).
- Develop and enhance **resilience and capacity building** among community groups.
- Contribute to the **economic growth, a sustainable environment and/or the social and cultural wellbeing** of Kiama communities.
- Ensure **good governance** of public funds, demonstrate integrity, professionalism and transparency in decision making and have strong procedures in place to support this.
- Contribute to the **enhancement of the reputation and brand** of the Kiama Municipality in accordance with the CSP.

2. Scope

The Grant and Donations Policy (the Policy) provides the framework for managing Council's Grants Program, its expenditure and accountability processes. The Policy guides the

-
- ¹ Belong and contribute
 - Thrive in a sustainable environment
 - Create a strong and diverse economy
 - Are part of a connected and liveable community
 - Expect accountable and transparent leadership, a financially sustainable Council

administration of the Grants Program in a manner that is aligned to the above strategic objectives and in accordance with the Local Government Act 1993, Section 356 (the Act). It acts as a tool to ensure an equitable, open and transparent process for community organisations and groups to seek financial and in-kind assistance from Council. Additionally, it will guide Kiama Council employees and Councillors during application assessment and grading, endorsement of funds, reporting and acquittal requirements and evaluation processes.

3. References

- Local Government Act 1993
- Kiama Municipal Council Strategies and Plans:
 - Code of Conduct
 - Community Strategic Plan
 - Disclosure of Conflict of Interest
 - Donations Policy 2012
 - Gifts and Benefits Policy
 - Tourism and Events Strategic Plan 2022-2026
- Internal Audit of Community Grants and Sponsorship-2021 Report

4. Consultations

This policy was developed in consultation with relevant departments across Council including:

- Community Hubs
- Library and Cultural Hubs
- Tourism and Events
- Office of CEO
- Health and Compliance
- Governance
- Chief Financial Officer

5. Definitions

For the purpose of this document the following definitions apply:

Acquittal	The process by which a recipient demonstrates in writing to Council that it has expended the funds in accordance with the outcomes in the funding application and/or terms and conditions of the agreement. This could include providing a written outcome report, evidence of activities and how the funds were expended.
Auspice	An agreement where an incorporated organisation agree to apply for funding or resources on behalf of an applicant that is not incorporated. If the application is successful, the auspicing organisation then administers the grant on behalf of the applicant and is legally responsible for ensuring that the terms of the agreement are met.
Charity	Listed on the Australian Charities and website as a registered charity.
Community Capacity building	Relates to the provision of programs and services that contribute to developing skills, knowledge, capabilities and resources that enable communities to manage their own affairs.
Community Group	A community or a not-for-profit run and managed group that does not have a status as a legal entity.
Community Strategic Plan (CSP)	A high level 10 year plan developed collaboratively by Council with the Kiama Municipality. It identifies the community's vision and objectives for the Municipality and strategies to achieve them.
Donation	A one-off financial contribution or in-kind support where funds are provided to recipient through a formal process for a specific purpose that contribute to achieving goals and objectives consistent with Council policy. The donations is subject to a delivery of a direct or indirect benefit to community.
Funding Agreement	A formally negotiated agreement between Council and an organisation, individual or community group that details the nature, quality and scope of how funds will be used. The purpose of a funding agreement is to formalise the expectations of Council and outline the responsibilities of both Council and the grant recipient.
Grant	A one-off or recurring financial contribution where funds are provided to a recipient through a formal program for a specified purpose, directed at achieving goals and objectives consistent with Council policy, where the recipient is selected on merit against a set of criteria. The funding is subject to a funding agreement and an acquittal and acknowledgement of Council support is required.
Incorporated Association	A legal entity (organisation) that provides legal protection to its members in legal transactions. Council verifies this using the ABN register and ASIC databases.
Not-for-profit Organisation	A not-for-profit organisation is a registered incorporated association, including a charitable organisation that does not directly operate for the

	<p>profit or gain of its owners, members or shareholders, either directly or indirectly.</p> <p>Any profit must be used to implement the organisation's purpose and must not be distributed to members, owners or shareholders either while the organisation is operating or when it winds up.</p>
Sponsorship	<p>A one-off or recurring contribution can be financial or in-kind support. The sponsorship funds are subject to formal application process for a specific program that generate benefits to culture, economic and tourism outcomes.</p> <p>Council's expects negotiated benefits such as positive recognition by way of logo, banners or otherwise, in exchange.</p>

6. Variation and Review

Council reserves the right to review, vary or revoke this policy.

Review History

Date reviewed	Date adopted/endorsed	Brief detail of amendments	Next Review Date
	xx/xx/2024	New Policy	March 2026

7. Grants Overview

The Grants Program demonstrates Council's commitment to building a strong and resilient community socially, culturally, economically and environmentally. Eligible community-based groups, not-for-profit organisations, event professionals, services and individuals living and based in the Kiama Local Government Area (LGA) may be provided with a grant for a project, program, service and or an activity that benefits the Kiama residents. Council's Grants Program provides funds to the following programs:

1. Small Community Grants and Donations
2. Signature Community Events Grant
3. Destination Events Funding
4. Cultural Grant
5. Health and Sustainability Grant
6. Community Sponsorship Grant

Summary of the Grants Program

Funding Program	Amount	Provided for:	Application Timeframe	Responsible Department
Small Community Grants and Donations	Maximum \$500 per application Total budget: \$15,000	Small community event or a program that demonstrate direct benefit to residents	Open all year via SmartyGrants portal	Community Hubs
Destination Events Funding	Maximum \$20,000 per application Total budget: \$130,000	Destination / Major Events	Two rounds annually via SmartyGrants portal	Tourism and Events
Signature Community Events Funding	Maximum \$7,000 per application Total budget: \$40,000	Community events that demonstrate significant benefit to residents	Two rounds annually via SmartyGrants portal	Community Hubs
Cultural Grant	Maximum \$2,500,000 per applications Total budget: \$15,000	Local artist or a creative project that develops the arts sector in Kiama.	Two rounds annually via Smarty Grants portal	Community Hubs
Health & Sustainability Grant	Maximum \$2,000 per application: Total budget: \$15,000	Small projects that promote local health & environmental sustainability	Two rounds annually via SmartyGrants portal	Community Hubs
Regional Arts Development Office - Contribution	Council resolution June 2022: \$19,500 recurrent funding + 3.5% increase	Supports administration, programming and activity by the RADO in the region.	Standing Council resolution - Annually	Community Hubs
Total Grants Per Annum	\$234,500 <i>(Allocated amount subject to annual budget planning)</i>			

8. In-Kind Support

Applicants must identify requests for in-kind support, inclusive of Council related services such as waste, venue hire and field lighting. Requests for in-kind support will be assessed in accordance with the eligibility criteria outlined in this policy and will be costed as per Council's fees and charges.

9. General Funding Conditions

9.1 General Eligibility

Applications for the Grants Program must:

- Be an incorporated not-for-profit (or under auspice of an incorporated organisation) or charitable organisations and hold a current ABN. (*In some instances funding for-profit organisations who have demonstrated they are best placed to deliver a public benefit and meet the relevant grant program's outcomes will be considered*). Exempt from this criterion are Destination Event Grants applicants, which may be commercial in nature.
- Operate within the Kiama Local Government Area (LGA) or can demonstrate that the project or program will benefit residents of the Kiama community.
- Have or will obtain appropriate insurance and adhere to sound Workplace Health and Safety practices or be under the auspice of another organisation.
- Demonstrate meeting at least one of the strategic outcomes outlined in the policy and at least one of the CSP Pillars.
- Have no debt to Council and have met and successfully complied with all Council funding, reporting and acquittal conditions for previous Council grants.
- Not be the recipient of any other financial or other type of assistance from Council for the same event or project.
- Meet the eligibility criteria and terms/conditions set out in the specific funding program as set out below.
- Complete each mandatory application questions and submit all required documents.
- Build and enhance the reputation and brand of Kiama Municipal Council in accordance with Kiama CSP.
- Work collaboratively and respectfully with Council and staff representatives.

9.2 General Ineligibility

- Projects that do not meet Kiama’s Community Strategic Plan outcomes.
- Projects that have already commenced or have been completed.
- Applications from government agencies, political parties/activities, clubs that profit from gaming machines.
- Commercial and profit making entities and private organisations (not applicable to applicants to the Destination Event Grant).
- Projects that directly contravene existing Council policies.
- Projects that duplicate existing Council services or programs.
- Applications to cover funding shortfall from other government programs.
- Applications that do not demonstrate a direct benefit to Kiama residents.
- Requests for funding toward salaries/wages and operational expenditure including administration, insurance, office equipment, transport, travel, IT equipment.
- Applications for development of privately-owned facilities.
- Applications to pay off a debt.
- Applications for funding toward core operational costs i.e. day to day operations of a community group or organisation.
- Individual requests for funds to attend national or international sports events.

9.3 Further Conditions

Council will not:

- Provide in-house design, print or distribution services.
- Provide cleansing and waste service for events. If required, the cash value must be clearly identified under in-kind contributions from Council.
- Support political activities or activities that could be perceived as benefiting a political party or a political campaign.
- Support religious activities or projects exclusive to religious based groups.
- Support activities that deliberately exclude any individuals or groups from participating or attending.

9.4 Ethics Framework

Council will not provide funding support to projects or activities that:

- Pollute land, air or water, or destroy or waste non-recurring resources.
- Market or promote products/services in a misleading or deceitful manner.

- Produce, promote, or distribute products/services likely to be harmful to the community.
- Entice people into financial over-commitment.
- Exploit people through the payment of below award wages or poor working conditions.
- Discriminate by way of race, religion, or sex in employment, marketing, or advertising.

9.5 Conflict of Interest

- Council staff assessing applications must declare and document any conflict or perceived conflict of interest across all stages of the process in accordance with Council's Code of Conduct and Disclosure of Conflict of Interest Form.
- Council staff and Councillors must ensure that any affiliation with an applicant is declared and appropriately included in the register.
- Applicants must declare any actual, potential or perceived conflict of interest in line with Council's Code of Conduct.

10. Grants Procedures

10.1 Application Process

All applicants must register with Council's online grants management system, the SmartyGrants Portal before applying. Once registered, applicants must use the online application form on the portal when applying for any form of financial assistance/ grants from Council. Hard copy and emailed requests for funding or late applications will not be considered.

10.2 Assessment Process

- All applications submitted will be referred to the internal Grants Assessment Panel for review and to make recommendations to Council. The Internal Grants Assessment Panel will comprise of staff with expert knowledge relevant to specific grants program. The Panel members are to adhere to the Terms of Reference.
- An exception to the above, the Small Community Grants and Donations Program, which is open all year round, will be assessed and recommendations will be submitted

to the CEO (as per Council delegation of approving grants under \$1,000) to approve, and reported to Council for their information at the first cycle of the grants report.

- Recommendations for the bi-annual grants will be submitted to Council within two months of the closing date.
- Due to the competitive nature of the grants program, some eligible applications might not be successful in securing a grant during certain rounds.
- Due to the competitive nature of the grants program, some eligible applications might only receive partial funding, therefore applicants are highly encouraged to consider and identify in-kind and cash contributions in their applications, and clearly demonstrate the value and benefits of the request.
- Council uses the Australian Business Number (ABN) to confirm an applicant's status as an incorporated not-for-profit (or under auspice) or charitable organisation.
- The following criteria will apply to all applications:
 - Contribute to sustainability practices
 - Offer value for money
 - Demonstrated track record of sound project and financial management
 - Detail how the project/event/program is responding to a need/ gap in the community
 - Provide an estimate of the number of people in the LGA that benefit from the program/project/event

10.3 Approval

- Recommendations for funding of \$1,000 or less may be approved by the CEO or their delegate, provided the funding is in accordance with sections 356² (3), 377³ (1A) of the Local Government Act 1993. All funded projects will be documented and reported at the first Grant Report to Council, details to be made available on the website through Council agenda papers.
- Recommendations for funding over \$1,000 will be submitted to Council for consideration and endorsement in accordance with Section 356 of Local Government Act 1993.

² Section 356 of the Local Government Act 1993 is a legislation that allows councils to provide financial assistance to other for the purpose of exercising their functions.

³ Section 377 of the Local Government Act 1993 gives the council the general power to delegate any of its functions to the general manager or any other person or body, except for some specified functions such as rate setting, borrowing money or adopting a management plan.

- Only the elected Council has authority to approve applications to a grant and donation program, except for specific delegation given to the CEO.
- Approval of a grant, donation or sponsorship does not imply that Council has given any other consent. Applicants are advised to obtain relevant information and consent from Council, NSW Police, and other state government agencies in advance for the project they are seeking grant.

10.4 Funding Agreement

- All successful applicants will be notified by an email.
- All successful applicants are required to enter into a funding agreement before funds are released and before a project can commence.
- Council's grant or sponsorship must be acknowledged on all promotional material. The Council logo should be used with the text "This project is proudly supported by Kiama Municipal Council".
- All promotional material where Council logo is used must be approved by Council prior to publication.
- Council reserves the right to receive the following for Destination Event Funding and Signature Community Events Funding: joint media release opportunities, opportunity for Mayor to speak at the event or occasion, space at the event (table/stall), and tickets to attend the event or occasion.
- Council will not be responsible for shortfalls in event budgets if the successful applicant is unable to meet event costs. All unspent funds in excess of \$100 are to be returned to Council.

10.5 Reporting and Acquittal

- All grant recipients are required to acquit their project as per the funding guidelines and unless stated otherwise, within 12 months of receiving the fund.
- Reports are to be submitted through the SmartyGrants portal. Reports should include information on the agreed project outputs and outcomes, relevant data, and any lessons learnt.
- All reports must be accompanied by a detailed financial report. Grant recipients may be requested to provide further documentation and evidence of expenditure. Council may audit recipients at any time.
- All grant recipients must submit reports and acquit funds prior to applying for new funding from Council.

11. Minor Changes to this Policy

That Council authorises the CEO to make minor changes to this policy to reflect changes in legislation, expiry of or changes to grant programs, and changes in Council structure.

12. Related Forms and Documents

Grants and Donation Guidelines.

13. Attachments

Guideline For Applicants – Grants and Donations 2024

Attachment 1	SC4430 – 24/24486

14. Authorisation

Name: Council Resolution #

Date: xx/xx/2024



Grants and Donations Guidelines for Applicants

1. Introduction

The Grants and Donations Guidelines is developed to assist applicants when applying for funding from Kiama Municipal Council (Council). The Guidelines must be read and applied in conjunction with Council's Grants Donations and Sponsorship Policy. The Guidelines provide detailed information of each grant or donation program, aiming to be easy to understand and follow. The Guidelines must be read prior to applying for a Council grant to ensure you are eligible and applying to the appropriate grant relevant to the program, event or initiative you are seeking funding.

Council seeks to optimise the use of public funds through effective and efficient grant processes, and clear grant program objectives linked to Council's Community Strategic Plan to enhance social, cultural, and economic outcomes.

Grants and donations Coulc:

- Play an important role in community development and support active participation in civic life. They empower the community to address issues that matter to them and take the lead on projects to enhance community life.
- Help stimulate business, tourism and economic activity. They encourage partnerships with other organisations and assist groups and individuals to work together for the collective benefit.
- Be a valuable method of supporting artistic and creative endeavour, helping foster initiative, experimentation and enterprise by creative workers and providing new opportunities for audiences to engage in our community's cultural life.

2. Guiding Principles

Council's assessment and decision-making processes are guided by the following strategic alignment and principles. Applicants are required to demonstrate how their program, project or event aligns to one or more of the following areas.

RESPECT • INTEGRITY • INNOVATION • TEAMWORK • EXCELLENCE •

Community Strategic Plan 2022-20232 – Council’s Community Strategic Plan (CSP) is an overarching plan that represents community vision for the municipality of Kiama. This vision is outlined through five directions, referenced as the following Pillars:

- We Belong and Contribute
- We thrive in a sustainable environment
- We create a strong and diverse economy
- We are part of a connected and liveable community
- We expect accountable and transparent leadership, a financially sustainable Council.

All applications must demonstrate how their project, program or event address at least one of the above pillars.

Partnership and Collaboration – Council partners with a variety of organisations to deliver on its objectives. This includes not-for-profit community organisations who deliver on program and initiatives that build and maintain respectful, transparent and collaborative relationships in the community and with Council are. Your application should outline how your project is contributing to develop and maintain partnerships between Council and the community.

Commitment to local – Council is committed to supporting local projects, local people and local business in order to achieve economic, social, environmental and community outcomes. This will be achieved through engagement with local community groups and organisations who are also committed to these outcomes.

Access, diversity and inclusion – Council values the identities, perspectives, and experiences of the communities that live, work, and visit our local area and believe this diversity strengthens our community. Kiama is a diverse community – from culturally, linguistically, age, sexuality and ability perspectives. Kiama is located on the Dharawal country, the home of our First Nations people who have resided on the South Coast of NSW for tens of thousands of years. Council acknowledges the richness of First Nations culture that underpins our community.

Council is committed to ensuring that our grant program is inclusive and accessible to our diverse communities. Applications from our diverse communities including First Nations people, young

people, older people, people with disability, culturally and linguistically diverse communities, women and LGBTIQ+ communities are highly encouraged.

Value for money – The Grants Program seeks to obtain the best mix of applications to meet the needs of the community and maximise outcomes for the local government area. Projects that represent good value for the level of cash or value-in-kind support requested are supported.

Sustainability – Council is committed to economic, social and environmental sustainability and welcomes projects that have these principles at their core, including:

- Economic sustainability - projects are either one off in nature or able to self-fund future iterations.
- Social sustainability – projects that enable medium to long term benefits for participants.
- Environmental sustainability - all aspects of the project consider and take into account processes for inclusion of resources that are healthy and supportive of our environment.

Good governance and stewardship – Council is committed to rigor, efficient and effective decision making in the best interest of the public. The Grants Program Policy, Guidelines, Application, Assessment and Acquittal processes are developed to meet equitable access, accountability and reporting requirements of public funds.

Council employees involved in assessing or performing administration duties associated with grant and funding agreements must comply with the requirements of Council’s Code of Conduct for staff, contractors and volunteers, and relevant internal procedures.

Transparency – Council will ensure that grant processes are transparent and fair. Applications are assessed objectively against the eligibility criteria as per the Grants Program Guidelines, using the assessment matrix. All conflicts of interests are addressed and declared as part of this process. Council will keep a register of all grants and funding available on the Council’s website. All applications for grants will be reported and documented through Council meeting business papers.

Reflect and Learn – Council is committed to continues improvement. Mechanisms for evaluation and community feedback are applied and applicants are invited to contribute to improving Council’s grants procedure.

Communication – The Grant Program will be promoted on Council’s grants management portal, the SmartyGrants, and news and information about grants will be promoted through:

- Council’s website and social media channels; and/or
- Media releases; and/or
- Council newsletters and other Council publications; and/or
- Community information sessions; and/or
- Direct email or phone contact.

Acknowledgement of Council funds – Council’s funding support must be acknowledged by successful applicants for the specified programs, and where applicable as per section 7.3 of the Policy.

3. Funding Round Schedule

Funding Program	Application Timeframe
Small Community Grants and Donations	Open all year via SmartyGrants portal
Destination Events Funding	Two rounds annually via SmartyGrants portal
Signature Community Events Funding	Two rounds annually via SmartyGrants portal
Cultural Grant	Two rounds annually via SmartyGrants portal
Health & Sustainability Grant	Two rounds annually via SmartyGrants portal

4. General Eligibility Criteria

4.1. General Eligibility

Applications for the Grants Program must:

- Be an incorporated not-for-profit (or under auspice of an incorporated organisation) or charitable organisations and hold a current ABN. (*In some instances funding for-profit organisations who have demonstrated they are best placed to deliver a public benefit and meet the relevant grant program's outcomes will be considered*). Exempt from this criterion are Destination Event Grants applicants, which may be commercial in nature.
- Operate within the Kiama Local Government Area (LGA) or can demonstrate that the project or program will benefit residents of the Kiama community.
- Have or will obtain appropriate insurance and adhere to sound Workplace Health and Safety practices or be under the auspice of another organisation.
- Demonstrate meeting at least one of the strategic outcomes outlined in the policy and at least one of the CSP Pillars.
- Have no debt to Council and have met and successfully complied with all Council funding, reporting and acquittal conditions for previous Council grants.
- Not be the recipient of any other financial or other type of assistance from Council for the same event or project.
- Meet the eligibility criteria and terms/conditions set out in the specific funding program as set out below.
- Complete each mandatory application questions and submit all required documents.
- Build and enhance the reputation and brand of Kiama Municipal Council in accordance with Kiama CSP.
- Work collaboratively and respectfully with Council and staff representatives.

4.2. General Ineligibility

- Projects that do not meet Kiama's Community Strategic Plan outcomes.
- Projects that have already commenced or have been completed.

- Applications from government agencies, political parties/activities, clubs that profit from gaming machines.
- Commercial and profit making entities and private organisations (not applicable if you are applying for the Destination Event Grant).
- Projects that directly contravene existing Council policies.
- Projects that duplicate existing Council services or programs.
- Applications to cover funding shortfall from other government programs.
- Applications that do not demonstrate a direct benefit to Kiama residents.
- Requests for funding toward salaries/wages and operational expenditure including administration, insurance, office equipment, transport, travel, IT equipment.
- Applications for development of privately-owned facilities.
- Applications to pay off a debt.
- Applications for funding toward core operational costs i.e. day to day operations of a community group or organisation.
- Individual requests for funds to attend national or international sports events.

5. THE FUNDING PROGRAM

Council's Grants Program provides funds to the following programs:

1. Small Community Grants and Donations
2. Signature Community Events Grant
3. Destination Events Grant
4. Cultural Grant
5. Health and Sustainability Grant

Small Community Grants and Donations

Objective

- Develop and or support community capacity building and community education and awareness.
- Facilitate community participation in local initiatives.
- Enhance social, cultural or sustainable outcomes for local communities.
- Improve the quality of life for individuals and community groups from diverse backgrounds.

Examples of projects previously funded through this program

Christmas Carols

Sporting competitions

Photographic Exhibitions

Healthy lifestyle programs

Eligibility Criteria

In addition to the General Eligibility Criteria outlined in the Policy and Guidelines, the following criteria applies to this program:

- Be incorporated or auspiced by an incorporated organisation
- Be not-for-profit (Council may request the submission of the most recent annual financial report)
- Demonstrate how the grant and donation will benefit the Municipality of Kiama, strengthen the Kiama community and contribute to Council's goal of a socially just and inclusive community.
- Demonstrate that any monies raised through programs or activities associated with the donation will be used or distributed to benefit the Kiama community.
- Not be raising funds on behalf of another group which itself is a recipient of financial assistance from Council, State or Federal Government.

Opening round – All year round

Total allocation: \$15,000 (Maximum \$500 per application)

Signature Community Events Funding

Objective

- Develop and or support community capacity building and community education and awareness
- Facilitate community participation in local initiatives.
- Enhance social, cultural or sustainable outcomes for local communities.
- Improve the quality of life for individuals and community groups from diverse backgrounds.
- Support eligible event organisers to plan and deliver successful community events that; provide a significant benefit to the Kiama Municipality’s residents, demonstrate value for money and align with Council’s strategic goals and identified key initiatives.

Examples of projects previously funded through this program

- Kiama Jazz and Blues Festival
- The Kazador – Mini Spiegeltent Season
- Significant art gallery exhibitions

Eligibility Criteria

In addition to the General Eligibility Criteria outlined in the Policy and Guidelines, the following criteria applies to this program:

- The event is based within the Kiama Local Government Areas.
- Community events that operates in and/or shows a direct benefit to the residents of Kiama LGA, aligning with Council’s Community Strategic Plan.

- Applications received before the deadline, and at least three (3) months prior to the proposed event start date.
- A current Kiama Council issued Development Consent or Permit for the event or is agreeable to working with Council to obtain one (if applicable).
- Current public liability insurance of at least \$20 million.
- Agree to proactively engage with local businesses and community groups in the planning and delivery of the event.
- Ability to present strong financial management i.e. financially solvent / event not entirely reliant on Council funding.
- Not have received funding support/grant from another department of Council for the same event (i.e. Destination Event Grant).
- Not be a frequently re-occurring event e.g. a weekly or monthly scheduled market.

What the funding can be used for

Eligible items for funding may include but are not limited to:

- Expenses related to hire of equipment, temporary structures, professional services (including artist fees).
- Traffic management plans including traffic control services.
- Promotion and advertising of the events.
- Access and inclusion measures at events and functions.

What the funding cannot be used for

Ineligible items for funding include but are not limited to:

- Event costs already funded by Kiama Council
- Consumables such as stationery, printing, fuel, vehicle / plant / equipment repairs
- Travel expenses
- Mobile phone costs
- Alcoholic beverages

- items costed from another government grant.

Opening round – 2 rounds annually

Total allocation - \$45,000 (Maximum \$8,000 per application)

Destination Events Grant

Objective

- Support Major and Destination Events within the Kiama LGA which attract a significant number of overnight intra and interstate visitation.
- Provide financial and/or in-kind support to events identified as having the potential to develop and maintain an ongoing major or destination events status.
- Support Major and Destination Events that occur out of peak visitor periods and assist in balancing the local event calendar and ease seasonal pressures.
- Support events with a long-term vision for growth and sustainability.
- That deliver objectives within Kiama Council's Tourism and Events Strategic Plan.

Examples of projects previously funded through this program

- Gerringong SurfLife Music Festival
- Kiama Rugby Sevens
- Changing Tides Music Festival

Eligibility Criteria

In addition to the General Eligibility Criteria outlined in the Policy and Guidelines, the following criteria applies to this program:

- Considered a Major or Destination Event (see [event categories](#)) or demonstrate ability to adequately justify why the event otherwise meets the purpose of the Funding Program.
- Application received at least three (3) months prior to the proposed event start date.
- Event must be based in the Kiama LGA (or at least 60% if an event that spans over more than one Council area).
- Event attracts overnight visitation from outside our area and have an objective to grow this aspect.
- Proactively engage with local businesses in the event planning and/or delivery of the event.
- Present strong financial management i.e. financially solvent / self-sustainable and the event itself not entirely reliant on council funding.
- Be held at a desirable time of year (outside peak visitation periods).
- Event undertaken within 12 months of receiving approval of funding.
- Not have received funding support/grant from another department of Council for the same event (i.e. Kiama Cultural Grants).
- Not be a regularly re-occurring event e.g. a weekly or monthly scheduled market
- Have met and complied with all Council funding, reporting and acquittal obligations for any previous funding.
- We strongly encourage event organisers to be a Destination Kiama partner.

Reporting

In addition to the reporting requirements outlined in the Policy and Guidelines, the following additional requirements applies to this program:

- Post Event Report is required to be submitted within four weeks of the event conclusion, and must entail:
 - An overall report demonstrating how the event was planned to be run against how it actually performed and any key learnings.
 - Tourism and event evaluation data including event attendee numbers, attendee demographics (age, gender, location), if they stayed overnight (details such as these

are best achieved through a post event survey or questions asked through a ticketing system).

- Results from marketing efforts (digital analytics eg. clicks, reach and shares, specific marketing efforts)
- Evidence of how Council and Destination Kiama were acknowledged (eg. screen shots, photos, posters etc.)

Opening round – 2 rounds annually.

Total allocation: \$130,000 (Maximum \$20,000 per application)

Cultural Grant

Objective

- Enhance social, cultural or sustainable outcomes for local communities.
- Explore innovative arts practices and interdisciplinary collaboration that advances Kiama's arts profile in the wider community.
- Expand the understanding and utilise the power of the arts, cultural, social, educational, economic, and psychological benefits, for the overall health and wellbeing of the Kiama community and its visitors.
- Advance the professional learning and educational outcomes for artists.
- Improve the collaborative and mentoring opportunities for artists.
- Push the boundaries for community engagement with the arts through interactive, immersive and cutting-edge art experiences.
- Demonstrate inclusive practices that actively engage our diverse community ie gender, sexual and cultural diversity, ability and age.

Examples of projects previously funded through this program

- Art exhibitions
- Festivals
- Book launches
- Album releases

Eligibility Criteria

In addition to the General Eligibility Criteria outlined in the Policy and Guidelines, the following criteria applies to this program:

- Applicants must live, and/or deliver their project, in the Kiama local government area and be one of the following;
 - An individual artist – amateur, emerging semi-professional or professional
 - A not-for-profit community organisation or group
 - An arts based for profit business (*In some instances funding for-profit organisations who have demonstrated they are best placed to deliver a public benefit and meet the relevant grant program's outcomes will be considered*).
- The project must not have been previously funded through the Kiama Council's Cultural Grants.
- Apply for one year of funding only (recurrent projects ie. annual events, that are considered will receive a one-off seed funding only if successful). Any funds provided must not lead to the applicant becoming dependent on ongoing financial support from Kiama Council).
- Applicants must demonstrate financial need for grant support.
- Projects must have a realistic timeframe or completion within the grant period.
- Applicants must agree to participate in program evaluation and submit project reports.

Opening round – 2 rounds annually

Total grant allocation - \$15,000 (Maximum \$2,500 per application)

Health & Sustainability Grant

Objective

- Enhance health and environmental sustainability outcomes for local communities.
- Provide and promote opportunities for the community to:
 - engage in regular physical activity
 - develop skills in sustainable practices
 - develop knowledge and skills in healthy eating and active living principles
 - improve the health of the natural environment
 - Improve the mental health and wellbeing
- To partner with and support community groups in the development and delivery of projects that improve the health, wellbeing and quality of life for all residents and visitors in the Kiama Municipality.

Examples of projects previously funded through this program

- Kiama Community Garden
- Landcare Illawarra
- Public School P&C Association
- Parkinsons Kiama

Eligibility Criteria

In addition to the General Eligibility Criteria outlined in the Policy and Guidelines, the following criteria applies to this program:

- Be a not-for-profit incorporated community organisation (or under auspice of an incorporated organisation) or be an incorporated school P&C and have relevant insurances. Where partnerships are proposed, a letter identifying the lead organisation will be required, and all organisations will need to sign the application form.

- If a proposed project's governance is to be auspiced by another organisation, written confirmation of the auspice arrangement must be submitted with the grant application and an officer of the auspice organisation with appropriate delegated authority must co-sign the application.
- Must have fully completed the application form, paying careful attention to budget breakdown, project description, work plan and timeframe.
- Must ensure that the project is not for the purposes of charitable fund raising.
- Must be able to match dollar for dollar funding amounts for projects either in cash or in-kind.
- Must submit new and innovative projects (rather than previously funded projects) to be considered.
- The project must not have been previously funded through the Kiama Council's Health & Sustainability Grants.
- Apply for one year of funding only (recurrent projects ie. annual events that are considered will receive a one-off seed funding only, if successful. Any funds provided must not lead to the applicant becoming dependent on ongoing financial support from Kiama Council.

Opening round – 2 rounds annually

Maximum amount per application - \$15,000 (Maximum \$2,000 per application).

6. Tips to assist your application

- Register your organisation/ group on SmartyGrant Portal
- If in doubt about any aspects of your application, speak to Council’s Community Development team for advice and directions before submitting your application.
- Read relevant Council plans and strategies noted in the policy which are available on the Council website.
- Review the Guiding Principles and how they can assist with preparation of your application.
- Set clear, achievable and measurable outcomes relevant for the grant you are seeking.
- Include evidence of need/ demand for your program including statistical data, research reports, community consultation data.
- Ensure your budget is accurate by obtaining quotes for your project.
- Use plain English.

7. The Grants Procedures - Summary

Making an application – complete your application through the online portal – SmartyGrants. *Note that hard copy or emailed applications are not accepted.* <https://kiama.smartygrants.com.au/>

Assessment and decision making – all applications that are submitted through the SmartyGrants portal are assessed by the Internal Grants Assessment Panel. Applications that are recommended for funding will be submitted to Council for endorsement. Applications for grants under \$1000 are approved by the CEO as per Council delegation.

Applications Outcomes – All applicants are notified of the outcome of their applications by email.

- Successful applicants will be provided with a Funding Agreement to complete, including the requirements to report and acquit their project.
- Unsuccessful applicants will be provided with feedback on request.
- Details of successful applications will be published on the Council website.

Payment Arrangements – Payment will be made by Council to the nominated bank account by electronic funds transfer. The payee will need to be set up as a supplier on the Council system.

Acquittal – Financial acquittal is required for all Council grants. A financial acquittal report must be submitted:

- Via the SmartyGrants portal or on the form provided by Council, before the agreed date in the funding agreement.
- Inclusion of supporting documents such as receipts or other documentation that shows expenditure of Council grant funds.
- Any unspent Council grant money must be returned to Council.

Failure to meet the above criteria may result in an applicant being:

- Required to return allocated funding to Council ; and/or
- Becoming ineligible for future Council grants.
- Applicants who have not provided adequate grant acquittal documentation within 6 months (four weeks for Destination Events Grant) of the original grant approval date will be referred to Council's Finance Department for debt retrieval.

Failure to meet Funding Agreement – Applicants who fail to deliver on aspects of their funding agreement within the agreed timeframe may be eligible for one of the alternative options:

- Variation requests – submit a variation request to the approved project in writing. A written response to such requests will be provided by Council. Variations to project details are expected to deliver on outcomes that were initially approved by Council.

- Extension requests – submit an extensions request in writing. A written response to such requests will be provided by Council. Extensions will not be accepted beyond a twelve-month period from the original acquittal date in the Funding Agreement, unless extenuating circumstances can be demonstrated.

In the event that an applicant can no longer complete any or all of the approved project, unspent grant funds will be returned to Council and any partial expenditure must be acquitted.

8. More information

You can visit Council’s website or contact Council’s Community Development team for more information or to discuss your proposal for funding. PH: 4232 0444

9. Related Links

Community Strategic Plan - [Community Strategic Plan Kiama Council \(nsw.gov.au\)](https://www.nsw.gov.au)

Delivery Program and Operational Plan - [Delivery Program and Operational Plan Kiama Council \(nsw.gov.au\)](https://www.nsw.gov.au)

Grants and Donations Program - [Grants Kiama Council \(nsw.gov.au\)](https://www.nsw.gov.au)

Kiama Tourism & Events Strategic Plan - [Tourism and Events Strategic Plan Kiama Council \(nsw.gov.au\)](https://www.nsw.gov.au)

15.3 Endorse for public exhibition: Public Art and Permanent Art Collection policies and procedures

CSP Objective: Outcome 1.1: We want a strong sense of community and belonging, where social and cultural life can flourish; and our families, friends and visitors feel welcome and included.

CSP Strategy: 1.1.1 Provide spaces, services and initiatives that foster a proud, inclusive, and connected community for all.

Delivery Program: 1.1.1.1 Review Council's Arts and Cultural Strategy and policy framework and implement priority actions.

Item 15.3

Summary

The purpose of this report is to seek endorsement for the following policies to proceed to public exhibition:

- Art Collection Policy (Attachment 1)
- Public Art Policy (Attachment 2)

These documents reflect the framework for Council's art collection and public art collection. They have been created to support Council staff and our community to understand and manage Kiama's art collection and public art using best practice principles and processes.

Financial implication

The policy framework including internal procedures will assist in purposeful management and decision making regarding the existing Council art collection and future public art.

Risk implication

Nil

Policy

This policy will support the ongoing management and decision making relating to artworks and public art.

Consultation (internal)

Executive Leadership Team

Director Planning, Environment and Communities

Manager Library and Cultural Hubs

Communication/Community engagement

It is intended for these policies to proceed to formal public exhibition to inform community and seek input about the content of the policies.

