



# EXTRAORDINARY MEETING OF COUNCIL

To be held at 5pm on

**Tuesday 13 April 2021**

Council Chambers

11 Manning Street, KIAMA NSW 2533

## **Order of Business**

- 1 Apologies
- 2 Acknowledgement of Traditional owners
- 3 Report of the Director Environmental Services
- 4 Confidential Summary
- 5 Confidential Reports
- 6 Closure

## **Members**

The Mayor  
Councillor M Honey  
Councillor A Sloan  
Deputy Mayor  
Councillor M Brown  
Councillor N Reilly  
Councillor K Rice  
Councillor W Steel  
Councillor D Watson  
Councillor M Way  
Councillor M Westhoff

8 April 2021

To the Chairman and Councillors:

**NOTICE OF EXTRAORDINARY MEETING**

You are respectfully requested to attend an **Extraordinary Meeting** of the Council of Kiama, to be held in the **Council Chambers, 11 Manning Street, KIAMA NSW 2533** on **Tuesday 13 April 2021** commencing at **5pm** for the consideration of the undermentioned business.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mike Dowd', written in a cursive style.

Mike Dowd

**Acting General Manager**

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**AGENDA FOR THE  
EXTRAORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL  
TUESDAY 13 APRIL 2021**

**1 APOLOGIES**

**2 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS**

*"I would like to acknowledge the traditional owners of the land on which we meet, the Wadi Wadi people of the Dharawal nation, and pay my respect to Elders past and present."*

### 3 REPORT OF THE DIRECTOR ENVIRONMENTAL SERVICES

#### 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.1 Maintain the separation and distinct nature of local towns, villages and agricultural land

Delivery Program: 2.1.1 Develop and implement appropriate land use plans

Item 3.1

#### Summary

In late 2019, a Planning Proposal (PP) was submitted on behalf of Council's Property Team. The purpose of the PP was to reclassify land at 85 Attunga Avenue, Kiama Heights and 18A Hughes Crescent, Kiama Downs from community to operational. This proposal does not include any changes to the zoning, height, floor space ratio controls etc. of Kiama LEP 2011.

At the 17 March 2020 meeting, Council resolved to support the reclassification of 85 Attunga Avenue, Kiama Heights from community to operational land but not the reclassification of 18A Hughes Crescent, Kiama Downs.

As such, an amended PP was prepared and resubmitted in June 2020, on behalf of Council's Property Team. This amended PP was then submitted to the Department of Planning, Industry and Environment for a Gateway Determination.

A Gateway Determination was issued on 14 August 2020, granting plan-making delegations to Council.

The PP was placed on public exhibition between 4 September and 5 October 2020. In accordance with Clause 29 of the *Local Government Act 1993*, a public hearing was held on 15 September, commencing at 5pm. No submissions were made during the public hearing and 16 written submissions were received.

Following the closure of the exhibition period, this Proposal was reported to the November 2020 Council meeting for endorsement. At this meeting Council resolved to defer endorsement of the planning proposal to form a small group to meet the landowners of the property at the rear of the site to discuss access options from 85 Attunga Avenue to East's Beach.

At the request of the Kiama Heights Residents Group, Council agreed to undertake a second round of public exhibition which was held from 8 February to 8 March 2021. As part of this round of exhibition of this proposal, an advertisement was again placed in The Bugle, notification provided on Council's website and written notification sent to all property owners within Kiama Heights and the Kiama Central Precinct Committee.

A total of 47 written submissions, including submissions from the Kiama Heights Residents Group and the Kiama Central Precinct Committee, were received during the second exhibition period.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

The primary concerns raised in the written submissions were focused on the loss of public open space and access to East's Beach. All of the submissions received object to the proposal to reclassify the site to operational land. While some of the reasons listed for objection are invalid (i.e. access to East's Beach and loss of public open space etc) the suggestions that the Sub-Committee should have consulted with the community, as part of their recommendation, and the need for a Public Open Space Strategy are valid.

No issues were raised by the relevant State agencies that warrant not proceeding with this PP.

This report refutes the suggestion that the exhibition process undertaken as part of exhibiting the PP was inadequate. The exhibition process was undertaken in accordance with the requirements of the the Kiama CPP 2019, *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993*.

Only the elected Council can resolve to reclassify a site from community to operational land. There are two options left to Council:

- (1) complete the reclassification process; or
- (2) stop the reclassification process.

**Finance**

Council has adopted a fee structure for the submission and review of planning proposals. The relevant fees have been paid as required by Council's fees and charges schedule.

**Policy**

The assessment of requests for the rezoning of land require the consideration of a number of Act, Government Policies, Environmental Planning Instruments and planning documents.

**Consultation (Internal)**

Initial consultation with Council's Property Team has been undertaken.

**Communication/Community Engagement**

The subject PP was placed on public exhibition from 4 September to 5 October 2020 with an advert being placed in The Bugle, notification provided on Council's website and written notification sent to neighbouring property owners and the Kiama Central Precinct Committee.

In accordance with clause 29 of the *Local Government Act 1993*, a public hearing was held at 5pm on 15 September 2020.

The subject PP was again placed on public exhibition from 8 February to 8 March 2021 with an advert being placed in The Bugle, notification provided on Council's website and written notification sent to neighbouring property owners and the Kiama Central Precinct Committee.

Report of the Director Environmental Services

3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

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### Attachments

- 1 Gateway Determination [↓](#)
- 2 Planning Proposal Report [↓](#)

### Enclosures

Nil

### RECOMMENDATION

That Council:

1. Endorse this Planning Proposal to reclassify Lot 69A DP 30126 – 85 Attunga Avenue, Kiama Heights from community to operational and use its plan making delegations to make the necessary amendments to the *Kiama Local Environmental Plan 2011*, and either:
  - a. commence the sale of the 85 Attunga Avenue, Kiama Heights as soon as possible, **or**
  - b. defer any sale of 85 Attunga Avenue, Kiama Heights until a new Council is elected, **or**
  - c. defer any sale of 85 Attunga Avenue, Kiama Heights until Council has adopted, and assessed the need for the site against, a Public Open Space Strategy,

### OPTIONS

#### Option 1

Endorse this Planning Proposal to reclassify Lot 69A DP 30126 – 85 Attunga Avenue, Kiama Heights from community to operational and use its plan making delegations to make the necessary amendments to the *Kiama Local Environmental Plan 2011*, and either:

1. commence the sale of the 85 Attunga Avenue, Kiama Heights as soon as possible, **or**
2. defer any sale of 85 Attunga Avenue, Kiama Heights until a new Council is elected, **or**
3. defer any sale of 85 Attunga Avenue, Kiama Heights until Council has adopted, and assessed the need for the site against, a Public Open Space Strategy.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

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**Implications**

This is the preferred option as it enables Council to finalise the reclassification process that has already commenced and is in line with the Long Term Financial Planning and Revenue Sub-Committee recommendation. It also enables Council to obtain funds from the sale of the land during a time when the market is buoyant and when Council is seeking additional ways in which to raise revenue and provide certainty for our long term financial plan and ongoing financial sustainability. The concerns of the community relating to public open space are acknowledged. A core concern raised and articulated is the view of the Kiama Heights community that they have not been adequately supported and serviced by Council, with limited funds spent on the area. It is important that Council does undertake a detailed open space strategy and consider the recreation needs of this area, including access and mobility. Whilst this recommendation may seem to some to not support the community concern, it is provided in view of Council's current financial position and the consideration that this specific parcel of land is not suitable for a playground or providing access to a private property – which subjects Council to a number of risk considerations. It is important that Council take the views of the community, particularly their desire to be more engaged with Council about a number of key areas of concern for their local area, seriously and work further on a number of the issues that have arisen through this process.

**Option 2**

Not endorse this Planning Proposal to reclassify Lot 69A DP 30126 – 85 Attunga Avenue, Kiama Heights from community to operational, and either:

1. retain the existing R2 Low Density Residential zoning on the 85 Attunga Avenue, Kiama Height, **or**
2. commence a rezoning process to rezone the 85 Attunga Avenue, Kiama Height from R2 Low Density Residential to RE1 Public Recreation

**Implications**

This is not the preferred option as the land is not ideal for use as open space. It cannot provide legal access to the beach and is not of a size and shape that would be deemed ideal for a future playground or park. It is a parcel that has been identified for future development and sale through the Long Term Financial Planning and Revenue Sub-Committee meeting on 4 September 2017.

**BACKGROUND****Long Term Financial Planning and Revenue Sub-Committee**

At the Long Term Financial Planning and Revenue Sub-Committee meeting on 4 September 2017, Councillors requested that the matter of 85 Attunga Avenue, Kiama Heights be listed for consideration to investigate the potential sale of the property as surplus land.

A report was provided to the Long Term Financial Planning and Revenue Sub-Committee meeting held on 12 March 2018 outlining that the parcel was currently classified as community land and Council would be required to reclassify the property as operational land.



## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

The Sub-Committee was informed that in order to reclassify the site, Council would be required to prepare a planning proposal, to amend the *Kiama Local Environmental Plan (EP) 2011*, to remove any public reserve status applying to the land, as well as any interests affecting all or any part of the public land. Council would additionally be required to engage in community consultation and notification of the reclassification for at least 28 days.

Subsequent to the planning proposal and following amendments to the LEP, Council would then be able to sell the subject property as a residential lot.

At the 12 March 2018 meeting the Sub-Committee made the following recommendation to Council:

*That the Long Term Financial Planning and Revenue Committee and Council:*

- 1. Proceed with the reclassification of 85 Attunga Avenue, Kiama Heights (Lot 69A DP 30126)*
- 2. Subject to East's approval, investigate the incorporation of a footpath down one side of the property to provide access to the beach.*

*Moved: Cl Sloan  
Seconded: Cl Reilly*

This recommendation, with the exception of point 2, was endorsed by Council at the 17 April 2018 meeting.

### **Planning Proposal**

In accordance with the Sub-Committee recommendation and the resolution of Council, a Planning Proposal (PP) was submitted on behalf of Council's Property Team. The purpose of the PP was to reclassify the land at 85 Attunga Avenue, Kiama Heights from community to operational land for the purposes of the *Local Government Act 1993*. This proposal does not include any changes to the zoning, height, floor space ratio controls etc. of Kiama LEP 2011.

The subject site is located on Attunga Avenue, Kiama Heights (see *Figure 1*). Known as 85 Attunga Avenue, this land incorporates one allotment title described as Lot 69A DP 30126 and is approximately 770m<sup>2</sup> in size. The site is zoned R2 Low Density Residential, under Kiama LEP 2011.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)



**Figure 1: 85 Attunga Avenue, Kiama Heights**

The site is currently vacant and comprises of a grassed site with some very small shrubs at the rear of the property. The site adjoins East's Beach caravan park to the north and residential properties to the east, west and south.

The site does not provide public access to East's Beach or the Kiama Coastal Walk. The adjoining property to the north is privately owned and anyone traversing this site to gain access to East's Beach is trespassing. It is noted that an easement over a small portion of the adjoining property was created to formalise the Kiama Coastal Walk (circled in Figure 1 above). This should not be considered a precedent to formalise pedestrian access from 85 Attunga Avenue to East's Beach. Council was successful in negotiating this small easement due to its minute size and its immediate adjacency to a common boundary.

This proposal does not include any changes to the zoning, height, floor space ratio layers of Kiama LEP 2011.

The proposal does not seek to discharge any public interests, easements or restrictions on the site. 85 Attunga Avenue is not a public reserve, as it is not registered as such on the Deposited Plan. This is demonstrated in Figure 2 below, where 85 Attunga Avenue (Lot 69A) has been highlighted. The 'public garden & recreation space' which is registered on the public land between Attunga Avenue and Kalang Road has been also highlighted to demonstrate the distinction. A copy of this Deposited Plan was made available during both rounds of exhibition in Appendix 1 to the Planning Proposal report, prepared by MMJ Wollongong.

Report of the Director Environmental Services

3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

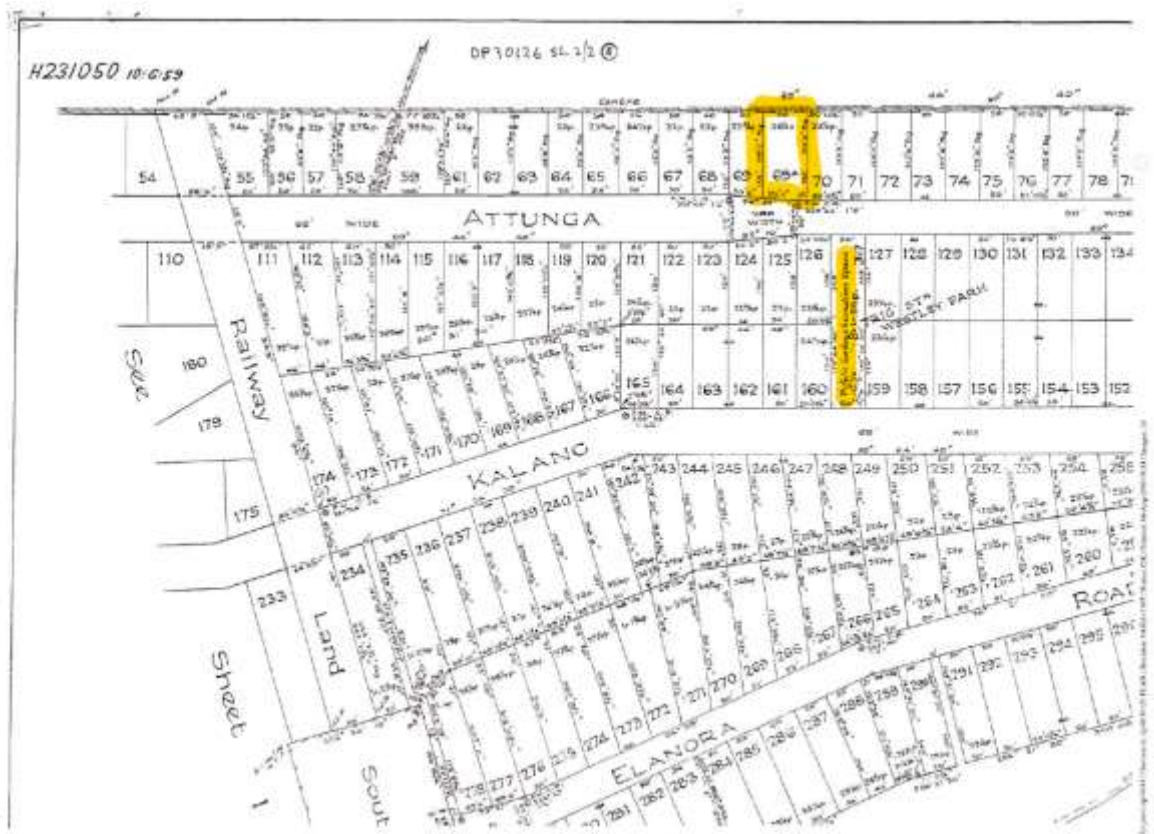


Figure 2: Extract from DP 30126

Page 12 of the Planning Proposal report, prepared by MMJ Wollongong, states:

*The land came into Council's ownership on 15 August 1960 where Council was appointed the owner when the original title was issued (Vol 7966 Fol 42). Lot 69A was part of a larger area transferred in fee simple from Shoalhaven Finance.*

It is not known what the arrangement was for the transfer of 85 Attunga Avenue from Shoalhaven Finance to Council in 1960. It was not registered as a public reserve when the original title was issued, as opposed to the 'public garden & recreation space' shown on the Deposited Plan between Kalang Road and Attunga Avenue. The transfer of this land to Council may have been in lieu of developer contribution fees etc.

The site at 85 Attunga Avenue has been zoned residential since at least 1987, as part of Kiama LEP No 5 (refer to Figure 3).

Item 3.1



Report of the Director Environmental Services

3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

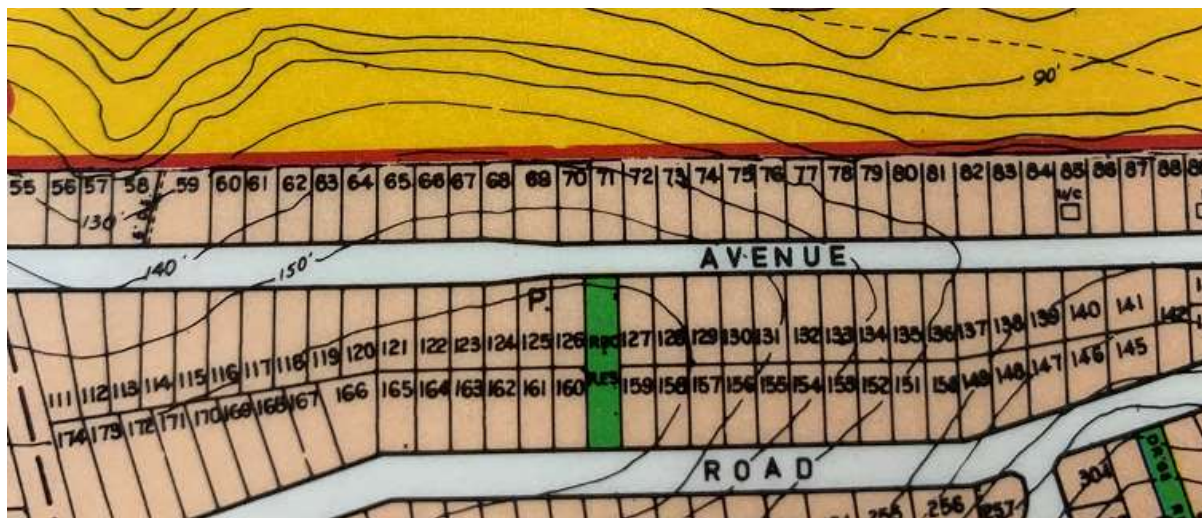


Figure 3: Extract from Kiama Local Environmental Plan No 5

This residential zoning was carried over into Kiama LEP 1996 (Figure 4) and most recently Kiama LEP 2011 (Figure 5).

