

JRPP No	2012STH003
DA Number	10.2011.2.2
Local Government Area	Kiama Municipal Council
Proposed Development	Expansion and Upgrade of Jamberoo Action Park Section 96(2) Modification
Street Address	1215 Jamberoo Road, Curramore
Owner	George Eddy Holdings Pty Ltd
Applicant	JBA Planning
Number of Submissions	Thirty-two (32)
Recommendation	Modification to conditions in accordance with report recommendations
Report by	Mr M Biondich – Senior Development Assessment Officer

Assessment Report & Recommendation

EXECUTIVE SUMMARY

Reason for Consideration by the Joint Regional Planning Panel

The development application for the S96(2) modification of DA 10.2011.2.1 has been referred to the Joint Regional Planning Panel pursuant to Clause 21(1)(a) of the *State Environmental Planning Policy (State and Regional Development) 2011* as DA10.2011.2.1 was previously granted by the panel on 14 July 2011.

Proposal

The development application seeks to:

- Modify the footprint and heights of two of the rides approved in DA 10.2011.2.1;
- Modify the previously approved colour schemes of rides and structures in DA 10.2011.2.1; and
- Modification or deletion of twenty-four (24) conditions in DA 10.2011.2.1 which are considered by the applicant to be either unwarranted, onerous or a typographical error.

Consultation

The application was notified to objectors of DA 10.2011.2.1. Thirty-two (32) submissions were received.

Main Issues

The main issues relating to the S96(2) modification are visual impacts associated with extending rides up into the hillside and proposed colour schemes for other structures and rides.

RECOMMENDATION

It is recommended that S96(2) modification of Development Application DA 10.2011.2.1 be approved subject to the conditions contained in Appendix 1.

Site Description

The property is described as Lot 3 in Deposited Plan 258919 and Lot 1 in Deposited Plan 1070506 which is located at 1215 Jamberoo Road, Curramore, NSW.

The overall site measures 63.1 Hectares in size and is irregular in shape.

The Jamberoo Action Park (JAP) currently contains the following rides and activities:-

- Toboggan tracks;
- The Taipan raft ride;
- Surf Hill water slide;
- Billabong Beach activities;
- Splash Out water slides;
- The Rock jumping platform;
- Outback Bay wave pool;
- Go-kart circuit;
- Mini golf (putt-putt) course;
- Restaurant and reception centre;
- Entrance structures;
- Associated administrative and amenity areas; and
- Car parking areas (including overflow parking)

Lot 1 currently contains all the water and amusement activities associated with the JAP, as described above. Lot 3 is predominantly cleared of vegetation and is generally flat rural land. It does not contain any of the activities of the JAP, although two dams, the effluent disposal pond and irrigation areas associated with the JAP are located within Lot 3.

The land is undulating in topography, but generally inclines progressively steeply toward the north-west. With the exception of the north and west of the site that supports remnant pockets of vegetation, as well as intermittent groups of trees and landscaping within the park, the site is generally cleared of vegetation.

The land is bound by Jamberoo Road along its eastern boundary and on other sides is bounded by rural land containing principally single detached dwellings and grazing land.

Zoning

The site is zoned part Rural 1(a) / part Rural Environmental Protection 7(e) - Hinterland pursuant to *Kiama Local Environmental Plan 1996 (KLEP1996)* and is also zoned part RU2 Rural Landscape / part E3 Environmental Management/part E2 Environmental Conservation pursuant to *Kiama Local Environmental Plan 2011* which was gazetted on 16 December 2011.

Background

Jamberoo Action Park began as a grass ski park in 1979. The grass ski park included a chairlift, restaurant and amenities building. Since its inception the park has progressively expanded and evolved and this has seen it shift from a being a grass ski park into the water themed park that it is today. This has been accomplished through a series of development applications over the intervening years; with the most significant being the 2001 application that included Master Plan approval for a staged development of the park that included water based rides, the wave pool, and shade structures.

On 14 July 2011 the Southern Region Joint Regional Planning Panel granted development consent to Development Application No.10.2011.2.1, subject to conditions, for seven new rides and interactive play, including the:

- Tornado ride;
- Behemoth Bowl ride;
- Uphill Coaster ride;
- Lazy River ride (with Action Rapids);
- Rain Fortress;
- Kids Themed Water Play Zone;
- Mammoth River/Tantrum Alley Ride

and the following associated infrastructure:

- Entrance building and ticket office additions;
- Shade and Picnic shelters;
- Water Cannon Boathouse;
- Food and Beverage Outlets;
- Observation Decks;
- Suspension Bridge;
- Change Rooms/Amenities;
- Additional Car Parking Areas;
- Landscaping;
- Replacement Storage shed/Work shed (300m² in area);
- Plant room;
- Amendments to the Water Supply and Effluent Management on the site; and the
- Demolition of the existing go-kart track to accommodate some of the new rides.

Proposed Modifications

The table below lists the development consent conditions approved in DA 10.2011.2.1, and the reasons put forward by the applicant for the modification.

Current Consent Condition	Reasons for Modification
<p>Condition 12 under the heading of: “General Terms of Approval Water Management Act, 2000”</p> <p>“The consent holder must ensure that nay excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.”</p>	<p>The word "nay" should be "any".</p>
<p>Condition A under the heading “Deferred Commencement Conditions”</p> <p>“The developer is to formally surrender to Council development consent no. 10.2004.78 for the two (2) lot subdivision involving the subject land”.</p>	<p>It is requested that the Deferred Commencement condition be deleted. It is assumed that its creation arose from a concern that there would be a legal ability to separately dispose of Lot 1 DP1070506 and Lot 3 DP258919. However, it is considered that such concerns could be alleviated for reasons expressed in addressing Deferred Commencement condition B below</p>
<p>Condition B under the heading “Deferred Commencement Conditions”</p> <p>“Evidence is to be submitted to Council that a plan of consolidation of subject Lot 1 DP 1070506 and Lot 3 DP 258919 has been registered by Land & Property Management Authority”.</p>	<p>As discussed above, the subdivision granted under DA10.2004.78.1 effectively divided existing Lot 1 DP 1070506 into two parcels being:</p> <ul style="list-style-type: none"> ▪ Lot 101 - which would contain the JAP; and ▪ Lot 102 - an area of approximately 22 hectares approved with a building envelope for a dwelling house <p>At that time, there was no physical reliance of proposed Lot 102 on the operation of the JAP activities. However, that has been effectively changed through the approval of DA 10.2011.2.1 for the expansion and upgrade of the JAP for two reasons:</p> <ul style="list-style-type: none"> i) the expansion of the Park's activities relies upon an effluent treatment field being located within proposed Lot 102; and ii) the expansion of the JAP activities relies in part in the utilisation of water

	<p>stored within two dams located within proposed Lot 102.</p> <p>To address these requirements the following actions will be provided for:</p> <p>a) The effluent disposal field will be removed from proposed Lot 102 and will be relocated in Lot 3 in DP258919</p> <p>This relocation will require separate development consent as the pipe will cross an area of mapped high value vegetation which is contrary to the provisions of <i>KLEP1996</i>.</p> <p>The application will be made in accordance with the provisions of <i>State Environmental Planning Policy (Infrastructure) 2007</i>.</p> <p>b) Arrangements for water supply from the two dams upon proposed Lot 102 will be created by way of easements for supply where proposed Lot 101 will benefit.</p> <p>To satisfy Councils concerns the proposition will provide for the consolidation of Lot 3 DP258919 with proposed Lot 101, this plan will make provision through the 88B Instrument to provide for the easement for water supply.</p> <p>It is therefore, submitted that under these arrangements the constraints imposed by the deferred commencement conditions can be satisfied.</p>
<p>Condition 1 under the heading “General”</p> <p>“The development shall be implemented generally in accordance with the details set out on the plan/drawing endorsed by Council as 10.2011.2.1 dated 14/07/2011 and on the application form except as amended by the following conditions”.</p>	<p>The plans were not endorsed by Council but by the Joint Regional Planning Panel.</p> <p>The modifications will require amendment to the following plans:</p> <ul style="list-style-type: none"> • Overall site plan - Amendment M; • Concept Master Plan - Amendment G; • Site Sections - Amendment G; • Artistic Impression - Amendment F; • Locker Building - Amendment D; • Materials Colour Board - Amendment C; • Site Analysis Plan - Amendment L;

	<ul style="list-style-type: none"> • Site Sections - Amendment D; • Tornado Ride Heights - DWG DA-19 Issu C; • Uphill Coaster Heights - DWG DA-20 Issu D; and • Rain Fortress Heights - DWG DA-21 Issu A. <p>In summary, the changes to the plans reflect the following:</p> <ul style="list-style-type: none"> ▪ the start tower has moved uphill approximately 45m; ▪ start tower deck has been raised from RL 125.00m to RL 130.6m; ▪ start deck tower will be 4.6m above natural ground level as opposed to 10.5m provided for in the approval; ▪ the Tornado ride has been extended in length by about 68m; ▪ the Behemoth Bowl ride has been lengthened by about 70m and new features have been incorporated into the design; ▪ additional retaining walls and landscaping have been added to the low side of the start tower to reduce the visual impact; ▪ the size of the start tower has been reduced in area; and ▪ the children's water play structures have been consolidated into a single interactive play structure.
<p>Condition 3 under the heading "General"</p> <p>"The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority".</p>	<p>The proponent seeks to construct the development under a series of Construction Certificates. Unless there was an established agreement in relation to "other satisfactory arrangements", this condition could have the potential of restricting the use of any part of the new development until all conditions of the consent were complied with. It is requested that the condition be modified as follows:</p> <p>"The development shall not be occupied until such time as all conditions of this Development Consent are met. However, should Construction Certificates be issued for components of the development then an Interim Occupation Certificate will not be</p>

	issued until conditions of consent relating to that Construction Certificate have been complied with".
<p>Condition 11 under the heading "General"</p> <p>"The applicant shall provide a traffic management and traffic control plan complying with the design requirements of the Roads and Traffic Authority's <i>Traffic Control at Work sites</i> manual and the Standards Australia publication AS 1742.3 <i>Manual of Uniform Traffic Control Devices Part 3: Traffic Control Devices for Works on Roads</i>.</p> <p>The traffic management and traffic control plan must be designed by a Roads and Traffic Authority accredited designer and shall be submitted to the Principal Certifying Authority prior to the release of any construction certificate".</p>	<p>Traffic Management and Operational Management Plans were submitted with the modification with the view that Council will assess the application and provide advice of its acceptance or modifications accordingly.</p>
<p>Condition 14 under the heading "General"</p> <p>"The applicant shall engage a suitably qualified professional person to provide in accordance with the "RTA Technical Direction for Road Safety Practitioners (TD2003/ RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects" a stage 3 Detailed Design for the development project. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of any construction certificates".</p>	<p>This condition suggests that no work can be undertaken prior to this information being received. As it is the intention to undertake construction under a number of Construction Certificates, it is requested that the condition be modified as follows:</p> <p>"The applicant shall engage a suitably qualified professional person to provide, in accordance with the "RTA Technical Direction for Road Safety Practitioners (TD 2003/RS03 Ver 2) Policy for Road Safety Audits of construction and reconstruction projects", a Stage 3 Detailed Design for the development projects. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority prior to the issue of the Construction Certificate for the construction of works requiring the road safety audit".</p>
<p>Condition 15 under the heading "General"</p> <p>"The applicant shall engage a suitably qualified professional person to provide in accordance with the "RTA Technical Direction for Road Safety Practitioners (TD2003/ RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects" a stage 4 Pre-Opening Audit for the development project. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads</p>	<p>This condition suggests that no work can be undertaken prior to this information being received. As it is the intention to undertake construction under a number of Construction Certificates, it is requested that the condition be modified as follows:</p> <p>"The applicant shall engage a suitably qualified professional person to provide in accordance with the "RTA Technical Direction for Road Safety Practitioners (TD 2003/RS03 Ver 2) Policy for Road Safety</p>

