

Panel Reference	PPSSTH-53 (2016STH032)
Modification No:	Modification of Consent Application No. 10.2016.286.2
LGA	Kiama Municipal Council
PROPOSED MODIFIED DEVELOPMENT:	Mixed Use – Seniors living development/ commercial - demolition of existing structure, staged construction of mixed use seniors living development comprising fifty-nine (59) independent living units, one (1) retail shop (92sqm), one level of basement parking (for 76 vehicles + ambulance bay), and recreational, amenity and administration facilities for residents.
Street Address	Lot 12 DP 1264110 (formerly Lot 202 DP 1054190 and Lot 1 DP 473509) 23 Meares Place and 33 Collins Street, Kiama
Applicant/Owner	Churches of Christ Community Care C/o Urbis Pty Ltd
Number of Submissions	One (1)
Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011	Clause 3 General development over \$30 million The CIV for the modified 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 2020
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 ATTACHMENT 2 - Architectural Plans
Recommendation	Approve
Report prepared by	Anthony Randall - Development Assessment Coordinator
Report date	8 December 2020

Assessment Report and Recommendation

1 PURPOSE OF REPORT

The purpose of this report is to seek a determination from the Southern Regional Planning Panel for the modification of consent application lodged under s.4.55(2) of the Environmental Planning and Assessment Act 1979 (the Act) for an integrated development that was originally approved by the Panel on 29 November 2018 to construct a mixed use development comprising an independent living housing development for seniors or people with a disability and commercial premises.

The Panel is the determining authority for this modification of consent application pursuant to Part 3 of Schedule 4A of the Act, as the capital investment value (CIV) exceeds the CIV threshold of \$30 million (for general development) for Council to determine the application, and the modified proposal includes changes to conditions imposed by the panel.

2 SUMMARY OF RECOMMENDATION

It is recommended that the Panel approve Modification of Consent Application No. 10.2016.286.2 subject to conditions (at Attachment 1), at Lot 12 DP 1264110, 23 Meares Place and 33 Collins Street, Kiama, a Seniors Living Development comprising:

Mixed Use – Seniors living development/ commercial - demolition of existing structure, staged construction of mixed use seniors living development comprising fifty-nine (59) independent living units, one (1) retail shop (92sqm), one level of basement parking (for 76 vehicles + ambulance bay), and recreational, amenity and administration facilities for residents.

3 BACKGROUND

The original development application was lodged with Kiama Council on 16 November 2016 with reference DA No. 10.2016.286.1. The DA was placed on public exhibition for a period of 14 days from 23 November 2016. There were more than ten (10) unique submissions lodged against the original development.

The assessment of the DA included the following steps:

- On 2 November 2017 Council provided the Southern Regional Planning Panel (SRPP) with an assessment report recommending approval with conditions; and
- On 15 November 2017 the determination of the DA was deferred by the SJRPP so that design refinements on the submitted scheme could be explored; and
- On 21 December 2017 an appeal against the deemed refusal of the DA was filed with the Land & Environment Court; and
- A section 34 Conference was held on site on 28 June 2018. The conference was terminated to enable the applicant to prepare amended plans to address the issues discussed and agreed during the section 34 conference; and
- Amended plans were prepared and submitted to the Council for assessment and determination; and
- DA No.10.2016.286.1 for a mixed- use seniors housing development comprising 55 independent living units, three caretaker apartments, two levels of basement carparking; a retail tenancy facing Collins Street; and recreation, amenity and administration facilities was approved by the SJRPP on 29 November 2018.

With respect to the subject modification, the application was placed on public exhibition for a period of 14 days from 30 July 2020, with one (1) submission lodged following the public exhibition of the modification application raising no objection to the development, but instead reaffirming construction management concerns with respect to protecting existing trees, structures, and residential amenity.

The revised conditions of consent included in the recommendation at Attachment 1 were reviewed by the applicant on 8 December 2020. The applicant has advised that they have no objection to the recommended conditions.

4 THE SITE

When the application was originally determined the subject site was described as Lot 202 DP 1054190 and Lot 1 DP 473509, 23 Meares Place and 33 Collins Street, Kiama, but has since been consolidated and is now described as Lot 12 DP 1264110.

The site is zoned B2 Local Centre zone under Kiama Local Environmental Plan 2011 (KLEP).

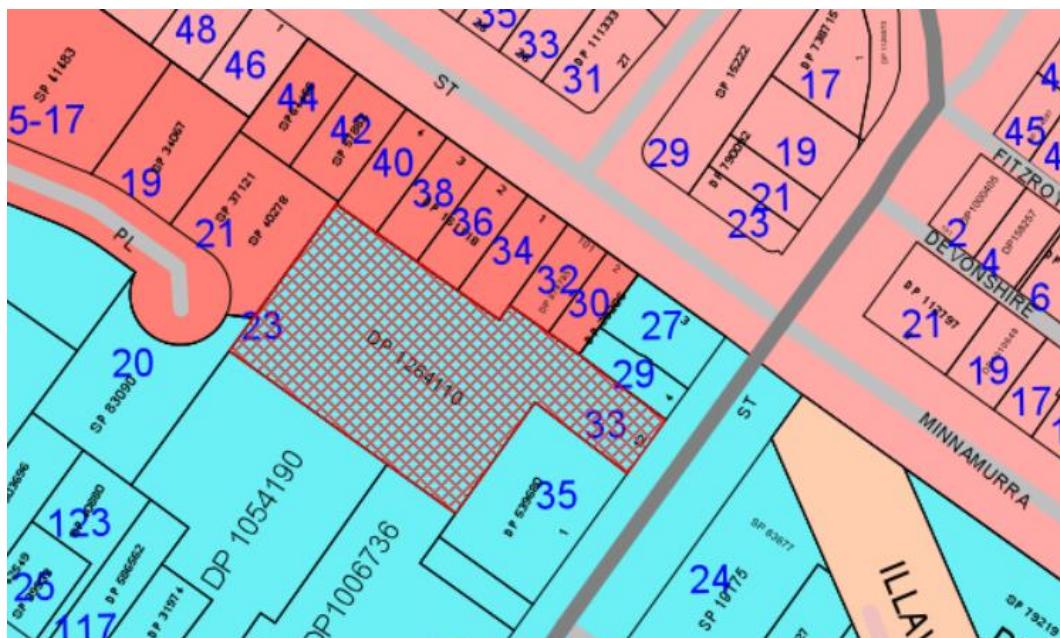


Figure 1 – Zoning map of the subject site. Light Blue = B2, Red = R3, Pink=R2

The site has a total area of 5,579 m² and is centrally located in the Kiama Town Centre. The site is generally cleared, with a dated retail/commercial building located on 33 Collins Street which is presently occupied by a furniture and bedding shop.

There is a steep fall of 18.5 metres from north west to south east across 23 Meares Place, with 33 Collins Street having relatively flat topography.

The site has 21m street frontage to Collins Street with vehicular access. The site also has access available to Meares Place via a nine (9) metre wide right of way of the adjoining property.

The site is located approximately 100 metres walking distance from the closest bus stop on Collins Street and approximately 650 metres from Kiama Train Station. Being in the Kiama Town Centre there is a wide variety of shops, services and recreational facilities located in close proximity to the site.

Adjoining the site on the north eastern boundary is a row of older single dwellings fronting Minnamurra Street. Adjoining the site on the north western boundary are several older residential apartment buildings. These parcels are zoned R3 – Medium Density Residential zone under KLEP 2011.



Figure 2 – Aerial Photograph

At 29 Collins street is an older style commercial building used by a vet and for aquarium sales.

No. 27 Collins Street is mixed use development. Adjoining the site to the south west is the Kiama Leagues Club car park which contains a drainage easement in favour of the subject site.

To the south east at 35-41 Collins Street is an older service station, mechanic and shop. This site has approval for mixed use development under development consent 10.2005.280.1 approved by Council on 26/7/2007 for the demolition of existing structures, construction of six shops, fourteen units and a swimming pool. Prior to the expiry of this consent the owners undertook actions to commence the consent. See perspective of this development at Figure 3 below.

All of the above sites are zone B2 – Local Centre zone under KLEP.

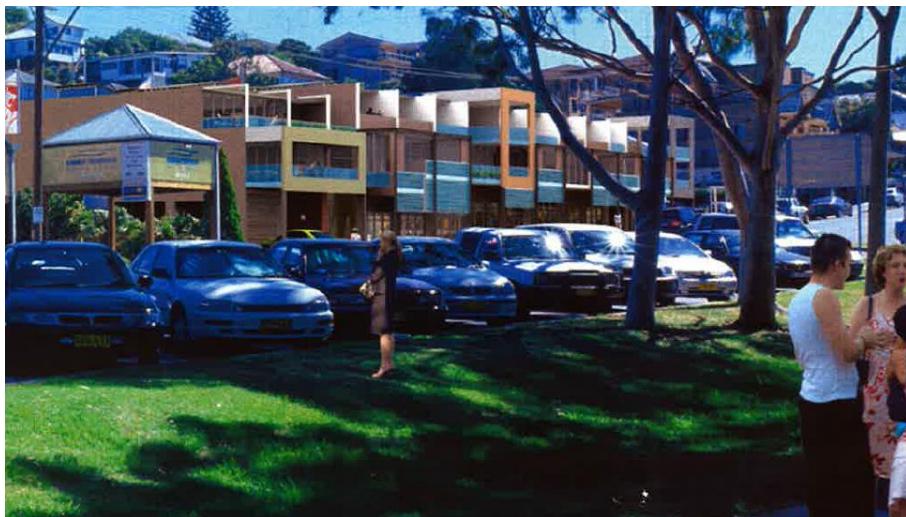


Figure 3 – Perspective of mixed-use development 35-41 Collins Street.

5 THE CONSENTED DEVELOPMENT

The Development Consent No. 10.2016.286.1 is described as:

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 apartment, one (1) retail shop of 157m² and two (2) levels of basement car parking for seventy - eight (78) vehicles

6 THE MODIFIED PROPOSAL

The Modification Application No. 10.2016.286.2 is described as:

Mixed Use – Seniors living development/ commercial - demolition of existing structure, staged construction of mixed use seniors living development comprising fifty-nine (59) independent living units, one (1) retail shop (92sqm), one level of basement parking (for

76 vehicles + ambulance bay), and recreational, amenity and administration facilities for residents.

A copy of the modified architectural plans is provided at the end of this report in Attachment 2.

The modified development remains classified as 'seniors housing' as defined under the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP) and is a permissible land use with consent on the site under clause 4 of the Seniors SEPP as the site is 'land zoned primarily for urban purposes' and 'hospitals' are permitted land use within the B2 Local Centre zone under Kiama Local Environmental Plan 2011(KLEP 2011).

The modification application specifically seeks to modify the following elements of the approved design:

6.1 Numerical Overview

The metrics of the approved and modified proposal are listed in the table below:

Element	Primary Control	Approved Development	Modified Proposal
Site area	Min. 1,000m ²	5,579.5 m ²	5,579.5 m ²
Building Height	11 metres	12.7 metres	13.65 metres
Floor Space Ratio	1.5:1	1.2:1	1.17:1
Gross Floor Area	8,369 m ² max	6,779 m ²	6,559 m ²
ILUs	N/A	55	59
ILU Dwelling Mix	N/A	1-bedroom – 7 (13%) 2-bedroom – 39 (71%) 3-bedroom – 9(16%)	1-bedroom – 2 (4%) 2-bedroom – 46 (82%) 3-bedroom – 8 (14%)
Commercial area	N/A	157 m ²	92.1 m ²
Car spaces	78 spaces required	Residents – 55 spaces (15 accessible) Visitors – 15 spaces (2 accessible) Caretakers – 3 spaces Commercial – 5 spaces (1 accessible) Total – 78 spaces	Residents - 59 spaces (16 accessible) Visitors – 14 spaces (1 accessible) Caretakers – 0 spaces Commercial – 3 spaces (0 accessible) Total – 76 spaces
Motorcycle spaces	N/A	5 spaces	3 spaces
Bicycle spaces	N/A	21 spaces	26 spaces
Wash Bays	N/A	2 residential visitor spaces will be fitted out as wash bays	2 residential visitor spaces will be fitted out as wash bays
Ambulance bay	N/A	-	1 ambulance bay
Communal Open Space	1,395 m ²	1,454 m ²	1,416 m ²
Deep soil zones	391 m ²	490 m ²	399 m ²
Caretaker apartments	N/A	3	Nil
Caretaker dwelling mix	N/A	2-bedroom – 2 (67%) 3-bedroom – 1 (33%)	Nil

Key aspects of the modified proposed development are described in detail below:

6.2 Independent Living Units (ILUs)

- Deletion of three caretaker's units and conversion to four new ILUs; and
- Revision of apartment layouts to revise apartment mix; and
- Revised adaptable layout to adaptable units; and
- Design/layout changes to every ILU; and

6.3 Built Form

- Change in façade design to Building E facing Collins Street including revised roof appearance, framing of openings, materials, and finishes; and
- Decrease in commercial space from 157m² to 92.1m² to be used as an office for Fresh Hope Care; and
- Main entrance to the development relocated from an external access path to be via the Fresh Hope Care office within Building E; and
- Change in building heights but no increase to the maximum approved RL of 34.86m; and
- Design modifications to the built form of Building C; and

6.4 Building E – Collins Street

- Revised building footprint including deletion of existing pedestrian path on northern boundary of the site; and
- Main entrance to the development relocated from the northern side of the building to the new commercial space at street frontage. This space will serve as an office for Fresh Hope Care. The revised entrance also allows for the incorporation of a lobby area for residents and visitors; and
- Manager units deleted and converted to four additional ILU's (i.e. Units E01, E02, E03 and E04); and
- Changed lift arrangement to provide access from ground floor to the top level of the development; and
- Relocation of the substation to be indoor under reception, accessed via carpark ramp; and
- Partially covered walkways connecting Building E to Building A; and
- Minor adjustment to all finished floor level relative levels to comply with National Construction Code and the Apartment Design Guide; and
- New facade design to Collins Street.