Attachments

- 1 Draft Art Collection Policy 2024 [↓](#)
- 2 Draft Public Art Policy 2024 [↓](#)

Report of the Director Planning, Environment and Communities

15.3 Endorse for public exhibition: Public Art and Permanent Art Collection policies and procedures (cont)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Place the draft Art Collection Policy, the draft Public Art Policy on public exhibition for a period of 28 days.
2. Note if submissions are received during the exhibition period a further report will be provided on any proposed amendments to these policies and procedures.
3. Adopt the Art Collection Procedure Acquisition and Deaccession 2024, Art Collection Policy, Public Art Policy and Public Art Procedure, if no submissions are received, on the day after the completion of the public exhibition period.

Policy Framework

Council's Public Art Policy and Implementation Guide was first adopted in February 2016. A revision has not occurred since it was adopted. The revised policy and procedure offers a streamlined approach to public art commissioning, procurement and management.

Our Art Collection Policy was adopted in 1998 and the last revision being in November 2010.

Limited focus and process has been provided for our Art Collection and Public Art Collection for some time. Like many of Council's assets, there has been a lack of appropriate framework, ongoing maintenance and appropriate storage and management of these assets.

Through the recent Council restructure a position was established to enable focus to be placed on both internal art collection, art displays and public art as well as enhanced cultural programs. This position reports to the Manager Library and Culture and has already resulted in closer synergies between cultural elements and the library team. Work has also now occurred on these important policy and framework elements.

The new policies and procedures take into account that key industry experts/focused panel may be engaged during commissioning or deaccessioning phases, as well as key internal staff.

The policies are provided attached to this report and outline the processes to be followed for the acquisition and the acquisition of art work and provide a framework for decision making for public art. These policies are supported internally through individual procedures to be utilized by operational staff in decision making processes.



Art Collection Policy

Item 15.3

Attachment 1

Date adopted	1998
Resolution number	XX
Previously adopted	2010
Next review due	2025
Department	Planning, Environment and Communities
Responsible officer	Cultural Development Officer
TRIM reference	2024/022955
Supporting documents	Art Collection Procedure: Acquisition & Deaccession

Council Policy Name

1.0 Purpose

Through this policy Kiama Council acknowledges its role in the preservation and care of significant or key cultural works of its local artists and artists associated with our local government area.

It is understood that not all artists and their work are of significance to the State or Federal stage. But are locally significant through what they reflect about the qualities and uniqueness of our community, culture, experiences, and natural and man-made spaces.

Kiama Council has made a commitment to preserving elements of our local cultural history through the accumulation of its current Art Collection and undertakes a coordinated and deliberate approach to our Collection for the future.

This policy outlines how council will oversee a formal council Art Collection that reflects the depth and breadth of our artistic talent and the unique character of the Kiama local government area. As custodians of a public collection, Kiama Council embraces the management of its Collection.

The Kiama Council Art Collection is managed by the Cultural Development Team.

2.0 Objectives of the Policy

The objectives of the Kiama Council Art Collection Policy are to:

- set a framework for the ongoing development of the Collection
- establish an ongoing management system for the conservation, registration, documentation and maintenance of the Collection
- establish a clear set of guidelines and process for the acquisition of new artworks and for the deaccessioning of artworks from the Collection
- clarify the protocols for gifting, donations, and loans of artworks, to and from Kiama Council

3.0 Aims of the Collection

To develop a unique collection containing works that fulfil the following criteria:

- acquire outstanding examples of artist's work
- be of sufficient breadth and depth to sustain a diversity of views and interpretations
- increase the understanding and enjoyment of local history and contemporary art as they pertain to the culture of Kiama
- be recognised for such excellence, community and organisational relevance, and industry standing, as to further the Collection development
- acquire artworks that best reflect the cultural development of Kiama Council

4.0 Scope of the Collection

The scope of the Collection is defined into two main categories;

- the Visual Art Collection, and
- the Public Art Collection.

All heritage collection items should be referred to the Kiama Family History Centre, Kiama and District Historical Society and/or Gerringong and District Historical Society and their associated policies.

4.1 Collection Categories

4.1.1 The Visual Art Collection

Includes painting, photography, contemporary art, mixed media, drawing, and printmaking that are created for indoor exhibition and display environments

4.1.2 Public Art Collection

Includes artworks developed specifically for the public domain and built environment. These artworks can be sculpture, media works, lighting installations, and land art, murals, mosaics, street art, stencilling, media works, architectural interventions, digital works, and urban design.

5.0 References

This document should be read in conjunction with the following:

- Art Collection Procedure: Acquisition & Deaccession

6.0 Definitions

For the purpose of this document the following definitions apply:

Term	Definitions
Collection	The Art Collection of Kiama Municipal Council
Deaccession	The process of selling or otherwise disposing of works from the collection
Bequest	Something given or left by will or transmitted from the past
Provenance	A record of ownership of a work of art or an antique, used as a guide to authenticity or quality.
Commissioning	To pay an artist to undertake the development of a specific piece of artwork.
Acquisition	The acquiring of art works through purchase, gift, donation, or bequest

7.0 Policy

7.1 Collection Management and Access

Kiama Council will ensure the Collection is recorded and maintained through the provision of an appropriate arts management database system. All aspects of the two collection categories will be recorded in the database for the purposes of insurance, conservation, and community access.

The database will be managed by the Cultural Development Officer.

Maintenance and conservation schedules will be developed retrospectively for Kiama Council's existing artworks across the two collections during the development of the collection management database.

The services of a professional art conservator will be utilised when necessary.

7.2 Acquisition And Collection Development

To be considered for acquisition to the Collection any item must meet the essential acquisition criteria.

Essential Acquisition Criteria

- artistic merit of the object
- relevance and importance to the area of Kiama
- enhance the scope of the collection
- have a verified provenance
- be an unconditional donation or purchase that has valid and clearly verifiable legal title
- have the necessary resources allocated to resolve all foreseeable issues related to conservation, presentation, and storage, as part of the acquisition
- purchased works, donations, and loans must be accompanied by a valuation certificate for the purposes of insurance, alongside a maintenance manual and conservation plan
- a more appropriate agency does not exist to house the artwork

7.3 Donations and Bequests

Donors will be made aware that no conditions will be accepted as part of the donation or bequest and that the art works become the property of the Kiama Municipal Council and subject to the Art Collection Policy guidelines prevailing.

Donations will be receipted within the convention and standards of the Department of Taxation Cultural Gifts Program, noting however that Kiama Council does not have Deductible Gift Recipient (DGR) status.

If, for whatever reason, Council decides to accept a gift of a work of art that it does not want in the Collection, such works can, with the permission of the donor, be registered as assets in the same way that furniture and fittings are, to be sold at a later date. These works should not be formally accessioned. Any works subsequently purchased with the proceeds of such a sale should be registered as the gift of the original donor.

7.3.1 Public Art

Collection donations accepted by Council will be on the basis of an agreed timeframe. This timeframe can, and may, be reviewed at any time during the originally agreed life cycle should any concerns arise regarding the condition of the artwork, questions around provenance of the artwork, or concerns for public safety arise.

All permanent donations must be accompanied by legal documents including a certified valuation certificate, provenance list for the artwork, and a legal document transferring full rights of ownership to Kiama Council.

Kiama Council will have exclusive copyright license of the works, however full copyright will remain with the artist/author of the artwork/object.

7.4 New Initiatives

When new initiatives or offers by donation or bequest create an opportunity for new collecting areas to be established, they must be weighed carefully against current and predicted resources so as not to compromise the ability to adequately care for and utilise the existing collection.

7.5 Loans

7.5.1 External Loans

Kiama Council will loan works to external organisations for exhibition purposes under the provisions of a legal loan agreement.

The borrowing institution is expected to provide all requested insurances, condition reports, and condition controls required for the exhibition of the work on loan. Evidence of the aforementioned must be provided with a signed and returned copy of an official loan agreement provided by Kiama Council.

The terms and conditions on the loan of a specific artwork are non-negotiable.

7.5.2 Internal Loans

Kiama Council's Cultural Development Officer will manage the internal loan of works for exhibition in Kiama Council offices and community venues.

7.6 Relocation of Public artworks

Circumstances sometimes arise where redevelopment of a site, upgrades, or construction render an artwork inappropriate and require its relocation.

If it is decided a work needs to be relocated Council must first consult the artist and notify them of the intention to relocate the work. Council staff must ensure they work with the artist throughout the relocation process, unless the artist has articulated otherwise.

Council staff must prepare a report on the insurance, risk assessment, valuation, engineering, and legal aspects of relocating the artwork prior to the artwork being relocated.

7.7 Deaccessioning

Deaccessioning should occur rarely and must only take place as a part of Collection development and improvement.

The major danger of deaccessioning, apart from the risk of disposing of a work that future generations might value, is the potential of undermining of public confidence in the Collection and may discourage further gifts and donations. People give to galleries in perpetuity and in the confident expectation that artwork will be managed wisely.

In general, the work of living artists (especially local living artists) should not be sold, as this will tend to depress the market value of that artist's work. However, an exchange with the artist for a more appropriate work is acceptable.

Deaccessioning will be undertaken in accordance with Kiama Council's Deaccessioning Procedure. Deaccessioning will include consideration of the following criteria:

- a work of art whose significance or aesthetic merit falls substantially below the general level of the collection
- a work of art which lowers the overall level of quality or representation of its specific area in the collection
- a work of art which has deteriorated to the extent that it is no longer recognisable as a work of art and is beyond restoration to an acceptable standard
- a work of art that requires a level of ongoing maintenance and repair that is beyond the financial and social value of the work

- a work of art in the collection which is no longer perceived as falling within Kiama Council's existing acquisitions policy
- a work of art that is a duplication, or is duplicated in the collection
- a work of art that contains materials that are considered hazardous or has the potential to cause physical harm
- a more appropriate agency exists to house the artwork

7.7.1 Methods for disposal of deaccessioned artworks

Artworks that have been scheduled for deaccession should, in the first instance, be offered to be returned to the artist.

Deaccessioning of gifts or bequests of works of art should be undertaken in consultation with either the donor, or the surviving family of the donor or the appropriate trustee or executor, unless despite every reasonable effort they cannot be located.

In the event that the donor or artist do not wish to have the artwork returned to them Kiama Council may dispose of the artwork by the following methods,

- The artwork may be offered to a more appropriate collecting institution
- The artwork may be resold through the secondary art market
- The artwork may be dismantled and/or destroyed in the event of no other option being suitable

Councillors, Council Staff and their families are ineligible from procuring an item deaccessioning from the collection by any means.

8.0 Attachments / supporting documents

- Nil

9.0 Review history

This policy was adopted by Council/ELT on XX

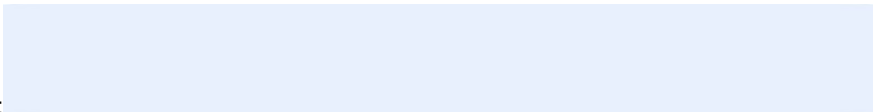
This policy will be reviewed XX. Any amendments to this document must be by way of Council resolution/approved by the Executive Leadership Team.

Council reserves the right to review or vary this document and associated processes at any time if required.

10.0 Document control

Date reviewed	Date adopted	Amendment
1998	1998	Created
2005	November 2005	Unknown
2010	November 2010	Unknown
2024	Click or tap here to enter text.	Review and rewrite of policy

11.0 Signature

Name: Click or tap here to enter name.	Date: Click or tap to enter a date.
Signature: 	



Public Art Policy

Item 15.3

Attachment 2

Policy Owner/Responsible Officer	Cultural Development Officer
Department	Planning, Environment and Communities
Date endorsed	March XX 2024
Next review date	March XX
TRIM reference	2024/022953

Policy Statement/Objectives

Kiama Municipal Council is committed to the sustainable development of a culturally rich and vibrant community, and recognises the important role of public art in actively engaging the community, creating a sense of place and enhancing the liveability of our region.

The policy provides a framework for integrating art and design into the public domain, and will act as a guide by which Council will commission, procure, approve, manage and preserve Public Art in the municipality.

The objectives of the policy are to:

- To facilitate the provision of high-quality, innovative and diverse public art within the Kiama Local Government Area (LGA);
- To provide a considered approach to the funding, procurement, acquisition and management of our current and future public art collection;
- To develop and celebrate Kiama’s history, and preserve our cultural heritage and assets for the enjoyment of future generations;
- To collaborate with artists and communities to create public art that inspires, builds identity and injects creativity;
- Integrate public art development into Council’s planning, development control and asset management process;
- To align with Council’s Community Strategic Plan (2022-2032), addressing the following pillars:

Pillar 1- We belong and contribute

Pillar 3- We create a strong and diverse economy

Pillar 4- We are part of a connected and liveable community

- **Scope**

RESPECT • INTEGRITY • INNOVATION • TEAMWORK • EXCELLENCE •

The key feature of the Public Art Policy is its proposal to continue to integrate art into the fabric of the city. Public art is part of our public history; our evolving culture and our collective memory.

The policy applies to:

- Public art proposals that are located on high profile sites that have public access;
- Public art proposals, whether publicly or privately funded, that are proposed for installation on Council owned or managed land;
- Public art proposals that are initiated by individuals, groups, businesses or organisations for installation on publicly-accessible land owned by entities other than Kiama Municipal Council.

This policy is supported by Council's *Public Art Procedure and Implementation Guide*.

References

- Community Strategic Plan (CSP) 2022-2032
- NSW Government Public Art Toolkit
- [Arts Law Centre of Australia](#)

Consultations

- NIL

Definitions

Term	Definition
Art	For the purposes of this policy, art is not decorative art, and is meant to provoke an emotional reaction or intellectual response. Art in the context of this Public Art Policy should express the creator's imagination, conceptual ideas and/or technical skill. Art should encourage awareness and reflection; challenge ideas, enhance a sense of discovery, interaction and celebration of the social space.
Public Art	The Arts Law Centre of Australia defines public art as “artistic works situated in public spaces and accessible by members of the public, excluding artworks held in the collections of galleries and museums”. Public art can be ephemeral, temporary or permanent and can also include the conceptual contribution of an artist to the design of public spaces and facilities.
Deaccession	The process undertaken to remove a work of art from public display, or from a public collection.
Acquisition	The acquiring of art works through purchase, gift, donation, or bequest.
Permanent Public Art	Enduring, site-specific cultural assets designed by artists, which are often permanently located in a major infrastructure or landscape. The expected lifespan of a permanent work is 5 to 25 years.
Temporary or Ephemeral Public Art	Temporary art works are generally designed to last between 0-5 years and are sometimes as one-off event. These artworks may include performance, installation, façade treatments, light, sound and new technologies

Memorial	A memorial is an artwork that commemorates an individual, organisation, anniversary or event which may be commissioned from a professional artist.
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Variation and review

Council reserves the right to review, vary or revoke this policy. This policy will be reviewed every three years with ongoing monitoring to inform future decision making related to public art in Kiama Municipality.

Review History

Date reviewed	Date adopted/ endorsed	Brief detail of amendments
New	February 2016	Council’s first Public Art Policy adopted
January 2024	March XX 2024	Revised and amended

POLICY

1. Principles

This policy sets out several key focus areas which will set the direction over the next three years for Council to realise opportunities for public art.

1.1. Recognise and Celebrate First Nations Stories

Ensure that the heritage and culture of Kiama’s Aboriginal and Torres Strait Islander people, and people from a range of cultural backgrounds are recognised, respected and celebrated in public spaces.

1.2. Manage and maintain Council’s Public Art Collection

A public art collection register will be developed by Council for public artworks, including Council’s permanent art collection. This will involve documenting, cataloguing and condition reporting all works.

1.3. Funding

Council will investigate a range of funding sources to develop and sustain public art. These may include private sector contributions; other government funding program; and/or philanthropic programs.

1.4. Public Art guidelines and processes

Commission, support and facilitate diverse, innovative and vibrant site-specific contemporary artwork; in line with the Councils commissioning approach, including Expression of Interest, Limited Competition and Direct Engagement, and procurement methodology.

1.5. Partnerships

In commercial developments of sufficient scale and public profile, Council encourages developers to integrate public art options that will enhance public spaces; create a cohesive sense of place and improve economic benefit for both the development and the community.

1.6. Commissions and Proposals

Should Council decide to commission a work of Public Art, this process will be undertaken as defined in Council's Public Art Procedure. All public art proposals, including commissions, proposed gifted works, memorials, temporary works and integrated design projects will be assessed at the concept stage using consistent and specific criteria (provided within the Public Art Procedure) before recommendations are made to Council.

1.7. Provide advocacy and support

Promote the development of high-quality public art and place-making strategies in private and commercial developments.

1.8. Implement engagement programs

A range of creative, education programs will aim to enhance appreciation and understanding of art and its role in the public domain. This may include artist talks, workshops, website information, activity sheets, app-based tours, and cultural asset mapping.

Related Forms/Documents

- Public Art Procedure (2024)
- Public Art Implementation Guide (2016)
- Art Collection Policy
- Community Strategic Plan (CSP) 2022-2032
- Local Government Art 1993
- Development Control Pan (DCP) 2020

Attachments

Attachment 1	Public Art Procedure

Authorisation

Name: **Title of person authorising OR ELT OR Council Resolution No: ******

Date: **Date endorsed by ELT or adopted by Council**

15.4 Growth and Housing Strategy Community Engagement

CSP Objective: Outcome 4.1 We love where we live; our housing reflects our values.

CSP Strategy: 4.1.3 Manage growth sustainably and thoughtfully.

Delivery Program: 4.1.3.1 Local Housing Strategy facilitates the provision of adequate housing supply within the Municipality

Item 15.4

Summary

Council is commencing a comprehensive and innovative conversation with the community about growth. Through this conversation, Council staff will be developing a Growth and Housing Strategy to support and shape the future of the LGA. This pivotal piece of work for both the organization, State Government and the community will be integral in shaping the future of our Municipality.

Financial implication

Budget has been allocated for the completion of the project within this financial year. Resources have also been allocated to support the strategy completion.

It is noted that the findings of the strategy and proposed growth locations will ultimately have a financial impact on Council both through revenue options, additional service provision needs, demands for resources and development of supporting infrastructure. The financial role and its impacts that Council will play in the growth process are being carefully considered as part of the strategy development.

Risk implication

There is a tight timeframe for delivery of the project and work is occurring to ensure that requirements can be met and engagement can remain meaningful throughout the project.

Multiple development fronts continue to occur with many concurrent projects and planning proposals being put forward to Council. There is a risk that resources will be pulled away from the core strategy development. It is therefore essential that this strategy is seen as a core priority of Council and that the planning team will be focused on the delivery of this document.

Policy

State Government Housing Strategy Guideline

Illawarra Shoalhaven Regional Plan

Consultation (internal)

A project team has been created and significant internal consultation is occurring to support the development of the strategy.

Communication/Community engagement

This report provides the overview for the community engagement process that will be followed for the development of the Growth and Housing Strategy.

Attachments

- 1 Working Draft - Engagement Plan Growth and Housing Strategy [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council note the comprehensive engagement plan to develop a Kiama Growth and Housing Strategy.

Background

In 2022 Council staff commenced work on the development of a Kiama Housing Strategy. The intent was to develop a plan that reflected the Department of Planning Housing Strategy Guidelines, with a focus principally on housing supply. Although such a strategy is not compulsory for regional councils the intent was to align Council with other Council's of metro Sydney. Focus for the project was aligning the completion of the Housing Strategy and the process, steps to be taken in strict accordance with the Department of Planning Housing Guidelines. The [Local Housing Strategy Guideline](#) outlines the steps to be taken, content and has been provided by the Department to "support and guide councils to develop their local housing strategies".

A Housing Reference Group was also established to support the community engagement for the project. However, at this time Council resolved not to proceed with the Housing Reference Group and a review of all Council Committees occurred. A restructure of the organisation was also undertaken, and review of strategy priorities occurred, including consideration of available resources at the time.

With the creation of the Greater Cities Commission Regional Plans and City plans and the inclusion of the Illawarra Shoalhaven in this work, the Housing Strategy had been paused to await the outcome of both this work and the expected housing targets it would present. Changes at a state level also occurred and MOG transitions have moved the Greater Cities Commission into the Department of Planning

Regardless of ongoing changes at a State level, following the completion of several other priorities, the planning teams key priority in 2024 is to undertake development of the Growth and Housing Strategy. This will commence with a detailed engagement process that aims to commence an intelligent and robust conversation with the community about growth.

Growth and Housing Strategy

The resulting strategy and then subsequent plans (LSPS and LEP) will need to clearly articulate where, how and why growth will occur within the LGA and to carefully and appropriately manage this growth well.

As concluded through the Federal and State Government reforms and targets, the ability to just say "no" is no longer sustainable and supply will be instead forced upon the community rather than being appropriately located and strategically planned.

It is also expected that the State Government housing targets will be sustainably higher than any previous growth targets and Council needs to be proactive in providing

Report of the Director Planning, Environment and Communities

15.4 Growth and Housing Strategy Community Engagement (cont)

a strategy that can accommodate these targets and create a pipeline of supply, whilst also including the provision of supporting infrastructure, social infrastructure and creating great communities.

Several components of background documentation and studies have now been completed to support the strategy development. These include:

- Vegetation Study
- Economic Analysis
- Economic Health Check

It must be noted that the development of a growth/ housing strategy can take time and require detailed evidence. The intent of this project is to commence this strategy development and continue to refine and build the evidence base. Not everything is known at this stage and actions from the strategy may include the need for further evidence base to be developed. Staff are also working with the Housing Guideline from the Department of Planning and seeking how this can be met through the process. Further development of the form and function of the strategy will occur through the community engagement process to clearly articulate the deliverables, timeframes and expected outcomes.

Coordination of Projects

As outlined to the community through media releases and community meetings Council is also combining engagement activities on two key priority projects for Council, the Community Engagement Strategy and the Growth and Housing Strategy to provide engagement opportunities for the community, where they are. This innovative approach seeks to hear a diverse range of voices and contributes to building lively and diverse discussions between Council and the community.

The State Government is also expected to commence discussions with the community about the draft Bombo Quarry vision. It is expected that this will be incorporated into the engagement process being undertaken for the Growth and Housing strategy to enable the community to actively engage at one time.

Project Objectives

The objectives of the project are as follows:

- Shape a prosperous, resilient and sustainable future for Kiama local government area (LGA).
- Ensure the community adapts to the inevitable changes in how we live and interact with our places, spaces and environment.
- Provide for a range of housing and employment supported by essential infrastructure, services and facilities that meets the future needs of the Kiama population and surrounds.
- Promote, protect and enhance our iconic natural environment now and for generations to come.
- Create safe, sustainable and connected places that support a quality life.
- Comprehensively engage with and be informed by the community.

15.4 Growth and Housing Strategy Community Engagement (cont)

- Represent best practice, contemporary and progressive planning and growth management in a manner that directly responds to the unique environment, including needs and challenges.
- Provide the foundation and necessary data inputs for Council’s new planning scheme and other growth-related initiatives being delivered by Council.
- Utilise different and unique engagement techniques to hear a broad range of unheard voices – target that at least half of population have heard and participate in the project.

Item 15.4

Community Engagement Activities – Phasing

Phase	Dates	Phase Title	Messages and Aims
Phase 1	March	“Commit and get ready”	1. Project overview and scene setting 2. Build understanding about: <ul style="list-style-type: none"> • How participants can be involved in the project and spread the news about the project • What are the expected activities that will roll out over coming months and what will this result in (completion of strategy) • The change that has occurred in Kiama over the past 30 years and how this change has helped to shape the places that are loved today. • The opportunities and challenges that growth presents and what this means to each person in the LGA. • The planning principles that will help shape the Kiama of the future and how community input has formed these.
Phase 2	March/ April	“Identify and Assess and Create”	1. Enliven and image our existing growth precincts and see the opportunity to plan for on the ground for growth. <ul style="list-style-type: none"> • Bombo Quarry • Dido Street • South Kiama • DA process Akuna Street • Gerringong release area 2. Provide the evidence base, vision, principles and opportunities for each precinct site. 3. Discussion Papers – places to work and places to live.

Phase	Dates	Phase Title	Messages and Aims
			<ol style="list-style-type: none"> 4. Topic papers/ though pieces released weekly online 5. Engage with industry and key stakeholder groups – face to face focus – focus on existing growth areas and pipeline of supply opportunities. 6. Early engagement with agencies on infrastructure provision and needs
Phase 3	May	“Shape the Strategy- Future Growth Opportunities”	<ol style="list-style-type: none"> 1. Transition from discussion about exiting growth locations to future options. 2. Continue to drill to next level detail (master planning/ precinct planning for identified sites 3. Engage in other opportunity/ lands options – Developer EOI options in identified precincts. 4. Focus on unheard stakeholders (including school students) 5. Seek answers and input to: <ul style="list-style-type: none"> • Is more needed? • If so where should this be located? • What should it look like? • What are our constraints? • Where are the gaps in knowledge, evidence and data? • What are our options? • What infrastructure is essential for delivery?
Phase 4	June	“Finalise the draft strategy”	<ol style="list-style-type: none"> 1. Data, evidence and draft options – engage with strategy content. 2. Focus on conveying what we heard and how this has informed strategy. 3. Initial draft documents consultation
Phase 5	July	“Draft strategy to Council and Community”	<ol style="list-style-type: none"> 1. Formal exhibition of documentation
Phase 6	TBD	Adoption	

Community Engagement Methods

A number of different community engagement methods will be utilised throughout the engagement process. As part of these methods a clear indication of the place within

Report of the Director Planning, Environment and Communities

15.4 Growth and Housing Strategy Community Engagement (cont)

the IAP2 framework will be explained to the community. In order to build trust with the community it is imperative to explain what role they can play and cannot play in the decision-making process. Often the word engagement is used when Council can only inform the community or consult. Much of this project will be driven by decisions that have already been made through legislation, for example the decision to rezone South Kiama Land to residential. Part of the approach to be used for this project is to clearly explain what can be influenced and where the community should place their efforts.

Taking time to provide input and feedback is valued and the intent is for this feedback and input to be about areas that can be influenced or changed rather than the community feeling their voices are not heard.

It is also a key aim for the engagement methods that have been selected to encourage input from unheard voices and to reach the majority of community, who may not have been previously engaged or who are not already actively engaged with Council.

Some of the methods selected and that will be utilised in the coming months include:

- Online project page and community engagement portal – various online feedback options will be provided so that feedback can be given from any location and at any time.
- Individual stakeholder interviews
- Traditional communication methods (website, media release, social media)
- Community Summit
- Discussion papers and blog posts
- Youth Summit
- Village visits and pop up stalls
- Release of post cards and other hard copy information at various venues
- Meetings with precinct groups
- Craft based activities and feedback that is families, children and youth focused at KMC Libraries and leisure Centre
- Developer Forum – to engage with DA applicants and other stakeholders about the DA process, planning portal and other areas council is focusing on in the processing of development applications.
- Formal exhibition of the draft strategy

A working draft engagement plan is attached to this report. This plan outlines the activities that have been proposed and the timing of these activities. It should be noted that the plan will be modified as the engagement process occurs to allow for variations to meet the needs of community and respond to feedback received. The timing and dates for events may also need to vary at times due to unexpected circumstances. The plan is provided as an overview of the process to be followed and expected deliverables throughout.

Conclusion

Report of the Director Planning, Environment and Communities

15.4 Growth and Housing Strategy Community Engagement (cont)

Our community can expect to be involved and part of a robust and diverse conversation on the role growth will play within our community, the opportunity it brings, the way in which change can be managed and the best places for growth to occur. Discussion will also include identifying those places that need to be protected and the values of landscapes (scenic etc.) that need to be fostered.

Further reports and updates will be provided to Council through report on this project, including summary reports on the feedback that has been provided by the community.

Item 15.4

Leading Growth for Good Growth and Housing Strategy

Project Objectives

- Shape a prosperous, resilient and sustainable future for Kiama local government area (LGA).
- Ensure the community adapts to the inevitable changes in how we live and interact with our places, spaces and environment.
- Provide for a range of housing and employment supported by essential infrastructure, services and facilities that meets the future needs of the Kiama population and surrounds.
- Promote, protect and enhance our iconic natural environment now and for generations to come.
- Create safe, sustainable and connected places that support a quality life.
- Comprehensively engage with and be informed by the community.
- Represent best practice, contemporary and progressive planning and growth management in a manner that directly responds to the unique environment, including needs and challenges.
- Provide the foundation and necessary data inputs for Council's new planning scheme and other growth-related initiatives being delivered by Council.
- Utilise different and unique engagement techniques to hear a broad range of unheard voices – target that at least half of population have heard and participate in the project.

Note

The following engagement schedule has been developed to inform the proposed sequence and messaging of the project. This schedule will continue to be refined and additional inputs included as further collaboration occurs with the State Government and other stakeholders. It is proposed that additional social media, video and displays including posters etc will be used throughout the project – the timing of each is being refined to align with core engagement activities. These specifics will continue to be added to the schedule to provide a clear picture of every activity to be undertaken.

Leading Growth for Good – Community Engagement Schedule

1

Engagement – Overview

Phase	Dates	Phase Title	Messages and Aims
Phase 1	March	“Commit and get ready”.	<ol style="list-style-type: none"> 1. Project overview and scene setting 2. Build understanding about: <ul style="list-style-type: none"> • How participants can be involved in the project and spread the news about the project • What are the expected activities that will roll out over coming months and what will this result in (completion of strategy) • The change that has occurred in Kiama over the past 30 years and how this change has helped to shape the places that are loved today. • The opportunities and challenges that growth presents and what this means to each person in the LGA. • The planning principles that will help shape the Kiama of the future and how community input has formed these.
Phase 2	March/ April	“Identify and Assess and Create”	<ol style="list-style-type: none"> 1. Enliven and image our existing growth precincts and see the opportunity to plan for on the ground for growth. <ul style="list-style-type: none"> • Bombo Quarry • Dido Street • South Kiama • DA process Akuna Street • Gerringong release area 2. Provide the evidence base, vision, principles and opportunities for each precinct site. 3. Discussion Papers – places to work and places to live. 4. Topic papers/ though pieces released weekly online 5. Engage with industry and key stakeholder groups – face to face focus – focus on existing growth areas and pipeline of supply opportunities. 6. Early engagement with agencies on infrastructure provision and needs 7. Note Springside hill decision will have been made by Council regarding gateway
Phase 3	May	“Shape the Strategy- Future Growth Opportunities”	<ol style="list-style-type: none"> 1. Transition from discussion about exiting growth locations to future options. 2. Continue to drill to next level detail (master planning/ precinct planning for identified sites 3. Engage in other opportunity/ lands options – Developer EOI options in identified precincts. 4. Focus on unheard stakeholders (including school students)

2

Leading Growth for Good – Community Engagement Schedule

Phase	Dates	Phase Title	Messages and Aims
			5. Seek answers and input to: <ul style="list-style-type: none"> • Is more needed? • If so where should this be located? • What should it look like? • What are our constraints? • Where are the gaps in knowledge, evidence and data? • What are our options? • What infrastructure is essential for delivery?
Phase 4	June	“Finalise the draft strategy”	1. Data, evidence and draft options – engage with strategy content. 2. Focus on conveying what we heard and how this has informed strategy. 3. Initial draft documents consultation
Phase 5	July	“Draft strategy to Council and Community”	1. Formal exhibition of documentation
Phase 6	TBD		

3

Leading Growth for Good – Community Engagement Schedule

Engagement Specifics and Schedule

Phase 1 : Project overview and ideation

Stakeholder focus

- Internal including Councilors.
- Community groups and already engaged community.
- Initial message to un- heard voices
- Childrens and families engagement – stage 1

Engagement Methods

- Councilor briefing
- Traditional communication tools (media release, social media)
- Digital and online tools
 - Including project specific online engagement platform social pinpoint and consider it
- Display in Kiama and Gerringong Library
- Pop up events Kiama farmers markets
- Project collateral (signage and postcards)

4

Leading Growth for Good – Community Engagement Schedule

Code:
 Blue text – joint engagement with engagement strategy
 Purple text - joint engagement state or landowner
 Orange – concurrent events

Engagement Schedule Detailed Activities

Date	Engagement Activity	Detail	Location	Stakeholders	Responsibility
February 2024					
27 th Feb	Central Precinct meeting	Completed	JW	Precincts	JR
27 th Feb	Discussion Growth Strategy – Council Committees	Completed	JW	Council Committees	JR
	Media Release	Completed	Media	Media	Coms
Current	Akuna Street Exhibition of DA				
March 2024					
Tuesday 7 March	Meeting with Dept Planning Bombo Quarry Vision and Engagement Plan	Staff meeting with Dept to discuss vision and engagement interconnection	Online	Dpt Planning	JR
Monday 11 March	Project Page – Growth and Housing Strategy (live)	Updated project page and content for Council Website <ul style="list-style-type: none"> • Include background studies • Include best practice examples • Invitation to join mailing list • General have your say option 	Council website	All community	Coms and Strategic Planning
Monday 11 March	Meeting probity lawyer	Finalisation of probity plan and discussion	Online	Lawyer and Council	JR
Tuesday 12 March	Councillor Briefing – Growth	Briefing about the project and individual attendees for proposals before Council	Council Chambers	Councillors	JR and CL

Date	Engagement Activity	Detail	Location	Stakeholders	Responsibility
Monday 18 March	Invitations to Developer Forum released (n.b. this is not the EOI that is in phase 3)	Email/letter to customers and clients for developer forum	Email	Customers and Clients/ developers	Project Team
Monday 18 March	Invitation to Community Summit released	Email/letter to customers and clients for Community Summit	Email	All community	Project team
Monday 18 March	Media Release	Summits and forums – save the date	Media	All community	Coms and project team
Monday 18 March	Social Media Post Libraries	Project Awareness – link to site	Socials	All community	JR and teams
Monday 18 March	Social Media Post Leisure Centre	Project Awareness – link to site	Socials	All community	JR and teams
Tuesday 19 March	Council Meeting – Council report growth project	Council report – engagement with clis	Council	Councillors and community	JR
Thursday 21 March	Individual Conversations – existing community groups and sporting entities	Conversations to raise awareness of project, feedback opportunities and have your say	Various	Identified community groups	JR and Project Team
Thursday 21 March	Stakeholder Interviews	Up to 15 selected interviews with key stakeholders to seek their individual views on growth – these will be used to create case study/ views from the community in online and also face to face activities	Face to Face or teams	Key Stakeholders	Consultant
Thursday 21 March	Launch of online engagement platform and online survey	Social Pinpoint Web platform Include a range of online engagement options Blog posts	Online	All community	JR and Social Pinpoint
	Media release and social post	Social pinpoint web platform – have your say	Online	All community	Coms and project team
Friday 22 March	Discussion with KAPA	KAPA discussion linked with Community Engagement meeting	JW/ Council Chambers	Precinct Groups	Coms and JR/ CL

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Leading Growth for Good – Community Engagement Schedule

Date	Engagement Activity	Detail	Location	Stakeholders	Responsibility
Wednesday 27 th March	Agency Consultation	Forum with key agencies to discuss infrastructure, key precincts, gaps in knowledge and overview of project	Face to Face	Key agencies	Project Team

Phase 2 – “Identify and Assess and Create”

Stakeholder focus

- Industry
- Broad and un heard voices
- Families and children
- Specific existing community groups
- Outside community – including surrounding workers and visitors
- Agencies
- Precinct owners
- State government