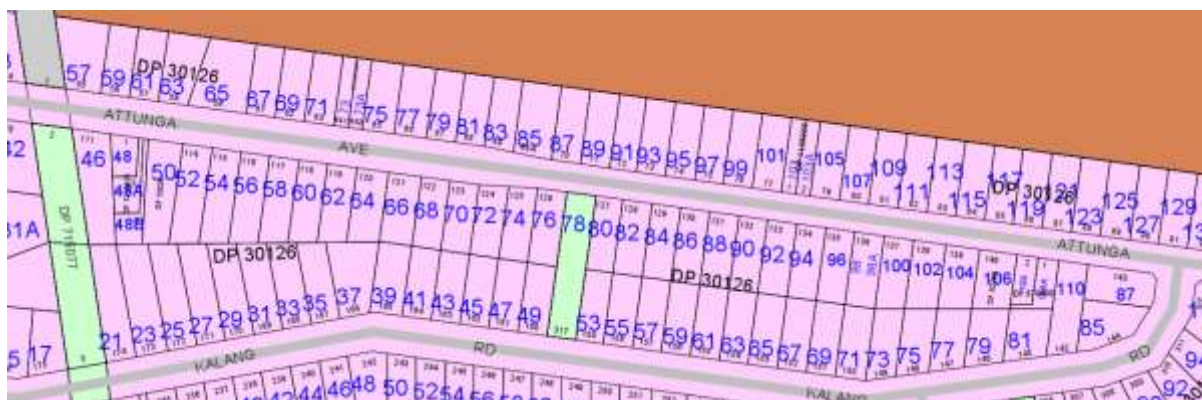


Figure 4: Extract from Kiama Local Environmental Plan 1996

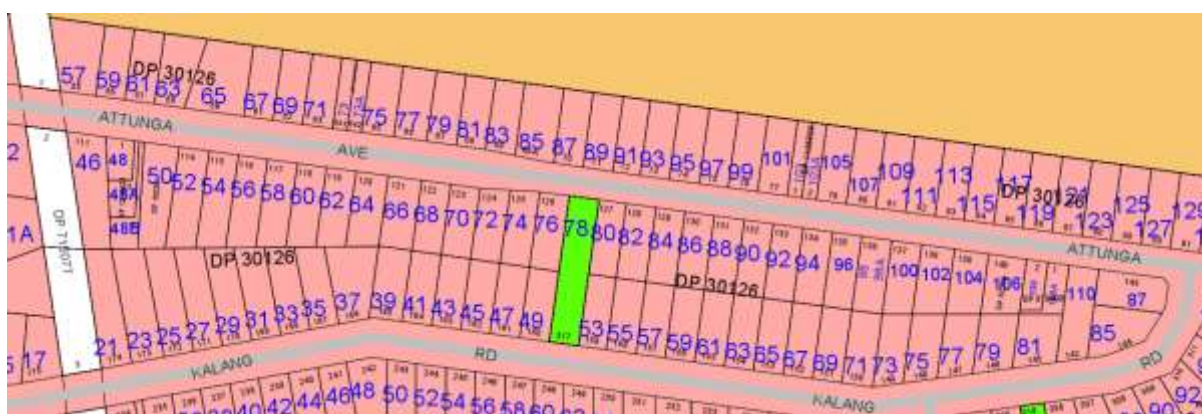


Figure 5: Extract from Kiama Local Environmental Plan 2011

**Council Resolution to Support the Proposal**

At its 17 March 2020 meeting, Council resolved to support the reclassification of No 85 Attunga Avenue, Kiama Heights from community to operational land.

The PP to reclassify the site was then submitted to the Department of Planning, Industry and Environment for a Gateway Determination.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

**Gateway Determination**

A Gateway Determination was issued on 14 August 2020, granting plan-making delegations to Council. The Gateway Determination outlined that the PP should proceed subject to the following conditions:

1. The planning proposal is to be updated to remove the need for Governor's approval, as no interests are proposed to be changed, and the references to changing the relevant part of Schedule 4 are to be corrected prior to public exhibition.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - a. the planning must be made publicly available for a minimum of 28 days; and
  - b. the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment, 2018).
3. No consultation is required with public authorities/organisations under section 3.34(2)(d) of the Act.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
  - a. the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - b. the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - c. there are no outstanding written objections from public authorities.

Council has received delegation from the Minister to make this plan as this lot is not registered as a public reserve and does not seek to discharge any public interests, easements or restrictions on the site. Condition 1 of the Gateway Determination (see above) confirms that no interest, including any public reserve/land status, are proposed to be changed as part of this Proposal.

The PP is considered to have satisfied the conditions of the Gateway Determination. As detailed below, consultation with the relevant public authorities/organisations was undertaken and the PP was publicly exhibited for a minimum of 28 days.

**State Agency/Organisation Referrals**

No consultation was required with public authorities/organisations.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

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**Public Exhibition**

The Gateway Determination, issued on 14 August 2020, required the PP to be publicly exhibited for a period of 28 days as required by section 3.34(2)(c) and Schedule 1 Clause 4 of the *Environmental Planning and Assessment Act (EPA) 1979*, and section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018). This is consistent with the requirements of the Kiama Community Participation Plan 2019.

First Exhibition Period

The PP was initially publicly exhibited from 4 September to 5 October 2020. As part of exhibiting this proposal an advertisement was placed in *The Bugle*, notification provided on Council's website and written notification sent to 8 adjacent neighbouring property owners and also the Kiama Central Precinct Committee.

A total of 16 written submissions were received during the exhibition period. It is noted that a petition in support of a community garden on the site and opposed to the reclassification, signed by 159 individuals, was also submitted.

Public Hearing

Section 29 of the *Local Government Act 1993* requires Council to arrange a public hearing in respect to a planning proposal to reclassify community land to operational land.

Section 47G of the *Local Government Act 1993* requires outlines that the person chairing the public hearing must not be a councillor or employee of the council holding the hearing. Section 47G of the Act requires Council to make the report from the chair to publicly available no later than 4 days after it is received.

In accordance with clause 29 of the *Local Government Act 1993*, a public hearing was held at 5pm on 15 September and was chaired by Karen Mion of SET Consultants. Due to COVID restrictions in place at the time, physical attendance at the hearing was limited to community members who wished to speak. Community members who wished to speak needed to register (in a similar fashion to Council's Public Access meetings). The following information was provided in *The Bugle* advertisement, Council's website and notification sent to adjoining property owners and the Kiama Central Precinct Committee.

A public hearing, in accordance with clause 29 of the *Local Government Act 1993*, will be held on 15 September at 5pm. The hearing will be streamed on Council's website. To register to speak at the hearing please contact Council on 4232 0444, no later than 3pm on the day of the hearing. Please note that numbers are limited.

The public hearing was live streamed on Council's website to allow interested community members to view the hearing.

The report from the chair of the public hearing was made publicly available on Council's website once it was received and is attached to this report.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

The Department of Planning, Industry and Environment's LEP practice note (PN 16-001) provides guidance on classifying and reclassifying public land through a LEP. The Department has confirmed that practice notes are not statute and are only guides. PN 16-001 recommends holding the public hearing after the exhibition period has closed. Council elected to hold the public hearing in the third week of the public exhibition period to provide interested community members with the opportunity to ask questions/make comments at the hearing prior to the closure of the exhibition period. This was done to provide to community with as much information as possible to assist in informing the preparation of their submissions.

As part of finalising any planning proposal, Council prepares a report for the Department outlining the process and the Department confirm/determine if Council have fulfilled our legal obligations.

No verbal submissions were made during the public hearing.

It is acknowledged that some confusion around the ability to present at the public hearing occurred. Some interested members of the community did speak to Council's Strategic Planning team and were informed that they would need to complete Council's registration form to speak in person at the hearing. One interested community member informed Council that they were unable to attend in person and that they would door-knock to see if any other neighbors could attend. Council did not receive any registration forms to speak at the hearing.

It is acknowledged that the attendance at the public hearing is not a reflection of the level of community interest in this matter. It is clearly acknowledged within this report that a number of submissions have been received by Council. The outcome of the public hearing has not been a significant determination in the development of an understanding of community interest or concern. A number of further meetings with the community have been held since the public hearing in order to develop an understanding of the issues raised by the community. All submissions received have been attached to this report to acknowledge that each have been received by Council and that there has been interest in this process.

#### Second Exhibition Period

Following the closure of the exhibition period, this Proposal was reported to the November 2020 Council meeting for endorsement. At this meeting Council resolved to defer endorsement of the planning proposal to form a small group to meet the land owners of the property at the rear of the site to discuss access options from 85 Attunga Avenue to East's Beach.

It is understood that the Mayor spoke to the owners of the adjoining property and that they were unreceptive to provide public access through their property to East's Beach.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

During this time the Kiama Heights Residents Group was formed by approximately 175 residents of the Kiama Heights area. The Mayor, Acting General Manger and Manager Strategic Planning met with representatives of the Residents Group in January 2021 to discuss Council's deferral and the possibility of undertaking a second round of exhibition. Council agreed to this request and a second round of public exhibition was held from 8 February to 8 March 2021. As part of this round of exhibition this proposal an advertisement was again placed in The Bugle, notification provided on Council's website and written notification sent to all property owners within Kiama Heights and the Kiama Central Precinct Committee.

A total of 47 written submissions, including submissions from the Kiama Heights Residents Group and the Kiama Central Precinct Committee, were received during the second exhibition period.

The Mayor, Acting General Manger and Manager Strategic Planning met again with representatives of the Kiama Heights Residents Group and the Kiama Central Precinct Committee in March 2021 to discuss the second exhibition period and the planning proposal process.

Question for Future Meeting

At the February 2021 Council meeting, Councillor Reilly requested a response be provided to the emails of the Central Precinct and residents of Attunga Avenue, addressing their concerns regarding the future (and some of the past) of 85 Attunga Avenue.

The President of the Kiama Central Precinct Committee sent an email on 28 January 2021 requesting the following information:

1. A complete record of the historic zoning of 85 Attunga Avenue since its original classification as a reserve.
2. Any documents that led to the proposal to re-classify the reserve. This would include any business cases raised by Council staff and/or Councillors, any assessments of impacts on the community, all checklists of policy and planning requirements, and the recommendations from a meeting of the Finance sub-committee in 2018 in relation to the reserve.
3. Records of meetings, including any minutes and correspondence, between Councillors or Council staff, and the East family, concerning easements/access to East's Beach and/or the possible re-classification of 85 Attunga Avenue.
4. Records relating to the sale of the land zoned E3 to the north of Attunga Ave, known as the paddock, and any records relating to its incorporation into 30 Ocean Street.

On 9 February 2021, a response was sent to the President of the Kiama Central Precinct Committee, prior to the commencement of the February Council meeting, outlining that the majority of this information is available on Council's website as part of the exhibition material for the Planning Proposal.



Report of the Director Environmental Services

3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

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### Community Comments

The written submissions and the signed petition received during both rounds of consultation all object to the proposal to reclassify the site and raised a number of concerns that have been grouped into the following topics:

- Sale of community land

The majority of the written submissions outlined that they were informed previously by Council that as 85 Attunga Avenue was classified as community land and a public reserve that Council could not sell the land.

#### Response

Advice, previously given by Council, regarding Council's ability to sell 85 Attunga Avenue, due to its classification, was correct at the time. The fact that 85 Attunga Avenue is currently community land is not refuted. The site is listed in Council's Neighbourhood Parks Plan of Management due to its current community classification. If Council resolve to reclassify the site to operational land it will no longer appear in Council's Neighbourhood Parks Plan of Management.

The sole purpose of this Proposal is to reclassify the site to enable Council to sell the land if it deems it appropriate, in line with Council's previous resolution and the Sub-Committee's recommendation. This Proposal will change the status quo for 85 Attunga Avenue.

It should be noted that, as the site is already zoned R2 Low Density Residential, Council could develop the site for a range of purposes (i.e. residential dwelling, centre-based child care facilities, community facilities etc.) but would have to retain ownership etc.

The matter of the site not being sold as members of the community were informed previously by Council that as 85 Attunga Avenue was a public reserve is discussed below.

- Loss of public open space

The majority of the written submissions raised concerns over the loss of public open space. A number of submissions have suggested that the land is currently being used by the community as public open space.

Concerns have been raised over the existing lack of public open space, and associated infrastructure, within the Kiama Heights area. A submission from the Kiama Heights Resident Group has outlined that there is insufficient public open space within the Kiama Heights area compared to other localities within the Municipality.

#### Response

The *Local Government Act 1993* defines a public reserve as:

- (a) a public park, or
- (b) any land conveyed or transferred to the council under section 340A of the Local Government Act 1919, or
- (c) any land dedicated or taken to be dedicated as a public reserve under section 340C or 340D of the Local Government Act 1919, or

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

- 
- (d) any land dedicated or taken to be dedicated under section 49 or 50, or
- (e) any land vested in the council, and declared to be a public reserve, under section 37AAA of the Crown Lands Consolidation Act 1913, or
- (f) any land vested in the council, and declared to be a public reserve, under section 76 of the Crown Lands Act 1989, or
- (g) Crown managed land that is dedicated or reserved—
- i. for public recreation or for a public cemetery, or
  - ii. for a purpose that is declared to be a purpose that falls within the scope of this definition by means of an order published in the Gazette by the Minister administering the Crown Land Management Act 2016,  
being Crown managed land in respect of which a council has been appointed as its Crown land manager under that Act or for which no Crown land manager has been appointed, or
- (h) land declared to be a public reserve and placed under the control of a council under section 52 of the State Roads Act 1986, or
- (i) land dedicated as a public reserve and placed under the control of a council under section 159 of the Roads Act 1993,  
and includes a public reserve of which a council has the control under section 344 of the Local Government Act 1919 or section 48, but does not include a common.

As outlined above, the site is zoned R2 Low Density Residential, and has been zoned residential since 1987, and as such is not considered to be a public park.

The site is not listed as a public reserve on the Deposited Plan and was not acquired by/gifted to Council to be used as public open space.

When amendments were made to the *Local Government Act 1993* Council had a limited timeframe to nominate which properties it wished to classify as operational. All other Council owned properties defaulted to community land. In this regard, the site at 85 Attunga Avenue was never gazetted as a public reserve and only became community land when Council failed to nominate it as operational classification.

Within the Kiama Heights area a drainage reserve, zoned RE1 Public Recreation, is located at 82A Kalang Road (see Figures 6 & 7 below). In addition to the 'public garden & recreation space' between Attunga Avenue and Kalang Road the land behind the properties from 4 Elanora Road to 143 Attunga Avenue is registered as a 'public garden & recreation space'. Both of these parcels are currently zoned RE1 Public Recreation under Kiama LEP 2011 (see Figure 6).

Report of the Director Environmental Services

3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)



Item 3.1

Figure 6: Extract from Kiama Local Environmental Plan 2011



Figure 7: Extract from DP 30126

It is noted that some submissions appear to believe that the land over the rail corridor is also public open space. This is not the case. This land is owned by the State Government and its zoning is currently deferred from Kiama LEP 2011.

In this regard, the subject PP will not result in a loss of public green open space as 85 Attunga Avenue is not considered to be a public reserve for the purposes of the *Local Government Act 1993* or *Kiama Local Environmental Plan 2011*.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

Concerns have been raised over Council's lack of 'Public Open Space Strategy'. It has been suggested that such a strategy should analyse a localities public open space need and identify suitable sites for public open space if required. Without such a strategy the decision to reclassify 85 Attunga Avenue is only being made as per the recommendation of the Long Term Financial Planning and Revenue Sub-Committee and has not considered the long-term public open space needs of the Kiama Heights community.

Again this point is not refuted. However, the role of staff is to enact the resolutions of Council and in this matter this includes undertaking the Planning Proposal process to reclassify the site. The preparation of a 'Public Open Space Strategy', while having merit, has not been resolved by Council.

- Access to East's Beach

All the written submissions raised concerns over the loss of access through the site to East's Beach.

Response

The site does not provide legal access to East's Beach. The adjoining property to the north is privately owned and anyone traversing this site to gain access to East's Beach is trespassing.

As outlined above, as part of the Coastal Walk, Council has established a small easement over a portion of the caravan park to legally provide access from the end of Attunga Avenue to East's Beach.

As such, the subject PP will not result in a loss of legal access to East's Beach.

It is noted that it was reported in The Bugle (4/03/2021) that a portion of the privately owned property to the north of the site was once owned by Council. This suggestion is refuted. A check of Council's rating records indicates that there has been no change of ownership of this parcel since the 1970s.

- Alternative proposal – community garden

Some of the written submissions and the signed petition have proffered an alternative proposal for the site. The alternative proposal seeks to use the site as a community garden.

Response

Due to its residential zoning and the fact that the site is not gazetted as a public reserve, a Development Application would be required to use the site as a community garden. Alternatively, Council could resolve to cease to reclassification process and rezone the site from R2 Low Density Residential to RE1 Public Recreation.

This alternative proposal is not a matter for consideration as part of this PP. Such a proposal needs to be considered by the elected Council when determining its budget.

- Inadequate consultation process

Some of the submissions received during the second exhibition period have criticised the exhibition process, particularly the public hearing. Some of the submissions have raised the point that the Sub-Committee should have engaged with the community when initially considering 85 Attunga Avenue as surplus land.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

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Response

Council have undertaken the exhibition process in accordance with the Kiama Community Participation Plan 2019, *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993*.

The Kiama Community Participation Plan (CPP) 2019 establishes how and when the community can get involved in the full range of Council planning functions. Plan Making is a planning function of Council, which includes planning proposals to change the Kiama local environmental plan and the development control plan which provides detailed requirements for development proposals. The Kiama CPP outlines Council's plan making functions enable Council to involve, consult and inform the community. The planning proposal process enables Council to consult with and inform the community. The consultation and informing process of a PP seeks to provide the public with balanced and objective information to assist them in understanding the proposal and obtain public feedback.

Two (2) rounds of exhibition were held, providing the community with over 56 days to prepare and submit submissions. During the second exhibition period all property owners within the Kiama Heights area were sent notification of the Proposal.

Council held the public hearing prior to the closure of the first round of exhibition. It has been acknowledged that this is not in line with the guidelines of PN 16-001. As outlined above, this does not mean that the public hearing is invalid as PN 16-001 is only a guideline and not statute legislation.

Discussions with the Kiama Heights Residents Group in March 2021 seemed to indicate that the community believe that the elected Council would all be present at a public hearing. This would provide the community with the opportunity to voice their concerns directly to the Councillors. It was explained that it was not a requirement for Councillors to be present at a public hearing. The purpose of a public hearing is to provide the community with an alternative means of making submissions to the Proposal. Verbal submissions received at a public hearing have no greater or lesser weight than written submissions received during the exhibition period.

The suggestion that the Sub-Committee should have engaged with the community as part of recommending the commencement of the reclassification process has merit. Unfortunately, once the Planning Proposal has been received by the Strategic Planning team this opportunity is no longer available.

- Council's Land Development Reserve

Some of the submissions received have raised concerns regarding how any revenue generated from the potential sale of the site would be spent.

Response

The Planning Proposal report, prepared by MMJ Wollongong, outlines that any revenue generated from the potential sale of the site would be need to be placed within Council's Land Development Reserve. Council's Land Development Reserve is internally restricted, meaning that Council can only use the funds generated from the sale of the site for the purposes of land development.

## Report of the Director Environmental Services

## 3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

It should be noted that as Council's Land Development is an internally restricted fund the elected Council are able, by way of special resolution, to alter this restriction.

**Conclusion & Recommendations**

This report refutes the suggestion that the exhibition process undertaken as part of exhibiting the PP was inadequate. The exhibition process was undertaken in accordance with the requirements of the the Kiama CPP 2019, *Environmental Planning and Assessment Act 1979* and *Local Government Act 1993*.

In summary, Council resolved to undertake the PP to reclassify 85 Attunga Avenue, Kiama Heights from community to operational at the March 2020 meeting

A Gateway Determination was issued by NSW DPIE on 14 August 2020 with public exhibition and public authority consultation undertaken in accordance with the requirements.

As the Planning Proposal authority, Council are satisfied that the PP has been carried out in accordance with the conditions prescribed by the Gateway Determination, issued 14 August 2020.

All of the submissions received object to the proposal to reclassify the site to operational land. While some of the reasons listed for objection are invalid (i.e. access to East's Beach and loss of public open space etc.) the suggestions that the Sub-Committee should have consulted with the community, as part of their recommendation, and the need for a Public Open Space Strategy are valid.

Only the elected Council can resolve to reclassify a site from community to operational land. There are two options left to the Council:

- (1) Complete the reclassification process; or
- (2) Stop the reclassification process.