Authority prior to the issue of any occupation certificates”.	Audits of construction and reconstruction projects”, a Stage 4 Pre-Opening Audit for the development project. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of the Construction Certificate for the construction of works requiring the Stage 4 Pre-Opening Audit”.
<p>Condition 18 under the heading “General”</p> <p>“Prior to the issue of any construction certificate the applicant shall lodge with Council a security bond for the development to ensure repair of any infrastructure damage occurring within Jamberoo Road during the course of construction of the development and to ensure compliance with the waste management plan for construction approved by Council.</p> <p>a 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.</p> <p>b 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.</p> <p>c Provided that there has been no damage to the public infrastructure within the road reserve due to works associated with the development, the bond shall be refunded in full upon the last to occur of twelve (12) months from the date of issue of the final occupation certificate of the development and submission of a waste compliance certificate (inclusive of supporting documentation) verifying compliance with the approved waste management plan”.</p>	<p>The condition provides some constraint in obtaining Construction Certificates for preliminary works. There is no issue with the specific requirements of (a), (b) and (c). Also, we consider that a waste management plan could be provided in an early stage of the development. It is the timing of providing the security bond that causes concern. It is requested that the condition be modified as follows</p> <p>“Prior to the issue of the Construction Certificate relating to construction works within Jamberoo Road, the applicant shall lodge with Council a security bond for the development to ensure repair of any infrastructure damage occurring within Jamberoo Road during the course of construction of the development and to ensure compliance with the waste management plan for construction approved by Council”.</p>
Condition 1 under the heading “Finish Colours”	The condition needs to be modified to reflect the change in plans and should read as follows:

<p>"The proposed Tornado ride and Behemoth Bowl ride are to be finished in external colours consistent with those indicated on Sheet DA-04 Amendment E".</p>	<p>"The proposed Tornado ride & Behemoth Bowl ride are to be finished in external colours consistent with those indicated on Sheet DA-04 Amendment F and the colour board marked Materials Colour Board - Issue C".</p>
<p>Condition 3 under the heading "Finish Colours"</p> <p>"All building and structures are to be finished in a recessive colour in the medium to dark solar absorbance range".</p>	<p>This condition is of major concern in relation to the presentation and attraction of the JAP.</p> <p>The marketability and resulting success or otherwise of any theme park relies, to a large extent, on the unique theming of the attractions that is integral to the enjoyment of the guests experience. Theming, therefore, needs to be topical, vibrant and colourful to make a strong and instant impact.</p> <p>As theme park guests have high expectations of a visit filled with fun and exciting entertainment it is essential that the overall character and ambience of the park and attractions reflects a happy, cheerful and colourful experience in keeping with the selected themes. The contribution of colour is integral to successful theming and its importance should not be underestimated.</p> <p>Overall theme park design traditionally utilises themes that by nature have bright happy colours.</p> <p>It is important to note that at JAP, the theming of rides and precincts have been developed with a distinctly Australian character including the Aussie beach and outback landscapes. The colour scheme in relation to all theming elements, architectural buildings and structures and the rides/water play attractions are generally selected in traditional colours that are typically found within the Australian beach, coastal and bushland environment.</p> <p>To select recessive colours would certainly detract from the overall experience and ambience expected by patrons to the JAP. In many ways the visual impact of the JAP is greatly reduced by the screening effects of the landscaping which currently exists and also the proposed screening of future precincts.</p> <p>Therefore to provide for the necessary ambience, it is requested that the condition be modified in accordance with the</p>

	<p>following:</p> <p>“All buildings and structures are to be finished in accordance with the Materials Colour Board provided on Plan DA-16 Amendment C provided by Alan Griffith Architect”.</p>
<p>Condition 1 under the heading “Traffic Management”</p> <p>“The applicant shall prepare and submit to Council a detailed Operational Traffic Management Plan addressing the ongoing matters relating to the management of traffic within Jamberoo Action Park and the public road network. The Operational Traffic Management Plan shall include but shall not be limited to the following matters:</p> <ul style="list-style-type: none"> a The Operational Traffic Management Plan shall detail separately all traffic management issues and operational matters. b The Operational Traffic Management Plan shall give consideration to management and operational measures for higher than forecast daily and annual traffic volumes within the development site and the public road network. c The plan shall be submitted to Council for assessment and approval prior to the issue of any occupation certificates”. 	<p>The Operational Traffic Management Plan has been submitted as additional information for review. It is unlikely that the acceptance of the plan will require the restricting of this condition, however, if this is not the case, it will be intended to review the application for modification.</p>
<p>Condition 1 under the heading “Engineering & Construction Specifications”</p> <p>“Where this consent requires both civil engineering and building works to be undertaken, a separate construction certificate shall be issued for each category of works of the development; that is, a separate engineering construction certificate (for any on-site detention, stormwater drainage, public and private road works, etc) and a separate building construction certificate (for all works relating to the erection and fit-out of a structure). The construction certificate for the civil engineering works must be issued prior to the issue of a building construction certificate</p>	<p>It is considered that any application for a Construction Certificate for a building would need to be supported by detail of the related infrastructure. This is normal practice. The imposition of this condition leads to an unnecessary duplication and cost.</p> <p>As a Construction Certificate is required for all works then this condition is unnecessary and the request is that it be deleted.</p>

<p>with the certified plans of the civil engineering works also incorporated into the building plans”.</p>	
<p>Condition 7 under the heading “Engineering & Construction Specifications”</p> <p>“The applicant shall submit details of all civil engineering works on engineering drawings for work within the development site to the Principal Certifying Authority for approval prior to the issue of any construction certificate of the development. The drawings shall include, but shall not be limited to, the following detailed information:</p> <ul style="list-style-type: none"> a The hydrologic modelling and hydraulic treatment detail including detailed calculations, drainage network layout, environmental controls (including the post-development first flush mechanism, water quality and sedimentation controls), all stormwater drainage structures and, where required, the proposed method of accessing the existing public stormwater drainage system. All drainage calculations and modelling shall be carried out in accordance with <i>Australian Rainfall and Runoff</i> published by Engineers Australia, shall include a detailed contoured catchment diagram and shall delineate all flow paths for storms up to the 100 year average recurrence interval. b Plan, longitudinal and cross sectional detail shall be provided for the proposed roads, access driveways, circulation roadways, circulation aisles, ramps, car parking modules, manoeuvring areas and parking aisles. c Design swept paths shall be provided for all vehicle movements for the long rigid bus (14.5m) at internal access points to demonstrate compliance with the Austroads and Standards Australia <i>Design Vehicles and Turning Path Templates</i>. d A raised traffic median over the length of the southern circulation roadway from the entry at the intersection of Jamberoo Road to the divergence of the proposed 	<p>The degree of detail required prior to "any" Construction Certificate being issued is extensive. It is the intention to carry out construction under a series of Construction Certificates.</p> <p>This condition, as drafted, is onerous in its enormity. It is, therefore, requested that the conditions be redrafted to appear as follows:</p> <p>“The applicant shall submit details of all civil engineering works on engineering draws for work within the development site to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate for those engineering works. The drawing shall include, but shall not be limited to, the following detailed information</p> <ul style="list-style-type: none"> a The hydrologic modelling.....”

<p>dual ingress and egress traffic lanes (a distance of approximately 140 metres) shall be provided in compliance with the Jordan Mealey and Partners Pty Ltd plan number 20050096.11-GME</p> <p>e The existing staff car parking module located immediately on the left or southern side of the entry and circulation roadway shall have restricted access. Vehicular access shall be permitted only at the western entry and all vehicle movement shall be left turn in and left turn out only. A permanent access restriction in the form of an immovable barrier shall be provided at the existing eastern access point.</p> <p>f The existing staff car parking module located immediately on the right or northern side of the entry and circulation roadway shall provide restricted access. Left turn in and left turn out only manoeuvres shall be accepted.</p> <p>g Internal pathway network, including the proposed raised threshold treatments.</p> <p>h The proposed pavement treatment to the internal roads, access driveways, circulation roadways, circulation aisles, ramps, car parking modules, manoeuvring areas and parking aisles. The minimum design surface treatment shall be cement concrete, asphaltic concrete or segmental paving.</p> <p>i The location and reduced level of all services under the control of public utilities or agencies that could be impacted by works associated with this development.</p> <p>j A detailed construction schedule and Environmental Construction Management Plan; and</p> <p>k All reduced levels shall relate to Australian Height Datum (AHD)".</p>	
---	--

**Condition 8 under the heading
“Engineering & Construction
Specifications”**

“The applicant shall submit to the Roads Authority for assessment a detailed civil engineering design for all required work within the classified road, Jamberoo Road. The proposed design treatment shall comply with the design requirements of the RTA *Road Design Guide Section 4: Intersections at Grade*. The proposed design treatment shall be assessed and approved by the Roads Authority prior to the release of any construction certificate. The drawings shall include, but shall not be limited to, the following detailed information:

- a The proposed left turn from the development site access into Jamberoo Road shall be designed in accordance with a high angle entry layout, Figure 4.8.36 of Section 4 of the RTA *Road Design Guide*, unless vehicles are able to turn into their own full length acceleration lane.
- b A separate right turn lane shall be provided from the development site into Jamberoo Road.
- c The development shall provide for two entry lanes into the site and shall include the provision of a high vehicle angle entry layout for the left turn from Jamberoo Road in accordance with Figure 4.8.36 of the RTA *Road Design Guide*. The proposed design shall ensure that the maximum observation angle requirements are not exceeded. The design of the left turn treatment shall ensure that it is sufficiently separated from the right turn movement into Jamberoo Road to allow both movements to occur simultaneously without any misunderstanding of intersection priority.
- d Design swept paths shall be provided for all vehicle movements for the long rigid bus (14.5m) at the intersection of the development access with Jamberoo Road to demonstrate compliance with the Austroads and Standards Australia *Design Vehicles and Turning Path Templates*.

Substantial detail is required prior to any work commencing. It is requested that this condition be modified to read as follows:

“The applicant shall submit to the Roads Authority for assessment a detailed engineering design for all required work within the classified road, Jamberoo Road. The proposed design treatment shall comply with the design requirements of the Roads Authority Road Design Guide Section 4: Intersections at Grade. The proposed design treatment shall be assessed and approved by the RTA prior to the release of the Construction Certificate relating to the required works associated with Jamberoo Road. The drawing shall include, but not limited to, the following detailed information:”

