

9 December 2015

Joint Regional Planning Panel
c/o
Regional Panels Secretariat
23-33 Bridge Street
Sydney NSW 2000

'KACOE' 2015STH020 DA

Dear Panel Member,

Supplementary Assessment: DA10.2015.198.1

A meeting was held December 3, 2015 where the panel unanimously supported the proposal subject to obtaining additional information and minor changes, this is discussed below:

Additional information was sought by the JRPP Panel in relation to the above application. In particular, it was requested that:

- 1) A SEPP 1 Objection be made to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004;
- 2) Clauses 26, 30 and 33 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 be addressed;
- 3) Proposed Independent Living Units be assessed against the Design Quality Principles set out within Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- 4) The proposal be assessed against controls set out within the Apartment Design Guide; and
- 5) The development standards of the Kiama LEP 2011 be addressed.

This information is provided as an annexure to this document. At the hearing the Panel requested that following conditions were added.

- **Condition 6** - *Horizontal fixed louvre with 100mm wide blades and at 100mm spacing, fixed at 25 degrees to the horizontal to be provided to Units 6 and 12 at ILUs A, B and C. Details to be provided as part of construction certificate.*
- **Condition 39** - *Additional space shall be required outside the Community Facility to accommodate three motorised scooters of residents within the facility.*

Furthermore, the JRPP Panel required the western wing of the RACF to be further set back from the western boundary. This was to ensure privacy to Reid Street residents. The required setback is illustrated in modified drawings produced by BRG and TaylorBrammer:

- DA 1509/DA01 – Revision B – 07.12.15 (BRG)
- DA 1509/DA03 – Revision B – 7.12.15 (BRG)
- DA 1509/DA04 – Revision B – 7.12.15 (BRG)
- DA 1509/DA06 – Revision B – 7.12.15 (BRG)
- DA 1509/DA07 – Revision B – 7.12.15 (BRG)
- DA 1509/DA08 – Revision B – 7.12.15 (BRG)
- DA 1509/DA09 – Revision B – 7.12.15 (BRG)
- DA 1509/DA10 – Revision B – 7.12.15 (BRG)
- DA 1509/DA11 – Revision B – 7.12.15 (BRG)

- DA 1509/DA16 – Revision B – 7.12.15 (BRG)
- DA 1509/DA17 – Revision B – 7.12.15 (BRG)
- LC00 – Revision D – 7.12.15 (TaylorBrammer)
- LC01 – Revision D – 7.12.15 (TaylorBrammer)
- LC02/01 – Revision B – 7.12.15 (TaylorBrammer)
- LC02/02 – Revision B – 7.12.15 (TaylorBrammer)

The amended plans illustrate the following modifications:

- Western wing moved 230mm away from western boundary.
- Southern portion of western wing setback between 3 metres and 4.715 metres from western boundary.

The amended plans satisfy the JRPP's additional setback requirements

The following conditions were provided by Council's Waste Management Officer:

- **Condition 9** - *Provide additional bin storage areas evenly spaced in the basement car park area. Designed and constructed in accordance with Chapter 11 of Kiama Council's Development Control Plan. This will require design modifications to the car parking area and could include the provision additional floor space in order to maintain the required car parking spaces.*
- **Condition 10** - Maintain the proposed bin storage area and provide in the basement car park area smaller bin storage bays accommodating a bank of three bins (garbage, recycling and food organics). This will require the site/caretaker manager to monitor the bins and transfer full bins to the bin storage area including presentation of the bins to the nominated collection point for servicing.

It is suggested that Conditions 9 and 10 are removed from the conditions of consent as they have been fulfilled to the satisfaction of council. Addition of the additional bin storage areas in the ILU basement carpark is illustrated on drawings 1509/DA03, 1509/DA10 and 1509/DA11.