The approved and proposed modified Building E front façade in Figure 4 below:



Figure 4 - Building E – Collins Street Facade Treatment

6.5 Buildings A, B, C and D

The applicant advises that the proposed redesign is to meet Fresh Hope Care's internal design requirements has impacted every unit in the proposal. The applicant advises that the changes have been driven by a desire to improve the amenity and functionality for the future residents.

The proposed changes to each unit are identified in the architectural plans at Appendix 2.

The following general modifications are proposed:

- Entrance to Building C (to Meares Place) amended; and
- Relocation of the lift in Building C to improve solar access to Building B and reduce offsite view impacts to residents in Meares Place; and
- New layouts lift foyers throughout the development; and
- Internal reconfiguration of all units; and
- New landscaping scheme throughout development provide enhanced pedestrian paths and sheltered walkways around the site; and
- Minor changes to the schedule of materials and finishes are also proposed to align with changes during design development.

The approved and proposed modified built form is shown in Figure 5 below:

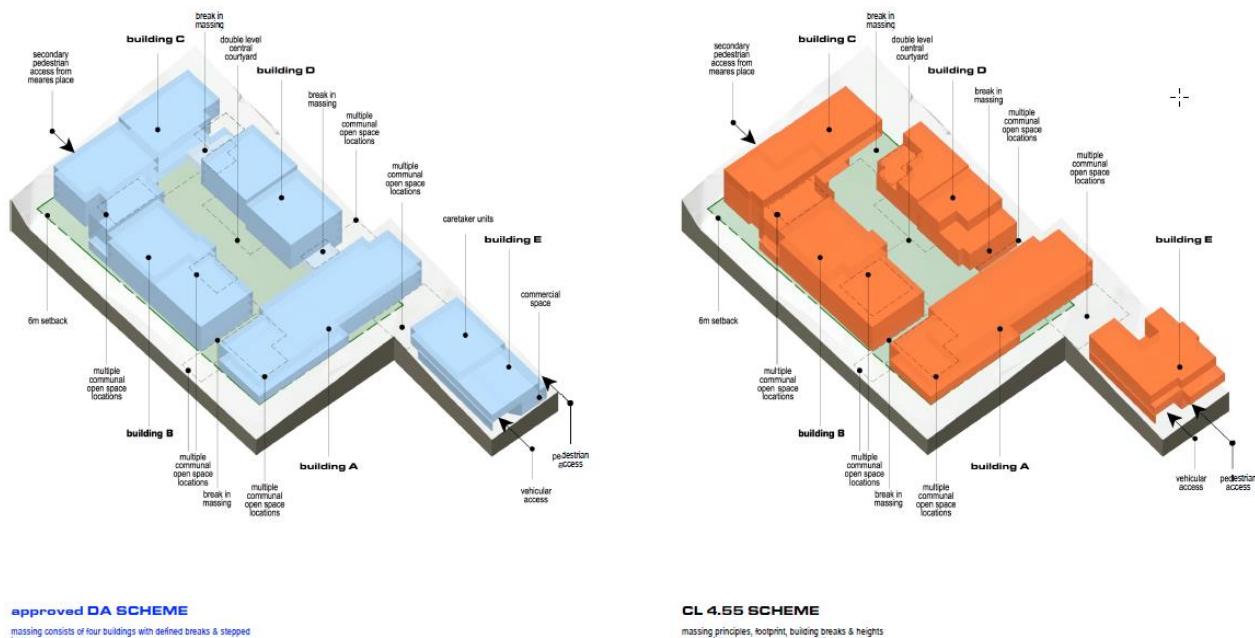


Figure 5 – Approved and Modified Built Form

6.6 Basement Car Park

The approved two-level basement is located partially under Building E and partially under Building A. It is proposed to delete the second level of basement carparking (Basement level 02) and consolidate the car parking provision within Basement level 01.

This modification decreases the extent of excavation to the northern boundary and extends excavation in a southerly direction to adjacent the southern boundary of the site.

The basement is proposed to be modified as follows:

- Excavation footprint extended in a southerly direction to accommodate car spaces from basement level 02; and
- Redesign of access to building E including new pedestrian walkway connecting visitor carpark to lift in Building E; and
- Ambulance bay provided; and

- Bicycle storage relocated and redesigned; and
- Storage space removed and relocated to ground level; and
- Waste management area relocated and redesigned; and
- Fire escape and stairs redesigned; and
- Substation access relocated to middle of carpark ramp.

Figure 6 shows the approved excavation extent and the proposed modified excavation extent. The existing trees on the adjacent site at H/No.30 Minnamurra Street are also shown below:

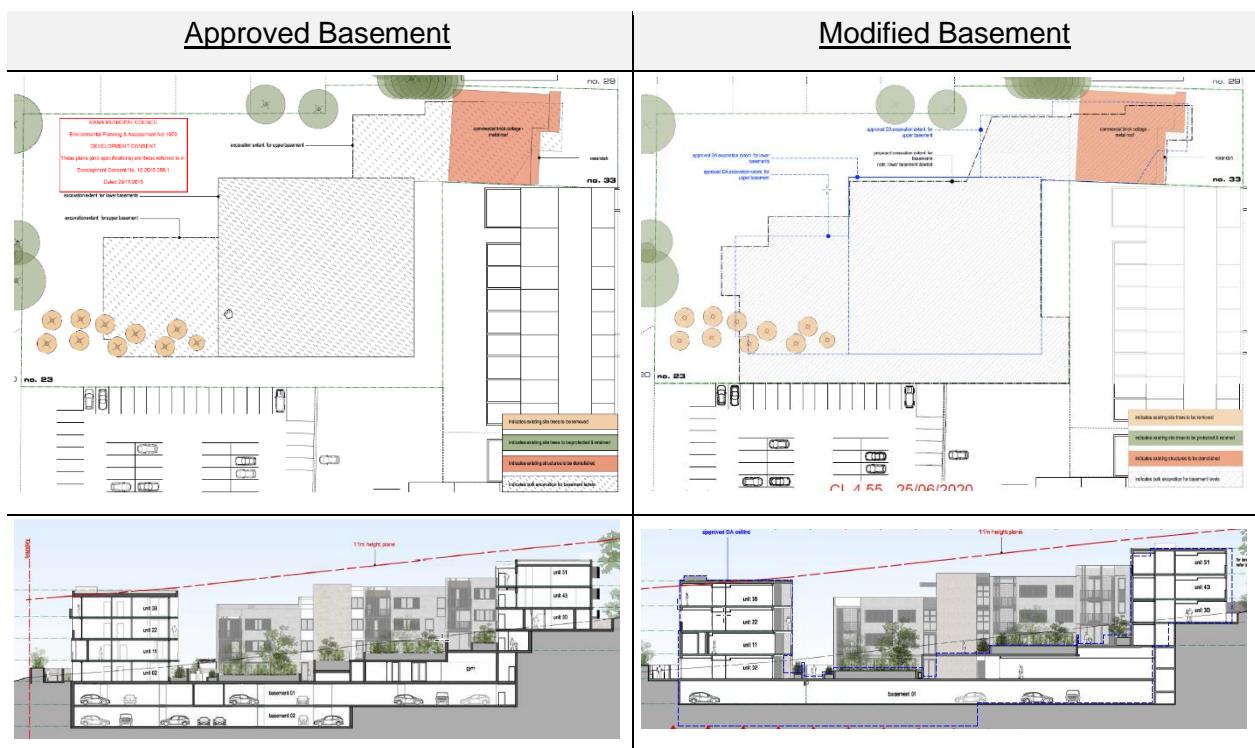


Figure 6 - Basement Modifications

The *Water Management Act 2000* aims to manage the State's water sources in a sustainable and integrated manner. The original application was referred to Water NSW as integrated development due to the intersection of the basement excavation with groundwater. Water NSW provided GTAs for the original development.

The proposed design changes include alterations to the approved basement design. It is proposed to delete the second level of basement carparking (Basement level 02) and consolidate the car parking provision within Basement level 01. The deletion of the second basement level decreases the depth of excavation required for the development.

Douglas Partners (DP) has concluded a groundwater investigation of the modifications. The findings of the investigation indicate that groundwater conditions on the site do not warrant the requirement for the development to have a fully sealed basement, as is required under the current General Terms of Approval (GTA)1-22. A drained basement would be appropriate given the ground conditions and the low groundwater inflow rates.

The desired outcome is that a drained basement should be used within the development and that the General Terms of Approval issued under the Water management Act 2000 be adjusted in response to this change.

The proposed change to the footprint of Building E and the basement will also reduce construction disturbance generally and specifically within the critical root zone of the existing trees on neighbouring properties adjacent the north side of the development site.

6.7 Commercial/Retail Tenancy

A 157m² commercial/retail tenancy was approved at ground level fronting Collins Street to provide 11m of active street frontage. The modification proposes to reduce this space to approximately 92 m², 5m of active street frontage.

Car parking has been accommodated in the basement car park to service the occupants and visitors to the commercial tenancy.

6.8 Parking and Access

The proposed modification of the basement and design amendments to the development results in alterations to the number and configuration of the parking provision for the development.

A Traffic and Parking review of the proposed basement modification and parking provision has been prepared by Bitzios.

The modifications include:

- Deletion of second level of basement carpark and decreased excavation extent to the northern boundary of the site; and
- Reorganisation of basement carpark including deletion of one car space, provision of an ambulance bay and relocation of storage from basement; and

6.8.1 Parking

All car parking spaces and circulation areas have been designed in accordance with Australian Standard AS2890.1 *Parking facilities – Off-street car parking*.

The proposed 76 car parking spaces comply with the provisions of the State environmental planning policy (Housing Seniors and people with a disability) 2004 and Kiama Development Control Plan 2020 as demonstrated in the table below:

Parking	Demand	Parking Rate	Required	Proposed
Car spaces	118 bedrooms	0.5 spaces per bedroom (SEPP Seniors)	59	59
Visitors spaces	59 units	1 space per 4 units (Kiama DCP 2020)	14.75	14
Commercial spaces	92.1m ²	1 car space per 35m ² (KDCP 2020)	2.63	3
Total			76.38	76 car spaces
Disabled spaces	59 units	One disabled space per 100 car parking spaces (Building Code of Australia)	1	17 disabled spaces.
Motorcycle spaces	59 units	No Rate	-	3 Motorcycle spaces
Bicycle spaces	59 units	1 space per four rooms for residents; + 1 space per 16 rooms for residents visitors + 1 space per 200m ² GFA for office	14.75 + 3.6 + 0.46	26 Bicycle spaces

6.8.2 Access

Vehicle access to the modified basement car park continues to be provided via a two-way ramp from Collins Street. Entry and exit to the basement and visitor and commercial car spaces

continues to be controlled by two boom gates, with residential parking spaces further separated by a roller security grill.

The modified basement level continues to be designed to be accessed by a medium rigid vehicle (MRV), with a turntable provided adjacent to the garbage room to allow waste collection and delivery vehicles to enter and exit in a forward direction.

The basement layout and circulation areas has been designed in accordance with AS2890.1 Parking facilities.

6.9 Administration and Internal Facilities

- Minor amendments to communal open space; and
- Minor amendments to the internal floor plan of commercial floor space; and

6.10 Caretaker Apartments

The modified proposal deletes the three caretaker apartments above the proposed commercial tenancy and vehicle access ramp. The caretaker apartments were to be occupied by staff employed on site to assist with the operation of the facility. However, these have been changed to independent living units.

6.11 Conditions of Consent

The modification application specifically seeks to modify the following conditions of the approved consent:

6.11.1 Wheelchair Accessible Minibus Service

The applicant proposes the deletion of a condition imposed by resolution of the Southern Regional Planning Panel.

The condition states:

Evidence of a wheelchair accessible 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.*

The service is to be provided while ever the use of the site is in operation.

Condition 144 of the Southern Regional Planning Panel Determination requires the site operators to run a daily minibus service for residents from the development to services within the town centre. This condition was imposed by the SJRPP because the applicant had not adequately demonstrated that the paths of travel to services complied with Clause 26 of the SEPP .

Subsequently a report has been prepared by Morris Goding Consultants (MGC) in conjunction with a surveyor providing detail of the gradients of the paths of travel. This information confirms that the gradients of the footpaths from the development to the closest bus stop at Hindmarsh Park, Collins Street complies with the requirements of clause 26 of SEPP Seniors or can comply with some work being undertaken. The existing pedestrian kerbs will require upgrade to meet the design requirements.