**Complete reclassification process**

In order to complete the reclassification process, Council will need to resolve to endorse this Planning Proposal to reclassify Lot 69A DP 30126 – 85 Attunga Avenue, Kiama Heights from community to operational and use its plan making delegations to make the necessary amendments to *Kiama Local Environmental Plan 2011*. Council can then request the legal drafting of the NSW Parliamentary Counsel and submit the drafted LEP to the DPIE to publish.

As part of this option, Council can choose how it wishes to proceed with any sale of the site. Council could elect to commence the sale of the site as soon as possible, defer any sale until a new Council is elected or defer any sale until Council has adopted, and assessed the site against, a Public Open Space Strategy.

**Stop reclassification process**

In order to stop the reclassification process, Council will need to resolve not to endorse this Planning Proposal to reclassify Lot 69A DP 30126 – 85 Attunga Avenue, Kiama Heights from community to operational. Council will then need to request an amended Gateway Determination to no longer proceed with the Proposal. It should be noted that the DPIE may choose to become the Planning Authority and finalise this proposal themselves.

Report of the Director Environmental Services

3.1 Planning Proposal to reclassify 85 Attunga Avenue, Kiama Heights (cont)

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As part of this option, Council can choose to retain the existing R2 Low Density Residential zoning on the site (i.e. the do nothing option). Alternatively, Council may resolve to retain the community classification of the site but commence a rezoning process to rezone the site to RE1 Public Recreation.





## Gateway Determination

**Planning proposal (Department Ref: PP\_2020\_KIAMA\_001\_00):** to reclassify land at Lot 69A DP30126, 85 Attunga Avenue, Kiama Heights from community to operational land.

I, the Director, Southern Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Kiama Local Environmental Plan (LEP) 2011 to reclassify land at Lot 69A DP30126, 85 Attunga Avenue, Kiama Heights from community to operational land should proceed subject to the following conditions:

1. The planning proposal is to be updated to remove the need for Governor's approval, as no interests are proposed to be changed, and the references to changing the relevant part of Schedule 4 are to be corrected prior to public exhibition.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. No consultation is required with public authorities/organisations under section 3.34(2)(d) of the Act.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
  - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.

PP\_2020\_KIAMA\_001\_00 (IRF20/2848)



6. The time frame for completing the LEP is to be 14 August 2021, being **12 months** following the date of the Gateway determination.

Dated 14<sup>th</sup> day of August 2020.



**Sarah Lees**  
Director, Southern Region  
Local and Regional Planning  
Department of Planning, Industry and  
Environment

**Delegate of the Minister for Planning and  
Public Spaces**



## Report on Public Hearing

Reclassification of Land from  
Community to Operational –

85 Attunga Avenue, Kiama  
Heights

Meeting Date: 15 September 2020  
Report Date: 2 October 2020

Reference: L102900/376

## SET Consultants Pty Ltd

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Report on Public Hearing  
Land Reclassification 85 Attunga Avenue, Kiama Heights

1. INTRODUCTION

SET Consultants Pty Ltd was engaged by Kiama Municipal Council to preside over the public hearing regarding the reclassification of land at 85 Attunga Avenue, Kiama Heights.

Prior to the engagement of SET Consultants, Kiama Municipal Council had determined that the public hearing regarding the reclassification of land would be held on the 15<sup>th</sup> September 2020. This being during the public exhibition process of the associated planning proposal. Kiama Council’s Strategic Manager, Edward Paterson advised that this decision was made to allow for the public to have an opportunity to discuss the proposed reclassification prior to the close of written submissions.

Purpose of the report is to outline matters raised by the community at the public hearing for consideration by Council. In this regard this report should be included as an attachment to the Council Report. Council’s Strategic Manager has advised that written submissions will be considered and outlined within the Council Report itself.

2. THE SITE

The subject site is known as No. 85 Attunga Avenue, Kiama Heights and has a legal description Lot 69A DP 30126. The site is currently vacant and is predominately covered in mowed grass as shown in **Figure 1 and 2**. The site falls to the rear northern boundary along which a dry stone wall is located as seen in **Figure 3**. Coastal views can be gained from the site to the north-east.

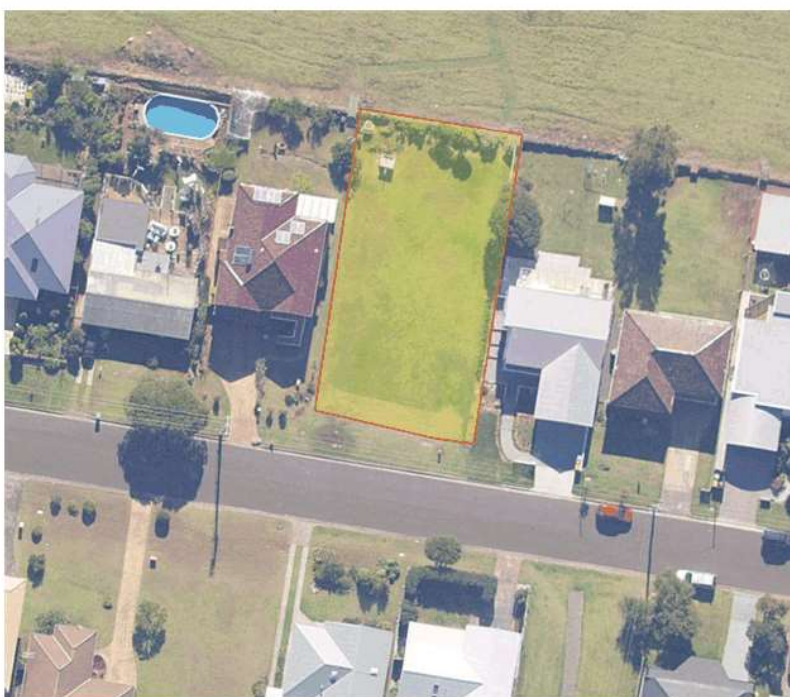


Figure 1: Aerial Image of 85 Attunga Avenue, Kiama Heights (outlined in red). Source - Maps.six.nsw.gov.au



Report on Public Hearing  
Land Reclassification 85 Attunga Avenue, Kiama Heights



Figure 2: View of Subject site from Attunga Avenue



Figure 3: Part of the dry stone wall located along the northern boundary and existing view from the site to the north-east.

### 3. THE PROPOSAL

A Planning Proposal has been prepared which seeks to amend the *Kiama Local Environmental Plan (LEP) 2011* to reclassify the abovementioned site from 'Community Land' to 'Operation Land'. The Planning Proposal does not seek to amend the current zoning or development standards applicable to the subject site. In this regard the current zoning and development standards applicable to the subject site are consistent with those applicable to adjoining residential land.

**Report on Public Hearing**

Land Reclassification 85 Attunga Avenue, Kiama Heights

**4. THE PUBLIC HEARING PROCESS**

A public hearing provides an opportunity for the community to have input into the planning process through an independent source.

Section 29 of the *Local Government Act 1993* prescribes that a Council must arrange a public hearing in respect of a planning proposal which seeks to reclassify 'Community Land' as 'Operational Land' (unless a public hearing has already been held).

Pursuant to Section 47G(2) of the *Local Government Act 1993*, the person presiding at a public hearing must not be—

- (a) a councillor or employee of the council holding the public hearing, or
- (b) a person who has been a councillor or employee of that council at any time during the 5 years before the date of his or her appointment.

Following the public hearing the person presiding at the meeting must prepare and submit a report to the Council on the results of the hearing. Section 47G(3) states that not later than 4 days after it has received this report, the council must make a copy of the report available for inspection by the public at a location within the area of the council.

Public hearings relating to the reclassification of land from Community to Operational are typically held after the conclusion of the exhibition period in accordance with LEP Practice note PN 16-001.

**5. THE PUBLIC HEARING**

The public hearing was held in Kiama Council Chambers at 11 Manning Street, Kiama at 5pm on Tuesday 15<sup>th</sup> September 2020.

Karen Mion, Senior Town Planner at SET Consultants presided over the hearing and satisfied the requirements of Section 47G(2) of the *Local Government Act, 1993*.

The public hearing was live streamed via Kiama Council's website. Notification of the public hearing had occurred via a notice in The Bugle and notification on Council's website under 'Your Say'. Council have also advised that written notifications were sent to adjoining and adjacent property owners. A photographic extract of the notification placed in The Bulge on the 5<sup>th</sup> September 2020 is provided in **Figure 4**.

Report on Public Hearing  
Land Reclassification 85 Attunga Avenue, Kiama Heights



Figure 4: Photo extract from The Bugle - 5th September 2020

Notification specified that “to register to speak at the hearing, please contact Council on 4232044, no later than 3pm on the day of the hearing”. After 3pm on the 15<sup>th</sup> September 2020, Council advised SET Consultants that no one had register to speak at the hearing, however the meeting would continue for those that may be viewing the meeting on-line.

Council’s General Manager, Kerry McMurray and Council’s Strategic Manager, Edward Patterson attended the meeting. No members of the public attended or spoke at the hearing. Mr Patterson presented a brief outline of the proposal. The opportunity for written submissions to still be made to Council was specified during the hearing.

A local resident contacted SET Consultants on the 16<sup>th</sup> of September 2020 and advised that she considered that there had been some misinformation about the registration process for those wanting to speak at the hearing. She referred to a number of different experiences which she had heard from other local residents regarding their contact with Council about the hearing. Specifically, she mentioned a neighbour who had believed that she would be able to speak at the meeting remotely from her home in an on-line manner. SET Consultants passed these concerns onto Council’s Strategic Manager who advised that he would investigate the concerns.

Council’s Strategic Manager has since advised that while some members of the public had shown an interest in registering to speak, none had replied to the email which was subsequently sent to



**Report on Public Hearing**

Land Reclassification 85 Attunga Avenue, Kiama Heights

them outlining further details of the meeting and containing attachments which were required to be completed regarding privacy matters and the recording of the meeting. Council's Strategic Manager also advised that the local resident whom had contacted SET Consultants had also contacted him and he had advised her to let any person she is aware of as having a concern with the registering process to contact him so that he can continue to investigate. At the time of preparing this report Council has not advised that any such person has come forward.

**3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2 Lot Torrens Title Subdivision and Construction of Dwelling House**

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.3 The principles of sustainable development and compliance underpin town planning and local development

Delivery Program: 2.3.1 Conduct development and building assessment/approval functions in accordance with statutory requirements, policies and procedures

Item 3.2

**Summary**

This report reviews Development Application No 10.2019.221.1 which involves the construction of a Staged 2 Lot Torrens Title Subdivision and construction of a dwelling house.

The report recommends that Council approve Development Application No 10.2019.221.1 as the proposal is:

- Permissible in the R2 Low Density Residential and complies with the zone objectives and is consistent with the relevant development standards of Kiama LEP 2011; and
- Generally consistent with Kiama DCP 2012, with the exception of the controls requiring a 6m rear setback for dwellings and development greater than single storey to be located within 12m of the applicable front building line.

Requests to vary this LEP development standard and these DCP controls have been received.

**Finance**

N/A

**Policy**

N/A

**Consultation (Internal)**

Please refer to the "Internal Referrals" section in this report.

**Communication/Community Engagement**

Required: Yes (letter notification).

Notification Period: 2 x 14 days from 07/01/2020 to 25/01/2020 &amp; 25/07/2020 to 04/08/2020

Submissions: Two submissions for the first notification period and 1 submission for the second notification period.

**Reason for the Report**

This report is submitted to Council because only the elected Council can determine applications involving more than a minor variation to the requirements of the DCP.

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

### Attachments

1 10.2019.221.1 - plans [↓](#)

### Enclosures

Nil

## RECOMMENDATION

That Council approve Development Application No 10.2019.221.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to conditions at the end of this report.

## BACKGROUND

### Development Site

The property is described as Lot 47 DP 245502 which is located at 41 Hillview Circuit, Kiama.

The overall site measures 1126m<sup>2</sup> and is irregular in shape. The site currently contains a Class 1 building and is bounded by residential development containing principally dwellings and the Princes Highway to the east.

The site is zoned R2 Low Density Residential under Kiama LEP 2011.

The site is cleared and slopes steeply from north to south with a fall of 16m or 20%. The site drains to the adjoining public roads.

Access to the existing dwelling on the property is gained through an existing driveway off the public road Hillview Circuit.

Access to the proposed dwelling is via Saddleback Mountain Road (ie a Public Road). The Saddleback Mountain Road frontage of the site is very narrow being only 4.2m wide as shown in Figure 1 below:



Figure 1 – Locality Plan

The site is serviced by water, sewer, electricity and telecommunications.

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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Due to the irregular shape of that part of the lot proposed to be subdivided and developed, with a proposed vacant lot width ranging from 4.2m at the street front to 24.14m at the rear; the site is significantly constrained with respect to any future dwelling complying with the building envelope and setback requirements of Kiama DCP 2012.

**Item 3.2**



**Figure 2 – Site Photograph (Hillview Circuit View)**



**Figure 3 – Site Photograph (Saddleback Mountain Road View)**

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2 Lot Torrens Title Subdivision and Construction of Dwelling House (cont)



**Figure 4 – Site Photograph (Aerial View)**

**Background**

The development application history is as follows:

<b>DA No</b>	<b>Description</b>	<b>Lodgement</b>	<b>Determined</b>	<b>Decision</b>
6.1981.34.1	Dwelling	27/01/1981	10/02/1981	Approved
10.2009.67.1	Garage with laundry and attached deck and awning	30/03/2009	05/08/2009	Approved
10.2017.17.1	Alterations and Additions to Dwelling	03/02/2017	03/04/2017	Approved

The subject application was originally submitted for a 2 Lot Torrens Title Subdivision only.

However, given the irregular shape of the proposed lot and its inconsistency with the surrounding subdivision pattern, Council staff raised concerns regarding the ability of the proposed lot to accommodate a dwelling house.

In response to these concerns, the applicant amended the application, to its current form, proposing a staged development comprising of a 2 Lot Torrens Title Subdivision and construction of a dwelling house.

**Description of the Proposed Development**

The proposal involves a Staged 2 Lot Torrens Title Subdivision and construction of a dwelling house. Details of the proposal are as follows:

Report of the Director Environmental Services

**3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)**

**Item 3.2**

Stage 1

Two Lot Torrens Title Subdivision of Lot 47 DP 245502 into Lot 471 with an area of 681 m<sup>2</sup> containing the existing dwelling and proposed vacant Lot 472 with an area of 450m<sup>2</sup>.

Stage 2

Construction of a two storey dwelling house with:

- Access gained from a proposed driveway on Saddleback Mountain Road;
- Stacked parking proposed with 1 space in a single garage and 1 space in between the garage and front boundary
- The proposed dwelling being constructed of architectural render and weathertex cladding and colorbond roofing;
- Private Open Space (POS) provided in the rear yard;
- Waste collection from Saddleback Mountain Road.

The dwelling has a gross floor area (GFA) of 175m<sup>2</sup>. Details of the proposed dwelling are as follows:

**Proposed Dwelling (175m<sup>2</sup> GFA)**

Ground Floor

- Open plan kitchen, dining, living
- Bedroom 1
- Laundry
- Bathroom
- Alfresco
- Single car garage at Saddleback Mountain Road

First Floor

- 3 x bedrooms (Master bedroom with WIR, ensuite)
- 2 x Balcony (external from Master Bedroom and Bedroom 2)
- Bathroom with separated WC
- Rumpus room

The proposal is shown in Figures 5-12 below:



Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

Item 3.2

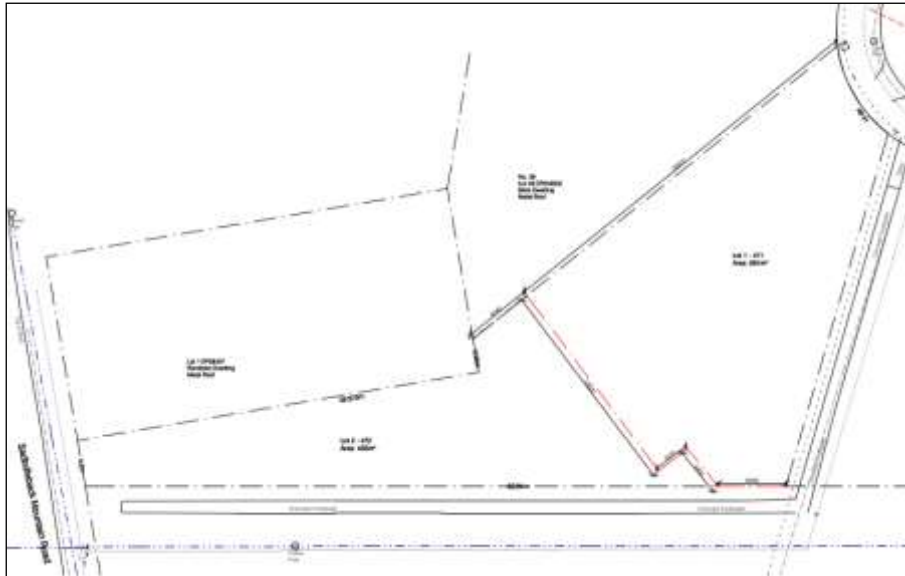


Figure 5 – Subdivision Plan

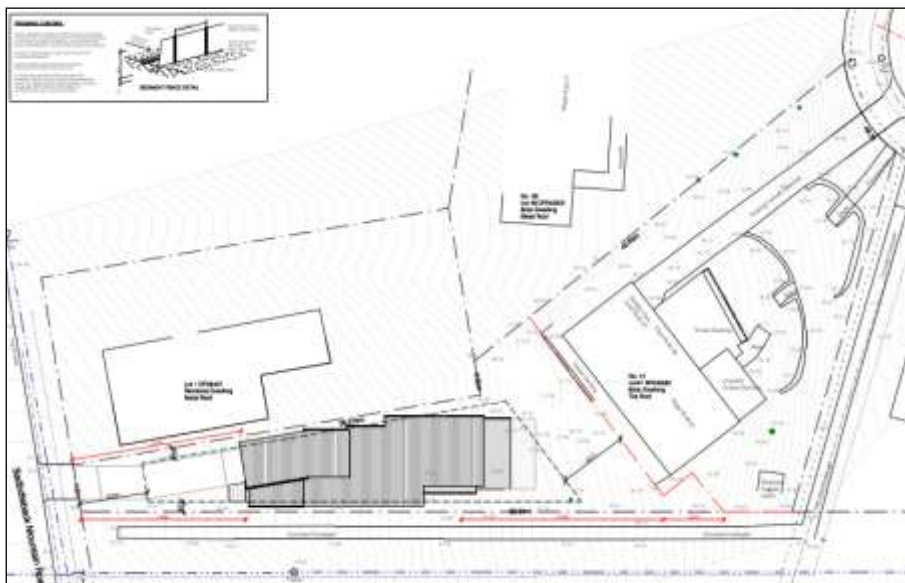


Figure 6 – Site Plan

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2 Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

Item 3.2



Figure 7 – North Elevation (Saddleback Mountain Road)