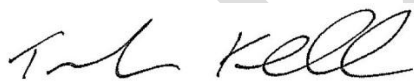
It is proposed that Conditions 9 and 10 are replaced with the following condition:

"An overall waste management plan must be signed off by the Waste Management Officer prior to issue of a construction certificate."

Should you have any questions please do not hesitate to contact me on 9519 4994.

Sincerely,

ae design partnership Pty Ltd



Tristan Kell
Associate Director

1.0 SEPP One Objection to Development Standard

Being an aged care facility, the application is correctly made in accordance with the relevant Environmental Planning Instrument, State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. However, the proposal includes:

- Community Centre/Assisted Living Unit (**ALU**), northern Independent Living Unit (**ILU**) and Residential Aged Care Facility (**RACF**) in contravention of Clause 40(4)(a) of the SEPP; and
- ILUs A, B and C in contravention of Clause 40(4)(b) of the SEPP.

Clauses 40(4)(a) and (b) are as follows:

- (4) If the development is proposed in a residential zone where residential flat buildings are not permitted:*
- (a) the height of all buildings in the proposed development must be 8 metres or less, and*
- (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*

The ALU, northern ILU and RACF are in contravention of Clause 40(4)(a) as follows:

- 1) ALU: upper level exceeds 8 metre height limit by 3.34 metres.
- 2) Northern ILU: upper level exceeds 8 metre height limit by approximately 200mm.
- 3) RACF: southern portion of roof exceeds 8 metre height limit by approximately 200mm.

ILUs A, B and C being in contravention of Clause 40(4)(b) is illustrated in Figure 4.

Variation to the development standard must be sought in order to receive development approval. As the applicable Environmental Planning Instrument is the aforementioned SEPP and not an LEP made in accordance with the Standard Instrument – Principal Local Environmental Plan, we are satisfied that a SEPP 1 Objection is the appropriate method through which to seek variation to the development standard.

The following pages include a formalised assessment of the SEPP 1 Objection, set out in accordance with the findings of *Wehbe v Pittwater Council* [2007] NSW LEC 827. Consistency with the Public Interest is considered following the SEPP 1 Objection.

An assessment of the SEPP 1 Objection is formalised below through being set out in accordance with the findings of

TEST:	COMMENT:
1. . the objectives of the standard are achieved notwithstanding noncompliance with the standard	<p>There is no specific objective for the Clause 40 (4) controls, with the Kiama LEP objective relevant for this purpose.</p> <p>The objectives of the height control in the Kiama LEP are to ensure the development is in character with the desired scale and character of the street and local area and to allow reasonable daylight access to all developments and the public domain.</p> <p>It is also noted that Clause 40 (4) (b) is clarified by a note stating that the purpose of the two storey control is avoid an abrupt change in the scale of development on the streetscape.</p>

	<p>Therefore, the underlying objective of the height control (both in metres and storeys), in this instance, is to ensure development is managed to mitigate any adverse impacts to the character and amenity of the area, and the solar access of adjoining properties.</p> <p>The proposed noncompliance in height and number of storeys achieves the objectives through:</p> <ul style="list-style-type: none"> • The large site area presents an opportunity for a redevelopment of the scale proposed. The height breach of the assisted living unit and community facility does not impact the streetscape and residents adjacent to the site. • Overshadowing impacts of the community facility/assisted living units are reasonable and only impact properties at the southern portion of Reid Street between 9 and 10 am. • Overshadowing impacts of the additional storey and minor breach of ILU A only impact a portion of the rear setbacks of adjacent properties along Reid Street between 2pm and 3pm on June 21. • The setbacks between the ILU's and Holden Avenue are consistent with the Seniors Living Policy, Apartment Design Guide and Kiama Council's LEP and DCP. These side setbacks will accommodate vegetation and landscape, which will mitigate the impacts of the Independent Living Units and properties along Holden Avenue.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.	N/A.
3. the underlying object or purpose would be defeated or thwarted if compliance was required and therefore	<p>This test is not relevant to this proposal.</p> <p>However, it is noted that a reduction in height to ensure the building meets the 8m height limit would compromise the architectural style of the building and would result in the ALU floor space being placed elsewhere on site, resulting in reduced operational efficiency of the development.</p>
4. the development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.	While this test is not particularly relevant to the application, it is worth noting that data received from the DPE has revealed that Kiama Council has varied the LEP height control on 10 occasions between 2012 and 2014 via Clause 4.6 of the LEP. The extent of these variations was generally less than 20%, with justifications of no impact and steep and sloping sites accepted.
5. the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the	3ha is not is not typical to a traditional low density parcel of land. The site's historical institutional use suggests that a different land use zoning would be more appropriate to the site to facilitate health and care related activities.

