

JRPP No	2011STH011
DA Number	10.2011.86.1
Local Government Area	Kiama Municipal Council
Proposed Development	Demolition of dwelling and construction of a gated seniors living development comprising of thirty (30) self care dwellings, a community facility, private internal access road and 31 lot Community title estate.
Street Address	58 Old Saddleback Road, Kiama
Applicant/Owner	Applicant: Saddleback Mountain Estates No. 2 Pty Ltd. Owner : Charles Albert Sugar and Elizabeth Rose Sugar
Number of Submissions	Ten
Recommendation	Approval with Conditions
Report by	Mark Biondich, Senior Development Assessment Officer

Assessment Report and Recommendation

EXECUTIVE SUMMARY

Reasons for Consideration by Joint Regional Planning Panel

The development application has been referred to the Joint Regional Planning Panel pursuant to Clause 13B(1)(a) of State Environmental Planning Policy (Major Development) 2005 as the capital investment value exceeds \$10M.

Proposal

The development application seeks approval for a gated seniors living development comprising thirty (30), three (3) bedroom, single storey self-care dwellings, a community facility for residents, associated private internal access road and 31 lot Community title estate at No 58 Old Saddleback Road, Kiama.

Permissibility

The proposed development is consistent with State Environmental Planning Policy (*Housing for Seniors or People with a Disability*) 2004.

A site compatibility certificate for the proposal was issued by the NSW Department of Planning.

Consultation

The application was notified in accordance with Council policy. Ten (10) submissions were received.

Main Issues

None identified.

RECOMMENDATION

It is recommended that Development Application No. 10.2011.86.1 be approved subject to the conditions contained in Attachment 2.

Site Description

The site is located 1.7 km from the Kiama town centre.

The property is described as Lot 2 in Deposited Plan 1003719 and is also known as No. 58 Old Saddleback Road, Kiama. The site is 2.023 hectares in size and is fan shaped.

The site encompasses the knoll of a hill and contains a single storey brick dwelling and outbuilding. The subject site has been cleared from previous agricultural use and some native and exotic vegetation has been introduced over time.

To the north of the site is Greyleigh Drive, the unformed Crown road reserve Caliope Street and low density residential development. Old Saddleback Road is situated to the south and east of the site and to the west of the site is rural land.

The site is zoned Rural 1(a) pursuant to Kiama LEP 1996.

The Proposal

The proposal involves the provision of a gated seniors living development and comprises the following components:

- a) Demolition and removal of the existing house and other ancillary structures;
- b) Tree and vegetation removal;
- c) Construction of 30 self-contained dwelling units in accordance with the requirements of State Environmental Planning Policy (*Housing for Seniors or People with a Disability*) 2004;
- d) A community facility which consists of a kitchen, tea room, WC and observation deck;
- e) Small children's playground;
- f) Vehicular access into the site;
- g) A 8.5 metre one-way internal access loop road which includes a 6 metre wide carriageway and bus bay/delivery bay;
- h) A 1.0 metre wide footpath adjoining the internal access road;
- i) Seven visitor car parking spaces distributed throughout the development;
- j) Landscaping embellishment; and
- k) Utility servicing.

Attachment 1 is a plan of the proposal.

Community title is proposed in accordance with the Community Land Development Act 1989

that includes thirty (30) Torrens lots and one Community lot in which the internal access road and community facility will be included.

All dwellings are proposed as single storey structures. Eleven (11) different floor designs are proposed within the development to take into consideration the site analysis and provide some variety of design. All dwellings comprise of three (3) bedrooms, living and dining areas, kitchen, laundry, bathroom and en-suite with a walk in robe off the main bedroom. Private open space areas are proposed at the rear of each dwelling.

The table below provides an indication of dwelling type, car space configuration, gross floor area and floor space area for each allotment in the community title plan.

Lot	Type	No. of Car spaces	Gross Floor Area (m²)	Floor Space Ratio
1	Community Room (& access road)	7 visitor Including one disabled	56	0.12:1
2	D	2 internal	220.76	0.27:1
3	D	2 internal	220.76	0.34:1
4	D	2 internal	220.76	0.36:1
5	D	2 internal	220.76	0.38:1
6	D	2 internal	220.76	0.41:1
7	D	2 internal	220.76	0.43:1
8	D	2 internal	220.76	0.46:1
9	D	2 internal	220.76	0.46:1
10	D	2 internal	220.76	0.25:1
11	J	2 internal	247.56	0.41:1
12	D	2 internal	220.76	0.44:1
13	D	2 internal	220.76	0.44:1
14	D	2 internal	220.76	0.44:1
15	E	1 internal & 1 open	190.55	0.36:1
16	K	2 internal	214.16	0.27:1
17	E	1 internal & 1 open	190.55	0.38:1
18	C	2 internal	216.19	0.44:1
19	B	2 internal	213.14	0.43:1
20	C	2 internal	216.61	0.44:1
21	B	2 internal	171.55	0.43:1
22	I	2 internal	171.55	0.43:1
23	H	1 internal & 1 open	202.35	0.35:1
24	H	1 internal & 1 open	209.56	0.30:1
25	A	2 internal	197.78	0.44:1
26	F	2 internal	197.78	0.46:1
27	G	2 internal	197.78	0.43:1
28	G	2 internal	197.78	0.36:1
29	G	2 internal	197.78	0.40:1
30	G	2 internal	197.78	0.41:1
31	G	2 internal	197.78	0.43:1

A total of sixty-seven (67) on-site car parking spaces are proposed, including seven (7) visitor parking spaces.

Vehicular and pedestrian ingress and egress to the development is at Greyleigh Drive approximately 40 metres from its intersection with Old Saddleback Road. Formalised access will need to be constructed across the unformed Crown road reserve referred to as Caliope Street.

Proposed within the development is a 1.0 metre wide accessible footpath and pedestrian access ramp, suitable for people with a disability which leads to mailboxes which are located adjacent to Old Saddleback Road.

Waste generated by the occupants will be sorted into the separate green waste, recycling and general household rubbish provided by Council to each household. Household rubbish will be collected on a weekly basis and green waste and recycling will be collected on alternative weeks. The waste collection point will generally be at the front of each dwelling.

It is proposed to finish the development with a mixture of brick and rendered brick in recessive tones. Corrugated metal roof sheeting is proposed which will also be in a recessive tone.

Evidence has been provided within the application which indicates that reticulated water and sewer can service the subject development.

On-site health care is proposed to be provided through "South Coast Home Health Care Pty Ltd". Services offered include personal care, injections/medication, medication prompts, post operative nursing care, wound care, meal preparation, bed preparation, respite and outings, cleaning, shopping and occupational therapy.

A daily charter bus service between the development and the Kiama town centre is proposed in accordance with the requirements of State Environmental Planning Policy (*Housing for Seniors or People with a Disability*) 2004 and will initially be provided by "Kiama Mini Coach Charters".

The application was supported by a Statement of Environmental Effects prepared by "Coble Stephens Architects" with assistance from several consultancies which provided specialist reports addressing a range of issues including:

- Traffic & transport;
- Accessibility;
- Drainage; and
- Visual Impacts.

Environmental Planning and Assessment Act 1979

In determining a development application, the consent authority must take into consideration matters referred to within Section 79C of the Environmental Planning and Assessment Act 1979 as relevant to the proposal:-

Section 79C of the Environmental Planning and Assessment Act 1979 (as amended)	
(a) (i)	the provisions of any environmental planning instrument, that apply to the land to which the development application relates
<u>State Environmental Planning Policies</u>	
<ul style="list-style-type: none">• State Environmental Planning Policy (<i>Housing for Seniors or People with a Disability</i>) 2004• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004• Illawarra Regional Environmental Plan No 1 (deemed SEPP)• State Environmental Planning Policy (<i>Rural Lands</i>) 2008	

Local Environmental Planning Policies

- Kiama Local Environmental Plan 1996

(a) (ii) the provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), that apply to the land to which the development application relates

- 'Draft' Kiama Local Environmental Plan 2010

(a) (iii) the provisions of any development control plan, that apply to the land to which the development application relates

- Development Control Plan No 8 – *Building Height and Amenity* (Kiama DCP 8)
- Development Control Plan No 31 – *Landscaping Guidelines* (Kiama DCP 31)
- Development Control Plan No 25 – *Planning for Less Waste* (Kiama DCP 25)
- Development Control Plan No 36 – *Building Lines and Foreshore Building Lines* (Kiama DCP 36)

(a) (iia) the provisions of any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, that apply to the land to which the development application relates

- None applicable.

(a) (iv) the provisions of the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates

- The provisions of Australian Standard AS 2601-1991: *The Demolition of Structures* applies for all demolition works proposed.

(a) (v) the provisions of: any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*), that apply to the land to which the development application relates

- None applicable.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Context & Setting

The scale, form and density of the development is in character with the locality. The proposal is compatible with adjacent land uses and does not cause overshadowing or privacy implications.

Access, transport, traffic & parking

Safe ingress and egress to a public road system can be provided to the site.

The proposal provides a private transport service to the Kiama town centre for future

occupants.

The traffic generated by the proposal can be accommodated within the existing road network.

A sufficient level of parking has been provided onsite for occupiers and visitors.

Public Domain

The proposal is not likely to cause impacts to the public domain.

Utilities

The proposal can be serviced by all essential services.