- a The proposed left turn from the

<p>e The applicant shall provide Approach Sight Distance in compliance with the RTA <i>Road Design Guide Section 4: Intersections at Grade</i> for all painted medians located on Jamberoo Road.</p> <p>f All painted medians on Jamberoo Road shall be designed and constructed in accordance with Figure 4.8.25 of the RTA <i>Road Design Guide Section 4: Intersections at Grade</i>.</p> <p>g An extension of the southbound channelized right turn treatment on Jamberoo Road shall be provided, and where necessary, shall provide for the widening of the Jamberoo Road traffic lanes. The proposed right turn treatment shall provide a minimum 92 metres of storage capacity (i.e. not including the taper).</p> <p>h Structural details shall be provided for any proposed retaining walls, embankment treatment, road shoulder and stormwater drainage infrastructure required to support the eastern embankment associated with the extended right turn lane and re-alignment of the south bound traffic lane on Jamberoo Road.</p> <p>i All traffic medians to be located in Jamberoo Road, with the exception of painted medians, shall be raised medians”.</p>	
<p>Condition 2 under the heading “Stormwater Management”</p> <p>“The applicant shall provide on-site detention storage for stormwater runoff in conjunction with the proposed development drainage network to limit post-development site runoff to pre-developed levels. The storage must be designed in accordance with <i>section D5 Stormwater Drainage</i> of Kiama Development Control Plan No 32 – <i>Kiama Development Code</i>. Structural details and detailed hydrological and hydraulic calculations prepared by a Chartered Professional Engineer shall be provided to the Principal Certifying Authority for assessment and approval prior to the issue of any construction certificate”.</p>	<p>A high level of detail is to be provided prior to any works commencing on site. It is requested that this condition be modified in the following terms</p> <p>“The applicant shall provide on-site detention storage for stormwater run-off in conjunction with the proposed development drainage network to limit post-development site runoff to pre-developed levels. The storage must be designed in accordance with Section D5 Stormwater Drainage of Kiama Development Control Plan No. 32 - Kiama Development Code. Structural details and detailed hydrological and hydraulic calculation prepared by a Chartered Professional Engineer shall be provided to the Principal Certifying Authority for assessment and approval prior to the</p>

	issue of the Construction Certificate for the on-site detention storage and associated drainage network."
<p>Condition 3 under the heading "Stormwater Management"</p> <p>"The applicant shall design and construct the major and minor stormwater drainage system in accordance with the design requirements of <i>section D5 Stormwater Drainage</i> of Kiama Development Control Plan No 32 – <i>Kiama Development Code</i>. Details of the proposed drainage system shall be submitted to the Principal Certifying Authority for assessment and approval prior to the issue of any construction certificate".</p>	<p>The condition requires the applicant to design and construct the major and minor stormwater drainage system in accordance with Kiama DCP No 32 and requires that details shall be submitted and approved prior to the issue of any Construction Certificate.</p> <p>The request is that this condition be modified in the following terms:</p> <p>"The applicant shall design and construct the major and minor stormwater drainage system in accordance with the design requirements of Section D5 Stormwater Drainage of Kiama Development Control Plan No. 32 - Kiama Development Code. Details of the proposed drainage system shall be submitted to the Principal Certifying Authority for assessment and approval prior to the issue of the Construction Certificate relating to the construction of the major and minor stormwater drainage system."</p>
<p>Condition 5 under the heading "Stormwater Management"</p> <p>"The applicant shall comply with the design requirements of Council's <i>Water Sensitive Urban Design</i> policy in conjunction with the design requirements of section D5 Stormwater Drainage of <i>Kiama Development Control Plan No 32 – Kiama Development Code</i> in regard to the proposed stormwater drainage network and water quality infrastructure.</p> <p>Details shall be submitted to the Principal Certifying Authority for assessment and approval prior to the release of any construction certificates".</p>	<p>The condition requires the applicant to comply with the design requirements of Council's Water Sensitive Urban Design policy and that design details will be submitted for approval prior to the release of any Construction Certificates.</p> <p>It is requested that this condition be modified in the following terms:</p> <p>"The applicant shall comply with the design requirements of Council's Water Sensitive Urban Design policy in conjunction with the design requirements of Section D5 Stormwater Drainage of Kiama Development Control Plan No. 32 - Kiama Development Code in regard to the proposed stormwater drainage network and water quality infrastructure.</p> <p>Details shall be submitted to the Principal Certifying Authority for assessment and approval prior to the release of Construction Certificates relating to the construction of the stormwater drainage network and water quality infrastructure."</p>
<p>Condition 1 & 2 under the heading "Operation of Recycling Waste Water"</p>	<p>In the submission relating to deferred commencement condition B it was</p>

<p>Irrigation Areas & Standards”</p> <p>Condition 1 “A minimum recycled water irrigation area of 3.35ha shall be provided and maintained on the site. No more than 20KL/ha/day shall be irrigated and this amount may be less and is subject to soil moisture levels and the capacity of the soil. Ensure maximum soil moisture levels are not exceeded”.</p> <p>Condition 2 “Irrigation of recycled water shall not occur in the nominated areas as identified on the plan prepared by Jordan Mealy & Partners Drawing 20050096 Sheet 8 dated 5/5/2011”.</p>	<p>explained that a requested amendment would be to remove the effluent disposal field within proposed lot 102 and relocated it to an area in the southern section of the property.</p> <p>Advice provided by Precise is that the sections with an area of 2 hectares are adequate to accept the overflow effluent for treatment. This will therefore require the area of irrigation to be reduced to 2 hectares.</p> <p>The modifications requests that the condition be amended as follows:</p> <p>Condition 1 “A minimum recycled waste water irrigation area of 2 hectares shall be provided and maintained on the site. No more than 20KL/HA/day shall be irrigated and this amount may be less and is subject to soil moisture levels and the capacity of the soil. Ensure maximum soil moisture levels are not to be exceeded”</p> <p>Condition 2 “Irrigation of recycled water shall only occur in the nominated areas as identified on the Integrated Sewer & Water System plan prepared by Jordan Mealey & Partners dated 15/11/11”.</p>
<p>Condition 3 under the heading “Recreation Water Supply”</p> <p>All recreational water supplies shall be sourced from the Main Dam (Jim’s Dam-Dam1), Back Dam (Dam 2) and Top Dam (Dam 5.) as identified on the plan prepared by Jordan Mealey & Partners Drawing 20050096. However during drought periods and where circumstances may require recreational water shall be brought onto site by a licensed Water Cater”.</p>	<p>In the last sentence, "Water Cater" should be "Water Carter".</p>
<p>Condition 4 under the heading “Earthworks & Geotechnical Requirements”</p> <p>“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,</p>	<p>The condition provides that only clean fill is to be used in the development. This condition suggests that only VENM may be used in the construction which prevents consideration of process recycled material.</p> <p>The suggested amendment is:</p> <p>"Only clean fill (i.e. natural materials such as earth, rock and stone) or environmentally certified process recycled material is to be</p>

permitted to be used as filling on site".	used in the development. Under no circumstances are processed or putrescible wastes permitted to be used as filling on the site".
<p>Condition 2 under the heading "Bushfire Hazard Management"</p> <p>"At the commencement of building works and in perpetuity the property around the proposed pump house to a distance of 30 metres, shall be maintained as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'".</p>	<p>The condition requires the perpetual maintenance of a 30m Inner Protection Area around the proposed pump house. The area described may encroach upon adjoining property beyond the control of the applicant.</p> <p>However, the building will not be occupied on a residential or commercial basis and the relevance of the condition is questioned.</p> <p>It is requested that the condition be deleted</p>
<p>Condition 1 under the heading "Food Premises Construction and Standards"</p> <p>"Prior to the issuing of the Construction Certificate the following information is to be submitted to Council relating to food outlets or any food preparation areas:</p> <ul style="list-style-type: none"> (a) A 1:50 scale floor plan of any food premises, kiosk or area where food is prepared for the public. This floor plan is to indicate size and placement of sinks, benches and equipment and is to also indicate the finishes of surfaces. (b) Sectional elevations, scale 1:50- through any building showing details of height of equipment and benches; (c) Details of any proposed mechanical exhaust system and exhaust hoods including a sectional 1:50 elevation indicating location of extraction hood, duct work and exhaust duct on the roof of any buildings; (d) Hydraulic plans- detailing plumbing connections, floor waste positions; (e) Schedule of finishes; (f) Layout of all equipment; (g) Door and window openings; (h) Customer and staff toilet details." 	<p>This condition requires substantial detail relating of food premises to be submitted prior to the issue of the Construction Certificate.</p> <p>This information need not be provided prior to the issue of the initial Construction Certificate but could be provided prior to the issue of the Construction Certificate for the food outlets. It is requested that this condition be amended to read:</p> <p>"Prior to the issuing of the Construction Certificate relating to food outlets or any food preparation areas the following information is to be submitted"</p> <ul style="list-style-type: none"> (a) 1:50 scale floor plan"

<p>Condition 2 under the heading “Prior to Occupation”</p> <p>“The landscape designer/architect shall provide a 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 any Occupation Certificates and/or Subdivision Certificate, where relevant, for the development”.</p>	<p>The condition requires the landscape designer/architect to certify that landscape works have been completed in accordance with the approved landscape plans prior to the release of any Occupation Certificate.</p> <p>Again, this condition would impact upon the ability to rely upon a series of Construction Certificates as all landscape works would need to be completed prior to the release of any Interim Occupation Certificate. It is requested that this condition be amended to read:</p> <p>"The landscape designer/architect shall provide a written certification to Council and the Principal Certifying Authority to certify that landscape works associated with any Construction Certificates have been completed in accordance with the approved plans and specifications relating to the Construction Certificate, prior to the release of any Occupation Certificate and/or Subdivision Certificate, where relevant, for the development."</p>
<p>Condition 1 under the heading “Conveyancing Requirements”</p> <p>“Under the provisions of section 88B/88E of the Conveyancing Act 1919 the applicant shall provide a restriction on the use of land and a positive covenant in favour of Council detailing protection measures and long term maintenance requirements for riparian zones and floodways, effluent disposal systems, the on-site stormwater detention and water quality system, and associated stormwater drainage infrastructure constructed within the development site”.</p>	<p>The condition requires the provision of restriction on the use of the land and a positive covenant in favour of Council detailing protection measures and long term maintenance requirements for a number of areas on the site. There is an impracticability of applying the restrictions over riparian corridors identified on Council's riparian mapping and the condition is requested to be modified as follows:</p> <p>“Under the provisions of Section 88B/88E of the Conveyancing Act 1919, the applicant shall provide a restriction on the use of land and a positive covenant in favour of Council detailing protection measures and long term maintenance requirements for floodways, effluent disposal systems, the on-site stormwater detention and water quality system and associated stormwater drainage infrastructure constructed within the development site”.</p>

Environmental Planning & Assessment Act, 1979

In determining the modification to DA 10.2011.2.1 the consent authority must take into consideration the following matters referred to in the *Environmental Planning & Assessment Act, 1979*.

Section 96(2)(a)

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if it is satisfied that the development to which the consent as modified relates. is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”.

The physical changes to proposal are:

- The start tower for the Tornado ride and Behemoth Bowl ride has moved uphill approximately 45m, which involves heights being raised from RL 125.00m to RL 130.6m; however, it will be 4.6m above natural ground level, as opposed to 10.5m approved in DA 10.2011.2.1.
- The Tornado ride has been extended in length by about 68m;
- The Behemoth Bowl ride has been lengthened by about 70m and new tantrum features have been incorporated into the design;
- Additional retaining walls and landscaping have been added to the low side of the start tower to reduce the visual impact;
- The size of the start tower has been reduced in area; and
- The children’s water play structures have been consolidated into a single interactive play structure.

Although rides have increased in footprint and height, it is considered that the modification relates substantially to the same development granted in DA 10.2011.2.1.

Section 96(2)(b)

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent”.

Consultation with a relevant Minister, public authority or approval body was not required in regard to the modifications proposed.

Section 96(2)(c)

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if it has notified the application in accordance with the regulations, if the regulations so require, or a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent”.

Previous objectors to DA 10.2011.2.1 were notified of the modification in accordance with Kiama Development Control Plan No. 39 – Development Application Notification Policy.

Section 96(2)(d)

“A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be”.

Thirty-two (32) submissions were received opposing some of the modifications proposed. The submissions were considered in the assessment of the application and relevant objections have been considered and addressed in this report.

Section 96(3)

“In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application”.

The requirements of 79C(1) have been addressed and are listed below.

