



- the significant reliance on currently unavailable regulations and rules;
- uncertainty regarding future Local Government Act interactions;
- native title compensation and compliance risks;
- the reduction of community oversight regarding public recreation land;
- additional reporting requirements;
- commercial opportunities and financial sustainability;
- lease terms – needs to be considered on a case by case basis;
- consistent ministerial timeframes;
- the distribution and allocation of Crown Reserve Improvement Program (CRIP) funding;
- guidance regarding the assessment and management of unsolicited proposals involving Crown land
- tenancy management on Crown land and
- expanded Ministerial involvement in local operational matters.

Council requests that these matters be carefully considered as the Bill progresses and that local government's role as a Crown Land Manager continues to be supported through a clear, transparent and practical legislative framework that protects community interests while enabling councils to effectively manage Crown land assets.

Jane Frawley
Chief Executive Officer
Kiama Municipal Council

Item 14.3

Enclosure 1



SECTION 4.15 ASSESSMENT REPORT

Environmental Planning & Assessment Act, 1979

<u>Conflict of interest declaration</u> The assessing officer and peer review officer have considered the potential for a conflict of interest under the Code of Conduct and to the best of our knowledge no pecuniary and/or significant non-pecuniary conflict of interest exists. <i>Note: If you determine that a non-pecuniary conflict of interest is less than significant and does not require further action, you must provide a written explanation of why you consider that the conflict does not require further action in the circumstances. This statement should then be reviewed by the Manager.</i>		
DA Number	10.2026.41.1	
PAN	PAN-620085	
Applicant(s)	Gracia Building Design Pty Ltd	
Property Title	LOT: 1 DP: 1263679	
Property Address	17 Glenbrook Drive KIAMA NSW 2533	
Development Description	Strata title subdivision and new dual occupancy (attached) - Construction of an attached dual occupancy and strata title subdivision.	
Assessing Officer	Nirnay Lakshman	3/06/2026
Peer Review Officer	Drew Shortle	22/06/2026
Affiliations and Pecuniary Interests	Have any affiliations or pecuniary interests been identified by the Applicant in the Portal lodgement form? <i>Note: For Council-related development, or applications lodged by Council staff or Councillors refer to the Development Assessment Policy. Certain management controls and strategies, and management statement may be required.</i>	No
Delegation Level Required	Elected Council	
Report Recommendation	Approval	
Development Type	Local Development <i>Note: Integrated development is set out in section 4.46 of the Environmental Planning and Assessment Act, 1979.</i> <i>Note: Nominated integrated development is set out in Schedule 1 Part 1 Division 2 Section 8A of the Environmental Planning and Assessment Act, 1979.</i> <i>Note: Regionally significant development is set out in Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021.</i> <i>Note: Designated development is set out in Schedule 3 Part 2 of the Environmental Planning and Assessment Regulation 2021 or in other environmental planning instruments.</i>	
Owner's consent provided?	Yes	

Estimated Development Cost (EDC)	\$ 874,500.00 The EDC is between \$100,000 - \$3 million and the development cost has been appropriately estimated by a suitably qualified person. <i>Note: Planning Circular PS24-002 provides the methodology for calculating estimated development cost (EDC) and the definition of a suitably qualified person.</i>							
Variations Proposed	☒ DCP departure ☒ Clause 4.6 exception <table border="1"> <tr> <td>Clause number</td><td>Clause 4.1E (KLEP)</td></tr> <tr> <td>Percentage variation</td><td>11.4% (LEP)</td></tr> <tr> <td>Brief justification for the variation</td><td>Notwithstanding the variation to site area, the application has demonstrated that this site is suitable for construction of a dual occupancy (attached).</td></tr> </table>		Clause number	Clause 4.1E (KLEP)	Percentage variation	11.4% (LEP)	Brief justification for the variation	Notwithstanding the variation to site area, the application has demonstrated that this site is suitable for construction of a dual occupancy (attached).
Clause number	Clause 4.1E (KLEP)							
Percentage variation	11.4% (LEP)							
Brief justification for the variation	Notwithstanding the variation to site area, the application has demonstrated that this site is suitable for construction of a dual occupancy (attached).							
Date Lodged	30/03/2026							
Date of site inspection	26/05/2026							
Date clock stopped	-							
Date clock started	-							
Related Application in NSW Planning Portal?	☒ Concurrence and/or external agency referral (CNR) ☒ HPC Contributions (CON) ☐ Planning Panel (PPSSTH)							
Number of submissions	Zero (0) <i>Note: Where submissions are received Council must give notice of the determination decision to all submitters.</i> <i>Note: Where >12 objections are received the application must be reported to Council for determination.</i>							

Item 15.1

Enclosure 1

1. Detailed Proposal

The proposal includes:

- Construction of a dual occupancy (attached).
- Associated vehicular crossings and driveways to each dwelling
- Associated earthworks and landscaping.
- Associated 2 x Lot Strata Title Subdivision.

The plans and information referred to are as follows:

Plans				
Plan Number	Revision Number	Plan Title	Drawn by	Date of Plan
A001	Revision D	Site Analysis	Gracia Building Design	04.03.26
A002	Revision D	Site Plan	Gracia Building Design	04.03.26
A003	Revision D	Cut & Fill Plan	Gracia Building Design	04.03.26
A004	Revision D	Driveway Gradient	Gracia Building Design	04.03.26
A200	Revision D	Legends, Notes & Key Symbol	Gracia Building Design	04.03.26
A201	Revision D	Proposed Ground Floor Plan	Gracia Building Design	04.03.26
A202	Revision D	Proposed First Floor Plan	Gracia Building Design	04.03.26
A301	Revision D	Ground Roof Plan	Gracia Building Design	04.03.26
A302	Revision D	First Floor Roof Plan	Gracia Building Design	04.03.26
A401	Revision D	East & West Elevation	Gracia Building Design	04.03.26
A402	Revision D	North & South Elevation	Gracia Building Design	04.03.26
A403	Revision D	Internal Elevation	Gracia Building Design	04.03.26
A501	Revision D	Sections	Gracia Building Design	04.03.26
A502	Revision D	Sections	Gracia Building Design	04.03.26

A601	Revision D	Winter Shadow Diagrams	Gracia Building Design	04.03.26
A602	Revision D	Winter Shadow Diagrams	Gracia Building Design	04.03.26
A603	Revision D	Winter Shadow Diagrams	Gracia Building Design	04.03.26
A701	Revision D	Site Management & Sediment Fence Plan	Gracia Building Design	04.03.26
A702	Revision D	Garbage Bin Collection Location & Letterbox Detail	Gracia Building Design	04.03.26
A703	Revision D	BASIX Commitments Summary	Gracia Building Design	04.03.26
A704	Revision D	BASIX Commitments	Gracia Building Design	04.03.26
A705	Revision D	NatHERs (Summary)	Gracia Building Design	04.03.26
A706	Revision D	NatHERs (Dwelling 1)	Gracia Building Design	04.03.26
A707	Revision D	NatHERs (Dwelling 2)	Gracia Building Design	04.03.26
A708	Revision D	Floor Space Ration (FSR)	Gracia Building Design	04.03.26
A709	Revision D	Landscape / Bldg Ft. Print. Subdivision Compliance	Gracia Building Design	04.03.26
A710	Revision D	Gross Building Area	Gracia Building Design	04.03.26
A711	Revision D	Adaptable Dwelling	Gracia Building Design	04.03.26
A801	Revision D	Perspective & Material Schedule	Gracia Building Design	04.03.26
A802	Revision D	Window & Door Schedule	Gracia Building Design	04.03.26

Item 15.1

Enclosure 1

A901	Revision D	Notification Plan (Site)	Gracia Building Design	04.03.26
A902	Revision D	Notification Plan (Elevations)	Gracia Building Design	04.03.26
A903	Revision D	Notification Plan (Winter Shadow)	Gracia Building Design	04.03.26

Documents			
Document title	Version number	Prepared by	Date of document
Owners Consent	Nil	Gracia Building Design	07/03/2026
Landscape Plan	Revision B	Artscience Landscapes	04/03/2026
Waste Management Plan	Job No 25037	Gracia Building Design	16/02/2026
Survey Plan	Drawing No: D225814	Consulting Land Pty Ltd	02/12/2025
Statement Of Environmental Effects	Ref: UP2606	Urban Pathways Consulting	05/03/2026
Preliminary Engineering Drawings	Issue B	ATB Consulting Engineers Civil & Structural	03/03/2026
Cost Estimate Report	Nil	Gracia Building Design	Nil
Clause 4.6 Variation Request	Ref: UP2606	Urban Pathways Consulting	05/03/2026
BASIX Certificate	Certificate number: 1834318M	PAUL&DAVID CONSULTING PTY LTD.	Monday, 23 February 2026
NatHERS Certificate	Certificate No. 6WU1PR3CF7	PAUL & DAVID	23 Feb 2026
Dwelling 2 NatHERS Certificate	Certificate No. Z2I4OFGSDM	PAUL & DAVID	23 Feb 2026
Dwelling 1 NatHERs Certificate	Certificate No. 8OQT3UGWF2	PAUL & DAVID	23 Feb 2026
Soil & Sediment Control Plans	Issue B	ATB Consulting Engineers Civil & Structural	03/03/2026
Plan of Proposed Strata Subdivision	Surveyor's Ref : D225814	Matthew Smith	09/06/2026

Item 15.1

Enclosure 1

2. Subject Site and Surrounds

Site Description



Figure 1: Aerial imagery of subject site

The subject site has a frontage to Glenbrook Drive. The site is currently vacant.

The surrounding area is residential in character and the site is adjoined by low density residential development to the south and west. There are four vacant lots to the north and Spring Creek is located to the east.

Item 15.1

Enclosure 1

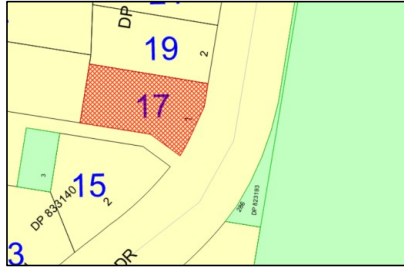
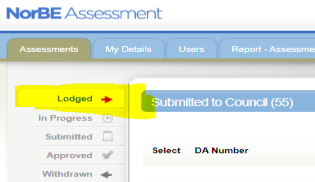
Summary of Site and Constraints

	Mapping Overlay	Commentary
Site Characteristics	Lot Area	532.2m ²
	Zone	R2 Low Density Residential
	Does the land have a dwelling entitlement? <i>Note: for rural land refer to clause 4.2A of Kiama LEP 2011.</i>	Yes
	Does the property adjoin Council, Crown, National Parks, or other public reserve? <i>Note: Consideration should be given to if the development requires or implies access from the adjoining land.</i> <i>Note: Consideration should be given to the potential environmental impact and the site's proximity to NPWS land (see Developments adjacent to National Parks and Wildlife Services lands guidelines) and other natural areas that may contain threatened species, vulnerable or endangered ecological communities or other vulnerable habitats.</i>	No
	Has appropriate survey information been provided?	Yes
	Fall direction of land	Fall of land toward street
	Coincidental practical and legal vehicular access?	Yes
Infrastructure	Works within proximity to electricity infrastructure?	Yes - Referral to Endeavour Energy required.
	Is the development adjacent to a classified road ?	No
	Is the development adjacent to a rail corridor?	No
	Site within proximity to the high pressure pipelines? Mapping layer: Misc Boundary > APGA Australian Pipeline Database <i>Note: The High Pressure Pipeline (License No 26 - Jemena) traverses through the Kiama LGA.</i> <i>Note: Proximity to a gas high pressure pipeline is defined in SEPP (Transport and Infrastructure) 2021 as:</i> • Within the licence area of a pipeline for gas, or for petroleum or other liquid fuels, licensed under the Pipelines Act 1967, or • within 20m of the centreline (measured radially) of a relevant pipeline, or • within 20m of land the subject of an easement for a relevant pipeline.	No
	Access to reticulated sewer?	Yes
	Access to reticulated water?	Yes

Item 15.1

Enclosure 1

	Does the proposal require a s73 Compliance Certificate from Sydney Water? <i>Note: Attachment 2 in the Sydney Water guidelines identifies types of development that do not require a s73 Certificate.</i>	Yes - Referral to Sydney Water required.
	Access to electricity supply network?	Yes
	Is the development located suitably away from any effluent management areas (EMA) or effluent disposal areas (EDA)?	Yes - Buildings and structures are located outside of OSSM areas.
Constraints	Flood	No
	Filled land	No
	Slip land	No
	Sydney Water Capacity Restrictions	No
	Interim Heritage Order	No
	Road Widening	No
	Bush Fire Prone Land Map	No
	Potentially Contaminated Land	No <i>Note: The adjoining public road "Glenbrook Drive" is mapped as PCL.</i>
	Biodiversity and Conservation Agreements or Vegetation Management Plans	No
	Strategic Agricultural Land	No
	Aboriginal Cultural Heritage <i>Note: An AHIMS basic search can be used to identify recorded aboriginal sites in the nearby area. Do not use the AHIMS extensive search function unless you have discussed this with your supervisor as this incurs a fee.</i>	No - There are no aboriginal sites recorded in the area.
	Development on waterfront land (i.e. within 40m of a watercourse) <i>Note: A Controlled Activity Approval (CAA) may be required for works within 40m of a watercourse. The Waterfront land e-tool can be used to determine if a CAA is required.</i>	No
Planning Layers	Lot Size Area	G - 450m ²
	Floor Space Ratio	C - 0.45:1
	Height of Buildings	I - 8.5m
	Foreshore Building Line (FSBL)	N/A
	Heritage	No

BV Map	Active Street Frontages	No
	Terrestrial Biodiversity	No
	Riparian Land and Watercourses <i>Note: Clause 6.5 applies to land identified as Category 1, 2 and 3 watercourses and</i> 40m from the top of the bank of a Category 1 watercourse 20m from the top of the bank of a Category 2 watercourse 10m from the top of the bank of a Category 3 watercourse <i>Note: The IFM constraints mapping layer overlays 45m, 25m and 15m buffers to Category 1, 2 and 3 watercourses respectively.</i>	No
	Acid Sulfate Soils 	Class 5
	Development in Local Centers – Area C	No
	SEPP (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments - Sydney Drinking Water Catchment Area (e.g. NorBE) <i>Note: NorBE Assessments submitted to Council can be viewed from the "Lodged" tab in the NorBE online assessment tool shown below.</i> 	No
	SEPP (Resilience and Hazards) 2021 – Chapter 2 Coastal Management	Yes • 100m of Coastal Wetland • Coastal Environment area • Coastal use area
	Biodiversity Values Map	No

Item 15.1

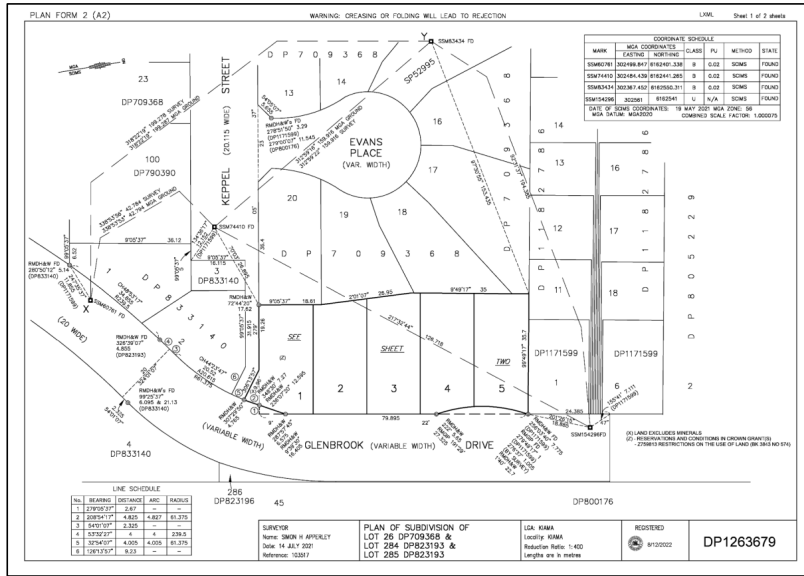
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Site Inspection Observations

Refer to site inspection report.

Deposited Plan and Restrictions on Title

There are no identified restrictions on the use of the land that would limit or prohibit the proposed development.



3. Background

Pre-Lodgement Information

N/A

Site History and Previous Approvals

Formatted Account	Document Type	External Reference	Precis	Received Dat	Cou	Cour	Determinatio	Determination	Con	Consent	Con
010.2026.00000041.001	Development Application	PAN-620085	Strata title subdivision and new dual occupancy (attached)	30/03/2026							
010.2017.00000264.002	Development Application		modified - five (5) lot torrens title subdivision	06/05/2020		18/09/2020	Approved		Approved		
010.2017.00000264.001	Development Application		five (5) lot torrens title subdivision	07/09/2017		21/11/2017	Approved by Council		Approved by Council		

Is the proposed development compatible with any relevant previous approvals?	Yes
Are there any orders applying to the property?	No
Does the proposal appear to include/relate to any unauthorised building work? <i>Note: A DA can only approve prospective works and uses. Any unauthorised or retrospective works must be dealt with under a separate Building Information Certificate process.</i>	No

4. Consultation and Referrals

Internal Referrals	
Referral	Comments
Contribution Planner	No objection subject to recommended conditions.
GIS	No objection subject to recommended conditions.

External Referrals	
Referral	Comments
Endeavour Energy (EE)	No objection subject to recommended conditions.
Sydney Water	No objection subject to recommended conditions.

5. Other Approvals

Nil.

6. 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?	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?	Yes Grassland bushfire hazards and other low threat wetland areas are located within 100m of the site. The wetland areas are considered to be low threat vegetation under A1.10 of PBP 2019 and grassland areas are located >50m from the development site and in accordance with 7.9 of PBP 2019, as per the grassland deeming provisions, no further BPMs are required.