Heritage

The land and existing improvements have no known Aboriginal or European heritage significance.

Land Resources

As the site is a small rural holding it is not considered to be commercially viable for agricultural enterprises.

Water

Water resources will be conserved through the measures contained in the BASIX certification lodged in support of the application.

Soils

Soil loss will be managed in the construction process through appropriate sediment and erosion control techniques which will be conditioned in the consent.

Flora & fauna

The site is not known to be affected by critical habitats, threatened species populations, ecological communities, their habitats or any other protected species.

Waste

The application has not detailed the waste likely to be generated during demolition and construction of dwellings and civil works and during operation of the development. The consent will be conditioned to address Development Control Plan No 25 – *Planning for Less Waste*.

Energy

Energy resources will be conserved through the measures contained in the BASIX certification lodged in support of the application.

Noise & vibration

Noise and vibration generated during construction will be mitigated through appropriate conditions of consent.

Air & microclimate

Dust generated during construction will be mitigated through appropriate conditions of consent.

Natural hazards

The site is not known to be any affected by natural hazards such as bushfire, instability or flooding.

Technological hazards

The site is not known to be affected by any technological hazards including contaminated soils. Unexpected finds during the construction period will be managed in accordance with the requirements of State Environmental Planning Policy No. 55 – Remediation of Land which will be conditioned in the consent.

Safety, security & crime prevention

The proposal is for a gated community. Dwellings have been sited so that passive surveillance of the common areas and adjoining public domain can be undertaken by occupiers within the confines of individual living areas.

Social impact in the locality

A sense of community is likely to take place within the proposed development; however, the gating of the community may limit interaction with the existing local community.

Economic impact in the locality

The proposal will generate employment opportunities during the construction period. Other employment opportunities will likely be created in the operation of the transport service, medical support, maintenance of the site facilities and within the retail and services sector of the Kiama town centre.

Site design & internal design

The size and siting of the allotments and the positioning of buildings takes into consideration the landform and the site analysis.

The design, materials, finishes are reflective of the built form within the locality.

Compliance with the Building Code of Australia, BASIX, Council's design and construction codes and AUSTROADS can be achieved in the design of the development.

Construction

Construction impacts to adjoining landholders can be ameliorated through conditions of consent which will include a Construction Environmental Management Plan to be prepared prior to construction commencing.

Cumulative impacts

The proposal in this location is only permissible due to the application of the State Environmental Planning Policy (*Housing for Seniors or People with a Disability*) 2004 for the site and therefore is not likely to set a precedent.

(c) the suitability of the site for the development

The proposal fits within the locality and the site attributes are conducive for the development.

(d) any submissions made in accordance with this Act or the regulations

The application was notified in accordance with Council's requirements. Ten submissions were received.

(e) the public interest

Whilst noting submissions, balanced against the wider community, social and economic benefits, the proposal is considered to be in the public interest.

State Environmental Planning Policy (*Housing for Seniors or People with a Disability*) 2004

The relevant clauses and specific development controls are outlined below in relation to this proposal.

Aims of the Policy

Objective (a) - increase the supply and diversity of residences that meet the needs of seniors or people with a disability

It is considered that the proposal will increase the supply and diversity of residences that meet the needs of seniors or people with a disability in the Kiama Local Government Area, thereby complying with the objective.

Objective (b) - make efficient use of existing infrastructure and services

There are existing services in the locality including reticulated water and sewerage services, telecommunications and electricity. The proposal is consistent with this objective.

Objective (c) - Good design

Good design can be considered to be design that responds appropriately to the physical characteristics of the site and its built form. Good residential design is design that provides an appropriate level of amenity to residents and protects the amenity of neighbors. The proposal observes a single storey height limit for the site, which is consistent with the adjoining residential estate fronting Greyleigh Drive.

Land to which the policy applies

State Environmental Planning Policy (*Housing for Seniors or People with a Disability*) 2004 (hereafter referred to as SEPP (HSPD) 2004) pursuant to Clause 4, applies to land within the State that is zoned primarily for urban purposes or that adjoins land zoned primarily for urban purposes, and on which development for the purpose of dwelling-houses, residential flat buildings, hospitals, development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries are permitted.

The current application proposes a *seniors living* development on land adjoining land zoned residential and on which dwelling-houses are permitted.

Relationship to other environmental planning instruments

Clause 5(3) of SEPP (HSPD) 2004 provides that if it is inconsistent with any other environmental planning instrument, made before or after it, SEPP (HSPD) 2004 prevails to the extent of the inconsistency.

Development Controls

The key provisions and main development controls of SEPP (HSPD) 2004, which are contained in Chapter 3 (Development for Seniors Housing) have been addressed in the development application submitted to Council for its consideration

State Environmental Planning Policy No 71 – Coastal Protection (SEPP 71)

The site is not located within the coastal zone, as defined by SEPP 71.

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

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

State Environmental Planning Policy (Rural Lands) 2008

The aims of this Policy are as follows:

- (a) *to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*
- (b) *to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) *to implement measures designed to reduce land use conflicts,*
- (d) *to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) *to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

The subject allotment is 2.023 hectares in size and due to its relatively small size for a rural holding and location on the urban fringe, is not likely to have any commercially viable agricultural use. The land is currently used as a rural lifestyle allotment. Furthermore, as the subject allotment contains a dwelling and thereby enjoys dwelling entitlement, the consolidation of the subject site with an adjoining allotment for the purpose of agriculture would not be desirable from an economic perspective as one entitlement may be lost.

Development proposed on the urban fringe can create the potential for land use conflict. In this instance the site adjoins rural land to the west that is of prime crop and pasture potential. However, this land (Lot 1 DP 1003719) is only 5.622 hectares in size and, again, given this relatively small size, has limited agricultural use. The pattern of rural subdivision surrounding the site is also of comparatively small allotments. Aerial image of the site confirms the western portion of adjoining Lot 1 has been used for the production of fodder for silage, which involves the use of farm machinery. The adverse impact associated with this, namely noise and possibly dust, would be intermittent. It is expected the land is generally used for the light grazing of livestock.

The proposed dwellings along the western boundary of the subject site are setback an average of approximately six (6) metres from the boundary. This building line is generally consistent with other areas within the Municipality where land used/zoned for urban purposes abuts rural land. There is no cropping, dairying or intensive agricultural use within the immediate vicinity of the site, the pattern of rural subdivision surrounding the site is of comparatively small allotments and hence the potential for land use conflict is not considered to be such that would warrant refusal of the development under the circumstances.

Clearly the proposed development will eliminate any agricultural use or potential agricultural use

of the subject land. Whilst this is not consistent with aims of State Environmental Planning Policy (*Rural Lands*) 2008, the application is lodged pursuant to SEPP (*Housing for Seniors or People with a Disability*) 2004, which permits the proposed development in conjunction with a site compatibility certificate, which has been issued by the NSW Department of Planning. Under these circumstances, pursuant to Clause 5(3) of the SEPP it is given that SEPP (*Housing for Seniors or People with a Disability*) 2004 prevails to the extent of any inconsistency with any other planning instrument.

Illawarra Regional Environmental Plan No 1 (IREP 1)

IREP 1 relates to the entire Local Government area of Kiama. There are no specific development standards contained within IREP 1 which apply to the proposed development, though it should be noted that there are numerous aims and objectives which have relevance to both the site and the proposed development.

As the site is zoned Rural 1(a) pursuant to Kiama Local Environmental Plan 1996, Part 2 of the IREP 1 applies to the proposed development. Part 2 deals specifically with rural land and its objectives are:-

- a) *To retain the productive capacity of prime crop and pasture lands;*
- b) *To protect valuable natural environments;*
- c) *To provide for wildlife movement between major protected wildlife habitats;*
- d) *To effectively manage the development of rural lands having regard to flood potential, bushfire risks, salinisation; soil degradation; erosion and weed infestation;*
- e) *To allow the development of small rural holdings in appropriate locations*
- f) *To prevent uneconomic demand for State Government services;*
- g) *To allow for future urban expansion;*
- h) *To retain the scenic attributes of rural areas; and*
- i) *To provide for developments which by virtue of their character require siting away from urban areas.*

It is noted that the site is mapped as containing land of prime crop and pasture potential. The development of the land in the manner proposed will remove this 2.023 Hectares from agricultural use permanently, which is contrary to objective (a) of Part 2 of IREP 1. However, given the relatively small size of the allotment it is considered that it does not have any economically viable agricultural use. Furthermore, given the allotments dwelling entitlement and associated land value, it is unlikely to be consolidated with an adjoining parcel for the purpose of agriculture. The proposed development is specifically permitted under SEPP (HSPD) 2004 in conjunction with a site compatibility certificate, which was issued by the NSW Department of Planning.

The proposed development, if approved, will effectively result in an expansion of the West Kiama urban estate in both its area and population. Various clauses of IREP 1 deal with urban growth.

Whilst the proposal does not involve a 'rezoning' of land, the development effectively constitutes a 'de facto' rezoning as it will have the same effect of expanding the West Kiama urban area. At

the time of the creation of IREP 1 it would not have been envisaged that development as proposed could occur in the absence of a rezoning. Accordingly, it is contended that consideration should be given to the provisions of IREP 1 as they relate to urban expansion.