(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">• <i>Illawarra Regional Environmental Plan No 1 (deemed SEPP)</i>• <i>State Environmental Planning Policy (Rural Lands) 2008</i>• <i>State Environmental Planning Policy (Infrastructure) 2007</i>• <i>State Environmental Planning Policy No. 55– Remediation of Land</i> <u>Local Environmental Planning Policies</u> <ul style="list-style-type: none">• <i>Kiama Local Environmental Plan 1996</i>• <i>Kiama Local Environmental Plan 2011</i>
(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
<ul style="list-style-type: none">• None applicable.
(a) (iii) the provisions of any development control plan, that apply to the land to which the development application relates
<ul style="list-style-type: none">• <i>Development Control Plan No 8 – Building Height and Amenity</i>• <i>Development Control Plan No 25 – Planning for Less Waste</i>• <i>Development Control Plan No 31 – Landscaping Guidelines</i>• <i>Development Control Plan No. 35 – Rural Dwelling Design and Siting Guidelines</i>• <i>Development Control Plan No 36 – Building Lines and Foreshore Building Lines</i>

(a) (iii)	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
•	None applicable.
(a) (v)	the provisions of: any coastal zone management plan (within the meaning of the <i>Coastal Protection Act 1979</i>), 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
<p>With the exception of increased visual impacts, there are likely to be minimal adverse impacts to the natural and built environments as a result of the proposed modifications. There are likely to be negligible adverse economic and social impacts associated with the proposed modifications.</p> <p>The visual impacts of the proposal will be discussed in more detail further in this report.</p>	
(c)	the suitability of the site for the development
The proposed modifications fit within the site 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 DCP requirements. Thirty-two (32) submissions were received and taken into consideration during assessment of the application.	
(e)	the public interest
Whilst noting submissions, balanced against the wider community and social and economic benefits, the proposal is considered to be in the public interest.	

- *State Environmental Planning Policy (Rural Lands) 2008 (SEPP Rural Lands)*

Although the proposal is situated on rural zoned land, Schedule 1 of *Kiama Local Environmental Plan 2011* allows facilities associated with an amusement park to be provided in the location of the proposed modifications to the rides. *SEPP Rural Lands* is therefore not considered relevant to the modifications proposed.

- *State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)*

Pursuant to Schedule 3 of *SEPP Infrastructure*, traffic generating developments with a size or capacity for 200 or more motor vehicles are required to be referred to the NSW Roads & Maritime Services. It is considered that the modifications to the development consent sought are not likely to cause increased traffic generation and therefore the requirements of *SEPP Infrastructure* are not considered relevant to the modifications proposed.

- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP55)*

The requirements of *SEPP55* were considered in the previous assessment of Development Application No. 10.2011.2.1 and additional assessment is not considered to be required.

- *Illawarra Regional Environmental Plan No. 1*

Specific clauses requiring consideration:-

Clause 139 of the REP imposes a maximum building height control of 11 metres measured vertically from any point on the ceiling of the top most floor of the building to the natural ground level immediately below that point. The start tower for the Tornado ride and Behemoth Bowl ride are proposed to be situated 4.6 metre above the natural ground level.

- *Kiama Local Environmental Plan 1996 (KLEP1996)*

The subject land is zoned part Rural 1(a) – Rural “A”/ part Rural Environmental Protection 7(e) - Hinterland pursuant to *KLEP1996*.

Amusement parks are prohibited in both the 1(a) and 7(e) zones (the modification to the rides is proposed within the 1(a) zoned land); however, in the area in which the modified rides will be situated, Amendment No. 66 of *KLEP1996* permits a *recreation facility (major)* being an *amusement park, function centre* and any other facilities associated with an amusement park, such as shops, refreshment rooms and amenities.

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. The proposed modifications will clearly have an impact on the future agricultural viability of the subject land, but it is considered that it will not likely have an unacceptable impact on the current or future use of adjoining or nearby land.

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

- The protection of rare and endangered flora and fauna species and the protection of habitats for native flora and fauna; and*
- The protection of wildlife corridors and vegetation links with other nearby bushland; and*
- 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*
- The protection of bushland for scenic values and the retention of the unique visual identity of the landscape; and*
- The cumulative impact of a series of development proposals.*

Consideration has been given to these matters and no concerns are raised by the proposed modifications.

Clause 39 mirrors Clause 13 and requires consideration to be given to the effect of the proposed development on:-

- 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, watercourses 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 proposals.*

The above matters have been considered and no concerns are raised. Irrespective, the proposed modifications are not occurring on or within land that is zoned 7(e) - Hinterland.

Clause 37 relates to land that has been identified as being of High Conservation Value. Whilst the subject land includes areas that are mapped as being of High Conservation Value, the proposed modification is not sited within, or does not encroach upon, the mapped area of High Conservation Value.

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. It is considered that the proposed modifications will not likely cause an increase in traffic numbers.

Clause 57 requires Council to be satisfied that, for tourist facility development in un-serviced areas within the Rural "A" zone, a reliable water supply capable of meeting the projected needs of the development is available and also a satisfactory sewerage treatment system capable of achieving standards of treatment and effluent discharge quality can be provided. The proposed development, whilst most accurately categorised as an *amusement park*, also falls within the broader definition of a *tourist facility*. The proposed modifications to the development will not likely require a major increase in water needs and effluent treatment.

- *Kiama Local Environmental Plan 2011 (KLEP2011)*

The site is part RU2 Rural Landscape/part E3 Environmental Management/part E2 Environmental Conservation pursuant to *KLEP2011* which was gazetted on 16 December 2011.

Amusement parks are prohibited in RU2 Rural Landscape zones, E3 Environmental Management zones and E2 Environmental Conservation zones; however, in the area in which the modified rides are proposed, Schedule 1 of *KLEP2011* permits a recreation facility (major) being an *amusement park*, *function centre* and any other facilities associated with an amusement park, such as shops, refreshment rooms and amenities.

- Development Control Plan No. 36 – *Building Lines and Foreshore Building Lines* (KDCP 36)

The site is subject to a building line of 15 metres from the road (Jamberoo Road). The proposed modifications provides for a compliant building line.

- Development Control Plan No. 35 – *Rural Dwelling Design and Siting Guidelines* (KDCP 35)

This DCP applies to proposals for rural dwellings, building envelopes or outbuildings only. The proposed modifications are not subject to the requirements and performance standards of DCP35.

- Development Control Plan No. 31 – *Landscaping Guidelines* (KDCP 31)

A landscape plan was lodged with the DA 10.2011.2.1 in accordance with the requirements of KDCP 31. The proposed modifications did not require an amendment to the previously approved landscape plan.

- Development Control Plan No. 25 – *Planning for Less Waste* (KDCP 25)

A waste management plan was supplied with DA 10.200.2.1 which dealt with demolition and construction waste. Conditions were imposed in DA 10.2011.2.1 requiring compliance with the waste management plan during both demolition and construction.

Consultation

Internal

Council's Development Engineer, Landscape Design Officer and Environmental Health Officer have provided advice in relation to their area of expertise in regard to the suitability of modifying conditions in DA 10.2011.2.1. Their advice has been included in forming the recommendations which either support or object to the modifications proposed by the applicant.

Public Notification

Notification letters were sent to persons and organisations that objected to DA 10.2011.2.1 and were provided from 13 December 2011 to 20 January 2012 in which to comment on the modifications. At the conclusion of the notification period, thirty-two (32) submissions were received.

The table below indicates relevant objections and comments from the assessing officer.

Objection to Consent Condition	Assessing Officer's Comment
<p>Condition B under the heading "Deferred Commencement Conditions"</p> <ul style="list-style-type: none"> • How will the capped attendance of 12,500 visitors be monitored? The developer should install electronic turnstiles that account for the number of patrons in the park. • A condition of consent should be implemented, if consent is granted limiting visitors to park to 12,500 persons per day. 	<ul style="list-style-type: none"> • The applicant lodged a development application (DA 10.2011.303.1) for an alternative effluent disposal area which was assessed concurrently with the modification the subject of this report. <p>The assessment of DA 10.2011.303.1 indicates that the proposal is inconsistent with <i>KLEP1996</i> and <i>KLEP2011</i>.</p> <p>As the proposed modification relies upon the granting of the approval of DA 10.2011.303.1 the condition is not recommended to be deleted.</p>

<ul style="list-style-type: none"> • The report lodged in support of the effluent treatment states that pump out will occur by a licensed contractor in the event that the maximum storage capacity is reached. It is believed that there are a lack of contractors and facilities in the Illawarra capable of carrying out this function. • The soil monitoring program should specifically include soil salinity. 	
<p>Condition 1 under the heading “General”</p> <ul style="list-style-type: none"> ▪ The artist impression cannot be relied on as there is no three dimensional awareness and sight lines displayed. ▪ The artist impression is misleading with the landscape drawings. ▪ The proposed height of the rides will contribute to noise pollution as the higher the noise, the further it carries out in to the natural amphitheatre of Jamberoo Valley. ▪ The Jamberoo Action Park is a visual blot on the landscape, expanding the rides will only make the visual impacts worse. The expansion of the ride will add to the deterioration of the scenic mountainside. 	<ul style="list-style-type: none"> • The artist impression along with the sections and colour schedule provided is considered satisfactory in assessing the visual impacts of the proposal. • The landscape drawings approved in DA 10.2011.2.1 are consistent with the artist impression and no objection has been raised by Council’s Landscape Officer. • The Tornado ride and Behemoth Bowl ride is proposed to increase in height by 5.6 metres. The increase in the transmission of noise through the surrounding areas is considered to be minor. • The extension of the Tornado ride and Behemoth Bowl ride is no greater in height level than with other approved rides in DA 10.2011.2.1
<p>Condition 3 under the heading “General”</p> <ul style="list-style-type: none"> • What order will Jamberoo Action Park implement their expansion plans (e.g. will new rides come before car parking, access improvements and sewage management) • All infrastructure should be completed before the Park operates in any configuration. 	<ul style="list-style-type: none"> • The applicant’s intention is to complete the approved rides in stages. The timing will be at the discretion of the JAP owners. <p>The condition is recommended for modification so that separate construction certificates and occupation certificates can be issued and that infrastructure relating to effluent treatment and car parking and access must be completed before an Occupation Certificate is issued for the first ride to be constructed.</p>
<p>Condition 14 & 15 under the heading “General”</p> <ul style="list-style-type: none"> • The traffic and road safety issues of this development are so significant that it must not be assumed that satisfactory compliance with these 	<ul style="list-style-type: none"> • This condition is considered onerous in that any construction certificate for the proposal requires a Road Safety Audit. <p>The condition is recommended for modification that the Road Safety Audit be submitted to the Principal Certifying</p>

<p>audits will be a mere formality. The JRPP decision to approve the development application without all the traffic issues being resolved, on the basis that these issues must be addressed to Council's satisfaction in an Operational Traffic Management Plan, leaves in doubt what is to happen if, as is quite possible, there remain serious issues that the applicant cannot resolve in an Operational Traffic Management Plan.</p>	<p>Authority and the Roads Authority prior to the issue of a construction certificate for the work within Jamberoo Road.</p>
<p>Condition 1 & 3 under the heading "Finish Colours"</p> <ul style="list-style-type: none"> • The change in use of colours is an about face from the previous application • The use of vibrant colours is not of a minimal impact as residents will see them every day and they are not in line with the rural ambience of the Jamberoo Valley. • Gaudy colour schemes are totally in appropriate for the surrounding environment • As a homeowner I had to comply with Council's requirements for "earth" colours when painting my house, should not the same conditions apply here • The colours currently approved fits in with the bush theme of the Jamberoo Valley • The colours will have no impact on the enjoyment of rides by park patrons, but will have a huge impact on the scenic amenity of the Jamberoo Valley 	<ul style="list-style-type: none"> • <i>KLEP2011</i> permits the site to be used as an <i>amusement park</i>. Amusement parks by their nature are vibrant in colour; however, the JAP is located within a rural setting and some colours may not be appropriate. <p>The applicant has respected the bush theme requirement for the Tornado ride and Behemoth Bowl ride; however, wishes to use vibrant colours such as orange, yellow, blue and green in the Uphill Coaster, Shade Structures and the Rain Fortress/Aqua Play Area.</p> <p>The structures closer to ground level, which can be concealed by landscaping such as the Shade Structures and the Rain Fortress/Aqua Play Area are recommended for the use of vibrant colours, whereas the Uphill Coaster should be consistent with the other elevated rides and maintain a theme of recessive colour tones.</p>
<p>Condition 1 under the heading "Conveyancing Requirements"</p> <ul style="list-style-type: none"> • The term "riparian" refers to river banks and is significant in environmental terms and should not be removed. 	<ul style="list-style-type: none"> • The Conveyancing Act 1919 is not an appropriate means of protecting riparian areas from inappropriate development. The riparian corridors on the site are mapped and protected through the requirements of Clause of.6.5 within <i>KLEP2011</i>.