Item 15.1

Enclosure 1

	
Is the development subject to a performance-based solution or a BAL-FZ? <i>Note: As per Appendix 2 of PBP 2019, performance-based solutions should be undertaken and fully justified by a qualified consultant BPAD practitioner.</i> <i>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.</i>	No
Does the application involve subdivision of bush fire prone land for a residential or rural residential purpose?	No <i>Note: Clause 46 of the Rural Fires Regulation 2022 excludes strata subdivision of a building from obtaining a BFSA, but only if the development consent for the erection of the building was granted in accordance with s4.14 of the EP&A Act 1979 (i.e. where a strata subdivision application has been received separate from the building application it may not require a BFSA)</i>
Does the application involve development of bush fire prone land for a special fire protection purpose as identified in s100B of the Rural Fires Act 1997?	No

Section 4.15 Evaluation

Section 4.15 is considered under Section 7 of this Report.

Division 4.6 Crown Development

<i>Is the proposal a Crown development application?</i> <i>Note: A Crown development application means a development application made by or on behalf of the Crown and includes public authorities prescribed by the EP&A Regulations 2021 e.g. NSW Land & Housing Corporation, Landcom etc.</i> <i>Note: Planning Circular PS25-002 provides guidance on Crown development applications.</i>	No
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Division 7.1 Development Contributions

State Contributions	
Does the proposed development trigger the Housing and Productivity Contribution (HPC)? <i>Note: If the development triggers an HPC, then a corresponding Contribution (CON) case is created as a related case in the Portal.</i>	Yes - Referral to Contributions Planner required.
Local Contributions	
Does the proposed development levy s7.12 contributions? <i>Note: the Kiama Municipal Council Section 7.12 Contributions Plan applies to land within the Kiama Local Government Area.</i>	Yes - The estimated development cost (EDC) is more than \$100,000. Referral to Contributions Planner is required.

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? 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 (Plan)), 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	No
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 Biodiversity Conservation Act 2016 (i.e. 'test of significance')?	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										

Coastal Management Act 2016

Does the proposal include coastal protection works?	No
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Note: Where a DA includes coastal protection works the consent authority must consider Part 5 Section 27 of the Coastal Management Act 2016.	
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Fisheries Management Act 1994

Is the proposed development likely to significantly affect threatened species under Part 7A of the Fisheries Management Act 1994? Note: Spatial data of some fisheries data is available on the Fisheries Spatial Data Portal .	No - The proposed development is satisfactory with regard to the considerations set out in Part 7A of the Fisheries Management Act 1994.
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Local Government Act 1993

Do the proposed works require approval under Section 68 of the Local Government Act 1993?	No
☐ Operation of a system of sewage management (i.e. 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 (i.e. a fireplace)?	

Sydney Water Act 1994

Does the proposed development increase demand on Sydney Water Corporation's water and sewer services, or interfere with or affect the Corporation's works or operations? Note: A section 73 Compliance Certificate is required to be obtained where a development will increase demand on or potentially affect water and sewer services. The Sydney Water guidelines identify types of development that do not require a s73 Compliance Certificate. Note: As per Sydney Water guidance , a section 73 Compliance Certificate is not required for secondary dwellings $\leq 60m^2$.	Yes - Referral to Sydney Water required.
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7. Section 4.15 Evaluation

The following provides an assessment of the submitted application against the matters for consideration under [Section 4.15](#) of the *Environmental Planning and Assessment Act, 1979*.

Any planning instrument, draft instrument, DCP and regulations that apply to the land

Environmental planning instrument

The following environmental planning instruments and controls apply to the proposed development.

Environmental Planning Instrument	Relevant?
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 (Planning Systems) 2021	☐
State Environmental Planning Policy (Precincts—Central River City) 2021	☐
State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021	☐
State Environmental Planning Policy (Precincts—Regional) 2021	☐
State Environmental Planning Policy (Precincts—Western Parkland City) 2021	☐
State Environmental Planning Policy (Primary Production) 2021	☐
State Environmental Planning Policy (Resilience and Hazards) 2021	☒
State Environmental Planning Policy (Sustainable Buildings) 2022	☒
State Environmental Planning Policy (Transport and Infrastructure) 2021	☐
Kiama Local Environmental Plan 1996	☐
Kiama Local Environmental Plan 2011	☒

Item 15.1

Enclosure 1

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal management

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

Does the proposal involve the carrying out of work or any development on land mapped as coastal wetland or littoral rainforest?	No
Is the proposal considered suitable with regard to the considerations set out in the SEPP?	Yes - The proposed development will not unduly impact upon the coastal environment. The proposal is considered acceptable with regard to the considerations set out in the SEPP.

Chapter 4 Remediation of land

As part of Councils assessment under the SEPP Resilience and Hazards 2021, Council investigated the potentially contaminated land notation for Road Segment ID: '17674' – Glenbrook Drive.

Councils environmental health officers evaluated that Council can be reasonably satisfied that potential contamination within the adjacent land that is the road reserve is unlikely to be a concern for development of the above lots; any more than what is reasonable to consider for development of a

similar nature in accordance with our DCP. Further records indicated that contamination reports were provided for development at adjoining sites as well;

- 'Preliminary Site Investigation – Dido / Spring Creek Development, Glenbrook Drive' (Senversa 2018).
- 'Targeted Site Investigation – Spring Creek Development, Glenbrook Drive' (EI Australia, 2022).
- 'Geotechnical Investigation Proposed Townhouse Development Lot 1 DP 805229 Jamaica Street Kiama' (Douglas Partners 2004).

The potential contaminating activity flagged on Councils internal mapping system provides the notation is associated with 'Quarry' and a review of Council's Contaminated Land Inventory has not identified information relating to the subject notation for Glenbrook Drive. Additionally, historical records show Earthworks and construction of 90 metre extension to Glenbrook Drive (Jamaica Street) completed with final occupation certificate was issued under 10.2004.84

Question	Yes		No	
1. Does the proposal result in a new land use being a residential, educational, recreational, hospital, childcare or other use that may result in exposure to contaminated land?	☒	Proceed to Question 2	☐	Assessment under Chapter 4 is not required.
2. Are there any previous investigations about contamination on the land?	☐	Preliminary site investigation (PSI) required.	☒	Proceed to Question 3
3. Was the site previously used or is the site currently used for an activity listed in Table 1 of the Managing Land Contamination Planning Guidelines?	☐	Preliminary site investigation (PSI) required.	☒	Proceed to Question 4
4. Are there any land use restrictions on the land relating to possible contamination (e.g. notices issued by EPA or other regulatory authority)?	☐	Preliminary site investigation (PSI) required.	☒	Proceed to Question 5
5. Did the site inspection suggest that the site may have been associated with any activities listed in Table 1 of the Managing Land Contamination Planning Guidelines or were any potential sources of contamination observed on site?	☐	Preliminary site investigation (PSI) required.	☒	Proceed to Question 6
6. Are there any identified sources of contamination on land immediately adjoining the subject site which could affect the subject land?	☐	Preliminary site investigation (PSI) required.	☒	Proceed to Question 7
7. Does Council have sufficient information to be satisfied that the proposed land use will not expose contaminants that might be present in soil or groundwater?	☒	Proposal is satisfactory with regard to the Chapter 4 requirements.	☐	Preliminary site investigation (PSI) required.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 2 Standards for residential development — BASIX

Has the application been supported by an appropriate BASIX Certificate? <i>Note: Residential development BASIX Certificates are required for:</i> • Erection (but not the relocation of) of all new residential dwellings. • Development that involves the change of use by which a building becomes a dwelling. • Alterations and additions to dwellings that cost \$50,000 or more. • Swimming pools and spas with a combined capacity of 40,000 litres or more.	Yes An appropriate BASIX has been supplied with the application. This has been classified as a 'multi-dwelling' being Certificate number: 1834318M issued on Monday, 23 February 2026.
Is the BASIX Certificate valid and has the DA been submitted within 3 months of date of issue of the BASIX Certificate?	Yes
Have BASIX commitments identified to be shown in the DA been shown on the DA plans?	Yes

Kiama Local Environmental Plan 2011

Land Zoning

The land is zoned R2 Low Density Residential under the *Kiama Local Environmental Plan 2011*.

Characterisation and Permissibility

The proposal is best characterised as Construction of a Dual Occupancy (attached) under *Kiama Local Environmental Plan 2011* and Proposed Strata subdivision of the dual occupancy (attached) under the *Environmental Planning and Assessment Act 1979* as part of the proposal and is permitted within the zone with the consent of Council.

Zone objectives

Objective	Comment
• To provide for the housing needs of the community within a low density residential environment.	The proposal is consistent with the objectives of the zone.
• 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.	

Applicable Clauses

Commentary	Compliance
Part 2 Permitted or prohibited development	
2.6 - Subdivision—consent requirements Subdivision is permitted but only with development consent.	Noted
Part 4 Principal development standards	
4.1E - Minimum site areas for dual occupancies and multi dwelling housing in Zone R2 The subject site is zoned R2 Low Density Residential, and the proposed development is for a dual occupancy. The subject site has site area of 532.2m² and is not located within Jamberoo. Proposed Lot 1a (Dwelling 2, proposed address number 17a) will have a lot size of 296.37m². Proposed Lot 2b (Dwelling 1, proposed address number 17b) will have a lot size of 235.91m² The proposed total parent lot size is 532.2m² This means that the proposal results in 68.8m² under the allowable threshold of 600m² (parent lot size). This means that there is a non-compliance to the standard of 11.4%. The applicant has sought a clause 4.6 variation to this standard.	Does not comply The application seeks to vary the clause 4.1E development standard for minimum site areas for dual occupancies and multi dwelling housing on land that is zoned R2 Low Density Residential pursuant to clause 4.6 of the Kiama LEP 2011. The proposal represents a 11.4% variation to the clause 4.1E development standard. - Refer to Appendix C for detailed consideration.
4.3 - Height of buildings The maximum building height set by the Height of Buildings Map is I - 8.5m The proposed development has a peak height of 7.6m and does not exceed the building height limit.	Complies
4.4 - Floor space ratio The Floor space ratio (FSR) set by the Floor Space Ratio Map is C - 0.45:1. The proposed development has a FSR of 0.44:1 and does not exceed the applicable FSR. <i>Note: Clause 4.5 of Kiama LEP 2011 sets out how to calculate FSR and site area.</i>	Complies
4.6 - Exceptions to development standards The proposed development seeks a variation to clause 4.1E(4)(a) of Kiama LEP 2011.	The applicant has proposed a Clause 4.6 variation

Item 15.1

Enclosure 1

The application has been supported by a written variation statement. The clause 4.6 variation is discussed in further detail in Appendix C.		request to clause 4.1E(4)(a). Detailed consideration of the clause 4.6 variation is included in Appendix C.				
Part 6 Additional local provision						
6.1 - Acid sulfate soils The subject land is mapped as Class 5 acid sulfate soils. <table><tr><th>Class</th><th>Commentary</th></tr><tr><td>Class 5</td><td>The proposal does not involve work within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.</td></tr></table> The proposed works are not likely to lower the watertable and the works are suitable with regard to clause 6.1(6).		Class	Commentary	Class 5	The proposal does not involve work within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.	Complies
Class	Commentary					
Class 5	The proposal does not involve work within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5m AHD and by which the water table is likely to be lowered below 1m AHD on adjacent Class 1, 2, 3 or 4 land.					
6.2 - Earthworks Consideration has been given to the matters outlined in clause 6.2 and it is considered that the proposed earthworks are suitable and can be managed appropriately.		Complies				
6.12 - Essential services All relevant services are available to the site. There is suitable vehicle access to the site.		Complies				

Draft Environmental Planning Instrument

The proposal is not inconsistent with any draft environmental planning instruments (EPIs).

Note: Draft plans and policies and planning proposals are exhibited on the [NSW Government webpage](#).

Any Development Control Plan

Kiama Development Control Plan 2020

The following DCP chapters apply to the proposed development.

DCP Chapters	Relevant?
Chapter 1: Introduction and Administration	☒
Chapter 2: Site Considerations	☒
Chapter 3: Common Requirements	☒

Chapter 4: Heritage and Cultural Conservation	☒
Chapter 5: Subdivision, Consolidation and Boundary Adjustment	☒
Chapter 6: Residential Accommodation	☒
Chapter 7: Commercial Premises	☐
Chapter 8: Rural Uses	☐
Chapter 9: Industrial Uses	☐
Chapter 10: Visitor Accommodation and Tourism	☐
Chapter 11: Early Education and Care Facilities	☐
Chapter 12: Location Specific Controls	☐
Chapter 13: Agritourism	☐

Chapter 1: Introduction and Administration

This assessment has considered the aims of the DCP, as well as principles of Ecologically Sustainable Development (ESD) and urban design, and the impact from potential and projected climate change is noted.

Chapter 2: Site Considerations

Topic 2.1 – Site Analysis	
Has the application been supported by a suitable site / site analysis plan?	Yes
Topic 2.2 – Biodiversity	
Does the development avoid significant adverse environmental impacts to riparian land and protect riparian corridors?	Yes
Are dwellings and associated areas (e.g. APZs, vehicular access) sited to minimise environmental impact and minimise clearing of native vegetation?	Yes
Does the application involve the clearing of significant native vegetation? <i>Note: Vegetation removal (including vegetation removal required to construct buildings, access, and other infrastructure and also to establish APZs) must be clearly shown on the Site Plan.</i>	No
Is the submitted ecological assessment report / flora and fauna assessment report appropriate?	N/A
Has the application been supported by a landscape plan?	Yes – refer to Drawing A709.
Topic 2.3 – Natural Resources	
Is the subject site within the Sydney Drinking Water Catchment area?	No
Topic 2.4 – Tree Preservation and Vegetation Management	

Item 15.1

Enclosure 1

Have any trees proposed to be removed been clearly shown on the site plan (where required)?	N/A
Does the development encroach into the Tree Preservation Zone (TPZ) or Structural Root Zone (SRZ) of any trees to be retained, including trees on adjoining properties and within the road reserve? <i>Note: TPZ and SRZ encroachments can be calculated using the AS4970-2009 calculator. Note: Where there are major encroachments into the TPZ or the SRZ an arborist report (prepared by a level 5 consulting arborist) demonstrating that the development will ensure that the tree remains viable should be required.</i>	No
Topic 2.5 – Risk Minimisation and Management	
Does the proposal suitably respond to site constraints including potential contamination, flood planning, bush fire, acid sulfate soils and land instability?	Yes

Chapter 3: Common Requirements

Topic 3.1 – Waste Minimisation and Management	
Has the application been supported by an appropriately prepared Waste Minimisation and Management Plan (WMMP)?	Yes
Where demolition is proposed, has the application been supported by a Hazardous Materials Assessment Report?	N/A
Does the proposal provide suitable bin storage areas? <i>Note: External bin storage areas must have sufficient space for 3 waste collection bins for each dwelling and should be screened from the public domain.</i>	Yes
Does the proposal provide suitable bin collection arrangements? <i>Note: Where roadside bin collection is proposed, the site must have adequate road frontage to allow for efficient bin collection and provide adequate path of travel from bin storage areas to the roadside collection point.</i>	Yes - Roadside bin collection using Council's waste collection service.
For mixed use development, has appropriate separation been provided between commercial and residential uses?	N/A
Topic 3.2 – Amenity	
<u>Solar Access</u>	
Does the proposed development maintain appropriate solar access to adjoining properties? <i>Note: Where possible at least 3 hours of direct sunlight between 9am and 3pm on June 22nd should be maintained to at least 50% of living room windows and principal private open space areas. Note: Solar panels may operate on string inverters where the series of solar panels match energy output to the lowest performing solar panel. With this system, if part of any solar panel is overshadowed consistently throughout the day it reduces the overall performance of all solar panels in the array.</i>	Yes
Does the proposal incorporate appropriate solar efficiencies?	Yes

<u>Privacy</u>	
Does the proposed development maintain adequate visual and acoustic privacy to adjoining properties?	Yes
<u>Views and Visual Impacts</u>	
Is the proposed development suitable with regard to view sharing principles?	Yes
<u>Landscaping</u>	
Is existing/proposed landscaping suitable?	Yes
<u>Universal Design</u>	
Does the proposed development consider universal design principles?	Yes
Topic 3.3 – Earthworks and Retaining Walls	
Are earthworks limited to 0.9m of cut or fill?	No – Cut and fill is limited to the extent of the building footprint and retaining walls. There will be a maximum cut of 1.230mm and a maximum fill of 538mm. A DCP variation is required for the extent of this non-compliance and is discussed further in Appendix B
Do proposed buildings appropriately respond to site topography? <i>Note: Terracing on site may be permissible if earthworks are retained by engineer designed walls and stepped at minimum of 1 metre horizontal intervals.</i>	Yes – cut/fill has been appropriately thought through regarding the site.
Is the development situated on land with a gradient >20%?	No
Are all proposed batters provided at a gradient of not more than 1:4 (25%) and to be revegetated appropriately?	Yes
Where retaining walls are located on the boundary does the application propose boundary fencing on top of the retaining wall?	No
Are impacts to neighbouring properties from retaining walls and boundary fencing appropriate? <i>Note: Where boundary fencing is proposed on top of a retaining wall on the boundary, there may be additional overshadowing and amenity impacts on the low side neighbour.</i> <i>Note: Where fill and retaining walls are proposed abutting boundary fencing (i.e. boundary fencing is not on top of boundary retaining walls) the effective height of boundary fencing is reduced and may result in privacy and overlooking impacts on the low side neighbour.</i>	Yes
Are retaining walls of an appropriate height and scale?	Yes – The tallest retaining wall is 1.2m in height and is considered appropriate