Part 7 of IREP 1 deals with living areas. Clause 58 lists the objectives relating to living areas. The objectives which may have some relevance to the proposal are:

- (a) *To ensure that urban expansion is orderly and efficient having regard to the constraints of the natural environment and that sufficient land is available to prevent price rises resulting from scarcity of land;*
- (b) *To ensure that new residential land or land for higher density development is only developed where there are adequate utility and community services available or there is a commitment from the relevant authorities or developer to provide these services;*
- (d) *to ensure that residential development does not take place on hazard-prone lands; and*
- (e) *to minimise bush fire risks to urban development.*

These matters have been considered and no significant concerns are raised. Adequate community facilities are available within the Kiama township and the site is not considered to be hazard prone land. Sydney Water has advised that water and sewer may be extended to service the subject land and that the service has the capacity to support the development.

Part 15 of IREP 1 relates to environmental heritage. It is noted that dry stone walls, listed in Schedule 1 of IREP 1, are situated in and around the West Kiama urban area. Clause 128 requires consideration to be given to the effect of a proposed development in the vicinity of a heritage item on its significance and the significance of its setting. No sites of identified Aboriginal or European significance are known of on the land. The proposed development will have no impact on dry stone walls, which are more directly impacted by the existing West Kiama urban release area.

Kiama Local Environmental Plan 1996 (Kiama LEP 1996)

The subject land is zoned Rural 1(a) pursuant to Kiama LEP 1996. Ordinarily, development of rural zoned land for residential purposes (i.e. beyond that of a single dwelling, attached dual occupancy dwelling or rural workers dwelling) would be prohibited under the provisions of Kiama LEP 1996, as the development is contrary to the rural zone objectives. In this respect Council's planning controls and development standards advocate retaining agricultural land for agricultural uses wherever possible. In this instance however, *seniors living development* is permitted with consent in the zone under the provisions of the SEPP (HSPD) 2004 as the site adjoins residential zoned land and the Department of Planning has issued a Site Compatibility Certificate, thereby enabling lodgement of the development application with the SEPP (HSPD) 2004 overriding Kiama LEP 1996.

Specific clauses requiring consideration:

Clause 12 requires consideration to be given to the impact of the proposed development on the agricultural viability of the subject land and land within the vicinity. It is considered that the proposed development will have no significant impact on the current or future agricultural viability of the land or of adjoining or nearby land, as discussed previously within this report.

Clause 12(2) of Kiama LEP 1996 requires consideration to be given to numerous matters, being:-

-
- a) *The effect of the proposed development on agricultural and other land uses undertaken on adjacent and adjoining holdings and other holdings in the vicinity;*
 - b) *The quality of the land and the potential agricultural productivity of the land;*
 - c) *The likely impact of the proposed development on the landscape, vegetation, soil resources and stability and water resources (including the quality of water courses, ground water storage and riparian rights), and the cumulative impact of the development on surface and ground water quality and quantity and on the physical and biological functions of watercourses and riparian corridors;*
 - d) *The effect of the proposed development on the structure and nature of agricultural industries in the area;*
 - e) *The traffic generating effects of the development on access roads;*
 - f) *The cumulative effect of similar proposals if consent is granted;*
 - g) *The likelihood of the land remaining available for agriculture.*

Consideration has been given to these matters and no concerns are raised. The size and location of the subject allotment, as previously discussed, compromises any viable agricultural use of the subject land. The development of the site can be seen to be an expansion of the West Kiama urban estate adjoining the site to the north. The proposed development does not raise any concerns in terms of traffic generation or the capacity of the existing road network to support traffic generated by the proposed development. Clearly, the proposed development will eliminate any agricultural use of the land; however, the site does not have the ability to support any commercially viable agricultural production due to its limited size.

Clause 13 requires consideration to be given to the environmental attributes of the land, being:

- a) *The protection of rare and endangered flora and fauna species and the protection of habitats for native flora and fauna; and*
- b) *The protection of wildlife corridors and vegetation links with other nearby bushland; and*
- c) *The protection of bushland as a natural stabiliser of the soil surface and the protection of existing landforms such as natural drainage lines, water courses and foreshores; and*
- d) *The protection of bushland for scenic values and the retention of the unique visual identity of the landscape; and*
- e) *The cumulative impact of a series of development proposal.*

Consideration has been given to these matters and no concerns are raised. The subject land is predominantly cleared of vegetation with the exception of introduced vegetation and is not within or adjacent to a recognised wildlife corridor. The subject site adjoins an established urban area and can be viewed as an extension of the existing urban area.

Clause 50 limits the height of any buildings to two storeys. The proposal is consistent with this standard.

Clause 55 requires consideration to be given to the traffic impacts of the proposal, especially the traffic impacts of the proposal on the road system and on the amenity of residents; the safety of traffic access and the adequacy of parking. The proposal is supported by a Traffic Impact Statement prepared by Thompson Stanbury Associates. No concerns are raised in relation to

the traffic impacts of the proposed development. The proposed access arrangements are satisfactory and the external road network has sufficient capacity to absorb the additional traffic to be generated by the proposal. Adequate parking is provided within the site, as is access and parking for a mini-bus and access for waste collection.

‘Draft’ Kiama Local Environmental Plan 2010

The ‘draft’ Kiama Local Environmental Plan 2010 proposes to zone the site RU2 Rural Landscape.

The proposal is not permissible in the zone and does not meet the objectives of the zoning. In this instance however, *seniors living development* is permitted with consent in the current zoning under the provisions of the SEPP (HSPD) 2004 and this policy overrides Council’s ‘Draft’ Kiama Local Environmental Plan 2010.

Development Control Plan No 8 – *Building Height and Amenity* (Kiama DCP 8)

The proposal complies with the controls set out in Kiama DCP 8.

Development Control Plan No 17 – *West Kiama Urban Release Area* (Kiama DCP 17)

The development site is not situated within the West Kiama Urban Release Area and therefore is not bound by the requirements stipulated within Kiama DCP 17. The site however does adjoin Greyleigh Drive which is an identified perimeter road in Kiama DCP 17. Perimeter road requirements in Kiama DCP 17 require single storey development and 4 metre boundary setbacks and in this respect the proposal is compatible with the controls.

Development Control Plan No 25 – *Planning for Less Waste* (Kiama DCP 25)

A waste management plan was not supplied with the application. Conditions will be included within the consent requiring preparation and compliance with the waste management plans during both demolition, construction and operational waste.

Development Control Plan No 31 – *Landscaping Guidelines* (Kiama DCP 31)

A landscape plan was lodged with the development application in accordance with the requirements of Kiama DCP 31. This plan has been reviewed by Council’s Landscape Technical Officer and was considered to be satisfactory.

Development Control Plan No 36 – *Building Lines and Foreshore Building Lines* (Kiama DCP 36)

The site, being zoned rural, is subject to a building line of 15 metres. The land is essentially taken to be an expansion of the urban area by virtue of SEPP (HSPD) 2004 which permits the development to take place, and hence the setbacks should be sensitive to the urban area. The proposal is for dwellings that back onto existing public roads and in this regard the rear setbacks comply with urban requirements DCP 36.

Consultation

Internal (Council)

Senior Building Surveyor

The proposal can comply with the Building Code of Australia, State Environmental Planning

Policy (Building Sustainability Index: BASIX) 2004 and Australian Standard AS 1428.1-2009 Design for access and mobility - General requirements for access - New building work.

Recommended conditions are included in the attached conditions. Refer to Attachment 2.

Engineer Subdivision and Development

The initial submission proposed vehicular ingress and egress from both Old Saddleback Road and Greyleigh Drive. Due to Council's concerns over site distances along Old Saddleback Road this point of access has been deleted for vehicular traffic only. An accessible pedestrian ramp is in place for access to the adjoining public road and mail boxes for the development.

The initial submission also proposed two way traffic for the internal roads. To safely accommodate Medium Rigid Vehicle (MRV) during garbage collection times a one way loop has been agreed to by the applicant. Vehicular manoeuvrability and access to parking on site has been assessed and was found to generally comply with the requirements of AS/NZS 2890.1 for cars. The applicant has provided design swept paths for the AS 2890.2 for 8.8m MRV's for all external and internal manoeuvres associated with the development which ensures that Council's waste collection vehicle can travel into, through and out of the development safely.

The Traffic Impact Assessment report lodged in support of the application has assessed that the traffic generation from the development will be in accordance with the RTA's *Guide to Traffic Generating Development*, and there will be minimal impact to surrounding streets and intersections.

The development proposes to provide a total of 67 carparking spaces, which appears to comply with RTA's *Guide to Traffic Generating Developments*. Of the 67 carparking spaces 7 will be for visitor parking with one of those a carparking space for people with a disability to be located adjacent to the community room and the proposed bus bay.

Each of the 30 self contained units with the exception of units 3 – 7 are connected to a 2000L rainwater tank. Units 3 – 7 discharge stormwater through a rain bed. An On Site Detention (OSD) system and water quality treatment including bio retention complying with the requirements of Councils *Water Sensitive Urban Design Guide* has been proposed.

Recommended conditions relating to design and construction of the development are included in the attached conditions. Refer to Attachment 2.

Landscape Officer

The trees on site consist mostly of Radiata Pine (*Pinus radiata*) Golden Pine (*Cupressus macrocarpa* 'Brunniana') and coral trees. All these trees are exempt from the Tree Preservation Order. There are odd other species in the general hedge mix like White Cedar and Boobialla but these species are not in themselves significant in accordance with Kiama DCP 31. There is no objection to removing any or all of these trees.