Engagement Methods

- Children specific library activities
- Displays at key locations
- Discussion Papers
- Traditional communication tools (media release, social media)
- Digital and online tools
 - Including project specific online engagement platform social pinpoint and consider it
- Display in Kiama and Gerringong Library
- Pop up events
- Developer forum
- Community Summit
- Project collateral (signage and postcards)

Leading Growth for Good – Community Engagement Schedule

- Small group discussions

Engagement Schedule

Date	Engagement Activity	Detail	Location	Stakeholders	Responsibility
Monday 25 March	Child Specific Engagement – Kiama Libraries	Your Say Gerringong and Kiama Library - Draw and write on large cardboard houses- children based growth questions	Kiama Library Gerringong Library	Primary Children and Families	Project Team and Michelle and Carmelina
Wednesday 27 March	Launch of discussion paper – Employment lands	Discussion paper – Places to work Discussion paper – Growth	Online website	All community	ED team and project team
Wednesday 27 March	Kiama Farmers Markets – collaboration with engagement conversation Pop Up	Pop Up display	Kiama Markets	All community	Coms and CL and MB
Thursday 28 March	First Nations Consultation	First Nations focused consultation	Face to face	Aboriginal Community	Sharon and project team
End March	Likely commencement of Community Engagement for Bombo Precinct	Collaboration with State Govt on Bombo Vision	Various	All	State Govt
End March	Display Kiama Leisure Centre	Kiama over the years – change and growth	Kiama Leisure Centre	Mixed families etc	Project Team and Kiama Libraries
End March	Start of release of topic pieces – thought blogs and posts	Thought provoking, best practice examples and written pieces released to community via social media and online platform and e news (subscribers)	Online	All	Project team
April 2024					
Easter	No activities				
Week 1 April	Precinct description and status updates on online portal	Specific information about Bombo Quarry, South Kiama and Dido Street Precinct – planning for our current growth locations	Online	All	JR and Project Team

Date	Engagement Activity	Detail	Location	Stakeholders	Responsibility
Week 1 April	Small Group table top discussions – about site specific precincts	Collaboration with state and also sustainable futures committee- discussion about precincts needs and places to work	Face to Face and online	All Community – specific selected participants	Project Team, Dept Planning and Consultants
Monday 10 April	Release of Listening Report Phase 1	Release of summary report on phase 1 engagement and part of phase 2 – to inform community summit		All Community	Project team
Thursday 11 April	Developer Panel Forum – partner with UIDA Committee	Stakeholder specific forum – project overview, focus areas, DA reform and infrastructure provision	Face to Face	Industry	Project Team
Friday 12 April	Community Summit	Futures Forum – two-hour public forum with thought leaders present their views on relevant global best practice examples and the potential relevance to Kiama’s growth. Could be extended to a day summit program	Face to face	All community	Project Team and Consultants
Saturday 13 April	Community Pop Ups	Gerringong Jamberoo Gerroa Kiama Downs	Face to Face	Suburbs	Project Team
Tuesday 16 th April	Council Meeting – Report on Springside Hill	Decision on Springside Hill	Council	Council	JR
15-26 April	School Hols Focused Activities				
15-26 April	Mary Maker – Craft activity and engagement	Participate in a craft activity which discusses growth and change	Kiama Libraries	Families	Kiama Libraries
15-26 April	Youth Activities at Youth Centre	Youth Specific Surveys and Activities – future focus	Youth Centre	Youth	Youth Centre

Phase 3 – “Shape the Strategy- Future Growth Opportunities”

Stakeholder focus

- Industry
- Broad and un heard voices
- Families and children
- Specific existing community groups
- Outside community – including surrounding workers and visitors
- Agencies
- Precinct owners
- State government
- All Community
- Internal Stakeholders
- External Experts

Engagement Methods

- Refined discussion and data analysis
- Community workshops
- Developer EOI
- Traditional communication tools (media release, social media)
- Digital and online tools
 - Including project specific online engagement platform social pinpoint and consider it
- Project collateral (signage and postcards)
- Small group discussions
- Pop Up displays
- Youth Summit

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Leading Growth for Good – Community Engagement Schedule

Engagement Schedule

Date	Engagement Activity	Detail	Location	Stakeholders	Responsibility
Wednesday 8 May	Release of Summary report from Phase 2 consultation	Feedback to community – what we heard and how we are listening	All	All	Project team
May	Youth Summit	Youth Summit at Schools – seeking school age feedback and input – to be determined with schools – focus for term 2 – given existing school commitments	Face to Face	Schools	Project team and community development
Monday 13 May	Targeted engagement – disabilities, CALD, other	Detail to be determined – depending on feedback from earlier phases	Face to Face	Disadvantaged or missed community	Community Development team
Tuesday 14 May	Release of technical papers and background documents	Additional studies and documents – released for consideration by industry and other key community	Online		Project Team
Wednesday 15 May	Release of Developer EOI	Development industry – targeted EOI	Online		Project Team

Phase 4 – Finalise Draft

Stakeholder focus

- External Experts
- Internal stakeholders
- Communication broadly once completed – to all stakeholders

Engagement Methods

- Formal exhibition process
- Displays
- Online
- Drop in sessions
- Traditional communication
- Community workshops

Phase 4- June 2024

Date	Engagement Activity	Detail	Location	Stakeholders	Responsibility
June	Release of Summary report from Phase 3 consultation	Report of what has been heard and how we are listening	Online	All	Project Team
June	Draft Strategy and Options	Draft document – with options and considerations	Online and other platforms	All	Project Team and Consultant
June	Council reporting				Project Team
TBD	Roll out of formal exhibition activities				

15.5 Kiama Leisure Centre Service Review

CSP Objective: Outcome 1.2: We love where we live; we have the services and facilities we need the natural beauty of our surroundings enhances our active and healthy lifestyle.

CSP Strategy: 1.2.1 Provide facilities that enable us to participate in social, cultural, recreational and sports activities, no matter our background, ability or age.

Delivery Program: 1.2.1.4 Manage Leisure Centre services and administration for members and guests and provide fitness programs, classes and gym using purpose-specific equipment and a clean and safe environment.

Item 15.5

Summary

This report provides an overview of the Kiama Leisure Centre Service Review-Summary Report. This service review is part of the work that is being undertaken in accordance with the Performance Improvement Order. As outlined in previous reports and correspondence to Councillors and the community, staff with the support of external expert reviewers are working through several priority service reviews across the organisation.

The service reviews are being conducted to enable the KMC to take responsible and considered steps for financial sustainability. The review process enables Council to gain a full understanding of the current state of the operations, asset, staffing and resource allocations.

Service reviews also are part of the requirements under the Integrated Planning and Reporting Framework and legislated through the Local Government Act. Council needs to conduct service reviews on an annual cycle to ensure best practice and to review operations with current industry standards.

Council at its meeting on 15 November received and noted results of the 2022 KLC community survey; and at its meeting on 28 February 2023 resolved to undertake a service review of the Leisure Centre.

Council staff commenced the procurement phase and appointed Morrison Low consultants in late November to undertake the service review on behalf of Council.

This report provides an overview of the findings of the review and outlines the next steps in the process, including the development of an implementation plan, strategic plan and masterplan for the site and surrounds. Further internal and external consultation is also required to discuss the findings and options, in order to develop actions and next steps for both the asset, operations and program delivery.

It is imperative to understand that no decision has been made on any findings or recommendations. The report presented to Council is an independent report from the selected consultants Morrison and Low utilizing an industry and performance excellence framework, as well as industry benchmarks. Staff consultation has also occurred and the team at KLC have been informed throughout the process. Staff have also provided their input into the report through 1;1 interviews with the consultants.

All required processes under the award, including both staff and community consultation will be undertaken, if required, once firm options and proposals have been determined. Staff continue to be committed to working with all stakeholders to achieve financial sustainability and sustainable services for our community.

Financial implication

The Service Review findings and recommendations have several financial impacts and opportunities. These impacts and opportunities will need to be explored further through the decision-making process. Further information on financial impacts will be provided to Council as options are developed.

Risk implication

The Service Review has a number of findings that pose a risk to Council's operations and require close management. These are:

- Council managed/direct service delivery model requires a high degree of specialist industry expertise which currently lacks in some areas. Council has limited capacity to reduce operational costs which are driven by market forces, legislative requirements and community expectation. Meeting agreed service levels is challenging due to resource constraints and employee retention issues.
- Council engages a high number of casual employees at the KLC. Council may be exposed to industrial and safety risks.
- In 2022, a liability risk engineering assessment was conducted which resulted in 18 recommendations to better manage and mitigate liability risks. Some of these risks are outstanding and currently being followed up for implementation.
- As other commercial providers enter the market in areas of gym and fitness offerings, the KLC is at risk of losing more market share.
- The KLC has a long list of defects and accumulated maintenance issues.
- KMC directly employs staff in areas that are not traditionally provided by local government and could potentially be better serviced through the private sector.

Policy

Community Strategic Plan

Delivery Plan/ Program

Council resolution 28 February 2023.

Kiama Leisure Centre Strategy 2012.

Performance Improvement Order

Long Term Financial Plan

Consultation (internal)

During the course of the service review, consultation with internal staff was undertaken, including meetings, 1:1 interviews and written feedback. Industry benchmarking was also undertaken, including consultation with other councils.

Further consultation is required to discuss options and to assist through the decision-making process.

Report of the Director Planning, Environment and Communities

15.5 Kiama Leisure Centre Service Review (cont)

Communication/Community engagement

A communication plan has been developed to inform and brief staff and key stakeholders.

The following activities have occurred to date:

- 14 February 2024 presentation to Financial Advisory Committee
- 27 February 2024 Internal Audit and Risk Committee
- 29 February 2024 Councillor Workshop
- 7 March Two staff briefings/ updates with KLC staff

The next phase in the communication plan is providing information to the community about the review and recommendations. The commencement of this process is through this report to Council. Additional consultation opportunities and discussions will occur throughout the consultation process. Including specific consultation on various aspects of the service review findings. The community will also be consulted in the development of both the strategy and masterplan for the site.

Attachments

- 1 Kiama Leisure Centre - Service Review Report [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council

1. Develop a draft Leisure Centre Strategy and provide this strategy to a future Council meeting for consideration.
2. Develop an implementation plan for the next steps of the service review process.
3. Undertake internal and external consultation with the community and staff about the three options that have been provided for the asset which are 1. do nothing, 2. upgrade or 3. redevelop.
4. Incorporates the future vision for the leisure centre into the business and masterplan for the wider sporting, old Havilah place and surrounding precinct and this work be completed by the implementation team as part of PIO priorities

Legislative Drivers – Service Reviews

In September 2021 the NSW Office of Local Government published guidelines for Integrated Planning and Reporting (IP&R), which included a new requirement to publish a program of Service Reviews:

Report of the Director Planning, Environment and Communities

15.5 Kiama Leisure Centre Service Review (cont)

4.3 To encourage continuous improvement across the council's operations, the Delivery Program must identify areas of service that the council will review during its term, and how the council will engage with the community and other stakeholders to determine service level expectations and appropriate measures.

This focus on service reviews within the IP&R Guidelines follows through on the changes made to the NSW Local Government Act in 2016 which included a new statement that the role of the governing body is to keep under review the performance of the council, including service delivery (s223(1)(g)).

The responsibility for service reviews was also included in the responsibility of the Audit, Risk and Improvement Committee (s428A(2)(g)) which must monitor the service reviews undertaken by the Council.

As outlined above, service reviews should be part of the normal business of a Council and form an integral part of the Integrated Planning and Reporting Framework.

Each council should identify areas of service it will review during its term and the operational plan should specify each review to be undertaken that year.

Following the 2024 local government elections, it is expected that all councils will have a service review program in place to begin the new council's IP&R cycle. Reviews of service strategies such as a sport and recreation strategy or waste strategy is also one element of a review of these services.

Performance Improvement Order and Council Resolutions

Council is also required to undertake service reviews as part of the implementation of the Strategic Improvement Plan, Performance Improvement Order and other requirements set by the NSW State Government.

On 28 February 2023 Council resolved to:

1. *Endorse the seven (7) stage methodology described in the service review process on the following business areas:*
 - *Waste services*
 - *Leisure Centre*
 - *The Pavilion*
 - *Holiday Parks.*
2. *Utilise funding from associated operational savings to complete the four services reviews outlined at resolution one (1) above, as a matter of priority.*
3. *Define the structure, scope, deliverables and performance for other municipal programs into Service Statements, from which levels of service and resourcing for future budgets may be developed.*
4. *Refer the request for a rolling budget for service reviews to the forward budget estimates register for consideration as part of the 2023/24 budget process.*

In the report to Council on the 1 February 2024 the letter from the Office of Local Government stated that:

Report of the Director Planning, Environment and Communities

15.5 Kiama Leisure Centre Service Review (cont)

“Given the difficult financial circumstances facing the Council, it is important Council remains on track with the financial strategies that have been put in place to reduce expenditure and increase revenue. The community needs to have confidence that Council’s financial management and performance has independent oversight and is being closely monitored.”

Through the Raynor report it was concluded that *“Council must continue to urgently address the financial and governance issues faced by Council undertake service reviews. It also outlined that A significant Special Rate Variation may be required by this should not be pursued until all other options are exhausted or if it becomes evident that a SRV is required to meet the financial sustainability target. It states that Council has taken a decision to focus on operational efficiencies and service reviews before considering an SRV.”*

It is also clear from the community that Council must review its operations and provide improved efficiency before seeking for ratepayers to contribute more funds to operations. Council must identify areas for improved efficiency across each department and develop a comprehensive understanding KMC’s operations and obligations and service catalogue.

The relevant costs of asset operations, maintenance and renewal requirements need to be delineated, and balances available for community, economic, environment and administrative services identified. While on one hand, the revenues available for municipal assets and services are finite, the appropriateness and performance of asset and services have not been tested for some time – a matter raised by the Finance Advisory Committee (FAC) and an area of interest for the Audit, Risk and Improvement Committee (ARIC).

The proposed variation to the PIO clearly states that Council:

“Immediately review the timing for service reviews and revenue opportunities to ensure council can move to surplus operating budgets and ensure its long-term financial viability.”

Every effort is being made to finalise service reviews scheduled for this financial year.

Pleasingly the Leisure Centre Service review is the first review to be completed and has been provided within the required timeframes.

Service Review Process

The service review process assists in providing an overall strategic direction for management and maintenance of assets and infrastructure now and into the future, with the following key outcomes:

1. The facility is managed strategically, transparently, and efficiently.
2. The facility is managed in accordance with Financial Management Standards and the Local Government Act; and
3. To ensure optimal utilisation and maximum return on investment.

The service review can also put Councils and Councillors in a better position to:

- Respond to changing customer priorities and needs.

Report of the Director Planning, Environment and Communities

15.5 Kiama Leisure Centre Service Review (cont)

-
- Determine the right mix of services and align the services with the council's vision.
 - Define statutory and non-statutory services and consider the potential for divestment of services.
 - Generate financial savings.
 - Review and optimise service levels and build staff capacity and skills.

With this in mind a scope for the review was developed, seeking an overall strategic direction for the operation and provision of services and programs at the KLC with the following key deliverables:

1. Undertake a comprehensive systematic review of current processes and procedures; and explore future directions on how Council should continue operating the Kiama Leisure Centre, including but not limited to the following scope:
 - a. Future operational options;
 - b. Service needs and demand analysis;
 - c. Community asset rationalization;
 - d. Profit and loss analysis;
 - e. Commercialisation opportunities;
 - f. Operational risk assessment;
 - g. Operational resource analysis, including structure;
 - h. Fees and Charges;
 - i. Environmental sustainability improvements.
2. Define the type and level of services to be delivered at KLC that is informed by the review scope and taking into consideration the recent Kiama Leisure Centre Survey and Liability Risk Engineering Report recommendation.
3. A benchmark of KLC processes and performance in comparison to similar facilities and LGAs, as well as market review.
4. Outline and make recommendations on legislative requirements and compliance.
5. Develop and produce a 10-year Leisure Centre Strategy with and Implementation Plan for Council's consideration.
6. A funding strategy (including grants)/ scoped budget of how Council will implement the proposed Strategy and Implementation Plan.

Following a comprehensive procurement process, Morrison Low consultants were appointed in late November to undertake the Service Review on behalf of Council.

During December 2023 to February 2024, milestone 1-4 above were completed, and milestones 5-6 are currently in progress, for completion in March. In order for the consultants to complete the final stage of the Service Review, being a long-term strategy and implementation plan, further community engagement and internal consultation will be required to assist in the development of these documents and to further inform decisions surrounding the KLC.

Overview Kiama Leisure Centre

The Kiama Leisure Centre (KLC) is Council's key multipurpose swimming, fitness and sports facility that is open 360 days of the year for 95 hours every week. KLC is a significant community infrastructure delivering vital programs throughout the year. KLC plays a key role in contributing to the overall health, wellbeing, fitness and leisure needs of the Kiama residents and beyond.

The facility includes an 8 lane 25m indoor lap pool, toddler pool, spa, sauna, gym and group fitness facility, and indoor sports hall and child mining service. The Jamberoo outdoor pool is a seasonal pool staffed by lifeguards from November to March forms part of the swimming offering managed by KLC .

Overview of Report

The service review report is provided as Attachment A. The key findings and recommendations are provided below.

It is very important to note that no decisions have been made about any of the key recommendations relating to service delivery or the long-term management of the assets.

Significant consultation would need to occur before decisions are made including any required staff consultation under relevant legislation. The content of the report are recommendations and options only, each will need further consideration, and information to support decision making. A formal implementation plan and strategy also needs to be developed to support any actions that may result.

What was clear from the service review is that the asset is much loved and highly utilised by a wide and diverse range of community members. It is important that the community to be involved in the long-term strategic vision for the site, particularly if redevelopment is considered and the funding required to support this action needed.

The decision has been made to provide the details of the report and key findings to the community and staff through this Council report. This is to provide transparency and to assist in developing an understanding of the service review process that has been followed. Particularly given formal service reviews have not occurred at Kiama Council.

Action is being undertaken on immediate risks and recommendations which relate to operations, for example urgent maintenance, system improvements or accounting methods.

Key challenges

- Need for a clear strategic long-term direction and market focus for KLC
- Internal expertise and skills in aquatic and leisure management
- The age and deteriorating condition of the KLC asset and facilities
- The extensive range of services currently provided and resourcing challenges associated with service delivery
- Workplace culture, management operations and structure (including casualization of workforce)

Findings

The Service Review has identified several recommendations spanning:

- Strategy and performance
- Asset management and maintenance
- People and culture
- Risk management
- Systems and processes

Observations from Research

Key observations from the research undertaken as part of the service review include:

- It is difficult for councils that operate aquatic facilities to do so at a cost-neutral level.
- Broader strategic shift away from the traditional model where councils run a 50-metre outdoor pool, along with children's area and picnic facilities, towards indoor facilities.
- Greater focus now on revenue-generating activities such as learn-to-swim, health classes, recreation usage and key stakeholder groups such as swimming clubs.
- Kiosks have the potential to raise revenue if run efficiently and operated by sales-trained staff.
- Commercial returns from learn to swim and other program-based activities may reduce the subsidy per user visit that the community must currently pay.
- Key challenges are the recruitment and retention of experienced staff at all levels, particularly those involved with learn to swim and management/coordination activities.
- Heating and/or operating costs of outdoor pools in the winter tend to favour a seasonal model, particularly for councils in rural and regional areas.
- Some councils that run their own aquatic facilities are trying to move away from a younger, casualised workforce to a more experienced permanent staff model.
- Developing a skilled and motivated aquatic facility workforce requires Council to determine a clear long-term operating model, alongside training and professional accreditation opportunities.
- Generally, an in-house model provides councils with greater flexibility to respond to issues raised by elected officials and members of the public.
- An external model allows councils to utilise the skills and experience of a specialist provider with a large network of aquatic facilities to draw resources and knowledge from. However, this model can potentially lead to unforeseen capital or maintenance costs for council, particularly toward the end of a contract.

Secondary Service Delivery

Report of the Director Planning, Environment and Communities

15.5 Kiama Leisure Centre Service Review (cont)

As well as delivering all the core services of a leisure facility such as swimming and leisure facilities there are a number of services that are unique to KLC and other council-owned facilities are not typically delivered by Council employees:

- Childminding;
- personal training;
- Gymnastics;
- swim coaching.

Asset Management Options

- **Option 1 – Do nothing:** A do-nothing option would see the continued deterioration of the KLC to a point where it would be unusable, unsafe, and unfit to meet the needs of the local community. A decision not to invest in the KLC may require social infrastructure to be replicated elsewhere in the Kiama Municipality at a greater cost.
- **Option 2 – Upgrade:** This option would include an upgrade of the KLC, comprising improvements to the existing facility.
- **Option 3 – Redevelop:** This option would include a complete redevelopment of the KLC. Under this option, some existing elements of the KLC could be removed, or potentially replaced with new.

Significant funding will be required to pursue either Option 2 – Upgrade or Option 3 – redevelop.

Potential options for funding could include:

- Section 94 contributions
- Proceeds from the sale of assets
- Grants and contributions
- Debt/loan borrowings
- Forward borrowing from reserves
- Other general income sources.

It is recommended within the report that Council

- Prepare a Business Case to assist securing funding for KLC Masterplan.
- Council's strategic direction decision to be informed by a comprehensive business case and masterplan for the KLC that also incorporates the surrounding sporting precinct and the old Havilah place site.
- Commence planning for Option 2 or 3 due to the nature and condition of the assets, through Long Term Financial Planning.

Conclusion

This report is submitted to provide an update on the Service Review and present the draft report for Councillors' consideration.



**Kiama Leisure Centre
Service Review – Summary Report**

February 2024



Document status

Job #	Version	Written	Reviewed	Approved	Report Date
7751	1	C. Middleton	S. Bunting	S. Bunting	16 February 2024

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Executive Summary

Kiama Municipal Council ("Council") owns and operates the Kiama Leisure Centre, located at Havilah Place, Kiama. Constructed in 1982 and first opened in 1983, the Kiama Leisure Centre is Council's key multipurpose swimming, fitness and sports facility and plays a critical role in contributing to the overall health, wellbeing, fitness and leisure needs of the Kiama community.

In December 2023, Kiama Municipal Council engaged Morrison Low Consultants ("Morrison Low") to undertake an external service review of the Kiama Leisure Centre. This review was carried out from December 2023 to February 2024, and informed by engagement with a range of internal stakeholders as an objective review of the Kiama Leisure Centre's service delivery arrangements and performance.

Service delivery challenges

Key challenges affecting service delivery include:

- A lack of clear strategic long-term direction and market focus for the Kiama Leisure Centre
- Internal expertise and skills in aquatic and leisure management
- Age and poor condition of the Kiama Leisure Centre asset and facilities
- Extensive range of services currently provided and resourcing challenges associated with service delivery

Improving service delivery and performance

We recommend that Council:

1. Review the Kiama Leisure Centre Strategy, ensuring the vision, goals, target market, and strategies to deliver operational performance are updated and consistent with Council's strategic objectives.
2. Reconsider the service offering and whether Council is best placed to be the provider/operator of services currently provided at the Kiama Leisure Centre (e.g. childcare, fitness and swim coaching), or whether these are better outsourced to commercial operators via contract or licences.
3. Establish and endorse expected service levels and Key Performance Indicators (KPIs) for the Kiama Leisure Centre, and ensure that KPIs are monitored and reported on a quarterly basis.
4. Apply corporate overheads to the Kiama Leisure Centre to establish the true cost of operating the centre and providing its various services, programmes and activities.
5. Introduce user fees for the Jamberoo Public Swimming Policy via the 2024/2025 Statement of Revenue Policy and ensure an appropriate secure entry system is introduced ahead of the 2024/2025 swim season.
6. Review the Chart of Accounts to enable the costs attributable for each service offering (including apportioned overheads) to be monitored alongside revenue.
7. Ensure the financial impact of any changes in service offerings and service levels is modelled in Council's Long-Term Financial Plan.
8. Review and update Council's Buildings Asset Management Plan to include Kiama Leisure Centre's forward maintenance and renewal requirements.
9. Develop and adopt a Kiama Leisure Centre Masterplan, ensuring the development of the Masterplan is informed by robust community engagement.



10. Prepare a Business Case to assist in securing grant funding to deliver the Kiama Leisure Centre Masterplan (once developed).
11. Consider transitioning functional responsibility for the operational oversight of rock pools to the Leisure Centre Manager.
12. Consider transitioning functional responsibility for the operational oversight of Beach Lifeguards to the Leisure Centre Manager.
13. Consider transitioning responsibility for building maintenance at the Kiama Leisure Centre to Council's Facilities and Maintenance team.
14. Review Kiama Leisure Centre team structure with the objective of reducing management layers.
15. Review, align and update position descriptions for Kiama Leisure Centre positions.
16. Review the model of engagement of casual employees engaged at the Kiama Leisure Centre, including the management of all casual employees, to ensure industrial risks are being proactively managed and mitigated.
17. Complete the review and consolidate the Kiama Leisure Centre Operations Manual, ensuring that it is regularly reviewed and quality controlled for currency.

Management has been provided, under separate cover, several additional recommendations to those above. As these recommendations contain matters and issues that are considered confidential under the *Local Government Act 1993* ("the Local Government Act"), they have not been detailed in this Summary Report.

Service delivery model

The Kiama Leisure Centre is currently operated via direct management, which is advantageous in that it allows Council to retain direct influence over how the centre's services, programmes and activities are delivered to customers and community. There are, however, significant drawbacks and risks attached to this model: Council has limited capacity to reduce operational costs, which are driven by market forces, legislative requirements and community expectations, and meeting agreed service levels is challenged due to resourcing constraints and employee retention issues. Maintaining this model requires a high degree of specialist industry expertise, which local councils typically do not possess.

Moving forward, Council should instead assess whether indirect management would be a more suitable service delivery model. Under this model, Council could engage a specialist commercial operator with the necessary industry expertise and capability to assume management of the Kiama Leisure Centre and introduce new management and operating standards, which could in turn benefit customers, community and Council. Responsibility for the Jamberoo Public Swimming Pool could also be included in the management contract, which could deliver further efficiencies for Council.

Should Council determine to pursue an alternative service delivery model, it should be noted that implementing a revised model requires a significant lead-time, of around nine (9) to twelve (12) months and contingent on having a clear future direction for the Centre. This period would allow Council to prepare and undertake a tender process, as required under the Local Government Act, and execute transitional arrangements to ensure a seamless transition for customers and community. Further analysis of the financial and industrial implications of terminating direct management and pursuing an indirect management model should be undertaken prior to any decision being made.

Looking forward: masterplanning and case for change

Irrespective of the management model favoured by Council; the Kiama Leisure Centre is ageing, and its condition is deteriorating. The design and layout of the centre reflect the era in which the facility was constructed but are inconsistent with contemporary expectations and standards. With the facility



approaching end of life, Council will soon need to make complex decisions regarding the future of the Kiama Leisure Centre, including either its upgrade or redevelopment.

Since the Kiama Leisure Centre was constructed in 1982, community expectations in relation to leisure and aquatic facilities have evolved considerably. Facilities are now seen as health and wellbeing hubs, and there is an expectation that public facilities of the Kiama Leisure Centre's size and scale incorporate design features that are accessible and inclusive, environmentally sustainable, and which reflect the demographics and service needs of the local community. All these factors should be considered by Council in its decision-making.

While the Kiama Leisure Centre has been excluded from the scope of the Kiama Sports Complex Masterplan, it is critical that Council develop a Masterplan to guide future decision-making relating to the centre. Council is strongly encouraged to programme the development of a Masterplan, either as an addendum to the Kiama Sports Complex Masterplan (once completed) or as a standalone strategic document, via its next Delivery Program. This masterplanning process should be underpinned by robust engagement with the Kiama Municipality community.



Service review findings

Table 1 Service review findings and commentary

Guiding question	Finding and commentary
<p>Should this service be delivered to the community?</p>	<p>The Community Strategic Plan identifies the outcomes of this service as important services and outcomes for the Kiama Municipality community. Residents are most satisfied with the pool and hall components of the Kiama Leisure Centre and less satisfied with the gym.</p> <p>Over the long-term, Council should consider which elements of the Kiama Leisure Centre need to be delivered to the community.</p> <p>There is arguably a strong need for aquatic services (e.g. pools) to be provided to the community, noting that the Kiama Leisure Centre and Jamberoo Public Swimming Pool are the only public swimming facilities in the Kiama Municipality.</p> <p>However, other services currently provided by the Kiama Leisure Centre – including childcare, gym and fitness services – should be reviewed, noting that there are other commercial providers of these services now operating in the Kiama Municipality and Council is competing against those other operators.</p>
<p>If so, how should it be delivered?</p>	<p>Council is not required to be a direct provider of the Kiama Leisure Centre facilities. Council can:</p> <ul style="list-style-type: none"> (a) Provide and manage all services (current model). (b) Outsource the provision of some services. (c) Outsource the provision of all services. <p>Currently, Council provides and manages all services, which requires a high number of casual employees to be engaged at the Kiama Leisure Centre. As discussed in this report, this model presents risks to Council. Instead, we would recommend that Council consider transitioning to Option B until such time as the future of the Kiama Leisure Centre asset is determined.</p> <p>As discussed in Section 5.3 of this report, there are also a range of management models available to Council over the long-term. We would suggest that Council explore adopting an indirect management model, where the management of the facility is contracted out to an external operator. This should be progressed once the future of the Kiama Leisure Centre asset is determined.</p>
<p>Is this service delivering on community needs and Council’s goals?</p>	<p>Council’s current Delivery Program and Operational Plan do not include clear performance targets and measures for the Kiama Leisure Centre and its various services, programmes and activities. As such, it is challenging to determine whether the service is delivering on community needs and Council’s goals.</p> <p>Council is encouraged to establish clear performance targets and measures for the Kiama Leisure Centre in its next Delivery Program.</p>
<p>Is the service being delivered using the most appropriate service delivery mechanisms?</p>	<p>Council has not yet explored other service delivery mechanisms, so it is challenging to assess whether the current model is the most appropriate. However, preliminary research and analysis conducted as part of this service review indicate that Council should explore transitioning to an indirect management model.</p> <p>Successfully operating and managing a facility of the Kiama Leisure Centre’s size requires industry expertise and mature systems, processes and work practices to enable efficient service delivery. On the information available, we would suggest that an established industry operator may be better placed to manage the Kiama Leisure Centre for Council.</p>



Guiding question	Finding and commentary
	<p>There are several established industry operators active in the NSW market, and in recent years, several rural and regional local councils have transitioned from a direct management model to an indirect management model. Research suggests that this can be financially advantageous for councils, and beneficial for their communities, who benefit from improved service delivery.</p>
<p>Is the service being delivered as efficiently and effectively as possible?</p>	<p>On the information available, the service is not being delivered as efficiently as possible. Currently, the Kiama Leisure Centre engages a large number of casual employees to deliver various services, programmes and activities provided by the centre.</p> <p>In the short-term, efficiencies could be achieved via shifting away from delivering many services internally and instead leasing/contracting these to alternative providers. Over the long-term, Council should consider transitioning to an indirect management model.</p>
<p>Is the service resourced appropriately?</p>	<p>Under the current operating model, the service is adequately resourced. As noted above, Council should review the current operating model and explore whether an indirect management model would be more advantageous.</p>
<p>Is the service meeting current service standards and levels?</p>	<p>As service levels have not been established via Council’s Delivery Program and Operational Plan, we are unable to determine whether those standards and levels are being met.</p> <p>We would recommend Council establish clear service standards and levels in its next Delivery Program.</p>
<p>What are the current and future issues affecting the service, and what should be done about them?</p>	<p>The main issues impacting the future service provision are:</p> <ul style="list-style-type: none"> ● Lack of clear market focus and long-term direction – develop strategic plan and business plan. ● Lack of internal expertise in commercial aquatic centre management – explore transitioning to indirect management model. ● Ageing asset in poor condition – improved asset management planning and implementation coupled with renewal or replacement strategy. ● Service provision optimisation – investigate service provision opportunity, through contractors, licencing and leasing (short-term), and transitioning to indirect management model (long-term).



1 Introduction

1.1 Background

Local councils are responsible for delivering a wide range of services to their communities and exercising an extensive suite of service, regulatory, revenue, administrative, enforcement and ancillary functions under the Local Government Act and other legislation.

Under the Integrated Planning and Reporting (“IP&R”) framework provisions of the Local Government Act, all local councils are required to plan holistically for the future and must develop a suite of interrelated strategies to guide their long-term planning and decision-making in relation to service delivery and resources. All plans, policies, programs, and activities developed and undertaken by local councils must directly relate to their respective IP&R frameworks.

The IP&R framework is designed to support local councils in establishing service levels, monitoring service performance, improving service delivery and encouraging continuous improvement across their organisations and operations.

The *Integrated Planning and Reporting Guidelines for Local Government in NSW* (“the Guidelines”) published by the NSW Office of Local Government (“the OLG”) and prescribed under the Local Government Act provide that local councils must, via their Delivery Program, “*identify areas of service that the council will review during its term, and how the council will engage with the community and other stakeholders to determine service level expectations and appropriate measures*”.

In turn, local councils must specify which service delivery reviews they will undertake each year via their annual Operational Plan, and report on the results of such reviews in their Annual Report. Importantly, councils must disclose in their Annual Report any changes they have made to services in response to the findings of service delivery reviews undertaken in the previous year.

The service review process asks local councils to consider the following questions when reviewing services:

1. Should this service be delivered to the community?
2. If so, how should it be delivered?
3. Is this service delivering on community needs and Council’s goals?
4. Is the service being delivered using the most appropriate service delivery mechanisms?
5. Is the service being delivered as efficiently and effectively as possible?
6. Is the service resourced appropriately?
7. Is the service meeting current service standards and levels?
8. What are the current and future issues affecting the service, and what should be done about them?

A service delivery review is a vital process for local councils and will ensure that their service functions are:

- **Appropriate** – that is, services meet current community needs and wants, and can be adapted to meet future needs and wants,
- **Effective** – that is, councils deliver targeted, better-quality services in new ways,
- **Efficient** – that is, councils improve resource use (people, materials, equipment, infrastructure) and redirect savings to finance new or improved services, and
- **Affordable** – that is, the community is able to afford the current and any proposed future service levels.



1.2 Context

The Kiama Municipality

The Kiama Municipality is located in south-east NSW and supports a permanent population of approximately 23,074 residents. Encompassing an area of 258 square kilometres, the Kiama Municipality is bordered by Shellharbour City to the north, Wingecarribee Shire to the west and Shoalhaven City to the south.

As with most other communities on the south-coast of NSW, the Kiama Municipality's local population is both growing and ageing. Over the 20-year period from 2021 to 2041, the NSW Department of Planning projects that the Kiama Municipality's population will grow at an annual rate of 1.28 per cent, higher than the NSW average of 0.95 per cent, to comprise close to 31,000 residents by 2041. According to 2021 Census data, the median age of the local population is 48 years, significantly higher than the NSW average of 39 years, and 35.8 per cent of the local population is aged 60 years or older, also significantly higher than the NSW average of 23.5 per cent.

The Kiama Municipality supports a diverse economy, with its stunning natural beauty and idyllic coastline ensuring that tourism is the region's biggest economic driver. The tourism industry contributes approximately \$244 million to the local economy, with more than one million people visiting Kiama each year. As at 2021, the largest industries generating jobs were hospitals (4.9 per cent), primary education (3.6 per cent), cafes and restaurants (3.3 per cent), secondary education (3.0 per cent), and local government administration (2.9 per cent).

