

4th COUNCIL REPORT

Panel Reference	2016STH032
DA Number	10.2016.286.1
LGA	Kiama Municipal Council
Proposed Development	Mixed Use –Seniors Living Development / Commercial - Demolition of existing structures, construction of an (amended) mixed use seniors living development comprising fifty-five (55) independent living units, three (3) caretaker apartments, one (1) retail shop of 157m ² and two (2) levels of basement car parking for seventy-eight (78) vehicles.
Street Address	Lot 202, DP 1054190 and Lot 1, DP 473509, 23 Meares Place and 33 Collins Street, Kiama
Applicant/Owner	DTB Architects Pty Ltd
Number of Submissions	Four (4)
Regional Development Criteria (Schd 4A of the Act)	Clause 3 General development over \$20 million The CIV for the proposed development is \$33.35M.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Water Management Act 2000 • SEPP (Housing for Seniors or People with a Disability) 2004 • SEPP No. 55: Remediation of Land • SEPP (Building Sustainability Index: BASIX) 2004. • SEPP 71 - Coastal Protection. • SEPP No. 65: Design Quality of Residential Apartment Development • SEPP 65 Apartment Design Guidelines • Kiama Local Environmental Plan 2011 • Kiama Development Control Plan 2012
Clause 4.6 variation?	Yes - KLEP 2011 Cl.4.3 Height of Building
SIC (S94EF)?	No
List all documents submitted with this report for the Panel's consideration	ATTACHMENT 1 - Schedule of Conditions
Recommendation	Approve
Report prepared by	Anthony Randall - Development Assessment Coordinator
Report date	28 November 2018

4th ASSESSMENT REPORT AND RECOMMENDATION

1. PURPOSE OF REPORT

The purpose of this report is to expand on matters required to be addressed in the assessment of the application specifically relating to:

- a. The considerations made by Council's expert and the Panels expert in the Land and Environmental Court Class 1 Appeal No. 17/352423
- b. SEPP Seniors Living - Clause 29 – Site Compatibility
- c. SEPP 55 – Remediation of Land – Site Investigation
- d. Kiama Development Control Plan 2012 – Car Parking - compliance with requirements
- e. Vegetation Management – impacts on existing vegetation of land adjoining the development site

This supplementary report is to be read in conjunction with the recommended conditions in Attachment 1 at the end of this supplementary report.

2. BACKGROUND

2.1. Land and Environment Court - Class 1 Appeal

The applicant filed a Land and Environment Court Class 1 Appeal (deemed refusal) on 16 December 2017, and a Section 34 Mediation Conference was held between the parties on 28 June 2018 between the Joint Regional Planning Panel members, the Council's Development Assessment Manager, and experts engaged by both the Council, and by the Southern Joint Regional Planning Panel. The hearing date set-down for the Land and Environmental Court Class 1 Appeal No. 17/352423 is 30 January 2019.

The application was subsequently amended by the proponent and submitted to Council on 5 September 2018 having regard to the negotiations held during the Section 34 Mediation Conference.

The amended application was referred to the Council's expert consultant architect, and the Southern Joint Regional Planning Panel's expert consultant planner.

As a result of the assessment undertaken by the Council's expert consultant architect, and the Southern Joint Regional Planning Panel's expert consultant planner, further amendments to the scheme were made including:

- Removal of the lift overrun in Building D. The amendments reduce the height of the roof by c.300mm and bring it into compliance with the 11m Height Development Standard with a commensurate reduction in the impact on the views of adjoining properties, particularly 21 Meares Street.
- Revisions to the privacy screens on the northern side of the development. Living room windows facing Minnamurra Street are shown with screens, however, these are indicated as fully openable. As the rooms in question all have a second opening which does not face the Minnamurra properties, the screen has been amended to be a fixed louvre style screen to minimise the privacy impact. This affects the north east facing living room window to units 20, 36, 47, 48, 53, 54 and 55.
- Revisions to the façade treatment of the Collins Street frontage of the development.
- Revisions to ensure the pathways and retaining structures are clear of the tree protection zones for vegetation adjacent the northern boundary.

The Council's expert consultant architect, and the Southern Joint Regional Planning Panel expert consultant planner are satisfied with the proposal as a result of the amendments, and in conjunction with imposition of conditions of consent.

The specific comments of the experts are set out below:


2.1.1. Council's Expert Consultant Architect

BHI Architects have been retained by Kiama Municipal Council to provide guidance on Architecture and Urban in relation to this matter.

BHI have previously reviewed documentation prepared by Kennedy Associates Architects, being Issue A, for the purpose of Conciliation proceedings held in Kiama on the 28th June, 2018.

Following these proceedings revised documentation has been prepared and identified as Issue C.

These plans and associated reports form the basis of the commentary in this report dated 9 November 2018. The review is based on the issues previously raised for the Conciliation conference and additional items in relation to the issue C documentation in the tables below:

<i>(i) Collins Street Streetscape Character</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<ul style="list-style-type: none"> • <i>The character of development directly adjoining Collins Street does not currently adequately address the heritage context of the Kiama town centre, and specifically the significant heritage value of the terrace houses opposite on Collins Street.</i> • <i>The elevation drawings as presented are not adequate to undertake a comprehensive review of the architectural and landscape character of the proposed building's presentation to the streetscape. A greater level of detail at a larger scale is required to make a full assessment.</i> • <i>It appears that heavy masonry elements form a canopy over the Collins Street commercial space is out of context with the town centre character and immediate context.</i> • <i>Articulation of the residential pedestrian entry, façade detailing and materials and colours in line with the town centre character controls.</i> • <i>It is recommended that the building facing the Collins Street streetscape is amended in consideration of the above and in reference to Kiama DCP Chapter 26 – Kiama Town Centre.</i> 	<ul style="list-style-type: none"> • <i>The character of the development has now been revised in relation to the Collins street façade. BHI believes the revised design now more adequately addresses the streetscape and the heritage context of the Collins Street precinct. (Refer to objectives DCP Chapter 26 Kiama Town Centre).</i> <p><i>However revisions are recommended as follows.</i></p> <ul style="list-style-type: none"> • <i>The awning over the footpath should be a more slender / light weight form of similar detail to the upper roof canopy.</i> • <i>The façade should incorporate Bluestone to the base element of the building as a local "signature" façade material for Kiama Town Centre.</i> • <i>A more recessive treatment to the soffit of the basement entry by the use of a darker grey colour similar the façade over.</i> <p><i>Refer to markup below</i></p> 

*(i) Collins Street Streetscape Character**Review - 27th June 2018**Review – Issue C, 8th November 2018**RESPONSE TO REVISED DOCUMENTATION – 12 November 2018*

BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018

The character of the development has now been revised in relation to the Collins street façade. BHI believes the revised design now more adequately addresses the streetscape and the heritage context of the Collins Street precinct.

This has been achieved through the adoption of the BHI suggested revisions to allow for a more recessive appearance, inclusion of bluestone cladding, and a lighter, less bulky footpath awning in response to the heritage Collins Street Terraces opposite the site.

*(ii) Architectural Character**Review - 27th June 2018**Review – Issue C, 8th November 2018*

- The amended built form of the development, with breaks in the massing to reduce the length of walls to boundaries and reduce the perceived bulk and scale of the development, is significantly improved and strongly supported by BHI.
- The rudimentary elevation and perspective drawings provided appear to present a generic, flat apartment character to the development. It is recommended that the principles of the Apartment Design Guide Part 4M Facades be addressed:

Design solutions for front building facades may include:

- *a composition of varied building elements*
 - *a defined base, middle and top of buildings*
 - *revealing and concealing certain elements*
 - *changes in texture, material, detail and colour to modify the prominence of elements*
- The facades are largely monochromatic in materiality and colour, giving a “cold” appearance. Variation in building elements, textures and colours should be introduced to add warmth and character to the building.

The revised documentation in regard to the built form is supported by BHI which now incorporates amendments to further address view sharing + height compliance

- The issue of colour and materiality has not been addressed in this revised application:
- The facades are largely monochromatic in materiality and colour, giving a “cold” appearance. Variation in building elements, textures and colours should be introduced to add warmth and character to the building.
- The primary facades of concern are views from Meares Place & from Terralong Street looking over the Leagues Club car park.

APPLY CONDITION OF CONSENT

<i>(ii) Architectural Character</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<p><i>Building facades should be well resolved with an appropriate scale and proportion to the streetscape and human scale. Design solutions may include:</i></p> <ul style="list-style-type: none"> <i>• well composed horizontal and vertical elements</i> <i>• variation in floor heights to enhance the human scale elements that are proportional and arranged in patterns</i> <i>• Finer scale articulation is not provided to the residential levels, resulting in a built form proportion which does not read to be sensitive to the human scale. A more finely detailed expression should be introduced to the facades, with proportions and patterns which better fit the human scale. The built form and architectural elements should be articulated to add dimension to the largely flat façade expression.</i> 	

RESPONSE TO REVISED DOCUMENTATION – 12 November 2018

BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018

The amendments to the facades have addressed BHI concerns with the design being too monochromatic in materiality and colour with greater variation in building elements and appropriate textures and colours introduced to add warmth and character to the building.

The revised design which now includes:

- Increasing the amount of “timber” elements*
- Increasing the variation in brick between the two types*
- Reducing the amount of painted render*

BHI support these revisions as a restrained colour pallet, which will enhance the expression of the building forms and integration with the landscape design.

<i>(iii) View Sharing & Height of Buildings</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<p><i>Currently several elements of the built form exceed the 11m height plane above the natural ground level. Given the extensive excavation on the site,</i></p>	<ul style="list-style-type: none"> <i>• Further to the onsite meeting with residents affected by the development in regard to loss of amenity and views an</i>

<i>(iii) View Sharing & Height of Buildings</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<p><i>allowing 3-5 levels within the 11m height zone, we believe it is reasonable to expect compliance within the site, especially in consideration of view-sharing principles to neighbouring properties.</i></p> <ul style="list-style-type: none"> • <i>It is recommended that communal open space on level 05, associated with Building D, be removed. This space is not deemed to be necessary to meet communal open space requirements, is largely isolated from a majority of units, may cause overlooking issues and causes the lift core and shade structures to sit most prominently above the height plane on the site, obstructing views from 21 Meares Place.</i> • <i>It is recommended that communal open space on level 03, associated with Building A, be removed. This space is not deemed to be necessary to meet communal open space requirements, is largely isolated from a majority of units, may cause overlooking issues and causes the lift core and shade structures to sit second-most prominently above the height plane on the site.</i> • <i>The remaining height exceedances on the site are deemed to be relatively minor and are supportable.</i> 	<p><i>Addendum Views Assessment Report was prepared</i></p> <p><i>The revised design has demonstrated a reduced impact on views from neighboring properties to varying degrees</i></p> <ul style="list-style-type: none"> • <i>Height exceedance above the 11metre height plane now occurs in 3 general locations</i> <ol style="list-style-type: none"> 1. <i>South façade to Building B</i> <i>Minor impact on neighboring properties and is acceptable</i> 2. <i>Southern lift core to Building A</i> <i>Minor impact on neighboring properties and is acceptable</i> 3. <i>Lift and Stair core to Building D</i> <i>This element has a minor encroachment into the height plane</i> <i>However the bulk of the lift core even if fully compliant still represents a significant intrusion into the views lines of the units at 21 Meares Place. The greatest impact is identified in the Views Assessment</i> <i>Addendum Report as being unit 6/21 having a moderate to severe rating.</i> <i>It is recommended that the design be revised the reduce the height of this element to a level equal to the lower parapet height adjacent</i> <p>APPLY CONDITION OF CONSENT</p> <p><i>The communal open space at the east end of the previous design has now been removed from the roof top in the current documents</i></p>

RESPONSE TO REVISED DOCUMENTATION – 12 November 2018

BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018

The primary concern was the intrusion of the lift/stair over run to building D as identified in a number of the view analysis images.

