



5 September 2017

Mr Brendan Leo
Acting Manager - Development Assessment
Kiama City Council
Via Email: brendanl@kiama.nsw.gov.au

Dear Brendan,

**RE: DA NO. 10.2016.286.1
RESPONSE TO MATTERS RAISED IN JRPP BRIEFING**

This letter and accompanying documentation has been prepared on behalf of the Applicant, DTB Architects Pty Ltd in response to the matters Council relayed to the Applicant regarding issues the Joint Regional Planning Panel (JRPP) raised in their briefing with Council on 3 July 2017.

In preparing this submission, further analysis has been undertaken by the Applicant and consultant team including conducting additional view analysis studies from several of the dwellings at 21 Meares Place.

1. DEEP SOIL LANDSCAPING

Further analysis has been undertaken with regards to the landscaping requirements under both State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP (Seniors)) and the Apartment Design Guidelines.

The analysis has confirmed that with the removal of some hard surfaces across the site, the standards of both policies will be met by the revised design. Detailed demonstration of compliance is illustrated in the Landscape Calculation Plan prepared by DTB Architects which accompanies this letter as **Attachment A**.

2. VIEW ASSESSMENT

Further view assessment studies have been undertaken to inform the extent of impacts on views the proposal will have on individual dwellings within the residential building at 21 Meares Place.

On 3 August 2017 Richard Lamb and Associates accompanied by Allen Price and Skarratts Pty Ltd registered surveyors (Skarratts) and Brendan Leo from Kiama Council, visited the following dwellings at 21 Meares Place to obtain photographs from their balconies and from within the apartments:

- Unit 2, 21 Meares Place
- Unit 3, 21 Meares Place
- Unit 4, 21 Meares Place
- Unit 5, 21 Meares Place
- Unit 6, 21 Meares Place

A survey of the location for the additional photos taken to inform the view assessment is attached to this letter as **Attachment B**.

As a result of the additional views assessed, a View Assessment Addendum Report has been prepared by Richard Lamb & Associates, which is attached to this letter as **Attachment C**. The View Assessment is supported by photomontages which have been prepared in accordance with the Land and Environment Court of NSW Practice Note for using photomontages in court evidence.

The View Assessment considers the views which are currently enjoyed by each of the 6 units at 21 Meares Place, which are illustrated in **Figure 1** below.

Figure 1 - Indicative extent of views from units at 6 Meares Place (Source: Richard Lamb & Associates, 2017)

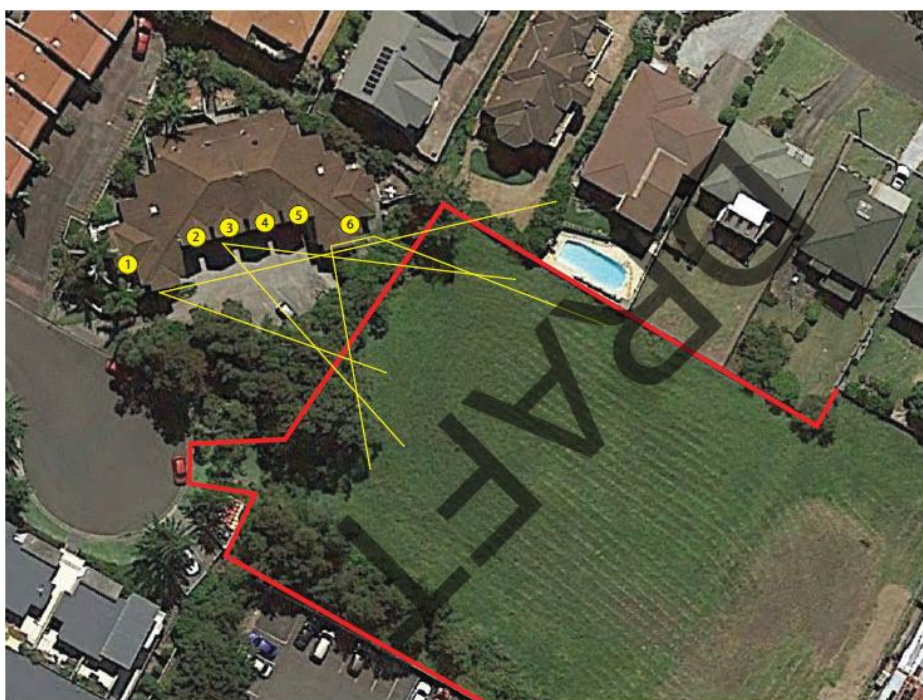
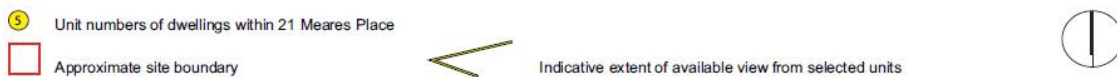


Figure 1 Location of 21 Meares Place



The View Assessment applies the view sharing planning principle formulated by Roseth SC in *Tenacity Consulting v Warringah Council (Tenacity)*. In accordance with Step 4 of *Tenacity* the View Assessment considers the reasonableness of the potential view impacts, and concludes:

- The proposed development complies with the height and setback controls, which are the most relevant development controls relating to view loss;
- Unit 6, 21 Meares Place has a single living level, and therefore it would be unreasonable to expect views to be retained; and
- When considering whether a more skilful design could result in the improved amenity and view sharing, it needs to *'maintain the capacity to reasonably develop the site'*, and that modifying the

proposal to improve view sharing would have a *'profound effect on the design and development potential of the proposal'*.

On this basis, the View Assessment concludes that view loss for the development at 21 Meares Place considered together would be moderate, and that while there will be devastating view loss for some first-floor units at 21 Meares Place, Richard Lamb & Associates consider the proposal to be reasonable with regards to view sharing.

It is noted that the most significant impacts on view sharing are from proposed Apartment 313 of the proposed development.

3. STORMWATER

We have been advised that the members of the JRPP questioned whether the stormwater management system proposed was satisfactory.

The Applicant has not received any request for additional information from Council on this matter, so it is the Applicant's understanding that the proposed design is satisfactory to Council's engineers.

4. TREES

A Preliminary Arboricultural Development Impact Assessment was prepared by Lee Handcock Consulting Arborist dated 6 June 2016. The assessment identifies the need for the removal of 12 *Allocasuarina littoralis* (Black She Oaks) and to prune the *Eucalyptus elata* (River Peppermint). The report recommends the following:

7.3 To compensate for the loss of amenity value, replacement planting as specified by the project Landscape Architect design plan should be considered. The proposed landscape re -design is to improve the urban forest values of the site ensuring the new tree planting will provide sustainability into the foreseeable future.

- *The trees should have a minimum 10m height at maturity to compensate for the loss of existing trees.*
- *The planting size shall be 75 litres and compliant with Natspec guidelines.*
- *Planted by a qualified horticulturalist or arborist AQF Certificate 3.*
- *The replacement plantings must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.*

7.4 The remaining trees 1, 2, 3, 4,5,6,7, 8, 9, 10, 11 and Group B. comprising 4 X Cupressocyparis leylandii 'Leighton Green' should be protected throughout all stages.

Section 10 of the Preliminary Arboricultural Development Impact Assessment report outlines the methods of tree protection to be applied.

We understand that the JRPP raised concern with whether Tree 10, being the Casuarina located on the south-eastern boundary of 21 Meares Place can be retained with the proposed level of excavation on the subject site. The arborist has advised that the best method to manage the protection of Tree 10 is to implement a non-destructive investigation of the root system of the tree. This would be done in accordance the methodology outlined in Section 4.6.3 of the Arboricultural Development Impact Assessment.

5. SOLAR ACCESS

Further solar access assessment has been undertaken by DTB Architects confirm the level of solar access achieved for the proposed development. This included detailed solar access intervals to be modelled for a number of individual dwellings to identify the levels of solar access which would be achieved.

The DP&E *Apartment Design Guide* Objective 4A-1(2) requires:

(2) In all other areas [outside the Sydney Metro Area, and Newcastle and Wollongong LGAs], living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter.

The more detailed analysis of the solar access achieved for the site has indicated that approximately 17.5% of dwellings (11 apartments) will receive 3 hours of solar access in both the living room and balcony on the winter solstice. However, 70% of dwellings (44 apartments) receive at least 3 hours of solar access in the living room or balcony between 9am and 3pm on the winter solstice.

While the solar access achieved for the proposal falls short of strict compliance with the ADG requirement, it should be noted that the site is highly constrained from a solar access perspective, specifically due to:

- The southern sloping topography of the site, which will result in any future development on the site being shadowed by the surrounding natural topography;
- The existing excavated ground level of the site, which dictates the levels of future development on the site; and
- Surrounding existing development north and uphill from the site, which further limits solar access.

It is understood JRPP suggested a potential redesign of development in a 'U' shape to improve solar access across the development. While this may increase solar access, it would result in the loss of approximately a quarter of the proposed development yield and would render the project financially unviable.

It is considered a satisfactory outcome that 70% of apartments will receive at least 3 hours of solar access in either the living room or balcony which will enable residents to enjoy solar access within their dwelling, between 9am and 3pm. These apartments will also benefit from several communal open space areas which obtain good solar access throughout the day.

It is noted that the proposed development will activate a site which is in close proximity to key infrastructure and amenities, located within the Kiama town centre and within close proximity to key public open spaces such as Hindmarsh Park and the Kiama foreshore where residents can enjoy good solar access throughout the day.