The concept landscape plan is considered satisfactory.

Recommended conditions are included in the attached conditions. Refer to Attachment 2.

Environmental Health Officer

The proposed development is within the urban domestic waste collection zone and the domestic waste management charge will apply to each individual premise. Each premise will

be provided with a weekly garbage service (80 litre or 140 litre or 240 litre bin selected by the owner) and a fortnightly recycling and green waste service (240 litre bin for recycling and a 240 litre bin for green-waste). As a result it is possible that up to 64 garbage, recycling and/or green-waste bins may be required to be collected on a weekly basis. This is provided so that each premise has its own garbage, recycling and green waste bin and every premise places their bins out for collection. Council service agreement requires that all waste and recycling collection services are undertaken from the kerbside of a public road with residents being required to place their bins on the footpath prior to collection. A site assessment was undertaken and confirmed that it is not safe for any collection service to be undertaken kerbside on Old Saddleback Mountain Road due to limited vehicle sight distance and potential traffic hazard. This would mean that all bins will need to be placed kerbside on Greyleigh Drive for collection. There will be visual and noise impacts from servicing these bins and it could take approximately 7 minutes to service all these bins. Also, the future occupiers on premises located furthest from Greyleigh Drive (Lots 10 & 11) will have to travel about 150m with their bins to the collection point. The option of providing a service using a private road is worth consideration due to the special circumstances as outlined. However, this type of collection service will be the first of its type and the following matters require consideration and the private road will have to be designed and constructed to withstand any loads from the waste collection vehicles.

There is an existing house, and other structures that will be required to be demolished. It is likely that due to the age of the existing dwelling that there may be bonded fibro sheeting that may contain asbestos fibres. This may be in the eaves linings or sheeting used in wet areas such as kitchens and bathrooms. Conditions of consent will be applied for asbestos waste.

Also, there will be construction waste that will be generated as part of this development. Council's "Planning For Less Waste Guide" requires the applicant to submit to Council a Waste Management Plan relating to the waste generated from the demolition of the existing dwelling and other structures on site. An additional Waste Management Plan will also be required for the construction of the proposed development. The plan is to include estimates on the waste and recycling generated and where the material and how the material will be disposed, reused or recycled. This information will be required to be submitted prior to the issuing of the Construction Certificate.

With any senior living development contaminated medical wastes are likely to be generated including syringes, home dialysis and other medical wastes. This type of wastes is required to be separated from the domestic waste, stored on site in a special container and then collected by a licensed medical waste contractor for disposal at a licensed facility. A home nursing service will be provided to residents and this will result in medical waste being generated. No information was provided on the medical waste services that will be provided. It is proposed that this matter will be dealt with by conditions of consent.

The subject site is presently not connected to the Sydney Water Corporation Sewerage System and an onsite sewerage system is in operation for the existing rural dwelling. It is proposed that as part of the development that all new dwellings will be connected to Sydney Water Kiama Sewerage Scheme.

As part of this development the existing septic tank system will be required to be decommissioned in accordance with Council's requirement. This requires the septic sludge and effluent to be removed and disposed of at an approved facility by a licensed contractor. The existing effluent disposal trenches will be required to be decommissioned and the septic tank removed.

The subject site has been used for agricultural purposes and no land contamination report has been prepared for this site. Therefore, whether there are areas of the site that may have

been contaminated or waste disposed of on site is not known. A contamination report and/or a remediation plan in accordance with the requirements of the Contaminated Land Management Amendment Act 2008 will be required to be submitted prior to the issuing of the Construction Certificate.

Recommended conditions addressing the above matters are included in the attached conditions. Refer to Attachment 2.

Property Manager

The proposal relies on access from Greyleigh Drive and through Caliope Street which is Crown road reserve and is presently unformed and undedicated. The Land & Property Management Authority have given their approval to the dedication of road. See Attachment 3. Council will manage the transfer of the subject Crown road to Council as a public road.

Public Exhibition of the Development

Notification letters were sent to neighbouring property owners who were provided with fourteen (14) days in which to comment on the proposal. At the conclusion of the notification period, ten (10) submissions were received during the exhibition period (20/04/2011 – 04/05/2011), which raised the following (summarised) matters of concern:

Issue/Concern	Comment
Greyleigh Drive and Old Saddleback Road are of an insufficient width to allow safe access into and out of the site	<p>Vehicular ingress and egress for Old Saddleback Road have been deleted from the application due to safety concerns</p> <p>Council's Engineer Subdivision and Development have confirmed their acceptance of the Traffic Impact Assessment report lodged in support of the application which has assessed that road widths and site lines into Greyleigh Drive are suitable for the proposal.</p>
There is an insufficient level of parking proposed in the development	<p>Council's Engineer Subdivision and Development have confirmed their acceptance of the Traffic Impact Assessment report lodged in support of the application which has assessed that parking within the proposed development is satisfactory.</p>
Traffic noise and the reflection of car headlights will occur into existing dwellings.	<p>Traffic noise from the development is not likely to be any greater than what is presently experienced in the West Kiama Urban Release Area</p> <p>The shining of car headlights can be addressed through the provision of appropriate landscaping and careful design to reduce impacts to this objector.</p>
Present bus service levels are insufficient.	<p>The application proposes a regular private bus service for the benefit of occupants.</p>

Pathways outside of the site are not suitable for disabled persons	Future occupants will have the benefit of a development which is accessible and access to a private bus service for destinations outside of the development.
The seniors living development is too far from the services offered in the Kiama town centre and the streets are too narrow for the bus service	The proposal is situated a distance of 1.7 km from the Kiama town centre. The proposed bus service will utilise a mini-bus operated by Kiama Mini Coach Charters which are capable of traversing through narrow roadways.
There are impacts to privacy from the proposal overlooking existing residential areas.	The proposal is unlikely to impact on privacy as the distance between the development and existing premises on Greyleigh Drive is approximately 30 metres and the objectors private open space will be obscured by their dwellings.
Views from existing dwellings will be compromised because of the proposal.	There will be some view loss of Saddleback Mountain ridgeline as a result of this development, however this view loss does not warrant the refusal of the development.
The density and visual impacts to the streetscape are excessive.	<p>The development is well under the allowable floor space ratio specified in SEPP (<i>Housing for Seniors or People with a Disability</i>) 2004 and all dwellings are single storey.</p> <p>Dwellings are also well setback from Greyleigh drive due to the adjoining unformed Caliope Street.</p>
Erosion of rural boundaries and encroachment on valuable agricultural land.	The subject land is currently zoned 1(a) Rural under the provisions of Kiama LEP 1996, which would not ordinarily permit residential development (beyond a single dwelling, attached dual occupancy dwelling or rural workers dwelling) under the zone provisions. The Kiama LEP 1996 controls and development standard are overridden by SEPP (<i>HSPD</i>) 2004. The SEPP expressly permits the proposed development on land adjoining residential zoned land, in conjunction with a site compatibility certificate, which has been issued by the NSW Department of Planning.

The Likely Impacts of the Proposed Development

The bulk, scale and design of the proposal is consistent with relevant planning instruments and is considered to be reasonably consistent with the existing urban streetscapes in the locality. The proposal will present as a single storey development from all road frontages and all proposed colors are recessive which is consistent with the adjoining residential estate.

Construction works will generate some noise, though conditions of consent can be imposed to

ensure that works are undertaken only within specified hours to limit impacts upon neighbours. By virtue of its nature, no on-going significant noise impacts are expected as a result of the development. The proposed community facility is situated toward the centre of the development and should have no noise impact external to the site.

No significant concerns are raised in relation to privacy loss and overlooking resulting from the proposed development. The proposed development is separated from homes in Greyleigh Drive by Greyleigh Drive itself and the unformed Caliope Street. The nearest proposed dwelling within the development (Lot 2) is some 19 metres from the approved dual occupancy on the allotment on the corner of Greyleigh Drive and Old Saddleback Road, with separation distance increasing steadily travelling westward along Greyleigh Drive. It is not considered that the proposed development will result in unreasonable loss of privacy to the residential development opposite the site.

Adjacent residential development is situated entirely to the north of the subject site and therefore will not at all be overshadowed by the proposed development.

A visual impact assessment was submitted with the application. The report concludes that *“the development has been specifically designed to address the edges and to define them in ways that are compatible with the existing edges of Kiama West”*.

Photo montages were also submitted in support of the proposal that suggest that the visual impact of the development is acceptable in the context of the site. Views to the site from Kiama are broken and for the most part it is accepted that the development will form a visual continuation of the West Kiama urban release area. Overall, it is considered that the visual impact of the proposed development is generally acceptable in the context of the site.

Sufficient carparking is proposed within the site. Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveways will comply with required gradients. A Traffic Impact Statement prepared by Thompson Stanbury Associates was lodged with the development application. The Traffic Impact Statement concluded that the proposed development is acceptable in terms of vehicular access and manoeuvring and Council’s Engineers have concurred with this.

A Stormwater Management Plan prepared by LandTeam has been submitted in support of the proposal. An on-site detention system has been proposed, which limits post-developed flows for the entire site to pre-developed flows. The drainage design and water quality measures proposed is considered to be satisfactory and consistent with Council’s water sensitive urban design policies.