Kiama Leisure Centre

The Kiama Leisure Centre is Council's flagship multipurpose swimming, fitness and sports facility and is open 360 days of the year, for 95 hours each week. Located at the Kiama Sports Complex, the facility incorporates an eight-lane 25 metre indoor lap pool, toddler pool, spa, sauna, gym and group fitness room, along with an indoor sports hall and creche.

Built in 1982 and opened in 1983, the facility is now over 40 years old, and its condition is deteriorating. Despite the relative success of the service operation and delivery of periodic facility upgrades since its establishment; the Kiama Leisure Centre's infrastructure and operational plans are being reviewed to ensure Council is demonstrating a proactive and strategic approach to the facility's long-term strategic management.

Other aquatic facilities in the Kiama Municipality include the Jamberoo Public Swimming Pool, which is an outdoor pool and open from December to March each year, and rock pools located at Black Beach, Blowhole Point, Boat Harbour and South Werri. While the Jamberoo Public Swimming Pool is staffed by Council employees, the Municipality's four rock pools are unstaffed.

1.3 Project objective and scope

In December 2023, Morrison Low was engaged by Council to undertake an external service review of the Kiama Leisure Centre. The objective of the service review was to analyse service needs and demand and explore future directions in relation to the Kiama Leisure Centre, including potential alternative operating models.

1.4 Acknowledgements

We wish to thank Council for all the assistance, cooperation and courtesy extended to us over the course of our review, particularly during our site visit to the Kiama Shire from Tuesday, 9 January to Wednesday, 10 January 2024.



1.5 Limitations and restrictions

In preparing this report, Morrison Low has relied on:

- Information provided in-confidence by Council,
- Feedback provided by Council's staff,
- Feedback provided in-confidence by external stakeholders,
- Publicly available information, and
- Our own analysis.



2 Service summary and delivery arrangements

2.1 Service summary

The Kiama Leisure Centre is Council's key multipurpose swimming, fitness and sports facility. The centre is open 360 days of the year, for 95 hours each week. The Kiama Leisure Centre incorporates the following buildings and facilities:

- 25-metre indoor swimming pool
- Indoor toddlers pool
- Spa
- Sauna
- Gym
- Group fitness classes
- Indoor sports hall
- Creche
- BBG facility
- Changerooms and toilets (male and female)
- Reception/kiosk
- Plant and filter rooms.

Council's staff employed at the Kiama Leisure Centre plan and deliver a comprehensive program of activities throughout the year for members of the community accessing the centre. Specific services delivered via the Kiama Leisure Centre include:

- Aqua aerobics
- Childminding services
- Holiday activities
- Group fitness and personal training
- Gymnastics classes
- Indoor court hire
- Learn-to-swim and swim coaching classes.

The Kiama Leisure Centre also manages the Jamberoo Public Swimming Pool, which is staffed by lifeguards from November to March.

2.2 Legislative context and considerations

Aquatic facilities are not statutory responsibilities of local councils under the Local Government Act, or another Act of Parliament. As such, these services are technically considered "discretionary" or "non-core", rather than "non-discretionary" or "core" responsibilities. Notwithstanding this, local communities commonly expect their council to operate a public swimming pool, given Australia's climate and the important role that public swimming pools play in supporting social cohesion and improved health and wellbeing.

Section 24 of the Local Government Act provides that Council may provide services appropriate to the current and future needs within the Kiama community, subject to the provisions of the Local Government Act and accompanying *Local Government (General) Regulation 2021* ("Local Government Regulation").



Where councils operate public swimming pools, they must ensure compliance with a range of legislation, including the *Public Health Act 2010*, *Public Health Regulation 2012*, *Swimming Pools Act 1992* and *Swimming Pools Regulation 2018*.

2.3 Strategic alignment

Under the IP&R provisions of the Local Government Act and accompanying Local Government Regulation, Council is required to develop and adopt an interrelated suite of strategic planning documents, underpinned by a Community Strategic Plan, to guide its decision-making processes.

As illustrated in *Table 2*, below; there is a clear strategic link between the provision of aquatic and recreational services via the Kiama Leisure Centre and the current Kiama Municipal Council Community Strategic Plan, along with Council's Delivery Program 2022-2026 and Operational Plan 2023-2024.

Table 2 Kiama Municipal Council IP&R strategic alignment

IP&R Document	Reference	
Community Strategic Plan	1.2	We love where we live; we have the services and facilities we need, and the natural beauty of our surroundings enhances our safe, active and healthy lifestyle.
Delivery Program 2022-2026	1.2.1	Provide spaces, services and initiatives that foster a proud, inclusive connected community for all.
Operational Plan 2023-2024	1.2.1.3	Manage and maintain the safe operation of a seasonally used outdoor pool in accordance with legislative obligations.
	1.2.1.4	Manage Leisure Centre services and administration for members and guests and provide fitness programs, classes and gym using purpose-specific equipment and a clean and safe environment.

2.4 Recent strategic, management and administrative reviews and decisions

2.4.1 Kiama Leisure Centre Strategic Plan (2008)

In 2007, Council engaged an external consultancy, Direct Incite Pty Ltd, to develop a strategic plan for the Kiama Leisure Centre. The subsequent strategic plan covered the five-year period from 2008 to 2012. In the 12 years since, Council has not reviewed or developed a new strategic plan for the facility.

2.4.2 Kiama Leisure Centre Liability Risk Engineering Report (2022)

In 2022, risk management consultancy Willis Australia Limited ("WTW") prepared a liability risk engineering assessment of the Kiama Leisure Centre on behalf of CivicRisk Mutual and Council as part of their third-party liability control program.

This assessment resulted in Council being provided 18 recommendations to better manage and mitigate liability risk. Of these, five (5) were identified as high priority; 11 were identified as medium priority; and three (3) were identified as low priority.

2.4.3 Kiama Sports Complex Masterplan (Current)

Council has recently commissioned a Masterplan of the Kiama Sports Complex, via grant funding obtained under the Commonwealth Government's Local Roads and Community Infrastructure Program (Phase 3). The scope of this Masterplan does not extend to include the Kiama Leisure Centre but is instead, limited to those



recreational assets surrounding the facility, including netball courts, skate park, public car park, grass sporting fields and athletic track.

Figure 1 Map of Kiama Sports Complex Masterplan scope

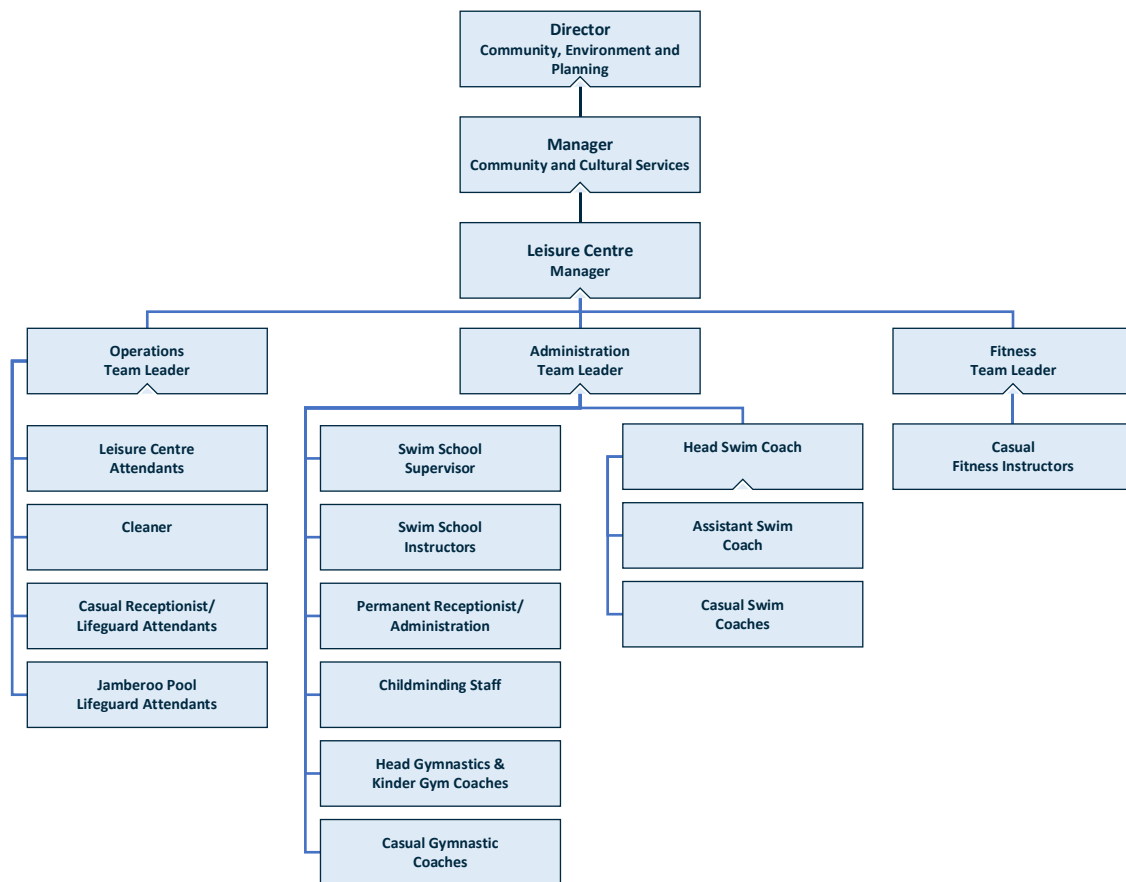




2.5 Service resourcing

The Kiama Leisure Centre is currently managed by a full-time permanent Leisure Centre Manager, who is in turn supported by three full-time permanent team leaders, each overseeing different aspects of the centre’s operations. Council currently employs a large number of casual employees to support the delivery of the Kiama Leisure Centre’s various services, programmes and activities provided.

Figure 2 Kiama Leisure Centre structure

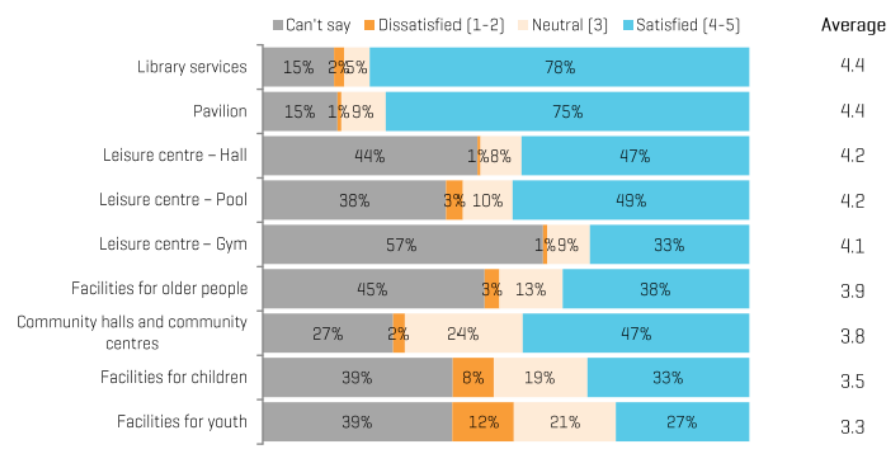


2.6 Community importance and satisfaction

Council regularly commissions external market research company, IRIS Research, to undertake a Community Satisfaction Survey aimed at gauging community sentiment on a range of Council services and facilities, including the Kiama Leisure Centre, and identifying opportunities for improvement. Results of the most recent Community Satisfaction Survey, carried out in 2020, indicate that the community is generally satisfied with the Kiama Leisure Centre. Indeed, results suggest that the Kiama Leisure Centre enjoys the third highest level of satisfaction of Council-operated facilities, after Council’s library services and the Kiama Pavilion.



Figure 3 Community satisfaction with Kiama Municipal Council facilities (Community Satisfaction Survey 2020)



In 2022, Council undertook a targeted Kiama Leisure Centre survey to gather comprehensive information to guide Council in improving customer satisfaction and enhancing the quality of services offered to members and patrons of the centre. Comprising 25 multiple choice and three open-ended questions, the survey was delivered over a 28-day period from April to May 2022 and attracted 759 responses.

Following completion of the survey and analysis of results, Council identified the following focus areas for the centre:

- Improving communication methods and platforms, particularly increasing opportunities for online customer service (e.g., bookings, payments, programs) to overcome reception wait-times, congestion and delay
- Reviewing programs to provide contemporary fitness program offerings and timetables
- Maximising pool use and aquatic programs patronage via refined oversight to provide dedicated management of the aquatic programs area
- Planning for gym enhancement incorporating a five-year space-refresh and equipment renewal plan, functional floor layout, and consideration of additional hours of access
- Maintaining continual focus on competitor offerings and pricing and adapting to change
- Implementing detailed operational plan, staffing breakdown and business plan for the service
- Developing marketing plan to grow and retain customers beyond the LGA boundary given the constraints to customer growth within the Kiama LGA catchment
- Improving operational management and customer service



2.8 Financial performance

The Kiama Leisure Centre's financial performance has been mixed over recent years, generating deficits in each of 2020/21, 2021/22 and 2022/23. Following analysis of the year-to-date actuals provided by Council, we expect the service to similarly generate a deficit in the current 2023/24 year.

As illustrated by *Table 3*, below, the service generated substantial deficits in 2020/21 and 2021/22. This performance is largely attributable to lower income via user and fees and charges received during the Novel Coronavirus ("COVID-19") pandemic era, during which time various social distancing requirements were in force. In the years since the COVID-19 pandemic era, income has increased due to user fees and charges revenue, but some expense categories have also increased (e.g. employee costs, materials and contracts).

Table 3 Kiama Leisure Centre financial performance, 2020-2024

	2020/21 Actual	2021/22 Actual	2022/23 Actual	2023/24 Projected*
Income				
User charges and fees	\$1,935,735	\$1,680,816	\$2,476,525	\$2,624,235
Grants, subsidies, contributions and donations - Operating	\$8,161	\$3,103	\$226	\$0
Grants, subsidies, contributions and donations - Capital	\$0	\$15,530	\$0	\$0
Expenses				
Employee Benefits	\$2,070,579	\$1,754,029	\$1,938,394	\$2,207,638
Borrowing Costs	-\$12	\$4,044	\$1,493	\$9,885
Materials & Contracts (excl. capital expenditure)	\$739,058	\$596,084	\$729,622	\$789,320
Other Expenses	\$270	\$575	\$54	-\$2,642
Capital expenditure	\$997	\$54,737	\$101,721	\$49,593
Total income	\$1,943,897	\$1,699,449	\$2,476,751	\$2,624,235
Total expenses (excl capital expenses)	\$2,809,895	\$2,354,732	\$2,669,564	\$3,004,202
Surplus/(Deficit) before Capital items	-\$865,999	-\$655,283	-\$192,813	-\$379,967
Total expenses (incl capital expenses)	\$2,810,893	\$2,409,468	\$2,771,285	\$3,053,795
Surplus/(Deficit) after Capital items	-\$866,996	-\$710,019	-\$294,534	-\$429,561
*Based on six-month actuals as at December 2023.				



2.9 Patronage and admissions

Council was able to provide patronage and admission data for the Kiama Leisure Centre and Jamberoo Public Swimming Pool for the periods 2020-2024 and 2019-2023, respectively.

2.9.1 Kiama Leisure Centre

As illustrated by *Table 4*, below, admissions were higher in 2022/23 than in the previous 2020/21 and 2021/22 financial years, which – as noted in the previous section – is likely due to the effects of the COVID-19 pandemic era on the Kiama Leisure Centre’s operations. Admission data for the current 2023/24 year is strong, and based on actual figures as at December 2023, the centre is likely to marginally exceed its result in 2022/23.

Table 4 Kiama Leisure Centre patronage and admissions, 2020-2024

Grouping	2020/2021	2021/2022	2022/2023	2023/2024*
Aqua	130	6,759	11,487	11,741
Babygym	0	243	355	182
Childminding	898	1,362	2,924	2,146
Coaching Pass	2,555	3,905	4,769	3,470
Court Hire	0	720	9,574	13,620
Fitness Passport	15,221	19,658	31,286	31,596
Group Fitness	15,760	20,382	30,829	31,628
Gym	17,003	23,696	36,470	35,190
Gymnastics	1,382	2,543	2,539	1,827
Health Moves	0	28	3,110	3,336
Kindergym	0	514	1,407	1,797
Personal Training	481	527	887	831
Pool Party Admission	0	0	1,060	2,366
Pool Toy	1,362	1,422	3,067	3,123
Sauna	1,144	7,927	17,184	18,754
School	114	12	7	5
Spa	303	1,690	5,126	6,291
Spectator	6,015	21,295	21,689	22,234
Swim	22,099	32,216	45,723	50,681
Swim School and learn to swim	8,477	27,784	35,964	30,020
Total	92,944	172,683	265,457	270,838

*2024 figures have been annualised based on six-month actuals provided by Council.



2.9.2 Jamberoo Public Swimming Pool

As with the Kiama Leisure Centre, attendance at the Jamberoo Public Swimming Pool has varied significantly in recent years. Once again, the COVID-19 pandemic is likely to have significantly affected the pool’s patronage, especially in the latter half of 2019/20 and throughout 2020/21 and 2021/22, during which time various Public Health Orders were in force.

As illustrated by *Figure 4*, below, attendance at the Jamberoo Public Swimming Pool has not returned to pre-COVID-19 levels. In 2018/19 and 2019/20, the pool attracted 9,117 and 9,020 patrons, respectively. Patronage dropped significantly in 2020/21, with just 5,914 users accessing the facility, rising to 8,441 users in 2022/23.

Figure 4 Jamberoo Public Swimming Pool Attendance, 2019-2023



2.10 Customer satisfaction

In 2022, Council undertook a targeted Kiama Leisure Centre survey to gather comprehensive information to guide Council in improving customer satisfaction and enhancing the quality of services offered to members and patrons of the centre. Comprising 25 multiple choice and three open-ended questions, the survey was delivered over a 28-day period from April to May 2022 and attracted 759 responses.

Following completion of the survey and analysis of results, Council identified the following focus areas for the centre:

- Improving communication methods and platforms, particularly increasing opportunities for online customer service (e.g., bookings, payments, programs) to overcome reception wait-times, congestion and delay
- Reviewing programs to provide contemporary fitness program offerings and timetables
- Maximising pool use and aquatic programs patronage via refined oversight to provide dedicated management of the aquatic programs area
- Planning for gym enhancement incorporating a five-year space-refresh and equipment renewal plan, functional floor layout, and consideration of additional hours of access
- Maintaining continual focus on competitor offerings and pricing and adapting to change
- Implementing detailed operational plan, staffing breakdown and business plan for the service



- Developing marketing plan to grow and retain customers beyond the LGA boundary given the constraints to customer growth within the Kiama LGA catchment
- Improving operational management and customer service.



3 Consultation insights and analysis

In undertaking this service review, Morrison Low made several positive observations regarding the Kiama Leisure Centre. We were particularly impressed with the strong commitment to customer service excellence and quality customer care demonstrated by those Council employees responsible for providing these services. However, consistent with the objective and scope of this review; we have focused our efforts on identifying opportunities for Council to improve culture, strategy, systems and processes to optimise service delivery and performance.

Commentary on our key findings, and accompanying improvement recommendations, is detailed below.

3.1 Strategy and performance

3.1.1 Key findings

- (a) The Kiama Leisure Centre lacks an endorsed strategic direction and is operated more as a family business servicing local families in a “cradle to grave” leisure offering. Customer satisfaction appears to be prioritised ahead of financial sustainability and commercial opportunities.
- (b) Despite the Kiama Leisure Centre’s location and proximity to the Kiama Sports Complex, there is no interface and few synergies between the two. Council is not planning wholistically for the precinct, despite it being the Kiama Municipality’s premiere fitness, leisure and recreation precinct.
- (c) While Council currently tracks attendance and revenue against the service offering, costs are not tracked against service offering. Further, corporate cost overheads are not being applied. This makes it impossible to identify which services are operating profitably and those that are not, and establish the “true cost” of operating the Kiama Leisure Centre. In turn, this limits Council’s ability to make investment decisions to maximise Kiama Leisure Centre revenue.
- (d) Council’s financial position and culture of conservative financial management have resulted in Kiama Leisure Centre staff minimising spend on maintenance requirements and extending equipment beyond its useful life. As a result, this culture has led to under-investment and now limits the ability of the Kiama Leisure Centre to optimise revenue opportunities.
- (e) Realising commercial opportunities at the Kiama Leisure Centre is difficult due to building and space limitations. Without major changes and significant investment, it is unable to offer leisure water space, a café or other retail offering, or accommodate extended services such as a 24-hour gym.
- (f) The current subsidy in place at Jamberoo Public Swimming Pool is not recommended. Council should address this when developing its next Statement of Revenue Policy, and introduce an appropriate secure entry system to support paid entry.
- (g) Since the development of the Kiama Leisure Centre in 1982, the local market has changed significantly and there are now several commercial gyms operating in the Kiama Municipality. As such, Council is no longer filling a market gap or meeting a community need in operating a gym and providing fitness classes.
- (h) The Kiama Leisure Centre provides a wide service range delivered by Council-employed staff. In many other facilities, the service offering is smaller and/or delivered by a mixture of Council employees, contractors and licensees.



Recommendation/s

1. Review the Kiama Leisure Centre Strategy, ensuring the vision, goals, target market, and strategies to deliver operational performance are updated and consistent with Council's strategic objectives.
2. Reconsider the service offering and whether Council is best placed to be the provider/operator of services currently provided at the Kiama Leisure Centre (e.g. childcare, fitness and swim coaching), or whether these are better outsourced to commercial operators via contract or licences.
3. Establish and endorse expected service levels and Key Performance Indicators (KPIs) for the Kiama Leisure Centre, and ensure that KPIs are monitored and reported on a quarterly basis.
4. Apply corporate overheads to the Kiama Leisure Centre to establish the true cost of operating the centre and providing its various services, programmes and activities.
5. Introduce user fees for the Jamberoo Public Swimming Policy via the 2024/2025 Statement of Revenue Policy and ensure an appropriate secure entry system is introduced ahead of the 2024/2025 swim season.
6. Review the Chart of Accounts to enable the costs attributable for each service offering (including apportioned overheads) to be monitored alongside revenue. Council only tracks attendance and revenue.
7. Ensure the financial impact of any changes in service offerings and service levels is modelled in Council's Long-Term Financial Plan.

3.2 Asset management and maintenance

3.2.1 Key findings

- (a) Council's Buildings Asset Management Plan is dated and does not include appropriate condition data or forward maintenance and renewal requirements for the Kiama Leisure Centre. While Kiama Leisure Centre staff have a schedule for planned, cyclic maintenance, major maintenance and renewal requirements are not being addressed.
- (b) The Kiama Leisure Centre is ageing, its condition is deteriorating, and it does not meet contemporary leisure needs. The facility's age is impacting its performance, and there are many parts of the facility that are in poor condition, non-compliant or not functioning properly.
- (c) Responsibility for planning and undertaking planned and reactive facility maintenance should be formally transferred from the Kiama Leisure Centre staff to Council's Facilities and Maintenance team, with Kiama Leisure Centre staff retaining responsibility for minor (not technical) maintenance.
- (d) Council manages four (4) rock pools, which sit with another section of Council's organisation rather than in the Community Hubs portfolio within the Planning, Environment and Communities directorate. While Council's role is largely a maintenance and lifeguarding responsibility, there are synergies in including operational oversight of these pools within the Leisure Centre team.
- (e) Council employs a number of Beach Lifeguards, who also sit with another section of Council's organisation rather than in the Community Hubs portfolio within the Planning, Environment and Communities directorate. As with the above, there are synergies in including operational oversight of the Beach Lifeguard function within the Leisure Centre team.



Recommendation/s

- 8. Review and update Council’s Buildings Asset Management Plan to include Kiama Leisure Centre’s forward maintenance and renewal requirements.
- 9. Develop and adopt a Kiama Leisure Centre Masterplan, ensuring the development of the Masterplan is informed by robust community engagement.
- 10. Prepare a Business Case to assist in securing grant funding to deliver the Kiama Leisure Centre Masterplan (once developed).
- 11. Consider transitioning functional responsibility for the operational oversight of rock pools to the Leisure Centre Manager.
- 12. Consider transitioning functional responsibility for the operational oversight of Beach Lifeguards to the Leisure Centre Manager.
- 13. Consider transitioning responsibility for building maintenance at the Kiama Leisure Centre to Council’s Facilities and Maintenance team.

3.3 People and culture

3.3.1 Key findings

- (a) The Kiama Leisure Centre team structure should be flattened and management layers reduced.
- (b) Position descriptions require review to ensure clarity and consistency of roles and accountabilities across the Kiama Leisure Centre team.

Recommendation/s

- 14. Review Kiama Leisure Centre team structure with the objective of reducing management layers.
- 15. Review, align and update position descriptions for Kiama Leisure Centre positions.

3.4 Risk management

3.4.1 Key findings

- (a) Council may be exposed to industrial risks via the high use of casual employees at the Kiama Leisure Centre. This model should be reviewed to ensure risks are clearly identified and being appropriately managed.

Recommendation/s

- 16. Review the model of engagement of casual employees engaged at the Kiama Leisure Centre, including the management of all casual employees, to ensure industrial risks are being proactively managed and mitigated.



3.5 Systems and processes

3.5.1 Key findings

- (b) Despite WTC recommending in 2022 that Council develop an overarching Operations Manual for the Kiama Leisure Centre, the Operations Manual is currently split across multiple documents with those components not reviewed since 2015 or 2016. We have been advised that a revision of the Operations Manual is currently in progress.
- (c) While some employees are unhappy with *Envibe*, it is widely used in the gym and leisure market and there is compelling reason to replace it with another product at this time.

Recommendation/s

- 17. Complete the review and consolidate the Kiama Leisure Centre Operations Manual, ensuring that it is regularly reviewed, and quality controlled for currency.



4 Strategic service options

4.1 Kiama Leisure Centre

The Kiama Leisure Centre is an ageing facility and its condition continues to deteriorate. The facility is no longer meeting contemporary recreation needs and typical community expectations. This gap will continue to widen unless addressed. Council has three options:

- **Option 1 – Do nothing:** A do-nothing option would see the continued deterioration of the Kiama Leisure Centre to a point where it would be unusable, unsafe, and unfit to meet the needs of the local community. A decision not to invest in Kiama Leisure Centre may require social infrastructure to be replicated elsewhere in the Kiama Municipality at a greater cost.
- **Option 2 – Upgrade:** This option would include an upgrade of the Kiama Leisure Centre, comprising improvements to the existing facility.
- **Option 3 – Redevelop:** This option would include a complete redevelopment of the Kiama Leisure Centre. Under this option, some existing elements of the Kiama Leisure Centre could be removed, or potentially replaced with new or supplementary elements (.e.g. café, 50-metre competition pool, leisure pool, splash pad, etc.).

Council has the opportunity and obligation to make a strategic direction regarding the future of the Kiama Leisure Centre. As noted previously, Council’s decision-making should be informed by a Masterplan, developed in consultation with the Kiama Municipality community.

Significant funding will be required to pursue either **Option 2 – Upgrade** or **Option 3 – Redevelop**. Potential options for funding either the upgrade or redevelopment of the Kiama Leisure Centre could include:

- Section 94 contributions
- Proceeds from the sale of assets
- Grants and contributions
- Debt/loan borrowings
- Forward borrowing from reserves
- Other general income sources.

We believe that given the nature and condition of the asset, Council should commence planning for Option 3 while noting that typically this planning and engagement can take many years, and that construction will be dependent on Council’s financial capacity and grant funding. At best, actual redevelopment is only likely to occur in the latter year of Council’s Long-Term Financial Plan (“LTFP”); more likely, it would need to be funded in a future LTFP.

Undertaking sufficient planning for this decision-making process should occur sooner and we would suggest that the planning and engagement components be included in the next Delivery Program for consultation with the Kiama Municipality community (via the development of a Kiama Leisure Centre Masterplan).



4.2 Jamberoo Public Swimming Pool

Council currently waives user fees and charges for the Jamberoo Public Swimming Pool. While uncommon, there are examples of other local councils across NSW that waive user fees for smaller, outdoor pools of a similar age and condition to the Jamberoo Public Swimming Pool. *Table 5*, below, includes examples of free-entry public swimming pools in NSW. This is not an exhaustive list, but it does demonstrate a wide range in approaches used by other councils.

Table 5 Sample of free-entry public swimming pools

Council	Population	Facility	Notes
Berrigan Shire Council	8,653	Berrigan Public Swimming Pool	Berrigan Shire Council owns four swimming pools, including one indoor heated aquatic centre and three outdoor pools. Of these, one (Berrigan) does not apply user fees.
MidCoast Council	97,237	Bulahdelah Public Swimming Pool Nabiac Public Swimming Pool	MidCoast Council's owns a number of public swimming pools and aquatic centres. Most are staffed and apply user fees. Both pools located in inland villages. Both pools are unsupervised, with no lifeguards.
Parkes Shire Council	14,361	Peak Hill Public Swimming Pool Trundle Public Swimming Pool Tullamore Public Swimming Pool	Parkes Shire Council's main facility, the Parkes Aquatic Centre, applies user fees. All free-entry pools are located in remote villages. All pools are staffed by lifeguards during open hours.

As illustrated by *Table 5*, above, there is no consistent approach applied by councils in applying user fee subsidies. For example, Berrigan Shire Council waives fees for one of its pools, but applies fees for its three other pools (including two, at Finley and Tocumwal, that are of a similar size and condition). We understand that the Berrigan Public Swimming Pool is operated by a Section 355 Committee and fundraises throughout the year and receives donations to subsidise entry. In contrast, Parkes Shire Council maintains one "premier" facility in the Parkes central business district, which applies fees, but waives fees for smaller outdoor facilities located in remote areas of the local government area.

The distinction between these examples and Kiama Municipal Council is that these facilities are used almost exclusively by residents of the area. A similar situation exists in MidCoast Council, where two pools located in inland communities have a free-entry admission model.

Research undertaken by Kiama Municipal Council suggests that while the pool is predominantly used by residents of the Kiama Municipality; a number of patrons reside in the neighbouring Shellharbour City local government area. As a result, the current model is seeing residents of another local government area access a Kiama Municipal Council-provided and -subsidised service.



As Council is expending funds on staffing the Jamberoo Public Swimming Pool during operating hours, user fees and charges should be introduced for the facility. Noting the limited infrastructure at the facility, as well as the location of the entry point; Council should investigate the feasibility of installing an appropriate entry system (e.g. fob access system) to complement the introduction of user fees and charges. In practice, this may mean that users would need to purchase a season pass in order to receive an access fob for the season.

4.3 Management model

There are various management models available to local councils in managing public community venues such as recreation facilities and aquatic centres. In practice, management models largely fit into one of the following three categories:

- **Direct Management:** under this model, Council directly manages and operates the facility. This is the current model utilised by Council in relation to the Kiama Leisure Centre.
- **Indirect Management:** under this model, an external operator (typically a specialist leisure or recreation management agency) manages or part-manages the facility, via a management services agreement with Council.
- **Independent Management:** under this model, an external operator manages the facility via a formal lease and/or management agreement.

Each of the three management models listed above has inherent strengths (or advantages) and weaknesses (or disadvantages). Further, when determining the most appropriate management model, it must be recognised that no one model will suit all facilities and situations. Factors that should be considered by Council in deciding the most appropriate management model for its specific needs are outlined below.

4.3.1 Direct Management

Under this model, Council would continue to directly manage and operate the Kiama Leisure Centre and design, deliver, and promote services and programmes. The key advantage of this model is that Council can directly control the condition of the centre and the quality of the services and programmes it provides.

Table 6 Management model advantages and disadvantages: direct management

Advantages	Disadvantages
<ul style="list-style-type: none"> – Council can exercise a high level of control over the day-to-day operation of the Kiama Leisure Centre. – Council can ensure the Kiama Leisure Centre is maintained to a high standard and has the capacity to provide adequate funds for all asset management requirements, including cyclical maintenance and structural maintenance. – Council’s governing body has capacity to make ongoing input into strategy and service offering. – Council can oversee marketing strategy and initiate direct promotion of the facility, its services and programmes. – Council can respond to changing customer needs and priorities. 	<ul style="list-style-type: none"> – Model requires Executive and senior staff with skills and expertise in managing, operating and/or maintaining aquatic and recreation facilities. – Council must be willing and able to maintain facility to high standard and ensure adequate funds are allocated to meet asset management requirements. – Political influence can be applied by governing body to change strategy and service offering, or stifle/delay new opportunities. – Council may be slower to identify and exploit opportunities due to governance structures and internal bureaucratic arrangements. – Less flexible industrial arrangements may limit resourcing decisions.



4.3.2 Indirect Management

Under this model, Council would enter into a management services contract with a contractor to manage the whole or part of the Kiama Leisure Centre. The key advantage to this model is that the operator can typically provide specialist experience that Council may lack, and is responsible for resourcing, including recruiting, training and managing staff (rather than Council).

Table 7 Management model advantages and disadvantages: Indirect management

Advantages	Disadvantages
<ul style="list-style-type: none"> - Operator can typically apply specialist experience which is usually not readily available to Council. - Council does not need to employ staff to manage and operate the centre or provide services and programmes. - Operation of the centre is at arm’s length from Council and freed from day-to-day Council issues and interventions. - Operator can usually respond to needs, issues and priorities more rapidly and efficiently than Council. - Operator typically able to make more flexible industrial arrangements (not subject to <i>Local Government (State) Award</i>). - Council can remain a partner in the arrangement and thus continues to have some control over the centre and access to performing reporting/ monitoring. - Formal commitments for maintenance and refurbishment allocations can be set. 	<ul style="list-style-type: none"> - Council can find itself locked into an external management agreement with an ineffective manager for a significant period. - Legal implications and possible action for failure to deliver contract obligations. - Operator can focus predominantly on profitable services and programmes to the detriment of wider community obligations.

4.3.3 Independent Management

Under this model, Council would outsource the management and operation of the Kiama Leisure Council to an external party or organisation through a formal lease agreement. The key advantage to this model is that it is likely the most effective financially, and significantly minimises (or eliminates) financial and risk implications for Council. However, this model does present significant risks that community benefits may be lost via service, staffing and programming decisions, with Council restricted in its ability to influence such decisions.

Table 8 Management model advantages and disadvantages: Independent management

Advantages	Disadvantages
<ul style="list-style-type: none"> - Lessee typically able to achieve operational economies on conditions of use, labour, goods and services. - Financial and risk implications for Council are minimised or eliminated entirely. - Lessee typically able to make more flexible industrial arrangements (not subject to <i>Local Government</i> 	<ul style="list-style-type: none"> - Lessee’s objectives may conflict with achieving equitable access or community service obligations desired by Council. - Limited opportunity for community and customer input into establishing and reviewing services, programmes, timetables and fees. - Lessee typically has strong focus on covering costs



Advantages	Disadvantages
<p>(State) Award).</p> <ul style="list-style-type: none"> - Council can set guaranteed operating financial position. - Lessee may be well positioned to obtain and provide immediate capital for improvements and maintenance requirements. 	<p>and generating profit, influencing decision-making relating to services, buildings and equipment.</p> <ul style="list-style-type: none"> - Council has no opportunity to participate in centre management, with control usually exercised via a medium- to long-term lease.

