

ADDENDUM ASSESSMENT REPORT

**DEVELOPMENT APPLICATION
(2016STH035 DA – DA10.2016.304.1)
PROPOSED MIXED USE DEVELOPMENT – RETAIL &
COMMERCIAL PREMISES AND SHOP TOP HOUSING**

**VARIOUS ALLOTMENTS
TERRALONG, AKUNA AND SHOALHAVEN STREETS,
KIAMA**

Prepared for
Kiama Municipal Council

December 2017

Addendum Assessment Report

Project	Development Application (2016STH035 DA – DA10.2016.304.1 Proposed Mixed Use Development: Retail & Commercial Premises and Shop Top Housing
Address	Various Allotments, Terralong, Akuna and Shoalhaven Streets Kiama
Our ref:	16/108
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1.0 INTRODUCTION

On the 24th November 2017 our firm submitted an Assessment Report in relation to Development Application DA10.2016.304.1 for a Mixed Use Development comprising retail and commercial premises and shop-top housing to be situated over various allotments of land and fronting Terralong, Shoalhaven and Akuna Streets Kiama. That Assessment Report recommended that the development application be refused.

Following the finalisation of that Assessment Report a meeting took place attended by the Applicant and his consultant team, Council staff and myself to discuss the basis of the refusal recommendation. Following that meeting the Applicant has submitted a further amended proposal in an attempt to better address the recommended reasons for refusal as detailed in the original Assessment Report.

Kiama Municipal Council has engaged our firm's services to review the revised development proposal and to prepare an Addendum Assessment Report of the outcome of this review and assessment of the revised development proposal having regard to the issues of concern raised in the original Assessment Report. This report has been prepared in accordance with those instructions.

2.0 RECOMMENDATION OF ORIGINAL ASSESSMENT REPORT

The original Assessment Report dated 24th November 2017 made the following recommendation in relation to DA 10.2016.304.1:

That the Joint Regional Planning Panel refuse Development Application DA 2016.304.1 pursuant to Section 80 of the Environmental Planning and Assessment Act for the following reasons.

- 1. The development application does not comply with Clause 4.3 of the Kiama Local Environmental Plan 2011 in that it proposes a building height limit that significantly exceeds the 11 metre building height limit that applies to the site. The Applicant's written request pursuant to Clause 4.6 of the Kiama Local Environmental Plan 2011 does not provide sufficient justification that compliance with the building height limit under the specific circumstances of the case is unreasonable or unnecessary; and that there are sufficient environmental planning grounds to justify contravening the development standard.*
- 2. The development application does not comply with Clause 4.4 of the Kiama Local Environmental Plan 2009 in that it proposes to exceed the floor space ratio of 1.5:1 that applies to the western part of the site. The Applicant's written request pursuant to Clause 4.6 of the Kiama Local Environmental Plan 2011 does not provide sufficient justification that compliance with the floor space ratio is unreasonable or unnecessary under the specific circumstances of the case; or that there are specific environmental planning grounds to justify contravening the development standard.*
- 3. The proposal does not provide adequate communal open space to enhance residential amenity and provide adequate opportunity for landscaping as required by Section 3D of the NSW Apartment Design Guide. The development provides 1070 m² of communal open space whereas the Design Criteria of Part 3 of the NSW Apartment Design Guide recommends 1925.15 m² of communal open space for the subject site. Given the proposal is unable to provide adequate communal open space for future residents that meets the NSW Apartment Design Guide, the development is unable to satisfy the provisions of Clause 29 of State Environmental Planning Policy No. 65.*
- 4. The proposed communal open space for Residential Apartment tower D and E is considered inadequate, poorly designed and sited. This communal open space has been sited to the west of this complex with access by a narrow corridor. Such a communal open space is not an easily identified area; and is not provided with a direct equitable access from common circulation areas. Such is considered to be inadequate having regard to the design guidelines as detailed in Part 3D of the NSW Apartment Design Guide. Given these shortcomings the communal open space provision for this part of the development is unable to satisfy the provisions of clause 29 of State Environmental Planning Policy No. 65.*
- 5. The development does not optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space, in accordance with Section 4A Solar and Daylight Access of the NSW Apartment Design Guide with less than 70% of apartments receiving the minimum 3 hours of sunlight between the hours of 9:00 am to 3:00 pm mid-winter. The*

development therefore is unable to satisfy the provisions of Clause 29 of State Environmental Planning Policy No. 65.