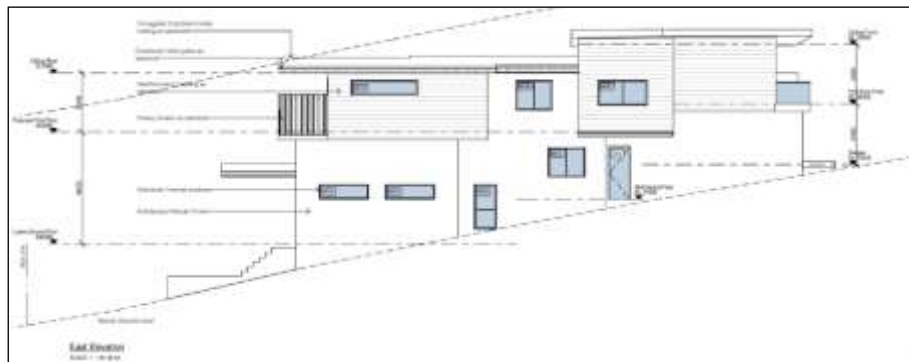


Figure 8 – East Elevation

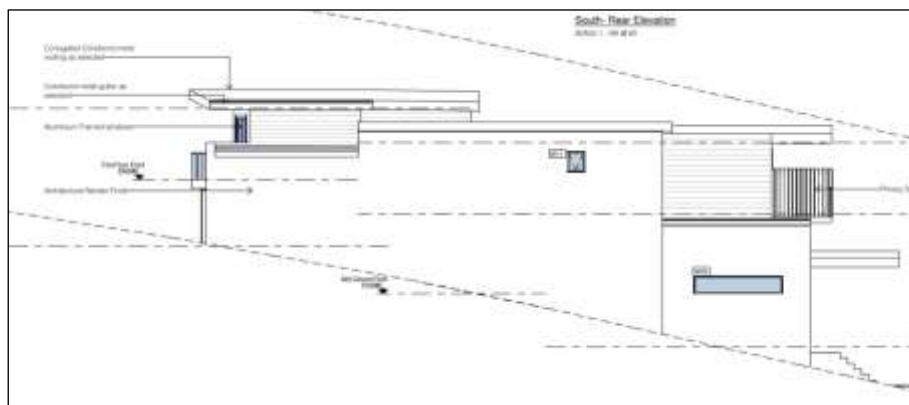


Figure 9 – West Elevation



Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2 Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

Item 3.2

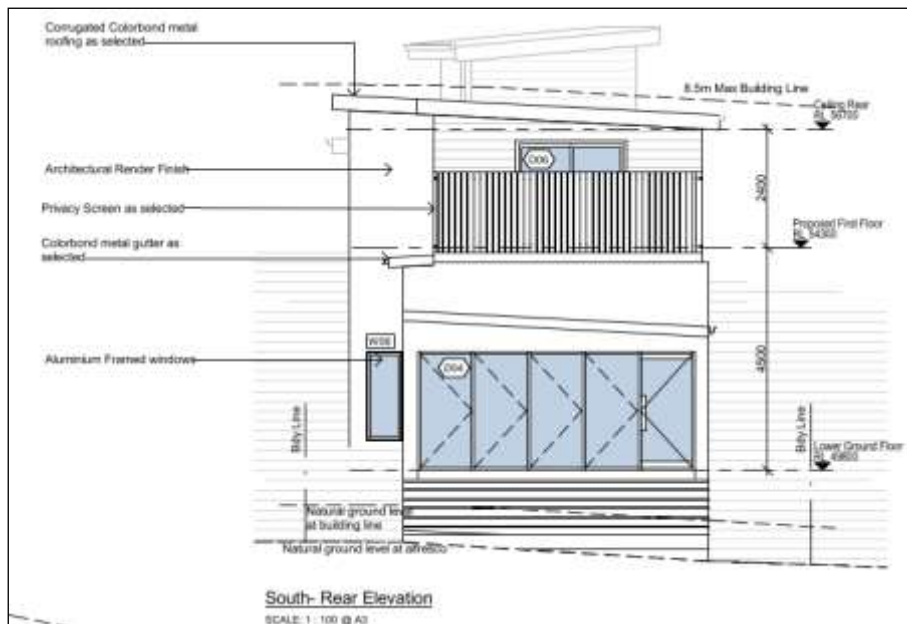


Figure 10 – South Elevation



Figure 11 – 3D Render South Elevation

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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Figure 12 – 3D Render North Elevation

### Section 4.15 Assessment

The proposed development has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended) and the following matters are considered relevant.

#### Relevant Environmental Planning Instruments

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

A BASIX Certificate (1112233S\_02) was lodged for the new dwelling with the application which demonstrates that the dwelling has been designed in accordance with BASIX.

##### State Environmental Planning Policy No 55 - Remediation of Land

Clause 7 of the SEPP No 55 requires Council to consider whether the land is contaminated and if it is contaminated if remediation works are required. Council is unaware of any historic land use which would deem the site unsuitable for the proposed development and therefore the land is considered to be suitable for the proposed use.

##### State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Clauses 9 and 10 of the SEPP (Vegetation in Non-Rural Areas) 2017 outlines that consent is required for the clearing of certain vegetation in non-rural areas.

No trees are proposed to be removed as part of this development however Council's Landscape Officer has noted that proposed stormwater infrastructure has the potential to impact on 3 trees. These include a small Watergum, peach tree and small Bottlebrush.

The 3 trees are not prescribed trees in accordance with Topic 2.4 of Kiama DCP 2020 as they are not;

- a) Five metres or more in height; or
- b) Have a diameter of 200mm or more when measured at a height of 1m above the ground; or

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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c) Have a branch spread of 3m or more.

The peach tree is not a prescribed tree and is an exempt species for removal, therefore no approval is required for its removal. The Watergum and Bottlebrush also do not meet the above criteria of a prescribed tree, therefore no approval for their removal is required either.

Council's Landscape Officer therefore raises no objection to their removal.

If the Watergum and Bottlebrush grow to a size that would result in them meeting the criteria for a prescribed tree prior to the consent being enacted, a Tree Removal Application will be required to be lodged and approved for their removal.

A note has been added to the consent to reflect this and advise the applicant.

Kiama LEP 2011

Clause 2.3 - Zone objectives and Land Use Table

The subject land is zoned R2 Low Density Residential under Kiama LEP 2011. The proposal is defined as the subdivision of land and the erection of a *dwelling house* under the provisions of the LEP 2011, which are permitted with consent in the R2 Low Density Residential zone.

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To increase the supply of secondary dwellings for affordable rental housing stock.*
- *To provide economic and employment opportunities for people who conduct business activities from their homes where these will not adversely affect the amenity of neighbours or the neighbourhood.*

Since the proposal will provide for the housing needs of the community within a low density residential environment, it is considered to be consistent with the zone objectives. Additionally, the provision of an additional dwelling provides economic and employment opportunities for people who conduct business activities from their homes where these will not adversely affect the amenity of neighbours or the neighbourhood.

Specific clauses requiring consideration:

Clause 4.1 - Minimum Subdivision Lot Size

Clause 4.1 requires that the minimum subdivision lot size is not less than the minimum size shown on the Lot Size Map. The site is listed with a minimum resulting lot size of 450m<sup>2</sup> on the lot size map.

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

Proposed lots will have an area of 450m<sup>2</sup> and 681m<sup>2</sup> respectively. The proposed development complies with the provisions of Clause 4.1.

Clause 4.3 - Height of Buildings

Clause 4.3 requires that the height of the building does not exceed the maximum height shown on the Height of Buildings Map.

The height of building map identifies that a maximum building height of 8.5m applies to the site.

The proposed residential dwelling will have a maximum height of 8.35m above existing ground level and as such complies.

This is demonstrated in the submitted height blanket as shown in Figure 13 below:



Figure 13 – Height Blanket Diagram

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 land on the Floor Space Ratio (FSR) map.

The FSR map of Kiama LEP 2011 identifies that a maximum floor space ratio of 0.45:1 applies to the site.

As per the definition provided in Kiama LEP 2011 the *gross floor area* of the proposed dwelling is 175m<sup>2</sup>. In this regard the proposed development has a FSR of 0.45:1 with the site and as such complies. The existing dwelling has a GFA of approximately 134m<sup>2</sup> and therefore has a FSR of 0.21:1 and complies.

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Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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Clause 5.10 - Heritage Conservation

Clause 5.10 lists requirements for heritage conservation for items listed in Schedule 5 of Kiama LEP 2011. An item of heritage does not exist on the property.

Local Heritage Item I134 (Kendall House) is located on the opposite side of Saddleback Mountain Road.

The proposed subdivision and dwelling is unlikely to unreasonably impact upon Kendall House given existing dwellings are already opposite, and therefore the proposal is considered to reasonably fit with the existing streetscape. Additionally, due to the site sloping steeply away from Saddleback Mountain Road to Hillview Circuit, the proposed dwelling will have a reduced visual impact when viewed from the Saddleback Mountain Road.

The proposal is considered to meet the objectives of the Clause and is not likely to unreasonably adversely affect the heritage significance of the item.

Clause 6.2 - Earthworks

Clause 6.2 lists considerations for proposals which involve earthworks.

The proposal complies with the objectives of the clause and as the proposed earthworks are ancillary to the proposed dwelling separate development consent is not required.

The proposed development is generally consistent with the relevant provisions of Kiama LEP 2011 and is permissible within in the R2 Low Density Residential zone.

**Any Draft Environmental Planning Instruments**

Draft State Environmental Planning Policy

The following draft State Environmental Planning Policies (SEPP) have been exhibited and are required to be considered:

Draft SEPP (Environment)

The draft Environment State Environmental Planning Policy (SEPP), with accompanying maps, was on public exhibition from 31 October 2017 until 31 January 2018. The draft SEPP is not applicable to the subject site as it is not identified on the maps.

Draft SEPP 55 – Land Remediation

The draft Land Remediation State Environmental Planning Policy (SEPP), with accompanying maps, was on public exhibition from 25/01/2018 until 13/04/2018. The draft SEPP is under consideration and has not been gazetted at this time. Council does not have records that indicate that the site could potentially be contaminated, and the current use of the site is residential, therefore the subject site is considered suitable in its current state for the proposed development.

**Kiama Development Control Plan 2012**

The application was lodged prior to Kiama DCP 2020 being adopted and therefore is required to be assessed against Kiama DCP 2012.

The proposed development is not inconsistent with the objectives of Kiama DCP 2012. The non-compliances are addressed below:

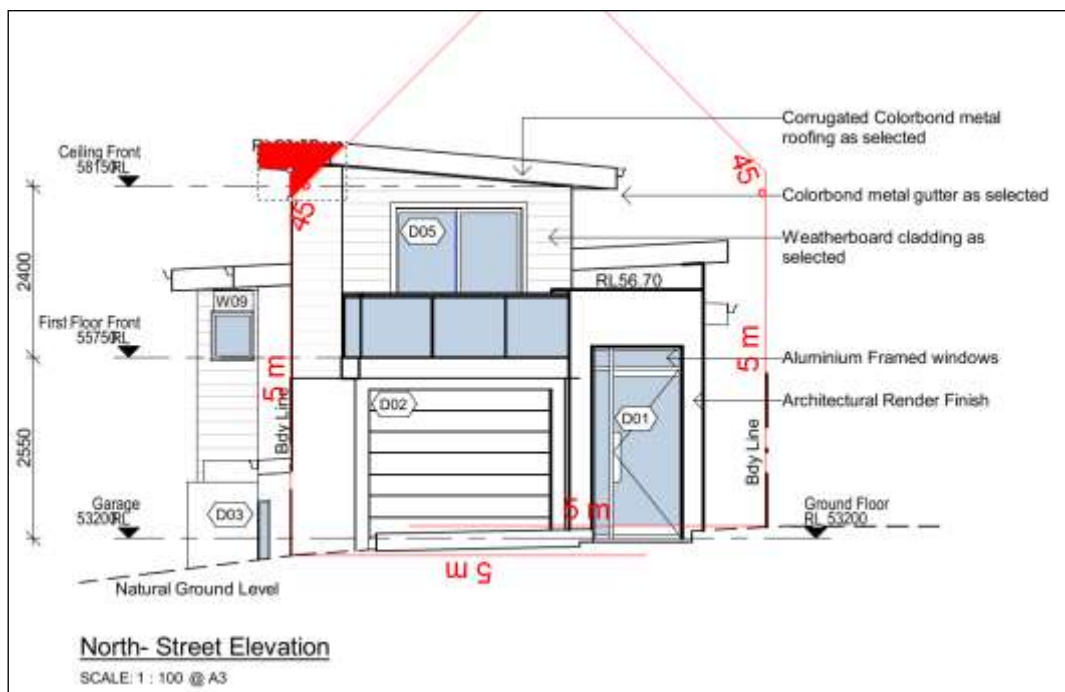
Chapter 2 Overall Controls – Section 6 – Building Height Plane

This control states that no part of the structure (excluding the eaves, fascia and roof gutter to a maximum width of 600mm) within the built upon area of the site shall exceed a building height plane projected at an angle of 45 degrees over the actual land to be built upon from a vertical distance of 5m above the existing ground level at any boundary of the site.

The proposed dwelling encroaches the building height plane by 1.5m on the eastern side of the south elevation. Kiama DCP 2012 allows for minor encroachments such as the eaves, fascia and roof gutter to a maximum width of 600mm, and therefore the proposed variation is 900mm.

The proposed development dwelling encroaches into the building height plane (shown red) in Figures 14 and 15 below.

The portions of the dwelling elevations shaded red show the minor encroachments into the building height plane.



**Figure 14 – North Elevation Building Height Plane**



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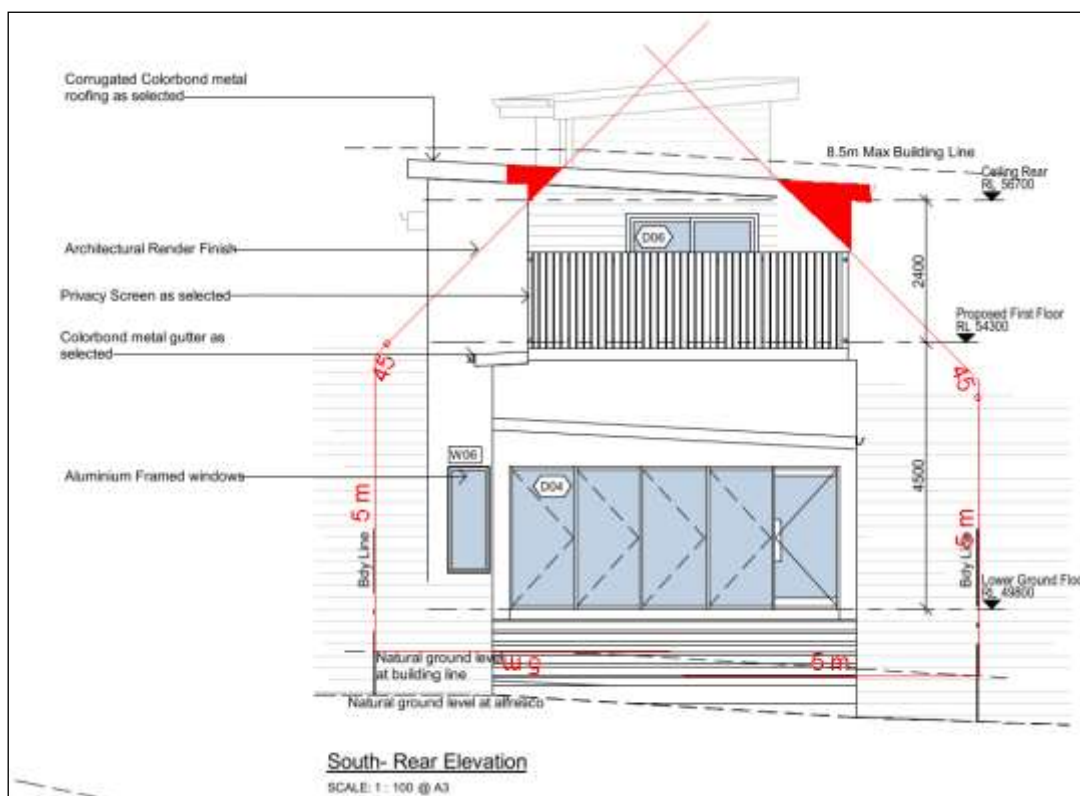


Figure 15 – South Elevation building Height Plane

The proposed encroachments are considered to be minor in nature and do not unreasonably add to the bulk of the development or by way of significantly increased overshadowing or gross floor area.

As demonstrated in the supplied shadow diagrams included in this report, the proposal does not result in unreasonable overshadowing of the proposed dwelling’s private open space (POS), or the POS and dwellings on adjoining properties such as 22 Saddleback Mountain Road, 39 Hillview Circuit, 41 Hillview Circuit (subject property) or 43 Hillview Circuit.

The encroachments into the building height plane on the western side of the property will have minimal impact as there are no residential properties to the west of the site, which is a Council owned reserve adjacent the Princes Highway road corridor.

The proposed development is considered to be consistent with the intent of the building height plane despite the minor encroachments since the potential impacts that may arise from the non-compliance, such as increased overshadowing and excessive visual bulk, are not considered to be unreasonable. For these reasons the minor non-compliances are supported.

Chapter 2 Overall Controls – Section 8 – Rear building Line

The proposed subdivision results in the existing dwelling at 41 Hillview Circuit having a rear setback of 1.34m and does not comply with the required 6m rear building line. This equates to a variation of approximately 78%.

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Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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The relevant objectives of the control are:

- *To provide guidelines for the appropriate siting of dwellings and other buildings.*
- *To protect the amenity of the locality in which the development is situated.*
- *To prevent dwelling houses and structures being sited inappropriately in relation to neighbouring dwellings and the waterfront.*
- *To prevent unreasonable loss of views.*
- *To require dwellings to be designed and sited in a way consistent with ecologically sustainable development objectives and urban design principles.*
- *To maintain visual and acoustic privacy, and provide for reasonable solar access into the rear yards and living areas of adjoining residences.*

A request to vary this control was received, and the following justification is provided:

Applicant's Justification

*As shown in aerial images, this variation request is consistent with the surrounding residential character as the adjacent dwelling on 39 Hillview Circuit appears to have a rear boundary setback of 3m to the dwelling and 900mm for the garage that is connected to the dwelling. 51 and 53 Hillview Circuit appear to have a rear boundary setback of 900mm for structures attached to the dwelling.*

*In terms of meeting the objectives for the rear setback, the following assessments are made.*

1. *The amenity of the site and locality remains protected through the use of privacy screening.*
2. *The building and subdivision design allows for adequate space for landscaping, private open space, visual and acoustic privacy and vehicle parking, while not affecting the established streetscape.*
3. *The building and subdivision design does not impact the existing established character of a neighbourhood or views along the street and immediate surrounds.*
4. *The building and subdivision design does not contribute to unreasonable loss of views.*
5. *The building and subdivision design provides for compliant car accommodation onsite.*
6. *The building and subdivision design is largely consistent with ecologically sustainable development objectives and urban design principles.*
7. *The building and subdivision design does not impact urban bushland, riparian corridors, watercourses (including streams, estuaries and wetlands) and significant landscapes.*
8. *As demonstrated in the accompanying plans, the building and subdivision design achieves reasonable visual, acoustic privacy and provides solar access into the rear yards and living areas of adjoining residences.*



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3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
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9. *The proposal does not result in dwellings having possible risks to life and property resulting from storm surge, tidal inundation, flooding, erosion and sea level changes resulting from climatic change.*

*The building and subdivision design is generally consistent with the surrounding urban residential character and adjacent building setbacks and does not result in any additional adverse impacts – as demonstrated in accompanying plans and aerial images. Subsequently we request that this variation to the Development Control should be judged on its merits and as outlined above is reasonable and worthy of approval.*

Comment

The proposed subdivision results in the existing dwelling located at 41 Hillview Circuit having a rear setback of just 1.34m and the requirement is 6m.

