



SECTION 4.15 ASSESSMENT

APPLICATION NUMBER:	10.2025.71.1
NSW ePLANNING PORTAL REFERENCE:	PAN-533951
APPLICANT:	Mr S Bartlet
PROPERTY DESCRIPTION:	LOT: 900 DP: 616677, 1 Fern Street GERRINGONG NSW 2534
SITE ZONING:	R2 Low Density Residential
DEVELOPMENT DESCRIPTION:	ALTERATIONS AND ADDITIONS TO MOTEL ACCOMMODATION - CONVERT DAY SPA TO 11 X ACCOMMODATION ROOMS, CONSTRUCTION 12 X NEW ACCOMMODATION ROOMS, NEW BUILDING WITH CAR PARK AND RECEPTION AND SPA/GYM, NEW POOL, NEW RESTAURANT, UPGRADE EXISTING CAR PARK AND GARDENS.

Summary

This development application proposes alterations and additions to motel accommodation - Convert day spa to 11 x accommodation rooms, construction 12 x new accommodation rooms, new building with car park and reception and spa/gym, new pool, new restaurant, upgrade existing car park and gardens.

The development is proposed to occur in four (4) stages.

Development site

The subject site is described as:

LOT: 900 DP: 616677, 1 Fern Street GERRINGONG NSW 2534.

The subject site has a frontage to Fern Street. The site contains the Mercure Hotel with ancillary uses/facilities including restaurant, pools, tennis court, car parking and is zoned R2 Low Density Residential under Kiama LEP 2011. The subject site is known as the Mercure Resort Gerringong and the on-site restaurant is named Bella Char.

The surrounding area is predominantly residential in character and the site is adjoined by residential dwellings to the north, west and south.

The site falls toward the street and drains overland to the public road.

Access to the property is obtained via Fern Street.

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

10.2025.71.1

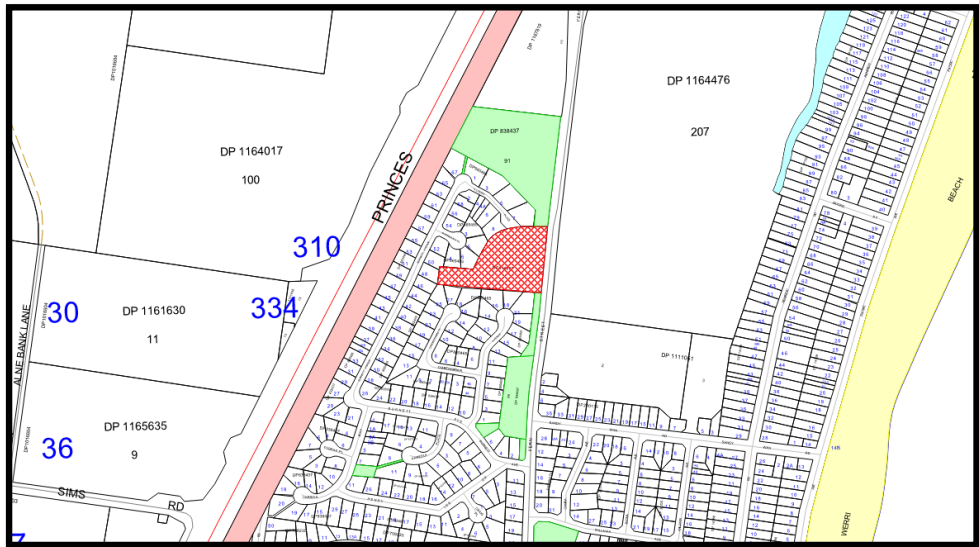


Figure 1 – Locality plan



Figure 2 - Aerial image

THE SITE IS SUBJECT TO THE FOLLOWING CONSTRAINTS:

Site details	
Lot area	1.324 Ha
Zone	R2 Low Density Residential
Is the proposed development a “ Council-related development application ”?	No
Topographic details	
Fall direction of land	Fall of land toward street
Slope of land >20%?	No

10.2025.71.1

Site inspection	
Works within proximity to electricity infrastructure?	No
Is the development adjacent to a classified road ?	No
Is the development adjacent to a rail corridor ?	No
Utility network	
Access to reticulated sewer?	Yes
Access to reticulated water?	Yes
Sydney Water – Dwelling Restriction?	No
Constraint layers	
Flood Prone Land	No
Filled Land	No
Slip Land	No
Interim Heritage Order	No
Bush Fire	No
Potentially Contaminated Sites	No
Riparian Corridors	No
Known Dry Stone Walls	No
Development within 40m of a watercourse	No
Planning layers	
Draft Exhibited Planning Proposal	No
Land Zoning	R2 Low Density Residential
Minimum Lot Size	G - 450m2
Floor Space Ratio	C - 0.45:1
Height of Buildings	I - 8.5m
Foreshore Building Line	No
Heritage Note: consider adjoining properties.	No
Additional Permitted Uses	No
Active Street Frontages	No
Terrestrial Biodiversity	No
Riparian Lands and Watercourses	No
Acid Sulfate Soils	Class 5
Land Reservation Acquisition	No
Urban Release Area	No

10.2025.71.1

Reclassification Part Lots	No
Clause application	No
Planning Proposals	No
SEPP (Biodiversity and Conservation) 2021- Chapter 6: Water catchment (e.g. NorBE)	No
SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	Yes - Proximity area for Coastal Wetlands - Coastal Environment area - Coastal use area
Biodiversity Values	
Biodiversity Values Map	No

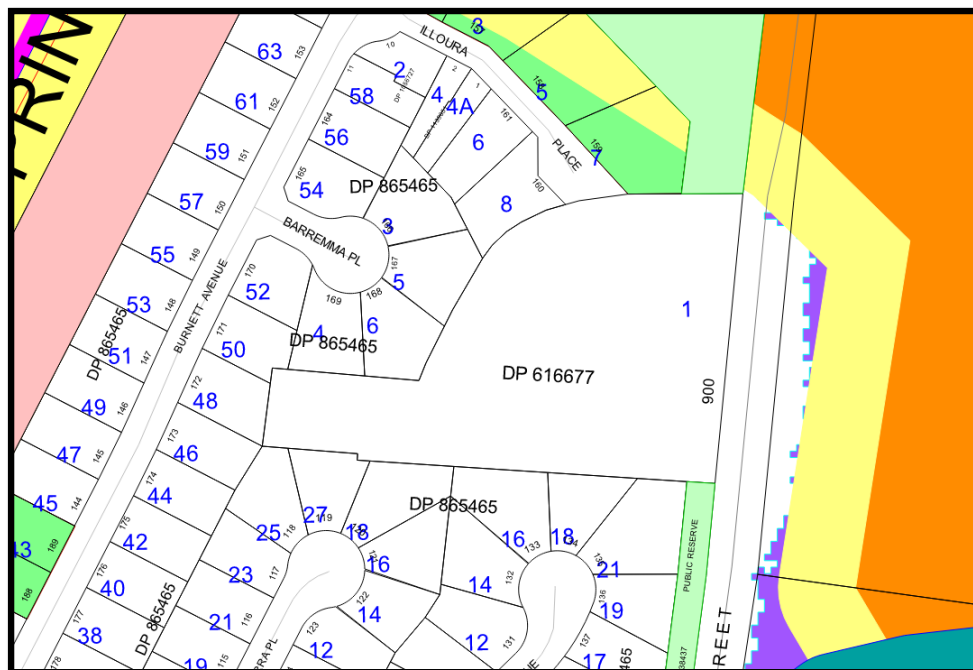


Figure 3 – Constraints map extract

Item 15.3

Enclosure 1



Additional matters were raised as a result of the site inspection. Listed below:

The most relevant development application history of the site includes the following:

5

10.2025.71.1

10.2005.173.1 (modified .2)	Proposed refurbishment of motel; construction of new stairwells; rearrangement of rooms from fifty two (52) to fifty five (55); new amenities attached to the existing restaurant; new bar attached to the existing restaurant; new courtyards; terraces & balconies; new lap pool & cabana	31/05/2005	14/09/2005	Approved
--------------------------------	---	------------	------------	----------

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The applicant describes the proposed development as follows:

"1) Demolition of certain buildings / structures including:

- a. Existing reception / function building.
- b. Tennis court
- c. Swimming pool
- d. Various sheds and outbuildings
- e. Various walkways, associated shelters, stairs and landscaping structures.

2) Removal of selected shrubs / trees

3) Construction of:

- a. A basement parking area with 39 spaces, store rooms and a passenger lift providing access to the upper levels of the property.
- b. To the ground floor:
 - i. A new reception and day spa building.
 - ii. A 172m² restaurant with associated amenities and a passenger lift providing access to the upper levels of the property.
 - iii. A 8x5m swimming pool
 - iv. Revised concierge area for hotel check-in (temp parking area with access to hotel reception)
 - v. Landscaping structures and recreation areas.
- c. To level 01
 - i. Re-configuration of at-grade car parking and service vehicle area;
 - ii. Establishment of a new garbage storage area;
- d. To level 02
 - i. Construction of 6 additional accommodation rooms
 - ii. Re-configuration of existing car parking area;
 - iii. Construction of new walkways and landscaping
 - iv. Construction of storeroom additions to existing restaurant / function room.
 - v. Construction of a new deck with roof to the frontage of the existing restaurant / function room.
 - vi. Construction of a new passenger lift to provide access to upper level accommodation rooms

10.2025.71.1

e. To level 03

- i. Construction of 6 accommodation rooms above those 6 accommodation rooms construction on level 02 referenced above.
- ii. Conversion of existing day spa area into 11 additional accommodation rooms.

Upon completion of the above, the tourist hotel will feature:

- 1) 75 guest rooms
- 2) 1 managers accommodation room
- 3) 101 car parking spaces
- 4) 2 swimming pools
- 5) A restaurant
- 6) Separate function room
- 7) Reception building with day spa facilities"

The proposed development is generally depicted by the buildings/works illustrated in white in the diagram below:



Figure 5 – Perspective view

The proposed hours of operation of the restaurant are:

- Monday - Sunday – 7:00am to – 11:30pm

The proposed hours of operation of the function centre are:

- Monday - Sunday – 8:00am to – 11:30pm

10.2025.71.1

The development is furthermore proposed to occur in the following stages:

Stage 1	Pool replacement, pickle ball court, drop off driveway and landscaping works.
Stage 2	Convert function room in Building D/E to 11 additional accommodation units (Unit 01 - 11)
Stage 3	Construct new reception/office/spa and demolish the existing reception/office/spa. Construct new restaurant and bar and associated bathrooms (Building 02) and basement car park. Existing restaurant/bar becomes the new function room.
Stage 4	Construct Building 03 - 12 additional accommodation units (Unit 01 - 12)

The proposed staging is shown on the Staging Plans submitted.

PLANS AND DOCUMENTS SUBMITTED FOR ASSESSMENT

Submitted plans for assessment					
Plan number		Revision number	Plan title	Drawn by	Date of plan
-		-	Site Analysis Plan	-	9/04/2025
23022-00.02	DD	D	Site Plan	WN	17/04/2025
23022-10.00	DD	C	Demolition Plan	WN	17/04/2025
23022-10.01	DD	E	Basement plan	WN	17/04/2025
23022-10.02	DD	E	Ground Level Floor Plan	WN	17/04/2025
23022-10.03	DD	E	Level 01 Floor Plan	WN	17/04/2025
23022-10.04	DD	E	Level 02 Floor Plan	WN	17/04/2025
23022-10.05	DD	D	Level 03 Floor Plan	WN	17/04/2025
23022-10.06	DD	A	Restaurant + Reception - Detail Plans	WN	17/04/2025
23022-10.07	DD	A	Building 03 + D/3 - Detail Plans	WN	17/04/2025
23022-11.01	DD	E	Roof Plan	WN	17/04/2025
23022-20.01	DD	E	Elevations	WN	17/04/2025

10.2025.71.1

23022-20.02	DD	C	Elevations	WN	17/04/2025
23022-00.03	DD	C	Elevations	WN	17/04/2025
23022-00.04	DD	A	Elevations	WN	17/04/2025
23022-30.01	DD	E	Sections	WN	17/04/2025
23022-30.02	DD	D	Sections	WN	17/04/2025
23022-30.03	DD	C	Sections	WN	17/04/2025
23022-90.01	DD	A	Height Diagram	WN	29/04/2025
23022-90.02	DD	A	Shadow Diagrams Existing	WN	29/04/2025
23022-90.03	DD	A	Shadow Diagrams Proposed	WN	29/04/2025
23022-90.04	DD	A	Shadow Diagrams Existing	WN	29/04/2025
23022-90.05	DD	A	Shadow Diagrams Proposed	WN	29/04/2025
23022-FD.01[A]		A	Colours & Materials Schedule	KP Architects	26/05/2025
L1		-	Landscape Site Plan	TK	5/12/2024
L2		-	Existing Trees Site	TK	5/12/2024
L3		-	Proposed Trees Site & Screening	TK	5/12/2024
L4		-	Landscape Plan – Entry Level	TK	5/12/2024
L5		-	Landscape Plan – Level 2	TK	5/12/2024
L6		-	Elevations E & N	TK	5/12/2024

10.2025.71.1

L7	-	Elevations 5	TK	5/12/2024
L8	-	Planting Plan	TK	5/12/2024
L9	-	Plant Legend	TK	5/12/2024
L10	-	Construction Details	TK	5/12/2024
C00	2	Cover Sheet and Drawing List	ROC	5/12/2024
C01	2	Civil Specification Sheet 1	ROC	5/12/2024
C20	2	Sediment & Erosion Control Plan	ROC	5/12/2024
C25	2	Sediment & Erosion Control Details	ROC	5/12/2024
C40	2	Concept Stormwater Plan	ROC	5/12/2024
C41	2	Basement Drainage Plan	ROC	5/12/2024
C42	2	Roof Drainage Plan	ROC	5/12/2024
C43	2	Drains Catchment Plan	ROC	5/12/2024
C44	2	Music Catchment Plan	ROC	5/12/2024
C45	2	Stormwater Details Sheet 1	ROC	5/12/2024
C46	2	Stormwater Details Sheet 2	ROC	5/12/2024
C50	2	Drop Off Zone Vertical Clearance Check Plan	ROC	5/12/2024
FS-01	A	Title Page and Notes	PG	4/07/2024
FS-02	A	New Fire Hydrant System Upgrade – Basement Level Plan	PG	4/07/2024

10.2025.71.1

FS-03		A	New Fire Hydrant System Upgrade – Entry Level Plan	PG	4/07/2024
FS-04		A	New Fire Hydrant System Upgrade – Level 01 Plan	PG	4/07/2024
FS-05		A	New Fire Hydrant System Upgrade – Level 02 Plan	PG	4/07/2024
FS-06		A	New Fire Hydrant System Upgrade – Level 03 Plan	PG	4/07/2024
FS-07		A	Details Page	PG	4/07/2024
23022-00.02	DD	D	Staging Plan – Site Plan	WN	17/04/2025
23022-10.01	DD	E	Staging Plan – Staging Plan - Basement plan	WN	17/04/2025
23022-10.02	DD	E	Staging Plan - Ground Level Floor Plan	WN	17/04/2025
23022-10.03	DD	E	Staging Plan – Level 01 Floor Plan	WN	17/04/2025
23022-10.04	DD	E	Staging Plan – Level 02 Floor Plan	WN	17/04/2025
23022-10.05	DD	D	Staging Plan – Level 03 Floor Plan	WN	17/04/2025
23022-20.01	DD	E	Staging Plan – Elevations	WN	17/04/2025
23022-20.02	DD	C	Staging Plan – Elevations	WN	17/04/2025
23022-00.03	DD	C	Staging Plan – Elevations	WN	17/04/2025
-	-	-	Privacy screen detail and external lighting detail – Building 02, 03 and D/E	Stephen Bartlett	7/10/2025

10.2025.71.1

-	-	Privacy screen location – Elevation Building 03 and D/E	Stephen Bartlett	7/10/2025
-	-	Privacy screen location – Floor Plan Building 03 and D/E	Stephen Bartlett	7/10/2025
-	-	Privacy screen location – Elevation Building 02	Stephen Bartlett	7/10/2025

Submitted documents for assessment			
Document title	Version number	Prepared by	Date of document
Statement of Environmental Effects	-	Jervis Bay Town Planning	9/04/2025
Noise Impact Assessment	0	Rodney Stevens Acoustics	12/03/2025
Traffic Impact Assessment Report	Final	Lyle Marshall & Partners Pty Ltd	4/12/2024
Building Code of Australia Compliance Report	1	AMG Building Consultancy Pty Ltd	13/08/2024
Building Disability Access Report	-	Access Matters	9/12/2024
Geotechnical Report	0	Terra Insight	7/09/2024
Integrated Water Cycle Management Report	2	ROC Engineering	5/12/2024
Section J Report	DMN/16/1737	Ausnviro Pty Ltd	16/09/2024
Power Assessment Report	-	AKH Design Services	23/07/2024
Statutory Declaration	-	Mr Stephen Bartlett	8/10/2025

Item 15.3

Enclosure 1

10.2025.71.1

The development proposal is shown in the figures below:

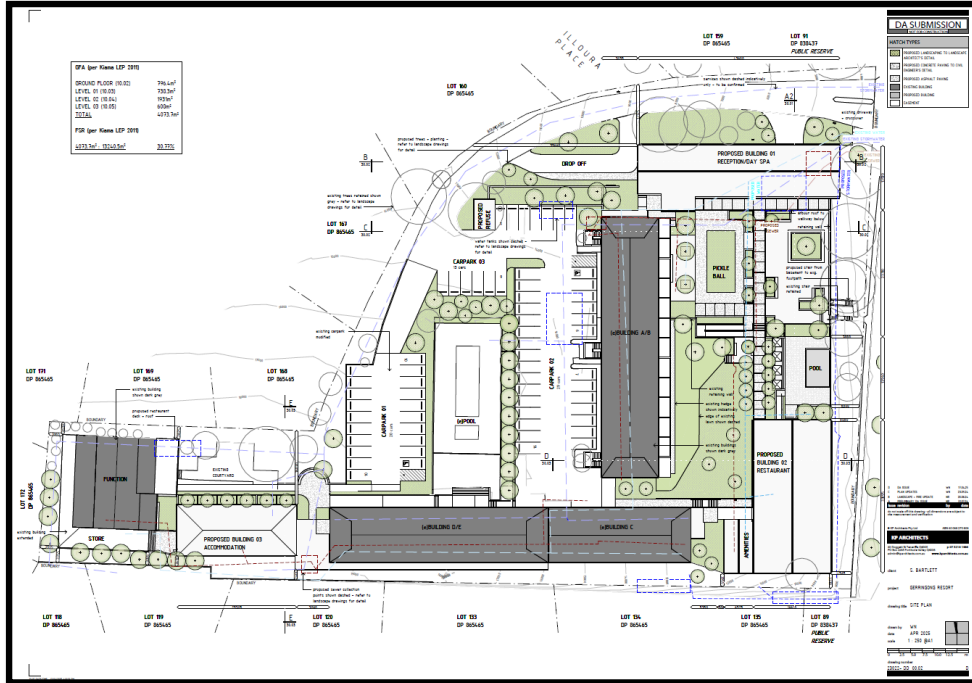


Figure 6 – Proposed site plan

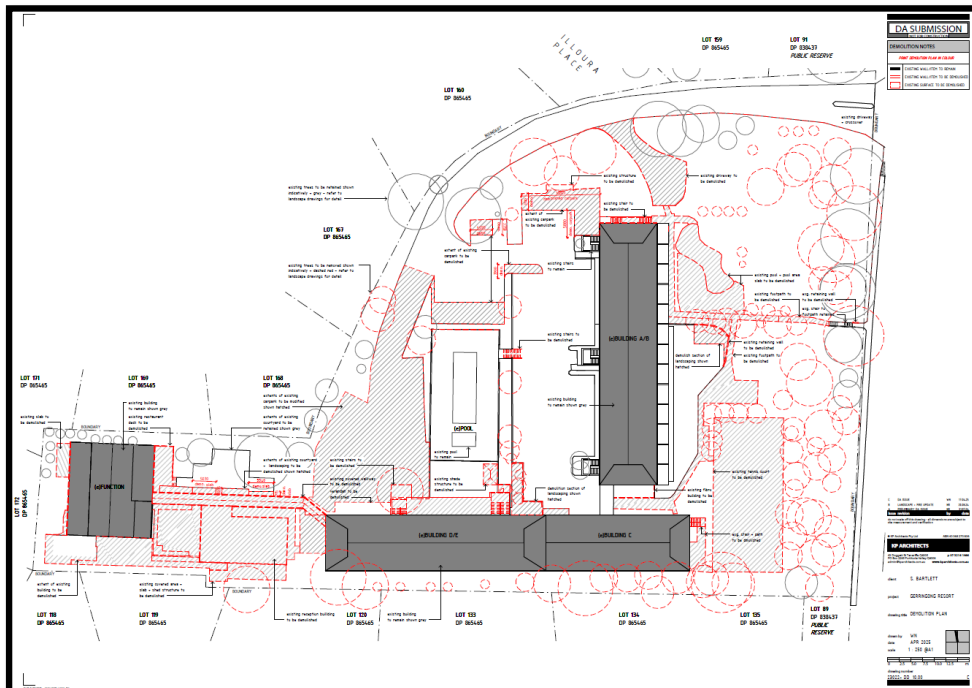


Figure 7 – Demolition plan

10.2025.71.1

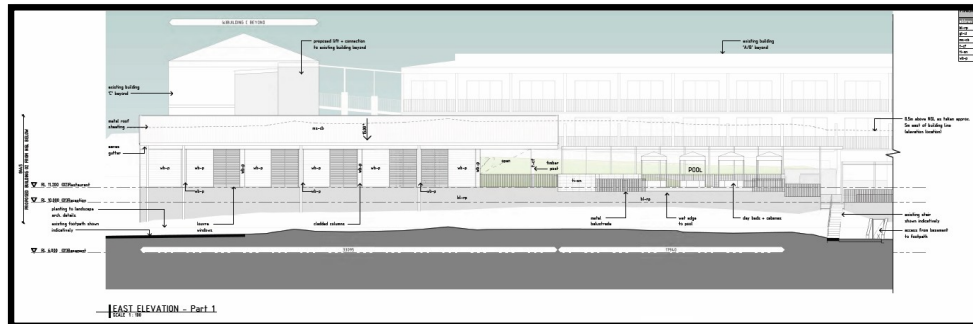


Figure 8 – East elevation (Fern Street) - Part 1 Restaurant and pool area

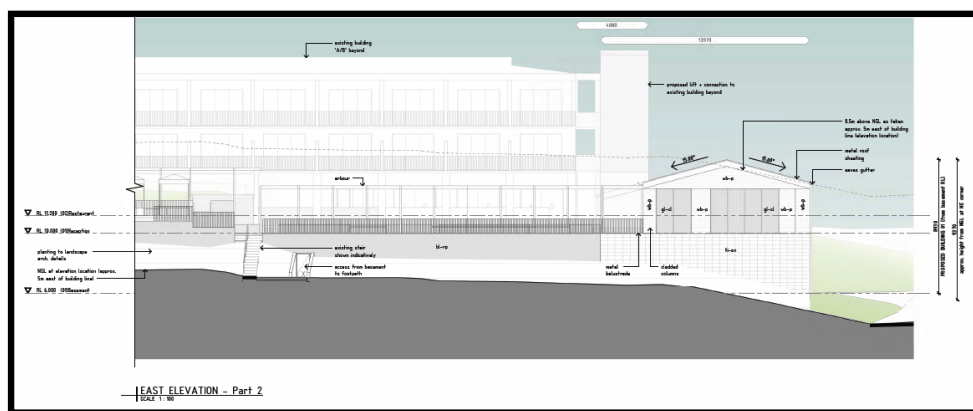


Figure 9 – East elevation (Fern Street) - Part 2 Forecourt and reception/day spa building

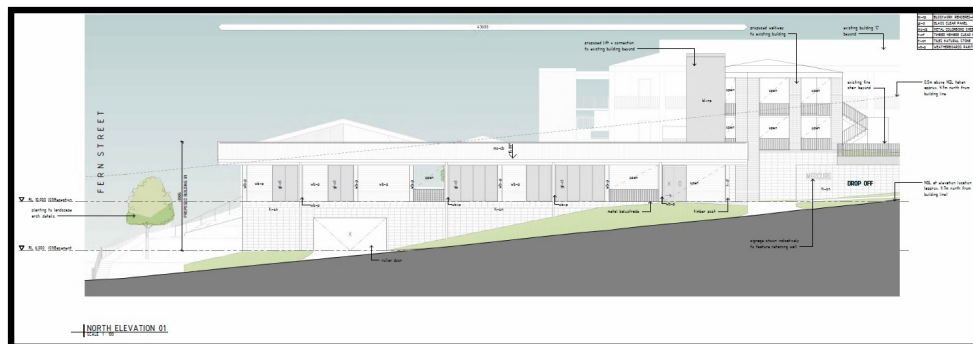


Figure 10 – North elevation – Reception/day spa building with basement car park entrance

Item 15.3

Enclosure 1

Item 15.3

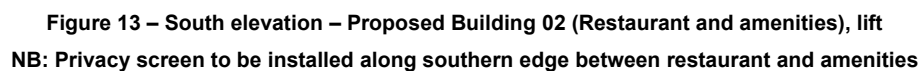


Architectural drawing of the South Elevation of the proposed building. The drawing shows a long, low-profile building with a flat roof and a series of windows. Key features include:

- A dashed line for the "proposed lift + connection to building 68 + building 69".
- A solid line for the "existing building".
- A "0.5m above NGL" line.
- A "NGL at approx. line of building 69 + connection".
- A "line of pathway beyond shown dashed".
- A "DAS profile" line.

The drawing is labeled "SOUTH ELEVATION 01" and "SCALE 1:100".

NB: Visually impermeable privacy screen to be installed along the southern edge of the upper floor walkway



10.2025.71.1

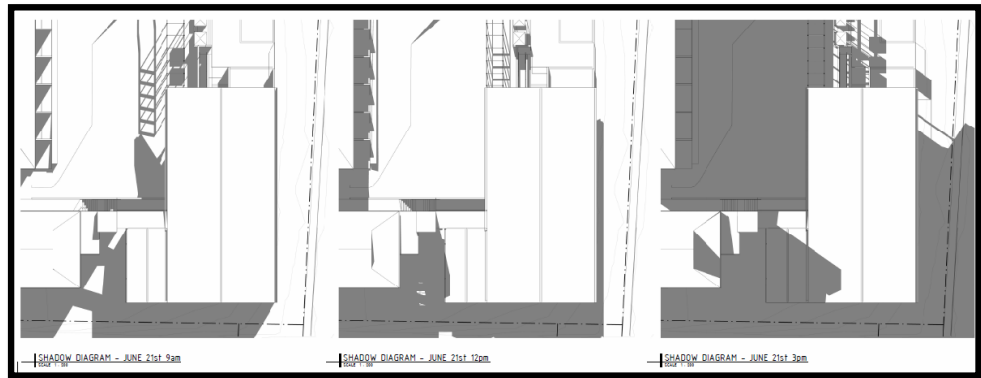


Figure 14 – Shadow Diagrams Building 02 (Proposed restaurant and amenities)

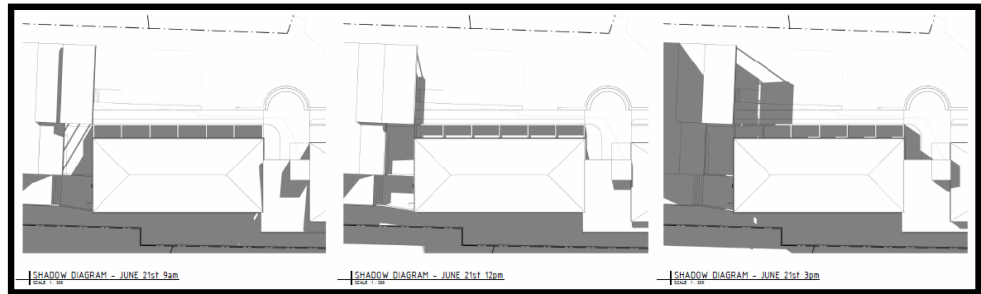


Figure 15 – Shadow Diagrams Building 03 (Proposed 12 x accommodation units)



Figure 16 – External Colour and Material Schedule

Item 15.3

Enclosure 1

10.2025.71.1



Figure 17 – Landscape Plan

STATUTORY CONSIDERATIONS

Environmental Planning and Assessment Act, 1979	
Part 4 Development assessment and consent	
Section 4.14 Consultation and development consent – certain bush fire prone land	
Is the development site mapped as bush fire prone land?	No
Is there vegetation within 100m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection? Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.	No. The property adjoins flat land toward the east that is predominantly coastal saline wetland. While the land use (predominant land use is tourist and visitor accommodation) does constitute a 'special fire protection purpose', as the land use is not specifically occurring on mapped bushfire prone land, the development is not integrated development and does not require a bushfire safety authority from the NSW RFS (s.100B of the RF Act).

10.2025.71.1

Is the development subject to a performance based solution or a BAL-FZ? Note: As per Appendix 2 of PBP 2019, performance based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner. Note: The NSW variation of H7D4 in NCC 2022 Volume 2 specifies that AS3959 and the NASH Standard can only be used as a deemed-to-satisfy provision where an appropriate condition of consent has been imposed <u>in consultation with NSW RFS</u>.	N/A																								
Division 4.11 Existing uses																									
Section 4.67 Regulations respecting existing use																									
(1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to— (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and (b) the change of an existing use to another use, and (c) the enlargement or expansion or intensification of an existing use.	The permissibility of the proposed development depends upon existing uses provisions for the current and proposed non-conforming land uses in the R2 Low Density Residential zone of the subject land. Permissibility is discussed in detail below under <i>EP&A Regulation, 2021</i>, referencing the relevant provisions of the EP&A Act and the EP&A Regulation.																								
Part 7 Infrastructure - Subdivision 4 Housing and productivity contributions																									
Does the proposed development include works to which the Housing and Productivity Contribution (HPC) applies?	Yes - See below																								
commercial and retail development such as shops, neighbourhood shops, supermarkets, and commercial office buildings where new floorspace is created.																									
Has the application been referred to Council's Contributions Planner?	Yes - See applicable contributions below																								
<table border="1"> <thead> <tr> <th>Contribution Plan</th> <th>Cost of Works</th> <th>Levy %</th> <th>Contribution</th> </tr> </thead> <tbody> <tr> <td>Stage 1</td> <td>\$3,110,647</td> <td>1%</td> <td>\$31,106.00</td> </tr> <tr> <td>Stage 2</td> <td>\$745,430</td> <td>1%</td> <td>\$7,454.00</td> </tr> <tr> <td>Stage 3</td> <td>\$6,851,535</td> <td>1%</td> <td>\$68,515.00</td> </tr> <tr> <td>Stage 4</td> <td>\$1,022,472</td> <td>1%</td> <td>\$10,225.00</td> </tr> <tr> <td>Section 7.12 Contribution Plan</td> <td>\$11,730,084</td> <td>1%</td> <td>\$117,300.00</td> </tr> </tbody> </table>	Contribution Plan	Cost of Works	Levy %	Contribution	Stage 1	\$3,110,647	1%	\$31,106.00	Stage 2	\$745,430	1%	\$7,454.00	Stage 3	\$6,851,535	1%	\$68,515.00	Stage 4	\$1,022,472	1%	\$10,225.00	Section 7.12 Contribution Plan	\$11,730,084	1%	\$117,300.00	
Contribution Plan	Cost of Works	Levy %	Contribution																						
Stage 1	\$3,110,647	1%	\$31,106.00																						
Stage 2	\$745,430	1%	\$7,454.00																						
Stage 3	\$6,851,535	1%	\$68,515.00																						
Stage 4	\$1,022,472	1%	\$10,225.00																						
Section 7.12 Contribution Plan	\$11,730,084	1%	\$117,300.00																						
Biodiversity Conservation Act, 2016																									
Does the application include works or vegetation removal within the Biodiversity Values mapped area ?	No																								
Does the application involve clearing of native vegetation above the area clearing threshold?	No																								

Item 15.3

Enclosure 1

10.2025.71.1

Area clearing threshold The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP). <table> <tr> <th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr> <tr> <td>Less than 1 ha</td><td>0.25 ha or more</td></tr> <tr> <td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr> <tr> <td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr> <tr> <td>1000 ha or more</td><td>2 ha or more</td></tr> </table> The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided. If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.		Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply										
Less than 1 ha	0.25 ha or more										
1 ha to less than 40 ha	0.5 ha or more										
40 ha to less than 1000 ha	1 ha or more										
1000 ha or more	2 ha or more										
Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the test in Section 7.3 of the <i>Biodiversity Conservation Act 2016</i> (i.e. test of significance)? Note: Consideration should be given to the site's proximity to NPWS land (see guidelines) and other natural areas, as well as any area that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.	No										
If the application exceeds the Biodiversity Offsets Scheme Threshold (i.e. if yes to any of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?	N/A										
Fisheries Management Act, 1994											
The proposed development would not have a significant impact on the matters for consideration under Part 7A of the <i>Fisheries Management Act 1994</i>.	Yes										
Local Government Act, 1993											
Do the proposed works require approval under Section 68 of the <i>Local Government Act 1993</i>?	No										
Has a Section 68 application been applied for as a related case in the Portal?	N/A										
Environmental Planning and Assessment Regulation, 2021											
Part 7 Existing uses—the Act, Div 4.11											
Section 163 Certain development allowed											
Section 163 of the <i>Environmental Planning and Assessment Regulation, 2021</i> enables an “existing use” to:- (a) be enlarged, expanded or intensified, or (b) be altered or extended, or (c) be rebuilt, or	The permissibility of the proposed development relies on this clause. Permissibility is discussed in detail										

10.2025.71.1

(d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or (e) if it is a commercial use – be changed to another commercial use, including a commercial use that would otherwise be prohibited under the Act, or (f) if it is a light industrial use – be changed to another light industrial use or a commercial use, including a light industrial use or commercial use that would otherwise be prohibited under the Act.	below, referencing the provisions of the Act and Regulation.																																								
Permissibility of proposed development																																									
<i>Kiama Local Environmental Plan (LEP) 2011</i> was published on 16 December 2011 and had the effect of zoning the subject site R2 Low Density Residential. Under the LEP Land Use Table the proposed development, inclusive of the 'hotel accommodation' (a type of 'tourist and visitor accommodation'), 'restaurant' (a type of 'food and drink premises'), 'function centre' and day spa ('recreation facility – indoor') are each prohibited land uses in the R2 zone. The permissibility of the proposed development is therefore reliant upon the existing use provisions of the <i>Environmental Planning and Assessment Act, 1979</i> (EP&A Act) and the <i>Environmental Planning and Assessment Regulation, 2021</i> (EP&A Regulation). The applicant has addressed permissibility by stating that <i>"the property has enjoyed continuous use as a hospitality venue since 1983 when approval was given to operate a commercial café on the site. The activity on the property then continued to develop as outlined in the table below of historic DA approvals. This table does not encompass all approvals; historic KMC records have been challenging to locate. However, the table does indicate a pattern of continued business operation and development of an accommodation and F&B business on the site since 1983."</i>																																									
<table><tr><th>DA Number</th><th>Date Approved</th><th>Project Approved</th><th>Comment</th></tr><tr><td>06.1982.84</td><td>16 March 1982</td><td>BA Additions to existing dwelling</td><td>Currently managers residence and front office</td></tr><tr><td>05.1983.368</td><td>16 December 1983</td><td>Build commercial cafe</td><td></td></tr><tr><td>06.1988.84</td><td>21 October 1988</td><td>Additions to restaurant</td><td></td></tr><tr><td>05.1988.105</td><td>21 October 1988</td><td>Extend restaurant + 50 car parks</td><td></td></tr><tr><td>06.1989.2</td><td>21 August 1989</td><td>Reception area, conference room</td><td></td></tr><tr><td>06.1990.74</td><td>28 March 1990</td><td>Build swimming pool</td><td></td></tr><tr><td>06.1992.476</td><td>15 February 1993</td><td>Landscape, tennis court, conference room on level 2</td><td>South accommodation building must have been constructed before this time to be able to convert level 2 to a conference room.</td></tr><tr><td>10.1999.154</td><td>20 October 1999</td><td>Motel rooms, conference room.</td><td></td></tr><tr><td>10.2005.173</td><td>14 September 2005</td><td>Refurnish motel, new pool and stairs</td><td>This is the current hotel property</td></tr></table>	DA Number	Date Approved	Project Approved	Comment	06.1982.84	16 March 1982	BA Additions to existing dwelling	Currently managers residence and front office	05.1983.368	16 December 1983	Build commercial cafe		06.1988.84	21 October 1988	Additions to restaurant		05.1988.105	21 October 1988	Extend restaurant + 50 car parks		06.1989.2	21 August 1989	Reception area, conference room		06.1990.74	28 March 1990	Build swimming pool		06.1992.476	15 February 1993	Landscape, tennis court, conference room on level 2	South accommodation building must have been constructed before this time to be able to convert level 2 to a conference room.	10.1999.154	20 October 1999	Motel rooms, conference room.		10.2005.173	14 September 2005	Refurnish motel, new pool and stairs	This is the current hotel property	
DA Number	Date Approved	Project Approved	Comment																																						
06.1982.84	16 March 1982	BA Additions to existing dwelling	Currently managers residence and front office																																						
05.1983.368	16 December 1983	Build commercial cafe																																							
06.1988.84	21 October 1988	Additions to restaurant																																							
05.1988.105	21 October 1988	Extend restaurant + 50 car parks																																							
06.1989.2	21 August 1989	Reception area, conference room																																							
06.1990.74	28 March 1990	Build swimming pool																																							
06.1992.476	15 February 1993	Landscape, tennis court, conference room on level 2	South accommodation building must have been constructed before this time to be able to convert level 2 to a conference room.																																						
10.1999.154	20 October 1999	Motel rooms, conference room.																																							
10.2005.173	14 September 2005	Refurnish motel, new pool and stairs	This is the current hotel property																																						
The Table above, as well as the Table under 'Background', identifies a sample of the development background of the subject site, including approvals relating to the motel, restaurant principally and the conference room (function centre). The day spa (while there is consent for a spa) can be construed as ancillary to the dominant and prevailing use of the site as a hotel/motel. It is evident from the site's development history that relevant approvals have been granted on the site prior to KLEP 2011 coming into effect. However, development consent does not, in itself, go to establishment of existing use. Section 4.65 of the EP&A Act defines an "existing use" to mean -																																									

Item 15.3

Enclosure 1

10.2025.71.1

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and*
- (b) the use of a building, work or land:*
 - (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
 - (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

Section 4.66 of the EP&A Act allows for the continuance of an existing use to operate, provided that the use has not been abandoned. In this respect, Section 4.66(3) of the Act states that a use is presumed to be abandoned, unless the contrary is established, if it ceases to be actually so used for a continuous period of twelve (12) months.

The applicant for the development and the “sole director and shareholder of Bellachara Pty Limited”, has submitted a signed Statutory Declaration confirming:

- “1. The use of the land is not changing. The current and historical usage from at least 1980 has been to provide short term traveller accommodation with associated food and beverage. This usage is intended to continue as supported by the additions requested in the noted development application.*
- 2. The current “existing use” has not been abandoned having regard to the EP&A Act 1979 and EPA Regulation 2021”*

Council does not appear to have record or evidence such that the contrary to the statement can be irrefutably established.

Anecdotally it is general local knowledge that the motel and the Bella Char restaurant have operated from the site for many years, prior to and since the commencement of KLEP 2011.

Section 4.67 of the EP&A Act states:

- (1) The regulations may make provision for or with respect to existing use and, in particular, for or with respect to—*
 - (a) the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use, and*
 - (b) the change of an existing use to another use, and*
 - (c) the enlargement or expansion or intensification of an existing use*

In respect of the proposed development (a) and (c) apply, as in reference to (b) the proposed development does not introduce a change of an existing use to another.

As highlighted earlier, Section 163 of the EP&A Regulation, 2021 enables an “existing use” to:

- (a) be enlarged, expanded or intensified, or*
- (b) be altered or extended, or*
- (c) be rebuilt, or*
- (d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or*
- (e) if it is a commercial use – be changed to another commercial use, including a commercial use that would otherwise be prohibited under the Act, or*

Item 15.3

Enclosure 1

10.2025.71.1

(f) if it is a light industrial use – be changed to another light industrial use or a commercial use, including a light industrial use or commercial use that would otherwise be prohibited under the Act.

In respect of the proposed development (a), (b) and (c) apply.

Section 164 of the EP&A Regulation specifies that development consent is required for any enlargement, expansion or intensification of an existing use. Furthermore, subsection 164(2) states that any such enlargement, expansion or intensification must be:-

*(a) for the existing use and for no other use, and
(b) carried out only on the land on which the existing use was carried out immediately before the relevant date.*

Section 165 of the Regulations specifies that development consent is required for any alteration of a building or work used for an existing use. Furthermore, subsection 165(2) (like subsection 164(2)) states that any such alteration must be:-

*(a) for the existing use of the building or work and for no other use, and
(b) erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.*

The following is highlighted in reference to sections 164 and 165 of the EP&A Regulation:

- The proposed alterations, additions and enlargement to the hotel accommodation and restaurant and ancillary uses are such that the land use of the subject site is being maintained. The signed Statutory Declaration confirms that these uses the same uses as has historically, and continuously, occurred on the site post the land uses becoming non-conforming with the enactment of KLEP 2011.
- The proposed alterations and additions to the existing motel, restaurant and ancillary uses occur upon Lot 900 DP 616677, being the land to which the 'existing use rights' apply.

Having regard to the detail submitted above, it is reasonable to accept that the subject land has the benefit of existing use rights for the purpose of the proposed development. It is generally acknowledged through the Land and Environment Court that consent authorities are to take a reasonably liberal approach to the establishment of existing use, largely on account of the complexities associated with this area of planning law.

The proposed development is for the undertaking of alterations, additions and enlargement to/of the existing motel accommodation, restaurant and ancillary uses. The proposed development is considered to be consistent with the provisions of sections 164 and 165 of the EP&A Regulation and therefore may be granted development consent by Council.

The proposed alterations, additions and enlargement to the hotel accommodation and restaurant and ancillary uses, in light of the above detail and discussion, are deemed to be permissible under the existing use provisions of the *Environmental Planning and Assessment Act, 1979* and *Environmental Planning and Assessment Regulation, 2021* as set out in this discussion.

SECTION 4.15 ASSESSMENT

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

Item 15.3

Enclosure 1

10.2025.71.1

RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

Environmental Planning Instruments
Kiama Local Environmental Plan 2011
State Environmental Planning Policy (Biodiversity and Conservation) 2021
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
State Environmental Planning Policy (Housing) 2021
State Environmental Planning Policy (Industry and Employment) 2021
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development
State Environmental Planning Policy (Planning Systems) 2021
State Environmental Planning Policy (Precincts—Regional) 2021
State Environmental Planning Policy (Primary Production) 2021
State Environmental Planning Policy (Resources and Energy) 2021
State Environmental Planning Policy (Resilience and Hazards) 2021
State Environmental Planning Policy (Sustainable Buildings) 2022
State Environmental Planning Policy (Transport and Infrastructure) 2021
State Environmental Planning Policy (Biodiversity and Conservation) 2021
Chapter 2 Vegetation in non-rural areas
Section 2.6, Chapter 2 of the SEPP (Biodiversity and Conservation) 2021 outlines that consent is required for the clearing of certain vegetation in non-rural areas. Council's Development Control Plan (DCP) 2020 outlines that certain trees can be removed without requiring consent. One hundred and seventeen (117) trees (including 5 dead trees) are proposed to be removed as part of this development. The application was referred to Council's Landscape Officer with recommended conditions of consent provided, where appropriate.
State Environmental Planning Policy (Resilience and Hazards) 2021
Chapter 2 - Coastal Management

Item 15.3

Enclosure 1

10.2025.71.1

Item 15.3

Enclosure 1

The subject land is mapped as coastal use area, coastal environment area and within 100m of coastal wetland under the SEPP.

Under Section 2.8(1): *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—*

- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
- (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

Comment

The subject site is within 100m of the mapped coastal wetland. The proposed development involves additional hard stand area that captures stormwater that is discharged to Fern Street and in turn the saline wetland, which may have detrimental impact.

However, the Integrated Water Cycle Management Report accompanying the application states that the *"post developed site discharge has been reduced to existing levels. The pollution from the site has been reduced by the targets imposed and achieves the requirements outlined in Kiama Council's DCP and WSUD design standards."*

The development is therefore unlikely to have a significant impact on the coastal wetland.

Under Section 2.10(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;*
- (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.*

Additionally, under Section 2.10(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

The development is considered to be acceptable having regard to Section 2.10(1) & (2) of the SEPP. The subject site is heavily disturbed, has a lengthy history of use as a motel with ancillary facilities and uses, and is managed land that falls to Fern Street.

10.2025.71.1

Item 15.3

Enclosure 1

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

Section 2.11(1) of the SEPP states:

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

Comment

The development is considered to be acceptable having regard to Section 2.11(1) of the SEPP. The proposed development:

- does not impede access to coastal features
- does not cause overshadowing or wind funnelling; and
- does not cause the loss of views from public places to foreshores
- does not adversely impact the visual amenity or scenic qualities of the coast, and
- does not adversely impact cultural or built environment heritage.

It is considered that the proposed development does not unduly impact upon the coastal use area, the coastal environment or coastal wetland. The proposed development is acceptable having regard to SEPP.

Chapter 4 - Remediation of Land

Chapter 4 of the SEPP requires Council to consider whether the land is contaminated and if it is contaminated if remediation works are required.

Council is unaware of any historic land use which would deem the site unsuitable for the proposed development, has no record of potential site contamination and therefore the land is considered to be suitable for the proposed use.

The site has a long standing use as a motel with ancillary facilities and uses.

10.2025.71.1

State Environmental Planning Policy (Industry and Employment) 2021	
Chapter 3 – Advertising and signage	
The proposed development does not include advertising or signage of a type that is captured under Chapter 3. Signage involved will be internal directional type signage that will not be visible from the street.	
Kiama LEP 2011	
2.3: Zone objectives and Land Use Table	
The subject land is zoned R2 Low Density Residential pursuant to Kiama LEP 2011. The proposal is defined as a 'hotel or motel accommodation' (a type of 'tourist and visitor accommodation'), a 'restaurant' (a type of 'food and drink premises'), a 'function centre' and spa/massage (recreation facility – indoor) under the provisions of the Kiama LEP 2011, which are prohibited in the R2 Low Density Residential zone. The permissibility of the proposed development depends upon existing use rights for the non-conforming uses. This is discussed in detail above under 'Permissibility of proposed development'. It is accepted that the proposed alterations, additions and enlargement to the hotel accommodation and restaurant and ancillary uses are permissible under the terms of the <i>Environmental Planning and Assessment Act, 1979</i> and <i>Environmental Planning and Assessment Regulation, 2021</i>, which prevail over Kiama LEP 2011. The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	
Zone objectives	Comments
- To provide for the housing needs of the community within a low density residential environment. - To enable other land uses that provide facilities or services to meet the day to day needs of residents. - To increase the supply of secondary dwellings for affordable rental housing stock. - To provide economic and employment opportunities for people who conduct business activities from their homes where these will not adversely affect the amenity of neighbours or the neighbourhood.	The proposed development is inconsistent with the objectives of the zone. Noting that the proposed development constitutes non-conforming uses in the R2 zone, the LEP cannot be applied such as to derogate from the existing use rights the site enjoys. Therefore, the zone objectives cannot be strictly applied to the current non-conforming use the subject of the proposed building alterations, additions, and enlargement of land use.
Other relevant clauses	
Part 2 Permitted or prohibited development	
Comments	Complies/Consistent

Item 15.3

Enclosure 1

10.2025.71.1

2.5: Additional permitted uses for particular land	
Nil	N/A
2.7: Demolition requires development consent	
Demolition is permitted but only with development consent.	Complies
Part 4 Principal development standards	
4.3: Height of buildings	
The height of building map identifies that a maximum building height of 1 - 8.5m applies to the site. Of the development proposed the lift tower and roof of the adjoining stairwell will exceed the building height limit. The lift tower is proposed to have a maximum height of 11.375m above existing ground level and as such does not comply.	Does not comply - See commentary below
4.4: Floor space ratio	
The Floor Space Ratio Map sets a maximum floor space ratio of C - 0.45:1. The overall development on the site inclusive of the proposal achieves an FSR of approximately 0.31:1 and therefore complies.	Complies
4.5: Calculation of floor space ratio and site area	
The floor space ratio for the proposal has been calculated consistent with the matters outlined in Clause 4.5.	Complies
4.6: Exceptions to development standards	
As a preface to this assessment of the clause 4.6 exception request it is acknowledged that where 'existing use rights' for land use is invoked, as it is in this instance, an environmental planning instrument (EPI) such as Kiama LEP 2011 cannot be applied to the extent that it derogates from the existing use rights that the site enjoys. This includes the building height numeric development standard of Kiama LEP 2011 as it would ordinarily apply to development of the land.	
Clause 4.6 Considerations	Commentary
(1) <i>The objectives of this clause are as follows:</i> (a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> (b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>	The proposed development seeks to apply an appropriate degree of flexibility to the numeric height of buildings development standard, as discussed within this assessment. The proposed building height breach relates specifically to a lift tower and adjoining stairwell roof. The lift and stairs is an essential access element for the development and the associated exception to the building height limit will provide better outcomes for the development, and from the development in the overall context of the site by providing articulation of building form and height within the site.

Item 15.3

Enclosure 1

10.2025.71.1

<i>(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.</i>	Clause 4.6 does not exclude the height of buildings development standard under clause 4.3 of the LEP, as verified by subclause 4.6(8). Clause 4.6 operates to enable exception to the maximum building height standard.
<i>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating— (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i>	The proposal includes a formal written request made pursuant to Cl.4.6 to vary the height of buildings development standard for the proposed development. This written request is considered in detail below. Detailed commentary is provided in the Assessment of Clause 4.6 Exception below.
<i>(5) (Repealed)</i>	(Repealed)
<i>(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if— (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</i>	N/A
<i>(7) (Repealed)</i>	(Repealed)
<i>(8) This clause does not allow development consent to be granted for development that would contravene any of the following— (a) a development standard for complying development, (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out</i>	The proposed exception to the height of buildings development standard does not contravene the prescribed matters.

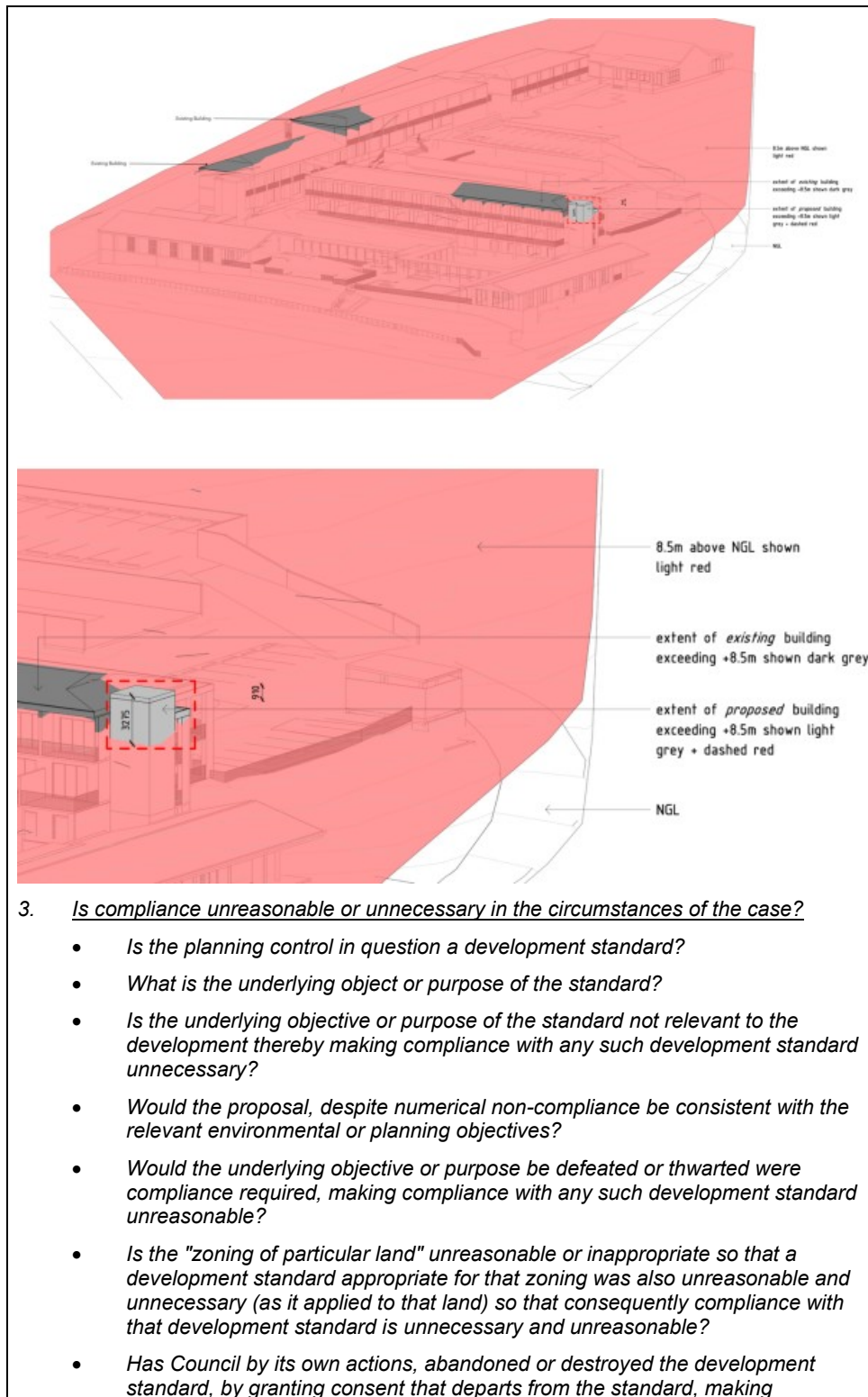
10.2025.71.1

<i>in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,</i> (c) clause 5.4, (caa) clause 5.5.	
Assessment of Clause 4.6 Exception 1. <u>Is the planning control in question a development standard?</u> - Is the control a development standard, or a guideline? - What is the zoning of the land? - What are the objectives of the zone? - Under what clause is the development standard listed? - What are the objectives of the development standard? <u>Comment</u> The expression 'development standards' is defined in section 4(1) of the Environmental Planning and Assessment Act. The key elements of a development standard are as follows: - It must be a provision of an EPI or the regulations made under the Environmental Planning and Assessment Act (thus excluding, among other things, a DCP). - The provision must be one 'in relation to' the carrying out of development. - The provision must be one by or under which one or more requirements are specified, or one or more standards are fixed, in respect of any aspect of that development. In this regard and noting the definition under the Act, the maximum building height requirement pursuant to cl. 4.3 is a development standard, as it prescribes a maximum building height numeric standard for development. 2. <u>What is the development standard being varied?</u> - Is the development standard a performance based control? - What is the numeric value of the development standard? - What is the proposed numeric value of the development standard? - What is the percentage variation (extent of variation)? <u>Comment</u> The development standard proposed to be varied within the application is the building height limit under clause 4.3 of the LEP. The site is subject to an 8.5m building height limit. As illustrated in the building height plane diagram below, parts of the existing buildings at the site, which are not being altered by the proposed development, currently exceed the 8.5m building height limit. These existing building height encroachments are shown in dark grey and are not the subject of this exception request. Of the proposed development, and the subject of this exception request, only the lift tower and roof of the adjoining stairwell, shown in light grey, exceed the building height limit. At its highest point the lift tower is 3275mm above the 8.5m building height line, meaning it has a building height of 11.775m at this point, representing a departure to the development standard of 38.5%.	

Item 15.3

Enclosure 1

10.2025.71.1



Item 15.3

Enclosure 1

10.2025.71.1

compliance with the development standard by others both unnecessary and unreasonable?

- Whether the environmental planning grounds to contravene the standard have in fact been demonstrated?*
- Is the objection well founded?*

Comment

It is highlighted that the proposed roof form sits below the finish level of the roof of existing buildings on more elevated land toward the southern end of the site. The building height breach arises as a consequence of the fall of the land below the proposed lift tower and the requirement for the lift and stairs to service the upper floor motel rooms.

It is generally accepted that the proposal remains consistent with the objectives of the building height standard outlined in subclause 4.3 despite the numerical non-compliance. In this respect each objective is identified and addressed below:

- (a) *to ensure future development is in keeping with the desired scale and character of the street and local area,*

The applicant comments that the *"lift tower is considered to be a minor building element and it occupies a very small percentage of the site."*

The applicant also argues that there *"is no conceivable way in which the lift tower, which is a slender structure, could impact on the desired scale and character of the street and/or local area."*

The lift tower is setback well within the site and is not prominent feature of the development. It is located far enough away from Fern Street such that its presence will be imperceptible to passers-by.

There is little to no chance that the lift tower will be at all highly visible from any other vantage point within the local area. It serves to provide disabled access to an existing two storey building. It is no higher than it reasonable needs to be."

These points are accepted.

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

There is no additional impact upon the neighbours in terms of overshadowing, and no significant impact upon the public domain as a consequence of the proposed height breach.

- (c) *to ensure that the height of buildings on or in the vicinity of a heritage item or within a heritage conservation area respect heritage significance.*

The subject development is in excess of 400m from the nearest heritage-listed item (Chittick Lodge Methodist Church (Item I12)) and is not within direct line of site of the item or the broader visual catchment of the item at ground level. The development is therefore not expected to have an adverse impact on the heritage significance of items within the vicinity of the development.

It is considered that the proposed height breach will not result in any unreasonable additional amenity impacts, such as overshadowing, view loss, privacy loss and the like, as discussed within this report. It is accepted that the proposed building height breach does not, in this instance, result in contravention of the Objectives of the development standard, as outlined above.

The proposed height breach does not contribute to the gross floor area of the overall building.

It is accepted that strict compliance with the development standard is unreasonable and unnecessary in this instance having specific regard to the proposed height breach, its minor extent both numerically and visually in the context of the overall building, and the circumstances of the case.

Item 15.3

Enclosure 1

10.2025.71.1

Item 15.3

Enclosure 1

4. Are there sufficient environmental planning grounds for contravening the standard?

- Have the controls been abandoned?
- Have the cumulative effect of similar approvals undermined the objective of the development standard or the planning objectives for the zone being achieved?
- What is the desired future character?
- Is the proposal consistent/compatible with that desired future character?
- Has any visual intrusion been minimised?
- Whether the environmental planning grounds to contravene the standard have in fact been demonstrated?

The applicant submits the following in response to this:

- “1) The offending building part is of an appropriate form and scale that is compatible with existing development on the site, the existing streetscape and desired future character of the immediate locality.
- 2) The proposed height exceedance does not give rise to unreasonable adverse visual impacts, overshadowing, disruption to views or loss of privacy to neighbouring properties. The exceedance of building height therefore does not result in any unreasonable amenity impact beyond that of a compliant scheme.
- 3) The site has sloping topography that contributes to an exceedance of the height of building development standard.
- 4) The objectives of cl 4.3 of the KLEP include ensure future development is in keeping with the desired character of the street and local area, and to allow reasonable daylight access to all developments and the public domain. The development application meets these objectives despite the breach.
- 5) The area of building height exceedance relates to a portion of building that provides disabled access to the upper levels of an accommodation building, generally set towards the centre of the site and away from site boundaries.
- 6) The proposal is consistent with the objects of the Act insofar as it seeks to promote “the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants”, (Object H).”

Comment

The building height breach associated with the proposed development does not in itself render the development inconsistent with the character or desired future character of the area. The current hotel/motel development on the site is of a building form and land use that is clearly distinct from the neighbouring low density residential area. The acceptability of the building height breach is largely attributable to the existing established land use and built form development on the land, parts of which also project above the 8.5m building height limit. The existing use rights applicable to the site have a role in this, noting that the LEP and its development standards cannot be applied in such a way/to such an extent as to derogate from the existing use rights, in this instance being the hotel/motel for which the lift and stairs are being constructed to service.

As discussed within this report and as is evident with the plans, the proposed offending building element is a narrow structure relative to the broader built form development within the site, and is for the most part a minor element in the overall context of the site.

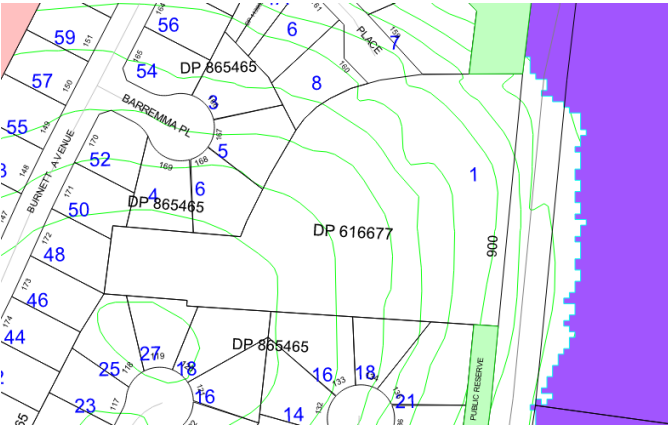
The applicant prudently references the object of the *Environmental Planning & Assessment Act, 1979*, which it is noted goes to ‘environmental planning grounds’ outside of issues relating to environmental impact.

The 8.5m building height limit development standard has in no way been abandoned or should be construed to be abandoned. The exception is explicit to the circumstances of this case.

10.2025.71.1

Having regard to the above, it is accepted that there are sufficient environmental planning grounds for non-compliance with the development standard under the circumstances. 5. <u>Any matter of significance for state or regional environmental planning, and the public benefit of maintaining the standard.</u> • Does granting the variation raise any matters of state or regional significance? • Has the concurrence of the Director-General has been obtained? • How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.? • Is there public benefit in maintaining strict compliance with the standard? <u>Comment</u> The proposed exception is local in its context and scale and is therefore not considered raise any matters of state or regional significance. Strict compliance with the development standard is accepted to be unnecessary and unreasonable under the circumstances of this case as discussed within this assessment. The written request seeking exception has also adequately demonstrated that there are sufficient environmental planning grounds to justify the exceedance of the building height development standard in this instance. The applicant has outlined that the proposal is consistent with the objectives of the height of buildings development standard. The proposed exception is consistent with the objectives of clause 4.3 notwithstanding the numeric non-compliance. As the proposed variation is >10% of the numerical development standard, pursuant to the Guide to Varying Development Standards – November 2023 published by the Department of Planning and Environment, the proposed variation is not able to be determined by Council staff and will be reported to the Elected Council for determination. Council (under delegation) operates at the consent authority. Having regard to this assessment it is considered appropriate to vary the 8.5m building height standard of clause 4.3 of the Kiama LEP 2011 in this instance. Accordingly, the proposed exception is recommended to be supported.	
Part 5 Miscellaneous provisions	
5.10: Heritage conservation	
The subject site is not identified as aboriginal cultural heritage. In assessing the DA a basic AHIMS search was conducted, which identified no known aboriginal site or place recorded or declared within 50m of the subject property. The proposal does not involve a listed heritage item. A listed heritage item is not situated on adjoining land nor is the site within a heritage conservation area. The proposed works include demolition of the existing reception building, which was converted from the original dwelling on the land. During the site visit this building was recognized as potentially having heritage value, and a referral was sent to Council's Heritage officer who attended the site and made the following comment, noting that: <i>"...the cottage has been significantly altered both internally and externally with only a staircase and potentially footings and some aspects of the building, including the roofline, chimneys and upper windows and some doorframes and doors being original elements.</i>	Complies

10.2025.71.1

<i>An internal inspection of the building showed that the lower ground level has been significantly modified, and chimney places removed or boarded up. The upper storey is a private residence and was not inspected. The staircase leading to the first storey of the cottage appears to be original and is in relatively good condition."</i> Council's Heritage Officer raised no objection to the proposed development under the circumstances. The proposal is considered suitable with regard to Clause 5.10.	
5.21: Flood planning	
The subject site is not mapped as being subject to flooding during a 1% AEP flood event. The mapping below is produced from the Ooaree Creek/Werri Lagoon Catchment Flood Study:  The 2m contours illustrate the rise in elevation of the subject site above the mapped flood effected land (shown purple). In numeric terms, based on the Ooaree Ck/Werri Lagoon catchment flood study, the 1% AEP flood level adjacent to allotment is 3.1mAHD, while the probable maximum flood (PMF) level is 4.95m AHD. The land level at the proposed reception, being the lowest habitable element of the development site, is RL6 while the proposed reception has a finish floor level of RL10. In terms of the safe evacuation of people in the event of a flood, flood waters during a 1% AEP event are expected over Fern Street, both north and south of the site. Based on the Ooaree Creek/Werri Lagoon Catchment Flood Study the depth of the flood water over Fern Street south of the site would be in the order of 0.2-0.8m, which would, if necessary, be trafficable for emergency vehicles in the event of an emergency e.g. a medical emergency, as the flood waters are not expected to be fast moving (swift water). Otherwise, evacuation of persons on foot from the site could occur via Illoura Place, which adjoins the site to the north. The road network and pedestrian pathways from this point can be used to access the Gerringong Town Centre in the event of evacuation from the site. It is emphasised that the subject site is flood free, as shown in the diagram above. The proposed development will not be	Complies

Item 15.3

Enclosure 1

35

10.2025.71.1

<i>0.007%. This indicates the soil have a very small portion acidity that could be attributed to sulfur based compounds which can include PASS and non PASS pyritic material, but a large component of the acidity is not ASS related.</i> <i>This level of net acidity is under the NSW EPA trigger level of 0.03% for sands. Based on the laboratory results and given the topographic position and composition of the subsurface conditions, a formal management plan for Acid Sulfate Soils is therefore not deemed required."</i> Having regard to the water table, the Geotech Report found that: <i>"Groundwater was not encountered during the investigation. Slow groundwater seepages are expected to occur within the clayey residua soils, faster seepages are likely to occur within the overlying cobbly fill material. Locally during extend wet weather conditions, some perching of water on the underlying bedrock is likely to occur. However, this is expected to be at depth below the proposed works, except where rock is shallow."</i> On the basis of the Geotechnical Report and having regard to Clause 6.1 it is concluded that: 1) there is a low likelihood of exposing acid sulfate soils; 2) the extent of groundwater likely to be encountered is insignificant and can be managed by way of construction techniques (i.e. tanked basement). The proposed development is satisfactory with regard to the considerations set out in Clause 6.1. Should consent be granted standard condition of consent will be imposed in the event of encountering unexpected acid sulfate soils.	
6.2: Earthworks	
Clause 6.2 lists considerations for proposals which involve earthworks. The proposal complies with the objectives of the clause and as the proposed earthworks are ancillary to the proposed development separate development consent is not required.	Complies
6.4: Terrestrial biodiversity	
The subject site is not mapped as Biodiversity Land. Mapped Terrestrial Biodiversity land is present on the land opposite the subject site (shown green), which is identified as native Saline Wetlands:	Complies

Item 15.3

Enclosure 1

37

10.2025.71.1

The proposed development is consistent with the relevant provisions of the Kiama LEP 2011 but is prohibited within in the R2 Low Density Residential zone. As discussed, the permissibility of the development is dependent upon the existing use provisions of the Environmental Planning & Assessment Act, 1979 and the Environmental Planning & Assessment Regulation, 2000. This is discussed above in detail and it is accepted that the subject site has the benefit of existing use rights for the current and proposed non-conforming use.

ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Nil

KIAMA DEVELOPMENT CONTROL PLAN 2020

The relevant and applicable Chapters of DCP 2020 are identified and discussed below:

Chapter 1: Introduction and administration
The application has been prepared to include documentation and considerations consistent with the requirements in Kiama DCP Chapter 1.
Chapter 2: Site considerations
The proposed development has been supported by an appropriately prepared site analysis plan, is not located on Riparian Land and does not include the removal of vegetation. There are no identified threatened species on the site. The proposed development includes a basement car park associated with the site land use, as well as a pool. Cut and Fill associated with these works will exceed the 1m limit of control 3.3.1. Variation has been sought to this development control, which is discussed below under DCP variations. <u>Flood Prone Land</u> - Floor level control 2.5.2 – <i>All new buildings shall be constructed to the 1% AEP flood level + 0.50m freeboard.</i> The proposed FFL of the internal ground floor of the development is RL 10m AHD. Based on the Ooaree Ck/Werri Lagoon catchment flood study, the 1% AEP flood level adjacent to allotment is 3.1mAHD while the probable maximum flood (PMF) level is 4.95m AHD. The proposed development complies with the prescribed minimum freeboard of 3.6mAHD. Additionally, the proposed development occurs on and above land having an RL of 3.6m AHD, putting it on ground elevated beyond the 1% AEP flood level, as shown in the diagram above under LEP 2011 clause 5.21. The proposed development is not located on land that presents any other land constraints identified in Kiama DCP 2020 - Chapter 2 including Potentially Contaminated Land and Bushfire Prone Land. Acid Sulfate Soils has been suitably addressed (Kiama LEP 2011 clause 6.1).