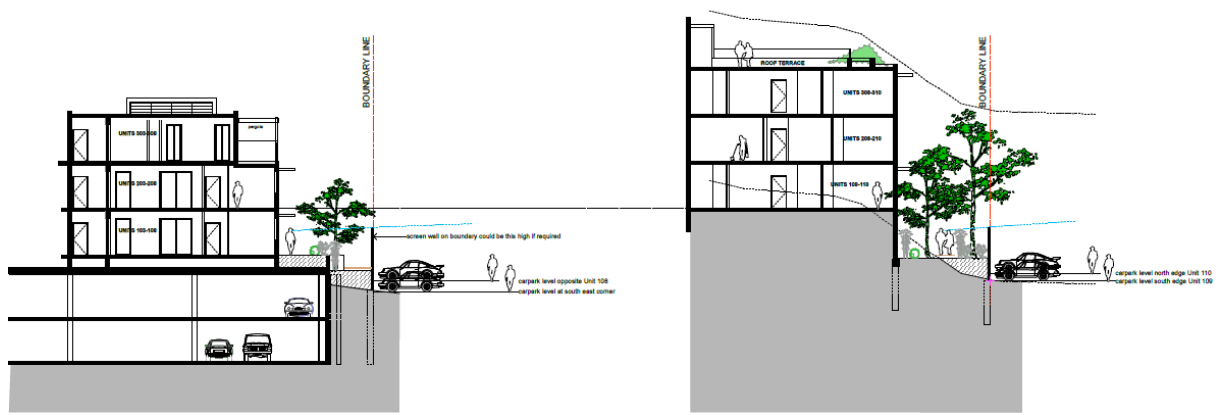
The development of the site for independent living seniors' dwellings will provide a positive outcome for the site which corresponds to the socio-economic and local housing demand within Kiama.

6. AMENITY

We understand the JRPP have raised concern regarding the amenity which would be enjoyed by future occupiers of the proposed development, specifically with regards to the interface the subject site has with the Kiama Leagues Club carpark to the south.

The interface with the carpark has been carefully considered in detail by DTB Architects in designing the proposal which includes changes in level between the site and the carpark, and landscaped treatments along this boundary.

The following sections have been prepared by DTB Architects which illustrate the level change between the car park area and proposed dwellings. Additionally, there is a setback of 6 metres from the southern boundary of the site, which will be landscaped using small native evergreens and Bangalow Palms to provide a green outline for apartments along this interface and enhance privacy.



The location of the site provides excellent amenity for future residents of the development including walkability to:

- Kiama Town Centre, including the shopping strip along Terralong Street;
- Hindmarsh Park;
- Kiama waterfront including adjacent open spaces;
- Several bus services north and south along the South Coast from Collins Street and Terralong Street;
- Kiama Leagues Club, which has a strong senior's community;
- Cafes and restaurants on the eastern side of Collins Street; and
- Kiama Train Station, located on Railway Parade near the intersection with Bong Bong Street.

Accordingly, the site is considered to provide excellent amenity for future residents.

7. SUMMARY

Based on the specialist inputs which have been prepared to support the proposed development, including the addendum documentation which accompanies this letter, we believe that the development application has merit and is able to be approved in its current form.



Following discussions with Council, a design solution was explored which would result in the removal of Unit 313. Deletion of this unit would address the view loss that would be experienced by apartments in 21 Meares Place. Council indicated this as a preferred position to alleviate concerns with view sharing. We note that the View Assessment Addendum Report which accompanies this letter concludes the proposal is 'reasonable as regards to view sharing' in its current form. If however Council is unable to support the proposal on the grounds of view sharing impacts, the Applicant would be agreeable to a condition being imposed to remove Unit 313 and replace it elsewhere on the site, through a post-approval design solution.

We would welcome further discussion with Council on this project to ensure that it proceeds to determination by the Joint Regional Planning Panel at the next available meeting time.

Yours sincerely,

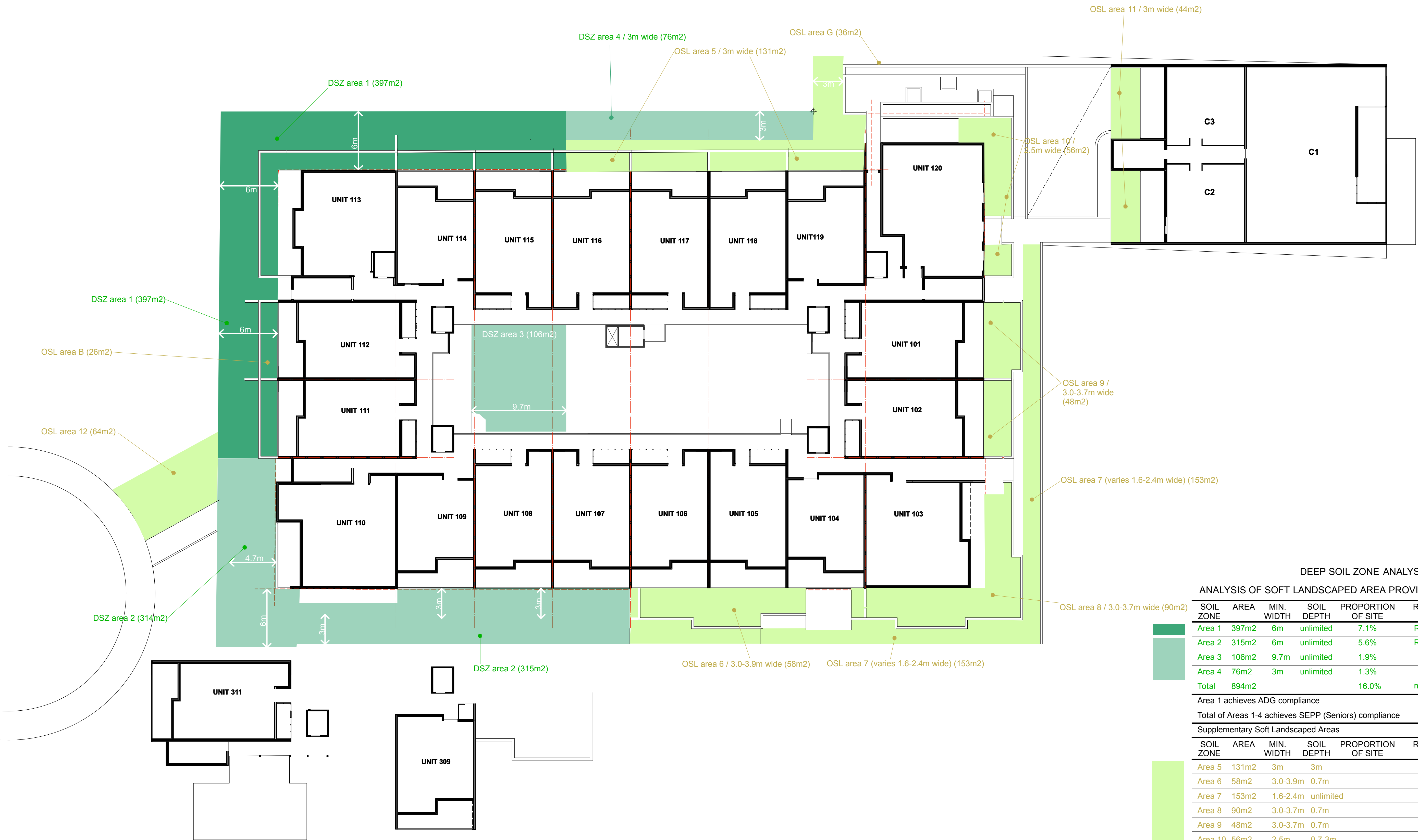
A handwritten signature in black ink, appearing to read "D. Blakely".

Danielle Blakely
Associate Director



ATTACHMENT A

LANDSCAPE CALCULATION PLAN PREPARED BY DTB ARCHITECTS



DEEP SOIL ZONE ANALYSIS

ANALYSIS OF SOFT LANDSCAPED AREA PROVISIONS - DEEP SOIL

SOIL ZONE	AREA	MIN. WIDTH	SOIL DEPTH	PROPORTION OF SITE	REMARKS
Area 1	397m ²	6m	unlimited	7.1%	Raised boardwalk over part (30m ²)
Area 2	315m ²	6m	unlimited	5.6%	Raised boardwalk over part (123m ²)
Area 3	106m ²	9.7m	unlimited	1.9%	
Area 4	76m ²	3m	unlimited	1.3%	
Total	894m²			16.0%	min. requirement 15%

Area 1 achieves ADG compliance
 Total of Areas 1-4 achieves SEPP (Seniors) compliance

Supplementary Soft Landscaped Areas

SOIL ZONE	AREA	MIN. WIDTH	SOIL DEPTH	PROPORTION OF SITE	REMARKS
Area 5	131m ²	3m	3m		
Area 6	58m ²	3.0-3.9m	0.7m		
Area 7	153m ²	1.6-2.4m	unlimited		
Area 8	90m ²	3.0-3.7m	0.7m		
Area 9	48m ²	3.0-3.7m	0.7m		
Area 10	56m ²	2.5m	0.7-3m		
Area 11	44m ²	3m	0.5m		
Area 12	64m ²	6m	unlimited		
Total	644m²			11.5%	Additional to DS2

CONTRACTORS NOTE
 The Contractor shall check all figured dimensions before commencing work. Figured dimensions shall take preference over scaling. If the Contractor is in any doubt as to the intent of any information shown or indicated on this drawing, the advice of the Architect shall be sought before commencement of work.