Item 15.1

Enclosure 1

<i>Note: The visual impact of retaining walls should also consider any fencing (e.g. boundary fencing, pool fencing) or other structures on top of the retaining walls.</i>		given the slight-slope falling towards the street in respect to the topography of the site.
Topic 3.4 – Utilities and Infrastructure		
<u>Utilities</u>		
Are electricity works designed and located to minimise impacts on the natural environment and adjoining residences?	Yes	
<u>On Site Sewage Management (OSSM)</u>		
<i>Note: where a proposal relies on OSSM, the application must be supported by a suitable Water Cycle Management Study / OSSM assessment.</i>		
Does the proposed/existing OSSM system have sufficient capacity to cater for the proposed development?	N/A	
Is the proposed OSSM system and associated effluent management areas appropriately located?	N/A	
Topic 3.5 – Water Management (Quality and Quantity)		
<u>Controls for Domestic Water Supply</u>		
Does the proposal provide suitable potable water to the development? <i>Note: Rural dwellings must each have domestic water storage facilities capable of storing at least 100,000 litres of potable water for a principal dwelling and 40,000 litres for a secondary dwelling or ancillary development used for tourist accommodation purposes.</i>	N/A - The site is connected to the reticulated water supply.	
Are water storage tanks appropriately designed and located?	No	
<u>Controls for Water Supply for Rural Fire Service</u>		
Does the proposal provide suitable static water supply for firefighting in accordance with Planning for Bushfire Protection 2019?	N/A - The site is within suitable proximity to a water hydrant. A static water supply for firefighting purposes is not required.	
Topic 3.6 – Transport Access and Parking		
Number of on-site car parking spaces required under Topic 3.6 of Kiama DCP 2020	Number of car parking spaces provided	
Two (2) car parking spaces per dual occupancy	Two (2) car parking spaces per dual occupancy	
Are parking spaces and garage dimensions sufficient? <i>Note: AS2890.1 requires 3m x 5.4m for a domestic single garage and 5.4m x 5.4m for a double garage.</i> <i>Note: Where tandem / stacked parking is proposed, a front setback of 6m must be provided to accommodate the vehicle wholly within the site.</i>	Yes	

Is vehicle maneuvering for the site adequate?	Yes
Is a new driveway crossover proposed/required? <i>Note: Any works within the road reserve requires a s138 approval under the Roads Act 1993.</i>	Yes - s138 approval required. Conditions of consent to be imposed accordingly.
Are proposed driveways appropriately located to avoid conflicts with street infrastructure? <i>Note: Driveways should access the street without conflict to street infrastructure (e.g. speed bumps, chicanes, pedestrian islands/crossings, electricity infrastructure, drainage pits).</i> <i>Note: In accordance with Endeavour Energy's Standard Conditions for Development Applications and Planning Proposals, driveways should be setback at least:</i> • 0.5m to low voltage electricity pillars • 1m to above ground power poles • 1.5m to streetlight columns <i>Note: Where a driveway intersects a footpath, ensure appropriate driveway gradients can be achieved without impacting on the footpath gradient and crossfall.</i>	Yes
Is the width and slope of any driveway access suitable? <i>Note: AS2890.1 requires a minimum width of a domestic driveway of 3m.</i> <i>Note: AS2890.1 identifies generally a maximum gradient of 25% for domestic driveways with appropriate transitions not exceeding 12.5%, to prevent bottoming out.</i>	Yes
Topic 3.7 – Character and Design	
<u>Character</u>	
Does the proposed development compatible with the existing and desired future character of the area?	Yes
<u>Crime Prevention Through Environmental Design (CPTED)</u>	
Is the proposal consistent with CPTED principles?	Yes

Chapter 4: Heritage and Cultural Conservation

Topic 4.2 – Aboriginal Cultural Heritage Management	
Is the site suitable with regard to aboriginal cultural heritage? <i>Note: The Aboriginal Cultural Heritage Management Development Assessment Toolkit sets out a development assessment pathway in relation to Aboriginal cultural heritage values. The Toolkit provides additional advice and context to the below checklist.</i> <i>Note: The Office of Environment & Heritage (OEH) Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW and the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales provide a framework for considering Aboriginal cultural heritage impacts.</i> <i>Note: Where a Due Diligence report concludes further investigation is required an Aboriginal Cultural Heritage Assessment Report (ACHAR) should be prepared.</i>	Yes

Question	Yes	No
1. Is the site a declared Aboriginal Place or known cultural place/landscape? <i>Note: Aboriginal place of heritage significance is defined in the Dictionary of Kiama LEP 2011</i>	☐	☒ Proceed to Question 2
2. Does the site contain, or is within the curtilage of an AHIMS listed site, or a site recorded from other local archaeological studies? <i>Note: curtilage of 50m around isolated finds and 100m around all other listed/recorded sites. This includes both destroyed and extant sites</i>	☐	☒ Proceed to Question 3
3. Can the proponent demonstrate substantial prior disturbance of the development site/footprint with no likelihood of remnant heritage materials?	☐	☒ Proceed to Question 4
4. Is the proposal exempt or complying development?	☐	☒ Proceed to Question 5
5. Is the site within an environmentally sensitive area that otherwise require an SEE or REF?	☐	☒ Proceed to Question 6
6. Is the site classed as a totally or grossly disturbed landscape? <i>Note: This excludes areas which have only been subject to filling over natural land surfaces.</i>	☐	☒ Proceed to Question 7
7. Does the site contain mature trees that may be over 150 years old and so have the potential for aboriginal scarring?	☐	☒ Proceed to Question 8
8. Does the proposal (in its entirety) constitute prescribed low impact acts as defined in the s58 of the National Parks and Wildlife Regulation 2019?	☐	☒ Proceed to Question 9

Item 15.1

Enclosure 1

9. Does the proposal involve ground disturbance or excavation?	☒	Proceed to Question 11	☐	Proceed to Question 10
10. Does the site contain micro-features with the potential for extant aboriginal sites/features?	☐	Due Diligence Report required.	☐	Satisfactory - Conditions of consent for unexpected finds to be imposed.
11. Is the site within a "sensitive setting" of medium to high archeological potential?	☐	Due Diligence Report required.	☒	Satisfactory - Conditions of consent for unexpected finds to be imposed.
Topic 4.3 – European Cultural Heritage Management				
Does the proposed development impact on a listed heritage item or draft heritage item?			N/A	
Does the site contain any dry stone walls as listed in Schedule 5 of the Kiama LEP 2011?			No	
Topic 4.4 – Heritage Conservation Areas (HCAs)				
Is the site within a heritage conservation area (HCA)?			No	

Chapter 5: Subdivision, Consolidation and Boundary Adjustment

The application includes a two (2) lot strata title subdivision of the proposed dual occupancy. The subdivision aligns with the layout of the development and is considered acceptable. See appendix A.

Chapter 6: Residential Accommodation

See Appendix A.

Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

There are no planning agreements applying to this application.

Environmental Planning and Assessment Regulation 2021

Clause 62	Does the application result in a change of use of an existing building but does not propose any building works?	No
Clause 64 Partial Upgrade	Does the application involve alterations or additions to an existing building?	No
Clause 64 Total Upgrade	Does the application involve building works and result in conversion of a building or part of a building from non-habitable to a habitable use?	No

The proposal ensures compliance with the applicable requirements within the Regulations subject to recommended conditions of consent.

The significant likely impacts of that development, including environmental impacts on the natural and built environments, and social and economic impacts in the locality

Head of Consideration	Comment
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.

Suitability of the site for the development

The site is suitable for the proposed development.

- The development is permissible with Council consent within the zone.
- The proposal supports the local zoning objectives.
- The proposal is consistent with the objectives and requirements of the *Kiama Local Environmental Plan 2011*.
- The proposal is consistent with the objectives and requirements of the *Kiama Development Control Plan 2020*.
- The intended use is compatible with surrounding/adjoining land uses.

Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with Council's Community Consultation Policy for Development Applications. No submissions were received by Council during the notification period.

The public interest

The public interest has been taken into consideration, including assessment of the application with consideration of relevant policies and process. The proposal is not considered to be in the public interest.

Any coastal zone management plan

The proposed development is consistent with the applicable [Coastal Management Program](#).

Other plans, policies and considerations

Nil

Note: Other considerations may include [Planning Circulars](#), [LEC Planning Principles](#), [Ministerial Orders](#) or other [Council Policies](#).

8. Delegations

Variations

Are any clause 4.6 variations proposed?		Yes
Development Standard	Numerical Extent of Departure	Percentage (%) Extent of Departure
Clause 4.1E(4)(A) – Minimum site areas for dual occupancies and multi dwelling housing in Zone R2	68.8m ²	11.4%
Are any DCP variations proposed?		Yes
DCP Control	Proposed Variation	Departure
Clause 3.3.1 - Cutting and filling on site is limited to 900mm.	The proposal seeks a maximum cut of 1,230mm and a maximum fill of 538mm	Earthworks associated with establishing a dual occupancy in exceedance to 0.9m ²

Guidelines for use of Delegated Authority

Note: Council's Delegations Register is maintained in Pulse, and your delegations can be reviewed in your [Pulse](#) account.

Level of Delegation	Staff under delegated authority	Elected Council
Estimated Development Cost (EDC)	≤\$10 million	>\$10 million
Subdivisions	≤50 lots	>50 lots
Objections to DA	≤12 objections	>12 objections
Extent of clause 4.6 exception	Nil or <10%	≥10% or non-numerical development standard
Level of Peer Review	Development Assessment Officer	Development Assessment Coordinator / Manager / Director
Extent of DCP variation	Nil or Minor	Major

The assessing officer does not have delegated authority to determine the Development Application.

9. Recommendation

This application has been assessed in accordance with s4.15 of the *Environmental Planning and Assessment Act, 1979*. It is recommended that the application be approved subject to appropriate conditions of consent for the following reasons:

Reasons for Grant of Consent	
1)	The proposed development is consistent with the objects of the <i>Environmental Planning and Assessment Act, 1979</i> .
2)	The proposed development is considered acceptable and with regard to the applied exception to the development standards set out in clause 4.1E(4)(a) of Kiama Local Environmental Plan

	2011. The proposed development complies with all other development standards and is consistent with the aims, objectives, and provisions of the applicable environmental planning instruments.
3)	The proposed development is consistent with the aims, objectives, and provisions of Kiama Development Control Plan 2020.
4)	The proposed development is consistent with the aims, objectives, and provisions of relevant Council policies.
5)	The likely impacts of the proposed development are considered acceptable.
6)	The site is suitable for the proposed development.
7)	Any submissions received during the public notification period have been considered and issues and concerns raised by the community in submissions have been addressed in the assessment.
8)	The proposed development does not conflict with the public interest.

Nirnay Lakshman
Development Assessment Officer - Planning
6/05/2026

Item 15.1

Enclosure 1

Appendix A – Kiama DCP 2020 - Chapter 5: Subdivision, Consolidation and Boundary Adjustment

Topic 5.1 – Residential Subdivision

General Requirements	
Are proposed lots orientated to maximise solar access and encourage energy efficient housing?	Yes
Do lots facilitate the provision of on-site stormwater detention (OSD) and water re-use opportunities for future dwellings?	N/A
Are any proposed roads appropriately designed to facilitate efficient traffic movement and accessibility?	Yes – Driveways have been designed appropriately
Does the subdivision design provide for and facilitate opportunities for various modes of transport? <i>Note: Subdivisions should incorporate transport opportunities for cars, buses, public transport, as well as active transport including pedestrian and cycling routes.</i>	Yes
Do proposed roads, pedestrian footpaths and shared cycleways appropriately integrate with the existing street/pedestrian network?	Yes
Do proposed earthworks and civil works appropriately respond to the topography of the land?	Yes
Do the subdivision works protect environmental values and riparian areas?	Yes
Does the subdivision layout encourage and respect rural views and outlooks?	Yes – Strata subdivision in R2 Low Density Residential Zone with adjacent residential outlook.
Does the subdivision layout respond to Crime Prevention Through Environmental Design (CPTED) principles?	Yes
Does the subdivision comply with relevant bush fire planning requirements?	Yes
Does the subdivision provide adequate Water Sensitive Urban Design (WSUD) measures?	Yes
Is the street design, typology and road hierarchy appropriate? <i>Note: The street design should appropriately facilitate efficient waste collection and define urban edge of the subdivision through perimeter roads and planting where appropriate.</i>	Yes
Does the subdivision provide appropriate street tree planting?	N/A
Are natural areas, riparian corridors and public recreation areas appropriately identified and designed, and incorporate appropriate landscaping / planting?	Yes

Item 15.1

Enclosure 1

Are building envelopes identified on allotments where necessary? <i>Note: Building envelopes should be nominated where the future development of the lots may be confined by site constraints, or for amenity reasons such as where prominent view sharing outcomes are identified.</i>	Yes
Will all proposed lots have access to all required essential services and utilities? <i>Note: In urban areas, new electricity and telecommunication services should be underground.</i>	Yes
Are all lots capable of appropriately draining and/or disposing of stormwater? <i>Note: New urban allotments should provide a minimum 1% fall towards a legal point of discharge i.e. street or inter-allotment drainage.</i>	Yes
Allotment Size and Dimension Requirements	
Are proposed lot sizes appropriate and provide suitable area for future development? <i>Note: Larger lot sizes may be appropriate where lots are constrained by topography or other constraints or where land a watercourse of an arterial road</i>	Yes
Subdivisions within bush fire prone areas must comply with relevant bush fire planning requirements.	N/A – the subject site is not identified as bushfire prone land.
Does the proposal include any battle-axe allotments or allotments accessed via an access corridor?	No – Access is directly from road frontage
Servicing and Utility Requirements	
Do all proposed lots have access to all required essential services and utilities? <i>Note: New subdivisions should be referred to Endeavour Energy (where connection to reticulated electricity supply is required) and Sydney Water (where connection to reticulated water and/or sewer is required) for advice.</i>	Yes Referral agencies such as Endeavour Energy and Sydney Water have provided a satisfactory response that the lots can be serviced.
Does the proposed subdivision layout allow for efficient waste collection? <i>Note: For cul-de-sacs, the head of the cul-de-sac must be designed with sufficient road reserve width for bin presentation to enable the collection of waste bins without hindering access to adjacent properties.</i> <i>Note: For battle-axe allotments, sufficient area must be provided either side of the driveway to allow for bin presentation.</i>	Yes – Waste collection bins can be adequately located along the roadside.

Appendix A – Kiama DCP 2020 - Chapter 6: Residential Accommodation

Topic 6.4 – Dual Occupancy

Are building walls exceeding 15m in length appropriately articulated?	Yes – longest length of building
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	walls are 6m and 7.5m
Does the development allow for entry and exit of vehicles in a forward direction? <i>Note: Where development is accessed from a main or arterial road, or in the vicinity of traffic management controls vehicles should enter and exit in a forward direction.</i>	The development is for low density development on a low-trafficked road. It is considered suitable for vehicles to reverse directly onto the road in this instance.
Is proposed development or an appropriate height, bulk and scale?	Yes
Does the proposal retain significant trees and vegetation where possible?	Yes
Is the development compatible with the existing and desired future streetscape character of the area?	Yes
Does the site have a width/frontage of at least 15m? <i>Note: For irregular shaped lots, the lot width is measured at the building line.</i>	Yes
Is the dual occupancy located on a slope <20 degrees?	Yes
Has the application demonstrated that at least 50% of dwellings are capable of being provided as Adaptable Housing? <i>Note: As per Australian Standards AS4299, an Adaptable Housing Unit is designed and constructed to meet performance requirements relating to visitability, avoidance of level changes, maneuverability, ease of adaptation, ease of reach and future laundry facilities, and other essential features. An Adaptable Housing Unit is designed in such a way that it can be modified easily in the future to become accessible to both occupants, visitors with disabilities or progressive frailties.</i>	Yes
For battle-axe lots, a 5m wide access handle must be available to allow for a 3m pavement width and 1m landscaping strip either side.	N/A
Does each dwelling provide clearly defined and identifiable entrances?	Yes
Do both dwellings provide suitable area for bin storage and waste collection?	Complies
Are windows to habitable rooms designed and located to maintain adequate privacy to adjoining dwellings?	Yes
Does the development provide suitable solar access to POS and living room areas? <i>Note: A minimum of 3 hours direct sunlight is to be available between the hours 9.00am and 3.00pm on June the 22nd to at least 50% of the private open space area and living room windows of the subject development including adjoining properties</i>	Yes
Does the proposed development avoid unreasonable glare impacts to adjoining dwellings?	Yes
Where the site is within a heritage conservation area (HCA) is the development appropriately designed and compatible with the character of the HCA?	N/A
Are all dwellings appropriately serviced?	Yes

Item 15.1

Enclosure 1

In R5 Large Lot Residential a maximum dwelling development of 1 dwelling per 1000m ² should be provided.	N/A		
Dual occupancy development is not permitted on proposed Lots 101, 102 and 103 (in the subdivision of Lot 1 DP 728055, Lot 1 DP 733420 and Lot 206 DP 793208 as shown in <i>Appendix 2 – Cedar Ride Estate</i> of Chapter 6 of Kiama DCP 2020.	N/A		
Building Lines and Building Separation - Urban Areas			
	<table> <tr> <th>Required</th><th>Proposed</th></tr> </table>	Required	Proposed
Required	Proposed		
Front setback <i>Note: Front setbacks are nominated on the building line map (Appendix 1) in Chapter 6 of Kiama DCP 2020.</i>	6m		
Rear setback <i>Note: Rear setbacks are nominated on the building line map (Appendix 1) in Chapter 6 of Kiama DCP 2020.</i>	6m		
Side setback <i>Note: Eaves, gutters, and fascia should be setback 0.675m from side boundaries.</i>	* Foreshore Building Line (FSBL) North = 0.952m South = 3.477m Complies.		
Buffer to adjoining agricultural land (right to farm)	9m setback to any rural zoned land capable of being used for agriculture Complies		
Garages and Car parking areas	The front setback for the site on the building line map is <6m. Garages and carports should be setback at least 6m from the front property boundary. Complies Dwelling 2 Garage distance is approximately 6.138m Dwelling 1 Garage distance is approximately 6.995m		
For dual occupancy (detached) development, a separation distance of 1.8m must be provided between the dwellings.	N/A		
Is the proposed development contained within the building height plane? <i>Note: 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.</i> <i>Note: Eaves, gutters, and fascia are permitted outside of the building height plane.</i>	Yes - Minor eaves, gutter and fascia encroachments.		
Is the proposed development consistent with the applicable foreshore building line controls?	Yes		
Is the proposed building footprint less than 60% of the site? <i>Note: Gerringong Headland has separate building footprint controls set out in the Gerringong Headland Masterplan</i>	Yes $136/532.2 = 0.25 \times 100 = 25\%$		

	$128.1/532.2 = 0.24 \times 100 = 24\%$ Total of 49% of the site
Are proposed colours and materials suitable? <i>Note: Metal roofing should have a solar absorbance classification not less than 0.46. Solar absorbance (SA) classifications for some materials are available here.</i>	Yes – Proposed roof colour is “windspray” and solar absorbance is 0.60
Does the development provide suitable storage? <i>Note: In addition to kitchen cupboards and bedroom storage at least 8m³ should be provided for 2-bedroom dwellings and 10m³ for 3+ bedroom dwellings.</i>	Yes
Does the proposed development avoid garage dominated design? <i>Note: Garages/car parks should not constitute more than 50% street elevation of a development.</i> <i>Note: Garage areas should be limited to a double garage façade.</i>	Yes
Does the proposed development provide at least 1 car parking space behind the building line per dwelling?	Yes
Is suitable private open space (POS) provided for the secondary dwelling? 1 bedroom = No additional POS 2-bedrooms = 12m² 3+ bedrooms = 24m² <i>Note: POS areas should be functional and have minimum dimensions of 4m x 5m and a gradient of not more than 25%.</i> <i>Note: POS areas should be directly accessible from main living areas.</i> <i>Note: A minimum 50% of the POS area should receive a minimum of 3 hours of direct sunlight between 9am and 3pm on June 22nd.</i> <i>Note: POS areas must provide adequate privacy; POS areas forward of the building line generally are not supported.</i>	Yes
Are balconies appropriately located and/or incorporate suitable measures to maintain adequate privacy to adjoining properties? <i>Note: balconies alongside boundaries should be avoided except where suitable privacy mitigation measures have been incorporated.</i>	N/A
Have suitable clothes drying areas been provided? <i>Note: Clothes drying areas should not be visible from any public place and cannot be located forward of the building line or within principal POS areas.</i>	Yes
Are letterboxes suitably located?	Yes

Item 15.1

Enclosure 1

Appendix B – Justification for Variations to DCP Controls

DCP variations are considered below in accordance with Chapter 1 of the Kiama DCP 2020.