particular parcel of land should not have been included in the zone.	
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Public Interest:

The proposal is in the public interest for the following reasons:

- The proposal provides an integrated seniors living and aged care development in an accessible location, adjacent to existing services, which is in the public interest.
- The impacts from the height exceedance are negligible, with the major exceedance located within the centre of the site.
- The additional storey on the ILU will have negligible impacts on the surrounding properties or the public realm and thus will be in the public interest.
- The proposal restores an ageing development site with a contemporary development that continues the continued usage of the site for health related purposes.
- The proposal is in the public interest as it will have a number of social and economic benefits for the Kiama community and the Illawarra Region, providing employment and much needed services.

Summary:

This SEPP 1 Objection has addressed the requirements of SEPP 1 to formally seek an exception to the Clause 40(4)(a) and (b) height controls within the Seniors SEPP. It has been demonstrated that the variation to the control is well grounded when assessed against the *In Wehbe v Pittwater Council* [2007] NSW LEC 827.

The development will provide no external or internal amenity impacts, will contribute to positive town planning outcomes and will be in the public interest. It is therefore appropriate that the consent authority assess this proposal on its merit.

2.0 SEPP (Housing for Seniors or People with a Disability) 2004

Additional information was requested from the Panel in relation to the proposed development satisfying Clause 26 and 30 of the SEPP and additional commentary on Clause 33. This is provided below.

Clause 26 Location and access to facilities

CLAUSE	COMMENT	COMPLIANCE
(2) Access complies with this clause if:		
<p>(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:</p> <ul style="list-style-type: none"> (i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time, (ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time, (iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or 	<ul style="list-style-type: none"> • Addison's Garage 150 metres from site accessed by sealed footpath. • Manning Street Neighbourhood Centre 275 metres from site accessed by sealed footpath. 	✓
<p>(c) in the case of a proposed development on land in a local government area that is not within the Sydney Statistical Division—there is a transport service available to the residents who will occupy the proposed development:</p> <ul style="list-style-type: none"> (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive), <p>and the gradient along the pathway from the site to the public transport services (and from the transport services to the facilities and services referred to in subclause (1)) complies with subclause (3).</p> <p>Note. Part 5 contains special provisions concerning the granting of consent to development applications made pursuant to this Chapter to carry out</p>	<p>Bus stops located along both north and south of Bonaira Street:</p> <ul style="list-style-type: none"> • Bus stops directly in front of subject site. • 71 bus route operates along Bonaira Street providing access to: <ul style="list-style-type: none"> ○ Shellharbour City Centre. ○ Kiama train station. ○ Bombo train station. ○ Minnamurra train station. ○ Oak Flats train station. • Bus services run to and from the subject site during the day every day from Monday to Friday. • A private bus service is provided for the residents as part of the proposal. 	✓

development for the purpose of certain seniors housing on land adjoining land zoned primarily for urban purposes. These provisions include provisions relating to transport services.		
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Clause 30 Site Analysis