The bus route (71- Kiama to Shellharbour) provides options in terms of shops, bank service providers, retail/commercial services, community services, recreation facilities and general medical practitioners, including in other centres to satisfy clause 26(2)(c) and the frequency of services available satisfies Clause 26(s)(c)(iii).

MGC concludes that the access available and the frequency of bus services:

'... sufficiently satisfies Clause 26 of SEPP Seniors to an extent that is comparable or superior to the provision of a regular minibus services as is included in the current conditions of consent.'

6.11.2 Staging and Construction:

Proposed amendments to conditions of consent to provide for staged construction.

It is intended construct the development in stages under multiple construction certificates. The general phasing of the construction will be as follows with construction certificates issued progressively for separate works packages:

- Phase 1- Site clearance, demolition of existing structures, removal contaminants, diversion of existing sewer line, excavation, de-watering and shoring;
- Phase 2 -Inground services, structure, and services rough-in; and
- Phase 3 –Building construction and the balance of works

To enable this, it is proposed to amend a number of the conditions of consent to refer to the 'relevant construction certificate'.

7 NOTIFICATION

The modification application was publicly notified for a period of fourteen (14) days from 30 July 2020. A total of seventy nine (79) properties were notified.

During the exhibition period one (1) submission was received, however, it was not objecting to the proposal, but instead raised concerns about construction management, seeking to ensure that arrangements approved in the original development protecting residential amenity remain, and ensuring the construction impacts are within acceptable limits.

This submission is discussed further below under heading "Submissions".

8 PLANNING CONTROLS

The following are the relevant planning controls that have been considered in the assessment of this application:

- Water Management Act 2000.
- State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.
- State Environmental Planning Policy No. 55: Remediation of Land.
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- State Environmental Planning Policy (Coastal Management) 2018.
- State Environmental Planning Policy No. 65: Design Quality of Residential Apartment Development and the Apartment Design Guidelines.
- Kiama Local Environmental Plan 2011.
- Kiama Development Control Plan 2020.

9 SECTION 4.55 MODIFICATIONS

Under Section 4.55 of the Environmental Planning and Assessment Act 1979, Council, when considering a request to modify a determination, must:

- a) *be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted;*
- b) *consult with any relevant authority or approval body;*
- c) *notify the application in accordance with the regulations;*
- d) *consider any submissions made; and*
- e) *take into consideration the matters referred to in Section 4.15 as are of relevance to the development the subject of the application.*

These matters are addressed below:

9.1 Substantially the Same Development Test

Is the development substantially the same development?

Section 4.55(1A) and 4.55(2) of the Environmental Planning and Assessment Act 1979 requires the consent authority to be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted.

A Council must first determine whether the modified development will be 'substantially the same' as the development that was originally approved (before any modifications had been made to it). Councils must therefore decide in the circumstances if a development will be substantially the same development.

Councils must compare the likely impacts of the proposed modified development, including the environmental, social and economic impacts, with the impacts of the original development

"Substantially the same" in this context means essentially or materially having the same essence.

This involves a comparison of the proposed modifications to the approved development and the development originally approved involves both a qualitative and quantitative analysis.

When a Council looks at the impacts of the proposed modified development, the modified development includes all modifications made to the development since the original consent was granted.

When a Council looks at the impacts of the original development, the Council must consider the impacts of the original development as if they were occurring at the time the modification application is determined, not at the time the original application was determined. This comparison takes into account any changes to the external environment that have occurred since the original development consent was granted.

Where the applicant seeks to modify an aspect of the development that has been modified before, the Council must make the comparison between the proposed modified development and the original development carefully.

9.1.1 Qualitative Analysis

In relation to the characterisation of the modified development according to the land-use definition in the Dictionary to the Kiama LEP 2011, the land-use has not changed from that which was originally approved and continues to satisfy the requirements of Cl.2.3(1)(b) to the Kiama LEP 2011 as development that may be carried out only with consent.

The development was approved as a mixed-use development, with a separate commercial tenancy at the Collins Street frontage in Building E, along with an external entry to the Independent Living Units.

The approved commercial space was set back from Collins Street and had direct frontage to Collins Street. No use had been proposed for the space at the time the development application was lodged or determined. Consequently condition 2 was imposed requiring a further application for the occupation of that space.

The development as now proposed to be modified includes changes to the basement levels and quantum of excavation. This together with the deletion of the three caretakers residences fronting Collins Street at the upper levels has enabled a re-design of the site frontage and presentation. The development as proposed to be modified reduces the area of the commercial space from 156.95sqm to 92.1sqm and nominates a use of the space as a commercial office associated with the occupation and operation of the seniors living development on site.

The design changes have also facilitated the relocation of the access driveway and the creation of an attractive street front lobby and circulation space fronting Collins Street. These design changes will create an attractive and active space at street level consistent with the objectives of clause 6.8 of Kiama LEP 2011.

The modification application is seeking consent to use the approved commercial space and as such there is no further work for condition 2 to do. Should the site operator in the

future seek to change the use of the commercial space to another permissible use then a further planning approval would be required at that time.

The commercial space as proposed to be modified while reduced in size will still perform a commercial function permissible with consent on site.

From a qualitative perspective the space remains commercial floor space but with the design changes will have an improved functionality and internal layout and will integrate with the new foyer and resident entry. The development as proposed to be modified provides the required car parking for the commercial floor space and will not result in any adverse off-site impacts.

While there has been a 41% reduction in commercial floorspace on site this is not considered material in the context of the overall development approved and proposed to be modified.

9.1.2 Quantitative Analysis

That the bulk, size, shape, height and FSR are generally and materially the same as in the approved development.

The site is generally and materially the same.

The built form setbacks are generally and materially the same.

The landscaped area is generally and materially the same.

The environmental impacts of the modified proposal are generally the same as the approved development.

Consideration of the substantially the same development test should not only include the physical characteristics of the approved and modified schemes, but also the nature and magnitude of the impacts of the developments. In these respects, the development as proposed to be modified in terms of the approved development remains “essentially or materially” the same as that originally approved.

The development being modified is therefore substantially the same development as the development for which consent was originally granted.

9.2 Consultation with any Relevant Authority or Approval Body

The relevant authorities or bodies were consulted as follows:

9.2.1 Water NSW

Based on a review of the information provided, WaterNSW has amended its General Terms of Approval (see Attachment 3).

The following recommendations apply:

- An extraction limit will be determined by the Department of Planning, Industry and Environment following a further hydrogeological assessment and included on the conditions applied to the authorisation for the dewatering activity.
- Detailed information required to permit the hydrogeological assessment must be provided by the applicant otherwise the issue of any authorisation will be subject to delay.

9.3 Application notification in accordance with the Regulations

The application was notified in accordance with the regulations and Council’s policy.

9.4 Consideration of any Submissions

The submissions received have been addressed in the report below under the heading ‘Public Submissions’.

9.5 Matters referred to in Section 4.15 as are of relevance to the Development

The matters of relevance are addressed below:

10 ASSESSMENT

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

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

10.1 (1)(a)(i) The provisions of any Environmental Planning Instrument

10.1.1 Water Management Act 2000

The Water Management Act 2000 aims to manage the State's water sources in a sustainable and integrated manner.

The Geotechnical Investigation submitted has identified that the groundwater table is located between RL13 and RL16.1 within the rock profile and above the proposed maximum excavation depth of RL11.9.

The modified proposal therefore constitutes integrated development under Section 91 of the Water Management Act 2000 for "interference with an Aquifer," requiring consent from the NSW Office of Water.

The modified proposal was referred to NSW Office of Water who raised no objection to the modified proposal and issued General Terms of Approval should the development proceed (see Attachment 3).

10.1.2 State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Living)

The SEPP Seniors Living is the overriding planning instrument for the development of housing for aged and disabled people in NSW and provides for hostels, residential care facilities (nursing homes) self-contained dwellings and multi-storey buildings.

SEPP Seniors Living is comprehensive in scope including land use planning provisions, design principles, development standards and standards specifically to meet the housing needs of aged and disabled people. SEPP Seniors Living also includes design guidelines for infill development.

The SEPP Senior Living aims to increase the supply and diversity of housing for seniors or people with a disability and to ensure good design. The policy is the main environmental planning instrument applying to this development.

SEPP Senior Living applies to the subject land as it is zoned for urban purposes and the dominant use proposed is permitted on the land by the operation of SEPP Seniors Living. The SEPP prevails in the event of any inconsistency with any other environmental planning instrument, including Kiama Local Environmental Plan.

The modified 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.

The modified proposal continues to comply with:

- Clause 4 Land to which Policy applies
- Clause 8 Seniors & Clause 9 People with a Disability
- Clause 10 Seniors Housing
- Clause 24
- Clause 27 Bushfire
- Clause 28 Water and sewer
- Clause 29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply
- Clause 30 Site Analysis
- Clause 31 Design of in-fill self-care housing
- Clause 33 Neighbourhood amenity and streetscape
- Clause 34 Visual and acoustic privacy
- Clause 35 Solar access and design for climate
- Clause 36 Stormwater

- Clause 40 Development standards, minimum sizes and building height
- Clause 41 Standards for hostels and self-contained dwellings
- Clause 50 Standards that cannot be used to refuse development consent for self-contained dwellings

The following clauses warrant further discussion:

Clause 26 Location and access to facilities

The site is located within the Kiama Town Centre providing residents access to a wide range of goods, services and transport options within 400m.

Condition 144 of the Southern Regional Planning Panel Determination requires the site operators to run a daily minibus service for residents from the development to services within the town centre. This condition was imposed by the SJRPP because the applicant had not adequately demonstrated that the paths of travel to services complied with Clause 26 of the SEPP.

The applicant proposes the deletion of a condition imposed by resolution of the Southern Regional Planning Panel.

The condition states:

Evidence of a wheelchair accessible 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.*

The service is to be provided while ever the use of the site is in operation.

A report has been prepared by Morris Goding Consultants (MGC) in conjunction with a surveyor providing detail of the gradients of the paths of travel has been submitted with the modification of consent application.

This information confirms that the gradients of the footpaths from the development to the closest bus stop at Hindmarsh Park, Collins Street complies with the requirements of clause 26 of SEPP Seniors or can comply with some work being undertaken. The existing pedestrian kerbs will require upgrade to meet the design requirements.

The bus route (71- Kiama to Shellharbour) provides options in terms of shops, bank service providers, retail/commercial services, community services, recreation facilities and general medical practitioners, including in other centres to satisfy clause 26(2)(c) and the frequency of services available satisfies Clause 26(s)(c)(iii).

MGC concludes that the access available and the frequency of bus services:

'... sufficiently satisfies Clause 26 of SEPP Seniors to an extent that is comparable or superior to the provision of a regular minibus services as is included in the current conditions of consent.'

The modified application demonstrates existing footpaths servicing the site offer an acceptable overall average gradient between the site and the bust stops (with some work on pedestrian kerbs gradients) that provide transport to services, and therefore complies.

The condition No. 144 can be deleted and replaced with the following condition:

(136) *Prior to occupation, and use of the development, the applicant shall replace the existing kerb ramp crossings in the vicinity of Lot 2 in Deposited Plan 252884 (on both sides of Collins Street) with kerb ramps and landings which are compliant with Australian Standard AS1428.1(2009). An application shall be made to Council, pursuant to the*

requirements of Section 138 of the Roads Act, prior to the commencement of the work. All costs in regard to this requirement are to be borne by the applicant or person entitled to act on this consent.

Clause 37 Crime Prevention

The approved development has been designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED). A CPTED Report prepared by The Design Partnership was submitted in support of the original application. This report made a number of recommendations that have been included to ensure that the proposal provides a high level of personal and property security for residents and visitors alike.

In addition, the following condition was imposed in the original consent to ensure that access control and mechanical surveillance was provided for in the development:

(25) Close Circuit Television (CCTV) 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*

The application to modify was supported by a Safer by Design Report by Kennedy and Associates Architects. The findings of the Safer by Design Report indicate that CCTV is not required in the development based on low crime risk environmental and use of passive surveillance to monitor access.

The principle of seeking to use passive surveillance in design to address crime is supported, but that principle only applies to areas of the development that benefit strongly from passive surveillance, which does not include the basement, the basement entry, and the building entries.

The condition was intended to serve two functions:

1. strong access control for unit occupants; and
2. surveillance of common areas that are not afforded passive surveillance.

The following is extracted from the applicant's Safer By Design Report submission:

Kiama is a relatively low crime area, as identified through the New South Wales Bureau of Crime Statistics and Research (BOCSAR) Crime Mapping Tool.

For the year of April 2019 – March 2020, Kiama recorded significantly lower than state average rates of all offences, with the exception of Importing Drugs which remains quite low at 4.3 incidents per 100,000 residents (NSW State Average 2.7 incidents per 100,000).

Kiama has recorded stable incidences of all crime types over a 2 year period, in line with (or better than) the state wide trend. The most prevalent general offence type in Kiama is theft with 1486.6 incidents per 100,000, however, this is less prevalent than the state average of 2800.9 incidents per 100,000.

Three subcategories of theft make up the three most prevalent individual crime types as follows:

- *Steal from Motor Vehicle (465.1 incidents per 100,000)*
- *Fraud (273.8 incidents per 100,000)*
- *Other Theft (195.6 incidents per 100,000)*

The proposed development may be at some risk of crime due to incidences of Break and Enter Dwelling (117.4 per 100,000) however, it is likely that this statistic is reflective of incidents related to empty holiday homes, as discussed in the earlier CPTED report prepared by The Design Partnership for the proposed development's original DA submission (2015).