The Likely Impacts of the Proposed Development

Appendix 2 provides a copy of plans for all structures to be modified and also includes a revised colour schedule. The proposal physical changes which are likely to cause increased visual impacts to neighbouring properties will emanate from:

- the start tower for the Tornado ride and the Behemoth Bowl ride moving up the hillside approximately 45m from its previous position;
- the extension of the Tornado ride by about 68m from the relocated start tower to the previously approved position of the start tower;
- the extension of the Behemoth Bowl ride by about 70m from the relocated start tower to the previously approved position of the start tower; and
- the use of the following colours, not considered recessive, for the following structures in the table below.

Fabric Roof Structure	Uphill Coaster	Interactive play structure.
<ul style="list-style-type: none">• Yellow• Orange• Dark Blue	<ul style="list-style-type: none">• Orange• Sky Blue	<ul style="list-style-type: none">• Orange• Yellow• Sky Blue• Mint green

The visual impacts associated with the increase in height of the Tornado ride and the Behemoth Bowl ride is considered minor as the approved start tower for the Mammoth River Ride in DA 10.2011.2.1 is approximately at the same level.

A Theming Report by Alan Griffith Architects lodged by the applicant in support of the application concludes that *“the theme park as viewed from the surrounding environs will present a predominantly natural bushland facade, with the occasional glimpse of a coloured ride or attraction, which, with the maturity of the proposed landscaping, will overtime become a harmonious contextual rural environment”*. As the Shade Structures and Single Interactive Play Structure is situated close to ground level, an appropriate level of landscaping will likely shield these structures from outside view. Landscaping is not likely to provide sufficient concealment of the Uphill Coaster ride and it is concluded that there may be some visual impacts to landholders on surrounding lands.

Public/Social Impact

The proposed development generated thirty-two (32) submissions following its exhibition. The submissions largely raised concerns which were more applicable to the previous approval (DA 10.2011.2.1). Concerns raised in regard to visual impacts have been taken into consideration and have been reflected in the recommended modifications to DA 10.2011.2.1 listed below.

Unless otherwise recommended not to be modified, the proposed modifications are generally considered to be consistent with the public interest,

Recommended Modifications to DA 10.2011.2.1

Based on the requirements of Section 79C assessment, the assessment of Council officers and relevant public submissions received the recommended modifications to the conditions and reasons for the modification are listed below.

Current Consent Condition	Comment & Recommended Modification
<p>Condition 12 under the heading of: “General Terms of Approval Water Management Act, 2000”</p> <p>“The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water”.</p>	<p>The typographical error should be amended accordingly</p> <p><i>The condition is recommended to read:</i></p> <p>“The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water”</p>
<p>Condition A under the heading “Deferred Commencement Conditions”</p> <p>“The developer is to formally surrender to Council development consent no. 10.2004.78 for the two (2) lot subdivision involving the subject land”.</p> <p>Condition B under the heading “Deferred Commencement Conditions”</p> <p>“Evidence is to be submitted to Council that a plan of consolidation of subject Lot 1 DP 1070506 and Lot 3 DP 258919 has been registered by Land & Property Management Authority”.</p>	<p>The reason for these condition stems from an earlier consent for a two lot subdivision (DA 10.2004.78.1) which has the ability to separate the effluent treatment regime approved in 10.2011.2.1 into separate ownership i.e the source of the effluent will be on one lot and the disposal area will be on another.</p> <p>The applicant lodged a development application (DA 10.2011.303.1) to modify the effluent treatment areas outside of the area of the two lot subdivision. The proposal was assessed concurrently with the modification the subject of this report. The assessment of DA 10.2011.303.1 indicates that the proposal is inconsistent with <i>KLEP1996</i> and <i>KLEP2011</i>.</p> <p>As the condition relies upon the granting of the approval of DA 10.2011.303.1 the conditions is not recommended to be deleted.</p>
<p>Condition 1 under the heading “General”</p> <p>“The development shall be implemented generally in accordance with the details set out on the plan/drawing endorsed by Council as 10.2011.2.1 dated 14/07/2011 and on the application form except as amended by the following conditions”.</p>	<p>It is recommended that the proposed plans and drawing lodged with the application 10.2011.2.2 be stamped approved.</p>

<p>Condition 3 under the heading “General”</p> <p>“The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority”.</p>	<p>The condition is onerous as it does not permit the occupation of the proposed rides and amenities until completion of the entire proposal unless “satisfactory arrangements” are made with the Principal Certifying Authority. The term “satisfactory arrangements” is open to interpretation and lacks certainty for the park operator.</p> <p>It is recommended that the consent condition be modified to read:</p> <p>“A building or structure shall not be occupied or used until such time as:</p> <ul style="list-style-type: none"> • <i>An Occupation Certificate has been issued for the building or structure to be occupied; and</i> • <i>All car parking, access and effluent treatment infrastructure has been approved and completed in accordance with the requirements of the Development Consent”.</i>
<p>Condition 11 under the heading “General”</p> <p>“The applicant shall provide a traffic management and traffic control plan complying with the design requirements of the Roads and Traffic Authority’s <i>Traffic Control at Work sites</i> manual and the Standards Australia publication AS 1742.3 <i>Manual of Uniform Traffic Control Devices Part 3: Traffic Control Devices for Works on Roads</i>.</p> <p>The traffic management and traffic control plan must be designed by a Roads and Traffic Authority accredited designer and shall be submitted to the Principal Certifying Authority prior to the release of any construction certificate”.</p>	<p>The applicant is confusing traffic control plans with the traffic management and operational plan. There is potential for numerous construction certificates for both building work and civil engineering work. Traffic control management plans will be required for each construction certificate. However there may be common traffic control management plans for construction certificates with similar work operations. Therefore the condition is not recommended to be modified.</p>
<p>Condition 14 under the heading “General”</p> <p>“The applicant shall engage a suitably qualified professional person to provide in accordance with the “RTA Technical Direction for Road Safety Practitioners (TD2003/ RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects” a stage 3 Detailed Design for the development project. The</p>	<p>The applicant is suggesting that the condition relating to the road safety audit be modified to apply only to the construction of works requiring the road safety audit. Consideration has been given to the modification and it is recommended that the consent condition be modified to read:</p> <p>“The applicant shall engage a suitably qualified professional person to provide in accordance with the “RTA Technical</p>

<p>applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of any construction certificates”.</p>	<p>Direction for Road Safety Practitioners (TD2003/ RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects” a Stage 3 Detailed Design for the civil engineering component of the development project within the public road, Jamberoo Road. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of a construction certificate for the work within Jamberoo Road.”</p>
<p>Condition 15 under the heading “General”</p> <p>“The applicant shall engage a suitably qualified professional person to provide in accordance with the “RTA Technical Direction for Road Safety Practitioners (TD2003/ RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects” a stage 4 Pre-Opening Audit for the development project. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of any occupation certificates”.</p>	<p>The applicant is suggesting that the condition relating to the road safety audit be modified to apply only to the construction of works requiring the road safety audit. Consideration has been given to the modification and it is recommended that the consent condition be modified to read:</p> <p>“The applicant shall engage a suitably qualified professional person to provide in accordance with the “RTA Technical Direction for Road Safety Practitioners (TD2003/ RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects” a stage 4 Pre-Opening Audit for the civil engineering component of the development project within the public road, Jamberoo Road. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of an occupation/compliance certificate for work within Jamberoo Road.”</p>
<p>Condition 18 under the heading “General”</p> <p>“Prior to the issue of any construction certificate the applicant shall lodge with Council a security bond for the development to ensure repair of any infrastructure damage occurring within Jamberoo Road during the course of construction of the development and to ensure compliance with the waste management plan for construction approved by Council.</p> <p>a 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.</p>	<p>The condition is not specific to work within Jamberoo Road or site waste management. The condition relates to all development and the potential for damage to Jamberoo Road during all related construction activity including delivery of materials and removal of spoil both onsite and offsite. Therefore the condition is not recommended to be modified.</p>

<p>b 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.</p> <p>c Provided that there has been no damage to the public infrastructure within the road reserve due to works associated with the development, the bond shall be refunded in full upon the last to occur of twelve (12) months from the date of issue of the final occupation certificate of the development and submission of a waste compliance certificate (inclusive of supporting documentation) verifying compliance with the approved waste management plan”.</p>	
<p>Condition 1 under the heading “Finish Colours”</p> <p>“The proposed Tornado ride and Behemoth Bowl ride are to be finished in external colours consistent with those indicated on Sheet DA-04 Amendment E”.</p>	<p>As the Shade Structures and Single Interactive Play Structure is situated close to ground level, an appropriate level of landscaping will likely shield these structures from outside view. Landscaping is not likely to provide sufficient concealment of the Uphill Coaster and therefore there will be some visual impacts to surrounding lands.</p> <p>The condition is recommended to be modified to read as follows”</p> <p>“The proposed Tornado ride & Behemoth Bowl ride, Fabric Shade structure and Rain Fortress/Aqua Play are to be finished in colours consistent with those indicated on Sheet DA-16 - Amendment C. The Uphill Roller Coaster is to be finished in colours consistent with the proposed Tornado Ride & Behemoth Bowl Ride”</p>
<p>Condition 3 under the heading “Finish Colours”</p> <p>“All building and structures are to be finished in a recessive colour in the medium to dark solar absorbance range”.</p>	<p>The proposed roof colours are consistent with the previously approved condition of consent</p> <p>The condition is recommended to be modified to read as follows:</p> <p>“All building and structures are to be finished in a recessive colour in the medium to dark solar absorbance range unless otherwise</p>

	<p>approved in this modification.</p> <p>All Colorbond building roofing is to be consistent with the colours in the Materials Colour Board provided on Plan Sheet DA-16 - Amendment C provided by Alan Griffith Architect”.</p>
<p>Condition 1 under the heading “Engineering & Construction Specifications”</p> <p>“Where this consent requires both civil engineering and building works to be undertaken, a separate construction certificate shall be issued for each category of works of the development; that is, a separate engineering construction certificate (for any on-site detention, stormwater drainage, public and private road works, etc) and a separate building construction certificate (for all works relating to the erection and fit-out of a structure). The construction certificate for the civil engineering works must be issued prior to the issue of a building construction certificate with the certified plans of the civil engineering works also incorporated into the building plans”.</p>	<p>The reason for separating the construction certificates for building and civil engineering works is to clearly identify each construction element and to provide certainty that the civil engineering component including car park construction and stormwater management receives appropriate attention in the overall context of the development. The condition requires that the construction certificate for the civil engineering works must be issued prior to the issue of a building construction certificate.</p> <p>It is recommended that the condition should remain in place with some modification.</p> <p>“Where this consent requires both civil engineering and building works to be undertaken, separate construction certificates shall be issued for each category of works of the development; that is, a separate engineering construction certificate (for any on-site detention, stormwater drainage and water management, public road works within Jamberoo Road and private road works including the car park and the internal road network, etc) and a separate building construction certificate (for all works relating to the erection and fit-out of a structure and civil engineering works associated with building works).”</p>
<p>Condition 7 under the heading “Engineering & Construction Specifications”</p> <p>“The applicant shall submit details of all civil engineering works on engineering drawings for work within the development site to the Principal Certifying Authority for approval prior to the issue of any construction certificate of the development. The drawings shall include, but shall not be limited to, the following detailed information:</p> <p>a. The hydrologic modelling</p>	<p>The reason to modify the condition is considered reasonable and it is recommended that the condition be modified to remove the word “all” preceding the words “civil engineering works”.</p> <p>“The applicant shall submit details of civil engineering works on engineering drawings for work within the development site to the Principal Certifying Authority for approval prior to the issue of any construction certificate of the development. The drawings shall include, but shall not be limited to, the following detailed information:</p> <p>a. The hydrologic modelling..... “</p>