REVISIONS	REVISIONS	REVISIONS	REVISIONS
A 23.01.17 DA ISSUE. Council required additional information			
B 21.07.17 Deep soil analysis			
C 02.08.17 Deep soil analysis for DA submission			

PRELIMINARY ISSUE
NOT FOR CONSTRUCTION

PROJECT TITLE
SENIORS LIVING
 at:
23 MEARES PLACE & 33 COLLINS STREET, KIAMA NSW
 for:
KIAMA SHORES PTY LTD

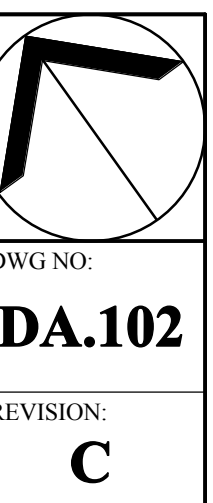
DRAWING TITLE
DEEP SOIL ANALYSIS

DTB ARCHITECTS PTY LTD
 FLOURMILL STUDIOS
 Studio 104 / 3 Gladstone Street
 Newtown NSW 2042
 PO Box 341
 Newtown NSW 2042
 p. (+61 2) 9565 5300
 f. (+61 2) 9565 5400
 e. chris@dtbarchitects.com.au
 Nominated Architect
 Christopher Dunkerley
 Reg. No. 4694



SCALE: 1:200@A1
 DRAWN BY: VE
 CHECKED: CD
 PROJECT NO: **1512**
 THIS ISSUE: 02.08.17
 FIRST ISSUE: 23.01.17

DWG NO: **DA.102**
 REVISION: **C**





ATTACHMENT B

VIEW ASSESSMENT SURVEY PREPARED BY ALLEN PRICE AND SKARRATTS PTY LTD REGISTERED SURVEYORS

B DENOTES BALCONY
Bx2 DENOTES TWO BALCONIES

SCHEDULE OF LONG SECTION INFORMATION

Chainage	RL	Description
Long Section 1		
CH 00	32.33	Concrete
CH 2.96	32.32	Edge Of Concrete
CH 7.52	32.14	Top of Bank
CH 10.22	31.53	Bottom of Bank
CH 14.88	31.07	Natural Surface
Long Section 2		
CH 00	32.42	Garage FL
CH 3.09	32.25	Concrete
CH 6.77	31.78	Concrete
CH 10.00	31.57	Concrete
CH 18.42	31.06	Gutter Inv
CH 18.54	31.20	Back of Kerb
CH 21.62	30.23	Top of Bank
CH 27.53	27.74	Bottom of Bank
CH 32.82	27.04	Natural Surface
Long Section 3		
CH 00	29.74	CL Bitumen
CH 8.85	28.93	CL Bitumen
CH 25.71	26.87	CL Bitumen
CH 36.27	26.04	Lip Of Gutter
CH 36.77	25.99	Gutter Invert
CH 36.98	26.11	Back of Kerb
CH 47.22	25.81	Natural Surface
CH 53.70	24.76	Natural Surface
CH 58.62	24.31	Natural Surface

CAUTION

- Please note that Allen, Price and Scarratts Pty Ltd Survey information gathered on 19 JULY 2016 is marked in RED, information gathered on 13 JUNE 2017 is marked in BLUE and information gathered on 3 AUGUST 2017 is marked in GREEN. All other information has been taken from C. Robson & Associates PTY. LTD. Detail Survey Plan Dated: 14.04.15 Revision A, Job Ref: 15202/0 and has not been verified by field survey.
 - The Datum of the Survey information in RED is Australian Height Datum, Origin: SSM 58542 - RL 15.73. All other levels have been taken from C. Robson & Associates PTY. LTD. Detail Survey Plan Dated: 14.04.15 Revision A, Job Ref: 15202/0 and have not been verified by field survey, we note the origin is not noted on C. Robson's the plan.
 - Please note that no boundary definition survey has been undertaken for this plan and no boundaries have been marked.
- The boundary position and dimensions as shown on the plan have only been taken from C. Robson & Associates PTY. LTD. Detail Survey Plan Dated: 14.04.15 Revision A, Job Ref: 15202/0 and have not been verified by field survey. The dimensions can only be verified by undertaking a comprehensive boundary definition survey to establish the available dimensions of the property.
- No record search or sub-surface investigation as to the location of any utility services or other structures (such as footings or foundations) has been undertaken.
- We advise that prior to any demolition, excavation or construction work on the site, a full up to date Dial-Before-You-Dig search must be obtained and any other relevant service authorities should be contacted for sub-surface utility service location information. In addition, any sub-surface footings or foundations adjacent to any boundaries or any underground services must be carefully exposed to establish their extent, depth and location. This should be undertaken under the supervision of the relevant authorities.
- The north point orientation shown hereon has been taken from C. Robson & Associates PTY. LTD. Detail Survey Plan Dated: 14.04.15 Revision A, Job Ref: 15202/0 and has not been verified by field survey. No attempt has been made to determine its exact relationship to either current magnetic north or true north. It should be regarded as approximate only.
 - These notes are an integral part of this plan. Reproduction of this plan or any part of it without this note being included in full will render the information shown on such reproduction invalid and unsuitable for use. The colours of the data depicted on this plan must not be altered.
 - Except to the extent required by the Competition & Consumer Act 2010, or similar consumer protection legislation, no responsibility can be accepted by Allen Price & Scarratts PTY LTD for any damage caused to any underground service or any loss or injury suffered.

Point Number	Easting	Northing	Height	Description
56	303250.65	6161728.17	24.41	TRAVERSE STATION (NATURAL SURFACE)
			25.99	CENTRE OF TELESCOPE
57	303313.70	6161727.17	23.81	TRAVERSE STATION (NATURAL SURFACE)
			31.34	TRAVERSE STATION (NATURAL SURFACE)
58	303250.89	6161760.51	32.84	CENTRE OF TELESCOPE
4001	303290.61	6161758.71	34.62	No 36 VERANDAH - CENTRE OF CAMERA LENS
4002	303317.37	6161742.50	28.72	No 32 VERANDAH EAST END - CENTRE OF CAMERA LENS
4003	303309.98	6161745.77	28.72	No 32 VERANDAH WEST END - CENTRE OF CAMERA LENS
4004	303273.11	6161764.40	36.96	No 38 SUN ROOM - CENTRE OF CAMERA LENS
4007	303258.58	6161793.54	44.73	No 42 VERANDAH NORTH UNIT - CENTRE OF CAMERA LENS
4006	303249.07	6161780.04	41.29	No 42 VERANDAH SOUTH UNIT - CENTRE OF CAMERA LENS
4009	303255.39	6161778.45	41.36	No 40 TIP GUTTER SW CORNER
4012	303324.09	6161737.50	27.97	No 30 VERANDAH - CENTRE OF CAMERA LENS
4013	303327.90	6161738.58	30.33	No 30 BEDROOM - CENTRE OF CAMERA LENS
4015	303259.34	6161775.86	42.59	No 40 RIDGE LEVEL
4016	303233.84	6161763.14	36.59	No 22 VERANDAH UNIT 6 - CENTRE OF CAMERA LENS
4017	303247.22	6161675.97	27.38	TOP OF LIGHT POLE
4018	303274.76	6161657.45	24.63	RIDGE LEVEL OF MOTEL
4019	303266.44	6161663.53	21.62	TIP OF GUTTER MOTEL
4020	303211.58	6161651.20	17.80	TOP OF ROOF BRICK BUILDING
4021	303279.79	6161667.29	21.76	TOP OF GUTTER METAL SHED
4022	303283.68	6161672.56	22.31	RIDGE LEVEL METAL SHED
4023	303286.76	6161677.66	21.74	TOP OF GUTTER METAL SHED
4024	303292.55	6161685.25	22.52	RIDGE LEVEL METAL SHED
4025	303298.36	6161692.79	21.70	TOP OF GUTTER METAL SHED
4026	303303.83	6161699.28	22.41	RIDGE LEVEL METAL SHED
4027	303309.41	6161706.70	21.67	TOP OF GUTTER METAL SHED
4028	303309.75	6161707.73	22.83	TOP OF GUTTER METAL SHED
4029	303268.78	6161736.25	26.18	TOP OF PVC PIPE
4030	303277.22	6161735.23	25.96	TOP OF STAKE
4031	303285.16	6161742.03	28.30	TOP OF FENCE INTERSECTION
4032	303297.50	6161733.20	25.90	TOP OF FENCE INTERSECTION
4033	303312.49	6161729.16	24.39	TOP OF FENCE INTERSECTION
4035	303263.40	6161689.35	18.91	TOP OF COLOUR BOND FENCE
4038	303224.54	6161646.23	25.49	TOP LIGHT POLE
4039	303228.39	6161641.70	16.31	TOP OF COLOUR BOND FENCE
4040	303193.89	6161627.09	25.65	TOP OF ROOF WHITE FASCIA
4041	303182.48	6161635.97	25.75	TOP OF METAL FLUE
4042	303183.78	6161647.80	25.91	TOP OF NE CORNER BROWN FACIA
4045	303238.66	6161625.65	21.61	TIP OF GUTTER MOTEL
4046	303247.01	6161619.52	24.63	RIDGE LEVEL OF MOTEL

Point Number	Easting	Northing	Height	Description
5000	303210.89	6161760.71	36.55	Unit 1 Balcony Centre Of Camera Lens
5001	303215.15	6161766.61	36.60	Unit 2 Lower Balcony Centre Of Camera Lens
5002	303215.16	6161766.61	39.52	Unit 2 Upper Balcony Centre Of Camera Lens
5003	303219.91	6161766.97	36.60	Unit 3 Lower Balcony Centre Of Camera Lens
5004	303219.96	6161766.94	39.52	Unit 3 Upper Balcony Centre Of Camera Lens
5005	303224.73	6161767.42	36.61	Unit 4 Lower Balcony Centre Of Camera Lens
5006	303224.64	6161767.63	39.54	Unit 4 Upper Balcony Centre Of Camera Lens
5007	303229.25	6161767.95	36.61	Unit 5 Lower Balcony Centre Of Camera Lens
5008	303229.26	6161767.92	39.54	Unit 5 Upper Balcony Centre Of Camera Lens
5009	303234.53	6161763.41	36.60	Unit 6 Balcony Centre Of Camera Lens

SCHEDULE OF UNIT INFORMATION

Unit	Garage FL	Entry FL	U/S Eave	Balcony Level	Balcony Ridge
1	32.42		37.38	34.90	38.62
2	32.45	32.48	40.33	34.98 (Lower) 37.91 (Upper)	41.60
3	32.44	32.48	40.33	34.98 (Lower) 37.91 (Upper)	41.60
4	32.43	32.48	40.33	34.98 (Lower) 37.91 (Upper)	41.60
5	32.43	32.48	40.33	34.98 (Lower) 37.91 (Upper)	41.60
6	32.40		37.41	34.98	38.65

C. ROBSON & ASSOCIATES PTY LTD NOTES:

SERVICES SHOWN HEREON HAVE BEEN DETERMINED FROM VISUAL EVIDENCE ONLY. PRIOR TO ANY DEMOLITION, DESIGN, EXCAVATION OR CONSTRUCTION ON SITE THE RELEVANT AUTHORITY SHOULD BE CONTACTED TO ESTABLISH DETAILED LOCATION AND DEPTH.