DCP control being varied.
3.3.1 – Cutting and filling on site is limited to 900mm

Extent of proposed departure from acceptable solution.			
DCP Control	Proposed Solution	% Departure	Departure
3.3.1	The proposal seeks a maximum cut of 1,230mm and a maximum fill of 538mm	36%	Minor
Unique circumstances as to why the DCP variation is being sought.			
The earthworks are required as part of stabilization of the site and are mainly associated with the retaining wall rather than the bulk of the proposed dual occupancies.			
Demonstrate how the relevant objectives are being met despite the non-compliance with the DCP control.			
Objectives		Commentary	
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 proposal is for a dual occupancy that is on flat stable land and is designed to maximise the potential and orientation of the site. The propose dual occupancy does not proposal extensive cutting an filling and is similar to that of other proposals within the Kiama Residential Environment. The earthworks will also cater to the safety of the building and the occupants that will inhabit them.	
O:3.3.2 To minimise the risk of land slip impacting on habitable buildings and access roads.		The proposal is on relatively flat land and is considered to be low-risk in regard to land slip impacts. The proposed earthworks will assist in siting the proposed dual occupancy.	
Summary Commentary:			
- There is significant precedent involved in relation to the departure of the earthworks standard to achieve an adequate, stable and safe building footprint. In addition, the earthworks accommodate compliance with access, drainage and structural design. - The proposal also works well to respond to the sites' topography and does not intensify the land use involved, i.e.: there is a natural cut/fill driven by the fall (contours) of the land. - The exceedance is confined to the subject site and associated retaining walls and does not spread across the large majority of the subject site. - There is little adverse impact on adjoining land as retaining walls, drainage and privacy/overshadowing is managed to an acceptable level. - The proposal still meetings the underlying objectives and earthworks controls.			

Appendix C – Clause 4.6 Detailed Consideration

Consideration of the clause 4.6 exception is provided below:

Clause 4.6 Exception to the Kiama Local Environmental Plan 2010				
Development Standard				
4.1E - Minimum site areas for dual occupancies and multi-dwelling housing in Zone R2 (4) In the case of land to which this clause applies that is not located in Jamberoo, development consent must not be granted to development for the purpose of dual occupancies and multi dwelling housing unless the site area per dwelling is equal to or greater than 300 square metres for the following purposes— (a) a dual occupancy,				
Extent of proposed departure from development standard				
LEP clause	Numerical Standard	Proposed Solution	Numerical Departure	% Departure
4.1E(4)(a)	600m ²	532.2m ²	68.8m ²	11.4%
Applicant's clause 4.6 statement				
Clause 4.6 requires that the consent authority be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravention of the development standard. An extract from the applicant's clause 4.6 statement is provided below:				
Extract from applicant's clause 4.6 statement prepared by Urban Pathways Consulting (Ref: UP2606) and dated 05 March 2026 (TRIM Ref: 26/21080)				
<i>Clause 4.6 requires that the consent authority be satisfied that the applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravention of the development standard.</i> <i>The application has been supported by a written clause 4.6 statement prepared by Urban Pathways Consulting (Ref: UP2606) and dated March 5th 2026 (TRIM Ref: 26/21080) which adequately demonstrates that compliance with the development standard is unnecessary in this circumstance and that there are sufficient environmental planning grounds to justify contravening the development standard.</i> <i>The Applicant has provided the following justification for how the objectives of clause 4.1E are satisfied:</i> <i>This Clause 4.6 Variation Request (Variation Request) has been prepared in support of a Development Application (DA) at 17 Glenbrook Drive, Kiama, being the land legally described as Lot 1 DP 1263679 (Site). Accordingly, this request is made to Kiama Municipal Council (Council) pursuant to the provisions of Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act).</i>				

Item 15.1

Enclosure 1

The Proposal seeks consent to construct a dual occupancy with a high standard of urban design and a high level of internal and external amenity that is consistent with the scale of development in the street. The works include the following:

- *Construction of a dual occupancy (attached)*
- *Associated driveways and vehicular crossing to Glenbrook Drive*
- *Associated earthworks and landscaping*

The Site is zoned R2 Low Density Residential pursuant to Kiama Local Environmental Plan 2011 (KLEP 2011). Dual occupancies are permitted with consent in the R2 zone pursuant to KLEP 2011 and aligns with the zone objectives.

The Proposal generally complies with the objectives and provisions of KLEP 2011, including all relevant development standards, with the exception of the minimum site areas for dual occupancies and multi dwelling housing in Zone R2 development standard (minimum site area development standard) prescribed by Clause

4.1E of KLEP 2011. The terms 'lot size' and 'site area' are used interchangeably in this Variation Request.

The Site has an area of 532.2sqm and therefore results in a variation of 68.8sqm or 11.4% to the 300sqm site area per dwelling development standard prescribed by Clause 4.1E(4)(a).

Despite the variations, the Site is suitable for the proposed use. The Proposal will provide a high level of amenity for the residents of the development and is consistent with the desired future character for the Site.

This Variation Request has been prepared in accordance with the objectives contained within Clause 4.6 of KLEP 2011 and the minimum site area development standard prescribed by Clause 4.1E of KLEP 2011.

It considers various planning controls, strategic planning objectives and existing characteristics of the Site, and concludes that the Proposal, despite the variation, is the best means of achieving the objectives of encouraging orderly development of the Site under the Environmental Planning and Assessment Act 1979 (EP&A Act).

2. Development Standard Variation

Under the provisions of Clause 4.1E of KLEP 2011, the Site is subject to a minimum site area of 300sqm per dwelling. The parameters of the Site are outlined in Table 1 below.

<i>Table 1. Development standard proposed to be varied</i>	
<i>KLEP 2011 Clause</i>	<i>Parameter</i>
<i>Clause 4.1E – Minimum site areas for dual occupancies and multi dwelling housing in Zone R2</i>	<i>300sqm per dwelling</i>
<i>Existing Site area</i>	<i>532.2</i>
<i>Proposed Variation</i>	<i>68.8sqm or 11.4%</i>

Variation per proposed dwelling	The extent of variation differs per proposed lot, as the proposed Site areas are not equal. • Dwelling 1 – 235.91sqm – 64.09sqm • Dwelling 2 – 296.37sqm – 3.67sqm				
The Proposal seeks a 68.8sqm or 11.4% variation to the development standard. The circumstances of the Site and the Proposal warrant an appropriate degree of flexibility in the application of the development standard to achieve the best outcome for the Site. 3. Provisions of Clause 4.6 Clause 4.6 of KLEP 2011 facilitates exceptions to strict compliance with development standards in certain circumstances. Clause 4.6(3) states (our emphasis added): Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that— (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and (b) there are sufficient environmental planning grounds to justify the contravention of the development standard. Note— The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b) Accordingly, a consent authority must be satisfied: a) that the Clause 4.6 variation application addresses the matters in Clause 4.6(3); and b) of those matters itself which means that there is greater scope for a consent authority to refuse a Clause 4.6 variation. These matters are addressed in this Variation Request. <u>4. Objectives of the Standard</u> Clause 4.1E does not prescribe objectives for the clause. Whilst Clause 4.1 does not strictly apply to the Proposal as Strata plans are excluded from this clause, the objectives of Clause 4.1 are assumed to be applicable and have been considered in the preparation of this Variation Request. The objectives of Clause 4.1 have been discussed in Table 2 below: <table> <tr> <th colspan="2">Table 2. Objectives of the Standard</th></tr> <tr> <th>Objective</th><th>Comment</th></tr> </table>		Table 2. Objectives of the Standard		Objective	Comment
Table 2. Objectives of the Standard					
Objective	Comment				

Item 15.1

Enclosure 1

<i>(a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,</i>	<i>The Proposal provides a subdivision pattern that is consistent with the predominant subdivision pattern in the area, despite the minor 11.4% variation. The variation will not be discernible from the public domain and will reinforces the predominant subdivision pattern of the area, despite being slightly undersized.</i> <i>The Proposal is consistent with this objective, notwithstanding the variation.</i>	
<i>(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,</i>	<i>The Proposal will not cause any impact on the amenity of neighbouring properties by way of overshadowing, visual bulk, privacy, traffic, or view loss.</i> <i>The Proposal is consistent with this objective, notwithstanding the variation.</i>	
<i>(c) to ensure that lot sizes and shapes are able to accommodate development consistent with relevant development controls,</i>	<i>The Proposal seeks to construct a dual occupancy development that complies with the built form controls applicable to the Site, including the maximum building height and FSR development standards, and the non-statutory controls prescribed by Kiama Development Control Plan 2020 (KDCP 2020) including setbacks, site coverage, landscaped area, private open space, and design of car parking, and is therefore consistent with the built form character of residential development in the area.</i> <i>The Proposal presents a two storey form to the street which is consistent with Council's desired future character as expressed by the local controls.</i> <i>Therefore, the proposed lot sizes and shapes can accommodate development that is consistent with Council's controls.</i> <i>The Proposal is consistent with this objective, notwithstanding the variation.</i>	

Item 15.1

Enclosure 1

d) to restrict the fragmentation of land for rural residential purposes	Not applicable. The Proposal is not inconsistent with this objective.												
5. Objectives of the Zone Clause 2.3 of KLEP 2011 sets out specific objectives of the R2 Low Density Residential zone. Therefore, consideration has been given to the objectives of Clause 2.3 in Table 3 below: <table border="1"> <tr> <th colspan="2">Table 3. Objectives of the Zone</th></tr> <tr> <th>Objective</th><th>Comment</th></tr> <tr> <td>• To provide for the housing needs of the community within a low density residential environment.</td><td> The Proposal provides for the housing needs of the community within a low density residential environment by providing dual occupancy development which is low density in nature. The Proposal is consistent with this objective, notwithstanding the variation. </td></tr> <tr> <td>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</td><td>Not applicable. The Proposal is not inconsistent with this objective.</td></tr> <tr> <td>• To increase the supply of secondary dwellings for affordable rental housing stock</td><td> The Proposal does not include secondary dwellings and this form of development would not be appropriate on the Site given the nature of the dual occupancy development. The Proposal is not inconsistent with this objective. </td></tr> <tr> <td>• 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.</td><td> The Proposal provides 3 bedroom dual occupancies on the Site which may provide opportunities for people to conduct business activities from their homes in a manner that would not adversely affect the amenity of neighbours or the neighbourhood. The Proposal is consistent with this objective, notwithstanding the variation. </td></tr> </table>		Table 3. Objectives of the Zone		Objective	Comment	• To provide for the housing needs of the community within a low density residential environment.	The Proposal provides for the housing needs of the community within a low density residential environment by providing dual occupancy development which is low density in nature. The Proposal is consistent with this objective, notwithstanding the variation.	• To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Not applicable. The Proposal is not inconsistent with this objective.	• To increase the supply of secondary dwellings for affordable rental housing stock	The Proposal does not include secondary dwellings and this form of development would not be appropriate on the Site given the nature of the dual occupancy development. The Proposal is not inconsistent with this objective.	• 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 Proposal provides 3 bedroom dual occupancies on the Site which may provide opportunities for people to conduct business activities from their homes in a manner that would not adversely affect the amenity of neighbours or the neighbourhood. The Proposal is consistent with this objective, notwithstanding the variation.
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• To enable other land uses that provide facilities or services to meet the day to day needs of residents.	Not applicable. The Proposal is not inconsistent with this objective.												
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• 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 Proposal provides 3 bedroom dual occupancies on the Site which may provide opportunities for people to conduct business activities from their homes in a manner that would not adversely affect the amenity of neighbours or the neighbourhood. The Proposal is consistent with this objective, notwithstanding the variation.												
6. Establishing if the development standard is unreasonable or unnecessary The NSW Land and Environment Court in <i>Four2Five Pty LTD v Ashfield Council</i> [2015] NSWLEC 90, considered how numerical compliance with a development standard might be considered unreasonable or unnecessary and referred to the earlier Court decision in <i>Wehbe v Pittwater Council</i> [2007] NSWLEC 827. The court provided five tests in which													

<i>numerical compliance with a development standard might be considered unreasonable or unnecessary as follows:</i> ▪ Test 1: <i>Establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the standard are achieved notwithstanding the non-compliance with the standard</i> ▪ Test 2: <i>The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary</i> ▪ Test 3: <i>The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable</i> ▪ Test 4: <i>The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and/or</i> ▪ Test 5: <i>The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</i> <i>This Variation Request has adopted the first test in Wehbe to establish that compliance is unreasonable or unnecessary because the objectives of the minimum site area development standard are satisfied notwithstanding the variation, as follows:</i> • <i>When considering whether the Site is adequately sized, matters such as internal amenity, environmental impacts, consistency with the character of the area, and provision of services are all relevant considerations. The Proposal is considered to be adequately sized as the development is capable of complying with all relevant development standards of KLEP 2011 and provides a high level of internal amenity of future residents.</i> • <i>The subdivision pattern of the locality is varied with a variety of allotment shapes and sizes existing currently and the existing allotment is consistent with the character of the area</i> • <i>The Proposal provides for the housing needs of the community within a low density residential environment by providing dual occupancy development that is low density in nature.</i> • <i>The proposal provides for an intensity of development that is capable of being serviced by the existing infrastructure.</i> • <i>The Proposal is consistent with the existing and desired future character of the Site and locality and the surrounding area in that it provides for a scale of development that when viewed from the streetscape and surrounding properties is not dominant in terms of bulk, scale, extent of hardstand or interface with the streetscape. The Proposal provides a development outcome that is consistent with the character of the area.</i> • <i>The Proposal can accommodate a dual occupancy that does not result in adverse amenity impacts on adjoining development, despite the small lot sizes.</i> • <i>The Proposal allows for the orderly and economic development of land to increase housing supply, and is consistent with the objects of the EP&A Act; and</i> • <i>The Proposal is consistent with the aims of KLEP 2011, as the Proposal:</i> <i>o promotes development that achieves ecologically sustainable development principles while recognising the economic, environmental and social impacts and risks associated with climate change,</i>

Item 15.1

Enclosure 1

<i>o maintains, protects and improves the natural environment including native vegetation, endangered ecological communities, natural habitat corridors, riparian land, groundwater dependent ecosystems and wetlands for their biodiversity values,</i> <i>o conserves and protects the area's water resources, groundwater, waterways, and water quality for their biodiversity, ecological, health and recreational values,</i> <i>o protects and enhances the coastal and rural character of Kiama's rural towns, neighbourhoods and villages, and the characteristic scenic landscapes that contribute to its liveability and identity,</i> <i>o caters for housing choice; and</i> <i>o promotes the orderly and economic use and development of land.</i> <i>In view of the circumstances of the Proposal, strict compliance with Clause 4.1E of KLEP 2011 is considered to be both unnecessary and unreasonable. The Proposal does not conflict with the intent of Clause 4.1E of KLEP 2011 as demonstrated above and satisfies its objectives, notwithstanding the proposed numerical variation.</i> <i>The existing lot size will retain compatibility with surrounding development and continue to support the residential nature of the Site whilst increasing housing supply in the area, consistent with the objectives of the R2 Low Density Residential zone.</i> 7. Sufficient environmental planning grounds to justify contravening the development standard <i>The Variation Request is considered well founded because, notwithstanding the proposed variation to the minimum site area, there are sufficient environmental planning grounds to justify the contravention of the development standard, as follows:</i> <i>• The proposed lot size is consistent with the underlying objective or purpose of the standard as demonstrated in Section 4.</i> <i>• The proposed lot size is consistent with the objectives of the R2 Low Density Residential zone as described in Section 5.</i> <i>• Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in Section 6.</i> <i>• The proposal complies with all development standards contained in KLEP 2011 including maximum height and FSR and is therefore consistent with the desired future character of the area</i> <i>• It is assumed that the main objective of the control is to ensure that an appropriately sized site is provided for dual occupancy development. The lodgement of a local development application allows Council to consider the merits of the application in terms of the level of amenity provided to future residents. The Proposal achieves a high level of amenity for future residents as evident by the sufficiently sized dwellings that have a high standard of internal and external amenity, compliant landscaping and private open space, provides sufficient car parking, waste management areas, and other facilities, despite the allotment size</i> <i>• The Proposal provides for an intensity of development that is capable of being serviced by the existing infrastructure; and</i> <i>• The proposed variation to the minimum site area is not readily perceived when compared with the existing subdivision pattern within the locality.</i>

Item 15.1

Enclosure 1

For the reasons outlined above, it is considered that the variation to the minimum site area development standard under Clause 4.1E of KLEP 2011 is appropriate and can be clearly justified having regard to the matters listed within

Clause 4.6(3)(b) under KLEP 2011.