6. *The proposed service lane access providing egress for service vehicles to Collins Street from the development is too narrow for this purpose. Whilst an in-principle conditional agreement has been obtained from the owner of land to secure an easement, the laneway even allowing for the easement would not comply with the minimum width standard as outlined in the relevant Australian Standard. Insufficient information has been provided detailing suitable arrangements for service vehicles to service and leave the site in a safe manner.*
7. *The proposal does not provide satisfactory access for service vehicles entering the site from Shoalhaven Street. A semi-trailer entering the service lane from Shoalhaven Street will require to drive into the on-coming lane in Shoalhaven Street compromising the safety of the general motoring public.*
8. *The pedestrian forecourt provided to the Akuna Street frontage is located significantly below street level. Providing a public domain significantly below street level will compromise safety and security with reduced visibility from the street and minimise passive surveillance. The proposal will therefore not maintain or enhance the public domain contrary to the Section 3C Public Domain Interface of the NSW Apartment Design Guide. The inability to maintain or enhance the amenity of the public domain is contrary to the provisions of clause 29 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.*
9. *The development, and in particular the residential towers do not provide satisfactory fine scale articulation. The development form does not respect the character of the Kiama town centre comprising a scale of development with predominantly horizontal built form in contrast to the vertical built form that reflects the traditional character of development within the Kiama town centre. The development does not provide building facades which respect the character of the Kiama town centre contrary to the objective of Section 4M Façades of the NSW Apartment Design Guide and therefore the proposal is inconsistent with the provisions of Clause 29 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.*

3.0 THE REVISED PROPOSAL

In a submission dated 1st December 2017 the Applicant has submitted a revised development proposal in an attempt to address the recommended reasons for refusal of the development application as outlined in the original Assessment Report. In summary the development proposal has been revised as follows:

- The footprint of the fourth residential level has been reduced in area with the further setting back and stepping of the northern extent of this level. This has had the effect of removing two residential apartments from this floor level. The effect of this stepping back of the development has been a reduction in the extent to which the development encroaches above the 11 metre building height limit that applies to the site. The proposal development will however still exceed the 11 m building height limit – although to a lesser degree.
- In addition to the reduction of the floor level of the fourth residential floor level as described above, the proposal has also been amended by the reduction in commercial floor area to Shoalhaven Street frontage of the site to make better provision for service delivery vehicle access to the site. This has resulted in a reduction in gross floor area by 287.6 m².
- An additional communal open space with adjacent common room has been provided to the northern side of Block D and E located above the loading dock area. This additional area will increase communal open space provided to the development by 218 m².
- The amendments to the upper floor level together with refinements to the layouts of some of the apartments have sought to ensure adequate sunlight to the requisite number of dwellings within the development.
- The Applicant has supplied further information demonstrating the revised proposal will provide suitable arrangements for service vehicles to enter and leave the site in a safe manner.
- Additional information has also been supplied detailing how the security and safety of the pedestrian forecourt to the Akuna Street frontage can be managed.
- The Shoalhaven Street elevation of the revised proposal has also been modified to improve the vertical articulation of the elevation.

A revised Architectural Drawing set prepared by ADM Architects for the revised proposal are included in **Annexure 1** to this Addendum Assessment Report.

As a result of these amendments the revised proposal will comprise:

Building	1 bed + study	2 bed	3 bed	Total
A	7	8	1	16
B	11	13	0	23
C	9	13	0	22
D and E	11	20	2	33
Total	40	52	5	94

The revised proposal would be configured as follows:

Level (as referred to on the Architectural Drawing Set)	Proposed Use(s)
Basement (Retail Parking Level)	<ul style="list-style-type: none"> Commercial parking for 128 car parking spaces and 50 visitor spaces providing a total of 178 parking spaces. Plant Room.
Ground Floor (Retail Level)	<ul style="list-style-type: none"> 10 retail tenancies and supermarket with retail arcade. Total floor area – 2475 m² (excluding arcade floor space – 1030 m²). “Back of house” for supermarket – 497 m². Amenities and part arcade constructed under laneway. Commercial parking area for 82 parking spaces (including 4 disabled parking spaces and five (5) small car parking spaces)
Residential Parking	<ul style="list-style-type: none"> Second storey commercial tenancy off Terralong Street frontage with floor area of 245 m². Loading docks for the supermarket, and a second separate loading dock area for the other retail and commercial tenancies. A total of 145 parking spaces, 24 disabled spaces, residential and commercial waste storage areas.
Akuna/Shoalhaven Commercial / Residential Level 1	<ul style="list-style-type: none"> Third storey commercial tenancy fronting Terralong Street comprising a floor area 215 m². Three (3) commercial tenancies fronting Shoalhaven and Akuna Streets comprising a total floor area of 546 m². First residential level containing twenty-two (22) residential units, including foyers to each of the towers / buildings. Two separate communal open space areas located between Buildings A, B and C comprising a total area of 750 m² and two communal open space areas located on the northern and western sides of Buildings D and E comprising a combined area of 538 m², providing a total communal open space of 1288 m². Building's D & E will also provide a common room adjacent to the northern communal open space with a floor area of 60 m². Pedestrian forecourt area situated between Akuna Street and the commercial tenancies fronting this street, including stairways, ramps and elevator to enable pedestrian access from Akuna Street through the proposed development to Terralong Street.
Residential Level 2	<ul style="list-style-type: none"> Second residential level containing thirty-one (31) residential units.
Residential Level 3	<ul style="list-style-type: none"> Third residential level containing thirty-one (31) residential units.
Residential Level 4	<ul style="list-style-type: none"> Fourth residential level containing ten (10) residential units.

4.0 ASSESSMENT OF REVISED PROPOSAL

This section of the report will provide an assessment of the revised proposal having regard to the recommended reasons for refusal detailed in the original Assessment Report.