Building D has now been revised to allow for the removal of this over run element by modification to the rooftop communal open space and Unit 54, which now also provides height compliance to building D.

<i>(iv) Building Separation</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<p><i>Adequate building separation as per ADG requirements is provided for the majority of the site, with the exception of a portion of Building D which is on the fifth storey of that building. The fifth storey, on Level 04, is required to provide its share of 18m building separation (9m), opposite the communal open space in Building B which is required to provide its share of 12m building separation (6m). This total of 15m separation is currently not complied with in Unit 56, which should be set back further.</i></p>	<p><i>The revised design now adequately addresses the issue of building separation.</i></p> <p><i>The southeast portion of building on level 4 is now stepped back with the provision of a balcony + landscape edge.</i></p> <p><i>Previously there were 3 apartments to this level and number 56 has been removed to achieve compliance with separation and scale of built form within the central courtyard.</i></p> <p><i>This now reduces the height of building D to 4 levels within the central lower courtyard area to a more appropriate scale.</i></p>
<p><i>RESPONSE TO REVISED DOCUMENTATION – 12 November 2018</i></p> <p><i>BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018</i></p> <p><i>The revised design adequately addresses the issue of building separation in regard to the southeast portion of building on level 4 being stepped back with the provision of a balcony + landscape edge.</i></p> <p><i>This now reduces the height of building D to 4 levels within the central lower courtyard area to a more appropriate scale.</i></p>	

<i>(v) Accessibility</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<p><i>Currently there are multiple obstacles when it comes to providing an accessible and practical path of travel to and from the primary lift cores and the street frontages.</i></p> <ul style="list-style-type: none"> <i>• It appears that the primary entry to the site from Collins Street is bisected by a wheelchair lift and stairs to bridge the 1.8m change in height between the street and foyer. It is recommended that a series of ramps be introduced to replace the lift, to increase the practicality of the primary street entry.</i> <i>• The level 01 pathway past the lift nearest to the lounge and communal room is circuitous and constrained at a critical circulation location. It is recommended that a wider pathway without interruption</i> 	<p><i>The revised design presents improved circulation pathways with more direct access to Meares Place entry and ramped access to the main entry of Collins Street.</i></p> <ol style="list-style-type: none"> <i>a. The primary entry from Collins Street now has a series of ramps to provide a continual path of travel to the main entry foyer. This approach is now supported.</i> <i>b. The revisions to the level 01 pathway past the lift, lounge and communal room on sheet 1821 – DA10C are supported.</i> <p><i>There is an increased width of colonnade with the additional setback of the lounge and communal room provided and more generous access between the lift and ventilation exhaust.</i></p> <ol style="list-style-type: none"> <i>c. The provision of a double-sided lift for access to units 17 + 18 is acceptable</i>

<i>(v) Accessibility</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<p><i>by the large fin columns and car park exhaust be introduced.</i></p> <ul style="list-style-type: none"> <i>The pathway to access units 17-18 presumably contains a double-sided lift with adjacent stairs. It is recommended that ramps be introduced to avoid any lift access for Level 01 apartments.</i> 	

RESPONSE TO REVISED DOCUMENTATION – 12 November 2018

BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018

The revised design adequately addresses the issue of accessibility in regard to the primary entry from Collins Street to the main foyer as well as the general accessibility and directness for the internal paths of travel to the units.

<i>(vi) Solar Access</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<ul style="list-style-type: none"> <i>The “communal open space – solar access to principal area” diagram and calculations on sheet 29A appears to indicate solar access to 50% of the principal communal open space area, however the solar and daylight analysis on sheets 33A and 34A and shadow analysis on sheets 36A and 37A appear to contradict this claim, with barely any solar access visible. Further detail is to be provided.</i> <i>The “sun study to private open space” diagrams on sheet 38A detail an unorthodox method of providing solar access to the private open spaces of units 25 and 39. Further justification of the adequacy of this method of meeting solar access objectives is required for adequate assessment.</i> 	<p>COMMUNAL OPEN SPACE</p> <p><i>The communal open space areas on the revised plans have been reconfigured to allow improved solar access to the Principal Usable Communal Open Space within the development.</i></p> <p><i>This now includes an additional area ‘É’ at ground level located between building C and D on the north edge, and area ‘L’ as rooftop COS on building D.</i></p> <p><i>Area B being the lower central courtyard is now excluded from solar access calculation.</i></p> <p><i>The shadow analysis plans for communal open space included in the documentation, 1821-DA37C + 1821-DA38C demonstrate compliance with a minimum of 50% direct sunlight to the principal usable part of COS.</i></p> <p>SOLAR ACCESS – UNIT 12</p> <p><i>It is noted that Units 25 and 39 are no longer included in the solar access compliance due to there being no sun access to these units.</i></p> <p><i>In reviewing the ADG solar access requirements it is noted that a total of 41 units achieve solar access equating to 70.69%</i></p>

<i>(vi) Solar Access</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
	<i>Further justification is needed for unit 12 on Level 01 of Building A. it is not clear that it achieves 3 hours as tabled</i>

RESPONSE TO REVISED DOCUMENTATION – 12 November 2018

BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018

The revised design adequately addresses the issue of solar access and exceeds the ADG compliance now at 72% of units achieving 3 hours of sunlight to their living areas and private open space.

<i>(vi) Natural Cross Ventilation of Apartments</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
<i>It appears that a mistake has been made in tallying the total number of cross ventilated apartments within the development. We have counted a total of 40 apartments being cross ventilated out of 59 (unit C2 and Manager’s Unit counted twice), resulting in 68% natural cross-ventilation. This is still compliant with the ADG minimum of 60%, but worth noting.</i>	<i>The revised documents provide a summary of ADG Cross Ventilation which notes that 39 units achieve cross ventilation. On review unit 25, which is included in the compliance table, does not meet the cross ventilation requirements and should be excluded from the calculations. Compliance is still achieved with the total of 38 units being 65.5%</i>

RESPONSE TO REVISED DOCUMENTATION – 12 November 2018

BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018

The revised design adequately addresses the issue of cross ventilation of units with 65.5% compliance with the ADG minimum standard

<i>(vii) Additional Matters</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
	<i>PRIVACY IMPACTS The area of concern is the relationship between the Minnamurra Street properties and the adjoining units proposed along the Northern edge of the development The design proposes privacy screens to the window openings and balconies. The other concern is between House 38 and the communal open space between buildings D and C.</i>

<i>(vii) Additional Matters</i>	
<i>Review - 27th June 2018</i>	<i>Review – Issue C, 8th November 2018</i>
	<p><i>The privacy screens will be operable to allow adequate sunlight access to living areas and balconies, and hence the landscape screening proposed will be the primary method to minimize privacy impacts to the neighbors along Minnamurra Street.</i></p> <p><i>I recommend that further detail be provided in the Landscape documentation to demonstrate that the privacy objective will be achieved including the width of the terraced landscape beds along the northern boundary. In particular to Houses 32,34 and 38 Minnamurra Street.</i></p> <p>APPLY CONDITION OF CONSENT</p>

RESPONSE TO REVISED DOCUMENTATION – 12 November 2018

BHI Architects have reviewed the revised DA Documentation prepared in response to the BHI Architects design report dated 9 November 2018

The proposed method of privacy screening to the windows and balconies between the northern edge of the development and the Minnamurra Street properties is acceptable.

An increased area of rooftop landscape for unit 55 provides additional screening to the Minnamurra street properties

The revised design provides for a minor increase in landscape setback to Building D on the north edge

Given the above revisions and separation to the neighbouring buildings this matter is considered acceptable

RECOMMENDATION

BHI Architects considers that all matters raised previously now have acceptable design solutions and raise no further issues to this application

2.1.2. Southern Joint Regional Planning Panel Expert Consultant Planner

Lift overrun Building D

I note that amendments have been made to the lift detail of Building D.

The amendments reduce the height of the roof by c.300mm and bring it into compliance with the Height Standard with a commensurate reduction in the impact on the views of adjoining properties, particularly 21 Meares Street.

I believe this is a satisfactory response and the amended level 4 floor plan DA20D and roof plan DA21D should be substituted as the approved plans.

Access to Services

The revised Access report remains inadequate in my view.

Cl.26 of the SEPP provides:

(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to [the nominated shops and services].

Sub-clause (2) provides two alternative means of satisfaction:

- *the nominated shops and services can be within 400 metres from the site and the overall average gradient for the pathway to those shops and services is no more than 1:14 (with allowed exceptions); and/or*
- *For sites outside of the GSSD the site can be within 400 metres of a transport service that will take residents to the shops and services and this service is accessible by means of a suitable access pathway and the transport service will take residents to within 400 metres of the applicable shops and services.*

The gradient to the transport service and from the transport service to the shops and services must comply with sub-clause (3) i.e. generally 1:14 with some steeper sections.

The Moris Goding report:

- *Does not seem to rely on cl.26(2)(a) (i.e. reliance on local shops and services via an accessible path);*
- *Says the shops and services are all available locally but does not address cl.26(2)(a) in terms of the gradients along the access pathway other than a brief statement 'from the information available' Collins and Terralong Streets ...'have suitable gradients' but without referencing the specific gradient requirements in the SEPP.*
- *Says if other services are required then Kiama Station is within 400m and has a path of travel via Collins Street, Terralong Street and Railway Parade but again without confirming that the accessible path complies with cl.26(3).*

In each case you would expect to see reference to a survey of the levels of the relevant footpaths to support any conclusion that an accessible path within the terms of the SEPP is achieved.

A simple, unsupported statement that 'the requirements of the clause appear to be achievable' and 'from the information gathered..' (without specifying what that information is) is not acceptable when the SEPP stipulates very specific gradients that have to be achieved.

The report therefore needs to confirm in specific terms that a survey of the relevant footpaths has been undertaken and that the grades comply with clause 26(2) and (3) of the SEPP as appropriate.

In a practical sense, if the gradients along the applicable shopping streets are not compliant with the SEPP then that does raise something of a predicament in that this would mean that the SEPP could not apply through the CBD.

The practical solution to this may be that there has to be a resident minibus that one of the three on site managers uses to take residents once a day Monday to Friday (complying with cl.26(c)) on a loop encompassing all of the required shops and services. This obviously has a financial implication.

The solution in any event is a matter for the applicant, but on the information thus far provided the consent authority could not be satisfied that the residents will have access compliant with cl.26 to the applicable shops and services.

Privacy screens

The proposed method of privacy treatment is acceptable and needs to be checked and conditioned.

Roof top planter

The amended roof plan in fact shows the planter as required.

A condition should be added requiring planting of a hedge style species to be maintained at a minimum height of 800mm above the top of the planter.