4.3.4 Conclusion and preferred model

Local councils, particularly those in rural and regional areas, are increasingly pursuing indirect management models for similar sized aquatic and leisure facilities. As noted above, there are benefits to direct management; however, workforce shortages, recruitment challenges, rising operating costs and competing service delivery priorities all make indirect management an appealing option for smaller councils that are less well resourced and lack specialist industry experience.

Moving forward, Council should consider the advantages that implementing an indirect management model may provide. Contracting a specialist operator to manage the facility would likely achieve cost savings and efficiency improvements for Council, including reducing internal services required to operate the centre (e.g. Communications and Marketing, Finance, Human Resources, etc.) and enabling Management to focus on other strategic priorities and services. Importantly, customers and community would also be likely to benefit from this model, as the centre would be run by a specialist operator with industry expertise, which would likely be reflected in the quality of services, programmes and activities provided.

Implementing an indirect management model would need to be achieved via a compliant tendering process, carried out in accordance with the relevant provisions of the Local Government Act and the *Tendering Guidelines for NSW Local Government* prescribed by the Office of Local Government. Careful attention should be given to the drafting of the tender specification to ensure that roles and responsibilities are clearly identified and defined, and appropriate performance reporting arrangements are included.



5 Market research and demand analysis

Desktop analysis suggests a relatively strong and competitive fitness market in the Kiama Municipality. As at the time of this report being prepared, there are at least seven (7) other commercial gyms currently operating in the Kiama Municipality, including some aligned with major national operators such as Club Lime, Snap Fitness and F45 Training. We understand that the Kiama Village shopping centre, which is currently undergoing reconstruction and located in close proximity to the Kiama Leisure Centre, will also include a gym tenant.

While there is a competitive market in relation to commercial gyms within the Kiama Municipality; the Kiama Leisure Centre is the only facility that includes both a gym and a swimming pool. Indeed, the only other public swimming facilities within the local government area are those managed and operated by Council: namely the Jamberoo Public Swimming Pool, and the four rockpools located at Black Beach, Blowhole Point, Boat Harbour and South Warri.

5.1 Service age groups

Age structure provides valuable insights into the level of demand for aged-based services, such as child care, recreation facilities and aged care services, and indicate how residential roles and functions are likely to evolve in the future. Service age structure divide the population into age categories that reflect typical life stages and indicate the level of demand that target people at different stages in life and how that demand is changing.

Analysis of the service age groups in the Kiama Municipality compared to Regional NSW shows that, as at the 2021 Census, there was a lower proportion of people in the younger age groups (0 to 17 years) and a higher proportion of people in the older age groups (over 60 years). Overall, 19.9 per cent per cent of the local population was aged between 0 and 17 years, and 35.8 per cent were aged 60 years and over, compared with 21.5 per cent and 29.1 per cent respectively for Regional NSW.

Table 9 Service age group analysis, 2021 Census data (Australian Bureau of Statistics)

Service age group	Years	Kiama Municipality		Regional NSW
		Number	%	%
Babies and preschoolers	0 to 4	1,149	5.0	5.5
Primary schoolers	5 to 11	1,869	8.1	8.6
Secondary schoolers	12 to 17	1,585	6.8	7.4
Tertiary education and independence	18 to 24	1,424	6.1	7.6
Young workforce	25 to 34	1,993	8.6	11.6
Parents and homebuilders	35 to 49	3,866	16.8	17.5
Older workers and pre-retirees	50 to 59	2,965	12.8	12.8
Empty nesters and retirees	60 to 69	3,815	16.6	13.3
Seniors	70 to 84	3,634	15.8	13.0
Elderly	85 and over	777	3.4	2.8



As illustrated in *Table 9*, above, the major differences between the age structure of Kiama Municipality and Regional NSW were:

- A *larger* percentage of ‘Empty nesters and retirees’ (16.6 per cent compared to 13.3 per cent)
- A *larger* percentage of ‘Seniors’ (15.8 per cent compared to 13.0 per cent)
- A *smaller* percentage of ‘Young workforce’ (8.6 per cent compared to 11.6 per cent)
- A *smaller* percentage of ‘Secondary schoolers’ (6.8 per cent compared to 7.4 per cent).

5.2 Population change

According to NSW Department of Planning projections, the Kiama Municipality’s population is forecast to grow at a rate of 1.28 per cent over the 20-year period from 2021 to 2041. This is significantly higher than the NSW average growth rate of 0.95 per cent for the same period. It should be noted that the NSW Department of Planning projections are generally considered to be modest, and actual population growth may exceed the projected growth rate.

5.3 Leisure facility trends

Analysis of the recreation leisure market suggests that there are a range of trends that are increasingly impacting on the market, specifically on leisure centres. *Table 10*, below, summarises some of these trends and how they may guide future decision-making by Council in relation to the Kiama Leisure Centre:

Table 10 Leisure and aquatic facility trends (summary)

Trend	Summary
Accessibility and inclusivity	Increased focus on designing facilities that are accessible and inclusive for people of all ages and abilities. This includes features such as ramps, sensory-friendly spaces, and inclusive service design and programming.
Demographics and needs based	Increased focus on ensuring facilities adapt to changing demographics and cater for current and expected community needs, including an ageing population and a younger, more technology-savvy generation.
Health and wellbeing	Increased focus on designing facilities that contribute to the community’s quality of life and overall wellbeing. This includes incorporating allied health services within aquatic and leisure centres to create a central health hub for local communities.
Flexible design	Increased focus on designing facilities and spaces that provide usage flexibility and can be easily adapted for different purposes and activities, ensuring that space utilisation can be maximised.
Sustainable design	Increased focus on implementing environmentally sustainable practices in facility design and operations. This includes energy-efficient technologies, eco-friendly building materials and water conservation measures such as advanced water filtration systems, water recycling, and efficient water management practices.
Technology and innovation	Increased focus on integrating technology into facility operations and service delivery to enhance customer experience, such as mobile applications for facility bookings, online scheduling, and smart facility management.
Value for money	Increased focus on ensuring that facilities provide value for money and commercial performance can be improved to ensure effective return on investment.



5.4 Implications

As with other communities in south-east coastal NSW, population growth in Kiama Municipality is expected to be driven by increases in the 'Seniors' (70 to 84 years), 'Empty nesters and retirees' (60 to 69 years) and 'Parents and homebuilders' (35 to 49 years) service groups. As a result, it is expected that demand for those services and facilities that cater to older residents will increase in the years ahead, whereas demand for those services that cater to younger residents will remain static.

As previously noted, Council is encouraged to develop and adopt a Masterplan to inform and guide decision-making in relation to the long-term future of the Kiama Leisure Centre. In developing this Masterplan, consideration should be given to the various trends affecting the leisure centre market, including those summarised in *Table 10*, above. Key opportunities include:

- Incorporating accessible and inclusive features in the design of the facility, which could in turn then support more accessible and inclusive services and programming.
- Incorporating sustainable design principles to ensure the facility's carbon footprint is minimised.
- Incorporating allied health services within the centre or introducing new features, such as a hydrotherapy pool, that support health and wellbeing outcomes.
- Incorporating opportunities for secondary spend, such as a café.
- Incorporating water play facilities such as splash pads and interactive water play equipment within the centre precinct, or adjacent to aquatic infrastructure.



6 Comparable Facility Review

As part of this service review, we sought to identify other rural councils that were a similar size to Kiama Municipal Council with similar facilities to the Kiama Leisure Centre, and larger regional councils that either had a similar community profile to Kiama Municipality's or which owned and operated facilities similar to the Kiama Leisure Centre.

Table 11, below, lists the facilities that were identified as part of the comparative analysis.

Table 11 Comparable Facility Analysis

Council	LGA Population ¹	Facility
Cessnock Council	63,632	Kurri Kurri Aquatic and Fitness Centre
Dubbo Regional Council	54,922	Dubbo Aquatic Centre
		Wellington Aquatic Leisure Centre
Goulburn Mulwaree Council	32,053	Goulburn Aquatic Leisure Centre
Griffith City Council	27,086	Griffith Regional Aquatic and Leisure Centre
Kiama Municipal Council	23,074	Kiama Leisure Centre
Lake Macquarie Council	213,845	West Wallsend Swim Centre
Maitland Council	90,226	East Maitland Aquatic Centre
		Maitland Aquatic Centre
Shoalhaven City Council	108,531	Nowra Aquatic Park
Singleton Council	24,577	Singleton Gym and Swim Centre

6.1 Key Insights

Key observations from our research include:

- It is difficult for councils that operate aquatic facilities to do so at a cost-neutral level.
- Broader strategic shift away from the traditional model where councils run a 50-metre outdoor pool, along with children's area and picnic facilities, towards indoor facilities.
- Greater focus now on revenue-generating activities such as learn-to-swim, health classes, recreation usage and key stakeholder groups such as swimming clubs.
- Kiosks have the potential to raise revenue if run efficiently and operated by sales-trained staff.
- Commercial returns from learn to swim and other program-based activities may reduce the subsidy per user visit that the community must currently pay.
- Key challenges are the recruitment and retention of experienced staff at all levels, particularly those involved with learn to swim and management/coordination activities.
- Heating and/or operating costs of outdoor pools in the winter tend to favour a seasonal model,

¹ Population data sourced from the Australian Bureau of Statistics (2021 Census).



particularly for councils in rural and regional areas.

- Some councils that run their own aquatic facilities are trying to move away from a younger, casualised workforce to a more experienced permanent staff model.
- Developing a skilled and motivated aquatic facility workforce requires Council to determine a clear long-term operating model, alongside training and professional accreditation opportunities.
- Generally, an in-house model provides councils with greater flexibility to respond to issues raised by elected officials and members of the public.
- An external model allows councils to utilise the skills and experience of a specialist provider with a large network of aquatic facilities to draw resources and knowledge from. However, this model can potentially lead to unforeseen capital or maintenance costs for council, particularly toward the end of a contract.

The following section outlines some of the key themes that were identified via the review of comparable facilities in more detail.

6.1.1 Management model

Of the facilities reviewed, there was a relatively even spread between in-house and outsourced operations. This even spread was equally applied to councils that owned a single facility and those that owned multiple facilities, as well as those that ran seasonal pool facilities and those that ran year-round.

Two councils utilised a mixed model, being Cessnock Council and MidCoast Council. In the case of Cessnock City Council, the council's two outdoor public swimming pools (located at Branxton and Cessnock) are currently managed in-house, whereas the larger Kurri Kurri Aquatic and Fitness Centre (located at Kurri Kurri) is managed and operated externally by Belgravia Leisure. Similarly, MidCoast Council directly operates its smaller public swimming pools (located at Bulahdelah and Stroud), whereas the larger Great Lakes Aquatic Centre (located at Forster) and Manning Aquatic Centre (located at Taree) are managed externally by YMCA.

Decisions regarding management model are largely attributed to strategic drivers and internal capability. Councils with a preference for outsourcing perceive aquatics to be an important service that needs to be delivered, but not necessarily by the councils themselves, and appear motivated predominantly by a desire to achieve cost savings or cost containment. Such councils recognise that external operators are subject to a different ("cheaper") industrial award structure and enjoy greater buying power for pool chemicals, retail merchandise and utilities. In contrast, those councils that manage aquatic facilities themselves are motivated more by a desire to maintain high levels of service and ensure they remain responsive to community needs and expectations. These councils recognise that strong internal capability in aquatics and fitness facility management was critical to the success of the direct management model.

As to whether an external or internal model (or a combination of the two) is the best operating structure for Kiama Municipal Council ultimately depends on several factors, including but not limited to operating costs, maintenance obligations, human resource capacity and user satisfaction and community feedback. As discussed in Section 5 of this report; on the information available, we would recommend that Council review the current management model and explore the potential benefits of pursuing an indirect management model.



6.1.2 Services and strategy

Many of the facilities reviewed indicated Learn to Swim was critical to improve cost recovery of pool operations. Gyms, fitness classes and kiosk facilities were also cited as critical earners that were able to improve cost recovery and reduce the cost burden on ratepayers for these facilities. We note that Kiama Municipal Council already provides Learn to Swim classes as well as a range of other fitness and gym classes. As noted previously in this report, the Kiama Leisure Centre facility does not incorporate or have space for a substantial kiosk or café, so there is no opportunity to achieve further revenue via a secondary spend retail offering such as this.

Construction of 50-metre pools has declined since the late twentieth century, following a peak in popularity during the period between the 1960s and 1990s, when there was strong community pressure to build 50-metre competition and training facilities. Two councils identified 50-metre pools as being detrimental to cost recovery and potentially not required by members of their respective communities, who were predominantly seeking recreational aquatic facilities (rather than competitive swimming facilities). In contrast, one council has recently developed their leisure centre to include a 50-metre outdoor pool.

6.1.3 Fees and charges

Across the facilities examined, there were a variety of different pricing structures which provided for casual/one-off entry, season passes, 'add-on' fitness and aqua classes membership. Competitive long-term membership packages using a direct-debit system attract long-term users of aquatic facilities and provide some reliable cash inflows. We note that Kiama Municipal Council already provides a range of package options.

While pricing structures vary in their degree of complexity, most facilities charged adult, child/concession, spectator, and family categories, with children under either three or four years' old free of charge. *Table 12, overleaf*, provides a comparative analysis of the casual fees and charges levied by each of the shortlisted facilities (with all fees and charges drawn from each council's adopted Revenue Policy for the current 2023/24 year). Review of these figures suggests that Kiama Municipal Council is an outlier in its fees, noting its:

- Family admission fee of \$22.00 is higher than the average of \$18.50
- Adult admission fee of \$7.00 is higher than the average of \$6.30
- Concession admission fee of \$5.00 is higher than the average of \$4.10
- Child admission fee of \$5.00 is higher than the average of \$4.50
- Spectator admission fee of \$4.50 is higher than the average of \$2.00.

We understand that Council has recently reviewed its fees and charges for the Kiama Leisure Centre, including increasing fees and charges. However, as detailed above (and illustrated in further detail in *Table 12, overleaf*), Kiama Municipal Council's fees and charges are comparatively higher than those levied by other centres, which are generally more modern than the Kiama Leisure Centre and some of which have contemporary features such as water play areas.



Table 12 Fees and charges comparative analysis, Casual fees

Council	Facility	Casual Admission Fee				
		Family	Adult	Concession	Child	Spectator
Cessnock Council	Kurri Kurri Aquatic and Fitness Centre	\$20.00	\$6.40	\$5.50	\$5.50	\$3.50
Dubbo Regional Council	Dubbo Aquatic Centre	\$18.50	\$6.00	\$4.00	\$4.00	\$2.00
	Wellington Aquatic Leisure Centre	\$18.50	\$6.00	\$4.00	\$4.00	\$2.00
Goulburn Mulwaree Council	Goulburn Aquatic Leisure Centre	\$18.00	\$6.50	\$4.50	\$4.50	\$2.00
Griffith City Council	Griffith Regional Aquatic and Leisure Centre	\$19.50	\$6.50	\$3.00	\$3.00	\$1.50
Kiama Municipal Council	Kiama Leisure Centre	\$22.00	\$7.00	\$5.00	\$5.00	\$4.50
Lake Macquarie Council	West Wallsend Swim Centre	\$16.80	\$6.60	\$4.10	\$4.10	\$3.10
Maitland Council	East Maitland Aquatic Centre	\$17.60	\$6.30	\$4.20	\$5.20	\$0.00
	Maitland Aquatic Centre	\$17.60	\$6.30	\$4.20	\$5.20	\$0.00
Shoalhaven City Council	Nowra Aquatic Park	\$17.70	\$5.10	\$3.80	\$3.80	\$0.00
Singleton Council	Singelton Gym and Swim Centre	\$19.00	\$6.20	\$4.10	\$4.80	\$2.50
	Median	\$18.50	\$6.30	\$4.10	\$4.50	\$2.00

15.6 Post exhibition endorsement: Development Control Plan Chapter 13 - Agritourism

CSP Objective: Outcome 2.1: We protect our people, our place, our flora and fauna through our planning and our actions.

CSP Strategy: 2.1.3 Protect and maintain our natural areas; conserve areas of natural significance.

Delivery Program: 2.1.3.1 Protect and maintain our natural areas.

Item 15.6

Summary

At its meeting on 21 November 2023, Council resolved to endorse the Draft Development Control Plan Chapter 13 - Agritourism (Draft DCP – Agritourism) for public exhibition in accordance with Council’s Community Participation Plan and legislative requirements. The Draft DCP – Agritourism was exhibited between 27 November 2023 and 15 January 2024, being an extension to the minimum 28 days due to the Christmas break. During the exhibition period 2 submissions were received.

The purpose of this report is to review and address the submissions received during the public exhibition period and to seek Council’s endorsement of the Draft DCP – Agritourism. If adopted, the exhibited Draft DCP - Agritourism will be reformatted in keeping with the Kiama Development Control Plan 2020 (Kiama DCP) format. The format will reflect the current format for other chapters of the DCP and will include the provision of a title page, cover picture as well as a content index for easy use.

This approach ensures that the Kiama DCP contains general controls and objectives for agritourism as well as specific controls for farm gate premises and farm experience premises. The exhibited Draft DCP - Agritourism, if adopted by Council, will form Chapter 13 – Agritourism of the Kiama Development Control Plan 2020. This will also mean that development controls for farm stay accommodation and roadside stalls will also be consolidated into this Chapter of the Kiama DCP.

Financial implication

Financial implications for this State-led reform package include staff resources and time. These can be accommodated under the existing Strategic Planning budget allocation.

Risk Implication

Under clause 14 of the EP&A Regulation 2021 the Council, following public exhibition and consideration of any public submissions, may:

1. approve the plan in the form it was exhibited;
2. approve the plan with any alterations the Council considers appropriate, or
3. decide not to proceed with the plan.

These options, as well as the associated risks or implications, are addressed below.

Council has the option of delaying the finalisation of the Draft DCP - Agritourism until it undertakes detailed environmental studies and a major strategic review of Kiama Local Environmental Plan (LEP), 2011 and Kiama DCP.

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In the absence of a specific DCP for Agritourism there is a risk of Development Applications being lodged prior to any local development standards being in place. Subsequently, without a specific Chapter of the Kiama DCP outlining development guidelines and standards for agritourism uses the development assessment process must be conducted solely under Section 4.15 of the *Environmental Planning & Assessment Act, 1979*. This in turn may affect Council's ability to defend any development decisions if challenged in the NSW Land and Environment Court.

The Council may make any alterations to an exhibited draft DCP it considers necessary in response to the review of submissions received during the public exhibition period. Significant changes may trigger the need to re-exhibit the draft DCP with the associated time delay caused by a second exhibition period and further report to Council.

Council may, however, resolve to make minor changes or alternations to the exhibited draft DCP, where Council considers these changes to be necessary and appropriate to address the valid concerns or issues raised in any submissions received during the exhibition period.

Alternatively, the Council may decide to adopt the exhibited draft DCP if the submissions received can be adequately addressed and do not require any amendments to the exhibited draft document.

In this instance, it is recommended that no changes are made to the Draft DCP – Agritourism and that it be adopted as exhibited.

Policy

The adoption of a DCP – Agritourism chapter will ensure that Council has adequate development controls in place to assess development applications for farm gate premises and farm experience premises. The provisions relating to farm stay accommodation that exist in Chapter 10.2 of the existing Kiama DCP were adapted and integrated into the exhibited Draft DCP - Agritourism.

A review of the provisions relating to rural lands, including agritourism, will form part of a comprehensive strategic planning review of Council's LEP and DCP when this major review is undertaken.

The comments received during the exhibition period of the Draft DCP – Agritourism have been reviewed and addressed in accordance with the Community Participation Plan and legislative requirements. A summary of the submissions received during the exhibition period and staff responses are outlined below.

Consultation (internal)

The exhibited Draft DCP - Agritourism incorporated comments made during the internal consultation process with Council staff including Strategic Planners,

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Development Assessment Officers (both Building and Planning), Environmental Officers, Engineers, and Council’s Economic Development Officer.

The issues raised in the submissions received during the public exhibition period do not require further consideration by other sections of Council given the nature of the comments.

Communication/Community engagement

The Draft DCP – Agritourism was exhibited in accordance with Council’s Community Participation Plan and legislative requirements, between 27 November 2023 and 15 January 2024. This was an extension to the minimum 28 days due to the Christmas break.

The Draft DCP – Agritourism was placed on Council’s website and in accordance with the Community Participation Plan comments were also sought from the various precinct committees.

During the exhibition period 2 submissions were received. The issues raised in these submissions are reviewed and outlined below. The issues, concerns and questions raised in the 2 submissions have been summarised and listed under the subheading “Summary of Submissions”. The “Comments” section contains an evaluation of the issues raised as well as a recommendation for Council consideration.

Summary of Submissions	Comments
<p>Support for farmers to be able to diversify their income but concern that the draft DCP focuses on tourism rather than agriculture. Concerned that farmland and farming activities will be compromised.</p>	<p>This is a valid concern with the State Government has not required agritourism to be associated with a commercial farm or existing agricultural use prior to an application for agritourism.</p> <p>The Model provisions, introduced by the State Government define “agriculture” to include “agritourism”. This means that Council is unable to place a more stringent requirement in a DCP which limits agritourism to existing agricultural uses or commercial farmland.</p> <p>Recommendation:</p> <p>No amendment to the exhibited draft DCP is proposed given that any additional land use restrictions placed in the DCP will not be upheld in any challenge to the Land & Environment Court.</p>

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<p>Is it the case that one landholder with a property of sufficient size can do all the options available under agritourism?</p>	<p>The definition of agritourism is not restricted to just one type of agritourism use per land holding. The development standards and planning guidelines, outlined in the exhibited draft DCP – Agritourism, specifically aim to address site specific development issues and impacts through the development application process.</p> <p>The aim of the exhibited draft DCP- Agritourism is to ensure that development is appropriate in scale and that all potential adverse environmental impacts are considered and addressed.</p> <p>Recommendation:</p> <p>No changes are proposed to the exhibited draft DCP - Agritourism.</p>
<p>The NSW legislation and Kiama LEP contain a dictionary that defines “agriculture” as well as “commercial farm” which relates to primary production classification under the Local Government Act, 1993. Why is agritourism not restricted to land that is a primary production business?</p>	<p>The State Government’s Model LEP and subsequent changes to the Kiama LEP mean that “agritourism” is now included in the definition of “agriculture”.</p> <p>Agritourism is now permitted, with or without consent (under the NSW Exempt and Complying Development provisions) on land where agriculture is a permitted land use.</p> <p>The State Government has made legislative changes that permit agritourism where agriculture is a permissible land use. There is no legal requirement requiring agritourism to be limited to primary production lands and Councils in NSW cannot introduce this legal requirement into a DCP.</p> <p>Recommendation:</p> <p>No changes to the exhibited draft DCP- Agritourism are proposed.</p>
<p>Surely, the unintended outcome of the legislation is a loophole where agritourism is allowed even if there is no serious intention to proceed or continue with farming?</p>	<p>The State Government’s initiative encourages diversification of land uses to supplement farm income and includes providing more opportunities for farm experiences.</p>

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	<p>As mentioned above, the exhibited draft DCP- Agritourism cannot contain more restrictive definitions than those contained in the State Government’s planning instruments which amended the Kiama LEP 2011.</p>
<p>It is noted that the exhibited draft document (draft DCP-Agritourism) uses the term to “mitigate” but Council must have a clear procedure for assessing whether the “mitigation” of the impact on agritourism has been achieved.</p>	<p>The exhibited draft DCP- Agritourism contains development standards and objectives that aim to ensure adequate assessment takes place.</p> <p>The development assessment process allows for appropriate conditions to be placed on developments to minimize potential adverse impacts of the development on surrounding land, amenity and agricultural uses.</p> <p>The overarching goal of the exhibited draft DCP-Agritourism is to encourage appropriate agritourism uses and minimize any adverse impact on surrounding farmland. This process inherently requires professional judgement and site-specific development assessment against the goals and standards articulated in the exhibited draft DCP.</p> <p>Recommendation:</p> <p>No changes are recommended to the exhibited draft DCP-Agritourism.</p>
<p>There is mapping relating to Agritourism Exempt and Complying Development land that would be useful and should be done in conjunction with the Kiama DCP – Agritourism.</p>	<p>The mapping mentioned relates to the State Government’s State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. This mapping already applies to Kiama local government area and are already integrated into the State Government’s reform package relating to agritourism.</p> <p>The State Government mapping removes some areas of the State from the provisions of the State Government’s agritourism reforms.</p>

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	<p>Council does not have the power to vary this mapping.</p> <p>Recommendation:</p> <p>No changes are recommended.</p>
<p>The Development Assessment process will inevitably place pressure on Council staff and Councillors to approve problematic development applications.</p>	<p>The exhibited DCP- Agritourism provides planning objectives, development and assessment guidelines and development standards aimed at reducing pressure placed on Council to approve problematic developments.</p> <p>Without the adoption of the exhibited draft DCP-Agritourism, development assessment and decisions will need to be made under the relevant planning legislation without consideration of local planning objectives and standards.</p> <p>In the absence of a DCP for agritourism there is more scope for pressure to be placed on Council and Council officers to approve problematic development applications without assessment against local controls contained in the exhibited draft DCP-Agritourism.</p>
<p>The NSW Government has released numerous planning guidelines relating to agritourism. These should be incorporated into the Kiama LEP and DCP, particularly for new farm buildings and setting up an agritourism business.</p>	<p>The State Government has produced a suite of documents which aim to assist applicants which is not limited to the 2 documents referred to in the public submission. Incorporating all of these State Government documents would make Council's DCP unwieldy.</p> <p>The State Government is responsible for publishing and updating their own planning documents and it is not recommended that these documents be reproduced in the Kiama DCP.</p> <p>The State Government documents relating to agritourism include a 54 page booklet outlining how to set up an agritourism business as well as a Frequently Asked Questions sheet that relates to State planning controls and the planning process in NSW.</p>

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	<p>In relation to new farm buildings, depending on the proposed use, size, environmental impact and other planning considerations it may fall either within Exempt or Complying Development or it may require the lodgment of a Development Application for approval by Council.</p> <p>Recommendation:</p> <p>No changes be made to the exhibited draft DCP-Agritourism.</p>
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Attachments

- 1 Draft DCP Chapter 13 - Agritourism [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Adopt the exhibited draft DCP Chapter 13 – Agritourism, Amendment 22.
2. Advise the Department of Planning, Housing and Infrastructure within 28 days of Council’s resolution in accordance with the requirements clause 20 of the EP&A Regulation, 2021; and
3. Reformat and publish the adopted DCP on its website including any documents, map, plan, diagram or other material referred to in the plan.

Background

At an Ordinary Meeting in late 2021, the Council was first informed of the Department of Planning and Environment’s proposal to simplify the planning process for small business activities and low-impact agricultural development on NSW farms.

Council then endorsed the proposed optional development controls contained in the draft *Standard Instrument (Local Environmental Plans) Amendment (agritourism) Order 2021*. These draft clauses related to 5.24 Farm stay accommodation and 5.25 Farm gate premises.

Subsequently, the *State Environmental Planning Policy (SEPP) Amendment (Agritourism) 2023* inserted clauses 5.24 and 5.25 into the Kiama Local Environmental Plan (LEP), 2011. The amendment included a new definition of “agritourism”. The definition includes farm gate premises and farm experience premises. The term

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'Agritourism' has also been added to the definition of agriculture through the amending SEPP (Agritourism) 2023. Consequently, agritourism is now permissible with consent within Zone RU1 Primary Production and Zone RU2 Rural Landscape of Kiama LEP 2011.

In addition, changes to exempt and complying development have also been introduced with SEPP (Exempt and Complying Development Codes) Amendment (Agritourism) 2022 coming into effect on 1 December 2022.

Although Agritourism may occur as an exempt or complying development under the Exempt and Complying Codes SEPP, there will be instances where a proposed agritourism development is unable to be determined under that SEPP. In these instances, a Development Application may be submitted for consideration on its merit in accordance with Kiama LEP 2011 and Kiama DCP.

It was recognised by the Department of Planning and Environment that many Councils in NSW would need to develop amendments to their DCPs to accommodate the introduction of Agritourism as a permissible use in certain zones within their Local Environmental Plans. A Model Agritourism DCP was released by the Department of Planning & Environment for consideration and adoption by Councils within NSW. This model DCP formed the basis of the exhibited Draft DCP - Agritourism placed on public exhibition by Council.

At its Ordinary Meeting on the 21 November 2023 Council resolved to place Draft DCP – Agritourism on public exhibition in accordance with Council's Community Participation Plan and legislative requirements. The precinct committees were also notified in accordance with Council's community consultation policy.

Statewide Changes to agritourism

The Department has introduced a suite of legislative and policy documents including the Model DCP clauses for agritourism. These include an "Agritourism stakeholder toolkit", "A guide to planning approvals for setting up an agritourism business" and "Frequently asked Questions" sheet as well fictional case studies.

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The objectives and controls contained in the Model DCP relating to farm gate premises, roadside stalls and farm experience premises have been included in the exhibited draft DCP. The controls have been modified to reflect local planning goals for rural lands in our local government area or to match the controls in the current Kiama DCP.

The major amendments and inclusions made to the Model DCP relate to noise pollution control from farm gate premises and farm experience premises. Other amendments are relatively minor and reflect the planning controls and objectives already contained in Kiama DCP.

In addition, it is proposed to combine the Model DCP controls and the existing provisions relating to farm stay accommodation already contained in the Kiama DCP. Combining the two sets of controls has contributed to a significant increase in the number of controls relating to this type of land use and development. These additional controls are considered to be warranted to ensure that the potential for land use

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Agritourism (cont)

conflicts between agritourism and agricultural uses are minimised. The controls set out in the exhibited Draft DCP - Agritourism, include minimum setback provisions to ensure that agritourism development does not restrict the day-to-day functions of adjacent farms.

The additional controls contained in the Draft DCP – Agritourism reflect local strategic planning objectives and existing controls. An example is the minimum boundary setback of 250m for intensive agribusinesses and quarries. It is worth noting that this additional control does not apply to dairy farming under the Kiama LEP.

Conclusion

The State Government legislative changes mean that agritourism is now defined as agriculture and can occur on all land zoned for agricultural purposes within the local government area. The exhibited Draft DCP - Agritourism cannot override the legislative changes but can provide guidance and development standards for the assessment of agritourism uses that require development consent.

The proposed planning objectives and development guidelines will ensure that the scale and operation of developments assessed under the DCP – Agritourism are in keeping with Council’s overall environmental and strategic planning objectives as well as reflecting broader community expectations. Without the DCP - Agritourism all development applications for farm gate and farm experience premises will be assessed solely under the broad heads of consideration in Section 4.15 of the EPA Act, 1979.

The submissions received during the public exhibition period raise concerns and issues that can either not be legally addressed in a DCP, for example, the definition of “agritourism” or a requirement that it only be permissible on commercial farmland. All other issues and concerns raised in the public submissions have been adequately addressed and do not require any changes to the exhibited draft document. It is recommended that Council adopt the exhibited Draft DCP - Agritourism.

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Chapter 13. Agritourism

1. General controls

This section contains general provisions that apply to development for *roadside stall*, *farm experience premises*, *farm gate premises* and *farm stay accommodation*. Specific controls for each of these land uses are provided in the following sections.

The definitions for these land uses can be found in the dictionary to Kiama Local Environmental Plan 2011 <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2011-0680>

1.1 Site analysis and design

1.1.1 Background

Development for farm experience premises, farm gate premises and farm stay accommodation can only be undertaken on a commercial farm and must be ancillary (secondary) to the agriculture being undertaken on the farm. These requirements are important to ensure agricultural land is retained in NSW. Any development application for these land uses should contain supporting information to demonstrate that the proposal is ancillary to the farm and will not adversely affect the existing farm operations on the landholding.

Across regional NSW and rural areas around metropolitan Sydney, there is a rich variety in the character and identity of rural areas, underpinned by diverse landscapes, stories and cultures to be acknowledged and preserved. The design of buildings, structures and landscape plays an important role in creating memorable experiences and places. The visual character of existing built form, especially historical built forms, together with the character of the surrounding landscape, contributes to a sense of place which is distinct and unique and essential to that place's identity.

1.1.2 Objectives

- a) To allow for tourism development on farms that complements the agricultural use of the land.
- b) To ensure farm gate premises, farm experience premises and farm stay accommodation are secondary to a commercial farm and do not constrain the agricultural activities on the property from remaining the primary use of the land.
- c) To ensure farm gate premises, farm experience premises and farm stay accommodation are compatible with the rural character and heritage of the property and do not unnecessarily intrude on the landscape.
- d) To respond to environmental values, risks and constraints including environmentally sensitive lands that involve native vegetation and habitats, waterways and water sources.

1.1.3 Controls

1. Development for farm experience premises, farm gate premises or farm stay accommodation is not to restrict the day-to-day functions of the farm from remaining the primary use of the land.
2. A site analysis plan for farm experience premises, farm gate premises or farm stay accommodation is to demonstrate how the existing attributes and constraints of the site and surrounds have been considered, including rural character, heritage, environment, landscape and scenic values.

Note: Additional requirements for a site analysis plan are set out in Chapter 2.

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3. The site design and layout for farm experience premises, farm gate premises or farm stay accommodation is to:
 - a. demonstrate how the design of buildings and structures, through the selection of materials and design quality, will enhance the sense of place, reinforce the rural character and complement and integrate with the existing landscape, including scenic values
 - b. demonstrate how the proposed number and size of buildings and structures will assist in retaining the visual character of the area
 - c. ensure the placement of buildings and structures are clustered on the property where possible, to minimise the area of land occupied by the development and minimise environmental impacts
 - d. ensure the proposed development does not detract from local amenity or the quality of the environment.
4. Development should complement the proportions and design features of existing buildings that contribute to the character of the rural locality.
5. Buildings and structures should not be placed on a ridgeline, peak of a hill or other visually prominent areas.

1.2 Location and Neighbouring land uses

1.2.1 Background

Farm experience premises, farm gate premises and farm stay accommodation can potentially conflict with farming activities carried out on the farm and on adjoining properties, and with other activities on the farm. Conversely, visitors or operators of farm gate premises, farm experience premises or farm stay accommodation could complain about the effects of farming operations on their enjoyment of the farm. It is important to protect operating farms and the on-going viability of traditional agricultural uses. Some sites or localities on the farm may therefore not be appropriate for certain agritourism development.

Farm experience premises, farm gate premises or farm stay accommodation also have the potential to have impacts on nearby rural residents, particularly activities that generate significant traffic, create substantial noise, or operate at night.

Where a development proposal is likely to result in conflict with adjoining land uses, the development application should be accompanied by supporting information which identifies the potential for conflict and demonstrates how any associated environmental and amenity impacts have been mitigated. This could be achieved by taking advantage of the existing features of the land, adopting setbacks and buffer areas, or by other means.

1.2.2 Objectives

- a) To ensure farm gate premises, farm experience premises and farm stay accommodation are sensitive to adjoining land uses and minimise noise, odour and visual impacts, especially in areas close to residential development.
- b) To reduce land use conflicts by separating farm experience premises, farm gate premises or farm stay accommodation development from existing land uses on the property or on nearby land.