When first submitted, the application was for subdivision only and did not include the construction of a dwelling on the proposed lot.

Council staff raised concerns regarding the proposed 1.34m rear setback as there was insufficient information to allow proper consideration to be made as to amenity impacts. Council staff recommended to the applicant that a dwelling also be proposed on the vacant Lot 472 so that the impacts of the non-compliance could be assessed and potentially mitigated through the design of the new dwelling.

In response to these concerns, the applicant elected to have the application amended to include the construction of a dwelling on proposed Lot 472.

The intent of a 6m rear building line is to create sufficient area for a dwelling to be provided with suitable POS, solar access to the POS and dwelling and minimise potential conflicts between dwellings such as privacy, overlooking and overshadowing. It also affords an opportunity for landscaping between dwellings.

The impacts of the proposed dwelling are discussed in length in the assessment of the proposed variation to Kiama DCP 2012, Chapter 4, Control C2 below under the heading "Chapter 4 Low Density Development – C2". The impacts considered include privacy and overlooking, overshadowing (of subject property and adjoining properties), solar access and visual bulk.

In regard to privacy and overlooking, the applicant proposes mitigation measures such as high sill windows and privacy screens to both the first floor windows and the first floor balcony to prevent overlooking into adjoining properties. These measures are not ideal but are considered to be sufficient to address staff concerns.

The POS for the existing dwelling on the subject property is proposed to be moved from the rear of the dwelling to the western side of the dwelling. The performance regarding solar access has been assessed and is considered reasonable.

For the above reasons and the reasons provided in the consideration of the following variation, the proposed variation to the required 6m rear setback is supported in these circumstances.

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Chapter 2 Overall Controls – Section 18 – C45

C45 - Metal roofing should have a solar absorbance classification in accordance with New South Wales BASIX of not less than 0.46 unless the applicant can satisfy Council that the proposal is consistent with the objectives of the Reflectivity in Building Materials Policy.

The proposed dwelling has a metal roof colour of Colorbond *Surfmist*. This does not comply with this control as it has a solar absorbance rating of 0.32, nor is it a medium roof colour as prescribed by the submitted BASIX Certificate.

A condition of consent has been included in the recommendation requiring a metal roof colour with a medium solar absorbance rating between 0.475-0.70 to ensure the roof colour accords with both the requirements of the BASIX Certificate and the DCP 2012.

Chapter 4 Low Density Development – C2

*C2 Generally, where development greater than single storey is proposed, that component greater than one storey shall be located within 12m of the applicable front building line:*

- *Development in excess of one storey beyond this point will be more critically analysed in respect to the amenity impacts on adjoining properties, by the development, with particular reference to the following:*
  - *Maintenance of privacy into the adjoining dwellings and private open space areas;*
  - *Access to natural light and/or overshadowing;*
  - *Visual bulk;*
  - *Treatments to reduce the likely amenity impacts on adjoining properties might include, screens, opaque glazing, highlight windows, increased side setbacks, broken roof lines, split floor levels or a general height reduction.*
  - *New development shall comply with the Building Height Plane.*

The proposed dwelling contains two storey components not within 12m of the front building line and therefore does not comply with this control.

The relevant objectives of the control are:

- *To encourage innovative housing design which incorporates high level architectural, environmental and amenity standards.*
- *To promote residential development that achieves the principles of energy efficiency and ecologically sustainable development.*
- *To protect the character of the areas and towns.*
- *Ensure all development is designed and sited to respond to greater climatic extremes with energy efficient responses.*
- *To provide high level of user amenity though the provision of well designed, liveable dwellings.*

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Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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- *To provide high level of visual and acoustic privacy for existing and new residents.*
- *To ensure that development will not disrupt the streetscape or the unity of a group of buildings and spoil the existing character.*

The two storey portion of the proposed dwelling extends approximately 31m past the applicable 6m front building line, which amounts to a 19m extension to the maximum 12m.

Applicant's Justification

*In terms of meeting the objectives of this control, the following assessments are made:*

1. *As shown in the accompanying plans, the building design is innovative and incorporates high level architectural, environmental and amenity standards.*
2. *The dwelling design achieves the principles of energy efficiency and ecologically sustainable development and achieves Basix requirements.*
3. *The dwelling design does not compromise the character of the area or town.*
4. *The dwelling design has considered and provides energy efficient outcomes.*
5. *The dwelling design contributes to providing a high level of user amenity through the provision of well provided liveable spaces.*
6. *The dwelling design provides a high level of visual and acoustic privacy for existing and new residents.*
7. *The dwelling design ensures that development will not disrupt the streetscape or the unity of a group of buildings and spoil the existing character.*

*The building design is generally consistent with the surrounding urban residential character and adjacent buildings and does not result in any additional adverse impacts.*

Comment

The intent of this control is not to restrict all two storey development within 12m of the applicable front building line.

The control itself states that development beyond the 12m point will be more critically analysed in respect to amenity impacts on adjoining dwellings such as privacy, solar access and visual bulk. The potential impacts of the non-compliance are discussed below:

Privacy and Overlooking

Due to the fall of the site there is increased potential for privacy and overlooking into adjoining properties being 22 Saddleback Mountain Road, 39 Hillview Circuit, 41 Hillview Circuit and 43 Hillview Circuit.

Concerns were raised by Council staff regarding potential overlooking from the first floor windows (eastern elevation) and first floor balcony accessed from the master bedroom of the proposed dwelling creating potentially unreasonable adverse impacts on the dwellings and POS areas of 22 Saddleback Mountain Road and 39 Hillview Circuit.

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Amended plans were submitted to address these concerns including high sill windows on the eastern elevation and a 1.5m high privacy screen bordering the entire first floor balcony at the rear of the proposed dwelling as shown on the eastern and southern elevations in Figures 16 and 17 below. The proposed dwelling is not considered to have unreasonable adverse impacts on the adjoining properties at 22 Saddleback Mountain Road and 39 Hillview Circuit in regards to privacy and overlooking.

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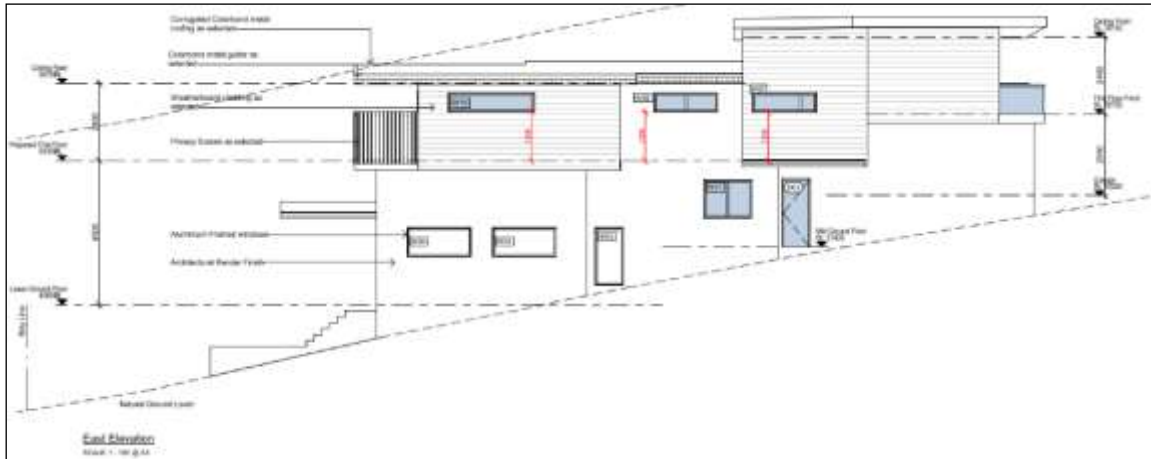


Figure 16 – East Elevation showing High Sill Windows & Privacy Screen

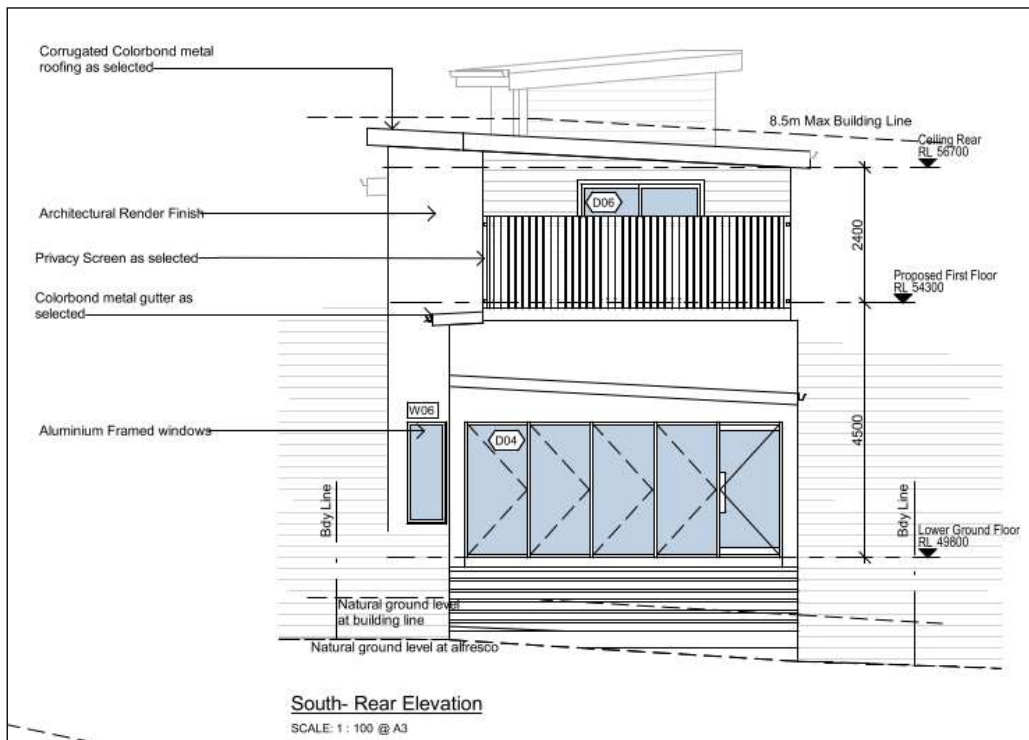


Figure 17 – South Elevation showing Privacy Screen

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Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

Due to the slope of the lot, the proposed dwelling has the potential to create unreasonable adverse impacts on the existing dwelling and POS at 41 Hillview Circuit (the subject property). As previously discussed, the proposed south facing first floor balcony includes the erection of a 1.5m high privacy screen around its entire border. Indicative sight line diagrams were submitted as part of the application and demonstrate that the erection of a 1.5m high privacy screen on the balcony and a 1.8m high boundary fence will significantly reduce potential privacy and overlooking into 41 Hillview Circuit. This is shown in Figures 18 and 19 below:

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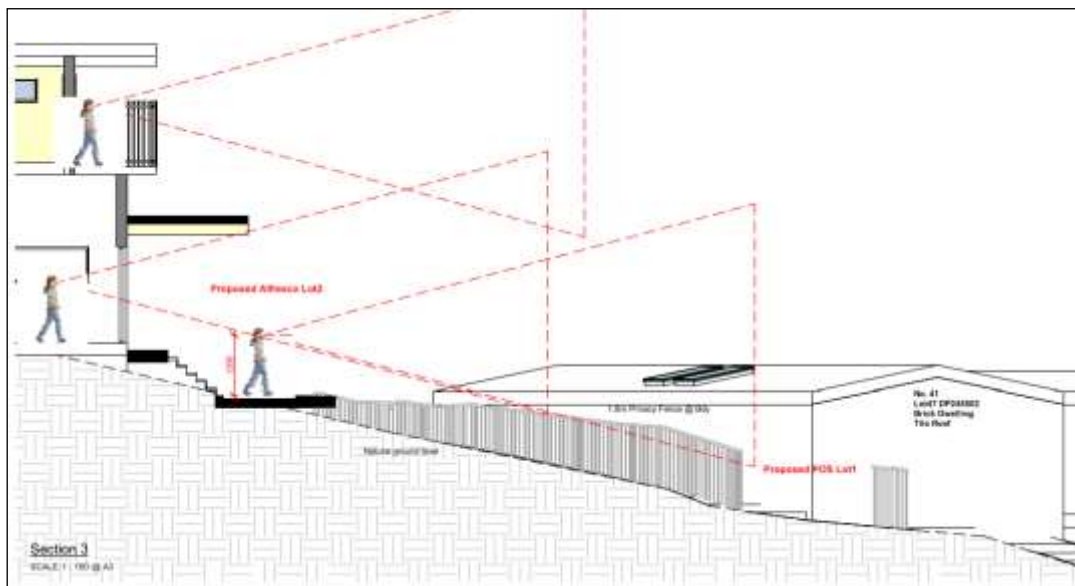


Figure 18 – Potential Sight Lines Diagram

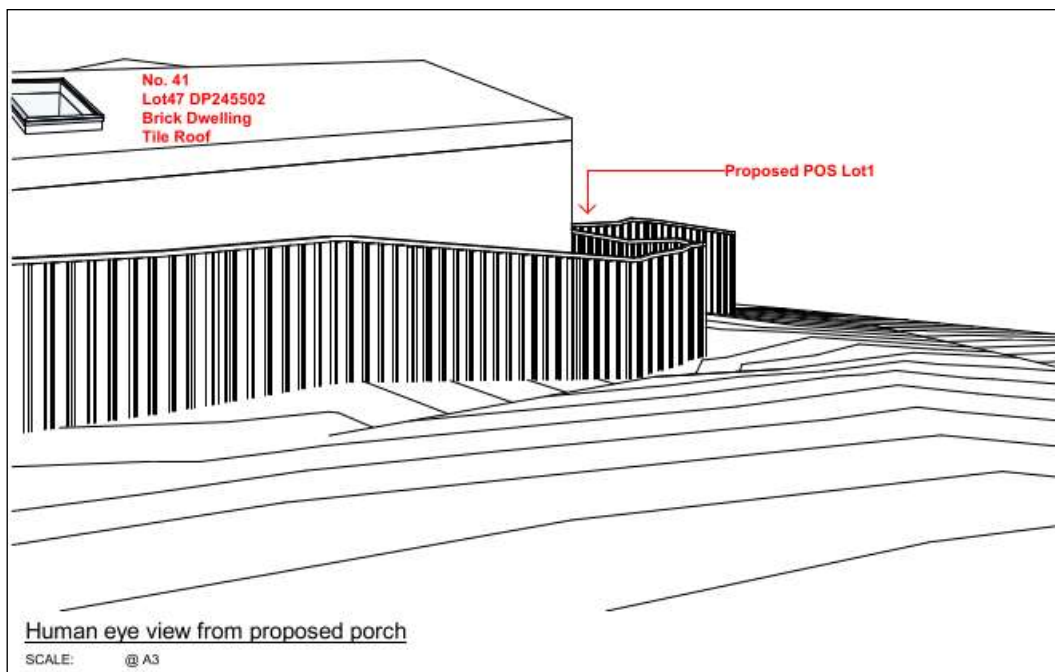


Figure 19 – Potential Sight Lines to POS of Subject Property

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Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

In regards to 43 Hillview Circuit, it is considered that there will not be an unreasonable adverse impact on the dwelling or POS from the proposed development. The proposed dwelling will be located over 30m from this property and is considered to be sufficient distance to mitigate potential privacy and overlooking impacts.

As demonstrated above, the proposed development is unlikely to have unreasonable impact upon surrounding development in regards to privacy and overlooking. Sufficient measures have been proposed to mitigate potential impacts and it is unreasonable to expect complete privacy in an urban setting.

Overshadowing

Shadow diagrams have been supplied with the development application which indicate that the overshadowing impacts of the proposed development will be reasonable as shown in Figures 20 and 21 below. The diagrams are orientated north to south with the top of the page pointing north.

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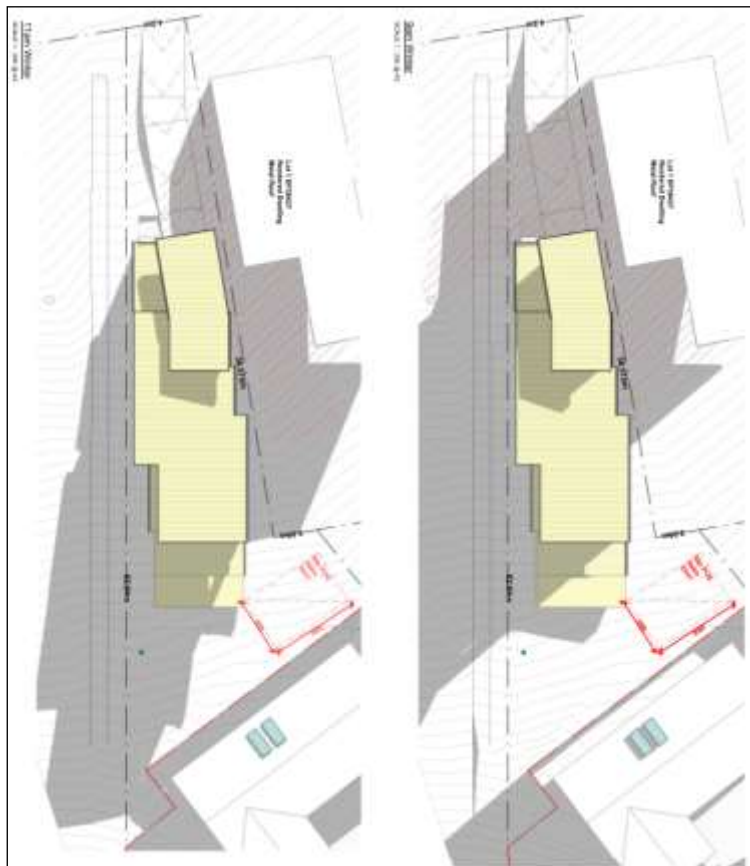


Figure 20 – 9am & 11am Shadow Diagrams

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Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

Figure 21 –3pm & 1pm Shadow Diagrams

Overshadowing of Neighbours

The orientation of the allotment is such that the submitted shadow diagrams show that the proposed development will overshadow the side and rear setbacks of proposed Lot 472 with partial overshadowing of No 22 Saddleback Mountain Road and proposed Lot 471.

However, the shadow diagrams demonstrate that due to the orientation of No 22 Saddleback Mountain, its south facing rear private open space area does not currently achieve 3 hours of direct sunlight to 50% of its POS area as shown in Figures 20 and 21. This is because the shadow diagrams illustrate that the existing dwelling on 22 Saddleback Mountain Road overshadows its own POS area between 9am and 3pm.

The shadow cast by the proposed dwelling does not cross the side setback until after 1pm and therefore does not affect the solar access to No 22 in the morning. In addition to this, the usable area in the rear yard of No 22 Saddleback Mountain Road is approximately 230m<sup>2</sup>, providing sufficient area to obtain solar access.