RELATIONSHIP OF IMPROVEMENTS TO BOUNDARIES IS DIAGRAMMATIC ONLY. WHERE OFFSETS ARE CRITICAL THEY SHOULD BE CONFIRMED BY FURTHER SURVEY.

BEARINGS AND DISTANCES ARE BY TITLE AND/OR DEED ONLY. NOT BOUNDARY INVESTIGATION HAS BEEN CARRIED OUT.

- (A) RIGHT OF WAY 9 WIDE (DP777142)
- (B) EASEMENT TO DRAIN WATER 2 WIDE (DP 777142)
- (C) EASEMENT FOR SERVICES 9 WIDE (DP 777142)
- (E) EASEMENT FOR ELECTRICITY SERVICES 2 WIDE (DP 1006736)
- (F) EASEMENT FOR DRAINAGE OF WATER 0.3 & 1 WIDE (DP 1006736)

K:\Projects\Kiama\127000\127364\Drawings\127364-3B-Kiama Shores-Additional Photo Control Points 3 08 2017.dwg

<p>RATIO:</p> <p>1:400</p> <p>(AT A1 ORIGINAL)</p>	<p>DATUM:</p> <p>AUSTRALIAN HEIGHT DATUM</p> <p>ORIGIN: SEE NOTES</p> <p>DATE OF PLAN: SEE NOTES</p>	<p>SURVEY</p> <p>DESIGN</p> <p>DRAWN</p> <p>CHECK'D</p>	<p>SEE NOTES</p> <p>SEE NOTES</p> <p>SEE NOTES</p> <p>SEE NOTES</p>	<p>REV</p> <p>A</p> <p>B</p>	<p>DESCRIPTION</p> <p>Additional Detail Shown In Blue</p> <p>Additional Camera Locations Shown In Green</p>	<p>BY</p> <p>MH</p> <p>MH</p>	<p>DATE</p> <p>13.06.2017</p> <p>03.08.2017</p>	 <p>allen price & scarratts pty ltd land and development consultants</p> <p>Head Office: 75 Plunkett Street, Nowra NSW 2541 Kiama Branch: 5/125 Terralong Street, Kiama NSW 2533 phone: (02) 4421 6544 fax: (02) 4422 1821 consultants@allenprice.com.au www.allenprice.com.au</p>	<p>CAMERA LOCATION & PHOTO REFERENCE POINT SURVEY</p> <p>ENDORSED ON PLAN BY C. ROBSON & ASSOCIATES PTY LTD</p> <p>OVER PART OF LOT 1 DP 743509 & LOT 202 DP 1054190</p> <p>COLLINS STRET, TERRALONG STREET & MEARES PLACE, KIAMA</p> <p>FOR KIAMA SHORES PTY LIMITED</p>	<p>DRAWING STATUS</p> <p>DRAWING NUMBER</p> <p style="font-size: 24px; font-weight: bold;">127364-3</p>	<p>SHEET</p> <p style="font-size: 24px; font-weight: bold;">1</p> <p>REVISION</p> <p style="font-size: 24px; font-weight: bold;">B</p>
	 										



ATTACHMENT C

VIEW ASSESSMENT ADDENDUM REPORT PREPARED BY RICHARD LAMB & ASSOCIATES

DA Kiama Shores Seniors Living



Views Assessment Addendum Report

Report prepared for DTB Architects on behalf of

Kiama Shores Pty Ltd

by Dr. Richard Lamb and Jane Maze-Riley

September 2017

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Richard Lamb and Associates (RLA) have been appointed by Kiama Shores Pty Ltd to undertake an assessment of potential visual impacts in relation to a proposed development at 23 Meares Place and 33 Collins Street in Kiama.

RLA are specialists in visual analysis and visual impact assessment of projects ranging from individual residences to urban release areas. The company specialises in landscape assessment, landscape heritage conservation, visual impacts and strategic planning for visual protection and conservation of cultural landscapes. Dr. Lamb, the principal author of this report, has 30 years' experience in development assessment, landscape assessment and landscape management. RLA have been engaged to provide independent visual analysis of many Major Projects, planning proposals and development applications in urban settings similar to the subject site (the site).

A CV for Dr Richard Lamb, principal of RLA can be viewed or downloaded from the RLA website at www.richardlamb.com.au. A summary CV is attached to this document at Appendix 2.

This report is an Addendum to a Visual Assessment Report prepared in November 2016 and should be read in conjunction with that report which includes a full description of the proposed development, site context and visibility. This report includes additional information including a response to visual impact queries raised by Council in May 2017 and our assessment of views from additional neighbouring residential units at 21 Meares Place.

Our assessment of potential visual effects and impacts of the proposed development on views from all units at 21 Meares Place is based on an analysis of block model photomontages prepared by Digital Line Pty Ltd, architectural illustrators, analysis of the views from selected private domain locations and on field work in relation to the visibility, visual exposure, and visual effects on views and streetscapes. Photographic plates which show private and public domain viewing locations have not been reproduced in this addendum report and can be viewed in our original report. Block-model photomontages from residential dwellings located in Minnamurra Street and 21 Meares Place showing the effect on views of the amended plans are included in Appendix 1.

1.0 Background to the proposal

The DA is for a seniors' living development which is predominantly three storeys in height above ground and includes 2 levels of basement car parking. The proposed development includes built form which is broadly square-shaped around a central ground level courtyard. Above ground level the first and second storeys form a rectangular shaped floorplate and fully enclose the central communal courtyards below.

A separate building component at 33 Collins Street includes 3 storeys of residential accommodation, commercial space and a partial excavated basement for services etc. This building is located in the south-east part of the site adjacent to existing retail and commercial uses located along the west side of Collins Street. Overall the built form proposed steps down in height to the east and south-east reflecting the fall in topography across the slope.

DA plans prepared by DTB Architects Pty in September 2016 show that the proposed development complies with the Kiama Local Environmental Plan (KLEP) height control of 11m and a side setback to above ground built form of 6m in respect of the north, west, and south boundaries. A zero setback to No.33 Collins Street in the east has been included in the design in response to legislative controls for Seniors Living development and in the Apartment Design Guide. The Kiama Development Control Plan (KDCP) also encourages uniform building alignment within the Kiama Town Centre and as such the east façade of the proposed built form is closely aligned with adjacent developments.

2.0 Responses to Council's queries

We refer to a letter from Kiama Municipal Council dated 23 May 2017 which includes several queries in relation to our visual assessment report November 2016. We have responded to points that are relevant to view loss below as referenced by the Council.

Points 2 and 3

Discrepancies that were either noted or claimed to exist in relation to survey data shown on original survey plans prepared by Robson and Associates Pty Ltd surveyors and view inspection locations surveyed by Allen Price and Skarratts Pty Ltd registered surveyors (Skarratts), have been clarified. Skarratts have undertaken additional survey work as shown in blue on plan 127364-3 rev A dated 13 June 2017. We refer to this as the updated survey plan.

Skarratts' surveyed camera lens heights and locations undertaken on the day of our original photography and under our direction are tabulated and shown on the updated survey plan, in red. The levels relate to the height and location of the centre of camera lens which was mounted on a tripod at 1.6m above floor level in each instance. RLA have cross-checked the height of the camera lens recorded by Skarratts by reference to that of the floor levels at No 30 and 36 Minnamurra Street as recorded by Robson's in an original survey of the site, as an independent check. Levels of external balconies at these locations are correct eg. camera height at No.36 balcony is recorded as 34.62 which is 1.6m (height to the lens of the camera when mounted on our tripod) above the balcony height recorded by Robson, of RL 33.02.



Figure 1 Site location and private domain view locations

③① Private Domain Viewing locations (house numbers)

□ Approximate site boundary

In addition, RLA have cross-checked the 'blue' levels on the amended survey plan with levels shown in red on the same plan. For example, the balcony level 6/ 21 Meares Place is recorded as RL 34.98. The surveyed camera lens height at 1.6m above the floor level at the same location was RL36.58. Levels recorded on this plan show that the balcony levels at all locations from which photographs were taken and photomontages prepared, correlate exactly. Therefore, RLA can confirm that the locations and levels from which all photographs were taken for the purposes of preparing photomontages and analysing view loss, have been accurately recorded.

Further, drawing DA 105 prepared by DTB Architects shows a part section C that indicates the relative heights of the balcony level at unit 6/21 Meares Place and the highest part of the proposed development in the north corner of the site. Part section C shown on plan DA105 is based on section DD shown in DTB dwg DA.15 rev B dated 13 June 2017. This is the finished roof level (FRL) of unit 313 which at RL 37.94 which sits approximately 3.0m below the LEP height control of 11m which applies to the site. Therefore, the proposed development is at a height of approximately 1 residential story below the allowable height for development on the site.