1.2.3 Controls

1. The development is not to restrict the day-to-day functions of adjacent farms or other existing activities or known future uses on adjoining land.
2. The design and placement of buildings, structures and moveable dwellings should minimise and mitigate any potential impact on the amenity of nearby residents.
3. A building, structure, moveable dwelling or activity for farm experience premises, farm gate premises or farm stay accommodation is to be located:

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- a. a minimum of 100 metres from agricultural land uses on the landholding
- b. a minimum of 100 metres from residential accommodation on adjacent land or on land that is separated from the landholding by a road

Note: The Codes SEPP requires a minimum 250m setback for exempt and complying development

- c. a minimum of 20 metres from a property boundary or road

Note: The Codes SEPP requires a minimum 50m setback for exempt and complying development

- d. a minimum of 100 metres from a waterway

Note: The Codes SEPP requires a minimum 50m setback for exempt and complying development

- e. a minimum of 250 metres from a boundary for land used for the purpose of forestry, intensive livestock agriculture, intensive plant agriculture, mines, extractive industries, railway lines or rural industries.

Note: The Codes SEPP requires a minimum 250m setback for exempt and complying development.

4. A development may be closer than the above distances to property boundaries and roads if it can be demonstrated that measures incorporated into the design, such as boundary planting, will appropriately mitigate impacts.

Note: Consider the NSW Department of Primary Industries' Buffer Zones to Reduce Land Use Conflict with Agriculture: An Interim Guideline (2018) when setting distances between agriculture and sensitive receivers.

1.3 Vegetation and landscaping

1.3.1 Background

Over time, native vegetation has been modified and fragmented as land was developed for grazing and agriculture and by introduced plants and animals. Retaining a healthy mix of native vegetation is important for the health and long-term survival of ecosystems, farm productivity and human wellbeing. Native plants can provide sight and noise barriers, discourage access to unsafe areas and help define the space for an activity.

Development for the purposes of farm gate premises, farm experience premises and farm stay accommodation may result in higher building densities than an agricultural use which can sometimes constrain opportunities to achieve good landscaping outcomes. It is important that existing vegetation and desired future landscape outcomes are considered in detail at the development design stage, including within any parking areas for a proposed development.

1.3.2 Objectives

- a) To avoid the clearing and removal of native flora and fauna, in particular threatened species and threatened ecological communities.
- b) To ensure buildings, structures and moveable dwellings are sited and designed to complement, enhance and protect existing native vegetation, features and landscapes.
- c) To minimise the impacts of a development on the environment, including existing vegetation, features, natural resources and biodiversity.
- d) To ensure landscaping is visually complimentary to the development.

1.3.3 Controls

1. Existing mature trees and vegetation are to be retained. Where it is necessary to replace mature trees and vegetation, they are to be replaced with trees native to the region in an appropriate location on the property.

Note: The replacement of trees and vegetation may need to be supported by a report prepared by a suitably qualified arborist.

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2. A vegetation management plan is to demonstrate how existing native flora (including tree canopies and underground roots systems) and fauna will be protected and maintained during the construction or erection of any new buildings, structures, moveable dwellings or facilities for farm gate premises, farm experience premises or farm stay accommodation and during the ongoing operation of the premises or accommodation.
3. Landscaping should be used to minimise the physical and visual dominance of development for farm gate premises, farm experience premises or farm stay accommodation, including any car parking and vehicle circulation areas, and should include plants native to the local area.

1.4 Water supply and management

1.4.1 Background

The increased number of people on a rural property from a development may strain existing water supply to the site. Sufficient supply of safe drinking water without adverse environmental consequences is fundamental to the ongoing use of the land for farm gate premises, farm experience premises and farm stay accommodation. For properties that do not have access to town water, supporting information will need to be provided with a development application that demonstrates alternative solutions to service the needs of visitors and guests.

1.4.2 Objectives

- a) To ensure adequate arrangements for water supply for visitors and guests to farm gate premises, farm experience premises and farm stay accommodation.
- b) To preserve water supply from contaminants generated by visitors and guests to farm gate premises, farm experience premises, farm stay accommodation and roadside stalls.

1.4.3 Controls

1. Where the site is not connected to reticulated water, a water supply and management plan is to demonstrate adequate potable water supply, both quality and quantity, is available for the proposed use of a site for farm experience premises, farm gate premises or farm stay accommodation. This water supply is to be in addition to water required for firefighting purposes.
2. Development is not to adversely impact existing water supplies for residential and primary production uses on the landholding.

Note: Development within the Sydney Drinking Water Catchment is required to have a neutral or beneficial effect on water quality under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

1.5 Hazards

1.5.1 Background

Most visitors and guests to farm gate premises, farm experience premises and farm stay accommodation will not be aware of the potential risks of bush fire and flooding and will not be familiar with the local area. They will need assistance on matters such as when to evacuate, where to go and how to get there when these types of events occur.

A bush fire and flood safety plan is vital to ensure the farm gate premises, farm experience premises or farm stay accommodation will be prepared for a natural hazard event and ensure the safety of visitors to the property. Restricting the use of high risk areas on the farm will decrease the risk further. Development on bush fire prone land is to consider the *Planning for Bush Fire Protection* prepared by the NSW Rural Fire Service. Development on a floodplain or on flood prone land is to consider the provisions of the *Floodplain Development Manual* and *Flood Risk Management Manual* as well as any relevant flood studies.

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Tourist accommodation, such as farm stay accommodation, is a 'special fire protection purpose' under section 100B of the *Rural Fires Act 1997* and requires a bush fire safety authority if it is to be carried out on bush fire prone land. A development application that requires a bush fire safety authority under section 100B is integrated development under the *Environmental Planning and Assessment Act 1979* and will be referred to the NSW Rural Fire Service.

Previous uses of rural land, including old farm sheds, may contain traces of chemicals that provide a risk to human health. *State Environment Planning Policy (Resilience and Hazards) 2021* requires consideration of whether the land is contaminated from past land uses, and whether the site is currently suitable for the proposed land use in its current state or can be made suitable after remediation. A development application for farm gate premises, farm experience premises or farm stay accommodation will need to demonstrate that past land uses have not left a legacy of contamination or provide evidence of any remediation of contaminated land.

Development near agricultural operations, whether on the landholding or on adjacent land, could also be exposed to risks from pesticides and chemical sprays and any associated drifting of chemicals.

1.5.2 Objectives

- a) To ensure development is located to minimise exposure to natural and environmental hazards, including bush fire, flooding, landslips, site contamination and chemical use.
- b) To protect any part of a development that could be affected by natural and environmental hazards.
- c) To ensure the safety of visitors who could be adversely affected by natural and environmental hazards for the duration of their stay or visit.
- d) To provide for safe evacuation assembly points and egress pathways.
- e) To ensure site contamination is identified and appropriately and effectively remediated before the land is used.

1.5.3 Controls

1. The design and placement of buildings, structures and moveable dwellings is to consider the existing features of the land and climate, including minimising risk from weather events and hazards, including from the existing farm operations, e.g. operation of machinery, movement of animals, and other farm operations.
2. Development is not to be located in proximity to areas of high bush fire, landslip or flooding hazards or where hazardous chemicals are used.
3. The development is to identify measures to ensure visitors do not access restricted areas.
4. For development for farm experience premises, farm gate premises and farm stay accommodation on bush fire prone land:
 - a. a water tank dedicated for firefighting purposes with a minimum volume as required by *Planning for Bush Fire Protection*, published by the NSW Rural Fire Service, must be provided on the property
 - b. a bush fire emergency management and evacuation plan is to be prepared in accordance with the NSW Rural Fire Service's requirements and identify when the premises will be on alert and will close, evacuation procedures and assembly points, proposed signage, measures to protect human life and property in the event of bush fire, any vegetation hazard clearing needed, contact details for emergency services and any bush fire maintenance measures required.

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5. For development for farm experience premises and farm gate premises, a flood evacuation plan is to identify when the facility will be on alert and will close, evacuation procedures and assembly points, proposed signage, measures to protect human life and property in the event of flooding, contact details for emergency services and any maintenance measures required.
6. Evacuation routes from the location of a development to a main road or alternate point of refuge are to avoid flood prone land and bush fire prone land where practicable.
7. Where a development is proposed on land where contamination is suspected or has been identified, Council's requirements in Kiama Development Control Plan 2020 apply.

Note: Development within the flood planning area, defined in the *Floodplain Development Manual* (April 2005), is to address the matters in clause 5.21 of Council's local environmental plan.

1.6 Waste management

1.6.1 Background

Waste generated during the development and the ongoing use of farm gate premises, farm experience premises and farm stay accommodation needs to be thoughtfully managed, and recycled where possible, to ensure waste does not contaminate the farm or the neighbouring and downstream environments.

An increased number of people visiting a farm for farm stay accommodation, farm experience premises or farm gate premises may strain existing effluent management on rural properties. Development applications for properties that do not have access to town sewerage connections will need to provide supporting information that demonstrates solutions to service the needs of visitors and guests. The safe management of effluent and trade waste without unreasonable adverse environmental consequences is fundamental to the ongoing use of the land.

Note: The *Local Government Act 1993* requires on-site effluent treatment and disposal systems to be approved by Council before being installed, constructed or modified.

1.6.2 Objectives

- a) To manage waste in an environmentally sensitive manner.
- b) To ensure management of effluent waste is not detrimental to the local environment

1.6.3 Controls

1. Development is to minimise any impacts on the natural environment and visitor safety caused by waste, effluent disposal and potential contaminants.
2. A waste management plan for the ongoing use of farm gate premises, farm experience premises or farm stay accommodation is to provide:
 - a. details of the business
 - b. waste types to be managed including through containment, recycling, re-use and landfill
 - c. waste collection and disposal details
 - d. waste minimisation measures
 - e. monitoring protocols to ensure compliance with the waste management plan.
3. All effluent waste generated by the development and its ongoing use is to be disposed:
 - a. to a reticulated sewerage system connected to the landholding; or
 - b. using a system of sewerage management for which the approval of Council is obtained under the *Local Government Act 1993*.
4. All other waste is to be disposed at an approved waste or resource recovery facility.

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5. Organic waste may be disposed onsite if disposed in a managed composting system where odours and other pollutants are controlled and/or managed.
6. On site sewerage systems should be located in existing cleared areas and separated from activities on the farm.
7. Onsite waste storage facilities are to have sufficient capacity for the waste generated and be emptied regularly. For an existing onsite sewerage system, an effluent report is to be prepared by a suitably qualified person and submitted to Council which confirms the system is adequate for the additional number of users.
8. All recyclables should be separated from other waste before disposal.

Note: Development within the Sydney Drinking Water Catchment is required to have a neutral or beneficial effect on water quality under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

1.7 Biosecurity

1.7.1 Background

Increased visitation to a farm will increase the risk of pests and diseases being introduced, potentially threatening the viability of the farm, nearby farms, other industries, the environment and the economy. On-farm biosecurity plays a critical role in reducing these risks by protecting the community from the negative impacts of pests, diseases, weeds and contaminants.

It is important that biosecurity risks are considered and there are reasonably practical measures to prevent, eliminate or minimise potential impacts of a development on natural and built environments, social and economic impacts in the locality, and the public.

1.7.2 Objectives

- a) To manage biosecurity risks from pests, disease, weeds and contaminants by effectively minimising impacts, through robust management arrangements, if they cannot be eliminated.
- b) To ensure the general biosecurity duty is met.

1.7.3 Controls

1. The planning and assessment of development proposals is to consider the NSW Department of Primary Industries' *Managing biosecurity risks in land use planning and development guide* (2020) to ensure biosecurity is appropriately addressed, including in relation to:
 - a. buffer zones
 - b. wash down facilities
 - c. designated parking areas
 - d. location to major potable water supply storages and watercourses – poultry production
 - e. dumping and burying rubbish on site.
2. A biosecurity plan for the ongoing use of farm stay accommodation, farm experience premises or farm gate premises should be prepared in accordance with the NSW Department of Primary Industries' requirements, including the *Farm Biosecurity Action Planner*.

Note:

- (a) Under the *Biosecurity Act 2015*, there is a general obligation on people to be aware of their surroundings and take action to prevent the introduction and spread of pests, diseases, weeds and contaminants. In addition, where a biosecurity plan has been developed at places of commercial or educational activities for intensive or extensive agriculture or horticulture, subject to certain conditions, a person including any visitors must comply with the biosecurity plan.
- (b) Council will consider relevant biosecurity guidelines to assess a development proposal and determine relevant conditions of consent for the operation of the development.

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1.8 Traffic, access, and parking

1.8.1 Background

Rural roads are often soft shouldered and with high maximum speed limits. Turning in and out of a farming property in these circumstances creates a safety risk that must be managed. Traffic movements and insufficient onsite parking can affect adjoining and neighbouring residents.

The driveways of many existing rural properties may be in locations that are safe for use by the owners of the land who are familiar with the road conditions but may not be suitable for visitors unfamiliar with the local roads.

Note: New vehicle access from a road to a property will require approval from the relevant road authority under the *Roads Act 1993*.

1.8.2 Objectives

- a) To ensure the safety of vehicle movements associated with farm gate premises, farm experience premises or farm stay accommodation, including entry, egress and movement within a property.
- b) To minimise the impact of traffic on local roads associated with farm gate premises, farm experience premises or farm stay accommodation.
- c) To ensure adequate parking is available on the property for visitors and employees to farm gate premises, farm experience premises or farm stay accommodation and to deter overflow parking on local roads.
- d) To ensure safety of pedestrians on a property visiting farm gate premises, farm experience premises or farm stay accommodation.

1.8.3 Controls

For development for farm experience premises, farm gate premises or farm stay accommodation:

1. A vehicle access point to the property is to demonstrate compliance with the sight distance requirements of AS 2890.1 *Off-street car parking* and should be adequate to service the development.

Note: Where access to the property is via a shared private road, the point of access is the point where the private road meets a public road. This may not be at the boundary of the landholding. [deleted if required]
2. Where possible, access should be shared with any existing access to the farm to minimise further environmental impact.
3. Only one driveway is permitted on a property unless the property has a frontage of greater than 100m and can accommodate an additional access and egress to improve:
 - a. traffic management on the property or on and off the road
 - b. separation between the farming operations and the development, or
 - c. resident, employee and visitor safety.
4. All vehicles (including trucks) should be able to enter and exit the property in a forward direction.
5. All parking and loading or unloading of vehicles is to occur within the property boundary.
6. The minimum number of car parking spaces to be provided is:
 - a. 1 space per farm stay accommodation room or cabin, and
 - b. 1 space per moveable dwelling or tent site, and
 - c. 1 space per 2 employees, and

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- d. 1 space per 25m² gross floor area of a building or structure for farm gate premises or farm experience premises, and
 - e. 1 space per 3 visitors for any outdoor farm gate premises or farm experience premises activity, and
 - f. 1 space for persons with disability or limited mobility.
7. A parking and access plan can demonstrate alternative parking ratios to the above minimum numbers that includes safe separation between visitors and heavy vehicles and farming operations.
 8. Car parking areas should not form a visually prominent element of the rural landscape or be highly visible from the road frontage and should be located behind the front building line.
 9. Car parking areas should be finished in a surface that will allow for vehicle movements in all weather conditions.

1.9 Signage

1.9.1 Objectives

- a) To ensure signage for farm gate premises, farm experience premises, farm stay accommodation or roadside stalls considers the visual impact on the rural character of the area and does not detrimentally affect the landscape or road corridor.
- b) To require appropriate signage within the property boundary to assist visitors and guests relating to:
 - i. the location of activities, facilities and interest points associated with farm gate premises, farm experience premises, farm stay accommodation or roadside stalls,
 - ii. essential safety information including evacuation procedures in a natural disaster or other emergency.

1.9.2 Controls

1. Signage for farm gate premises, farm experience premises, farm stay accommodation or roadside stalls should be in keeping with the rural character and the nature of the operations on the landholding.
2. All signage for farm gate premises, farm experience premises or farm stay accommodation should be located within the boundary of the landholding.
3. Business identification signs for farm gate premises, farm experience premises, farm stay accommodation or roadside stalls are limited to a maximum of two signs with one directional sign and one sign identifying the property name and agritourism use on the landholding facing a road frontage. The sign on the property facing the road frontages is to include a 24 hour-contact/management number that may be called if adjoining areas have impacts on amenity including noise complaints.

Note: The Codes SEPP allows up to two business identification signs as exempt development. The Kiama DCO Eco-tourism performance criteria provide for one sign to identify the eco-tourism use and to advise of how noise pollution complaints are to be handled.

4. Business identification signage should only promote the business activity and the goods and services offered on the landholding.

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5. Any sign must:
 - a. have a maximum height of 3 metres, and
 - b. have a maximum area of 3 square metres, and
 - c. illuminated signs are not permitted but sign lighting will be assessed on merit. Any proposed sign lighting shall avoid or minimise adverse impacts on adjoining properties and comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting*.
6. Evacuation signage must be located near the farm gate premises, farm experience premises and farm stay accommodation, the property entrance and emergency assembly points and include contact details for emergency services.
7. Waypoint markers should be provided to assist visitors and guests traverse a property where farm gate premises, farm experience premises or farm stay accommodation operate.

1.10 Ongoing operations

1.10.1 Objectives

- a) To provide for the ongoing management of farm gate premises, farm experience premises and farm stay accommodation.
- b) To ensure farm gate premises, farm experience premises and farm stay accommodation minimise impacts on the natural environment and visitor safety.
- c) To ensure visitors and guests have access to important safety and operational information while on a property where farm gate premises, farm experience premises or farm stay accommodation operate.

1.10.2 Controls

1. A management plan for the ongoing operation of farm experience premises, farm gate premises and farm stay accommodation is to include:
 - a. a description of the development
 - b. a map of where the development will be on the property, relevant dimensions and key features on the land
 - c. the proposed months, days and hours of operation of the premises or accommodation
 - d. the maximum number of visitors or guests at one time to the premises or accommodation, and how this will be monitored
 - e. emergency contact details, including for emergency services in the event of bush fire, flooding or other natural disasters
 - f. bush fire and flood safety measures to protect human life and property, e.g. bush fire and flood safety plans and procedures for closing the premises, such as when bush fire and flood warnings are in place
 - g. how visitors and guests will be:
 - i. advised to limit impacts to the operational farm,
 - ii. advised to preserve and protect existing native flora, fauna and waterways, heritage items and Aboriginal heritage located on the property,
 - iii. advised to minimise any biosecurity risk through dispersal of weeds, seeds, insects and contaminants,
 - iv. advised to manage their waste

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- v. alerted as to risks that may occur such as natural hazards or changing weather and procedures for responding to the risks, including evacuation measures
- h. measures to mitigate adverse environmental and amenity impacts, including how the business and water resources will be managed during drought
- i. the way vehicles will access the landholding and the premises or accommodation, including emergency vehicles
- j. any hazards on the property and how they will be managed to ensure the safety of visitors and guests
- k. procedures for receiving and managing complaints.

Note: The ongoing management plan may refer to other plans prepared with the development application, such as a bush fire emergency management and evacuation plan.

2. Farm stay accommodation

Note: The objectives and controls in the General section 1.1 to 1.10 also apply to farm stay accommodation.

2.1 Background

Farm stay accommodation is for short term stays by visitors and guests on a commercial farm and can include the conversion of an existing building, the construction of a new building and camping in tents, caravans and similar structures.

Farm stay accommodation is not a form of residential accommodation and does not create a dwelling entitlement on a landholding. Farm stay accommodation is only permissible on land holdings of 40 hectares or more and where the main use of the land is agricultural.

2.2 Objectives

- a) Provide general standards for Farm Stay Accommodation facilities within the Kiama Municipality .
- b) To diversify the uses of agricultural land for tourist-style accommodation without adversely impacting the principal use of the land for primary production.
- c) To ensure farm stay accommodation does not detract from existing environmental values, scenic landscape values, infrastructure and adjoining land uses.
- d) To protect the amenity and privacy of adjoining properties, including visual and acoustic privacy, from farm stay accommodation.
- e) To provide accessible farm stay accommodation suitable for people with disability or limited mobility.
- f) Achieve well-designed accommodation facilities which attract and meet the needs of visitors to the Municipality
- g) Preserve and complement any natural and/or cultural heritage characteristics of the area; and

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2.3 Controls

1. Farm stay accommodation that comprises moveable dwellings (tents, caravans, camper trailers, tiny houses) is to be on a landholding that is a minimum of 40 hectares.

Note: The Codes SEPP requires a minimum 15ha landholding size for exempt development.

2. A building or manufactured home for farm stay accommodation (except the use of existing residential accommodation or a manufactured home) is to be on a landholding that is a minimum of 40 hectares.

Note: in accordance with our LEP a building or manufactured home for farm stay accommodation (except for the use of an existing dwelling for farm stay accommodation) must be:

- a. on the same lot as an existing lawful dwelling house, or
- b. on a lot that is not less than the minimum lot size for a dwelling house permitted under Council's LEP.

3. Farm stay accommodation, including in moveable dwellings, is limited to:

- a. a maximum of 20 guests at any one time on a landholding, and
- b. a maximum stay for guests of 21 consecutive days.

Note: The Codes SEPP allows a maximum 20 guests in moveable dwellings as exempt development and allows two guests over the age of 12 years in a building or manufactured home that does not have bedrooms, or guests over the age of 12 years that total two times the number of bedrooms in a building or manufactured home as exempt or complying development. The Codes SEPP also allows a maximum 21 consecutive days of stay for farm stay accommodation as exempt or complying development.

4. The maximum number of buildings and manufactured homes used for farm stay accommodation on a landholding is 6.

Note: The Codes SEPP allows a maximum six buildings and manufactured homes as exempt or complying development.

5. The maximum number of moveable dwellings used for the purposes of farm stay accommodation on a landholding is 6.

Note: The Codes SEPP allows a maximum of six campervans, caravans and other similar moveable dwellings on a landholding as exempt development.

6. To address fire safety:

- a. buildings are to be separated from other buildings by a minimum 1.8 metres, and
- b. moveable dwellings are to be separated from buildings and other moveable dwellings (except tents and similar portable and lightweight temporary shelters) by a minimum 2.5 metres.

7. The gross floor area of a new building or manufactured home for farm stay accommodation must not be more than 60 square metres.

8. The gross floor area of part of an existing building or manufactured home used for farm stay accommodation must not be more than 60 square metres.

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Note: The Codes SEPP allows a maximum 60m² gross floor area for a change of use of a building or part of a building, for a new building or for alterations and additions to an existing building or manufactured home as farm stay accommodation under complying development.

9. The height of a moveable dwelling used for farm stay accommodation is not to exceed 4.5 metres.

Note: The Codes SEPP allows a maximum height of 4.5m as exempt development.

10. The height of a building or manufactured home for farm stay accommodation is not to exceed 4.5 metres.

Note: The Codes SEPP allows a maximum height of 4.5m for a new building or for alterations and additions to an existing building or manufactured home that has a height less than 4.5m under complying development, and the height of an existing building or manufactured home that is over 4.5m cannot be increased.

Siting of Development

11. Farm Stay Accommodation facilities are to be sited in order to reduce the impact on adjoining properties in terms of visual and acoustic privacy.

Services and Facilities

12. All necessary/appropriate facilities are to be provided for guests.
- a) Electrically wired smoke detectors are required to be installed in the bedrooms used as guest accommodation and must be approved by Council.
 - b) The method of effluent disposal, where sewer is not available, shall be determined having regard to criteria such as the size of the allotment, volume of waste produced, number of people occupying the dwelling, slope, and soil classification.
13. Where mains water is not available, a minimum of 200 kL of water per bedroom for daily use is to be provided in addition to that required for the dwelling house on the property and for firefighting purposes if on bush fire prone land.
14. One toilet per 10 staying guests in farm stay accommodation on the landholding is to be available in an accessible location. At least one toilet must be a unisex accessible toilet.

Parking & Access

15. Car parking complies with the requirements of Topic 3.6 of Chapter 3 and is located to have minimal impact on the streetscape and the rural landscape.
- a) One (1) car parking space is to be provided per bedroom provided for guests of the Farm Stay Accommodation facility.
 - b) Car parking spaces for the Farm Stay Accommodation are to be provided in addition to the parking required for the existing dwelling/s on site.

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- c) Car parking spaces are to be located behind the building line of any road frontage and are not to be located adjacent to sensitive areas in adjoining dwellings, such as bedroom windows and doors.
16. Private water supplies shall not harm the health of guests of the Farm Stay Accommodation
- a) Farm Stay Accommodation that has private water supplies (i.e., not on town water) shall comply with NSW Health's NSW Private Water Supply Guidelines.

Operation of Accommodation Facility

17. Farm Stay Accommodation must be operated in such a way so as not to negatively interfere with the amenity of the surrounding neighbourhood.
18. Length of stay in Farm Stay Accommodation is limited to avoid use as permanent residential accommodation:
- a) The maximum length of consecutive stay is 21 days.
 - b) Permanent residential occupancy of bedrooms, approved for Farm Stay Accommodation, will require separate development consent.
19. Farm Stay Accommodation must not adversely impact primary production on the site
20. The adaptive reuse of existing rural buildings such as barns, silos, stables, or dairies is encouraged.

Bushfire Requirements

21. Adequate bush fire protection measures are to be implemented for Farm Stay Accommodation facilities.
- a) When located on bush fire prone land Farm Stay Accommodation requires approval under section 100B of the Rural Fires Act 1997.

Flood Liable Land

22. Farm Stay accommodation cannot be carried out on land that is flood liable including flood storage area, floodway area, flow path. A high hazard area or a high-risk area.

3. Farm gate premises and farm experience premises

Note: The objectives and controls in the General section 1.1 to 1.10 also apply to farm gate premises and farm experience premises.

3.1 Background

Farm gate premises comprise a building or place on a commercial farm that is used to provide visitors to the farm with agricultural products predominantly from the farm, supplemented by produce from other farms in the region, or with services or activities related to the products, including processing, packaging, serving of food and drink in a café or restaurant, tastings and workshops. Cellar door premises are a type of farm gate premises.

Farm experience premises comprise a building or place on a commercial farm that is used to provide visitors with an experience on the farm, such as events, conferences, weddings, farm field days, farm tours or creative and skills classes such as photography, yoga or astronomy.

3.2 Objectives

- a) To allow for tourism and related commercial uses at a scale that does not adversely affect the principal use of land for primary production.
- b) To ensure farm gate premises and farm experience premises do not detract from existing environmental values, scenic values, infrastructure and adjoining land uses.
- c) To protect the amenity and privacy of adjoining properties, including visual and acoustic privacy, from farm gate premises and farm experience premises.

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- d) To provide for the sale of locally grown and manufactured produce in appropriate rural locations.
- e) To adequately provide services and facilities for visitors and guests on the property, including accessible facilities.
- f) To manage the number of visitors to a landholding to address cumulative effects of traffic on roads.

3.3 General matters for consideration

1. Development should not result in noise or pollution that will have a significant adverse impact on the following on or near the land:
 - a. residential accommodation
 - b. primary production operations
 - c. other land uses.
2. Development should not have a significant adverse impact on the following on or near the land:
 - a. the visual amenity, heritage or scenic values
 - b. native flora or fauna, particularly threatened species and ecological communities
 - c. water quality
 - d. traffic
 - e. the safety of persons

Note: Development in the Sydney Drinking Water Catchment is required to have a neutral or beneficial effect on water quality under *State Environmental Planning Policy (Biodiversity and Conservation) 2021*.

3.4 Controls

1. The gross floor area of a building (or part of a building) for farm gate premises or farm experience premises is not to be more than 200 square metres.

Note: The Codes SEPP allow up to 200m² for a building for farm gate premises or farm experience premises as exempt or complying development.
2. The total footprint of all buildings used for farm gate premises and farm experience premises on the landholding is not to exceed 500 square metres.

Note: The Codes SEPP allows up to 500m² for all buildings on the landholding for farm gate premises or farm experience premises as exempt or complying development.
3. The height of a building for farm gate premises or farm experience premises is not to exceed 10 metres. The roofline of any new building should not protrude above an existing ridgeline and the design on the building shall minimise any visual impact of the development from adjoining property and public spaces.

Note: The Codes SEPP allows a maximum height of 7m for a new building or for alterations or additions to an existing building as complying development for landholdings that are no more than 10ha, and up to 10m in height for landholdings that are greater than 10ha. The height of an existing building that is over 7m or 10m, respectively, cannot be increased.
4. Buildings are to be separated by a minimum 2.5 metres to address fire safety.
5. The hours of operation for farm gate premises are:
 - a. 8am-5pm Sunday to Friday and public holidays, and
 - b. 7am-5pm on Saturdays

Note: The Codes SEPP allows hours of operation of 8am to 5pm Sunday to Friday and public holidays and 7am to 5pm on Saturdays as exempt or complying development.
6. The hours of operation of farm experience premises are:
 - a. 8am-6pm Sunday to Thursday and public holidays, and

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- b. 8am-10:30pm Friday and Saturday.

Note: The Codes SEPP allows hours of operation of 8am to 6pm Sunday to Thursday and public holidays and 8am to midnight Friday and Saturday as exempt or complying development.

7. The maximum number of visitors to farm gate premises is not to exceed 50 on a landholding at any one time.

Note: The Codes SEPP allows a maximum of 100 visitors on a landholding at any one time for farm gate premises (excluding visitors participating in fruit and produce picking) as exempt and complying development.

8. The maximum number of visitors to farm experience premises is not to exceed 100 on a landholding at any one time.

Note: The Codes SEPP allows a maximum of 50 visitors on a landholding at any one time for farm experience premises (excluding visitors participating in tours and school groups) as exempt and complying development.

9. The maximum number of visitors to all farm gate premises and farm experience premises is 150 on a landholding at any one time.

Note: The Codes SEPP allows a maximum of 100 visitors on a landholding at any one time for all farm gate premises and farm experience premises (excluding visitors participating in fruit and produce picking, tours and school groups) as exempt and complying development.

10. Farm experience premises are limited to 60 events per year, including a maximum of 4 events per year after 6pm that have amplified noise.

Note: The Codes SEPP allows up to 52 events per year, which includes up to four events after 6pm if there is amplified noise.

11. Adequate toilet facilities are to be provided. At least one toilet must be a unisex accessible toilet.

12. An Acoustic Assessment Report should be provided from a suitably qualified and/or experienced acoustical engineer (e.g. a member of the Australian Acoustical Society) to assess and consider the sources that will produce noise and the subsequent impacts they may have. The event organiser must provide written notification to surrounding residents prior to the event.

The stage, speakers, and associated equipment used to generate noise must be orientated and located away from the closest residences.

The use of the premises for weddings and functions shall be conducted in such a manner so as not to interfere with the amenity of nearby residents or the ambience of the locality by reason of noise, vibration or otherwise.

4. Roadside stalls

Note: The objectives and controls in the General section 1.1 to 1.10 also apply to roadside stalls unless they are specified to apply only to farm experience premises, farm gate premises and farm stay accommodation.

4.1 Background

A roadside stall is a place or temporary structure used for the retail sale of agricultural produce or hand-crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property. Roadside stalls are generally small-scale structures or buildings and may be a courtesy or honesty box that is not serviced by the owner.

These objectives and controls for roadside stalls apply to stalls associated with a farm. Other controls may be provided in the DCP for roadside stalls on other land.

4.2 Objectives

- a) To ensure roadside stalls are in keeping with the rural environment and do not distract road users from safe driving practices.
- b) To ensure access to and from roadside stalls occurs in a safe manner.

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4.3 Controls

1. The design of a roadside stall should complement the natural landscape.
2. The maximum height of a roadside stall is 7 metres.
3. A roadside stall must be located within the boundaries of the landholding.
4. A vehicle access point from the property to a public road is to comply with AS/NZS 2890.1: 2004 *Parking facilities - Off-street car parking*.
5. Car parking spaces may be located on a road verge or fully within the boundaries of the property and should be provided for at least three vehicles.

Note:

1. The maximum gross floor area of a roadside stall is specified in clause 5.4(8) of the LEP.
2. Any work required in the road reserve will require approval of the relevant roads authority under the *Roads Act 1993*.
3. Carparking on the road verge for three or more cars is limited to roads that are not classified as State Roads or in areas which will impact the access to adjoining properties.

15.7 Question for future meeting: Short Term Rental Accommodation

CSP Objective: Outcome 4.1 We love where we live; our housing reflects our values.

CSP Strategy: 4.1.2 Facilitate development that is respectful of the local characteristics of the Municipality.

Delivery Program: 4.1.2.1 Support and strengthen our diverse communities through regional collaborations and local connections.

Summary

This report is provided to respond to two (2) questions for future meeting which include:

- A request from Councillor Renkema-Lang for a report on:
 - The number of STRA complaints, by LGA town or village, received since the commencement of the NSW Policy and Legislation relating to STRAs on 1 November 2021.
 - The actions Council has taken to respond to complaints and enforcing the planning framework in the Kiama LGA.
- A request from Councillor Rice for a report on short term rental accommodation and the possible cost recovery strategies being explored by other local government areas in NSW that are experiencing a high density of this type of tourist accommodation.

This report is also provided to advise Councillors of the discussion paper on short and long-term rental accommodation which has been released by the State Government.

Financial implication

The management of STRA complaints and compliance can have an impact on Council operational budgets and resource allocation. Council needs to carefully consider the impacts of seeking to undertake compliance or monitoring processes which are outside of our core responsibilities or which cannot be enacted through required legislation.

The policy considerations that are outlined within the discussion paper and are being reviewed by the State Government include revenue measures such as levy's on revenue from bookings, day fees per guest, and annual levies (that could also be applied differently for STRA, holiday homes and vacant properties). Higher STRA registration fees are also under consideration.

Resulting impacts on the visitor economy will also need to be considered.

Risk implication

STRA are a complex and intricate housing and tourism accommodation option, the management of and impacts resulting, are subject to a current review. The risks associated with options presented must be considered and any resulting decisions should be made through an informed and considered lease. The competing priorities, needs, opportunities and impacts all need to be carefully balanced in any decision making.

Policy

Kiama Local Environmental Plan

Report of the Director Planning, Environment and Communities

15.7 Question for future meeting: Short Term Rental Accommodation (cont)

Kiama Development Control Plan

Consultation (internal)

Consultation has occurred internally between the planning, compliance, and tourism teams.

Communication/Community engagement

The Mayor and CEO met with Byron Shire Mayor, Michael Lyon to discuss the roll out of STRA restrictions and the complexities within that region. Additionally during ALGA there will be a meeting of councils that have high levels of STRA. KMC is convening this meeting, to share and learn from different approaches and localities.

The Manager, Tourism and Events and Destination Kiama Chair, Cr Brown have met with the Australia & New Zealand Short Term Rental Association (ASTRA) representatives, the Chair and General Manager of Destination Sydney Surrounds South and neighbouring tourism managers to discuss the issue.

Council staff and members of Destination Kiama also met with interested parties to discuss the local STRA landscape in a roundtable forum on Thursday 7 March 2024.

Attachments

- 1 Short Term Rental Accommodation Discussion Paper [↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Note the NSW State Government Discussion paper on short and long term accommodation and make a submission as part of this consultation process.
2. Continue to actively engage with other councils who have high levels of STRA properties to seek options and learnings from these locations.
3. Note the research work that is currently being undertaken by Sydney University and our council, to seek data about impacts, options and changes that have occurred in the past few years in the STRA landscape.
4. Continue to work with the Department of Fair Trading and NSW Police on the management of complaints relating to STRA properties.

Background

Following an inquiry into home-sharing services, the NSW Government implemented a [regulatory framework for STRA](#), which includes a mandatory Code of Conduct inclusive of an exclusion register, a state-wide planning framework, a mandatory STRA premises register, and strata scheme by-laws that restrict certain types of short-term rentals.