4.1 BUILDING HEIGHT

As detailed in Section 2.0 of this report, the original Assessment Report in part recommended that the development application be refused for the following reason:

1. *The development application does not comply with Clause 4.3 of the Kiama Local Environmental Plan 2011 in that it proposes a building height limit that significantly exceeds the 11 metre building height limit that applies to the site. The Applicant's written request pursuant to Clause 4.6 of the Kiama Local Environmental Plan 2011 does not provide sufficient justification that compliance with the building height limit under the specific circumstances of the case is unreasonable or unnecessary; and that there are sufficient environmental planning grounds to justify contravening the development standard.*

The original Assessment Report raised concern with the extent to which the development encroached above the 11 m building height limit that applies to this site. It was considered that the extent to which original proposal exceeded the building height limit was excessive with respect to the degree of encroachment above the 11 metres height limit with three of the blocks (Block B, C and D) all exceeding over 1.5 metres, and for Blocks C and D by well over 2 metres (2.78 m) the 11 m height limit. In addition the lateral extent to which the development would exceed the 11 metre height limit encompassed well over half of the area of the rooftops of Blocks B, C & D, and in the case of Blocks B and C almost the entire roof top will sit above the 11 metre height limit.

The revised proposal still generally complies with the 11 m building height limit along the Akuna Street frontage of the site (except from a minor encroachment at the south-eastern corner of Building B of 230 mm).

The upper floor level of the revised proposal has been modified with a reduction in extent to which it will encroach the 11 m building height limit for each of the blocks as follows:

- Block A – 835 mm (north-eastern corner);
- Block B – 1380 mm (north-eastern corner) (previously 1850 mm, a reduction of 470 mm);
- Block C – 1480 mm (north-eastern corner) (previously 2780 mm, a reduction of 1300 mm)

- Block D – between 1930 mm and 1730 mm (along northern edge of roof) (previously between 2250 mm and 2350 mm, a reduction of between 420 mm and 520 mm).

The extent to which the revised proposal exceeds the 11 m height limit has further reduced with the extent of encroachment for each of the buildings less than 1500 mm, and only Block D encroaching above 1500 mm encroachment. The greatest encroachment is now 1930 mm at the north-eastern corner of Block D.

Furthermore, with the removal of two units and the setting back of Building D / E, the lateral extent of encroachment across the overall building footprint has also been substantially reduced.

The most significant exceedance of the building height limit occurs along the northern edge of the fourth residential level. As with the original proposal the extent of encroachment decreases towards the Akuna Street frontage, where as outlined above the proposal in large part sits below the 11 m building height limit (except for the south-eastern corner of Block B which will slightly encroach 230 mm above the 11 m building height limit). As a result the portion of the development where the encroachment is the greatest is internalised within the development site and set well back from adjoining boundaries. This is particularly the case with the revised proposal with the removal of northern units from Blocks B and C, and the reduction in area of the upper level of units within Block D & E. By setting back the upper level from the northern boundary the extent to which the development encroaches above the 11 m building height limit has been reduced (Refer **Figure 1**). As a result the proposal, despite exceeding the 11 m building height limit will not create adverse impacts to the surrounding locality in terms of overlooking or loss of sunlight.

In my view the extent to which the revised proposal now exceeds the 11 m building height is more acceptable compared to the original proposal.