The site is predominantly cleared of vegetation, with some existing vegetation mainly clustered around the dwelling on the site. This vegetation is proposed to be removed, along with the dwelling, to make way for the seniors living development. Council’s Landscape Officer has raised no objection to the removal of the existing vegetation.

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

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

The Suitability of the Site for the Development

The site does not appear to have any physical impediments to prevent development. The site has been previously cleared for grazing and although not zoned for residential development is

capable of sustaining the proposal.

Public /Social Impact

The proposal will provide additional accessible housing opportunities for seniors or those with a disability in the community. The design of the proposal promotes community well being through the community centre, playground, pathways and landscape embellishments.

The increase in population will increase the demand on urban services and facilities in the area. Payment of Section 94 contributions will assist in the delivery of some of these services by local government.

The developer will be responsible for the provision and delivery of infrastructure to the subdivision.

Political Donations/Disclosures

None made.

Conclusion

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 79C of the Environmental Planning and Assessment Act, 1979. The proposal is consistent with State Environmental Planning Policy (*Housing for Seniors or People with a Disability*) 2004.

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

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

JRPP (Southern Region) Business Paper - (item 1) (01 September 2011) - (JRPP 2011STH011)



ATTACHMENT 2 – PROPOSED CONDITIONS OF DEVELOPMENT CONSENT

1.0 GENERAL

- 1.1 The development shall be implemented generally in accordance with the details set out on the plan/drawing endorsed by Council as 10.2011.86.1 dated - and on the application form except as amended by the following conditions:
- 1.2 Permission is granted to remove all trees marked for removal on Site Analysis Plan sheet number DA 01A dated 6-04-11.
- 1.3 Staging of works in this consent is not permissible. The Subdivision Certificate for the development must be issued prior to the issue of the Construction Certificate approval for each separate dwelling and the community building.
- 1.4 No civil, building or landscape works, other than demolition works may be commenced within the development unless a Construction Certificate has been obtained for that work.
- 1.5 All new electricity, telecommunications and natural gas services shall be located underground. Common or shared trenching and the document "*A Model Agreement for Local Councils and Utility/Service Providers*" prepared by the NSW Streets Opening Conference are policies adopted for the Kiama Council Local Government Area.
- 1.6 The applicant shall bear the cost of relocation of any service utilities required in the provision of vehicular access for the development.
- 1.7 The developer is made aware that all Aboriginal relics in NSW are protected under Section 90 of the National Parks and Wildlife Act 1974, which makes it an offence to knowingly damage, disturb, deface or destroy an Aboriginal relic or site, without first obtaining written consent of the Director General of the National Parks and Wildlife Service. If such a site is discovered, the Southern Zone archaeologist of the National Parks and Wildlife Service shall be contacted immediately.
- 1.8 If Caliope Street is not a dedicated public road at the time of lodgement of the Construction Certificate application, written permission from the NSW Land and Property Management Authority must be submitted to the Principal Certifying Authority for permission to use the land prior to issue of the Construction Certificate.

2.0 PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS

- 2.1 The existing on-site sewerage management system shall be decommissioned in accordance with Council's requirements. This includes the removal and disposal of all septic tank sludge and effluent at a licensed facility and the removal of the existing septic tank and effluent disposal areas. Copies of disposal dockets and details of the licensed contractor and disposal facility shall be submitted to the Certifying Authority prior to the issuing of the Construction Certificate.
- 2.2 A land contamination report prepared in accordance with the requirements of the Contaminated Land Management Amendment Act 2008 shall be prepared for the development site which identifies any areas of the property that may have been contaminated with hazardous materials and/or buried waste and submitted to the Certifying Authority with the Construction Certificate.

If any contaminated land is identified then a remediation plan is to be prepared and the areas shall be remediated and a Site Audit Statement issued in accordance with Contaminated Lands Management Act and Regulation must be provided to the Certifying Authority.

- 2.3 A plan detailing all regulatory signage and linemarking required for the public roads of Old Saddleback Road and Greyleigh Drive/Caliope Street, shall be designed by a chartered professional engineer, shall be submitted to the Certifying Authority and shall be reported to the Kiama Local Traffic Committee for assessment prior to the issue of the Construction Certificates.

- 2.4 The applicant shall provide a traffic management and traffic control plan complying with the design requirements of the Roads and Traffic Authority's *Traffic Control at Work sites* manual and the Standards Australia publication AS 1742.3 *Manual of Uniform Traffic Control Devices Part 3: Traffic Control Devices for Works on Roads*.

The traffic management and traffic control plan must be designed and certified by a Roads and Traffic Authority accredited designer and shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

- 2.5 Prior to the issue of the Construction Certificate the applicant shall lodge with Council a security bond for the development to ensure repair of any pavement damage occurring within Old Saddleback Road and Greyleigh Drive/Caliope Street during the course of construction.

The bond will be in the form of an unconditional bank guarantee or cash and will be valued at 10% of the proposed cost of civil engineering construction and remedial work to the public road.

The applicant will be required through a quantity surveyor or chartered professional engineer to provide accurate costing for all civil engineering work associated with the public road infrastructure and a report shall be submitted to Council for assessment prior to Council advising the applicant of the bond value.

Provided that there has been no damage done to the public infrastructure within the road reserve, the bond shall be refunded in full upon twelve (12) months from the date of issue of the Subdivision Certificate.

- 2.6 The developer shall submit details of all civil engineering works on engineering drawings to the Certifying Authority for approval prior to the issue of the Construction Certificate.

The drawings shall include, but shall not be limited to, the following detailed information:

- (a) The hydrologic modelling and hydraulic treatment detail including detailed calculations, drainage network layout, environmental controls (including the post-development first flush mechanism, water quality and sedimentation controls), all stormwater drainage structures and, where required, the proposed method of accessing the existing public stormwater drainage system. All drainage calculations are to be carried out in accordance with *Australian Rainfall and Runoff* published by Engineers Australia, and are to include a contoured catchment diagram and delineation of flow paths for storms of 1% Average Exceedance Probability (AEP);

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- (b) Plan, longitudinal and cross sectional detail shall be provided for the proposed access driveway, circulation roadway, circulation aisle, ramps, car parking aisles and car parking modules within the development site;
 - (c) The proposed pavement treatment to the access driveway, circulation roadway, circulation aisle, ramps, car parking aisles and car parking modules within the development site. The minimum surface treatment within the development site shall be cement concrete, asphaltic concrete or segmental paving;
 - (d) The proposed refuse/recycle collection points shall be identified and positioned adjacent to the access roadway to accommodate manoeuvring for the AS 2890.2 Medium Rigid Vehicle (8.8m);
 - (e) The location and reduced level of all existing and proposed services under the control of public utilities or agencies;
 - (f) A Construction Environmental Management Plan (CEMP) shall be prepared in accordance with Australian Standard AS/NZS ISO 14001: 2004 for all civil engineering work associated with the development.

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

- 2.7 A chartered professional engineer shall provide details of any retaining wall exceeding 600mm in height or any retaining walls required to support proposed vehicle parking areas. The designing engineer must certify that the proposed retaining walls can withstand the impact of a vehicle on the safety barrier in accordance with the Australian and New Zealand Standard AS/NZS2890.1. The details shall be submitted to the Certifying Authority for assessment and approval prior to the issue of the Construction Certificate for that structure and shall include but is not limited to, plans, sections, provision and method of attachment of safety barriers, method of sub-surface drainage and jointing.
- 2.8 Car parking and manoeuvring shall comply with the requirements of the Standards Australia publication AS/NZS 2890.1 *Parking Facilities Part 1: Off Street Car Parking*.
- 2.9 The proposed car parking spaces to be provided for people with disabilities shall comply with the design requirements of the Australian and New Zealand Standard AS/NZS 2890.6 - 2009, the access requirements of AS 1428.1 and shall have pavement markings and signposting in accordance with AS 1742.11.
- 2.10 The applicant shall provide for the manoeuvring of the largest service vehicles including refuse and recycling collection vehicles and buses. The minimum vehicle to be accommodated shall be the Australian Standard AS 2890.2, 8.8 metre medium rigid vehicle, and shall be able to enter, circulate and leave the development site in a forward direction.
- 2.11 The internal access roads shall be designed and constructed for two-way access from Greyleigh Drive/Caliope Street and for one-way traffic flows in a clockwise direction from the proposed internal T-intersection, and shall include pedestrian access. The engineering drawings for the internal access roads shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate for the development.