CLAUSE	COMMENT	COMPLIANCE
(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied that the applicant has taken into account a site analysis prepared by the applicant in accordance with this clause.	Appropriate site analysis has been provided.	✓
(2) A site analysis must:		
(a) contain information about the site and its surrounds as described in subclauses (3) and (4), and	<p>All information identified in subclauses(3) and (4) of Clause 30 have been addressed in Site Analysis drawing and <i>Section 2 Site Analysis and Assessment of Existing C</i></p> <ul style="list-style-type: none"> • (4)(a) Neighbouring buildings <ul style="list-style-type: none"> o Balconies on adjacent properties. • (4)(b) Privacy <ul style="list-style-type: none"> o Living room windows overlooking site. o Location of any facing doors and/or windows. <p>Site analysis considered acceptable, as detailed cross sections of views from Holden Avenue have been provided. Analysis indicates the ILUs have acceptable impacts on views from Holden Avenue properties due to setbacks and vegetative screening.</p>	✓
(b) be accompanied by a written statement (supported by plans including drawings of sections and elevations and, in the case of proposed development on land adjoining land zoned primarily for urban purposes, an aerial photograph of the site):	Site analysis included within <i>Section 2 Site Analysis and Assessment of Existing Character</i> of SEE and Division 2 Design Principles have been addressed.	✓
(i) explaining how the design of the proposed development has regard to the site analysis, and		
(ii) explaining how the design of the proposed development has regard to		

the design principles set out in Division 2.		
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Clause 33 Neighbourhood amenity and streetscape

The proposal maintains the established amenity of Kiama and does not unreasonably impact on the surrounding streetscape.

- Desirable elements of the locality have been incorporated within the development. This has made the development more compatible with the surrounding area.
 - Large setbacks have been retained which enable a reasonable mix of lawn and vegetation to within the front and side setbacks.
 - Pitched roofs and materials that are sympathetic to Barroul House and surrounding recent development.
 - Orientation of Independent Living Units north east.
- Preservation of Barroul House and view corridor to and from the heritage item.

Proposal does not unreasonably impact on the solar access of surrounding dwellings:

- Overshadowing impacts are in accordance with Kiama DCP, Apartment Design Guide and Seniors Housing SEPP.
- Holden Avenue shadow diagrams indicate that:
 - Rear setbacks of Holden Avenue properties not impacted by shadows between 9am and 2 pm apart from a portion of rear setback of 17 and 21 Holden Avenue impacted at 2pm.
- Reid Street shadow diagrams indicate that:
 - Rear setback 12-18 Reid Street are impacted by shadow of south western portion of RACF between 9.00am and 10.00am. The rear yard of these properties get sunlight between 11 and 3pm.
 - Rear Setback of 12 and 14 Reid Street are impacted by shadow of western wing of RACF at 9.00am. The rear portion of the yard is not impacted between 10 and 3pm.
 - 2 to 10 Reid Street and 14 Bonaira Street do not receive any shadow impacts.

Furthermore, the proposal does not overshadow any surrounding communal open space.

The proposal does not unreasonably impact on the streetscape of Holden Avenue and Reid Street:

- Buildings have been cited so that tallest building (ALU at 11.34 metres) is located in the centre of the site where it will have minimal impact on Holden Avenue and Reid Street streetscapes.
- RACF compliant with 6 metre setback from Reid Street boundary (western boundary). The setback in conjunction with retained and additional planting along the western boundary will reduce the visual bulk and scale of the development and minimise impact on Reid Street Streetscape.
- ILUs setback a minimum of 6 metres from Holden Avenue with the exception of the corner blade of ILU A and a vertical blade at the east corner of ILU B. These encroachments are reasonable as they provide privacy to Holden Street dwellings. Additional third floor setbacks and proposed vegetative planting minimise the bulk of and screen the ILUs.

In Summary:

The overall development has a floor space ratio of 0.53:1 that is not inconsistent with a low density environment. The provision of large areas of landscape, vegetation and walking paths mitigate the scale of the proposal when viewed from the street.