8. Objectives of the EP&A Act

Table 4 below outlines the objectives of the EP&A Act.

Table 4. Objectives of the EP&A Act	
Objective	Comment
<i>To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	<i>The Proposal will have positive social and economic impacts on the area and wider Kiama LGA given the employment generated by construction activities on the Site. No negative social or economic impacts are expected.</i> <i>The assessment carried out as part of the Statement of Environmental Effects has not identified any negative environmental outcomes as a result of the Proposal.</i>
<i>• to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,</i>	<i>A BASIX Certificate was submitted with the DA which sets benchmark sustainability standards to achieve ecologically sustainable development (ESD). By maximizing natural light and reducing reliance on artificial lighting, the Proposal promotes energy efficiency and minimises environmental impact.</i>
<i>to promote the orderly and economic use and development of land,</i>	<i>The proposed variation supports the efficient use of the Site for residential purposes while ensuring compliance with planning principles. The Proposal optimises land use and contributes to the orderly and economic use and development of land in the area.</i>
<i>to promote the delivery and maintenance of affordable housing,</i>	<i>The Proposal encourages affordable housing by providing housing diversity and choice in the Kiama LGA.</i> <i>The Proposal is not inconsistent with this objective.</i>
<i>to protect the environment, including the conservation of threatened and</i>	<i>The Proposal will not have any adverse impact on the environment</i>

other species of native animals and plants, ecological communities and their habitats,	including threatened and other species of native animals and plants, ecological communities and their habitats.	
to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The Proposal does not impact on the heritage significance of any nearby heritage items or Heritage Conservation Areas thereby aligning with sustainable management practices for built and cultural heritage.	
• to promote good design and amenity of the built environment,	The Proposal promotes a high level of architectural design and amenity outcomes for the Site.	
to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	The Proposal adheres to current building standards and regulations, ensuring the safety and well-being of residents.	
• to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	The Proposal is considered to be local development for which the consent authority will be Kiama Municipal Council.	
• to provide increased opportunity for community participation in environmental planning and assessment.	The DA is subject to the relevant public notification requirements.	

9. Matters of state and regional significance

The proposed variation will not give rise to any matters of significance for state or regional environmental planning.

They will also not conflict with any State Environmental Planning Policy or Ministerial Directives under section 9.1 of the EP&A Act.

Planning Circular PS 08-014, issued by the former NSW Department of Planning, requires that all development applications including a variation to a standard of more than 10% be considered by full Council rather than under delegation. It is noted that this proposed variation exceeds 10% and would be required to be determined by the Local Planning Panel.

10. Summary and Conclusion

For the reasons outlined above, it is considered that the variation to Clause 4.1E of KLEP 2011 is well-founded in this instance and is appropriate in the circumstances. Furthermore, the Variation Request is well-founded for the following reasons as outlined in Clause 4.6 of KLEP 2011 and relevant case law:

Item 15.1

Enclosure 1

▪ *The Proposal is consistent with the objectives of the particular standard and the objectives of the standard are achieved notwithstanding the non-compliance with the standard (refer to **Section 4**).*

▪ *The Proposal is consistent with the objectives for development within the zone to provide appropriate housing with a high quality of amenity (refer to **Section 5**).*

▪ *Strict compliance with the development standard is unreasonable and unnecessary in the circumstances (refer to **Section 6**).*

▪ *There are sufficient environmental planning grounds to justify contravening the development standard (refer to **Section 7**).*

▪ *The Proposal is consistent with the objectives of the Environmental Planning and Assessment Act 1979 (refer to **Section 8**).*

▪ *The Proposal does not give rise to any matter of significance for the State or regional environmental planning and is consistent with the visions and objectives of the relevant strategic plans (refer to **Section 9**).*

Overall, it is considered that the proposed variation to the minimum lot size development standard control is entirely appropriate and can be clearly justified having regard to the matters listed within Clause 4.6 of KLEP 2011.

For the reasons outlined above, it is considered that the variation to the minimum site area development standard under Clause 4.1E of KLEP 2011 is appropriate and can be clearly justified having regard to the matters listed within Clause 4.6(3)(b) under KLEP 2011.

Note: [s35B](#) of the Environmental Planning and Assessment Regulation, 2021 requires that a DA that proposes development that contravenes a development standard, the DA must be accompanied by a document that sets out to demonstrate that the grounds on which the applicant seeks to demonstrate compliance with the development standard is unreasonable or unnecessary in the circumstances, and there are sufficient environmental planning grounds to justify the contravention of the development standard.

Assessing Officer Commentary

Unreasonable or Unnecessary

Under Clause 4.6(3)(a) Council must be satisfied that the development standard is unreasonable or unnecessary. The subject site provides an adequate lot size being 532.2m² and the Kiama LEP allows for a variety of housing types specifically in this case dual occupancy. The proposal is able to adequately demonstrate compliance with the standards set such as height, floor space ratio and relevant Part 5 and Part 6 clauses.

Clause 4.1E(4) of Kiama Local Environmental Plan 2011 requires a minimum site area of 300m² per dwelling. The subject site has an area of 532.2m².

Proposed lot 1a (dwelling 2) will have a lot size of 296.37m²

Proposed Lot 2b (dwelling 1) will have a lot size of 235.91m²

The proposal therefore contravenes the development standard by 68.8m², representing a variation of 11.4%

Although clause 4.1E does not contain an expressly stated objective, the apparent purpose of the standard is to ensure that land proposed for dual occupancy development has sufficient area to accommodate two dwellings while maintaining an appropriate low density residential character and acceptable levels of residential amenity.

In this instance, strict compliance with the numerical standard is considered unreasonable and unnecessary because the proposal demonstrates that the site has sufficient dimensions and

usable area to accommodate the two dwellings without producing the adverse consequences that the standard is intended to prevent. In particular, the development:

- provides compliant building setbacks and separation;
- provides adequate private open space, landscaping and opportunities planting for each dwelling;
- provides the required car parking, vehicle access and waste storage without an excessive dominance of hardstand areas;
- achieves acceptable solar access, visual privacy and acoustic privacy for the proposed dwellings and adjoining properties;
- maintains an appropriate building footprint, scale and presentation within the R2 Low Density Residential zone; and
- provides satisfactory arrangements for stormwater drainage and servicing.

The numerical shortfall does not result in an additional dwelling beyond the two dwellings otherwise permissible as a dual occupancy and does not give rise to excessive bulk, inadequate open space, unacceptable parking demand or unreasonable impacts on adjoining properties.

The proposal achieves the underlying planning purpose of clause 4.1E(4), notwithstanding the numerical non-compliance. The applicant has therefore demonstrated that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of this particular development.

Sufficient Environmental Planning Grounds

The environmental planning grounds in support of the variation relate to the characterisation of the site and the design of the proposed dual occupancies rather than the numerical percentage of the variation of 11.4%.

The site has a frontage of 16.3m and is generally in a regular configuration relative for a corner site. The topography of the site is generally flat and adequate services can be provided to the site. The characteristics provided highlight that it is generally capable of accommodating two dwellings with appropriate setbacks, landscaping, parking, access, private open space and servicing.

The proposed design has been arranged to respond to the site by locating the dual occupancies side-by-side (attached). This greatly reduces the building footprint of the overall site. In addition the upper floor has been recessed for both dwellings as well as providing retained landscaping for parts of the side and rear areas. Living areas have also been orientated away from neighbours to respond to a higher level of amenity and living.

Despite the numerical site area shortfall, the development provides an acceptable low-density residential form and does not rely upon reduced setbacks, deficient private open space, excessive site coverage or unacceptable amenity impacts to accommodate the dual occupancy dwellings.

The development addresses acceptably the relevant controls and objectives of Chapter 6 of the Kiama Development Control Plan relating to dual occupancy development, including residential character, streetscape, privacy, solar access, building footprint, parking, private open space and stormwater management.

The variation does not facilitate a greater number of dwellings than would otherwise be permissible. Rather, it allows the site to accommodate the permissible dual occupancy use in a form that is consistent with the physical capacity of the land and the established and desired low-density character of the locality.

The proposed development therefore demonstrates that the site can accommodate the development without the environmental and amenity impacts commonly associated with an undersized dual occupancy site. These site-specific circumstances constitute sufficient environmental planning grounds to justify the contravention of clause 4.1E(4).

Having considered the applicant's written request and the circumstances of the proposed development, the consent authority is satisfied that the applicant has demonstrated that compliance with the 'minimum site area per dwelling' development standard under clause 4.1E(4) is unreasonable or unnecessary in the circumstances and that sufficient environmental planning grounds exist to justify the contravention.

The variation should be supported because the site retains sufficient practical capacity to accommodate the proposed dual occupancy with an appropriate low-density built form, adequate residential amenity, landscaping, parking, access and servicing. The non-compliance does not result in an unacceptable planning outcome or undermine the underlying purpose of the development standard.

Accordingly, the jurisdictional requirements of clause 4.6(3)(a) and (b) have been satisfied and the requested variation should be supported.

Item 15.1

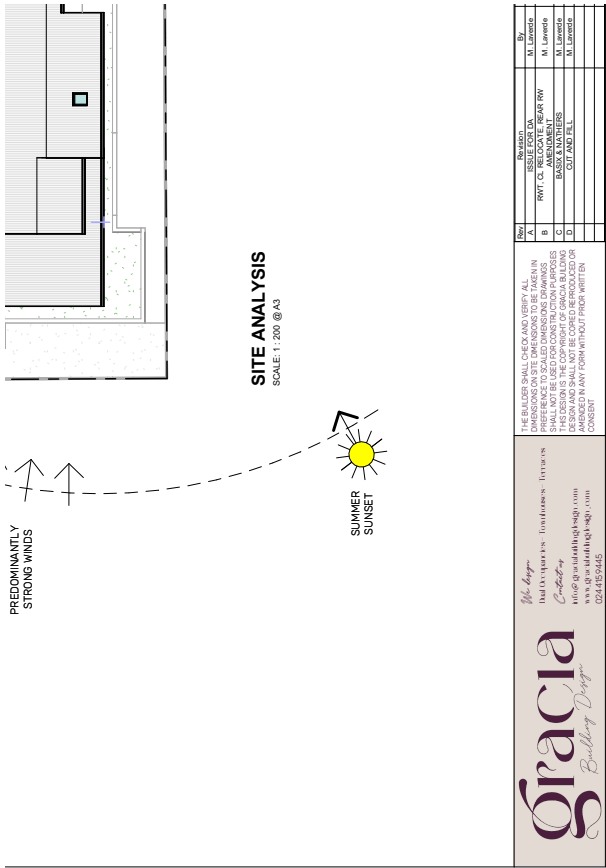
Enclosure 1

A402	NORTH & SOUTH ELEVATION	04.03.26
A403	INTERNAL ELEVATION	04.03.26
A501	SECTIONS	04.03.26
A502	SECTIONS	04.03.26
A601	WINTER SHADOW DIAGRAMS	04.03.26
A602	WINTER SHADOW DIAGRAMS	04.03.26
A603	WINTER SHADOW DIAGRAMS	04.03.26
A701	SITE MGMT & SEDIMENT FENCE PLAN	04.03.26
A702	GARBAGE BIN COLLECTION LOCATION & LETTERBOX DETAIL	04.03.26
A703	BASIX COMMITMENTS SUMMARY	04.03.26
A704	BASIX COMMITMENTS	04.03.26
A705	NATHERS (SUMMARY)	04.03.26
A706	NATHERS (DWELLING 1)	04.03.26
A707	NATHERS (DWELLING 2)	04.03.26
A708	FLOOR SPACE RATIO (FSR)	04.03.26
A709	LANDSCAPE/BLDG. FT. PRINT SUBDIVISION COMPLIANCE	04.03.26
A710	GROSS BUILDING AREA	04.03.26
A711	ADAPTABLE DWELLING	04.03.26
A801	PERSPECTIVE & MATERIAL SCHEDULE	04.03.26
A802	WINDOW & DOOR SCHEDULE	04.03.26
A901	NOTIFICATION PLAN (SITE)	04.03.26
A902	NOTIFICATION PLAN (ELEVATIONS)	04.03.26
A903	NOTIFICATION PLAN (WINTER SHADOW)	04.03.26

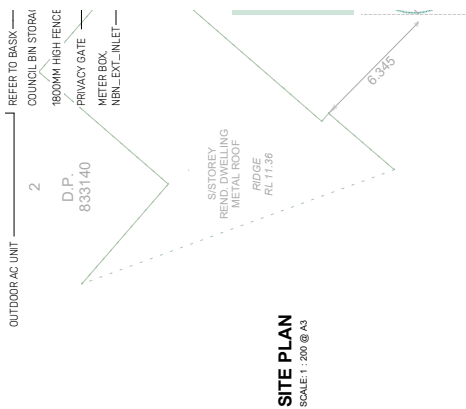


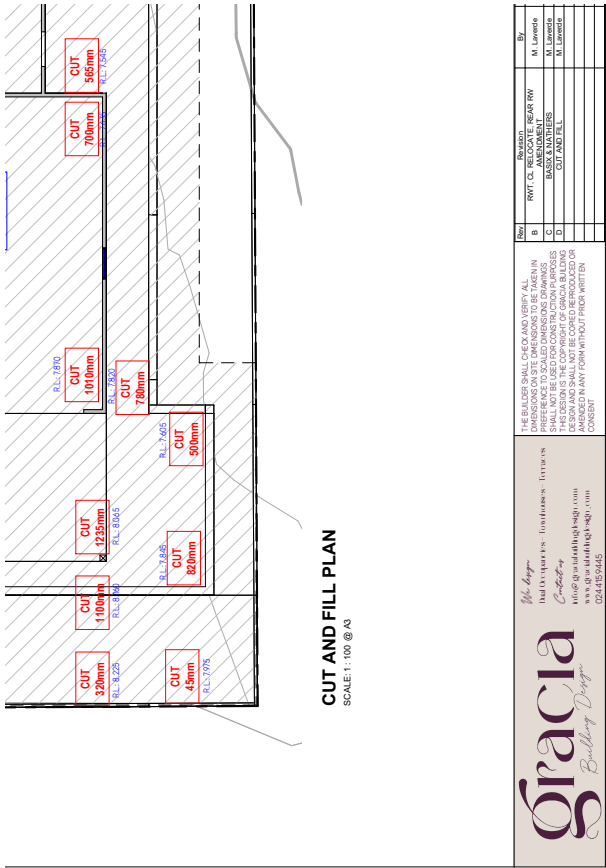
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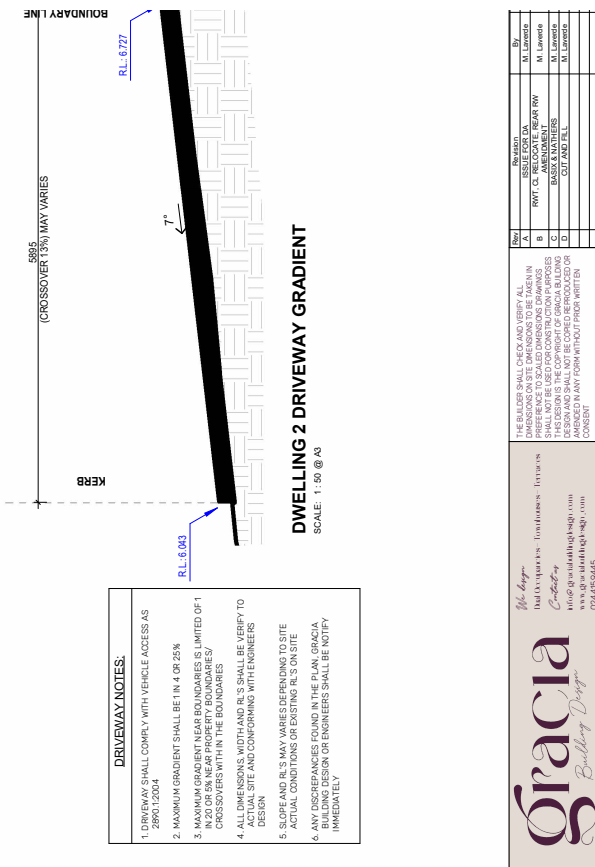