Item 15.3

Enclosure 1

10.2025.71.1

Chapter 3: Common requirements	
The proposed development has been supported by an appropriately prepared Waste Management Plan and includes a Hazardous Materials Assessment Report. Appropriate visual, acoustic, solar and view amenity has been provided to adjoining properties. Visual impact is discussed in detail below, particularly in response to 'Public Submissions'. The subject site benefits from electricity supply, reticulated sewer and water management. The proposed development appropriately responds to the sites sloping topography and avoids the unnecessary alteration of ground levels. Cut and Fill has been limited to <900mm (approximately 0.78 and 0.75m respectively) and the subject site has a gradient of <20%. Where retaining walls are proposed, the application was referred to Council's Subdivision and Development Engineer with no objection raised subject to recommended conditions. Council's Development Engineer has assessed the Traffic Impact Assessment Report accompanying the development application and has evaluated the on-site car parking requirements for the proposed overall development with the following calculations: <i>"The proposed alterations and additions will result in a total of 75 rooms, an average of 16 staff members, and a combined GFA of 361m² across the proposed restaurant, function room and spa / yoga areas.</i> <i>Based upon the above, Council's DCP requires the following car parking requirements:</i> <i>75 rooms at 1 space per room = 75 spaces</i> <i>Maximum 16 staff = 16 spaces (not including resort manager)</i> <i>Restaurant, spa / yoga room and function room (361m²) at 1 space per 35m² = 11 spaces</i> <i>Therefore, a total of 102 spaces is required.</i> <i>However, Council's DCP also allows a cross-use discount of 25% where it is likely that patrons of the facility will utilise the on-site facilities. As such, the car parking component for the restaurant, spa / yoga room and function room can be reduced to 8 spaces, lowering the total required car parking to 99 car parking spaces.</i> <i>The plans provided detail the provision of a total of 101 car parking spaces."</i> Appropriate car parking arrangements are provided on-site. The proposed development responds adequately to Crime Prevention Through Environmental Design (CPTED) principles.	
Chapter 4: Heritage and cultural conservation	
The subject site is not identified as featuring Aboriginal Cultural Heritage, any listed Item of Heritage and is not located in a Heritage Conservation Area.	
Chapter 7: Commercial premises	
Topic 7.2 Retail Premises – Food and drink premises	

Item 15.3

Enclosure 1

10.2025.71.1

The proposed restaurant is a type of food and drink premises. Topic 7.2 sets out Council's requirements for the fit out (design and construction) and operation (ongoing management) of food and drink premises. The proposed development was referred to Council's Environmental Health Officer's, who have raised no objection in relation to the design and construction and ongoing management of the proposed restaurant. The proposed development satisfies the requirements of Topic 7.2.
Chapter 10: Visitor and accommodation and tourism
While the proposed development is primarily 'hotel or motel accommodation', being a type of 'tourist and visitor accommodation' as defined in KLEP 2011, Chapter 10 of the DCP does not contain a Topic or associated development controls that are specific to hotel or motel accommodation, as is applicable in this instance.

KIAMA DEVELOPMENT CONTROL PLAN – VARIATIONS

Control being varied			
Control 3.3.1 - <i>Cutting and filling is limited to 900mm</i>			
Extent of proposed departure from development standard			
<i>Numerical standard</i>	<i>Proposed solution</i>	<i>Numerical departure</i>	<i>% Departure</i>
900mm	3500mm (basement)	2600mm	289%
Unique circumstances as to why a departure from the acceptable solutions is being sought			
The applicant has sought relaxation of the development control with a detailed submission within the SEE. As part of this the applicant offers the following justification: <i>“The non-compliance relates to a basement car park. The non-compliance does not relate to terracing of land. The purpose of Clause 3.3.1 is to prevent land slippage from garden or land terracing. To enable variance to Clause 3.3.1 the tests in O 1.4.1 need to be satisfied:</i> <i>The basement carpark is necessary to provide sufficient carparking onsite whilst also retaining suitable landscape areas to ensure a satisfactory commercial outcome. The basement carpark requires excavation of up to 4.0m on the southern and western elevations and fill of up to 1.0m in the northeastern corner. In effect the natural slope of the area is being removed to install a basement car park. The ground is being replaced with a properly engineered and constructed basement. This does not create of unstable land. Without this structure the development cannot proceed as sufficient car parks cannot be provided whilst retaining appropriate landscaped area.</i> <i>Clause 3.3.1 limits cut and fill to 900mm. This clause applies to both building form and garden terraces. In this case the building structure poses no risk of land slippage or safety of building occupants. The structure is a basement car park and single-story building above. This will be constructed with appropriate engineering to support and retain the ground around the structure. This will be supported by the building certification process which requires properly engineered and constructed buildings.”</i>			
Demonstrate how the relevant objectives and performance criteria are being met with the performance-based solution			
Objective	Commentary		

10.2025.71.1

O:3.3.1 To ensure dwellings and other ancillary development on unstable land are located and designed to maximise the structural design of buildings and the safety of their occupants	The Geotechnical report accompanying the application indicates the site is stable for and can support the proposed development. The safety of users will not be compromised.
O:3.3.2 To minimise the risk of land slip impacting on habitable buildings and access roads.	As above
Demonstrate how the development will not have any adverse impacts as a result of the performance-based solution	
Balancing the factors of site topography, existing driveway access from which access to the basement car park is obtained, and proposed basement car parking arrangements, it is acknowledged that the proposed development is suitably sited and designed notwithstanding the associated breach of the DCP performance control limiting cut and fill, both internal to the building footprint and external. The urban area of Gerringong is undulating and the proposed variation is not unprecedented in terms of larger scale development both within Gerringong and the broader Municipality. Council's Engineer has raised no concerns with the site or with the proposed development on the basis of land instability or slip, or the associated retaining walls for which condition of consent may be imposed. The proposed variation is supported under the circumstances of the case in this instance.	

ANY PLANNING AGREEMENT

Nil.

ANY MATTERS PRESCRIBED BY THE REGULATIONS

NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast
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.
Clauses 93, 94 and 94A
The proposal involves a change of use and additions and alterations to an existing building. The application is suitably accompanied by reports including foremost a BCA Compliance Report and Fire Services upgrade plans to address these matters.

ANY COASTAL ZONE MANAGEMENT PLAN

Nil.

Item 15.3

Enclosure 1

10.2025.71.1

OTHER KIAMA MUNICIPAL COUNCIL PLANS OR POLICIES

Kiama 7.12 Contribution Plan			
The Kiama 7.12 Contribution Plan applies to all land in the Kiama LGA.			
Is the 7.12 Contribution Plan applicable to the subject site?		Yes	
Do 7.12 Contributions apply to the proposed development?		Yes - relevant s7.12 amount and conditions provided by Council's Contributions Planner.	
Contribution Plan	Cost of Works	Levy %	Contribution
Stage 1	\$3,110,647	1%	\$31,106.00
Stage 2	\$754,430	1%	\$7,554.00
Stage 3	\$6,851,535	1%	\$68,515.00
Stage 4	\$1,022,472	1%	\$10,224.00
Section 7.12 Contribution Plan	\$11,763,083	1%	\$117,630.00

THE LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT

Head of consideration	Comment
Biodiversity	The application proposes clearing of native vegetation and therefore the <i>Environmental Planning and Assessment Act 1979 Part 1 Section 1.7</i> apply to the development. The amount of proposed clearing is within the threshold applying to the site.
Townscape/Streetscape	The proposed buildings include proposed Colorbond roofing in 'Surfmist' finish. Surfmist has a solar absorptance of 0.28. Council's preference, as embodied in Chapter 6 Residential Accommodation, is for roofing materials in residential areas to have a solar absorptance of not less than 0.46. However, this control technically cannot be applied to the proposed development as it is not for residential accommodation, meaning Chapter 6 does not technically apply. As seen in Figure 6, the proposed buildings replace (in the case of Building 03) and nestles amongst existing buildings on the site. In the context of its setting within (toward the edge of) the Gerringong urban area, the more elevated areas of Gerringong toward the south, wherein overlooking of the site is possible, with the established trees and vegetation in Gerringong and the lay of the land, is for the most part a significant distance away (e.g. the eastern end of Belinda St approximately 1.3km). The proposed light coloured roofs will create a degree of visual articulation with the existing buildings on site with their darker (grey) roofs. Over this distance reflected glare and townscape impacts are not expected to be a significant issue. Similarly, eastward of the development site is Werri Beach, wherein houses on the western side of Renfrew Rd look toward the development site. The proposed restaurant (Building 02) with its roof ridge on the north-south axis, will produce reflected glare toward the east. The dwellings in Renfrew Rd are in excess of 400m away, and the proposed built form will largely be absorbed into the Gerringong urban area from this distance and direction. Again, potential

10.2025.71.1

Head of consideration	Comment
	reflected glare from the proposed restaurant building is not expected to be unreasonable. In terms of immediate neighbours, proposed Building 03 (12 accommodation units) is adjacent to dwellings in Cambewarra Place to the south. Proposed Building 03 replaces the existing reception and day spa building. The proposed roof is on the east-west axis (like the existing building), so external to the development site these neighbouring dwellings to the south may experience reflected glare. Of note, these neighbouring dwellings are at approximately the same land level as Building 03 and will not look down upon the roof, and as such will not be fully exposed to reflected roof glare in the way that a neighbouring dwelling directly overlooking the roof expanse would be. These dwellings will mostly be exposed to the southern wall of the proposed building, which will be shaded all year around. Overall the design of the proposed development is considered to be reasonable when considered in relation to the context of the site and, in large part to the established built form. The bulk, scale and design of the proposal is consistent with relevant planning instruments (notwithstanding the numeric building height breach) and is not inconsistent with the prevailing townscape/streetscape.
Noise	It is highlighted that the existing restaurant is proposed to be changed to the function centre, with the restaurant relocated to proposed Building 02 at the front of the site facing Fern Street. The Noise Impact Assessment accompanying the application states that the <i>“proposed function centre will not have any significant changes to its layout or occupancy and therefore will not be considered in this assessment.”</i> The proposed hours of operation of the function centre are: - Monday - Sunday – 8:00am to – 11:30pm Council is mindful that the proposed function centre is immediately adjacent to surrounding neighbouring residential dwellings. While the Noise Impact Assessment accompanying the development application recommends noise limiting of music from speakers in the restaurant and bar area specifically, it makes no such recommendation specific to the function centre. For function centre uses outside of commercial areas Council has generally imposed a limitation on hours of operation to no later than 10:00p.m. primarily on account of noise impact. Such condition was applied to the Greyleigh Function Centre, situated in a rural area. The proposed function centre in a residential area is potentially more sensitive, having residential neighbours in closer quarters. It is therefore recommended that the hours of operation of the function centre be restricted to: - Monday - Saturday – 8:00am to – 10:00pm - Sunday – 8:00am – 9:00pm

10.2025.71.1

Head of consideration	Comment
	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 subject to the imposition of recommended conditions of consent should consent be granted.
Privacy and overlooking	No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.
Overshadowing	Shadow diagrams have been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable.
Views	The proposal will have no unreasonable impact upon views currently available from neighbours.
Vehicular access, parking and manoeuvring	Sufficient car parking is proposed. Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.
Stormwater management	A satisfactory drainage design has been provided with the application, which has been reviewed by Council's Development Engineer. Managed stormwater will be directed to an appropriately designed on-site stormwater management system
Environmental impacts	Fauna Impacts – It is unlikely that the proposal will affect any threatened 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 – Recommend conditions of consent include Sediment and Erosion Controls manage sedimentation during construction.
Natural environment	The proposed development will not have a significant adverse impact on the natural environment.
Built environment	The proposed development will not have a significant adverse impact on the built environment.
Social impacts	The proposed development will not have a negative social impact in the locality.
Economic impacts	The proposed development will not have a negative economic impact in the locality.

Item 15.3

Enclosure 1

10.2025.71.1

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Having regard to the powerful 'existing use rights' that the site enjoys for the established non-conforming uses, the proposal fits within the locality, on the edge of and 'gateway' to the Gerringong township, and the site attributes are considered to be conducive to development.

SUBMISSIONS

Notification letters were sent to neighbouring property owners on 17/06/2025, who were provided with fourteen (14) days in which to comment on the proposal. At the conclusion of the notification period, seven (7) submissions had been received, which raised the following (summarised) matters of concern. The items are listed in descending order of the frequency for which the matter was raised:		
Objection		Assessment officer's comment
Item 1	<u>Noise impact</u> - External southern walkway of building D/E - Restaurant (proposed Building 02) – noise from the restaurant (patrons, service areas, potential late night operations) and noise outside to amenities - Noise from lift - Noise generally (not specific)	The development application is accompanied by an Noise Impact Assessment, which has been reviewed by Council's Environmental Health Officers and who have raised no concern with the proposed development in relation to noise, subject to the imposition of appropriate conditions should consent be granted. In specific reference to the southern walkway of Building D/E and to the opening between the restaurant of the amenities building, the applicant has advised that the walkway will have outdoor carpet applied as the floor finish, which will absorb and reduce noise impact such that it will not be considered to be unreasonable. In terms of noise from the lifts, modern electric lifts within insulated lift shafts are quiet in their operation and are unlikely to result in unreasonable noise impact for neighbours. In terms of operational noise refer to 'The Likely Impacts of the Proposed Development – Noise' above.
Item 2	<u>Privacy loss</u> - External southern walkway of building D/E - External southern walkway of Building 03 - Between the restaurant and amenities	The outer edge of these walkways will be fitted with a 'Λ' shaped louvre along the entire southern edge, of the type illustrated below:

Item 15.3

Enclosure 1

10.2025.71.1

		 This louvre treatment allows for air to circulate while blocking both outward and inward view, therefore there will be no unacceptable impact on privacy of the neighbouring dwellings and their backyards.
Item 3	<u>Lighting</u> Concern was raised about light spill from the proposed development, in particular from the southern walkway of Building D/E and Building 03	The applicant has advised that wall lights will be installed beside each accommodation unit entry door, with the following specifications: - Diameter 20cm - 6 watts - Light output of 550 Lumen  The applicant contends that a usual outdoor light has a light level of 1000 – 1500 Lumens and a security light is 1600 Lumens.

Item 15.3

Enclosure 1

10.2025.71.1

		The applicant also highlights that the 'Λ' shaped louvre ensures that there will be "no direct light emitted from the walkway and certainly indirect light emission will be less than the normal night time emission from an urban environment."
Item 4	<u>Tree removal</u> Concern was expressed about the removal of trees, noting that they provide privacy (screening) and habitat for birds.	While it is unfortunate that the existing established vegetation is largely being removed, compensatory planting will occur with the Landscape Plan that has been reviewed and accepted by Council's Landscape Officer.
Item 5	<u>Smokers</u> Concern was expressed about smokers on the walkways.	This is a matter that will need to be managed internally by the site operator/manager. It would be expected that smoking would not be permitted on the walkways providing access to the motel rooms.
Item 6	<u>Antagonise neighbours dogs</u> Concern was expressed that the intensified use will stimulate the barking of domestic dogs.	It is the responsibility of the dog owners to ensure that their dogs are under control, including their barking.
Item 7	<u>Fire safety and evacuation access</u> Concern is expressed about the external southern walkway building D/E fire safety and evacuation access.	The application is accompanied by a BCA Compliance Report and the application has been reviewed by Council's Building Assessment Officer, with no concerns being raised. This matter will be further considered in the Construction Certificate phase of the development should development consent be granted.
Item 8	<u>Visual impact</u> Concern is expressed about the size (bulk and scale) of the development within the residential area, and that it is out of character.	The Hotel is an established use and existing use right provisions of the EP&A Act permit expansion. In terms of bulk and scale the proposed development satisfies the floor space ratio (0.45:1) development standard of KLEP 2011 applying to the land. In the context of the site area, the size of the building is not excessive. While the buildings are clearly larger than the neighbouring dwellings, the established land use is different.
Item 9	<u>Overshadowing</u> Concern was expressed about loss of sunlight to the objector's backyard	Shadow diagrams of proposed development demonstrate that overshadowing is within acceptable thresholds prescribed in DCP 2020. Council cannot require or impose more onerous performance controls than those contained within the DCP.
Item 10	<u>View loss</u>	The northern view from the objectors property is distant, filtered by vegetation, impeded by existing buildings and the view

10.2025.71.1

	Concern is expressed about the loss of view to the north and north west from the objectors back yard	subject is not of an iconic nature. The view is furthermore across the side of the development site, making protection of the view line more difficult and unreasonably constrictive of development of the site. The concern raised is understood; however, on balance the view loss impact of the proposed development is not considered to warrant refusal of the proposal.
Item 11	<u>Property value</u> Concern is expressed about property devaluation as a consequence of the development.	This is not a matter for consideration under s.4.15 of the Act.
Item 12	<u>Landscaping</u> The suitability of Landscape Plan in relation to screening (privacy) for southern neighbours is queried	The proposed restaurant building (Building 02) and the adjacent proposed amenities buildings have no openings facing south. The height and width of these buildings is residential in scale when viewed from the south. The opening between the buildings will be closed with the incorporation of a 'Λ' shaped louvre along the southern edge, as shown in Item 2 above. The proposed development in this area will not cause privacy loss to the residential neighbour. While it is unfortunate that the existing screening vegetation is largely being removed, compensatory planting will occur with the Landscape Plan that has been reviewed and accepted by Council's Landscape Officer.
Item 13	<u>Interruption to services during construction</u> Concern was expressed about potential interruption to services e.g. power, water during construction.	Some interruption may be experienced during construction; however it is up to developer and service providers to advise if interruption will occur. This cannot be used as a reason to prevent development.
Item 14	<u>Restaurant operating hours</u> It is contended that no details are provided	The proposed operating hours of the restaurant is identified in the noise impact assessment, and are Monday - Sunday – 7:00am to – 11:30pm.
Item 15	<u>Build time?</u> It was queried how long the construction will take.	This is up to the developer/builders/contractors. For business functionality and continuity, the developer will likely be eager for a quick build/avoid delays. It is noted, however, that the development is proposed to occur in stages.

Item 15.3

Enclosure 1

10.2025.71.1

ADDITIONAL INFORMATION

A request for additional information was forwarded to the applicant on 27/06/2025, and on 3/10/2025, requesting details addressing the following:		
Issue		Assessment officer's comment
Item 1	Permissibility – non-conforming use	The applicant submitted development history detail predominantly reiterating that provided in the SEE, but also submitted a signed Statutory Declaration confirming: <i>“1. The use of the land is not changing. The current and historical usage from at least 1980 has been to provide short term traveller accommodation with associated food and beverage. This usage is intended to continue as supported by the additions requested in the noted development application.</i> <i>2. The current “existing use” has not been abandoned having regard to the EP&A Act 1979 and EPA Regulation 2021”</i>
Item 2	Construction dewatering – likely Integrated development	The applicant agreed that the proposed development constituted integrated development. Application was accordingly made to WaterNSW, who have issued their controlled activity approval for the proposed development. This will be incorporated into the development consent notice should consent be granted.
Item 3	DCP 2020 non-compliances	Variation request submitted
Item 4	Building issues: Access report queried and pool fence detail sought	Details submitted
Item 5	Amenity impact – Noise, privacy, light spill - Screen detail, lighting detail and acoustic detail etc requested in response to issues raised in submissions	Details submitted
Item 6	Proposed staging details requested including plans and calculations for HPC purposes	Details submitted

10.2025.71.1

The applicant provided amended plans and commentary on the above matters on 8/07/2025 and on 10/11/2025 to address these matters where appropriate.
The amended plans did not significantly alter the nature of the proposal, no additional notification was undertaken.

EXTERNAL REFERRALS

The application was referred to the following State Government Departments.

External referral	Comments
Sydney Water	No objection subject to recommended conditions.

INTERNAL REFERRALS

The application was referred to the following internal subject matter experts.

Internal referral	Comments
Subdivision and Development Engineer	No objection subject to recommended conditions
Environmental Health Officer	No objection subject to recommended conditions
Landscape Design Officer	No objection subject to recommended conditions
Building Assessment Officer	No objection subject to recommended conditions
Waste Officer	No objection subject to recommended conditions
Contributions Officer	No objection subject to recommended conditions
Property Officer	No objection subject to recommended conditions
Heritage officer	No objection

OTHER APPROVALS

Integrated development	
Agency	Recommendation
WaterNSW	General Terms of Approval issued by WaterNSW (see Water NSW ref. IDAS1162640) – CNR-83222

THE PUBLIC INTEREST

The proposal is considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plan 2020, 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.

Item 15.3

Enclosure 1

10.2025.71.1

FINAL COMMENTS AND CONCLUSIONS

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposal is consistent with Kiama LEP 2011 and relevant Kiama DCP 2020 Chapters.

Where the proposal includes departures from the development standards in the Kiama LEP 2011, the relevant objectives have been satisfactorily addressed and achieved. The permissibility of the proposed development rests with the existing use provisions of the *Environmental Planning and Assessment Act, 1979* and *Environmental Planning and Assessment Regulation, 2021*.

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

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

RECOMMENDATION

I declare that I have no pecuniary or non-pecuniary conflict of interest in the application and recommend that Development Application No 10.2025.71.1 be approved, subject to recommended conditions under Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

Mr B R Elliott
Development Assessment Officer
20/11/2025

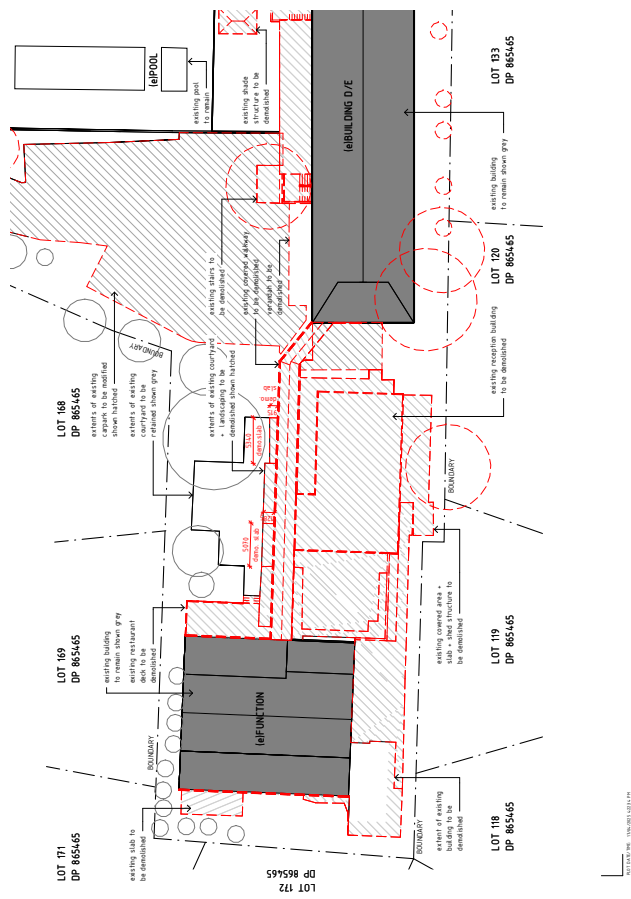
ENDORSEMENT

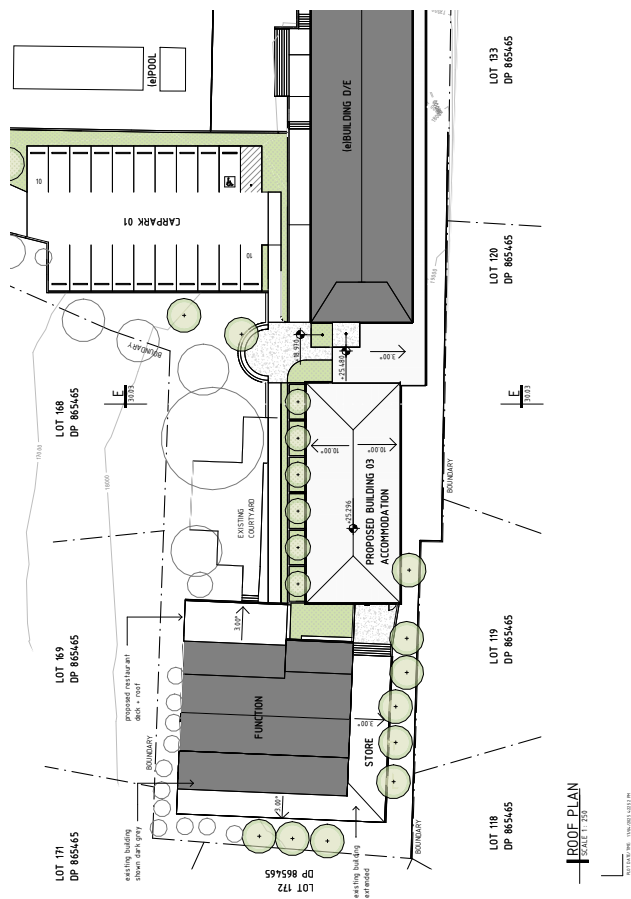
Peter Woodworth
Coordinator Development Assessment
21/11/2025

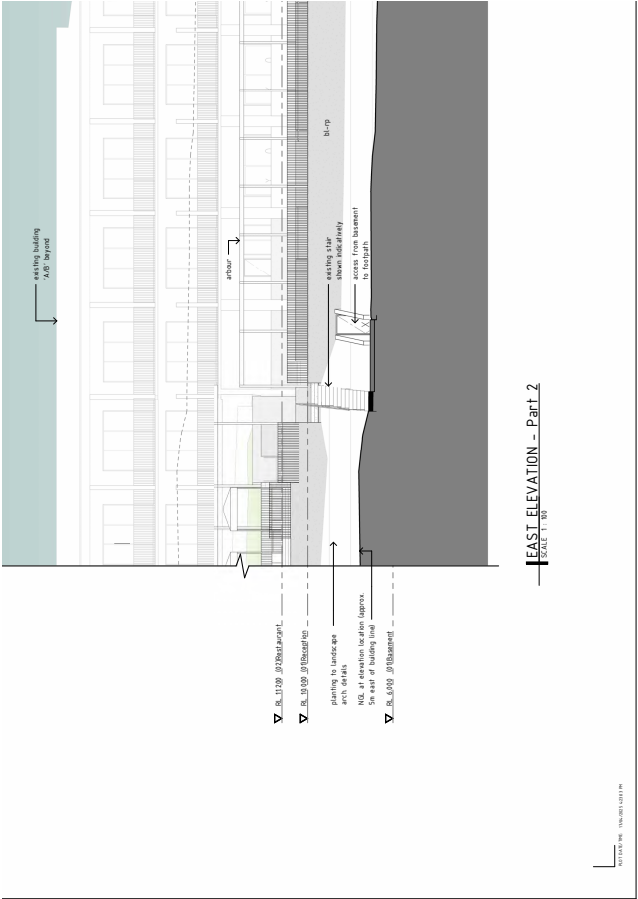
Item 15.3

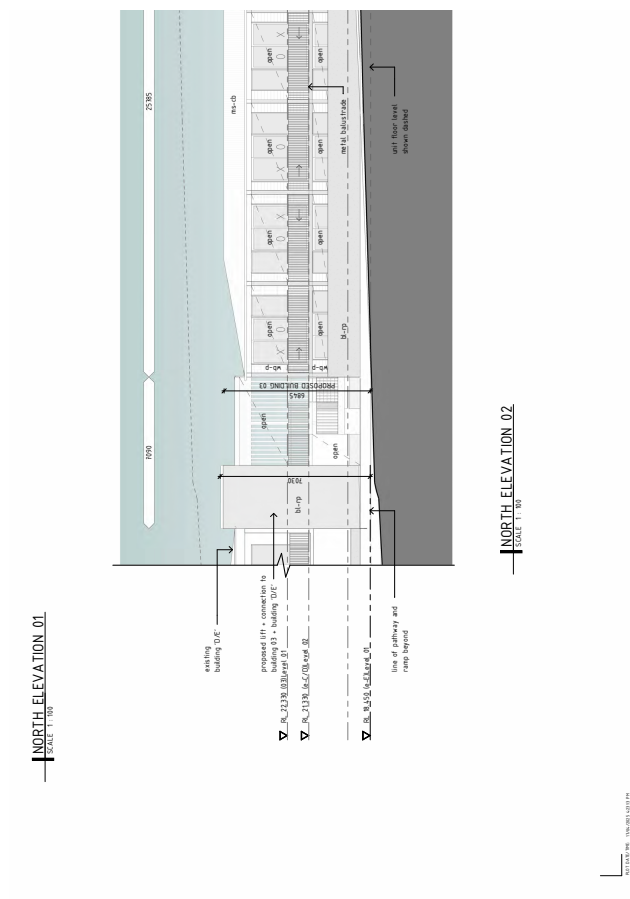
Enclosure 1

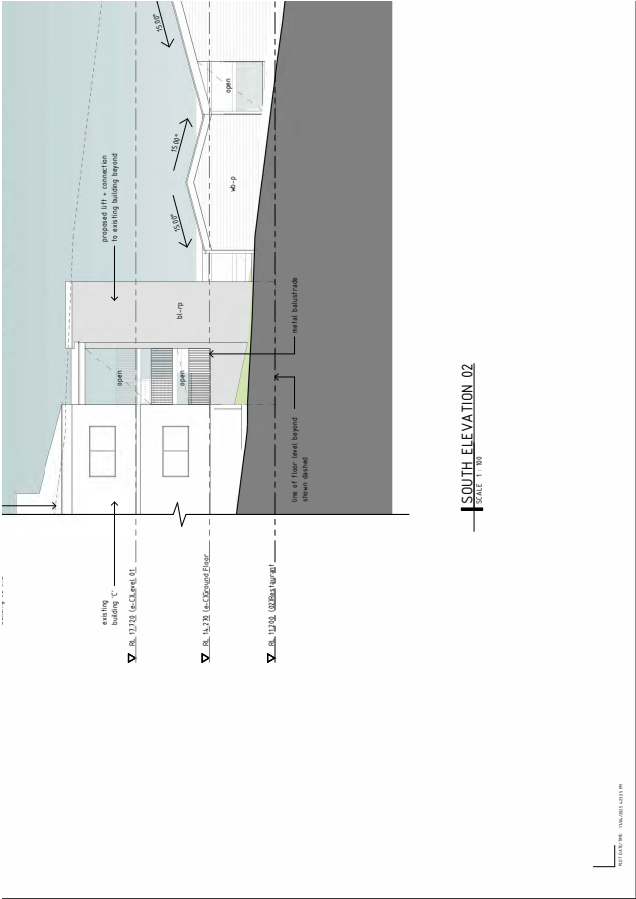


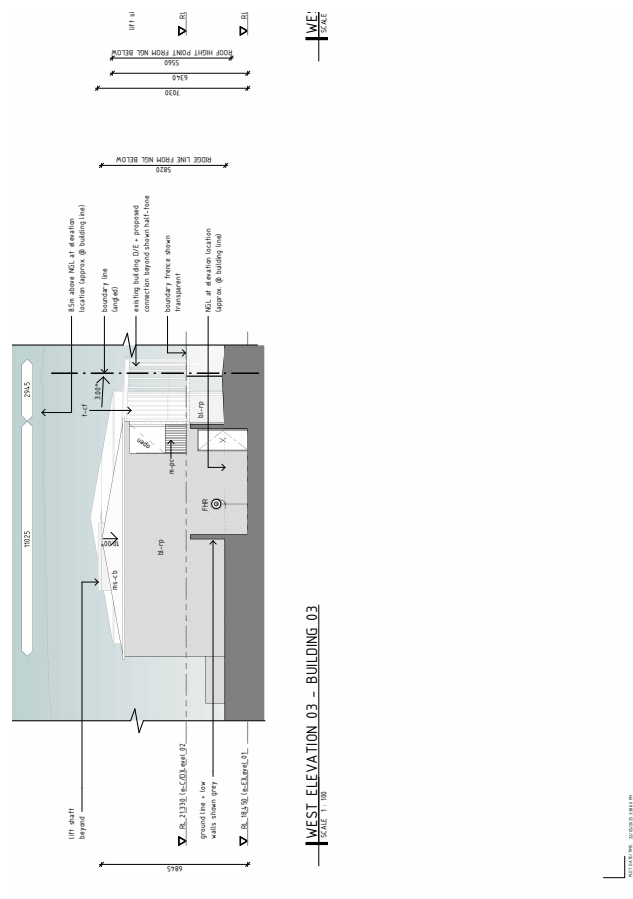


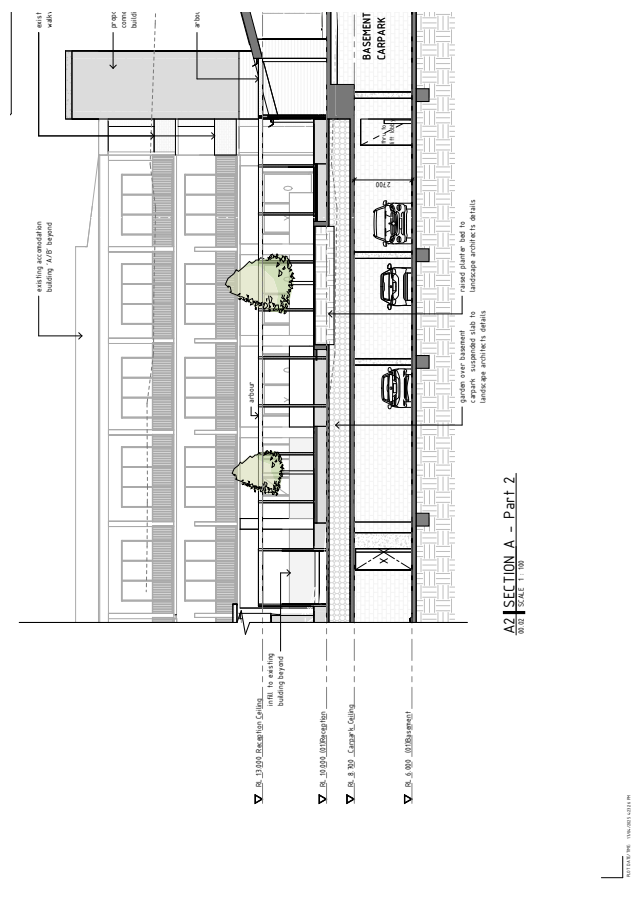


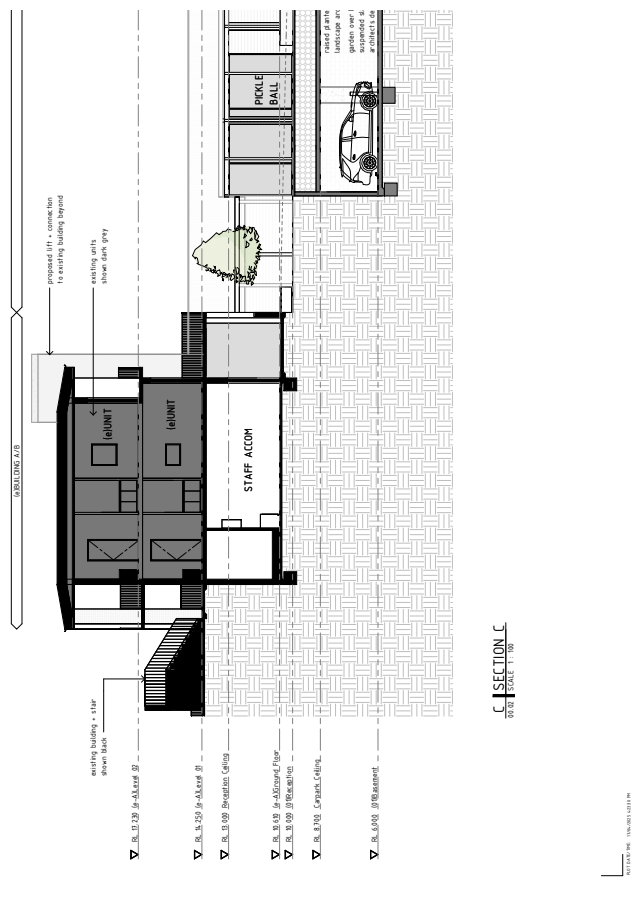


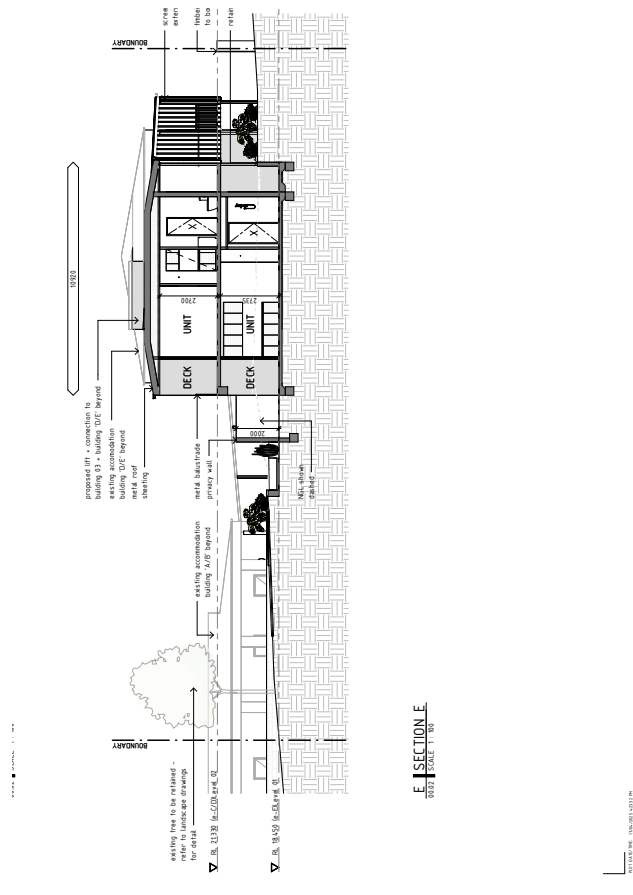














DRAFT

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	10.2025.71.1 PAN-533951
Applicant	Mr S Bartlet 17 Duranbah Drive
Description of development	Alterations and additions to motel accommodation - Convert day spa to 11 x accommodation rooms, construction 12 x new accommodation rooms, new building with car park and reception and spa/gym, new pool, new restaurant, upgrade existing car park and gardens (Staged).
Property	1 Fern Street GERRINGONG NSW 2534 LOT: 900 DP: 616677
Determination	Approved Consent Authority - Council
Date of determination	TBD
Date on which the consent lapses	TBD
Date from which the consent operates	TBD

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 consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

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 R Elliott
Development 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

Item 15.3

Enclosure 3

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.

GENERAL CONDITIONS

1.

Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
-	-	Site Analysis Plan	-	9/04/2025
23022- DD 00.02	D	Site Plan	WN	17/04/2025
23022- DD 10.00	C	Demolition Plan	WN	17/04/2025
23022- DD 10.01	E	Basement plan	WN	17/04/2025
23022- DD 10.02	E	Ground Level Floor Plan	WN	17/04/2025
23022- DD 10.03	E	Level 01 Floor Plan	WN	17/04/2025
23022- DD 10.04	E	Level 02 Floor Plan	WN	17/04/2025
23022- DD 10.05	D	Level 03 Floor Plan	WN	17/04/2025
23022- DD 10.06	A	Restaurant + Reception – Detail Plans	WN	17/04/2025
23022- DD 10.07	A	Building 03 + D/3 – Detail Plans	WN	17/04/2025
23022- DD 11.01	E	Roof Plan	WN	17/04/2025
23022- DD 20.01	E	Elevations	WN	17/04/2025
23022- DD 20.02	C	Elevations	WN	17/04/2025
23022- DD 00.03	C	Elevations	WN	17/04/2025
23022- DD 00.04	A	Elevations	WN	17/04/2025

23022- DD 30.01	E	Sections	WN	17/04/2025
23022- DD 30.02	D	Sections	WN	17/04/2025
23022- DD 30.03	C	Sections	WN	17/04/2025
23022- DD 90.01	A	Height Diagram	WN	29/04/2025
23022- DD 90.02	A	Shadow Diagrams - Existing	WN	29/04/2025
23022- DD 90.03	A	Shadow Diagrams - Proposed	WN	29/04/2025
23022- DD 90.04	A	Shadow Diagrams - Existing	WN	29/04/2025
23022- DD 90.05	A	Shadow Diagrams - Proposed	WN	29/04/2025
23022-FD.01	A	Colours & Materials Schedule	KP Architects	26/05/2025
L1	-	Landscape Site Plan	TK	5/12/2024
L2	-	Existing Site Trees	TK	5/12/2024
L3	-	Proposed Site Trees & Screening	TK	5/12/2024
L4	-	Landscape Plan – Entry Level	TK	5/12/2024
L5	-	Landscape Plan – Level 2	TK	5/12/2024
L6	-	Elevations E & N	TK	5/12/2024
L7	-	Elevations 5	TK	5/12/2024
L8	-	Planting Plan	TK	5/12/2024
L9	-	Plant Legend	TK	5/12/2024
L10	-	Construction Details	TK	5/12/2024
C00	2	Cover Sheet and Drawing List	ROC	5/12/2024

Item 15.3

Enclosure 3

C01	2	Civil Specification Sheet 1	ROC	5/12/2024
C20	2	Sediment & Erosion Control Plan	ROC	5/12/2024
C25	2	Sediment & Erosion Control Details	ROC	5/12/2024
C40	2	Concept Stormwater Plan	ROC	5/12/2024
C41	2	Basement Drainage Plan	ROC	5/12/2024
C42	2	Roof Drainage Plan	ROC	5/12/2024
C43	2	Drains Catchment Plan	ROC	5/12/2024
C44	2	Music Catchment Plan	ROC	5/12/2024
C45	2	Stormwater Details Sheet 1	ROC	5/12/2024
C46	2	Stormwater Details Sheet 2	ROC	5/12/2024
C50	2	Drop Off Zone Vertical Clearance Check Plan	ROC	5/12/2024
FS-01	A	Title Page and Notes	PG	4/07/2024
FS-02	A	New Fire Hydrant System Upgrade – Basement Level Plan	PG	4/07/2024
FS-03	A	New Fire Hydrant System Upgrade – Entry Level Plan	PG	4/07/2024

Item 15.3

Enclosure 3

	FS-04	A	New Fire Hydrant System Upgrade – Level 01 Plan	PG	4/07/2024
	FS-05	A	New Fire Hydrant System Upgrade – Level 02 Plan	PG	4/07/2024
	FS-06	A	New Fire Hydrant System Upgrade – Level 03 Plan	PG	4/07/2024
	FS-07	A	Details Page	PG	4/07/2024
	23022- DD 00.02	D	Staging Plan – Site Plan	WN	17/04/2025
	23022- DD 10.01	E	Staging Plan – Staging Plan - Basement plan	WN	17/04/2025
	23022- DD 10.02	E	Staging Plan - Ground Level Floor Plan	WN	17/04/2025
	23022- DD 10.03	E	Staging Plan – Level 01 Floor Plan	WN	17/04/2025
	23022- DD 10.04	E	Staging Plan – Level 02 Floor Plan	WN	17/04/2025
	23022- DD 10.05	D	Staging Plan – Level 03 Floor Plan	WN	17/04/2025
	23022- DD 20.01	E	Staging Plan – Elevations	WN	17/04/2025
	23022- DD 20.02	C	Staging Plan – Elevations	WN	17/04/2025
	23022- DD 00.03	C	Staging Plan – Elevations	WN	17/04/2025
	-	-	Privacy screen detail and external lighting detail –	Stephen Bartlett	7/10/2025

			Building 02, 03 and D/E		
-	-		Privacy screen location – Elevation Building 03 and D/E	Stephen Bartlett	7/10/2025
-	-		Privacy screen location – Floor Plan Building 03 and D/E	Stephen Bartlett	7/10/2025
-	-		Privacy screen location – Elevation Building 02	Stephen Bartlett	7/10/2025
-	-		Pool fence location plan	Stephen Bartlett	7/10/2025
-	-		Pool fence elevation	Stephen Bartlett	7/10/2025

Approved Documents			
Document title	Version number	Prepared by	Date of document
Noise Impact Assessment	0	Rodney Stevens Acoustics	12/03/2025
Traffic Impact Assessment Report	Final	Lyle Marshall & Partners Pty Ltd	4/12/2024
Building Code of Australia Compliance Report	1	AMG Building Consultancy Pty Ltd	13/08/2024
Building Disability Access Report	-	Access Matters	9/12/2024
Geotechnical Report	0	Terra Insight	7/09/2024
Integrated Water Cycle Management Report	2	ROC Engineering	5/12/2024
Section J Report	DMN/16/1737	Ausnviro Pty Ltd	16/09/2024
Power Assessment Report	-	AKH Design Services	23/07/2024

	In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and the condition of this consent, the condition prevails. Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.										
2.	Prescribed conditions The development must comply with Part 4, Division 2, Subdivision 1, of the Environmental Planning and Assessment Regulation 2021, as applicable. Condition Reason: To ensure the development is carried out in accordance with the relevant legislation.										
3.	Staging of development Consent is given for the development in accordance with the approved staging plan. <table border="1"> <thead> <tr> <th>Stage</th><th>Development approved under each stage</th></tr> </thead> <tbody> <tr> <td>1</td><td>Pool replacement, pickle ball court, drop off driveway and landscaping works.</td></tr> <tr> <td>2</td><td>Convert function room in Building D/E to 11 additional accommodation units (Unit 01 - 11)</td></tr> <tr> <td>3</td><td>Construct new reception/office/spa and demolish the existing reception/office/spa. Construct new restaurant and bar and associated bathrooms (Building 02) and basement car park. Existing restaurant/bar becomes the new function room.</td></tr> <tr> <td>4</td><td>Construct Building 03 - 12 additional accommodation units (Unit 01 - 12)</td></tr> </tbody> </table> The conditions in this consent apply to all stages unless otherwise specified. Condition Reason: To ensure ongoing compliance.	Stage	Development approved under each stage	1	Pool replacement, pickle ball court, drop off driveway and landscaping works.	2	Convert function room in Building D/E to 11 additional accommodation units (Unit 01 - 11)	3	Construct new reception/office/spa and demolish the existing reception/office/spa. Construct new restaurant and bar and associated bathrooms (Building 02) and basement car park. Existing restaurant/bar becomes the new function room.	4	Construct Building 03 - 12 additional accommodation units (Unit 01 - 12)
Stage	Development approved under each stage										
1	Pool replacement, pickle ball court, drop off driveway and landscaping works.										
2	Convert function room in Building D/E to 11 additional accommodation units (Unit 01 - 11)										
3	Construct new reception/office/spa and demolish the existing reception/office/spa. Construct new restaurant and bar and associated bathrooms (Building 02) and basement car park. Existing restaurant/bar becomes the new function room.										
4	Construct Building 03 - 12 additional accommodation units (Unit 01 - 12)										
4.	Scope of consent The scope of this consent is limited to only the works as described under this consent, and it does not approve or imply approval, of any existing unlawful works that may be present on the site. Condition Reason: To establish the scope of work approved under this development consent.										
5.	WaterNSW										

	The General Terms of Approval issued by WaterNSW, referenced as an approved document of this consent, are included as conditions of this consent and must be complied with.
	Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.
6.	Concurrence and Referral – Sydney Water The recommended conditions issued by Sydney Water, Reference No: CNR-83222, dated 23/06/2025, pages 3, 4 and 5 are included as conditions of this consent and must be complied with.
	Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.

Item 15.3

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

7.	Asbestos removal signage – Stage 2, 3 & 4 Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.
	Condition Reason: To alert the public to any danger arising from the removal of asbestos.
8.	Notice of commencement for demolition – Stage 2, 3 & 4 At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include: a) name b) address c) contact telephone number d) licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor, and e) the contact telephone number of council and f) the contact telephone number of SafeWork NSW (4921 2900).
	Condition Reason: To advise neighbours about the commencement of demolition work and provide contact details for enquiries.

Enclosure 3

9.	Protection of adjoining land – Stage 2, 3 & 4 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 – - could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or - could cause damage to adjoining land by falling objects, or - involve the enclosure of a public place or part of a public place.
	Condition Reason: To ensure public safety.
10.	Deliveries – Stage 2, 3 & 4 While site work is being carried out, deliveries of material and equipment must only be carried out between— 7.00am to 5.00pm on Mondays to Fridays, and 8.00am to 1.00pm on Saturdays No deliveries are to take place on Sundays or Public Holidays.
	Condition Reason: To protect the amenity of neighbouring properties.
11.	Demolition Management Plan – Stage 2, 3 & 4 Before demolition work commences, a Demolition Management Plan must be prepared by a suitably qualified person and provided to the Principal Certifier. The Demolition Management Plan must be prepared in accordance with Australian Standard 2601 – The Demolition of Structures, the Code of Practice – Demolition Work, Kiama Development Control Plan 2020 and must include the following matters: - The proposed demolition methods - The materials for and location of protective fencing and any hoardings to the perimeter of the site - Details on the provision of safe access to and from the site during demolition work, including pedestrian and vehicular site access points and construction activity zones - Details of demolition traffic management, including proposed truck movements to and from the site, estimated frequency of those movements, and compliance with AS 1742.3 Traffic Control for Works on Roads and parking for vehicles - Protective measures for on-site tree preservation and trees in adjoining public domain (if applicable) (including in accordance with AS 4970-2009 Protection of trees on development sites and Kiama Development Control Plan 2020 - Erosion and sediment control measures which are to be implemented during demolition and methods to prevent material being tracked off the site onto surrounding roadways - Noise and vibration control measures, in accordance with any Noise and Vibration Control Plan approved under this consent

	h) Details of the equipment that is to be used to carry out demolition work and the method of loading and unloading excavation and other machines i) Details of any bulk earthworks to be carried out j) Details of re-use and disposal of demolition waste material in accordance with Kiama Development Control Plan 2020 k) Location of any reusable demolition waste materials to be stored on-site (pending future use) l) Location and type of temporary toilets onsite m) A garbage container with a tight-fitting lid. Condition Reason: To provide details of measures for the safe and appropriate disposal of demolition waste and the protection of the public and surrounding environment during the carrying out of demolition works on the site.
12.	Payment of security deposits – Stage 2 Before demolition work commences, the applicant must: a) make payment of \$16,500.00 for a security deposit to the consent authority, and 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. The bond will be held by the consent authority until completion of the overall development. Condition Reason: To ensure any damage to public infrastructure is rectified and public works can be completed.
13.	Utilities and services 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. Condition Reason: To ensure appropriate safety measures are undertaken.
14.	Works within the road reserve Before undertaking any works within an existing road reserve, approval under section 138 of the <i>Roads Act, 1993</i> must be obtained. The following details must be submitted to Council as part of the application: 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. Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.

DURING DEMOLITION WORK

15.	Handling of asbestos during demolition – Stage 2, 3 & 4 While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements: 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. Condition Reason: To ensure the removal of asbestos is undertaken safely and professionally.
16.	Waste management – Stage 2, 3 & 4 While demolition work is being carried out: 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: 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. 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. Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste.
17.	Site maintenance – Stage 2, 3 & 4 While demolition work is being carried out, the following requirements, as specified in the approved demolition management plan, must be maintained until the demolition work and demolition waste removal are complete:

Item 15.3

Enclosure 3

	a) Protective fencing and any hoardings to the perimeter on the site b) Access to and from the site c) Construction traffic management measures d) Protective measures for on-site tree preservation and trees in adjoining public domain e) Onsite temporary toilets f) A garbage container with a tight-fitting lid.
	Condition Reason: To protect workers, the public and the environment.
18.	Noise – demolition and construction – Stage 2, 3 & 4 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.
	Condition Reason: To ensure consideration of neighbouring uses.
19.	Implementation of the site management plans While site work is being carried out: 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.
	Condition Reason: To ensure site management measures are implemented during the carrying out of site work.
20.	Hours of work Site work must only be carried out between the following times: • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays 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.
	Condition Reason: To protect the amenity of the surrounding area.
21.	Demolition Any demolition must be carried out in accordance with AS 2601-2001 The demolition of structures.
	Condition Reason: To ensure safety and other appropriate measures are undertaken.

ON COMPLETION OF DEMOLITION WORK

22.	Waste disposal verification statement – Stage 2, 3 & 4 On completion of demolition work: 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.
	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.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

23.	Waste Management Plan – an approved document of this consent Before the issue of a Construction Certificate, a Waste Management Plan for the development must be provided to the Certifier. Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.										
24.	Local infrastructure contributions 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 for the relevant stage: <table border="1" data-bbox="395 1509 1292 1760"><tr><td>Section 7.12 Contribution – Stage 1</td><td>\$31,106.00</td></tr><tr><td>Section 7.12 Contribution – Stage 2</td><td>\$7,454.00</td></tr><tr><td>Section 7.12 Contribution – Stage 3</td><td>\$68,515.00</td></tr><tr><td>Section 7.12 Contribution – Stage 4</td><td>\$10,225.00</td></tr><tr><td>Total Section 7.12 Contribution Amount</td><td>\$117,300.00</td></tr></table> The contribution amount for each stage 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.	Section 7.12 Contribution – Stage 1	\$31,106.00	Section 7.12 Contribution – Stage 2	\$7,454.00	Section 7.12 Contribution – Stage 3	\$68,515.00	Section 7.12 Contribution – Stage 4	\$10,225.00	Total Section 7.12 Contribution Amount	\$117,300.00
Section 7.12 Contribution – Stage 1	\$31,106.00										
Section 7.12 Contribution – Stage 2	\$7,454.00										
Section 7.12 Contribution – Stage 3	\$68,515.00										
Section 7.12 Contribution – Stage 4	\$10,225.00										
Total Section 7.12 Contribution Amount	\$117,300.00										

	Condition Reason: To ensure contributions are levied toward the provision of public infrastructure.												
25.	Housing and productivity contribution Before the issue of a Construction Certificate for the development, a housing and productivity contribution (HPC) is required to be made: <table border="1"> <thead> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> </thead> <tbody> <tr> <td>Stage 1</td><td>\$0.00</td></tr> <tr> <td>Stage 2</td><td>\$0.00</td></tr> <tr> <td>Stage 3</td><td>\$30,834.49</td></tr> <tr> <td>Stage 4</td><td>\$16,169.55</td></tr> <tr> <td>TOTAL Housing and Productivity Contribution</td><td>\$47,044.44</td></tr> </tbody> </table> The HPC amount payable at the time of payment will be adjusted for indexation using Producer Price Index (PPI) in accordance with the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>. The HPC must be paid using the NSW planning portal: https://pp.planningportal.nsw.gov.au/ Further information can be found here: https://www.planning.nsw.gov.au. Condition Reason: To ensure contributions are levied toward the provision of regional infrastructure.	Housing and productivity contribution	Amount	Stage 1	\$0.00	Stage 2	\$0.00	Stage 3	\$30,834.49	Stage 4	\$16,169.55	TOTAL Housing and Productivity Contribution	\$47,044.44
Housing and productivity contribution	Amount												
Stage 1	\$0.00												
Stage 2	\$0.00												
Stage 3	\$30,834.49												
Stage 4	\$16,169.55												
TOTAL Housing and Productivity Contribution	\$47,044.44												
26.	Erosion and sediment control plan 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: - the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), - the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure) (dated 2024, as amended from time to time), and - measures to ensure any excavated material deposited on public roads from works is removed within the same day. Condition Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.												
27.	Construction Site Management Plan 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:												

	a) The location and materials for protective fencing and hoardings on the perimeter of the site; b) Provisions for public safety; c) Pedestrian and vehicular site access points and construction activity zones; d) Details of construction traffic management including: 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; e) Details of bulk earthworks to be carried out; f) The location of site storage areas and sheds; g) The equipment used to carry out works; h) The location of a garbage container with a tight-fitting lid; i) Dust, noise and vibration control measures; j) The location of temporary toilets; k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: i) AS 4970 – Protection of trees on development sites; ii) An applicable Development Control Plan; iii) An arborist's report approved as part of this consent A copy of the Construction Site Management Plan must be kept on-site at all times while work is being carried out.
	Condition Reason: To require details of measures that will protect the public and the surrounding environment, during site works and construction.
28.	Utilities and services Before the issue of the relevant Construction Certificate, written evidence of the following service provider requirements must be provided to the Certifier: 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.
	Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.
29.	Preparation of construction and fit out plans for food and drink premises – Stage 3

	Before the issue of a Construction Certificate, detailed plans of all food and beverage preparation, serving and storage areas (including for perishable stock, waste, chemicals and personal belongings) must be prepared by a suitably qualified person. The detailed plans must be prepared in accordance with the following editions in force on the date of determination and provided to the Certifier: a) Food Standards Code (Australia) and Food Safety Standard 3.2.3 – Food Premises and Equipment; b) Food Act 2003 and Food Regulation 2015; c) Australian Standard 4674:2004:Design, Construction and Fit-out of Food Premises; d) Plumbing Code of Australia and Australian Standard/New Zealand Standard AS/NZS 3500 series on Plumbing and Drainage; e) Sydney Water commercial trade wastewater requirements for food premises, and f) any relevant Water Services Association of Australia codes of practice, guidelines, policies and requirements.
	Condition Reason: To ensure detailed construction and fit out plans are submitted which comply with the relevant standards.
30.	Construction Environmental Management Plan (CEMP) Before the issue of the Construction Certificate, a Construction Environmental Management Plan (CEMP) in accordance with ISO 14001 must be submitted to the Certifier.
	Condition Reason: To ensure management of environmental impacts.
31.	Release of securities When Council receives an Occupation Certificate at completion of the overall development, an application may be lodged to release the securities held.
	Condition Reason: To allow release of securities where the terms and conditions for the securities have been met to Council's satisfaction.
32.	Drainage and stormwater Before the issue of a Construction Certificate, a Detailed Drainage Plan generally in accordance with the Concept Drainage Plan/Plans approved under this consent must be submitted to the Certifier for approval. This plan must show the connection of stormwater into the existing system, and that surface water which is likely to discharge from the development site onto the road reserve will be intercepted at the property boundary and conveyed to the street. All drainage works shall be undertaken in accordance with the requirements of Australian Standard AS 3500.3:2018.
	Condition Reason: To ensure stormwater disposal is adequate for the site.

33.	Soil and Water Management Plans (SWMP) Before the issue of a Construction Certificate, a Soil and Water Management Plan must be prepared by a Professional Engineer (as defined in the National Construction Code), to the satisfaction of the Certifier. All implementation measures must: - not cause water pollution as defined by the <i>Protection of the Environment Operations Act 1997</i> (POEO). - be maintained at all times. - not be decommissioned until at least 70% revegetation cover has been established. - measures to ensure any excavated material deposited on public roads from works is removed within the same day. Condition Reason: To ensure appropriate measures are in place.
34.	Nuisance overland flow 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. Condition Reason: To ensure adequate provisions are made for stormwater run-off.
35.	On-site detention storage Before the issue of the Construction Certificate, the applicant must provide the following to the Certifier: - on-site detention storage for stormwater run-off in conjunction with the proposed development drainage network generally in accordance with the Concept Drainage Plan referenced as an approved document of this. The on-site detention system shall be designed by a registered civil engineer ensuring that post development flow rates from the site are no greater than pre-developed site run-off at each discharge point for all rainfall events up to 1% Annual Exceedance Probability. - full hydrological and hydraulic computer modelling of the stormwater drainage system for assessment and approval. Condition Reason: To ensure the on-site detention storage is adequately for the development.
36.	Parking areas – Stage 2, 3 & 4 Before the issue of any Construction Certificate, the Certifier shall ensure that the following requirements have been met: car parking spaces, parking aisles, blind aisles, access driveways, circulation roadways and ramps comply with the requirements of the following Australian Standards:

	i) AS 2890.1 – 2004 Off-street car parking; ii) AS 2890.2 – 2002 Off-street commercial vehicle facilities; iii) AS 2890.3 – 2015 Bicycle Parking; and iv) AS 2890.6 – 2009 Off-street for people with disabilities. 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. c) access and manoeuvring into the proposed delivery areas for all commercial vehicles shall comply with Australian Standard AS 2890.2 - 2002 Off-street commercial vehicle facilities.
	Condition Reason: To ensure the car parking area requirements are met.
37.	Long Service Levy 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.
	Condition Reason: To ensure the long service levy is paid.
38.	Structural Engineer's details – Stage 2 Before the issue of a Construction Certificate, structural engineering plans are to be prepared by a Professional Engineer (as defined by the NCC) to confirm the existing structure is capable of supporting the proposed additional loadings.
	Condition Reason: To ensure the structural integrity of the building is not compromised.

BEFORE BUILDING WORK COMMENCES

39.	Construction Certificate A Construction Certificate must be obtained from either Council or a Certifier before any building work can commence.
	Condition Reason: To comply with Council's requirements before the commencement of works.
40.	Appointment of Principal Certifier Before building work commences a Principal Certifier must be appointed.
	Condition Reason: To ensure ongoing compliance.
41.	Tree protection measures

	Before any site work commences the Certifier must be satisfied the measures for the tree protection detailed in the Construction Site Management Plan are in place.
	Condition Reason: To protect and retain trees.
42.	Deliveries While site work is being carried out, deliveries of material and equipment must only be carried out between— • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays No deliveries are to take place on Sundays or Public Holidays.
	Condition Reason: To protect the amenity of neighbouring properties.
43.	Waste Management Plan – an approved document of this consent Before site work commences, a Waste Management Plan for the development must be provided to the Certifier.
	Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.
44.	Erosion and sediment control plan Before site work commences, 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: a) the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), b) the 'Guidelines for Erosion and Sediment Control on Building Sites' (Department of Planning, Housing and Infrastructure) (dated 2024, as amended from time to time), and c) measures to ensure any excavated material deposited on public roads from works is removed within the same day.
	Condition Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.
45.	Erosion and sediment controls in place 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 restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).
	Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

46.	Contamination – Unexpected Finds Protocol Before work commences on site, an Unexpected Finds Protocol is to be developed by an appropriately qualified environmental consultant and be submitted to the certifier. The Unexpected Finds Protocol is to address the management of any potential contamination found on the site and is to be complied with at all times for the duration of site works.
	Condition Reason: To ensure procedures are in place to identify and manage unexpected contamination finds appropriately.
47.	Construction Traffic Management Plan Before the commencement of works, a Construction Traffic Management Plan detailing the proposed method of dealing with construction traffic and parking must be approved by Council. Details must include, but are not limited to: a) Stabilised site construction access location b) Proposed haulage routes for delivery for materials to the site c) Proposed haulage routes for spoil disposal from the site d) Traffic control planning for each of the various phases of construction and/or vehicle movements associated with construction e) Parking arrangements for construction employees and contractors f) Proposed maintenance of the haulage routes and the name of the person responsible for such maintenance g) Loading/unloading areas h) Requirements for construction or work zones i) Pedestrian and cyclist safety j) Speed zone restrictions Condition Reason: To require details of measures that will protect the public and the surrounding environment, during site works and construction.
48.	Retaining walls 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. Condition Reason: To ensure adequate design provisions are met.
49.	Pre-construction Dilapidation report – Stage 3 & 4 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. 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).

	Condition Reason: To identify any existing damage to adjoining properties before site work commences.
50.	Toilet facilities - temporary 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. Each toilet must: • 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>.
	Condition Reason: To ensure appropriate amenities onsite.

DURING BUILDING WORK

51.	Waste management While site work is being carried out: 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 the Certifier, detailing the following: 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. 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.
	Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste.
52.	Tree protection during work While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with: a) the Construction Site Management Plan required under this consent, b) the relevant requirements of AS 4970 Protection of trees on development sites,

	c) Chapter 2, Topic 2.4 – Tree Preservation and Vegetation Management of Kiama Development Control Plan 2020 (in force as at the date of determination of this consent), and d) any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.
	Condition Reason: To protect trees during the carrying out of site work.
53.	Hours of work Site work must only be carried out between the following times: • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays 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.
	Condition Reason: To protect the amenity of the surrounding area.
54.	Soil management 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: 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 and the classification and the volume of material removed must be reported to the Certifier; b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>.
	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.
55.	Acid sulfate soils – unexpected finds If acid sulfate soils are encountered during excavation and/or construction works, all work must cease and Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can commence.
	Condition Reason: To appropriately manage acid sulphate soils which when disturbed or exposed to air can release acid, damaging built structures and harming or killing animals and plants.

56.	Contamination – unexpected finds If any unexpected contamination finds are encountered during any site works, all work must cease and Council notified immediately. The nature and extent of contamination must be assessed by a qualified environmental consultant with experience in the assessment of contaminated land and a preliminary assessment provided to Council. Council will determine whether further contamination assessment and/or remediation is required before works can recommence.
	Condition Reason: To protect public and environmental health.
57.	Noise and vibration requirements While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at a lot boundary of the site.
	Condition Reason: To protect the amenity of the neighbourhood during construction.
58.	Earthworks All earthworks associated with the development shall be completed in accordance with AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
	Condition Reason: To ensure all earthworks are carried out in accordance with the Australian Standards.
59.	Procedure for critical stage inspections 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.
	Condition Reason: To require approval to proceed with building work following each critical stage inspection.
60.	Implementation of the Site Management Plans While site work is being carried out: 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.
	Condition Reason: To ensure site management measures are implemented during the carrying out of site work.
61.	Swimming pool safety during construction – Stage 1 A child-resistant barrier must be erected during the construction of the swimming pool. The barrier must comply with: 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. 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: 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. Condition Reason: To ensure compliance with relevant safety measures.
62.	Discovery of relics and Aboriginal objects While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered: a) the work in the area of the discovery must cease immediately b) the following must be notified 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. Site work may recommence at a time confirmed in writing by: 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. Condition Reason: To ensure the protection of objects of potential significance during works.
63.	Surveys by a registered surveyor – Stage 2, 3 & 4 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: a) all footings/foundations in relation to the site boundaries and any registered and proposed easements, b) at other stages of construction – Reduced Levels (RLs) and any marks that are required by the Principal Certifier. Condition Reason: To ensure buildings are sited and positions in the approved location.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

64.	Removal of waste upon completion Before the issue of an Occupation Certificate: 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. Condition Reason: To ensure waste material is appropriately disposed or satisfactorily stored.
65.	Notice of food business – Stage 3 Before the issue of an Occupation Certificate, Council and any other appropriate enforcement agency must be notified of the food business in accordance with the NSW Food Act 2003 and the Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements. Condition Reason: To enable council to ensure compliance with the consent when the business is operating.
66.	Food premises final inspection – Stage 3 Before the issue of an Occupation Certificate, the food premises shall be inspected by an Authorised Officer of the Kiama Municipal Council under the <i>Food Act 2003</i>, to determine compliance with the <i>Food Act 2003</i>, Food Safety Standards and Australian Standard 4674:2004: Design, Construction and Fit-out of Food Premises. Condition Reason: To enable council to ensure compliance with the <i>Food Act 2003</i> before the business commences.
67.	Public swimming pool – automated dosing system – Stage 1 Before the issue of the any occupation certificate, the Public Swimming Pool must be fitted with a continuous or automated dosing system disinfectant dosing system. Condition Reason: To protect public health.
68.	Completion of landscape and tree works Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied all landscape and tree-works coinciding with the approved Staging Plan 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).

Item 15.3

Enclosure 3

69.	Stormwater system – long-term maintenance Before the issue of any Occupation Certificate, an 88B Instrument must be prepared and submitted to Council for assessment and approval. The Instrument must meet the standard terms applied by Council and: • 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.
	Condition Reason: To ensure restrictions are applied to the land.
70.	Geotechnical Report – compliance – Stage 3 & 4 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.
	Condition Reason: To ensure compliance with the reported requirements.
71.	Repair of infrastructure Before the issue of an Occupation Certificate: - 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 - 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.
72.	Post-construction Dilapidation report – Stage 3 & 4 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: - 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 - where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent; and - 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).

	Condition Reason: To identify any damage to adjoining properties resulting from site work on the development site.
73.	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.
74.	Privacy screening – Stage 2, 3 & 4 Before the issue of an Occupation Certificate, privacy screening consistent with the approved plans is to be erected along the: a) southern edge of the upper floor walkway of Building D/E (Stage 2) b) southern edge of the veranda between Building 02 and the Amenities (Stage 3) c) southern edge of the upper floor walkway of Building 03 (Stage 4) The privacy screens are to be maintained for the life of the development.
	Condition Reason: To protect amenity of neighbouring properties.
75.	Swimming pool barrier – Stage 1 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.
76.	Swimming pool register – Stage 1 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.

OCCUPATION AND ONGOING USE

77.	Occupation Certificate
------------	-------------------------------

	The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. 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). Condition Reason: To ensure that the development is completed as per this consent and the approved plans.
78.	Storage of goods during ongoing use During ongoing use of the premises, all goods must be stored wholly within the premises and must not be stored or displayed outside the premises, including any public space, without council's approval. Condition Reason: To ensure goods are stored wholly within the premises and protect the amenity of the local area.
79.	Limitations on food preparation during ongoing use During ongoing use of the premises, food preparation that generates heated air, smoke, fumes, steam or grease vapours must not be undertaken unless mechanical ventilation has been approved and installed under this consent. Condition Reason: To ensure the safe operation of the premises and to protect the amenity of adjoining premises and the surrounding area.
80.	Managing noise During ongoing use of the premises, the premises must be operated in accordance with the Acoustic report approved under this consent. Condition Reason: To protect the amenity of the local area.
81.	Noise The use of the approved development must not give rise to transmission of unacceptable vibration or an offensive noise to any place of different occupancy or the public in accordance with the NSW Environment Protection Authority's Noise Policy for Industry and Noise Guide for Local Government (guideline) and the <i>Protection of the Environment Operations Act 1997</i> (POEO Act). Condition Reason: To ensure consideration of neighbouring uses.
82.	Location of mechanical ventilation During occupation and ongoing use of the building, all mechanical ventilation system(s) or other plant and equipment that generates noise must be located on the site (including in a soundproofed area where necessary) to ensure the noise generated does not exceed 5dB(A) above the ambient background noise at the boundary adjacent to any habitable room of adjoining residential premises. Condition Reason: To protect the residential amenity of neighbouring properties.