The proposed development will not overshadow existing development at No 43 Hillview Circuit. The proposed dwelling is located over 30m from this property



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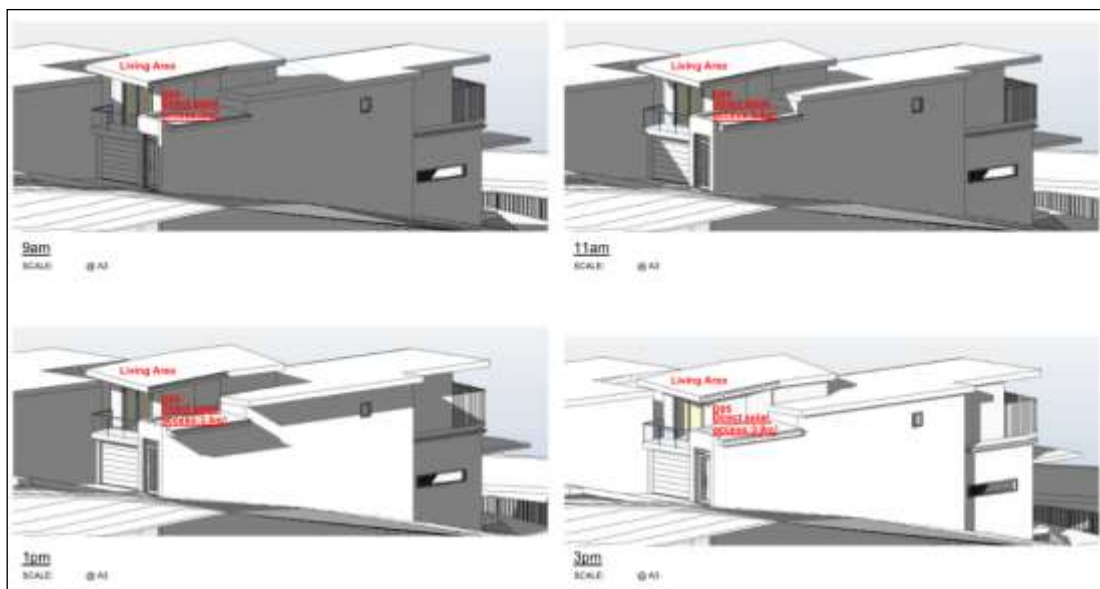
**3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
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Solar Access – New Dwelling on Lot 472

The proposed new dwelling on Lot 472 will cause partial overshadowing of the designated POS area in its rear yard due to the north-south orientation of the lot. The submitted shadow diagrams in Figures 20 and 21 demonstrate that more than 50% of the designated POS area will achieve direct solar access between 9am and 1pm and is therefore compliant.

In addition to this space, additional open space areas in the form of an alfresco and balconies have been proposed. The alfresco is accessed via the living room and is south facing and there is also a south facing balcony accessed via the Master Bedroom. As these areas are south facing, an additional balcony has been proposed on the first floor external to the proposed rumpus/living area. This provides a north facing area that will receive direct sunlight in the afternoon providing an additional area to be used by the future occupants when the primary POS area experiences partial overshadowing. This area is shown in Figure 22 below:



**Figure 22 – 9am-3pm Solar Access to First Floor Rumpus/Living & Balcony**

Solar Access – Existing Dwelling on Lot 471

Due to the orientation of the lot and the relocation of the existing POS area, the existing dwelling will cast a shadow over parts of the new POS area. The relocated POS and overshadowing are shown in Figures 23, 24, 25 and 26 below:

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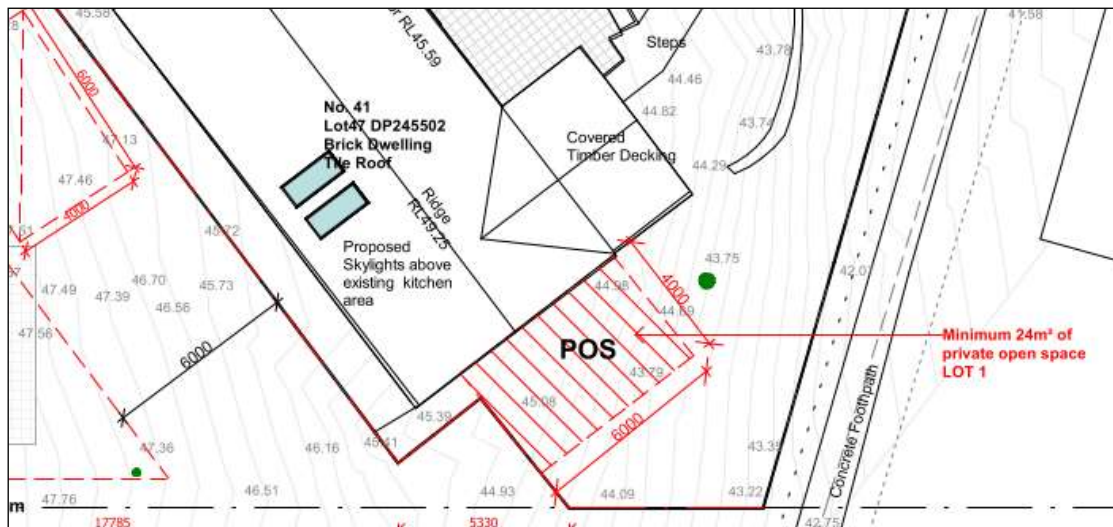


Figure 23 – Nominated POS to Existing Dwelling on Subject Property

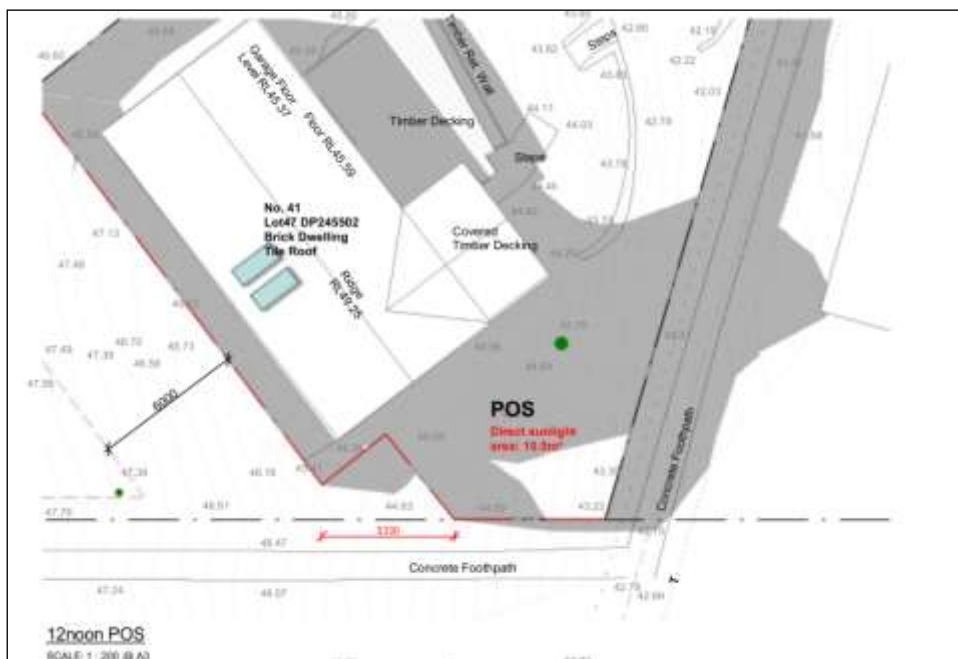


Figure 24 – 12pm Shadow Diagram of Existing Dwelling & POS

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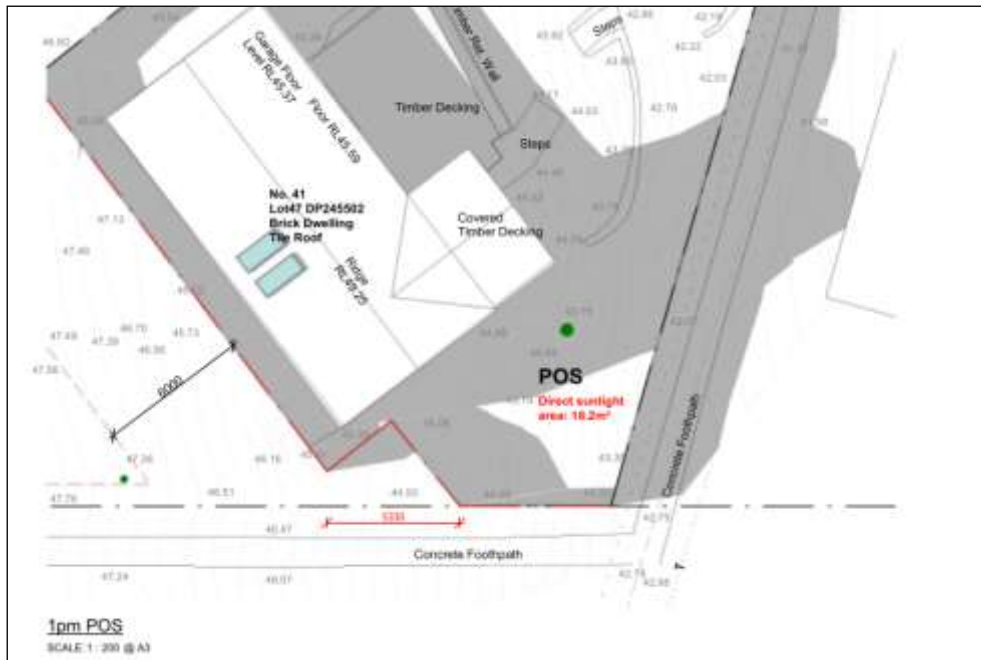


Figure 25 - 1pm Shadow Diagram of Existing Dwelling & POS

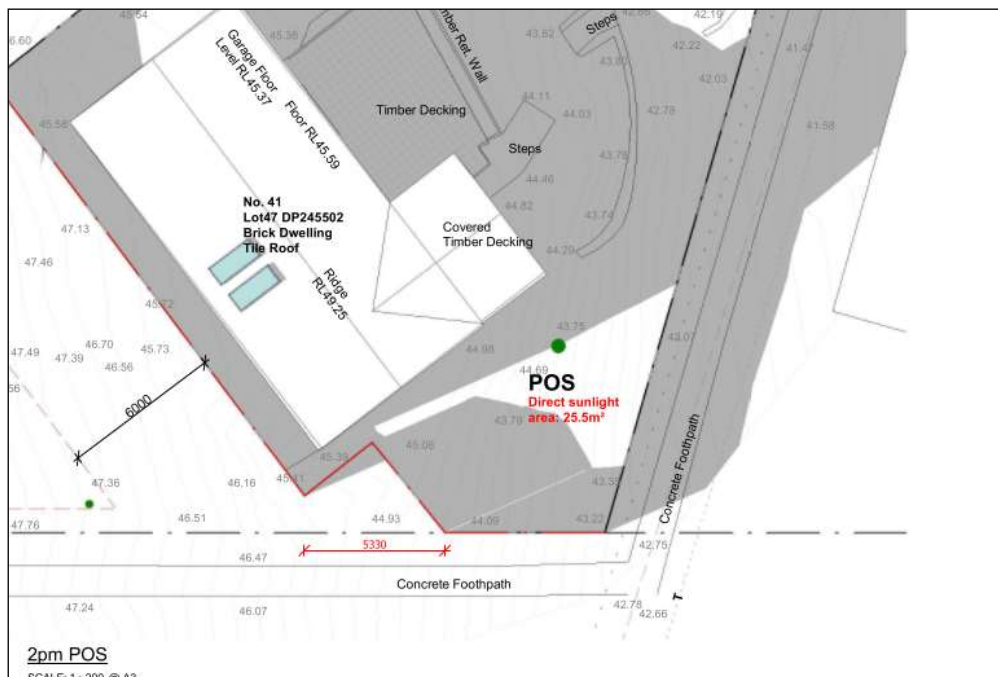


Figure 26 - 3pm Shadow Diagram of Existing Dwelling & POS

Figures 24, 25 and 26 above show that the nominated POS area for the existing dwelling on Lot 471 will be overshadowed at various times throughout the day. The submitted shadow diagrams do not show the POS area and do not demonstrate that the POS will achieve a minimum 3 hours of direct sunlight to at least 50% of the nominated area.

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Whilst there is significant overshadowing of the nominated POS area, in reality, the dwelling is provided with approximately 75m<sup>2</sup> of open space area. Figures 23, 24 and 25 show that direct solar access will be received by areas ranging from 10.5m<sup>2</sup> to 25.5m<sup>2</sup> between 1pm – 3pm on June 22. Shadow diagrams for 9am – 12pm were not submitted by the applicant. Whilst the nominated POS area does not specifically comply with the minimum solar access requirements prescribed by C26 in Chapter 4 of Kiama DCP 2012, the existing dwelling is provided with sufficient usable area that receives direct solar access.

Potential overshadowing impacts arising from the development are considered to be acceptable in the circumstances and do not unreasonably adversely impact upon the proposed and existing dwelling or neighbouring dwellings/properties. The proposal is considered to be satisfactory in this regard.

Visual Bulk

The proposed dwelling is considered to have an acceptable visual bulk in regards to the streetscape and amenity of neighbouring properties. Due the significant fall of the site from north to south, a significant portion of the front elevation of the dwelling will not be visible from Saddleback Mountain Road. The fall of the site is similar to that of the adjoining property No 22 Saddleback Mountain Road, which also contains a two storey dwelling that follows the natural contours of the site.

The proposed allotment is thin and deep in nature, severely compromising the ability to provide a two storey dwelling within 12m of the applicable 6m front building line. Despite this, the proposed dwelling adequately responds to this by maintaining privacy, allowing reasonable solar access and minimising visual impacts as substantiated by the above assessment.

Based upon the above, the proposed variation is supported.

Chapter 4 Low Density Development – C31

The applicant has submitted a variation request to C31 which states that garages/car parks can constitute a maximum of 50% of the front or street elevation of a development. The applicant has stated that due to the frontage of the proposed lot being 4.2m wide, the garage having a width of 3m accounts for 71% of the street frontage.

Council staff consider the proposed dwelling to be compliant with C31 and that the applicant has misinterpreted the control. The control applies to the area of the elevation of the garage and dwelling as opposed to the width of the frontage.

The north/street elevation of the proposed garage has an area of 5.8m<sup>2</sup> whilst the north/street elevation of the proposed dwelling has an area of 30.1m<sup>2</sup>. Therefore, the garage accounts for approximately 19.3% of the front/street elevation and complies.

Chapter 7 Subdivision – Section 4 – Lot Width and Depth Requirements

The objectives are as follows:

- *To ensure residential lots are designed to provide sufficient lot width and depth, to cater for a suitable range of dwelling styles having regard to any site constraints or environmental qualities of that land.*

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- *To ensure residential lots in low density residential areas provide sufficient site area to cater for detached dwelling-houses with sufficient rear private open space which gains appropriate sunlight access during mid-winter*

The subject site was created as part of a subdivision registered in 1974. In regards to the proposed subdivision, the objective/s of Section 4 of Kiama DCP 2012 is to create residential lots that are capable of accommodating residential developments such as dwelling houses with sufficient private open space areas to achieve reasonable solar access.

As previously discussed in this report, the application was initially lodged as the subdivision of No 41 Hillview Circuit into 2 Torrens Title Lots. Due to the shape of the proposed lot (ie long and narrow with minimal street frontage and significant slopes), the subdivision was unable to be supported as it was not considered capable of accommodating residential development. Subsequently, the application was amended to include a proposed dwelling on the resulting lot.

Whilst it is noted that the subdivision is suboptimal in regards to the layout/shape of proposed Lot 472 and the minimal rear setback to the existing dwelling on proposed Lot 471, the proposed dwelling house demonstrates its ability to accommodate a form of residential development that provides adequate private open space and solar access. In addition to this, the proposed dwelling will not adversely impact upon the privacy and amenity of adjoining properties despite the characteristics of the proposed lot.

As mentioned, the proposed subdivision layout is suboptimal in regards to lot width and depth, however, the applicant has demonstrated that the lot is capable of accommodating a dwelling house with sufficient private open space and solar access and is consistent with the objectives of Section 4 within Chapter 7 of the Kiama DCP 2012.

The proposed development generally complies with the relevant controls of the DCP 2012, and where strict compliance is not achieved the objectives of the controls are maintained.

#### **Any Planning Agreement**

Nil.

#### **Any Matters Prescribed by 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*.

##### Australian Standard AS 2601 - 1991: The Demolition of Structures

The proposal is not inconsistent with Australian Standard AS 2601 - 1991: *The Demolition of Structures*

#### **Any Coastal Zone Management Plan**

Nil.

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## **The Likely Impacts of the Proposed Development**

### Biodiversity

The application does not propose clearing of native vegetation, and therefore the Environmental Planning and Assessment Act 1979 Part 1 Section 1.7 does not apply to the development.

### Streetscape

The design of the 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. Due to the topography of the site, the finished floor level (FFL) of the porch entry is RL53.15 and the front boundary is RL 55.46, a difference of 2.31m. This difference in levels allows for the proposed dwelling to appear sunken into the site when viewed from the street minimising potential adverse impacts on the streetscape.

Despite the steep nature of the site, the proposed driveway gradient has been assessed by Council's Subdivision Development Engineer as compliant.

### Noise

Construction works will generate some noise, though conditions of consent can be imposed to ensure that works are undertaken only within specified hours to limit impacts upon neighbours. No ongoing significant noise impacts are expected as a result of the development.

### Views

The proposal will have no unreasonable impact upon views currently available from neighbours.

The subject site falls steeply from Saddleback Mountain Road and therefore the proposed dwelling has been designed to follow the contours of the site, looking to "sink" into the property. The proposed dwelling complies with the required building lines, building height and building height plane.

### Vehicular Access, Parking and Manoeuvring

Sufficient car parking is proposed via a single garage and car space on the proposed driveway.

Manoeuvring is compliant with AS/NZS 2890.1 – 2004 and the driveway will comply with required gradients.

### Stormwater Management

A satisfactory drainage design has been provided with the application.

All stormwater will drain to the street.

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

### Environmental Impacts

*Vegetation Removal* – No vegetation is to be removed. The proposed stormwater infrastructure has the potential to impact upon 3 small non-significant trees. Council's Landscape Officer raises no objection to the removal of these trees if necessary to facilitate the proposed stormwater infrastructure.

*Fauna Impacts* – It is unlikely that the proposal will affect any fauna or its habitat.

*Impact on Soil Resources* – Construction activities have the potential to impact on soil resources by way of erosion and sedimentation. Conditions of consent should be imposed, if consent is granted, in relation to soil and water management controls to be implemented during construction. Satisfactory implementation of these controls will prevent significant impacts on soil resources.

*Impact on Water Resources* – A rainwater tank will be provided, as required by BASIX. Stormwater will be conveyed to the street. Controls will be implemented during construction to minimise sedimentation.

### Social and Economic Impacts

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

### **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.

### **Submissions**

#### Public Submissions

Notification letters were sent to neighbouring property owners who were provided with 18 days (07/01/2020 to 25/01/2020) in which to comment on the proposal.

At the conclusion of the notification period, 2 submissions were received.

After notification had occurred the application was amended. The amended application was then re-notified for a period of 14 days (from 22/07/2020 to 04/08/2020) in which 1 submission was received.

The following (summarised) matters of concern were raised:

	<b>Objection</b>	<b>Assessment Officer's Comment</b>
Item 1	Insufficient setbacks to neighbours unreasonably affecting existing residential amenity.	Insufficient setbacks to neighbours unreasonably affecting existing residential amenity.  The proposed rear setback to the existing dwelling cannot be increased as this will result in the proposed lot becoming non-compliant with the minimum lot size as prescribed by Kiama LEP 2011.



## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

	<b>Objection</b>	<b>Assessment Officer's Comment</b>
		<p>The impacts of the proposed rear setback have been assessed as reasonable despite the significant variation.</p> <p>The existing dwelling will maintain reasonable solar access and the proposed dwelling has been designed to prevent overlooking.</p> <p>These impacts are discussed in detail under Kiama DCP 2012.</p>
Item 2	Privacy impacts unreasonably affecting existing residential amenity	<p>The proposed dwelling is not considered to have unreasonable adverse impacts on existing and adjoining development in regards to privacy.</p> <p>First floor windows on the eastern side are to be high level windows reducing opportunities for overlooking.</p> <p>The proposed first floor south facing balcony will include a 1.5m high privacy screen along the eastern and western sides preventing overlooking into nearby properties.</p> <p>These impacts are discussed in detail under Kiama DCP 2012.</p>
Item 3	Restriction of solar access to existing development	<p>It is acknowledged that some overshadowing will occur from the proposed development. Shadow diagrams have been submitted and illustrate that this overshadowing is considered reasonable and will not have unreasonable adverse impacts on existing or the proposed development.</p> <p>These impacts are discussed in detail under Kiama DCP 2012.</p>
Item 4	Excessive Building Height	<p>A height blanket diagram, Figure 13, was submitted with the application to demonstrate compliance with the 8.5m maximum building height development standard. The elevation drawings appear to exceed the maximum height as they are 2D drawings that cannot take into account the cross fall of the site.</p>
Item 5	Site is not suitable for subdivision and	<p>Submissions raised concerns regarding the size of the site and its ability to accommodate further</p>

Item 3.2

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

	<b>Objection</b>	<b>Assessment Officer's Comment</b>
	further development	development without variations to planning policy as well as impacting upon neighbouring development.  It is noted that the subdivision layout is sub-optimal. However, the applicant has demonstrated that the proposed dwelling will be provided with adequate private open space and solar access as well as not having unreasonable adverse impacts on adjoining properties.
Item 6	Stormwater runoff from subject property to adjoining properties.	A stormwater management plan was submitted as part of the application and Council's Subdivision and Development Engineer raised no objection subject to the imposition of recommended conditions of consent. Conditions have been imposed should consent be forthcoming.
Item 7	Safe access and egress onto Saddleback Mountain Road.	Concern has been raised regarding the safety of access to and from Saddleback Mountain Road from the proposed lot.  The application was referred to Council's Subdivision and Development Engineer who raised no objection to the development regarding access and traffic.

Item 3.2

**External Referrals**

The application was referred to the following State Government Departments.

Endeavour Energy

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

Sydney Water

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

**Internal Referrals**

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

Building Assessment Officer

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

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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Subdivision & Development Engineer

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

Landscape Design Officer

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

GIS Officer

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

Waste Officer

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

**The Public Interest**

The proposal is considered to be consistent with all relevant Environmental Planning Instruments and Development Control Plan, is not likely to cause significant adverse impacts to the natural or built environment, is not likely to cause significant adverse social and economic impacts, is suitable for the site and therefore is considered to be consistent with the public interest.

**Final Comments and Conclusions**

The proposed development has been assessed having regard to all relevant matters for consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act, 1979. The proposal is consistent with Kiama LEP 2011 and relevant Kiama DCP 2012 Chapters. The proposed development is consistent with the objectives of the R2 Low Density Residential zone.

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

The proposed development is considered to be reasonable and conditional approval is recommended.

**Draft Conditions of Development Consent**

**General**

- (1) The development shall be implemented generally in accordance with the details set out on the plan/drawing and supporting documents endorsed by Council as 10.2019.221.1 dated xx/xx/xxxx - except as amended by the following conditions:  
(g005.doc)
- (2) The development shall be undertaken in two (2) stages, as follows:
  - a) **Stage 1** – Subdivision of Lot 47 DP 245502 into Lot 471 & Lot 472;
  - b) **Stage 2** – Construction of Dwelling on Lot 472.

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

- 
- (3) The property owners shall be made aware that all Aboriginal relics in NSW are protected under Section 90 of the National Parks and Wildlife Act 1974, which makes it an offence to knowingly damage, disturb, deface or destroy an Aboriginal relic or site, without first obtaining the written consent of the Director-General of the National Parks and Wildlife Service. If such a site is discovered, the Southern Zone Archaeologist of the National Parks and Wildlife Service shall be contacted immediately. (g050.doc)
- (4) The developer shall not carry out any work other than emergency procedures to control dust or sediment-laden runoff outside the normal working hours, namely, 7.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm Saturday, without the prior written approval of the Principal Certifying Authority. Any request to vary these hours shall be submitted to the Principal Certifying Authority in writing detailing:
- The variation in hours required.
  - The reason for that variation.
  - The type of work and machinery to be used. (g165.doc)
- (5) 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. Examples of interruption include (but is not limited to) loading and unloading of vehicles, pumping of concrete, use of cranes and/or site fencing in the road reserve.
- (6) The roadway, footpath or Council reserve shall not be used to temporarily or permanently store building material, plant and/or machinery without the prior approval of Council.
- (7) 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)

**Conditions Specific to Stage 1 – Two (2) Lot Torrens Title Subdivision****General**

- (1) In accordance with AS/NZS 4819:2011 Rural and Urban Addressing, standard Torrens Title addressing applies. Letterboxes to be located at access point and public road boundary. Proposed house numbers to be allocated;
- Lot 471 – 41 Hillview Circuit, Kiama
  - Lot 472 – 24 Saddleback Mountain Road, Kiama

**Bonds and Contributions**

- (1) A contribution under Section 7.11 of the Environmental Planning and Assessment Act 1979 (as amended) and Kiama Council's Section 94 Contributions Plans Nos. 1 and 2 shall be paid to Council prior to the issuing of a Subdivision Works Certificate. The total contribution required for the development is **\$7,366.88**. (bo005.doc)

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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### Prior to Commencement of Works

- (1) The developer shall lodge with Council a bond of **\$2,800.00**, 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 Twelve (12) months has elapsed from the date of issue of the occupation certificate (where included as a consent condition) and subdivision certificate (where included as a consent condition).

**Note:** If both certificates are required in this approval, the bond may be returned twelve (12) months from the date of the certificate issued last.

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

You will find attached an application form for a Subdivision Works 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)

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

- 
- (3) The developer shall obtain a Subdivision Works Certificate prior to the commencement of any demolition and subdivision works. (pt045.doc)
- (4) 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)

**Demolition Works****(1) Asbestos – Statement Required**

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

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

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.



## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)**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)

**Stormwater Management**

- (1) Stormwater shall be connected to the existing system. (sm005.doc)
- (2) All stormwater kerb and gutter connections to have a minimum of 40 millimetres cover of concrete finishing flush with the top of the existing kerb. Pipe size to achieve this should be 90 millimetres in diameter. (sm010.doc)
- (3) The developer shall provide stormwater outlets to kerb lines converting to 90 millimetre diameter uPVC for barrier kerbs and 127 x 64 x 4 millimetre steel rectangular hollow section hot dip galvanised or aluminium for roll kerb sections. (sm020.doc)
- (4) The developer shall provide a detailed stormwater drainage network in accordance with the design requirements of “*Section D5 Stormwater Drainage*” of Kiama Development Code as appended to Kiama Development Control Plan 2020. Full hydrological and hydraulic calculations and civil engineering drawings shall be submitted to the accredited Certifying Authority prior to the issue of a Subdivision Works Certificate. (sm055.doc)
- (5) The developer shall provide compliance certification from the hydraulic engineer verifying that the constructed stormwater drainage infrastructure meets with the approved design. The certification shall be provided to the Principal Certifying Authority prior to the issue of any of any Subdivision Certificate. (sm130.doc)
- (6) The developer shall provide environmental stormwater management controls in the form of post development water quality (including first flush treatments such as trash arresters) and sedimentation control measures to be located within the proposed development site. The proposed treatments shall be submitted to the accredited Certifying Authority for assessment and approval prior to the issue of the Subdivision Works Certificate. (sm135.doc)

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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- (7) The developer shall comply with the design requirements of Council's "*Water Sensitive Urban Design*" policy in association with the design requirements of "*Section D5 Stormwater Drainage*" of the Kiama Development Code as appended to Kiama Development Control Plan 2020.

Detail shall be submitted to the Principal Certifying Authority for assessment prior to the issue of the Subdivision Works Certificate. (sm150.doc)

**Civil Engineering Construction**

- (1) The developer shall undertake engineering inspections, sampling, testing and recording of results of all constructed civil engineering works in accordance with the requirements of the Kiama Development Code Section CQC Quality Control Requirements – Development Construction Specification, as appended to Kiama Development Control Plan 2020 and civil engineering drawings approved by the Principal Certifying Authority. (cec070.doc)

**Utility Servicing**

- (1) A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The Section 73 Certificate shall be submitted to Council prior to issue of the final Occupation Certificate. (us005.doc)

**Building Construction**

- (1) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (2) Demolition and Subdivision work, delivery of materials and plant, etc shall only take place between the following hours;
- |                  |                      |
|------------------|----------------------|
| Monday to Friday | - 7.00 am to 5.00 pm |
| Saturdays        | - 8.00 am to 1.00 pm |
- No work is to take place on Sundays or Public Holidays. (bu151.doc)
- (3) The Waste Management Plan shall be strictly adhered to at all stages during the demolition, 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)

**Erosion and Sedimentation Controls/Soil and Water Management**

- (1) The developer shall submit to the accredited Certifying Authority for approval prior to the issue of the Construction Certificate, a detailed Soil and Water Management Plan (SWMP) designed in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction Volume 1* (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction Volume 2* (Department of Environment and Climate Change 2007).

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

(esc010.doc)

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

- 
- (2) 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)

**Site Facilities**

- (1) 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)
- (2) 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)
- (3) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
- a Stating that unauthorised entry to the premises is prohibited; and
  - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

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

**Conveyancing Requirements**

- (1) Under the provisions of the Conveyancing Act 1919, an instrument under Section 88B shall be prepared and shall contain the following:
- a Any future development application shall include for approval a detailed hydrologic and hydraulic analysis prepared by a qualified person.
  - b The hydrologic and hydraulic analysis shall limit the outflows from the development site to the totally undeveloped site discharge. (cr020.doc)
- (2) The developer shall prepare an Instrument under Section 88B of the Conveyancing Act 1919, for approval by the Principal Certifying Authority which incorporates the following easements and restrictions on the use of land:
- a Easement for services; and
  - b Easement for water drainage. (cr035.doc)
- (3) Under the provisions of the Conveyancing Act 1919 an instrument under Section 88B shall be prepared and shall contain a restriction on the use of land stating the only development permitted on Lot 472 is to be a dwelling constructed in accordance with Development Consent 10.2019.221.1 issued by Kiama Municipal Council. The authority empowered to release, vary or modify this restriction is Kiama Municipal Council. (cr025.doc)

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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**Prior to Issuing of Subdivision Certificate**

- (1) The Subdivision Certificate shall not be issued until all conditions of this Development Consent relating to **Stage 1** are complied with or satisfactory arrangements are made with the Principal Certifying Authority. (sub005.doc)
- (2) Demolition works are to be completed prior to the issue of a Subdivision Certificate.
- (3) The completed Waste Management Compliance Sheet (Appendix 1C) shall be submitted to and approved by Council prior to issue of the Subdivision Certificate.  
Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)
- (3) The developer shall submit the following items to the Principal Certifying Authority prior to the issue of a Subdivision Certificate:
  - a) All relevant Construction and Compliance Certificates (where these have not been issued by Council).
  - b) Payment of fees in accordance with Council's adopted fees and charges.
  - c) A Final Plan of Subdivision and four (4) copies.

A copy of the satisfactory final plan of subdivision shall also be provided as an electronic file in either DXF or DWG format. In this regard the electronic copy must be on MGA (Zone 56) orientation, where this is required by the Surveying Regulation 2001, and should preferably use co-ordinates based upon the MGA values of the nearest established permanent survey mark connected as part of the survey. It is preferred the raw boundary line work only be provided, excluding final page layout and text where possible. This must be provided electronically by email to [council@kiama.nsw.gov.au](mailto:council@kiama.nsw.gov.au) including a clear reference to the relevant Development Application number.

- d) An original Deposited Plan Administration Sheet and one copy, prepared in accordance with NSW Land & Property Information requirements.
- e) An original Section 88B Instrument and one copy, prepared in accordance with the requirements of the Conveyancing Act 1919.
- f) An original Subdivider/Developer Compliance Certificate (Section 73 Certificate) from Sydney Water Corporation which references the relevant development application number.
- g) An original Notification of Arrangement from an electricity provider which references the relevant development application number.
- h) An original Telecommunications Infrastructure Provisioning Confirmation from a communications provider which references the proposed development.
- i) The payment of all required Section 7.11 Contributions identified in this consent. (sub020.doc)

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

- 
- (4) The developer shall acknowledge all existing easements on the final plan of subdivision. (sub060.doc)
  - (5) The developer shall acknowledge all existing restrictions on the use of the land on the final plan of subdivision. (sub070.doc)
  - (6) The shipping container on Lot 472 must be removed prior to issue of a Subdivision Certificate.

**Conditions Specific to Stage 2 – Construction of Dwelling on Lot 472****General**

- (1) The development shall be completed in accordance with the approved colour schedule. (g014.doc)

**Prior to Commencement of Works**

- (1) Building work must not commence until the Principal Certifying Authority for the development to which the work relates has been informed of:
  - i The licensee's name and contractor licence number;
  - ii That the licensee has complied with Part 6 of the Home Building Act 1989.

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

  - a Has been informed in writing of the person's name and owner builder permit number;
  - or
  - b Has been given a declaration, signed by the owner/s of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of the Home Building Act 1989. (pt005.doc)
- (2) Under the provisions of the Act, work may not commence on the development until the following is carried out:
  - a Detailed plans and specifications of the building must be endorsed with a Construction Certificate by Council or an Accredited Certifier; and
  - b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
  - c You **must** notify the Council of the appointment; and
  - d You **must** give at least two (2) days notice to Council of your intention to commence work.

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

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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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)

- (3) The BASIX commitments shall be indicated on the plans to the satisfaction of Council or an Accredited Certifier prior to the issue of the Construction Certificate. (pt034.doc)

- (4) The developer shall obtain a Construction Certificate prior to the commencement of any construction works. (pt045.doc)

- (5) 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)

- (6) 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)

**Access Construction**

- (1) The developer shall construct the footpath access driveway in compliance with the Standards Australia publication AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking and Council's “*Driveway and Footpath Works Procedure Manual*”. (ac001.doc)

- (2) The access driveway shall be constructed to meet the design requirements of Council's “*Driveway and Footpath Works Procedure Manual*”. The access driveway shall be installed prior to the issue of any occupation certificate. (ac015.doc)

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

Work undertaken within the road reserve may only be undertaken by a Council approved contractor. A list of approved contractors may be obtained from Council's Engineering and Works Department. (ac020.doc)

## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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**Stormwater Management**

- (1) Stormwater shall be connected to the existing system. (sm005.doc)
- (2) The stormwater drainage system shall be completed in accordance with the details approved by the accredited Certifying Authority.
- (3) Prior to issue of any Construction Certificate, the accredited Certifying Authority shall ensure that the design of the development causes no adverse effects to adjoining properties as a result of stormwater run-off and allowance is made for surface run-off from adjoining properties in the design.

**Utility Servicing**

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

**Inspections**

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

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

**Building Construction**

- (1) All building work must be carried out in accordance with the requirements of the Building Code of Australia. (bu010.doc)
- (2) The roadway, footpath or Council reserve shall not be used to store building material without the prior approval of Council. (bu086.doc)
- (3) All excavations and backfilling must be executed safely in accordance with appropriate professional standards. (bu090.doc)
- (4) All excavations must be properly guarded and protected to prevent them from being dangerous to life or property. (bu095.doc)
- (5) 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)
- (6) 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 5.00 pm  
Saturdays - 8.00 am to 1.00 pm  
No construction work is to take place on Sundays or Public Holidays. (bu151.doc)

**Erosion and Sedimentation Controls/Soil and Water Management**

- (1) All practical measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur. In particular:



## Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

- 
- a A silt fence or equivalent must be provided downhill from the cut and fill area (or any other disturbed area). Such fence must be regularly inspected and cleaned out and/or repaired as is necessary, and all collected silt must be disposed of in accordance with Council's Sedimentation Control Policy.
  - b Unnecessary disturbance of the site (eg; excessive vehicular access) must not occur.
  - c All cuts and fills must be stabilised or revegetated as soon as possible after the completion of site earthworks.
  - d All the above requirements must be in place for the duration of the construction works. (esc005.doc)

**Site Facilities**

- (1) 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)
- (2) 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)
- (3) A sign must be erected in a prominent position on the premises on which the erection or demolition of a building is being carried out:
  - a Stating that unauthorised entry to the premises is prohibited; and
  - b Showing the name of the builder or other person in control of the worksite and a telephone number at which the builder or other person may be contacted outside working hours.

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

**Prior to Occupation**

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

Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)
- (2) The BASIX schedule of commitments shall be complied with prior to the issue of a Final Occupation Certificate for the development and if required a certificate shall be provided to the Principal Certifying Authority from a properly qualified person to certify that the BASIX schedule of commitments have been provided and/or installed. (po003.doc)
- (3) The whole or part of the building must not be occupied unless an Occupation Certificate has been issued in relation to the building or part in accordance with Section 6.9 of the Environmental Planning and Assessment Act 1979.

Report of the Director Environmental Services

3.2 10.2019.221.1 - Lot 47 DP 245502 - 41 Hillview Circuit, Kiama - Staged 2  
Lot Torrens Title Subdivision and Construction of Dwelling House (cont)

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**NOTE:** A Fire Safety Certificate must be provided in accordance with the Environmental Planning and Assessment Regulations 2000 prior to the issue of an Occupation Certificate excepting Class 1(a), 10(a) & 10(b) structures. (po005.doc)

- (4) The developer shall complete all access and drainage works prior to the issue of any occupation certificate. (po010.doc)

**Ongoing Management**

- (1) All bins on Lot 472 are to be serviced from Saddleback Mountain Road. Bins must be placed on the kerbside for collection the night before the scheduled collection time. Bins are to be removed from the kerbside and returned to the property on the same day of service.