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TOTAL BUILDING FOOTPRINT	168.97m ² (31.7%)
PRIVATE OPEN SPACE (POS)	
REQUIRED POS (25m ² MIN. 4mX8m : 25m ² REQUIRED) (Complies)	
DWELLING 1 POS	49.71 m ²
DWELLING 2 POS	52.38 m ²
STORAGE COMPLIANCE	
10 m² FOR EACH DWELLING (Complies)	
DWELLING 1 STORAGE	
STORAGE @ GARAGE	2.28 m ³
STORAGE @ GF HALLWAY	6.96 m ³
STORAGE @ UNDERSTAIRS	3.15 m ³
STORAGE @ L'DRY	1.00 m ³
STORAGE @ LIVING/ DINING	6.79 m ³
TOTAL STORAGE	20.18 m ³
DWELLING 2 STORAGE	
STORAGE @ GARAGE	2.28 m ³
STORAGE @ GF HALLWAY	7.0 m ³
STORAGE @ L'DRY	3.01 m ³
STORAGE @ STUDY NOOK	4.0 m ³
STORAGE @ UNDERSTAIRS	2.81 m ³
TOTAL STORAGE	19.10 m ³
MAX BUILDING HEIGHT LIMIT: 8.5 METERS (COMPLIES)	

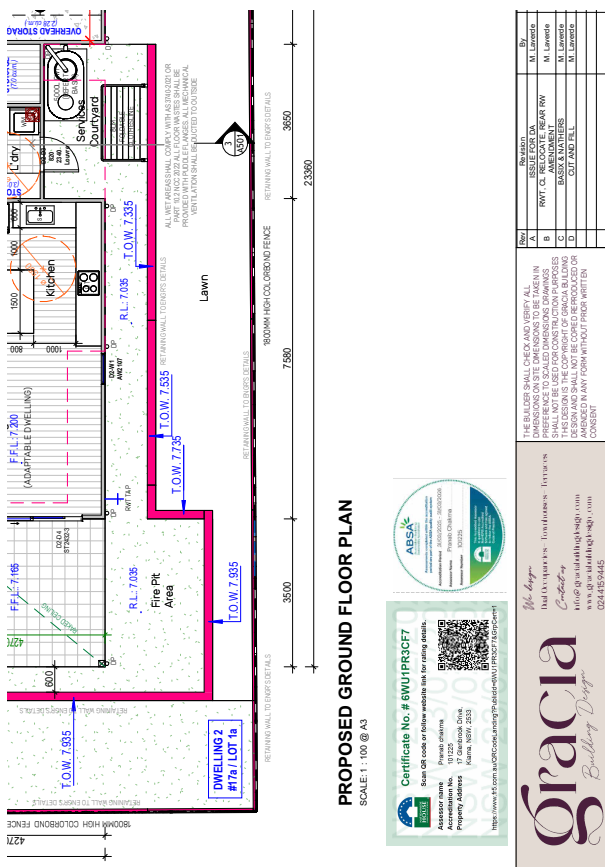
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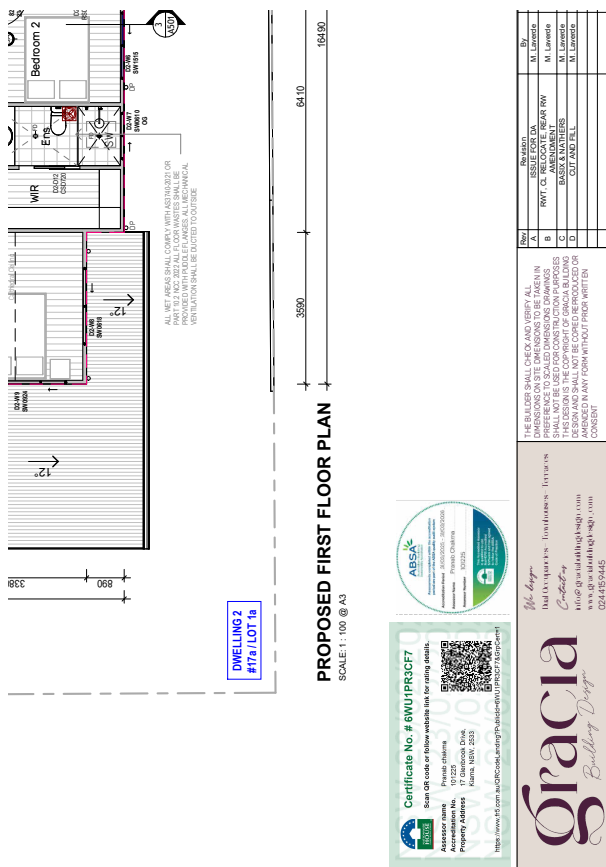


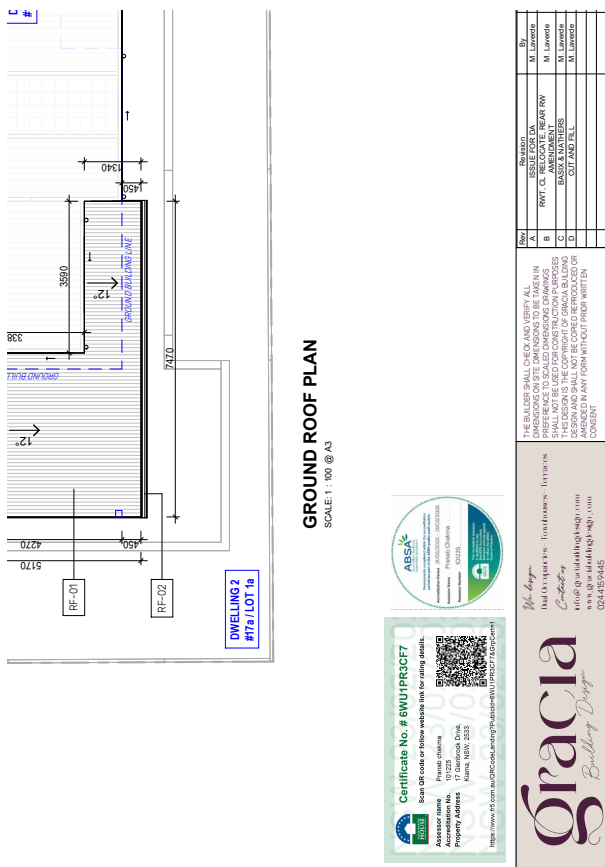


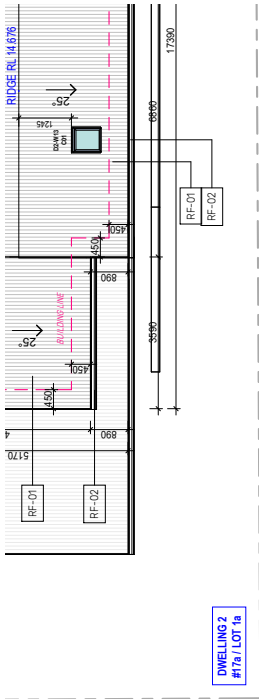
SD	ALUMINUM FRAME SLIDING DOOR	ROOF TYPE SCHEDULE
SSD	ALUMINUM FRAME SLIDING DOOR	FOORING ROOFING SURPAST PRE-PANED FINISH
CSD	CAVITY SLIDING DOOR	LINE SCHEDULE
PLD	PANEL LIFT DOOR	BASEMENT FLOOR LINES
RSD	ROOF SLIDING DOOR	GROUND FLOOR LINES
HW	HIGH LIGHTS WINDOW	ROOF LINES
OG	OPAQUE GLASS	ROOF LINES
AFW	ALU/FIB ANNING WITH FIX WINDOW	BOUNDARY LINES
LD	LAUNDRY CHUTE DOOR	

	New	Revision	By
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	B	REV. C TO ADD REINFORCING ANCHORS	M. Lavetta
	C	BASED ON MATHEMATICS	M. Lavetta
	D	CUT AND FILL	M. Lavetta









FIRST FLOOR ROOF PLAN

SCALE: 1 : 100 @ A3



Sheet	Revision	By
A	INITIALS DATE	M. LAMBERT
B	INITIALS DATE	M. LAMBERT
C	INITIALS DATE	M. LAMBERT
D	INITIALS DATE	M. LAMBERT
E	INITIALS DATE	M. LAMBERT
F	INITIALS DATE	M. LAMBERT
G	INITIALS DATE	M. LAMBERT
H	INITIALS DATE	M. LAMBERT
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V	INITIALS DATE	M. LAMBERT
W	INITIALS DATE	M. LAMBERT
X	INITIALS DATE	M. LAMBERT
Y	INITIALS DATE	M. LAMBERT
Z	INITIALS DATE	M. LAMBERT

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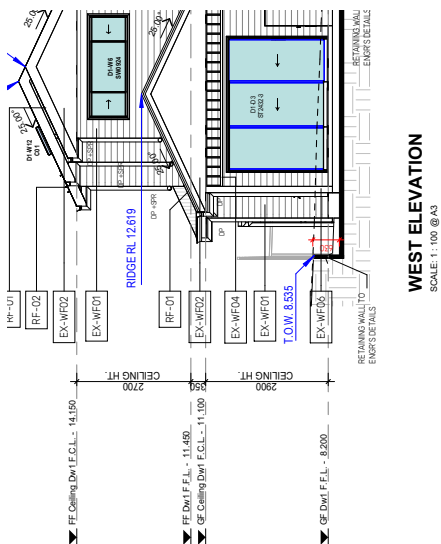
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FINISHES SCHEDULE		
EXTERIALL WALL FINISHES		MATERIAL SPECIFICATION
PATTERN	TAG	Horizontal Line Cladding or Equivalent White
	EX-WF01	
	EX-WF02	F.C. Sheet White painted Finish
	EX-WF03	Hampton Style Timber Accent wall Painted Finish
	EX-WF04	Hampton Style Drop Accent Timber Railings Painted Finish
	EX-WF05	Retaining wall
	EX-WF06	Timber Post White Painted Finish
ROOF FINISHES		
	RF-01	Colorbond Roofing Sheet Windsorgr Pre-Painted Finish or Equivalent
	RF-02	Colorbond Metal Fascia & Gutter White Pre-Painted Finish
FENCE/RAILINGS		
	RL-01	1800mm High Fence Grey Painted Finish



WEST ELEVATION
SCALE: 1 : 100 @ A3

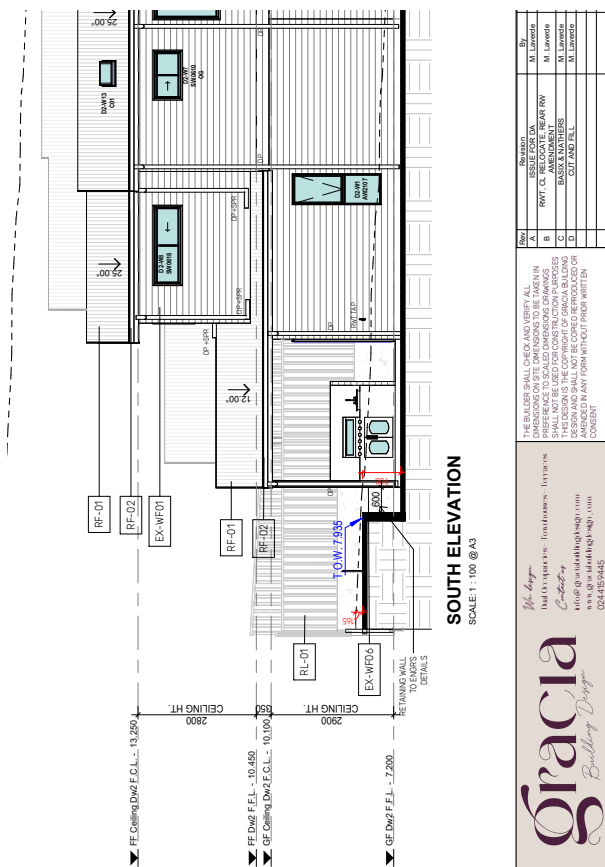


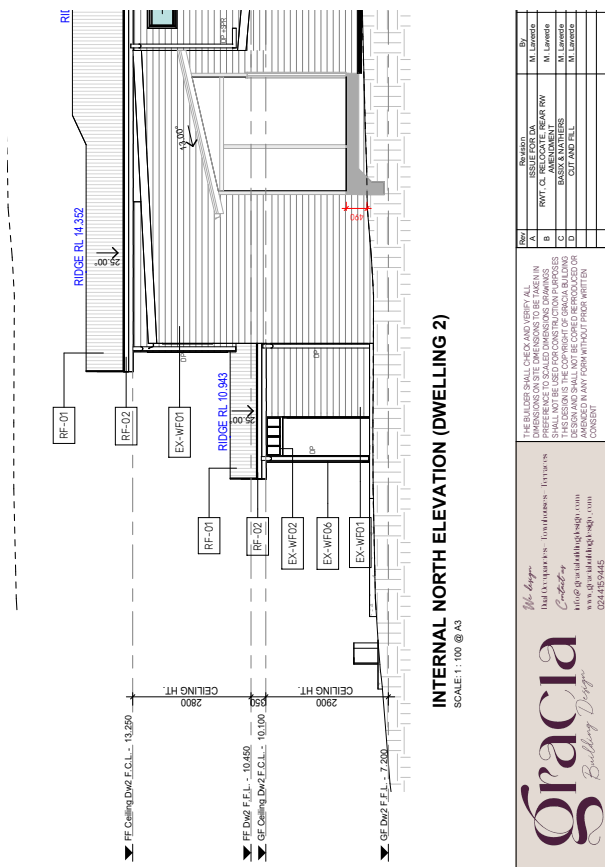
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Catering
info@stinkinghug.com
info@stinkinghug.com
 0244589445

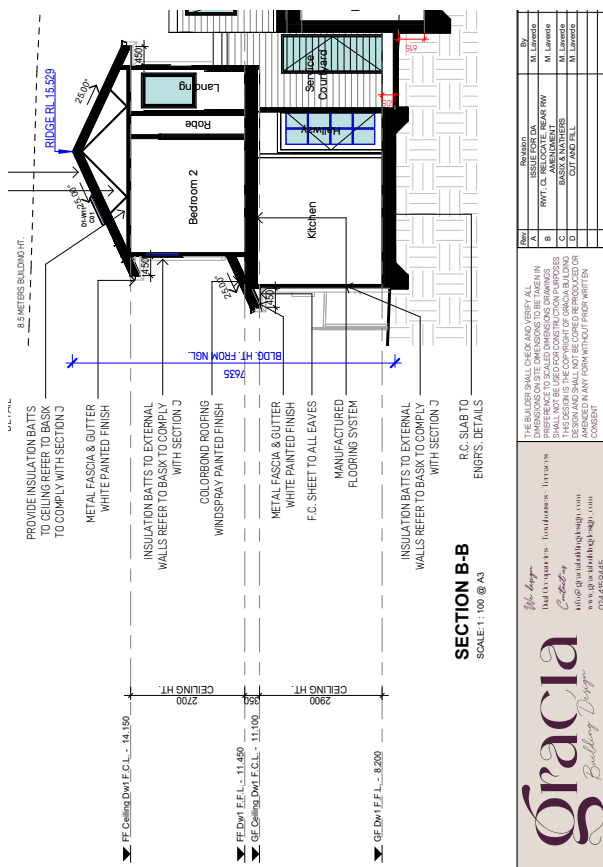
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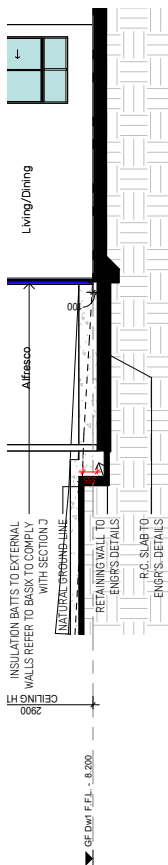
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B	RWT, CL. RELOCATE, REAR RW	M. Lavetta
C	BASIS & MATTERS	M. Lavetta
D	CUT AND FILL	M. Lavetta







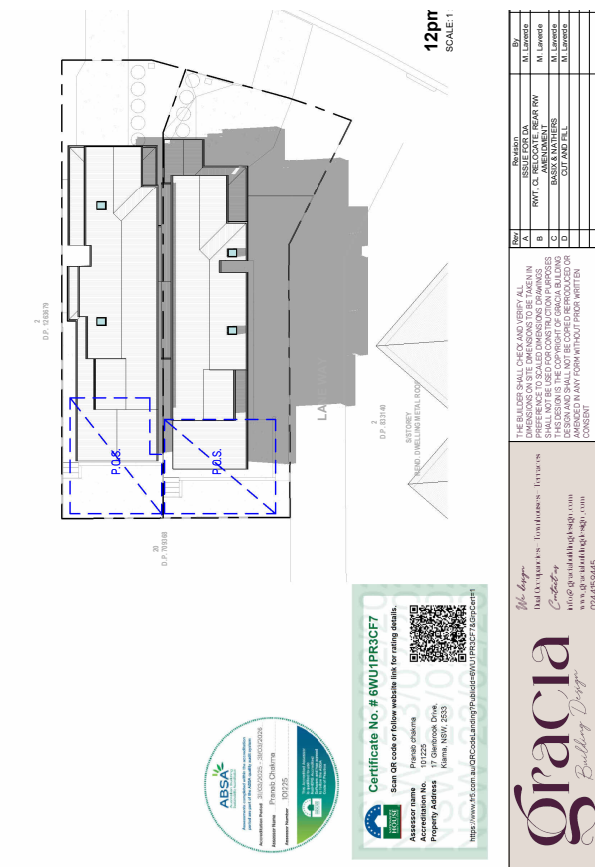


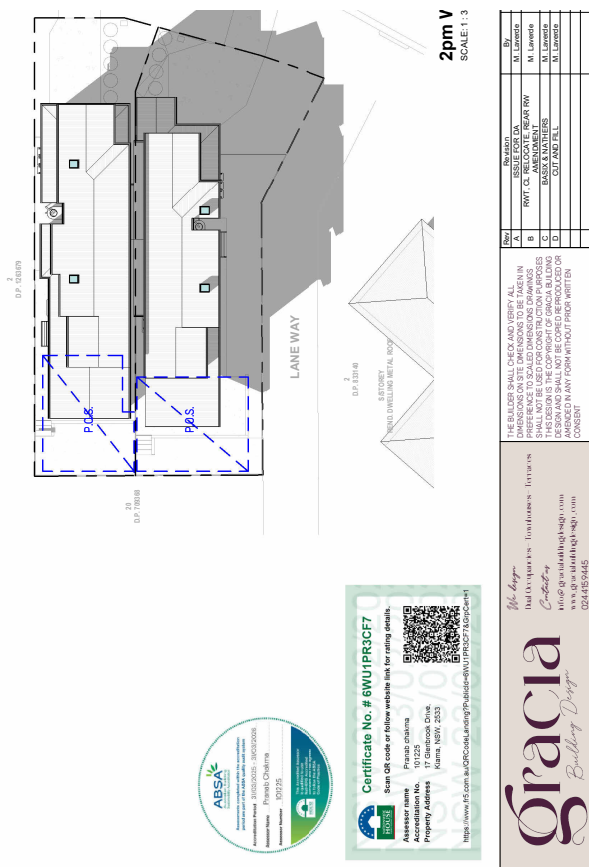
SECTION C-C (DWELLING 1)