Item 15.3

Enclosure 3

83.	Noise – air conditioning Air conditioning must be installed in accordance with manufacturer’s instructions and operated at all times so as not to cause “Offensive Noise” as defined by the <i>Protection of the Environment Operations Act 1997</i> (POEO Act). Domestic air conditioners must not emit noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open: a) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or b) before 7 am or after 10 pm on any other day.
	Condition Reason: To ensure consideration of neighbouring uses.
84.	Swimming pool – ongoing use The approved swimming pool and associated structures must be maintained in accordance with: a) the National Construction Code, b) the <i>Swimming Pools Act 1992</i>, c) the <i>Swimming Pools Regulation 2018</i>.
	Condition Reason: To ensure the structure remains compliant.
85.	Hours of Operation The use of the approved development is restricted as follows: <u>Restaurant</u> a) Hours of operation: - Monday - Sunday – 7:00am to – 11:30pm b) the preparation and service of food at the premises must cease 30 minutes before the required closing time. <u>Function room</u> a) Hours of operation: - Monday - Saturday – 8:00am to – 10:00pm - Sunday – 8:00am – 9:00pm b) the preparation and service of food at the premises must cease 30 minutes before the required closing time.
	Condition Reason: To ensure consideration of neighbouring uses.
86.	External lighting during ongoing use During ongoing use of the premises, all lighting must be operated and maintained in accordance with the approved plans and the requirements of this consent.
	Condition Reason: To ensure the safe operation of the premises and protect the amenity of the local area.

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 must not be carried out until a Construction Certificate 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.

Item 15.3

Enclosure 3

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.

Item 15.3

Enclosure 3



Contact: Tracy White
Phone: 1300 662 077
Email: tracy.white@waternsw.com.au

The General Manager
The Council of the Municipality of Kiama
PO Box 75
Kiama NSW 2533

Our ref: IDAS1162640
Your ref: 10.2025.71.1

Email to brette@kiama.nsw.gov.au

8 August 2025

Dear Applicant,

**Integrated Development Referral - General Terms of Approval
Proposed Development 10.2025.71.1
Lot 900 DP 616677, 1 Fern Street, Gerringong NSW 2534**

I refer to your recent request regarding an integrated Development Application (DA) proposed for the above location. Please find attached the WaterNSW General Terms of Approval (GTA) for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.47(3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, WaterNSW requests these GTA be included (in their entirety) in Council's development consent. Please also note WaterNSW requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities that relate to any excavation which interferes with an aquifer. WaterNSW will ascertain from the notification if the amended plans require review of the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.
- if Council receives an application under s4.55 of the EP&A Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.



Dewatering activity cannot commence before the applicant applies for and obtains an approval, WaterNSW recommends the following condition be included in the development consent:

The attached GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for a Water Supply Work approval **after consent** has been issued by Council **and before** the commencement of any dewatering activity.

A completed application form must be submitted to WaterNSW together with any required plans, documents, application fee, and proof of Council's development consent.

Application forms are available from the WaterNSW website which can be found [here](#).

WaterNSW requests that Council provides a copy of this letter to the development consent holder.

WaterNSW also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) of the EP&A Act.

Information to the proponent:

- An extraction limit will be determined by the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) following a further hydrogeological assessment and included on the conditions applied to the approval authorisation for the dewatering activity.
- Detailed information required to permit the hydrogeological assessment to be carried out is to be provided by the applicant otherwise the issue of the authorisation will be subject to delay. The [Minimum requirements for building site groundwater investigations and reporting](#) (DPE Oct 2022) identify what data needs to be collected and supplied.
- The authorisation will be issued for the purpose of temporary construction dewatering only and it does not constitute any form of approval for ongoing pumping of groundwater from basement levels after the building is issued an occupation certificate.

Yours sincerely

Tracy White

Tracy White
Water Regulation Specialist

Item 15.3

Enclosure 3



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1162640
Issue date of GTA: 08 August 2025
Type of Approval: Water Supply Work
Description: 80mm submersible pump
Location of work/activity: 1 Fern Street Gerringong NSW 2534
DA Number: 10.2025.71.1
LGA: Kiama Municipal Council
Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Dewatering	
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with

Level 1, 576 Kiewa Street, Albury, NSW 2640 | LEVEL 1, 576 KIEWA STREET, Albury, NSW 2640
water.enquiries@waterNSW.com.au | www.waterNSW.com.au



General Terms of Approval
for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1162640
Issue date of GTA:	08 August 2025
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	1 Fern Street Gerringong NSW 2534
DA Number:	10.2025.71.1
LGA:	Kiama Municipal Council
Water Sharing Plan Area:	Greater Metropolitan Region Groundwater Sources 2023
	the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
GT0123-00001	(a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering
GT0150-00001	The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
GT0151-00001	Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0152-00001	This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0155-00001	The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

Level 1, 576 Kiewa Street, Albury, NSW 2640 | LEVEL 1, 576 KIEWA STREET, Albury, NSW 2640
water.enquiries@waternsw.com.au | www.waternsw.com.au



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1162640
Issue date of GTA: 08 August 2025
Type of Approval: Water Supply Work
Description: 80mm submersible pump
Location of work/activity: 1 Fern Street Gerringong NSW 2534
DA Number: 10.2025.71.1
LGA: Kiama Municipal Council
Water Sharing Plan Area: Greater Metropolitan Region Groundwater Sources 2023

- GT0174-00001 Construction phase monitoring bore requirements GTA: a) Monitoring bores are required to be installed and collecting data prior for at least 3 months prior to submitting a water supply work approval b) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. c) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW and should be submitted prior to the application for a water supply work approval. d) The monitoring bores should be used to develop a water table map for the site and its near environs. e) The monitoring bores must be protected from construction damage. Advisory note: no approval under the Water Management Act 2000 is required for these monitoring bores provided that they extract less than 3ML/water year.
- GT0278-00001 A water access licence, for the relevant water source, must be obtained prior to extracting groundwater, unless an exemption applies. Advisory Note: See Schedule 4 of the Water Management (General) Regulation 2018.
- GT0279-00001 A construction certificate can be issued for excavation work in accordance with a valid development consent, however dewatering cannot take place without an Approval being granted by Water NSW for any water supply works required by the development. If the excavation work will or is likely to require dewatering, the applicant must apply and obtain, an approval under the Water Management Act 2000 prior to any dewatering taking place and notify WaterNSW of the programme for the dewatering activity including the commencement and proposed completion dates of the dewatering activity. Advisory Note: An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.

Item 15.3

Enclosure 3

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with 10.2025.71.1 as provided by Council:

- Gerringong Resort, No 1 Fern Street, Gerringong NSW, Report on Geotechnical Investigation, prepared for Bar Group, Ref TERRA24-748.Rep1.Rev0, 7 September 2024, by Terra Insight Pty Ltd.
- Statement of Environmental Effects, 1 Fern Street, Gerringong, Proposed Additions and Alterations to Existing Tourist Hotel, Reference: Bartlett, dated 9/4/25, by Jervis Bay Town Planning.
- Plans, S. Bartlett, Project Gerringong Resort, drawn by WN, dated April 2025, KP Architects.

Item 15.3

Enclosure 3



SECTION 4.15 ASSESSMENT

APPLICATION NUMBER:	10.2025.131.1.
NSW ePLANNING PORTAL REFERENCE:	PAN-561371.
APPLICANT:	Allen Price Pty Ltd.
PROPERTY DESCRIPTION:	Part 4 DP 744186, Lot 5 DP 240784 - 85 Wyalla Road, Jamberoo, Wyalla Road, Jamberoo
SITE ZONING:	Part RU2 Rural Landscape/Part C2 Environmental Conservation/Part C3 Environmental Management.
DEVELOPMENT DESCRIPTION:	New dwelling house, swimming pool & shed - proposed dwelling house, swimming pool, farm building (machinery shed) and ancillary access.

Summary

New dwelling house, swimming pool & shed - Proposed dwelling house, swimming pool, farm building (machinery shed) and ancillary access.

Development site

The subject site is described as:

Part 4 DP 744186, Lot 5 DP 240784 - 85 Wyalla Road, Jamberoo, Wyalla Road, Jamberoo.

The subject site has a frontage to Wyalla Road and Wallaby Hill Road JAMBEROO. The site is currently vacant and is zoned Part RU2 Rural Landscape/Part C2 Environmental Conservation/Part C3 Environmental Management under Kiama LEP 2011.

The surrounding area is rural in character and the site is adjoined by rural land uses and development.

The site undulates and drains overland to the public road.

Access to the property is gained via Wyalla Road and Wallaby Hill Road.

The site is serviced by on-site utilities.

10.2025.131.1

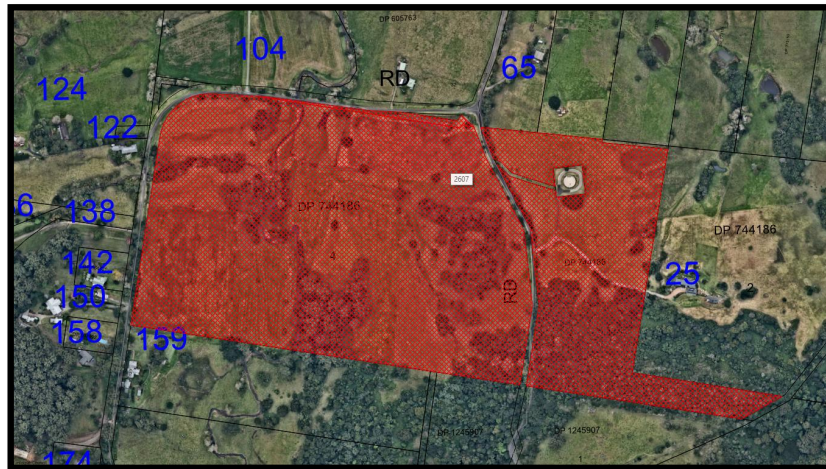


Figure 1 – Aerial image

THE SITE IS SUBJECT TO THE FOLLOWING CONSTRAINTS:

Site details	
Lot area	30.07Ha
Zone	Part RU2 Rural Landscape/Part C2 Environmental Conservation/Part C3 Environmental Management
Does the land have a dwelling entitlement? Note: for rural land refer to Clause 4.2A of <i>Kiama LEP 2011</i> .	No
Is the proposed development a “ Council-related development application ”?	No
Topographic details	
Fall direction of land	Undulating
Slope of land >20%?	No
Site inspection	
Works within proximity to electricity infrastructure?	No
Is the development adjacent to a classified road ?	No
Is the development adjacent to a rail corridor ?	No
Utility network	
Access to reticulated sewer?	No
Access to reticulated water?	No
Sydney Water – Dwelling Restriction?	No
Sydney Water – Jamberoo Capacity? Note: If additional services are required, proposal may not be supported.	No

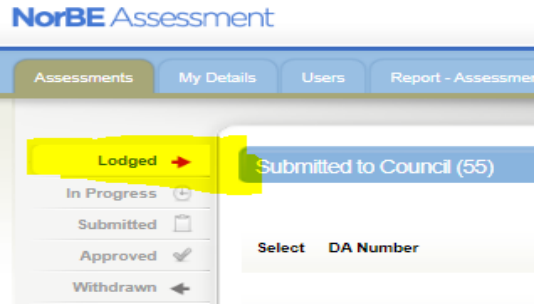
10.2025.131.1

Constraint layers	
Flood Prone Land	No
Filled Land	No
Slip Land	No
Interim Heritage Order	No
Bush Fire	Yes
Potentially Contaminated Sites	No
Riparian Corridors	Yes
Known Dry Stone Walls	No
Development within 40m of a watercourse	No
Planning layers	
Draft Exhibited Planning Proposal	No
Land Zoning	Part RU2 Rural Landscape/Part C2 Environmental Conservation/Part C3 Environmental Management
Minimum Lot Size	AB - 40Ha
Floor Space Ratio	N/A
Height of Buildings	N/A
Foreshore Building Line	N/A
Heritage Note: consider adjoining properties.	N/A
Additional Permitted Uses	N/A
Active Street Frontages	N/A
Terrestrial Biodiversity	Yes
Riparian Lands and Watercourses	Yes
Acid Sulfate Soils	N/A
Land Reservation Acquisition	N/A
Urban Release Area	N/A
Reclassification Part Lots	N/A
Clause application	N/A
Planning Proposals	N/A

Item 15.4

Enclosure 1

10.2025.131.1

SEPP (Biodiversity and Conservation) 2021- Chapter 6: Water catchment (e.g. NorBE) Note: NorBE Assessments submitted to Council can be viewed from the “Lodged” tab in the NorBE online assessment tool shown below. 	N/A
SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	No
Biodiversity Values	
Biodiversity Values Map	Yes 

Item 15.4

Enclosure 1

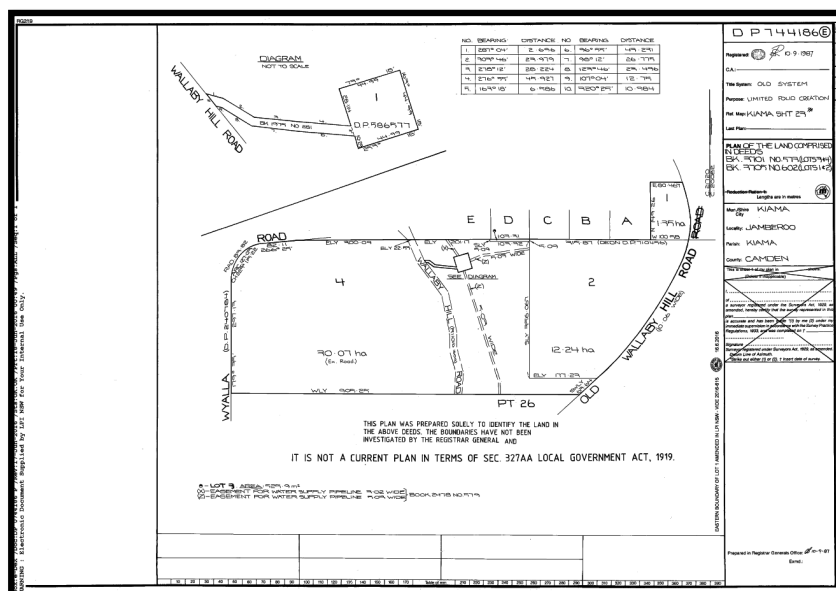
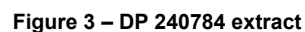


Figure 2 – DP 744186 extract

Item 15.4

Enclosure 1



A site inspection was carried out on 4/09/2025.

No additional matters were raised as a result of the site inspection.

10.2025.131.1

BACKGROUND

The development application history is as follows:

Application Details

Current Property ☒ Historic Properties ☐ Both Current & Historic ☐ Line 1 of 2

Formatted Account	Precis	Received Date	Determination Date	Determination
010.2025.00000131.001	New dwelling house, swimming pool & shed	21/08/2025		
010.2015.00000117.001	rural dwelling, pool and access driveway	05/06/2015	25/09/2015	Refused

DESCRIPTION OF THE PROPOSED DEVELOPMENT

New dwelling house, swimming pool & shed - proposed dwelling house, swimming pool, farm building (machinery shed) and ancillary access.

PLANS AND DOCUMENTS SUBMITTED FOR ASSESSMENT

Submitted plans for assessment				
Plan number	Revision number	Plan title	Drawn by	Date of plan
A.0001	A	Cover page	BHI Architects	23/06/2025
A.1001	A	Site analysis	BHI Architects	23/06/2025
A.1002	A	Site plan	BHI Architects	23/06/2025
A.2001	A	Ground floor	BHI Architects	23/06/2025
A.3001	A	Elevations 1	BHI Architects	23/06/2025
A.3002	A	Elevations 2	BHI Architects	23/06/2025
A.3101	A	Section a & b	BHI Architects	23/06/2025
A.3102	A	Section c	BHI Architects	23/06/2025
A.6101	A	Door schedule	BHI Architects	23/06/2025
A.6201	A	Window schedule	BHI Architects	23/06/2025
A.7001	A	Perspectives	BHI Architects	23/06/2025
A.9001	A	Basix	BHI Architects	23/06/2025

10.2025.131.1

A.9002	A	Basix 2	BHI Architects	23/06/2025
A.9003	A	Basix 3	BHI Architects	23/06/2025
FDWO101162 Sheet 1 of 7	-	Foundation Plan	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 2 of 7	-	Elevations	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 3 of 7	-	Section	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 4 of 7	-	Details	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 5 of 7	-	Details	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 6 of 7	-	Details	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 7 of 7	-	Elevations	Fair Dinkum Builds	29/07/2025
1635-LD01A	-	Landscape Plan	Ochre Landscape Architects	20/07/2015
15042-C1	B	House Stormwater/Access Layout	Bilkey Riley and Associates Pty Ltd	July 2015
15042-C2	B	ACCESS LONGSECTION CH-11.085 - CH42.445	Bilkey Riley and Associates Pty Ltd	July 2015
15042-C3	B	ACCESS LONGSECTION CH42.445 - CH69.93	Bilkey Riley and Associates Pty Ltd	July 2015
15042-C4	B	DRAINAGE DETAILS	Bilkey Riley and Associates Pty Ltd	July 2015

Item 15.4

Enclosure 1

10.2025.131.1

Submitted documents for assessment			
Document title	Version number	Prepared by	Date of document
BASIX Commitments	-	Frys Energywise	23/06/2025
BASIX Certificate	1800985S	FRYS BUILDING CONSULTANCY PTY LTD	23/06/2025
Clause 4.6 Variation Statement	130110	Allen Price Pty Ltd	18/07/2025
Quantity Surveyor Report	-	Property & Building Assessments Pty Ltd	14/07/2025
Flood Study	15010 – Rev 0	Anthony Barthelmess	August 2015
Geotechnical Assessments for Lot Classification and On-Site Disposal of Effluent	201498w:amw	Southern Geotechnics	24/04/2015
NatHERS Certificate	0012003182	Frys Energywise	23/06/2025
External Colour and Material Schedule	9100 – Rev A	BHI Architects	23/06/2025
Bushfire Assessment Report	Kiam 254	South Coast Bushfire Planning and Consulting	02/06/2025
Statement of Environmental Effects	130110	Allen Price Pty Ltd	18/07/2025
Waste Management Plan	-	Allen Price Pty Ltd	-

The built details of the development is as follows:

Dwelling - 375m ² GFA
<u>Ground floor</u> • Bathroom • Laundry • 2x Bedroom w/BIR • 1x Bedroom • 1x Bedroom w/WIR and Ensuite • Study off Master Bedroom • Open Plan Living, Kitchen and Dining

10.2025.131.1

- Storage - Double Garage - In ground Swimming Pool
Shed - 135m² GFA
Ground floor 9m x 15m 3x Double roller door

The proposal is shown in figures below.

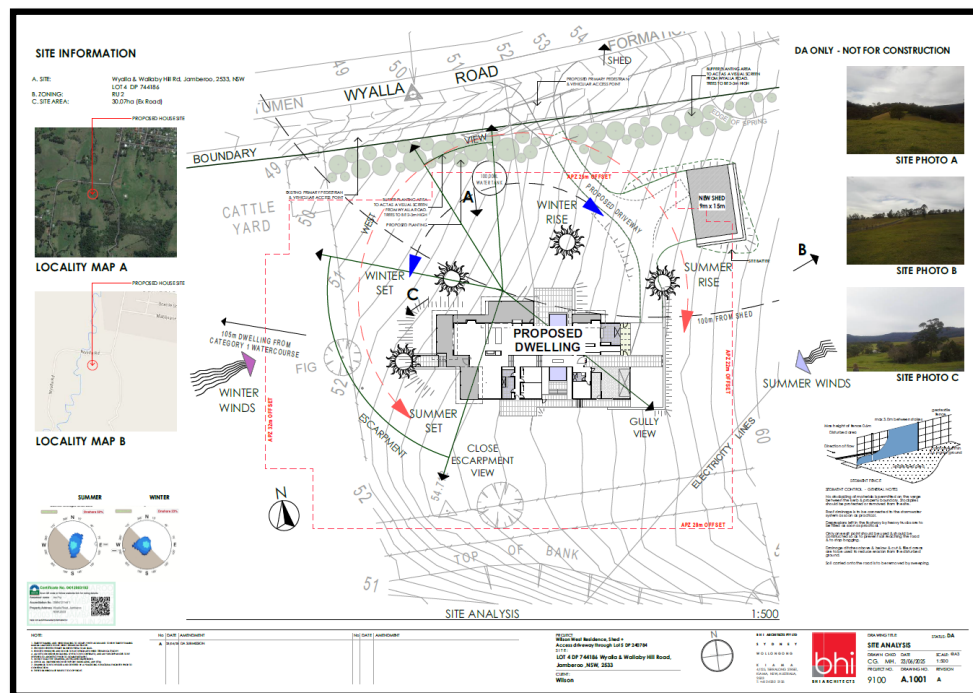


Figure 4 – Site analysis plan

Item 15.4

Enclosure 1

10.2025.131.1

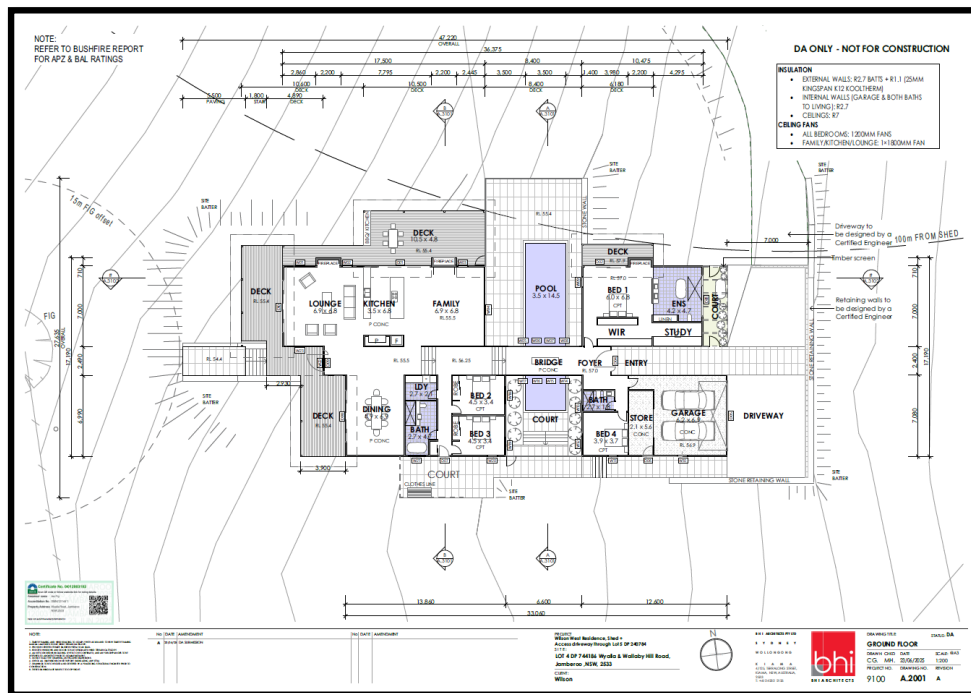


Figure 5 –Ground floor plan

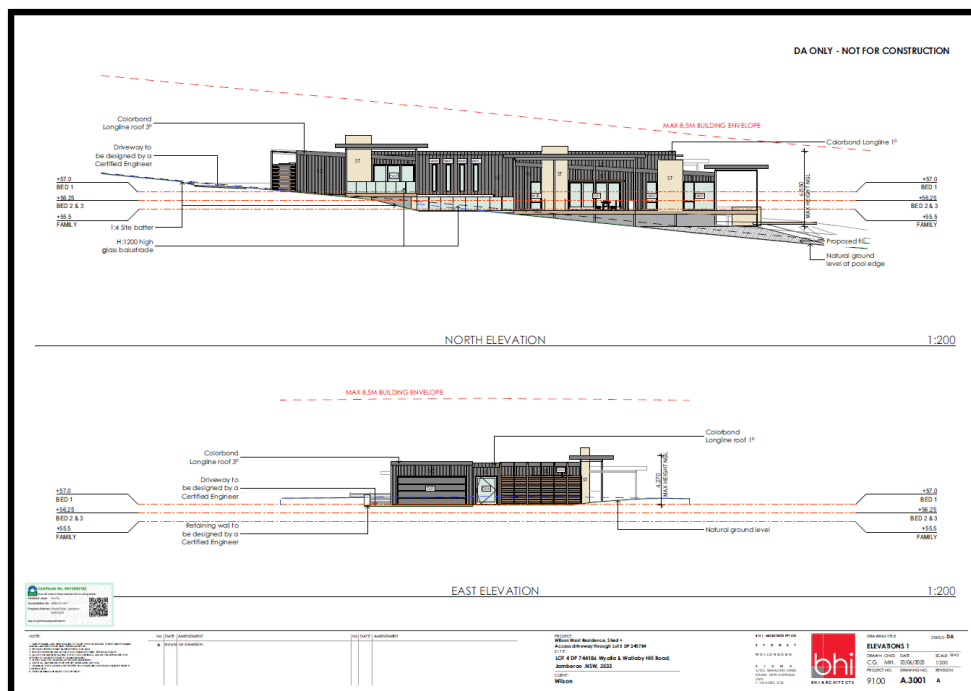


Figure 6 – Elevations N+E

10.2025.131.1

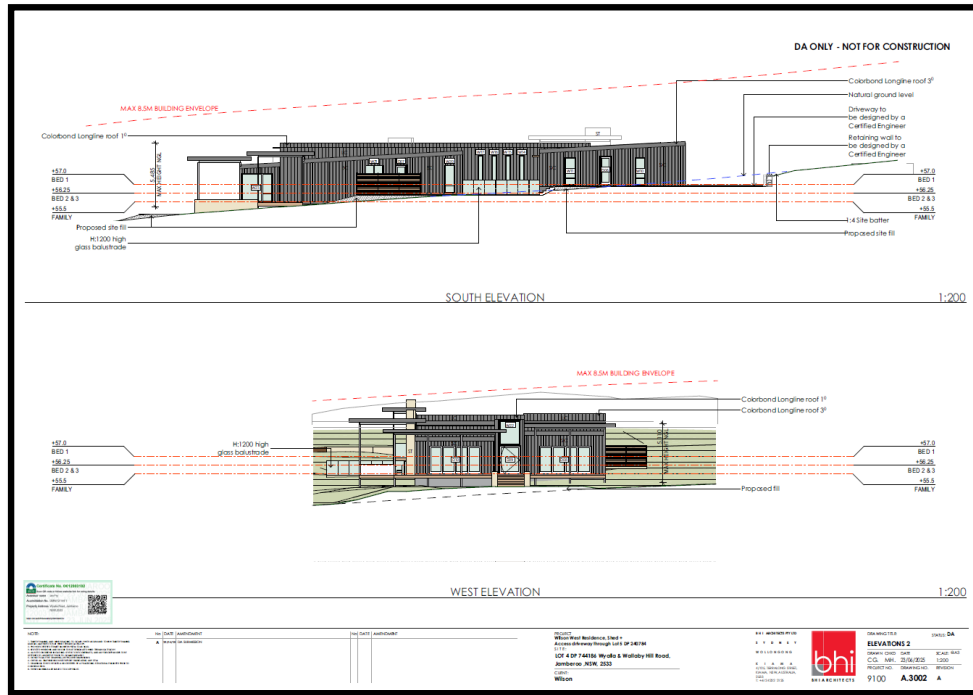


Figure 7 – Elevations S+W

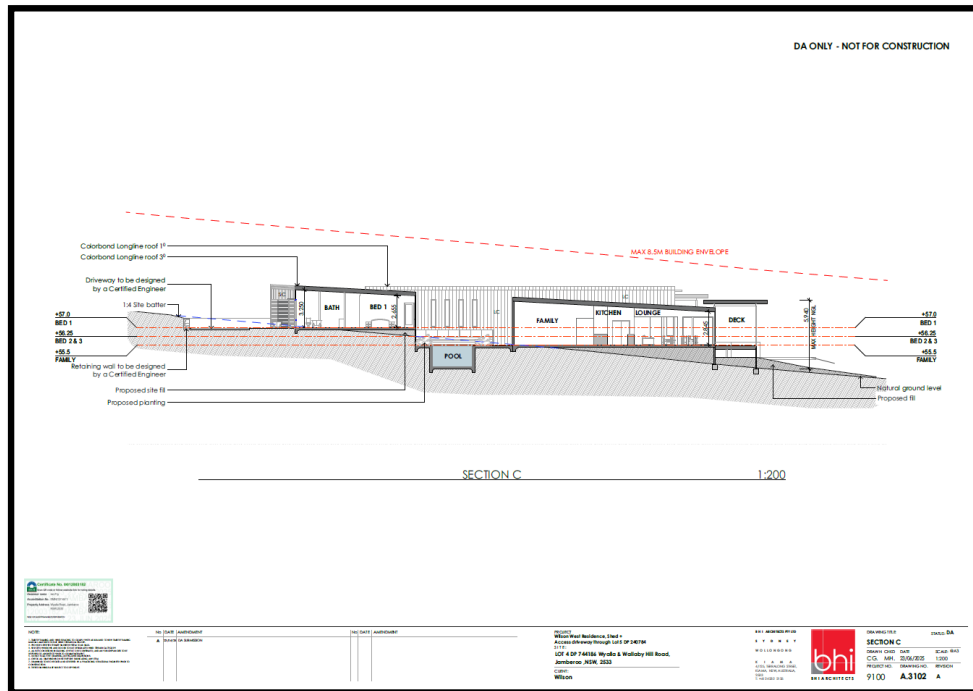


Figure 8 – Sections

Item 15.4

Enclosure 1

10.2025.131.1

STATUTORY CONSIDERATIONS

<i>Environmental Planning and Assessment Act 1979</i>	
<u>Section 4.14</u> Consultation and development consent – certain bush fire prone land	
Is the development site mapped as bush fire prone land?	Yes - Complete below table and assessment against Planning for Bush Fire Protection
Is there vegetation within 100m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection? Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.	Yes - Complete below table and assessment against Planning for Bush Fire Protection
Is the development subject to a performance based solution or a BAL-FZ? Note: As per Appendix 2 of PBP 2019, performance based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner. Note: The NSW variation of H7D4 in NCC 2022 Volume 2 specifies that AS3959 and the NASH Standard can only be used as a deemed-to-satisfy provision where an appropriate condition of consent has been imposed <u>in consultation with NSW RFS</u> .	No

Item 15.4

Enclosure 1

10.2025.131.1

The Kiama Municipal Council Area is within a 100 Forest Fire Danger Index area (see Table A1.12.5 in PBP 2019).														
Direction	Vegetation hazard type	Distance to bush fire vegetation hazard / proposed APZ	Effective slope under vegetation hazard (over 100m)	BAL										
North	Grassland	25m	>0 to 5 degrees - downslope	BAL-12.5										
East	Grassland	22m	Upslope / Flat	BAL-12.5										
South	Grassland	28m	>5 to 10 degrees - downslope	BAL-12.5										
West	Grassland	32m	>10 to 15 degrees - downslope	BAL-12.5										
The bush fire assessment report identifies that the proposed development conforms to the relevant specification and requirements of Planning for Bush Fire Protection 2019 and has been prepared by a suitably qualified consultant. Recommended conditions of consent will require the proposed building/s to be built to BAL-12.5 and APZs (as required) as above.														
Part 7 Infrastructure - Subdivision 4 Housing and productivity contributions														
Does the proposed development include works to which the Housing and Productivity Contribution (HPC) applies?			No											
Has the application been referred to Council's Contributions Planner?			7.12 contributions applicable											
<i>Biodiversity Conservation Act 1979</i>														
Does the application include works or vegetation removal within the Biodiversity Values mapped area ?			No											
Does the application involve clearing of native vegetation above the area clearing threshold?			No											
Area clearing threshold The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP). <table border="1"> <thead> <tr> <th>Minimum lot size associated with the property</th> <th>Threshold for clearing, above which the BAM and offsets scheme apply</th> </tr> </thead> <tbody> <tr> <td>Less than 1 ha</td> <td>0.25 ha or more</td> </tr> <tr> <td>1 ha to less than 40 ha</td> <td>0.5 ha or more</td> </tr> <tr> <td>40 ha to less than 1000 ha</td> <td>1 ha or more</td> </tr> <tr> <td>1000 ha or more</td> <td>2 ha or more</td> </tr> </tbody> </table> The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided. If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.					Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply													
Less than 1 ha	0.25 ha or more													
1 ha to less than 40 ha	0.5 ha or more													
40 ha to less than 1000 ha	1 ha or more													
1000 ha or more	2 ha or more													
Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the test in Section 7.3 of the <i>Biodiversity Conservation Act 2016</i> (ie. test of significance)?			No											

10.2025.131.1

Note: Consideration should be given to the site's proximity to NPWS land (see guidelines) and other natural areas, as well as any area that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.	
If the application exceeds the Biodiversity Offsets Scheme Threshold (ie. if yes to any of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?	N/A
Fisheries Management Act 1994	
The proposed development would not have a significant impact on the matters for consideration under Part 7A of the <i>Fisheries Management Act 1994</i> .	Yes, complies
Local Government Act 1993	
Do the proposed works require approval under Section 68 of the <i>Local Government Act 1993</i> ?	Yes - see s68 type nominated below
☒ Operation of a system of sewage management (ie. on-site sewage management system). ☐ Installation of a manufactured home. ☒ Installation of a domestic oil or solid fuel heating appliance, other than a portable appliance (ie. fireplace)?	
Has a Section 68 application been applied for as a related case in the Portal?	No

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

Environmental Planning Instruments
Kiama Local Environmental Plan 2011
State Environmental Planning Policy (Resilience and Hazards) 2021
State Environmental Planning Policy (Sustainable Buildings) 2022
State Environmental Planning Policy (Biodiversity and Conservation) 2021
State Environmental Planning Policy (Sustainable Buildings) 2022
The proposal is for a BASIX development and the requirements of the SEPP are noted. A valid BASIX Certificate 1800985S has been submitted as part of the application. The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.
State Environmental Planning Policy (Resilience and Hazards) 2021
Chapter 4 - Remediation of Land
Chapter 4 of the SEPP requires Council to consider whether the land is contaminated and if it is contaminated if remediation works are required. The proposal has failed to address historic land use which would deem the site unsuitable for the proposed development, notably the use of the site for agricultural purposes.

10.2025.131.1

A preliminary site investigation relating to contaminated land has not been completed and therefore Council is not satisfied that the land is considered to be suitable for the proposed use.	
State Environmental Planning Policy (Transport and Infrastructure) 2021	
Chapter 2 - Infrastructure	
Considerations	Comments
Electricity transmission or distribution network	
Part 2.3 Division 5 Subdivision 2 – Development likely to affect an electricity transmission or distribution network.	The proposal involves work within proximity to an overhead electricity power line. The application was referred to Endeavour Energy for comment with no objection being raised subject to advice. Referral comments have been taken into consideration.

Item 15.4

Enclosure 1

10.2025.131.1

Kiama LEP 2011	
2.3: Zone objectives and Land Use Table	
The subject land is zoned RU2 Rural Landscape and C3 Environmental Management pursuant to Kiama LEP 2011. The proposal is defined as a Dwelling House and Shed under the provisions of the Kiama LEP 2011, which are permitted with consent in the RU2 Rural Landscape zone. The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	
Zone objectives	Comments
- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. - To maintain the rural landscape character of the land. - To provide for a range of compatible land uses, including extensive agriculture. - To protect agricultural land for long term agricultural production. - To provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing and integrates with tourism.	The proposed development is not consistent with the objectives of the zone. .
Other relevant clauses	
Part 2 Permitted or prohibited development	
Part 4 Principal development standards	
4.2A: Erection of dwelling houses on land in certain rural and conservation zones	
The proposed development includes the erection of a dwelling house on land zoned RU2 Rural Landscape with a lot size of 30.75ha. The minimum lot size for the subject site is AB - 40Ha, therefore the proposed development does not comply with Clause 4.2A.	Does not comply - See commentary below. The applicant has provided a written variation statement pursuant to Kiama LEP Clause 4.6.
4.6: Exceptions to development standards	
4.2A Erection of dwelling houses on land in certain rural and conservation zones 1) The objectives of this Clause are as follows— - to minimise unplanned rural residential development, - to enable the replacement of lawfully erected dwelling houses in rural and conservation zones. 2) This Clause applies to land in the following zones— - Zone RU1 Primary Production, - Zone RU2 Rural Landscape, - Zone C3 Environmental Management.	

Item 15.4

Enclosure 1

10.2025.131.1

- 3) Development consent must not be granted for the erection of a dwelling house on land in a zone to which this Clause applies, and on which no dwelling house has been erected, unless the land is—
- a) a lot that is at least the minimum lot size specified for that land by the [Lot Size Map](#), or
 - b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
 - d) an existing holding.

Note. A dwelling cannot be erected on a lot created under Clause 9 of [State Environmental Planning Policy \(Rural Lands\) 2008](#) or Clause 4.2.

- 4) Subclause (3)(b), (c) and (d) ceases to apply if—
- a) an application for development consent referred to in that subclause is not made in relation to that land within 5 years after the day this Plan commences, or
 - b) an application for development consent referred to in that subclause is made in relation to that land within 5 years after the day this Plan commences, but the application is refused.
- 5) Despite subclause (3), development consent may be granted for the erection of a dwelling house on land to which this clause applies if—
- a) there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house, or
 - b) the land would have been a lot or a holding referred to in subclause (3) had it not been affected by—
 - i) a minor realignment of its boundaries that did not create an additional lot, or
 - ii) a subdivision creating or widening a public road or public reserve or for another public purpose.
- 6) In this Clause—

existing holding means land that—

- a) was a holding on 4 July 1977, and
- b) is a holding at the time the application for development consent referred to in subclause (3) is lodged,
whether or not there has been a change in the ownership of the holding since 4 July 1977, and includes any other land adjoining that land acquired by the owner since 4 July 1977.

holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

Note. The owner in whose ownership all the land is at the time the application is lodged need not be the same person as the owner in whose ownership all the land was on the stated date.

Item 15.4

Enclosure 1

10.2025.131.1

<u>Assessing Officer Comments</u> As per subclause (4), no application for development consent was made relation to that land within 5 years after the day this Plan commences (i.e. no application was made by 16 December 2016). Accordingly, the subject site does not benefit from a dwelling entitlement under clause 4.2A.	
Applicant's Written Clause 4.6 Variation Statement	
The following are excerpts from the applicant's Clause 4.6 written variation statement. "Of particular assistance in this matter in establishing that compliance with a development standard is unreasonable or unnecessary is 'Method 1'. 4.2 ASSESSMENT OF PROPOSED VARIATION TO MINIMUM LOT SIZE UNDER 'METHOD 1'. The underlying objectives or purposes of the development standard are achieved notwithstanding non-compliance with the standard. The objectives of Clause 4.2A have been considered in Table 1. Table 1: Objectives of Clause 4.2A	
Objective	Response
4.2A: Erection of dwelling houses on land in certain rural and conservation zones	
(a) to minimise unplanned rural residential development,	- With respect to objective (a), the LEP does not define what is meant by Clause 4.2A(1)(a) by the term "unplanned rural residential development". In this regard it should be noted that Espinosa C outlined in Sharp v Kiama Municipal Council [2024] NSWLEC 1360 a planned outcome can be in accordance with the provisions of the LEP, and those provisions include development standards which may be contravened provided that the contravention is justified pursuant to the terms of cl 4.6 of the LEP. Such a justified contravention of a development standard is a planned outcome. A dwelling on the subject site would only be unplanned development if the consent authority were to conclude that the minimum lot size for the erection of a dwelling provided for in cl 4.2A of the LEP were a prohibition, or in the alternative, if the minimum lot size is a development standard, a dwelling would be unplanned if there were no cl 4.6 written request or the cl 4.6 written request were deficient. The satisfaction of the terms of cl 4.6 is a jurisdictional prerequisite which adds weight to any conclusion that the grant of consent to the erection of a dwelling on a RU2 Rural Landscape lot less than 40 hectares may be a planned outcome. - With respect to objective (a), the Subject Land enjoyed a dwelling entitlement until 16 December 2016 at which point this entitlement (under clause 11

10.2025.131.1

	(3) of Kiama Local Environmental Plan 1996) was revoked by the sunset Clause 4.2A(4)(a). Given the Subject Land was created under previous planning instruments at a time when it was envisaged there was an entitlement to seek approval for a dwelling house on the subject land; it could not now be said the creation of the subject land and its development for a dwelling house was “unplanned”, given the lot was approved and created under planning provisions that applied at the time. The term “rural residential development” and “unplanned rural residential development” as referenced in Objective (a) are also not defined by the LEP. It is considered that, ‘unplanned rural residential development’ occurs when existing or continued viability of agricultural land is sterilised or undermined by residential development, or subdivision, that reduces the area of rural land, removes opportunities for the consolidation of agricultural land; or adversely impacts the agricultural use of land due to conflict with rural residential development. The proposed dwelling house has been designed and sited to support the continued use of the land for viable agricultural activities. The proposed dwelling house will not reduce the potential agricultural uses that may occur on the land or surrounding rural zoned lands. The proposed dwelling house, swimming pool and farm building have been clustered together on site with the existing cattle yard and close to Wyalla Road to minimise and reduce conflicts with agricultural land and land uses. In this way, the proposed dwelling house has been designed and located to minimise impacts on agricultural land that would normally be associated with “unplanned rural residential development.” Indeed, enabling a dwelling house to be erected on the land will allow increased investment in the agricultural activity on the site including pasture improvement, fencing and weed control providing an opportunity to improve the agricultural viability of the land. It is considered that the development could not be described as ‘unplanned rural residential development.’
(b) to enable the replacement of lawfully erected dwelling houses in certain rural, residential and conservation zones,	Objective (b), which relates to the replacement of lawfully erected dwelling houses, is not relevant to this proposal which seeks approval for the erection of a new dwelling house on land where there currently is no dwelling house. Clearly therefore this proposal is not inconsistent with this objective.

Item 15.4

Enclosure 1

10.2025.131.1

As demonstrated in Table 1 the proposed development would be consistent with the objectives of Clause 4.2A, notwithstanding the numerical variation involved. For this reason, strict compliance with the Cl4.2A(3)(a) development standard would be unnecessary and the requirements of Clause 4.6(3)(a) have been met.	
Objective	Response
Objectives of RU2 – Rural Landscape Zone	
To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	The design and siting of the proposed dwelling house has been undertaken in such a manner that it will not impact the continued use of existing areas within the Subject Land or surrounding properties for ongoing permissible agricultural use.
To maintain the rural landscape character of the land.	The proposed dwelling house comprises a modest single storey scale and design that is clustered together and sited close to Wylla Road. The proposed dwelling will not be visually prominent within the broader landscape. The proposal will therefore maintain the rural landscape character of the land and locality.
To provide for a range of compatible land uses, including extensive agriculture.	The proposed dwelling has been designed and sited to ensure that the land will continue to be able to be used for extensive agricultural activities. Further the siting of the proposed dwelling within the site will not frustrate the on-going use of surrounding rural lands for agricultural undertakings. As demonstrated in the development application, the proposed dwelling house will be compatible with the rural context of the site and facilitate the on-going use of the land for agricultural activities.
To protect agricultural land for long term agricultural production.	The proposed dwelling has been designed and sited to ensure that the land will continue to be able to be used for extensive agricultural activities. The siting of the development does not fragment agricultural land and the proposed dwelling house will facilitate ongoing use of the land for agriculture. Adjoining areas of pastureland have been subdivided into undersized allotments over time and the ability for the land to be consolidated into a larger parcel of strictly agricultural land is not a feasible option due to both site topography (ie land separated by cliffs along Wallaby Hill Road), and adjoining land being owned by a large number of separate owners (ie adjoining low lying land along Wylla Road). This zone objective would be better served by enabling the erection of the proposed dwelling house on the Subject Land to facilitate alternative sustainable agricultural uses on the land.

Item 15.4

Enclosure 1

10.2025.131.1

To provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing and integrates with tourism.	The proposed dwelling house will facilitate ongoing use of the land as part of the Wilson's dairy farming operations as well as providing the opportunity for future alternative sustainable agricultural uses on the land, which will contribute to improved environmental outcomes for the land and contribute to outputs and demand for services that will provide opportunities for employment generation in the local economy.
--	--

4.4 SITE-SPECIFIC ENVIRONMENTAL GROUNDS

The following site-specific environmental grounds justify the proposed variation to the minimum 40-hectare allotment size development standard.

1. The Subject Land is suitable for viable agricultural activities

Clause 4.2 (subdivision) of the LEP has the stated objective of seeking to reduce the fragmentation of rural land and Clause 4.2A (dwelling entitlements) seeks to avoid unplanned rural residential development. Both clauses rely upon the arbitrary application of a minimum lot area of 40 hectares as a measure to support viable agricultural activities.

Despite the stated objectives of Clauses 4.2 and 4.2A, the LEP does not include any requirements stipulating the need for undersized allotments to be consolidated or amalgamated.

The LEP identifies that extensive agricultural is permitted without consent within the RU2 zone regardless of the lot area or the agriculturally productive potential of the rural land which may be impacted by a range of environmental factors despite the area of the lot. A minimum lot area requirements as espoused by Clauses 4.2 and 4.2A of the LEP is a blunt instrument to achieve the desired objectives of these clauses. The productive potential of rural land depends upon the intended use of the land as well as a range of environmental factors that contribute to the suitability of the land for a range of agricultural purposes. Given these range of factors parcels of land that may fall below 40 hectares may still be capable of supporting viable agricultural undertakings compared to lots that may comply with this minimum lot area requirement, particularly where such lots may be subject to more severe environmental constraints.

In this instance the land will continue to be used for the purposes of extensive agriculture as part of the Wilson's ongoing commercial dairy farming operation, an established use that has been conducted on the site for many decades.

2. The proposed dwelling house will enable sustainable agricultural undertakings to be undertaken on the land.

As outlined above, Objective (a) of Clause 4.2A seeks to avoid unplanned rural residential development. Clause 4.2A, and the LEP generally, however, do not require the consolidation of undersized rural allotments; nor specify a minimum lot size to support agricultural uses.

Instead, extensive agricultural is permitted without consent within the RU2 zone that applies to the subject land. Further the objectives of the RU2 zone seek to encourage primary production including extensive agriculture, without the need to demonstrate the capability of such land to support such uses.

Item 15.4

Enclosure 1

10.2025.131.1

The site is currently used for grazing purposes as part of a commercial dairy farming operation. The most viable agricultural use for the land is considered to be the continuation of the controlled grazing of cattle.

The construction of the proposed dwelling house will not detract from the continued agricultural use of the land. Indeed, the construction of the proposed dwelling house will enable a land owner to reside of the subject site and provide on-site management of the land and stock kept on the site.

The proposed dwelling will be clustered with the existing cattle yard infrastructure and sited close to Wyalla Road so as to not encroach on the main agricultural land. The footprint of the proposed dwelling has been kept to a minimum to ensure the stock carrying capacity of the main agricultural land is not significantly impacted. The development of the proposed dwelling will provide for an on-site residence that will allow for closer observation, management, and care of the land and any stock at the site. The development of the proposed dwelling does not involve the fragmentation (division into multiple, non-contiguous parcels) of agricultural land.

Given the above the proposed dwelling house will not result in any significant loss of rural land or rural production capacity at the site. Indeed, the proposed dwelling house has the potential to support the continued viable use of the land for agricultural purposes.

3. The proposed dwelling house will not result in conflicts with existing rural land uses.

An underlying intention of the 40 ha standard is to minimise conflict between rural and residential development. This is implied by the objectives of the RU2 zone for instance, which speak about the need for compatibility of land uses. Such conflicts potentially arise when dwellings are situated within proximity of rural activities that may result in these dwellings being impacted by impacts such as odours, dust, traffic and spray drift from farming activities.

The proposed dwelling house has been strategically sited within proximity of an established cluster of residential development. This will ensure that the proposed dwelling house will not introduce a residential dwelling in a location that could frustrate existing or future rural activities either within the site or on adjoining land.

5.0 - CONCLUSION

This Clause 4.6 written request supports a development application submitted to Kiama Municipal Council ("the Council") seeking approval for erection of a dwelling house on Lot 6 DP 240784, Jamberoo Road, Jamberoo.

Under the provisions of the Kiama Local Environmental Plan 2011 ("the LEP") the subject land is mainly zoned RU2 Rural Landscape, although a small areas of land generally towards the southern boundary are zoned C3 Environmental Management and C2 Environmental Conservation. The proposed dwelling house and all works associated with the proposal are to be situated within the RU2 zone.

Dwelling houses are permissible with consent within the RU2 zone. Clause 4.2A(3)(a) of the LEP outlines the relevant provisions for the erection of a dwelling houses within the RU2 zone. Under Clause 4.2A(3)(a), development consent may be granted for the erection of a dwelling house on land zoned RU2 provided the subject land comprises the minimum lot size under mapping that support the LEP. The minimum allotment area requirements that applies to the site is 40 hectares. The subject site comprises an area of 30.07 hectares.

Item 15.4

Enclosure 1

10.2025.131.1

Clause 4.6 of the LEP enables the Council as the consent authority to grant consent for development even though the development contravenes a development standard. Clause 4.6 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

The consent authority's satisfaction in respect of those matters must be informed by the objectives of Clause 4.6, which are to provide an appropriate degree of flexibility in the application of the relevant controls and to achieve better outcomes for and from the development in question by allowing flexibility in particular circumstances.

This Statement prepared in accordance with Clause 4.6 of the LEP provides justification that the development standard detailed in the provisions of Clause 4.2A(3)(a) may be contravened by the grant of development consent because strict compliance with the provisions of this clause under the specific circumstances associated with this development application would be unreasonable and unnecessary; and that there are environmental planning grounds to justify the contravention of these development standards.

This Clause 4.6 variation has been prepared in accordance with the Department of Planning & Environment (DPE) "Guide to Varying Development Standards" (November 2023). This request should be read in conjunction with the Statement of Environmental Effects (SEE) and other supporting documentation submitted with this development application.

In summary the Clause 4.6 Written Statement demonstrates:

- With respect to the development standard outlined in Clause 4.2A(3)(a) which imposes a minimum lot size of 40 ha for the erection of a dwelling house within the RU2 zone: that
 - compliance with this standard is unnecessary given the objectives that underpin both the clause, and the zones will be achieved without compliance with this minimum lot size development standard; and
- That there are specific environmental grounds that justify the contravention of Clause 4.2A(3) including:
 - The proposal is consistent with the objectives of Clause 4.2A and the RU2 zone that applies to the land.
 - The subject land is suitable for on-going viable agricultural undertaking notwithstanding it may not satisfy the 40 hectares minimum allotment size requirement. The land will continue to be used for the purposes of extensive agriculture as part of an established commercial dairy farming operation. The most viable agricultural land use for the site is considered to be the continuation of the controlled grazing of cattle.
 - The proposed dwelling house will enable sustainable agricultural undertakings to be undertaken on the land. The proposed dwelling house will not result in any significant loss of rural land or rural production capacity at the site. Indeed, the proposed dwelling house has the potential to support the continued viable use of the land for agricultural purposes.
 - The proposed dwelling house will not result in conflicts with existing rural land uses. Given the substantial separation from adjoining lands, it is considered the proposed dwelling house will not give rise to conflicts with neighboring rural activities or land uses.

Item 15.4

Enclosure 1

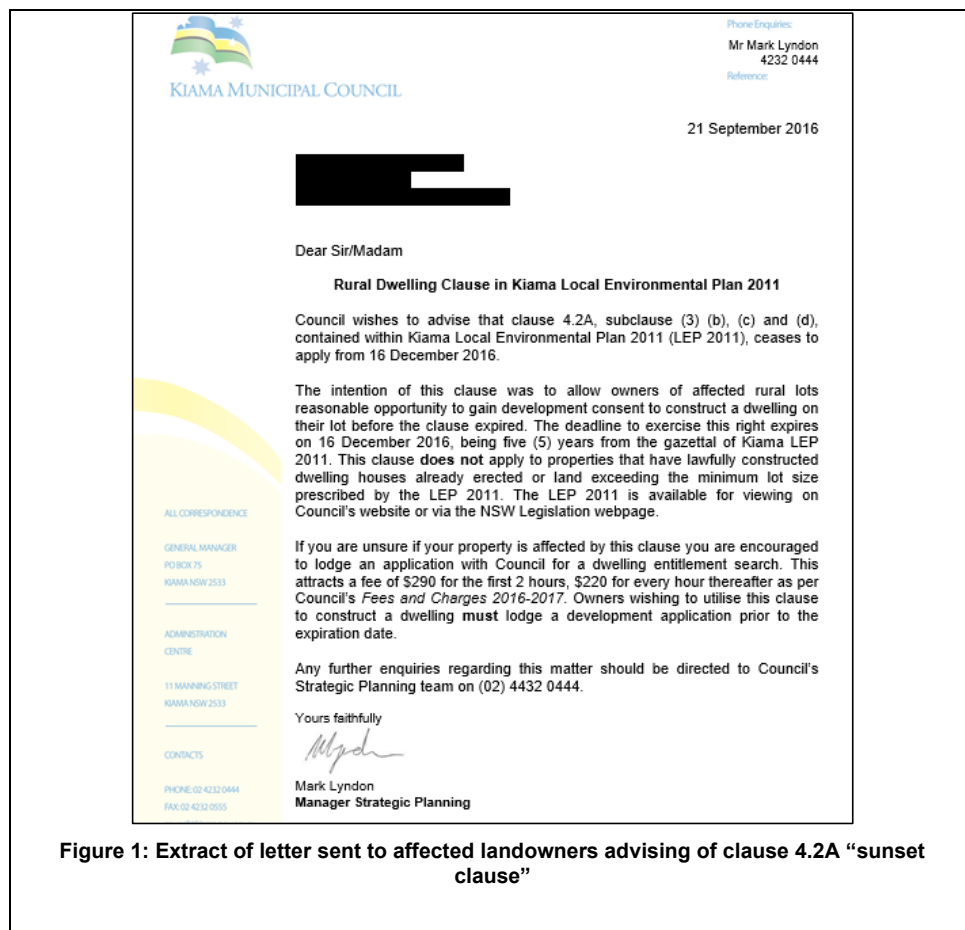
10.2025.131.1

Under these circumstances this Written Statement made pursuant to Clause 35B of the EP&A Regulations 2021 and having regard to Clause 4.6 of the LEP requests that the Council exercise the discretionary authority outlined in Clause 4.6 of Kiama LEP 2011 and support this development application that the Written Statement supports, notwithstanding the proposed development may be in contravention of Clause 4.2A(3)(a) of Kiama LEP 2011.
Assessing Officer's Comments
<u>Unreasonable or Unnecessary</u> The Applicant contends that compliance with the Clause 4.2A development standard is unnecessary in the circumstances of the case as the proposal is compatible with the objectives of the Clause 4.2A Development Standard. This is disagreed by Council staff and it is considered that the proposed development does not achieve the objectives of the development standard. The objectives of Clause 4.2A are considered below: a) <u>to minimise unplanned rural residential development.</u> The Applicant argues that the development is not unplanned rural residential development as the lot was approved through a subdivision under a previous planning instrument. This argument is not agreed with. Although the allotment exists, there is a clear planning vision set out by Clause 4.2A (4) which acknowledges the presence of existing holdings and smaller lots in rural areas, but then sets clear and specific requirements for lodgement of applications within 5 years of the commencement of the Plan, otherwise such allotments will not benefit from dwelling entitlement. The represents the clear strategic planning of minimising unplanned rural residential development. No application for erection of a dwelling house was made within 5 years of the commencement of the Plan (i.e. 16 December 2016) and therefore the land does not benefit from a dwelling entitlement. The extinguishment of any dwelling entitlement under subclause (4) is the planned development outcome. The application of subclause (4) and resultant extinguishment of any dwelling entitlement has been clearly communicated by Council to stakeholders. At the Ordinary Council meeting on 16/8/2016, the Council resolved (MIN16/270) that a media release advising the community of the expiration provisions within clause 4.2A of Kiama LEP 2011 and that all affected rural rate payers be directly advised of the "sunset clause". The Manager of Strategic Planning wrote to affected landowners on 21 September 2016 to advise that as of 16 December 2016, subclause (4) will come into effect (TRIM 16/82773). Kiama Municipal Council also provided a media release advising of the "sunset clause" (TRIM 17/21167).

Item 15.4

Enclosure 1

10.2025.131.1



Item 15.4

Enclosure 1

10.2025.131.1



**14 November 2016
MEDIA RELEASE
Sunset clause ends next month**

Kiama Council has reminded rural property owners that the rural dwelling 'sunset clause' of the Kiama Local Environmental Plan 2011 expires 16 December 2016.

Clause 4.2A of the Local Environment Plan currently allows some owners of smaller, vacant rural lots up to five years to obtain permission to build on their land. That period expires as of 16 December 2016.

The lots in question are those that do not have an approved dwelling located upon them and are generally smaller in size, around 0.5 to 5 hectares, and originally created as 'concessional lots' from larger rural holdings.

Affected owners who are yet to lodge their development application will need to do so prior to the above date.

If no development application is lodged for affected properties, dwelling entitlements will expire.

They can contact Council's Strategic Planning team on (02) 4232 0444.

The Kiama Local Environment Plan (2011) can be viewed at: www.legislation.nsw.gov.au

Ends

Figure 2: Extract of media release on 14/11/2016 advising of clause 4.2A "sunset clause"

It is also noted that Council staff have provided clear and consistent advice to customers (including prospective buyers) about the application of Clause 4.2A and that certain lots in RU1, RU2 and C3 zones would not benefit from a dwelling entitlement unless they comply with the minimum lot size set under the Lot Size Map or if it is for replacement of a lawfully erected dwelling house.

Council through the application of Clause 4.2A (4) has provided a clear planning direction in order to minimise unplanned rural residential development. Clause 4.2A (4) represents the planned development outcome for erection of dwellings in RU1, RU2 and C3 zoned land which includes the extinguishment of any dwelling entitlements in accordance with subclause (4).

The Clause 4.2A "sunset clause" is adopted in the Kiama LEP 2011 and the implications of the clause have been clearly and consistently communicated to landowners, relevant stakeholders and the community.

The Applicant also argues that the subject land is "suitable for viable agricultural activities" and that Clauses 4.2 and 4.2A are "blunt instruments" to achieve the desired objectives of these clauses. The applicant also asserts that the proposed dwelling will enable the sustainable agricultural undertakings to be undertaken on the land. Council disagrees that the dwelling is required to facilitate development or an undertaking on the land which achieves the relevant objectives, including rural and agricultural uses.

Item 15.4

Enclosure 1

10.2025.131.1

<u>b) to enable the replacement of lawfully erected dwelling houses in rural and conservation zones.</u> The proposed development does not replace a lawfully erected dwelling and there are no existing approvals for establishment of a dwelling house on the land. <u>Sufficient Environmental Planning Grounds</u> The Applicant contends that there are sufficient environmental planning to justify contravention of the development standard because the development aligns with the objects of the Environmental Planning and Assessment Act 1979, for which the applicant has provided a list. The applicant has provided no specific commentary connecting the development to any particular object of the act and relies simply on the statement that “there are environmental planning grounds to justify the contravention of these development standards.” In the absence of any specific commentary on this matter, it is considered that no sufficient environmental planning grounds have been identified to justify the proposed variation. The land and surrounding area is zoned RU2 – Rural Landscape and C2 – Environmental Conservation and is rural in character. The RU2 zone objectives are to encourage sustainable primary industry production and protect agricultural land for long term agricultural production, as well as to provide for a range of compatible land uses whilst maintaining the rural landscape character. The RU2 zone and controls set out under Clause 4.2A allow for dwelling houses in this rural context so long as they on land which meets the minimum lot sizes or replace an existing approved dwelling. Accordingly the proposed development does not promote the orderly and economic use and development of land as it is not consistent with the objectives of the rural zone and rather it erodes the lands ability to be utilised for appropriate rural and agricultural land uses. The proposed development does not enhance or maintain the natural resource base, rather it reduces the availability of rural land and introduces additional residential development in a way that is not compatible with adjoining agricultural and rural land. It is also noted that the proposed dwelling does not achieve buffer distances to adjoining rural/agricultural land as per Control 6.1.28 of Chapter 6 of Kiama DCP 2020. Control 6.1.28 requires a buffer distance of 150m between residential development and any adjoining land in separate ownership that is used or capable of being used for agricultural purposes. The purpose of this agricultural buffer distance is to mitigate the impact of agricultural activities including noise, odour and spray drift on adjoining land affecting the amenity and health of residents of a new dwelling erected on adjacent land. In this regard, the proposed development has a 45m setback from the land to the south which is currently used for agricultural purposes and land that is capable of being used for agricultural purposes. As such, Council staff are not satisfied that the development has been suitably sited or designed to achieve good amenity outcomes and does not result in a development that is compatible with surrounding rural land uses.	
Part 5 Miscellaneous provisions	
5.16: Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	
The proposed development involves the erection of a dwelling on land zoned RU2 Rural Landscape. Council has considered existing and approved uses on adjoining land and the proposed development has not adequately demonstrated compatibility with these adjoining land uses.	Does not comply.
5.21: Flood planning	
The subject site is mapped as below the flood planning level and Council has considered the development's impact on flood behaviour and the design and use of the development in its	Does not comply. The flood impact assessment report

Item 15.4

Enclosure 1

10.2025.131.1

current situation, and also with regard to projected and potential climate change and coastal erosion processes. Council is not satisfied that the proposed development is compatible with the flood hazard of the land and will not significantly adversely affect floor behaviour. The proposal has not adequately demonstrated that the development would not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourse. The proposal has not adequately demonstrated that the development will not affect the safe occupation or evacuation of the land. The proposal has not adequately demonstrated that the development would not be likely to result in unsustainable social and economic costs to the community as a consequence of flooding. The proposed development is viewed as unsatisfactory with regard to the considerations set out in Clause 5.21.	provided is out of date and cannot be utilised for assessment purposes.
Part 6 Additional local provisions	
6.2: Earthworks	
Clause 6.2 lists considerations for proposals which involve earthworks. The proposal complies with the objectives of the clause and as the proposed earthworks are ancillary to the proposed dwelling separate development consent is not required.	Complies
6.4: Terrestrial biodiversity	
Part of the subject site is mapped as Biodiversity Land. The proposed development does not involve the removal of any significant vegetation and would not have a significant negative impact on terrestrial biodiversity.	Complies
6.5: Riparian land and watercourses	
The development site is located on land identified as "Riparian Land" mapped on the Riparian Lands and Watercourses Map. It is considered that the proposed development will not likely have an adverse impact on the watercourse stability or water quality, aquatic and riparian species, habits and ecosystems, or the passage of fish and other aquatic organisms within or along the watercourse. The proposed development will not preclude the future rehabilitation of the watercourse and its riparian areas. The proposal will not likely increase water extraction from the watercourse. The proposed development has been appropriately designed to minimise impact on the watercourse and the proposal is viewed as satisfactory with regard to the considerations set out in Clause 6.5.	Complies
6.12: Essential services	
Reticulated electricity is available to the site.	Does not comply.

Item 15.4

Enclosure 1

10.2025.131.1

Potable water will be provided to the development via rainwater tanks. Recommended conditions of consent will be imposed accordingly. Effluent is proposed to be managed on site. The proposal has not demonstrated that there is suitable areas on site for the required effluent management areas, with conflicts existing between the effluent disposal areas and stormwater management. The application has been reviewed by Council's Environmental Health Officer who raised objections – citing the conflict between stormwater and effluent management areas as matters of significant concern. It is considered that the proposal has not demonstrated that there is suitable area on site for the required effluent management areas.	The on-site wastewater management report provided is out of date and has not adequately considered the appropriate location of OSSM and stormwater management, creating an unsupportable conflict.
--	---

The proposed development is not consistent with the relevant provisions of the Kiama LEP 2011 and is not permissible within in the RU2 Rural Landscape zone, given the undersized lot.

ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Nil

KIAMA DEVELOPMENT CONTROL PLAN 2020

Chapter 1: Introduction and administration

The application has been prepared to include documentation and considerations consistent with the requirements in Kiama DCP Chapter 1.