- Large front setbacks and retention of landscape ensure that the proposed development are sympathetic with the current streetscape.
- The proposed elevation toward Bonaria Road is an improvement to what currently exists at the site.
- The impact that the proposal will have on adjacent properties to Reid and Holden Street are negligible as discussed in detail within the assessment of the report.
- The proposed development will have a positive impact on the local community, through provision of community facilities and activation of the site.

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3.0 State Environmental Planning Policy No. 65 Design Quality Residential Apartment Development

Additional information was required from the panel in relation to the assessment of the Independent Living Units being consistent with SEPP 65.

State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) applies to residential flat buildings of 3 or more storeys and 4 or more self-contained dwellings units. Schedule One of the SEPP has been assessed below:

Clause 30(2) of SEPP 65 requires that a consent authority, in determining an application for Residential Apartment Development must take into consideration:

(a) the design principles; and

(b) the objectives specified in the NSW Planning & Environment publication 'Apartment Design Guide' for the relevant design criteria.

CLAUSE	COMMENT	COMPLIANCE
<p>Principle 1: Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p>	<ul style="list-style-type: none"> The apartments are setback from Bonaria Street and orientated in a north east direction, which mitigate the impact they have on the streetscape as it is predominantly a low density environment. The apartment buildings are sufficiently setback from surrounding low density residential buildings, which mitigate impacts on adjacent residents. This is the only apartment component of this aged care development. This will contribute to its context of built form by integrating with the overall landscape master plan for the site. The buildings are modulated and incorporate contemporary design features that reflect the desirable elements of the locality. The Independent Living Units are orientated in a north eastern direction, which respond to the sites microclimate. These independent living units integrate within the residential aged care facility. With footpaths that integrate with the landscape, which lead to new community facilities and services. 	✓

	<ul style="list-style-type: none"> • This overall development will integrate within the overall aged care facility and surrounding community. 	
<p>Principle 2: Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and the surrounding buildings.</p>	<ul style="list-style-type: none"> • The apartment buildings are located along the eastern boundary and have been sunken into the sloping site to minimise visual impact to adjoining properties. • This is further assisted by the angled and tapering arrangement of these buildings. • The additional setback of the upper storeys, which reduce visual bulk and potential for overlooking. • The buildings respond to the adjacent low density development in minimising perceived bulk by presenting the narrower ends of each building to the common boundary, and by angling them obliquely, which allows for valid landscaping in the spaces between. 	✓
<p>Principle 3: Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p>	<ul style="list-style-type: none"> • The site is located in an accessible and well-served urban area in close proximity to public transport infrastructure. The proposed development complies with the maximum site coverage control ratio. • The proposed density of the apartment's component of the site is compatible with the rest of the KACOE site. • The site coverage of independent living units are consistent with the density controls of the Seniors SEPP. • The large site area enables accommodates the scale proposed in this development. 	✓
<p>Principle 4: Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of</p>	<ul style="list-style-type: none"> • The proposed development is to be built predominantly of masonry, pre-finished panels, concrete and colour-coated steel roofing, all of which are low maintenance, long life materials. • The orientation and layout of apartments achieve good solar access and cross ventilation and reduce the reliance on mechanical heating and cooling devices. The design incorporates energy efficient and 	✓

<p>sustainable materials, and deep soil zones for groundwater recharge and vegetation.</p>	<p>sustainable design features, such as recessed areas of low-e glass with balconies, use of sun screens, etc.</p> <ul style="list-style-type: none"> • Deep soil planting is provided to the perimeter of the apartments, and landscaped planters provided surmounting the basement carpark between apartment buildings. <p>Groundwater is recharged through use of stormwater harvesting for landscape use.</p>	
<p>Principle 5: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p>	<ul style="list-style-type: none"> • Opportunities for contribution to the landscape include the provision of canopied street trees, the provision of landscaped courtyards and contemplation spaces, and the reinstatement of heritage planting around Barroul House. • It also includes the arbour associated with the canopy physically connecting the apartment buildings, which provides a 'soft' edge to the central roadway serving the development. • The objective is for the development to be a landscaped haven for residents that promotes habitat for local fauna. • The ILU buildings along the eastern edge of the site are set down a single storey from entry road level. The edge of the pathway along the road is defined by a planted arbor with the landscape tumbling down a planted bank to raised planters on the podium between the buildings. • Areas of paving offer large courtyard spaces to residents on the ground floor level. Raised planters provide opportunity for extensive rainforest inspired planting with shelter trees at either end to ameliorate any winds from the north east or south west. 	<p>✓</p>
<p>Principle 6: Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p>	<ul style="list-style-type: none"> • Appropriate room dimensions and shapes, optimising solar access, natural ventilation, • Measures to achieve acoustic and visual privacy, provision of private open spaces and good outlooks are incorporated into the design of the development. 	<p>✓</p>