View impact 34 Minnamurra Street

Not sure I received this new view impact as referred to by Urbis?

Collins Street streetscape & colour and materiality

I defer to Council's Expert Architect on these matters.

View Sharing and Height of Buildings

As above, I am satisfied as to this issue.

Solar access unit 12/Natural Cross Ventilation of Apartments /construction impacts

I defer to Council's Expert Architect on these matters.

I note 72% of units now have solar access at MW which is satisfactory from my perspective.

Works within 20 Meares Place

Noted and agreed

I hadn't appreciated this access crossed 20 Meares without owners consent and am not familiar with the right of access referred to by Urbis.

It would be desirable to have this secondary access from an interconnectivity viewpoint but providing it is not a required (e.g.) fire egress then it can be deleted.

I take it Council's certifier has confirmed all required BCA matters for this stage?

The Attachment 1 – Recommended Conditions of Consent includes conditions that have been imposed for the provision of:

- A resident minibus that one of the three on site managers uses to take residents once a day Monday to Friday (complying with cl.26(c)); and
- The proposed method of privacy treatment; and
- Roof top planting of a hedge style species to be maintained at a minimum height of 800mm above the top of the planter.

3. ASSESSMENT

This application has been assessed in accordance with Section 4.15 of the Act.

The following additional comments are made with respect to the proposal:

3.1. s.4.15(1)(a)(i) Any Environmental Planning Instrument

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

The proposed development provides for independent self-contained living as defined under SEPP Seniors Living which is a permissible use under the terms of SEPP Seniors Living.

An assessment against the relevant additional clauses is provided below:

Clause 29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply

This clause applies to a development application made under Chapter 3 – Development for Seniors Housing in respect of development for the purposes of seniors housing to which Clause 24 does not apply.

A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25(5)(b) (i), (iii) and (v).

Clause 25(5)

The relevant panel must not issue a site compatibility certificate unless the relevant panel:

(b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:

(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,

(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,

(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.

The applicant's Amended Statement of Environmental Effects does not address the requirements of Clause 29. However, on the 28 November 2018 the applicant was requested to provide additional information to address these requirements and the following additional comments are provided from the applicant:

Clause 29 requires a consent authority to consider certain site compatibility criteria for development applications to which clause 24 (of SEPP Seniors) does not apply.

The site is zoned B2 Local Centre under KLEP 2011 and is 'land zoned primarily for urban purposes'.

The provisions of Clause 29 are not applicable to the proposal.

Notwithstanding this, as requested, the matters set out in this Clause and also parts of Clause 25, which it refers to are addressed in the table below:

Clause reference	Proposal
<p>Clause 29 states as follows:</p> <p>29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply</p> <p><i>(1) This clause applies to a development application made pursuant to this Chapter in respect of development for the purposes of seniors housing (other than dual occupancy) to which clause 24 does not apply.</i></p> <p>Note.</p>	<p>As noted above, the site is zoned B2 Local Centre under KLEP 2011 and is 'land zoned primarily for urban purposes'. 'Hospitals ' are a permitted use within this zone.</p>
<p><i>Clause 24 (1) sets out the development applications to which that clause applies.:</i></p>	
<p><i>(2) A consent authority, in determining a development application to which this clause applies, must take into consideration the criteria referred to in clause 25 (5) (b) (i), (iii) and (v).</i></p>	
<p>25 Application for site compatibility certificate</p> <p><i>(5) The Director-General must not issue a site compatibility certificate unless the Director General:</i></p> <p><i>(a) has taken into account the written comments (if any) concerning the consistency of the proposed development with the criteria</i></p>	<p>Not called up by Clause 29 and therefore not applicable.</p>

Clause reference	Proposal
<p><i>referred to in paragraph (b) that are received from the relevant General Manager within 21 days after the application for the certificate was made, and</i></p>	
<p><i>(b) is of the opinion that the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:</i></p> <p><i>(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</i></p>	<p>The proposal is located in the Kiama Town Centre and is not subject to natural hazards. The proposed use of the site for a seniors living facility is compatible with the surrounding land uses, which include retail and commercial offerings.</p> <p>The site is well placed to afford future residents easy access to services and the opportunity to live within a walkable and active town centre.</p> <p>The proposal will also assist in activating the commercial streetscape of Collins Street.</p>
<p><i>(ii) the impact that the proposed development is likely to have on the uses that, in the opinion of the Director-General, are likely to be the future uses of that land,</i></p>	<p>Not called up by Clause 29 and therefore not applicable.</p>
<p><i>(iii) the services and infrastructure that are or will be available to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,</i></p>	<p>The proposal is located within the Kiama Town Centre and is within 400m of services, including shops, banks, doctors and retail and commercial services. There is an acceptable overall average gradient between the site and these essential services.</p>
<p><i>(iv) in the case of applications in relation to land that is zoned open space or special uses—the impact that the proposed development is likely to have on the provision of land for open space and special uses in the vicinity of the development,</i></p>	<p>Not called up by Clause 29 and therefore not applicable.</p>
<p><i>(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development,</i></p>	<p>The proposal benches into the sloping site to reduce the apparent scale of the development.</p> <p>The proposal presents as a two-storey built form to Collins Street and the additional storeys located to the north will not be readily discernible.</p>

Clause reference	Proposal
	<p>This results in a development in keeping with the streetscape and surrounding built form.</p> <p>Visual impacts to neighbours have been reduced by further modifications to mitigate the impacts of lift overruns, and via the inclusion of boundary landscaping around the development that will also serve to moderate the visual appearance of the building.</p> <p>The frontage of the building to Collins Street has been setback in line with the desired building line as expressed in KDCP 2012.</p> <p>The two storey building form to Collins Street is compatible in scale with adjacent development.</p> <p>The façade of the building fronting Collins Street will be activated by the commercial tenancy and appropriately scaled to align with the anticipated future character of the area.</p> <p>The material and finishes of the development chosen for the proposal utilises a colour and material palette in accordance with the Kiama DCP 2012 and have regard for the existing buildings within the Kiama Town Centre. This has led to refined colour palette predominantly consisting of greys whites and timber elements .</p> <p>This will provide standard of architectural expression in keeping with the Kiama Town Centre</p>
<p><i>(vi) if the development may involve the clearing of native vegetation that is subject to the requirements of section 12 of the Native Vegetation Act 2003—the impact that the proposed development is likely to have on the conservation and management of native vegetation.</i></p>	<p>Not called up by Clause 29 and therefore not applicable.</p>
<p><i>(3) Nothing in this clause limits the matters to which a consent authority may or must have regard (or of which a consent authority must be satisfied under another provision of this Policy) in determining a development application to which this clause applies.</i></p>	<p>Not called up by Clause 29 and therefore not applicable.</p>

For the reasons set out above, the proposal is considered to provide a satisfactory response having regard to the:

- the natural environment,
- the existing uses and approved uses of land in the vicinity,
- the services and infrastructure that are or will be available to meet the demands arising from the proposed development, and
- the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development.

3.1.2. SEPP No. 55 - Remediation of Land

The applicant provided the following comments:

The preliminary site investigation previously concluded that the site can be made suitable for the proposed development, subject to the results of further investigation and the successful implementation of a remediation action plan (RAP) (if required). Accordingly, the proposal satisfies clause 7 of SEPP 55 and consent can be granted to the proposal.

Notwithstanding this, as a result of discussions held at the section 34 conference, the proponent committed to undertaking further intrusive contamination investigations on the site.

Douglas Partners are currently undertaking this additional contaminated land investigation and it is anticipated that this work will be completed shortly.

That further work has been completed, and presented in Geotechnical Reports prepared by Douglas Partners, dated September 2018, Project 38145.05 and the following additional comments are provided:

This report presents the results of a detailed site investigation for contaminated land (DSI) undertaken for a proposed mixed use development at 23 Meares Place and 33 Collins Street, Kiama (hereafter referred to as the site).

The investigation was commissioned in on 9 August 2018 by Mr Jeremy Farrell of Minter Ellison on behalf of Mr Peter V'landys of Kiama Shores Pty Ltd and was undertaken in accordance with Douglas Partners' proposal WOL180376 dated 7 August 2018.

Based on the results of the DSI no contaminated land issues have been identified that require further investigation or management.

Given that assessment of potential fill beneath the currently operating commercial premises was not possible it is recommended that a walkover of the building and concrete hardstand footprint be undertaken after their demolition and removal to assess the potential for any hazardous building materials to have impacted the ground surface and/or the presence of filling different to that assessed herein. If filling different to that assessed herein or other signs of potential contamination are observed during the walkover further intrusive investigation will be required.

It is further recommended that the fly-tipped materials be removed from the site from the aesthetic perspective.

Subject to the results of the walkover and further investigation, if required, of the building and concrete hardstand footprint following their demolition and removal the site is considered to be suitable for the proposed development from the contaminated land perspective.

As a matter of due diligence and due to the potential for further fly-tipping and uncontrolled filling in parts of the site, and the variability in the analytical results from samples of the filling, it is recommended that an unexpected finds protocol (UFP) be included as part of the site management plan for the proposed development. The UFP should detail the process by which any unexpected finds of potential environmental concern (staining, odours etc.) will be managed.

As the detailed investigation concludes that the site can be made suitable for the proposed development the proposal satisfies Clause 7 of SEPP 55 and consent maybe grant for the proposal.

3.2. s.4.15 (1)(a)(iii) Any Development Control Plan

3.2.1. Kiama Development Control Plan (KDCP) 2012

The proposed development is considered to be generally consistent with the requirements of KDCP.

The principal controls relating to the development are contained in the prevailing Seniors Living SEPP, SEPP 65 and the Apartment Design Guide that prevail over the KDCP in the event of any inconsistency. This has the effect of making many of the KDCP requirements superfluous.

To prevent duplication only relevant controls within KDCP that the development does not comply with or important issues have not been discussed yet will be presented below:

3.2.1.1. Car Parking

Car parking is proposed to be provided as follows:

Seventy-eight (78) vehicles including:

- Fifty-five (55) car parking spaces shall be reserved at all times for the exclusive use of residents and
- Fifteen (15) as resident visitor parking only,
- Three (3) for manger/caretaker and
- Five (5) for the commercial/retail tenancy.

The Council's Development Control plan includes the following provisions with respect to car parking:

Land Use Type	Minimum Car Parking Standards	Required	Provided	Compliance
Multi-dwelling housing/residential flat building/shop top housing	1 dedicated space behind the building line (per one or two bedroom dwelling) and 1 additional space per three bedroom dwelling (and above) behind the front boundary plus 1 space per 2 dwellings for visitor parking behind the front boundary.	i. 55 spaces for residents ii. 3 spaces for caretakers iii. 27.5 spaces for visitors	i. 55 spaces for residents ii. 3 spaces for caretakers iii. 15 spaces for visitors	i. Yes ii. Yes iii. No
Seniors housing	1 dedicated space per unit plus 1 space per 4 units for visitor parking.	58 spaces for residents 13.75 spaces for visitors	i. 58 spaces for residents ii. 15 spaces for visitors	i. Yes ii. Yes
Commercial	1 space per 35m ² of gross leasable floor area.	4.48 spaces	5	Yes

The proposal generally complies with the requirements of the Development Control Plan. The one notable exception is with respect the provision of visitor car parking.