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- 2.12 All parking, give-way and one-way signposting and pavement markings shall comply with Australian Standard AS 1742.11 *Manual of uniform traffic control devices - parking controls*.
- 2.13 The access driveway, circulation roadway, car parking and manoeuvring areas shall be paved in a material other than plain concrete where a rigid pavement treatment is proposed (e.g. brick pavers, exposed aggregate, coloured concrete, stencilled concrete etc). Details of the proposed paving material, including colour, shall be submitted to the Certifying Authority prior to the issuing of the Construction Certificate for the development. In this regard:
- (a) Clay segmental pavers shall comply with design requirements of Part 1 – Specifying Clay Pavers Note 1 – ‘Specifying and laying Pavers’ and with the requirements of the Australian and New Zealand Standard AS/NZS4455.
 - (b) Interlocking concrete pavers shall be designed and constructed in accordance with the Principles of the Concrete Masonry Association of Australia publication “Interlocking Concrete Paving Design Manual”.
 - (c) Cement concrete access driveways shall be designed and constructed in accordance with the principles of the Cement, Concrete and Aggregates Australia technical notes.
- 2.14 The applicant shall design and construct cement concrete footpaths of minimum width 1.2 metres within the public road network to link the development site to the proposed pathway/cycleway network. The pathway shall be constructed in the following locations;
- (a) Along Greyleigh Drive/Calioppe Street, commencing from the development site entry pedestrian footpath to the intersection of Old Saddleback Road. Concrete pram ramps shall also be installed at the crossing points of Greyleigh Drive/Calioppe Street.
 - (b) Along the western side of Old Saddleback Road from and including the proposed disability accessible pedestrian ramp to the crossing point at Greyleigh Drive/Calioppe Street.
 - (c) Along the western side of Old Saddleback Road, commencing at the intersection of Greyleigh Drive/Calioppe Street and heading north to the open space reserve in Lot 1310 DP 1060955 (north of No. 46).

Details of the footpath treatment must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

- 2.15 The stormwater discharging at Old Saddleback Road shall discharge to the existing or proposed pipe drainage network within the public road. The detail shall be designed by a chartered professional engineer and shall be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- 2.16 The stormwater proposing to be discharged at Calioppe Street shall discharge through a detailed spreader system to be designed by a chartered professional engineer. The details shall be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- 2.17 The proposed bio-retention measures to be located at the western edge of the development servicing units 11 - 16 shall be designed and constructed to incorporate a failsafe mechanism.

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- 2.18 Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from storms up to the 5 year Average Recurrence Interval (ARI). Defined overland flow paths shall be provided to safely convey runoff from storm events up to and including the 100 year ARI.
- 2.19 Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events and comply with the NSW *Floodplain Development Manual* (2005) and the '*Australian Rainfall & Runoff*' by Engineers Australia.
- 2.20 The major and minor stormwater drainage system shall be designed in accordance with the requirements of section D5 Subdivision Drainage Design of *Kiama Development Control Plan No 32 – Kiama Development Code*. Details of the drainage system must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.
- 2.21 The applicant shall provide full hydrological and hydraulic modelling of the stormwater drainage system for the site, including detailed calculations, contoured catchment plans and flow paths for all storm events up to and including the 100 year ARI. All drainage calculations and modelling shall be carried out in accordance with '*Australian Rainfall and Runoff*', published by Engineers Australia.
- 2.22 The applicant shall provide on-site detention storage for stormwater runoff in conjunction with the proposed development drainage network. The on-site detention system shall be designed to limit the discharges from the site to a pre-development level for all storm events up to and including the 100 year ARI. The storage must be designed in accordance with section D5 Subdivision Drainage Design of *Kiama Development Control Plan No 32 – Kiama Development Code*.
- 2.23 Structural details and detailed hydrological and hydraulic calculations prepared by a chartered professional engineer must be provided to the Certifying Authority for approval prior to the issue of a Construction Certificate.
- 2.24 The applicant shall provide environmental stormwater management controls in the form of post development water quality (including first flush treatments such as trash arresters) and sedimentation control measures to be located within the proposed development site. The proposed treatment detail shall comply with the requirements of Council's *Water Sensitive Urban Design* policy and the NSW Department of Environment & Climate Change/Sydney Metropolitan Catchment Management Authority's draft documents:

'Managing Urban Stormwater: An Integrated Approach',
'Managing Urban Stormwater: Environmental Targets',
'Managing Urban Stormwater: Treatment techniques',
'Managing Urban Stormwater: Urban design',
'Managing Urban Stormwater: Harvesting & re-use'.

Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

- 2.25 The applicant shall submit to an accredited certifier or Council for approval prior to the issue of any Construction Certificate a detailed Soil & Water Management Plan (SWMP) applying to each stage of the development site designed in accordance with

the requirements of *Managing Urban Stormwater: Soils and Construction* Volume 1 (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction* Volume 2 (Department of Environment and Climate Change 2007). The SWMP shall consider the following, but not be limited to: -

- (a) Minimise the extent of exposed areas at any time.
- (b) Placement of temporary fill to fabric barriers down slope of exposed areas.
- (c) Diverting surface run-off from upstream works as necessary to minimise the sediment pick-up.
- (d) Provide temporary slope drainage as appropriate to avoid scour of embankments.
- (e) Covering of stockpiles.
- (f) Early installation of landscaping and water quality controls.
- (g) Revegetation/resetting disturbed areas.
- (h) Filtration of stormwater inlets and outlets.

All works on the site must be in accordance with the approved SWMP for the full duration of construction works.

- 2.26 Prior to the issue of the Construction Certificate the applicant shall submit to the Certifying Authority a detailed design plan of the public road, internal road, pedestrian and car park lighting proposed throughout the development that is designed to avoid glare for pedestrians and adjacent dwellings and amenities. The lighting design shall comply with the Australian and New Zealand Standard AS/NZS 1158 and shall provide at least 10 lux at ground level

The proposed lighting network shall be constructed prior to the issue of the Subdivision Certificate.

- 2.27 Prior to the issue of the Construction Certificate a Waste Management Demolition and Construction Plan shall be submitted to the Certifying Authority. The Waste Management Demolition Plan is to be in accordance with Kiama Development Control Plan 25. The plan should identify the waste types, estimated quantities and the proposed approved waste management facility for the disposal of demolition, construction and excavation materials including hazardous waste onsite (eg. Asbestos).

- 2.28 In accordance with the requirements of the Australian and New Zealand Standard AS/NZS2890.1 safety barriers complying with the loading requirements of AS1170.1 shall be erected wherever the drop from the edge of the proposed roads, access driveways, circulation roadways, circulation aisles, ramps, car parking modules, manoeuvring areas and parking aisles to a lower level exceeds 600mm.

- 2.29 The applicant shall engage a chartered professional engineer practising in the field of geoscience to prepare a report to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate. The report shall cover, but not be limited to:

- (a) soil classification & dispersibility,

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- (b) if any of the land is subject to subsidence/slip, slope failure, erosion or previous excavation and/or filling exceeding 600 mm in depth,
 - (c) recommended geotechnical testing requirements;
 - (d) required level of geotechnical supervision for each part of the works as defined under AS3798 - *Guidelines on Earthworks for Commercial and Residential Developments*;
 - (e) compaction specification for all fill within the development site;
 - (f) the level of risk to existing adjacent dwellings as a result of a construction contractor using vibratory rollers anywhere within the development site or on the road Greyleigh Drive/Caliope Street the subject of these works. In the event that vibratory rollers could affect adjacent dwellings, high risk areas shall be identified on a plan and the engineering drawings shall be amended to indicate that no vibratory rollers shall be used within that zone;
 - (g) the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation;
 - (h) requirements for sub-surface drainage lines;
 - (i) the overall suitability of the engineering drawings for the proposed development.
 - (j) recommended treatment methods for rectification/remediation of any deficiencies identified in the analysis.
- 2.30 A detailed landscape plan shall be approved by Council prior to release of the Construction Certificate. The plan shall be prepared in accordance with Kiama Development Control Plan 31 – Landscape Guidelines and shall be consistent with the approved landscape concept plan. The plant species *Coprosma repens* will be replaced with suitable species in accordance with Kiama Development Control Plan 31 Appendix 1.
- 2.31 The development shall be designed in such a way that car headlights from vehicles leaving the site do not shine directly within the sleeping areas of No.31 Greyleigh Drive.
- 2.32 Pavements within the internal access road must be designed to accommodate a fully loaded waste vehicle of 22.5 tonnes. Confirmation of this requirement must be included on the engineering drawings for submission with the Construction Certificate.

3.0 PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

- 3.1 Prior to the issue of the Construction Certificate a Waste Management Construction Plan shall be submitted to the Accredited Certifier. The Waste Management Construction Plan is to be in accordance with Kiama Councils Development Control Plan 25. The plan should identify the waste types, estimated quantities and the proposed approved waste management facility for the disposal of construction and excavation materials.
- 3.2 The BASIX commitments shall be indicated on the plans to the satisfaction of Council or an Accredited Certifier prior to the issue of the Construction Certificate.

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- 3.3 The submitted plans must demonstrate to the satisfaction of Council or an Accredited Certifier prior to the issue of the Construction Certificate that the design and fitout satisfies the relevant requirements outlined in Schedule 3 of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004.

4.0 PRIOR TO CIVIL CONSTRUCTION & DEMOLITION

- 4.1 Under the provisions of the Act, work may not commence on the development until the following is carried out:
- a) Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
 - b) You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
 - c) You **must** notify the Council of the appointment; and
 - d) You **must** give at least two (2) days notice to Council of your intention to commence work.

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

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

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

- 4.2 A sign must be erected in a prominent position on any site on which subdivision work or demolition work is being carried out:
- a Showing the name, address and telephone number of the Principal Certifying Authority for the work;
 - b Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - c Stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. The sign will be provided by the nominated Principal Certifying Authority for the relevant fee.

- 4.3 An appropriate temporary toilet facility shall be provided on site, located inside the property boundaries, prior to commencement of works. The temporary toilet shall be maintained in a clean/sanitary condition at all times.