<p>Condition 1 under the heading “Traffic Management”</p> <p>“The applicant shall prepare and submit to Council a detailed Operational Traffic Management Plan addressing the ongoing matters relating to the management of traffic within Jamberoo Action Park and the public road network. The Operational Traffic Management Plan shall include but shall not be limited to the following matters:</p> <ul style="list-style-type: none"> a The Operational Traffic Management Plan shall detail separately all traffic management issues and operational matters. b The Operational Traffic Management Plan shall give consideration to management and operational measures for higher than forecast daily and annual traffic volumes within the development site and the public road network. c The plan shall be submitted to Council for assessment and approval prior to the issue of any occupation certificates”. 	<p>The Operational Traffic Management Plan and Peak Period Traffic Management Plan introduce elements that will be reviewed at the time of issue of occupation certificates.</p> <p>The condition is not recommended to be modified.</p>
<p>Condition 8 under the heading “Engineering & Construction Specifications”</p> <p>“The applicant shall submit to the Roads Authority for assessment a detailed civil engineering design for all required work within the classified road, Jamberoo Road. The proposed design treatment shall comply with the design requirements of the RTA <i>Road Design Guide Section 4: Intersections at Grade</i>. The proposed design treatment shall be assessed and approved by the Roads Authority prior to the release of any construction certificate. The drawings shall include, but shall not be limited to, the following detailed information:</p> <ul style="list-style-type: none"> a The proposed left turn 	<p>The proposed work within Jamberoo Road is regarded as priority work. It is therefore essential that the Roads Authority (RMS and Council) receive ample opportunity to assess the detailed drawings in advance of any proposed construction work. It is clear that the condition was put in place to provide certainty that the applicant be required to provide early attention to this element of the development proposal. However, the condition as it currently stands applies limits to the applicant in regard to the order of issue of construction certificates. The condition of development consent shall be modified to read:</p> <p>“The applicant shall submit to the Roads Authority for assessment a detailed civil engineering design for all required work within the classified road, Jamberoo Road. The proposed design treatment shall comply with the design requirements of the RTA <i>Road Design Guide Section 4: Intersections</i></p>

	<p>at Grade. The proposed design treatment shall be assessed and approved by the Roads Authority prior to the release of a construction certificate for the work related to that component of the development. The drawings shall include, but shall not be limited to, the following detailed information:</p> <p>a The proposed left turn</p>
<p>Condition 2 under the heading “Stormwater Management”</p> <p>“The applicant shall provide on-site detention storage for stormwater runoff in conjunction with the proposed development drainage network to limit post-development site runoff to pre-developed levels. The storage must be designed in accordance with <i>section D5 Stormwater Drainage</i> of Kiama Development Control Plan No 32 – <i>Kiama Development Code</i>. Structural details and detailed hydrological and hydraulic calculations prepared by a Chartered Professional Engineer shall be provided to the Principal Certifying Authority for assessment and approval prior to the issue of any construction certificate”.</p>	<p>The request is considered reasonable and it is recommended that this condition could be modified and still provide design and construction certainty. The condition of development consent shall be modified to read:</p> <p>“The applicant shall provide on-site detention storage for stormwater runoff in conjunction with the proposed development drainage network to limit post-development site runoff to pre-developed levels. The storage must be designed in accordance with <i>section D5 Stormwater Drainage</i> of Kiama Development Control Plan No 32 – <i>Kiama Development Code</i>. Structural details and detailed hydrological and hydraulic calculations prepared by a Chartered Professional Engineer shall be provided to the Principal Certifying Authority for assessment and approval prior to the issue of a construction certificate for the work related to that component of the development.”</p>
<p>Condition 3 under the heading “Stormwater Management”</p> <p>“The applicant shall design and construct the major and minor stormwater drainage system in accordance with the design requirements of <i>section D5 Stormwater Drainage</i> of Kiama Development Control Plan No 32 – <i>Kiama Development Code</i>. Details of the proposed drainage system shall be submitted to the Principal Certifying Authority for assessment and approval prior to the issue of any construction certificate”.</p>	<p>The request is considered reasonable and it is recommended that this condition could be modified and still provide design and construction certainty. The condition of development consent shall be modified to read:</p> <p>"The applicant shall design and construct the major and minor stormwater drainage system in accordance with the design requirements of <i>section D5 Stormwater Drainage</i> of Kiama Development Control Plan No 32 – <i>Kiama Development Code</i>. Details of the proposed drainage system shall be submitted to the Principal Certifying Authority for assessment and approval prior to the issue of a construction certificate for the work related to that component of the development.”</p>
<p>Condition 5 under the heading “Stormwater Management”</p>	<p>The requirement is a standard development consent condition and is not considered unreasonable or onerous. The condition is</p>

<p>“The applicant shall comply with the design requirements of Council’s <i>Water Sensitive Urban Design</i> policy in conjunction with the design requirements of section D5 Stormwater Drainage of <i>Kiama Development Control Plan No 32 – Kiama Development Code</i> in regard to the proposed stormwater drainage network and water quality infrastructure.</p> <p>Details shall be submitted to the Principal Certifying Authority for assessment and approval prior to the release of any construction certificates”.</p>	<p>not recommended to be modified.</p>
<p>Condition 1 & 2 under the heading “Operation of Recycling Waste Water Irrigation Areas & Standards”</p> <p>Condition 1 “A minimum recycled water irrigation area of 3.35ha shall be provided and maintained on the site. No more than 20KL/ha/day shall be irrigated and this amount may be less and is subject to soil moisture levels and the capacity of the soil. Ensure maximum soil moisture levels are not exceeded”.</p> <p>Condition 2 “Irrigation of recycled water shall not occur in the nominated areas as identified on the plan prepared by Jordan Mealy & Partners Drawing 20050096 Sheet 8 dated 5/5/2011”.</p>	<p>The applicant lodged a development application (DA 10.2011.303.1) to modify the effluent treatment areas outside of the area of the two lot subdivision. The proposal was assessed concurrently with the modification the subject of this report. The assessment of DA 10.2011.303.1 indicates that the proposal is inconsistent with <i>KLEP1996</i> and <i>KLEP2011</i>.</p> <p>The condition is not recommended to be modified.</p>
<p>Condition 3 under the heading “Recreation Water Supply”</p> <p>All recreational water supplies shall be sourced from the Main Dam (Jim’s Dam-Dam1), Back Dam (Dam 2) and Top Dam (Dam 5.) as identified on the plan prepared by Jordan Mealey & Partners Drawing 20050096. However during drought periods and where circumstances may require recreational water shall be brought onto site by a licensed Water Cater”.</p>	<p>The typographical error should be amended accordingly to read:</p> <p>“All recreational water supplies shall be sourced from the Main Dam (Jim’s Dam-Dam1), Back Dam (Dam 2) and Top Dam (Dam 5.) as identified on the plan prepared by Jordan Mealey & Partners Drawing 20050096. However during drought periods and where circumstances may require recreational water shall be brought onto site by a licensed Water Carter””.</p>
<p>Condition 4 under the heading “Earthworks & Geotechnical Requirements”</p>	<p>The condition was not intended to restrict the use to only virgin environmental natural materials. The condition is recommended to be modified to read as per the request of the</p>

<p>"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".</p>	<p>applicant.</p> <p>"Only clean fill (i.e. natural materials such as earth, rock and stone) or environmentally certified process recycled material is to be used in the development. Under no circumstances are processed or putrescible wastes permitted to be used as filling on site."</p>
<p>Condition 2 under the heading "Bushfire Hazard Management"</p> <p>"At the commencement of building works and in perpetuity the property around the proposed pump house to a distance of 30 metres, shall be maintained as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'".</p>	<p>The condition is consistent with the advice issued by the NSW Rural Fire Service on 17 February 2011</p> <p>The condition is not recommended to be modified.</p>
<p>Condition 1 under the heading "Food Premises Construction and Standards"</p> <p>"Prior to the issuing of the Construction Certificate the following information is to be submitted to Council relating to food outlets or any food preparation areas:</p> <p>a. A 1:50 scale floor plan "</p>	<p>The request is considered reasonable. The condition is recommended to be modified to read as per the request of the applicant.</p> <p>"Prior to the issuing of the Construction Certificate relating to food outlets or any food preparation areas the following information is to be submitted</p> <p>a A 1:50 scale floor plan"</p>
<p>Condition 2 under the heading "Prior to Occupation"</p> <p>"The landscape designer/architect shall provide a 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 any Occupation Certificates and/or Subdivision Certificate, where relevant, for the development".</p>	<p>The request is considered reasonable. The condition is recommended to be modified to read as per the request of the applicant.</p> <p>"The landscape designer/architect shall provide a written certification to Council and the Principal Certifying Authority to certify that landscape works associated with any Construction Certificates have been completed in accordance with the approved plans and specifications relating to the Construction Certificate, prior to the release of any Occupation Certificate and/or Subdivision Certificate, where relevant, for the development."</p>
<p>Condition 1 under the heading "Conveyancing Requirements"</p> <p>"Under the provisions of section 88B/88E of the Conveyancing Act 1919 the applicant shall provide a restriction on the use of land</p>	<p>The riparian land and watercourses are mapped and protected through Clause 6.5 of <i>KLEP 2011</i>. The Conveyancing Act 1919 is not an appropriate mechanism to protect riparian zones.</p> <p>The condition is recommended to be modified</p>

and a positive covenant in favour of Council detailing protection measures and long term maintenance requirements for riparian zones and floodways, effluent disposal systems, the on-site stormwater detention and water quality system, and associated stormwater drainage infrastructure constructed within the development site”.	to read as per the request of the applicant. “Under the provisions of Section 88B/88E of the Conveyancing Act 1919, the applicant shall provide a restriction on the use of land and a positive covenant in favour of Council detailing protection measures and long term maintenance requirements for floodways, effluent disposal systems, the on-site stormwater detention and water quality system and associated stormwater drainage infrastructure constructed within the development site”.
---	---

Political Donations/Disclosure

Under Section 147 of the Environmental planning & Assessment Act the land owner has reported the following political donations in the table below:

Name of Benefitting Party	Date	Amount
Liberal Party – Kiama Secretary	23 November 2010	\$500
Liberal Party – John Dorahy	15 December 2010	\$500
Gordon Bradbery	9 March 2011	\$900
Rod Oxley	23 June 2011	\$900
Gilmore FEC	6 October 2011	\$490

Conclusions

The proposal has been assessed having regard to all relevant matters for consideration prescribed by Section 96(2) and 79C of the Environmental Planning and Assessment Act, 1979. The modifications proposed by the applicant have been carefully considered and where they are deemed restrictive or onerous in their nature are recommended for modification.

RECOMMENDATION

That the Joint Regional Planning Panel grant consent to the S96(2) modification of Development Application DA 10.2011.2.1 pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979, subject to conditions contained in Appendix 1

APPENDICES

Appendix 1 – Recommended Modifications to DA10.2011.2.1

NOTICE TO APPLICANT OF DETERMINATION OF A SECTION 96 (2) APPLICATION ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 THE COUNCIL OF THE MUNICIPALITY OF KIAMA

JBA Urban Planning Consultants
29 Beach Street
WOLLONGONG NSW 2500

The applicant in respect of the application made pursuant to Section 96(2) of the Act notice is hereby given of the determination by the above Council of the application relating to the land and development consent as described as follows:

Premises: LOT: 3 DP: 258919, LOT: 1 SEC: DP: 1070506, 1215 Jamberoo Road CURRAMORE,
Development Consent Number: 10.2011.2.2 (MODIFYING 10.2011.1)
Development Description: EXPANSION & UPGRADE TO JAMBEROO ACTION PARK
Date of Determination: 1.03.2012

The application has been determined by the Joint Regional Planning Panel modifying Development Consent No 10.2011.1 by:-

- 1 Approving modified drawing number 10.2011.2.2 dated 1/03/2012-.
2. Modifying condition number 12 under the heading of “General Terms of Approval Water Management Act, 2000” to read:

“The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water”
3. Modifying condition number 3 under the heading “General” to read:

“A building or structure shall not be occupied or used until such time as:

 - An Occupation Certificate has been issued for the building or structure to be occupied; and
 - All car parking, access and effluent treatment infrastructure has been approved and completed in accordance with the requirements of the Development Consent”.
4. Modifying condition 14 under the heading “General” to read:

“The applicant shall engage a suitably qualified professional person to provide in accordance with the “RTA Technical Direction for Road Safety Practitioners (TD2003/RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects” a Stage 3 Detailed Design for the civil engineering component of the development project within the public road, Jamberoo Road. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of a construction certificate for the work within Jamberoo Road.”