On the day of views inspections in relation to the assessment report and fieldwork under the direction of RLA for Meares Place, a series of additional 3D reference points independent of the existing survey were also surveyed and verified. These were used to accurately locate the 3D model of the proposed building relative to the photographs.

RLA's certification as to the accuracy of the method used for the preparation of all photomontages originally including in our report stands. The level surveyed at unit 6/21 Meares place on the first and second occasions of documentation is the same and the camera location and level used to prepare the original photomontage of the view from that unit was correct and did not rely on any other levels. The claimed discrepancies between the Robson survey and Skarrats original survey were of no consequence, as the location and RL of the camera was correct and has subsequently been verified yet again. The questioning of the accuracy of the photomontages is therefore baseless and is rejected.

Point 4

A letter requesting access for RLA to inspect views was delivered to all units at No. 21 Meares Place. Only one response was received, from unit 6 at 21 Meares Place and no response was received from the body corporate of the building. We understand that with the exception of 6/21 Meares Place, the remaining units are either tenanted or occupied only infrequently by their owners, probably explaining the low response rate. With the assistance of Council and residents, in particular the owner of unit 6/21 Meares Place, RLA revisited the site and inspected views from all the units. Our assessment is described below in Section 3 and summarised in Table 1.

In respect of the views inspection and photomontage preparation for Unit 6, RLA accessed Unit 6 via external stairs from a yard that is intermediate in level between the garage and first floor. We agree that 6/21 Meares Place is not a single storey unit as had been stated previously. That designation was intended to convey the fact that unit 6 has only one living level above a garage whereas most other units have two. During our first views inspection visit the owner did not take us to any other potentially affected viewing locations to inspect views or to the garage ground level, which we now understand is a tiled space used as an art studio.

When we re-visited 6/21 Meares Place we were shown views from the kitchen and lounge/dining area (see Appendix 1). We had a new photomontage prepared to show the effect on views from the balcony of 6/21 Meares Place, as there were amended plans. The new photomontage is also in Appendix 1.

Point 5

As a principle in considering the reasonableness of a proposal in *Tenacity*, a development that complies with the development controls would be considered more reasonable than one that breaches them. Importantly in *Tenacity* if a breach of controls does not lead to view loss, the reasonableness question may not arise.

Our report concluded that the proposed development would result in devastating view loss for Unit 6/21 Meares Place. However, in relation to Council's claim that we ought to have applied the 'more skilful design' question in Step 4 of the *Tenacity* planning principle for view sharing, we considered that this was not warranted, as it was unreasonable for 6/21 Meares Place to expect to retain the existing views from a unit with a single living level above ground level, in the light of the planning controls. We note that the balcony level at 6/21 Meares Place at RL 35.00 is lower in height relative to the tallest part of the proposed built form eg. unit 313 in the north corner of the site at RL 37.94. As discussed above the built form at this location is approximately 3.0m below the LEP height control. When both heights are combined this is approximately 4.6m or equivalent to one and a half residential storeys in height. In other words if the top storey of the proposed development was removed views from unit 6/21 Meares Place would still not be possible over the site. In addition, the proposal is fully compliant with the development standard for height of buildings and therefore the more skilful design question in *Tenacity* does not arise.

Therefore, based on levels confirmed by the amended survey plan, amended architectural sections etc and the height and scale of the development that is contemplated by the controls, notwithstanding view loss has been assessed as devastating, RLA consider it to be reasonable in the circumstances.

2.1 Inspection of Views from 21 Meares Place

As part of our analysis of private domain views, RLA was responsible for contacting and arranging access to properties adjoining the subject site in order to inspect views. As a result of a desktop review and observations made during fieldwork we determined the location and addresses of neighbouring buildings from which views could be potentially affected by the visual effects of the proposed development.

In relation to this addendum report access to all units at 21 Meares Place was arranged by Kiama Council. RLA inspected views from units 1, 2, 3, 4, 5 and 6 at 21 Meares Place on Thursday 3rd August 2017 in the presence of Brendan Leo, Acting Manager of Development Assessment at Kiama Municipal Council.

Our visits to each dwelling were coordinated with the attendance of a registered surveyor so that the location and height of the camera lens used to take all photographs could be accurately located and preparation of block model photomontages would comply with the Land and Environment Court of New South Wales practice note for the use of photomontages in evidence in the Court.

The subject site is a rectangular block with its top or northern most corner orientated directly north. 21 Meares Place is located adjacent and west of the subject site and shares a boundary with it. The building is a long broadly rectangular part-two and part-three residential building which is orientated west-east so that its primary elevation is to the south. Unit 1 at the western end presents to Meares Place and what we take to be the front boundary, whilst the remaining units present to the south ie to the side boundary of this property. The units are numbered 1 to 6 with unit 1 at the western end of the building and unit 6 at the eastern end. Units 2-5 include two floors of living space above ground level garaging. The internal layouts of each unit are the same with kitchen, living and dining areas located on the first floor and bedrooms on the second floor. Units 1 and 6 at either end of the block are single level units, each located above a garage. In this way, all potential views from units 2-5 are to the north or south whilst units 1 and 6 have additional window openings and potential views to the west and east respectively. Figure 1 is an aerial image which shows the location of 21 Meares Place and the layout of units relative to the subject site.

Notwithstanding the technical definition of front or side boundaries, we consider that primary views from units at 21 Meares Place ie those from primary living areas, are to the south and more obliquely to the south-east. The central location of the residential development across its block, leaves the north and south parts of the site free of built form. We observed that the front (south) triangular part of the site is characterised by ground level carparking and dense vegetation. The vegetation includes ornamental planting along inside its land and mature native and other species in the southern corner of the site. Mature trees in this area include *Allocasuarina sp*, *Banksia sp*, *Eucalyptus sp*, and *Syagrus sp* (Cocos palm) which collectively provide significant screening effects in outward views to the south from the dwellings at 21 Meares Place.

The vegetation that causes the screening of views in this direction, with the exception of three Cocos Palm trees, is predominantly composed of species and trees of a size that are subject to the provisions of the Tree Preservation Order of Council and we understand would not be permitted to be removed. Minor pruning as permitted would not result in a significant increase in view availability. We have not relied on the presence of the vegetation as a matter that increases the merits of the application, however, we point out that it is an objective fact that the vegetation is there, that it is in the property of 21 Meares Place and that it is likely that it will remain as it is for the foreseeable future.

We have summarised and tabulated the salient points of our analysis in the context of an assessment against the principles established by Roseth in the *Tenacity* judgement in the Land and Environment Court of New South Wales. Explanation of our understanding of the *Tenacity* process, steps and threshold criteria required to be met in relation to determining a rating for view loss is discussed in section 5.0 below and a summary of our analysis is shown in Table 1.

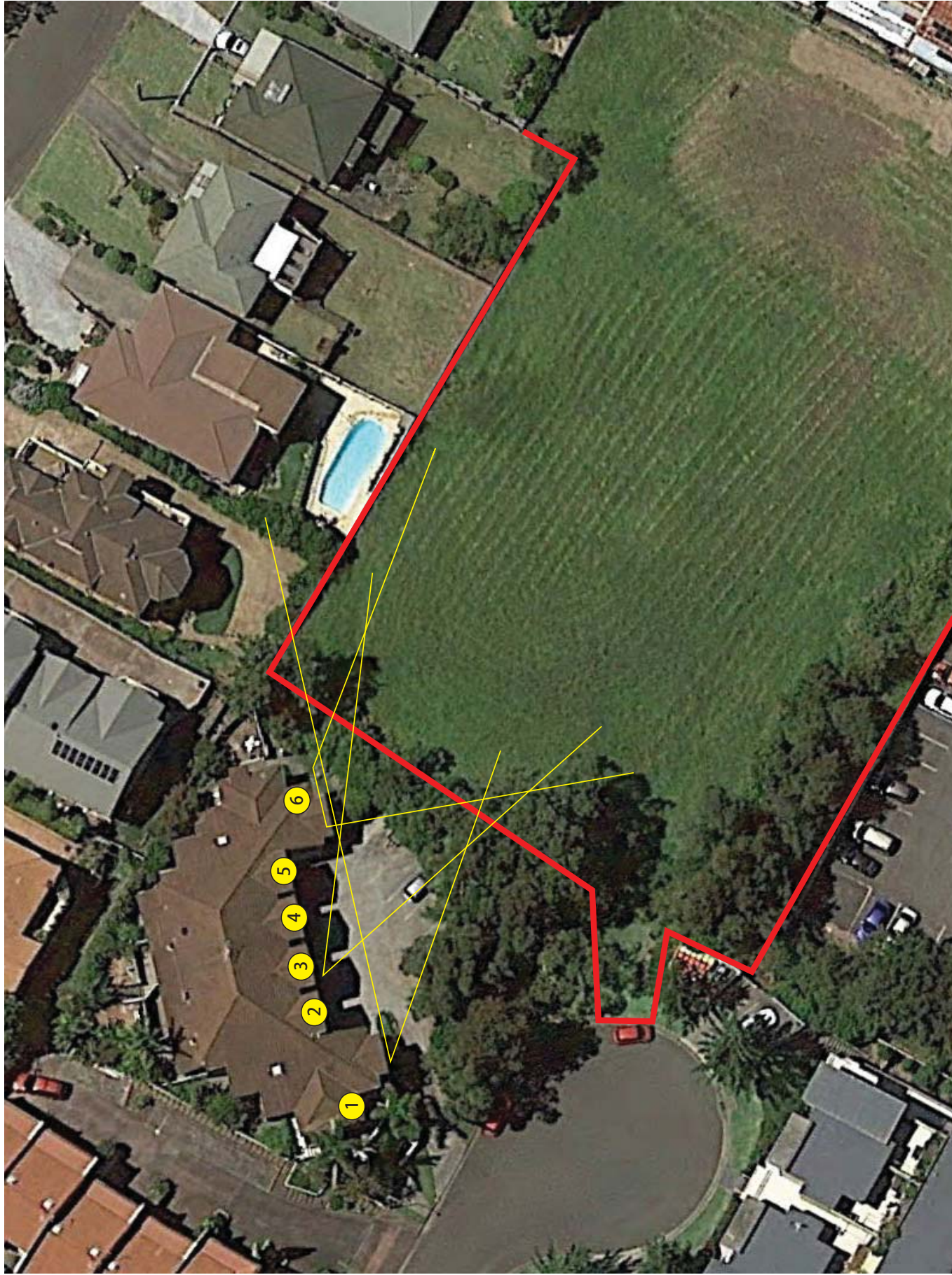


Figure 2 Location of 21 Meares Place

5

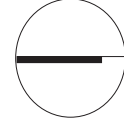
Unit numbers of dwellings within 21 Meares Place