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- 4.4 The applicant shall under section 138 of the Roads Act 1993 make application to Council for permission to access the public road reserves, Old Saddleback Road and Greyleigh Drive/Caliope Street for the purpose of carrying out construction work, prior to the commencement of work.
- 4.5 The applicant shall submit a dilapidation survey to Council prepared by a chartered professional engineer prior to the commencement of any work within the development site or the public road reserves of Old Saddleback Road and Greyleigh Drive/Caliope Street.
- 4.6 The applicant must provide, to Council, the appropriate fee for the inspections required for the construction of the footpath crossing/access driveway in accordance with Council's adopted fees and charges. This inspection fee must be paid prior to the commencement of works within the road reserve area.

Work undertaken within the road reserve may only be undertaken by a Council approved contractor. A list of approved contractors may be obtained from Council's Engineering and Works Department.

- 4.7 The applicant shall submit to the Principal Certifying Authority written consent from affected property owners prior to any work being undertaken on adjoining land.
- 4.8 The applicant shall provide and maintain temporary security fencing around the development site to prevent unauthorised entry into the site by persons and shall remove the temporary fencing upon completion of all work.
- 4.9 Fencing shall be provided around the perimeter of the demolition site and any additional precautionary measures taken, as may be necessary to prevent unauthorised entry to the site at all times during the demolition period.

5.0 PRIOR TO BUILDING CONSTRUCTION

- 5.1 Under the provisions of the Act, work may not commence on the development until the following is carried out:
- a Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
 - b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
 - c You **must** notify the Council of the appointment; and
 - d You **must** give at least two (2) days notice to Council of your intention to commence work.

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

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

Should you appoint Council as the Principal Certifying Authority, relevant inspection fees

will be required to be paid at the time of lodgement of this form. (pt020.doc)

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

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

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

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

or

b Has been given a declaration, signed by the owner/s of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989. (pt005.doc)

5.3 A sign must be erected in a prominent position on the premises on which the erection of a building is being carried out:

- a Stating that unauthorised entry to the premises is prohibited; and
- b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

Any such sign is to be removed when the erection of the building has been completed.

5.4 During construction the applicant shall provide, inside the property boundaries a suitable waste container for the disposal of all papers, plastics and other light weight materials.

5.5 No building work is to commence until details prepared by a practising structural engineer have been submitted to and accepted by the Principal Certifying Authority for any reinforced concrete slabs, footings or structural steel.

5.6 A survey shall be undertaken and a copy be made available to Council or an accredited certifier, certifying that the building is correctly located in relation the building envelope indicated on the deposited plan and is in accordance with the approved plans.

6.0 DURING DEMOLITION & CIVIL CONSTRUCTION

6.1 The applicant shall not carry out any work other than emergency procedures to control dust or sediment-laden runoff outside the normal working hours, namely, 7.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm Saturday, without the prior written approval of the Principal Certifying Authority. Any request to vary these hours shall be submitted to the Principal Certifying Authority in writing detailing:

- (a) the variation in hours required;
- (b) the reason for that variation; and

(c) the type of work and machinery to be used.

- 6.2 The developer shall ensure that all construction work associated with the development is carried out in accordance with the approved Construction Environmental Management Plan (CEMP) and any variations to that Plan approved by the Principal Certifying Authority. A copy of the approved CEMP shall be kept on site at all times.
- 6.3 Access shall be denied to all vehicles from Old Saddleback Road during the course of construction.
- 6.4 All new construction work within Greyleigh Drive/Caliope Street shall make smooth a junction with existing work.
- 6.5 The applicant shall undertake civil engineering construction works in accordance with the requirements of the Kiama Development Control Plan No. 32 - *Kiama Development Code Section C101 General – Development Construction Specification* and civil engineering drawings approved by an accredited certifier or Council.
- 6.6 The applicant and any contractor or sub-contractor used to carry out any work authorised by or out of this development consent on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
- (a) motor vehicle insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RTA permit (Including CTP insurance). Primary producer's registration is not valid registration for use on Public Road construction work;
 - (b) workers compensation insurance; and
 - (c) ten million dollar public liability insurance.
- 6.7 The applicant shall carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to residents of adjacent properties.
- 6.8 The applicant shall control the emission of dust from the site and in this regard watering and dust suppression equipment shall be kept on the site and used for this purpose. The applicant must ensure that the contractor is able to control emission of dust from the site on weekends when windy conditions prevail.
- 6.9 The applicant shall ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work.
- 6.10 There shall be no loss of support or encroachment of fill onto adjoining lands as a result of excavation or filling within the site.
- 6.11 Only clean fill (i.e. natural materials such as earth, rock and stone) is to be used in the development. Under no circumstances are any other material including (but not limited to) building, demolition, concrete, road materials and/or putrescible wastes, permitted to be used as filling on site.

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- 6.12 All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with AS 4482.2 and tested by a certified NATA registered laboratory for contaminants. Based on the test results certification shall be provided to the Principal Certifying Authority prior to the issue of any occupation certificates by a chartered professional engineer practising in the field of geoscience confirming the imported fill is suitable for use for the development. Any imported fill found to not be suitable for residential use shall be removed /remediated in accordance with the NSW Office of Environment and Heritage requirements.
- 6.13 All earthworks associated with the development shall be completed in accordance with the Australian Standard AS3798-2007 *"Guidelines on earthworks for commercial and residential developments"*.
- 6.14 Throughout the demolition operations, adequate safety shall be maintained in public places adjoining the site. Safety of the public shall be maintained by providing street closures, hoardings, scaffolding and other types of overhead protection, either singly or in combination, in accordance with the requirements of Council and AS 2601 - 1991.
- 6.15 The deliberate burning of buildings shall not be used as a method of demolition. Burning-off shall not be permitted on demolition sites unless approval in writing is obtained from Council.
- 6.16 The techniques adopted for stripping out and for demolition shall minimise the release of dust into the atmosphere.
- 6.17 Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable legislation and with any relevant recommendations published by the National Occupational Health and Safety Commission (Worksafe Australia).
- 6.18 Removal of asbestos, or of materials containing asbestos fibres, shall be in accordance with the National Occupational Health and Safety Commission code of practice. Arrangements are to be made with a qualified contractor prior to the disposal of asbestos.
- 6.19 The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council.)
- 6.20 All excavations and backfilling must be executed safely in accordance with appropriate professional standards.
- 6.21 All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.
- 6.22 All vehicles being loaded and/or unloaded shall stand within the curtilage of the development site.
- 6.23 A certified "Works-as-Executed" plan from a chartered professional engineer or registered surveyor shall be submitted to Council before the final inspection for the certificate of practical completion of the development. The "Works-as-Executed" plan must certify that the works have been constructed in accordance with the approved drawings and to the levels specified on both public and private land.

The "Works-as-Executed" drawing shall show in contrasting coloured ink all changes to the approved drawings and actual values of all levels shown on the drawings. The

“Works-as-Executed” drawing shall be signed by a chartered professional engineer or a registered surveyor and certified by the designer that all the work as completed, including variations, meets the original intent of the approved drawing and will have no adverse impact on adjacent properties.

7.0 DURING BUILDING CONSTRUCTION

- 7.1 All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 7.2 The building work shall be inspected at critical and other stages as required by the Principal Certifying Authority for the development.

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

- 7.3 The Reduced Levels (RL) of the proposed development must be in accordance with the approved plans. Certification of these levels by a registered surveyor must be submitted to an accredited certifier or Council prior to proceeding past that level.)
- 7.4 Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;

Monday to Friday	- 7.00 am to 6.00 pm
Saturdays	- 8.00 am to 1.00 pm

No construction work is to take place on Sundays or Public Holidays.

- 7.5 The developer shall construct the footpath access driveway in compliance with the Standards Australia publication AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking and Council's *“Driveway and Footpath Works Procedure Manual”*.
- 7.6 The access driveway shall be constructed to meet the design requirements of Council's *“Driveway and Footpath Works Procedure Manual”*. The access driveway shall be installed prior to the issue of any occupation certificate.
- 7.7 All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In particular:
- a A silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). Such fence must be regularly inspected and cleaned out and/or repaired as is necessary, and all collected silt must be disposed of in accordance with Council's Sedimentation Control Policy.
 - b Unnecessary disturbance of the site (eg; excessive vehicular access) must not occur.
 - c All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.
 - d All the above requirements must be in place for the duration of the construction works.

8.0 PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- 8.1 The subdivision certificate shall not be released until all relevant conditions of this development consent are complied with or satisfactory arrangements are made with the Principal Certifying Authority.
- 8.2 The applicant shall complete all civil engineering works prior to the issue of a subdivision certificate unless otherwise approved in writing by the Principal Certifying Authority.
- 8.3 The landscape designer/architect shall provide written certification to Council and the Principal Certifying Authority to certify that the landscape works have been completed in accordance with the approved landscape plans and specification, prior to release of the Subdivision Certificate.
- 8.4 The applicant shall submit the following information to the Principal Certifying Authority prior to the issue of a Subdivision Certificate:

- a. All relevant construction and compliance certificates.
- b. Fees appropriate at the time of submission of the subdivision application.
- c. Final plan of subdivision, administration sheet and six (6) paper copies. A copy of the satisfactory plan of subdivision shall also be provided as an electronic file in either DFX or DWG format.

In this regard the electronic copy must be on MGA (zone 56) orientation, where this is required by the Surveying Regulations 2001, and should preferably use coordinates based upon the MGA values of the nearest established permanent survey mark connected as part of the survey. It is preferred the raw boundary line work only be provided, excluding final page layout and text where possible. This must be provided either on disc or may be emailed directly to gis@kiama.nsw.gov.au with clear reference to the development application number.