<p>Principle 7: Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<ul style="list-style-type: none"> • The building configurations will increase safety and security in the local area as their shapes provide good observability of Bonaira Street, the development's access road and visitor/public parking area to the south. • Resident and staff parking areas are located beneath or adjacent their respective buildings, with access controls to parking and apartment buildings to provide maximum security for residents, as well as staff employed within the complex. • Lighting provided will be appropriate to the function of the spaces and compliant with the requirements of SEPP Seniors Living throughout the site. 	<p>✓</p>
<p>Principle 8: Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p>	<ul style="list-style-type: none"> • The proposed development contains a mix of various sizes of 1 and 2 bedroom apartments from 70m² to 127m², to cater to a wide mix of occupants and their accommodation requirements. • This Aged Care Centre of Excellence will contribute to the vitality of the precinct and add to the residential population within the Kiama area. • It will provide a positive and valuable contribution to the community by enabling 'ageing in place' to occur, and permit residents from the Kiama area to remain within the communities that they have been a part of. 	<p>✓</p>
<p>Principle 9: Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p>	<ul style="list-style-type: none"> • The proposal reinforces the definition of the street edge with perimeter building designs that ensure facades and entries address the streets. Facades are modulated and articulated by window and balcony openings and treatment and provided with changes in plane and detailing to create visual interest. • The overall result is a composition that makes the buildings legible, responding to the context of the site's location and respectful of the scale of buildings in the immediate area, including the historic Barroul House. 	<p>✓</p>

	<ul style="list-style-type: none">• The built form of the complex utilises an architectural palette of forms, materials and colours that integrate buildings within the development while providing considerable variety within a coherent framework.	
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4.0 Apartment Design Guide Key Objectives

Objectives	COMMENT	COMPLIANCE
Street Setbacks	<ul style="list-style-type: none"> Building B and C not visible from Street. Building A, 17m from Street. Screened by vegetation. 	✓
Side Setback	<ul style="list-style-type: none"> Within 9m of side boundary. Property adjacent unlikely to change and not impacted by proposed development. 	✗ ✓
Solar access	<ul style="list-style-type: none"> 82% of apartments receive 3 hours between 9 and 3pm. 	✓
Natural ventilation	<ul style="list-style-type: none"> Over 80% apartments achieve 'good to very good' natural ventilation Less than 60% receive natural ventilation. 	✓ ✗
Single aspect apartment depth	<ul style="list-style-type: none"> No apartment greater than 18m 	✓
Apartment size	<ul style="list-style-type: none"> Min 70sqm 1 Bed Min 92sqm 2 Bed 	✓ ✓
Ceiling Heights	<ul style="list-style-type: none"> Floor to ceiling height is 2.7m 	✓
Private Open Space	<ul style="list-style-type: none"> Balconies have variable width, with a minimum 2m depth, and 3m x 3m functional area directly accessible from the main living area. Areas of elevated balconies are in excess of 10m² to 24 m². Courtyard private open spaces at podium level exceed the minimum 3m depth and 15m² area requirement. 	✓
Communal Open Space	<ul style="list-style-type: none"> 49.72% provided 	✓
Residential Storage	<ul style="list-style-type: none"> Each apartment has storage provided within the basement carpark. Such space equates to 7.5m³ (2w x 1.5d x 2.5h). Within each apartment are dedicated linen/storage cupboards and/or store rooms, ranging from 4m³ to 10m³. 	✓ ✓