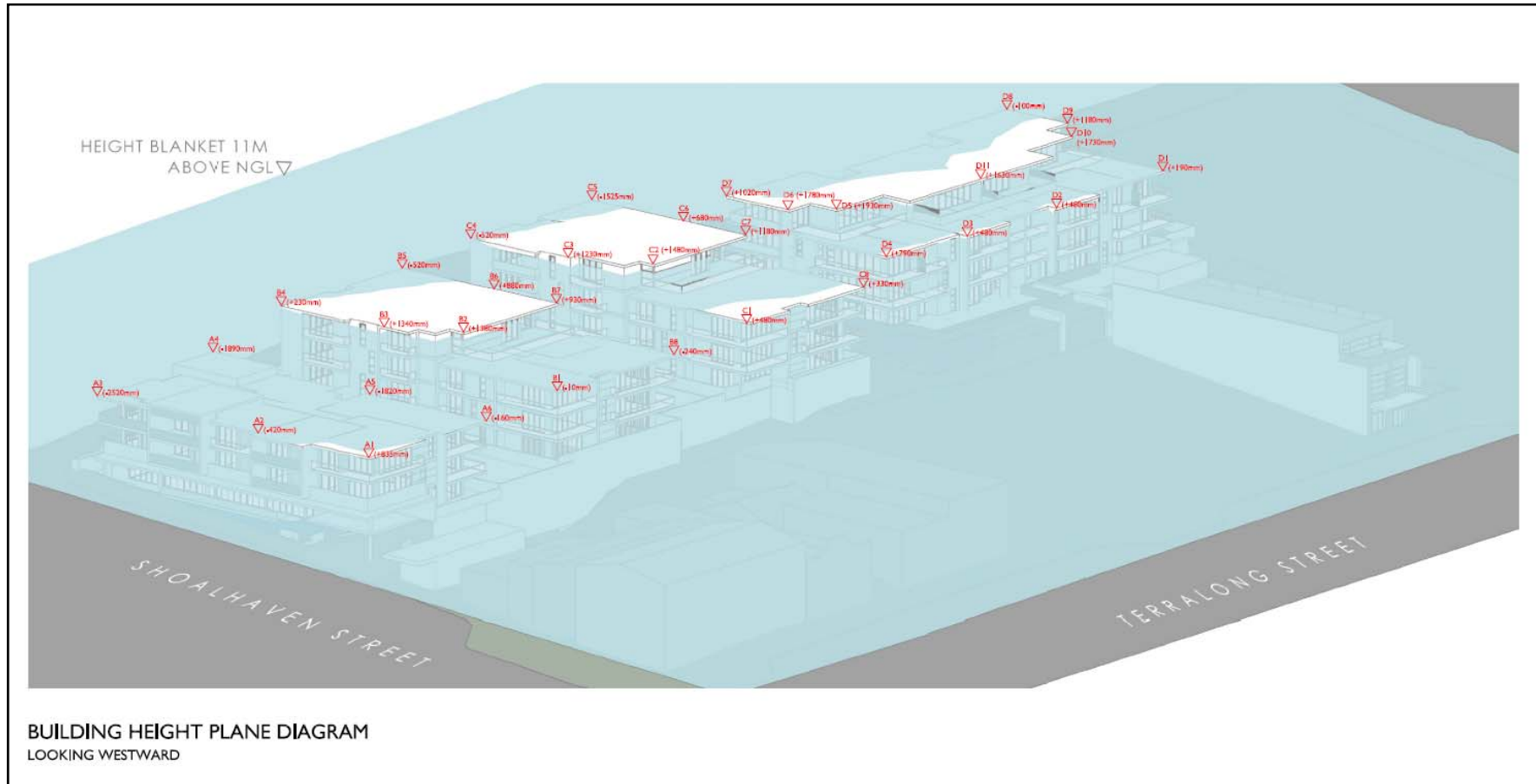


Figure 1: 11 m Building Height Plane for revised proposal.

4.2. FLOOR SPACE RATIO

The original Assessment Report also recommended refusal of the development application on the following ground:

2. *The development application does not comply with Clause 4.4 of the Kiama Local Environmental Plan 2009 in that it proposes to exceed the floor space ratio of 1.5:1 that applies to the western part of the site. The Applicant's written request pursuant to Clause 4.6 of the Kiama Local Environmental Plan 2011 does not provide sufficient justification that compliance with the floor space ratio is unreasonably or unnecessary under the specific circumstances of the case; or that there are specific environmental planning grounds to justify contravening the development standard.*

The concerns raised in the original Assessment Report in connection with the non-compliance with the Floor Space Ratio with respect to the western part of the development in large part stemmed from my concerns as the extent to which the proposed development encroached above the building height limit for the site.

As detailed in Section 4.2 above, the revised proposal has reduced the scale of the fourth residential level of the development in a manner that in my view renders the extent of encroachment of the 11 m building height limit more acceptable when compared to the original proposal.

4.3 COMMUNAL OPEN SPACE

The original Assessment Report also recommended refusal of the development application on the following grounds:

3. *The proposal does not provide adequate communal open space to enhance residential amenity and provide adequate opportunity for landscaping as required by Section 3D of the NSW Apartment Design Guide. The development provides 1070 m² of communal open space whereas the Design Criteria of Part 3 of the NSW Apartment Design Guide recommends 1925.15 m² of communal open space for the subject site. Given the proposal is unable to provide adequate communal open space for future residents that meets the NSW Apartment Design Guide, the development is unable to satisfy the provisions of Clause 29 of State Environmental Planning Policy No. 65.*
4. *The proposed communal open space for Residential Apartment tower D and E is considered inadequate, poorly designed and sited. This communal open space has been sited to the west of this complex with access by a narrow corridor. Such a communal open space is not an easily identified area; and is not provided with a direct equitable access from common circulation areas. Such is considered to be inadequate having regard to the design guidelines as detailed in Part 3D of the NSW Apartment Design Guide. Given these shortcomings the communal open space provision for this part of the development is unable to satisfy the provisions of clause 29 of State Environmental Planning Policy No. 65.*

The revised proposal now includes an additional communal open space area located to the north of Buildings D & E with access to a main lobby through a proposed common room. This common open space area will be in addition to the common open space area to the west of this building.

Overall the revised proposal will now provide two separate communal open space areas located between Buildings A, B and C comprising a total area of 750 m²; and two communal open space areas located along the northern and western boundaries of Buildings D and E comprising a combined area of 538 m²; providing a total communal open space for the development of 1288 m².

Buildings D & E will also provide a common room adjacent to the northern communal open space with a floor area of 60 m².

The provision of this additional communal open space will increase communal open space to 1288 m², which still does not strictly comply with the design criteria of Section 3D of the ADG which specifies that communal open space should have a minimum area equal to 25% of the site area (or 1925.15 m²) a shortfall of 637.15 m².