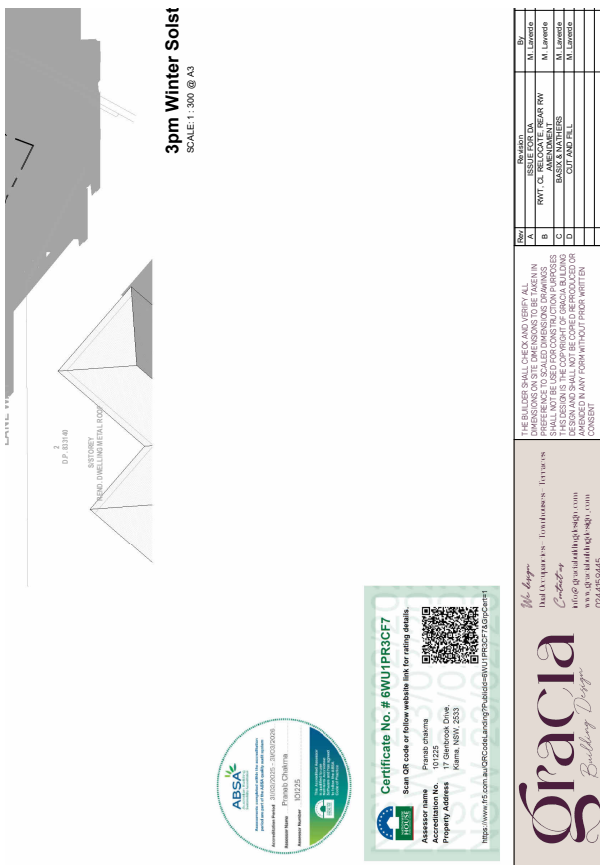
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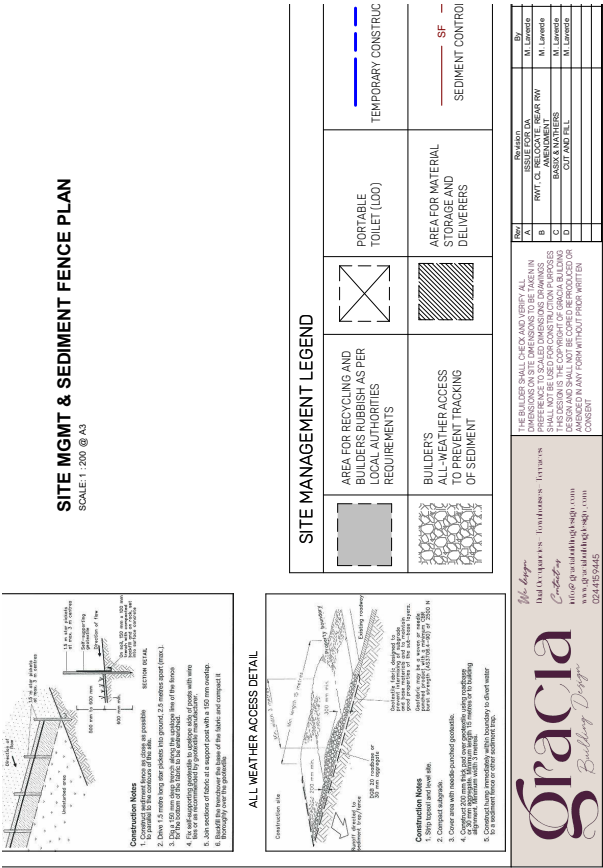


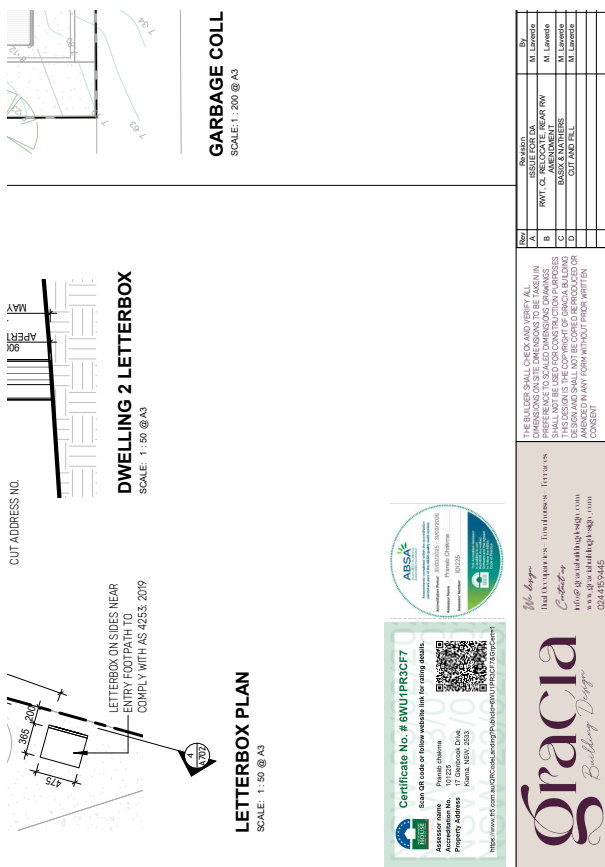
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CONSENT				CUT AND FILL	M. LAWRENCE











	RAINWATER TANK	1000 L	
ENERGY	HOT WATER SYSTEMS AIR CONDITION COOKING LIGHTING	ELECTRIC HEAT PUMP MORE THAN 45 STCS 1 PHASE 2.5 STAR AVERAGE ZONE INDUCTION COOKTOP ELECTRIC OVEN LED	
ALTERNATIVE ENERGY	PHOTOVOLTAIC SYSTEM	n/a	

[illegible]

[illegible]

Item 15.1 - Determination of Development Application
10.2026.41.1: Lot 1 DP 1263679 - 17 Glenbrook Drive Kiama -
Dual Occupancy (Attached) and Strata Title Subdivision.

Enclosures 2 - 10.2026.41.1 - Plans

Item 15.1

Enclosure 2

(rated 1 star to 5 stars) and Class 1 (over 10 years of knowledge).
 The requirements for houses are detailed in Specification 4.2 of NCC Volume Two. The requirements for houses are detailed in Specification 4.2 of NCC Volume Two. The requirements are detailed in clause 4.2.2 and 4.2.3 of NCC Volume One.
 NCC 2002 includes detailed thermal performance requirements for houses and apartments. It also includes a new whole-house annual energy use calculation.
 The NCC, and associated AS/NZS standards and support material, can be accessed at www.sba.gov.au.
 Note, variations and additions to the NCC energy efficiency requirements may apply to the future and overseas.

Summary of all dwellings

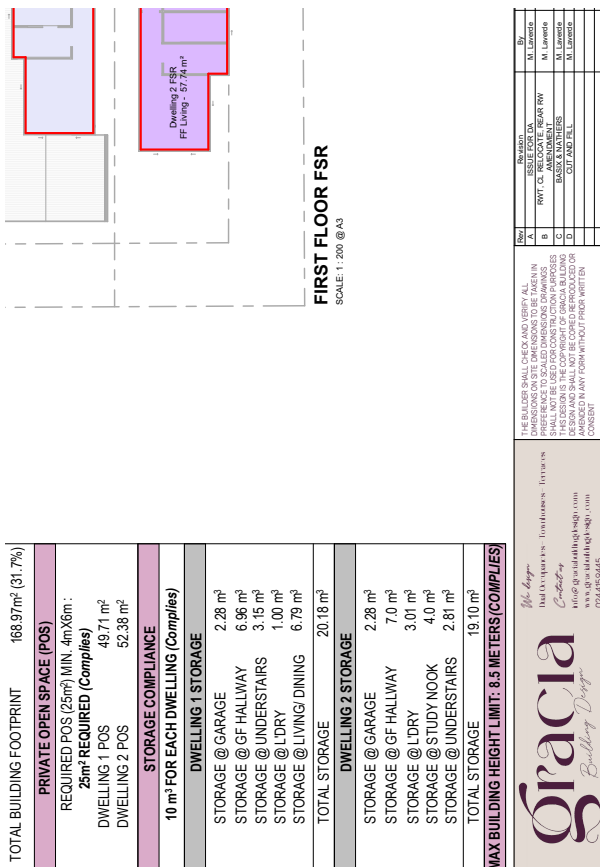
Certificate number and link	Unit number	Heating load (load limit) [MJ/m ² ·a.]	Cooling load (load limit) [MJ/m ² ·a.]	Total load (MJ/m ² ·a.)	Star rating	Whole of Home Rating
800TJGWF2	1	48.5 (NA)	8.6 (NA)	56.9	7.1	NA
2340JGSDM	2	50.2 (NA)	10.6 (NA)	60.9	7	NA

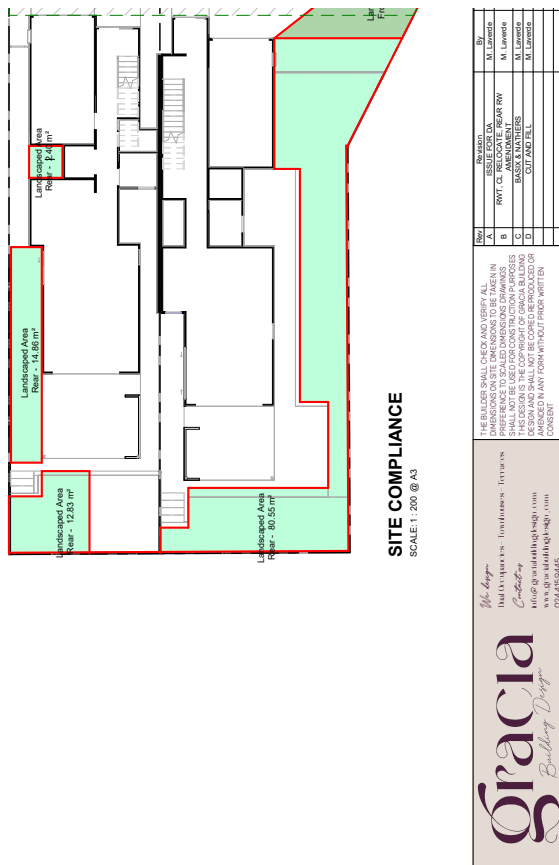
Nationwide House Energy Rating Scheme (NatHERS) is an initiative of the Australian, state and territory governments. For more details see www.natther.com.au.
 See www.natther.com.au for more information.

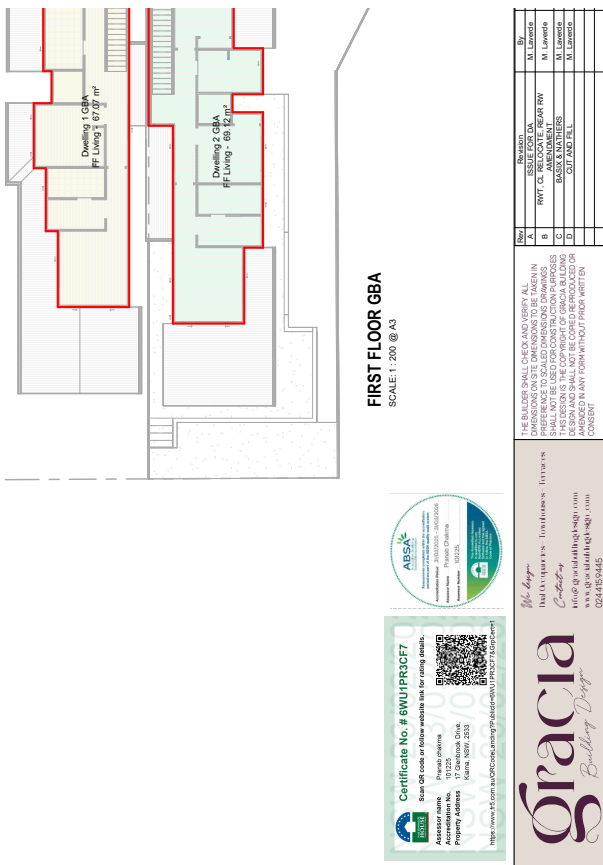
		We design Architecture • Interiors • Kitchen Bathrooms		Email: info@buildingdesign.com Web: www.buildingdesign.com	
THE BUILDING SHALL CHECK AND VERIFY ALL DIMENSIONS AND LOCATIONS OF ALL UTILITIES PRIOR TO ANY CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.		A. ☐ YES B. ☐ NO C. ☐ NO D. ☐ NO		ISSUED FOR: ☐ AS-BUILT REVISION: ☐ REVISION BASED ON: ☐ BASED ON DATE: ☐ DATE BY: ☐ BY	

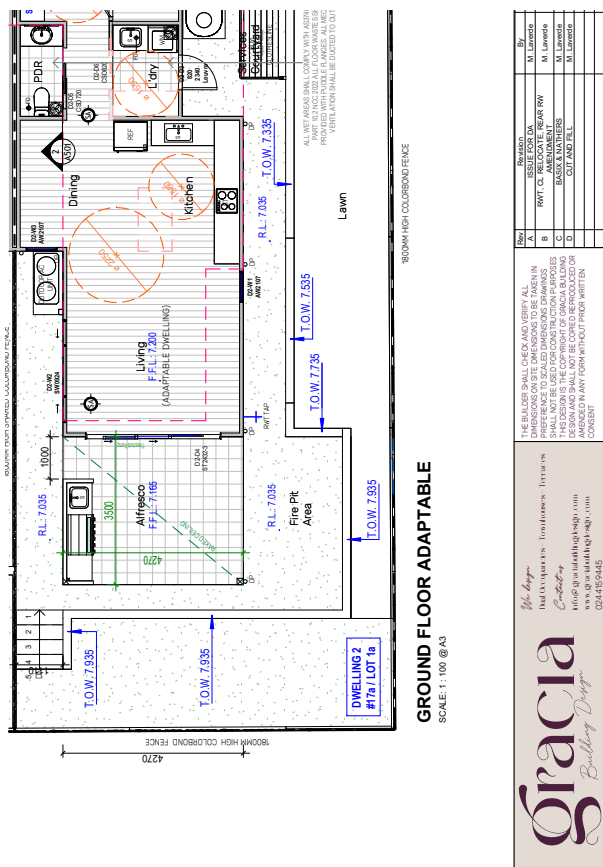
Item 15.1 - Determination of Development Application 10.2026.41.1: Lot 1 DP 1263679 - 17 Glenbrook Drive Kiama - Dual Occupancy (Attached) and Strata Title Subdivision.									
Enclosure 2 - 10.2026.41.1 - Plans									
Item 15.1									
Enclosure 2									
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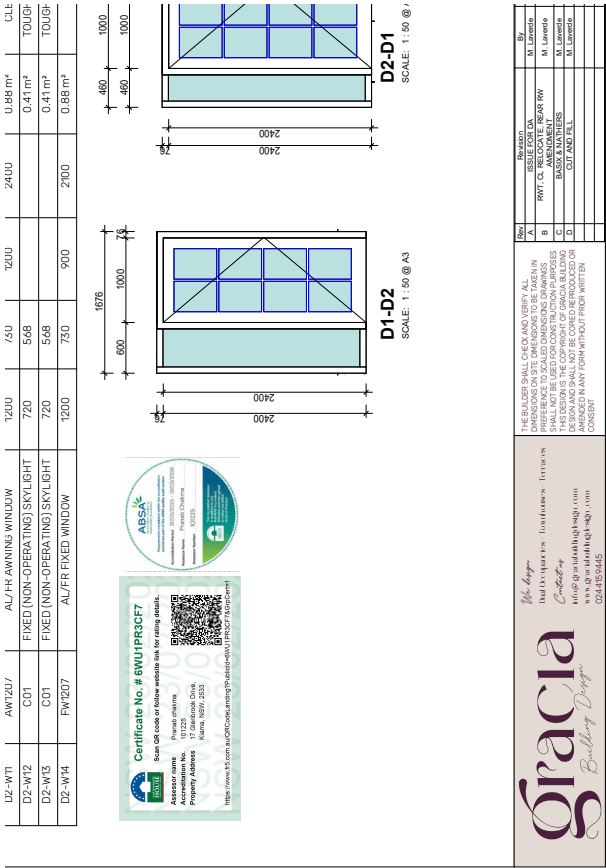
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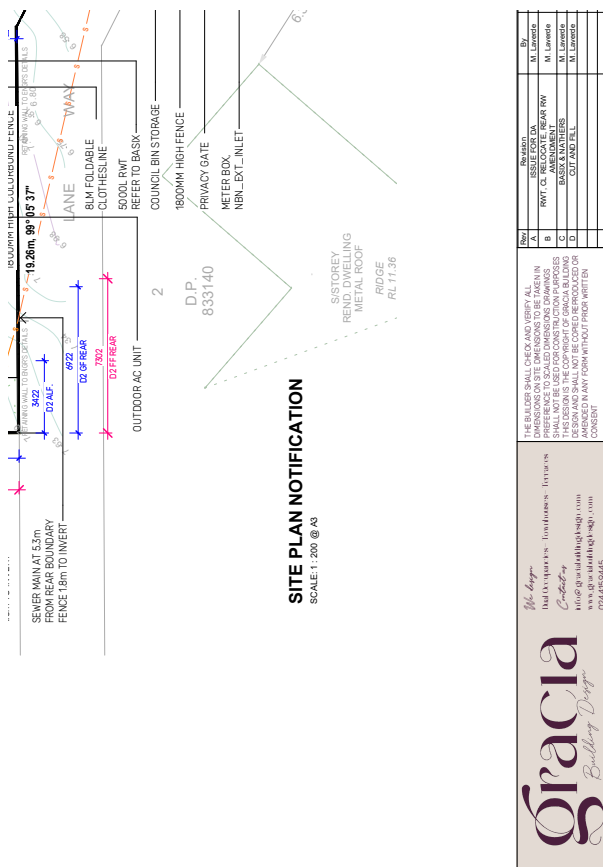