All sections of the final plan of subdivision including the original and copies must be completed prior to the lodgement.

- d. An Instrument under Section 88B of the Conveyancing Act 1919.
 - e. A Section 73 Compliance Certificate under the Sydney Water Act, 1994 shall be obtained from Sydney Water. The Section 73 Certificate shall be submitted to Council prior to the issuing of the Subdivision Certificate
 - f. Written advice from Endeavour Energy Australia regarding a supply of electricity to the proposed development.
 - g. Written advice from Telstra Corporation regarding the supply of telecommunication services to the proposed development
 - h. Section 94 contributions.
- 8.5 The applicant shall provide to the Principal Certifying prior to the issue of the Subdivision Certificate chartered professional engineer's certification for the structural design and construction of on-site stormwater detention tanks.

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- 8.6 The applicant shall provide to the Principal Certifying prior to the issue of the Subdivision Certificate a certificate from a suitably qualified person verifying compliance that all approved lighting throughout the development complies with AS/NZS 1158 and provides at least 10 lux at ground level.
- 8.7 The applicant shall provide to the Principal Certifying prior to the issue of the Subdivision Certificate certification from a chartered professional engineer verifying that the constructed stormwater drainage infrastructure (including any re-use system) meets with the requirements of the approved design.
- 8.8 The applicant shall provide to the Principal Certifying prior to the issue of the Subdivision Certificate two (2) copies of a Works as Executed Drawing prepared and signed by either a registered surveyor or chartered professional engineer for all civil engineering work located within the public roads Old Saddleback Road and Greyleigh Drive/ Caliope Street. The drawings shall include final locations and levels.

In addition to providing a hard copy of the Works as Executed Drawings the following electronic works as executed documents shall be submitted:

- a) A full set of engineering drawings in either DWG or DXF format.
 - b) An ASCII point file database of all survey points in PENZD (point number, easting, northing, elevation, description) format in MGA coordinates.
- 8.9 The applicant shall ascertain with Sydney Water Corporation details of the location of the existing water main in Old Saddleback Road and Greyleigh Drive/Caliope Street and, if necessary, the applicant will be responsible for the under boring of water services/conduits beneath the road to ensure that the proposed development can be provided with a connection to the existing and proposed water supply.
- A plumber's certificate shall be provided for each service and shall be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.
- 8.10 All filling on the site, including footpath areas, shall be compacted to not less than 95% standard compaction. The applicant shall provide to the Principal Certifying prior to the issue of the Subdivision Certificate a report on the site filling prepared by a chartered professional engineer practicing in the field of geoscience or an appropriately qualified soil scientist. The report shall be supported by a survey plan of the site prepared by registered surveyor indicating the areas filled and depth of fill in relation to the lot boundaries.
- 8.11 The developer shall prepare an Instrument under Section 88B of the Conveyancing Act 1919, for approval by the Principal Certifying Authority which incorporates the following easements and restrictions as to user in favour of Council and/or the relevant utility provider:
- a Easement for services;
 - b Easement to drain water;
 - c A restriction on the use of land that any future dwelling shall be restricted to a building envelope generally as depicted on the approved plan;
 - d A restriction on the use of land that any future dwelling shall be constructed of non-reflective materials and coloured in recessive, earthy tones;

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- e No fencing over 1.2 m in height shall be constructed without the approval of Council;
 - f A restriction on the use of land and a positive covenant detailing protection measures and long term maintenance requirements for the on-site stormwater detention system and associated stormwater drainage infrastructure;
 - g Easements over any designated overland flow paths, bio-retention systems, on-site stormwater detention, water quality systems, and associated stormwater drainage infrastructure constructed within the development site;
 - h A restriction as to user which stipulates that only the kinds of people stipulated in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 are permitted to occupy the development;
 - i Denied access over all road frontages (with the exception of the approved access points); and
 - j Right of carriageway over Caliope Street if Caliope is not dedicated as a public road at time of the Subdivision Certificate application.
- 8.12 The developer shall create a minimum 1.0 metre wide easement to drain water over any encroaching drainage pipes.
- 8.13 The developer shall create a minimum 1.0 metre wide easement for services over any encroaching utility services.
- 8.14 The developer shall acknowledge all existing easements on the final plan of subdivision.
- 8.15 The developer shall acknowledge all existing restrictions on the use of the land on the final plan of subdivision.
- 8.16 Prior to the issue of a Subdivision Certificate the applicant shall obtain street numbering for the development from Council's Geographical Information Services section.
- 8.17 A contribution pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plan No. 1 shall be paid to Council for tree planting prior to issuing of the Subdivision Certificate. The total contribution required for the subdivision is \$5,193.60.
- 8.18 A contribution pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. shall be paid to Council prior to the issuing of the Subdivision Certificate. The total contribution required for the development is \$187,213.70.
- 8.19 Prior to the issuing of the Subdivision Certificate the Saddleback Mountain Estate Community Management Statement shall include a Waste Services Agreement between the waste contractor and Community Association for the access and provision of waste and recycling services including details of the medical and contaminated waste. It shall also include any other specific requirements as specified by the waste contractor that are to be complied with by the owners and residents of the community development lots which includes, but is not limited to the location of bin pick-up for each unit. A copy of this document is to be submitted to Council.

Evidence must also be submitted that the waste contractor has reviewed this condition of consent in the preparation of the agreement.

- 8.20 Prior to the issuing of the Subdivision Certificate copies of waste disposal dockets for demolition and construction waste materials shall be submitted Council

9.0 PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

- 9.1 The whole or part of the building must not be occupied unless an Occupation Certificate has been issued in relation to the building or part in accordance with Clause 109M of the Environmental Planning and Assessment Act 1979.

NOTE: A Fire Safety Certificate must be provided in accordance with the Environmental Planning and Assessment Regulations 2000 prior to the issue of an Occupation Certificate excepting Class 1(a), 10(a) & 10(b) structures.

- 9.2 The developer shall complete all works to the satisfaction of Council prior to the issue of the Occupation Certificate.
- 9.3 Prior to issue of the Occupation Certificate a Section 73 Compliance Certificate under the Sydney Water Act, 1994 shall be obtained from Sydney Water.
- 9.4 The BASIX schedule of commitments shall be complied with prior to the issue of a Final Occupation Certificate for the *development* and if required a certificate shall be provided to the Principal Certifying Authority from a properly qualified person to certify that the BASIX schedule of commitments have been provided and/or installed.
- 9.5 Prior to release of the Occupation Certificate the developer shall provide a Compliance Certificate from a suitably qualified landscape professional or Council's Landscape Officer stating that all landscape works have been completed in accordance with the approved landscape plans and the conditions of the development consent.
- 9.6 Prior to the issuing of the Occupation Certificate copies of waste disposal dockets for construction waste materials shall be submitted Council.

10.0 AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

- 10.1 The use of the community facility shall only be for occupiers and their guests and shall not cause a sound level in excess of 5 dB(A) at any point along the site boundaries.
- 10.2 The landscaping shall be maintained actively and regularly for a period of 26 weeks commencing from the date of issue of the Occupation Certificate.
- 10.3 At the end of the 26 week landscape maintenance period and after any defects that occurred during that period have been corrected, a final Compliance Certificate shall be provided from a suitably qualified landscape professional stating that all landscape works have been completed and maintained in accordance with the approved landscape plans and the conditions of this development consent.
- 10.4 The landscape works shall remain in situ for the perpetuity of the development. Any alterations must be approved in writing by Council.
- 10.5 All commitments listed in the BASIX Certificates for the development must be maintained for the life of the development.

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- 10.6 Permanent on-going arrangements must be made with a registered transport provider for a transport service to be available both to and from the development at least once a day from Monday to Friday for the occupiers of the development.
- 10.7 Permanent on-going arrangements must be made with a registered health service provider for health services to be available at all times for the occupiers of the development.

Attachment 3 – Letter from NSW Land & Property Management Authority



Land & Property
Management Authority

5 O'Keefe Avenue (PO Box 309), Nowra, NSW, 2541
Telephone (02) 4428 9117
fax: (02) 4421 2172
Mark.McClellan@lpma.nsw.gov.au
www.lpma.nsw.gov.au

Weriton Properties Pty Ltd
PO Box R1694
ROYAL EXCHANGE NSW 1225

25 January 2011

Ref: 08/0799
Your Ref:

Dear Sir/Madam

Lot 2 DP 1003719, 58 Old Saddleback Road, Kiama

I refer to your letter dated 27 August 2009 concerning access to Greyleigh Drive from the subject property.

As advised by telephone on 1 December 2009 to Mr Graham Weriton the process for the construction of a section of the Crown road is that Kiama Municipal Council would need to seek the transfer of that section of road required for access.

This would then allow a notice to be placed in the Government gazette vesting the Crown road in Council as a Public road, and Council could then approve the construction, if satisfied with the proposal.

If this is what is proposed, a \$220.00 administrative fee will be charged to process the request.

If you require any further information, please do not hesitate in contacting meat any of the above contact details.

Yours sincerely

Mark McClellan
for Manager,
South Coast Area
Crown Lands Division, Nowra



Crown Lands is a Division of Land & Property Management Authority

ABN 33 537 762 019