Report of the Director Planning, Environment and Communities

15.7 Question for future meeting: Short Term Rental Accommodation (cont)

In September 2023, the Government announced it would undertake a wide-ranging review concerning the implementation of a short stay levy and broader short term rental industry reforms, having endorsed a 60-day cap on STRA in the Byron Shire Local Government Area (LGA). Further caps in other NSW LGAs are being considered alongside other reforms, with the Government due to release the Terms of Reference for the review at the end of 2023 or early 2024.

The review is expected to be completed in the first half of 2024, with the Treasurer, Planning Minister, Housing Minister, and Better Regulation Minister leading various aspects of the review and seeking to progress a range of rental reforms in 2024, including ending no-grounds evictions. The NSW Treasurer has also stated the review will assess the impact of regulations and tax reforms, including vacant property taxes.

In October 2023 at the Local Government NSW Conference, local councils agreed to call on the State Government to prioritise the STRA review. A City of Sydney resolution also passed, which called for Local Government NSW to commission a study to report on the impact that STRA is having on rental affordability and availability and tourist accommodation in NSW. The resolution also called for stronger powers for councils to implement caps on the number of days per year that a property can be used for non-hosted STRA, as well as the ability to respond flexibly to balance housing and the local visitor economy. City of Sydney has stated it supports a 90-day cap on STRA properties.

Short Term Rental Accommodation Framework

The NSW Government is currently undertaking community consultation on the STRA framework. The Government is seeking feedback on the planning policy and regulatory framework for short-term rental accommodation (STRA) or “Air BnB” style properties, and on options to encourage the supply of long-term rental accommodation.

A [discussion paper](#) has been released (Attachment A) which describes the different options that are being considered and starts a public consultation process where residents can have their say and provide feedback on:

- the adequacy of the current planning and regulatory framework for short-term rental accommodation in NSW
- potential policy options, including revenue measures, to incentivise property investors to make properties available for long-term rental accommodation (LTRA).

Council staff are working through these documents to develop a submission on the proposals that have been outlined by the Government. The submission will also include the findings of the industry specific engagement that has been undertaken by Destination Kiama.

Council is also actively participating (at a cost of \$5000) in a research project being conducted by Sydney University into STRA. It is preferable given the cost and exiting impost on resources that this research project be completed to inform any decision making of Council on STRAs.

As outlined above discussions have also occurred with Bryon Bay Council with the Mayor and CEO speaking with delegates from this Council about their STRA

Report of the Director Planning, Environment and Communities

15.7 Question for future meeting: Short Term Rental Accommodation (cont)

approaches. Discussions will also be occurring at the ALGA Conference with other councils who have high levels of STRA. This meeting is to be convened by Kiama Council to seek information from others and to learn about alternative approaches that have been adopted in other LGAs.

Short Term Rental Accommodation

Reviewing data available to the following statistics are provided:

- | | | |
|--------------------------------------|--------|-----------|
| • total dwellings in Kiama LGA | 11,067 | |
| • registered 'hosted' properties | 217 | (1.96%) |
| • registered 'non-hosted' properties | 526 | p(4.75%). |

The National and International Visitor Survey results show that in the Kiama area, approximately 16% will stay in "rented house / apartment / flat or unit (not serviced daily)" to which STRA falls. "Other commercial accommodation" makes up 54% of overnight trips and "private accommodation", 45%.

The economic return to Kiama is as follows:

- On average, people that stay in short term rental accommodation within the Kiama region spend \$669 per trip or \$259 per night, in addition to the cost of accommodation.
- The value of the industry is an estimated \$30M per annum.

Source: Tourism statistical professional, Peter Valerio -Tourism Solutions

The Kiama LGA boasts approximately 550 traditional accommodation rooms, comprising 310 in hotels and motels, 230 in cabins, and 14 in apartments.

Feedback from Industry Forum

A forum was facilitated by Council staff on Thursday 7 March 2024. At this industry forum STRA owners and managers shared their feedback and viewpoints about STRA. They recounted instances where their properties served as emergency accommodation during bushfires, for individuals fleeing domestic violence, and those seeking respite through the NDIS. Some owners, particularly single mothers with caregiving responsibilities, emphasised how STRA provided a crucial revenue source, enabling them to adequately support their families.

The forum also presented a compelling case regarding the potential impact of returning the 4-5% of non-hosted STRA accommodations in Kiama to the long-term rental market. The rental returns necessary to achieve profitability for land tax purposes would likely render weekly rent amounts unaffordable for most families.

Additionally, 90% of ASTRA survey respondents expressed that levys or day caps would not incentivise them to convert their STRA properties to long-term rentals (primarily due to the desire for a flexible holiday home for themselves and their families).

According to data from the ASTRA survey, 93% of STRA owners or managers engage five or more local services to assist in property operations, including cleaners, property maintenance personnel, pool cleaners, and linen services.

The industry perspective will also be incorporated into the submission provided by Council to the Government.

Report of the Director Planning, Environment and Communities

15.7 Question for future meeting: Short Term Rental Accommodation (cont)

Questions for Future Meeting – Response

1. STRA Complaints

Council has received 16 complaints from our community regarding Short Term rental Accommodation since the STRA planning policy framework came into effect on 1 November 2021.

These were related to 4 individual properties located in the following townships:

- Gerringong: 11 complaints from 3 complainants (note a number of these complaints also relate to the behavior of the adjoining neighbour, not only the STRA residence)
- Kiama Downs: 2 complaints from 1 complainant
- Kiama Heights: 1 complaint
- Gerroa: 2 complaints from 1 complainant.

2. Role in Planning Framework

The NSW Planning website states the following:

*“The **NSW Government manages** a state-wide regulatory framework for short-term rental accommodation (STRA), which includes:*

- *a planning framework*
- *fire safety standards for STRA dwellings*
- *a government-run STRA Register.*

The state-wide policy for STRA benefits homeowners who want to take advantage of holiday rentals while providing more certainty and safety for local communities and visitors.

The laws impose obligations on all industry participants, including booking platforms, hosts, letting agents and guests.”

The STRA planning policy framework comprises standard provisions for short-term rental accommodation including:

- *a definition for STRA, hosted STRA and non-hosted STRA*
- *an exempt development pathway for hosted and non-hosted STRA, including an annual 180-day limit for non-hosted STRA based on location*
- *an exemption of bookings of 21 consecutive days or more from the day limits for non-hosted STRA*
- *fire safety standards for dwellings used for STRA and associated penalty notice offences for non-compliance*
- *a government-run [STRA Register](#) that will ensure compliance with the new fire safety standards, as well as tracking day limits of each STRA dwelling and provide details to assist local councils with monitoring STRA in their local government areas (LGA).*

Report of the Director Planning, Environment and Communities

15.7 Question for future meeting: Short Term Rental Accommodation (cont)

The planning framework came into effect on 1 November 2021 and complements the mandatory Code of Conduct and changes to strata legislation made by the Department of Customer Service.

Also of note is that:

- All short-term rental operators are required to abide by the mandatory [Code of conduct for the short-term rental accommodation industry](#). The Code of Conduct is enacted by the Fair Trading Act 1987. Council has no regulatory powers under the Fair Trading Act 1987 as this power lies solely with NSW Fair Trading.
- In addition, the NSW Police is the regulatory authority for responding to incidents such as excessive noise and anti-social behaviour arising from STRA premises, when the issue is occurring as such incidents have the potential to turn hostile.
- Council manages the planning framework of our LEP and DCP – it is noted that STRA are exempt development under the NSW government legislation.
- Where the webpage references planning rules and Councils role it is related to if a STRA is considered un-authorized development. The following dwellings are not permitted to be used for short-term rental accommodation (as exempt development) under the rules:
 - boarding houses
 - seniors' housing
 - rural workers' dwellings
 - group homes
 - hostels
 - refuge or crisis accommodation
 - build-to-rent housing
 - co-living housing
 - moveable dwellings.

There are none that are known to be operating in this manner in our LGA.

When Council receives complaints, these are acknowledged and recorded officially within our record system. The authors are advised of the ability to also make representations to the Department of Fair Trading under the Code of Conduct.

Conclusion

Council will continue to engage and contribute to the discussion and reform process that is being undertaken by the NSW Government and continue to provide feedback into these reforms.

Exploration of the issues, outcomes, benefits, options and resulting impacts are continuing and will be provided to Council in future reports as information becomes available.

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Discussion paper on short- and long-term rental accommodation

Review of regulations and supply in New South Wales

February 2024

Attachment 1



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Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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1 Introduction

1.1 Purpose of this discussion paper

The New South Wales Government is investigating policy levers to help unlock housing supply and ease the ongoing pressure on housing affordability across New South Wales (NSW). This discussion paper starts a public consultation process so you can have your say and give feedback.

The NSW Government would like your views and feedback as it reviews:

- how well the current planning and regulatory framework for short-term rental accommodation in NSW is balancing benefits to the tourism economy with the potential costs for housing availability and affordability
- potential policy options, including revenue measures, to encourage property investors to make homes available for long-term rental accommodation.

You can give your feedback by uploading a submission or taking a survey by **14 March 2024**. Go to the 'Have your say' section below to find out how.

Solutions for the longer term

Housing affordability has deteriorated significantly over the past few years in NSW. At the same time, current projections indicate that another 1.7 million people will call NSW home by 2041. This suggests nearly 900,000 additional homes will be needed.¹

The most effective way to ensure house prices and rents are affordable is to increase housing supply where demand is highest. The NSW Government has committed under the National Housing Accord to unlock around 375,000 homes over the next 5 years.

Worsening housing affordability has coincided with an increase in the number of people in NSW sleeping rough and the number of priority applicants for social housing. These suggest that homelessness, in addition to financial stress, is becoming an increasingly serious

¹ NSW Government (2023) through the former Department of Planning and Environment, 'Population projections', <https://www.planning.nsw.gov.au/research-and-demography/population-projections>, accessed January 2024

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challenge in NSW. Homelessness is more than just a housing problem – it is a complex, multifaceted issue, and there is no single solution. However, a key to reversing this trend is the supply of social housing and wraparound support services.

Solutions for the near future

Policies to unlock supply will not yield immediate effects. It takes time for rezonings or land release to translate into housing approvals, construction and then into properties ready for living. Policies that encourage people to make short-term rental accommodation or underused properties (for example, holiday homes and vacant properties) available for long-term use could make a difference sooner.

1.2 Have your say

The NSW Government would like your feedback on the regulatory framework for short-term rental accommodation and potential policy options to increase the use of properties for long-term housing. The aim is to encourage long-term rental accommodation and strike a fair balance between NSW housing needs and the benefits of short-term rental accommodation.

To give feedback, you can:

- [complete our survey via Qualtrics](#), or
- [upload a submission via the NSW Planning Portal](#).

Email questions about the discussion paper or review to the project team at STHL@planning.nsw.gov.au

Submissions are open until 14 March 2024

We prefer submissions through the online options on the Have Your Say website, or by email in an accessible format. Accessibility is about making documents easy to use for everyone, including people with disability. For more information on how you can make your submission accessible, visit <http://webaim.org/techniques/word/>

The [NSW Government's Guide to Better Regulation](#), which sets out how to apply the 7 principles of better regulation to regulatory proposals, may help you consider the issues and prepare a submission.²

² Visit <https://www.treasury.nsw.gov.au/finance-resource/best-practice-regulation-guidelines>

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Likewise, section 4.3 Potential revenue measures outlines some guiding principles of revenue policies that could help in your submission.

We may publish submissions

We may publish submissions. If you do not want your personal details or any part of your submission published, **please say so clearly in your submission**. An automatically generated confidentiality statement in your email is not enough.

We may refer to submissions in a report on the outcome of the consultation. We will accept anonymous submissions if you do not want us to publish yours, or if you have concerns about safety or your submission being linked back to you. We will refer to these in our report as anonymous submissions.

There may be circumstances where the NSW Government is required by law to release the information in your submission. For example, this may be in keeping with the requirements of the *Government Information (Public Access) Act 2009*.

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2 Context of this review

2.1 Housing pressures in NSW

NSW is an attractive and highly sought after place for people to live, work and visit. Yet the factors that make our state desirable to visitors can increase housing pressures for current and future residents.

Housing affordability is deteriorating

Since the end of 2019, advertised prices for long-term rentals in NSW have increased more than 38%. Last year alone they rose 14%. Rental vacancy rates are also at near historically low levels. The vacancy rate in Greater Sydney was 1.7% in December 2023, below the decade average of 2.3%. In regional NSW, the vacancy rate has fallen even lower.³

Despite the rapid increase in interest rates since May 2022, Sydney dwelling prices by the end of 2023 were 28% higher compared to the end of 2019, and prices in the regions are now up 48% over the same period.⁴

Poor housing affordability in NSW is symptomatic of an enduring supply problem, which is likely to worsen in the near term as new dwelling approvals and completions remain subdued. Rising house prices should encourage more dwelling construction to meet this strong demand. However, it takes time for this new supply to come to the market. Historically, there is a lag of around 2 years between approvals and completions. Shortages of both materials and labour and rising borrowing costs are also affecting construction.

From September 2022 to September 2023, NSW completed about 49,000 dwellings. This is well short of what is required to achieve the NSW target under the National Housing Accord.⁵

Vulnerable households

The deterioration in housing affordability has coincided with increased demand for social housing and an increase in the number of people sleeping rough.

³ Changes in advertised rents as reported by CoreLogic; rental vacancy rates are from SQM Research.

⁴ Dwelling prices as reported by CoreLogic.

⁵ Data on dwelling completions is from the ABS.

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The number of priority applicants for social housing on the NSW Housing Register has grown nearly 70% from 4,484 applicants in June 2019 to 7,573 in June 2023. There are now over 55,000 applicants on the NSW Housing Register.⁶

Sleeping rough is also becoming a growing problem in NSW. The NSW Statewide Street Count has found the number of people sleeping rough in the state has increased 34% from 2022 to 2023.⁷ The problem is even more pronounced in some coastal regional areas with a high proportion of short-term rental accommodation properties. Within the top 10 local government areas by the concentration of short-term rental accommodation (see Table 1), sleeping rough has increased 72% since 2022. Byron Shire has amongst the highest number of people sleeping rough in the state, and has surpassed the City of Sydney as the local government area with the most people sleeping rough in NSW in 2023.

The rise of short-term rental accommodation

As housing affordability in NSW has decreased, people have become concerned that owners are making fewer properties available for long-term use, and that this may be contributing to a rise in costs.

Over the past decade, the short-term rental accommodation market has expanded rapidly in NSW. The emergence of online booking platforms has supported this, as they make it easier for property owners to enter the short-term rental market.

In response, the NSW Government introduced a statewide regulatory policy framework in November 2021. The regulations aimed to balance the positive effects of short-term rental accommodation on the tourism economy with the amenity of local neighbourhoods and supporting housing supply and affordability.

The existing regulatory framework for short-term rental accommodation in NSW is purposely 'light touch'.

This approach to regulating short-term rental accommodation was informed by a 2016 Parliamentary Inquiry. It found that short-term rental accommodation was generally seen as a low-impact activity that does not alter the otherwise residential characterisation of a dwelling but makes a significant contribution to the tourism economy. The inquiry did touch on housing

⁶ Social housing applications data is from the Department of Communities and Justice.

⁷ 2023 NSW Statewide Street Count, Department of Communities and Justice.

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affordability, but found that short-term rental accommodation's contribution to housing pressures at the time was mostly anecdotal.⁸

In an increasingly tight housing market, the effects of short-term rental accommodation on housing affordability have become more apparent. In some local government areas with high concentrations of short-term rental accommodation registrations, such as Shoalhaven and Eurobodalla, local mayors wrote to non-resident owners of such dwellings. The mayors urged owners to make their dwellings available for long-term rental to ease rental availability pressures in these areas.

The focus of the government has, therefore, shifted from addressing guest behaviour and neighbourhood amenity to the effects of short-term rental accommodation on the housing market and housing affordability.

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⁸ Section 1.71, Adequacy of the regulation of short-term holiday letting in New South Wales

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Managing the existing housing stock

While increasing housing supply is the best way to address affordability, there is a renewed focus on how we manage the use of the existing housing stock. For example, we need to consider if we should encourage owners of vacant homes, holiday homes and non-hosted short-term rental accommodation to make these properties available for long-term use.

Internationally, academic studies of short-term rental accommodation have suggested that an increase in short-term rental listings can increase house prices and rents. A 1% increase in short-term rental listings has been found to increase house prices by as much as 3.7%, and rents by up to 0.52%.⁹ However, the impact is highly variable across countries. The extent of the impact depends significantly on the local housing market. Short-term rental listings will have a bigger effect on housing markets that have more constraints on supply.

As of January 2024, there are approximately 52,300 dwellings registered for short-term rental accommodation across the state. About 33,000 of these are registered for non-hosted short-term rental accommodation.

The number of registered dwellings fluctuates throughout the year. For example, the number of registrations may increase during peak seasons, or some dwellings may be deregistered.

The total number of non-hosted short-term rental accommodation registrations represents approximately 1% of the stock of private dwellings in NSW. However, concentrations of non-hosted short-term rental accommodation vary across the state. Registrations in some tourist destinations make up a significantly larger share of total private dwellings.

Table 1 outlines the local government areas with the highest concentrations of non-hosted short-term rental accommodation registrations. These locations are historically popular tourist destinations, but have also had constraints on housing supply.¹⁰

⁹ Franco & Santos (2021), The impact of Airbnb on residential property values and rents: Evidence from Portugal. Ayoub et al. (2019), Does Airbnb Disrupt the Private Rental Market? An Empirical Analysis for French Cities

¹⁰ Non-hosted short-term rental accommodation registrations are from the NSW Short-Term Rental Accommodation Register as of 15 January 2024. These numbers are compared to the total stock of private dwellings as reported in the ABS 2021 Census.

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Table 1. Areas with the highest concentrations of non-hosted short-term rental accommodation registrations

Local government area	Total private dwellings	Non-hosted short-term rental accommodation dwellings	Percentage of total private dwellings
Byron Shire	15,220	1,259	8%
Snowy Monaro Regional	10,589	771	7%
Shoalhaven	55,463	3,418	6%
Kiama	10,317	612	6%
Eurobodalla	22,827	1,074	5%
Kempsey	13,104	570	4%
Port Stephens	34,100	1,472	4%
Waverley	31,190	1,217	4%
Bega Valley	17,546	654	4%
Mid-Coast	47,366	1,608	3%

High-level estimates suggest around 95,000 residential properties in NSW are not used for long-term housing.¹¹ This includes around:

- 35,000 dwellings used as non-hosted short-term rental accommodation throughout the year¹²
- 45,000 dwellings used as holiday homes that are not also used as short-term rentals
- 15,000 dwellings that are left vacant throughout the year.

This represents around 3% of the stock of private residential properties. This is broadly equivalent to about 2 years of current home completions in NSW.

¹¹ NSW Treasury calculations based on analysis of ABS Census 2021 data on dwelling occupancy and on data from the NSW Short-Term Rental Accommodation Register. This analysis was also based on earlier research by SGS Economic and Planning in 2017, available at <https://sgsep.com.au/publications/insights/why-was-no-one-home-on-census-night>

¹² As properties can leave the Register, the total number of STRA properties through the year is higher than the number at any one point in time.

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In the context of rising housing costs and a growing number of people sleeping rough, the NSW Government is committed to achieving the right balance between improving housing affordability, reducing episodes of homelessness and supporting the tourism economy and other benefits of short-term rental accommodation.

This discussion paper uses specific terms for short-term and long-term rental accommodation. Box 1 outlines key terms and definitions.

Box 1: Key terms and definitions

Principal place of residence means the one place of residence that a person uses and occupies as their main place to live. This definition is used, for example, to assess if a property is subject to land tax in NSW.

Short-term rental accommodation means a dwelling the host uses to provide accommodation on a commercial basis for a temporary or short-term period.¹³

Hosted short-term rental accommodation means accommodation where the host lives on the premises while providing the accommodation.

Non-hosted short-term rental accommodation is where the host does not live on the premises while providing the accommodation.

21-day exemption means non-hosted short-term rental accommodation bookings for a period of 21 consecutive days or more that do not count towards any applicable day cap.

Long-term rental accommodation means a home let on a long-term basis, which is generally for longer than 90 days.

Holiday homes are typically dwellings used by the owners occasionally during holidays but not on a permanent basis. Owners may also let out their holiday homes for short-term rental accommodation.

Vacant property means a dwelling that is not used or occupied.

¹³ Part 6, State Environmental Planning Policy (Housing) 2021 – also known as the Housing SEPP – accessible at <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2021-0714#ch.3-pt.6>

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2.2 Policy considerations for the review

The NSW Government will consider the right balance between improving housing affordability and supporting tourism, and the policy levers it can use to achieve this.

Benefits of short-term rentals

Dwellings used as holiday homes and short-term rental accommodation play a key role in supporting local economies, particularly in holiday destinations such as Byron Bay, the South Coast or the Snowy Mountains. Tourists benefit from increased accommodation options, new travel destinations, greater flexibility and potentially greater cost-effectiveness compared to other forms of accommodation.

Local businesses benefit from the increased demand for goods and services, which also supports the employment and wages of workers. In the case of short-term rental accommodation, owners benefit from the potential to earn a return while retaining flexibility in how they use their property.

The benefits of short-term rental accommodation can go beyond tourism. Short-term rental accommodation near hospitals and medical centres, or near employment or education hubs, gives patients, their families, workers and students added accommodation availability. It gives them flexibility of location, reduced costs, and better amenity.

Disadvantages of short-term rentals

Dwellings that are not used for long-term purposes may contribute to higher housing costs by reducing the availability of long-term rental accommodation and the number of properties available to buy. This can lead to higher property prices and long-term rental costs.

Vacant properties and holiday homes

Making vacant properties available for long-term users would contribute to housing supply with the least effect on tourism markets.

Similarly, making holiday homes that are not used as short-term rentals available for long-term users could result in fewer homes being left vacant for much of the year.

Regulatory and revenue measures

The NSW Government can use a mixture of regulatory and revenue measures to strike the right balance between the benefits of short-term rental accommodation and housing affordability.

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Regulatory measures that could increase the use of properties for long-term housing include:

- higher registration fees for short-term rental accommodation
- more onerous approval requirements for short-term rental accommodation
- lower day caps on the maximum number of nights a dwelling can be let for non-hosted short-term rental accommodation
- limits to the number of homes in an area that can be used for short-term rental accommodation
- limits on the number of guests that can use a short-term rental property.

Revenue measures that could increase the use of properties for long-term housing include:

- a levy on the revenues from bookings of short-term rental accommodation
- day fees per guest staying in short-term rental accommodation
- an annual levy based on the use of the property (for example, non-hosted short-term rental accommodation, holiday homes and vacant properties).

Lower day caps

Lower day caps on non-hosted short-term rental accommodation can encourage some property owners to lease their property in the long-term rental market rather than on the short-term market. This is because day caps may make short-term rental accommodation less profitable.

However, day caps could also encourage owners to leave properties vacant throughout much of the year, as they restrict their short-term rental accommodation availability to peak holiday periods when they can earn the highest returns. This could hinder tourism and affect local economies without necessarily increasing the availability of properties for long-term users.

In addition, some owners of short-term rental accommodation may want to keep the ability to use their property for personal purposes. Because of this, they may be reluctant to make their property available for long-term use in response to a day cap.

Revenue measures

Revenue measures can be designed to shift the financial returns of a broader set of properties, including non-hosted short-term rental accommodation, holiday homes and vacant properties. Imposing a levy on these properties that are not used as a long-term rental or as a principal place of residence can increase the financial incentives for owners to shift these properties to the long-term uses.

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Revenue measures can raise government funds for programs to support the most vulnerable. With rising housing affordability pressures and increasing numbers of people sleeping rough in NSW, support for homelessness is an important priority of the government.

Considering all options

The costs and benefits of different policy options differ. The government will consider them carefully, including the extent of any potential side effects beyond the intended policy objectives. One potential side-effect could be properties being left vacant for longer periods. Vacant homes do not contribute to long-term rental supply, and, unlike short-term rental accommodation, do not support the tourism economy.

The NSW Government aims to find the right mix of regulatory settings and revenue measures. The aim is to balance the ongoing housing affordability pressures throughout NSW with supporting tourism and economic activity throughout the state.

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3 Current regulatory and policy environment

3.1 Regulatory and policy environment in NSW

3.1.1 Regulatory framework for short-term rental accommodation

On 1 November 2021, the NSW Government introduced a statewide planning and regulatory framework for short-term rental accommodation. This was in response to the industry's growth. It aimed to provide a consistent approach to balancing the effects of short-term rental accommodation on local tourism, housing supply and affordability, and neighbourhood amenity.

The planning and regulatory framework for short-term rental accommodation does not extend to holiday homes or vacant property, as the planning system is not designed to regulate how owners use their property.

The current planning and regulatory framework in NSW for short-term rental accommodation involves the Department of Planning, Housing and Infrastructure; the Department of Customer Service; and local councils. The framework comprises:

- an exempt development planning pathway for hosted and non-hosted short-term rental accommodation within the *State Environmental Planning Policy (Housing) 2021* – also known as the Housing SEPP, including:
 - definitions for short-term rental accommodation, hosted short-term rental accommodation and non-hosted short-term rental accommodation
 - associated general requirements
- a 180-day cap in any 365-day period on non-hosted short-term rental accommodation in Greater Sydney and certain local government areas, including:
 - Ballina
 - Byron Shire (with a 60-day cap commencing in most of the local government area from September 2024)
 - parts of Clarence Valley and Muswellbrook(hosted short-term rental accommodation is not restricted)

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- an exemption for bookings of 21 consecutive days or more from the day limits for non-hosted short-term rental accommodation
- fire and safety requirements for short-term rental accommodation dwellings within the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 – also known as the EP&A Regulation (Fire Safety) – and the Short-term Rental Accommodation Fire Safety Standards
- an online, government-run Short-term Rental Accommodation Register to capture compliance with the fire safety standards and other regulations for short-term rental accommodation (for example, day caps).

Registrations

Hosts of short-term rental accommodation must register their dwelling on the NSW Government's Short-term Rental Accommodation Register. Booking platforms must ensure that a short-term rental accommodation dwelling is registered and that the registration number for the dwelling is displayed before being listed on a platform's online booking service.

The Short-term Rental Accommodation Register is accessible to local governments, allowing them to verify registrations for short-term rental accommodation dwellings in their areas, and to support compliance and enforcement activity.

3.1.2 Independent Planning Commission review of Byron Shire Council's planning proposal for short-term rental accommodation

In April 2023, the Independent Planning Commission gave advice to the Minister for Planning and Public Spaces after its review of Byron Shire Council's planning proposal for short-term rental accommodation. The planning proposal proposed to reduce the annual day limit for non-hosted short-term rental accommodation in most of its local government area to 90 days.

The Independent Planning Commission made 12 recommendations, including that the non-hosted short-term rental accommodation day cap be reduced to 60 days for a 365-day period across the whole local government area.¹⁴

After considering the Independent Planning Commission's advice, the Minister for Planning and Public Spaces determined the Byron Shire Council's planning proposal in September 2023. The new provisions in the Housing SEPP will apply from 23 September 2024.

¹⁴ Byron Shire Short-Term Rental Accommodation Planning Proposal PP-2021-3351 Advice Report at NSW Independent Planning Commission (<https://www.ipcn.nsw.gov.au/news/2023/04/byron-bay> and https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2022/12/byron-shire-short-term-rental-pp/advice/230424_byron-stra-pp_advice-report_final.pdf)

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They introduce a 60-day cap for non-hosted short-term rental accommodation across the entire Byron Shire local government area, except for 2 precincts in and around Byron Bay Town Centre and at Brunswick Heads.

The NSW Government acknowledges the advice and recommendations handed down by the Independent Planning Commission on Byron Shire Council's planning proposal. While the NSW Government did not implement all the recommendations from the Independent Planning Commission because of implications for councils beyond Byron Shire, this discussion paper draws from the recommendations where relevant for aspects of the current planning and regulatory settings.

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3.1.3 Revenue policy settings

The NSW Government and local councils do not currently apply specific revenue measures to:

- short-term rental accommodation
- holiday homes not used for short-term rental accommodation
- vacant property.

The NSW land tax does not differentiate investment properties by use. The land tax system treats investment properties used for long-term rental accommodation the same way as those that are rarely or never occupied.

3.1.4 Other policy settings

The planning and regulatory framework for short-term rental accommodation is complemented by the Code of Conduct for the Short-term Rental Accommodation Industry. This sets out responsibilities for all industry participants. The Commissioner for Fair Trading administers the code, which commenced on 18 December 2020.

Under the code, the Commissioner for Fair Trading can impose a range of disciplinary actions, including warnings, directions and recording a strike against a host, a host's dwelling, or a guest. The Commissioner can also record a host, a host's dwelling, or a guest on the exclusion register for 5 years if they have 2 strikes against them within a 2-year period, and the Commissioner considers it appropriate to exclude them.

Changes were also made in April 2020 to the:

- *Fair Trading Act 1987*
- *Strata Schemes Management Act 2015*
- *Residential Tenancies Act 2010*.

These changes allow owners corporations to pass by-laws that ban short-term rental accommodation within strata schemes, but only in lots that are not a host's principal place of residence.

This review will not consider changes to the existing policy and regulatory settings of the code or strata legislation.

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3.2 Policies in other jurisdictions

Jurisdictions outside NSW have responded in various ways to the expansion of the short-term rental accommodation industry and to growing concerns about housing affordability pressures.

Some jurisdictions have chosen relatively minimalist approaches, with little or no regulation and limited oversight. Other jurisdictions have implemented new regulations or taxes on short-term rental accommodation and vacant properties. In some places, such as New York, the restrictions effectively ban short-term rental accommodation outside narrow exceptions.

Policy responses have also varied in their intended goals. Common policy objectives typically include a combination of addressing:

- housing supply and affordability
- preserving neighbourhood amenity
- concerns about guest safety
- ensuring that the short-term rental accommodation market operates on a level playing field with the hotel industry.

3.2.1 Policy approaches within other Australian jurisdictions

Victoria, Queensland, Western Australia and Tasmania regulate short-term rental accommodation, mostly at the local government level. Figure 1 shows the key policy approaches within these jurisdictions. Regulations include:

- data reporting requirements for booking providers (Tasmania)
- specific codes of conduct managing guest and host behaviour (Yarra Ranges, Frankston)
- registration fees (Warrnambool, Frankston)
- zones with limitation on short-term rental accommodation use (Noosa)
- planning approvals (Perth, Gold Coast, Tasmania)
- day caps (Perth)
- higher council rates for short-term rental accommodation properties (Brisbane, Sunshine Coast and Hobart).

Following recent reviews, Western Australia and Queensland may bring forward statewide registers for short-term rental accommodation. The Queensland review also proposed a

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statewide code of conduct and information portal.¹⁵ Western Australia has announced that councils will bring forward specific planning pathways, meaning non-hosted short-term rental accommodation will require development approval from the local government.¹⁶

More details about short-term rental accommodation policies are set out below:

- Victoria announced in September 2023 the introduction of a 7.5% levy on short-term rental accommodation properties from January 2025, which is expected to raise around \$70 million each year.
- Tasmania has a data-sharing agreement with short-term rental accommodation platforms, including on the number and location of short-term rentals in the state. Hobart requires permits for non-hosted short-term rental accommodation properties.
- From 2025, Western Australia will offer non-hosted short-term rental accommodation owners in certain areas \$10,000 to encourage them to transfer their property to the long-term rental market for 12 months.

At this time, it is unclear on how many properties have been returned, or may return, to the long-term rental market because of these measures.

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¹⁵ Recommendation 1, Review of impacts of short-term rental accommodation in QLD available at <https://planning.statedevelopment.qld.gov.au/planning-issues-and-interests/short-term-rental-accommodation-review>.

¹⁶ WA Short-Term Rental Accommodation Planning Reforms available at <https://www.wa.gov.au/organisation/departments/planning-lands-and-heritage/short-term-rental-accommodation-planning-reforms#:~:text=A%20property%20can%20be%20operated%20as%20a%20short-term,for%20un-hosted%20short-term%20rental%20accommodation%20within%20the%20Perth%20metropolitan%20area%3B>

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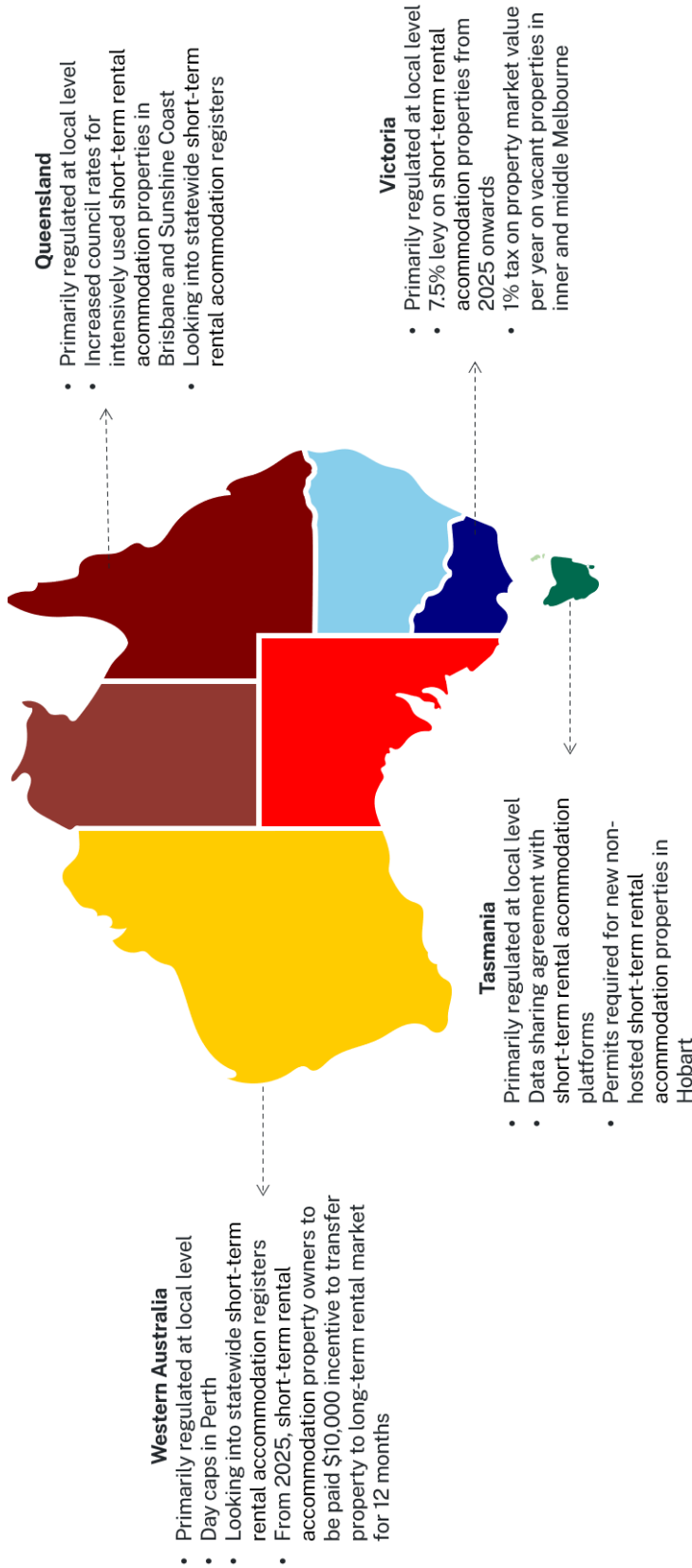


Figure 1. Summary of policy approaches within other Australian jurisdictions

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Vacant properties

Measures to discourage vacant properties in Australia are more limited.