5. Modifying condition 15 under the heading “General” to read:

“The applicant shall engage a suitably qualified professional person to provide in accordance with the “RTA Technical Direction for Road Safety Practitioners (TD2003/RS03 Ver2) Policy for Road Safety Audits of construction and reconstruction projects” a stage 4 Pre-Opening Audit for the civil engineering component of the development project within the public road, Jamberoo Road. The applicant shall forward a copy of the Road Safety Audit to the Principal Certifying Authority and Roads Authority prior to the issue of an occupation/compliance certificate for work within Jamberoo Road.”

6. Modifying condition 1 under the heading “Finish Colours” to read:

“The proposed Tornado ride & Behemoth Bowl ride, Fabric Shade Structures and Rain Fortress/Aqua Play are to be finished in colours consistent with those indicated on Sheet DA-16 - Amendment C. The Uphill Roller Coaster is to be finished in colours consistent with the proposed Tornado Ride & Behemoth Bowl Ride”

7. Modifying condition 3 under the heading “Finish Colours” to read:

“All building and structures are to be finished in a recessive colour in the medium to dark solar absorbance range unless otherwise approved in this modification.

All Colorbond building roofing is to be consistent with the colours in the Materials Colour Board provided on Plan Sheet DA-16 - Amendment C.

8. Modifying condition 1 under the heading “Engineering & Construction Specifications” to read:

“Where this consent requires both civil engineering and building works to be undertaken, separate construction certificates shall be issued for each category of works of the development; that is, a separate engineering construction certificate (for any on-site detention, stormwater drainage and water management, public road works within Jamberoo Road and private road works including the car park and the internal road network, etc) and a separate building construction certificate (for all works relating to the erection and fit-out of a structure and civil engineering works associated with building works).”

9. Modifying condition 7 under the heading “Engineering & Construction Specifications” to read:

“The applicant shall submit details of civil engineering works on engineering drawings for work within the development site to the Principal Certifying Authority for approval prior to the issue of any construction certificate of the development. 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 and modelling shall be carried out in accordance with *Australian Rainfall and Runoff* published by Engineers Australia, shall include a detailed contoured catchment diagram and shall delineate all flow paths for storms up to the 100 year average recurrence interval.

- b. Plan, longitudinal and cross sectional detail shall be provided for the proposed roads, access driveways, circulation roadways, circulation aisles, ramps, car parking modules, manoeuvring areas and parking aisles.
 - c. Design swept paths shall be provided for all vehicle movements for the long rigid bus (14.5m) at internal access points to demonstrate compliance with the Austroads and Standards Australia *Design Vehicles and Turning Path Templates*.
 - d. A raised traffic median over the length of the southern circulation roadway from the entry at the intersection of Jamberoo Road to the divergence of the proposed dual ingress and egress traffic lanes (a distance of approximately 140 metres) shall be provided in compliance with the Jordan Mealey and Partners Pty Ltd plan number 20050096.11-GME.
 - e. The existing staff car parking module located immediately on the left or southern side of the entry and circulation roadway shall have restricted access. Vehicular access shall be permitted only at the western entry and all vehicle movement shall be left turn in and left turn out only. A permanent access restriction in the form of an immovable barrier shall be provided at the existing eastern access point.
 - f. The existing staff car parking module located immediately on the right or northern side of the entry and circulation roadway shall provide restricted access. Left turn in and left turn out only manoeuvres shall be accepted.
 - g. Internal pathway network, including the proposed raised threshold treatments.
 - h. The proposed pavement treatment to the internal roads, access driveways, circulation roadways, circulation aisles, ramps, car parking modules, manoeuvring areas and parking aisles. The minimum design surface treatment shall be cement concrete, asphaltic concrete or segmental paving.
 - i. The location and reduced level of all services under the control of public utilities or agencies that could be impacted by works associated with this development.
 - j. A detailed construction schedule and Environmental Construction Management Plan; and
 - k. All reduced levels shall relate to Australian Height Datum (AHD)".
10. Modifying condition 8 under the heading "Engineering & Construction Specifications" to read:
- "The applicant shall submit to the Roads Authority for assessment a detailed civil engineering design for all required work within the classified road, Jamberoo Road. The proposed design treatment shall comply with the design requirements of the RTA Road Design Guide Section 4: Intersections at Grade. The proposed design treatment shall be assessed and approved by the Roads Authority prior to the release of a construction certificate for the work related to that component of the development. The drawings shall include, but shall not be limited to, the following detailed information:
- a The proposed left turn from the development site access into Jamberoo Road shall be designed in accordance with a high angle entry layout, Figure 4.8.36 of Section 4 of the RTA *Road Design Guide*, unless vehicles are able to turn into their own full length acceleration lane.

- b A separate right turn lane shall be provided from the development site into Jamberoo Road.
- c The development shall provide for two entry lanes into the site and shall include the provision of a high vehicle angle entry layout for the left turn from Jamberoo Road in accordance with Figure 4.8.36 of the RTA *Road Design Guide*. The proposed design shall ensure that the maximum observation angle requirements are not exceeded. The design of the left turn treatment shall ensure that it is sufficiently separated from the right turn movement into Jamberoo Road to allow both movements to occur simultaneously without any misunderstanding of intersection priority.
- d Design swept paths shall be provided for all vehicle movements for the long rigid bus (14.5m) at the intersection of the development access with Jamberoo Road to demonstrate compliance with the Austroads and Standards Australia *Design Vehicles and Turning Path Templates*.
- e The applicant shall provide Approach Sight Distance in compliance with the RTA *Road Design Guide Section 4: Intersections at Grade* for all painted medians located on Jamberoo Road.
- f All painted medians on Jamberoo Road shall be designed and constructed in accordance with Figure 4.8.25 of the RTA *Road Design Guide Section 4: Intersections at Grade*.
- g An extension of the southbound channelized right turn treatment on Jamberoo Road shall be provided, and where necessary, shall provide for the widening of the Jamberoo Road traffic lanes. The proposed right turn treatment shall provide a minimum 92 metres of storage capacity (i.e. not including the taper).
- h Structural details shall be provided for any proposed retaining walls, embankment treatment, road shoulder and stormwater drainage infrastructure required to support the eastern embankment associated with the extended right turn lane and re-alignment of the south bound traffic lane on Jamberoo Road.
- i All traffic medians to be located in Jamberoo Road, with the exception of painted medians, shall be raised medians”.

11. Modifying condition 2 under the heading “Stormwater Management” to read:

“The applicant shall provide on-site detention storage for stormwater runoff in conjunction with the proposed development drainage network to limit post-development site runoff to pre-developed levels. The storage must be designed in accordance with section D5 Stormwater Drainage of Kiama Development Control Plan No 32 – Kiama Development Code. Structural details and detailed hydrological and hydraulic calculations prepared by a Chartered Professional Engineer shall be provided to the Principal Certifying Authority for assessment and approval prior to the issue of a construction certificate for the work related to that component of the development.”

12. Modifying condition 3 under the heading “Stormwater Management” to read:

"The applicant shall design and construct the major and minor stormwater drainage system in accordance with the design requirements of section D5 Stormwater Drainage of Kiama Development Control Plan No 32 – Kiama Development Code. Details of the proposed drainage system shall be submitted to the Principal Certifying Authority for

assessment and approval prior to the issue of a construction certificate for the work related to that component of the development.”

13. Modifying condition 3 under the heading “Recreation Water Supply” to read

“All recreational water supplies shall be sourced from the Main Dam (Jim’s Dam-Dam1), Back Dam (Dam 2) and Top Dam (Dam 5.) as identified on the plan prepared by Jordan Mealey & Partners Drawing 20050096. However during drought periods and where circumstances may require recreational water shall be brought onto site by a licensed Water Carter”.
14. Modifying condition 4 under the heading “Earthworks & Geotechnical Requirements” to read:

“Only clean fill (i.e. natural materials such as earth, rock and stone) or environmentally certified process recycled material is to be used in the development. Under no circumstances are processed or putrescible wastes permitted to be used as filling on site.”
15. Modifying condition 1 under the heading “Food Premises Construction and Standards” to read:

“Prior to the issuing of the Construction Certificate relating to food outlets or any food preparation areas the following information is to be submitted

 - (a) A 1:50 scale floor plan of any food premises, kiosk or area where food is prepared for the public. This floor plan is to indicate size and placement of sinks, benches and equipment and is to also indicate the finishes of surfaces.
 - (b) Sectional elevations, scale 1:50- through any building showing details of height of equipment and benches;
 - (c) Details of any proposed mechanical exhaust system and exhaust hoods including a sectional 1:50 elevation indicating location of extraction hood, duct work and exhaust duct on the roof of any buildings;
 - (d) Hydraulic plans- detailing plumbing connections, floor waste positions;
 - (e) Schedule of finishes;
 - (f) Layout of all equipment;
 - (g) Door and window openings;
 - (h) Customer and staff toilet details.”
16. Modifying condition 1 under the heading “Conveyancing Requirements” to read:

“Under the provisions of Section 88B/88E of the Conveyancing Act 1919, the applicant shall provide a restriction on the use of land and a positive covenant in favour of Council detailing protection measures and long term maintenance requirements for floodways, effluent disposal systems, the on-site stormwater detention and water quality system and associated stormwater drainage infrastructure constructed within the development site”.

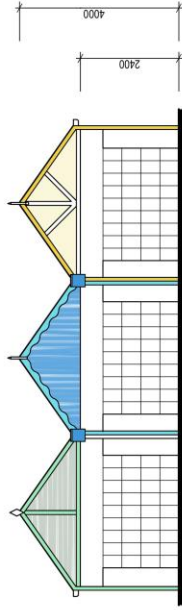
All other consent conditions in DA 10.2011.2.1 remain unchanged.