The NSW ADG however recognises the difficulty of sites within business zones complying with the communal open space requirement by indicating that where developments are unable to achieve this design criteria they should:

- *provide communal spaces elsewhere such as a landscaped roof top terrace or a common room*
- *provide larger balconies or increased private open space for apartments*
- *demonstrate good proximity to public open space and facilities and/or provide contributions to public open space*

As outlined in my original Assessment Report, the proposed private open space areas provided for the residential apartments are generous in area when compared to the ADG requirements. The site is also within close proximity of Hindmarsh Park which is located in Terralong Street. Hindmarsh Park also links with the Kiama Harbour foreshore.

The original Assessment Report raised specific concerns in relation to the communal open space provision for Buildings D & E which was originally limited to an area part way along the western boundary; with access to this communal open space area from within the residential apartments within this building limited to a long narrow and uninviting corridor.

This western communal open space is retained by the revised proposal; however an additional communal open space is now proposed to the northern side of this building. Furthermore access to this northern communal open space will be through a common

room which has replaced one of the one (1) bedroom apartments. This common room will have direct access to one of the main lobbies for this building. This common room provides an alternative additional communal space for residents.

The provision of this additional communal open space on the northern side of this building D & E (and improved sunlight access that this position will provide); its more direct access to a main lobby; the provision of a common room which will connect this additional communal open space to the building; the close proximity of the site to Hindmarsh Park; and the generally generous private open space areas for the apartments; will now, in my view, ensure an adequate supply of open space for future residences of the development, notwithstanding the proposal does not strictly comply with the design criteria of the ADG in this instance.

4.4 SUNLIGHT ACCESS

The original Assessment Report also recommended refusal of the development application on the following ground:

5. *The development does not optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space, in accordance with Section 4A Solar and Daylight Access of the NSW Apartment Design Guide with less than 70% of apartments receiving the minimum 3 hours of sunlight between the hours of 9:00 am to 3:00 pm mid-winter. The development therefore is unable to satisfy the provisions of Clause 29 of State Environmental Planning Policy No. 65.*

Design Criteria 4A-1(2) of the NSW ADG stipulates that for sites outside the metropolitan areas of Newcastle, Sydney and Wollongong (such as Kiama), living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours of direct sunlight between 9:00 am and 3:00 pm at mid-winter.

The ADG also provides a design guide which recommends in order to maximise the benefit to residents of direct sunlight within living rooms and balconies, a minimum of 1 m² of direct sunlight measured at 1 m above floor level is achieved for at least 15 minutes.

The Applicant has now undertaken further amendments to the layout and design of the units that were identified by the original Assessment Report as being of concern in terms of sunlight access. These amendments have included refinements to shading devices and room and apartment layouts. As a result of these amendments, based upon the revised sunlight access diagrams prepared by the Applicant, the revised proposal is now able to achieve the sunlight access requirements of Section 4A of the ADG.

4.5 SERVICE VEHICLE ACCESS TO AND FROM SITE

The original Assessment Report also recommended refusal of the development application on the following ground:

6. *The proposed service lane access providing egress for service vehicles to Collins Street from the development is too narrow for this purpose. Whilst an in-principle conditional agreement has been obtained from the owner of land to secure an easement, the laneway even allowing for the easement would not comply with the minimum width standard as outlined in the relevant Australian Standard. Insufficient information has been provided detailing suitable arrangements for service vehicles to service and leave the site in a safe manner.*
7. *The proposal does not provide satisfactory access for service vehicles entering the site from Shoalhaven Street. A semi-trailer entering the service lane from Shoalhaven Street will require to drive into the on-coming lane in Shoalhaven Street compromising the safety of the general motoring public.*

In Section 5.6.4.4 of the original Assessment Report it was outlined that further confirmation was required to support a service lane egress from the site of 3.35 m (and therefore less than the minimum requirement under the relevant Australian Standard of 3.5 m) would be satisfactory for future service vehicles associated with the proposed supermarket and waste contractor.

The Applicant has subsequently supplied email correspondence with representatives of ALDI (the future supermarket tenant) which indicates that if the Applicant's Traffic Engineer is able to verify that "a 19 metre truck can turn into the lane, traverse the lane, manoeuvre in and out of the ALDI loading dock and exit out of the laneway. If all those points are satisfied, ALDI will also be satisfied that the laneway functions adequately for truck deliveries." A copy of this email correspondence is included in **Annexure 2** to this Addendum report.

The Applicant's traffic engineering consultant, Jones Nicholson have subsequently issued a further submission (which is also included in **Annexure 2**) which concludes:

Based upon the updated architectural drawing set and manoeuvring checks completed by Jones Nicholson, we verify that a 19m articulated heavy vehicle:

- *Can enter the proposed development via the truck service driveway from Shoalhaven Street without crossing the centreline of Shoalhaven Street;*
- *Can manoeuvre into and out of the proposed loading bay to deliver goods to the proposed ALDI store;*
- *Can traverse the service driveway and laneway intersecting Collins Street via the proposed 3.35m minimum width lane; and*

- *Can leave the proposed development via the laneway intersecting Collins Street and manoeuvre onto Collins Street to depart the Kiama town centre.*

Council's Development Engineer accepts Jones Nicholson's verification in this regard.