With the proposed modification to remove of the three care takers residences; since this development will be housing potentially vulnerable elderly residents due to the age requirements of occupants, in a crime risk environment predominantly involving theft, it is considered that the condition should remain (and be expanded) since the modification provides for no afterhours security presence on site after the site office shuts.

The basement entries are known weak points in developments since resident vehicles can be followed on foot into basements by potential perpetrators. Given the relatively large scale of the development in the Kiama Town Centre, and the proposal to remove the three on-site care takers residences (thereby removing an afterhours security presence at the site) it is considered that CCTV continues to be required to be installed to achieve a reasonable level of crime prevention and security, as well as ensuring that the access control points are properly secured.

The following condition is recommended:

(25) *Close Circuit Television is to be installed, and relayed to each of the care takers residences the on-site office and a security service provider, designed to record and monitor the:*

- *Entry to Building C from Meares Place; and*
- *Entry to Building E from Colling Street; and*
- *Entry to Building D; and*
- *The basement and its entry.*

The building entries shall include access control via a security entrance intercom at each pedestrian and vehicle entrance to the Independent Living Units within the development with audio/visual link capability. The access control shall be designed to allow residents to identify visitors before providing them access to the development via the pedestrian and vehicle entries.

The basement entry is to have a floor to ceiling security gate installed connected to the security entrance intercom with audio/visual link.

The resident parking areas in the basement are to have a floor to ceiling security gate installed connected to an access control system separating the resident parking area from the commercial / visitor parking area in the basement to ensure access to the resident parking area is restricted to the general public during the day and night.

Clause 38 Accessibility

The modified proposal will have obvious and safe pedestrian links to local services and public transport which comply with minimum grades. It also proposes a safe environment for pedestrians and motorists alike, with clear and convenient access and parking for residents and visitors.

Clause 39 Waste management

The modified proposal waste facilities will maximise recycling through the provision of appropriate facilities utilising a shared bin service serviced by Council's Waste Contractors on-site.

10.1.3 State Environmental Planning Policy No. 65: Design Quality of Residential Apartment Development (SEPP65)

State Environmental Planning Policy No. 65 (SEPP 65) aims to raise the design quality of residential apartment development across NSW through the application of a series of design principles.

The accompanying regulation, the Environmental Planning and Assessment Regulation 2000, requires the involvement of a qualified designer throughout the design, approval and construction stages for residential apartment developments.

SEPP 65 also requires consideration of the Residential Apartment Design Code, NSW Planning and Environment Department 2015. The Code includes development controls and best practice benchmarks for achieving the design principles of SEPP 65.

As the modified proposed development will comprise the erection of a new mixed-use building being at least 3 or more storeys and containing at least four or more dwellings the provisions of SEPP 65 are applicable to the modification of consent application.

Clause 30(2) of SEPP 65 requires the consent authority, in determining a Modification of Consent Application for consent to carry out residential flat development, to take into consideration the design quality of the residential apartment development when evaluated in accordance with the 'Design Quality Principles', and the Residential Apartment Design Code (RADC).

As per clause 50 of the Environmental Planning and Assessment Regulation 2000, the Applicant has submitted a Design Verification Statement prepared by Kennedy and Associates Architects.

The submitted Statement contains comments and discussion responding to each of the nine Design Quality Principles. The Statement concludes that:

The proposed development:

- *achieves a high level of amenity for future residents*
- *addresses complex site and context conditions, including view sharing, privacy and steep topography*
- *is of an appropriate density, bulk and scale for the subject site, as described by the planning controls and supported by amenity outcomes*
- *does not result in unreasonable impacts on neighbouring properties*
- *provides appropriate housing for the area's aging population*
- *encourages social interaction between residents and creates a positive, healthy living environment*
- *is of a high quality contemporary and visually engaging design, contributing positively to the area and streetscapes*

Additionally, the proposed development complies with all provisions of State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004.

The proposed development not only addresses its statutory obligations but will deliver a highly attractive, safe and vibrant place to live.

In our opinion, the proposed development is capable and worthy of support and approval.

The review of the Verification Statement and Apartment Design Guide found that the proposal satisfactorily addresses / incorporates the Design Quality Principles of SEPP 65.

On this basis the residential apartment development generally meets the objectives and intent of the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development and has been designed to comply with the requirements the Apartment Design Guide.

It is considered that the modified proposal will not compromise the aims and objectives of the SEPP will contribute positively to the current and future streetscape and is therefore an acceptable design response having regard to the site constraints created by the topography.

10.1.4 State Environmental Planning Policy No. 55: Remediation of Land (SEPP)

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55) aims to promote the remediation of contaminated land for the purpose of reducing the risks of harm to human health or any other aspect of the environment by identifying what remediation work requires consent, and requiring that remediation work meets certain standards for the proposed use.

Clause 7 of SEPP 55 specifies that a consent authority must not consent to the carrying out of any development on land unless it has considered whether land is contaminated and, if the land is contaminated, that it is satisfied that the land is or can be made suitable for the modified proposed development.

A Contaminated Land Preliminary Site Investigation has been undertaken by *Douglas Partners*.

The investigation identified that the site has the potential for contamination as a result of the:

- Migration of contaminants from the adjacent service station;
- Filling of the site associated with the previous development of 33 Collins Street; and

- Possible hazardous building material present in the commercial building at 33 Collins Street.

The investigation concludes that the site can be made suitable for the modified proposed development, subject to the results of further investigation and the successful implementation of a remediation action plan (RAP) (if required). The additional investigation will occur once the demolition of the existing structures is complete to allow for unobstructed access to the subsoils.

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

10.1.5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was lodged with the application which demonstrates that the modified proposal has been designed in accordance with the NSW Government's requirements for sustainability under BASIX.

10.1.6 State Environmental Planning Policy (Coastal Management) 2018

The SEPP establishes a new, strategic land use planning framework for coastal management by consolidating and improving on current coastal-related SEPPs. It replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection) and ensures that future coastal development is appropriate and sensitive to our coastal environment, and that we maintain public access to beaches and foreshore areas.

The 'coastal zone' is defined in the Coastal Management Act 2016 as four coastal management areas comprising: *Coastal Wetlands and Littoral Rainforests Area*; *Coastal Environment Area*; *Coastal Use Area*; and *Coastal Vulnerability Area*.

The site is mapped *Coastal Use Area* and marginally in the *Coastal Environment Area*.

In the *Coastal Use Area* the focus is on ensuring appropriate urban development for coastal areas, taking into account urban design issues such as maintaining scenic qualities, visual amenity and aboriginal cultural heritage and places.

The SEPP states:

Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:

- a) *is satisfied that the proposed development:*
 - i. *if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*
 - ii. *minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*
 - iii. *will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*
 - iv. *will not adversely impact on Aboriginal cultural heritage and places, and*
 - v. *will not adversely impact on use of the surf zone, and*
- b) *has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

Since the application is to modify an existing consent, the provisions of the SEPP do not strictly apply, however, the proposed location and design of the modified development:

- is not near, and does not impact access to a foreshore, beach, headland or rock platform, and
- does not cause overshadowing or wind funnelling to foreshores; and
- does not cause unreasonable loss of views from public places to foreshores, and
- does not adversely impact the visual amenity or scenic qualities of the coast.

The site is not located within a ‘sensitive coastal location’ as defined by the SEPP. The site is approximately 300m from the foreshore and is separated by existing residential and commercial land including local roads.

The modified proposed development will have no adverse impact on the coastal foreshore or its setting, including scenic quality and environmental amenity.

The modified proposed development is considered to be consistent with the aims and relevant requirements of the SEPP.

10.1.7 Kiama Local Environmental Plan 2011

The KLEP 2011 is the relevant local environmental planning instrument which prescribes the zoning, zone objects and other relevant development standards for the site. The subject land is zoned B2 Local Centre pursuant to this instrument. As discussed above, the provisions of SEPP Seniors prevail to the extent of any inconsistency with the KLEP 2011 as it is a higher planning instrument.

Under KLEP 2011 the development proposal would be defined as “*senior housing*” which is a form of “*residential accommodation*”. KLEP 2011 prohibits “residential accommodation” in the B2 Local Centre zone. To overcome the prohibition created by KLEP 2011 the proposal relies upon Clause 4(4) of the SEPP Seniors for permissibility. This clause permits the proposal to proceed as “*hospitals*” are a permissible land use in the zone with development consent.

The objectives of the B2 Local Centre zone are:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

The modified proposed development is considered to be reasonably consistent with the B2 Local Centre zone objectives notwithstanding that it is a prohibited land use under the instrument. It is considered that the proposal will:

- Positively contribute to the range of retail and business uses in the local area by providing new retail tenancy at ground floor level fronting Collins Street;
- Provide additional jobs through the construction and operation phases of the development in an accessible location; and
- Is located within the Kiama Town Centre, providing future residents with excellent access to local facilities and services.

Specific clauses requiring consideration:

10.1.7.1 Clause 4.3 – Height of Building

Clause 4.3 requires that the height of the building does not exceed the maximum height for the land shown on the Height of Buildings Map of 11m when measured from existing natural ground level.

The modified proposal satisfies the height clause objectives and responds with a design that steps down the site following the natural slope of the land.

The building design uses the slope of the site to step the building from a high point in the northern corner to the southern corner and down to Collins Street through excavation to set the development into the sloping site. The proposal partially exceeds the 11m height limit shown on the Height of Buildings Map.

The height of building development standard does not apply to applications to modify consent, and only applies to the determination of development applications. Since the proposal is substantially the same development, the objectives of the height of building development standard are considered met.

10.1.7.2 Clause 4.4 - Floor Space Ratio

Clause 4.4 requires that the floor space ratio does not exceed the maximum floor space ratio shown for the land on the Floor Space Ratio map of 1.5:1. The proposal will have a FSR of 1.12:1 and therefore complies with the Floor Space Ratio Map.

The FSR development standard does not apply to applications to modify consent, and only applies to the determination of development applications. Since the proposal is substantially the same development, the objectives of the FSR development standard are considered met.

10.1.7.3 Clause 5.10 - Heritage

Clause 5.10 lists requirements for heritage conservation for items listed in Schedule 5 of the Kiama LEP 2011.

No items of heritage exist on the property nor is it within a heritage conservation area but heritage items are present opposite across Collins Street. These heritage items are listed on the State Heritage Register and include Kiama Terrace Houses at 24-44 Collins Street and the Kiama Masonic Lodge at 46 Collins Street.

The subject property is also in the vicinity of other heritage items including the Minnamurra Street Precinct Group at 13-21 Minnamurra Street, containing Glennifer House, Bayview House, two cottages and Bellevue.

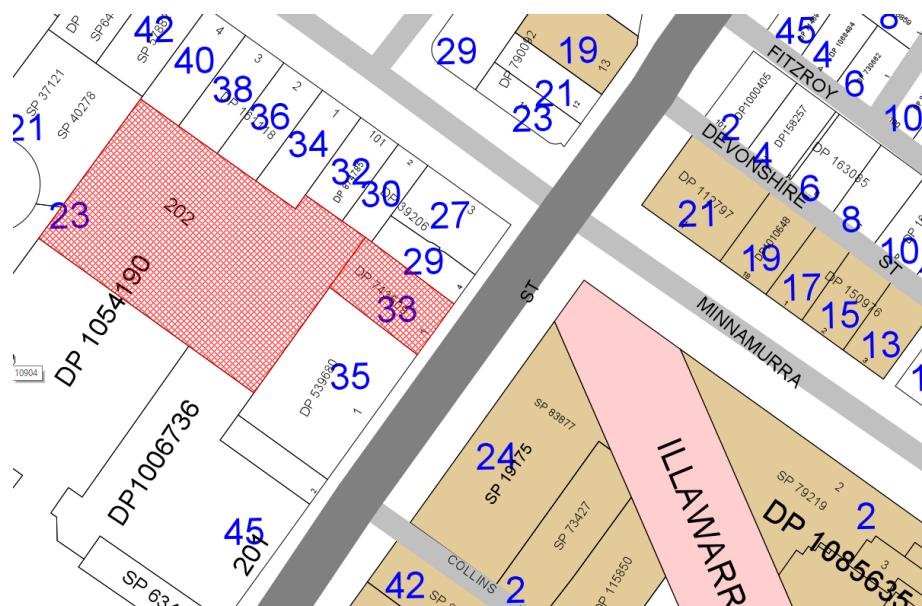


Figure 7 - Heritage properties in the locality shaded fawn.

A Heritage Impact Statement prepared by Urbis submitted with the original application concluded that heritage items in the vicinity will not be adversely impacted.

Council's Heritage Advisor agreed with the conclusions of the Heritage Impact Statement noting the small portion of development fronting Collins Street would have minimal impact on the setting or visual appreciation of the timber terraces on the eastern side of Collins street.

The proposed modification will result in a similarly scaled proposal to Collins Street and the rest of the site. The design of the façade reflects the 'verandah' character of the area with limited visibility of the upper storey behind. The proposed modifications are therefore not considered to result in impacts on the identified heritage items in the vicinity of the site.