The required visitor parking rate differs between Seniors Housing, and Residential Flat Buildings. Since the proposal is principally for Seniors Housing, it is considered reasonable that the visitor rate for this form of development should prevail over the visitor parking rate for residential flat buildings.

Bearing this in mind, the proposal is considered to comply with the requirements of the Council's DCP.

s.4.15 (1)(b) Likely impacts

The likely impacts of this development include:

3.2.2. Environmental Impacts

Vegetation Impacts

There is vegetation adjoining the western boundary of the site at 21 Mears Place, that needed further consideration to ensure that it would not be adversely affected by the proposal. The applicant provided the following additional comments:

Sydney Landscape consultants also advised the architects to amend the building setbacks at the northern boundary to preserve a Black She Oak growing within 21 Meares Place.

The recommendations of the arboricultural assessment are shown on the architectural plans, with the trees on neighbouring sites to be protected clearly identified with the numbering used in the Sydney Landscape report.

Implementation of the recommendations in this report will manage potential impacts to neighbouring trees.

The Council's Landscape Officer and Tree Management Officer considered the impacts of the amended development on adjoining vegetation and were satisfied that the recommendations of the arborist report adequately protect existing vegetation on property at 21 Mears Place.

4. CONCLUSION

The rest of the assessment, conclusions, and recommendations remain unchanged in the 2nd and 3rd Council Assessment Report and should be considered in conjunction with this report.

In conclusion, the proposal is considered to satisfy:

- The considerations made by Council's expert and the Panels expert in the Land and Environmental Court Class 1 Appeal No. 17/352423; and
- The SEPP Seniors Living - Clause 29 – Site Compatibility; and
- The SEPP 55 – Remediation of Land – Site Investigation; and
- The Kiama Development Control Plan 2012 – Car Parking; and
- The vegetation management strategies intended to protect existing vegetation of land adjoining the development site.

5. RECOMMENDATION

It is recommended that the Panel approve Development Application No. 10.2016.286.1 Seniors Living Development proposing demolition of existing structures, construction of a mixed use seniors living development comprising fifty-five (55) independent living units, three (3) caretaker apartments, one (1) retail shop of 157m² and two (2) levels of basement car parking for seventy-eight (78) vehicles at Lot 202 in DP 1054190 and Lot 1 in DP 473509, 23 Meares Place and 33 Collins Street, Kiama, subject to conditions, subject to conditions at Attachment 1 – Schedule of Conditions.

ATTACHMENT 1 - Schedule of Conditions

General terms of other approvals integrated as part of the consent:

- **General Terms of Approval (*Water Management Act, 2000*)**

General

1. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
2. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
3. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - (a) any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - (b) any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - (c) where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
4. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
5. Documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

6. The following shall be included in the initial report:
 - (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
 - (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table **during** the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.

- (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [Note that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]
7. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
 8. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
 9. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
 10. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).
 11. A copy of a valid consent for the development shall be provided in the initial report.
 12. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called "tailwater") must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
 13. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

14. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
15. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
16. Measurement and monitoring arrangements to the satisfaction of the approval body are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering

has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.

17. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
18. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
19. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
20. Access to groundwater management works used in the activity is to be provided to permit inspection when required by the approval body under appropriate safety procedures.

Following excavation

21. Following cessation of the dewatering operations, the applicant shall submit the completion report which shall include:
 - (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
22. The completion report is to be assessed by the approval body prior to any certifying agency's approval for occupation or use of the completed construction.

END OF GENERAL TERMS OF APPROVAL

Conditions of Development Consent:
(including Section 7.11 conditions)

General

- (1) The development shall be implemented in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as 10.2016.286.1 dated 29/11/2018 listed in the table to this condition below except as amended by the following conditions. (g005.doc)

Table of Approved Plans/drawings and supporting documents
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA08 dated 18/07/18 Rev No: C
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA03 dated 12/11/18 Rev No: E
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA04 dated 12/11/18 Rev No: E
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA05 - DA08 dated 18/07/18 Rev No: C
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA09 dated 12/11/18 Rev No: D
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA10 - DA12 dated 18/07/18 Rev No: C
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA13 dated 12/11/18 Rev No: D
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA14 - DA17 dated 18/07/18 Rev No: C
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA18 – DA24 dated 12/11/18 Rev No: D
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA25 - DA30 dated 18/07/18 Rev No: C
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA31 - DA42 dated 12/11/18 Rev No: D
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA43 dated 18/07/18 Rev No: C
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA44 - DA48 dated 12/11/18 Rev No: D
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA49 – DA50 dated 18/07/18 Rev No: C
Architectural Plan prepared by Kennedy Associates Architects in consultation with DTB Architects, No: 1821, Dwg No. DA52 – DA54 dated 12/11/18 Rev No: A
Traffic Impact Assessment Report prepared by BITZIOS Consulting, dated 2 August 2018, Project No: P2544, Version No: 005
Arborist Impact Report prepared by Sydney Landscape Consultants, dated 20/7/18
Geotechnical Reports prepared by Douglas Partners, dated August 2018, Project 38145.04
Geotechnical Reports prepared by Douglas Partners, dated September 2018, Project 38145.05
CPTED Report prepared by Kennedy Associates Architects, dated July 2018

Table of Approved Plans/drawings and supporting documents
BCA Compliance Statement prepared by CERTIS Pty Ltd, dated 16 August 2018,
Access Review Report prepared by Morris Goding Access , dated 13 August 2018 12 November 2018
Operational Waste Management Plan prepared by WasteAudit and Consultancy Services, dated July 2018
Noise Impact Assessment Report prepared by TTM Consulting Pty Ltd, dated 08/08/2018, Ref: 165YA0026 R01_4 Acoustic Report

- (2) The proposed future use of the commercial premises shall be the subject of a separate development application unless the use is retail/business. Food and Drink Premises are subject to separate development consent being sought and obtained prior their occupation of the commercial premises. (g010.doc)
- (3) The development shall be completed in accordance with the approved colour schedule shown on the approved Elevations Plans. (g014.doc)
- (5) The development shall not be occupied until such time as all conditions of this Development Consent are met or unless other satisfactory arrangements are made with the Principal Certifying Authority. (g040.doc)
- (6) This approval is in respect of the plans submitted with the development application and as modified by the terms of this consent. If for any reason, including the making of alterations necessary to meet the requirements of another Authority, changes to the approved building design layout are proposed, then the approval of Council shall be obtained prior to commencement of any works on site. (g065.doc)
- (7) Road Occupancy approval, pursuant to Section 138 of the Roads Act 1993 shall be obtained from Council prior to any proposed interruption to pedestrian and/or vehicular traffic within the road reserve caused by the construction of the development.

This shall include, but is not limited to the following activities:

- a erect a structure or carry out work in, on or over a public road;
- b dig up or disturb the surface of a public road;
- c remove or interfere with a structure, work or tree on a public road;
- d pump water into a public road from any land adjoining the road; or
- e connect a road (whether public or private) to a classified road

The following items shall be submitted to Council with the Road Occupancy Application, a minimum of five days before approval is required:

- i. A completed application form;
- ii. Fees in accordance with Council's adopted fees and charges;
- iii. A traffic control plan endorsed by a person with Roads & Maritime Services accreditation. The traffic control plan shall satisfy the requirements of the latest versions of Australian Standard AS1742 – Traffic Control Devices for Works on Roads and the RTMS Traffic Control at Worksites Manual. This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development;
- iv. Public liability insurance for an amount of no less than \$20M;

- v. Where excavation will take place, a security bond in accordance with Council's adopted fees and charges; and
 - vi. Where road and footpath levels will be varied or the surface is altered, plans and specifications to Council's requirements (which will include, but not be limited to, compliance with relevant Australian Standards and the Building Code of Australia).
- (8) A suitably qualified person shall prepare a Construction Environmental Management Plan (CEMP) and shall be provided to the Principal Certifying Authority for their written approval prior to any works commencing on site.

The CEMP shall include, but not be limited to, the following items:

- i. what actions are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like,
- ii. the location of the storage of building materials, stockpiles, hording, equipment, machinery, site office etc, within the development site area,
- iii. the method and location points of loading and unloading excavation machines, building materials and formwork within the development site area,
- iv. the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period, and
- v. the proposed method of support to any excavation adjacent to adjoining buildings or the road reserve. The proposed method of support is to be certified by an accredited certifier in Civil Engineering;
- vi. timing and duration of works;
- vii. location of work sites offices, compounds, stockpiles and refuelling areas;
- viii. location of environmentally sensitive areas;
- ix. description of the impacts associated with the construction activities and control measures;
- x. legislative requirements;
- xi. on-site staff structure and responsibility;
- xii. staff training, awareness and competency requirements;
- xiii. emergency planning and response;
- xiv. auditing and monitoring; and
- xv. the following supplementary plans:
 - a) Soil and Water Management Plan;
 - b) Contaminated Land Management Plan;
 - c) Acid Sulfate Soil Management Plan;
 - d) Noise and Vibration Management Plan;
 - e) Air Quality (Dust Control) Management Plan;
 - f) Waste Management Plan; and
 - g) Traffic Management Plan

The developer shall ensure that all construction work associated with the development is carried out in accordance with the approved Construction Environmental Management Plan (CEMP) and any variations are approved by the Principal Certifying Authority. A copy of the

approved CEMP (and any variations) shall be forwarded to Council and a copy shall be kept on site at all times.

- (9) Lot 202 in Deposited Plan 1054190 and 1 in Deposited Plan 743509 shall be consolidated into one lot prior to the issue of any Construction Certificate.
- (10) The development shall be undertaken in strict accordance with the recommendations of the following reports:
- a) Traffic Impact Assessment Report prepared by BITZIOS Consulting, dated 2 August 2018, Project No: P2544, Version No: 005
 - b) Arborist Impact Report prepared by Sydney Landscape Consultants, dated 20/7/18
 - c) Geotechnical Reports prepared by Douglas Partners, dated August 2018, Project 38145.04
 - d) CPTED Report prepared by Kennedy Associates Architects, dated July 2018
 - e) BCA Compliance Statement prepared by CERTIS Pty Ltd, dated 16 August 2018,
 - f) Access Review Report prepared by Morris Goding Access , dated ~~13 August 2018~~ 12 November 2018
 - g) Operational Waste Management Plan prepared by WasteAudit and Consultancy Services, dated July 2018
 - h) Noise Impact Assessment Report prepared by TTM Consulting Pty Ltd, dated 08/08/2018, Ref: 165YA0026 R01_4 Acoustic Report
- (11) A validation report incorporating a certificate of completion must be produced in accordance with the requirements of clause 17 & 18 of State Environmental Planning Policy No. 55. The certificate/report confirming that all decontamination and remediation works have been carried out in accordance with the remediation plan must be submitted to the Principal Certifying Authority within 30 days following completion of the works.
- (12) For the ongoing life of the development, the building must only be occupied and provide accommodation for:
- a) seniors or people who have a disability
 - b) people who live within the same household with seniors or people who have a disability
 - c) staff employed to assist in the administration of and provision of services to housing provided under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- The definition of seniors and people who have a disability must be in accordance with clause 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- (13) The units and caretaker's accommodation are not to be used for short term holiday letting without separate development consent.
- (14) In accordance with the environmental maintenance objectives of 'Crime Prevention Through Environmental Design', the owner/lessee of the building shall be responsible for the removal of any graffiti which appears on the buildings, fences, signs and other surfaces of the property within 48 hours of its application.
- (15) The applicant shall prepare and permanently affix a way finding map at the building's two entry points for use by visitors and emergency services personnel.
- (16) A Demolition & Construction Waste Management Plan is required to be prepared and submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.
- (17) This consent does not include any subdivision of the proposal.