Approximate site boundary



Indicative extent of available view from selected units



3.0 Analysis of private domain views and view sharing

	A	B	C	D	E	F
	Property Address	View location/room type	Existing View Access	Analysis of Photomontages	Relevant Steps in Tenacity Achieved 1 to 4	Potential View loss Rating (negligible, minor, moderate, severe, devastating)
1	30 Minnamurra Street	Rear upper deck, adjacent to a living room	Views to the site are constrained by existing vegetation and include district views and residential development on north facing slopes and small amount of the horizon formed by a ridgeline	The proposed development is located in the foreground of the view. It will block all district views in this direction	Step 1, 2 and 3. Views are lost but are not considered to include highly valued features	Minor
2	32 Minnamurra Street	External rear deck	District view south-west across site including residential development on north facing slopes, heritage items and vegetation	Views lost include the commercial development in the mid-ground, residential development, heritage items and vegetation and ridgeline horizon	Steps 1, 2 and 3, views lost include valued items e.g. heritage items and vegetation located in the ground of the heritage items.	Minor
3	36 Minnamurra Street	External rear deck	District views south across site including residential development on north facing slopes including heritage items and vegetation	Views lost include the commercial development in the mid-ground, vegetation and residential development. Heritage items and vegetation located on the upper slopes and the ridgeline will remain in view.	Step 1 only. Views are lost but are not considered to include highly valued features	Minor
4	38 Minnamurra Street	Rear enclosed deck adjacent to living room	horizontal district views to south and south-east including development on northern slopes	Views lost include the mid-ground, vegetation and residential development. Heritage items and vegetation located on the upper slopes and ridgeline will remain.	Step 1 only. Views are lost but are not considered to include highly valued features	Minor
5	42A Minnamurra Street	External front deck	Views east across north-eastern part of site including district views to north facing slopes and water views	The proposed development is located below the horizontal view line and block a small amount of mid-ground commercial development	None	None
6	42B Minnamurra Street	External front deck associated with living area	Views south-east and east across the entire site including horizontal and downward views to Kiama Town Centre, heritage items, Kiama harbour and headland reserve, areas of land-water interface and open areas of ocean	The majority of the development is located below the horizontal view line. The scenic and highly valued features will remain visible in the composition of the view.	Step 1 only. Views are lost but are not considered to include highly valued features	None
7	Unit 1, 21 Meares Place	External 1st floor unit front balcony associated living area	A narrow oblique view to the east include the northern corner of the site. The view includes foreground carpark, mid-ground residential development and filtered distant views to areas of undifferentiated ocean. Views to the south are screened by dense vegetation that exists within 21 Meares Place.	The development extends above the horizontal view line in this view. The mid-ground composition of views will change significantly.	Step 1. Views are lost but are not considered to include highly valued features	Minor
8	Unit 2/21 Meares Place 1st floor	External 1st floor balcony associated with living area	Oblique view east includes north west corner of the site, residential development, Norfolk Island pines in gardens and the Harbour headland and a small area of ocean horizon. the south-east view is significantly screened by existing vegetation within 21 Meares Place.	The development extends above the horizontal view line in this view. Most of the natural features in the view will be lost.	Steps 1-4. Views are taken away, from standing and seated positions on the first floor balcony.	Severe
9		External 2nd floor bedroom balcony	Views to the south-east includes part of the site. Views to the south are screened by dense foreground vegetation in 21 Meares Place. View includes include mid-ground development, part of Kiama headland, and areas of undifferentiated open ocean.	The development is below the view line and the horizon is retained as a whole view element, including ocean, horizon, headland and cultural vegetation.	Steps 1-4. Views are taken away, from standing and seated positions on the second floor balcony. A significantly greater loss of view would be caused by a fully complying development.	Moderate
10						

	A	B	C	D	E	F
	Property Address	View location/room type	Existing View Access	Analysis of Photomontages	Relevant Steps in Tenacity Achieved 1 to 4	Potential View loss Rating (negligible, minor, moderate, severe, devastating)
1	Unit 3/21 Meares Place	External first floor balcony associated with living area	Slightly oblique view east includes part of the site, residential development, Norfolk Island pines in gardens and on Harbour headland and a small area of land-water interface in Kiama Harbour, with ocean horizon. The south view is significantly screened by existing vegetation within 21 Meares Place.	The development extends above the horizontal view line in this view. Most of the natural features in the view will be lost.	Steps 1-4. Views are taken away, from standing and seated positions on the first floor balcony.	Severe
11		External 2nd floor bedroom balcony	Views to the south-east includes part of the site. Views to the south are screened by dense foreground vegetation in 21 Meares Place. View includes include mid-ground development, part of Kiama headland, and areas of undifferentiated open ocean.	The development is below the view line and the horizon is retained as a whole view element, including ocean, horizon, headland and cultural vegetation.	Steps 1-4. Views are taken away, from standing and seated positions on the second floor balcony. A significantly greater loss of view would be caused by a fully complying development.	Moderate
12	Unit 4/21 Meares Place	External 1st floor balcony associated with living area	Views available to the south-east includes most of the site. The south corner of the site is screened by existing vegetation within 21 Meares Place. The remaining view includes, built form of unit 6/21 Meares, mid-ground development, a small area of water in Kiama Harbour, parts of Kiama Headland, ocean horizon and open areas of undifferentiated ocean.	The development extends above the horizontal view line in this view. Most of the features in the view will be lost.	Steps 1-4. Views are taken away, from standing and seated positions on the first floor balcony.	Severe/devastating
13		External 2nd floor bedroom balcony	Views available to the south-east include parts of the site. The south-east corner of the site is screened by existing vegetation within 21 Meares Place. The remaining view available to the east includes mid-ground development, parts of Kiama Harbour between vegetation, parts of Kiama Headland and open areas of undifferentiated ocean.	The development is below the view line and the horizon is retained as a whole view element, including ocean, horizon, headland, heritage items and cultural vegetation.	Steps 1-4. Highly valued views are taken away, from standing and seated position on the deck associated with bedrooms. A significantly greater loss of view would be caused by a fully complying development.	Moderate
14		External 1st floor balcony associated with living area	View is confined to a narrow angle by projecting form of unit 6 and by vegetation in 21 Meares Place to the south west.	The development extends partly above the horizontal view line in this view. Most of the mid-ground features in the view would be lost.	Steps 1-4. Views are taken away, from standing and seated positions on the first floor balcony.	Minor
15		External 2nd floor bedroom balcony	Views to the south are screened by dense vegetation which exists within 12 Meares Place. Views to the south-east include part of the site. Oblique foreground views to the south-east include the built form of 21 Meares Place ie. roof form of unit 6, development on Collins Street and Kiama, part of Kiama Harbour, Part of Kiama Headland and undifferentiated areas of ocean.	The development is below the view line and the horizon is retained as a whole view element, including ocean, horizon, headland, heritage items and cultural vegetation.	Steps 1-4. Some valued views are taken away, from standing and seated position on the deck associated with bedrooms. A significantly greater loss of view would be caused by a fully complying development.	Minor/moderate
16	Unit 6, 21 Meares Place	External front balcony associated with living area	Oblique views to the south-east across the majority of the site and direct views to the south across the parts of the site are available. Downward views include commercial development in Collins Street, heritage items e.g. church, parts of Kiama Harbour and headland reserve, areas of land-water interface and open areas of ocean.	The development extends above the horizontal view line in this view. All scenic and highly valued features in the view will be lost.	Steps 1-4. Valued items are affected, from standing and seated positions on the main balcony and adjacent living area. This is a whole view and only view available from the living area. Views from other locations in the dwelling are also affected.	Devastating
17						

	A	B	C	D	E	F
1	Property Address	View location/room type Kitchen view	Existing View Access Views south-east across the site. The composition is similar to the balcony view described above except that it is constrained by the structure of the window opening.	Analysis of Photomontages The development extends above the horizontal view line in this view. All scenic and highly valued features in the view will be lost.	Relevant Steps in Tenacity Achieved 1 to 4 See above	Potential View loss Rating (negligible, minor, moderate, severe, devastating) Devastating
18						

4.0 Summary of visual effects - private domain

Parts of the proposed built forms will contribute new height, bulk and scale in the composition of views to the south and south-east for the majority of private domain views inspected. The extent of visibility is influenced by the orientation of the dwellings to the site, the viewing locations in the dwelling and their height relative to the site and the location and height of proposed built forms.

Overall, the external visibility of the site increases as the viewing locations and location of each dwelling increases in elevation. Notwithstanding properties located north-west of the site are elevated relative to it, they are also exposed to views which include a greater proportion of the site and the proposed development.