The waste contractor in this instance will be Kiama Municipal Council. Also included in **Annexure 2** to this report is email correspondence I have now received from Council which confirms a service lane with a width of 3.35 m is the minimum width measurement required for a waste vehicle to service the site.

Given these circumstances it would appear that there is now sufficient information to confirm that the proposed northern service lane, with the proposed 300 mm wide easement to the adjoining land to the north, will be of sufficient width to accommodate service vehicles.

If the panel are of mind to approve the development however, an operational consent should not be granted until such time as this easement is registered and the subject land has a benefit over this strip of land. Under these circumstances the registration of the easement would form a condition on a deferred commencement consent that would need to be resolved before an operational consent could be issued.

With respect to service vehicle access from Shoalhaven Street, the proposal has been revised by amending the Shoalhaven Street vehicle entrances to the site. These amendments have modified the vehicle entrances with consequent changes to the floor layouts of the Shoalhaven Street commercial footprint, to enable a service vehicle to manoeuvre into the site from Shoalhaven Street without the need to travel into the on-coming path of travel along Shoalhaven Street. This issue has therefore been resolved.

4.6 AKUNA STREET PEDESTRIAN FORECOURT

The original Assessment Report also recommended refusal of the development application on the following ground:

8. *The pedestrian forecourt provided to the Akuna Street frontage is located significantly below street level. Providing a public domain significantly below street level will compromise safety and security with reduced visibility from the street and minimise passive surveillance. The proposal will therefore not maintain or enhance the public domain contrary to the Section 3C Public Domain Interface of the NSW Apartment Design Guide. The inability to maintain or enhance the amenity of the public domain is contrary to the provisions of clause 29 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.*

The Applicant has supplied a further submission prepared by TCG Planning which details management measures which could be introduced to address safety and security issues associated with the pedestrian forecourt along the Akuna Street frontage of the site (**Annexure 3**). These management measures would include:

- *Surveillance of the pedestrian forecourt during the daytime period will occur from the adjacent shops, with glazed frontages. This area will be an activated space during daylight hours, thereby minimising the potential for antisocial behaviour or loitering.*
- *Lighting of the pedestrian forecourt area will be provided in accordance with 'Lighting for Roads and Public Spaces'- Part 3.1: Pedestrian area (Category P) lighting- Performance and design requirements (AS/NZS 1158.3.1:2005)' with the following key principle adopted:*
 - *Lighting in this space will be provided at 1200mm centres.*
 - *A lighting strategy will be prepared in conjunction with the Construction Certificate to provide details regarding the lighting in this location.*
 - *Vandal resistant lighting will be used to reduce the potential for damage in this publicly accessible area and to reduce ongoing maintenance costs.*
 - *The underside of the roof above this forecourt will be painted in a light colour to allow for reflection of lighting and to minimise dark areas of concealment.*
 - *Lighting will be concentrated within this forecourt space and will be positioned to minimise light spill into adjacent residences either above or adjacent to the site.*
 - *Clear signage within this area will direct visitors to the retail premises.*
 - *Secure entry will be provided to the communal open space and residential lobbies with key card access. This will also prevent unauthorised access to the bicycle storage areas.*
- *Closed Circuit Television (CCTV) surveillance will be provided within this area on a 24 x 7 basis to discourage loitering and allow for recording of antisocial behaviour, should it occur.*

The relationship between the ground floor level of the proposed Akuna Street pedestrian forecourt and Akuna Street frontage is difficult. As detailed in the original Assessment Report there is at present no provision for pedestrian connectivity along the southern side of Akuna Street. The proposal has sought to provide pedestrian connectivity along part of the Akuna Street frontage by way of a pedestrian forecourt.

Due to the difficult cross fall and the need to provide universal pedestrian access that links with Shoalhaven Street, the pedestrian forecourt has been sunken below the Akuna Street level, with access provided by a series of ramps, stairs and lift. (The development does

not provide complete at grade access between Shoalhaven Street and commercial units along this street frontage which will in part be raised above the street level.)

The level difference between the pedestrian forecourt and the Akuna street level is quite stark with a difference of up to 3 m at the western end of the forecourt reducing to 1.6 metres towards Shoalhaven Street.

Concern is raised in the original Assessment Report that the Akuna Street pedestrian forecourt will become a dark and unsafe pedestrian area with limited natural surveillance. These concerns are exacerbated as this area is located on the southern side of the development where natural sunlight will be limited. The measures proposed by TCG have sought to address these concerns by proposing a lighting strategy to improve the lighting of this space as well as CCTV surveillance to provide the potential for greater surveillance and therefore safety. As this space will also have glazed commercial frontage a level of natural surveillance from these commercial premises will also be present at least during daylight hours.

Section 3C of the NSW ADG concerns the “Public Domain Interface”. Objective 3C-1 requires that the transition between the private and public domain is achieved without comprising safety and security.

The Applicant has sought to alleviate these concerns by:

- Stating that surveillance of the space will occur during daylight hours from the adjacent commercial tenancies with their glazed frontages;
- Proposing a lighting strategy for this area and secure entry to residential apartments;
- The provision of closed circuit television surveillance to discourage antisocial behaviour.