Chapter 2: Site considerations

Topic 2.1 – Site Analysis	
Does the proposal include a site analysis plan prepared in accordance with the requirements of Kiama DCP 2011?	Yes - Complies
Topic 2.2 – Biodiversity	
Does the proposal include development on land identified as Riparian Land?	Yes
Are threatened species present on the site?	No
Is the clearing of native vegetation proposed?	No
Does the application include a property landscape plan?	Yes
Topic 2.3 – Natural Resources	
Is the subject site located within a Sydney Drinking Water Catchment Area (NORBE)?	No
Topic 2.4 – Tree Preservation and Vegetation Management	
Does the proposal include the removal of any vegetation?	Yes
Are any Tree Management measures proposed?	Yes - Complies
Topic 2.5 – Risk Minimisation and Management	
Is the subject site mapped as Potentially Contaminated Land?	No
Is the subject site mapped as Flood Prone Land?	Yes

10.2025.131.1

Is the subject site mapped as Bushfire Prone Land?				Yes
The Kiama Municipal Council Area is within a 100 Forest Fire Danger Index area (see Table A1.12.5 in PBP 2019).				
Direction	Vegetation hazard type	Distance to bush fire vegetation hazard / proposed APZ	Effective slope under vegetation hazard (over 100m)	BAL
North	Grassland	25m	>0 to 5 degrees - downslope	BAL-12.5
East	Grassland	22m	Upslope / Flat	BAL-12.5
South	Grassland	28m	>5 to 10 degrees - downslope	BAL-12.5
West	Grassland	32m	>10 to 15 degrees - downslope	BAL-12.5
The bush fire assessment report identifies that the proposed development conforms to the relevant specification and requirements of Planning for Bush Fire Protection 2019 and has been prepared by a suitably qualified consultant.				
Recommended conditions of consent will require the proposed building/s to be built to BAL-12.5 and APZs (as required) as above.				
Is the subject site mapped as Acid Sulfate Soils?				No
Does the proposed development include more than 1m of cut and fill?				Yes
Does the subject site include a gradient exceeding 20%?				Yes

Chapter 3: Common requirements

Topic 3.1 – Waste Minimisation and Management	
Has the proposal been supported by an appropriately prepared Waste Minimisation and Management Plan?	Yes - Complies
Where <u>COMPLETE</u> demolition is proposed, has the applicant provided a Hazardous Materials Assessment Report?	N/A
Topic 3.2 - Amenity	
Does the proposed development maintain appropriate solar access to adjoining sites including neighbouring solar collectors? (ie. is 3 hours of direct, continuous solar access available to adjoining sites between 9am and 3pm on 21 June?)	Yes - Complies
Does the proposed development maintain adequate visual and acoustic privacy to adjoining properties?	Yes - Complies
Are existing view lines detrimentally impacted?	No
Where possible, have views from public places been maintained?	Yes - Complies
Has the proposed development been appropriately designed to ensure that there is no unreasonable loss of existing views lines, where possible?	Yes - Complies
Does the proposed development have regard to the topography of the site to avoid unnecessary bulk or alteration of natural ground levels?	Yes - Complies
Does the proposed development include a Landscape Plan?	Yes - Complies

10.2025.131.1

Topic 3.3 – Earthworks and Retaining Walls																											
Does the proposed development include earthworks or retaining works?	Yes - Complies																										
Topic 3.4 – Utilities and Infrastructure																											
Does the subject site benefit from electricity supply?	Yes - Complies																										
Topic 3.5 - Water Management (Quality and Control)																											
Does the proposed development include Onsite Sewage Management (OSSM)?	Yes, however design is unsuitable.																										
Does the proposed development include appropriate water supply, including for firefighting purposes, where required?	Yes - Complies																										
Topic 3.6 – Transport, Access and Parking																											
Does the proposed development include appropriate on-site parking as prescribed in the table below? Note: For larger scale development, refer to page 52, Kiama DCP Chapter 3.	Yes - Complies																										
<table border="1"> <thead> <tr> <th>Land Use Type</th> <th>Minimum Car Parking Standards</th> </tr> </thead> <tbody> <tr> <td colspan="2">Residential</td> </tr> <tr> <td>Dwelling house</td> <td>1 dedicated space behind the building line and 1 space behind the front boundary.</td> </tr> <tr> <td>Dual occupancy/attached dwelling</td> <td>For each occupancy, 1 dedicated space behind the building line and 1 space behind the front boundary.</td> </tr> <tr> <td>Secondary dwelling</td> <td>1 space behind the front boundary for the secondary dwelling.</td> </tr> <tr> <td>Multi-dwelling housing/residential flat building/shop top housing</td> <td>1 dedicated space behind the building line (per one or two bedroom dwelling) and 1 additional space per three bedroom dwelling (and above) behind the front boundary plus 1 space per 2 dwellings for visitor parking behind the front boundary. NOTE: Enclosed rooms, that is nominated as a study (or similar) and is capable of being used as a bedroom is considered to be a bedroom for the purposes of calculating car parking requirements.</td> </tr> <tr> <td>Boarding/house/hostel/group home</td> <td>1 space per 4 beds and 1 space per staff member on shift.</td> </tr> <tr> <td>Seniors housing</td> <td>1 dedicated space per unit plus 1 space per 4 units for visitor parking.</td> </tr> <tr> <td>Seniors housing (residential care facility)</td> <td>1 space per 10 units, plus 1 space per 4 units for visitor parking, plus 1 space per staff member on shift, plus 1 space for ambulance parking.</td> </tr> <tr> <td>Rural worker's dwelling</td> <td>1 space per bedroom.</td> </tr> <tr> <td>Home based childcare</td> <td>1 space per 7 children in care.</td> </tr> <tr> <td>Home business</td> <td>1 space per employee.</td> </tr> <tr> <td>Exhibition village</td> <td>4 spaces per exhibition home.</td> </tr> </tbody> </table>	Land Use Type	Minimum Car Parking Standards	Residential		Dwelling house	1 dedicated space behind the building line and 1 space behind the front boundary.	Dual occupancy/attached dwelling	For each occupancy, 1 dedicated space behind the building line and 1 space behind the front boundary.	Secondary dwelling	1 space behind the front boundary for the secondary dwelling.	Multi-dwelling housing/residential flat building/shop top housing	1 dedicated space behind the building line (per one or two bedroom dwelling) and 1 additional space per three bedroom dwelling (and above) behind the front boundary plus 1 space per 2 dwellings for visitor parking behind the front boundary. NOTE: Enclosed rooms, that is nominated as a study (or similar) and is capable of being used as a bedroom is considered to be a bedroom for the purposes of calculating car parking requirements.	Boarding/house/hostel/group home	1 space per 4 beds and 1 space per staff member on shift.	Seniors housing	1 dedicated space per unit plus 1 space per 4 units for visitor parking.	Seniors housing (residential care facility)	1 space per 10 units, plus 1 space per 4 units for visitor parking, plus 1 space per staff member on shift, plus 1 space for ambulance parking.	Rural worker's dwelling	1 space per bedroom.	Home based childcare	1 space per 7 children in care.	Home business	1 space per employee.	Exhibition village	4 spaces per exhibition home.	
Land Use Type	Minimum Car Parking Standards																										
Residential																											
Dwelling house	1 dedicated space behind the building line and 1 space behind the front boundary.																										
Dual occupancy/attached dwelling	For each occupancy, 1 dedicated space behind the building line and 1 space behind the front boundary.																										
Secondary dwelling	1 space behind the front boundary for the secondary dwelling.																										
Multi-dwelling housing/residential flat building/shop top housing	1 dedicated space behind the building line (per one or two bedroom dwelling) and 1 additional space per three bedroom dwelling (and above) behind the front boundary plus 1 space per 2 dwellings for visitor parking behind the front boundary. NOTE: Enclosed rooms, that is nominated as a study (or similar) and is capable of being used as a bedroom is considered to be a bedroom for the purposes of calculating car parking requirements.																										
Boarding/house/hostel/group home	1 space per 4 beds and 1 space per staff member on shift.																										
Seniors housing	1 dedicated space per unit plus 1 space per 4 units for visitor parking.																										
Seniors housing (residential care facility)	1 space per 10 units, plus 1 space per 4 units for visitor parking, plus 1 space per staff member on shift, plus 1 space for ambulance parking.																										
Rural worker's dwelling	1 space per bedroom.																										
Home based childcare	1 space per 7 children in care.																										
Home business	1 space per employee.																										
Exhibition village	4 spaces per exhibition home.																										
Are any additional controls required for vehicular access or parking?	No																										
Are any parking credits proposed?	No																										
Does the proposed development include appropriate access arrangements, including manoeuvrability?	Yes - Complies																										

Item 15.4

Enclosure 1

10.2025.131.1

Topic 3.7 - Character and Design	
Is the proposed development raise any concerns relating to Crime Prevention through Environmental Design, safety, privacy, sight lines or detracton from quality of the streetscape?	
Chapter 4: Heritage and Cultural Conservation	
Topic 4.2 - Aboriginal Cultural Heritage Management	
Is the subject site mapped as featuring Aboriginal Cultural Heritage (AHIMS)?	No
Topic 4.3 - European Cultural Heritage Management	
Is the subject site identified as containing a listed Heritage Item, Draft Heritage Item or State Heritage Item?	No
Topic 4.4 – Heritage Conservation Areas	
Is the subject site located in a Heritage Conservation Area?	No
Chapter 5: Subdivision, Consolidation and Boundary Adjustment	
NA	
Chapter 6: Residential Accommodation	
Chapter 6.1: Dwelling Houses	
Topic 6.1 – Dwelling Houses	
General	
6.1.1	
All applications for dwellings must meet the following controls: - all Principal development standards as set by LEP 2011. - all development must be designed to minimise any environmental risks associated with its location.	No - does not comply. See commentary below. Undersized lot.
6.1.2	
Walls of buildings facing side boundaries and ≥ 15m in length must be appropriately articulated, such as through the use of different materials or design.	Yes - Complies
6.1.3	
Developments located on a main or arterial road or in the vicinity of traffic management controls on any classification of road must provide for vehicles to enter and exit the site in a forward direction.	N/A
6.1.4	
In any application consideration will be given to the effect of design that excessive height and/or bulk of dwelling house/addition/dual occupancy/secondary dwelling may have on adjoining properties, with respect to their privacy and overshadowing.	Yes - Complies

Item 15.4

Enclosure 1

10.2025.131.1

6.1.5	
Dwelling houses/additions proposed on the site should be located so as to retain as many significant existing trees on the site as practicable. Where an application for the construction, extension, or alteration of the built upon area of a site involves removal of a tree which, in the opinion of Council is of significance in its own right to the site or to the general area, that application will not be favoured. Consideration should be given by applicants to the relocation or re-design of such proposals on the site, to ensure preservation of the significant tree(s).	Yes - Complies
6.1.6	
To maintain and improve the existing and future desired character/amenity of residential zones. Council will only approve of new dwelling houses/additions where they are compatible with the existing and environmental character of the locality and have a sympathetic and harmonious relationship with adjoining development.	N/A
6.1.7	
New buildings do not have to imitate the architecture of those nearby. However, they should respect the scale, form, orientation etc. of buildings in the street.	N/A
6.1.8	
New urban development is consistent with best practice neighbourhood and environmental design principles including: • accessibility to the town and its community facilities; • energy and water efficiency; • urban form and design in both the private and public domains; • liveability and neighbourhood character; and • appropriate housing choice.	N/A
6.1.9	
A maximum development density of one (1) dwelling per 1,000m ² (exclusive of access handles) of site area (regardless of dwelling size) applies to land zoned R5 Large Lot Residential.	N/A
6.1.10	
Dwellings and ancillary development in rural areas must be designed and sited to protect agricultural land; avoid/minimise their impact on the natural environment and the scenic landscape; and be clustered rather than dispersed over the property	No - does not comply. See commentary below. Undersized lot, location of and ancillary structures/infrastructure sterilises existing agricultural land.

Item 15.4

Enclosure 1

10.2025.131.1

6.1.11			
Dwellings and ancillary development in rural areas must be carefully and sensitively sited and designed to complement landscape rather than become conspicuous built elements in the landscape. The siting of habitable buildings should also have regard to any existing or approved agricultural use of adjoining land and the amenity of neighbours.		No - does not comply. See commentary below. Undersized lot, location of and ancillary structures/infrastructure sterilises existing agricultural land.	
6.1.12			
Any existing dwelling that is replaced by a new dwelling must be demolished before the new dwelling is occupied unless consent is granted for that dwelling to be used for another purpose.		N/A	
6.1.13			
Ancillary development should also be where possible and practicable clustered around the principal dwelling, or able to utilise the same accessways.		Yes - Complies	
6.1.14			
Ancillary development will need to be landscaped to mitigate visual impact visible from a public place.		Yes - Complies	
Building Lines and Building Separation			
Setback	Requirement	Proposed	Yes - Complies
Building Height Plane	Vertical from Boundary to 5m, 45* to Max Bld Height	Yes - Complies	
Front Building Line	15m	15m	
Side Setback (GF)	900mm (wall) 675mm (eaves)	>100m	
Rear Setback	6m	>100m	
6.1.15			
No part of the structure (excluding the eaves, fascia and roof gutter to a maximum width of 600mm) within the built upon area of the site shall exceed a building height plane projected at an angle of 45° over the actual land to be built upon from a vertical distance of 5m above the existing ground level at any boundary of the site.		Yes - Complies	
Building line controls – Building lines in rural areas			
6.1.26			
Buildings in rural areas shall be setback at least 15m from the boundary of a property with a public road frontage		Yes - Complies	
6.1.27			
The minimum side boundary setback for a dwelling or an outbuilding attached to a dwelling shall be 900mm, as measured from the boundary to a vertical member. The minimum side		Yes - Complies	

10.2025.131.1

boundary set back from the edge of the gutter, eaves or fascia is 675mm.	
6.1.28	
An agricultural buffer area at least 150m wide or a greater distance if possible, must be provided between a rural dwelling house, secondary dwelling or ancillary development (used for habitable purposes) and any adjoining land in separate ownership that is used or capable of being used for agricultural purposes. (the purpose of the agricultural buffer area is to mitigate the impact of agricultural activities including noise, odour and spray drift on adjoining land affecting the amenity and health of residents of a new dwelling erected on adjacent land. Agricultural activities include agricultural processing plants, dairies, cattle yards, horticulture, feedlots or other like activities that could result in noise, odours or agricultural spray drift).	No - does not comply. See commentary below.
6.1.29	
Where a separation distance of 150m or more cannot be achieved and an agricultural activity or an approved agricultural activity is or is likely to be carried out on adjoining land, the planting of a 20 metre wide vegetation buffer strip - comprised of native vegetation must be provided between the proposed development building envelope and the adjacent agricultural land to help screen and mitigate agricultural activity impacts.	Yes - Complies
6.1.30	
A dwelling and any ancillary development must be set back from a public road by a distance of at least 15m and from a private road by a distance of at least 10m where it is practical to do so without clearing native vegetation.	Yes - Complies
6.1.31	
A dwelling and ancillary development must be located at least 100m from another dwelling on an adjoining property to help achieve rural dwelling amenity.	Yes - Complies
Foreshore building lines	
Building Footprint	
6.1.60	
Buildings that are applicable under this section, are not to have a cumulative building footprint greater than the areas specified below:	Yes - Complies
For a single dwelling house in a urban zones	
Elambra Estate	
West Kiama Urban release Area	
Gerringong Headland	
Cedar Grove	

Item 15.4

Enclosure 1

10.2025.131.1

Building Materials	
6.1.61	
All materials and colours used should be muted or earthy tones appropriate to the local street and landscape context. The colours and materials chosen for buildings need to be considered in terms of their reflectivity and glare. While lighter roof colours are encouraged for heat deflection and global warming Albedo Effect benefits. Roof designs and location may need to be reconsidered so as to ensure that reflectivity and glare do not adversely affect neighbours' amenity. In some cases, where this amenity cannot be reasonably addressed by redesign, lower reflectivity material may need to be specified. All applications are required to be accompanied by a schedule of finishing materials and colours for Council approval.	Yes - Complies
6.1.62	
External finishes should not strongly contrast with the background whether by orientation, location, colour or choice of materials.	Yes - Complies
6.1.63	
Metal roofing should have a solar absorbance classification in accordance with New South Wales BASIX of not less than 0.46 unless the applicant can satisfy Council that the proposal is consistent with the objectives of the Reflectivity in Building Materials Policy.	Yes - Complies
Storage	
6.1.64	
In addition to kitchen cupboards and bedroom wardrobes, provide enclosed accessible storage facilities at the following rates: - two-bedroom dwellings - 8m³ - three plus bedroom dwellings - 10m³	Yes - Complies
Garaging and car parking	
6.1.65	
Garages/car parks can constitute a maximum of 50% of the front or street elevation of a development.	Yes - Complies
6.1.66	
At least one (1) space in any development must be located behind the building line.	Yes - Complies
6.1.67	
A garage is preferable to a carport.	Noted
6.1.68	
One double garage must not adjoin another double garage.	Yes - Complies
6.1.69	
Any garaging must be set back a minimum of 6m to allow for stacked parking.	N/A

Item 15.4

Enclosure 1

10.2025.131.1

Private open space	
6.1.70	
Each dwelling must be provided with a minimum of 24m ² of private open space with minimum dimensions of 6m x 4m.	Yes - Complies
6.1.71	
Private open space must be directly accessed from the main living area of the dwelling.	Yes - Complies
6.1.72	
The maximum finished gradient of private open space is 1:4.	Yes - Complies
6.1.73	
A minimum of 50% of the provided private open space areas are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 22. The sunlight must be able to cover the area measured at 1m above the finished level of the private open space area.	Yes - Complies
6.1.74	
Private open space areas will require space available or need to be clearly designated on a plan. An area proposed forward of the building line will not be generally favoured but will be considered on merit in exceptional circumstances.	Yes - Complies
6.1.75	
Balconies should not be located on the side of developments without appropriate measures to maintain reasonable amenity to adjoining properties.	Yes - Complies
6.1.76	
A deck/balcony may count as part but not all of a dwellings private open space, subject to the following merit based assessment: • A maximum of 1/3 of the total open space can be in the form of a balcony. • That the dimensions and location of the deck would provide for useful practical multipurpose open space. • The location of the deck will not compromise any amenity issues (such as noise or privacy) for surrounding dwellings/occupants. • Balconies located on the side of developments are not permitted. • A minimum dimension of 2m is required for any balcony.	N/A
External fixtures – Drying areas	
6.1.77	
Drying areas must be provided at a rate of 8 lineal metres of line per dwelling and: • Should not be visible from any public place.	Yes - Complies

Item 15.4

Enclosure 1

10.2025.131.1

- Must not be located in the main private open space area. - Cannot be located forward of the building line.	
6.1.78	
Drying areas should have a northerly aspect.	Yes - Complies
External fixtures – Letterboxes	
6.1.79	
Letterboxes must be provided in accordance with Australia Post requirements.	Yes - Complies
6.1.80	
Consideration should be given to the siting of letterboxes in dual occupancy/secondary dwelling development for battle-axe blocks.	N/A

Chapter 7: Commercial premises

Chapter 8: Rural uses

Chapter 9: Industrial uses

NA

Chapter 10: Visitor and accommodation and tourism

NA

Chapter 11: Other

NA

Chapter 12: Location specific controls

NA

Chapter 13: Agritourism

NA

KIAMA DEVELOPMENT CONTROL PLAN – VARIATIONS

Control being varied			
6.1.28 - An agricultural buffer area at least 150 metres wide - or a greater distance if possible - must be provided between a rural dwelling house, secondary dwelling or ancillary development (used for habitable purposes) and any adjoining land in separate ownership that is used or capable of being used for agricultural purposes.			
Extent of proposed departure from development standard			
Numerical standard	Proposed solution	Numerical departure	% Departure
150m	~60m	~90m	60%
Demonstrate how the relevant objectives and performance criteria are being met with the performance-based solution			
Objective	Commentary		
O:6.1.9 To provide guidelines for the appropriate siting of dwellings and other buildings.	The inability to provide a suitable agricultural buffer distance is symptomatic of the undersized allotment providing insufficient land area to		

10.2025.131.1

O:6.1.10 To protect the amenity of the locality in which the development is situated.	appropriately site a dwelling in the rural context and provide adequate buffers to adjoining agricultural land uses.
O:6.1.11 To setback buildings and garages/carports from the street to provide adequate space for landscaping or open space, visual and acoustic privacy and vehicle parking, while assisting in establishing an attractive streetscape.	
O:6.1.12 To protect the established character of a neighbourhood with a consistent view along the street and water frontage to promote an open street and waterscape.	
O:6.1.13 To prevent dwelling houses and structures being sited inappropriately in relation to neighbouring dwellings and the water front.	
O:6.1.14 To prevent unreasonable loss of views.	
O:6.1.15 To provide for compliant car accommodation with due reference to building lines.	
O:6.1.16 To require dwellings to be designed and sited in a way consistent with ecologically sustainable development objectives and urban design principles.	
O:6.1.17 To protect urban bushland, riparian corridors, watercourses (including streams, estuaries and wetlands) and significant landscapes.	
O:6.1.18 To maintain visual and acoustic privacy, and provide for reasonable solar access into the rear yards and living areas of adjoining residences.	
O:6.1.19 To site dwellings having regard to possible risks to life and property resulting from storm surge, tidal inundation, flooding, erosion and sea level changes resulting from climatic change.	

10.2025.131.1

Demonstrate how the development will not have any adverse impacts as a result of the performance-based solution

The proposed departure is not consistent with the DCP objectives and is not recommended to be supported.

ANY PLANNING AGREEMENT

Nil.

ANY MATTERS PRESCRIBED BY THE REGULATIONS

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

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

Australian Standard AS 2601 - 1991: The Demolition of Structures

The proposal is not inconsistent with Australian Standard AS 2601 - 1991: The Demolition of Structures.

Clauses 93, 94 and 94A

The proposal does not involve a change of use or additions and alterations to an existing building or the erection of a temporary building.

ANY COASTAL ZONE MANAGEMENT PLAN

Nil.

Item 15.4

Enclosure 1

10.2025.131.1

OTHER KIAMA MUNICIPAL COUNCIL PLANS OR POLICIES

Provide commentary considering any other relevant [Council Policies](#)

Kiama 7.12 Contribution Plan			
The Kiama 7.12 Contribution Plan applies to all land in the Kiama LGA.			
Is the 7.12 Contribution Plan applicable to the subject site?		Yes	
Do 7.12 Contributions apply to the proposed development?		Yes - relevant s7.12 amount and conditions provided by Council's Contributions Planner.	
Contribution Plan	Cost of Works	Levy %	Contribution
Section 7.12 Contribution Plan	\$ 1,642,612.00	1%	\$16,426.00

THE LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT

Head of consideration	Comment
Biodiversity	The application does not propose clearing of native vegetation and therefore the <i>Environmental Planning and Assessment Act 1979 Part 1 Section 1.7</i> does not apply to the development.
Streetscape	The design of the proposed development is considered to be reasonable when considered in relation to the context of the site. The bulk, scale and design of the proposal is consistent with relevant planning instruments and is not inconsistent with the prevailing streetscape.
Noise	Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbours. No ongoing significant noise impacts are expected as a result of the development.
Privacy and overlooking	No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.
Overshadowing	The proposal is single storey and will have no unreasonable impact upon overshadowing.
Views	The proposal will have no unreasonable impact upon views currently available from neighbours.
Vehicular access, parking and manoeuvring	Sufficient car parking is proposed. Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.
Stormwater management	An unsatisfactory drainage design has been provided with the application. Managed stormwater will be directed to an on-site disposal system which conflicts with the on-site effluent disposal system.
Environmental impacts	Fauna Impacts – It is unlikely that the proposal will affect any fauna or its habitat.

10.2025.131.1

Head of consideration	Comment
	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 – Recommend conditions of consent include Sediment and Erosion Controls manage sedimentation during construction.
Natural environment	The proposed development has not adequately demonstrated that it will not have a significant adverse impact on the natural environment.
Built environment	The proposed development has not adequately demonstrated that it will not have a significant adverse impact on the built environment.
Social impacts	The proposed development has not adequately demonstrated that it will not have a negative social impact in the locality.
Economic impacts	The proposed development has not adequately demonstrated that it will not have a negative economic impact in the locality.

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

Notification letters were sent to neighbouring property owners on 22/08/2025, who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period, 0 submissions had been received.

ADDITIONAL INFORMATION

NIL

EXTERNAL REFERRALS

The application was referred to the following State Government Departments.	
External referral	Comments
Sydney Water	No objection.

INTERNAL REFERRALS

The application was referred to the following internal subject matter experts.	
Internal referral	Comments
Contribution Planner	No objection subject to recommended conditions
GIS Officer	No objection subject to recommended conditions

10.2025.131.1

Environmental Health Officer	Unsatisfactory. Council's Environmental Health Officer raised serious concerns regarding the conflict between the location of the on-site effluent management and stormwater.
------------------------------	--

OTHER APPROVALS

NIL

THE PUBLIC INTEREST

The proposal is not considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plan, and has not adequately addressed various land constraint conflicts and therefore is considered to be consistent with the public interest.

FINAL COMMENTS AND CONCLUSIONS

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposal is not consistent with Kiama LEP 2011 and relevant Kiama DCP 2020 Chapters.

Where the proposal includes departures from the development standards in the Kiama LEP 2011 and Kiama DCP 2020, the relevant objectives have not been satisfactorily addressed nor achieved.

The proposed development is not consistent with the objectives of the RU2 Rural Landscape zone.

Consideration has been given to the social, economic, and environmental impacts of the proposed development and significant concerns are raised.

The proposed development is considered to be unsuited to the site and refusal 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 10.2025.131.1 be refused under Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

- Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with the RU2 Rural Landscape zone objectives as detailed in Kiama Local Environmental Plan 2011.
- Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not demonstrated that the land is capable of being suitable for residential purposes pursuant to State Environmental Planning Policy (Resilience and Hazards) 2021, Cl. 4.6.
- Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with Kiama Local Environmental Plan 2011 clause 4.2A.
- Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that the Kiama Local Environmental Plan 2011 clause 4.2A development standard is unnecessary or unreasonable in the circumstances of the case.
- Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that there are sufficient environmental planning grounds to justify contravention of the Kiama Local Environmental Plan 2011 clause 4.2A development standard.

10.2025.131.1

- (f) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development is not consistent with Kiama Local Environmental Plan 2011 Clause 5.16.
- (g) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not sufficiently demonstrated compliance with Kiama Local Environmental Plan 2011 clause 5.21.
- (h) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not sufficiently demonstrated compliance with Kiama Local Environmental Plan 2011 clause 6.12 with regard to the disposal and management of sewage and stormwater drainage, and potential conflicts between the two.
- (i) Pursuant to S.4.15(1)(a)(ii) of the EP&A Act 1979, the proposed development does not provide adequate setback and agricultural buffer distances to adjoining land as required by control 6.1.28 in Chapter 6 of Kiama DCP 2020.
- (j) Pursuant to S.4.15(1)(b) of the EP&A Act 1979 the proposed development has not adequately demonstrated that the proposal will not have adverse environmental impacts, particularly with regard to conflicts between proposed stormwater disposal and effluent management areas and runoff and water quality impacts
- (k) Pursuant to S.4.15(1)(c) of the EP&A Act 1979 the proposed development is not considered suitable development for the site.
- (l) Pursuant to S.4.15(1)(e) of the EP&A Act 1979 the proposed development is not considered to be in the public interest.

Mr A Shortle
Development Assessment Officer - Planning
17/10/2025

Development Assessment Coordinator Endorsement

Peter Woodworth
Development Assessment Coordinator
20/10/2025

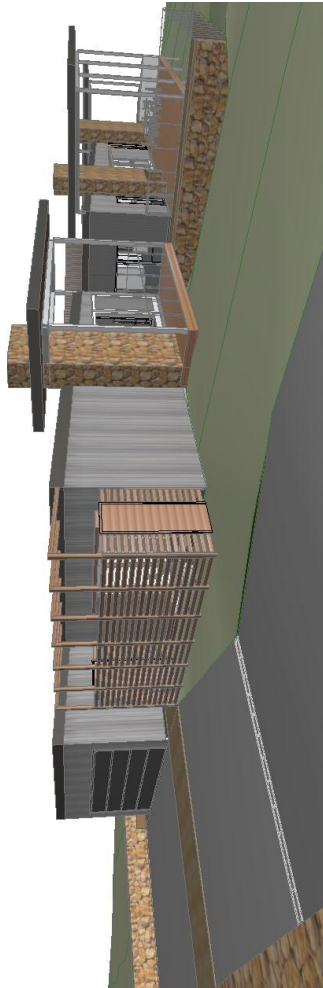
Item 15.4

Enclosure 1

DA ONLY - NOT FOR CONSTRUCTION

WILSON WEST RESIDENCE

FOR: WILSON
AT: LOT 4 DP 744186, WYALLA & WALLABY HILL ROAD, JAMBEROO



Layout Index

Layout No:	Layout Name
A.0001	COVER PAGE
A.1001	SITE ANALYSIS
A.1002	SITE PLAN
A.2001	GROUND FLOOR
A.3001	ELEVATIONS 1
A.3002	ELEVATIONS 2
A.3101	SECTION A & B
A.3102	SECTION C
A.6101	DOOR SCHEDULE
A.6201	WINDOW SCHEDULE
A.7001	PERSPECTIVES
A.9001	BASIX
A.9002	BASIX 2
A.9003	BASIX 3

LEGEND

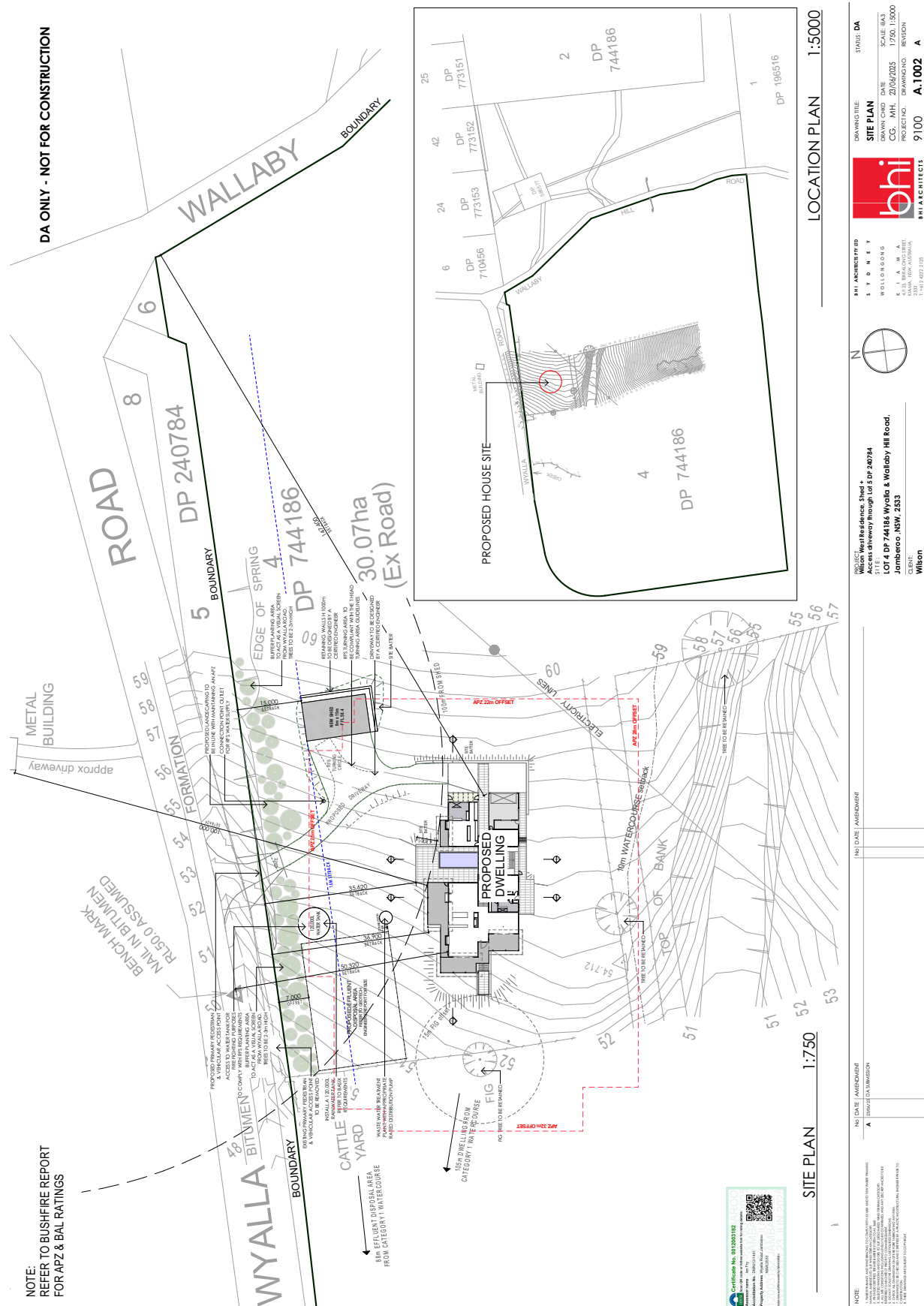
CRS	COLORBOND ROOF SHEETING
SC	SHADOWGLAD
LC	COLORBOND LONGLINE CLADDING
RB	RENDERED BRICK
ST	STONE
DE	DECK
ST	STERNEL
LF	LEAF
FR	FRAMING
TR	TIMBER BEAM
TP	TIMBER POST
TR	TIMBER GATE
TS	TIMBER SCREEN
TS	CONCRETE
P	POLISHED CONCRETE
CT	CARPET
CT	CERAMIC TILE

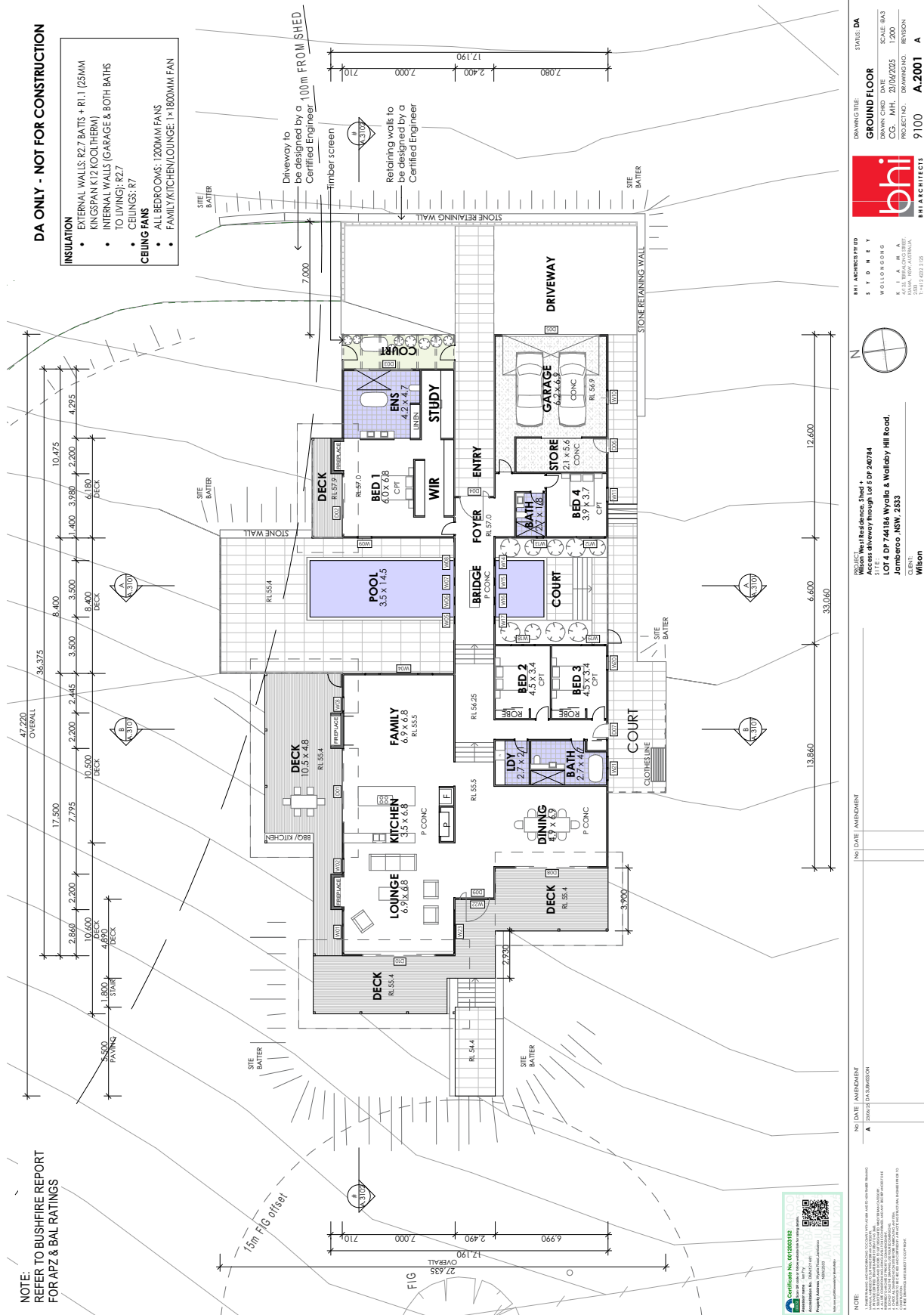
[illegible][illegible]

BHI ARCHITECTS PTY LTD		DRAWING TITLE:		STATUS: DA	
SYDNEY		COVER PAGE		SCALE: @A3	
WOLLONGONG		DRAWN: CHD		DATE: 23/04/2025	
K I A M A		CG. MH.		DRAWING NO. / REVISION	
4/125 TERNACROSS STREET, KILMARA, NSW, AUSTRALIA		PROJECT NO. 9100		A.0001 A	
T: +61 2 4231 7125		BHI ARCHITECTS			

Enclosure 2

Item 15.4

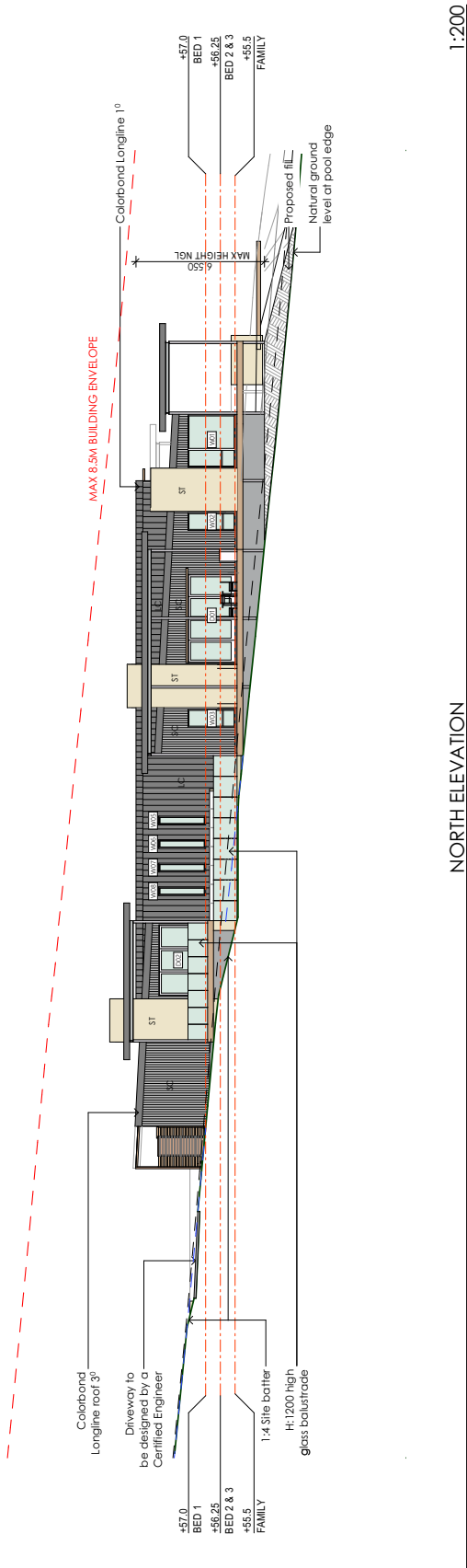




Item 15.4

Enclosure 2

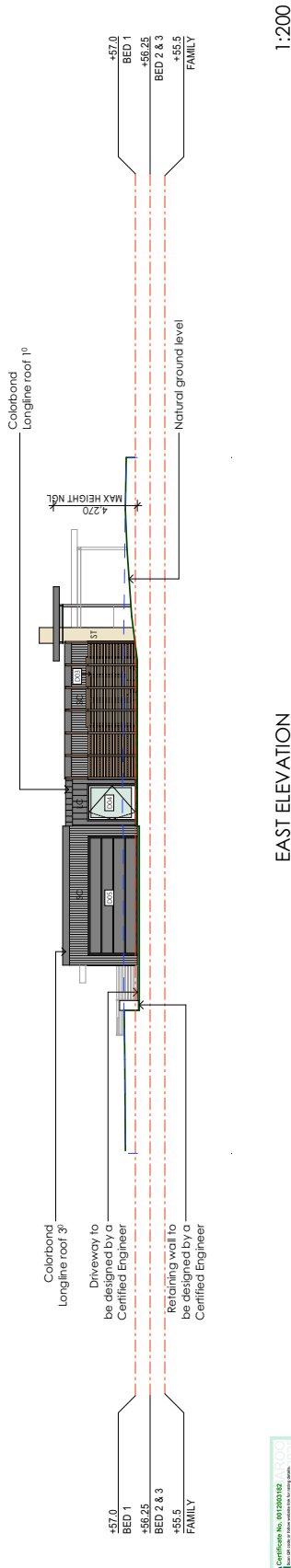
DA ONLY - NOT FOR CONSTRUCTION



NORTH ELEVATION

1:200

MAX 8.5M BUILDING ENVELOPE



EAST ELEVATION

1:200

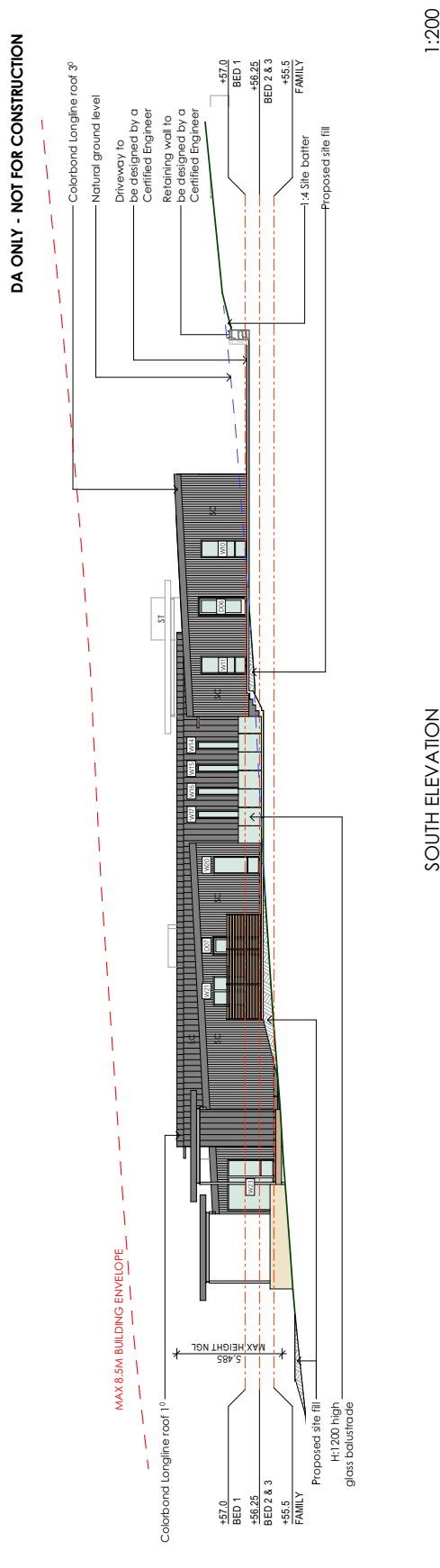


NOTE:
1. THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF BHI ARCHITECTS PTY LTD. AND ARE NOT TO BE REPRODUCED OR COPIED IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN PERMISSION OF BHI ARCHITECTS PTY LTD.
2. THESE PLANS AND SPECIFICATIONS ARE TO BE USED IN CONJUNCTION WITH THE DEVELOPMENT APPLICATION NO. 10.2025.131.1 - PART 4 DP 744186, LOT 5 DP 240784 - 85, SUBMITTED TO THE LOCAL GOVERNMENT OF JAMBEROO, NSW.
3. THESE PLANS AND SPECIFICATIONS ARE NOT TO BE USED FOR ANY OTHER PURPOSES.
4. THESE PLANS AND SPECIFICATIONS ARE NOT TO BE USED FOR ANY OTHER PROJECTS.
5. THESE PLANS AND SPECIFICATIONS ARE NOT TO BE USED FOR ANY OTHER PURPOSES.

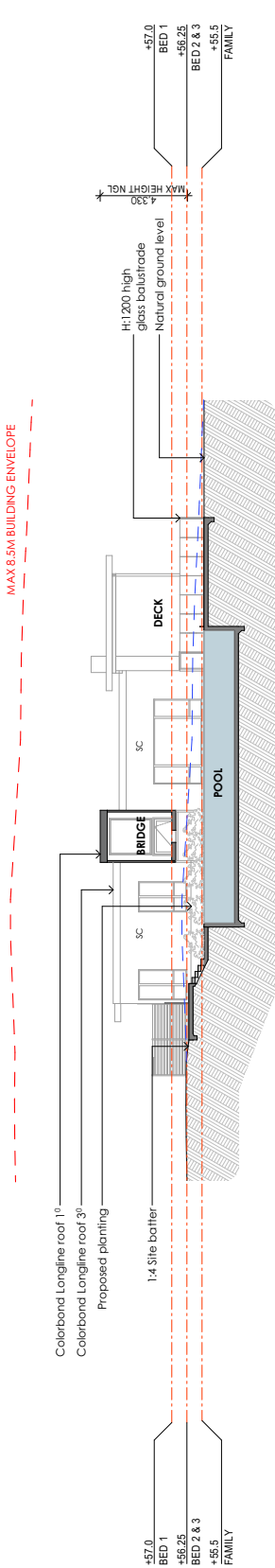
NO	DATE	AMENDMENT
A		ISSUED FOR SUBMISSION

PROJECT: **Lot 5 DP 240784**
Access Driveway through Lot 5 DP 240784
SITE: **Lot 5 DP 240784**
LOT 4 DP 744186 Wyalla & Walaby Hill Road,
Jamberoo, NSW, 2533
CLIENT: **Wilson**

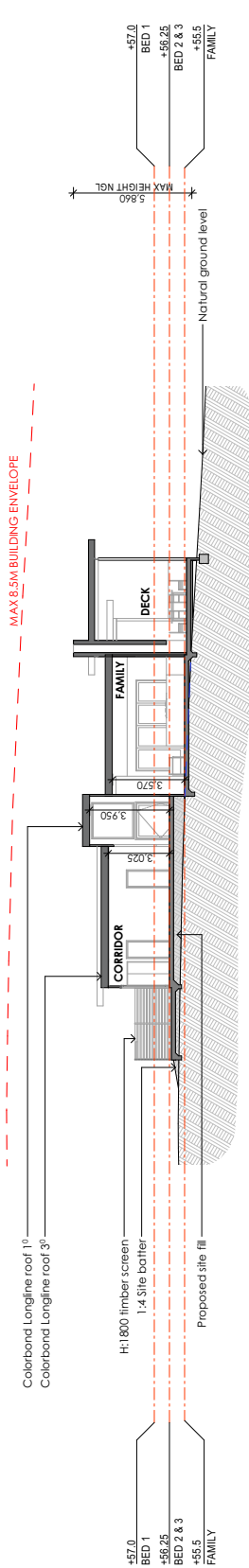
BHI ARCHITECTS PTY LTD
S Y D N E Y
W O L L O N G O N G
4/125, TERN-COAST STREET,
WOLLONGONG, NSW, AUSTRALIA
1220
T: +61 2 4212 3733
DRAWING TITLE: **ELEVATIONS 1**
DRAWING NO: **9100**
A.3001
A
STATUS: **DA**
DRAWN BY: **CC**
CHECKED BY: **CC**
DATE: **23/06/2025**
SCALE: **8/15**



DA ONLY - NOT FOR CONSTRUCTION



SECTION A
1:200



SECTION B
1:200



NOTE:
1. THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF BHI ARCHITECTS PTY LTD. AND ARE NOT TO BE REPRODUCED OR USED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF BHI ARCHITECTS PTY LTD.
2. THESE PLANS AND SPECIFICATIONS ARE NOT TO BE USED FOR ANY OTHER PROJECT OR SITE WITHOUT THE WRITTEN PERMISSION OF BHI ARCHITECTS PTY LTD.
3. THESE PLANS AND SPECIFICATIONS ARE NOT TO BE USED FOR ANY OTHER PROJECT OR SITE WITHOUT THE WRITTEN PERMISSION OF BHI ARCHITECTS PTY LTD.
4. THESE PLANS AND SPECIFICATIONS ARE NOT TO BE USED FOR ANY OTHER PROJECT OR SITE WITHOUT THE WRITTEN PERMISSION OF BHI ARCHITECTS PTY LTD.
5. THESE PLANS AND SPECIFICATIONS ARE NOT TO BE USED FOR ANY OTHER PROJECT OR SITE WITHOUT THE WRITTEN PERMISSION OF BHI ARCHITECTS PTY LTD.

NO	DATE	AMENDMENT
A		ISSUED FOR SUBMISSION

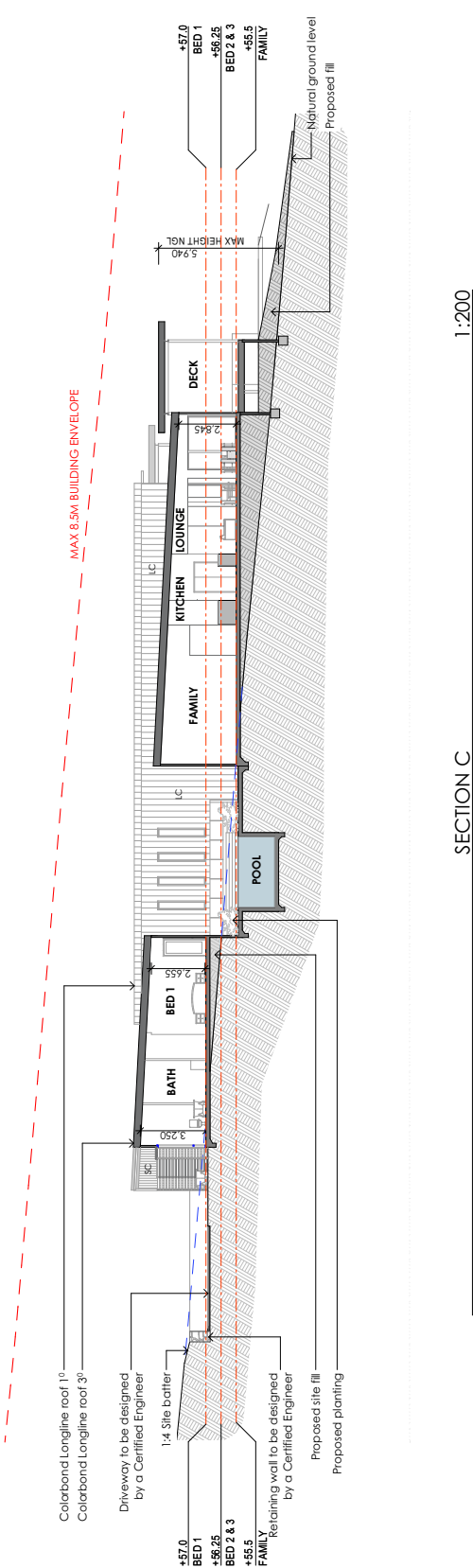
PROJECT: 10.2025.131.1 - Part 4 DP 744186, Lot 5 DP 240784
SITE: LOT 4 DP 744186 Wyalla & Walaby Hill Road, Jamberoo, NSW, 2533
CLIENT: Wilson

BHI ARCHITECTS PTY LTD
S Y D N E Y
WOLLONGONG
4/125, TERN-COAST STREET
WOLLONGONG, NSW, AUSTRALIA
12303
T: +61 2 4212 2723

DRAWING TITLE: SECTION A & B
DRAWN BY: CC
CHECKED BY: MH
DATE: 23/06/2025
PROJECT NO: 9100
DRAWING NO: A.3101
STATUS: DA



DA ONLY - NOT FOR CONSTRUCTION



NOTE:
1. THESE PLANS ARE PREPARED FOR THE DEVELOPMENT OF THE PROPOSED DWELLING HOUSE AND SWIMMING POOL.
2. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
3. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
4. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
5. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.
6. THE DEVELOPER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS.

NO	DATE	AMENDMENT
A		ISSUED FOR SUBMISSION

PROJECT: Wyalla Road Address Sheet 4
Access driveway through Lot 5 DP 240784
SITE:
LOT 4 DP 744186 Wyalla & Walaby Hill Road,
Jamberoo, NSW, 2533
CLIENT:
Wilson

bhi
BHI ARCHITECTS
WOLLONGONG
1/111-1113 WOLLONGONG STREET
WOLLONGONG, NSW, AUSTRALIA
T: 02 4222 2123

DRAWING TITLE: SECTION C
DRAWN BY: DA
DATE: 23/04/2025
PROJECT NO: 9100
DRAWING NO: A.3102
STATUS: DA

Enclosure 2

Item 15.4

Enclosures 2 - 10.2025.131.1 - Plans

DA ONLY - NOT FOR CONSTRUCTION

DOOR SCHEDULE									
ID	D01	D02	D03	D04	D05	D06	D07	D08	
TYPE	ALUMINIUM STACKING	ALUMINIUM STACKING	ALUMINIUM SLIDING AWNING	ALUMINIUM PIVOT	PANEL LIFT	ALUMINIUM HINGE	ALUMINIUM HINGE	ALUMINIUM STACKING	
W x H SIZE	4,500 x 2,400	3,600 x 2,400	3,500 x 2,400	1,800 x 2,400	6,057 x 2,500	900 x 2,400	900 x 2,400	4,500 x 2,400	
ELEVATION									

ID	D09	D10
TYPE	ALUMINIUM PIVOT	ALUMINIUM STACKING
W x H SIZE	1,800x2,400	4,500x2,400
ELEVATION		

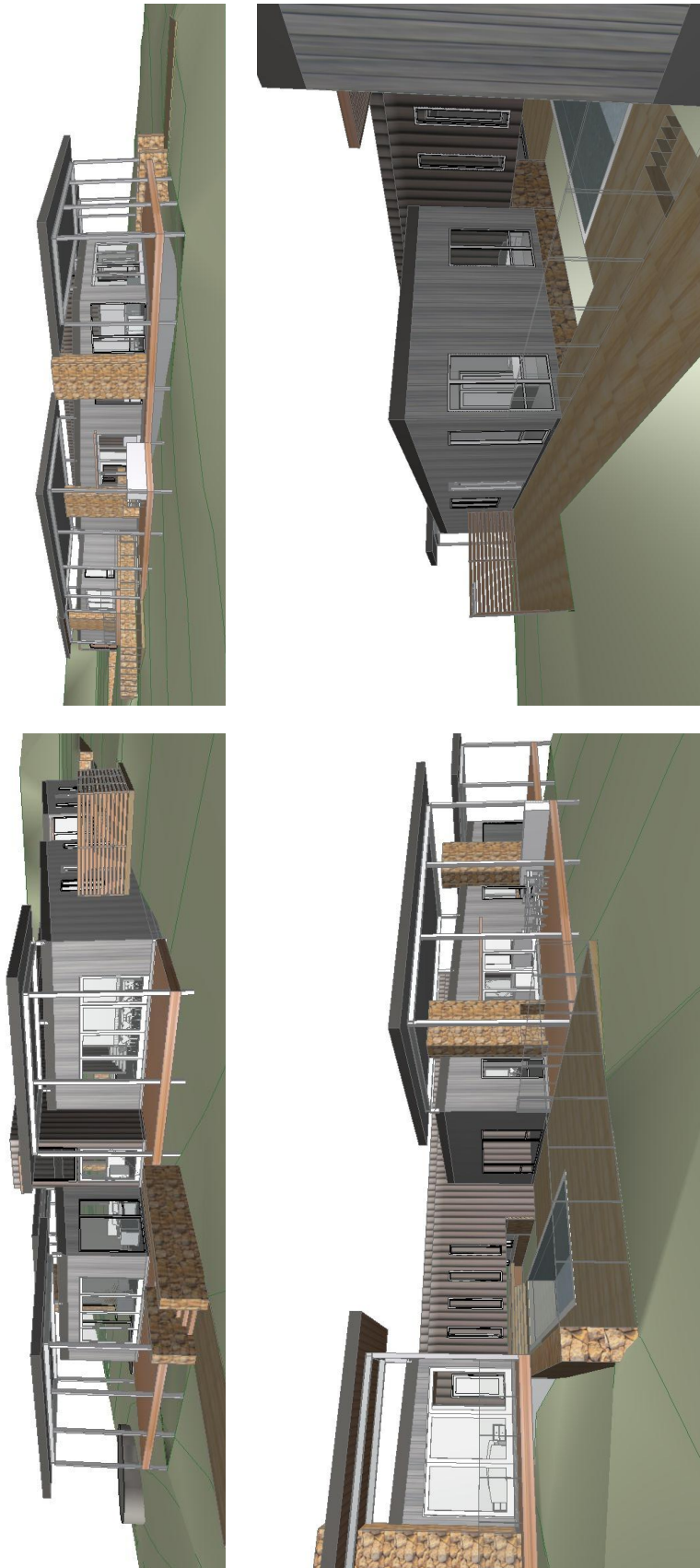
NOTE	NO DATE		AMENDMENT		PROJECT	9/11 ARCHITECTS PTY LTD SYDNEY WOLLONGONG K. J. M. A. 4/121, BEECHING STREET, 2333 T: +61 2 4231 2132	DRAWING TITLE	DOOR SCHEDULE	SCALE: A3 DATE: 23/04/2025 CG, MH, 1:1 PROJECT NO. DRAWING NO. REVISION	STATUS: D
	NO DATE		AMENDMENT							
1. THESE DRAWINGS HAVE BEEN PREPARED BY THE ARCHITECT FOR THE CLIENT AND ARE NOT TO BE USED FOR ANY OTHER PURPOSES. 2. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION. 3. ALL DIMENSIONS SHOWN ON THESE DRAWINGS ARE TO BE TAKEN FROM THE FINISHED WORK UNLESS OTHERWISE SPECIFIED. 4. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION. 5. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION. 6. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION. 7. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION. 8. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION. 9. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION. 10. THE ARCHITECT HAS NOT BEEN ADVISED OF ANY CHANGES TO THE PROJECT SINCE THE DATE OF THE LAST REVISION.	A		1		Wilson Well Residence, Shed + Access driveway through Lot 5 DP 240784 LOT 4 DP 744184, Wyndale & Wallybly Hill Road, Jamberoo, NSW, 2353 CLIENT: Wilson	bhi BHI ARCHITECTS	9100	A.6101	A	

Item 15.4

Enclosure 2

Enclosure 2

DA ONLY - NOT FOR CONSTRUCTION



BHI ARCHITECTS PTE LTD
 5 YONGE KEY
 WOLLOONGONG
 P O BOX 4
 4123, TERNAC STREET
 WOLLOONGONG, NEW SOUTH WALES,
 2500
 T: 61 61 4232 2128

bhi
BHI ARCHITECTS

PREFECTIVES
 DRAWING CODE DATE SCALE: 8/43
 CG, MH, 23/04/2023
 PROJECT NO. DRAWING NO. REVISION
 9100 A.7001 A

PROJECT: West Residence, Shed +
 Access driveway through Lot 5 DP 46784
 SITE: Lot 4 DP 46784 Wyvalle & Wollaby Hill Road,
 Jambaroo, NSW, 2533
 CLIENT: Wilson

[illegible]

NOTE:

1. THE FIRST AND THIRD BACHES TO COME UP WITH AN A AND D NOW HAVE TRAINING
2. PROVIDE CERTIFIED TRAINING FOR ALL SYSTEMS TOOLS.
3. SELECTED WINDOWS AND DOORS TO BE DESIGNATED AND REMAIN CLOSED IN.
4. ALL BACHES TO COME UP WITH A LEVEL 1001 CONFIRMED AND ALL DEC REPORTS TO BE
5. ALL BACHES TO COME UP WITH A LEVEL 1001 CONFIRMED AND ALL DEC REPORTS TO BE
6. DO NOT SCALE THE DAMAGED WALLS TO BE DAMAGED.
7. CHECK ALL DAMAGED WALLS FOR DAMAGED ANCHORS.
8. THE DEC REPORTS TO BE DAMAGED AND ALL DEC REPORTS TO BE DAMAGED.
9. THE DAMAGED WALLS TO BE DAMAGED.

Item 15.4

Enclosure 2

DA ONLY - NOT FOR CONSTRUCTION

Schedule of BASIX commitments				
The commitments set out below regulate how the proposed development is to be carried out. It is a condition of any development consent granted, or complying development certificate issued, for the proposed development, for BASIX commitments to be complied with.				
Water Commitments	Show on DA plans	Show on CESC/CDC plans & spaces	Comply	Comply
Figures				
The applicant must install showerheads with a minimum rating of 4 star (> 4 but <= 7.5 l/min plus spray force and/or coverage labels) in all showers in the development.	✓	✓	✓	✓
The applicant must install a toilet flushing system with a minimum rating of 4 star in each toilet in the development.	✓	✓	✓	✓
The applicant must install taps with a minimum rating of 4 star in the kitchen in the development.	✓	✓	✓	✓
The applicant must install basin taps with a minimum rating of 4 star in each bathroom in the development.	✓	✓	✓	✓
Alternative water				
Rainwater tank				
The applicant must install a rainwater tank of at least 10000 litres on the site. The rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.	✓	✓	✓	✓
The applicant must ensure that the rainwater tank is located at least 400 metres from the roof area of the development (excluding the area of the roof which drains to any stormwater tank or phreatic dam).	✓	✓	✓	✓
The applicant must connect the rainwater tank to:				
• all toilets in the development			✓	✓
• the cold water tap that supplies each clothes washer in the development			✓	✓
• at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with possible water supply)			✓	✓
• all hot water systems in the development			✓	✓
Swimming Pool				
The swimming pool must not have a volume greater than 75 kilolitres.	✓	✓	✓	✓
The swimming pool must be outdoors.	✓	✓	✓	✓

BASIX Department of Planning, Housing and Infrastructure Version 4.031 (E/CAL/PTPL/03_01_0) Certificate No. 18000858 Monday, 23 June 2025 page 3/10

Water Commitments	Show on DA plans	Show on CESC/CDC plans & spaces	Comply	Comply
• all indoor cold water taps (not including those that supply clothes washers) in the development		✓	✓	✓
• a tap that is located within 10 metres of the swimming pool in the development		✓	✓	✓
Swimming Pool				
The swimming pool must not have a volume greater than 75 kilolitres.	✓	✓	✓	✓
The swimming pool must be outdoors.	✓	✓	✓	✓

BASIX Department of Planning, Housing and Infrastructure Version 4.031 (E/CAL/PTPL/03_01_0) Certificate No. 18000858 Monday, 23 June 2025 page 4/10

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Project score	
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

BASIX Department of Planning, Housing and Infrastructure Version 4.031 (E/CAL/PTPL/03_01_0) Certificate No. 18000858 Monday, 23 June 2025 page 5/10

Description of project	
Project details	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project score	
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

BASIX Department of Planning, Housing and Infrastructure Version 4.031 (E/CAL/PTPL/03_01_0) Certificate No. 18000858 Monday, 23 June 2025 page 6/10

BASIX™ Certificate
Building Sustainability Index
www.planning.nsw.gov.au/development-and-assessment/basix
Single Dwelling
Certificate number: 18000858

This certificate confirms that the proposed development will meet the NSW governments requirements for sustainability, if it is built in accordance with the BASIX certificate. The certificate is valid for 10 years from the date of issue. The certificate has the meaning given by the document entitled "BASIX Definitions" dated 10/09/2020 published by the Department. This document is available at www.planning.nsw.gov.au/definitions

Secretary
To be valid, this certificate must be submitted with a development application or lodged with a complying development certificate application within 3 months of the date of issue.



When submitting this BASIX certificate with a development application or complying development certificate application, it must be accompanied by the BASIX certificate (09/2020) 186.

BASIX Department of Planning, Housing and Infrastructure Version 4.031 (E/CAL/PTPL/03_01_0) Certificate No. 18000858 Monday, 23 June 2025 page 7/10

Description of project	
Project details	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project score	
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100



NOTE:
1. This BASIX certificate is valid for 10 years from the date of issue.
2. The BASIX certificate is valid for 10 years from the date of issue.
3. The BASIX certificate is valid for 10 years from the date of issue.
4. The BASIX certificate is valid for 10 years from the date of issue.
5. The BASIX certificate is valid for 10 years from the date of issue.
6. The BASIX certificate is valid for 10 years from the date of issue.
7. The BASIX certificate is valid for 10 years from the date of issue.
8. The BASIX certificate is valid for 10 years from the date of issue.
9. The BASIX certificate is valid for 10 years from the date of issue.
10. The BASIX certificate is valid for 10 years from the date of issue.

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by	
Name / Company Name	RYVS BUILDING CONSULTANCY PTY LTD
ABN (if applicable)	

Project summary	
Project name	Lot 4 Crv Wyalla & Walaby Hill Road, Jamberoo
Street address	LOT 4 WYALLA & WALLABY HILL ROAD
Local Government Area	Kiama Municipal Council
Plan type and plan number	Deposited Plan 240784
Lot no.	04
Section no.	-
Project type	dwelling house (detached)
No. of bedrooms	4
Water	62 Target 40
Thermal Performance	Pass Target 1 Pass
Energy	78 Target 60
Materials	100 Target 100

Certificate Prepared by

DA ONLY - NOT FOR CONSTRUCTION

Thermal Performance and Materials commitments				
Glassing	The applicant must install windows, glazed doors and skylights as described in the table below, in accordance with the specifications listed in the table.	Show on DA plans	Show on GC/CDC plans & specs	Certifier check
		✔	✔	✔

Energy Commitments	Show on DA plans	Show on GC/DOC plans & specs	Clarifier check
Hot water			
The applicant must install the following hot water system in the development, or a system with a higher energy rating, gas boosted, size with a performance of 15 to 20 EPC or better.	✓		✓
Cooling system			
The living areas must not incorporate any cooling system, or any ducting, which is designed to accommodate a cooling system.	✓	✓	✓
The bedrooms must not incorporate any cooling system, or any ducting which is designed to accommodate a cooling system.	✓	✓	✓
Heating system			
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 living area: gas fired, fuel heater - source: Energy rating: 4 Star	✓		✓
The applicant must install the following heating system, or a system with a higher energy rating, in at least 1 bedroom: gas fired, fuel heater - source: Energy rating: 4 Star	✓		✓
Ventilation			
The applicant must install the following exhaust systems in the development: At least 1 Exhaustion - individual fan, ducted to lapside or roof. Operation control: manual switch on/off Kitchen - individual fan, ducted to lapside or roof. Operation control: manual switch on/off Laundry - individual fan, ducted to lapside or roof. Operation control: manual switch on/off		✓	✓
Artificial lighting			
The applicant must ensure that a minimum of 80% of light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting diode (LED) lamps.	✓		✓
Natural lighting			
The applicant must install a window and/or skylight in the kitchen of the dwelling or natural lighting.	✓	✓	✓

[illegible]

Thermal Performance and Materials commitments		Show on CCDCD DA plans	Show on CCDCD plans & specs	Outline check
Construction				
The applicant must construct the walls, roofs, ceilings and glazing of the dwelling in accordance with the specifications listed in the tables below.				
Show through receipts that the materials purchased for construction are consistent with the specifications listed in the tables below.				
Construction	Area (sqm)	Insulation		
floor - concrete slab on ground, walls and slab	359.1	not specified	✓	✓
floor - suspended floor above ground, exterior concrete - suspended, frame timber - H2 treated softwood	15.6	not specified - k-brasilong		
gripap floor - concrete slab on ground, walls and slab	58.96	not specified		
ceiling - plasterboard - suspended, frame timber - H2 treated softwood	212.8	not specified		
external wall (firmed (metal clad), frame timber - H2 treated softwood	65.3	not specified		
external wall cavity brick frame no frame	27.4	not specified		
external wall plasterboard, frame timber - H2 treated softwood	170	not specified		
ceiling and roof - flat ceiling, flat roof, framed - metal roof timber - H2 treated softwood	432.6	ceiling not specified, roof not specified		

Certificate No. 0012003182
Scan QR code or follow website link for rating details.

Assessor's name Ian TTY
Accreditation No. 02691211461
Property Address Myntia House, Llandudno
16/01/2023

© 2023 Ambition Property Ltd. All rights reserved. For more information, visit www.ambitionproperty.co.uk

[illegible]

NO	DATE	AMENDMENT	NO	DATE	AMENDMENT
A	13/05/25	DA 2.89453320N			

PROJECT: Wilson West Residence, Sheld +
Access driveway through Lot 5 DP 240784
SITE:
LOT 4 DP 744186 Wyalala & Wallaby H
Jamberoo, NSW, 2533
CLIENT: Wilson

PROJECT
Wilson West Residence, Shed +
Access driveway through Lot 5 DP 240784
SITE
LOT 4 DP 744186 Wyalla & Wallaby Hill Road,

bhi
BHI ARCHITECTS
SYDNEY
WOLLONGONG
K I A M A
4/125 TERRACONG STREET
KILMARA, NSW AUSTRALIA
2533
T: +61 2 6212 2125

STATUS: **DA**
SCALE: @A3
REVISION
A

Enclosure 2

Item 15.4

DA ONLY - NOT FOR CONSTRUCTION

[illegible]

Energy Commitments	Show on DA plans	Show on CCDCO plans & specs	Quarter check
The applicant must install a window and/or skylight in 3 bathroom(s) in the development for natural lighting.	✓	✓	✓
Swimming pool			
The applicant must install the following heating system for the swimming pool in the development (if alternatively must not install any heating system for the swimming pool, not applicable for this development)	✓	✓	✓
The applicant must install a pump for the swimming pool in the development.	✓	✓	✓
The applicant must install a timer for the swimming pool pump in the development.		✓	
Alternative energy			
The applicant must install a photovoltaic system as part of the development. The applicant must connect this system to the photovoltaic system consent of:	✓		
photovoltaic collectors with the capacity to generate at least 6.0 peak kilowatts of electricity, installed at an angle between 0 degrees and 10 degrees to the horizontal during north			✓
Other			
The applicant must install a gas cockle and electric oven in the kitchen of the dwelling			
The applicant must install a hood outdoor clothes drying line as part of the development.		✓	✓

Legend	
In this column, "Applicant" means the person carrying out the development.	
Comments developed with a  in the "Show on the plans" column must be shown on the plans accompanying the development application for the proposed development (if a comment is developed with a  in the "Show on the plans" column and a  in the "Show on the plans" column, the comment must be shown on the plans and specifications accompanying the application for a construction certificate (completing development certificate for the proposed development).	
Comments developed with a  in the "Certificate check" column must be certified by a certifying authority as having been lifted, before a final occupation certificate is either issued or final to the development may be issued.	

PROJECT
 10/100 West Residence, Shed +
 Access driveway through Lot 8 DP 2678/4
 SITE
 LOT 4 DP 2678/4 Wyvalle & Waddy Hill Road,
 Jamunero, NSW, 2533
 CLIENT
 Wilson

BH ARCHITECTS Pty Ltd
 5 YONGEY
 WOLLONGONG
 NSW 2520
 P 02 8421 1144
 F 02 8421 1144
 41/23, TERNING STREET,
 2333 NEW AUSTRALIA
 T 0451 4252 2120

bh
BH ARCHITECTS

DRAWING TITLE
 DRAWING NO. **9100**
 DATE **23/04/2025**
 SCALE **1/50**
 SHEET NO. **1** OF **1**
 PROJECT NO. **9100** DRAWING NO. **A**
 REVISION

STATUS: **DA**

Item 15.4

Enclosure 2



**14 November 2016
MEDIA RELEASE
Sunset clause ends next month**

Kiama Council has reminded rural property owners that the rural dwelling 'sunset clause' of the Kiama Local Environmental Plan 2011 expires 16 December 2016.

Clause 4.2A of the Local Environment Plan currently allows some owners of smaller, vacant rural lots up to five years to obtain permission to build on their land. That period expires as of 16 December 2016.

The lots in question are those that do not have an approved dwelling located upon them and are generally smaller in size, around 0.5 to 5 hectares, and originally created as 'concessional lots' from larger rural holdings.

Affected owners who are yet to lodge their development application will need to do so prior to the above date.

If no development application is lodged for affected properties, dwelling entitlements will expire.

They can contact Council's Strategic Planning team on (02) 4232 0444.

The Kiama Local Environment Plan (2011) can be viewed at: www.legislation.nsw.gov.au

Ends

Media contact: Brent Blackburn 0466 410 796

Item 15.4

Enclosure 3



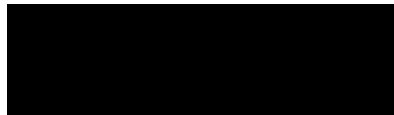
KIAMA MUNICIPAL COUNCIL

Phone Enquiries:

Mr Mark Lyndon
4232 0444

Reference:

21 September 2016



Dear Sir/Madam

Rural Dwelling Clause in Kiama Local Environmental Plan 2011

Council wishes to advise that clause 4.2A, subclause (3) (b), (c) and (d), contained within Kiama Local Environmental Plan 2011 (LEP 2011), ceases to apply from 16 December 2016.

The intention of this clause was to allow owners of affected rural lots reasonable opportunity to gain development consent to construct a dwelling on their lot before the clause expired. The deadline to exercise this right expires on 16 December 2016, being five (5) years from the gazettal of Kiama LEP 2011. This clause **does not** apply to properties that have lawfully constructed dwelling houses already erected or land exceeding the minimum lot size prescribed by the LEP 2011. The LEP 2011 is available for viewing on Council's website or via the NSW Legislation webpage.

If you are unsure if your property is affected by this clause you are encouraged to lodge an application with Council for a dwelling entitlement search. This attracts a fee of \$290 for the first 2 hours, \$220 for every hour thereafter as per Council's *Fees and Charges 2016-2017*. Owners wishing to utilise this clause to construct a dwelling **must** lodge a development application prior to the expiration date.

Any further enquiries regarding this matter should be directed to Council's Strategic Planning team on (02) 4432 0444.