Figure 8 - Building E – Collins Street Facade Treatment

The modified proposal is considered to meet the objectives of the clause and is not likely to adversely affect the heritage significance of the heritage items in the locality.

10.1.7.4 Clause 6.2 - Earthworks

Clause 6.2 lists the following considerations for proposals which involve earthworks:

- The likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality;
- The effect of the development on the likely future use or redevelopment of the land;
- The quality of the fill or the soil to be excavated, or both;
- The effect of the development on the existing and likely amenity of adjoining properties;
- The source of any fill material and the destination of any excavated material;
- The likelihood of disturbing relics;
- The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area; and
- Any measures proposed to minimise or mitigate any impacts.

The modified proposed development involves less excavation than that which was approved (of up to 15 metres in depth to accommodate two basement levels) and lower levels of the basement is no longer proposed thereby reducing the impacts.

A small amount of salvaged topsoil will be utilised in the proposed landscaping with the balance being required to be taken from the site for disposal. The destination of the excess fill material is unknown at this stage.

10.1.7.5 Clause 6.8 - Active Street Frontage

Clause 6.8 of the KLEP 2011 requires that new buildings on land zoned B2 Local Centre incorporate an active street frontage at ground floor level.

The modified proposed development includes a business/retail tenancy fronting Collins Street, pedestrian and vehicular access to the premises providing an active street frontage to this street.

The requirements of this Clause to activate the street frontage if therefore satisfied.

10.2 (1)(a)(ii) The provisions of any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority

10.2.1 **Draft SEPP No. 55 - Remediation of Land**

SEPP 55 is the environmental planning instrument that sets out the State-wide planning approach to the remediation of contaminated land. The proposed amendments to SEPP 55 and the Codes SEPP are site specific and solely relate to the former Cockle Creek smelter and Incitec site at Boolaroo, Lake Macquarie.

The proposed amendments would prevent a consent authority, such as the local council, from granting consent to a development application to carry out development on any part of the former Cockle Creek smelter and Incitec site unless the Secretary has certified to the consent authority that, in her opinion, adequate arrangements have been made for the perpetual care of the containment cell and associated infrastructure.

The changes to the draft SEPP do not affect the Kiama Municipality and is not considered to be certain or immanent.

10.2.2 Draft SEPP (Environment)

The Department of Planning and Environment has prepared a package of consolidated reforms to update and improve the planning framework for certain aspects of environmental protection and management. This follows a review of planning provisions in seven existing State Environmental Planning Policies.

The changes to the draft SEPP will affect the Kiama Municipality but is not considered to be certain or immanent.

10.2.3 Draft SEPP 44 (Koala Habitat Protection)

The NSW Government is seeking feedback on the Explanation of Intended Effect concerning draft State Environmental Planning Policy 44 – Koala Habitat Protection.

The EIE describes how the various parts of the proposed amendment will work and what they are seeking to achieve. The key changes the proposed amended SEPP will implement relate to the:

- definitions of koala habitat;
- list of tree species;
- list of councils; and
- development assessment process.

To support the proposed amendment of the SEPP, the Department will prepare updated guidelines that clearly:

- set out the requirements for preparing comprehensive plans of management; and
- direct the consistent assessment of development applications.

The draft SEPP does not affect the Kiama Municipality.

10.3 (1)(a)(iii) The provisions of any Development Control Plan

10.3.1 Kiama Development Control Plan (KDCP) 2020

The modified proposed development is considered to be generally consistent with the requirements of Kiama DCP 2020.

The proposed modifications have been assessed in accordance with the relevant provisions of Kiama Development Control Plan 2020 as outlined below. It is noted that the original DA was assessed and approved under the former Kiama DCP 2012.

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:

10.3.1.1 Chapter 3 – Common Requirements

10.3.1.1.1 *Topic 3.2 - Amenity*

This section of KDCP deals with sharing views and vistas where possible, but readily acknowledges that it is not always possible to protect existing views for all people in urban environments. This is especially so on a large undeveloped allotment which is at the interface between two zones. In this situation there is potential for unavoidable view loss from certain properties affected by any new development.

A visual impact assessment was undertaken by Richard Lamb and Associates in support of the application before it was approved. The VIA concluded that view loss from any form of development on the site is inevitable based on the height of building controls and that it would be

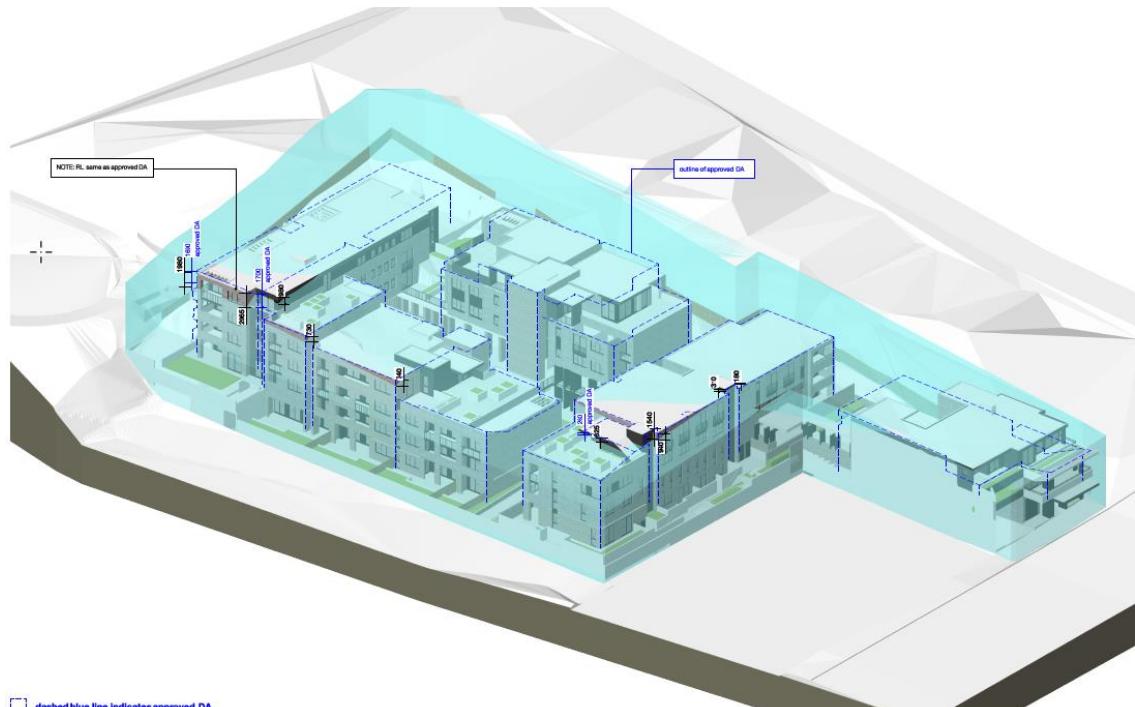
unrealistic to expect that dwellings adjacent to the development could expect to retain existing views across the site.

The impacts were considered reasonable in this context. Importantly, the VIA noted that the minor height non-compliance did not increase view loss.

The applicant provides the following justification to the proposed modifications:

The proposed modified design refinements have been designed so that the revised development does not result in adverse amenity impacts to surrounding residents and other land uses. The proposed modification does not increase the maximum approved RL of 34.86m.

Figure 3 below shows the height plane over the site, the approved building envelope, and the areas where the building height exceeds the 11m height of building standard.



While the proposed modification increases the maximum approved height from 12.7m to 13.65m, this increase is located on the south-western corner of Building C and not in the part of the site that results in view impacts to adjoining residences. There are also minor height breaches on the south eastern corner of Building A. The redesign removes the previous height plane exceedances in the centre of the site on Building D.

The modified proposal will have a minor impact upon views from neighbouring properties to the north east fronting Minnamurra Street with more significant view loss apparent for most of the units at 21 Meares Place. The loss of views associated with the development of the subject property is not unexpected given that one of the primary lots is undeveloped in the form of vacant land.

The modified proposed development complies with the height, setbacks and floor space ratio controls applying to the development so the view loss is not considered unreasonable in the circumstance. The expectation that the views currently enjoyed by neighbouring properties particularly from 21 Meares Place will be maintained post development is unrealistic.

The following objectives have been considered:

- To maintain view sharing principles through the development and redevelopment of areas.
- To ensure that where practical new development is designed and sited not to significantly alter views (including water and or escarpment views)
- To ensure that primary private views are maintained through the addition of new development.

- To retain views to and from the water.

The modified proposal is supported by visual analysis comparing the approved development with the modified proposal at Attachment 2 – Architectural Plan Set - Dwg No. 55B, 55.1B, 55B.2, 56B, 57B, 58B, and 58.1B.

The analysis shows that the visual impacts of the modified proposal are generally unchanged from that which was approved with the exception of some minor improvements to views (after the development is constructed) arising from the redistribution of the massing in the north west corner of the site away the eastern view corridor from 21 Meares Place.

To ensure that landscaping within the setback to the western boundary adjacent 21 Meares Place does not grow to a height that unreasonably impacts existing views for neighbours, the following modified condition has been included in the recommendation:

(100) 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 dated 10/08/2018 and as modified by DA13D dated 12/11/2018 26/06/2020 prepared by Taylor Brammer Landscape Architects – Project No. 16-030W - Dwg. No. LC00, LC01, LC02, LC03, LC04, LC05, LC06, LC07, LC08. (lw010.doc)

The landscape terraces within the setback adjacent the boundary of 21 Meares Place are to be planted with shrubs and groundcovers only that are selected to maintain a maximum mature height of 3 metres only for the full length of the common boundary.

The species that satisfy these requirements are to be nominated on the detailed landscape plan to the satisfaction of Council prior to the issue of the Construction Certificate by any Accredited Certifying Authority, and are to be designed and maintained to ensure the mature species height do not disrupt the views from the first floor balconies of 21 Meares Place, Kiama.

The modified proposal is considered to satisfy the objectives to maintain view sharing principles through the development and redevelopment of areas and ensures that the modified design does not significantly alter views, and maintains primary private views including to the water and escarpment.

10.3.1.1.2 Topic 3.6 – Transport, Access and Parking

Car parking is proposed to be provided as follows:

Seventy-eight (76) vehicles including:

- Fifty-nine (59) car parking spaces shall be reserved at all times for the exclusive use of residents; and
- Fourteen (14) as resident visitor parking; and
- Three (3) for the commercial/retail tenancy.

Also parking for motorcycle, bicycles and an ambulance is proposed to be provided as follows:

- Three (3) motorcycle spaces; and
- Twenty-six (26) bicycle spaces; and
- 1 Ambulance Bay

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

Parking	Demand	Parking Rate	Required	Proposed	Complies
Car spaces	118 bedrooms	0.5 spaces per bedroom (SEPP Seniors)	59	59	Yes
Car spaces	59 units	1 spaces per unit (Kiama DCP 2020)	59	59	Yes

Parking	Demand	Parking Rate	Required	Proposed	Complies
Visitors spaces	59 units	1 space per 4 units (Kiama DCP 2020)	14.75	14	Yes
Commercial spaces	92.1m ²	1 car space per 35m ² (Kiama DCP 2020)	2.63	3	Yes
Total			76.38	76 car spaces	Yes

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

Parking	Demand	Parking Rate	Required	Proposed	Complies
Disabled spaces	59 units	One disabled space per 100 car parking spaces (Building Code of Australia)	1	17 disabled spaces.	Yes
Motorcycle spaces	59 units	No Rate	-	3 Motorcycle spaces	Yes
Bicycle spaces	59 units	1 space per four rooms for residents; + 1 space per 16 rooms for residents visitors + 1 space per 200m ² GFA for office	14.75 + 3.6 + 0.46	26 Bicycle spaces	Yes

The proposal generally complies with the parking requirements of the Development Control Plan.

10.4 (1)(a)(iiia) The provisions of any Planning Agreement

There are no planning agreements applicable to this site or development.

10.5 (1)(a)(iv) The provisions of the Regulations

- NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast

The proposal does not compromise the strategic actions or principles (Appendix C - Table 3) adopted within the *NSW Coastal Policy 1997*.

10.6 (1)(b) The likely impacts of the development

The likely impacts of this development include:

10.6.1.1 Streetscape

The design of the modified proposed development is considered to be reasonable when considered in relation to the context of the site.

The bulk, scale and design of the proposal is consistent with relevant planning instruments and is not inconsistent with the streetscape. The commercial use on the ground floor fronting Collins Street will serve to activate this section of Collins Street adding to the vibrancy of the area adjacent the Heritage Terraces.

10.6.1.2 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 modified development on adjoining vegetation and are satisfied that the recommendations of the arborist report adequately protect existing vegetation on property at 21 Mears Place.

10.6.1.3 Privacy and Overlooking

No significant concerns are raised in relation to privacy loss and overlooking resulting from the modified proposed development.

The proposal has a 6 metre side and rear boundary setbacks and proposes landscaping to filter the views to adjoining neighbours. This is discussed further below in the public submissions section.

10.6.1.4 Overshadowing

Shadow diagrams have been supplied with the modification application which indicates that the overshadowing impacts of the modified proposed development will be reasonable for adjoining properties.