The majority of dwellings will be exposed to view loss from south facing windows associated with living spaces or decks which are located at the rear (south) of the dwellings. Properties at No.32, No.34 (although not inspected) and No.36 Minnamurra Street located towards the east end of Minnamurra Street are relatively low-placed and similar in elevation to the site. The composition of views from these locations will include significant change, for example a continuous 3-storey built form, which steps down the slope. Therefore, views lost will include foreground and mid-ground features such as commercial development, and development on the north facing slopes opposite the site. No views of water, land-water interfaces or icons identified in *Tenacity* as highly valued are available from these lower locations. In our opinion *Tenacity* has no work to do if there is no loss of valued items, as the threshold for proceeding with application of the planning principle is not met in that case.

No.30 Minnamurra Street is the eastern-most and lowest placed dwelling inspected by RLA. A row of mature conifer trees located along the southern boundary of the property filter and block views across the site. However a small 'gap' in this vegetative screen allows views into and across the subject site. This could be described as a 'whole view' ie. it includes foreground open-space in the subject site, mid-ground commercial and residential development and distant views of north-facing slopes which form the horizon in the view available between trees. In this sense the whole view will be lost.

No.32 Minnamurra Street is only marginally above the ground level of the closest parts of the site and proposed development and will be exposed to significant visual effects. The proposed development will introduce a new three-storey continuous form in the foreground composition of views. This will block views to the south which are predominantly characterised by district views and do not include scenic features which are highly valued in *Tenacity* such as land-water interfaces or icons but do include heritage items and vegetation associated with the items. The proposed development will block views to the horizon to the south which is formed by landform and development. In this regard, while *Tenacity* has no work to do if there is no loss of valued items, the composition of the view and its open vista will be substantially changed. Intervening vegetation in its garden filters or blocks views in the case of No.20 Meares Place.

Photomontages were prepared by Digital Line, expert architectural illustrators in July, 2017 based on amended plans, which took into account a discrepancy in levels of approximately 200mm between the constructed slab and finished roof levels. The photomontages show the changed levels and some amendments to unit layouts. The amended photomontages of views from Minnamurra Street properties are included in this report in Appendix 1.

Views from each living level at each unit at 21 Meares Place were inspected by RLA on August 3, 2017 and our camera location and lens height above each floor level at each location was surveyed by Skarratts as had been done for the photomontages in our original report. This information has been recorded in green and added to the amended survey plan Rev B DWG 127364-3 dated 3rd August 2017. We refer to this plan as the further amended survey plan.

This plan shows that all lower balconies at Meares Place are at the same height or are within a few millimetres in height of each other at RL 35. For example, the first floor balcony at unit 1/21 Meares Place has a camera lens height of RL 36.55 which includes 1.6m for the tripod and camera to replicate standing eye height to the centre of the lens. Unit 6/21 Meares Place has a balcony height of RL 35 and camera lens height of RL 36.6. This data provides further confirmation of the accuracy of the survey data that was recorded on the amended survey plan in blue in June 2017 which records the balcony height of unit 6/21 Meares Place as 34.98. The analysis of views from other locations within unit 6/21 Meares is included in section 3.0 and in Table 1.

View compositions available from the first and second floors vary for units depending on their location from west to east along the length of the apartment building (see Figure 2). For example, views from Unit 1 at the western end are more constrained toward the south by vegetation within the property, compared for example to views from a central unit 3 or 4. As a result, views from the western end of the block are constrained to a view cone between existing vegetation (within the Meares Place property) and by the built form of unit 6/21 Meares Place and oriented predominantly to the east and east-south-east. Views from the 2nd floor of central units are less constrained and include a wider arc of view to the south-east including highly valued scenic items, for example parts of Kiama Harbour and Headland. Views from the first floor of unit 5/21 Meares Place at the eastern end of the building are constrained to the east and south-east by the projecting built form of unit 6. The view from the second floor of unit 5 is less constrained but still includes the pitched gable roof form of unit 6 in the foreground.

Views from Unit 6/21 Meares Place to the south and south-east are available from living and kitchen areas. Two window openings are located in the south elevation of the unit. The whole view to the south-east from both locations will be blocked by the height and form of the proposed development. Part of the existing oblique views available to the east from a seated position in the west side of the living area and from the west side of the balcony will remain available. We observed that such oblique views to the east do not include highly valued scenic items. Existing views to the south-east that will be lost include a small area of land-water interface within Kiama Harbour and scenic features which are highly valued in *Tenacity*. The views also include heritage items and vegetation associated with the items. It should be noted that areas of undifferentiated water although scenic are not considered as highly valued relative to areas of land-water interface in *Tenacity*.

First floor views from all units will be exposed to view loss with views from the second floor where present (units 2-5) being less affected. In our opinion, potential view loss for the first floor of unit 1 does not include items that are highly valued in *Tenacity* terms and therefore there would be no substantive view loss. Units 2, 3, 4, 5 and 6 will be exposed to potential view loss including features that are highly valued in *Tenacity* terms and in this regard such views have been assessed against the relevant steps in the *Tenacity* planning principle in section 5.0 below and are summarised in Table 1.

5.0 Assessment under *Tenacity* in relation to 21 Meares Place

The amended plans make no significant difference to view from the Minnamurra Street properties and the existing assessment of the visual impacts stands.

We have now had the opportunity to analyse views and view loss for all of the residences in 21 Meares Place and therefore a new assessment is required. The assessment below follows the guidance provided by Senior Commissioner Roseth in the Land and Environment Court of NSW (LEC) in *Tenacity Consulting v Warringah (Tenacity)* in relation to the assessment of view loss in the private domain.

In the judgement in *Tenacity* Roseth SC defines a four-step process to assist in the determination of the impacts of a development on views from the private domain. The steps are sequential, meaning that proceeding to further steps may not be required if the conditions for satisfying the preceding threshold is not met in each case.

Step 1 Are views taken away?

An initial threshold in *Tenacity* is whether a proposed development takes away part of the view and enjoys it for its own benefit. If it does, the other steps in the planning principle, beginning with Step 1, may need to be undertaken. However, if there is no loss or if the items lost are not considered to be valued, the threshold is not met and there is no justification for proceeding to Step 2 or other steps beyond Step 2.

Substantive views are taken away by the proposed development from units 2, 3, 4, 5 and 6 which include highly valued features. For details of the existing and proposed view composition from each unit, please refer to Table 1.

Step 2: From where are views available?

This step considers from where the affected views are available in relation to the orientation of the building to its land and to the view in question. Roseth SC points out in *Tenacity* that views from the front or rear of the residence are more easily protected than views across the side boundary, as are views from the standing rather than a seated position. An oblique view or view across a side boundary where loss exists only from a seated position may not exceed the threshold justifying proceeding to Step 3, where the extent of the impact is considered.

Views from all units to the south-east to scenic features are oblique and gained across a side boundary of the property and of the subject site. However, in our opinion, these are also primary views from the front of units and therefore the threshold is met to proceed to Step 3 of the assessment for units 2-6, Meares Place.

Step 3: Extent of Impact

The impacts are assessed from all views from all areas within a property, not only the place from which specific views are affected. The likely amount of impact in each view and the location from which it is viewed must be considered. The location is relevant regarding the kind of place from which the view is seen. Living spaces such as living rooms and kitchens, in which people customarily spend long periods of time are given more importance than bedrooms or service areas. The potential impacts are best described qualitatively on a scale from lowest to highest as negligible, minor, moderate, severe or devastating.

Step 3 also contains a threshold test. If the extent of impact is negligible or minor for example, there may be no justification for proceeding to Step 4, because the threshold for proceeding has not been met. In that case the reasonableness question in Step 4 does not need to be asked.

To summarise across the site, views affected include primary views from main living areas ie, living rooms, dining areas and for unit 6/21 Meares Place, also from the kitchen. Notwithstanding views to the north from the rear of the dwellings will be unaffected by the proposed development, view loss from the front of all but unit 1 includes scenic and valued features from important areas of the affected units. Scenic and valued items in the views from the second floors of units 2-5 would be retained to varying degrees. View loss from the primary living areas adds weight to the overall rating of view loss. Broadly to summarise the impacts listed in Table 1, potential view loss can be equated to a sliding scale from minor to moderate at the west end of the building to severe to devastating at the east end of the building. This assessment confirms that unit 6/21 Meares Place would experience the greatest level of view loss, as had been determined previously.

The level of view loss justifies proceeding to the final step in *Tenacity*.

Step 4: Reasonableness

The planning principle states that consideration should be given to the causes of the visual impact and whether they are reasonable in the circumstances. As stated in the preamble to the four-step process in *Tenacity*, a development that takes the view away from another residence may notwithstanding be reasonable.

As a principle in considering the reasonableness of a proposal in *Tenacity*, a development that complies with the development controls would be considered more reasonable than one that breaches them, if the breach leads to view loss. In that there is another threshold test. If a breach of controls does not lead to view loss, the reasonableness question in relation to view sharing does not arise.

Severe and devastating view loss is caused to views that are available from standing locations at the first floor of units near or at the eastern end of the building i.e. the first floor above a garage. The most severe view loss would be at Unit 6/21 Meares Place a single level unit, with views available from a floor level at RL 35 and eye height of RL 36.6 when standing. The owner pointed out rightly that her eye height is less than the conventional 1.6m and that seated views would be more affected.

The proposed development complies with height and setbacks controls, which are those most relevant in respect of view loss. In fact, the height of the proposed development at its closest point to Unit 6/21 Meares Place is approximately equivalent to a whole storey below the LEP development standard for height of buildings. As a result, we concluded in our original assessment that it was

not unreasonable for the view to be lost, as the development controls contemplate a built form that would be likely to cause much more severe view loss and in addition, that the proposal more than complies with the relevant controls.