Yours faithfully

Mark Lyndon
Manager Strategic Planning

ALL CORRESPONDENCE

GENERAL MANAGER
PO BOX 75
KIAMA NSW 2533

ADMINISTRATION
CENTRE

11 MANNING STREET
KIAMA NSW 2533

CONTACTS

PHONE: 02 4232 0444
FAX: 02 4232 0555
council@kiama.nsw.gov.au
www.kiama.nsw.gov.au

ABN: 22 379 679 108

your council
your community

Item 15.4

Enclosure 3



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

DRAFT

Application number	10.2025.131.1 PAN-561371
Applicant	Allen Price Pty Ltd Unit 1 28 Bong Bong Street KIAMA NSW 2533
Description of development	New dwelling house, swimming pool & shed - Proposed dwelling house, swimming pool, farm building (machinery shed) and ancillary access.
Property	85 Wyalla Road JAMBEROO NSW 2533, Wyalla Road JAMBEROO NSW 2533 PT: 4 DP: 744186, LOT: 5 DP: 240784
Determination	Refused Consent Authority - Council
Date of determination	xx/xx/xxxx

Under section 4.18(1)(a) of the EP&A Act, notice is given that the above development application has been determined by refusing consent using the power in section 4.16(1)(b) of the EP&A Act, for the reasons specified below:

Reasons for refusal

- (a) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with the RU2 Rural Landscape zone objectives as detailed in Kiama Local Environmental Plan 2011.
- (b) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not demonstrated that the land is capable of being suitable for residential purposes pursuant to State Environmental Planning Policy (Resilience and Hazards) 2021, Cl. 4.6.
- (c) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with Kiama Local Environmental Plan 2011 clause 4.2A.

- (d) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that the Kiama Local Environmental Plan 2011 clause 4.2A development standard is unnecessary or unreasonable in the circumstances of the case.
- (e) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that there are sufficient environmental planning grounds to justify contravention of the Kiama Local Environmental Plan 2011 clause 4.2A development standard.
- (f) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development is not consistent with Kiama Local Environmental Plan 2011 clause 5.16.
- (g) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not sufficiently demonstrated compliance with Kiama Local Environmental Plan 2011 clause 5.21.
- (h) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not sufficiently demonstrated compliance with Kiama Local Environmental Plan 2011 clause 6.12 with regard to the disposal and management of sewage and stormwater drainage, and potential conflicts between the two.
- (i) Pursuant to S.4.15(1)(a)(ii) of the EP&A Act 1979, the proposed development does not provide adequate setback and agricultural buffer distances to adjoining land as required by control 6.1.28 in Chapter 6 of Kiama DCP 2020.
- (j) Pursuant to S.4.15(1)(b) of the EP&A Act 1979 the proposed development has not adequately demonstrated that the proposal will not have adverse environmental impacts, particularly with regard to conflicts between proposed stormwater disposal and effluent management areas and runoff and water quality impacts
- (k) Pursuant to S.4.15(1)(c) of the EP&A Act 1979 the proposed development is not considered suitable development for the site.
- (l) Pursuant to S.4.15(1)(e) of the EP&A Act 1979 the proposed development is not considered to be in the public interest.

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 A Shortle
Development Assessment Officer - Planning
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

Item 15.4

Enclosure 4

DRAFT

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 Local Planning Panel.

Item 15.4

Enclosure 4



DRAFT

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	10.2025.131.1 PAN-561371
Applicant	Allen Price Pty Ltd Unit 1 28 Bong Bong Street KIAMA NSW 2533
Description of development	New dwelling house, swimming pool & shed - Proposed dwelling house, swimming pool, farm building (machinery shed) and ancillary access.
Property	85 Wyalla Road JAMBEROO NSW 2533, Wyalla Road JAMBEROO NSW 2533 PT: 4 DP: 744186, LOT: 5 DP: 240784
Determination	Approved Consent Authority - Council
Date of determination	TBD
Date on which the consent lapses	TBD
Date from which the consent operates	TBD

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 consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

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 A Shortle

Development Assessment Officer - Planning

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.

GENERAL CONDITIONS

1.	Prescribed conditions The development must comply with Part 4, Division 2, Subdivision 1, of the Environmental Planning and Assessment Regulation 2021, as applicable. Condition Reason: To ensure the development is carried out in accordance with the relevant legislation.																																																																											
2.	Approved plans and supporting documentation Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise. <table><tr><th colspan="5">Approved Plans</th></tr><tr><th>Plan number</th><th>Revision number</th><th>Plan title</th><th>Drawn by</th><th>Date of plan</th></tr><tr><td>A.0001</td><td>A</td><td>Cover page</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.1001</td><td>A</td><td>Site analysis</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.1002</td><td>A</td><td>Site plan</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.2001</td><td>A</td><td>Ground floor</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.3001</td><td>A</td><td>Elevations 1</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.3002</td><td>A</td><td>Elevations 2</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.3101</td><td>A</td><td>Section a & b</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.3102</td><td>A</td><td>Section c</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.6101</td><td>A</td><td>Door schedule</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.6201</td><td>A</td><td>Window schedule</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.7001</td><td>A</td><td>Perspectives</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.9001</td><td>A</td><td>Basix</td><td>BHI Architects</td><td>23/06/2025</td></tr><tr><td>A.9002</td><td>A</td><td>Basix 2</td><td>BHI Architects</td><td>23/06/2025</td></tr></table>	Approved Plans					Plan number	Revision number	Plan title	Drawn by	Date of plan	A.0001	A	Cover page	BHI Architects	23/06/2025	A.1001	A	Site analysis	BHI Architects	23/06/2025	A.1002	A	Site plan	BHI Architects	23/06/2025	A.2001	A	Ground floor	BHI Architects	23/06/2025	A.3001	A	Elevations 1	BHI Architects	23/06/2025	A.3002	A	Elevations 2	BHI Architects	23/06/2025	A.3101	A	Section a & b	BHI Architects	23/06/2025	A.3102	A	Section c	BHI Architects	23/06/2025	A.6101	A	Door schedule	BHI Architects	23/06/2025	A.6201	A	Window schedule	BHI Architects	23/06/2025	A.7001	A	Perspectives	BHI Architects	23/06/2025	A.9001	A	Basix	BHI Architects	23/06/2025	A.9002	A	Basix 2	BHI Architects	23/06/2025
Approved Plans																																																																												
Plan number	Revision number	Plan title	Drawn by	Date of plan																																																																								
A.0001	A	Cover page	BHI Architects	23/06/2025																																																																								
A.1001	A	Site analysis	BHI Architects	23/06/2025																																																																								
A.1002	A	Site plan	BHI Architects	23/06/2025																																																																								
A.2001	A	Ground floor	BHI Architects	23/06/2025																																																																								
A.3001	A	Elevations 1	BHI Architects	23/06/2025																																																																								
A.3002	A	Elevations 2	BHI Architects	23/06/2025																																																																								
A.3101	A	Section a & b	BHI Architects	23/06/2025																																																																								
A.3102	A	Section c	BHI Architects	23/06/2025																																																																								
A.6101	A	Door schedule	BHI Architects	23/06/2025																																																																								
A.6201	A	Window schedule	BHI Architects	23/06/2025																																																																								
A.7001	A	Perspectives	BHI Architects	23/06/2025																																																																								
A.9001	A	Basix	BHI Architects	23/06/2025																																																																								
A.9002	A	Basix 2	BHI Architects	23/06/2025																																																																								

A.9003	A	Basix 3	BHI Architects	23/06/2025
FDWO101162 Sheet 1 of 7	-	Foundation Plan	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 2 of 7	-	Elevations	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 3 of 7	-	Section	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 4 of 7	-	Details	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 5 of 7	-	Details	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 6 of 7	-	Details	Fair Dinkum Builds	29/07/2025
FDWO101162 Sheet 7 of 7	-	Elevations	Fair Dinkum Builds	29/07/2025

Approved Documents			
Document title	Version number	Prepared by	Date of document
BASIX Certificate*	1800985S	FRYS BUILDING CONSULTANCY PTY LTD	23/06/2025
Geotechnical Assessments for Lot Classification and On-Site Disposal of Effluent	201498w:amw	Southern Geotechnics	24/04/2015
NatHERS Certificate	0012003182	Frys Energywise	23/06/2025
External Colour and Material Schedule	9100 – Rev A	BHI Architects	23/06/2025
Bushfire Assessment Report	Kiam 254	South Coast Bushfire Planning and Consulting	02/06/2025
Waste Management Plan	-	Allen Price Pty Ltd	-

	*The approved BASIX Certificate may only be updated, without the need to lodge a modification to the development consent, where any change to the BASIX Commitments does not result in the proposal being inconsistent with this development consent and/or alter the approved development application plans. In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and the condition of this consent, the condition prevails. Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.				
3.	Property addressing and site facilities 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 any required Construction Certificate drawing: <table border="1"> <thead> <tr> <th>Proposed lot</th><th>Property address</th></tr> </thead> <tbody> <tr> <td>Primary dwelling</td><td>85 Wyalla Road, Jamberoo NSW 2533</td></tr> </tbody> </table> Address numbers must be clearly shown in a position that identifies the property and property access point, and ideally should be of a reflective material for high visibility at night. If at any time the access point to the property is altered from what is shown on the approved plans, Council must be contacted to review, and if necessary, amend the allocated numbers to ensure the addresses comply with the NSW Address Policy and User Manual for rural properties. Location points for mail delivery must satisfy the requirements of Australia Post and include the street number for identification. Condition Reason: To ensure property addressing complies with the relevant legislation, guidelines and requirements.	Proposed lot	Property address	Primary dwelling	85 Wyalla Road, Jamberoo NSW 2533
Proposed lot	Property address				
Primary dwelling	85 Wyalla Road, Jamberoo NSW 2533				
4.	Scope of consent The scope of this consent is limited to only the works as described under this consent, and it does not approve or imply approval, of any existing unlawful works that may be present on the site. Condition Reason: To establish the scope of work approved under this development consent.				

**BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

5.	Local infrastructure contributions 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: <table border="1" style="width: 100%;"> <tr> <td>Section 94 Contribution Fee</td> <td align="right">\$ 16,426.00</td> </tr> <tr> <td>Total Contribution Amount:</td> <td align="right">\$ 16,426.00</td> </tr> </table> 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. Condition Reason: To ensure contributions are levied toward the provision of public infrastructure.	Section 94 Contribution Fee	\$ 16,426.00	Total Contribution Amount:	\$ 16,426.00
Section 94 Contribution Fee	\$ 16,426.00				
Total Contribution Amount:	\$ 16,426.00				
6.	Construction Site Management Plan 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: a) The location and materials for protective fencing and hoardings on the perimeter of the site; b) Provisions for public safety; c) Pedestrian and vehicular site access points and construction activity zones; d) Details of construction traffic management including: 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; e) Details of bulk earthworks to be carried out; f) The location of site storage areas and sheds; g) The equipment used to carry out works; h) The location of a garbage container with a tight-fitting lid; i) Dust, noise and vibration control measures; j) The location of temporary toilets; k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: i) AS 4970 – Protection of trees on development sites; ii) An applicable Development Control Plan;				

	iii) An arborist's report approved as part of this consent A copy of the Construction Site Management Plan must be kept on-site at all times while work is being carried out.
	Condition Reason: To require details of measures that will protect the public and the surrounding environment, during site works and construction.
7.	Erosion and sediment control plan 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: a) the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), 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 c) measures to ensure any excavated material deposited on public roads from works is removed within the same day. Condition Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.
8.	Long Service Levy 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. Condition Reason: To ensure the long service levy is paid.
9.	Rainwater facility Before the issue of a Construction Certificate, details of rainwater tanks must be provided to the Certifier. Water stored in the tank must be plumbed into the dwelling such that it is supplied to each of the fixtures listed in the BASIX Certificate for the property. Plumbing must be in accordance with the current edition of AS 3500.1 Water Services – section 16. It will be necessary to install, maintain and repair the facility so that it functions in a safe and efficient manner in accordance with the current editions of AS 3500.1 Water Services, the New South Wales Code of Practice Plumbing and Drainage and in accordance with the following: a) The tank inlet must be located a minimum of 500mm below the outlet of the eave gutter, b) The tank is to be installed on a firm flat and stable platform in accordance with manufacturer's recommendations. Tanks located over fill material should be placed on a concrete slab,

	c) Pumps must be located and installed to minimise any potential noise nuisance to surrounding residents, and in the case of a permanent electric pump, must be installed by a licensed electrician. Pump performance must achieve a minimum 300 Kpa output, d) Overflow from the tank must be directed into the approved storm water system, e) Any town water top-up of the tank must be by indirect connection by means of a visible "air gap", external to the rainwater tank, in accordance with the provisions of the National Plumbing and Drainage Code, AS3500.1 – Minimum air gap requirements, f) Marking and labelling of rainwater services must be in accordance with AS 3500.1 section 16, g) The charged line to the rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm pit to enable the line to be flushed. This is to prevent the line becoming blocked, h) Partially buried or fully buried rainwater tanks must have a dual check valve with atmospheric port valve installed at the boundary water meter. Zone protection will be required at the tank or cross connection point to be installed in accordance with AS3500.1 – section 4.
	Condition Reason: To ensure correct installation and ongoing use.
10.	Waste Management Plan – an approved document of this consent Before the issue of a Construction Certificate, a Waste Management Plan for the development must be provided to the Certifier.
	Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.
11.	Drainage and stormwater Before the issue of a Construction Certificate, a Detailed Drainage Plan generally in accordance with the Plans approved under this consent must be submitted to the Certifier for approval. This plan must show the connection of stormwater into the level spreader and that surface water which is likely to discharge from the development site onto the road reserve will be intercepted at the property boundary and conveyed to the street. All drainage works shall be undertaken in accordance with the requirements of Australian Standard AS 3500.3:2018.
	Condition Reason: To ensure stormwater disposal is adequate for the site.
12.	Section 68 application Before the issue of a Construction Certificate, an application for installation of an on-site sewage management system must be approved under Section 68 of the <i>Local Government Act 1993</i>.
	Condition Reason: To comply with the provisions of the <i>Local Government Act 1993</i> .

13.	On-Site Sewage Management System – approval to install Before the issue of a Construction Certificate, the applicant must gain approval under the <i>Local Government Act 1993</i> to install the approved On-Site Sewage Management System. Condition Reason: To ensure adequate provisions for wastewater management are provided.
14.	Consolidation of lots Before the issue of a Construction Certificate, evidence that consolidation of Lot XX DP XX and Lot XX DP XX has been registered at NSW Land Registry Services, must be provided to Council or the certifier. Condition Reason: To ensure lots are appropriately consolidated.

BEFORE BUILDING WORK COMMENCES

15.	Construction Certificate A Construction Certificate must be obtained from either Council or a Certifier before any building work can commence. Condition Reason: To comply with Council's requirements before the commencement of works.
16.	Appointment of Principal Certifier Before building work commences a Principal Certifier must be appointed. Condition Reason: To ensure ongoing compliance.
17.	Protection of adjoining land 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 – 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.
18.	Bushfire asset protection zones Before any site work commences, the boundaries of the asset protection zone must be surveyed and marked on the ground by a registered surveyor.

	Condition Reason: To provide a buffer to protect the life and property from bushfire attack.
19.	Deliveries While site work is being carried out, deliveries of material and equipment must only be carried out between— • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays No deliveries are to take place on Sundays or Public Holidays. Condition Reason: To protect the amenity of neighbouring properties.
20.	Erosion and sediment controls in place 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 restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time). Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
21.	Tree protection measures Before any site work commences the Certifier must be satisfied the measures for the tree protection detailed in the Construction Site Management Plan are in place. Condition Reason: To protect and retain trees.
22.	Works within the road reserve Before undertaking any works within an existing road reserve, approval under section 138 of the <i>Roads Act, 1993</i> must be obtained. The following details must be submitted to Council as part of the application: - any civil works design required by this consent, - evidence of the contractor's Public Liability Insurance to an amount of \$20 million, - name and contact information of the person responsible for all relevant works, - a Traffic Control Plan prepared, signed and certified by a person holding the appropriate Transport for NSW (TfNSW) accreditation. Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.
23.	Toilet facilities - temporary 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.

	Each toilet must: • 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>.
	Condition Reason: To ensure appropriate amenities onsite.

DURING BUILDING WORK

24.	Acid sulfate soils Excavation of acid sulfate soils, or potential acid sulfate soils, must be carried out in accordance with the approved Acid Sulfate Soils Management Plan (ASSMP) to the satisfaction of the Certifier. Excavated material must be treated on site in accordance with the ASSMP or taken to an approved waste disposal facility.
	Condition Reason: To ensure compliance with the ASSMP.
25.	Clearing for asset protection zones (APZ) While site work is being carried out, clearing or modifying vegetation to establish the APZ must be confined within the marked APZ boundary in accordance with the supporting documentation approved under this consent, to the satisfaction of the Certifier.
	Condition Reason: To ensure vegetation clearance or modification during construction is confined within the APZ.
26.	Procedure for critical stage inspections 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.
	Condition Reason: To require approval to proceed with building work following each critical stage inspection.
27.	Bushfire – building works residential New constructions must comply with: a) AS 3959 Construction of Buildings in Bushfire Prone Areas, b) BAL 12.5 c) Planning for Bush Fire Protection 2019, d) the report submitted by South Coast Bushfire Planning and Consulting dated 02/06/2025
	Condition Reason: To ensure compliance with the relevant BAL level.

Item 15.4

Enclosure 5

28.	Hours of work Site work must only be carried out between the following times: • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays 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. Condition Reason: To protect the amenity of the surrounding area.
29.	Implementation of the Site Management Plans While site work is being carried out: 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. Condition Reason: To ensure site management measures are implemented during the carrying out of site work.
30.	Swimming pool safety during construction A child-resistant barrier must be erected during the construction of the swimming pool. The barrier must comply with: 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. 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: 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. Condition Reason: To ensure compliance with relevant safety measures.
31.	Responsibility for change to public infrastructure 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.
	Condition Reason: To ensure payment of approved changes to public infrastructure.
32.	Discovery of relics and Aboriginal objects While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered: a) the work in the area of the discovery must cease immediately b) the following must be notified 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. Site work may recommence at a time confirmed in writing by: 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.
	Condition Reason: To ensure the protection of objects of potential significance during works.
33.	Soil management 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: 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 and the classification and the volume of material removed must be reported to the Certifier; b) All fill material imported to the site must be: i) Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>, or ii) a material identified as being subject to a resource recovery exemption by the NSW Environmental Protection Authority (EPA), or iii) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> and a material identified as being subject to a resource recovery exemption by the NSW EPA.
	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.

34.	Tree protection during work While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with: a) the Construction Site Management Plan required under this consent, b) the relevant requirements of AS 4970 Protection of trees on development sites, c) Chapter 2, Topic 2.4 – Tree Preservation and Vegetation Management of Kiama Development Control Plan 2020 (in force as at the date of determination of this consent), and d) any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.
	Condition Reason: To protect trees during the carrying out of site work.
35.	Waste management While site work is being carried out: 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 the Certifier, detailing the following: 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. 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.
36.	Drainage and stormwater works – approved plans The stormwater drainage system must be completed in accordance with the detailed plans approved by the Certifier.
37.	Fencing – rural and environmental zones Any boundary and internal fences to be erected on the property, must comply with the following conditions:

	a) To protect native gliding and flying mammals the use of barbed-wire for fences is prohibited. b) Except for fencing to contain domestic pets with the approved Asset Protection Zones for dwellings, boundary and internal fences must not impede the movement of native fauna. c) The removal of vegetation for fence construction must be undertaken with hand tools only (e.g.: brushcutters, lawn mowers), and must be limited to a maximum width of 1m. d) No clearing of native vegetation for construction of fences is permitted within C2 Environmental Conservation zoned land. e) Construction of fences with RU1 Primary Production and RU2 Rural Landscape zoned land is subject to the provisions and regulations of the <i>Local Land Service Act 2013</i>. f) Canopy trees must not be removed for fence construction.
	Condition Reason: To ensure conservation of flora and fauna in rural and environmental zones.
38.	Earthworks All earthworks associated with the development shall be completed in accordance with AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.
	Condition Reason: To ensure all earthworks are carried out in accordance with the Australian Standards.
39.	Contamination – unexpected finds If any unexpected contamination finds are encountered during any site works, all work must cease and Council notified immediately. The nature and extent of contamination must be assessed by a qualified environmental consultant with experience in the assessment of contaminated land and a preliminary assessment provided to Council. Council will determine whether further contamination assessment and/or remediation is required before works can recommence.
	Condition Reason: To protect public and environmental health.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

40.	BASIX 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>.
	Condition Reason: To ensure compliance with the <i>Environmental Planning and Assessment Regulation 2021</i> .

41.	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.
42.	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.
43.	Completion of public utility services Before the issue of the relevant Occupation Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the Principal Certifier. Condition Reason: To ensure required changes to public utility services are completed in accordance with the relevant agency requirements, before occupation.
44.	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. Condition Reason: To ensure any damage to public infrastructure is rectified.
45.	Removal of waste upon completion Before the issue of an Occupation Certificate:

	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.
	Condition Reason: To ensure waste material is appropriately disposed or satisfactorily stored.
46.	Letter boxes A letterbox structure(s) must be provided and be designed to comply with the requirements of Australia Post, located close to the major pedestrian entry to the site, and built from materials that are non-reflective and blend in with the approved development.
	Condition Reason: To ensure Australia Post requirements are met.
47.	On-Site Sewage Management System – approval to operate Before the issue of an Occupation Certificate, the applicant must gain approval under the Local Government Act 1993 to operate the approved On-Site Sewage Management System.
	Condition Reason: To ensure the On-Site Sewage Management System is installed correctly.

OCCUPATION AND ONGOING USE

48.	Occupation Certificate The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. 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).
	Condition Reason: To ensure that the development is completed as per this consent and the approved plans.
49.	Swimming pool – ongoing use The approved swimming pool and associated structures must be maintained in accordance with: a) the National Construction Code, b) the <i>Swimming Pools Act 1992</i>, c) the <i>Swimming Pools Regulation 2018</i>.
	Condition Reason: To ensure the structure remains compliant.

50.	Use of Shed The detached shed has been approved as a Class 10 structure under the National Construction Code and must not be used for any industrial, commercial, or habitable purposes without separate development consent, or unless otherwise exempt under the provisions of <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i> for a change of use.
	Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.

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.

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.

Item 15.4

Enclosure 5

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.

Item 15.4

Enclosure 5

DRAFT



SECTION 4.15 ASSESSMENT

APPLICATION NUMBER:	10.2025.135.1
NSW ePLANNING PORTAL REFERENCE:	PAN-562104
APPLICANT:	Allen Price Pty Ltd
PROPERTY DESCRIPTION:	LOT: 33 DP: 605608, Jamberoo Road JAMBEROO NSW 2533
SITE ZONING:	PART RU2 Rural Landscape / PART C3 Environmental Management
DEVELOPMENT DESCRIPTION:	NEW DWELLING HOUSE - CONSTRUCTION OF A SINGLE-STOREY THREE BEDROOM DWELLING HOUSE.

Summary
New dwelling house - Construction of a single-storey three bedroom dwelling house.
Development site
The subject site is described as: LOT: 33 DP: 605608, Jamberoo Road JAMBEROO NSW 2533. The subject site has a frontage to Jamberoo Road, Jamberoo Mountain Road and Drualla Road. The site is currently vacant and is zoned PART RU2 Rural Landscape / PART C3 Environmental Management under Kiama LEP 2011. The surrounding area is mixed in character comprising both large lot residential, rural and low density residential development. The site is adjoined by rural land to the north and west, residential development to the south and east. The site undulates and drains overland to the adjoining land and the natural watercourse. Access to the property is gained via Drualla Road. The site is serviced by on-site utilities.

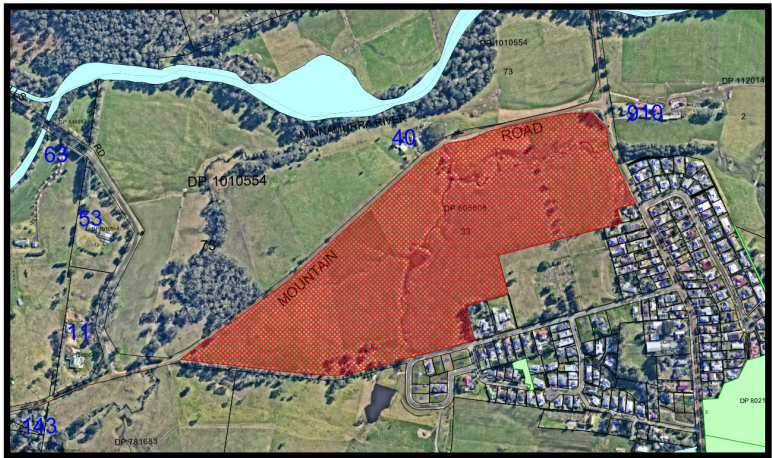


Figure 1 – Aerial image

10.2025.135.1

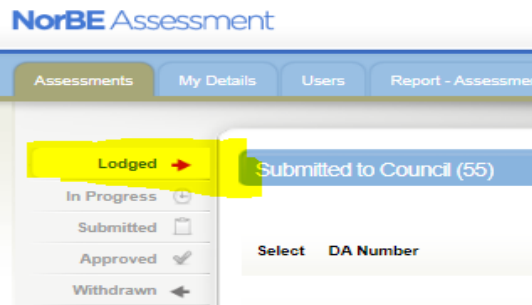
THE SITE IS SUBJECT TO THE FOLLOWING CONSTRAINTS:

Site details	
Lot area	26.6ha
Zone	PART RU2 Rural Landscape / PART C3 Environmental Management
Does the land have a dwelling entitlement? Note: for rural land refer to Clause 4.2A of <i>Kiama LEP 2011</i> .	No
Is the proposed development a " Council-related development application "?	No
Topographic details	
Fall direction of land	Undulating
Slope of land >20%?	No
Site inspection	
Works within proximity to electricity infrastructure?	No
Is the development adjacent to a classified road ?	Yes - Referral to TfNSW not required.
Is the development adjacent to a rail corridor ?	No
Utility network	
Access to reticulated sewer?	No
Access to reticulated water?	No
Sydney Water – Dwelling Restriction?	No
Sydney Water – Jamberoo Capacity? Note: If additional services are required, proposal may not be supported.	No
Constraint layers	
Flood Prone Land	No
Filled Land	No
Slip Land	No
Interim Heritage Order	No
Bush Fire	Yes
Potentially Contaminated Sites	No
Riparian Corridors	Yes
Known Dry Stone Walls	No
Development within 40m of a watercourse	No

Item 15.5

Enclosure 1

10.2025.135.1

Planning layers	
Draft Exhibited Planning Proposal	No
Land Zoning	PART RU2 Rural Landscape / PART C3 Environmental Management
Minimum Lot Size	AB - 40Ha
Floor Space Ratio	No
Height of Buildings	No
Foreshore Building Line	No
Heritage Note: consider adjoining properties.	No
Additional Permitted Uses	No
Active Street Frontages	No
Terrestrial Biodiversity	Yes
Riparian Lands and Watercourses	Yes
Acid Sulfate Soils	Class 5
Land Reservation Acquisition	No
Urban Release Area	No
Reclassification Part Lots	No
Clause application	No
Planning Proposals	No
SEPP (Biodiversity and Conservation) 2021- Chapter 6: Water catchment (e.g. NorBE) Note: NorBE Assessments submitted to Council can be viewed from the "Lodged" tab in the NorBE online assessment tool shown below. 	No
SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	No
Biodiversity Values	
Biodiversity Values Map	Yes

10.2025.135.1

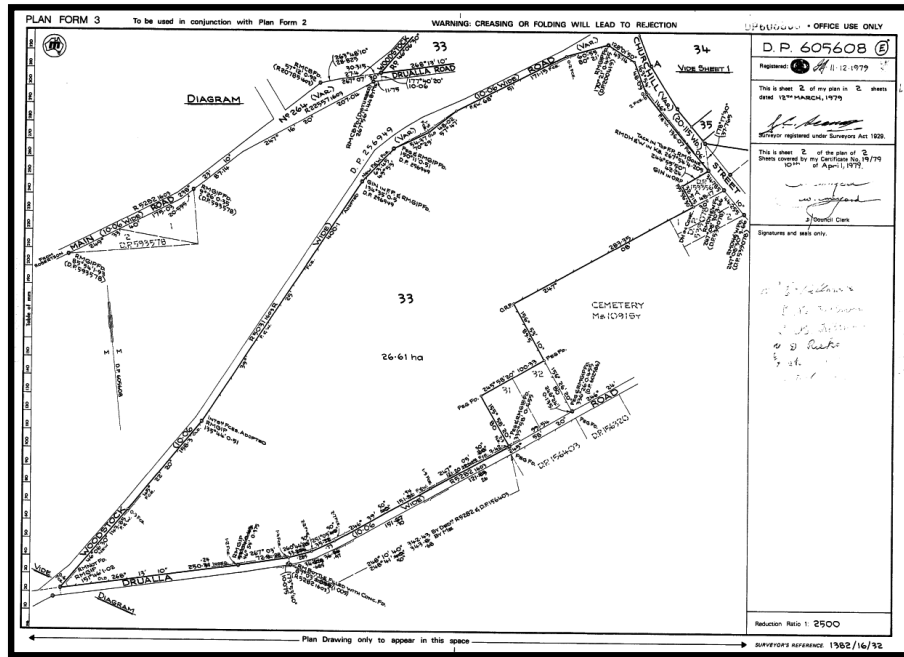


Figure 2 – DP extract

SITE INSPECTION

A site inspection was carried out on 4/09/2025.

No additional matters were raised as a result of the site inspection.

BACKGROUND

The development application history is as follows:

Application Details

Current Property ☒ Historic Properties ☐ Both Current & Historic ☒ Line 1 of 2

Formatted Account	Precis	Received Date	Determination Date	Determination
010.2025.00000135.001	New dwelling house	27/08/2025		
010.2005.00000418.001	seniors living facility comprising of one hundred & ninety five (195)	12/12/2005	12/12/2006	Del Auth GM - Refus

DESCRIPTION OF THE PROPOSED DEVELOPMENT

New dwelling house - Construction of a single-storey three bedroom dwelling house.

PLANS AND DOCUMENTS SUBMITTED FOR ASSESSMENT

Submitted plans for assessment				
Plan number	Revision number	Plan title	Drawn by	Date of plan
131778-01	0	Site Plan	Allen Price	06/07/2025
2021-001 SK01	A	Site Plan	Designs on South Coast	25/07/2025

10.2025.135.1

2021-001 SK2.01	A	Floor Plan	Designs on South Coast	25/07/2025
2021-001 DA3.1	A	Elevations 01.	Designs on South Coast	25/07/2025
2021-001 DA3.2	A	Elevations 02.	Designs on South Coast	25/07/2025
2021-001 DA4.1	A	Section 01	Designs on South Coast	25/07/2025
2021-001 DA05	A	Window and Door Schedule	Designs on South Coast	25/07/2025
2021-001 DA07	A	Site Management Plan	Designs on South Coast	25/07/2025
2021-001 DA08	A	BASIX	Designs on South Coast	25/07/2025
DA-2074 Page 1 of 2	-	Title Page	Captivate	18/07/2025
DA-2074 Page 2 of 2	-	Landscape Concept Plan	Captivate	18/07/2025

Submitted documents for assessment			
Document title	Version number	Prepared by	Date of document
Aboriginal Due Diligence Assessment	2 – Final	Apex Archaeology	16/07/2025
BASIX Certificate	1805569S	Daniel Cohen	24/07/2025
Cost Summary Estimate	-	Killmore and Sons	-
Site and Soil Assessment	-	GroundEd Land Management and Education	10/07/2025
Soil and Site Assessment for Onsite Wastewater Disposal	Version 1.0	Harris Environmental Consulting	04/04/2025
Waste Management Plan	-	Allen Price	08/08/2025
Bushfire Assessment Report	Ref7455BF – V1.1	Harris Environmental Consulting	16/04/2025

10.2025.135.1

Clause 4.6 Variation Statement	131778	Allen Price	30/07/2025
Statement of Environmental Effects	130376	Allen Price	11/08/2025

The built details of the development is as follows:

Dwelling 1 - 155m ² GFA
Ground floor • <u>Double Garage w/Storage</u> • <u>2x Bedroom w/BIR</u> • <u>Bathroom</u> • <u>Laundry</u> • <u>Study/4th Bedroom</u> • <u>1x Bedroom w/Ensuite and WIR</u> • <u>Open Plan Living, Dining and Kitchen</u> • <u>Balcony/Alfresco</u>

The proposal is shown in figures below.

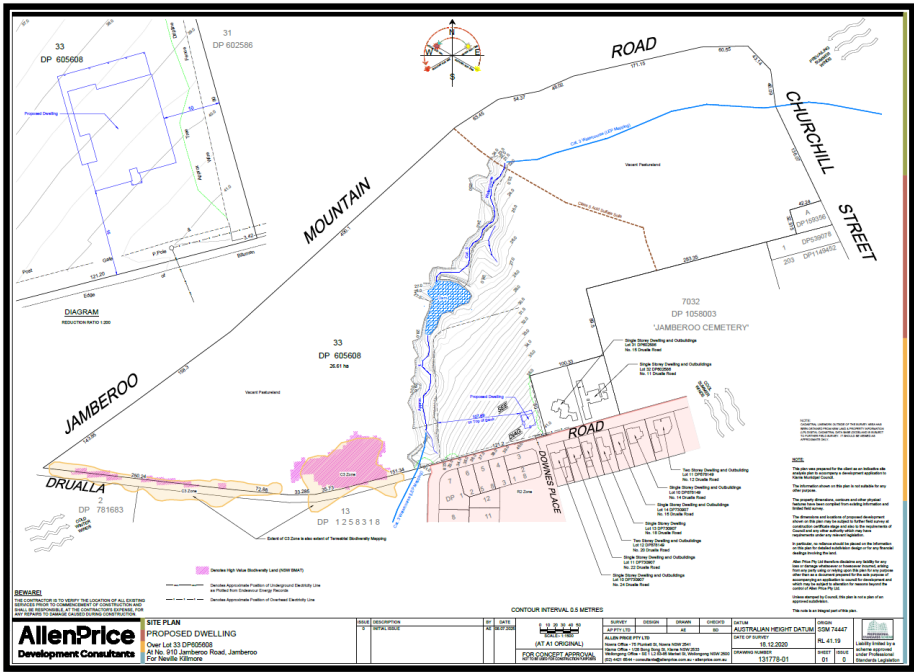


Figure 3 – Site analysis plan

10.2025.135.1

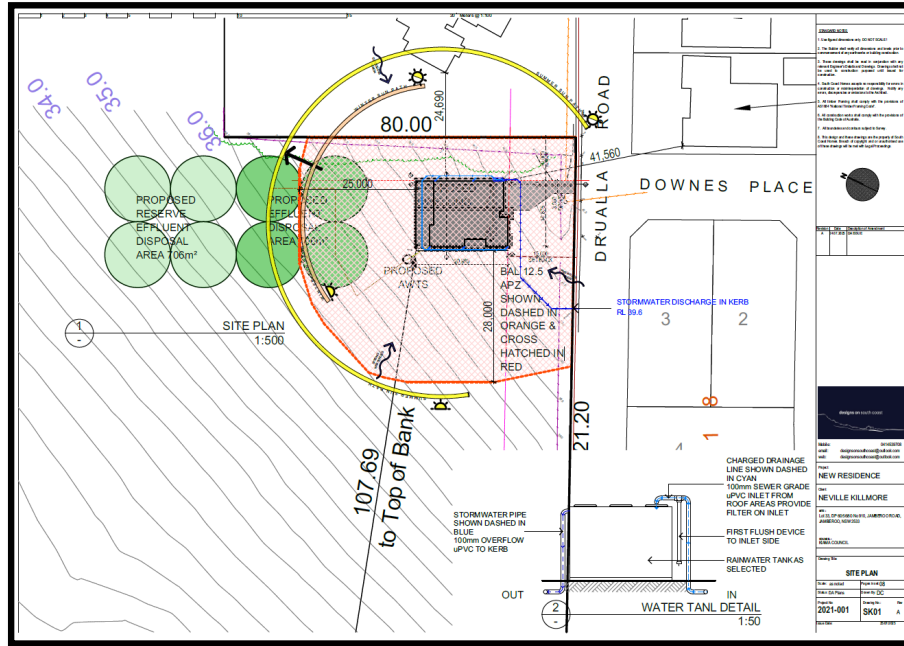


Figure 4 – Proposed site plan

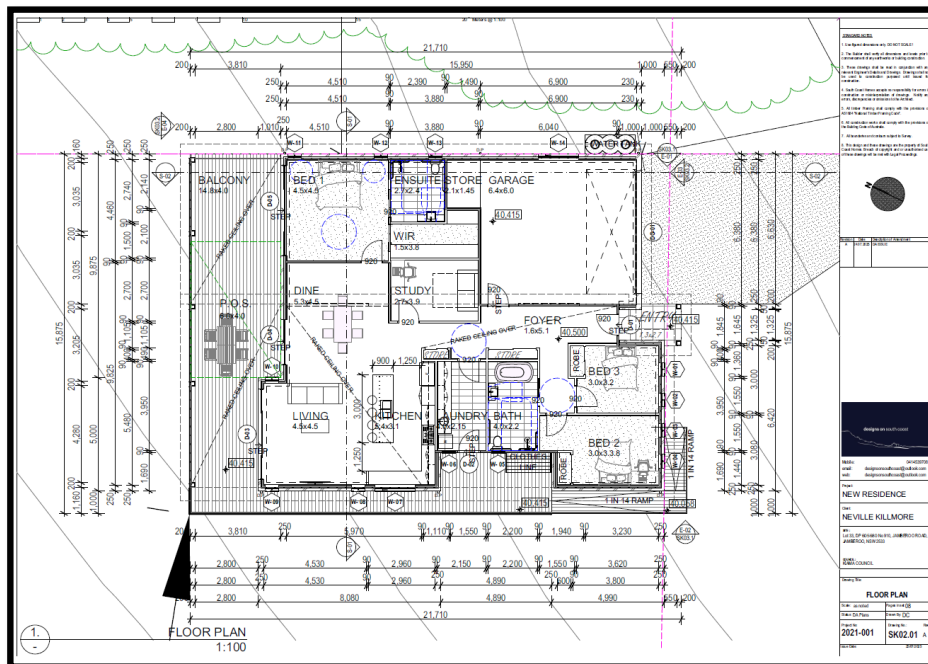
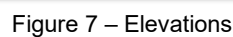
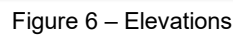


Figure 5 – Ground floor plan

Item 15.5

Enclosure 1



10.2025.135.1

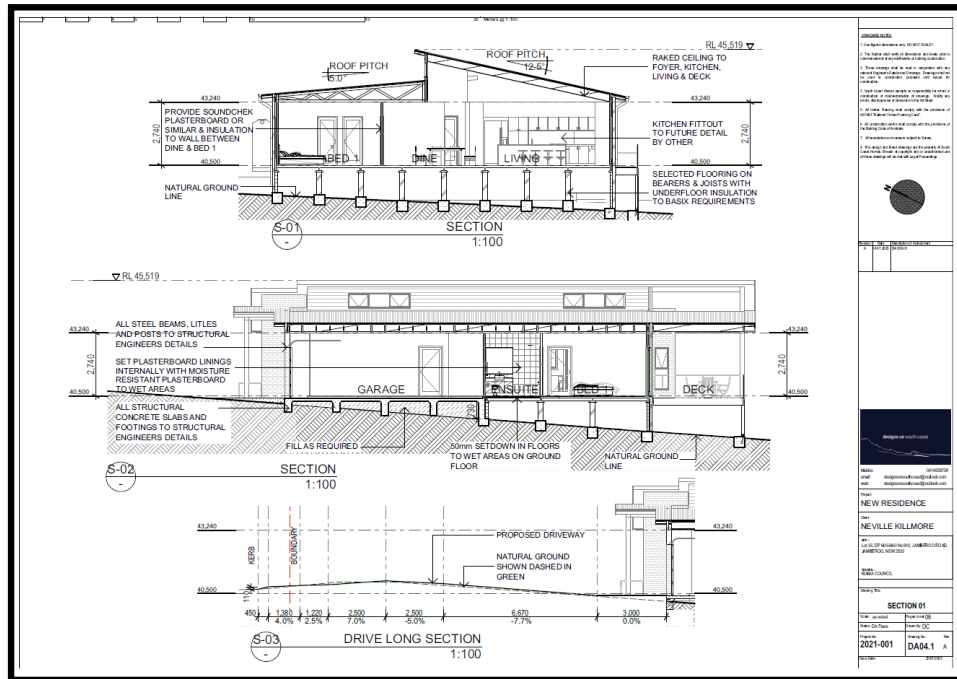


Figure 8 – Sections

STATUTORY CONSIDERATIONS

Environmental Planning and Assessment Act 1979	
Section 4.14 Consultation and development consent – certain bush fire prone land	
Is the development site mapped as bush fire prone land?	Yes - Complete below table and assessment against Planning for Bush Fire Protection
Is there vegetation within 100m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection? Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.	Yes - Complete below table and assessment against Planning for Bush Fire Protection
Is the development subject to a performance based solution or a BAL-FZ? Note: As per Appendix 2 of PBP 2019, performance based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner. Note: The NSW variation of H7D4 in NCC 2022 Volume 2 specifies that AS3959 and the NASH Standard can only be used as a deemed-to-satisfy provision where an appropriate condition of consent has been imposed in consultation with NSW RFS.	No

10.2025.135.1

The Kiama Municipal Council Area is within a 100 Forest Fire Danger Index area (see [Table A1.12.5](#) in PBP 2019).

Direction	Vegetation hazard type	Distance to bush fire vegetation hazard / proposed APZ	Effective slope under vegetation hazard (over 100m)	BAL
North	Grassland	25m	>0 to 5 degrees - downslope	BAL-12.5
East	Managed Land	>140m	Upslope / Flat	BAL-12.5
South	Managed Land	>140m	Upslope / Flat	BAL-12.5
West	Grassland	28m	>5 to 10 degrees - downslope	BAL-12.5

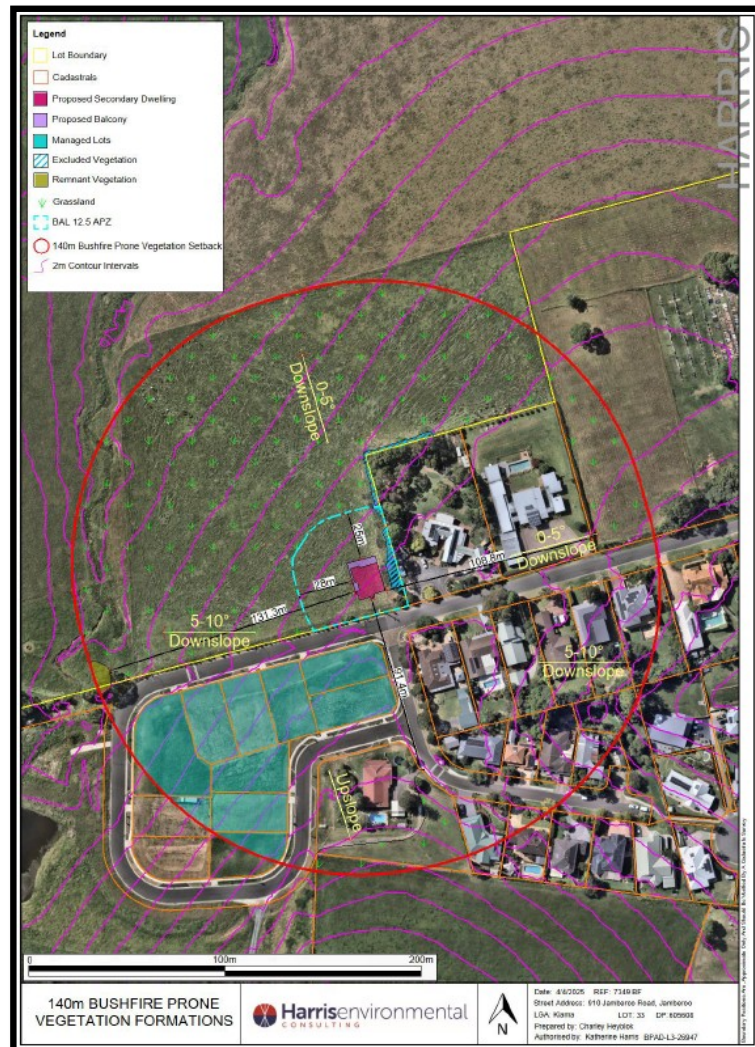


Figure 9 – APZ and BAL Determination Map from Bushfire Assessment Report

10.2025.135.1

	North	West
Vegetation	Grassland	Grassland
Gradient	0-5° Downslope	5-10° Downslope
Distance from façade to hazard	25 m	28 m
BAL 12.5 required APZ	25-< 50 m	28 -< 50 m
BAL Proposed	BAL 12.5	BAL 12.5

Figure 10 – APZ and BAL Determination Table from Bushfire Assessment Report

Notwithstanding that the Bushfire Assessment Report refers to the proposed development as a “Secondary Dwelling” on numerous occasions, the report identifies that the proposed development conforms to the relevant specification and requirements of Planning for Bush Fire Protection 2019 and has been prepared by a suitably qualified consultant.

Recommended conditions of consent will require the proposed building/s to be built to BAL-12.5 and APZs (as required) as above.

Part 7 Infrastructure - Subdivision 4 Housing and productivity contributions

Does the proposed development include works to which the Housing and Productivity Contribution (HPC) applies?	No
Has the application been referred to Council's Contributions Planner?	Yes

Biodiversity Conservation Act 1979

Does the application include works or vegetation removal within the Biodiversity Values mapped area ?	No										
Does the application involve clearing of native vegetation above the area clearing threshold?	No										
Area clearing threshold The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP). <table> <tr> <th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr> <tr> <td>Less than 1 ha</td><td>0.25 ha or more</td></tr> <tr> <td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr> <tr> <td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr> <tr> <td>1000 ha or more</td><td>2 ha or more</td></tr> </table> The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided. If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.		Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply										
Less than 1 ha	0.25 ha or more										
1 ha to less than 40 ha	0.5 ha or more										
40 ha to less than 1000 ha	1 ha or more										
1000 ha or more	2 ha or more										
Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the test in Section 7.3 of the <i>Biodiversity Conservation Act 2016</i> (ie. test of significance)?	No										
Note: Consideration should be given to the site's proximity to NPWS land (see guidelines) and other natural areas, as well as any area											

Item 15.5

Enclosure 1

10.2025.135.1

that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.	
If the application exceeds the Biodiversity Offsets Scheme Threshold (ie. if yes to any of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?	N/A
Fisheries Management Act 1994	
The proposed development would not have a significant impact on the matters for consideration under Part 7A of the <i>Fisheries Management Act 1994</i> .	Complies
Local Government Act 1993	
Do the proposed works require approval under Section 68 of the <i>Local Government Act 1993</i> ?	Yes - see s68 type nominated below
☒ Operation of a system of sewage management (ie. on-site sewage management system). ☐ Installation of a manufactured home. ☐ Installation of a domestic oil or solid fuel heating appliance, other than a portable appliance (ie. fireplace)?	
Has a Section 68 application been applied for as a related case in the Portal?	No

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

Environmental Planning Instruments
Kiama Local Environmental Plan 2011
State Environmental Planning Policy (Biodiversity and Conservation) 2021
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
State Environmental Planning Policy (Housing) 2021
State Environmental Planning Policy (Industry and Employment) 2021
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development
State Environmental Planning Policy (Planning Systems) 2021
State Environmental Planning Policy (Precincts—Regional) 2021
State Environmental Planning Policy (Primary Production) 2021
State Environmental Planning Policy (Resources and Energy) 2021
State Environmental Planning Policy (Resilience and Hazards) 2021
State Environmental Planning Policy (Sustainable Buildings) 2022
State Environmental Planning Policy (Transport and Infrastructure) 2021

10.2025.135.1

State Environmental Planning Policy (Biodiversity and Conservation) 2021	
Chapter 2 Vegetation in non-rural areas	
Section 2.6, Chapter 2 of the SEPP (Biodiversity and Conservation) 2021 outlines that consent is required for the clearing of certain vegetation in non-rural areas. Council's Development Control Plan (DCP) 2020 outlines that certain trees can be removed without requiring consent. 0 trees are proposed to be removed as part of this development.	
State Environmental Planning Policy (Sustainable Buildings) 2022	
The proposal is for a BASIX development and the requirements of the SEPP are noted. A valid BASIX Certificate 1805569S has been submitted as part of the application. The certificate demonstrates compliance with the provisions of the SEPP and is consistent with commitments identified in the application documentation.	
State Environmental Planning Policy (Housing) 2021	
State Environmental Planning Policy (Resilience and Hazards) 2021	
Chapter 4 - Remediation of Land	
Chapter 4 of the SEPP requires Council to consider whether the land is contaminated and if it is contaminated if remediation works are required. The proposal has failed to address historic land use which would deem the site unsuitable for the proposed development, notably the use of the site for agricultural purposes. A preliminary site investigation relating to contaminated land has not been completed and therefore Council is not satisfied that the land is considered to be suitable for the proposed use.	
State Environmental Planning Policy (Industry and Employment) 2021	
Kiama LEP 2011	
2.3: Zone objectives and Land Use Table	
The subject land is zoned RU2 Rural Landscape and C3 Environmental Management pursuant to Kiama LEP 2011. The proposal is defined as a Dwelling House under the provisions of the Kiama LEP 2011, which are permitted with consent in the RU2 Rural Landscape zone. The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	
Zone objectives	Comments
- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. - To maintain the rural landscape character of the land. - To provide for a range of compatible land uses, including extensive agriculture. - To protect agricultural land for long term agricultural production. - To provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing and integrates with tourism.	The proposed development is not consistent with the objectives of the zone.

Item 15.5

Enclosure 1

10.2025.135.1

Other relevant clauses	
Part 2 Permitted or prohibited development	
Comments	Complies/Consistent
Part 4 Principal development standards	
4.2A: Erection of dwelling houses on land in certain rural and conservation zones	
The proposed development includes the erection of a dwelling house on land zoned RU2 Rural Landscape with a lot size of 26.61. The minimum lot size for the subject site is AB - 40Ha, therefore the proposed development does not comply with Clause 4.2A.	Does not comply - See commentary below The applicant has provided a written statement pursuant to Clause 4.6 to vary 4.2A.
4.6: Exceptions to development standards	
Applicant's Written Clause 4.6 Variation Statement	
The following is an excerpt from the applicant's Clause 4.6 written variation statement: "6.1.5 WHAT IS THE EXTENT OF NUMERIC VARIATION SOUGHT FROM STANDARD?" <i>The proposal seeks development consent for the erection of a dwelling house on the subject site. The subject site comprises an area of 26.61 hectares. The subject site is therefore 13.39 hectares below the minimum lot size requirement having regard to Clause 4.2A(3)(a). This represents a departure to this development standard by about 33.48 %.</i> 6.2 JUSTIFICATION OF DEPARTURE TO CLAUSE 4.2A(3)(A) <i>Clause 4.6 of LEP makes provision for exceptions to development standards and enables Council to consent to development even though it may be inconsistent with a development standard. The provisions of Clause 4.6 require that a written statement accompany a proposal that justifies the contravention of a development standard.</i> <i>This Written Statement has therefore been prepared pursuant to Clause 4.6 and provides justification that the development standard may be contravened by the grant of development consent because strict compliance with the provisions of Clause 4.2A(3)(a) would be unreasonable and unnecessary under the specific circumstances associated with the application; and because there are sufficient environmental planning grounds to justify contravening the development standard. Furthermore, this written statement demonstrates the proposal is in the public interest.</i> <i>This Written Statement seeks to justify the departure to the provisions of Clause 4.2A(3)(a) of the LEP. Clause 4.2A(3)(a) effectively imposes a minimum lots size of 40 ha for the erection of a dwelling house on the subject site. The subject land comprises an area of 26.61 hectares which is 13.39 hectares below the minimum lot size requirement, which represents a departure to this development standard by about 33.48 %.</i> <i>This Written Statement demonstrates that compliance with Clause 4.2A(3)(a) of the LEP is unreasonable and unnecessary given the specific circumstances of this case; that there are sufficient environmental planning grounds to justify contravention of this restriction; and that the proposal is in the public interest.</i>	

Item 15.5

Enclosure 1

10.2025.135.1

6.2.1 COMPLIANCE WITH STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES

Having regard to Clause 4.6(3)(a) it is my view that there is sufficient justification for contravention of the 40 ha minimum lot size development standard of Clause 4.2A(3)(a) of the LEP as it would be unreasonable and unnecessary under the specific circumstances of this case for the following reasons:

- Consistency with Objectives of Development Standard

Having regard to the first "test" outlined in "Wehbe", as detailed in Section 6.2 above, as detailed in Section 6.1.3 above the objectives of Clause 4.2A are:

- to minimise unplanned rural residential development,
- to enable the replacement of lawfully erected dwelling houses in certain rural, residential and conservation zones,

The development application is consistent with the stated objectives of Clause 4.2A as:

- With respect to objective (a) above, the LEP does not define what is meant by Clause 4.2A(1)(a) by the term "unplanned rural residential development".

In this regard it should be noted that *Espinosa C* outlined in *Sharp v Kiama Municipal Council* [2024] NSWLEC 1360 a planned outcome can be in accordance with the provisions of the LEP, and those provisions include development standards which may be contravened provided that the contravention is justified pursuant to the terms of cl 4.6 of the LEP. Such a justified contravention of a development standard is a planned outcome.

A dwelling on the subject site would only be unplanned development if the consent authority were to conclude that the minimum lot size for the erection of a dwelling provided for in cl 4.2A of the LEP were a prohibition, or in the alternative, if the minimum lot size is a development standard, a dwelling would be unplanned if there were no cl 4.6 written request or the cl 4.6 written request were deficient. The satisfaction of the terms of cl 4.6 is a jurisdictional prerequisite which adds weight to any conclusion that the grant of consent to the erection of a dwelling on a RU2 Rural Landscape lot less than 40hectares may be a planned outcome.

- Further with respect to objective (a), the subject site comprises a parcel of land that was created under previous planning provisions that applied to the subject site. The subject site enjoyed a dwelling entitlement until 16 December 2016 at which point this entitlement was revoked by the sunset Clause 4.2A(4)(a). Given the subject site was created under previous planning instruments at a time when it was envisaged there was an entitlement to seek approval for a dwelling house on the subject site; it could not now be said the creation of the subject site and its development for a dwelling house was "unplanned", given the lot was approved by the Council under planning provisions that applied at the time.

With respect to the above point, having regard to the early settlement pattern and development of the rural area surrounding Jamberoo and, and the history of planning provisions that have applied within the Kiama municipality, the rural character of this locality is one that contains lawfully erected dwelling houses on a variety of allotment sizes, with many of the allotments containing dwelling houses having lots sizes less than 40 hectares in area.

Within the Jamberoo and Curramore locality within which the subject site is located there are at least 406 separate allotments which comprise areas less than 40 hectares and which contain a dwelling house (refer Figure 11 below). In total there are 745 allotments within these localities. This represents 54% (54.5%) of the lots within these localities that comprise an area less than 40 hectares and contain a dwelling house. Interestingly, there are only 104 lots within these localities that

Item 15.5

Enclosure 1

10.2025.135.1

actually comprise an area of 40 hectares or greater, which represents just under 14% (13.95%) of all allotments in these localities.

The proposal will therefore be entirely consistent with the character of development in this locality. Again, the proposal could not be considered unplanned rural residential development where it reflects a character of development that is largely consistent with the prevailing form of development in this locality.

- The term “rural residential development” and “unplanned rural residential development” as referenced in Objective (a) are also not defined by the LEP. In my view, ‘unplanned rural residential development’ occurs when existing or continued viability of agricultural land is sterilised or undermined by residential development or subdivision that reduces the area of rural land, removes opportunities for the consolidation of agricultural land; or adversely impacts the agricultural use of land due to conflict with rural residential development.

The proposed dwelling house has been designed and sited such as to support the continued use of the land for viable agricultural activities. The proposed dwelling house will not reduce the potential agricultural uses that may occur on the land or surrounding rural zoned lands.

The proposed dwelling house has been clustered with surrounding neighbouring dwellings and residential development on adjoining and surrounding land to ensure that it is located to minimise and reduce conflicts with agricultural land and land uses. In this way, the proposed dwelling house has been designed and located to minimise impacts on agricultural land that would normally be associated with “unplanned rural residential development.”

Indeed, enabling a dwelling house to be erected on the land will allow increased investment in the agricultural activity on the site including pasture improvement, fencing and weed control providing an opportunity to improve the agricultural viability of the land.

The development application is supported by a “Site & Soil Assessment” prepared by GroundEd – Land Management and Education which provides an agricultural assessment of the Subject land and this proposal. This assessment concludes that given “the landholder’s careful consideration of the location of the dwelling, the minimal development footprint, and the existing infrastructure already servicing the residential housing on the south side of Drualla Road, the construction of the proposed dwelling would not diminish the continuation of extensive agriculture, or the potential for other agricultural land uses.”

Such could not be described as ‘unplanned rural residential development’.

- Objective (b), which relates to the replacement of lawfully erected dwelling houses, is not relevant to this proposal which seeks approval for the erection of a new dwelling house on land where there currently is no dwelling house. Clearly therefore this proposal is not inconsistent with this objective.
- Abandonment of Development Standard

Although only one test in Wehbe needs to be established, in this case, a second test is met.

As outlined above, and detailed in Figure 11 below, having regard to the early settlement pattern and development of the rural area surrounding Jamberoo and, and the history of planning provisions that have applied within the Kiama municipality, the locality is one that contains lawfully erected dwelling houses on a variety of allotment sizes, with many of the allotments containing dwelling houses having lots sizes less than 40 hectares in area.

In effect and having regard to the fourth ‘test’ set by the Wehbe case and which Preston CJ references in “Initial Action”, Council has essentially abandoned

Item 15.5

Enclosure 1

10.2025.135.1

application of the minimum 40 ha lot size development standard in these localities. Over half the lots which contain dwelling houses within the vicinity of the subject site are lots that are less than the 40 hectare lot size minimum specified by Clause 4.2A(3)(a). Under these circumstances compliance with this development standard is unreasonable.

6.3 CONSISTENCY WITH OBJECTIVES OF STANDARD AND ZONE

As outlined in Section 6.2.1 above, the proposal is consistent with the objectives of Clause 4.2A.

The objectives of Clause 4.2A seek to:

- *Minimise unplanned rural residential development; and*
- *To enable replacement of lawfully erected dwelling houses in rural and conservation zones.*
- *The development application is supported by this Clause 4.6 Written Request. The satisfaction of the terms of cl 4.6 is a jurisdictional prerequisite which adds weight to any conclusion that the grant of consent to the erection of a dwelling on a RU2 Rural Landscape lot less than 40ha may be a planned outcome.*
- *Given the subject site was created at a time under previous planning instruments that envisaged an entitlement to seek approval for a dwelling house on the subject land; it could not now therefore be said the creation of the subject site and its development for a dwelling house was “unplanned”.*
 - *Having regard to the objectives that underpin the RU2 zone (as will be discussed below) which in effect seek to protect agricultural land and minimise land use conflict with rural land uses, it is considered the proposed dwelling: Will allow for the continued use of the subject site for agricultural activities;*
 - *Has been designed and sited in a manner that allows the land to be continued to be used for agricultural activities; whilst avoiding potential conflicts with established rural activities in the locality.*
 - *Has been clustered in proximity of existing residential development, and comprises a modest scale and design, such that the proposed dwelling will not detract from the rural character of the surrounding area.*
- *The subject land is primarily zoned RU2 Rural Landscape but also partly zoned C3 Environmental Management under the LEP. All works associated with this development application are sited within the RU2 zone. The proposed development is consistent with the objectives of the RU2 zone. Consideration of each of the objectives of the RU2 zone is detailed in Table 1 below.*

Table 1: Compliance with Objectives of RU2 – Rural Landscape Zone

Objective	Response
<i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i>	<i>The design and siting of the proposed dwelling house has been undertaken in such a manner that it will not impact on the continued use of existing areas within the Subject Land or surrounding properties for permitted agricultural use.</i>
<i>To maintain the rural landscape character of the land.</i>	<i>The proposed dwelling house comprises a modest single storey scale and design that has been clustered within proximity of existing residential development located off Drualla Street. The proposed dwelling will not be visually prominent within the broader landscape.</i>

10.2025.135.1

	Having regard to Figure 11 above, the rural character of this locality is dictated by the early settlement pattern and development of the rural area surrounding Jamberoo and, and the history of planning provisions that have applied within the Kiama municipality, the locality is one that is characterised by dwelling houses on a variety of allotment sizes, with many of the allotments containing dwelling houses having lots sizes less than 40 hectares in area. The proposal will therefore be entirely consistent with the prevailing density and character of development in this locality. The proposal will therefore maintain the prevailing rural landscape character of the land and locality.
To provide for a range of compatible land uses, including extensive agriculture.	The proposed dwelling has been designed and sited to ensure that the land will continue to be able to be used for extensive agricultural activities. Further the siting of the proposed dwelling within the site will not frustrate the on-going use of surrounding rural lands for agricultural undertakings. As demonstrated in the development application, the proposed dwelling house will be compatible with the rural context of the site and facilitate to on-going use of the land for agricultural activities.
To protect agricultural land for long term agricultural production.	The proposed dwelling has been designed and sited to ensure that the land will continue to be able to be used for extensive agricultural activities. The development application is supported by an Agricultural Assessment that demonstrates the Subject Land can support continued and expanded agricultural uses, and that the proposed dwelling house will facilitate ongoing use of the land for agriculture. Given the Subject Land is severed by public roads, including roads that carry heavy tourist traffic, as well as traffic from neighbouring rural land, and there is limited option for consolidation of the Subject Land with larger commercial farms. This zone objective would be better served by enabling the erection of the proposed dwelling house on the Subject Land to facilitate alternative sustainable agricultural uses on the land.
To provide opportunities for employment-generating development that adds value to local agricultural production through food and beverage processing and integrates with tourism.	The proposed dwelling house will facilitate alternative sustainable agricultural uses on the land, which will contribute to improved environmental outcomes for the land and contribute to outputs and demand for services that will provide opportunities for employment generation in the local economy.
Site Specific Environmental Grounds The following site-specific environmental grounds justify the proposed variation to the minimum 40-hectare allotment size development standard. 1. The subject site is suitable for viable agricultural activities Clause 4.2 (subdivision) of the LEP has the stated objective of seeking to reduce the fragmentation of rural land and Clause 4.2A (dwelling entitlements) seeks to avoid unplanned rural residential development. Both clauses rely upon the arbitrary application of a minimum lot area of 40 hectares as a measure to support viable agricultural activities.	

Item 15.5

Enclosure 1

10.2025.135.1

Item 15.5

Enclosure 1

Despite the stated objectives of Clause 4.2 and 4.2A, the LEP does not include any requirements stipulating the need for undersized allotments to be consolidated or amalgamated.

The LEP identifies that extensive agricultural is permitted without consent within the RU2 zone regardless of the lot area or the agriculturally productive potential of the rural land which may be impacted by a range of environmental factors despite the area of the lot. Minimum lot area requirements as espoused by Clauses 4.2 and 4.2A of the LEP is a blunt instrument to achieve the desired objectives of these clauses. The productive potential of rural land depends upon the intended use of the land as well as a range of environmental factors that contribute to the suitability of the land for a range of agricultural purposes. Given these range of factors parcels of land that may fall below 40 hectares may still be capable of supporting viable agricultural undertakings compared to lots that may comply with this minimum lot area requirement, particularly where such lots may be subject to more severe environmental constraints.

With the above in mind, the development application is supported by a Site and Soil Assessment prepared by GroundEd Land Management and Education. This assessment provides a comprehensive site and soil assessment that determines the capability of the land to support extensive agricultural activities and including the sites carrying capacity (determined by a DSE (Dry Sheep Equivalent) value.

This assessment involved:

- a preliminary site visit and a review of existing information and mapping*
- field investigations and recording of site characteristics and soil properties*
- the collection of 10 soil samples for laboratory analyses*
- the interpretation of the field and laboratory results*
- assessment against land capability criteria relevant to the region.*

This assessment indicates that historically, the subject site was part of a pasture-based dairy enterprise however the adjacent roads that border the subject land now include a main thoroughfare to the Southern Highlands and a residential road, both of which are subject to increasing traffic. The daily movement of cattle across these roads is unviable, hence the land use change to grazing agistment. In addition, the region has been subject to the ongoing loss of small dairy farms due to economic pressures, industry consolidation, and environmental factors including extreme weather events.

Other than dairying, this assessment identifies that the subject site is capable of supporting a variety of extensive agricultural land uses, including cropping with restricted cultivation (minimum or no till), fodder and pasture cropping, grazing of other livestock (other than pigs or poultry), pastured eggs (providing stocking density thresholds are not exceeded), and apiculture (with the availability of a variety of flowering plants).

Should the grazing of livestock be maintained, the assessment identifies an indicative carrying capacity for the 26 cows (319 DSE). Based on the findings of the assessment, and the fact that the winter carrying capacity at the subject site is currently approximately 40 head of cattle, a carrying capacity of 26 head of cattle is considered conservative. This is particularly given the evident benefits of the controlled (strip) grazing and mulching that has been a feature of the land management the subject site according to this assessment. Such a technique utilises smaller paddock areas and increases soil health and fertility by maximising the pasture recovery periods.

The assessment undertaken by GroundEd Land Management and Education concludes that based on the review of existing information and the interpretation of the site and soil investigations, the subject site is assessed as stable, fertile, and capable of supporting a range of extensive agricultural activities. The most viable (least subject to change) being the continuation of the controlled grazing of cattle.

10.2025.135.1

Item 15.5

Enclosure 1

2. *The proposed dwelling house will enable sustainable agricultural undertakings to be undertaken on the land.*

As outlined above, Objective (a) of Clause 4.2A seeks to avoid unplanned rural residential development. Clause 4.2A, and the LEP generally, however do not require the consolidation of undersized rural allotments; nor specify a minimum lot size to support agricultural uses.

Instead, extensive agricultural is permitted without consent within the RU2 zone that applies to the subject land. Further the objectives of the RU2 zone seek to encourage primary production including extensive agriculture, without the need to demonstrate the capability of such land to support such uses.

As detailed in the Site and Soil Assessment prepared by GroundEd Land Management and Education the site is currently used for grazing purposes and presently supports 40 head of cattle. Further, this assessment identifies that the land is capable of supporting a range of extensive agricultural activities. The most viable (least subject to change) being the continuation of the controlled grazing of cattle.

The construction of the proposed dwelling house will not detract from the continued agricultural use of the land. Indeed, the construction of the proposed dwelling house will enable a landowner to reside of the subject site and provide on-site management of the land and stock kept on the site.

The assessment undertaken by GroundEd Land Management and Education identifies that:

- The proposed dwelling will be sited in the southeastern corner of the subject site so as to not encroach on the main agricultural land. The site is in close proximity to existing R2 (Low Density Residential) zoned land and housing across Drualla Road.*
- The footprint of the proposed dwelling has been kept to a minimum to ensure the stock carrying capacity of the main agricultural land is not significantly impacted.*
- The development of the proposed dwelling will provide for an on-site residence that will allow for closer observation, management, and care of the land and any stock at the site.*
- The development of the proposed dwelling does not involve the fragmentation (division into multiple, non-contiguous parcels) of agricultural land. Lot 33 is a single allotment of land that is separated from adjacent rural land by the existing road system.*

The assessment undertaken by GroundEd Land Management and Education concludes: Given the landholder's careful consideration of the location of the dwelling, the minimal development footprint, and the existing infrastructure already servicing the residential housing on the south side of Drualla Road, the construction of the proposed dwelling would not diminish the continuation of extensive agriculture, or the potential for other agricultural land uses.

Given the above, the proposed dwelling house will not result in any significant loss of rural land or rural production capacity at the site. Indeed, the proposed dwelling house has the potential to support the continued viable use of the land for agricultural purposes.

3. *The proposed dwelling house will not result in conflicts with existing rural land uses.*

An underlying intention of the 40 ha standard is to minimise conflict between rural and residential development. This is implied by the objectives of the RU2 zone for instance which speak about the need for compatibility of land uses. Such conflicts potentially arise when dwellings are situated within proximity of rural activities that may results in these

10.2025.135.1

dwelling being impacted by impacts such as odours, dust, traffic and spray drift from farming activities.

The proposed dwelling is to be located within the southern portion of the Subject Land, and within direct vicinity of two adjoining residential properties located 11 and 15 Drualla Road. In addition, the location of the proposed dwelling house is also situated within close proximity of the established Jamberoo residential area located along the southern side of Drualla Road (refer Figure 12).

The proposed dwelling house has been strategically sited within proximity of an established cluster of residential development. This will ensure that the proposed dwelling house will not introduce a residential dwelling in a location that could frustrate existing or future rural activities either within the site or on adjoining land.



Given the proximity of residential development to the east and south of the location of the proposed dwelling house it is considered the proposed dwelling house will not give rise to conflicts with neighbouring rural activities or land uses.

4. *No clear available option for consolidation with an existing viable agricultural, operation.*

Whilst the objectives that underpin the RU2 zone seek to protect long term agricultural production and maintain the natural resource base, there is no specific standard or clause within the LEP requiring the consolidation of 'undersized' lots within the RU2 zone. The subject site was created under past planning provisions. It is noted that these past planning provisions permitted a dwelling house on the land with consent. This proposal however does not involve the further fragmentation of agricultural land. The proposal involves the erection of a dwelling house on an existing allotment. The LEP is therefore passive in any intention it may have for the amalgamation or consolidation of rural land without any clear requirement for such.

As demonstrated in Section 6.2.1, the subject site is located within a context that comprises many undersized rural properties with a majority of the surrounding properties containing existing dwellings.