Due to the lack of current pedestrian access and the change in grades along this streetscape the provision of pedestrian access along the frontage of this site creates difficulties. The Applicant proposes a suite of measures that seek to better address public safety and security along this forecourt area. Whilst I am not overly convinced these measures will overcome the concerns expressed in the original Assessment Report; on balance if these measures are implemented they may improve security and surveillance of this pedestrian forecourt area compared to the original proposal.

4.7 BUILDING ARTICULATION

The original Assessment Report also recommended refusal of the development application on the following ground:

9. *The development, and in particular the residential towers do not provide satisfactory fine scale articulation. The development form does not respect the character of the Kiama town centre comprising a scale of development with predominantly horizontal built form in contrast to the vertical built form that reflects the traditional character of development within the Kiama town centre. The development does not provide building facades which respect the character of the Kiama town centre contrary to the objective of Section 4M Façades of the NSW Apartment Design Guide and therefore the proposal is inconsistent with the provisions of Clause 29 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.*

The revised proposal has amended the elevation to Shoalhaven Street to provide more vertical articulation to this elevation when compared to the original proposal.

The original Shoalhaven Street elevation provided a very horizontal articulation as shown in **Figure 2** below:



Figure 2: Original Shoalhaven Street Elevation.

The revised proposal provides a slight architectural refinement that seeks to provide a more vertical proportion to this elevation as shown in **Figure 3** below:

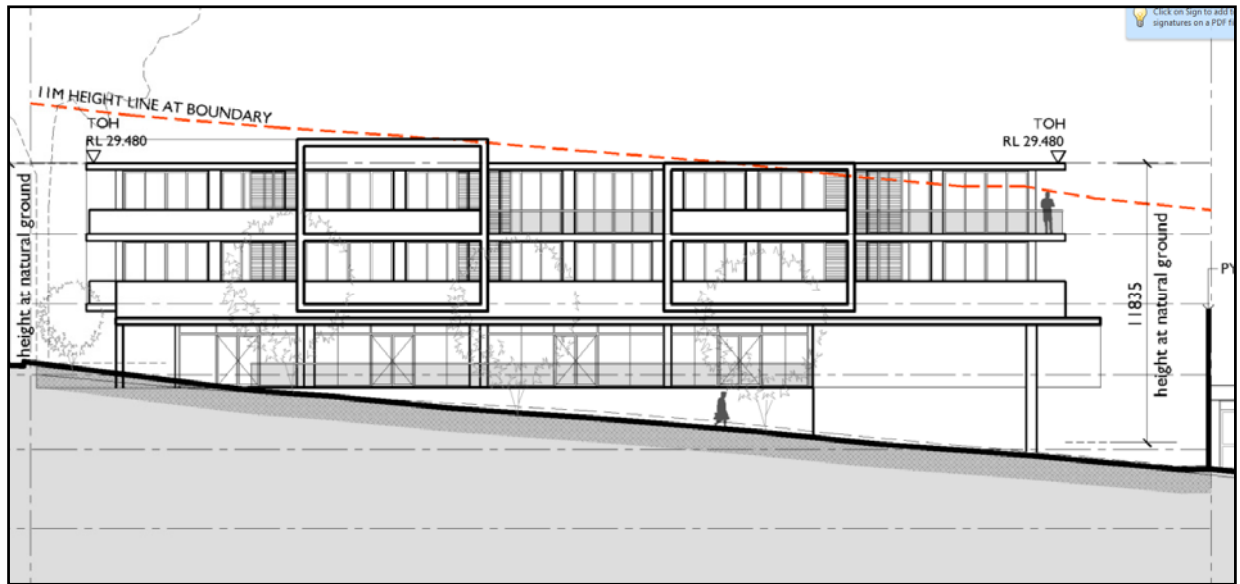


Figure 3: Revised Shoalhaven Street Elevation.

The revised proposal does provide less of a horizontal articulation compared to the original proposal and a slightly more vertical proportion to this elevation. With the selective use of external materials and colours the development should be able to provide an elevation which better reflects the traditional vertical articulation of development associated with the Kiama Township.

5.0 CONCLUSION

On the 24th November 2017 our firm submitted an Assessment Report into Development Application DA10.2016.304.1 for a Mixed Use Development comprising retail and commercial premises and shop-top housing to be situated over various allotments of land and fronting Terralong, Shoalhaven and Akuna Streets Kiama. That Assessment Report recommended that the development application be refused.

Subsequent to that original Assessment Report a meeting took place attended by the Applicant and his consultant team, Council staff and Stephen Richardson of Cowman Stoddart Pty Ltd to discuss the basis of the refusal recommendation. Following that meeting the Applicant has submitted a further revised proposal in an attempt to better address the recommended reasons for refusal as detailed in the original Assessment Report.

This Addendum Assessment Report addresses the outcome of this review and assessment of the revised development proposal specifically having regard to the recommended reasons for refusal raised in the original Assessment Report.