5.0 Kiama LEP 2011

Clause 4.3 Height of buildings

Kiama LEP 2011 defines building height as:

“building height (or height of building) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

CLAUSE	COMMENT	COMPLIANCE
(1) The objectives of this clause are as follows:		
(a) to ensure future development is in keeping with the desired scale and character of the street and local area,	<p>Bulk and scale of development minimised through:</p> <ul style="list-style-type: none"> • Compliance with 6 metre side boundary setbacks. • Location of largest and highest building (ALU) within centre of development. • Landscape and vegetation mitigates impact within setbacks adjacent to the development. 	✓
(b) to allow reasonable daylight access to all developments and the public domain.	<p>Overshadowing impacts are in accordance with Kiama DCP, Apartment Design Guide and Seniors Housing SEPP.</p> <p>Holden Avenue shadow diagrams indicate that:</p> <ul style="list-style-type: none"> • Rear setbacks of Holden Avenue properties not impacted by shadows between 9am and 2 pm apart from a portion of rear setback of 17 and 21 Holden Avenue impacted at 2pm. <p>Reid Street shadow diagrams indicate that:</p> <ul style="list-style-type: none"> • Rear setback 12-18 Reid Street are impacted by shadow of south western portion of RACF between 9.00am and 10.00am. The rear yard of these properties get sunlight between 11 and 3pm. • Rear Setback of 12 and 14 Reid Street are impacted by shadow of western wing of RACF at 9.00am. The rear portion of the yard is not impacted between 10 and 3pm. • 2 to 10 Reid Street and 14 Bonaira Street do not receive any shadow impacts. 	✓

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	<p>Site has maximum height limit of 8.5 metres. ALU has height of 11.34 metres, breaching height limit by 2.84 metres. Height breach considered acceptable.</p> <ul style="list-style-type: none"> • ALU located at centre of subject site. ALU will have no impact on solar access of neighbouring properties on Reid Street or Holden Avenue. 	✗
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Clause 4.4 Floor Space Ratio

CLAUSE	COMMENT	COMPLIANCE
(1) The objectives of this clause are as follows:		
(a) to ensure that development is in keeping with the optimum capacity of the site and the local area,	Site will be able to cater for the proposed number of dwellings subject to upgrades in infrastructure addressed through conditions of consent.	✓
(b) to define allowable development density for generic building types.	Proposed FSR will allow for development which efficiently uses available space and existing infrastructure.	✓
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	<p>Site has maximum FSR of 0.45:1. Site proposes FSR of 0.53:1. Proposed FSR exceeds LEP control is considered acceptable as:</p> <ul style="list-style-type: none"> • Proposed FSR is compliant with Seniors SEPP FSR of 0.68:1. • Exceedance of 0.08:1 is a minor breach in FSR considering scale of the development. • FSR results in development which efficiently uses available space and existing infrastructure. • Buildings are appropriately cited as tallest building (ALU) is in centre of site where it will have the least impact on surrounding dwellings along Holden Avenue and Reid Street. 	✗

Summary

- SEPP One Objection is an appropriate mechanism to assess this application.
- The argument for a SEPP One objection is appropriate and the breach in 8m height limit is considered acceptable.
- The height breach does not have any significant impacts on neighbouring properties.
- The non-compliance associated with the upper level of the ILU's are reasonable. This is reasonable due to the upper level setback, orientation of the buildings, privacy louvres and vegetation proposed within the side setbacks.
- The proposal satisfies the Seniors Living SEPP.
- There is a breach of principle development standards, pursuant to CI 4.3 and 4.4 of the Kiama LEP.
- The breach in height is located in the centre of the site and is considered reasonable.

DRAFT