Item 15.5

Enclosure 1

10.2025.135.1

Further the land is bound by public roads, including heavily trafficked roads. As a result, there is no clear opportunity for consolidation with an adjoining farming operation. Given the established settlement pattern within this locality, and no clear pathway for consolidation, the intention of the RU2 zone and Clause 4.2A would not be best served by preventing the erection of a dwelling house on the subject site. Instead, this proposal provides an opportunity to facilitate the development of a sustainable agricultural undertaking promoting an improved agricultural and environmental outcomes for the subject site.

In summary the Clause 4.6 Written Statement demonstrates:

- With respect to the development standard outlined in Clause 4.2A(3)(a) which imposes a minimum lot size of 40 ha for the erection of a dwelling house within the RU2 zone:
 - that compliance with this standard is unnecessary given the objectives that underpin both the clause, and the zones will be achieved without compliance with this minimum lot size development standard;
 - that the 40 hectares minimum lot size standard has been abandoned by Council in this locality given the prevailing settlement pattern and therefore strict compliance with this development standard is unreasonable; and
- That there are specific environmental grounds that justify the contravention of Clause 4.2A(3) including:
 - The proposal is consistent with the objectives of Clause 4.2a and the RU2 zone that applies to the land.
 - The subject site is suitable for on-going viable agricultural undertaking notwithstanding it may not satisfy the 40 hectares lot area development standard. The assessment undertaken by GroundEd Land Management and Education concludes that based on the review of existing information and the interpretation of the site and soil investigations, the subject site is assessed as stable, fertile, and capable of supporting a range of extensive agricultural activities. The most viable (least subject to change) being the continuation of the controlled grazing of cattle.
 - The proposed dwelling house will enable sustainable agricultural undertakings to be undertaken on the land. The proposed dwelling house will not result in any significant loss of rural land or rural production capacity at the site. Indeed the proposed dwelling house has the potential to support the continued viable use of the land for agricultural purposes.
 - The proposed dwelling house will not result in conflicts with existing rural land uses. Given the proximity of residential development to the east and south of the location of the proposed dwelling house it is considered the proposed dwelling house will not give rise to conflicts with neighbouring rural activities or land uses.
 - There is no clear available option for consolidation with an existing viable agricultural, operation. Given the established settlement pattern within this locality, and no clear pathway for consolidation, the intention of the RU2 zone and Clause 4.2A would not be best served by preventing the erection of a dwelling house on the subject site. Instead, this proposal provides an opportunity to facilitate the development of a sustainable agricultural undertaking promoting an improved agricultural and environmental outcomes for the subject site.

Item 15.5

Enclosure 1

10.2025.135.1

Under these circumstances, this Written Statement made pursuant to Section 35B of the EP&A Regulation and having regard to Clause 4.6 of the LEP requests that the Council exercise its discretionary power in Clause 4.6 of the LEP and support this development application that the Written Statement supports notwithstanding the proposed development may be in contravention of Clause 4.2A(3)(a) of the LEP."

Assessing Officer Commentary

Unreasonable or Unnecessary

The Applicant contends that compliance with the clause 4.2A development standard is unnecessary in the circumstances of the case as the proposal is compatible with the objectives of the clause 4.2A Development Standard. This is disagreed by Council staff and it is considered that the proposed development does not achieve the objectives of the development standard.

The objectives of clause 4.2A are considered below:

a) to minimise unplanned rural residential development.

The Applicant argues that the development is not unplanned rural residential development as the lot was approved through a subdivision under a previous planning instrument.

This argument is not agreed with. Although the allotment exists, there is a clear planning vision set out by clause 4.2A (4) which acknowledges the presence of existing holdings and smaller lots in rural areas, but then sets clear and specific requirements for lodgement of applications within 5 years of the commencement of the Plan, otherwise such allotments will not benefit from dwelling entitlement. The represents the clear strategic planning of minimising unplanned rural residential development.

No application for erection of a dwelling house was made within 5 years of the commencement of the Plan (i.e. 16 December 2016) and therefore the land does not benefit from a dwelling entitlement. The extinguishment of any dwelling entitlement under subclause (4) is the planned development outcome.

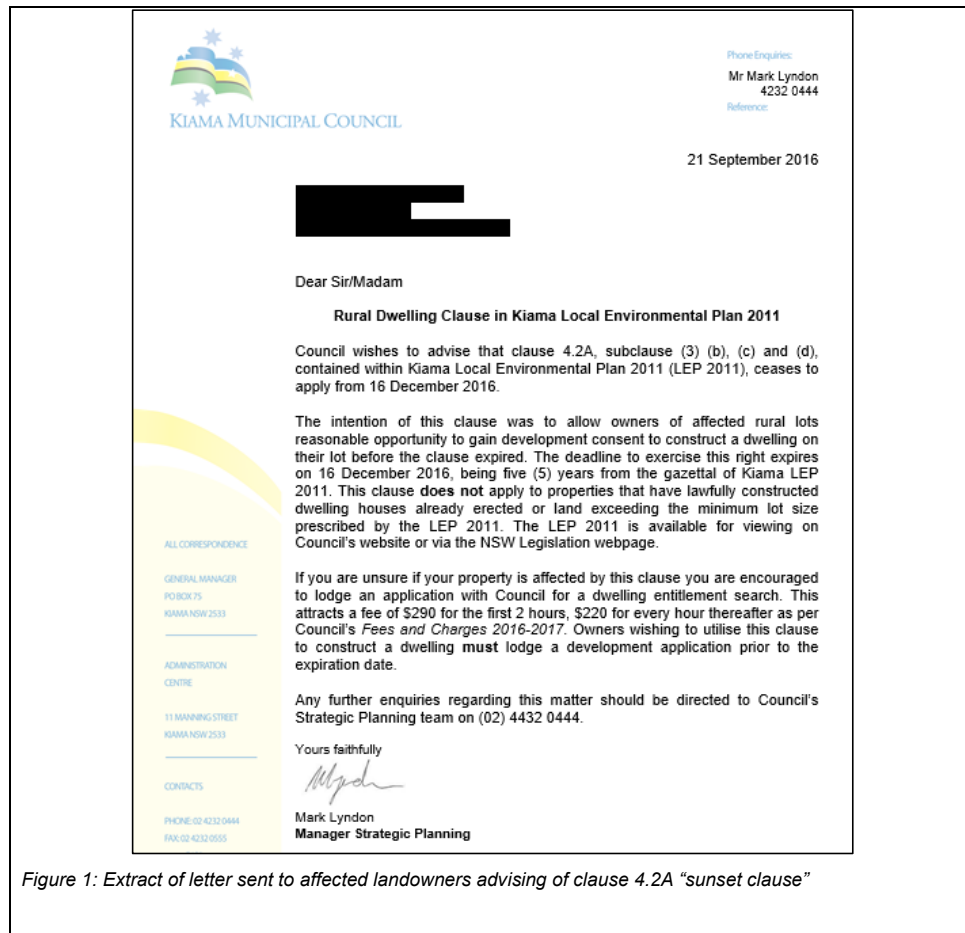
The application of subclause (4) and resultant extinguishment of any dwelling entitlement has been clearly communicated by Council to stakeholders.

At the Ordinary Council meeting on 16/8/2016, the Council resolved (MIN16/270) that a media release advising the community of the expiration provisions within clause 4.2A of Kiama LEP 2011 and that all affected rural rate payers be directly advised of the "sunset clause". The Manager of Strategic Planning wrote to affected landowners on 21 September 2016 to advise that as of 16 December 2016, subclause (4) will come into effect (TRIM 16/82773). Kiama Municipal Council also provided a media release advising of the "sunset clause" (TRIM 17/21167).

Item 15.5

Enclosure 1

10.2025.135.1



Item 15.5

Enclosure 1

10.2025.135.1



14 November 2016
MEDIA RELEASE
Sunset clause ends next month

Kiama Council has reminded rural property owners that the rural dwelling 'sunset clause' of the Kiama Local Environmental Plan 2011 expires 16 December 2016.

Clause 4.2A of the Local Environment Plan currently allows some owners of smaller, vacant rural lots up to five years to obtain permission to build on their land. That period expires as of 16 December 2016.

The lots in question are those that do not have an approved dwelling located upon them and are generally smaller in size, around 0.5 to 5 hectares, and originally created as 'concessional lots' from larger rural holdings.

Affected owners who are yet to lodge their development application will need to do so prior to the above date.

If no development application is lodged for affected properties, dwelling entitlements will expire.

They can contact Council's Strategic Planning team on (02) 4232 0444.

The Kiama Local Environment Plan (2011) can be viewed at: www.legislation.nsw.gov.au

Ends

Figure 2: Extract of media release on 14/11/2016 advising of clause 4.2A "sunset clause"

It is also noted that Council staff have provided clear and consistent advice to customers (including prospective buyers) about the application of clause 4.2A and that certain lots in RU1, RU2 and C3 zones would not benefit from a dwelling entitlement unless they comply with the minimum lot size set under the Lot Size Map or if it is for replacement of a lawfully erected dwelling house.

Council through the application of clause 4.2A (4) has provided a clear planning direction in order to minimise unplanned rural residential development. Clause 4.2A (4) represents the planned development outcome for erection of dwellings in RU1, RU2 and C3 zoned land which includes the extinguishment of any dwelling entitlements in accordance with subclause (4).

The clause 4.2A "sunset clause" is adopted in the Kiama LEP 2011 and the implications of the clause have been clearly and consistently communicated to landowners, relevant stakeholders and the community.

The Applicant also argues that the subject land is "suitable for viable agricultural activities" and that clauses 4.2 and 4.2A are "blunt instruments" to achieve the desired objectives of these clauses. The applicant also asserts that the proposed dwelling will enable the sustainable agricultural undertakings to be undertaken on the land. Council disagrees that the dwelling is required to facilitate development or an undertaking on the land which achieves the relevant objectives, including rural and agricultural uses.

Item 15.5

Enclosure 1

10.2025.135.1

<i>b) to enable the replacement of lawfully erected dwelling houses in rural and conservation zones.</i> The proposed development does not replace a lawfully erected dwelling and there are no existing approvals for establishment of a dwelling house on the land. <u>Sufficient Environmental Planning Grounds</u> The Applicant contends that there are sufficient environmental planning to justify contravention of the development standard because the development aligns with the objects of the Environmental Planning and Assessment Act 1979, for which the applicant has provided a list. The applicant has provided no specific commentary connecting the development to any particular object of the act and relies simply on the statement that "there are environmental planning grounds to justify the contravention of these development standards." In the absence of any specific commentary on this matter, it is considered that no sufficient environmental planning grounds have been identified to justify the proposed variation. The land and surrounding area to the north, east and west is zoned RU2 – Rural Landscape and C3 – Environmental Management and is rural in character. Land immediately to the south of the site is zoned R2 – Low Density Residential. The RU2 zone objectives are to encourage sustainable primary industry production and protect agricultural land for long term agricultural production, as well as to provide for a range of compatible land uses whilst maintaining the rural landscape character. The RU2 zone and controls set out under clause 4.2A allow for dwelling houses in this rural context so long as they are on land which meets the minimum lot sizes or replace an existing approved dwelling. Accordingly the proposed development does not promote the orderly and economic use and development of land as it is not consistent with the objectives of the rural zone and rather it erodes the lands ability to be utilised for appropriate rural and agricultural land uses. The proposed development does not enhance or maintain the natural resource base, rather it reduces the availability of rural land and introduces additional residential development in a way that is not compatible with adjoining agricultural and rural land.	
Part 5 Miscellaneous provisions	
5.16: Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	
The proposed development involves the erection of a dwelling on land zoned RU2 Rural Landscape. Council has considered existing and approved uses on adjoining land and the proposed development is incompatible with these adjoining land uses.	Does not comply
Part 6 Additional local provisions	
6.2: Earthworks	
Clause 6.2 lists considerations for proposals which involve earthworks. The proposal complies with the objectives of the clause and as the proposed earthworks are ancillary to the proposed dwelling separate development consent is not required.	Complies
6.4: Terrestrial biodiversity	
Part of the subject site is mapped as Biodiversity Land. The proposed development does not involve the removal of any significant vegetation and would not have a significant negative impact on terrestrial biodiversity.	Complies

10.2025.135.1

6.5: Riparian land and watercourses	
The development site is located on land identified as "Riparian Land" mapped on the Riparian Lands and Watercourses Map. It is considered that the proposed development will not likely have an adverse impact on the watercourse stability or water quality, aquatic and riparian species, habits and ecosystems, or the passage of fish and other aquatic organisms within or along the watercourse. The proposed development will not preclude the future rehabilitation of the watercourse and its riparian areas. The proposal will not likely increase water extraction from the watercourse. The proposed development has been appropriately designed to minimise impact on the watercourse and the proposal is viewed as satisfactory with regard to the considerations set out in Clause 6.5.	Complies
6.12: Essential services	
Reticulated electricity is available to the site. Potable water will be provided to the development via rainwater tanks. Recommended conditions of consent will be imposed accordingly. Effluent will be managed on site. It is considered that there is suitable areas on site for the required effluent management areas. The application has been reviewed by Council's Environmental Health Officer who raised no objections subject to recommended conditions of consent. It is considered that there is suitable area on site for the required effluent management areas.	Complies

The proposed development is inconsistent with the relevant provisions of the Kiama LEP 2011 and is not permissible within in the RU2 Rural Landscape zone.

ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Nil

KIAMA DEVELOPMENT CONTROL PLAN 2020

Chapter 1: Introduction and administration

The application has been prepared to include documentation and considerations consistent with the requirements in Kiama DCP Chapter 1.
--

Chapter 2: Site considerations

Topic 2.1 – Site Analysis	
Does the proposal include a site analysis plan prepared in accordance with the requirements of Kiama DCP 2011?	Yes - Complies
Topic 2.2 – Biodiversity	
Does the proposal include development on land identified as Riparian Land?	No
Are threatened species present on the site?	No
Is the clearing of native vegetation proposed?	No

Item 15.5

Enclosure 1

10.2025.135.1

Topic 2.3 – Natural Resources				
Is the subject site located within a Sydney Drinking Water Catchment Area (NORBE)?	No			
Topic 2.4 – Tree Preservation and Vegetation Management				
Does the proposal include the removal of any vegetation?	No			
Are any Tree Management measures proposed?	No			
Topic 2.5 – Risk Minimisation and Management				
Is the subject site mapped as Potentially Contaminated Land?	No			
Is the subject site mapped as Flood Prone Land?	No			
Is the subject site mapped as Bushfire Prone Land?	Yes - Complies			
The Kiama Municipal Council Area is within a 100 Forest Fire Danger Index area (see Table A1.12.5 in PBP 2019).				
Direction	Vegetation hazard type	Distance to bush fire vegetation hazard / proposed APZ	Effective slope under vegetation hazard (over 100m)	BAL
North	Grassland	25m	>0 to 5 degrees - downslope	BAL-12.5
East	Managed Land	>140m	Upslope / Flat	BAL-12.5
South	Managed Land	>140m	Upslope / Flat	BAL-12.5
West	Grassland	28m	>5 to 10 degrees - downslope	BAL-12.5

	North	West
Vegetation	Grassland	Grassland
Gradient	0-5° Downslope	5-10° Downslope
Distance from façade to hazard	25 m	28 m
BAL 12.5 required APZ	25-< 50 m	28 -< 50 m
BAL Proposed	BAL 12.5	BAL 12.5

Figure 10 – APZ and BAL Determination Table from Bushfire Assessment Report

Notwithstanding that the Bushfire Assessment Report refers to the proposed development as a “Secondary Dwelling” on numerous occasions, the report identifies that the proposed development conforms to the relevant specification and requirements of Planning for Bush Fire Protection 2019 and has been prepared by a suitably qualified consultant.

Recommended conditions of consent will require the proposed building/s to be built to BAL-12.5 and APZs (as required) as above.

Is the subject site mapped as Acid Sulfate Soils?	No
Does the proposed development include more than 1m of cut and fill?	No
Does the subject site include a gradient exceeding 20%?	No

Item 15.5

Enclosure 1

10.2025.135.1

Chapter 3: Common requirements

Topic 3.1 – Waste Minimisation and Management	
Has the proposal been supported by an appropriately prepared Waste Minimisation and Management Plan?	Yes - Complies
Where <u>COMPLETE</u> demolition is proposed, has the applicant provided a Hazardous Materials Assessment Report?	N/A
Topic 3.2 - Amenity	
Does the proposed development maintain appropriate solar access to adjoining sites including neighbouring solar collectors? (ie. is 3 hours of direct, continuous solar access available to adjoining sites between 9am and 3pm on 21 June?)	Yes - Complies
Does the proposed development maintain adequate visual and acoustic privacy to adjoining properties?	Yes - Complies
Are existing view lines detrimentally impacted?	No
Where possible, have views from public places been maintained?	Yes - Complies
Has the proposed development been appropriately designed to ensure that there is no unreasonable loss of existing views lines, where possible?	Yes - Complies
Does the proposed development have regard to the topography of the site to avoid unnecessary bulk or alteration of natural ground levels?	Yes - Complies
Does the proposed development include a Landscape Plan?	Yes - Complies
Topic 3.3 – Earthworks and Retaining Walls	
Does the proposed development include earthworks or retaining works?	Yes - Complies
Topic 3.4 – Utilities and Infrastructure	
Does the subject site benefit from electricity supply?	Yes - Complies
Topic 3.5 - Water Management (Quality and Control)	
Does the proposed development include Onsite Sewage Management (OSSM)?	Yes - Complies
Does the proposed development include appropriate water supply, including for firefighting purposes, where required?	N/A
Topic 3.6 – Transport, Access and Parking	
Does the proposed development include appropriate on-site parking as prescribed in the table below? Note: For larger scale development, refer to page 52, Kiama DCP Chapter 3.	Yes - Complies

Item 15.5

Enclosure 1

10.2025.135.1

Land Use Type	Minimum Car Parking Standards	
Residential		
Dwelling house	1 dedicated space behind the building line and 1 space behind the front boundary.	
Dual occupancy/attached dwelling	For each occupancy, 1 dedicated space behind the building line and 1 space behind the front boundary.	
Secondary dwelling	1 space behind the front boundary for the secondary dwelling.	
Multi-dwelling housing/residential flat building/shop top housing	1 dedicated space behind the building line (per one or two bedroom dwelling) and 1 additional space per three bedroom dwelling (and above) behind the front boundary plus 1 space per 2 dwellings for visitor parking behind the front boundary. NOTE: Enclosed rooms, that is nominated as a study (or similar) and is capable of being used as a bedroom is considered to be a bedroom for the purposes of calculating car parking requirements.	
Boarding/house/hostel/group home	1 space per 4 beds and 1 space per staff member on shift.	
Seniors housing	1 dedicated space per unit plus 1 space per 4 units for visitor parking.	
Seniors housing (residential care facility)	1 space per 10 units, plus 1 space per 4 units for visitor parking, plus 1 space per staff member on shift, plus 1 space for ambulance parking.	
Rural worker's dwelling	1 space per bedroom.	
Home based childcare	1 space per 7 children in care.	
Home business	1 space per employee.	
Exhibition village	4 spaces per exhibition home.	
Are any additional controls required for vehicular access or parking?		No
Are any parking credits proposed?		No
Does the proposed development include appropriate access arrangements, including manoeuvrability?		Yes - Complies
Topic 3.7 - Character and Design		
Is the proposed development raise any concerns relating to Crime Prevention through Environmental Design, safety, privacy, sight lines or detracting from quality of the streetscape?		
Chapter 4: Heritage and Cultural Conservation		
Topic 4.2 - Aboriginal Cultural Heritage Management		
Is the subject site mapped as featuring Aboriginal Cultural Heritage (AHIMS)?		No
Topic 4.3 - European Cultural Heritage Management		
Is the subject site identified as containing a listed Heritage Item, Draft Heritage Item or State Heritage Item?		No
Topic 4.4 – Heritage Conservation Areas		
Is the subject site located in a Heritage Conservation Area?		No

Chapter 5: Subdivision, Consolidation and Boundary Adjustment

NA

Item 15.5

Enclosure 1

10.2025.135.1

Chapter 6: Residential Accommodation

Chapter 6.1: Dwelling Houses

Topic 6.1 – Dwelling Houses	
General	
6.1.1	
All applications for dwellings must meet the following controls: - all Principal development standards as set by LEP 2011. - all development must be designed to minimise any environmental risks associated with its location.	No - does not comply. See commentary below. Undersized lot.
6.1.2	
Walls of buildings facing side boundaries and $\geq 15\text{m}$ in length must be appropriately articulated, such as through the use of different materials or design.	Yes - Complies
6.1.3	
Developments located on a main or arterial road or in the vicinity of traffic management controls on any classification of road must provide for vehicles to enter and exit the site in a forward direction.	N/A
6.1.4	
In any application consideration will be given to the effect of design that excessive height and/or bulk of dwelling house/addition/dual occupancy/secondary dwelling may have on adjoining properties, with respect to their privacy and overshadowing.	Yes - Complies
6.1.5	
Dwelling houses/additions proposed on the site should be located so as to retain as many significant existing trees on the site as practicable. Where an application for the construction, extension, or alteration of the built upon area of a site involves removal of a tree which, in the opinion of Council is of significance in its own right to the site or to the general area, that application will not be favoured. Consideration should be given by applicants to the relocation or re-design of such proposals on the site, to ensure preservation of the significant tree(s).	Yes - Complies
6.1.6	
To maintain and improve the existing and future desired character/amenity of residential zones. Council will only approve of new dwelling houses/additions where they are compatible with the existing and environmental character of the locality and have a sympathetic and harmonious relationship with adjoining development.	N/A

Item 15.5

Enclosure 1

10.2025.135.1

6.1.7	
New buildings do not have to imitate the architecture of those nearby. However, they should respect the scale, form, orientation etc. of buildings in the street.	N/A
6.1.8	
New urban development is consistent with best practice neighbourhood and environmental design principles including: • accessibility to the town and its community facilities; • energy and water efficiency; • urban form and design in both the private and public domains; • liveability and neighbourhood character; and • appropriate housing choice.	N/A
6.1.9	
A maximum development density of one (1) dwelling per 1,000m ² (exclusive of access handles) of site area (regardless of dwelling size) applies to land zoned R5 Large Lot Residential.	N/A
6.1.10	
Dwellings and ancillary development in rural areas must be designed and sited to protect agricultural land; avoid/minimise their impact on the natural environment and the scenic landscape; and be clustered rather than dispersed over the property	No - does not comply. See commentary below. Undersized lot, location of dwelling infrastructure sterilises existing agricultural land.
6.1.11	
Dwellings and ancillary development in rural areas must be carefully and sensitively sited and designed to complement landscape rather than become conspicuous built elements in the landscape. The siting of habitable buildings should also have regard to any existing or approved agricultural use of adjoining land and the amenity of neighbours.	No - does not comply. See commentary below. Undersized lot, location of dwelling infrastructure sterilises existing agricultural land.
6.1.12	
Any existing dwelling that is replaced by a new dwelling must be demolished before the new dwelling is occupied unless consent is granted for that dwelling to be used for another purpose.	N/A
6.1.13	
Ancillary development should also be where possible and practicable clustered around the principal dwelling, or able to utilise the same accessways.	N/A

Item 15.5

Enclosure 1

10.2025.135.1

6.1.14		
Ancillary development will need to be landscaped to mitigate visual impact visible from a public place.		N/A
Building Lines and Building Separation		
Setback	Requirement	Proposed
Building Height Plane	Vertical from Boundary to 5m, 45* to Max Bld Height	Yes - Complies
Front Building Line	15m	15m
Side Setback (GF)	900mm (wall) 675mm (eaves)	10m
Rear Setback	6m	>25m
6.1.15		
No part of the structure (excluding the eaves, fascia and roof gutter to a maximum width of 600mm) within the built upon area of the site shall exceed a building height plane projected at an angle of 45° over the actual land to be built upon from a vertical distance of 5m above the existing ground level at any boundary of the site.		Yes - Complies
Building line controls – Building lines in rural areas		
6.1.26		
Buildings in rural areas shall be setback at least 15m from the boundary of a property with a public road frontage		Yes - Complies
6.1.27		
The minimum side boundary setback for a dwelling or an outbuilding attached to a dwelling shall be 900mm, as measured from the boundary to a vertical member. The minimum side boundary set back from the edge of the gutter, eaves or fascia is 675mm.		Yes - Complies
6.1.28		
An agricultural buffer area at least 150m wide or a greater distance if possible, must be provided between a rural dwelling house, secondary dwelling or ancillary development (used for habitable purposes) and any adjoining land in separate ownership that is used or capable of being used for agricultural purposes. (the purpose of the agricultural buffer area is to mitigate the impact of agricultural activities including noise, odour and spray drift on adjoining land affecting the amenity and health of residents of a new dwelling erected on adjacent land. Agricultural activities include agricultural processing plants, dairies, cattle yards, horticulture, feedlots or other like activities that could result in noise, odours or agricultural spray drift).		Yes - Complies
6.1.29		
Where a separation distance of 150m or more cannot be achieved and an agricultural activity or an approved agricultural activity is or is likely to be carried out on adjoining land, the planting of a 20 metre wide vegetation buffer strip - comprised of		N/A

10.2025.135.1

native vegetation must be provided between the proposed development building envelope and the adjacent agricultural land to help screen and mitigate agricultural activity impacts.		
6.1.30		
A dwelling and any ancillary development must be set back from a public road by a distance of at least 15m and from a private road by a distance of at least 10m where it is practical to do so without clearing native vegetation.		Yes - Complies
6.1.31		
A dwelling and ancillary development must be located at least 100m from another dwelling on an adjoining property to help achieve rural dwelling amenity.		No - does not comply. See commentary below. Considered in DCP Variation Table of this report.
Building Footprint		
6.1.60		
Buildings that are applicable under this section, are not to have a cumulative building footprint greater than the areas specified below:		Yes - Complies
For a single dwelling house in a urban zones	60%	
Elambra Estate	60%	
West Kiama Urban release Area	60%	
Gerringong Headland	Site specific controls in accordance with Gerringong Headland Masterplan	
Cedar Grove	60%	
Building Materials		
6.1.61		
All materials and colours used should be muted or earthy tones appropriate to the local street and landscape context. The colours and materials chosen for buildings need to be considered in terms of their reflectivity and glare. While lighter roof colours are encouraged for heat deflection and global warming Albedo Effect benefits. Roof designs and location may need to be reconsidered so as to ensure that reflectivity and glare do not adversely affect neighbours' amenity. In some cases, where this amenity cannot be reasonably addressed by redesign, lower reflectivity material may need to be specified. All applications are required to be accompanied by a schedule of finishing materials and colours for Council approval.		Yes - Complies
6.1.62		
External finishes should not strongly contrast with the background whether by orientation, location, colour or choice of materials.		Yes - Complies

Item 15.5

Enclosure 1

10.2025.135.1

6.1.63	
Metal roofing should have a solar absorbance classification in accordance with New South Wales BASIX of not less than 0.46 unless the applicant can satisfy Council that the proposal is consistent with the objectives of the Reflectivity in Building Materials Policy.	Yes - Complies
Storage	
6.1.64	
In addition to kitchen cupboards and bedroom wardrobes, provide enclosed accessible storage facilities at the following rates: - two-bedroom dwellings - 8m³ - three plus bedroom dwellings - 10m³	Yes - Complies
Garaging and car parking	
6.1.65	
Garages/car parks can constitute a maximum of 50% of the front or street elevation of a development.	Yes - Complies
6.1.66	
At least one (1) space in any development must be located behind the building line.	Yes - Complies
6.1.67	
A garage is preferable to a carport.	Noted
6.1.68	
One double garage must not adjoin another double garage.	Yes - Complies
6.1.69	
Any garaging must be set back a minimum of 6m to allow for stacked parking.	Yes - Complies
Private open space	
6.1.70	
Each dwelling must be provided with a minimum of 24m ² of private open space with minimum dimensions of 6m x 4m.	Yes - Complies
6.1.71	
Private open space must be directly accessed from the main living area of the dwelling.	Yes - Complies
6.1.72	
The maximum finished gradient of private open space is 1:4.	Yes - Complies
6.1.73	
A minimum of 50% of the provided private open space areas are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 22. The sunlight must be able to cover the area	Yes - Complies

Item 15.5

Enclosure 1

10.2025.135.1

measured at 1m above the finished level of the private open space area.	
6.1.74	
Private open space areas will require space available or need to be clearly designated on a plan. An area proposed forward of the building line will not be generally favoured but will be considered on merit in exceptional circumstances.	Yes - Complies
6.1.75	
Balconies should not be located on the side of developments without appropriate measures to maintain reasonable amenity to adjoining properties.	Yes - Complies
6.1.76	
A deck/balcony may count as part but not all of a dwellings private open space, subject to the following merit based assessment: • A maximum of 1/3 of the total open space can be in the form of a balcony. • That the dimensions and location of the deck would provide for useful practical multipurpose open space. • The location of the deck will not compromise any amenity issues (such as noise or privacy) for surrounding dwellings/occupants. • Balconies located on the side of developments are not permitted. • A minimum dimension of 2m is required for any balcony.	N/A
External fixtures – Drying areas	
6.1.77	
Drying areas must be provided at a rate of 8 lineal metres of line per dwelling and: • Should not be visible from any public place. • Must not be located in the main private open space area. • Cannot be located forward of the building line.	Yes - Complies
6.1.78	
Drying areas should have a northerly aspect.	Yes - Complies
External fixtures – Letterboxes	
6.1.79	
Letterboxes must be provided in accordance with Australia Post requirements.	Yes - Complies
6.1.80	
Consideration should be given to the siting of letterboxes in dual occupancy/secondary dwelling development for battle-axe blocks.	N/A

Item 15.5

Enclosure 1

10.2025.135.1

Right to farm
NA

Chapter 7: Commercial premises

NA

Chapter 8: Rural uses

NA

Chapter 9: Industrial uses

NA

Chapter 10: Visitor and accommodation and tourism

NA

Chapter 11: Other

NA

Chapter 12: Location specific controls

NA

Chapter 13: Agritourism

NA

KIAMA DEVELOPMENT CONTROL PLAN – VARIATIONS

Control being varied			
6.1.31 A dwelling and ancillary development must be located at least 100 metres from another dwelling on an adjoining property to help achieve rural dwelling amenity			
Extent of proposed departure from development standard			
Numerical standard	Proposed solution	Numerical departure	% Departure
100m	25m	75m	75%
Unique circumstances as to why a departure from the acceptable solutions is being sought			
The following is an excerpt from the applicant's SOEE: <i>"There are several driving factors that underpin the selection of the proposed dwelling house site including:</i> <i>The proposed location will ensure the dwelling, its bushfire APZ and vehicle access will not fragment the agricultural capable land within the site. The proposed dwelling site is situated adjacent to existing residential development and away from the better agricultural land within the site; adjoining farmland as well as the watercourse that flows through the site.</i> <i>The location of the proposed dwelling has been sited within proximity of existing dwellings and an established residential area so as to cluster development together with similar forms of development which will assist with reducing any visual impact of the development within the broader landscape and from vantage points such as along Jamberoo Mountain Road and Jamberoo Road. The location for the proposed dwelling house is situated within the least visually prominent location within the site. In this regard the positioning of the proposed dwelling will read as</i>			

Item 15.5

Enclosure 1

10.2025.135.1

<i>the natural extension of existing residential development along this section of Drualla Road, and will be viewed in that context.</i> <i>A watercourse bisects the subject land which imposes constraints on the siting of development in terms of on-site effluent disposal and flooding.</i> <i>The proposed location provides direct road access to Drualla Road which is a relatively quiet residential street. This provides a far more preferable vehicle access compared to the Jamberoo and Jamberoo Mountain Roads which are higher order roads within the road network that carry increased numbers of vehicles. It is considered that Drualla Road provides a safer vehicle access point for any future dwelling house compared to these other road frontages.</i> <i>The proposed location cannot be located further west as this may interfere with the biodiversity values on the site.</i>	
Demonstrate how the relevant objectives and performance criteria are being met with the performance-based solution	
Objective	Commentary
O:6.1.9 To provide guidelines for the appropriate siting of dwellings and other buildings.	The reduced setbacks proposed for the dwelling are symptomatic of the undersized allotment providing insufficient land area to establish a suitable building envelope without unnecessarily reducing the available agriculturally viable land on the site, or creating an undesirable conflict with the environmental constraints of the site.
O:6.1.10 To protect the amenity of the locality in which the development is situated.	
O:6.1.11 To setback buildings and garages/carports from the street to provide adequate space for landscaping or open space, visual and acoustic privacy and vehicle parking, while assisting in establishing an attractive streetscape.	
O:6.1.12 To protect the established character of a neighbourhood with a consistent view along the street and water frontage to promote an open street and waterscape.	
O:6.1.13 To prevent dwelling houses and structures being sited inappropriately in relation to neighbouring dwellings and the water front.	
O:6.1.14 To prevent unreasonable loss of views.	
O:6.1.15 To provide for compliant car accommodation with due reference to building lines.	
O:6.1.16 To require dwellings to be designed and sited in a way consistent with ecologically sustainable development objectives and urban design principles.	

10.2025.135.1

O:6.1.17 To protect urban bushland, riparian corridors, watercourses (including streams, estuaries and wetlands) and significant landscapes.	
O:6.1.18 To maintain visual and acoustic privacy, and provide for reasonable solar access into the rear yards and living areas of adjoining residences.	
O:6.1.19 To site dwellings having regard to possible risks to life and property resulting from storm surge, tidal inundation, flooding, erosion and sea level changes resulting from climatic change.	
Demonstrate how the development will not have any adverse impacts as a result of the performance-based solution	
The proposed departure is not consistent with the DCP objectives and is not recommended to be supported.	

ANY PLANNING AGREEMENT

Nil.

ANY MATTERS PRESCRIBED BY THE REGULATIONS

NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast
The proposal does not compromise the strategic actions or principles (Appendix C - Table 3) adopted within the NSW Coastal Policy 1997.
Australian Standard AS 2601 - 1991: The Demolition of Structures
The proposal is not inconsistent with Australian Standard AS 2601 - 1991: The Demolition of Structures.
Clauses 93, 94 and 94A
The proposal does not involve a change of use or additions and alterations to an existing building or the erection of a temporary building.

ANY COASTAL ZONE MANAGEMENT PLAN

Nil.

OTHER KIAMA MUNICIPAL COUNCIL PLANS OR POLICIES

Provide commentary considering any other relevant [Council Policies](#)

Kiama 7.12 Contribution Plan			
The Kiama 7.12 Contribution Plan applies to all land in the Kiama LGA.			
Is the 7.12 Contribution Plan applicable to the subject site?		Yes	
Do 7.12 Contributions apply to the proposed development?		Yes - relevant s7.12 amount and conditions provided by Council's Contributions Planner.	
Contribution Plan	Cost of Works	Levy %	Contribution
Section 7.12 Contribution Plan	\$ 636,140.00	0.5% or 1%	\$6,361.00

10.2025.135.1

THE LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT

Head of consideration	Comment
Biodiversity	The application does not propose clearing of native vegetation and therefore the <i>Environmental Planning and Assessment Act 1979 Part 1 Section 1.7</i> does not apply to the development.
Streetscape	The design of the proposed development is considered to be reasonable when considered in relation to the context of the site. The bulk, scale and design of the proposal is consistent with relevant planning instruments and is not inconsistent with the prevailing streetscape.
Noise	Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbours. No ongoing significant noise impacts are expected as a result of the development.
Privacy and overlooking	No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.
Overshadowing	The proposal is single storey and will have no unreasonable impact upon overshadowing.
Views	The proposal will have no unreasonable impact upon views currently available from neighbours.
Vehicular access, parking and manoeuvring	Sufficient car parking is proposed. Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.
Stormwater management	A satisfactory drainage design has been provided with the application. Managed stormwater will be directed to an appropriately designed on-site stormwater management system
Environmental impacts	Fauna Impacts – It is unlikely that the proposal will affect any fauna or its habitat. Impact on Soil Resources – Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent should be imposed if consent is granted in relation to soil and water management controls to be implemented during construction. Satisfactory implementation of these controls will prevent significant impacts on soil resources. Impact on Water Resources – Recommend conditions of consent include Sediment and Erosion Controls manage sedimentation during construction.
Natural environment	The proposed development will not have a significant adverse impact on the natural environment.
Built environment	The proposed development has not adequately demonstrated that it will not have a significant adverse impact on the built environment.

10.2025.135.1

Head of consideration	Comment
	The proposed development does not comply with clause 4.2A of Kiama LEP and contributes to an unplanned rural residential development outcome.
Social impacts	The proposed development will not have a negative social impact in the locality.
Economic impacts	The proposed development will not have a negative economic impact in the locality.

THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposal does not fit within the locality and the site attributes are considered to be unsuitable to development.

SUBMISSIONS

Notification letters were sent to neighbouring property owners on 3/09/2025, who were provided with 14 days in which to comment on the proposal. At the conclusion of the notification period, 0 submissions had been received.
--

ADDITIONAL INFORMATION

NIL

EXTERNAL REFERRALS

NIL

INTERNAL REFERRALS

The application was referred to the following internal subject matter experts.	
Internal referral	Comments
Contribution Planner	Section 7.12 Contributions applicable
Property Manager	Referral sent to Property for purposes of exhibition to adjoining property owners. No objection raised during public exhibition period.
GIS Officer	No objection subject to recommended conditions
Environmental Health Officer	No objection subject to recommended conditions

OTHER APPROVALS

NIL

The proposal is not considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plan, and has not adequately addressed various land constraint conflicts and therefore is considered to be consistent with the public interest.

Item 15.5

Enclosure 1

10.2025.135.1

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 not consistent with Kiama LEP 2011 and relevant Kiama DCP 2020 Chapters.

Where the proposal includes departures from the development standards in the Kiama LEP 2011 and Kiama DCP 2020, the relevant objectives have not been satisfactorily addressed nor achieved.

The proposed development is not consistent with the objectives of the RU2 Rural Landscape zone.

Consideration has been given to the social, economic, and environmental impacts of the proposed development and significant concerns are raised.

The proposed development is considered to be unsuited to the site and refusal 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 10.2025.131.1 be refused under Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

- (a) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with the RU2 Rural Landscape zone objectives as detailed in Kiama Local Environmental Plan 2011.
- (b) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not demonstrated that the land is capable of being suitable for residential purposes pursuant to State Environmental Planning Policy (Resilience and Hazards) 2021, Cl. 4.6.
- (c) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with Kiama Local Environmental Plan 2011 clause 4.2A.
- (d) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that the Kiama Local Environmental Plan 2011 clause 4.2A development standard is unnecessary or unreasonable in the circumstances of the case.
- (e) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that there are sufficient environmental planning grounds to justify contravention of the Kiama Local Environmental Plan 2011 clause 4.2A development standard.
- (f) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development is not consistent with Kiama Local Environmental Plan 2011 clause 5.16.
- (g) Pursuant to S.4.15(1)(a)(ii) of the EP&A Act 1979, the proposed development does not provide adequate setback to achieve rural dwelling amenity to adjoining land as required by control 6.1.31 in Chapter 6 of Kiama DCP 2020.
- (h) Pursuant to S.4.15(1)(b) of the EP&A Act 1979 the proposed development has not adequately demonstrated that the proposal will not have an adverse impact on the built environment, and contributes to an unplanned rural residential development outcome.
 - (i) Pursuant to S.4.15(1)(c) of the EP&A Act 1979 the proposed development is not considered suitable development for the site.
 - (j) Pursuant to S.4.15(1)(e) of the EP&A Act 1979 the proposed development is not considered to be in the public interest.

10.2025.135.1

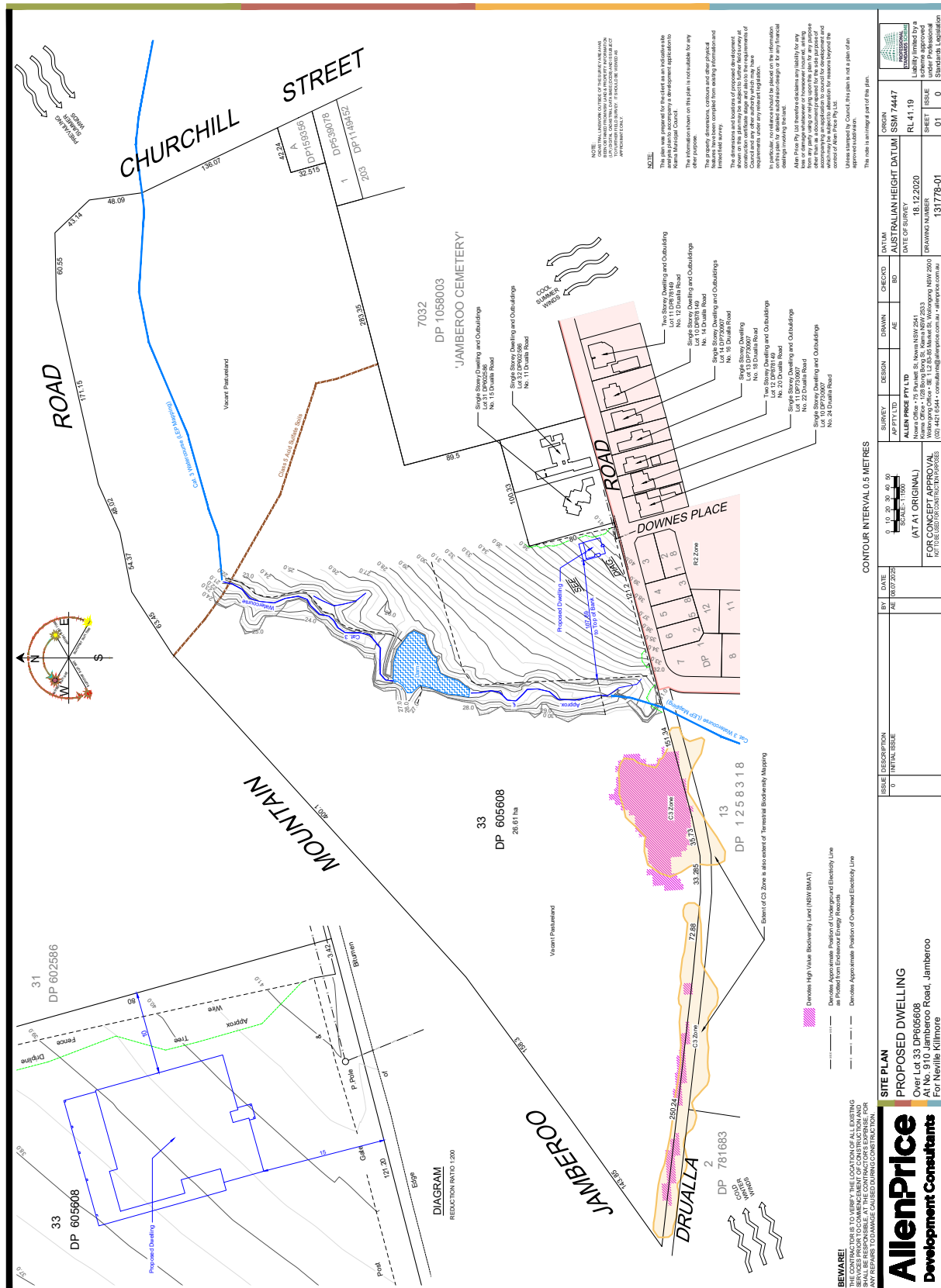
Mr A Shortle
Development Assessment Officer - Planning
21/10/2025

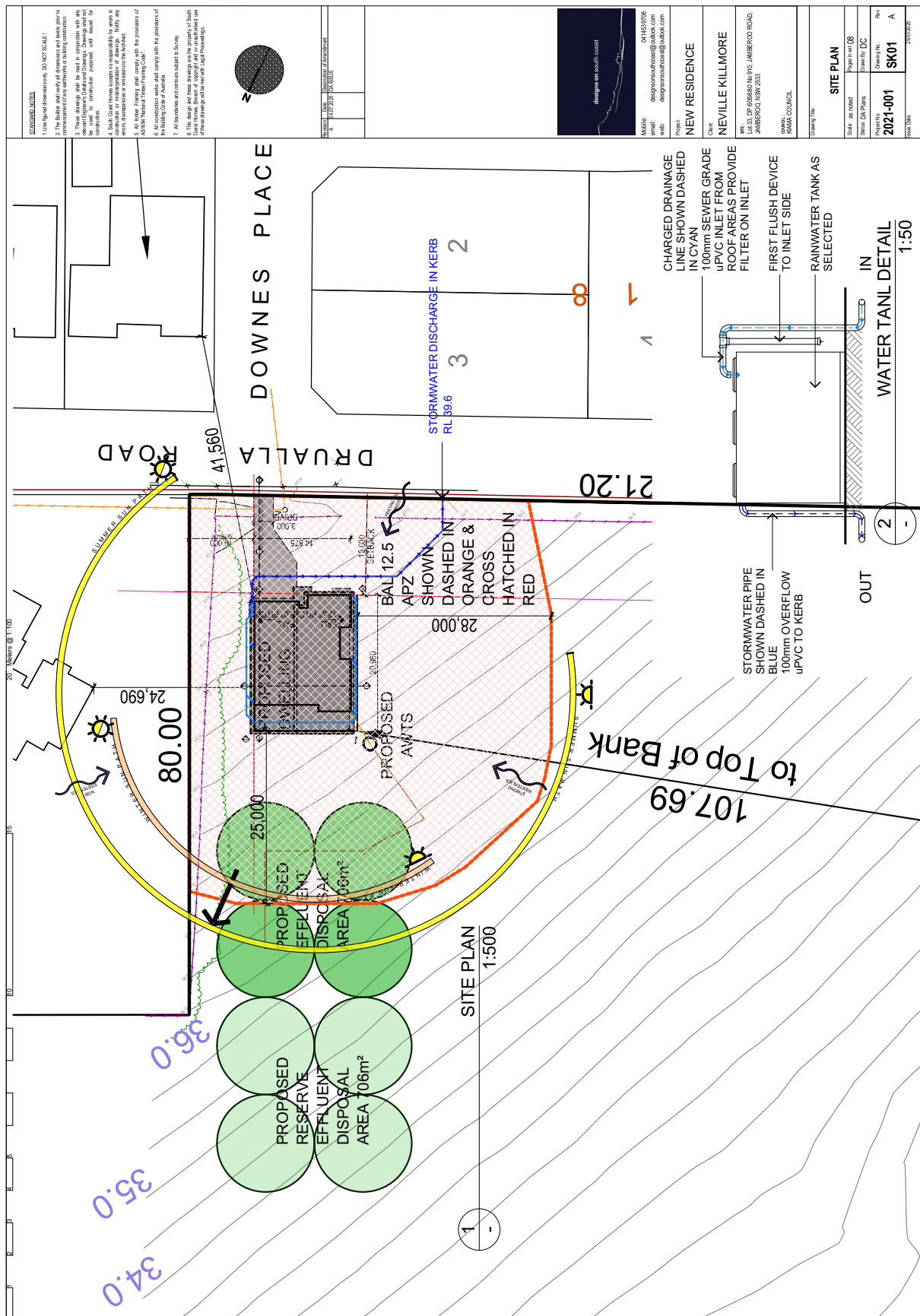
ENDORSEMENT

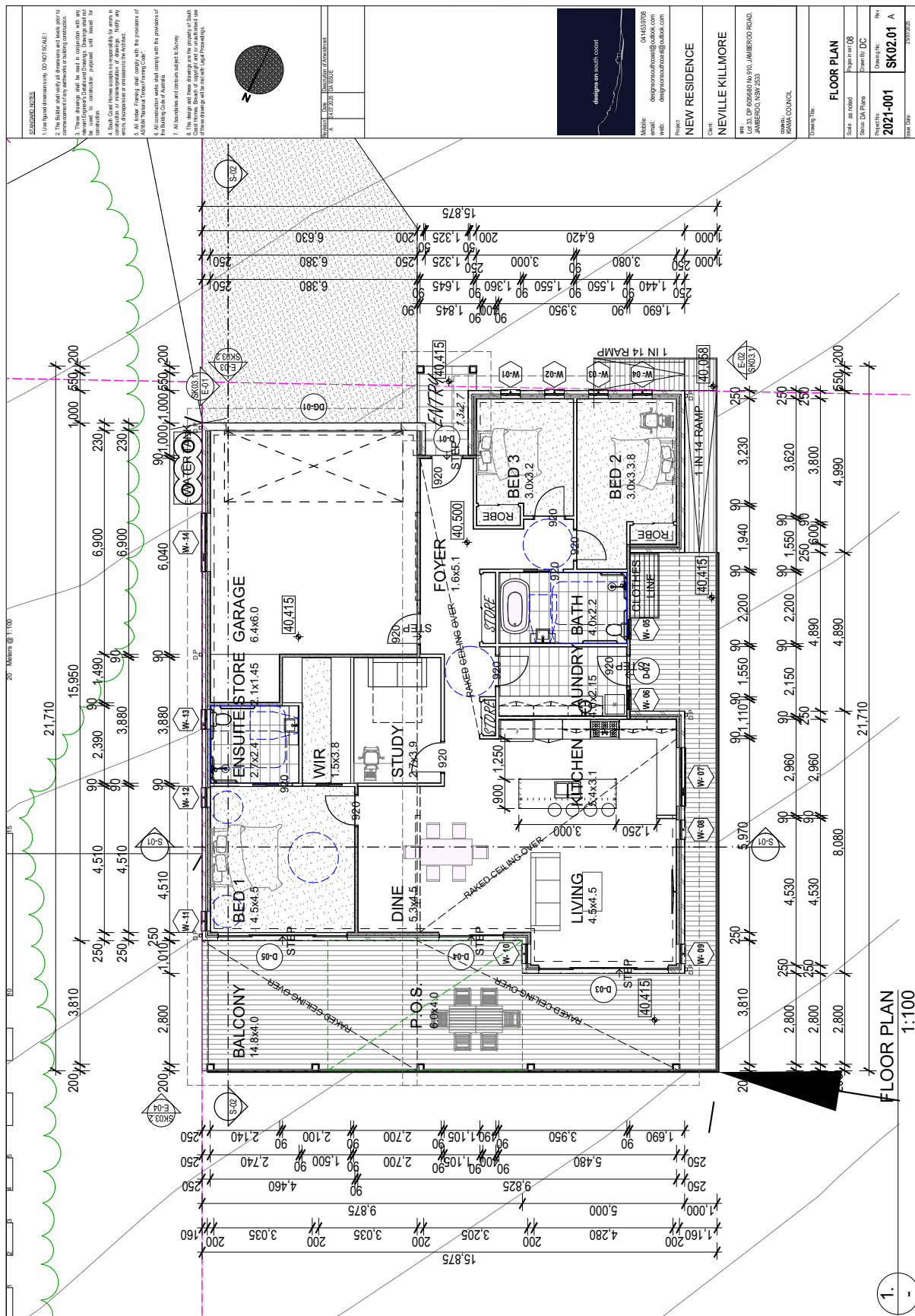
Peter Woodworth
Development Assessment Coordinator
22/10/2025

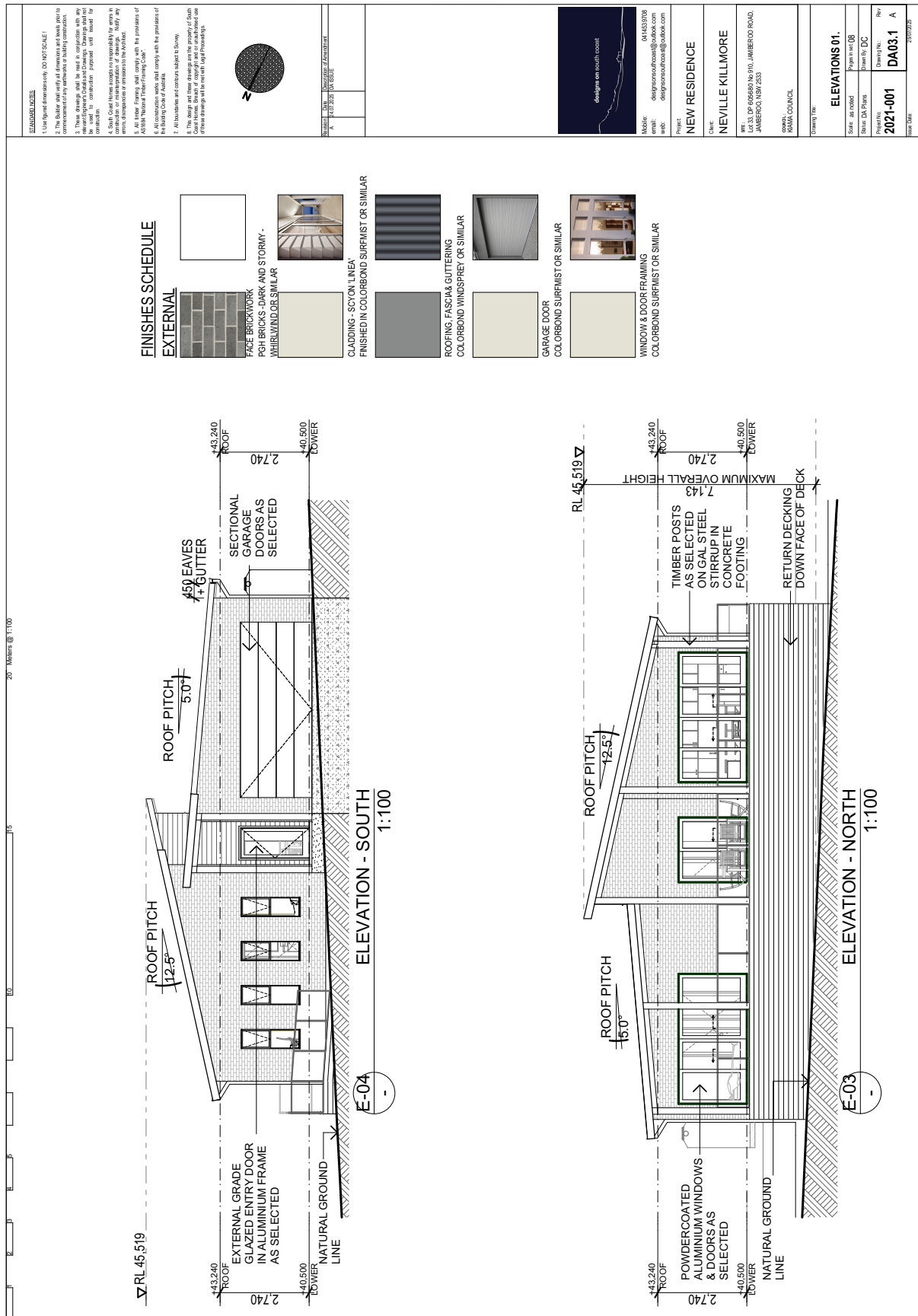
Item 15.5

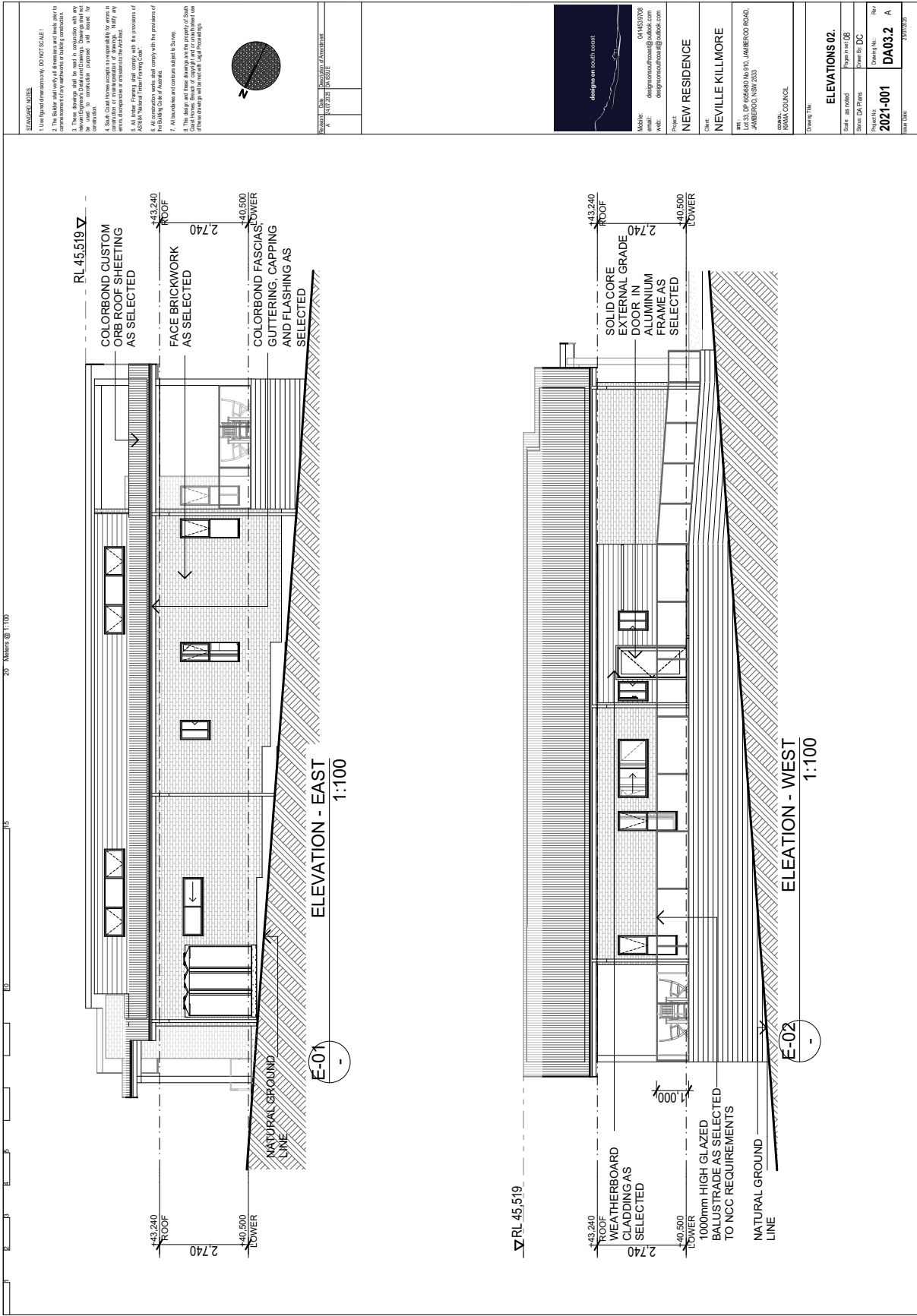
Enclosure 1

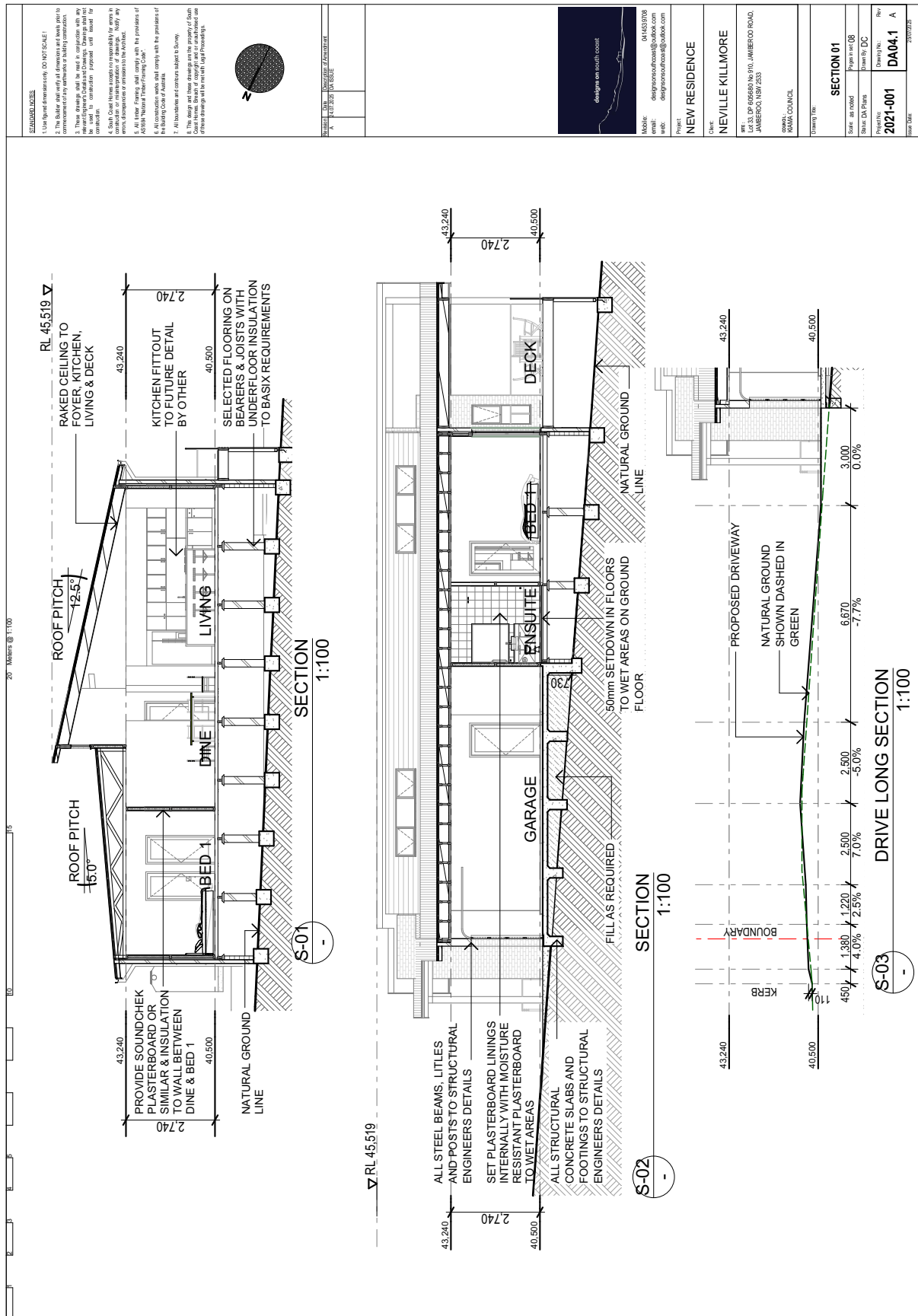












[illegible]



[illegible]



**14 November 2016
MEDIA RELEASE
Sunset clause ends next month**

Kiama Council has reminded rural property owners that the rural dwelling 'sunset clause' of the Kiama Local Environmental Plan 2011 expires 16 December 2016.

Clause 4.2A of the Local Environment Plan currently allows some owners of smaller, vacant rural lots up to five years to obtain permission to build on their land. That period expires as of 16 December 2016.

The lots in question are those that do not have an approved dwelling located upon them and are generally smaller in size, around 0.5 to 5 hectares, and originally created as 'concessional lots' from larger rural holdings.

Affected owners who are yet to lodge their development application will need to do so prior to the above date.

If no development application is lodged for affected properties, dwelling entitlements will expire.

They can contact Council's Strategic Planning team on (02) 4232 0444.

The Kiama Local Environment Plan (2011) can be viewed at: www.legislation.nsw.gov.au

Ends

Media contact: Brent Blackburn 0466 410 796

Item 15.5

Enclosure 3



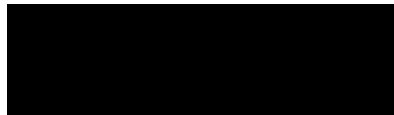
KIAMA MUNICIPAL COUNCIL

Phone Enquiries:

Mr Mark Lyndon
4232 0444

Reference:

21 September 2016



Dear Sir/Madam

Rural Dwelling Clause in Kiama Local Environmental Plan 2011

Council wishes to advise that clause 4.2A, subclause (3) (b), (c) and (d), contained within Kiama Local Environmental Plan 2011 (LEP 2011), ceases to apply from 16 December 2016.

The intention of this clause was to allow owners of affected rural lots reasonable opportunity to gain development consent to construct a dwelling on their lot before the clause expired. The deadline to exercise this right expires on 16 December 2016, being five (5) years from the gazettal of Kiama LEP 2011. This clause **does not** apply to properties that have lawfully constructed dwelling houses already erected or land exceeding the minimum lot size prescribed by the LEP 2011. The LEP 2011 is available for viewing on Council's website or via the NSW Legislation webpage.

If you are unsure if your property is affected by this clause you are encouraged to lodge an application with Council for a dwelling entitlement search. This attracts a fee of \$290 for the first 2 hours, \$220 for every hour thereafter as per Council's *Fees and Charges 2016-2017*. Owners wishing to utilise this clause to construct a dwelling **must** lodge a development application prior to the expiration date.

Any further enquiries regarding this matter should be directed to Council's Strategic Planning team on (02) 4432 0444.

Yours faithfully

Mark Lyndon
Manager Strategic Planning

ALL CORRESPONDENCE

GENERAL MANAGER
PO BOX 75
KIAMA NSW 2533

ADMINISTRATION
CENTRE

11 MANNING STREET
KIAMA NSW 2533

CONTACTS

PHONE: 02 4232 0444
FAX: 02 4232 0555
council@kiama.nsw.gov.au
www.kiama.nsw.gov.au

ABN: 22 379 679 108

your council
your community

Item 15.5

Enclosure 3



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

DRAFT

Application number	10.2025.135.1 PAN-562104
Applicant	Allen Price Pty Ltd Unit 1 28 Bong Bong Street KIAMA NSW 2533
Description of development	New dwelling house - Construction of a single-storey three bedroom dwelling house.
Property	Jamberoo Road JAMBEROO NSW 2533 LOT: 33 DP: 605608
Determination	Refused Consent Authority - Council
Date of determination	xx/xx/xxx

Under section 4.18(1)(a) of the EP&A Act, notice is given that the above development application has been determined by refusing consent using the power in section 4.16(1)(b) of the EP&A Act, for the reasons specified below:

Reasons for refusal

- (a) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with the RU2 Rural Landscape zone objectives as detailed in Kiama Local Environmental Plan 2011.
- (b) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development has not demonstrated that the land is capable of being suitable for residential purposes pursuant to State Environmental Planning Policy (Resilience and Hazards) 2021, Cl. 4.6.
- (c) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development does not comply with Kiama Local Environmental Plan 2011 clause 4.2A.

- (d) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that the Kiama Local Environmental Plan 2011 clause 4.2A development standard is unnecessary or unreasonable in the circumstances of the case.
- (e) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the clause 4.6 variation to clause 4.2A is not accepted. The proposed development has not satisfactorily demonstrated that there are sufficient environmental planning grounds to justify contravention of the Kiama Local Environmental Plan 2011 clause 4.2A development standard.
- (f) Pursuant to S.4.15(1)(a)(i) of the EP&A Act 1979, the proposed development is not consistent with Kiama Local Environmental Plan 2011 clause 5.16.
- (g) Pursuant to S.4.15(1)(a)(ii) of the EP&A Act 1979, the proposed development does not provide adequate setback to achieve rural dwelling amenity to adjoining land as required by control 6.1.31 in Chapter 6 of Kiama DCP 2020.
- (h) Pursuant to S.4.15(1)(b) of the EP&A Act 1979 the proposed development has not adequately demonstrated that the proposal will not have an adverse impact on the built environment, and contributes to an unplanned rural residential development outcome.
- (i) Pursuant to S.4.15(1)(c) of the EP&A Act 1979 the proposed development is not considered suitable development for the site.
- (j) Pursuant to S.4.15(1)(e) of the EP&A Act 1979 the proposed development is not considered to be in the public interest.

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 A Shortle
Development Assessment Officer - Planning
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

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 Local Planning Panel.

Item 15.5

Enclosure 4



KIAMA MUNICIPAL COUNCIL
your council, your community

DRAFT

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	10.2025.135.1 PAN-562104
Applicant	Allen Price Pty Ltd Unit 1 28 Bong Bong Street KIAMA NSW 2533
Description of development	New dwelling house - Construction of a single-storey three bedroom dwelling house.
Property	Jamberoo Road JAMBEROO NSW 2533 LOT: 33 DP: 605608
Determination	Approved Consent Authority - Council
Date of determination	TBD
Date on which the consent lapses	TBD
Date from which the consent operates	TBD

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 consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

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 A Shortle
Development Assessment Officer - Planning
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.