10.6.1.5 Views

The modified proposal is supported by visual analysis comparing the approved development with the modified proposal at Attachment 2 – Architectural Plan Set - Dwg No. 55B, 55.1B, 55B.2, 56B, 57B, 58B, and 58.1B.

The analysis shows that the visual impacts of the modified proposal are generally unchanged from that which was approved with the exception of some minor improvements to views (after the development is constructed) arising from the redistribution of the massing in the north west corner of the site away the eastern view corridor from 21 Mears Place, and the elimination of lift overruns from protruding above the roof of the development.

To ensure that landscaping within the setback to the western boundary adjacent 21 Meares Place does not grow to a height that unreasonably impacts existing views for neighbours a conditions has been included in the recommendation to require the landscape terraces within the setback adjacent the boundary of 21 Meares Place to be planted with shrubs and groundcovers only that are selected to maintain a maximum mature height of 3 metres only for the full length of the common boundary.

The species that satisfy these requirements are to be nominated on the detailed landscape plan to the satisfaction of Council prior to the issue of the Construction Certificate by any Accredited Certifying Authority, and are to be designed and maintained to ensure the mature species height do not disrupt the views from the first floor balconies of 21 Meares Place, Kiama.

The modified proposal is considered to satisfy the objectives to maintain view sharing principles through the development and redevelopment of areas and ensures that the modified design does not significantly alter views, and maintains primary private views including to the water and escarpment.

10.6.1.6 Traffic, Public Transport, Vehicular Access, Parking and Manoeuvring

A Traffic Impact Assessment has been undertaken by Bitzios Consulting for the modified proposed development and provides an overview of existing transport conditions, analyses the trip generation of the proposal on the surrounding road network, assesses site access and parking within the site, and outlines the anticipated construction details and assesses the impact.

Based on the analysis, It is considered that the modified proposal is acceptable from a transport perspective as it is unlikely to have any significant detrimental impact in the locality on traffic, parking or access by service vehicles and the site is well located for public transport options and for accessing the local pedestrian footpath network.

10.6.1.7 Stormwater Management

The proposed stormwater concept plan for the site has been designed to ensure that the post-development stormwater design matches the pre-development flow behaviour and does not direct more catchment area water to Collins Street or the car park.

The proposal also includes water quality measures, including gross pollutant traps, to capture suspended solids and oils and avoid impacts on the quality of the downstream receiving waters of Kiama Harbour.

Soil erosion and sediment control measures have also been incorporated into the proposed redevelopment which will be implemented during construction phase to comply with Council's requirements and avoid impacts on the local stormwater network.

The modified proposal therefore continues to present a satisfactory drainage design for the proposal.

10.6.1.8 Environmental Impacts

10.6.1.8.1 Vegetation Removal

All the existing vegetation on the site is proposed to be removed and replaced with new landscaping as outlined in the landscape plan. This removal of the existing vegetation has been considered by Council's Landscape Officer and no concerns have been raised.

10.6.1.8.2 Impact on Soil Resources

Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent have already been imposed when the consent was granted, in relation to soil and water management controls to be implemented during the construction phase of the development. Satisfactory implementation of these controls will prevent significant impacts on soil resources.

10.6.1.8.3 Impact on Water Resources

Controls will be implemented during construction to minimise sedimentation.

The proposal will alter the ground water flows in the locality due to the depth of the excavation.

General Terms of Approval have been issued by Office of Water in relation to aquifer interference.

10.6.1.9 Social and Economic Impacts

The modified proposal provides the following positive social and economic benefits:

- Increased provision and diversity of seniors housing allowing senior members of the Kiama community to 'age in place',
- Introduction of seniors housing within the Kiama Town Centre and close to transport infrastructure;
- Improvement to the physical appearance of the site through the replacement of vacant land and demolition of a dated commercial building;
- Introduction of a retail tenancy and increased activation of the western side of Collins Street through pedestrian activity;
- Increase in employment and demand for goods and services through the construction and operation phases of the development; and
- Introduction of a quality design outcome that is responsive to the site context.

The modified proposed development will likely have minimal adverse social or economic impacts. The amenity impacts of the modified proposed development have been considered in detail and no concerns raised in submissions warrant refusal of the application.

10.6.1.10 Effect on public domain

The proposal will have little impact on the public domain as it enjoys a small frontage to Collins Street with the majority of the development situated on the larger lot which extends back to Meares Place.

A pedestrian connection is being established from the development to Meares Place to allow residents a closer and more direct pedestrian access to the only supermarket in town located at Kiama Village Shopping Centre.

10.6.1.11 Utility needs and supply

An 'Application for Connection of Load' was been lodged with Endeavour Energy by Henderson Consulting Engineers. Endeavour Energy have specified their requirements regarding the design of an electrical substation to supply the development, with full details to be provided with the Construction Certificate application. Spatial requirements for an electrical substation in accordance with Endeavour Energy's requirements and standards has been incorporated into the design.

There is an existing sewer line which services properties to the north of the site that runs through the site. The preferred option for the relocation of this sewer line will be negotiated with a Sydney Water Coordinator as part of the Section 73 Certificate process. The probable solution is that the sewer line will be diverted at a high level along the driveway ramp and out to an existing sewer infrastructure in Collins Street. Spatial requirements for a sewer pump-out station have been provided by EWFW Consulting Engineers and have been incorporated into the design.

The proposal is located within an existing urban centre that has access to water, sewer, electricity and communication infrastructure to satisfy the needs of the development.

10.6.1.12 Safety, security & crime prevention

As mentioned above the modified proposed development has been designed in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).

The safety and security of residents, staff and visitors to the site is a high priority and has been integrated into the planning and design of the modified proposed development. The design offers good surveillance within the development, security, illumination and territorial reinforcement to prevent opportunistic types of situational crime from occurring, however the inclusion of CCTV was conditioned when the consent was granted to improve access control and surveillance.

The application to modify was supported by a Safer by Design Report by Kennedy and Associates Architects. The findings of the Safer by Design Report indicate that CCTV is not required in the development based on low crime risk environmental and use of passive surveillance to monitor access.

The principle of seeking to use passive surveillance in design to address crime is supported, but that principle only applies to areas of the development that benefit strongly from passive surveillance, which does not include the basement, the basement entry, and the building entries.

With the modification proposing to remove all three of the care takers residences, it is considered that the CCTV condition should remain (and be expanded) since the modification provides for no afterhours security presence on site after the site office shuts.

The basement entries are known weak points in developments since resident vehicles can be followed on foot into basements by potential perpetrators. Given the relatively large scale of the development in the Kiama Town Centre, and the proposal to remove the three on-site care takers residences (thereby removing an afterhours security presence at the site) it is considered that CCTV continues to be required to be installed to achieve a reasonable level of crime prevention and security.

10.6.1.13 Operational waste

A suitably sized enclosed bin storage area has been included into the design of the modified proposed development adjacent to the main vehicle entry point of the building in the basement.

This enclosure will have hot water for washing and be suitably drained to Sydney Water requirements.

Provision has been made on site to allow a waste services vehicle to enter the site and to turn around using a vehicle turntable to allow them to leave in a forward direction. The waste service vehicle will service the bins adjacent to the vehicle turntable with the assistance of the facility caretakers. The modified proposal has therefore demonstrated a satisfactory arrangement for the collection of waste and recyclables.

10.6.1.14 BCA compliance

All new buildings are required to comply with the design and operational requirements of the BCA as in force at the time of the issuing of a relevant construction certificate.

A Building Code of Australia (BCA) Compliance Statement has been prepared by Blackett Maguire + Goldsmith and the assessment concludes that the modified proposed development is capable of complying with the relevant provisions of the BCA.

Where there are areas that do not comply with the deemed to satisfy provisions, an alternate solution prepared by a suitable qualified person will be prepared to ensure compliance with the Performance Requirements of the BCA.

10.7 (1)(c) The suitability of the site for the development

The proposal fits within the locality and the site attributes are considered to be conducive to development.

10.8 (1)(d) Any submissions

Notification letters were sent to neighbouring property owners who were provided with fourteen (14) days from 30 July 2020 in which to comment on the proposal.

At the conclusion of the notification period, one (1) submission was received which raised the following matters of concern:

- *We are not opposed to the changes to the Development.*
- *We request all care is taken with our swimming pool and property. We will have photos taken before work commences and hold the Developer responsible for any cracks or damage.*
- *We request all work be taken as quietly and safely as possible, especially digging.*
- *Please no cranes over our house.*
- *Please plant trees next to our boundary as soon as possible, for privacy reasons.*
- *I will bring the political donations form in separately. We have made no political donations at all.*

Comment:

Standard conditions of consent concerning construction management have been applied to the original development to deal with these concerns.

10.9 (1)(e) The public interest

The modified proposal is considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plans, is not likely to cause significant adverse impacts to the natural or built environment and is not likely to cause significant adverse social and economic impacts.

The modified proposal is considered to be suitable for the site and therefore is considered to be consistent with the public interest.

The modified development positively contributes to the public interest for the following reasons:

- a. the development provides a housing type that is in demand within the local community.
- b. the development activates the streetscape on the western side of Collins Street.
- c. the development will provide positive social and economic benefit in the locality.

Subject to compliance with the conditions listed below, it is expected that the modified proposed development will not create any unreasonably significant or negative impacts on the surrounding area or compromise the public interest.

11 CONSULTATION

During the assessment a number of internal and external technical referrals were made seeking expert opinion on key issues. Where relevant this has been discussed throughout the report and conditions have been recommended within the draft consent.

11.1 External Referrals

The application was referred to the following State Government Departments.

11.1.1 The Office of Water NSW.

The Office of Water NSW issued their revised General Terms of Approval for the proposed modified development which have been included in the recommended conditions at Attachment 1.

11.2 Internal Referrals

The application was referred to the following Council Officers for their consideration.

11.2.1 Building Assessment Coordinator

No objection has been raised in relation to the modified proposed development. Conditions of development consent have been recommended should the application be approved.

11.2.2 Subdivision & Development Engineer

No objection has been raised in relation to the modified proposed development. Conditions of development consent have been recommended should the application be approved.

11.2.3 Landscape Design Officer

No objection has been raised in relation to the modified proposed development. Conditions of development consent have been recommended should the application be approved.

11.2.4 Waste Management Officer

No objection has been raised in relation to the modified proposed development. Conditions of development consent have been recommended should the application be approved.

11.2.5 Heritage Advisor

No objection has been raised in relation to the modified proposed development and no conditions of development consent have been recommended.

11.2.6 Consulting Architect

No objection has been raised in relation to the modified proposed development and no conditions of development consent have been recommended.

12 CONCLUSION

The modified proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.55, and where the relevant the matters for considered in Section 4.15 of the Environmental Planning and Assessment Act, 1979.

The modified proposal is considered to be consistent with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, State Environmental Planning Policy No. 65: Design Quality of Residential Apartment Development, Kiama Local Environmental Plan 2011 and the relevant provisions of Kiama Development Control Plan 2012. The modified proposed development is consistent with the objectives of the B2 Local Centre zone.

Consideration has been given to the social, economic and environmental impacts of the modified proposed development and no significant concerns are raised. Concerns raised in submissions have been considered and do not warrant refusal of the application.

The modified proposed development is considered to be reasonable and consequently it is recommended that the Panel approve the Modification of Consent Application subject to the recommended conditions of consent provided as Attachment 1 to this report.

13 RECOMMENDATION

It is recommended that the Panel approve subject to the recommended conditions of consent provided as Attachment 1 to this report the Modification of Consent Application No. 10.2016.286.2 for a Seniors Living /Mixed Use Development for the demolition of existing structure, staged construction of mixed use seniors living development comprising fifty-nine (59) independent living units, one (1) retail shop (92sqm), one level of basement parking (for 76 vehicles + ambulance bay), and recreational, amenity and administration facilities for residents at Lot 12 DP 1264110, 23 Meares Place and 33 Collins Street, Kiama, subject to conditions.

14 ATTACHMENT 1 - Schedule of Conditions

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

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

Dewatering

GT0063-00001 An authorisation under the relevant water legislation, such as a Water Access Licence (WAL), shall be obtained for the take of groundwater as part of the activity. For avoidance of doubt, these terms do not represent any authorisation for the take of groundwater, nor do they constitute the grant, or the indication of an intention to grant, any required WAL.

GT0064-00001 An authorisation under the relevant water legislation, such as an Approval, is also required for the works involved in extracting the groundwater. For avoidance of doubt, these terms do not represent any authorisation for the construction or installation of such works.

GT0065-00001 The relevant works must not be carried out, installed or operated until a specialist hydrogeological assessment has been completed by the Department of Planning Industry and Environment, which concludes that adequate arrangements are in force to ensure that no more than minimal harm will be done to any water source, or its dependent ecosystems, as a consequence of the construction or use of the proposed water management work.

GT0068-00001 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.

GT0069-00001 The Applicant is bound by the above terms and any other terms and conditions of the subsequent authorisation(s) required for the extraction of groundwater and the associated works under the relevant water legislation.

GT0070-00001 Measurement and monitoring arrangements to the satisfaction of WaterNSW 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.