- (18) No work (including demolition) is to take place until a Construction Certificate has been issued for the development and the relevant conditions of development consent are satisfied and complied with.
- (19) The developer at their own cost shall carry out any necessary amplification or upgrading of the downstream drainage system, including the negotiation and dedication of appropriate easements, to ensure that the treatment standards of this development consent are complied with.
- (20) The cost of relocation or adjusting of levels of any public utilities shall be borne by the developer.
- (21) Any substation installed to service the proposal shall not be located within the road reserve and shall be screened from the public domain.
- (22) All electricity, telecommunications and natural gas services shall be located underground. Common or shared trenching and the document "*A Model Agreement for Local Councils and Utility/Service Providers*" prepared by the NSW Streets Opening Conference are policies adopted for the Kiama Municipal Council Local Government Area.
- (23) Car wash bays shall be connected to the Sydney Water Corporation's sewer and be subject to a licensed trade waste agreement with the Corporation.
- (24) Furniture and white good pickups and deliveries for the residential apartments shall be undertaken from the commercial delivery area located within the site and not from any public road. Tenants shall be informed of this requirement in their leasing agreements.

Amendments to Approved Plans and Documents

- (1) Prior to the issue of any Construction Certificate for this consent by any Principal Certifying Authority the approved plans are to be amended to ensure that:
 - i. The lift overrun for Building D is not to be constructed, contrary to the details shown on the:
 - Approved plan No. 1821 - DA25C Section A
 - Approved plan No. 1821 - DA27C Section H
 - Approved plan No. 1821 - DA27C Section G
 - ii. The landscaping, retaining walls, ramps and pathways shown on No. 20 and 21 Meares Place have no owners consent and are not approved to be constructed, contrary to the details shown on the:
 - Approved plans No. 1821 - DA08C, DA10C, DA12C, DA13D, DA18D, DA19D, DA20D, DA21D.
 - iii. The façade treatment details of Building E at the Collins Street frontage are approved be constructed in accordance with the details as shown on the:
 - Approved plan No. 1821 – DA03E.

The façade treatment details of Building E at the Collins Street frontage shown on Approved plan No. 1821 – DA51C are not be constructed.
 - iv. Sheet metal fencing along the side and rear boundaries of the site does not extend forward of the front building line.
 - v. Gates returning into the buildings from a side or rear boundary that are visible from Meares Place or Collins must not be constructed of sheet metal.
 - vi. Any fencing or gates forward of the building line or facing the street front must be not more than 1.2 metres high, constructed of powder coated aluminium battens, or, or timber pickets, or palisade style.

- vii. The privacy screen that affects the north east facing living room window to units 20, 36, 47,48, 53, 54 and 55 shall be a fixed louvre style screen to minimise the privacy impact.
- viii. Roof top planting of a hedge style species to be maintained at a minimum height of 800mm above the top of the planter.

Plans satisfying the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate for this consent, and are to be installed/constructed and must have a compliance certificate issued for completion of the works required by this condition prior to the issue of any Occupation Certificate.

- (2) A mini-bus service is to be provided, and operated by the site managers to take residents once a day Monday to Friday on a loop encompassing all of the required shops and services for the life of the development to satisfy the access to service requirements of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 Clause 26(1) to ensure residents of the development have access to:
 - (a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and
 - (b) community services and recreation facilities, and
 - (c) the practice of a general medical practitioner.
- (3) Close Circuit Television is to be installed, and relayed to each of the care takers residences and each unit in the development, designed to monitor the:
 - Entry to Building C from Meares Place
 - Entry to Building E from Colling Street
 - Entry to Building D
- (4) Lighting – appropriate lighting, to the applicable Australian Standard, shall be designed and installed throughout the proposed development, including communal areas, external pathways through the development and the car park.
- (5) Access Control - All pedestrian entries including the entry to Building E from Collins Street, Building C from Meares Place, and Building D, must have require key / swipe card access, and have an intercom relay to each apartment in the development to control access to the development by visitors.
- (6) Boom gates are to be installed within the carpark to control access between service areas, commercial car park areas and residential car park areas.
- (7) A security intercom system must be installed in each apartment.

Bonds and Contributions

- (1) A contribution pursuant to Section 94A of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94A (Indirect Contributions) Plan shall be paid to Council prior to the issuing of any Occupation Certificate. The total contribution required for the development is **\$335,000.00**.

The amount of the contribution shown on the development consent will be indexed to the time of payment in the following manner:

$$\text{Contribution (at time of payment)} = \frac{C \times \text{CPI}_t}{\text{CPI}_c}$$

Where:

C= The original contribution amount as shown in the development consent.

CPIP = The *Consumer Price Index: All Groups Index for Sydney* as published by the Australian Bureau of Statistics and which applied at the time of payment.

CPIc = The *Consumer Price Index: All Groups Index for Sydney* as published by the Australian Bureau of Statistics and which applied at the time of issue of the development consent. (bo007.doc)

Prior to Commencement of Works

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

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

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

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

or

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

(2) The developer shall lodge with Council a bond of **\$100,000.00**, in the form of an unconditional bank guarantee or cash, prior to the commencement of any work, as a security for new and remedial work associated with the development proposal and covering all work within the public roads administered by Council under the Roads Act 1993 and compliance with the submitted Waste Management Plan during the course of construction.

The developer shall submit a dilapidation survey prior to commencement of any work within the road reserve.

The bond shall be refunded in full subject to the following:-

- a. There being no damage to the infrastructure within the road reserve.
- b. There being no damage to the works undertaken in the road reserve, as a result of poor workmanship and/or inferior materials being used, and if so, rectification works are undertaken in accordance with the requirements of Council;
- c. Twelve (12) months has elapsed from the date of issue of the occupation certificate and/or subdivision certificate.
- d. The submission and approval by Council of a waste compliance certificate, inclusive of supporting documentation (dockets/receipts) verifying compliance with the Waste Management Plan as provided to Council. (pt013.doc)

(3) The applicant must provide, to Council, the appropriate fee for the inspections required for the construction of the footpath crossing/access driveway in accordance with Council's adopted fees and charges. This inspection fee must be paid prior to the commencement of works within the road reserve area.

Work undertaken within the road reserve may only be undertaken by a Council approved contractor. A list of approved contractors may be obtained from Council's Engineering and Works Department. (pt016.doc)

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

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

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

Should you appoint Council as the Principal Certifying Authority, relevant inspection fees will be required to be paid at the time of lodgement of this form. (pt020.doc)

- (5) The BASIX commitments shall be indicated on the plans to the satisfaction of Council or an Accredited Certifier prior to the release of the Construction Certificate. (pt034.doc)
- (6) The developer shall submit to the Principal Certifying Authority written consent from affected property owners prior to any work being undertaken on adjoining land. (pt050.doc)
- (7) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a Showing the name, address and telephone number of the Principal Certifying Authority for the work;
 - b Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - c Stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. The sign will be provided by the nominated Principal Certifying Authority for the relevant fee. (pt060.doc)

- (8) No building work is to commence until details prepared by a practising structural engineer have been submitted to and accepted by the Principal Certifying Authority for any reinforced concrete slabs, footings or structural steel. (pt062.doc)
- (9) The applicant shall submit engineer’s details of the foundation based on geotechnical advice prepared by a suitably qualified geotechnical engineer. Such detail/advice is to be provided prior to the issue of a Construction Certificate. (pt070.doc)
- (10) A detailed dilapidation report prepared by a suitably qualified structural engineer for all structures located on adjoining lands of the proposed development site supported with suitable photographic records shall be submitted to the accredited certifying authority prior to the commencement of work.
- (11) Prior to the issue of a Construction Certificate the following is to be submitted to Council.

- i. Written certification, from the architect for the development that the final construction plans for the basement car parking area that contains the garbage storage room, onsite collection areas has been designed to have:
 - sufficient height clearance (including clearance from service pipes or conduits) from the floor slab above to enable the waste collection vehicle to enter and leave the sites and service the bins.
 - sufficient size and space located to the left of the proposed truck turn table to allow the placement of garbage, recycling and organics bins to be collected without being obstructed by vehicles, pedestrians and other obstructions.
 - ii. Structural Engineering details and certification, that: the internal access ramp and floor slabs have been structurally designed as a minimum to take the loads associated with a fully loaded 22 cubic metre garbage collection vehicle and any other larger waste collection or delivery vehicles that may use this area.
 - the truck turntable is to be structurally designed and of a sufficient size to take the loads associated with a fully loaded 22 cubic metre garbage collection or larger waste collection vehicle.
 - iii. Design plans, specifications and certification that the garbage, recycling bin storage rooms (for the resident and commercial components of the development) and the on-site collection bin collection points have been designed to comply with development standards as specified in Chapter 11 – Kiama Development Control Plan 2012 – Waste Requirements *Section 5 Garbage, Recycling Bin Storage Rooms Point (Design Controls C1, and C8) and Section 8 On-site Bin Collection Point (Design Controls C7, and C8) and Section 15 Development with Two or More Land Uses (Design Control C30)*.
 - iv. Written certification from Kiama Waste and Recycling Services Contractor certifying that the final design plans and development site has been inspected and that a Waste Services Deed of Agreement will be entered into for onsite access for provision and collection of garbage, recycling, garden waste and or food waste bins that meet Council's specifications.
 - v. Design plans, specifications and certification and certification that sufficient space has been provided and nominated within the kitchen (or an alternate location) in each unit for the interim storage of bins or containers as supplied for source separated garbage, recyclables and food organics as specified in *Chapter 11 – Kiama Development Control Plan 2012 – Waste Requirements Section 6 Internal Bins/Containers (Source Separation) (Design Controls C2, and C3)*.
 - vi. A geotechnical assessment report including soil sampling, testing and analysis results undertaken in accordance with the NSW EPA Waste Classification Guidelines 2014 for all excavated material that will be transported from the development site. The report shall include soil waste classification certificates for the different types of soils or wastes identified on site. Details all lawful disposal sites for each classification of soil shall also be provided. Reference should be made to NSW EPA Waste Classification Guidelines (chemical assessment and testing requirement) Protection of Environment Operations Act 1997 <http://www.epa.nsw.gov.au/your-environment/waste/classifying-waste>.
- (13) Prior to the issue of a Construction Certificate, a lighting strategy is to be developed and submitted to the Principal Certifying Authority. The strategy must be developed to enhance a safe environment and encourage passive surveillance. In this regard, the following objectives must be addressed within the strategy:

- a. lighting of all entrances/exits of buildings, car parks, access routes and pathways to encourage safety and passive surveillance
- b. lighting type and distribution to be provided throughout the site to eliminate any dark shadows and concealment areas particularly in the car park and stairwells, and
- c. access control to and from the buildings as well as individual self contained dwellings.

All external and internal lighting for internal roads, parking and service areas shall be provided in accordance with the Australian Standard 1158. At no time shall the lighting exceed the limits of the Australian Standard 4282-1997 Control of the Obtrusive effects of outdoor lighting.