GENERAL CONDITIONS

1.	Approved plans and supporting documentation				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	Approved Plans				
	Plan number	Revision number	Plan title	Drawn by	Date of plan
	131778-01	0	Site Plan	Allen Price	06/07/2025
	2021-001 SK01	A	Site Plan	Designs on South Coast	25/07/2025
	2021-001 SK2.01	A	Floor Plan	Designs on South Coast	25/07/2025
	2021-001 DA3.1	A	Elevations 01.	Designs on South Coast	25/07/2025
	2021-001 DA3.2	A	Elevations 02.	Designs on South Coast	25/07/2025
	2021-001 DA4.1	A	Section 01	Designs on South Coast	25/07/2025
	2021-001 DA05	A	Window and Door Schedule	Designs on South Coast	25/07/2025
	2021-001 DA07	A	Site Management Plan	Designs on South Coast	25/07/2025
	2021-001 DA08	A	BASIX	Designs on South Coast	25/07/2025
	DA-2074 Page 1 of 2	-	Title Page	Captivate	18/07/2025
	DA-2074 Page 2 of 2	-	Landscape Concept Plan	Captivate	18/07/2025
	Approved Documents				

	<table><tr><th>Document title</th><th>Version number</th><th>Prepared by</th><th>Date of document</th></tr><tr><td>BASIX Certificate*</td><td>1805569S</td><td>Daniel Cohen</td><td>24/07/2025</td></tr><tr><td>Soil and Site Assessment for Onsite Wastewater Disposal</td><td>Version 1.0</td><td>Harris Environmental Consulting</td><td>04/04/2025</td></tr><tr><td>Waste Management Plan</td><td>-</td><td>Allen Price</td><td>08/08/2025</td></tr><tr><td>Bushfire Assessment Report</td><td>Ref7455BF – V1.1</td><td>Harris Environmental Consulting</td><td>16/04/2025</td></tr></table> *The approved BASIX Certificate may only be updated, without the need to lodge a modification to the development consent, where any change to the BASIX Commitments does not result in the proposal being inconsistent with this development consent and/or alter the approved development application plans. In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and the condition of this consent, the condition prevails. Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.	Document title	Version number	Prepared by	Date of document	BASIX Certificate*	1805569S	Daniel Cohen	24/07/2025	Soil and Site Assessment for Onsite Wastewater Disposal	Version 1.0	Harris Environmental Consulting	04/04/2025	Waste Management Plan	-	Allen Price	08/08/2025	Bushfire Assessment Report	Ref7455BF – V1.1	Harris Environmental Consulting	16/04/2025
Document title	Version number	Prepared by	Date of document																		
BASIX Certificate*	1805569S	Daniel Cohen	24/07/2025																		
Soil and Site Assessment for Onsite Wastewater Disposal	Version 1.0	Harris Environmental Consulting	04/04/2025																		
Waste Management Plan	-	Allen Price	08/08/2025																		
Bushfire Assessment Report	Ref7455BF – V1.1	Harris Environmental Consulting	16/04/2025																		
2.	Property addressing and site facilities 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 any required Construction Certificate drawing: <table><tr><th>Proposed lot</th><th>Property address</th></tr><tr><td>Proposed dwelling</td><td>19 Drualla Road, Jamberoo NSW 2533</td></tr></table> Address numbers must be clearly shown in a position that identifies the property and property access point, and ideally should be of a reflective material for high visibility at night. If at any time the access point to the property is altered from what is shown on the approved plans, Council must be contacted to review, and if necessary, amend the allocated numbers to ensure the addresses comply with the NSW Address Policy and User Manual for rural properties. Location points for mail delivery must satisfy the requirements of Australia Post and include the street number for identification. Condition Reason: To ensure property addressing complies with the relevant legislation, guidelines and requirements.	Proposed lot	Property address	Proposed dwelling	19 Drualla Road, Jamberoo NSW 2533																
Proposed lot	Property address																				
Proposed dwelling	19 Drualla Road, Jamberoo NSW 2533																				

3.	Prescribed conditions The development must comply with Part 4, Division 2, Subdivision 1, of the Environmental Planning and Assessment Regulation 2021, as applicable. Condition Reason: To ensure the development is carried out in accordance with the relevant legislation.
4.	Scope of consent The scope of this consent is limited to only the works as described under this consent, and it does not approve or imply approval, of any existing unlawful works that may be present on the site. Condition Reason: To establish the scope of work approved under this development consent.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

5.	Local infrastructure contributions 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: <table border="1" data-bbox="427 1182 1257 1279"> <tr> <td>12 Contribution Plan</td><td>\$ 6,361.00</td></tr> <tr> <td>otal Contribution Amount:</td><td>\$ 6,361.00</td></tr> </table> 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. Condition Reason: To ensure contributions are levied toward the provision of public infrastructure.	12 Contribution Plan	\$ 6,361.00	otal Contribution Amount:	\$ 6,361.00
12 Contribution Plan	\$ 6,361.00				
otal Contribution Amount:	\$ 6,361.00				
6.	On-Site Sewage Management System – approval to install Before the issue of a Construction Certificate, the applicant must gain approval under the <i>Local Government Act 1993</i> to install the approved On-Site Sewage Management System. Condition Reason: To ensure adequate provisions for wastewater management are provided.				
7.	Construction Site Management Plan				

	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: a) The location and materials for protective fencing and hoardings on the perimeter of the site; b) Provisions for public safety; c) Pedestrian and vehicular site access points and construction activity zones; d) Details of construction traffic management including: 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; e) Details of bulk earthworks to be carried out; f) The location of site storage areas and sheds; g) The equipment used to carry out works; h) The location of a garbage container with a tight-fitting lid; i) Dust, noise and vibration control measures; j) The location of temporary toilets; k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: i) AS 4970 – Protection of trees on development sites; ii) An applicable Development Control Plan; iii) An arborist's report approved as part of this consent A copy of the Construction Site Management Plan must be kept on-site at all times while work is being carried out. Condition Reason: To require details of measures that will protect the public and the surrounding environment, during site works and construction.
8.	Erosion and sediment control plan 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: a) the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), 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 c) measures to ensure any excavated material deposited on public roads from works is removed within the same day. Condition Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

9.	Long Service Levy 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. Condition Reason: To ensure the long service levy is paid.
10.	Rainwater facility Before the issue of a Construction Certificate, details of rainwater tanks must be provided to the Certifier. Water stored in the tank must be plumbed into the dwelling such that it is supplied to each of the fixtures listed in the BASIX Certificate for the property. Plumbing must be in accordance with the current edition of AS 3500.1 Water Services – section 16. It will be necessary to install, maintain and repair the facility so that it functions in a safe and efficient manner in accordance with the current editions of AS 3500.1 Water Services, the New South Wales Code of Practice Plumbing and Drainage and in accordance with the following: a) The tank inlet must be located a minimum of 500mm below the outlet of the eave gutter, b) The tank is to be installed on a firm flat and stable platform in accordance with manufacturer's recommendations. Tanks located over fill material should be placed on a concrete slab, c) Pumps must be located and installed to minimise any potential noise nuisance to surrounding residents, and in the case of a permanent electric pump, must be installed by a licensed electrician. Pump performance must achieve a minimum 300 Kpa output, d) Overflow from the tank must be directed into the approved storm water system, e) Any town water top-up of the tank must be by indirect connection by means of a visible "air gap", external to the rainwater tank, in accordance with the provisions of the National Plumbing and Drainage Code, AS3500.1 – Minimum air gap requirements, f) Marking and labelling of rainwater services must be in accordance with AS 3500.1 section 16, g) The charged line to the rainwater tank is to have a flush point installed at the lowest reduced level (RL) into a 450mm x 450mm pit to enable the line to be flushed. This is to prevent the line becoming blocked, h) Partially buried or fully buried rainwater tanks must have a dual check valve with atmospheric port valve installed at the boundary water meter. Zone protection will be required at the tank or cross connection point to be installed in accordance with AS3500.1 – section 4. Condition Reason: To ensure correct installation and ongoing use.

11.	Utilities and services Before the issue of the relevant Construction Certificate, written evidence of the following service provider requirements must be provided to the Certifier: 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.
	Condition Reason: To ensure relevant utility and service providers' requirements are provided to the certifier.
12.	Waste Management Plan – an approved document of this consent Before the issue of a Construction Certificate, a Waste Management Plan for the development must be provided to the Certifier.
	Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.
13.	Drainage and stormwater Before the issue of a Construction Certificate, a Detailed Drainage Plan generally in accordance with the Plans approved under this consent must be submitted to the Certifier for approval. This plan must show the connection of stormwater into the street gutter and that surface water which is likely to discharge from the development site onto the road reserve will be intercepted at the property boundary and conveyed to the street. All drainage works shall be undertaken in accordance with the requirements of Australian Standard AS 3500.3:2018.
	Condition Reason: To ensure stormwater disposal is adequate for the site.
14.	Section 68 application Before the issue of a Construction Certificate, an application for installation of an on-site sewage management system must be approved under Section 68 of the <i>Local Government Act 1993</i>.
	Condition Reason: To comply with the provisions of the <i>Local Government Act 1993</i>.

BEFORE BUILDING WORK COMMENCES

15.	Construction Certificate A Construction Certificate must be obtained from either Council or a Certifier before any building work can commence.
	Condition Reason: To comply with Council's requirements before the commencement of works.
16.	Appointment of Principal Certifier Before building work commences a Principal Certifier must be appointed.
	Condition Reason: To ensure ongoing compliance.
17.	Protection of adjoining land 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 – 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.
18.	Bushfire asset protection zones Before any site work commences, the boundaries of the asset protection zone must be surveyed and marked on the ground by a registered surveyor.
	Condition Reason: To provide a buffer to protect the life and property from bushfire attack.
19.	Deliveries While site work is being carried out, deliveries of material and equipment must only be carried out between— 7.00am to 5.00pm on Mondays to Fridays, and 8.00am to 1.00pm on Saturdays No deliveries are to take place on Sundays or Public Holidays.
	Condition Reason: To protect the amenity of neighbouring properties.
20.	Erosion and sediment controls in place 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 restabilised in accordance with

Item 15.5

Enclosure 5

	'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time). Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
21.	Tree protection measures Before any site work commences the Certifier must be satisfied the measures for the tree protection detailed in the Construction Site Management Plan are in place. Condition Reason: To protect and retain trees.
22.	Works within the road reserve Before undertaking any works within an existing road reserve, approval under section 138 of the <i>Roads Act, 1993</i> must be obtained. The following details must be submitted to Council as part of the application: 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. Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.
23.	Section 138 approval Before any work commences in the road reserve, a Road Occupancy approval under Section 138 of the <i>Roads Act 1993</i> must be obtained from Council. Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.
24.	Toilet facilities - temporary 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. Each toilet must: • 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>. Condition Reason: To ensure appropriate amenities onsite.
25.	Use of adjacent Council land for access

	Before work commences, the applicant is to obtain approval from Council for any use of the adjoining Council land for the purpose of providing access during construction.
	Condition Reason: To ensure the necessary approvals are obtained for the use of Council land.

DURING BUILDING WORK

26.	Acid sulfate soils – unexpected finds If acid sulfate soils are encountered during excavation and/or construction works, all work must cease and Council notified immediately. The extent of acid sulfate soil must be evaluated by a qualified environmental consultant with experience in the assessment of acid sulfate soils and a preliminary assessment provided to Council. Council will determine an appropriate response, including if an Acid Sulfate Soils Management Plan is required to be prepared and implemented, before works can recommence. Condition Reason: To appropriately manage acid sulphate soils which when disturbed or exposed to air can release acid, damaging built structures and harming or killing animals and plants.
27.	Clearing for asset protection zones (APZ) While site work is being carried out, clearing or modifying vegetation to establish the APZ must be confined within the marked APZ boundary in accordance with the supporting documentation approved under this consent, to the satisfaction of the Certifier. Condition Reason: To ensure vegetation clearance or modification during construction is confined within the APZ.
28.	Procedure for critical stage inspections 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. Condition Reason: To require approval to proceed with building work following each critical stage inspection.
29.	Bushfire – building works residential New constructions must comply with: a) AS 3959 Construction of Buildings in Bushfire Prone Areas, b) BAL 12.5 c) Planning for Bush Fire Protection 2019, d) the report submitted by Harris Environmental Consulting dated 16/04/2025 Condition Reason: To ensure compliance with the relevant BAL level.

30.	Hours of work Site work must only be carried out between the following times: • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays 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. Condition Reason: To protect the amenity of the surrounding area.
31.	Implementation of the Site Management Plans While site work is being carried out: - the measures required by the Construction Site Management Plan and the Erosion and Sediment Control Plan (plans) must be implemented at all times, and - a copy of these plans must be kept on site at all times and made available to Council officers upon request. Condition Reason: To ensure site management measures are implemented during the carrying out of site work.
32.	Responsibility for change to public infrastructure 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. Condition Reason: To ensure payment of approved changes to public infrastructure.
33.	Discovery of relics and Aboriginal objects While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered: - the work in the area of the discovery must cease immediately - the following must be notified - for a relic – the Heritage Council; or - 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. Site work may recommence at a time confirmed in writing by: - for a relic – the Heritage Council; or - 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.

	Condition Reason: To ensure the protection of objects of potential significance during works.
34.	Soil management 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: 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 and the classification and the volume of material removed must be reported to the Certifier; b) All fill material imported to the site must be: i) Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>, or ii) a material identified as being subject to a resource recovery exemption by the NSW Environmental Protection Authority (EPA), or iii) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> and a material identified as being subject to a resource recovery exemption by the NSW EPA. 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.
35.	Tree protection during work While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with: a) the Construction Site Management Plan required under this consent, b) the relevant requirements of AS 4970 Protection of trees on development sites, c) Chapter 2, Topic 2.4 – Tree Preservation and Vegetation Management of Kiama Development Control Plan 2020 (in force as at the date of determination of this consent), and d) any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones. Condition Reason: To protect trees during the carrying out of site work.
36.	Waste management While site work is being carried out: 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 the Certifier, detailing the following: 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. 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.
	Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste.
37.	Drainage and stormwater works – approved plans The stormwater drainage system must be completed in accordance with the detailed plans approved by the Certifier.
	Condition Reason: To ensure stormwater disposal is adequate for the site.
38.	Fencing – rural and environmental zones Any boundary and internal fences to be erected on the property, must comply with the following conditions: a) To protect native gliding and flying mammals the use of barbed-wire for fences is prohibited. b) Except for fencing to contain domestic pets with the approved Asset Protection Zones for dwellings, boundary and internal fences must not impede the movement of native fauna. c) The removal of vegetation for fence construction must be undertaken with hand tools only (e.g.: brushcutters, lawn mowers), and must be limited to a maximum width of 1m. d) No clearing of native vegetation for construction of fences is permitted within C2 Environmental Conservation zoned land. e) Construction of fences with RU1 Primary Production and RU2 Rural Landscape zoned land is subject to the provisions and regulations of the <i>Local Land Service Act 2013</i>. f) Canopy trees must not be removed for fence construction.
	Condition Reason: To ensure conservation of flora and fauna in rural and environmental zones.
39.	Earthworks All earthworks associated with the development shall be completed in accordance with AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments.

Item 15.5

Enclosure 5

	Condition Reason: To ensure all earthworks are carried out in accordance with the Australian Standards.
40.	Contamination – unexpected finds If any unexpected contamination finds are encountered during any site works, all work must cease and Council notified immediately. The nature and extent of contamination must be assessed by a qualified environmental consultant with experience in the assessment of contaminated land and a preliminary assessment provided to Council. Council will determine whether further contamination assessment and/or remediation is required before works can recommence.
	Condition Reason: To protect public and environmental health.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

41.	On-Site Sewage Management System – approval to operate Before the issue of an Occupation Certificate, the applicant must gain approval under the Local Government Act 1993 to operate the approved On-Site Sewage Management System.
	Condition Reason: To ensure the On-Site Sewage Management System is installed correctly.
42.	BASIX 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>.
	Condition Reason: To ensure compliance with the <i>Environmental Planning and Assessment Regulation 2021</i> .
43.	Completion of public utility services Before the issue of the relevant Occupation Certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the Principal Certifier.
	Condition Reason: To ensure required changes to public utility services are completed in accordance with the relevant agency requirements, before occupation.
44.	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

Item 15.5

Enclosure 5

	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.
	Condition Reason: To ensure any damage to public infrastructure is rectified.
45.	Removal of waste upon completion Before the issue of an Occupation Certificate: 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.
	Condition Reason: To ensure waste material is appropriately disposed or satisfactorily stored.
46.	Letter boxes A letterbox structure(s) must be provided and be designed to comply with the requirements of Australia Post, located close to the major pedestrian entry to the site, and built from materials that are non-reflective and blend in with the approved development.
	Condition Reason: To ensure Australia Post requirements are met.
47.	Access work prior to Occupation Certificate Before the issue of an Occupation Certificate all access work must be completed.
	Condition Reason: To ensure access work is completed.
48.	Works in the road reserve - evidence of completion Before the issue of an Occupation Certificate, the developer must provide the Certifier with a letter from Council confirming that the required works in the road reserve, or on any other Council owned land, have been completed in accordance with the requirements of the consent and any other related approval issued.
	Condition Reason: To ensure the required public domain works have been completed satisfactorily and in accordance with the development consent.

Item 15.5

Enclosure 5

OCCUPATION AND ONGOING USE

49.	Management of asset protection zones (APZ)
	During ongoing use of the site, the APZ must be managed in accordance with the Bushfire Assessment dated 16/04/2025 by Harris Environmental Consulting, Planning for Bushfire Protection 2019 and the NSW Rural Fire Service's Standards for Asset Protection Zones.
	Condition Reason: To ensure ongoing protection from bushfires.
50.	Noise – air conditioning
	Air conditioning must be installed in accordance with manufacturer's instructions and operated at all times so as not to cause "Offensive Noise" as defined by the <i>Protection of the Environment Operations Act 1997</i> (POEO Act).
	Domestic air conditioners must not emit noise that can be heard within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open:
	a) before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or b) before 7 am or after 10 pm on any other day.
	Condition Reason: To ensure consideration of neighbouring uses.
51.	Occupation Certificate
	The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier.
	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).
	Condition Reason: To ensure that the development is completed as per this consent and the approved plans.

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.

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.



SECTION 4.15 ASSESSMENT

APPLICATION NUMBER:	10.2025.147.1
NSW ePLANNING PORTAL REFERENCE:	PAN-568232
APPLICANT:	Allen Price Pty Ltd
PROPERTY DESCRIPTION:	LOT: 8 DP: 1085635, 2 Minnamurra Street KIAMA NSW 2533
SITE ZONING:	E1 Local Centre
DEVELOPMENT DESCRIPTION:	ALTERATION TO TOURIST AND VISITOR ACCOMMODATION - ALTERATIONS TO THREE (3) ACCOMMODATION ROOMS WITHIN AN EXISTING HOTEL.

Summary
Alteration to tourist and visitor accommodation - Alterations to three (3) accommodation rooms within an existing hotel.

Development site
The subject site is described as: LOT: 8 DP: 1085635, 2 Minnamurra Street KIAMA NSW 2533. The subject site has a frontage to Minnamurra Street. The site contains a tourist and visitor accommodation in the form of a hotel being 'The Sebel' and is zoned E1 Local Centre under Kiama LEP 2011. The surrounding area is mixed in character and the site is adjoined by other mixed uses such as hotels, cafes, restaurants. The site falls toward the street and drains overland to the public road. Access to the property is gained via Minnamurra Street. The site is serviced by utilities including water, sewer, electricity and telecommunications.

Item 15.6

Enclosure 1

10.2025.147.1



Figure 1 – Aerial image

Item 15.6

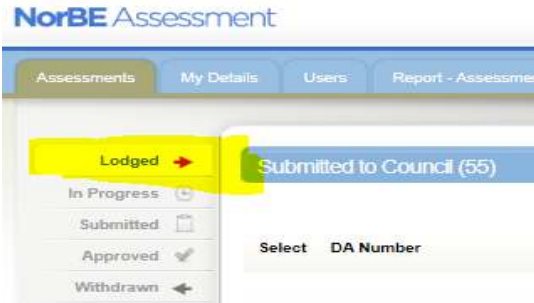
Enclosure 1

THE SITE IS SUBJECT TO THE FOLLOWING CONSTRAINTS:

Site details	
Lot area	288.8300m ²
Zone	E1 Local Centre
Does the land have a dwelling entitlement? Note: for rural land refer to Clause 4.2A of <i>Kiama LEP 2011</i> .	No
Is the proposed development a " Council-related development application "?	No
Topographic details	
Fall direction of land	Fall of land toward street
Slope of land >20%?	No
Site inspection	
Works within proximity to electricity infrastructure?	No
Is the development adjacent to a classified road ?	No

10.2025.147.1

Is the development adjacent to a rail corridor ?	No
Utility network	
Access to reticulated sewer?	Yes
Access to reticulated water?	Yes
Sydney Water – Dwelling Restriction?	No
Sydney Water – Jamberoo Capacity? Note: If additional services are required, proposal may not be supported.	No
Constraint layers	
Flood Prone Land	No
Filled Land	No
Slip Land	No
Interim Heritage Order	No
Bush Fire	No
Potentially Contaminated Sites	No
Riparian Corridors	No
Known Dry Stone Walls	No
Development within 40m of a watercourse	No
Planning layers	
Draft Exhibited Planning Proposal	No
Land Zoning	E1 Local Centre
Minimum Lot Size	N/A
Floor Space Ratio	D - 0.5:1
Height of Buildings	I - 8.5m
Foreshore Building Line	No
Heritage Note: consider adjoining properties.	Yes - Heritage Item I136 – Kiama Infants School (former).
Additional Permitted Uses	No
Active Street Frontages	No
Terrestrial Biodiversity	No
Riparian Lands and Watercourses	No
Acid Sulfate Soils	No
Land Reservation Acquisition	No
Urban Release Area	No

Reclassification Part Lots	No
Clause application	No
Planning Proposals	No
SEPP (Biodiversity and Conservation) 2021- Chapter 6: Water catchment (e.g. NorBE) Note: NorBE Assessments submitted to Council can be viewed from the “Lodged” tab in the NorBE online assessment tool shown below. 	No
SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	No
Biodiversity Values	
Biodiversity Values Map	No

A site inspection was carried out on 5/11/2025.
No additional matters were raised as a result of the site inspection.

The development application history is as follows:

[illegible]

Alteration to tourist and visitor accommodation - Alterations to three (3) accommodation rooms within an existing hotel.

10.2025.147.1

PLANS AND DOCUMENTS SUBMITTED FOR ASSESSMENT

Submitted plans for assessment				
Plan number	Revision number	Plan title	Drawn by	Date of plan
DA-001	Issue B	Site Plan & Lot Plan	Neate Projects	20.08.2025
DA-002	Issue B	Heritage Building Existing Floor Plans	Neate Projects	20.08.2025
DA-003	Issue B	Heritage Building Proposed Upper Floor Plans	Neate Projects	20.08.2025
DA-004	Issue B	Heritage Building Elevations	Neate Projects	20.08.2025
DA-005	Issue B	Heritage Building Cross Section	Neate Projects	20.08.2025
DA-006	Issue B	Heritage Building Long Section	Neate Projects	20.08.2025
DA-007	Issue B	Heritage Building FSR Breakdown	Neate Projects	20.08.2025
DA-008	Issue B	Heritage Building Site Management Plan	Neate Projects	20.08.2025

Submitted documents for assessment			
Document title	Version number	Prepared by	Date of document
Waste Management Plan	Nil	Allen Price	Nil
Statement of Environmental Effects	Nil	Allen Price	07/08/2025
Owners Consent	Nil	Allen Price	Nil
Advice regarding Property Lot and DP	AP Ref: K128985	Allen Price	01/09/2025
Cover Letter	AP Ref: K128985	Allen Price	01/09/2025
Heritage Impact Assessment	Version 2	Louise Thom Heritage Consultants	15 July 2025

10.2025.147.1

Cost Estimate Report	Nil	Allen Price	Nil
Clause 4.6 Variation Request	Project Reference: K128985	Allen Price	07/08/2025

The built details of the development is as follows:

Tourist & Visitor Accommodation
The proposal is for minor internal alterations to three accommodation rooms within the existing Sebel Harbourside Hotel, Kiama through the installation of mezzanine loft floor space. All works associated with this development proposal are internal and will not be visible from outside the building. The works involve the following:- • Addition of mezzanine lofts within each accommodation suite, comprising of a bedroom and bath/wet area; • Restoration of an existing timber staircase to access the accommodation suites; and • Installation of stairs within each suite to access the mezzanine lofts. The mezzanine lofts complement the existing lower floor of the accommodation suites which provides a bathroom (shower and toilet) and open plan relaxation area. The installation of the mezzanine lofts terminate 2.575 m from the eastern wall of the building, and 0.99 m from the southern wall (for Unit C) and therefore are setback from wall openings, thus ensuring the preservation of the existing clerestory windows which contribute to the heritage significance of the building. The mezzanine lofts are also open plan and edged with a glass balustrade. The overall proposed development involves a modest increase to the overall floor area of 65.12 m² through the creation of the mezzanine levels within each of the three accommodation suites. The proposed development is however within the established building envelope of the subject site and are complementary to the existing uses. The addition of 65.12m² of floor area results in a total of 218.23 m² within Lot 8, and when compared to a total Site Area of Lot 8 being 274.3 m², represents an overall FSR of 0.795:1, exceeding the development standard contained within the Kiama LEP 2011 of 0.5:1. Consequently, a Clause 4.6 variation request accompanies the application. As outlined above, the works are all internal and will not add to the height of the existing building, which it is noted currently exceeds the 8.5 m development standard contained within the Kiama LEP 2011.

Item 15.6

Enclosure 1

10.2025.147.1

The proposal is shown in figures below.

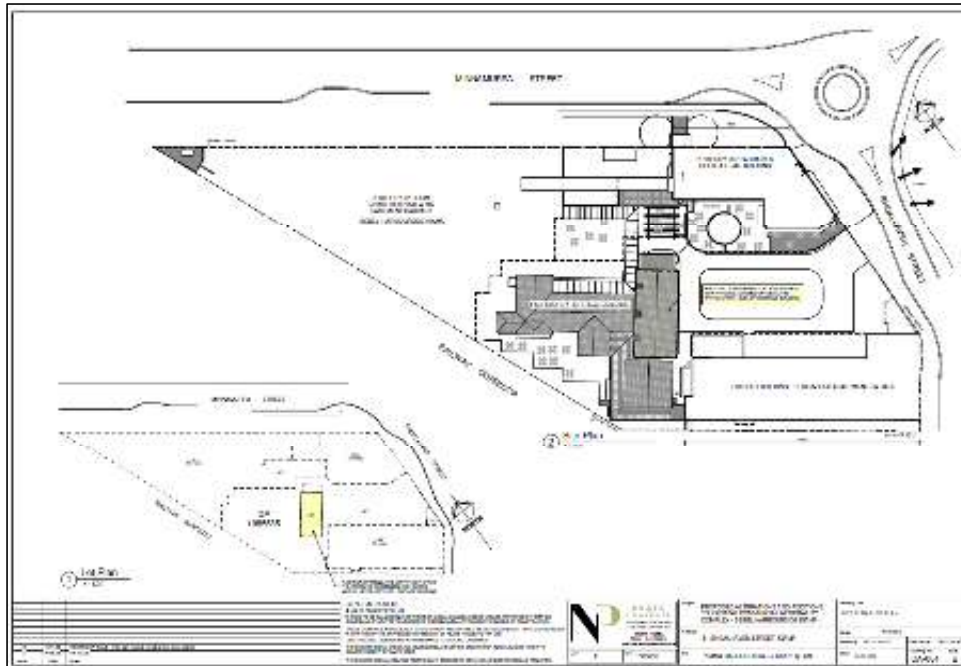


Figure 2 – Site Plan & Lot Plan

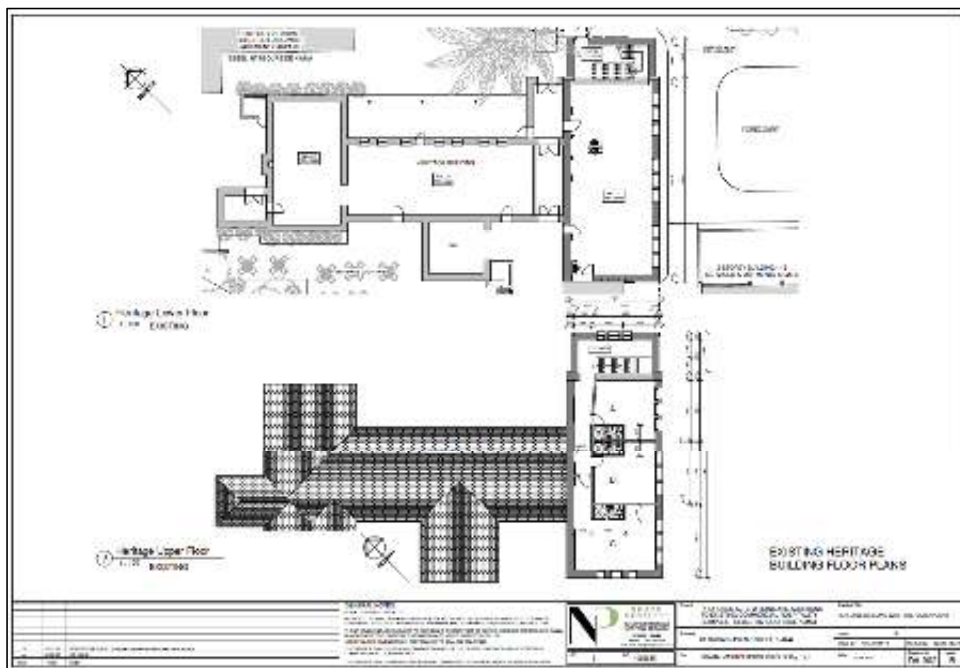


Figure 3 – Heritage Building Existing Floor Plan

Item 15.6

Enclosure 1

10.2025.147.1

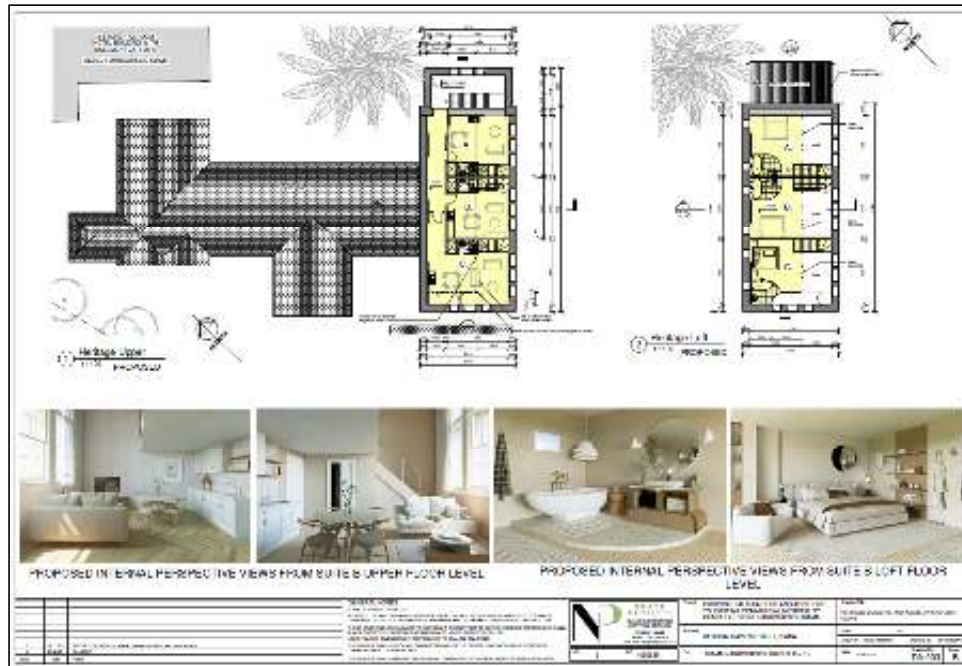


Figure 4 – Heritage Building Proposed Upper Floor Plans



Figure 5 – Heritage Building Elevations

10.2025.147.1

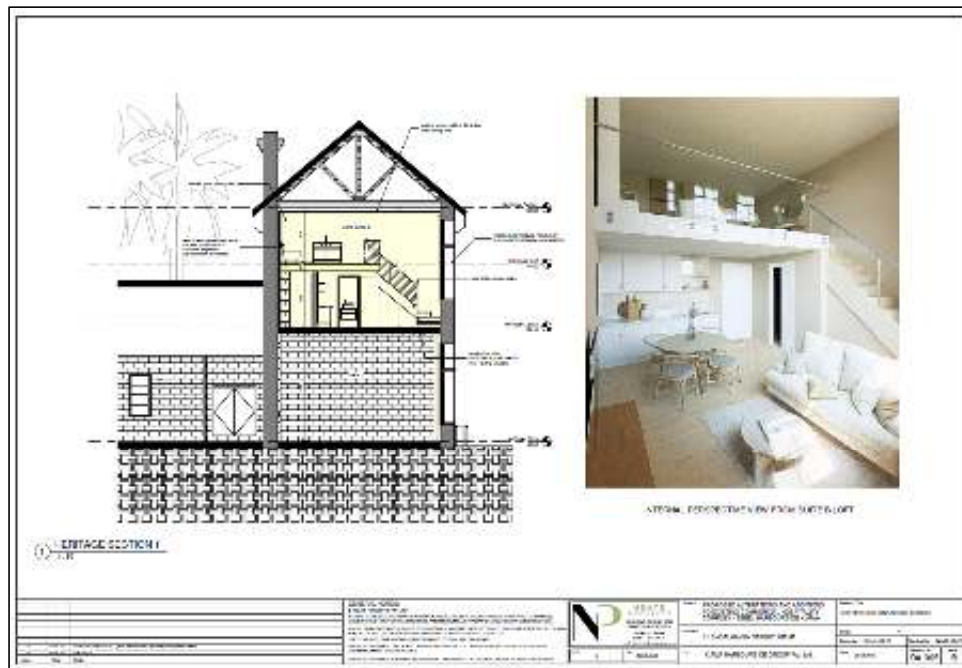


Figure 6 – Heritage Building Cross Section

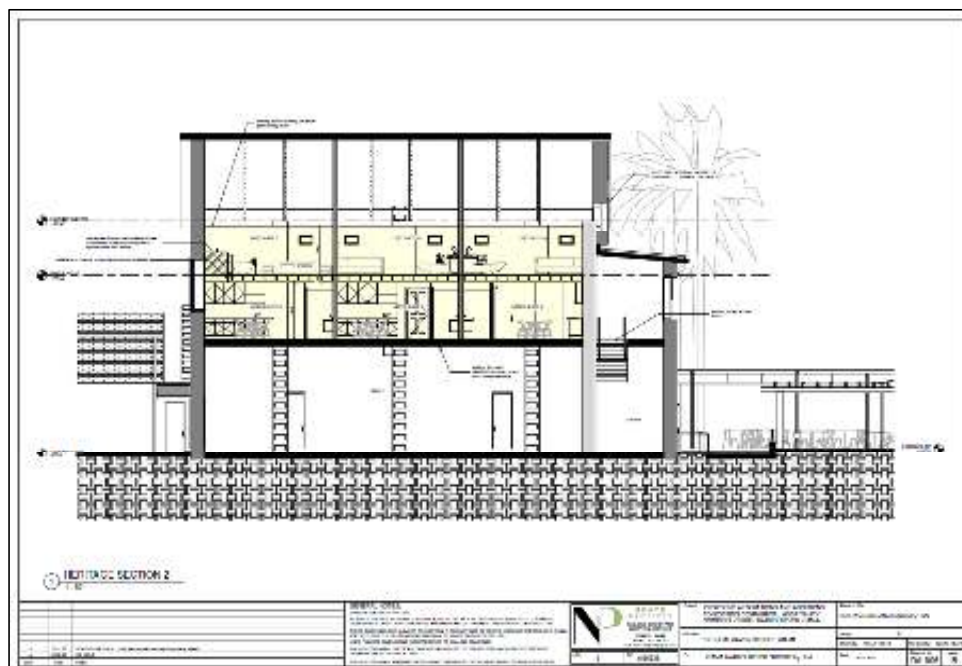


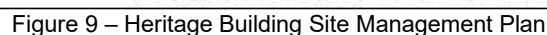
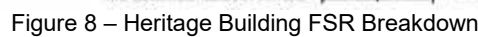
Figure 7 – Heritage Building Long Section

Item 15.6

Enclosure 1

Item 15.6

Enclosure 1



Environmental Planning and Assessment Act 1979

Section 4.14 Consultation and development consent – certain bush fire prone land

10.2025.147.1

Is the development site mapped as bush fire prone land?	No
Is there vegetation within 100m of the proposed development that would form a bush fire hazard as identified in Planning for Bush Fire Protection? Note: The bush fire mapping cannot be relied upon solely for identifying bush fire hazards.	No
Is the development subject to a performance based solution or a BAL-FZ? Note: As per Appendix 2 of PBP 2019, performance based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner. Note: The NSW variation of H7D4 in NCC 2022 Volume 2 specifies that AS3959 and the NASH Standard can only be used as a deemed-to-satisfy provision where an appropriate condition of consent has been imposed <u>in consultation with NSW RFS</u> .	N/A
Part 7 Infrastructure - Subdivision 4 Housing and productivity contributions	
Does the proposed development include works to which the Housing and Productivity Contribution (HPC) applies?	Yes - See below
residential development that intensifies land-use where new dwellings are created, such as houses, apartments, terraces and dual occupancies.	
Has the application been referred to Council's Contributions Planner?	Yes - See applicable contributions below
The contribution <u>fee has been raised</u> in Authority against the application. The condition BW_CONTRIB <u>has been added</u> to the application. <u>Housing and Productivity Contribution (HPC)</u> The <u>HPC applies</u> to this application: - The HPC has been calculated as follows: Units x Rate = 65.12sqm x 32.32 = \$2,106.60 - CON Case Number CON-42250 was completed in the Portal on 01/10/2025 - The required <u>condition has been added</u> to the consent.	
<u>Biodiversity Conservation Act 1979</u>	
Does the application include works or vegetation removal within the Biodiversity Values mapped area ?	No
Does the application involve clearing of native vegetation above the area clearing threshold?	No

Item 15.6

Enclosure 1

10.2025.147.1

Area clearing threshold The area threshold varies depending on the minimum lot size (shown in the Lot Size Maps made under the relevant Local Environmental Plan (LEP)), or actual lot size (where there is no minimum lot size provided for the relevant land under the LEP). <table> <tr> <th>Minimum lot size associated with the property</th><th>Threshold for clearing, above which the BAM and offsets scheme apply</th></tr> <tr> <td>Less than 1 ha</td><td>0.25 ha or more</td></tr> <tr> <td>1 ha to less than 40 ha</td><td>0.5 ha or more</td></tr> <tr> <td>40 ha to less than 1000 ha</td><td>1 ha or more</td></tr> <tr> <td>1000 ha or more</td><td>2 ha or more</td></tr> </table> The area threshold applies to all proposed native vegetation clearing associated with a proposal, regardless of whether this clearing is across multiple lots. In the case of a subdivision, the proposed clearing must include all future clearing likely to be required for the intended use of the land after it is subdivided. If the land on which the proposed development is located has different minimum lot sizes the smaller or smallest of those minimum lot sizes is used to determine the area clearing threshold.		Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply	Less than 1 ha	0.25 ha or more	1 ha to less than 40 ha	0.5 ha or more	40 ha to less than 1000 ha	1 ha or more	1000 ha or more	2 ha or more
Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply										
Less than 1 ha	0.25 ha or more										
1 ha to less than 40 ha	0.5 ha or more										
40 ha to less than 1000 ha	1 ha or more										
1000 ha or more	2 ha or more										
Will the proposed development have a significant impact on threatened species or ecological communities, or their habitats, according to the test in Section 7.3 of the <i>Biodiversity Conservation Act 2016</i> (ie. test of significance)?	No										
Note: Consideration should be given to the site's proximity to NPWS land (see guidelines) and other natural areas, as well as any area that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.											
If the application exceeds the Biodiversity Offsets Scheme Threshold (ie. if yes to any of the above), has the application been supported by a Biodiversity Development Assessment Report (BDAR)?	N/A										
Fisheries Management Act 1994											
The proposed development would not have a significant impact on the matters for consideration under Part 7A of the <i>Fisheries Management Act 1994</i> .											
Local Government Act 1993											
Do the proposed works require approval under Section 68 of the <i>Local Government Act 1993</i> ?	No										
Has a Section 68 application been applied for as a related case in the Portal?	N/A										

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

Item 15.6

Enclosure 1

10.2025.147.1

Environmental Planning Instruments	
Kiama Local Environmental Plan 2011	
State Environmental Planning Policy (Biodiversity and Conservation) 2021	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	
State Environmental Planning Policy (Housing) 2021	
State Environmental Planning Policy (Industry and Employment) 2021	
State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development	
State Environmental Planning Policy (Planning Systems) 2021	
State Environmental Planning Policy (Precincts—Regional) 2021	
State Environmental Planning Policy (Primary Production) 2021	
State Environmental Planning Policy (Resources and Energy) 2021	
State Environmental Planning Policy (Resilience and Hazards) 2021	
State Environmental Planning Policy (Sustainable Buildings) 2022	
State Environmental Planning Policy (Transport and Infrastructure) 2021	
State Environmental Planning Policy (Resilience and Hazards) 2021	
Chapter 2 - Coastal Management	
The subject land is mapped as coastal use area and coastal environment area under the SEPP. It is considered that the proposed development does not unduly impact upon the coastal environment. The proposed development is acceptable with regard to SEPP.	
Chapter 4 - Remediation of Land	
Chapter 4 of the SEPP requires Council to consider whether the land is contaminated and if it is contaminated if remediation works are required. Council is unaware of any historic land use which would deem the site unsuitable for the proposed development, therefore the land is considered to be suitable for the proposed use.	
State Environmental Planning Policy (Transport and Infrastructure) 2021	
Chapter 2 - Infrastructure	
Considerations	Comments
Railway corridors	
Developments potentially affected by noise and vibration: a) building for residential use, b) a place of public worship, c) a hospital, d) an educational establishment or child care centre.	The proposed building is already existing and the proposal entails the additions and alterations internally.
The following LAeq levels must not be exceeded: a) in any bedroom in the building—35 dB(A) at any time between 10pm and 7am,	Complies.

Item 15.6

Enclosure 1

10.2025.147.1

b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.	
Kiama LEP 2011	
2.3: Zone objectives and Land Use Table	
The subject land is zoned E1 Local Centre pursuant to Kiama LEP 2011. The proposal is defined as a Alteration to tourist and visitor accommodation - Alterations to three (3) accommodation rooms within an existing hotel. under the provisions of the Kiama LEP 2011, which are permitted with consent in the E1 Local Centre zone. The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.	
Zone objectives	Comments
• To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area. • To encourage investment in local commercial development that generates employment opportunities and economic growth. • To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area. • To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. • To encourage mixed use buildings that include a component of housing located above retail and business premises. • To encourage development that is compatible with the commercial centres hierarchy. • To encourage development that has a high level of accessibility and amenity and prioritises pedestrians. • To encourage new development that provides diverse and active street frontages in order to attract pedestrian traffic and contribute to vibrant, diverse and functional streets and public spaces.	The proposed development is consistent with the objectives of the zone.
Other relevant clauses	
Part 2 Permitted or prohibited development	
Comments	Complies/Consistent

Item 15.6

Enclosure 1

10.2025.147.1

2.7: Demolition requires development consent	
Demolition is permitted but only with development consent.	Complies
Part 4 Principal development standards	
4.3: Height of buildings	
The height of building map identifies that a maximum building height of I - 8.5m applies to the site. The proposed development will not alter the current maximum height of existing ground level and as such complies.	Complies The proposed alterations will not increase the existing building height.
4.4: Floor space ratio	
The Floor Space Ratio Map sets a maximum floor space ratio of D - 0.5:1:1. The proposal achieves an FSR of 0.795:1 and therefore complies.	Does not comply - See commentary below The applicant has stated that they do not meet the floor space ratio of 0.5:1 and proposes a FSR of 0.795:1, the applicant has requested a clause 4.6 variation.
4.5: Calculation of floor space ratio and site area	
The floor space ratio for the proposal has been calculated consistent with the matters outlined in Clause 4.5.	Complies
4.6: Exceptions to development standards	
Applicant's Written Clause 4.6 Variation Statement	
The existing building on the subject site currently exceeds the allowable FSR. This application proposes an additional 65.12 m² of floor area which will result in an FSR of 0.795:1, thereby exceeding the 0.5:1 required by Clause 4.4 of the Kiama LEP 2011 The proposal is for minor internal alterations to three accommodation rooms within the existing Sebel Harbourside Hotel, Kiama through the installation of mezzanine loft floor space. All works associated with this development proposal are internal and will not be visible from outside the building.	
Clause 4.6 Considerations	Commentary
(1) <i>The objectives of this clause are as follows:</i> (a) <i>to provide an appropriate degree of flexibility in applying certain development standards to particular development,</i> (b) <i>to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</i>	The proposal is for the installation for a mezzanine loft however due to the current existing floor space ratio breach the introduction of these lofts will breach FSR. Therefore the objectives of clause 4.6 (1) are applicable as to allow for a level of flexibility.
(2) <i>Development consent may, subject to this clause, be granted for</i>	Clause 4.6 does not exclude the Floor Space Ratio standard under clause 4.4 of the LEP, as

10.2025.147.1

development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.	verified by subclause 4.6(8). Accordingly, this confirms Clause 4.6 operates to enable a variation to the maximum Floor Space Ratio standard.
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating— (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and (b) that there are sufficient environmental planning grounds to justify contravening the development standard.	The proposal includes a formal written request made pursuant to Cl.4.6 to vary the Floor Space Ratio standard for the proposed development. This written request is considered in detail below. The works involve the following:- - Addition of mezzanine lofts within each accommodation suite, comprising a bedroom and bath/wet area; - Restoration of an existing timber staircase to access the accommodation suites; and - Installation of stairs within each suite to access the mezzanine lofts. The mezzanine lofts complement the existing lower floor of the accommodation suites which provides a bathroom (shower and toilet) and open plan relaxation area. The installation of the mezzanine lofts terminate 2.575 m from the eastern wall of the building, and 0.99 m from the southern wall (for Unit C) and therefore are setback from wall openings, thus ensuring the preservation of the existing clerestory windows which contribute to the heritage significance of the building. The mezzanine lofts are also open plan and edged with a glass balustrade. The overall proposed development involves a modest increase to the overall floor area of 65.12 m² through the creation of the mezzanine levels within each of the three accommodation suites. The proposed development is however within the established building envelope of the subject site and are complementary to the existing uses. The addition of 65.12 m² of floor area results in a total of 218.23 m² within Lot 8, and when compared to a total Site Area of Lot 8 being 274.3 m², represents an overall FSR of 0.795:1, exceeding the development standard contained within the Kiama LEP 2011 of 0.5:1.
(5) (Repealed)	(Repealed)
(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1	The proposed development will not contravene any elements as described under 4.6 (6) as the proposal is not for subdivision.

10.2025.147.1

<i>Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—</i> <i>(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or</i> <i>(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.</i>	
<i>(7) (Repealed)</i>	<i>(Repealed)</i>
<i>(8) This clause does not allow development consent to be granted for development that would contravene any of the following—</i> <i>(a) a development standard for complying development,</i> <i>(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,</i> <i>(c) clause 5.4,</i> <i>(caa) clause 5.5.</i>	The proposal does not contravene Clause 4.6 (8) develop standards and are for internal alterations. The development seeks to include mezzanine floors and other internal elements to make better use out of the rooms in the building.
Compliance with the development standard is unnecessary and unreasonable due to the existing FSR breach, particularly in consideration of the alternative outcome should strict adherence be required. Internal alterations are permissible in the E1 Local Centre zone. The applicant has outlined that the proposal is consistent with the objectives of 4.4 Floor Space Ratio. The proposed variation is consistent with the objectives of Floor Space Ratio as well as the objectives of the E1 Local Centre .	

10.2025.147.1

The written request has adequately demonstrated that there are sufficient environmental planning grounds to justify the exceedance of the Floor Space Ratio in this instance. As the proposed variation is >10% of the numerical development standard of the numerical development standard, pursuant to the Guide to Varying Development Standards – November 2023 by the Department of Planning and Environment, Council (under delegation) operates at the consent authority and therefore, the proposed variation is not able to be determined by Council staff and will be reported to the Elected Council for determination.. In light of this it is considered appropriate to vary the Floor Space Ratio requirements of Clause 4.4 of the Kiama LEP 2011 in this instance and the variation is recommended to be supported.	
Part 5 Miscellaneous provisions	
5.10: Heritage conservation	
The proposal involves internal alterations to heritage item (Item No 1136 - Kiama Infants' School (former)). The proposed works are not considered to compromise the heritage value or heritage significance of the item. The proposal is considered suitable with regard to Clause 5.10.	Complies
Part 6 Additional local provisions	
6.12: Essential services	
All relevant services are available to the site.	Complies

The proposed development is consistent with the relevant provisions of the Kiama LEP 2011 and is permissible within in the E1 Local Centre zone.

ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

Nil

KIAMA DEVELOPMENT CONTROL PLAN 2020

Chapter 1- Introduction and Administration

Chapter 1: Introduction and Administration
The application has been prepared to include documentation and considerations consistent with the requirements in Kiama DCP Chapter 1

Chapter 2- Site Considerations

Chapter 2: Site Considerations	
Topic 2.1 – Site Analysis	
Does the proposal include a site analysis plan prepared in accordance with the requirements of Kiama DCP 2011?	Yes
Topic 2.2 – Biodiversity	
Does the proposal include development on land identified as Riparian Land?	No

10.2025.147.1

<i>Are threatened species present on the site?</i>	No
<i>Is the clearing of native vegetation proposed?</i>	No
Topic 2.3 – Natural Resources	
<i>Is the subject site located within a Sydney Drinking Water Catchment Area (NORBE)?</i>	No
Topic 2.4 – Tree Preservation and Vegetation Management	
<i>Does the proposal include the removal of any vegetation?</i>	No
<i>Are any Tree Management measures proposed?</i>	No
Topic 2.5 – Risk Minimisation and Management	
<i>Is the subject site mapped as Potentially Contaminated Land?</i>	No
<i>Is the subject site mapped as Flood Prone Land?</i>	No
<i>Is the subject site mapped as Bushfire Prone Land?</i>	No
<i>Is the subject site mapped as Acid Sulfate Soils?</i>	No
<i>Does the proposed development include more than 1m of cut and fill?</i>	No
<i>Does the subject site include a gradient exceeding 20%?</i>	No

Chapter 3- Common Requirements

Chapter 4- Heritage and Cultural Conservation

Chapter 10 – Visitor Accommodation and Tourism

Chapter 10: Visitor and Accommodation and Tourism

The proposed development at the subject site contains a hotel.

- Topic 12.7 – Kiama Town Centre

KIAMA DEVELOPMENT CONTROL PLAN – VARIATIONS

Nil.

ANY PLANNING AGREEMENT

Nil.

ANY MATTERS PRESCRIBED BY THE REGULATIONS

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

10.2025.147.1

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.
Clause 64 of the EPA Regulations 2021
The proposal does trigger any clause 64 upgrades.

ANY COASTAL ZONE MANAGEMENT PLAN

Nil.

OTHER KIAMA MUNICIPAL COUNCIL PLANS OR POLICIES

[Council Policies](#)

Kiama 7.12 Contribution Plan			
The Kiama 7.12 Contribution Plan applies to all land in the Kiama LGA.			
Is the 7.12 Contribution Plan applicable to the subject site?	Yes		
Do 7.12 Contributions apply to the proposed development?	Yes - relevant s7.12 amount and conditions provided by Council's Contributions Planner.		
<u>Local Infrastructure Contributions</u>			
The Section 7.12 Contribution Plan applies to this site and to this development application. Contributions are levied based on the proposed cost of carrying out the development. In this instance, the levy is calculated as follows:			
Contribution Plan	Cost of Works	Levy %	Contribution
Section 7.12 Contribution Plan	\$ 561,000.00	1%	\$5,610.00
Note, the contribution amount will be subject to quarterly indexation until the date of payment. The contribution must be paid prior to the issue of a Construction Certificate.			
Completed by Contributions Planner:			
The contribution <u>fee has been raised</u> in Authority against the application.			
The condition BW_CONTRIB <u>has been added</u> to the application.			
Required by DA Planner: <u>Please check</u> that the condition and contribution amount come through correctly into the consent when generated.			
<u>Housing and Productivity Contribution (HPC)</u>			
The HPC <u>applies</u> to this application:			
➤ The HPC has been calculated as follows: Units x Rate = 65.12sqm x 32.32 = \$2,106.60			
➤ CON Case Number CON-42250 was completed in the Portal on 01/10/2025			
➤ The required condition has been added to the consent.			

THE LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT

10.2025.147.1

Head of consideration	Comment
Biodiversity	The application does not propose clearing of native vegetation and therefore the <i>Environmental Planning and Assessment Act 1979 Part 1 Section 1.7</i> does not apply to the development.
Streetscape	The design of the proposed development is considered to be reasonable when considered in relation to the context of the site. The bulk, scale and design of the proposal is consistent with relevant planning instruments and is not inconsistent with the prevailing streetscape.
Noise	Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbours. No ongoing significant noise impacts are expected as a result of the development.
Privacy and overlooking	No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development.
Overshadowing	The proposal is for internal additions and alterations within the existing building and building footprint (internal). The development will have no unreasonable impact upon overshadowing.
Views	The proposal will have no unreasonable impact upon views currently available from neighbours.
Vehicular access, parking and manoeuvring	Sufficient car parking is proposed. Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.
Stormwater management	A satisfactory drainage design has been provided with the application. Managed stormwater will be directed to a drainage easement
Environmental impacts	Fauna Impacts – It is unlikely that the proposal will affect any fauna or its habitat. Impact on Soil Resources – Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent should be imposed if consent is granted in relation to soil and water management controls to be implemented during construction. Satisfactory implementation of these controls will prevent significant impacts on soil resources. Impact on Water Resources – Recommend conditions of consent include Sediment and Erosion Controls manage sedimentation during construction.
Natural environment	The proposed development will not have a significant adverse impact on the natural environment.
Built environment	The proposed development will not have a significant adverse impact on the built environment.

10.2025.147.1

Head of consideration	Comment
Social impacts	The proposed development will not have a negative social impact in the locality.
Economic impacts	The proposed development will not have a negative economic impact in the locality.

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

Notification letters were sent to neighbouring property owners on 18/09/2025, who were provided with Fourteen (14) days in which to comment on the proposal. At the conclusion of the notification period, Zero (0) submission(s) had been received.

ADDITIONAL INFORMATION

A request for additional information was forwarded to the applicant on 7/11/2025, requesting amended plans addressing the following:		
Issue		Assessment officer's comment
Item 1	Architectural Plans The following details are required to accurately assess the application in relation to plans: • Title on Plans are incorrect • Drawing number on all pages is listed as DA-007, Council is unsure if this is correct – clarification/revision is required. • Existing floor plans have not been provided.	The applicant provided revised architectural plans on 13/11/2025 and addressed these matters adequately.
Item 2	Approved Use of Accommodation Rooms – DA Approval The following details are required to accurately assess the application: • Original DA	The applicant provided revised architectural plans on 13/11/2025 and addressed these matters adequately.

10.2025.147.1

	approval for the three (3) accommodation rooms within the existing hotel is required to establish the original use.	
The applicant provided amended plans and commentary on the above matters on 13/11/2025 to address these matters where appropriate. The amended plans did not significantly alter the nature of the proposal, no additional notification was undertaken.		

EXTERNAL REFERRALS

NIL

INTERNAL REFERRALS

The application was referred to the following internal subject matter experts.	
Internal referral	Comments
Heritage Officer	No objection subject to recommended conditions
Contribution Planner	Section 7.12 Contributions and Housing and Productivity Contribution (HPC) applicable

OTHER APPROVALS

NIL

THE PUBLIC INTEREST

The proposal is considered to be consistent with all relevant Environmental Planning Instruments and 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.

FINAL COMMENTS AND CONCLUSIONS

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The proposal is generally consistent with Kiama LEP 2011 and relevant Kiama DCP 2020 Chapters.

Where the proposal includes departures from the development standards in the Kiama LEP 2011 and Kiama DCP 2020, the relevant objectives have been satisfactorily addressed and achieved.

10.2025.147.1

The proposed development is consistent with the objectives of the E1 Local Centre zone.

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

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

RECOMMENDATION

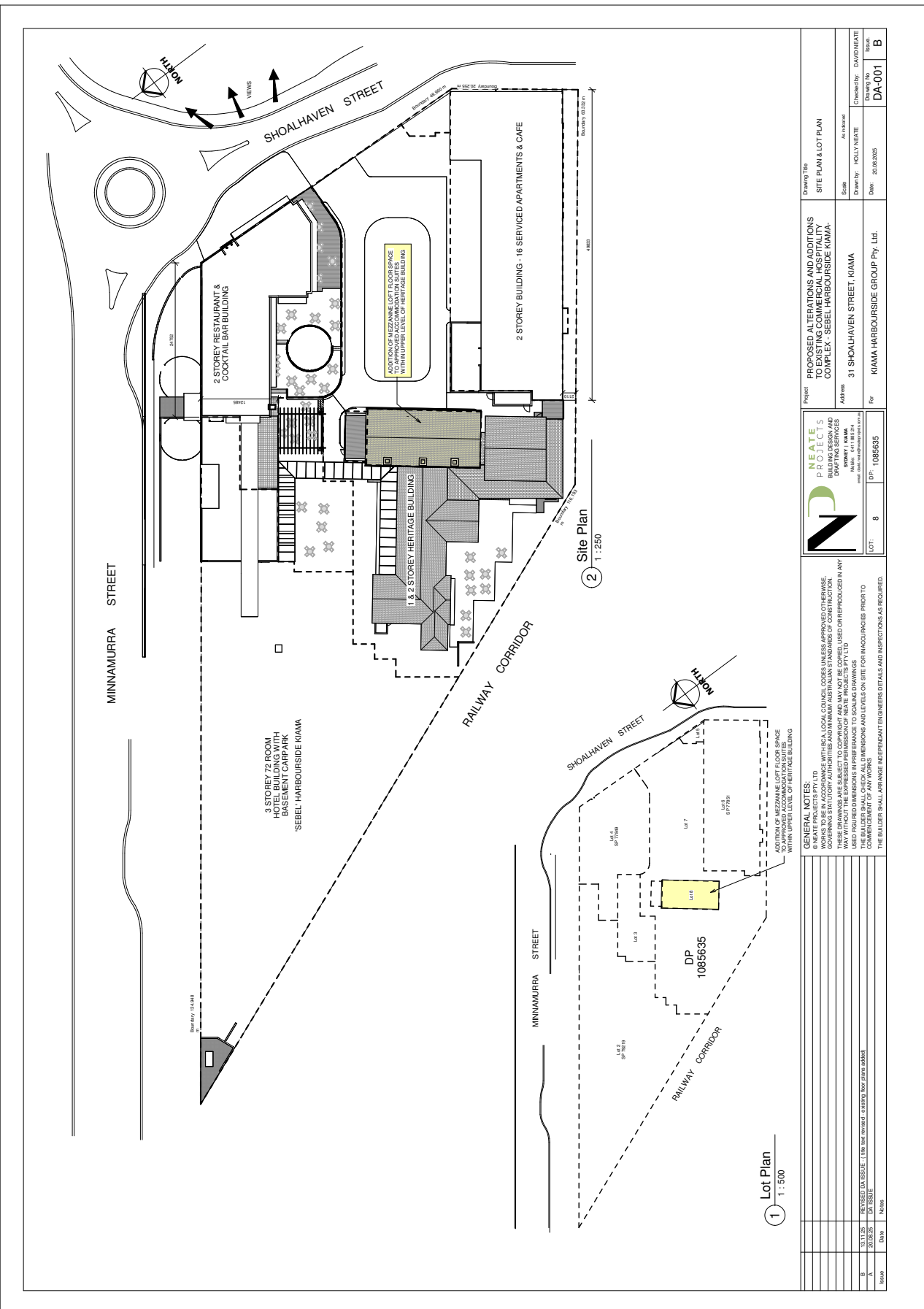
I declare that I have no pecuniary or non-pecuniary conflict of interest in the application and recommend that Development Application No 10.2025.147.1 be approved, subject to recommended conditions under Section 4.16 of the *Environmental Planning and Assessment Act 1979*.

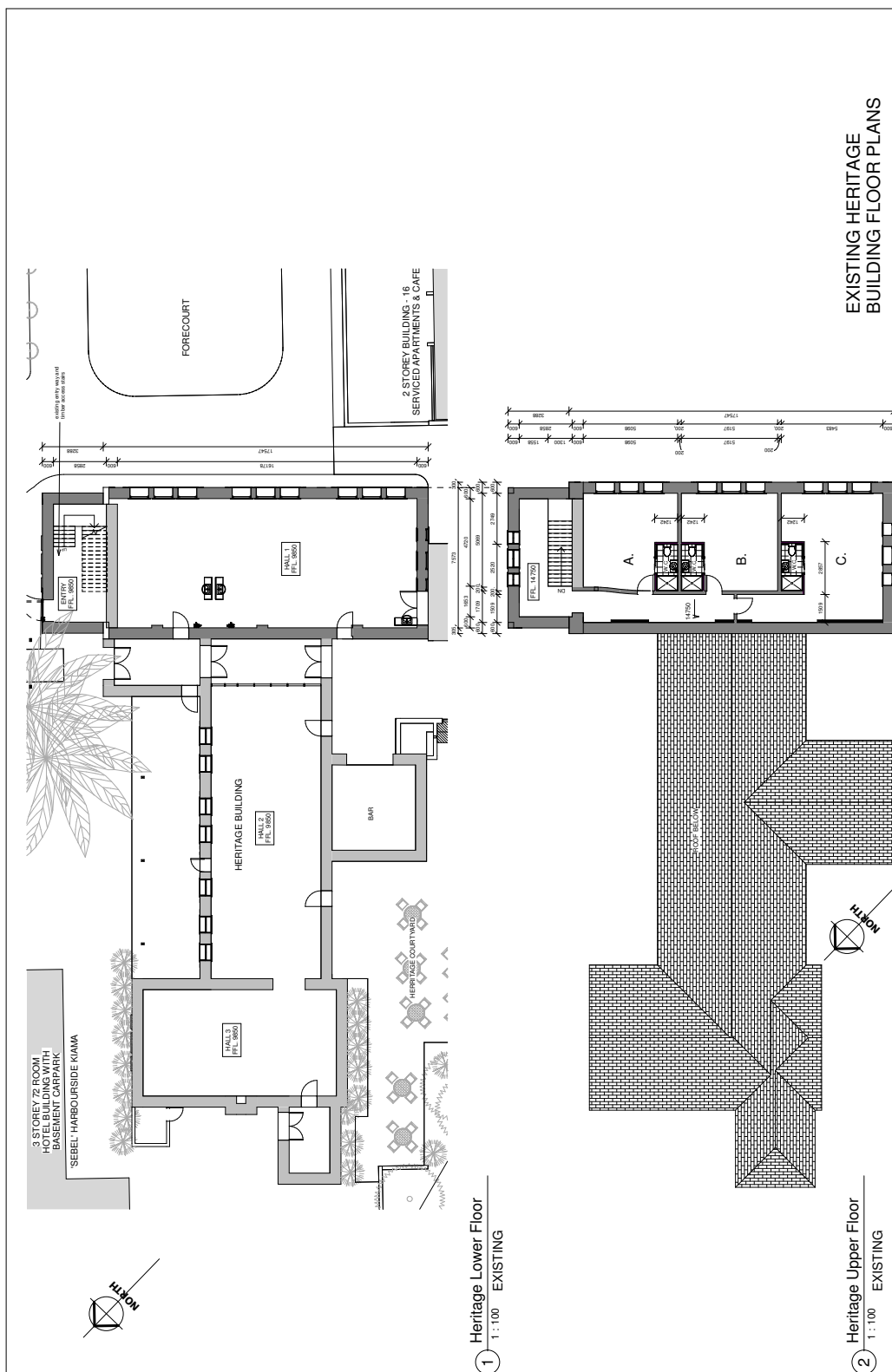
N Lakshman
Development Assessment Officer - Planning
21/11/2025

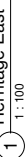
Peer review
25/11/2025
Peter Woodworth
Development Assessment Coordinator - Planning

Item 15.6

Enclosure 1

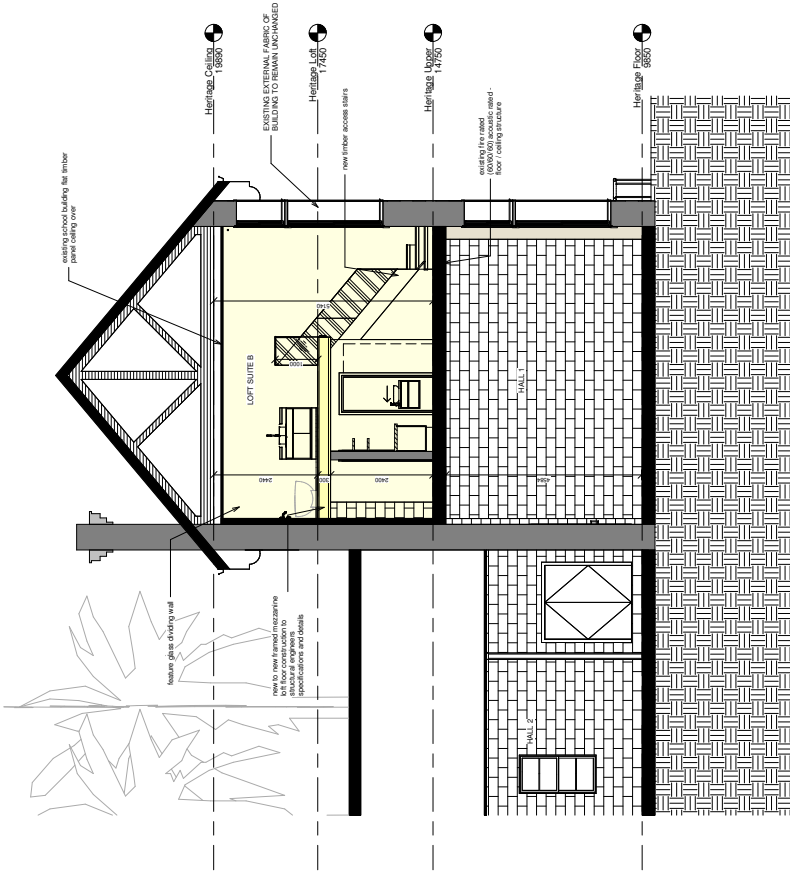


[illegible]



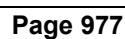


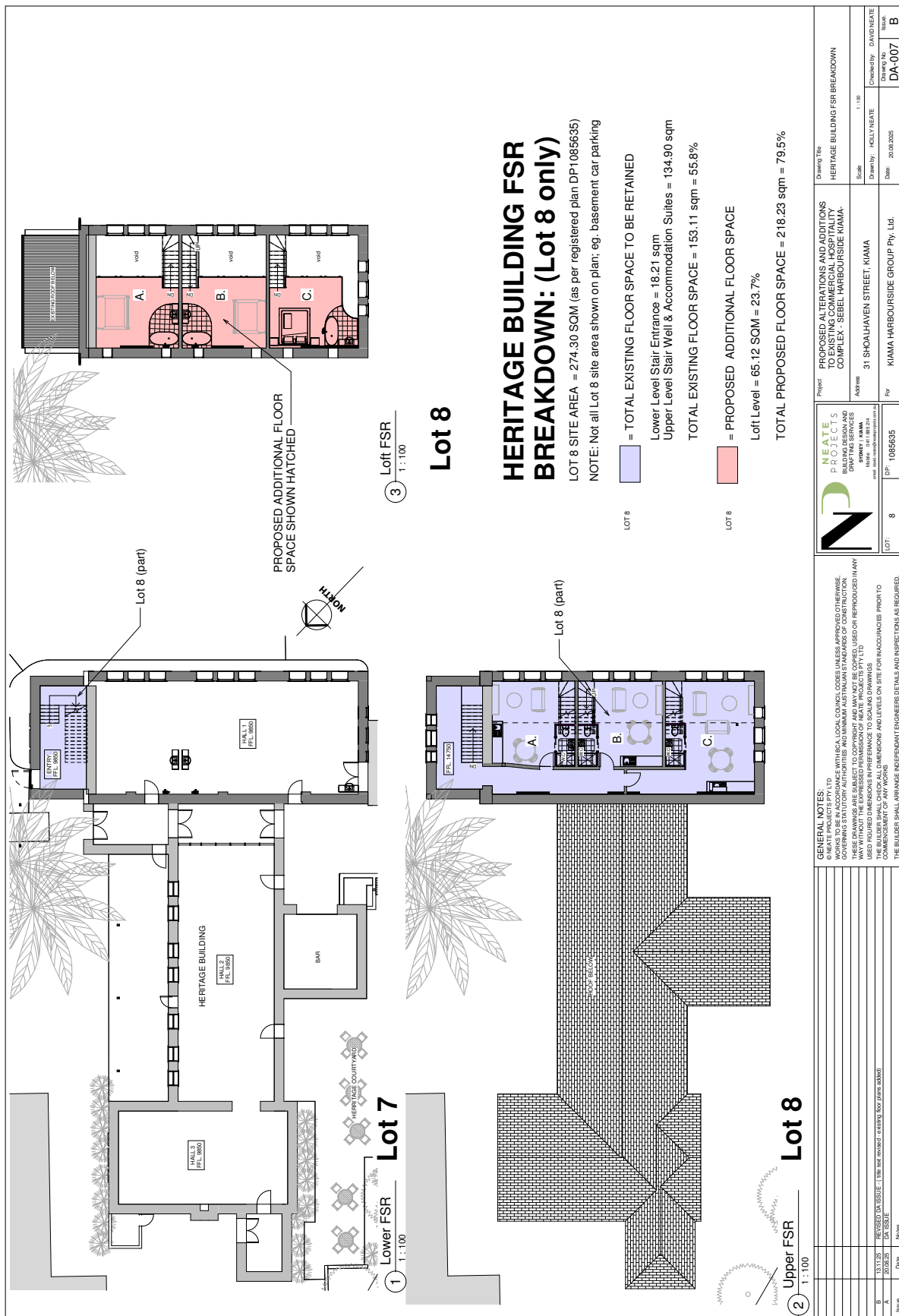
INTERNAL PERSPECTIVE VIEW FROM SUITE B LOFT

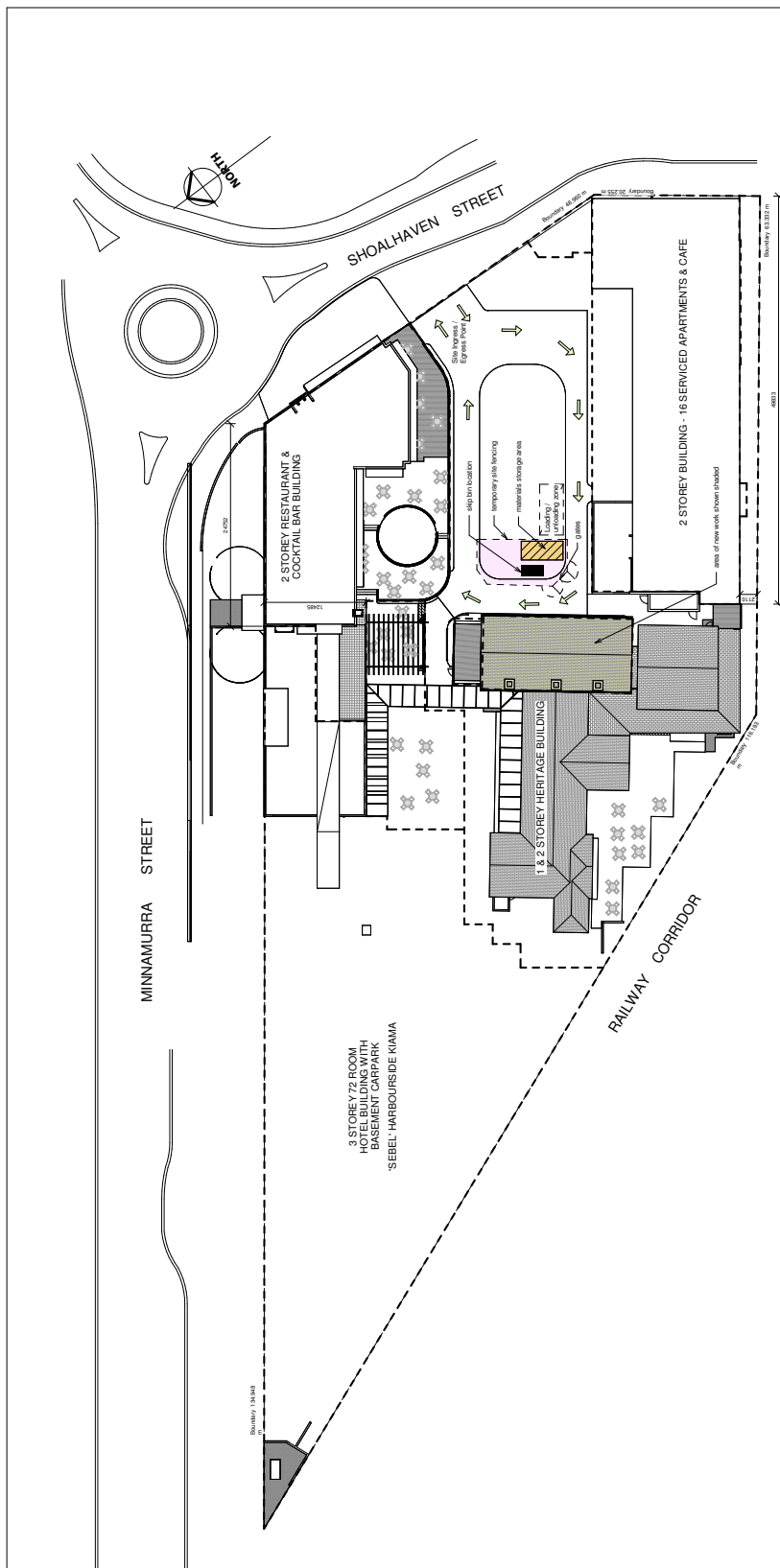


HERITAGE SECTION 1
1:50

GENERAL NOTES: © NEATE PROJECTS PTY LTD THESE DRAWINGS ARE THE PROPERTY OF NEATE PROJECTS PTY LTD. ANY REUSE, REPRODUCTION OR ALTERATION OF THESE DRAWINGS WITHOUT THE WRITTEN PERMISSION OF NEATE PROJECTS PTY LTD IS STRICTLY PROHIBITED. THESE DRAWINGS ARE SUBJECT TO COPYRIGHT AND MAY NOT BE COPIED, REPRODUCED OR REPRODUCED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF NEATE PROJECTS PTY LTD. THE USER SHALL CHECK ALL DIMENSIONS AND LEVELS ON SITE FOR ACCURACIES PRIOR TO COMMENCEMENT OF ANY WORKS. THE USER SHALL PROVIDE NEATE PROJECTS PTY LTD WITH ALL NECESSARY DETAILS AND INFORMATION AS REQUIRED.		Project: PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING COMMERCIAL HOSPITALITY COMPLEX - SEBEL HARBOURSIDE KIAMA- 31 SHOALHAVEN STREET, KIAMA		Drawing Title: HERITAGE BUILDING CROSS SECTION	
LOT: 8		Address: 31 SHOALHAVEN STREET, KIAMA		Scale: 1:50	
DP: 1085635		For: KIAMA HARBOURSIDE GROUP Pty. Ltd.		Drawn by: HOLLY HATE	
				Date: 20.08.2025	
				Checklist: DAVID HATE	
				Drawing No: DA-005	
				Issue: B	







1 Site Management Plan
1 : 250

[illegible]



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Draft

Application number	10.2025.147.1 PAN-568232
Applicant	Allen Price Pty Ltd Unit 1 28 Bong Bong Street KIAMA NSW 2533
Description of development	Alteration to tourist and visitor accommodation - Alterations to three (3) accommodation rooms within an existing hotel.
Property	2 Minnamurra Street KIAMA NSW 2533 LOT: 8 DP: 1085635
Determination	Approved Consent Authority - Council
Date of determination	TBD
Date on which the consent lapses	TBD
Date from which the consent operates	TBD
Approval bodies that have given general terms of approval	TBD

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 consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

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.