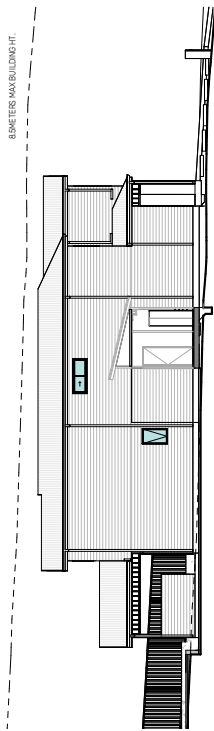






NORTH ELEVATION NOTIFICATION

SCALE: 1 : 200 @ A3



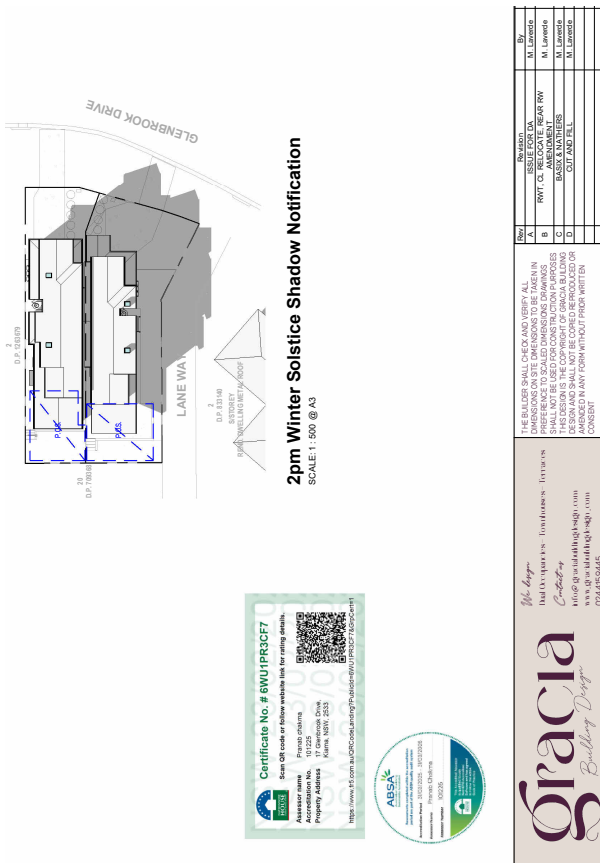
INTERNAL ELEVATION (DW1) NOTIFICATION

SCALE: 1:200 @ A3

		<i>We design Interiors</i> <i>Building Design</i>		1600 Gracia Street, Suite 100, San Francisco, CA 94109 Tel: 415.774.8888 Fax: 415.774.8889 www.graciadesign.com	
THE DESIGN OF THE EXTERIOR AND INTERIOR OF THE BUILDING SHALL BE THE RESPONSIBILITY OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN.	THE DESIGN OF THE EXTERIOR AND INTERIOR OF THE BUILDING SHALL BE THE RESPONSIBILITY OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN.	THE DESIGN OF THE EXTERIOR AND INTERIOR OF THE BUILDING SHALL BE THE RESPONSIBILITY OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN.	THE DESIGN OF THE EXTERIOR AND INTERIOR OF THE BUILDING SHALL BE THE RESPONSIBILITY OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN.	THE DESIGN OF THE EXTERIOR AND INTERIOR OF THE BUILDING SHALL BE THE RESPONSIBILITY OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN.	THE DESIGN OF THE EXTERIOR AND INTERIOR OF THE BUILDING SHALL BE THE RESPONSIBILITY OF THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE DESIGN OF THE BUILDING AND FOR THE COORDINATION OF THE DESIGN WITH THE OTHER PROFESSIONS INVOLVED IN THE DESIGN.

Item 15.1 - Determination of Development Application
10.2026.41.1: Lot 1 DP 1263679 - 17 Glenbrook Drive Kiama -
Dual Occupancy (Attached) and Strata Title Subdivision.

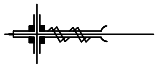
Enclosures 2 - 10.2026.41.1 - Plans



Item 15.1

Enclosure 2

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION



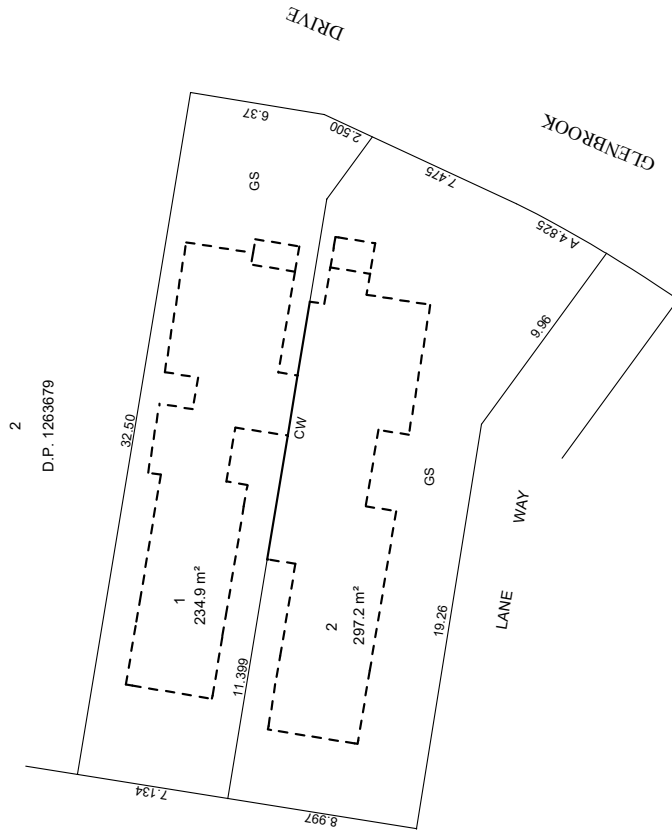
NOTES

GS DENOTES GARDEN SPACE

CW DENOTES COMMON WALL WHICH IS COMMON PROPERTY

NOTES:

1. THE STRATUM OF EACH LOT IS LIMITED IN HEIGHT TO 12 METRES BELOW AND 12 METRES ABOVE THE UPPER SURFACE OF THE GARAGE FLOOR OF THE RESPECTIVE LOT.
2. ALL STRUCTURAL FEATURES INCLUDING CONCRETE PAVING AND GATES ARE PART OF THAT LOT AND IS NOT COMMON PROPERTY.
3. ALL HOUSE FEATURES WITHIN THEIR RESPECTIVE LOT SUCH AS CLOTHES LINES, RAIN WATER TANKS, HOT WATER SERVICE AND AIR CONDITIONING FORM PART OF THAT LOT AND IS NOT COMMON PROPERTY.
4. THE WHOLE OF THE BUILDING STANDING ON EACH LOT INCLUDING WALLS, FLOORS, CEILINGS AND ROOFS, FORM PART OF THE LOT AND IS NOT COMMON PROPERTY EXCEPT THE COMMON WALL BETWEEN LOTS 1 AND 2, WHICH IS COMMON PROPERTY.
5. ANY SERVICE LINE WITHIN ONE LOT SERVICING ANOTHER LOT IS COMMON PROPERTY.
ALL COMMON SERVICE LINES ARE COMMON PROPERTY.
- ALL AREAS ARE APPROXIMATE.



Surveyor : MATTHEW SMITH Date : 09/06/2026 Surveyor's Ref : D225814										PLAN OF PROPOSED STRATA SUBDIVISION OF LOT 1 IN DP 1263679					LGA: KIAMA Locality : KIAMA Lengths are in metres. Reduction Ratio 1:200	Registered	SP				
20										10	20	30	40	50	Table of mm	90	100	110	120	130	140



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	10.2026.41.1 PAN-620085
Applicant	Gracia Building Design Pty Ltd 116 Illaroo Road NORTH NOWRA NSW 2541
Description of development	Strata title subdivision and new dual occupancy (attached) - Construction of an attached dual occupancy and strata title subdivision.
Property	17 Glenbrook Drive KIAMA NSW 2533 LOT: 1 DP: 1263679
Determination	Approved Consent Authority - Council
Date of determination	TBA
Date on which the consent lapses	TBA
Date from which the consent operates	TBA

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.	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>1</td><td>17A Glenbrook Drive, Kiama</td></tr><tr><td>2</td><td>17 Glenbrook Drive, Kiama</td></tr></table>	Proposed lot	Property address	1	17A Glenbrook Drive, Kiama	2	17 Glenbrook Drive, Kiama
	Proposed lot	Property address					
	1	17A Glenbrook Drive, Kiama					
2	17 Glenbrook Drive, Kiama						
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.						
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.	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
	A002	Revision D	Site Plan	Gracia Building Design	04.03.26
	A003	Revision D	Cut & Fill Plan	Gracia Building Design	04.03.26
	A004	Revision D	Driveway Gradient	Gracia Building Design	04.03.26
	A200	Revision D	Legends, Notes & Key Symbol	Gracia Building Design	04.03.26
	A201	Revision D	Proposed Ground Floor Plan	Gracia Building Design	04.03.26
	A202	Revision D	Proposed First Floor Plan	Gracia Building Design	04.03.26
	A301	Revision D	Ground Roof Plan	Gracia Building Design	04.03.26
	A302	Revision D	First Floor Roof Plan	Gracia Building Design	04.03.26
	A401	Revision D	East & West Elevation	Gracia Building Design	04.03.26
	A402	Revision D	North & South Elevation	Gracia Building Design	04.03.26
	A403	Revision D	Internal Elevation	Gracia Building Design	04.03.26
	A501	Revision D	Sections	Gracia Building Design	04.03.26
	A502	Revision D	Sections	Gracia Building Design	04.03.26
	A701	Revision D	Site Management & Sediment Fence Plan	Gracia Building Design	04.03.26

A702	Revision D	Garbage Bin Collection Location & Letterbox Detail	Gracia Building Design	04.03.26
A703	Revision D	BASIX Commitments Summary	Gracia Building Design	04.03.26
A704	Revision D	BASIX Commitments	Gracia Building Design	04.03.26
A705	Revision D	NatHERs (Summary)	Gracia Building Design	04.03.26
A706	Revision D	NatHERs (Dwelling 1)	Gracia Building Design	04.03.26
A707	Revision D	NatHERs (Dwelling 2)	Gracia Building Design	04.03.26
A709	Revision D	Landscape / Bldg Ft. Print. Subdivision Compliance	Gracia Building Design	04.03.26
A711	Revision D	Adaptable Dwelling	Gracia Building Design	04.03.26
A801	Revision D	Perspective & Material Schedule	Gracia Building Design	04.03.26
A901	Revision D	Notification Plan (Site)	Gracia Building Design	04.03.26
Drawings 1 - 4	Revision B	Landscape Plan set	Artscience Landscapes	04/03/2026
Surveyor's Ref: D225814	-	Plan of Proposed Strata Subdivision	Matthew Smith	09/06/2026
Drawings C1 – C3	Issue B	Soil Erosion & Sedimentation Control plan set	ATB Consulting Engineers Civil & Structural	03/03/2026
Approved Documents				
Document title	Version number	Prepared by	Date of document	
Waste Management Plan	Job No 25037	Gracia Building Design	16/02/2026	

Item 15.1

Enclosure 4

	BASIX Certificate*	Certificate number: 1834318M	PAUL&DAVID CONSULTING PTY LTD.	Monday, 23 February 2026						
	NatHERS Certificate	Certificate No. 6WU1PR3CF7	PAUL & DAVID	23 Feb 2026						
	Dwelling NatHERS Certificate 2	Certificate No. Z2I4OFGSDM	PAUL & DAVID	23 Feb 2026						
	Dwelling NatHERs Certificate 1	Certificate No. 8OQT3UGWF2	PAUL & DAVID	23 Feb 2026						
	*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.									
4.	Concurrence and Referral The recommended conditions/General Terms of Approval issued by the following agencies, Reference No: CNR-940090, are included as conditions of this consent and must be complied with: <table><tr><th>Agency</th><th>Dated</th></tr><tr><td>Endeavour Energy</td><td>07/04/2026</td></tr><tr><td>Sydney Water Corporation</td><td>30/04/2026</td></tr></table> Condition Reason: Compliance with relevant legislation, standards, guidelines and codes.				Agency	Dated	Endeavour Energy	07/04/2026	Sydney Water Corporation	30/04/2026
Agency	Dated									
Endeavour Energy	07/04/2026									
Sydney Water Corporation	30/04/2026									

Item 15.1

Enclosure 4

BUILDING WORK
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

5.

Local infrastructure contributions

Before the issue of a Construction Certificate, a contribution in accordance with section 4.17 of the *Environmental Planning and Assessment Act 1979* and the Section 7.12 Contribution Plan, as shown in the table below must be paid to Council:

7.12 Contribution Plan	\$ 8,745.00
Total Contribution Amount:	\$ 8,745.00

	The contribution amount will be indexed until the date of payment in accordance with the contribution plan. Evidence of payment must be provided to the Certifying Authority. The Contribution Plan can be viewed on Council's website www.kiama.nsw.gov.au.				
	Condition Reason: To ensure contributions are levied toward the provision of local public infrastructure.				
6.	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"> <tr> <th>Housing and productivity contribution</th><th>Amount</th></tr> <tr> <td>Housing and productivity contribution*</td><td>\$6,487.31</td></tr> </table> * The HPC amount payable will be adjusted at the time of payment for indexation using Producer Price Index (PPI) in accordance with the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2024</i>. The HPC can be paid by logging into "My Account" on the NSW planning portal: https://pp.planningportal.nsw.gov.au/. Select "Make a Payment", and then "Infrastructure Contributions Payment". Further information can be found here: https://www.planning.nsw.gov.au. Condition Reason: To ensure contributions are levied toward the provision of state and regional infrastructure.	Housing and productivity contribution	Amount	Housing and productivity contribution*	\$6,487.31
Housing and productivity contribution	Amount				
Housing and productivity contribution*	\$6,487.31				
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: - The location and materials for protective fencing and hoardings on the perimeter of the site; - Provisions for public safety; - Pedestrian and vehicular site access points and construction activity zones; - Details of construction traffic management including: - Proposed truck movements to and from the site; - Estimated frequency of truck movements; and - Measures to ensure pedestrian safety near the site; - Details of bulk earthworks to be carried out; - The location of site storage areas and sheds; - The equipment used to carry out works; - The location of a garbage container with a tight-fitting lid; - 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 '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.
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.	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.
11.	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.
12.	Waste Management Plan – an approved document of this consent

Item 15.1

Enclosure 4

	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 Concept Drainage Plan approved under this consent must be submitted to the Certifier for approval. This plan must show the connection of stormwater into the street kerb at Glenbrook Drive 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.	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.
15.	Overflow waters Before the issue of the Construction Certificate, the applicant must provide to the Certifier for approval, details showing that overflow waters from the rainwater tank and all other roof waters not directed to the rainwater tank are to shall be discharged clear of any buildings and other structures. The point of discharge must: a) disperse water so as not to cause erosion; b) not concentrate waters onto adjoining properties; c) not drain to an area where it may damage footings or other buildings; d) not drain toward the effluent management area e) not cause a nuisance to adjoining lands.
	Condition Reason: To ensure adequate provisions are made for overflow waters.

BEFORE BUILDING WORK COMMENCES

16.	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.
17.	Appointment of Principal Certifier Before building work commences a Principal Certifier must be appointed.
	Condition Reason: To ensure ongoing compliance.
18.	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.
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 erosion and sediment controls in the Erosion and Sediment Control Plan must be in place. These controls must remain in place until any bare earth has been restabilised in accordance with the Erosion and Sediment Control Plan
	Condition Reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
21.	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:

Item 15.1

Enclosure 4

	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.
22.	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.
23.	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.

DURING BUILDING WORK

24.	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.
25.	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.
26.	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.
27.	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.
28.	Noise and vibration requirements 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.
29.	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.
30.	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.
31.	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.
32.	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

Item 15.1

Enclosure 4

	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.
33.	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.
34.	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

35.	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> .
36.	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.
37.	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.
38.	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.
39.	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.
40.	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.

OCCUPATION AND ONGOING USE

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41.	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.
42.	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.

Item 15.1

Enclosure 4

STRATA SUBDIVISION BEFORE ISSUE OF A STRATA CERTIFICATE

43.	Strata Certificate A Strata Certificate must be obtained from Council or an Accredited Certifier prior to lodgement of the Final Plan of Survey with NSW Land Registry Services.
	Condition Reason: To ensure all conditions are met.
44.	Schedule of Compliance The Strata Certificate must not be issued until all relevant conditions of development consent have been met or other satisfactory arrangements have been made with Council (i.e., a security). A Schedule of Compliance in table format must be submitted with the application for a Strata Certificate. The schedule must provide evidence of how all relevant conditions of development consent have been fulfilled.
	Condition Reason: To ensure all conditions are met.
45.	Compliance with conditions of consent – approved development Before the issue of a Strata Certificate all conditions of development consent DA10.2026.41.1 must be met or other satisfactory arrangements made with Council

	(i.e., a security). Evidence of how all conditions of that development consent have been fulfilled must be provided to Council or the certifier.
	Condition Reason: To ensure compliance of all conditions under the relevant development consent.

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.