- (14) The development must satisfy the development standards for residential care facilities in accordance with Part 4 Division 2 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

In this regards, an Access Report prepared by suitably qualified and experienced person in the application of the Premises Standards must be submitted to and approved by the Principal Certifying Authority prior to the release of the Construction Certificate. The report must include recommendations how the entire development is to comply with Part D3 of the Building Code of Australia and AS 1428. Compliance with such works must be incorporated within the Construction Certificate plans.

- (15) An Energy Efficiency Report prepared by a suitably qualified and experienced person/architect in Energy Efficiency must be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate. The Energy Efficiency Report must verify that the building has been designed in accordance with Section J (Energy Efficiency) of the Building Code of Australia.

Prior to the issue of the Construction Certificate, details must be provided to the Certifying Authority demonstrating how this will be complied with.

- (16) The wall separating each sole-occupancy unit must be constructed of material that achieves a weighted sound reduction index in accordance with Part F5 of the Building Code of Australia.

The floor separating each sole-occupancy unit must be constructed of material that achieves a weighted sound reduction index in accordance with Part F5 of the Building Code of Australia.

Prior to the issue of the Construction Certificate, details must be provided to the Certifying Authority demonstrating how this will be complied with.

- (17) Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall obtain a letter from both the relevant electricity authority and the relevant telecommunications authority stating that satisfactory arrangements have been made to service the proposed development.

Note: The applicant should also contact the relevant water servicing authority to determine whether the development will affect the authorities water or sewer infrastructure.

- (18) Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall prepare and obtain approval from an accredited person, a Traffic Control Plan (TCP) in accordance with the State Roads Authority manual "Traffic Control at Work Sites" and Australian Standard AS 1742.3 (as amended). A copy of the approved TCP shall be kept on site for the duration of the works in accordance with Work Cover Authority requirements. A copy shall be submitted to Council for its records.

- (19) A construction certificate shall not be issued for the subject building until the qualified designer who prepared the 'Design Verification Statement' submitted with the development application, prepares a separate written 'Architectural Finishes Validation Statement'.

The 'Architectural Finishes Validation Statement' shall confirm that the plans relied upon for issue of the construction certificate are not inconsistent with the approved plans described in Conditions 1 and 2 with specific regard to the architectural design elements, colours, finishes and treatments that are provided to the building's exterior.

Where circumstances require, another qualified designer may prepare the written confirmation, subject to receipt of written approval for such a change from Council's Director Planning and Environment.

- (20) Prior to Council or an accredited certifier issuing a construction certificate, the applicant shall demonstrate compliance with Clause 41 standards for self-contained dwellings contained in Schedule 3 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.
- (21) Prior to the issue of any ~~Construction~~ Occupation Certificate, the accredited Certifying Authority shall obtain confirmation from a qualified civil engineer that the following requirements have been met:
- a. Car parking spaces, parking aisles, blind aisles, access driveways, circulation roadways and ramps comply with the requirements of the following Australian Standards :
 - i. AS 2890.1 - 2004 Off-street car parking;
 - ii. AS 2890.2 - 2002 Off-street commercial vehicle facilities;
 - iii. AS2890.3 - 2015 Bicycle Parking; and
 - iv. AS 2890.6 - 2009 Off-street parking for people with disabilities.
 - b. The car parking area shall be line marked and signposted in compliance with the requirements of the Australian Standards AS 1742.2, AS 1743, AS 1744, AS1906.1, AS 1906.2, AS 1906.3 and AS 4049.1.
 - c. Access and manoeuvring into the proposed delivery areas for all commercial vehicles shall comply with Australian Standard AS 2890.2 - 2002 Off-street commercial vehicle facilities.
- (22) Prior to the issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the approved plans include a detailed stormwater drainage network designed in accordance with the requirements of "Section D5 Stormwater Drainage" of Kiama Development Code as appended to Kiama Development Control Plan 2012.
- (23) Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the approved stormwater plans provide for an on-site detention storage for stormwater runoff in conjunction with the proposed development drainage network. The on-site detention system shall be designed to ensure that post development flow rates from the site are no greater than pre-developed site runoff at each discharge point for all rainfall events up to 1% Annual Exceedance Probability. The applicant shall provide full hydrological and hydraulic computer modelling of the stormwater drainage system to the Certifying Authority for approval prior to the issue of any Construction Certificate.
- (24) Prior to the issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the approved stormwater plans comply with the design requirements of the "Kiama Municipal Council Water Sensitive Urban Design Policy".
- (25) Prior to the issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the approved stormwater plans provide for overflow paths to allow for flows of

water in excess of the capacity of the pipe drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events must be incorporated in the design. Overflow paths must also be provided in low points and depressions.

- (26) Prior to the issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the design of the development causes no adverse effects to adjoining properties as a result of stormwater run-off.
- (27) Prior to the issue of any Construction Certificate, the accredited Certifying Authority shall ensure that allowance is made for surface run-off from adjoining properties. Any redirection or treatment of that run-off must not adversely affect any other adjoining properties.
- (28) Prior to the issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the stormwater drainage design has been issued with written endorsement from a qualified civil engineer which confirms that the constructed stormwater drainage system and water quality system meets with all stormwater requirements conditioned within this consent.
- (29) Before the commencement of any stripping or demolition, all parts of the site shall be examined, by competent specialists, to determine as far as it is practicable, the presence of noxious, toxic or explosive materials or conditions, which would be hazardous to the health of the public if disturbed by stripping or demolition.
- (30) Prior to commencement of work the developer shall provide hoarding around the site where it adjoins a public road and man-proof fencing around the remainder of the site.

Demolition Works

- (1) Throughout the demolition operations, adequate safety shall be maintained in public places adjoining the site. Safety of the public shall be maintained by providing street closures, hoardings, scaffolding and other types of overhead protection, either singularly or in combination, in accordance with the requirements of Council and AS 2601. (dw005.doc)
- (2) Security fencing shall be provided around the perimeter of the demolition site and any additional precautionary measures taken, as may be necessary to prevent unauthorised entry to the site at all times during the demolition period. (dw010.doc)
- (3) **Asbestos – Statement Required**

No later than seven days prior to the demolition of any building or structure, a written statement must be provided to Council indicating whether the building or structure contains asbestos or material containing asbestos and, if so, the following must also be provided:

- a A hazardous substances audit report prepared by a competent and appropriately qualified person in compliance with AS2601-1991; and
- b A hazardous substances management plan prepared by a competent and appropriately qualified person in compliance with AS2601-1991.

Asbestos – Licensed Contractors

Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Demolition Licence or a current WorkCover Class 2 (Restricted) Asbestos Licence.

Asbestos – Notification of Neighbours

Fourteen days prior to the commencement of any demolition works involving asbestos, all immediate neighbours should be notified in writing of the intention to carry out asbestos demolition works. Copies of these written notifications should be retained and provided to Council.

Asbestos – Tip receipts

Documentary evidence in the form of tip receipts from an approved Waste Management Facility shall be obtained demonstrating the appropriate disposal of the asbestos waste. Tip receipts shall be provided to Council prior to any further building works being undertaken on the site.

Asbestos – Clearance Certificate

Following the removal of all friable asbestos and prior to further works being carried out on the site, a clearance certificate from an independent competent person in accordance with the National Occupational Health and Safety Commission Code of Practice for the Safe Removal of Asbestos is to be obtained and submitted to Council.

Asbestos – Less than 10m² of Bonded Asbestos Sheeting

Demolition works involving the removal of less than 10m² of bonded asbestos sheeting may be carried out by a licensed builder who has completed an appropriate bonded asbestos removal course.

Completion of demolition works

Council will monitor and review the demolition of the structure to ensure all conditions of consent application to the removal of asbestos has been satisfied. (dw015.doc)

- (4) Safe access to and egress from adjoining buildings shall be maintained at all times for the duration of the demolition work. (dw020.doc)
- (5) The techniques adopted for stripping out and for demolition shall minimise the release of dust into the atmosphere. (dw030.doc)
- (6) Removal of dangerous or hazardous materials shall be carried out in accordance with the provisions of all applicable legislation and with any relevant recommendations published by the WorkCover Authority. (dw040.doc)
- (7) Removal of asbestos, or of materials containing asbestos fibres, shall be in accordance with the WorkCover Authority code of practice. Disposal of asbestos materials shall be at premises certified to receive asbestos. (dw045.doc)
- (8) Where the demolition site adjoins a public thoroughfare, the common boundary between them shall be fenced for its full length with a hoarding unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding shall be constructed of solid materials to a height of not less than 2.4 metres above the level of the thoroughfare at its junction with the hoarding.

Notices lettered in accordance with AS 1319 and displaying the words “DANGER! DEMOLITION IN PROGRESS”, or a similar message, shall be fixed to the fencing at appropriate places to warn the public. (dw050.doc)

Civil Engineering Design

- (1) The developer shall submit details of all civil engineering works on engineering drawings to the Certifying Authority for approval prior to the issue of the construction certificate.

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

- a The hydrologic modelling and hydraulic treatment detail including detailed calculations, drainage network layout, environmental controls (including the post-development first flush mechanism, water quality and sedimentation controls), all stormwater drainage structures and, where required, the proposed method of accessing the existing public stormwater drainage system. All drainage calculations are to be carried out in accordance with *Australian Rainfall and Runoff* published by

Engineers Australia, and are to include a contoured catchment diagram and delineation of flow paths for storms of 1% Average Exceedance Probability (AEP);

- b Plan, longitudinal and cross sectional detail shall be provided for the proposed circulation roadway, circulation aisle, ramps, car parking aisles and car parking modules;
- c The proposed pavement treatment to the proposed circulation roadway, circulation aisle, ramps, car parking aisles and car parking modules. The minimum surface treatment shall be cement concrete;
- d The location and reduced level of all services under the control of public utilities or agencies;

All reduced levels shall relate to Australian Height Datum (AHD). (ced030.doc)

Access Construction

- (1) The developer shall construct the footpath access driveway in compliance with the Standards Australia publication AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking and Council's "*Driveway and Footpath Works Procedure Manual*". (ac001.doc)
- (2) The developer shall restore any redundant vehicle crossing to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*". (ac010.doc)

Car Parking and Vehicular Access

- (1) Car parking shall be provided for seventy-eight (78) vehicles in conjunction with the proposed development as indicated on the approved plans shall be available for car parking at all times. Of this number fifty-five (55) car parking spaces shall be reserved at all times for the exclusive use of residents and fifteen (15) as resident visitor parking only, three (3) for manger/caretaker and five (5) for the commercial/retail tenancy. Vehicle car parking spaces provided for the development cannot be sold off to third parties that are not part of the development. (c015.doc)
- (2) The car parking and manoeuvring area shall be line marked and signposted in compliance with the requirements of the Australian Standards AS 1742.2, AS 1743, AS 1744, AS/NZS 1906.1, AS 1906.2, AS 1906.3 and AS 4049.1. (c025.doc)
- (3) Car parking and manoeuvring shall comply with the requirements of the Standards Australia publication AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking. (c035.doc)
- (4) All vehicles being loaded and/or unloaded shall stand within the curtilage of the development site. (c085.doc)
- (5) The visitor car parking spaces must be suitably signposted and always be available for visitor parking. These spaces must not at any time be allocated, sold or leased to an individual owner/occupier.