The Australian Government imposes an annual vacancy fee on foreign-owned property bought after 9 May 2017. Foreign owners must pay this fee if their dwelling is not occupied or rented out for 6 months in a year. The fee starts at \$14,100 for property acquired for \$1 million or less. The Australian Government announced in December 2023 that it will double vacancy fees on foreign-owned dwellings.¹⁷

The Victorian Government currently imposes an annual tax of 1% of the property's market value on vacant properties in inner and middle Melbourne. The tax applies to homes that were vacant for more than 6 months in the preceding calendar year. In October 2023, the Victorian Government announced an expansion of the tax. From 2025, the tax will:

- apply Victoria-wide, and include vacant, undeveloped land zoned for residential use if it has not been improved within 5 years
- increase from 1% the first year, to 2% the second year a property is vacant, and 3% in later years.¹⁸

3.2.2 International policy approaches

Regulatory and tax policies on short-term rental accommodation vary widely internationally. They typically entail a combination of registration requirements and day caps. They may include either a fixed daily charge for each guest or a charge based on a percentage of the listing price.

Strict regulations

For example, New York and Amsterdam have some of the strictest short-term rental accommodation regulations. Both jurisdictions have data-sharing agreements with online platforms to help monitor and enforce regulatory and taxation measures.

New York mandates a minimum 30-day stay for non-hosted bookings, with a maximum of 2 guests per booking. Guests are granted access to all the rooms in the dwelling. These requirements essentially ban the majority of non-hosted properties. Short-term rental

¹⁷ The announcement of changes to vacancy fees on foreign-owned dwellings is available at <https://ministers.treasury.gov.au/ministers/jim-chalmers-2022/media-releases/higher-foreign-investment-fees-housing>

¹⁸ The announced changes to Victoria's vacant residential land tax (VRLT) are available at <https://www.sro.vic.gov.au/news/state-taxation-acts-and-other-acts-amendment-bill-2023-0>

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accommodation can also be subject to New York's Hotel Room Occupancy Tax of 5.875% of rent, plus a fixed component for each room. Sales taxes can also apply.

Amsterdam limits total annual bookings to 30 days and levies a 12.5% tax on short-term rental accommodation booking prices.

A more permissive approach

Other jurisdictions have taken a more permissive approach to short-term rental accommodation. For example, Auckland only requires that short-term rental accommodation properties pay increased council rates if they are let for more than 28 nights each year.¹⁹

Other jurisdictions, like Rome, employ a short-term rental accommodation register similar to the NSW register. Booking taxes are based on the number of guests each night, up to a maximum of 5 to 10 nights.²⁰

Overall, Airbnb reports 16 countries where the platform has entered into agreements to collect short-term rental accommodation taxes. Most agreements are at a sub-national level, covering specific cities or states within the country. Where the tax is based on a percentage of rents, rates are typically around 5% to 15%.

Vacant homes

Some jurisdictions, like Ireland, France, and British Columbia (Canada), also tax vacant homes. Unlike short-term rental accommodation, vacant homes do not produce income and are not publicly advertised on platforms, making tax enforcement potentially more challenging.

British Columbia has tried to improve compliance to its vacant property tax by requiring all property owners to report on the occupation status of their property. This differs from other jurisdictions, such as Ireland, which require property owners to self-report their properties as vacant.

The British Columbia system may improve compliance. However, this is done by obliging virtually all property owners to make an annual declaration, despite the overwhelming majority not owning a vacant property.

¹⁹ Rating of providers of online accommodation properties at <https://www.aucklandcouncil.govt.nz/property-rates-valuations/your-rates-bill/Pages/accommodation-provider-targeted-rate.aspx>

²⁰ https://www.airbnb.com.au/help/article/1228?_set_bev_on_new_domain=1694587237_NTc5ODIxZTVlYWQz

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4 Issues for consultation

This review considers the current planning and regulatory framework for short-term rental accommodation and the supply of long-term rental accommodation. It aims to explore ways to better balance the housing needs of the people of NSW with the benefits that tourism brings to the state.

Encouraging owners to change their non-hosted short-term rental accommodation, vacant properties and holiday homes to long-term rental use could help reduce the cost of long-term rentals.

We can achieve this through a balance of planning regulation and revenue policies.

This chapter raises issues for discussion and feedback. It lays out the NSW Government's policy objectives for this review. It also outlines the scope and some of the policy levers the government can use to achieve these objectives.

The government welcomes your feedback and input on the issues raised.

4.1 Policy objectives

The policy objectives of this review are set out in Figure 2.



Figure 2. Policy objectives of the review

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This review is underpinned by the broad policy objectives to:

- **encourage favourable and efficient use of dwellings** – giving property owners incentives to move property into long-term use
Housing policy should prioritise the use of the housing stock for long-term housing. Incentives to shift property use can boost the supply of long-term rental accommodation in the short run. Importantly, housing policy should encourage owners to use properties more, not less.

- **balance the economic benefits of short-term rental accommodation with costs to housing affordability** – in the context of rising housing costs, increasing demand for social housing and a growing number of people sleeping rough

While shifting properties from short-term to long-term rental accommodation can help increase the supply of long-term accommodation in the immediate term, short-term rental accommodation plays an important role in the tourism industry, particularly in regional areas. The NSW Government is committed to achieving the right balance to improve housing affordability and reduce episodes of homelessness.

Tourism is an important contributor to the NSW economy, and every year thousands of people use short-term rental accommodation to explore and enjoy NSW. Short-term rental accommodation is not just used for leisure – it offers options for people travelling for business or for a hospital appointment, for example.

The government also recognises that accommodation for tourists includes both short-term rental accommodation and traditional accommodation such as hotels, motels, caravan parks and bed and breakfasts. Providers of traditional tourism accommodation compete against short-term rental accommodation, though each are subject to different planning regulations, fire safety standards and taxation arrangements including liability for the GST.

- **minimise market distortions** – in particular, to avoid disrupting housing supply or constraining the highest and best use of dwellings

NSW needs to boost the supply of housing. Planning and rezoning is a key part of the mix, but we should also adjust revenue measures and regulations to support housing supply. Revenue measures or regulation that inadvertently discourages either investment in the long-term supply of housing or the efficient use of the current residential stock should be avoided.

Some properties that are used occasionally for short-term rental accommodation are not likely to be offered as long-term rental accommodation. For example, homeowners who make their principal place of residence available for short-term rental

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accommodation while they travel would still be using their property continuously for most of the year.

Likewise, measures that restrict short-term rental accommodation should encourage property owners to move their property to long-term uses, rather than encouraging them to underuse their property.

- **ensure compliance, enforcement and reporting are effective** – the mix of regulation and revenue measures should be practical and enforceable

A regulation, planning and revenue framework that we cannot enforce is unlikely to meet other policy goals. Compliance should be supported by enforceable policy and regulatory settings, and reliable and accurate data.

Ultimately, the policy outcomes should be balanced, effective, efficient, equitable, transparent and easy to comply with.

4.2 Review of the planning and regulatory framework for short-term rental accommodation

When first introduced, the current planning and regulatory framework for short-term rental accommodation in NSW was purposely designed to be ‘light touch’. More recently, however, people are questioning the positive aspects of short-term rental accommodation. This is part of broader discussions about housing affordability, historically low rental vacancy rates and increased demand for social housing.

Concerns about how the policy works were also brought to light in the advice and recommendations handed down by the Independent Planning Commission in April 2023. The recommendations came from its review of Byron Shire Council’s planning proposal for short-term rental accommodation.

4.2.1 Scope of review of planning and regulatory framework

The scope of the present review into the regulatory framework for short-term rental accommodation covers the following aspects of policy:

- **Planning pathway** – consider if the existing exempt development pathway is still appropriate
- **Day caps** – consider if day caps are appropriate for non-hosted short-term rental accommodation and if they are the most effective way to balance the benefits and effects of this accommodation

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- **Reporting requirements** – consider the operation of the Short-term Rental Accommodation Register and reporting requirements for hosts, letting agents and industry
- **Compliance and enforcement** – consider the compliance regulatory framework, including complaints-handling and enforcement processes under the planning framework (this includes the relationship with the code of conduct and other legislation).

4.2.2 Suitability of the exempt development planning pathway

In NSW, people can carry out short-term rental accommodation in types of residential accommodation that are lawfully approved (for example, a dwelling house) as exempt development. Exempt development is described as very low-impact development that can be done without planning approval, if it complies with any relevant standards and requirements. This means the local council does not need to give planning approval.

The current exempt development pathway is still considered to give the most balanced response to short-term rental accommodation. It keeps a streamlined and consistent statewide framework. It also acknowledges short-term rental accommodation as a low-impact activity that does not alter the otherwise residential characterisation of a dwelling.

The Independent Planning Commission recommended introducing a new planning approval pathway for non-hosted short-term rental accommodation activities in the Byron Shire (Recommendation 2). Under this recommended arrangement, owners would need to submit a development application for non-hosted activities that sought to go beyond the recommended 60-day cap. It commented that the council would be best placed to consider short-term rental accommodation activities of this nature.

If applied across NSW, we would need to establish specific day caps, taking into account local housing markets and tourism economies. If we introduced development applications for short-term rental accommodation, local governments would need to assess each application and consider the likely effects of the development. This process can be lengthy, create uncertainty for applicants and increase costs and administration.

4.2.3 Planning policy settings for short-term rental accommodation

Land use type and definitions

The NSW planning system includes land uses to describe development that could be permitted or prohibited in certain zones.

General feedback on the short-term rental accommodation policy has been that the activity is now overly commercialised and closer to a tourist and visitor accommodation activity. The

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Independent Planning Commission also commented that identifying short-term rental accommodation as a type of tourist and visitor accommodation land use was the simplest method of formalising the characterisation of short-term rental accommodation in the Byron Shire.

The current planning and regulatory framework considers short-term rental accommodation as an activity that does not alter the 'residential accommodation' land use characterisation of a dwelling.

While there is no current proposal to change this characterisation, the NSW Government could consider introducing thresholds to ensure the activity remains low-impact and residential in nature. The thresholds could establish a tipping point for activities that blur the lines between residential accommodation and tourist and visitor accommodation land uses. This could include:

- limiting short-term rental accommodation registrations to only one dwelling per property in certain land use zones, or
- characterising the activity by use (that is, new day cap thresholds).

People have been confused about the definitions of hosted and non-hosted short-term rental accommodation. They have also been unsure of the type of residential accommodation in which the short-term rental accommodation activity will take place (that is, the type of dwelling).

There are instances of hosts incorrectly identifying secondary dwellings as hosted short-term rental accommodation when they should be registered as non-hosted short-term rental accommodation. This is because the host lives in the principal dwelling and not the secondary dwelling. Similarly, people often register their short-term rental accommodation dwellings as a 'dwelling house' when in fact they should be registering their apartment as a 'residential flat building'. This creates inaccurate data and compliance difficulties for local governments.

To overcome this, the NSW Government could consider making these definitions clearer. For example, it could consider certain dwelling types as 'hosted', keeping in mind the characteristics of particular residential accommodation types and amenity impact (for example, secondary dwellings where the host resides in the principal dwelling or dwellings below a specified size/floor area).

Further considerations to this would need to include, for example, the question of whether secondary dwellings and dwellings of any size could be used for long-term rental accommodation and so contribute to overall supply of homes for long-term use.

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General requirements for short-term rental accommodation

Before they can carry out a short-term rental accommodation activity, the host must ensure that they comply with the exempt development general requirements for such accommodation, as set out in the Housing SEPP. General requirements include, for example, that the dwelling must:

- have been lawfully constructed
- meet the relevant fire safety standards for short-term rental accommodation
- be registered on the Short-term Rental Accommodation Register.

Lastly, short-term rental accommodation **cannot** be carried out in:

- a boarding house
- co-living housing
- a group home
- a hostel
- a rural workers' dwelling
- seniors housing
- build-to-rent housing.

The Independent Planning Commission recommended that owners should be encouraged to use secondary dwellings and dual occupancies for long-term rental accommodation, not short-term rental accommodation (Recommendation 5). This is because they provide a form of affordable rental housing for essential workers within the Byron Shire local government area. Such dwellings could be excluded from the current exempt development pathway for short-term rental accommodation to discourage owners from putting them on the short-term rental market.

The Independent Planning Commission also recommended (Recommendation 2) that additional restrictions be introduced to prevent newly constructed residential accommodation from being used for short-term rental accommodation to help retain new housing stock for the traditional housing market.

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Requirements introduced overseas

Examples of other requirements introduced in international jurisdictions have included:

- occupancy limits for short-term rental accommodation dwellings to limit effects on amenity and limit large gatherings
- short-term rental accommodation registration systems based on a lottery, where only a certain number of dwellings are permitted to be used as short-term rental accommodation
- heavily restricting or prohibiting short-term rental accommodation in certain land use zones.

Any new requirements introduced would need to be enforceable. They also should not outweigh the benefits of tourism activities done in short-term rental accommodation.

4.2.4 Day caps on non-hosted short-term rental accommodation

A cap of 180 days currently applies to non-hosted short-term rental accommodation in Greater Sydney and nominated regional local government areas, including:

- the Ballina and Byron Shire local government areas
- mapped land in the Clarence Valley and Muswellbrook local government areas.

From 23 September 2024, a new 60-day cap will apply across the Byron Shire local government area. This is with the exception of certain land in the Byron Bay Town Centre and Brunswick Heads, which will have no restrictions.

The cap was implemented to help balance the potential negative effects non-hosted short-term rental accommodation may have on local areas with the positive economic benefits.

When the day cap was established, it considered:

- holiday and weekend periods
- how properties were let
- views expressed during consultation
- cost-benefit analysis results
- existing local government planning policies.

Bookings over 21 consecutive days do not count towards the day cap. This provision (within the Housing SEPP) acknowledges the role of short-term rental accommodation in supporting mobile workforces and the corporate accommodation sector, which tend to stay longer and have less effect on amenity.

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Localised day caps

Recently, people have been questioning if the 180-day cap balances the effects that short-term rental accommodation has on the long-term rental market. Of the top 10 local government areas with the highest concentration of non-hosted short-term rental accommodation registrations (see Table 1), only 2 local government areas, Byron Shire and Waverley, have the 180-day cap.

In its advice to the then Minister for Planning and Public Spaces, the Independent Planning Commission recommended tightening the day cap for non-hosted short-term rental accommodation for the Byron Shire. Its aim is to ensure the financial returns from non-hosted short-term rental accommodation are closer to those for long-term rental accommodation.

The NSW Government is also aware that some local governments with no day caps want to introduce one, while others that already have a cap on non-hosted short-term rental accommodation cap have asked for a lower cap, closer to that of the Byron Shire.

There is not enough evidence to suggest that a single day cap restriction is the right way to create a level financial playing field for short-term and long-term rental accommodation. Day caps affect all types of properties – including those better used for tourist accommodation and less suited to long-term rental accommodation.

Day caps may result in more (not less) underuse of the property stock. They may not effectively add more properties to the stock of long-term rental accommodation. By restricting short-term rental accommodation, day caps may push booking prices up and encourage more owners to put their properties on the short-term rental accommodation market, not fewer.

Overall, the financial and economic effects of reducing day caps for non-hosted short-term rental accommodation are largely unknown. Similarly, there is not enough evidence to suggest that owners of short-term rental accommodation would make their dwellings available for long-term rental accommodation in response to such policy settings.

Day caps introduced overseas

Internationally, governments have applied a range of day cap approaches. Where this has reduced the concentration of short-term rental accommodation dwellings, the day caps were accompanied by other policy requirements. For example, requirements included registration, approval/issuing of permits and occupancy limits.

The NSW Government is determined to protect the positive economic contributions that short-term rental accommodation makes to local economies.

But to strike the right balance between short-term and long-term rental accommodation, the NSW Government is open to considering a different approach. That could be:

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- more restrictive day caps for non-hosted short-term rental accommodation
- revenue measures on short-term rental accommodation instead of day caps
- a combination of both revenue measures and targeted day caps in areas with disproportionately high levels of non-hosted short-term rental accommodation.

4.2.5 Short-term Rental Accommodation Register

Under both the Housing SEPP and EP&A Regulation (Fire Safety), all short-term rental accommodation dwellings must be registered on the NSW Government's Short-term Rental Accommodation Register. Registrations must remain valid to maintain compliance with the requirements of the policy settings for exempt development. Registrations must also be renewed annually.

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The registration information required for each dwelling includes:

- the address of the dwelling
- the type of residential accommodation
- whether the dwelling will be used as hosted or non-hosted short-term rental accommodation
- the name and address of the host of the dwelling
- a declaration that the dwelling complies with the fire safety standard.

A person cannot successfully complete the registration without a declaration from the host that the dwelling meets the fire safety standard.

Registration fees and renewals

A \$65 registration fee applies for all new short-term rental accommodation dwellings. An annual renewal fee of \$25 also applies for those hosts who wish to keep their dwelling on the short-term rental market. The fees are nominal and fund the ongoing operation and maintenance of the Short-term Rental Accommodation Register.

The NSW Government's Short-term Rental Accommodation Register fees are low compared to that of other jurisdictions. These fees are also distinct from taxes or development contributions. Fees are charged for a specific service and should reflect the cost of that service.

Changes to the policy for short-term rental accommodation may change the associated administrative and compliance costs. Changes to registration fees could reflect these added costs. For example, we could consider increasing fees to reflect increased compliance monitoring if the day cap policy changes. This alone could dissuade hosts from listing their dwellings for short-term rental accommodation.

However, increasing registration fees does not guarantee that the dwellings will become available as long-term rentals instead.

Responsibilities of hosts and online booking platforms

Under the short-term rental accommodation regulations, hosts or letting agents must report the number of days booked in each property on the Short-term Rental Accommodation Register. Online booking platforms must also share this information with the Short-term Rental Accommodation Register.

Many hosts and owners of short-term rental accommodation use online booking platform services to advertise and manage bookings. Some booking platforms are integrated with the

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NSW Government's Short-term Rental Accommodation Register. This simplifies the sharing of booking information and ensures broader policy compliance by:

- confirming short-term rentals advertised on their website have a current short-term rental accommodation registration
- sharing usage data for short-term rentals to help hosts and councils monitor compliance with applicable caps on non-hosted accommodation.

If online booking platforms fail to share usage data about short-term rental accommodation or if they advertise unregistered short-term rental accommodation, they are committing offences under the *Fair Trading Act 1987*. The Act is administered by NSW Fair Trading.

The integration and data-sharing arrangements have allowed some booking platforms to meet these obligations more easily. Where a dwelling does not have a valid short-term rental accommodation registration ID, or the registration has not been renewed on time, an online booking platform must not allow the property to accept any more bookings until the owner supplies a correct registration or renews it.

The NSW Government has welcomed the integration and partnership with the major online booking platforms, which has helped ensure high compliance with the planning and regulatory framework for short-term rental accommodation.

However, there are several smaller online booking platforms and boutique websites that are not integrated with the NSW Government's Short-term Rental Accommodation Register. For those hosts and letting agents who do not use online booking platforms, we do not know how much accommodation information they are or are not sharing.

4.2.6 Compliance and enforcement

Department of Planning, Housing and Infrastructure

The department does not have a role in statutory compliance or the enforcement of the planning framework for short-term rental accommodation. The department prepares and reviews the legislative and planning instruments necessary to carry out the planning framework for short-term rental accommodation. This includes provisions within Part 6 of the Housing SEPP and Part 13A of the EP&A Regulation (Fire Safety).

The department also administers the mandatory Short-term Rental Accommodation Register through the NSW Planning Portal. This includes operational management and system upgrades, collecting registration fees, providing customer support, and integrating the register with the Department of Customer Service Exclusion Register and major online booking platforms. However, the Department of Planning, Housing and Infrastructure does not

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have a statutory role in monitoring and enforcing the registration of dwellings for short-term rental accommodation.

Local councils

Consistent with other planning policies at the local level, enforcing the planning framework for short-term rental accommodation is a general responsibility of local government. The NSW Government recognises that local governments should have the right legislative and regulatory powers to effectively enforce and regulate short-term rental accommodation activities in their local government areas.

Authorised officers within all NSW councils have access to the Short-term Rental Accommodation Register for their local government area through the NSW Planning Portal. This includes:

- confirming whether a dwelling is registered
- details of the registered dwelling
- host details
- fire safety declarations
- a record of planned and completed booking days for each short-term rental accommodation premises.

As illustrated in Figure 3, a council may use existing planning enforcement powers. These are for unauthorised activities where short-term rental accommodation premises do not comply with the exempt development provisions or general requirements under the planning framework for short-term rental accommodation.

Such compliance action may relate to short-term rental accommodation happening in a premises that:

- has not been lawfully built for residential accommodation
- is a boarding house, build-to-rent housing unit, group home, hostel, or rural workers' dwelling, or
- has a development consent condition that bans short-term rental accommodation at the premises.

Part 9 of the *Environmental Planning and Assessment Act 1979* has provisions that councils may use to enforce the planning provisions for short-term rental accommodation, including the right to:

- enter and search the property
- require information from a person or organisation

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- take enforcement action if evidence is collected and council can show there has been a breach, using powers within the *Environmental Planning and Assessment Act 1979*
This includes issuing an order requiring a host to stop using the premises for short-term rental accommodation.

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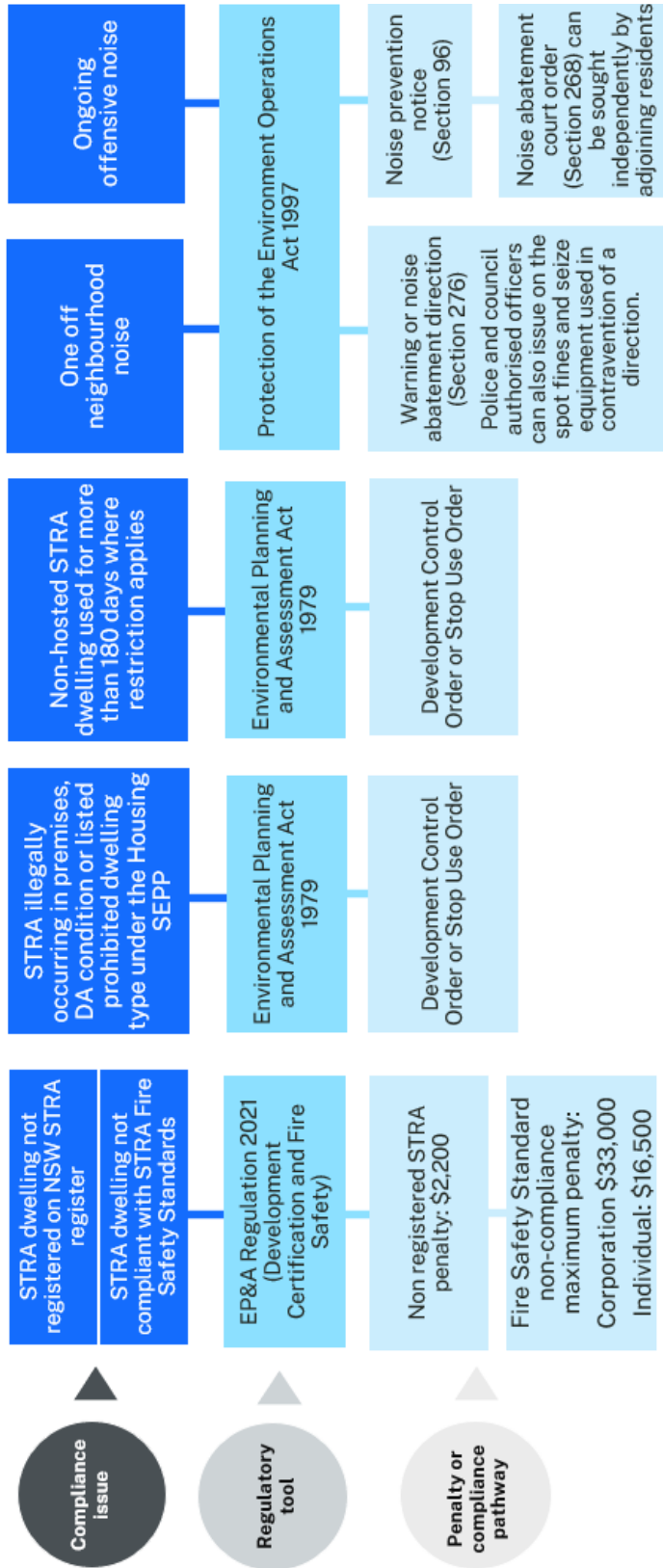


Figure 3. Compliance issues and the regulatory tools to manage them
 Key: DA = development application | STRA = short-term rental accommodation

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Compliance under the *Protection of the Environment Operations Act 1997*

The *Protection of the Environment Operations Act 1997* allocates responsibilities for pollution prevention and control to various authorities, including local councils.

The right regulatory authority for most matters concerning non-scheduled activities is the relevant local council. This can include offensive noise emissions from short-term rental accommodation dwellings.

Council (as well as NSW Police) may issue a direction to the occupier of a dwelling (for example, a short-term rental accommodation guest) to stop making the offensive noise.

More offences relating to short-term rental accommodation

The planning framework for short-term rental accommodation introduced new penalty offences for councils to use as part of managing short-term rental compliance issues under the EP&A Regulation (Fire Safety). This sets up the legal mechanism for the Short-term Rental Accommodation Fire Safety Standard and Short-term Rental Accommodation Register.

Under the EP&A Regulation (Fire Safety), a host must not use the dwelling for short-term rental accommodation unless it complies with the fire safety standard. Maximum penalties for non-compliance can reach up to \$16,500 for an individual. Local councils have power under this EP&A Regulation (Fire Safety) to issue a penalty notice under this provision.

There are also penalties for hosts and owners who make their dwelling available for short-term rental accommodation but do not register the dwelling on the NSW Government's Short-term Rental Accommodation Register.

A maximum penalty can reach up to \$2,200 for an individual. However, enforcement actions and fines for this non-compliance depend on the relevant local government bringing the matter before a court. This is time-consuming and costly for local governments, particularly for those that have a large amount of non-compliant short-term rental accommodation activity.

4.3 Potential revenue measures

Currently, the NSW approach to managing short-term rental accommodation relies solely on a planning and regulatory framework. However, as seen in other jurisdictions, revenue measures can play a role too.

More broadly, we can use the revenue system to encourage the supply of long-term rental accommodation. We can do this by giving owners incentives that discourage them from using residential property in certain ways, such as non-hosted short-term rental accommodation, holiday homes or vacant property, while promoting long-term uses.

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By raising government revenue, revenue measures can also be used to fund programs to support homeless people. With rising housing affordability pressures, increased demand for social housing and increasing numbers of people sleeping rough in NSW, support for homelessness is a key priority of the NSW Government.

The NSW Government seeks your views and comments on the merits, benefits and costs of potential revenue measures to achieve the policy objectives identified in section 4.1.

We give the following guiding principles (Box 2) to help the discussion.

Box 2: Guiding principles

A well-designed revenue measure is one that achieves its intended policy goals while minimising side effects. The following principles give guidance on how such measures should be designed.

- **Be broad based** – spreading a levy over a broader set of properties discourages owners from shifting their properties to alternative, more underused purposes that are not subject to a levy. Also, for the same total revenue collected, a broader levy lowers the burden on the average person paying it.
- **Leverage an efficient revenue base** – an efficient revenue base is one which minimises unwanted behavioural changes from individuals trying to avoid or minimise their liabilities.
- **Be simple, fair, and equitable** – levies should avoid imposing unfair or inequitable burdens on specific groups and minimise undue compliance burdens.
- **Strike an effective balance between competing uses** – any levy should recognise the economic benefits of short-term rental accommodation to property owners, tourists and local businesses, and weigh these considerations against the policy objectives.
- **Be complementary** – any levy should complement the regulatory framework in achieving policy objectives.

4.3.1 Revenue policy issues

There is a range of revenue measures, each with its trade-offs, advantages and drawbacks. In considering the use and design of any specific measure, the NSW Government will be guided by the above principles and will take into account feedback from the community and interested stakeholders during consultation.

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Scope

A levy on non-hosted short-term rental accommodation will encourage some owners to shift their dwellings to use as a long-term rental. All else being equal, the broader the revenue measure, the more owners will shift their dwellings to long-term use. Broader measures can also encourage fewer properties to become or stay vacant. The broadest revenue measure to encourage long-term use of dwellings would cover non-hosted short-term rental accommodation, holiday homes and vacant property.

But not all properties used for short-term rental accommodation would be likely to shift to long-term rental accommodation. Some properties are not designed for long-term living (for example, they may lack a proper kitchen). It may be appropriate to exclude these properties. On the other hand, such an exemption might create an incentive to modify properties and make them unviable for long-term use to avoid any levies.

Conversely, some short-term rental accommodation properties are already used as long-term rental accommodation or as principal places of residence. Some people choose to rent out spare rooms as hosted short-term rental accommodation to generate supplementary household income. This practice can help support hosts' mortgage repayments or rental costs and improves housing affordability. Even if these rooms were not used as short-term rental accommodation, it is unlikely they would be added to the long-term rental accommodation market.

Similarly, some people rent out their own home on occasion while away on holiday as non-hosted short-term rental accommodation. Discouraging this is unlikely to have a practical effect on the supply of long-term rental accommodation, but would lower overall use of the housing stock.

Revenue base

A revenue measure could be levied on different bases to:

- discourage non-hosted short-term rental accommodation and underused property
- encourage long-term use of property.

It could be based on annual rental revenue, as is done in several cities across the world. But a levy based on rental revenue would not affect properties that do not produce rental income, such as holiday homes that are not used as short-term rentals or vacant property.

A levy based on land values can use the existing land tax system in NSW. It can also cover, in addition to non-hosted short-term rental accommodation, underused properties that could become long-term rental accommodation but do not produce rental income, such as vacant properties and holiday homes not used as short-term rentals.

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In areas where a high proportion of short-term rental accommodation are apartments, the government would need to carefully calibrate a levy on land to achieve the desired effect. This is because land values of apartments are relatively low, and a levy based on land values would tend to impose a proportionally smaller burden.

In this case, a levy on rents or applying fixed charges would likely be more effective at encouraging owners to put short-term rental accommodation apartments into the long-term market. Many popular short-term rental accommodation areas, such as Sydney's Eastern Suburbs, have a high proportion of short-term rental accommodation apartments.

By location

Generally, short-term rental accommodation and holiday homes are not evenly distributed across NSW.

Some regional areas, especially coastal tourism destinations, have a higher proportion of short-term rental accommodation as a share of their stock of properties (see Table 1). For example, non-hosted short-term rental accommodation properties make up over 8% of private homes in Byron Shire Council. In other areas of the state, such as western Sydney or remote inland areas like Bourke, short-term rental accommodation makes up much less than 1% of the private dwelling stock.

In areas where short-term rental accommodation represents a greater share of the property stock, short-term rental accommodation likely has a bigger effect on the local housing market. Levy rates could vary by location, reflecting the fact that the potential effect of holiday homes, vacant land and short-term rental accommodation on the long-term housing market may vary. However, differential rates may increase complexity and conditions in local housing markets may change over time.

Revenue collection

A levy on short-term rental accommodation could be collected by booking platforms on behalf of the NSW Government. Jurisdictions in countries such as Germany, France, the United States and Canada have established voluntary collection agreements with Airbnb to collect charges on behalf of the government.²¹ In other jurisdictions, platforms might not directly collect levies, but there may be data-sharing agreements to help the government collect revenue. In 2018, the Danish government entered into one such agreement with Airbnb.

²¹ More examples can be found at https://www.airbnb.com.au/help/article/2509?_set_bev_on_new_domain=1702333750_NGjYTI4YmM5M2Zm

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Having booking platforms collect the levy could help with compliance, as platforms can easily monitor users of these platforms and may make for a better user experience for hosts and guests in complying with their obligations.

However, not all short-term rental accommodation is booked through online platforms. The government would need to consider how to collect a levy from property managers or direct booking websites managed by hosts. Furthermore, collection through booking platforms would not be able to cover underused properties, such as vacant homes or holiday homes.

Compliance

The NSW Government, through Revenue NSW, would be responsible for administration of, and compliance with, any state revenue measure for short-term rental accommodation or underused properties. This would provide a consistent approach to the design, implementation and compliance across NSW.

In NSW, short-term rental accommodation hosts must register with the statewide Short-term Rental Accommodation Register and give their property's registration number when listing or advertising on booking platforms. This system of mandatory registration would likely promote compliance with a potential revenue measure. Data-sharing agreements with the booking platforms would also promote compliance. Platforms can provide evidence on the use of properties and the rental income associated with this use. However, compliance on short-term rental accommodation listed through small local agencies or direct booking is more complex.

Vacant properties or holiday homes that are not used as short-term rental accommodation do not produce income and are not publicly advertised on platforms. This would make it harder to monitor compliance on these properties.

Internationally, there are 2 broad approaches to designing a system of reporting property use for a levy:

- a **positive** approach
- a **by-default** approach.

Under a positive approach, only properties that are liable for the levy must be reported, with penalties for non-compliance. For example, for a levy solely on short-term rental accommodation, hosts would be required to register or declare their properties, but general owner-occupiers and other groups that do not list their property as short-term rental accommodation would not. For instance, in San Francisco, if a host rents a property for less than 30 consecutive nights, they must apply for a Certificate of Authority to collect Transient Occupancy Taxes then file returns for the tax on a monthly or annual basis.

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Under a by-default approach, all property owners must report their property use. They must apply for an exemption if not liable, with the scheme levied by default. For example, short-term rental accommodation hosts and owner-occupiers alike would need to register. This method is used for British Columbia's Speculation and Vacancy Tax. This puts greater administrative burdens on the wider population, but likely increases compliance.

Exemptions and concessions

A case could be made to exempt hosted short-term rental accommodation from a potential levy, as it is unlikely that individual rooms would otherwise enter the long-term rental accommodation market. An exemption for hosted short-term rental accommodation currently applies to the regulated day cap in NSW. An exemption for hosted short-term rental accommodation might increase compliance complexity, though.

If the levy were to include vacant properties, we should also consider cases where a property is vacant for valid reasons, such as:

- during construction or renovation
- in cases where the property has been condemned
- when the owner-occupier is temporarily away for justifiable reasons, including for work.

Other property uses that the government may consider for exemptions include:

- non-tenanted property used as main residence for relatives
- worker accommodation, or
- secondary dwellings mostly used for work.

However, while justifiable in many instances, allowing for a wider range of exemptions would make compliance more challenging and could undermine the fairness, simplicity and transparency of the levy.

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5 Have your say

This discussion paper starts a public consultation process. The NSW Government invites all interested people and organisations to comment and give feedback on all or some of the issues under consultation.

The NSW Government will continue to seek feedback over the coming weeks through to 14 March 2024.

We may publish submissions from individuals and organisations. If you would prefer to keep your submission private, please say so in your submission.

Please give your feedback by **11:59pm on 14 March 2024**.

To give feedback, you can:

- [complete our survey via Qualtrics](#), or
- [upload a submission via the NSW Planning Portal](#).

If you have any questions about the discussion paper or review, you can email the project team on STHL@planning.nsw.gov.au

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Item 15.7

Attachment 1



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