A question in *Tenacity* that arises for a complying development is whether a more skillful design would retain the development potential and amenity of the development and result in better view sharing. Council claimed that the more skillful design question should be addressed in our assessment. We considered that that this was unnecessary, as the proposal more than complies with the controls and that it would be an unreasonable expectation for units to retain existing views from the first floor level. As unit 6/21 Meares Place has no other living level, it would therefore be an unreasonable expectation that the view be retained, in our opinion. However, in response to Council's claim that our assessment was somehow deficient in not pursuing the more skillful design question further, we have considered this issue, as follows:

The more skillful design question is one that is not a general question (ie. whether a different design would result in better view sharing). It is a consideration to be confined to the application before the consent authority, ie, the question is whether more skillful treatment of the proposal, such as modifications of the existing design of the proposal, would result in the same development potential and amenity and better share views. This interpretation of the more skillful design test has recently been confirmed in *Arnott v City of Sydney Council [2015] NSWLEC 1052*. At paragraph 72 of *Arnott*, Commissioner O'Neill states:

*... The skillful design test is not about whether a design is skillful, in the sense of the architect's expertise in creating a successful architectural composition; instead the intent of the fourth step is to look for opportunities within the massing and form of the proposal to minimise the impact on views across the site, whilst maintaining the capacity to reasonably develop the site. This is evident in Dr Roseth's own words at paragraph 29 of the Tenacity planning principle, 'whether a more skillful design could provide the applicant with the **same development potential and amenity**' [bold added]. It is partly for this reason that the Tenacity planning principle is less helpfully applied to impacts on views from individual apartments within residential apartment buildings, as there are generally more limited opportunities to rearrange massing to preserve what is often a singular orientation to a view. For this reason, it is also appropriate to consider the residential apartment building as a whole in assessing view impacts.*

With regard to the height of the proposal, the standing eye level at the first levels of units at 21 Meares Place as exemplified in unit 6 is 1.5m below the roof height proposed, for a standing viewer. The proposed roof height is approximately 3m below the development standard for height of buildings on the site. A seated viewer's eye level would be even lower and approximately 2m below the height of the proposal and 5m below a compliant height at its closest point. Even if the building was a full storey lower in the view line from unit 6/21 Meares place, for example, and if that reduction in height occurred along the whole view line, which is obliquely across the site and would pass through not just the closest but several proposed units, there would be no significant view retained of highly valued items.

The proposed building steps with the slope in two directions relative to the closest part to 21 Meares Place, however the steps between units are not whole levels, as can be seen in the photomontage for the view from 42B Minnamurra Street, for example. As a result, removing the closest unit or units to units 4-6 Meares Place, for example, would expose other units beyond, to varying degrees. The exposed units would also cause view loss, although this would sequentially

less moving south east. As noted by O'Neill C in *Arnott*, *Tenacity* is less helpfully applied to impacts from individual apartments within residential apartment buildings, as there are *more limited opportunities to rearrange massing to preserve what is often a singular orientation to a view*. This is the current situation. The apartments affected share part of a limited and singular orientation to the view. Modifying the design to preserve their views would have a profound effect on the design and development potential of the proposal.

In our opinion, there would need to be wholesale changes to the height and massing of the building, if existing views were proposed to be retained for views from the lower living level of 21 Meares Place. Wholesale changes would require a reduction in the number of storeys proposed in the development across a significant proportion of the site. For example, if the view of the boat harbour was to be retained for 4, 5 or 6 Meares Place, it would appear that two storeys would need to be removed from the adjacent part of the building and for some distance to the south east through the building. The result would clearly be a loss of significant development potential on the site and could not be considered by any means a more skilful design outcome.

In the context of the planning controls and notwithstanding the view loss has been assessed as devastating for unit 6/21 Meares Place and less for the overall impact on other units, it would be unreasonable to expect that views could be retained from the lower living level of 21 Meares Place in the proposal, while providing the applicant with the same development potential and amenity. In this regard and having considered the more skillful design question, we consider the visual impacts of the proposed development to be reasonable in the circumstances.

5.1 Summary of Visual Impacts

The height and bulk of the proposed development is contemplated by the controls and in this context, it would be an unrealistic expectation for single and two-storey dwellings along Minnamurra Street and for the lowest living level at 21 Meares Place to expect to retain all views across this site, which have fortuitously been available for some time. In this regard, some view loss is inevitable in relation to development across a previously undeveloped site.

View loss for the lower living level at 21 Meares Place increases in severity from west to east, from minor to devastating, respectively. Units 1 and 6 Meares Place, which have a single living level, will experience minor and devastating view loss, respectively. The four central units 2-5 have second floors which would generally experience minor to moderate view loss. View loss considered for the whole building, as recommended by O'Neill C in *Arnott*, would in our assessment, be moderate.

Assessment of view loss from all units assisted in providing a more comprehensive context than provided by the original assessment of unit 6/21 Meares Place alone. We have considered both the reasonableness and more skillful design questions. In our opinion, notwithstanding the level of view loss assessed as devastating for the first floor of some units in 21 Meares Place, we consider the proposal to be reasonable as regards view sharing.



Richard Lamb and Associates

September, 2017



View from a rear upper deck of No.30 Minnamurra Street



View from a rear upper deck of No.32 Minnamurra Street



View from a rear upper deck of No.36 Minnamurra Street



View from a rear upper deck of No.38 Minnamurra Street



View from an east-facing balcony at No.42A Minnamurra Street



View from an east-facing balcony at No.42B Minnamurra Street



View from Unit 1/21 Meares Place first floor balcony



View from Unit 2/21 Meares Place first floor balcony



View from Unit 2/21 Meares Place second floor balcony



View from 3/21 Meares Place first floor balcony



View from 3/21 Meares Place second floor balcony



View from 4/21 Meares Place first floor balcony



View from 4/21 Meares Place second floor balcony



View from 5/21 Meares Place first floor balcony



View from 5/21 Meares Place second floor balcony



View from 6/21 Meares Place first floor balcony



Existing view from 6/21 Meares Place kitchen



Existing view from 6/21 Meares Place lounge/dining room



Example of the effect of existing vegetation in 21 Meares Place on the view south (Unit 2)



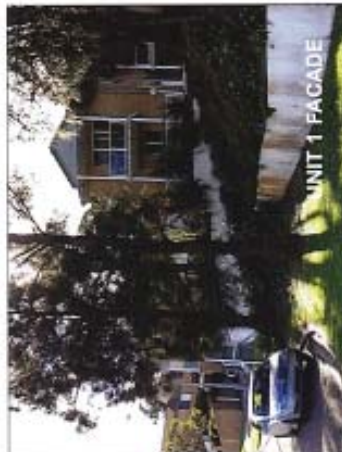
Example of the effect of existing vegetation in 21 Meares Place on the view south (Unit 4)



UNIT 6 FACADE



UNIT 4, 5&6 FACADE



UNIT 1 FACADE



STREET ENTRANCE UNIT 1



21 MEARES PLACE

CONTRACTORS NOTE
 The Contractor shall ensure all signed Assessments include the following information:
 A. EX. 11.10 DA ISSUE
 B. PROJECT TITLE
 C. PROJECT ADDRESS
 D. LETTER NO. (e.g. 2016.285.102.06.17)

REVISIONS
 A. 03.11.16 DA ISSUE
 B. 14.06.17 DA ISSUE
 C. 14.06.17 DA ISSUE
 D. 14.06.17 DA ISSUE

REVISIONS

**PRELIMINARY ISSUE
 NOT FOR CONSTRUCTION**

PROJECT TITLE
 SENIORS LIVING
 at
 23 MEARES PLACE & 33 COLLINS STREET, KLAMA NSW
 for
 KLAMA SHORES PTY LTD

DRAWING TITLE
 REAR SITE SECTIONS
 VIEW ASSESSMENTS



DTB ARCHITECTS PTY LTD
 PROJECT: SENIORS LIVING
 Scale: 1:100 (Overall Site)
 Drawn by: LM
 Checked: CD
 Product No: 1512
 This Issue: 14.06.17
 First Issue: 14.06.17



Summary Curriculum Vitae: Dr Richard Lamb



Summary

- Qualifications
 - Bachelor of Science - First Class Honours, University of New England
 - Doctor of Philosophy, University of New England in 1975
- Employment history
 - Tutor and teaching fellow – University of New England School of Botany 1969-1974
 - Lecturer, School of Life Sciences, NSW Institute of Technology (UTS) 1975-1979
 - Senior lecturer in Landscape Architecture, Architecture and Heritage Conservation in the Faculty of Architecture, Design and Planning at the University of Sydney 1980-2009
 - Director of Master of Heritage Conservation Program, University of Sydney, 1998-2006
 - Principal and Director, Richard Lamb and Associates, 1989-2016
- Teaching and research experience
 - visual perception and cognition
 - aesthetic assessment and landscape assessment
 - interpretation of heritage items and places
 - cultural transformations of environments
 - conservation methods and practices
- Academic supervision
 - Undergraduate honours, dissertations and research reports
 - Master and PhD candidates: heritage conservation and environment/behaviour studies
- Professional capability
 - Consultant specialising in visual and heritage impacts assessment
 - 30 year's experience in teaching and research in environmental impact, heritage and visual impact assessment.
 - Provides professional services, expert advice and landscape and aesthetic assessments in many different contexts
 - Specialist in documentation and analysis of view loss and view sharing
 - Provides expert advice, testimony and evidence to the Land and Environment Court of NSW and Planning and Environment Court of Queensland in visual and heritage contentions in various classes of litigation.
 - Secondary specialisation in matters of landscape heritage, heritage impacts and heritage view studies
 - Appearances in over 230 Land and Environment Court of New South Wales cases, submissions to Commissions of Inquiry and the principal consultant for over 800 individual consultancies.

A full Cv can be viewed on the Richard Lamb and Associates website at www.richardlamb.com.au