Utility Servicing

- (1) A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The Section 73 Certificate shall be submitted to Principal Certifying Authority prior to issue of the Final Occupation Certificate. (us005.doc)
- (2) The wash bay shall be connected to the Sydney Water Corporation's sewer and be subject to a licensed trade waste agreement with the Corporation. (us020.doc)
- (3) All electricity, telecommunications and natural gas services shall be located underground. Common or shared trenching and the document "*A Model Agreement for Local Councils and Utility/Service Providers*" prepared by the NSW Streets Opening Conference are policies adopted for the Kiama Municipal Council Local Government Area. (us035.doc)

- (4) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access. (us045.doc)

Geotechnical Requirements

- (1) There shall be no loss of support or encroachment of fill onto adjoining properties as a result of excavation or filling within the site. (gr050.doc)
- (2) All earthworks associated with the development shall be completed in accordance with AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments. (gr075.doc)

Inspections

- (1) The building work shall be inspected at critical and other stages as required by the Principal Certifying Authority for the development.

NOTE: Should you choose Council to be your Principal Certifying Authority for this development you will be advised of the required building inspections and applicable fees at the time of that appointment. (bu015.doc)

Building Construction

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia. (bu010.doc)
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (3) All excavations and backfilling must be executed safely in accordance with appropriate professional standards. (bu090.doc)
- (4) All excavations must be properly guarded and protected to prevent them from being dangerous to life or property. (bu095.doc)
- (5) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must:
- a Preserve and protect the building from damage;
 - b Underpin and support the building in an approved manner, if necessary, and;
 - c At least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work. (bu100.doc)
- (6) The Reduced Levels (RL) of the proposed development must be in accordance with the approved plans. Certification of these levels by a registered surveyor must be submitted to an accredited certifier or Council prior to proceeding past that level. (bu120.doc)
- (7) A survey shall be undertaken and a copy be made available to Council or an accredited certifier, certifying that the building is correctly located in relation to the boundaries of the site and in accordance with the approved plans. Such survey shall be submitted at peg out stage. (bu125.doc)
- (8) Construction and demolition work, delivery of materials and plant, etc shall only take place between the following hours;
- | | |
|------------------|----------------------|
| Monday to Friday | - 7.00 am to 6.00 pm |
| Saturdays | - 8.00 am to 1.00 pm |

No construction work is to take place on Sundays or Public Holidays. (bu151.doc)

- (9) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, construction and/or subdivision work. All waste nominated for disposal must be disposed of at a licensed landfill facility. All waste nominated for recycling must be reused or recycled. (bu153.doc)
- (10) All excavations and backfilling associated with the approved works must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.

If an excavation associated with the approved works extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- a. must preserve and protect the building from damage, and
- b. if necessary, must underpin and support the building in an approved manner, and
- c. must, at least seven days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

- (11) Prior to the positioning of wall panels/ bricks or block work, the applicant shall submit to the principal certifying authority a qualified practicing surveyor's certificate showing the boundaries of the allotment, distances of walls and footings from the boundaries, and the dimensions of the building.
- (12) Prior to the placement of any concrete of the basement/ground floor slab, the applicant shall submit to the principal certifying authority a qualified practicing surveyor's certificate showing that the formwork levels are in accordance with the approved plan.
- (13) Upon completion of the building, the applicant shall submit to the Principal Certifying Authority a qualified practicing surveyor's certificate showing the boundaries of the allotment, distances of walls and footings from boundaries.

Soil and Water Management

- (1) All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In particular:
- a. A silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). Such fence must be regularly inspected and cleaned out and/or repaired as is necessary, and all collected silt must be disposed of in accordance with Council's Sedimentation Control Policy.
 - b. Unnecessary disturbance of the site (eg; excessive vehicular access) must not occur.
 - c. All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.
 - d. All the above requirements must be in place for the duration of the construction works. (esc005.doc)
- (2) The developer shall submit to the Certifying Authority for approval prior to the issue of the construction certificate, a detailed Soil and Water Management Plan (SWMP) designed in

accordance with the requirements of *Managing Urban Stormwater: Soils and Construction Volume 1* (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction Volume 2* (Department of Environment and Climate Change 2007).

All works on the site must be in accordance with the approved SWMP for the full duration of construction works and must provide an overall site detail. For staged development a SWMP shall be provided for each stage of the development. (esc010.doc)

- (3) The developer shall ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work. (esc020.doc)
- (4) The construction site supervisor shall ensure at all times that:
 - Any material deposited on public roads resulting from the works is removed immediately;
 - The emission of dust from the site is controlled with adequate watering equipment being kept on the site at all times for this purpose; and
 - A shaker pad and a wash down area are installed at the exit point of the site to prevent material leaving the site on the wheels of vehicles, other plant and equipment.
 - The items in the approved soil and water management plan are installed and maintained.

Landscaping Works

- (1) A detailed landscape plan shall be approved by Council prior to release of the Construction Certificate. The plan shall be prepared in accordance with Chapter 8 of Kiama Development Control Plan 2012 and shall be consistent with the landscape concept plan. (lw010.doc)
- (2) All landscape areas shown on the approved landscape plans or otherwise required under the conditions of this consent, shall be landscaped and maintained in accordance with the approved plans and conditions. (lw015.doc)
- (3) The landscaping shall be maintained actively and regularly for a period of 26 weeks commencing from the date of issue of the Occupation Certificate. (lw020.doc)
- (4) At the end of the 26 week landscape maintenance period and after any defects that occurred during that period have been corrected, a final Compliance Certificate shall be provided from a suitably qualified landscape professional stating that all landscape works have been completed and maintained in accordance with the approved landscape plans and the conditions of this development consent. (lw035.doc)
- (5) The landscape works shall remain in situ for the perpetuity of the development. (lw040.doc)
- (6) Prior to release of the Occupation Certificate the developer shall provide a Compliance Certificate from a suitably qualified landscape professional or Council's Landscape Officer stating that all landscape works have been completed in accordance with the approved landscape plans and the conditions of the development consent. (lw170.doc)
- (7) Prior to release of the Construction Certificate all landscape works shall be completed in accordance with the Approved Landscape Plans and the Conditions of the Development Consent and approved by Council. (lw175.doc)

Vegetation Management and Tree Protection

- (1) No tree(s) shall have **significant** backfill placed around its base or have the original ground level altered. (vm010.doc)

Prior to commencement of work

- (2) A Project Arborist shall be appointed prior to any works on site. The Project Arborist is responsible for;
- a) The placement of protective fencing for the existing trees to be retained
 - b) The supervision of any tree branch pruning
 - c) The supervision of any tree root severing greater than 50mm diameter
 - d) Recommend appropriate treatments as required when construction conflicts with tree protection
 - e) Report attendance and actions by certification to the Principle Certifying Authority prior to issue of the Final Occupation Certificate.

The Project Arborist is to be adequately experienced and qualified with minimum Level 5 (AQF): Diploma in Horticulture (Arboriculture).

During construction

- (3) No machinery, builder's material and/ or waste shall be located within the Tree Protection Zone of any tree retained adjoining the site or under the Norfolk Island Pines or Casuarinas in the road reserve of Meares Place.
- (3) Trees numbered 1 – 9 shall have protective fencing erected to denote the Tree Protection Zones encroaching within the development site. See Arboricultural Impact Assessment prepared by Craig Kenworthy of Sydney Landscape Consultants dated 20 July 2018 for details of Tree Protection Zones as shown in Section 5 Tree Location Plan.
- (4) Tree No.2 The neighbour's *Eucalyptus elata* shall have the pathway installed so as not to alter the existing ground level, and any conflict with roots, or other treatments for the path, shall be dealt with as directed by the Project Arborist. The two lower branches overhanging the site shall be pruned for access. All pruning practices shall be in accordance with AS 4737 – 2007, *Pruning of amenity trees*. The owner's permission is needed, in writing, from the Strata Committee of 21 Meares Place prior to the commencement of any pruning work. All work shall be supervised by the Project Arborist.
- (5) Tree 10 (12 *Allocasuarina littoralis*) shall be removed for the development. See Arboricultural Impact Assessment prepared by Craig Kenworthy of Sydney Landscape Consultants dated 20 July 2018 for details of these trees to be removed.
- (6) During construction any branches of the trees on the adjoining properties that need pruning for clearance of scaffolding or building that overhang the boundary shall be removed with the approval and supervision of the Project Arborist after consultation with the tree's owners.
- (7) During construction any tree roots greater than 50mm diameter that need pruning or severing shall be referred to the Project Arborist for advice on actions or treatments. Any roots encountered from Tree 9 trees (*Leylandii*) shall be guided by Arboricultural Impact Assessment prepared by Craig Kenworthy of Sydney Landscape Consultants dated 20 July 2018. See Section 8 for details.
- (8) Gutter guards appropriate to the foliage and fruit of the existing trees on adjoining properties should be installed in areas likely to be in the fruit/foliage fall area of the existing trees.
- (9) During construction any other matter arising that may harm the existing trees on adjoining properties shall be referred to the Project Arborist.
- (10) Prior to the release of the Occupation Certificate a Compliance Certificate from the Project Arborist shall be issued to the Principle Certifying Authority detailing the attendance on site and actions performed in accordance with the conditions of the development consent.

Site Facilities

- (1) If the erection or demolition of a building will cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the building and the public place.
 - i. If necessary, a sufficient awning is to be erected to prevent any substance from, or in connection with, the work falling onto the public place.
 - ii. The site of the building is to be kept lit between sunset and sunrise if it is likely to be a source of danger to persons using the public place.
 - iii. Any such hoarding, fence or awning is to be removed when no longer required.
 - iv. Any proposed hoarding/awning or fence shall be the subject of an application to Council. (sf005.doc)
- (2) An appropriate temporary toilet facility shall be provided on site, located inside the property boundaries, prior to commencement of works. The temporary toilet shall be maintained in a clean/sanitary condition at all times. (sf010.doc)
- (3) During construction the applicant shall provide, inside the property boundaries a suitable waste container for the disposal of all papers, plastics and other light weight materials. (sf015.doc)
- (4) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
 - a Stating that unauthorised entry to the premises is prohibited; and
 - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

Any such sign is to be removed when the erection or demolition of the building has been completed. (sf020.doc)

On Site Management of Waste

- (1) Upon occupation of the development an onsite caretaker or nominated representative must be provided and delegated the responsibility for the tasks involved in ongoing site waste management, including:
 - moving bins to and from the bin storage room to the nominated collection point on collection day as specified by Kiama Municipal Council;
 - washing bins and maintaining all bin storage areas;
 - arranging for the prompt removal of dumped rubbish;
 - displaying and maintaining consistent signs on all bins and in all communal storage areas;
 - managing communal composting areas (if applicable);
 - ensuring all residents are informed of the garbage, recycling, organics and bulky waste arrangements.
- (2) As it is a shared bin arrangement, prior to issue of any Occupation Certificate, it will be the responsibility of the developer/operator to establish the waste and recycling service for the residential units with Council's Waste Services (4237 7621). This will include the purchase of:
 - 18 x 240L red lid garbage bins,
 - 32 x 240L yellow lid recycling bins, &
 - 6 x 240L green lid organics bins.

Each property owner will be charged the 140L Domestic Waste Management Charge.