N Lakshman
Development Assessment Officer - Planning
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.

GENERAL CONDITIONS

1.	Prescribed conditions																																																		
	The development must comply with Part 4, Division 2, Subdivision 1, of the Environmental Planning and Assessment Regulation 2021 , as applicable.																																																		
	Condition Reason: To ensure the development is carried out in accordance with the relevant legislation.																																																		
2.	Approved plans and supporting documentation																																																		
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.																																																		
	<table><tr><th colspan="5">Approved Plans</th></tr><tr><th>Plan number</th><th>Revision number</th><th>Plan title</th><th>Drawn by</th><th>Date of plan</th></tr><tr><td>DA-001</td><td>Issue B</td><td>Site Plan & Lot Plan</td><td>Neate Projects</td><td>20.08.2025</td></tr><tr><td>DA-002</td><td>Issue B</td><td>Heritage Building Existing Floor Plans</td><td>Neate Projects</td><td>20.08.2025</td></tr><tr><td>DA-003</td><td>Issue B</td><td>Heritage Building Proposed Upper Floor Plans</td><td>Neate Projects</td><td>20.08.2025</td></tr><tr><td>DA-004</td><td>Issue B</td><td>Heritage Building Elevations</td><td>Neate Projects</td><td>20.08.2025</td></tr><tr><td>DA-005</td><td>Issue B</td><td>Heritage Building Cross Section</td><td>Neate Projects</td><td>20.08.2025</td></tr><tr><td>DA-006</td><td>Issue B</td><td>Heritage Building Long Section</td><td>Neate Projects</td><td>20.08.2025</td></tr><tr><td>DA-007</td><td>Issue B</td><td>Heritage Building FSR Breakdown</td><td>Neate Projects</td><td>20.08.2025</td></tr><tr><td>DA-008</td><td>Issue B</td><td>Heritage Building Site Management Plan</td><td>Neate Projects</td><td>20.08.2025</td></tr></table>	Approved Plans					Plan number	Revision number	Plan title	Drawn by	Date of plan	DA-001	Issue B	Site Plan & Lot Plan	Neate Projects	20.08.2025	DA-002	Issue B	Heritage Building Existing Floor Plans	Neate Projects	20.08.2025	DA-003	Issue B	Heritage Building Proposed Upper Floor Plans	Neate Projects	20.08.2025	DA-004	Issue B	Heritage Building Elevations	Neate Projects	20.08.2025	DA-005	Issue B	Heritage Building Cross Section	Neate Projects	20.08.2025	DA-006	Issue B	Heritage Building Long Section	Neate Projects	20.08.2025	DA-007	Issue B	Heritage Building FSR Breakdown	Neate Projects	20.08.2025	DA-008	Issue B	Heritage Building Site Management Plan	Neate Projects	20.08.2025
	Approved Plans																																																		
	Plan number	Revision number	Plan title	Drawn by	Date of plan																																														
	DA-001	Issue B	Site Plan & Lot Plan	Neate Projects	20.08.2025																																														
	DA-002	Issue B	Heritage Building Existing Floor Plans	Neate Projects	20.08.2025																																														
	DA-003	Issue B	Heritage Building Proposed Upper Floor Plans	Neate Projects	20.08.2025																																														
	DA-004	Issue B	Heritage Building Elevations	Neate Projects	20.08.2025																																														
	DA-005	Issue B	Heritage Building Cross Section	Neate Projects	20.08.2025																																														
DA-006	Issue B	Heritage Building Long Section	Neate Projects	20.08.2025																																															
DA-007	Issue B	Heritage Building FSR Breakdown	Neate Projects	20.08.2025																																															
DA-008	Issue B	Heritage Building Site Management Plan	Neate Projects	20.08.2025																																															

Approved Documents			
Document title	Version number	Prepared by	Date of document
Waste Management Plan	Nil	Allen Price	Nil
Heritage Impact Assessment	Version 2	Louise Thom Heritage Consultants	15 July 2025
In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and the condition of this consent, the condition prevails.			
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.			

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

3.	Housing and productivity contribution Before the issue of a Construction Certificate for the development, a housing and productivity contribution (HPC) is required to be made: <table> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> <tr> <td>Housing and productivity contribution (base component)</td><td>\$2,106.60</td></tr> </table> The HPC amount payable at the time of payment will be adjusted for: - indexation using Producer Price Index (PPI) in accordance with the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>, and/or, - a discount if payment is made before 1 July 2025. The HPC must be paid using the NSW planning portal: https://pp.planningportal.nsw.gov.au/ Further information can be found here: https://www.planning.nsw.gov.au. Condition Reason: To ensure contributions are levied toward the provision of regional infrastructure.	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$2,106.60
Housing and productivity contribution	Amount				
Housing and productivity contribution (base component)	\$2,106.60				
4.	Local infrastructure contributions 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: <table> <tr> <td>7.12 Contribution Plan</td><td>\$ 5,610.00</td></tr> </table>	7.12 Contribution Plan	\$ 5,610.00		
7.12 Contribution Plan	\$ 5,610.00				

	<table border="1"> <tr> <td data-bbox="394 362 1094 409">Total Contribution Amount:</td><td data-bbox="1094 362 1318 409">\$ 5,610.00</td></tr> </table> 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. Condition Reason: To ensure contributions are levied toward the provision of public infrastructure.	Total Contribution Amount:	\$ 5,610.00
Total Contribution Amount:	\$ 5,610.00		
5.	Construction Site Management Plan 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: a) The location and materials for protective fencing and hoardings on the perimeter of the site; b) Provisions for public safety; c) Pedestrian and vehicular site access points and construction activity zones; d) Details of construction traffic management including: 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; e) Details of bulk earthworks to be carried out; f) The location of site storage areas and sheds; g) The equipment used to carry out works; h) The location of a garbage container with a tight-fitting lid; i) Dust, noise and vibration control measures; j) The location of temporary toilets; k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: i) AS 4970 – Protection of trees on development sites; ii) An applicable Development Control Plan; A copy of the Construction Site Management Plan must be kept on-site at all times while work is being carried out. Condition Reason: To require details of measures that will protect the public and the surrounding environment, during site works and construction.		
6.	Waste Management Plan – an approved document of this consent Before the issue of a Construction Certificate, a Waste Management Plan for the development must be provided to the Certifier.		

	Condition Reason: To ensure resource recovery is promoted and local amenity protected during construction.
7.	Long Service Levy 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.
	Condition Reason: To ensure the long service levy is paid.

BEFORE BUILDING WORK COMMENCES

8.	Construction Certificate A Construction Certificate must be obtained from either Council or a Certifier before any building work can commence.
	Condition Reason: To comply with Council's requirements before the commencement of works.
9.	Appointment of Principal Certifier Before building work commences a Principal Certifier must be appointed.
	Condition Reason: To ensure ongoing compliance.
10.	Protection of adjoining land 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 – 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.
11.	Deliveries While site work is being carried out, deliveries of material and equipment must only be carried out between— • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays No deliveries are to take place on Sundays or Public Holidays.
	Condition Reason: To protect the amenity of neighbouring properties.

12.	Toilet facilities - temporary 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. Each toilet must: • 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>.
	Condition Reason: To ensure appropriate amenities onsite.

DURING BUILDING WORK

13.	Procedure for critical stage inspections 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.
	Condition Reason: To require approval to proceed with building work following each critical stage inspection.
14.	Hours of work Site work must only be carried out between the following times: • 7.00am to 5.00pm on Mondays to Fridays, and • 8.00am to 1.00pm on Saturdays 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.
	Condition Reason: To protect the amenity of the surrounding area.
15.	Implementation of the Site Management Plans While site work is being carried out: 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.
	Condition Reason: To ensure site management measures are implemented during the carrying out of site work.
16.	Noise and vibration requirements

Item 15.6

Enclosure 3

	While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of less than 5dB (A) above background noise, when measured at a lot boundary of the site.
	Condition Reason: To protect the amenity of the neighbourhood during construction.
17.	Discovery of relics and Aboriginal objects While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered: a) the work in the area of the discovery must cease immediately b) the following must be notified 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. Site work may recommence at a time confirmed in writing by: 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. Condition Reason: To ensure the protection of objects of potential significance during works.
18.	Waste management While site work is being carried out: 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 the Certifier, detailing the following: 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. 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. Condition Reason: To require records to be provided, during site work, documenting the lawful disposal of waste.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

19.	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.
	Condition Reason: To ensure any damage to public infrastructure is rectified.

OCCUPATION AND ONGOING USE

20.	Occupation Certificate The development must not be occupied or used before an Occupation Certificate has been issued by the Principal Certifier. 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).
	Condition Reason: To ensure that the development is completed as per this consent and the approved plans.

DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

21.	Asbestos removal signage Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.
	Condition Reason: To alert the public to any danger arising from the removal of asbestos.

DURING DEMOLITION WORK

22.	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: 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 10m ² or more of asbestos sheeting, must be registered with the Environmental Protection Authority (EPA) online reporting tool WasteLocate.
	Condition Reason: To ensure the removal of asbestos is undertaken safely and professionally.

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.

Early application assessment
Round 2 Destination Event Funding FY 2024-25 // Internal Assessment Panel recommendations

Total annual budget:		\$	130,000.00	
Allocation round 1:		\$	53,740.00	
Available round 2:		\$	76,260.00	

Event theme breakdown:				
Sport		\$	-	
Culture / art / music		\$	24,000.00	

Group / Organisation name	Event Title	Proposed Date & Duration	Recommended	Breakdown MONETARY	Breakdown IN-KIND	Particulars	Assessor comments/summary	
1	NUI Events	Sounds of Rock Music Festival Kiama	Sat 10 Oct 2026	\$ 15,000.00	\$ 10,000.00	\$ 5,000.00	Event category: Major Multi year request. Annual festival, year one. Core demographic: 40-65 years Experience: Hervey Bay /Townsville, QLD based successful festival Attendance: 5,000 (40% from out of area) Economic impact: Estimated \$652,000	Previous and current success in QLD (Townsville and Hervey Bay / Fraser Coast), 2025 lineups include "iconic Australian acts" e.g Jon Stevens, The Angels, Baby Animals, which presumably draws a dedicated (and likely willing-to-travel) audience, similar to Red Hot Summer Tour.
2	Ad-Lib Events	Surf Life Music Festival	Fri 27 & Sat 28 Mar 2026	\$ 9,000.00	\$ 6,000.00	\$ 3,000.00	Event category: Major Annual festival, year 4 (did not run in 2025) Core demographic: 18-35 Attendance: 1,500 (50% from out of area) Economic impact: Estimated \$391,000 Previous council support: \$10k in 2024; \$4k 2023; \$6.5k 2022; \$3,750 2021	SurfLife includes live music (ticketed and free concerts with 20 bands), surfing-culture elements, classic surf-mobile show, surfboard swap meets, surf expo, film screening (surf films), markets / food / wine / local suppliers. Gerringong location, local stakeholder following, supporting homegrown up and coming bands, and young core demographic. 2 days support O/N stays.
			\$ 24,000.00					



Phone enquiries:

Mr A Brooks
4232 0444

Reference:

Notices & Orders : **xxxx**
Parcel Number : 8313

XX December 2025

Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Dear Sir/Madam

**LOT: 71 DP: 831089, 2 Havilah Place KIAMA NSW 2533
Building known as Blue Haven Stage 5**

Council wishes to acknowledge your concerns with the current level of fire safety for the property 2 Havilah Place Kiama (Blue Haven Stage 5) being inadequate.

Council has reviewed the provided documentation and received advice from Fire and Rescue NSW following a joint inspection and has determined that conditions exist that warrant the issue of a Fire Safety Order.

As a result, Council is issuing you with the attached Notice of Intention to give a Fire Safety Order No. 1 under Schedule 5 Part 2 and Part 9 Division 9.3 of the Environmental Planning and Assessment Act 1979 to enable the provision of adequate Fire Safety Measures within the building.

Should you require any further details please contact Council's Building Assessment Coordinator, Mr A Brooks on the 4232 0444 between the hours of 8.30am and 11.00am Monday to Friday.

Yours faithfully

Mr A Brooks
Building Assessment Coordinator

All correspondence Chief Executive Officer PO Box 75 Kiama NSW 2533

Contacts P (02) 4232 0444

E council@kiama.nsw.gov.au

W www.kiama.nsw.gov.au

11 Manning Street Kiama NSW 2533

ABN 22 379 679 108

RESPECT • INTEGRITY • INNOVATION • TEAMWORK • EXCELLENCE •





Phone enquiries:

Mr A Brooks
4232 0444

Reference:

Notices & Orders : XXXX
Parcel Number : 8313

XX December 2025

Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Dear Sir/Madam

**NOTICE OF INTENTION TO GIVE A FIRE SAFETY ORDER NO. 1
ISSUED UNDER SCHEDULE 5 AND PART 9 DIVISION 9.3
ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

Premises: LOT: 71 DP: 831089, 2 Havilah Place KIAMA NSW 2533.

Building known as Blue Haven Stage 5.

Kiama Municipal Council (Council) has become aware that the provisions for fire safety and fire safety awareness at the above listed building are inadequate to:

- Ensure or promote the safety of persons in the event of fire,
- Suppress fire,
- Prevent fire, and

The use of the premises constitutes a significant fire hazard.

This order is given to you as the owner of the premises.

Council orders you to:

1. Provide to the satisfaction of The Director Strategies and Communities an 'Interim management plan' consisting of detailed mitigation measures that increase the protection of the building's occupants during the required upgrade works and that aligns with the staged implementation of the fire safety upgrade works. This plan is to be prepared by a suitably qualified fire engineer.
2. Provide to the satisfaction of The Director Strategies and Communities a detailed works staging schedule generally in accordance with Table 1 and Table 2 attached.
3. After receiving written confirmation from The Director Strategies and Communities of satisfactory completion of points 1 and 2 of this order.
 - a. Implement the plan required by point 1 of this order.
 - b. Complete the works listed in Table 1 and Table 2. At the completion of each item or group of similar items, the relevant installation certification is to be provided to The Director Strategies and Communities.

1

All correspondence Chief Executive Officer PO Box 75 Kiama NSW 2533

Contacts P (02) 4232 0444

E council@kiama.nsw.gov.au

W www.kiama.nsw.gov.au

11 Manning Street Kiama NSW 2533

ABN 22 379 679 108

RESPECT • INTEGRITY • INNOVATION • TEAMWORK • EXCELLENCE •



4. Upon completion of the works, provide to the satisfaction of The Director Strategies and Communities
 - a. A report from a suitably qualified fire engineer that the works have been completed in accordance with this order.
 - b. A draft Fire Safety Schedule prepared by a suitably qualified fire engineering certifier listing all required measures in the building and the relevant standards of performance at the completion of the upgrade works.

The reasons for the Order are:

- To ensure that adequate provisions are made within the building for fire safety, fire safety awareness, fire prevention and fire suppression.
- To ensure that reasonable levels of fire safety are provided to building occupants.
- To ensure that the use of the premises does not result in a significant fire hazard.
- To comply with legislative requirements under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

You are required to comply with the order within a period of 42 months.

Representations may be made to the Chief Executive Officer, in writing, within fourteen (14) days of the date of this Notice as to why the Order should not be given or as to the terms of the proposed Order or the period of compliance with the Order.

Representation may be made on your behalf by a Barrister, Solicitor or agent.

Should no response be received within fourteen (14) days of the date of this Notice, Council may proceed to issue the Order without further notice.

Mr A Brooks
Building Assessment Coordinator

Item 15.8

Enclosure 1

Table 1. – Dry Fire & Non-Hydraulic

Item #	Defect / Item	Work Required	Standard of Performance	Timeframe After confirmation required by point 3 of the order.
1.	Security/screen doors on Sole-occupancy Units (SOU's)	Remove screen doors.	-	0-2 Months
2.	Doors to the garbage room on the level 1 west carpark were held open. Fire door near parking space No. 51 failed to return to the fully closed position. Exit doors from carport required significant force to open	Maintain all fire doors in accordance with BCA provisions.	NCC BCA 2022 Volume 1 C4D6, D3D25, D3D26	0-2 Months
3.	Fire isolated exits, inconsistent risers/treads and landings.	Install non-slip nosings with 30% contrast to the edge of the nosing / landing installed in accordance with AS 1428.1-2009.	NCC BCA 2022 Volume 1 D3D14	0-2 Months
4.	Fire door signage	Install compliant advisory signage on all relevant doors in accordance with BCA 2022 and NSW Legislative requirements	NCC BCA 2022 Volume 1 D3D28 Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021	0-2 Months
5.	Evacuation diagrams include assembly diagrams that are not the same orientation as rest of diagram.	Rectify incorrect diagrams to comply with provisions of standard.	Clause 3.5.4 of AS 3745-2010	0-2 Months
6.	Fire hose reel / extinguisher cabinet near Unit 515 had a latching device and was not operable by single-handed operation of the latching mechanism	Install compliant cabinet hardware	AS 1221-1997	0-3 Months
7.	Exit sign at exit near parking space 51 not clearly visible when approaching. No Exit or directional signage installed on 'Sky Deck' Exit signs are not visible from all positions in residential corridors and common areas	Install directional signage where not provided in accordance with BCA 2022 requirements	NCC BCA 2022 Volume 1 E4D6	0-6 Months
8.	Smoke door in residential public corridor on L2	Upgrade the installed smoke door to comply with BCA 2022 requirements	NCC BCA 2022 Volume 1 C3D15, S12C3, S12C4	0-12 Months

Item 15.8

Enclosure 1

9.	Portable fire extinguisher type and distribution	1. Change CO2 fire extinguishers to minimum 2.5kg ABE type fire extinguishers. 2. Install additional extinguishers where travel distances to the nearest extinguisher from the doorway of a SOU exceeds 10m	NCC BCA 2022 Volume 1 E1D14	0-12 Months
10.	Building Occupant Warning System (BOWS) & Smoke Hazard Management	1. Install zone block plan (signage) at the Fire Indicator Panel (FIP). The block plan shall contain information complying with clause 3.10 of AS 1670.1-2018. 2. Securely fix smoke detector in the EDB cupboard on L7 to the concrete soffit. 3. Extend existing smoke detection system to all residential sole-occupancy units by the installation of a multisensor detector (smoke and heat) with a sounder base in accordance with the requirements for alarms in Clause S20C3(2)(a) and (2)(b) of the Building Code of Australia. Note: A sounder base is not required if the extension of building occupant warning system to all residential sole-occupancy units to achieve a sound pressure level of not less than 75 dB(A) at the bedhead with all doors closed is implemented immediately and not staged. a. The smoke sensor of the multisensory detector shall activate the sounder base, and the heat sensor shall be connected to activate the building occupant warning system. b. The extension of the smoke detection to all residential sole-occupancy units shall be implemented immediately and shall not be staged. 4. Enhance the audible warning signal of the existing building occupant warning system in all residential sole-occupancy units to achieve a sound pressure level of not less than 75 dB(A) at the bedhead with all doors closed. a. The building occupant warning system evacuation	NCC BCA 2022 Volume 1 E2D8 Fire Safety Upgrade Report, Ref No. F3851 FER Rev 01 prepared by AED Fire and dated 16/12/2024	1. 0-2 Months 2. 0-2 Months 3. 0-12 Months 4. 0-12 Months – Commence works 12-24 Months – All available SOUs retrofitted 24-42 Months – All retrofit work complete 5. 0-6 Months – verify 0-12 Months – rectify

		signal shall include the words "Fire" and "Evacuate". b. The retrofit of the emergency warning speakers within the residential sole occupancy units can be staged in a similar manner to that of the sprinkler system staged retrofit. 5. The Sound Pressure Levels (SPL) within the central courtyard and public corridors shall be verified and rectified by the Fire Services Contractor if deficient. All SPL values shall be determined in accordance with Appendix H of AS 1670.1-2018.		
11.	Fire Stopping	Water Heater Room in carpark on L1 1. Remove existing entry louvered door to the Water Heater Room. 2. Install a self-closing fire door complying with AS 1905.1-2015 and having an FRL of not less than -/120/30. 3. Fire stop all service installations penetrating fire-rated building elements (internal walls and floors) bounding the Water Heater Room in accordance with a tested system per BCA Clause C4D15. 4. Mechanical ventilation system to be installed complying with BCA Clause F6D6 and AS 1668.2-2018. Main Switch room 1. Install compliant breakaway joint to the mechanical duct in accordance with the requirements of AS 1682.1-2015 and AS 1682.2-2015. 2. Install fire damper to mechanical duct penetrating the soffit slab complying with AS 1682.1-2015 and AS 1682.2-2015. Service cupboards and public areas 1. Fire stop all service installations penetrating fire-rated building elements (internal walls and floors) in accordance with a tested system per BCA Clause	NCC BCA 2022 Volume 1 C3D13, C4D15, C4D16 Fire Safety Upgrade Report, Ref No. F3851 FER Rev 01 prepared by AED Fire and dated 16/12/2024	Water Heater Room 1. 0-2 Months 2. 0-2 Months 3. 0-6 Months 4. 0-6 Months Main Switch room 1. 0-6 Months 2. 0-6 Months Service Cupboards and public areas 1. 0-12 Months SOU's 0-18 Months – vacant SOUs and areas accessible from common areas. 0-36 Months – SOUs that are currently occupied as they become

Item 15.8

Enclosure 1

		C4D15A. Sole Occupancy Units 1. Fire seal all exposed construction joints between fire-rated masonry internal walls and concrete building elements with a fire sealant tested in accordance with AS 4072.1-2005 and AS 1530.4-2014 to achieve the required FRL		vacant.
12.	Electrical, electronic plumbing, mechanical ventilation, air-conditioning and other service installations in fire-resisting building elements in residential sole-occupancy units	1. Existing openings for service penetrations in the fire-rated internal walls bounding sole-occupancy units from the unit sides shall be smoke sealed with a fire-rated sealant. 2. If unprotected openings (e.g. holes or non-sheeted sections of the walls) are found during the refitting of the units, the openings shall be fire and smoke stopped to achieve an FRL of -/60/60 3. The passive fire stopping works are to be commenced immediately and can be staged over up to 3 years as units are vacated and renovated.	NCC BCA 2022 Volume 1 C4D15 Fire Safety Upgrade Report, Ref No. F3851 FER Rev 01 prepared by AED Fire and dated 16/12/2024	0-18 Months – vacant SOUs and areas accessible from common areas. 0-36 Months – SOUs that are currently occupied as they become vacant.
13.	Retention of glazed sliding doors separating Lifts 1 and 2 lobby from the public corridor bounding the atrium	1. Existing glazed sliding door to automatic close (fail safe) on activation of a smoke detector installed in accordance with AS 1670.1-2018 and located on each side of the doorway and at not more than 1.5 m horizontal distance from the doorway. 2. Glazed sliding door to fail safe on close in the event of power failure 3. Fit ambient and medium temperature smoke seals to all sides of the existing glazed sliding doors 4. Install manual control in accordance with BCA Clause D3D26(2) to the glazed sliding doors (in the path of travel to a required exit). 5. Manual opening of glazed sliding doors (power operated) required under a force of not more than 110N if there is a malfunction or failure of the power source	NCC BCA 2022 Volume 1 C4D12, S5C11 Fire Safety Upgrade Report, Ref No. F3851 FER Rev 01 prepared by AED Fire and dated 16/12/2024	0-18 Months

Item 15.8

Enclosure 1

Table 2. – Wet Fire & Hydraulic

Item #	Defect	Work Required	Standard of Performance	Timeframe After confirmation required by point 3 of the order.
1.	Glazed partition separating the L2 residential public corridor from the planter void and atrium on L3	Accredited Fire Services Consultant to assess existing design and installation compliance (type of sprinklers, design flow, spacing and location, obstruction and shielding) against AS 2118.2-1995. Any identified non-compliances shall be upgraded to comply with AS 2118.2-1995 (This upgrade requirement is subject to the design of the required whole building sprinkler system, if a higher level of protection is provided by the proposed system, this requirement ceases to have effect)	Fire Safety Upgrade Report, Ref No. F3851 FER Rev 01 prepared by AED Fire and dated 16/12/2024	0-18 Months
2.	Unprotected full height glazed panels and window openings in fire-rated internal walls bounding residential public corridors on L2 to L4	1. Fix closed existing window openings and existing full height glazed panels in the fire rated internal walls bounding the residential public corridor on L2. 2. Replace all existing wall-wetting sprinklers protecting openings in the fire-rated internal walls bounding the residential public corridor on L2 with wall-wetting sprinklers that are fast response and have an operating temperature of 68°C. 3. Existing wall-wetting sprinklers system design (type of sprinklers, design flow, spacing and location, obstruction and shielding) to the openings in the fire-rated internal walls bounding the residential public corridor on L2 to be reviewed by a Fire Services Consultant for compliance with AS 2118.2-1995. All identified defects shall be rectified to comply with AS 2118.2:1995. (This upgrade requirement is subject to the design of the required whole building sprinkler system, if a higher level of protection is provided by the proposed system, this requirement ceases to have effect)	NCC BCA 2022 Volume 1 C4D12, S5C11 Fire Safety Upgrade Report, Ref No. F3851 FER Rev 01 prepared by AED Fire and dated 16/12/2024	0-18 Months

3.	Fire hydrant booster and fire sprinkler booster design and installation non compliant with standard and NSW Fire and Rescue requirements.	Upgrade hydrant and sprinkler booster system including associated signage to AS 2419.1-2021 (where full upgrade is not possible, designs are to be provided to the satisfaction of Council demonstrating the level of compliance achieved and the proposed standard of compliance of the remaining systems)	NCC BCA 2022 Volume 1 E1D2	0-24 Months
4.	Attack fire hydrants within fire stairways	Modify/upgrade to comply with AS 2419.1-2021	NCC BCA 2022 Volume 1 E1D2	0-24 Months
5.	Class 2 residential sole occupancy units - inadequate fire rated bounding construction	5. Each storey is to be provided with a sprinkler system (other than a FPAA101D or FPAA101H system) complying with Clause E1D6 Specification 17 of NCC BCA 2022 6. Sprinklers in residential parts shall comply with BCA Clause 9.4.5 of AS 2118.1 – 2017, be a residential type (quick response) with a temperature rating of 68°C. 7. Sprinkler protection in residential parts of the existing building can be omitted from the following areas: a) Concealed spaces in residential sole occupancy units; b) Lift shafts; c) Cupboards, wardrobes, walk-in wardrobes, pantries, alcoves and recesses less than 3.0 m² in residential sole-occupancy units. These areas must not contain clothes dryers, gas water heaters or cooking appliances; d) Toilets and bathrooms excluding dual use as a laundry in residential sole-occupancy units. This concession is not applicable to the residential sole-occupancy units on levels 2 to 4 with windows openings in internal wall bounding public corridors; e) Garbage chutes in the residential part of building; and f) Open balconies of residential sole occupancy units.	NCC BCA 2022 Volume 1 Specification 17 Fire and Rescue NSW Request for Comment FRN25/2300 – BFS25/5194 – 8000044175	0-12 Months – Commence works 12-24 Months – All common areas and available SOU's sprinkler protected 24-42 Months – All sprinkler work complete

Item 15.8

Enclosure 1

		8. The installation of the sprinkler system throughout the building is to commence within 12 Months with all common areas and any vacant SOUs completed within 24 Months. The remaining SOUs may be staged over the following 18 Months.		
--	--	--	--	--

Item 15.8

Enclosure 1

DRAFT

OFFICIAL



File Ref. No: FRN25/2300 – BFS25/5194 – 8000044175
TRIM Ref. No: D25/134954
Contact: Station Officer Kurt Ingle

1 December 2025

General Manager
Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Email: council@kiama.nsw.gov.au

Attention: Angus Brooks

Dear General Manager

**RE: REQUEST FOR COMMENT
BLUEHAVEN SELF CARE UNITS STAGE 5
2 HAVILAH PLACE KIAMA (“the premises”)**

In reply to Council’s request for comment dated 30 July 2025 regarding ‘the premises’.

FRNSW notes the following documents associated with this request:

- Comment on an Occupied Building – Blue Haven Self Care Units Stage 5 – 2 Havilah Place Kiama – Kiama Municipal Council – Angus Brooks
- Draft-Compliance Assessment Report – 19 January 2024 – AE&D – Report No. 13081 Rev 01
- Fire Safety Upgrade Report – 11 July 2025 – AED Fire – Fire Engineering Report No. F3851 FSUR Rev 03.
- Fire Safety Engineering Assessment – 9 May 2005 – Scientific Fire Services – File Reference: Report-CE04037 Rev v-2.4

COMMENTS

The following comments are based on the submitted documents and a general overview of the building:

1. Fire-resisting internal walls bounding sole-occupancy units – A Fire Safety Upgrade Solution has been developed to address the existing fire-resisting

Fire and Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

1 Amarina Ave
Greenacre NSW 2190

T (02) 9742 7434
F (02) 9742 7483

www.fire.nsw.gov.au

Page 1 of 9

OFFICIAL

Item 15.8

Enclosure 2

OFFICIAL

internal walls bounding sole-occupancy units that are not constructed in accordance with the tested system and manufacturer's installation guidelines (non-sealed joints, non-overlapped boards, gaps and inadequate fixing to steel stud frame) and contain combustible elements (plywood).

- a. FRNSW supports the proposed fire safety upgrade in accordance with the design requirements within the AED Fire – Fire Safety Upgrade Report (FSUR).
2. Window openings in internal walls of residential sole-occupancy units bounding public corridor - A Fire Safety Upgrade Solution has been developed to address the existing window openings in the internal walls of residential sole-occupancy bounding public corridors on levels 2 to 4.
 - a. FRNSW supports the proposed fire safety upgrade in accordance with the design requirements within the AED Fire – FSUR.
3. Openings for service installations in building elements required to be fire resisting - A Fire Safety Upgrade Solution has been developed to address the penetrations for services (plumbing pipes, electrical and communication cables and mechanical) in the floor slab and the fire-rated internal walls that are not fire stopped in accordance with Clause C4D15 of the Building Code of Australia.
 - a. FRNSW supports the proposed fire safety upgrade in accordance with the design requirements within the AED Fire – FSUR.
4. Openings for service installations (non-wrapping of water filled metal pipes) - A Fire Safety Upgrade Solution has been developed to address –
 - the existing water filled copper metal pipes that penetrate the concrete floor slab within the sole-occupancy units; and
 - the sprinkler and hydrant steel pipes that penetrate building elements required to be fire-resisting;are not wrapped to achieve the insulation criteria.
 - a. FRNSW supports the proposed fire safety upgrade in accordance with the design requirements within the AED Fire – FSUR.
5. Construction Joint - A Fire Safety Upgrade Solution has been developed to address the construction joint between the fire-rated masonry and the concrete building elements is fire stopped.
 - a. FRNSW supports the proposed fire safety upgrade in accordance with the design requirements within the AED Fire – FSUR.
6. Smoke door swing - A Fire Safety Upgrade Solution has been developed to address the existing automatic closing smoke door of double leaves dividing the public corridor on level 2 does not swing in both directions.

OFFICIAL

- a. Due to the characteristics of the occupants within the building, FRNSW does not support the Upgrade Strategy. FRNSW recommends the door be amended to swing in both directions as an exit is available to occupants on either side of the door.
7. Omission of sprinkler protection from drying rooms - A Fire Safety Upgrade Solution has been developed to address the omission of sprinkler protection from the drying rooms located on residential levels 2 to 7 and accessed from Fire Stairs 1, 2, 4 and 5.
 - a. FRNSW do not support the omission of sprinkler protection in the drying rooms.

General

8. Whether the proposed upgrade measures and the proposed completion time frame of 3 years is adequate to safeguard the occupants.
 - a. FRNSW will not comment on the completion time of the upgrades. The timeframe for the proposed upgrade measures needs to take into consideration the time for works to be completed and the risk to the occupants prior to the completed works.
9. Pressure and Flows of the current fire hydrant system.
 - a. FRNSW recommend the hydrant system be upgraded to provide the pressure and flow requirements of an AS 2419.1 hydrant system for an equivalent new building.

RECOMMENDATION

FRNSW recommends that:

1. This report needs to be read in conjunction with the FRNSW Section 9.32 Inspection Report dated 4 November 2025 – Document No. D25/125015 (See Appendix 1).
2. The double leaf smoke door on Level 2 be amended to swing in both directions as an exit is available to occupants on either side of the door.
3. The hydrant system be upgraded to provide the pressure and flow requirements of an AS 2419.1 hydrant system for an equivalent new building.

Please do not hesitate to contact Station Officer Kurt Ingle of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call (02) 9742 7434 if there are any questions or concerns about the above matters. Please refer to file reference

OFFICIAL

FRN25/2300 – BFS25/5194 – 8000044175 regarding any correspondence concerning this matter.

Yours faithfully



Paul Scott
Team Leader
Fire Safety Compliance Unit

Attachment: [Appendix 1- Section 9.32 Inspection Report – 4 November 2025 – 5 pages]

Item 15.8

Enclosure 2

OFFICIAL

OFFICIAL

Appendix 1 – Section 9.32 Inspection Report – 4 November 2025

Item 15.8

Enclosure 2



Unclassified

File Ref. No: FRN25/2300 – BFS25/6099 – 8000044890
TRIM Ref. No: D25/125015
Contact: Station Officer Kurt Ingle

4 November 2025

General Manager
Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Email: council@kiama.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear General Manager

Re:

INSPECTION REPORT
BLUE HAVEN STAGE 5
2 HAVILAH PLACE KIAMA ("the premises")

Pursuant to Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW) inspected 'the premises' on 30 September 2025 Kiama Municipal Council were also present during the inspection.

On behalf of the Commissioner of FRNSW, comments in this report are provided under Section 9.32(4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act.

The items listed in the comments of this report are based on the following limitations:

- FRNSW's inspection of the premises may have been conducted without having the development consent and / or approved plans as a reference.
- FRNSW's inspection of the premises was a non-invasive visual inspection.
- FRNSW authorised fire officers may not have been able to access all areas of the premises at the time of inspection.
- The following parts of the premises were not able to be inspected:
eSOU's

COMMENTS

The following items were identified during the inspection:

Fire and Rescue NSW	ABN 12 593 473 110	www.fire.nsw.gov.au
Community Safety Directorate	1 Amarina Ave	T (02) 9742 7434
Fire Safety Compliance Unit	Greenacre NSW 2190	F (02) 9742 7483
www.fire.nsw.gov.au		Page 1 of 5

Unclassified

www.fire.nsw.gov.au

Page 5 of 9

OFFICIAL

Page 1007

OFFICIAL

Item 15.8

Enclosure 2

Unclassified

Provisions for Fire Safety

Fire Resistance

1. FRNSW observed security/screen doors on almost all Sole-occupancy Units (SOU's). FRNSW recommends against the fitting of security doors to SOU's within the [FRNSW Position Statement – Security/screen doors fitted to sole-occupancy units – 30 August 2024](#).
2. The doors to the garbage room on the level 1 west carpark were held open contrary to the requirements of Clause C4D6 of the National Construction Code 2022, Volume 1 Building Code of Australia (NCC).
3. The fire door near parking space No. 51 failed to return to the fully closed position, contrary to the requirements of C4D6 of the NCC.
4. The separation of the atrium by bounding walls for the SOU's contained glazed elements that could be held open contrary to the requirements of Clause G3D3 and Clause G3D4 of the NCC. FRNSW is unable to determine the FRL of the glazed elements.
5. The automatic two leaf smoke door on Level 2 does not swing in both directions contrary to the requirements of Specification S12C4 of the NCC.

Egress

6. Multiple exit doors from the carpark areas did not allow occupants to evacuate safely considering the number, mobility and other characteristics of the occupants contrary to the performance requirements of D1P4 of the NCC. The egress doors were not readily openable and required a significant force to open contrary to the requirements of D3D25 and D3D26 of the NCC.
7. The exit sign at the exit near parking space No. 51 was not clearly visible to persons approaching the exit contrary to the requirements of E4D5 of the NCC. FRNSW recommends a directional sign to assist residents in locating this exit in accordance with E4D6 of the NCC.
8. FRNSW recommend additional directional signage towards exits on the residential levels in accordance with Clause E4D6 of the NCC. In multiple areas of these levels, a person seeking to exit is unable to see an exit or direction sign indicating the location of a required exit.
9. Several evacuation diagrams at the premises included an assembly diagram area that was not the same orientation to the rest of the diagram contrary to the requirements of Clause 3.5.4 of AS 3745-2010.
10. The travel distance from the "Sky Deck" kitchen to the nearest exit was approximately 32m, contrary to the requirements of D2D5 of the NCC.
11. The "Sky Deck" balcony area did not contain any exit or directional exit signs contrary to the requirements of Clause E4D5 and Clause E4D6 of the NCC.

Fire Hydrant System

Unclassified

OFFICIAL

OFFICIAL

Item 15.8

Enclosure 2

Unclassified

12. The fire hydrant booster and the fire sprinkler booster incorporate a pipe-bodied booster assembly with inlet inserts. FRNSW observed the angle of the valve inlet to be approximately 90° contrary to Clause 3.2(h) AS2419.3-2012. When boosted by a fire brigade pumping appliance this may cause the spring-loaded jumper valve of the boost inlet to have restricted water flow into the system. Council may wish to review Part 5 of [FRNSW safety guideline 'Fire brigade booster connection with inlet insert'](#).
13. The fire hydrant booster assembly was not fitted with an additional valve to isolate the boost inlets from the system contrary to the requirements of Clause 5.6.5 of AS 2419.1-1994. The hydrant schematic identified many hydrant outlets more than 5m above the lowest booster inlet (Up to 13m).
14. The fire hydrant booster and the fire sprinkler booster were not clearly identified with "WORKING PRESSURE" and "SYSTEM TESTED TO" in upper case lettering not less than 25mm contrary to the requirements of with Clause 5.6.7 of AS 2419.1-1994.
15. The fire hydrant booster was not clearly identified with the lettering "HYDRANT BOOSTER" in letters not less than 50mm high contrary to the requirements of Clause 5.6.8 of AS 2419.1-1994.
16. FRNSW are of the opinion the Block Plan at the booster assembly is too small for the details of the large site.

FRNSW recommend the block pan be upgraded to meet the standard of performance of AS 2419.1-2021. The block plan should be a minimum size of A2 and be installed at a height that does not required firefighters to kneel on the ground to read.
17. FRNSW recommend a copy of the Block Plan be installed in the pump room additional to the booster assembly.
18. FRNSW are of the opinion that the fire hydrant booster is connected in-series with the fixed on-site pump. In this regard, warning signage and a 150mm diameter liquid filled pressure gauge which indicates the pressure at the pump discharge pipe/manifold is not installed at the booster enclosure, contrary to the requirements of Clause 5.7 of AS 2419.1-1994.
19. Two automatic pump sets are installed in the pumproom. The automatic pump sets were not identified in-order to differentiate the purpose of each pump set.

FRNSW recommend signage should be installed on the pump control panels stating – SPRINKLER PUMPSET or FIRE HYDRANT PUMPSET.
20. Building materials were stored in the fire exit corridor near parking space No 45 that may impact on firefighters using the hydrant within this area.
21. Multiple attack fire hydrants within fire stairways were not between 750mm and 1200mm above the ground contrary to the requirements of Clause 5.3.2 of AS 2419.1-1994.

Unclassified

OFFICIAL

OFFICIAL

Item 15.8

Enclosure 2

Unclassified

22. The fire hydrant on Level 3 within the fire exit near the lift lobby did not have 1000mm clear space in front of the hydrant valve in accordance with Figure 5.1 of AS 2419.1-1994 due to the door swing.

Automatic Fire Suppression System

23. FRNSW recommend that Class 2 buildings should be provided with an automatic fire sprinkler system. FRNSW published a Position Statement – [Fire Sprinklers in Class 2 and 3 Buildings – 30 August 2024](#).

FRNSW has an additional Position Statement – [Fire Sprinkler System in Existing Building or Premises – 12 September 2024](#). In part the statement states,

"When a consent authority (e.g. Council) is assessing the adequacy of an existing automatic fire sprinkler system installed in an occupied building or premises, or lack thereof, FRNSW recommend it be assessed against the current NCC requirements for the given use and occupancy hazard classification."

24. The room with the sprinkler stop valve did not contain a location plate with the words "SPRINKLER STOP VALVE INSIDE" contrary to the requirements of Clause 8.4 of AS 2118.1-1999.
25. FRNSW is of the opinion that there should be a sign stating "Sprinkler Pump Room" on the door to the pumproom.
26. A stock of replacement sprinklers was kept in a spares box near the sprinkler pump and valves in accordance with Clause 6.7 of AS 2118.1-1999. The spares box lock was unable to be opened at the time of the inspection.

Smoke Detection and Alarm System (SDAS)

27. FRNSW heard a smoke alarm low battery warning when near Unit 319. FRNSW was unable to determine if smoke alarms were being maintained.
28. It could not be determined if the Building Occupant Warning System (BOWS) will sound through all occupied areas. In this regard, FRNSW could not locate any sounders or speakers on the "Sky Deck" balcony area and are of the opinion that building occupant warning may not be achieved through this occupied area, contrary to the requirements of Specification 20 of the NCC.

Fire Hose Reels

29. The fire hose reel / extinguisher cabinet near Unit 515 had a latching device and was not operable by a single-handed operation of the latching mechanism contrary to the requirements of Clause 2.3.2 of AS 1221-1997.

Portable Fire Extinguishers (PFE's)

Unclassified

OFFICIAL

OFFICIAL

Item 15.8

Enclosure 2

Unclassified

30. FRNSW observed multiple carbon dioxide fire extinguishers at the premises contrary to the requirements of Clause E1D14 of the NCC which requires minimum 2.5kg sized ABE type fire extinguishers for a Class 2 premises.
31. The travel distance from the entrance doorway of multiple SOU's to the nearest fire extinguisher exceeded 10m, contrary to the requirements of Clause E1D14 of the NCC. FRNSW identified distances up to 21m from an SOU entrance doorway to the nearest extinguisher.

Other Findings

32. FRNSW are of the opinion that the building contains an atrium that connects 3 storeys and is not sprinkler protected throughout the storeys. As such, Part G3 of the NCC should be applied to the atrium.

FRNSW recommends each storey is provided with a sprinkler system (other than a FPAA101D or FPAA101H system) complying with Specification 17 to enable the atrium to not require the Part G3 requirements.

FRNSW believes that there are inadequate provisions for fire safety within the building.

RECOMMENDATIONS

FRNSW recommends that Council:

- a. Inspect and address items 1 to 32 of this report and any other deficiencies identified on 'the premises'.
- b. The hydrant system be upgraded to provide the pressure and flow requirements of an AS 2419.1 hydrant system for an equivalent new building.

Please be advised that Schedule 5, Part 8, Section 17(2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting. This matter is referred to Council as the appropriate regulatory authority. FRNSW awaits the Council's advice regarding its determination under Schedule 5, Part 8, Section 17 (4) of the EP&A Act.

Please do not hesitate to contact Station Officer Kurt Ingle of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call on (02) 9742 7434 if there are any questions or concerns about the above matters. Please ensure that you refer to file reference FRN25/2300 – BFS25/6099 – 8000044890 regarding any correspondence concerning this matter.

Yours faithfully



Paul Scott
Team Leader
Fire Safety Compliance Unit

www.fire.nsw.gov.au

Page 5 of 5

Unclassified

OFFICIAL

Unclassified



File Ref. No: FRN25/2300 – BFS25/6099 – 8000044890
TRIM Ref. No: D25/125015
Contact: Station Officer Kurt Ingle

4 November 2025

General Manager
Kiama Municipal Council
PO Box 75
KIAMA NSW 2533

Email: council@kiama.nsw.gov.au

Attention: Manager Compliance/Fire Safety

Dear General Manager

**Re: INSPECTION REPORT
BLUE HAVEN STAGE 5
2 HAVILAH PLACE KIAMA (“the premises”)**

Pursuant to Section 9.32(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Authorised Fire Officers from the Fire Safety Compliance Unit of Fire and Rescue NSW (FRNSW) inspected ‘the premises’ on 30 September 2025 Kiama Municipal Council were also present during the inspection.

On behalf of the Commissioner of FRNSW, comments in this report are provided under Section 9.32(4) and Schedule 5, Part 8, Section 17(1) of the EP&A Act.

The items listed in the comments of this report are based on the following limitations:

- FRNSW’s inspection of the premises may have been conducted without having the development consent and / or approved plans as a reference.
- FRNSW’s inspection of the premises was a non-invasive visual inspection.
- FRNSW authorised fire officers may not have been able to access all areas of the premises at the time of inspection.
- The following parts of the premises were not able to be inspected:

◦SOU’s

COMMENTS

The following items were identified during the inspection:

Fire and Rescue NSW

ABN 12 593 473 110

www.fire.nsw.gov.au

Community Safety Directorate
Fire Safety Compliance Unit

1 Amarina Ave
Greenacre NSW 2190

T (02) 9742 7434
F (02) 9742 7483

www.fire.nsw.gov.au

Page 1 of 5

Unclassified

Item 15.8

Enclosure 3

Unclassified

Provisions for Fire Safety

Fire Resistance

1. FRNSW observed security/screen doors on almost all Sole-occupancy Units (SOU's). FRNSW recommends against the fitting of security doors to SOU's within the [FRNSW Position Statement – Security/screen doors fitted to sole-occupancy units – 30 August 2024](#).
2. The doors to the garbage room on the level 1 west carpark were held open contrary to the requirements of Clause C4D6 of the National Construction Code 2022, Volume 1 Building Code of Australia (NCC).
3. The fire door near parking space No. 51 failed to return to the fully closed position, contrary to the requirements of C4D6 of the NCC.
4. The separation of the atrium by bounding walls for the SOU's contained glazed elements that could be held open contrary to the requirements of Clause G3D3 and Clause G3D4 of the NCC. FRNSW is unable to determine the FRL of the glazed elements.
5. The automatic two leaf smoke door on Level 2 does not swing in both directions contrary to the requirements of Specification S12C4 of the NCC.

Egress

6. Multiple exit doors from the carpark areas did not allow occupants to evacuate safely considering the number, mobility and other characteristics of the occupants contrary to the performance requirements of D1P4 of the NCC. The egress doors were not readily openable and required a significant force to open contrary to the requirements of D3D25 and D3D26 of the NCC.
7. The exit sign at the exit near parking space No. 51 was not clearly visible to persons approaching the exit contrary to the requirements of E4D5 of the NCC. FRNSW recommends a directional sign to assist residents in locating this exit in accordance with E4D6 of the NCC.
8. FRNSW recommend additional directional signage towards exits on the residential levels in accordance with Clause E4D6 of the NCC. In multiple areas of these levels, a person seeking to exit is unable to see an exit or direction sign indicating the location of a required exit.
9. Several evacuation diagrams at the premises included an assembly diagram area that was not the same orientation to the rest of the diagram contrary to the requirements of Clause 3.5.4 of AS 3745-2010.
10. The travel distance from the "Sky Deck" kitchen to the nearest exit was approximately 32m, contrary to the requirements of D2D5 of the NCC.
11. The "Sky Deck" balcony area did not contain any exit or directional exit signs contrary to the requirements of Clause E4D5 and Clause E4D6 of the NCC.

Fire Hydrant System

Unclassified

Item 15.8

Enclosure 3

Unclassified

Item 15.8

Enclosure 3

12. The fire hydrant booster and the fire sprinkler booster incorporate a pipe-bodied booster assembly with inlet inserts. FRNSW observed the angle of the valve inlet to be approximately 90° contrary to Clause 3.2(h) AS2419.3-2012. When boosted by a fire brigade pumping appliance this may cause the spring-loaded jumper valve of the boost inlet to have restricted water flow into the system. Council may wish to review Part 5 of [FRNSW safety guideline 'Fire brigade booster connection with inlet insert'](#).
13. The fire hydrant booster assembly was not fitted with an additional valve to isolate the boost inlets from the system contrary to the requirements of Clause 5.6.5 of AS 2419.1-1994. The hydrant schematic identified many hydrant outlets more than 5m above the lowest booster inlet (Up to 13m).
14. The fire hydrant booster and the fire sprinkler booster were not clearly identified with "WORKING PRESSURE" and "SYSTEM TESTED TO" in upper case lettering not less than 25mm contrary to the requirements of with Clause 5.6.7 of AS 2419.1-1994.
15. The fire hydrant booster was not clearly identified with the lettering "HYDRANT BOOSTER" in letters not less than 50mm high contrary to the requirements of Clause 5.6.8 of AS 2419.1-1994.
16. FRNSW are of the opinion the Block Plan at the booster assembly is too small for the details of the large site.

FRNSW recommend the block pan be upgraded to meet the standard of performance of AS 2419.1-2021. The block plan should be a minimum size of A2 and be installed at a height that does not required firefighters to kneel on the ground to read.
17. FRNSW recommend a copy of the Block Plan be installed in the pump room additional to the booster assembly.
18. FRNSW are of the opinion that the fire hydrant booster is connected in-series with the fixed on-site pump. In this regard, warning signage and a 150mm diameter liquid filled pressure gauge which indicates the pressure at the pump discharge pipe/manifold is not installed at the booster enclosure, contrary to the requirements of Clause 5.7 of AS 2419.1-1994.
19. Two automatic pump sets are installed in the pumproom. The automatic pump sets were not identified in-order to differentiate the purpose of each pump set.

FRNSW recommend signage should be installed on the pump control panels stating – SPRINKLER PUMPSET or FIRE HYDRANT PUMPSET.
20. Building materials were stored in the fire exit corridor near parking space No 45 that may impact on firefighters using the hydrant within this area.
21. Multiple attack fire hydrants within fire stairways were not between 750mm and 1200mm above the ground contrary to the requirements of Clause 5.3.2 of AS 2419.1-1994.

Unclassified

Unclassified

22. The fire hydrant on Level 3 within the fire exit near the lift lobby did not have 1000mm clear space in front of the hydrant valve in accordance with Figure 5.1 of AS 2419.1-1994 due to the door swing.

Automatic Fire Suppression System

23. FRNSW recommend that Class 2 buildings should be provided with an automatic fire sprinkler system. FRNSW published a Position Statement – [Fire Sprinklers in Class 2 and 3 Buildings – 30 August 2024](#).

FRNSW has an additional Position Statement – [Fire Sprinkler System in Existing Building or Premises – 12 September 2024](#). In part the statement states,

“When a consent authority (e.g. Council) is assessing the adequacy of an existing automatic fire sprinkler system installed in an occupied building or premises, or lack thereof, FRNSW recommend it be assessed against the current NCC requirements for the given use and occupancy hazard classification.”

24. The room with the sprinkler stop valve did not contain a location plate with the words “SPRINKLER STOP VALVE INSIDE” contrary to the requirements of Clause 8.4 of AS 2118.1-1999.
25. FRNSW is of the opinion that there should be a sign stating “Sprinkler Pump Room” on the door to the pumproom.
26. A stock of replacement sprinklers was kept in a spares box near the sprinkler pump and valves in accordance with Clause 6.7 of AS 2118.1-1999. The spares box lock was unable to be opened at the time of the inspection.

Smoke Detection and Alarm System (SDAS)

27. FRNSW heard a smoke alarm low battery warning when near Unit 319. FRNSW was unable to determine if smoke alarms were being maintained.
28. It could not be determined if the Building Occupant Warning System (BOWS) will sound through all occupied areas. In this regard, FRNSW could not locate any sounders or speakers on the “Sky Deck” balcony area and are of the opinion that building occupant warning may not be achieved through this occupied area, contrary to the requirements of Specification 20 of the NCC.

Fire Hose Reels

29. The fire hose reel / extinguisher cabinet near Unit 515 had a latching device and was not operable by a single-handed operation of the latching mechanism contrary to the requirements of Clause 2.3.2 of AS 1221-1997.

Portable Fire Extinguishers (PFE's)

Unclassified

Item 15.8

Enclosure 3

Unclassified

30. FRNSW observed multiple carbon dioxide fire extinguishers at the premises contrary to the requirements of Clause E1D14 of the NCC which requires minimum 2.5kg sized ABE type fire extinguishers for a Class 2 premises.
31. The travel distance from the entrance doorway of multiple SOU's to the nearest fire extinguisher exceeded 10m, contrary to the requirements of Clause E1D14 of the NCC. FRNSW identified distances up to 21m from an SOU entrance doorway to the nearest extinguisher.

Other Findings

32. FRNSW are of the opinion that the building contains an atrium that connects 3 storeys and is not sprinkler protected throughout the storeys. As such, Part G3 of the NCC should be applied to the atrium.

FRNSW recommends each storey is provided with a sprinkler system (other than a FPAA101D or FPAA101H system) complying with Specification 17 to enable the atrium to not require the Part G3 requirements.

FRNSW believes that there are inadequate provisions for fire safety within the building.

RECOMMENDATIONS

FRNSW recommends that Council:

- a. Inspect and address items 1 to 32 of this report and any other deficiencies identified on 'the premises'.
- b. The hydrant system be upgraded to provide the pressure and flow requirements of an AS 2419.1 hydrant system for an equivalent new building.

Please be advised that Schedule 5, Part 8, Section 17(2) requires any report or recommendation from the Commissioner of FRNSW to be tabled at a Council meeting. This matter is referred to Council as the appropriate regulatory authority. FRNSW awaits the Council's advice regarding its determination under Schedule 5, Part 8, Section 17 (4) of the EP&A Act.

Please do not hesitate to contact Station Officer Kurt Ingle of FRNSW's Fire Safety Compliance Unit at FireSafety@fire.nsw.gov.au or call on (02) 9742 7434 if there are any questions or concerns about the above matters. Please ensure that you refer to file reference FRN25/2300 – BFS25/6099 – 8000044890 regarding any correspondence concerning this matter.

Yours faithfully



Paul Scott
Team Leader
Fire Safety Compliance Unit

Unclassified

Item 15.8

Enclosure 3



Phone enquiries:
(02) 4232 0444

Reference:
25/112503

xx December 2025

Department of Planning, Housing and Infrastructure

Via: NSW Planning Portal

Dear Sir/Madam

Submission on Kiama Depot Rezoning Proposal

Thank you for the opportunity to provide a submission on the Kiama Depot Rezoning Proposal.

Council recognises that the redevelopment of the Kiama Council Depot site (Shoalhaven Street Precinct) presents a unique opportunity to rezone an existing industrial site in proximity to the Kiama Town Centre, and provide additional housing opportunities for our community and local government area. It also appreciates the collaboration that has occurred between your Department and Council so far on this project.

Council also recognises and thanks the NSW Government for their assistance in preparing the associated technical reports and undertake the work required to rezone this site. Without this assistance the Kiama ratepayers would need to pay for this work to realise one of the key objectives of the adopted Kiama Local Housing Strategy.

The site has been identified as a catalyst site for future residential development in the Kiama Housing Strategy. Council encourages the NSW Government to undertake a robust assessment against the Strategy as well as the site constraints and Ministerial Directions prior to the designation of Planning Controls such as Zone, Height and Floor Space Ratio.

While the Housing Strategy non-negotiables apply to greenfield development it is still imperative that the NSW Government ensure that:

- There are appropriate road, pedestrian and public transport networks.
- All required services have been planned for.
- Sydney Water systems have capacity.
- Mix of land use controls to ensure diversity of housing types.
- Opportunities for employment provided.
- Financial liability to Council and the ratepayers is minimised.
- Useable open space provided.
- Heritage identified and preserved as appropriate.
- Social and affordable housing appropriately provided and secured.

All correspondence Chief Executive Officer PO Box 75 Kiama NSW 2533

Contacts P (02) 4232 0444

E council@kiama.nsw.gov.au

W www.kiama.nsw.gov.au

11 Manning Street Kiama NSW 2533

ABN 22 379 679 108

RESPECT • INTEGRITY • INNOVATION • TEAMWORK • EXCELLENCE •



This submission has been prepared by Council Strategic Planning staff and has been endorsed by the Council.

Whilst it is acknowledged that this proposal is a State Led Rezoning and is not required to satisfy the requirements outlined in the LEP making Guideline, Council planners believe that a similar level of supporting information, assessment and justification should be undertaken to give certainty of suitability of the site for the proposed permissible development.

Strategic Merit

The proposal has Strategic Merit as the site has been identified in the recently endorsed Kiama Housing Strategy as a catalyst site that may be a suitable location for future housing. Its proximity to the Town centre and Train Station is attributes that will benefit future residents and provide the opportunity to create liveable, walkable and diverse housing within Kiama.

The materials shared by the Department, as part of the various community pop-ups, caused concerns and confusion within the community. Unfortunately, the community viewed the images shown on the DPHI materials as the final designs for the site rather than indicative drawings prepared to understand potential outcomes.

Despite these concerns, it is noted that there are existing five and six-storey buildings at both Blue Haven Bonaira and Blue Haven Terralong. Council and the community also recently worked on reviewing the height controls for the Kiama Town Centre and six storey buildings are now permissible in key areas of the town centre.

Additionally, the proposed development standards are generally consistent with what is now permissible under the NSW Government's Low- & Mid-Rise Reforms. These reforms apply to residential areas within 800m of the Kiama Town Centre and Train Station. These reforms make six-storey developments permissible on any R3 Medium Density zoned land within 400m of the Town Centre or Train Station and four-storey developments permissible on any R3 zoned land within 800m. Much of the existing R3 zoned lands within Kiama (i.e. Barney, Brown, Bourrool, Farmer, Manning, Mears, Thomson, Terralong, and Shoalhaven Streets) are located within 800m of the Town Centre or Train Station. These reforms now establish the new density controls for Kiama. Acknowledging this, Council's Local Housing Strategy contains an action to review R3 zoned areas within Kiama and Gerringong to consider further appropriate application of these reforms.

Site Specific Merit

When a rezoning is prepared by Council or has been submitted to Council for assessment, particular assessments/reports must be included in the Planning Proposal which identify the potential environmental, social, and economic impacts of the proposal and outline proposed mitigation measures and justification for any inconsistencies. In this way the planning proposal must demonstrate that the proposal is suitable for the site, and the site is (or can be made) suitable for the resultant development. The Assessment Criteria used in these instances ensure that the proposal gives regard and assesses impacts to:

- the natural environment on the site to which the proposal relates and other affected land (including known significant environmental areas, resources or hazards)
- existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates
- services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.

In particular Council believes that the Minister's 9.1 Directions (directions issued by the Minister regarding the content of LEPs, to the extent that the content must achieve or give effect to particular principles, aims, objectives or policies set out in those directions) should be assessed and the proposal proven to be suitably consistent, even if not required to be when the application is a State led rezoning.

The following matters require further investigation prior to the designation of Planning Controls such as Zone, Height and Floor Space Ratio.

Contamination

The Preliminary Site Investigation (PSI) prepared by Mott MacDonald indicates both High-Risk and Moderate Risk of contamination on the site. The PSI contains a review of past studies and the results of a walk over by the consultants. Ministerial direction 4.4 1(C) specifies:

- (1) *A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land to which this direction applies if the inclusion of the land in that zone would permit a change of use of the land, unless:*
 - (c) *if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.*

In order to satisfy itself as to paragraph 1(c), the planning proposal authority may need to include certain provisions in the local environmental plan.

The published Explanation of Intend Effects does not include provisions which would require the land to be remediated before it is used for the proposed residential purposes. To ensure consistency with this Direction the Department are encouraged to consider the inclusion of provisions which require the necessary remediation to occur prior to residential uses commencing on the site. It is noted that any remediation works would significantly improve the environment, discharges into the water body and risks to surrounding residential properties.

Given that the rezoning is proposed over a number of lots the possible potential for individual lots to be developed in isolation and how the contamination can be remediated in those circumstances should also be addressed. Consideration should be given to ensuring these provisions apply wholistically to the whole site.

It is noted that Council's adopted Advocacy Plan includes an action to continue advocating to the NSW Government to contribute to the remediation of this site in a similar fashion to the support provided to Balina Shire Council <https://www.nsw.gov.au/ministerial-releases/land-clean-up-at-ballina-to-support-more-housing>

Flooding

The Flood Impact and Risk Assessment prepared by Mott MacDonald indicates that the site is subject to flooding. Ministerial Direction 4.1 (3) reads:

- (3) *A planning proposal must not contain provisions that apply to the flood planning area which:*
- (a) *permit development in floodway areas,*
 - (b) *permit development that will result in significant flood impacts to other properties,*
 - (c) *permit development for the purposes of residential accommodation in high hazard areas,*
 - (d) *permit a significant increase in the development and/or dwelling density of that land,*
 - (e) *permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,*
 - (f) *permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,*
 - (g) *are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or*
 - (h) *permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.*

The Flood Impact and Risk Assessment prepared by Mott MacDonald indicates that flood behaviour at the site, with consideration of climate change and assessment of the potential maximum duration of isolation up to and including the Probable Maximum Flood (PMF) Level, is limited to:

- Flash flooding is the only flood risk present at the site, whether it be from overland flooding, local creek or riverine flooding, and
- The flooding occurs within less than 6 hours from the commencement of causative rain.

It is acknowledged that the report concludes that in the indicative design scenario, the alignment of the proposed buildings enables the majority of the inundation through the site to be consolidated into a central channel that maintains the established overland flow pathway. The report recommends that additional flow near the southern boundary, where the channel storage is insufficient, should be managed by implementing WSUD measures or implementing a stormwater management plan.

It is recommended that the Department give consideration to including site specific provisions to ensure the recommendations of the Flood Impact and Risk Assessment can be appropriately implemented.

The proposed flood management and mitigation measures are required over multiple lots, it is not known how the flood constraints could be managed over individual lots should a Development Application be lodged for development of the land in accordance with the proposed zone and development controls.

Heritage

The site contains a locally listed heritage item I142 Gasworks (former) and forms part of C2 Smiths Farm Heritage Conservation Area. The proposal currently nominates the removal of these Heritage Items from the Schedule 5 of Kiama LEP 2011. This is contrary to the requirements of Ministerial Direction 3.2 (1) (a) which reads:

(1) A planning proposal must contain provisions that facilitate the conservation of:

- (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area.*

Council's Consultant Heritage Advisor has reviewed the Heritage Review associated with the Explanation of Intended Effects. In summary Council's Heritage Advisor has recommended:

1. That a Heritage Impact Assessment of the entire site to assess the significance of the site as a whole be prepared prior to removing the heritage item from Schedule 5 of the LEP.
2. That a Historical Archaeological Assessment be commissioned.
3. That the existing Heritage Conservation Area be retained.
4. That a site-specific Development Control Plan be prepared which reduces building heights at site boundaries to better integrate future development into the Heritage Conservation Area.
5. A heritage interpretation strategy be prepared.

The preparation of a Heritage Impact Assessment would provide the confirmation of this significance and confirm that all options have been explored regarding the future management and/or removal of the currently listed Heritage Item.

Due to the level of contamination of the site all structures on the site may need to be removed to enable remediation. It is recommended that any future Heritage Impact Assessment include consideration of required remediations works as part of its assessment.

The retention of the site within the Heritage Conservation Area is supported. The preparation of a site specific Development Control Plan, which includes a heritage interpretation strategy, will be prepared following the rezoning of the site, if authorised by the Minister Planning and Public Spaces.

Affordable Housing

The proposed provision of affordable housing in this location is supported. The inclusion of social housing is also supported and should be explored. Currently the Planning proposal does not nominate the legislative mechanism that will ensure the delivery of the nominated affordable housing. This should be nominated to give certainty prior to the Development Assessment of any proposed developments on the site.

Employment opportunities

The Department should give consideration to providing opportunities for local services to be provided on the site. It is noted that some commercial opportunities, such as child care services, are permissible in the R3 Medium Density Residential zone. The provision of local services, such as a local corner store or chemist, would be appropriate for this site.

In summary, whilst the site has been identified as a catalyst site for future residential development in the Kiama Housing Strategy, it is imperative that a robust assessment of all non-negotiables listed in the Strategy as well as the constraints of the site are undertaken prior to the designation of Planning Controls such as Zone, Height and Floor Space Ratio.

Please contact me if you would like to discuss this or require further information.

Yours faithfully

Ed Paterson
Director Strategies and Communities

Item 15.8

Enclosure 3