Building Height

The main issue of contention raised by the original proposal related to the excessive extent to which the development encroached the 11 m building height limit imposed under the Kiama LEP 2009 and the lack of justification supporting such encroachment. The proposal has now been modified with the removal of two units and the setting back of Building D / E at the fourth residential floor level. As a result the extent to which the development exceeds the 11 m building height limit and the lateral extent of encroachment across the overall building footprint has also been substantially reduced. The extent to which the revised proposal now exceeds the 11 m building height is more acceptable compared to the original proposal.

Floor Space Ratio

The development also encroaches the FSR requirement under the Kiama LEP 20109. Concerns raised by the original Assessment Report with respect to exceedance of the FSR related mainly to the encroachments of the building height limit. As the extent to which the revised proposal exceeds the 11 m building height limit are now considered to be more acceptable, concerns raised in relation to non-compliance with the floor space ratio requirements under the LEP are also overcome.

Communal Open Space

The original Assessment Report raised specific concerns in relation to the communal open space provision for Buildings D & E which was originally limited to an area part way along the

western boundary; with access from the residential apartments limited to a long narrow and un-inviting corridor. This western communal open space is retained by the revised proposal; however an additional communal open space is now proposed to the northern side of this building. Furthermore access to this north communal open space will be through a common room which has replaced one of the one (1) bedroom apartments. This common room will have direct access to one of the main lobbies for this building. These modifications now ensure an adequate supply of open space for future residences of the development, notwithstanding the proposal does not strictly comply with the design criteria of the ADG in this instance.

Sunlight Access

The revised proposal includes further amendments to the layout and design of the units that were identified by the original Assessment Report as being of concern in terms of sunlight access. These amendments have included refinements to shading devices and apartment & room layouts. As a consequence of these amendments, based upon the revised sunlight access diagrams prepared by the Applicant, the revised proposal is able to achieve the sunlight access requirements of Section 4A of the ADG.

Service Vehicle Egress and Ingress

With respect to the adequacy of the northern service lane to accommodate service vehicles associated with the development the Applicant has supplied further information confirming the adequacy of this service lane. Council's Development Engineer confirms acceptance of this information. Given these circumstances it would appear that there is now sufficient information to confirm that the proposed service lane, with the proposed 300 mm wide easement to the adjoining land to the north along the service lane will be sufficient to accommodate service vehicles. The registration of this easement should however be resolved before an operational consent could be issued.

With respect to service vehicle access from Shoalhaven Street, the proposal has been amended to enable a service vehicle to manoeuvre into the site from Shoalhaven Street without the need to travel into the on-coming path of travel along Shoalhaven Street.

Akuna Street Pedestrian Forecourt

Concern was raised with the original Assessment Report that the Akuna Street pedestrian forecourt will become a dark and unsafe pedestrian area with limited natural surveillance. These concerns are exacerbated as this area is located on the southern side of the development where natural sunlight will be limited.

The Applicant has sought to alleviate these concerns by:

- Stating that surveillance of the space will occur during daylight hours from the adjacent commercial tenancies with their glazed frontages;
- Proposing a lighting strategy for this area and secure entry to residential apartments;
- The provision of closed circuit television surveillance to discourage antisocial behaviour.

Due to the lack of current pedestrian access and the change in grades along this streetscape the provision of pedestrian access along the frontage of this site creates difficulties. The Applicant proposes a suite of measures that seek to better address public safety and security along this forecourt area. Whilst I am not overly convinced these measures will overcome the concerns expressed in the original Assessment Report. On balance if these measures are implemented they may improve security and surveillance of this pedestrian forecourt area from that associated with the original proposal.

Building Articulation

The revised proposal has been modified to provide less of a horizontal articulation compared to the original proposal with a slightly more vertical proportion to the Shoalhaven Street elevation. With the selective use of external materials and colours the development should be able to provide an elevation which better reflects the traditional vertical articulation of development associated with the Kiama Township.

The revised proposal has been amended in an attempt to resolve the recommended reasons for refusal detailed in the original Assessment Report. On balance the revised proposal is an improvement on the original proposal, and on the whole addresses the issues raised in the original Assessment Report. Given these circumstances the proposal is now considered acceptable and approval is now recommended.

6.0 RECOMMENDATION

That the Joint Regional Planning Panel approve Development Application DA 2016.304.1 pursuant to Section 80 of the Environmental Planning & Assessment Act subject to conditions included in **Annexure 4** of this Addendum Assessment Report.

ANNEXURE 1

Revised Architectural Drawing Set

**prepared by
ADM Architects**

**Various Allotments
Terralong, Akuna and Shoalhaven Streets, Kiama**

ANNEXURE 2

**Correspondence in Connection
with Service Vehicle Access**

**Various Allotments
Terralong, Akuna and Shoalhaven Streets, Kiama**

ANNEXURE 3

**Correspondence dated 1st December 2017
from TCG Planning concerning
Akuna Street Pedestrian Forecourt**

**Various Allotments
Terralong, Akuna and Shoalhaven Streets, Kiama**

ANNEXURE 4

Recommended Conditions of Consent

Various Allotments
Terralong, Akuna and Shoalhaven Streets, Kiama