- (3) A Waste Deed of Agreement shall be entered into with Council prior to the release of any Occupation Certificate. Please contact Council's Waste Services for more information on 4237 7621.

Prior to Occupation

- (1) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to release of the Final Occupation Certificate.

Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)

- (2) The BASIX schedule of commitments shall be complied with prior to the issue of a Final Occupation Certificate for the development and if required a certificate shall be provided to the Principal Certifying Authority from a properly qualified person to certify that the BASIX schedule of commitments have been provided and/or installed. (po003.doc)

- (3) The developer shall complete all civil engineering works required in this consent in the adjoining road reserve prior to the issue of any Occupation Certificate. Written advice from Council confirming such shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate. (po010.doc)

- (4) A Works-As-Executed (WAE) drawing for all associated stormwater drainage work shall be submitted to the Principal Certifying Authority prior to the release of any Occupation Certificate. The WAE drawing shall be prepared and signed by a Registered Surveyor and show in contrasting coloured ink all changes to the approved construction certificate drawings and all constructed levels. The WAE drawing shall be certified by a suitably qualified Civil Engineer (registered on the Engineers Australia - National Engineering Register) that "all work as completed, including variations, meets the original intent of the approved Construction Certificate drawings and will have not have an adverse impact on adjacent properties".

- (5) Prior to the issue of any Occupation Certificate, certification from a suitably qualified civil and/or structural engineer (registered on the Engineers Australia - National Engineering Register) shall be submitted to the Principal Certifying Authority confirming that the on-site detention tank has been constructed in accordance with the approved plans and specifications.

- (6) Prior to occupation, the following documents shall be submitted to the Certifying Authority;

a Witten certification that:

- i the waste bin storage rooms have been constructed in accordance with the approved design plans and specification and comply with development standards as specified in Chapter 11 – Kiama Development Control Plan 2012 – Waste Requirements Section 5 Garbage, Recycling Bin Storage Rooms Point (Design Controls C1, and C8).
- ii space has been provided and nominated within the kitchen (or an alternate location) in each unit for the interim storage of bins or containers as supplied for source separated garbage, recyclables and food organics as specified in Chapter 11 – Kiama Development Control Plan 2012 – Waste Requirements Section 6 Internal Bins/Containers (Source Separation) (Design Controls C2, and C3).
- iii a copy the Waste Services Deed of Agreement signed and executed by the developer, Strata Body Corporate and Kiama Municipal Council the provision of onsite servicing and collection of waste.

- iv A structural engineers certificate and manufacturers certification confirming that the truck turntable has been constructed in accordance with the approved structural engineering details and specifications and manufacturers specifications. An operational compliance test shall be conducted using fully loaded waste collection vehicle that will be used to provide the waste service. Results of the compliance test shall be provided.
- (7) Prior to the Principal Certifying Authority issuing an Occupation Certificate, all external works, repairs and renovations detailed in the schedule of treatment/finishes, landscaping, driveways, fencing and retaining walls shall be completed to the satisfaction of the Principal Certifying Authority.
 - (8) The applicant to the development application indemnifies Council and its contractors and agents against any claims, proceedings, actions or demands arising from or in relation to any damage howsoever caused to the road surface, paving or drainage within the Development by the operation by Council or its contractors or agents in the collection of domestic waste except to the extent that such damage results from any misconduct or negligent act or omission of Council or its contractors or agents.
 - (9) Prior to the issue of an Occupation Certificate, the applicant shall provide Council with a copy of its public liability insurance policy valid for 12 months to satisfy Council that in the event that such a claim arises, a public liability insurance policy is in place to respond to any claim arising. Each year the body corporate must furnish Council with a copy of its renewed public liability insurance policy valid for the next 12 months to satisfy Council that in the event that such a claim arises, a public liability insurance policy is in place to respond to any claim arising.
 - (10) An Occupation Certificate shall not be issued for the subject building until the qualified designer who prepared the 'Design Verification Statement' submitted with the development application, prepares a separate written 'End Architectural Finishes Validation Statement'.

The 'End Architectural Finishes Validation Statement' shall confirm that the building's exterior has been constructed and completed in a manner that is not inconsistent with the approved plans and the plans relied upon for issue of the Construction Certificate, with specific regard to the architectural design elements, colours, finishes and treatments.

Where circumstances require, another qualified designer may prepare the written 'End Architectural Finishes Validation Statement', subject to receipt of written approval for such a change from Council's Director Planning and Environment.

- (11) Prior to the Principal Certifying Authority issuing an Occupation Certificate the applicant shall ensure that all applicable Council fees and charges, associated with the development, have been paid in full.

During Construction

- (1) The developer shall ensure that all construction work associated with the development is carried out in accordance with the approved Construction Environmental Management Plan (CEMP) and any variations are approved by the Principal Certifying Authority. A copy of the approved CEMP shall be kept on site at all times.
- (2) Any material deposited on public roads resulting from the works must be removed within 3 hours.
- (3) The emission of dust from the site must be controlled and in this regard watering equipment shall be kept on the site at all times for this purpose.
- (4) A shaker pad is to be installed at the exit point of the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.

Prior to the Issue of an Occupation Certificate

- (1) Pursuant to the requirements of Section 149 of the Roads Act 1993, a lease shall be consented to by Council for any proposed structures overhanging the road reserve. Evidence of the lease shall be sighted by the Principal Certifying Authority prior to the issue of any Occupation Certificate.
- (2) A Works-As-Executed (WAE) drawing for all work undertaken shall be submitted to the Principal Certifying Authority prior to the release of any Occupation Certificate. The WAE drawing shall indicate in contrasting coloured ink all changes to the Construction Certificate approved plans and specifications. The WAE plans shall be signed by a Registered Surveyor and certified by a suitably qualified civil engineer stating that all the works as completed, including variations, meet the original intent of the Construction Certificate approved plans and specifications and will have no adverse impact on adjacent properties or on Council infrastructure.
- (3) Prior to the issue of any Occupation Certificate, the following items shall be provided in the adjoining road network to the satisfaction of Council
 - i. Footpaths adjoining the development site are to be formalised with pavers or concrete paths (or any other material as approved by Council) at a grade of no more than 2.5% from the site boundary to the kerb line. All work shall be designed and constructed in accordance with Council's "*Driveway and Footpath Works Procedure Manual*";
 - ii. A maximum length of 150 metres of 1.2 metre wide concrete footpath in Meares Place, so as to provide safe all weather access to the shopping centre on Lot 211 in DP 875581 from the site.
 - iii. Any redundant vehicle crossing shall be restored to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*";
 - iv. All footpath access driveways in compliance with Council's "*Driveway and Footpath Works Procedure Manual*";

The requirements listed above shall be shown on plans which demonstrate compliance with the requirements of the Roads Authority and/or Council. Approval shall be pursuant to the requirements of the Roads Act 1993. The approved construction work shall be completed to the satisfaction (in writing) of Council prior to the issue of any Occupation Certificate. The Principal Certifying Authority shall not issue any Occupation Certificate until this certification is provided to them.

- (4) Prior to the issue of any Occupation Certificate the developer shall create an instrument under Section 88B/88E of the Conveyancing Act 1919, for approval by Council, which incorporates the following easements and restrictions on the use of land:
 - i. a positive covenant in favour of Council detailing protection measures and long term maintenance requirements for the on-site stormwater detention system. The document shall meet the standard terms applied by Council.
 - ii. Restriction as to user which stipulates that:

Residential accommodation on the land hereby burdened shall not be used for accommodation unless it is limited to:

a seniors or people who have a disability:

- i) people aged 55 or more years*
- ii) people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider*
- iii) people of any age who have, either permanently or for an extended period, one or more impairments, limitations or activity restrictions that substantial affect their capacity to participate in everyday life,*

- b people who live within the same household with seniors or people who have a disability,*
- c staff employed to assist in the administration of and provision of services to those specified in a) and b) above.*

iii. Positive covenant, with terms acceptable Council, which requires the turntable to be regularly maintained and in operation for the lifespan of the development,

- (5) A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The Section 73 Certificate shall be submitted to Principal Certifying Authority prior to issue of any Occupation Certificate.
- (6) Prior to issue of any Occupation Certificate, each residential visitor spaces shall be clearly signposted with the wording that it is a visitor space.
- (7) Prior to issue of any Occupation Certificate, three of the visitor spaces shall be capable of being used as a car wash bay. Each car wash bay shall be provided with a bund and/or open drain with grating all around, connected into the Sydney Water sewerage system, supplied with a cold water tap and power point and clearly signposted with the wording that it is a car wash bay and visitor parking.
- (8) Prior to the issue of any Occupation Certificate, written endorsement from a qualified structural engineer shall be submitted to the Principal Certifying Authority confirming that the on-site detention tank has been constructed in accordance with the approved plans and specifications.
- (9) Prior to the issue of any Occupation Certificate, written endorsement from a qualified civil engineer confirming that the constructed stormwater drainage infrastructure meets with the approved design shall be provided to the Principal Certifying Authority.
- (10) Prior to the issue of any Occupation Certificate, a management plan for the turntable which includes, but is not limited to, safety measures shall be prepared by a suitably qualified person and submitted to the Principal Certifying Authority for their endorsement.

Reasons for the imposition of conditions

- (1) Ensure the building/structure is completed in accordance with the requirements of the Building Code of Australia, applicable Australian Standards and the Environmental Planning and Assessment Act 1979 (as amended). (r001.doc)
- (2) To meet increased demand towards the provision, extension or augmentation of public amenities or services in accordance with Section 94 of the Environmental Planning and Assessment Act 1979 (as amended). (r032.doc)
- (3) Minimise any likely adverse environmental impact of the proposed developments. (r040.doc)
- (4) Ensure that the landscape works are completed established and maintained in accordance with the approved plans and conditions. (r060.doc)
- (5) Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development. (r100.doc)
- (6) Ensure the stormwater run off from the site is disposed of in an orderly and satisfactory manner. (r105.doc)
- (7) Provide for adequate on-site car parking commensurate with the traffic generation of the development. (r130.doc)
- (8) Ensure the structural stability of the proposed development. (r135.doc)

Notes

- (1) To ascertain the date upon which this consent becomes effective refer to Section 83 of the Environmental Planning and Assessment Act 1979 (as amended). (nb010.doc)
- (2) In accordance with Sub-Section 95(2) of the Environmental Planning and Assessment Act 1979 (as amended) this consent will lapse on ~~15/11/2022~~ 29/11/2023 unless otherwise provided for elsewhere in Sections 95 or 95A of the Act. (nb015.doc)
- (3) Section 97 of the Environmental Planning and Assessment Act 1979 (as amended) confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within six (6) months after receipt of this notice. (nb020.doc)
- (4) The applicant shall note that the development consent in no way authorises commencement of construction work. The latter can only be obtained through submission and approval of a satisfactory Construction Certificate Application. (nb025.doc)
- (5) For further information on contributions payable and attributable to this development your attention is directed to Council's *Section 94A (Indirect Contributions) Plan* which is available on Council's website – www.kiama.nsw.gov.au. (nb044.doc)
- (6) Sydney Water Approval Required.

For applications for approval of Council approved building plans to check if the proposed construction work affects Sydney Water services please refer to the website www.sydneywater.com.au for:

- Sydney Water Tap in TM
 - Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building Developing → Building and Renovating. (nb075.doc)
- (7) Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.