GT0106-00001 The proponent must provide the following information to WaterNSW at the time of application. This information will be provided to Department of Planning, Industry and Environment for assessment:

- a. a robust estimate of the volume of groundwater that is expected to be pumped for the duration of the construction dewatering activity, and annually for the life of the building, supported by detailed description of how the estimate was derived (numerical hydrogeological modelling identifying a reasonable upper limit of take is recommended to avoid future noncompliance with the authorisation extraction limit)
- b. comprehensive information on the site geology and hydrogeology based on additional detailed intrusive investigations of the subsurface across the depth extent of the basement, further permeability testing of the subsurface, ongoing continuous water level measurements for the period between the modification consent being granted and the application occurring, and periodic groundwater quality sampling and analysis (if not already being done so for contaminated site investigations)
- c. documented detailed design information of the

development including accurate and clearly labelled dimensions of all proposed excavations and below ground structures.

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

ATTACHEMENT 1**Recommended Conditions of the Modified 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 the Council stamp as 10.2016.286.1 dated 29/11/2018 10.2016.286.2 dated [insert date of determination] #/#/2020 listed in the table to this condition below except as amended by the following conditions. (g005.doc)

Dwg. No.	Plan Name	Rev. No.	Plan Date
DA02	Introduction	D	12/11/18
CL4.55 02	Introduction	A	25/6/2020
CL4.55 02.1	Schedule of changes	A	26/6/2020
DA03	Perspective view 1	E	12/11/18
CL4.55 03	Perspective views 01	A	25/6/2020
CL4.55 03.1	Perspective Views – 0.1b – Collins Street	B	23/9/2020
DA04	Perspective view 2	E	12/11/18
CL4.55 04	Perspective view 2	A	25/6/2020
DA05	Site analysis	C	18/07/18
CL4.55 05	Site analysis	A	25/6/2020
DA06	Design analysis 1 – massing comparison	C	18/07/18
CL4.55 06	Design analysis 1 – massing comparison	A	25/6/2020
DA07	Design analysis 2 – core principles	C	18/07/18
CL4.55 07	Design analysis 2 – core principles	A	25/6/2020
DA08	Design analysis 3 – setbacks & building separation	C	18/07/18
CL4.55 08	Design analysis 3 – setbacks & building separation	A	25/6/2020
DA09	Design analysis 4 – 11m height plane	D	12/11/18
CL4.55 09	Design analysis 4 – 11m height plane	A	25/6/2020
DA10	Design analysis 5 – entries	C	18/07/18
CL4.55 10	Design analysis 5 - entries	A	25/6/2020
DA11	Demolition & early site works plan	C	18/07/18
CL4.55 11	Demolition & early site works plan	A	25/6/2020
DA12	Proposed site plan	C	18/07/18
CL4.55 12	Proposed site plan	A	25/6/2020
DA13	Proposed external works plan	D	12/11/18
CL4.55 13	Proposed external works plan	A	25/6/2020
DA14	Proposed level -02	C	18/07/18
CL4.55 14	Proposed level -02	A	25/6/2020
DA15	Proposed level -01	C	18/07/18
CL4.55 15	Proposed level -01	B	23/9/2020
DA16	Proposed level 00	C	18/07/18
CL4.55 16	Proposed level 00	B	23/9/2020
DA17	Proposed level 01	C	18/07/18
CL4.55 17	Proposed level 01	A	25/6/2020
DA18	Proposed level 02	D	12/11/18
CL4.55 18	Proposed level 02	A	25/6/2020
DA19	Proposed level 03	D	12/11/18
CL4.55 19	Proposed level 03	A	25/6/2020
DA20	Proposed level 04	D	12/11/18

Dwg. No.	Plan Name	Rev. No.	Plan Date
CL4.55 20	Proposed level 04	A	25/6/2020
DA21	Proposed roof	D	12/11/18
CL4.55 21	Proposed roof	A	25/6/2020
DA22	Elevations 1	D	12/11/18
CL4.55 22	Elevations 1	A	25/6/2020
DA23	Elevations 2	D	12/11/18
CL4.55 23	Elevations 2	B	23/9/2020
DA24	Elevations 3	D	12/11/18
CL4.55 24	Elevations 3	A	25/6/2020
CL4.55 24.1	Boundary wall finishes	A	23/9/2020
DA25	Sections 1	C	18/07/18
CL4.55 25	Sections 1	B	23/9/2020
DA26	Sections 2	C	18/07/18
CL4.55 26	Sections 2	B	23/9/2020
DA27	Sections 3	C	18/07/18
CL4.55 27	Sections 3	B	23/9/2020
DA28	Summary of area counts	C	18/07/18
CL4.55 28	Summary of area counts	A	25/6/2020
DA29	Summary of GFA calculations	C	18/07/18
CL4.55 29	Summary of GFA calculations	A	25/6/2020
DA30	Summary of ADG cross ventilation	C	18/07/18
CL4.55 30	Summary of ADG cross ventilation	A	25/6/2020
DA31	Summary of ADG solar access	D	12/11/18
CL4.55 31	Summary of ADG Solar Access	A	25/6/2020
DA32	Solar & daylight analysis 01	D	12/11/18
CL4.55 32	Solar and daylight analysis 01	A	25/6/2020
DA33	Solar & daylight analysis 02	D	12/11/18
CL4.55 33	Solar and daylight analysis 02	A	25/6/2020
DA34	Solar & daylight analysis 03	D	12/11/18
CL4.55 34	Solar and daylight analysis 03	A	25/6/2020
DA35	Principal usable communal open space – area count	D	12/11/18
CL4.55 35	Principal usable communal open space – area count	A	25/6/2020
DA36	Shadow analysis plans – winter solstice – existing x proposed	D	12/11/18
CL4.55 36	Shadow analysis plans – winter solstice – existing x proposed	A	25/6/2020
DA37	Shadow analysis plans – winter solstice – communal open space	D	12/11/18
CL4.55 37	Shadow analysis plans – winter solstice – communal open space	A	25/6/2020
DA38	Shadow analysis plans – winter solstice – communal open space	D	12/11/18
CL4.55 38	Shadow analysis plans – winter solstice – communal open space	A	25/6/2020
DA39	Schedule of finishes	D	12/11/18
CL4.55 39	Schedule of finishes	A	25/6/2020
DA40	Typical unit layouts – building A	D	12/11/18
CL4.55 40	Typical unit layouts building A	A	25/6/2020
CL4.55 40.1	Typical unit layouts building A – post adapt	A	25/6/2020

Dwg. No.	Plan Name	Rev. No.	Plan Date
DA41	Typical unit layouts – building B & D	D	12/11/18
CL4.55 41	Typical unit layouts building B	A	25/6/2020
DA41.1	Typical unit layouts building B – post adapt	A	25/6/2020
DA42	Typical unit layouts building C	D	12/11/18
CL4.55 42	Typical unit layouts building C	A	25/6/2020
CL4.55 42.1	Typical unit layouts – building C – post adapt	A	25/6/2020
DA43	View impacts – 21 Meares place	C	18/07/18
DA43	Typical unit layouts building D & E	A	25/6/2020
DA43.1	Typical unit layouts – building D & E – post adapt	A	25/6/2020
DA43.2	Typical unit layouts – building E – pre and post adapt	A	25/6/2020
DA44	View impacts – 40 Minnamurra street	D	12/11/18
CL4.55 44	Comparison Plan – level -02	A	25/6/2020
DA45	View impacts – 38 Minnamurra street	D	12/11/18
CL4.55 45	Comparison Plan – level -01	A	25/6/2020
DA46	View impacts – 36 Minnamurra street	D	12/11/18
CL4.55 46	Comparison Plan – level 00	A	25/6/2020
DA47	View impacts – 34 Minnamurra street	D	12/11/18
CL4.55 47	Comparison Plan – level 01	A	25/6/2020
DA48	View impacts – 32 Minnamurra street	D	12/11/18
CL4.55 48	Comparison Plan – level 02	A	25/6/2020
DA49	View impacts – 30 Minnamurra street	C	18/07/18
CL4.55 49	Comparison Plan – level 03	A	25/6/2020
DA50	View impacts – section at the fence	C	18/07/18
CL4.55 50	Comparison Plan – level 04	A	25/6/2020
DA51	Photomontage – Collins street		
CL4.55 51	Comparison Plan – typical units Building A	A	25/6/2020
DA52	Additional sun studies 1	A	12/11/18
CL4.55 52	Comparison Plan - Typical units Building B	A	25/6/2020
DA53	Additional sun studies 2	A	12/11/18
CL4.55 53	Comparison Plan – typical units building C	A	25/6/2020
DA54	Building D – Access	A	12/11/18
CL4.55 54	Comparison Plan – typical units building D	A	25/6/2020
DA55	View from 34 Minnamurra street		
CL4.55 55	View analysis 01 – 21 Meares Place (Unit 6)	B	23/9/2020
CL4.55 55.1	View analysis 01B – 21 Meares Place (Unit 5)	B	23/9/2020
CL4.55 55.2	View analysis 01C – 21 Meares Place (Unit 4)	B	23/9/2020
CL4.55 56	View analysis 02 – 38 Minnamurra Street	B	25/6/2020
CL4.55 57	View analysis 03 – 36 Minnamurra Street	B	25/6/2020
CL4.55 58	View analysis 01 – 32 Minnamurra Street	B	25/6/2020
CL 4.55 58.1	View Analysis Plan Detail	B	23/9/2020
CL 4.55 59	Signage – Collins Street	A	23/9/2020
CL 4.55 60	Wayfinding Map	A	23/9/2020
CL 4.55 61	Storage Summary	A	23/9/2020
CL 4.55 62	Privacy screens	A	23/9/2020
CL 4.55 63	Privacy screens detail 2	A	23/9/2020

Document Title	Date
Traffic Impact Assessment Report prepared by BITZIOS Consulting, dated 2 August 2018, Project No: P2544, Version No: 005	
Traffic Impact Assessment Report prepared by BITZIOS Consulting, dated 26 June 2020, Project No: P4647.001R 33 Collins Street Kiama TIA Report	26.6.2020
Arborist Impact Report prepared by Sydney Landscape Consultants, dated 20/7/18 and	
Section 4.55 Modification Statement - DA No: 10.2016.286.1 prepared by Sydney Landscape Consulting	26.6.2020
Geotechnical Reports prepared by Douglas Partners, dated August 2018, Project 38145.04 and Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama - DA No: 10.2016.286.1 Proposed Mixed Use Seniors Living Development - Geotechnical Comment 33 Collins Street and 23 Meares Place, Kiama prepared by Douglas Partners	26.6.2020
Geotechnical Reports prepared by Douglas Partners, dated September 2018, Project 38145.05 and Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama - DA No: 10.2016.286.1 Proposed Mixed Use Seniors Living Development - Contaminated Land Comment 33 Collins Street & 23 Meares Place, Kiama	26.6.2020
CPTED Report prepared by Kennedy and Associates dated July 2018 CPTED Report prepared by Kennedy and Associates dated June 2020	June 2020
BCA Compliance Statement prepared by CERTIS Pty Ltd, dated 16 August 2018, Section 4.55 Modification Statement Da No. 10.2016.286.1 Kiama Shores – 33 Collins Street & 23 Meares Place Kiama prepared by Blackett Maguire + Goldsmith	June 2020
Access Review Report prepared by Morris Goding Access, dated 13 August 2018 12 November 2018 and Accessibility Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama – DA No. 10.2016.286.1 prepared by Morris Goding and Associates and Access Review report prepared by Morris Goding and Associates, dated 23 October 2020 and accompanying survey plans prepared by Holger Max Beuthien	26.6.2020
Operational Waste Management Plan prepared by WasteAudit and Consultancy Services, dated July 2018 and Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama - DA NO.: 10.2016.286.1 Waste Management Arrangements prepared by Waste Audit and Consultancy Services Pty Ltd and	26.6.2020

Document Title	Date
33 Collins Street & 23 Meares Place, Kiama - DA NO.: 10.2016.286.1 Waste Management Arrangements – Response to Council RFI prepared by Waste Audit and Consultancy Services Pty Ltd dated 24 September 2020	
<p>Noise Impact Assessment Report prepared by TTM Consulting Pty Ltd, dated 08/08/2018, Ref: 165YA0026 R01_4 Acoustic Report</p> <p>Section 4.55 Modification Statement for at 33 Collins Street & 23 Meares Place, Kiama - DA NO.: 10.2016.286.1 Acoustic Statement prepared by TTM Consulting</p>	26.6.2020
<p>Report on Groundwater Investigation and Dewatering Management Plan Proposed Mixed Use Seniors Living Development 33 Collins Street & 23 Meares Place, Kiama Prepared for Fresh Hope Care Project 38145.07 prepared by Douglas Partners Pty Ltd</p>	August 2020
<p>Section 4.55 modification statement for at 33 Collins Street & 23 Meares Place, Kiama - DA NO.: 10.2016.286.1 Groundwater prepared by Stantec Australia Pty Ltd</p>	27 August 2020

(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)

(2) The development is approved to be constructed in the three stages with the relevant Construction Certificate required to be issued by the Principal Certifying Authority prior to the commencement of work within of each of the following stages:

- Stage 1 - Site clearance, demolition of existing structures, removal contaminants, diversion of existing sewer line, excavation, de-watering and shoring;
- Stage 2 - Inground services, structure, and services rough-in; and
- Stage 3 – Building construction and the balance of works.

(3) The development shall be completed in accordance with the approved colour schedule shown on the approved Elevations Plans. (g014.doc)

(4) 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)

(5) 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)

(6) 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).