7

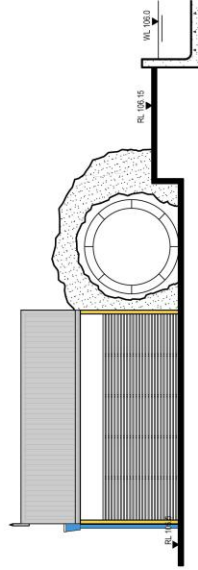




AMENAGEMENT F. Belvedere di Torsello Abbadia 03.05.01
AMENAGEMENT E. Belvedere di Torsello Colture Solitarie 03.04.01
AMENAGEMENT D. Farnet First Spider arborist, cast planted 12.05.00

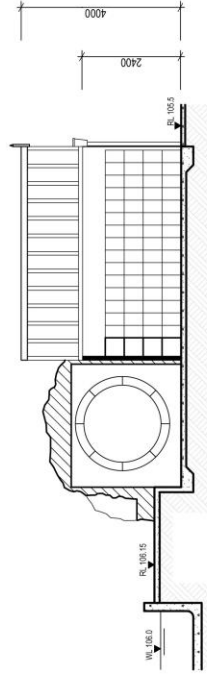


ELEVATION 3 1:100

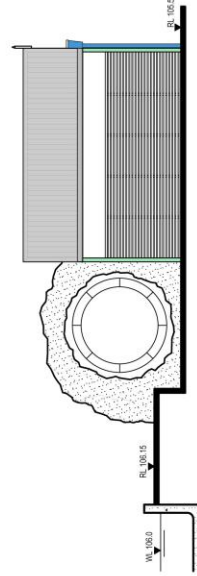


ELEVATION 2 1:100

- MATERIALS / EXTERNAL FINISHES**
- COLORBOND CUSTOM ORB ROOF SHEETING - SHALE GREY
 - DRESSED TIMBER POSTS - PAINT FINISH
 - TIMBER WEATHERBOARDS - PAINT FINISH
 - SELECTED TIMBER PANELS & DECORATIVE FEATURES - PAINT FINISH
 - DRESSED TIMBER BATTENS - PAINT FINISH



SECTION A 1:100



ELEVATION 4 1:100



LOCKER BUILDING **PROPOSED WATER PARK EXTENSIONS** AT **JAMBEROO ACTION PARK**

AMENDMENT D COLOURS SHOWN 06.10.2011
 AMENDMENT C BUILDING HEIGHTS ADDED 25.11.10
 AMENDMENT B OBSERVATION DECK DELETED 12.02.10

G2424 JAN '09 DA-11

ALAN GRIFFITH ARCHITECT PTY. LTD.
 QLD REGN No: 1071

220 VARSITY PARADE VARSITY LAKES 4227
 SUITE 7 GALLERY ONE VARSITY LAKES 4227
 10/11 COOLANGA RD AUSTRALIA
 PHONE +61 7 5502 2900 FAX +61 7 5502 3077

COLORBOND COLOUR SAMPLES



Sandbank



Paperbark



Shale Grey



Deep Ocean

FABRIC ROOF COLOUR SAMPLES MONOTEC 370 SERIES OR APPROVED EQUAL



Karloo (Sand)



Mellow Haze (Yellow)



Sherbet (Orange)



Bundena (Blue)

TORNADO COLOUR SAMPLES PROSLIDE WATER RIDE COLOUR SELECTION GUIDE



LIGHT GRAY

MEDIUM GRAY

BEHEMOTH COLOUR SAMPLES PROSLIDE WATER RIDE COLOUR SELECTION GUIDE



TAN

CHOCOLATE

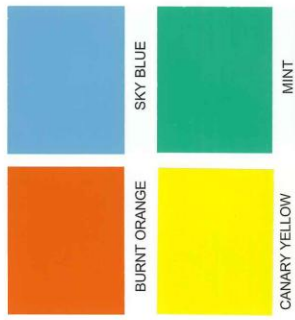
UPHILL COASTER COLOUR SAMPLES PROSLIDE WATER RIDE COLOUR SELECTION GUIDE



BURNT ORANGE

SKY BLUE

RAIN FORTRESS & AQUA PLAY 750 PROSLIDE WATER RIDE COLOUR SELECTION GUIDE



BURNT ORANGE

SKY BLUE

CANARY YELLOW

MINT

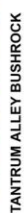


MATERIALS COLOUR BOARD PROPOSED WATER PARK EXTENSIONS AT JAMBEROO ACTION PARK

AMENDMENT C TITLE AMENDED 22.11.2011
AMENDMENT B SLIDE COLOURS ADDED 06.10.2011

G2424 23 JAN '09 DA - 16

ALAN GRIFFITH ARCHITECT PTY LTD.
OLD REGN No: 1071
SUITE 2 GALLERY VUE 220 VARSITY PARK
MELBOURNE VIC 3003 AUSTRALIA
PHONE +61 7 5562 2000 FAX +61 7 5562 3077



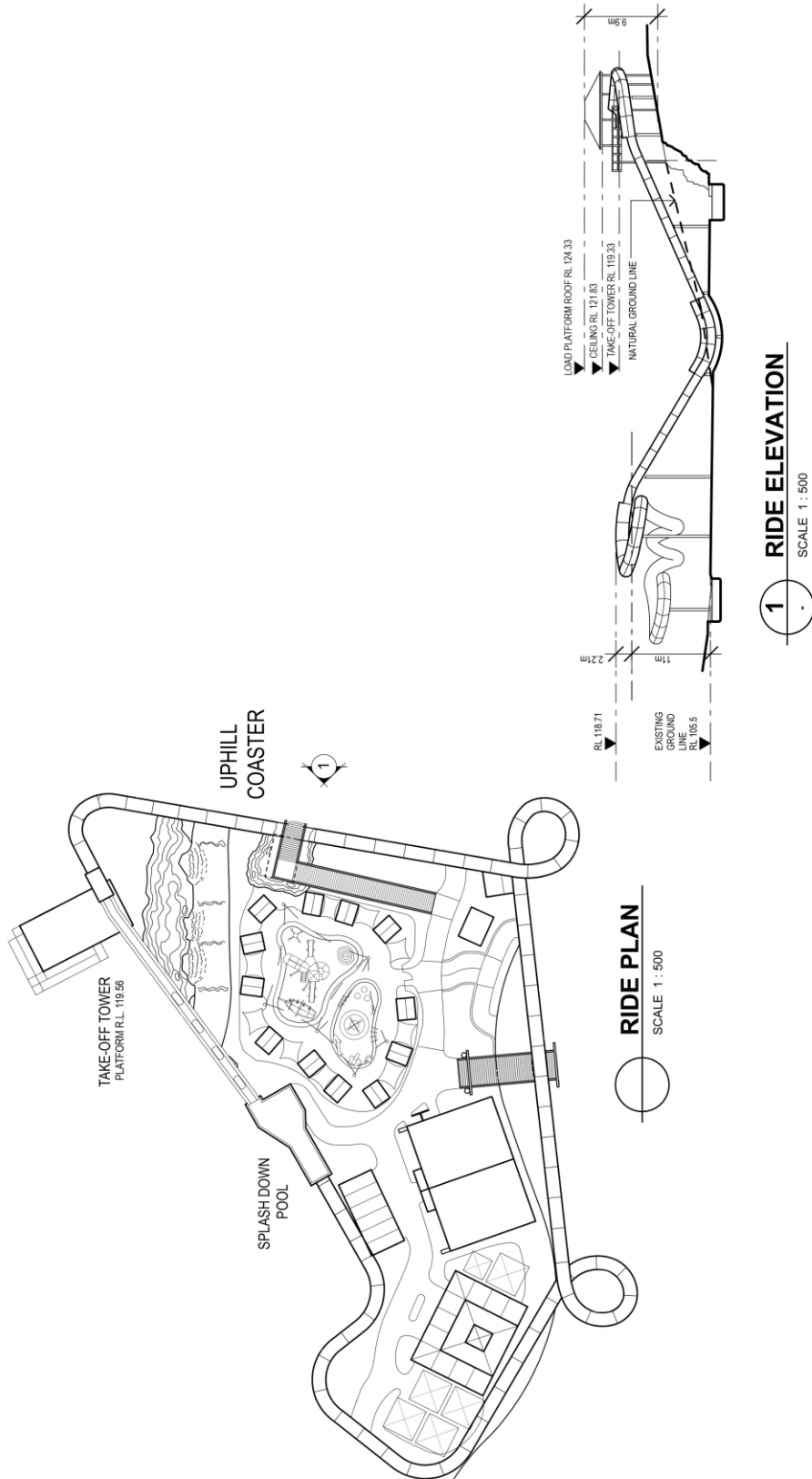
SITE SECTIONS

PROPOSED WATER PARK EXTENSIONS

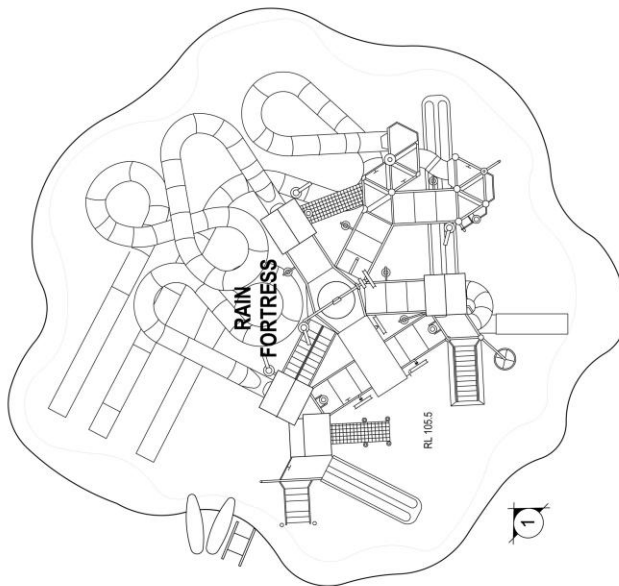
AT

JAMBEROO ACTION PARK



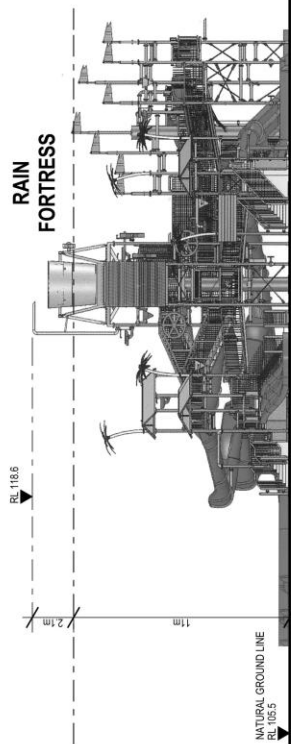


ALAN GRIFFITH • ARCHITECT PTY.LTD. TENANCY 1 GALLERY VIE 220 VARSITY PARADE VARSITY LAKES 4227 GOLD COAST QUEENSLAND AUSTRALIA E-MAIL: mail@gga.com.au PHONE +61 7 5562 2600 FAX +61 7 5563 3677	PROJECT PROPOSED WATER PARK EXTENSIONS JAMBEROO ACTION PARK	CLIENT JAMBEROO ACTION PARK	DRAWING TITLE UPHILL COASTER HEIGHTS TO NATURAL GROUND LEVELS	JOB No G2424	DWG. No DA - 20	ISSUE D	AMENDMENTS
GGA	SCALE AS SHOWN	DATE AUG '99	CHECKED AG	DESIGNED AG	DRAWN AG	ISSUE D	AMENDMENTS
GGA	SCALE AS SHOWN	DATE AUG '99	CHECKED AG	DESIGNED AG	DRAWN AG	ISSUE D	AMENDMENTS
GGA	SCALE AS SHOWN	DATE AUG '99	CHECKED AG	DESIGNED AG	DRAWN AG	ISSUE D	AMENDMENTS
GGA	SCALE AS SHOWN	DATE AUG '99	CHECKED AG	DESIGNED AG	DRAWN AG	ISSUE D	AMENDMENTS



RIDE PLAN

SCALE 1 : 200



1 RIDE ELEVATION

SCALE 1 : 200

ALAN GRIFFITH • ARCHITECT PTY.LTD. TENANCY 1 GALLERY VIE 220 VARSITY PARADE VARSITY LAKES 4227 GOLD COAST QUEENSLAND AUSTRALIA E-MAIL: mail@aga.com.au PHONE +61 7 5562 2600 FAX +61 7 5563 3677	PROJECT PROPOSED WATER PARK EXTENSIONS JAMBEROO ACTION PARK CLIENT JAMBEROO ACTION PARK	DRAWING TITLE RAIN FORTRESS HEIGHTS TO NATURAL GROUND LEVELS DESIGNED AG DRAWN AG CHECKED AG	JOB No G2424 DWG. No DA - 21 SCALE AS SHOWN	ISSUE A DATE AUG '99 AMENDMENTS	A DRAWING PREVIOUSLY ISSUED AS DA-18 AS BELOW PREPARED AS DA-21 AG 22.07.99 A FOR D.A. APPROVAL AG 11.08.99 INIT. DATE