(7) 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
 - h. Communication protocol including notification to neighbours identifying when construction is due to commence, and contact details including phone number, and sign placed in a visible part of the land containing those details

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.

(8) ~~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.~~

(9) ~~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 Coding 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~~

(9) 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 26 June 2020 Project No: P4647.001R 33 Collins Street Kiama TIA Report
- b. Arborist Impact Report prepared by Sydney Landscape Consultants, dated 20/7/18 and Section 4.55 Modification Statement - DA No: 10.2016.286.1 prepared by Sydney Landscape Consulting
- c. Geotechnical Reports prepared by Douglas Partners, dated August 2018, Project 38145.04 and Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama - DA No: 10.2016.286.1 Proposed Mixed Use Seniors Living Development - Geotechnical Comment 33 Collins Street and 23 Meares Place, Kiama prepared by Douglas Partners and Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama - DA No: 10.2016.286.1 Proposed Mixed Use Seniors Living Development - Contaminated Land Comment 33 Collins Street & 23 Meares Place, Kiama
- d. CPTED Report prepared by Kennedy Associates Architects, dated June 2020
- e. Section 4.55 Modification Statement Da No. 10.2016.286.1 Kiama Shores – 33 Collins Street & 23 Meares Place Kiama prepared by Blackett Maguire + Goldsmith
- f. Access Review Report prepared by Morris Goding Access, dated 12 November 2018 and Accessibility Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama – DA No. 10.2016.286.1 prepared by Morris Goding and Associates and Access Review report prepared by Morris Goding and Associates, dated 23 October 2020 and accompanying survey plans prepared by Holger Max Beuthien
- g. Operational Waste Management Plan prepared by WasteAudit and Consultancy Services, dated July 2018 and Section 4.55 Modification Statement for 33 Collins Street & 23 Meares Place, Kiama - DA NO.: 10.2016.286.1 Waste Management Arrangements prepared by Waste Audit and Consultancy Services Pty Ltd and 33 Collins Street & 23 Meares Place, Kiama - DA NO.: 10.2016.286.1 Waste Management Arrangements – Response to Council RFI prepared by Waste Audit and Consultancy Services Pty Ltd dated 24 September 2020
- h. Section 4.55 Modification Statement for at 33 Collins Street & 23 Meares Place, Kiama - DA No. 10.2016.286.1 Acoustic Statement prepared by TTM Consulting
- i. Report on Groundwater Investigation and Dewatering Management Plan Proposed Mixed Use Seniors Living Development 33 Collins Street & 23 Meares Place, Kiama Prepared for Fresh Hope Care Project 38145.07 prepared by Douglas Partners Pty Ltd August 2020
- j. Section 4.55 modification statement for at 33 Collins Street & 23 Meares Place, Kiama - DA NO.: 10.2016.286.1 Groundwater prepared by Stantec Australia Pty Ltd 27 August 2020

(10) 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.

(11) For the ongoing life of the development, the building must only be occupied and provide accommodation for:

- seniors or people who have a disability
- people who live within the same household with seniors or people who have a disability
- 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*.

(12) ~~The units and caretaker's accommodation are not to be used for short term holiday letting without separate development consent.~~

(13) 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.

(14) 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.

(15) 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 [the relevant](#) Construction Certificate.

(16) This consent does not include any subdivision of the proposal.

(17) No work (including demolition) is to take place until [a the relevant](#) Construction Certificate has been issued for the development and the relevant conditions of development consent are satisfied and complied with.

(18) 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.

(19) The cost of relocation or adjusting of levels of any public utilities shall be borne by the developer.

(20) Any substation installed to service the proposal shall not be located within the road reserve and shall be screened from the public domain.

(21) 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.

(22) 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.

(23) 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

(24) Prior to the issue of **the relevant** 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 Nos. 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 to 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 to be constructed.~~

- i. Sheet metal fencing along the side and rear boundaries of the site does not extend forward of the front building line.
- ii. 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.
- iii. 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 timber pickets, or palisade style.
- iv. 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. The louvres shall be fixed at an angle that protects direct overlooking of neighbours rear yard. A plan demonstrating the required angle to achieve solar access midwinter and privacy mitigation measures shall be prepared and submitted to the satisfaction of the Council prior to the lodgement of the **relevant** construction certificate.
- v. 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 **the relevant** 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.

(26) Close Circuit Television is to be installed, and relayed to ~~each of the care takers residences the on-site office and a security service provider~~, designed to **record and** monitor the:

- Entry to Building C from Meares Place; **and**
- Entry to Building E from Colling Street; **and**
- Entry to Building D; **and**
- **The basement and its entry.**

The building entries shall include access control via a security entrance intercom at each pedestrian and vehicle entrance to the Independent Living Units within the development with audio/visual link capability. The access control shall be designed to allow residents to identify visitors before providing them access to the development via the pedestrian and vehicle entries.

The basement entry is to have a floor to ceiling security gate installed connected to the security entrance intercom with audio/visual link.

The resident parking areas in the basement are to have a floor to ceiling security gate installed connected to an access control system separating the resident parking area from the commercial / visitor parking area in the basement to ensure access to the resident parking area is restricted to the general public during the day and night.

(27) Close Circuit Television is to be installed, and relayed to ~~each of the care takers residences~~ the on-site office and each unit in the development, designed to monitor the:

- Entry to Building C from Meares Place; and
- Entry to Building E from Colling Street; and
- Entry to Building D; and
- The basement and its entry.

This shall include access control via a security entrance intercom at each entrance with audio/visual link capability. This shall allow residents to identify visitors before providing them access to the development via the pedestrian and vehicle entries.

~~The development shall include a security entrance intercom at each entrance with video capability. This shall allow residents to see visitors through a camera from their units before providing them access to the development.~~

(28) Lighting – appropriate lighting, to the applicable Australian Standard, shall be designed and installed throughout the development, including communal areas, external pathways through the development and the car park.

(29) 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.

(30) Boom gates are to be installed within the carpark to control access between service areas, commercial car park areas and residential car park areas.

(31) A security intercom system must be installed in each apartment.

Bonds and Contributions

(30) 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:

$$\text{Contribution (at time of payment)} = \frac{C \times \text{CPIP}}{\text{CPIC}}$$

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

(31) 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)

(32) 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)

(33) 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)

(34) 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 [each relevant 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. [\(pt020.doc\)](#)

(35) The BASIX commitments shall be indicated on the plans to the satisfaction of Council or an Accredited Certifier prior to the release of the [relevant Construction Certificate](#). [\(pt034.doc\)](#)

(36) The developer shall submit to the Principal Certifying Authority written consent from affected property owners prior to any work being undertaken on adjoining land. [\(pt050.doc\)](#)

(37) 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. [\(pt060.doc\)](#)

(38) 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. [\(pt062.doc\)](#)

(39) 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. [\(pt070.doc\)](#)

(40) A detailed dilapidation report prepared by a suitably qualified structural engineer for all structures located on adjoining lands of the development site supported with suitable photographic records shall be submitted to the accredited certifying authority prior to the commencement of work.

(41) Prior to the issue of a **the relevant** 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>.

(42) Prior to the issue of a **the relevant** 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.

(43) The development must satisfy the development standards for hostels and independent living units in accordance with Part 4 Division 3 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 [relevant](#) 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 [relevant](#) Construction Certificate plans.

(44) 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 [the relevant](#) 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 [relevant](#) Construction Certificate, details must be provided to the Certifying Authority demonstrating how this will be complied with.

(45) 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 [relevant](#) Construction Certificate, details must be provided to the Certifying Authority demonstrating how this will be complied with.

(46) Prior to Council or an accredited certifier issuing a [the relevant](#) 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 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.

(47) Prior to Council or an accredited certifier issuing a [the relevant](#) 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.

(48) A **The relevant** 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 **relevant** 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.

(49) Prior to Council or an accredited certifier issuing a **the relevant** 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*.

(50) Prior to the issue of **any the relevant** Construction 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.

(51) Prior to the issue of **any the relevant** 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.

(52) Prior to the issue of **any the relevant** 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 **the relevant** Construction Certificate.

- (53) Prior to the issue of any **the relevant** 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”.
- (54) Prior to the issue of any **the relevant** 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.
- (55) Prior to the issue of any **the relevant** 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.
- (56) Prior to the issue of any **the relevant** 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.
- (57) Prior to the issue of any **the relevant** 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.
- (58) 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.
- (59) 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

- (60) 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)
- (61) 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)

Asbestos – Statement Required

- (62) 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)

- (63) Safe access to and egress from adjoining buildings shall be maintained at all times for the duration of the demolition work. (dw020.doc)
- (64) The techniques adopted for stripping out and for demolition shall minimise the release of dust into the atmosphere. (dw030.doc)
- (65) 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)
- (66) 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)
- (67) 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

(68) 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 **relevant** 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

(69) 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)

(70) 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

(71) Car parking shall be provided for seventy- six (76) vehicles and one dedicated ambulance bay 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- nine (59) car parking spaces shall be reserved at all times for the exclusive use of residents and fourteen (14) as resident visitor parking only, three (3) 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)

(71) 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)

(72) 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)

(73) 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)

- (74) All vehicles being loaded and/or unloaded shall stand within the curtilage of the development site. (c085.doc)
- (75) 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

- (76) 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)
- (77) 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)
- (78) 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)
- (79) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access. (us045.doc)

Geotechnical Requirements

- (80) 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)
- (81) 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

- (82) 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

- (83) All building work must be carried out in accordance with the requirements of the Building Code of Australia. (bu010.doc)
- (84) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (85) All excavations and backfilling must be executed safely in accordance with appropriate professional standards. (bu090.doc)
- (86) All excavations must be properly guarded and protected to prevent them from being dangerous to life or property. (bu095.doc)
- (87) 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)

(88) 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)

(89) 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)

(90) 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)

(91) 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)

(92) 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.

(93) 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.

(94) 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.

(95) 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

(96) 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 (e.g. 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)

(97) The developer shall submit to the Certifying Authority for approval prior to the issue of the *relevant* 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)

(98) 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)

(99) 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.

Landscape Works

(100) 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 dated 10/08/2018 and as modified by DA13D dated 12/11/2018 26/06/2020 prepared by Taylor Brammer Landscape Architects – Project No. 16-030W - Dwg. No. LC00, LC01, LC02, LC03, LC04, LC05, LC06, LC07, LC08. (lw010.doc)

The landscape terraces within the setback adjacent the boundary of 21 Meares Place are to be planted with shrubs and groundcovers only that are selected to maintain a maximum mature height of 3 metres only for the full length of the common boundary.

The species that satisfy these requirements are to be nominated on the detailed landscape plan to the satisfaction of Council prior to the issue of the Construction Certificate by any Accredited Certifying Authority, and are to be designed and maintained to ensure the mature species height do not disrupt the views from the first floor balconies of 21 Meares Place, Kiama.

- (101) 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)
- (102) 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)
- (103) 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)
- (104) The landscape works shall remain in situ for the perpetuity of the development. (lw040.doc)
- (105) 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)
- (106) Prior to release of the **Construction Occupation** 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

- (107) 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

- (108) 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

(109) 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.

(110) 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 *as amended by the Arboricultural Assessment prepared by Craig Kenworthy of Sydney Landscape Consultants dated June 2020*.

(111) 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.

(112) 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.

(113) 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.

(114) 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.

(115) 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.

(116) During construction any other matter arising that may harm the existing trees on adjoining properties shall be referred to the Project Arborist.

(117) 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

(118) 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)

(119) 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)

(120) 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)

(121) 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:

- Stating that unauthorised entry to the premises is prohibited; and
- 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

(122) 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.

(123) 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.

(124) 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

(125) 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)

(126) 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)

(127) 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)

(128) 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".

(129) 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.

(130) 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.

(131) 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.

(132) 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.

(133) Prior to the issue of an Occupation Certificate, the applicant operator 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 operator 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.

(134) 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.

(135) 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.

(136) Prior to occupation, and use of the development, the applicant shall replace the existing kerb ramp crossings in the vicinity of Lot 2 in Deposited Plan 252884 (on both sides of Collins Street) with kerb ramps and landings which are compliant with Australian Standard AS1428.1(2009). An application shall be made to Council, pursuant to the requirements of Section 138 of the Roads Act, prior to the commencement of the work. All costs in regard to this requirement are to be borne by the applicant or person entitled to act on this consent.

(136) ~~Evidence of a wheelchair accessible 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:~~

- d. ~~shops, bank service providers and other retail and commercial services that residents may reasonably require, and~~
- e. ~~community services and recreation facilities, and~~
- f. ~~the practice of a general medical practitioner.~~

~~The service is to be provided while ever the use of the site is in operation.~~

During Construction

(137) 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.

- (138) Any material deposited on public roads resulting from the works must be removed within 3 hours.
- (139) 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.
- (140) 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

- (141) 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.
- (142) 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.
- (143) 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.

- (144) 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:

A. *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.*

B. ~~a wheelchair accessible 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.~~

~~The service is to be provided while over the use of the site is in operation.~~

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

(145) 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.

(146) Prior to issue of any Occupation Certificate, each residential visitor spaces shall be clearly signposted with the wording that it is a visitor space.

(147) 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.

(148) 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.

(149) 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.

(150) 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 runoff 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™
- 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.