DA DRAWINGS		ISSUE C	
NO.	REVISION DESCRIPTION	DATE	BY
1	As per Development Application	20.03.20	ML
2	As per Council Conditions	04.11.20	ML
3	As per Council Conditions	04.11.20	ML
4	As per Council Conditions	04.11.20	ML
5	As per Council Conditions	04.11.20	ML
6	As per Council Conditions	04.11.20	ML
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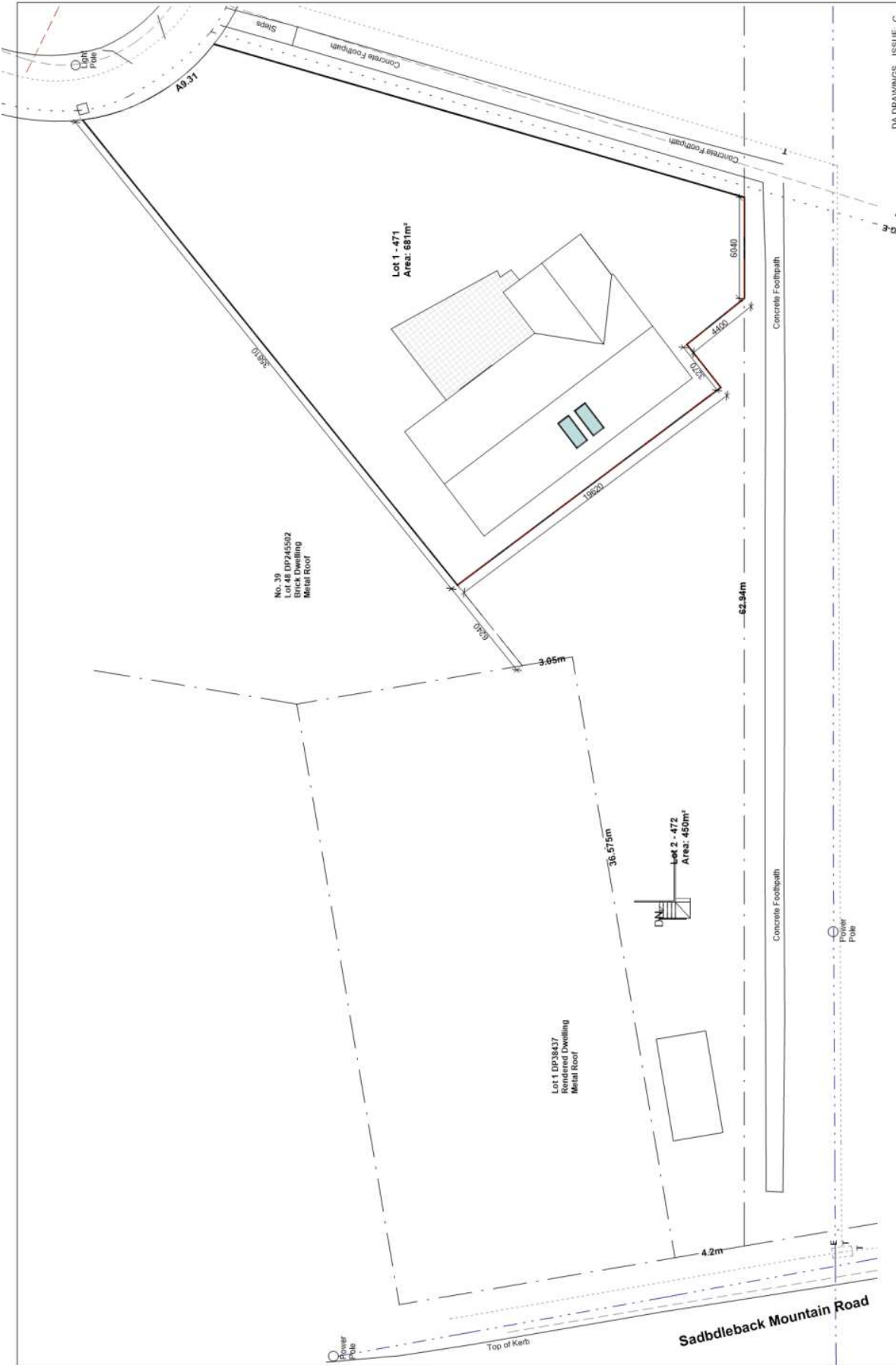








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No.	Revision Description	Date
1	Subdivision Plan	
2	Scale: 1:200 @ A3	

<p><b>DUPLEX BUILDING DESIGN</b>                  INNOVATE DESIGN PTY LTD                  10/115 9th Floor                  WINGANG NSW 2528                  Phone: 033 445 298                  Email: info@duplexbuildingdesign.com                  www.duplexbuildingdesign.com</p>		<p><b>bda</b>                  BUILDING DESIGNERS ASSOCIATION AUSTRALIA</p>	<p>MEMBERS                  you're in good hands</p>
<p><b>DRAWING</b>                  CLIENT: Holz, Sharon                  PROJECT: 41 Hillview Circuit, Kiama                  ADDRESS: 41 Hillview Circuit, Kiama</p>		<p><b>DATE:</b> 10/02/2021</p>	
<p><b>ISSUES APPROVAL</b>                  DATE: 10/02/2021</p>		<p><b>DESIGNER</b>                  Designer: A003</p>	<p><b>ISSUE C</b>                  SHEET #                  A33</p>
<p><b>SCALE:</b> 1:200</p>		<p><b>DRAWN</b>                  Date: 04/11/20</p>	<p><b>DATE</b>                  Date: 10/02/2021</p>







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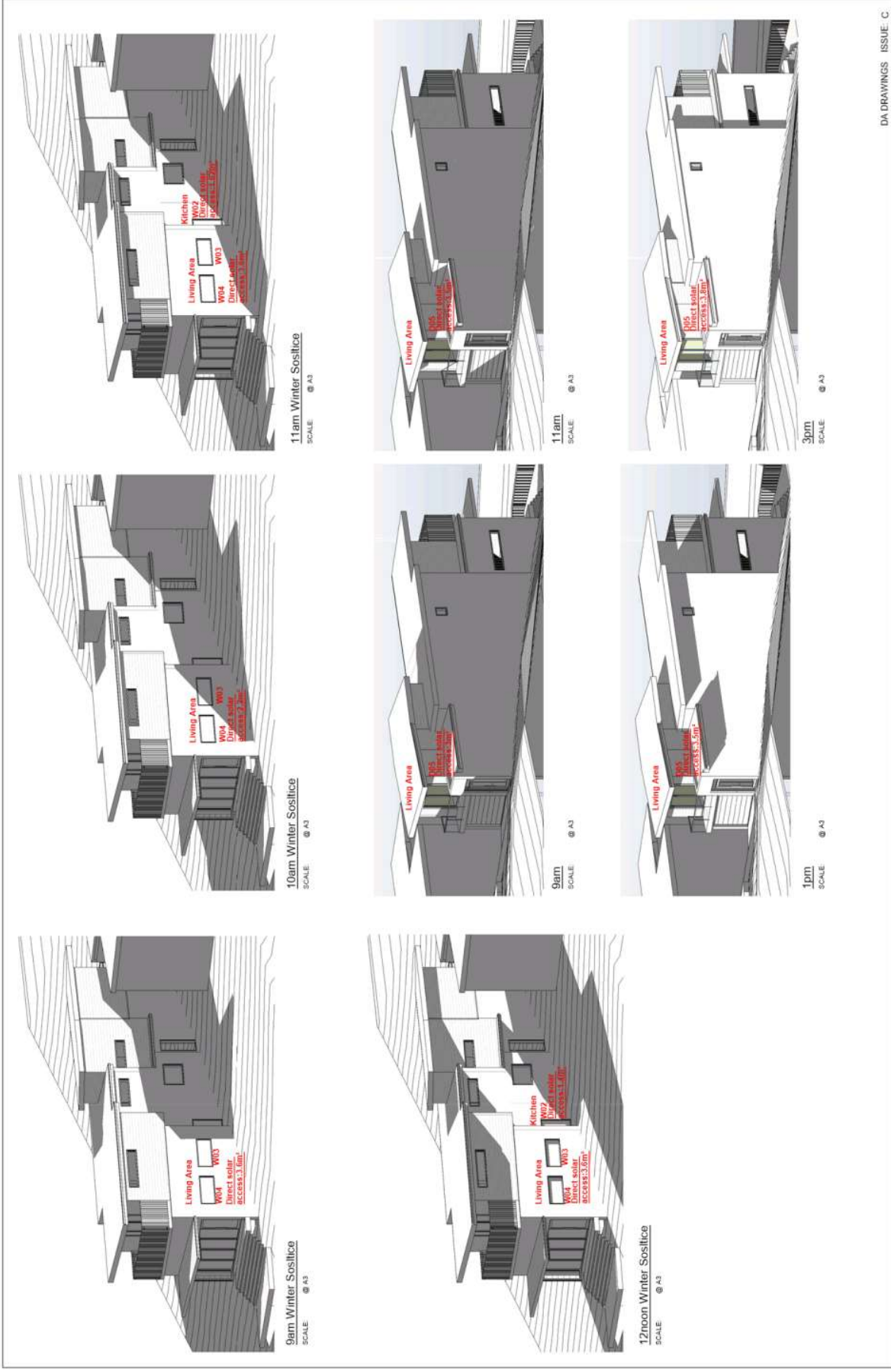
<p>Revision Description</p> <p>A Issued for Discretion Application</p> <p>B Council Requirements</p> <p>C Council Requirements for Private Open Space</p> <p>D Council Requirements for Private Open Space</p>	<p>Date</p> <p>28.05.20</p> <p>04.11.20</p> <p>09.02.21</p>	<p><b>DUPLEX</b> BUILDING DESIGN</p> <p><b>bda</b> BUILDING DESIGNERS ARCHITECTS</p> <p>you're in good hands</p> <p>MEMBER</p>	<p><b>DUPLEX BUILDING DESIGN</b></p> <p>INNOVATE DESIGN PTY LTD</p> <p>115/15 ST WINGANG NSW 2528</p> <p>Phone: 033 449 298</p> <p>nat@duplexbuildingdesign.com</p> <p>www.duplexbuildingdesign.com</p>	<p>DATE: 09/02/2021</p> <p>PROJECT: 41 Hillview Circuit, Kiama</p> <p>CLIENT: Holz, Sharon</p> <p>ADDRESS: 41 Hillview Circuit, Kiama</p>	<p>DRAWING TITLE: Winter Shadow Diagram</p> <p>DESIGN: Holz, Sharon</p> <p>DRAWN: Holz, Sharon</p> <p>DATE: 04.11.20</p> <p>SCALE: 1:200</p>	<p>JOB # A003</p> <p>SHEET # A42</p> <p>ISSUE: D</p>
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Attachment 1 Item 3.2





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No. C Council Requirements	Description [04.11.20]	Date [04.11.20]	DRAWING DATE: 11/11/20	DRAWING CLIENT: PROJECT: ADDRESS:	DESIGN M: LAURENCE DRAWN M: LAURENCE DATE: 04.11.20 SHEET # A44	JOB # A003 SHEET # A44
DRAWING TITLE: Winter Shadow Diagrams CLIENT: Holz, Sharon PROJECT: 41 Hillview Circuit, Kiama			DRAWING DATE: 11/11/20 DRAWING CLIENT: PROJECT: ADDRESS:			
CLIENT APPROVAL: [Signature] DATE: 11/11/20			DRAWING TITLE: Winter Shadow Diagrams CLIENT: Holz, Sharon PROJECT: 41 Hillview Circuit, Kiama			
DUPLEX BUILDING DESIGN INNOVATE DESIGN PTY LTD 1/115 ST WINGARD NSW 2528 PHONE: 0433 465 298 EMAIL: info@duplexbuildingdesign.com WWW: duplexbuildingdesign.com			MEMBER you're in good hands bda BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA			
DUPLEX BUILDING DESIGN			DRAWING TITLE: Winter Shadow Diagrams CLIENT: Holz, Sharon PROJECT: 41 Hillview Circuit, Kiama			

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NO.	C	Revision Description	Date
1		Council Requirements	04/11/20
<p>DATE: 04/11/20</p> <p>PROJECT: 41 Hillview Circuit, Kiama</p> <p>ADDRESS: 41 Hillview Circuit, Kiama</p>			
<p>CLIENT: Holz, Sharon</p>		<p>DATE: 04/11/20</p>	
<p>DESIGNER: DUPLEX BUILDING DESIGN</p>		<p>SCALE: 1:200</p>	
<p>ISSUE: C</p>		<p>JOB #: A003</p>	
<p>ISSUE: C</p>		<p>SHEET #: A45</p>	





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ITEM	PRODUCT NAME	MANUFACTURER	SAMPLE	NOTES
Front Boundary Fence	No Fence proposed			
External Wall Finishes	F1 Similar to TERRAZO GR23	By Dulux®		Architectural Render
	F2 Similar to Whitsunday	By Dulux®		Architectural Render
	F3 Similar to weatherbox primelack smooth 20mm	By Weatherbox®		
Garage Door	Similar to SILKWOOL GR12	COLORBOND® Steel		
Windows	Similar to Monument	ALUTECH		Powder coated aluminium
Metal Roofing Fascia, Gutters/ Downpipes	<del>Similar to</del>	COLORBOND® Steel		Medium Colour <del>slope compliance</del> (0.475-0.70)
Side boundary fences	Similar to Ironstone®	COLORBOND® Steel		

**CLIENT APPROVAL**

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**3D Finishes Schedule**

Client: Holz, Sharon

Address: 41 Hillview Circuit, Kiama

**DUPLEX BUILDING DESIGN**

INNOVATE DESIGN PTY LTD

11/15-17 WYNDHAM NSW 2528

Phone: 033 449 298

mail@duplexbuildingdesign.com

www.duplexbuildingdesign.com

**MEMBERS APPROVAL**

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**MEMBERS APPROVAL**

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**3D Finishes Schedule**

Client: Holz, Sharon

Address: 41 Hillview Circuit, Kiama

**DUPLEX BUILDING DESIGN**

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**MEMBERS APPROVAL**

DATE: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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ITEM	PRODUCT NAME	MANUFACTURER	SAMPLE	NOTES
Front Boundary Fence	No Fence proposed			
External Wall Finishes	F1 Similar to TEAHOUSE GR23	By Dulux®		Architectural Render
	F2 Similar to Whitsunday	By Dulux®		Architectural Render
	F3 Similar to weathertex primelox smooth 20mm	By Weathertex®		
Garage Door	Similar to SILKWORT GR12	COLORBOND® Steel		
Windows	Similar to Monument	ALUTECH		Powder coated aluminium
Metal Roofing Fascia, Gutters Downpipes	Similar to <del>Monument</del>	COLORBOND® Steel		Medium Colour solar absorptance 0.475-0.70
Side boundary fences	Similar to Ironstone®	COLORBOND® Steel		

**CLIENT APPROVAL**  
 I, the undersigned, being the duly authorised signatory for the purposes of this approval, hereby approve the above information as correct and true to the best of my knowledge and belief, and I am not aware of any facts or circumstances which might render this information misleading or deceptive.  
 Name: \_\_\_\_\_ Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_

**CLIENT**  
 PROJECT: 3D Finishes Schedule  
 CLIENT: Holz, Sharon  
 ADDRESS: 41 Hillview Circuit, Kiama

**DATE**  
 DATE: 10/02/2021

**ISSUE C**  
 Design: M. Lawrence  
 Drawn: M. Lawrence  
 Date: 04/11/20  
 Scale: 1:100

**JOB #**  
 A003  
**SHEET #**  
 A51

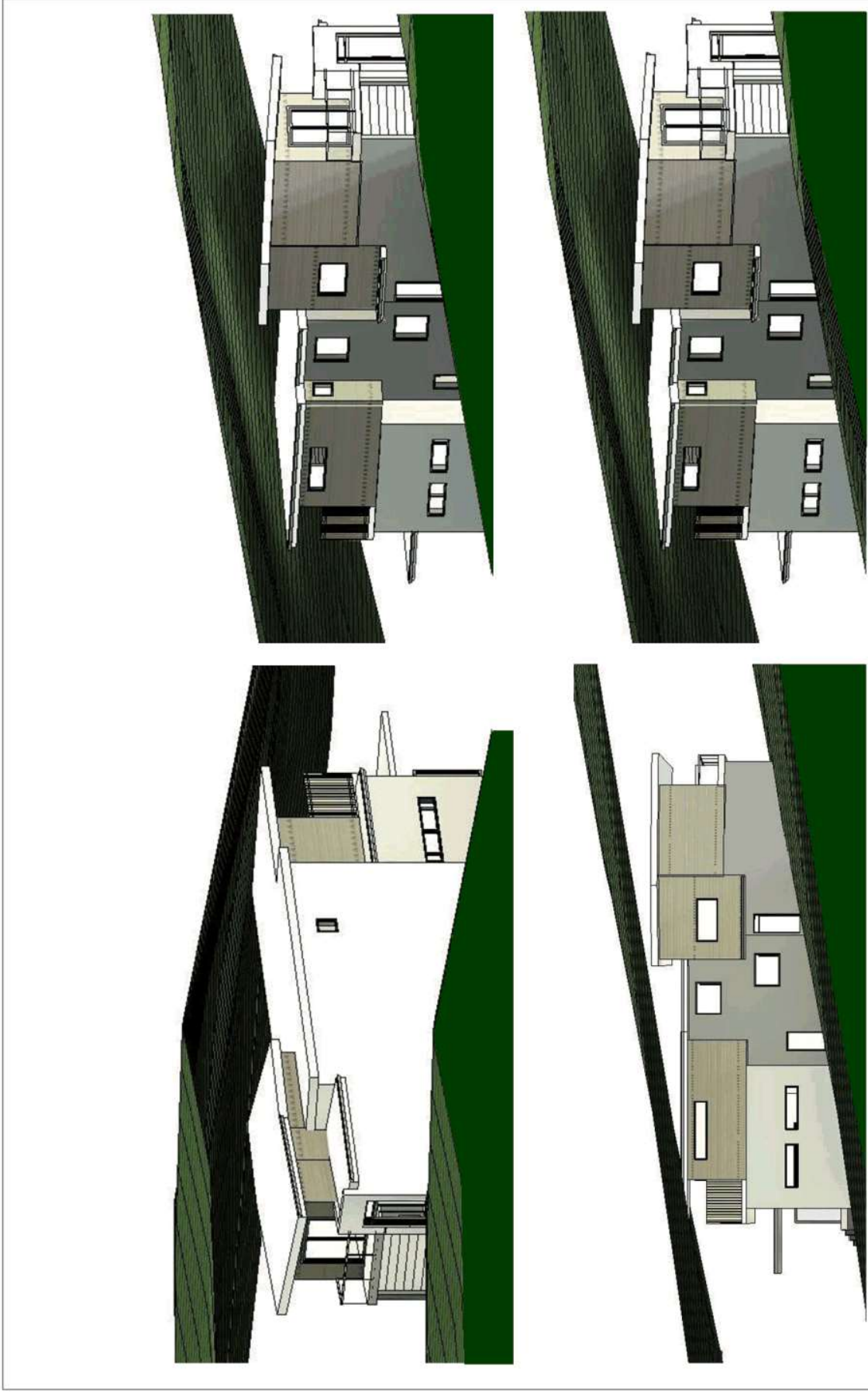
**DUPLEX BUILDING DESIGN**  
 INNOVATE DESIGN PTY LTD  
 10/115 ST WINGANG NSW 2528  
 Phone: 033 465 298  
 Email: info@duplexbuildingdesign.com  
 www.duplexbuildingdesign.com

**bda**  
 BUILDING DESIGNERS ASSOCIATION

**MEMBER**  
 you're in good hands

**Sheet Size A3**

9/02/2021 5:24:36 PM



DRAWINGS ISSUE: C JOB # A003 SHEET # A52	
DESIGNER AUTHOR DATE 04.11.20 SCALE 1:200	DESIGNER AUTHOR DATE 04.11.20 SCALE 1:200
DRAWING TITLE: 3D Height Compliance CLIENT: Holz, Sharon PROJECT: 41 Hillview Circuit, Kiama ADDRESS:	
DATE: / / DRAWING APPROVAL:	
METAL:	
DUPLEX BUILDING DESIGN INNOVATE DESIGN PTY LTD 10/115 ST WYONG NSW 2528 PHONE: 023 495 298 EMAIL: info@duplexbuildingdesign.com WWW: duplexbuildingdesign.com	
bda BUILDING DESIGNERS ASSOCIATION OF AUSTRALIA MEMBER you're in good hands	
DUPLEX BUILDING DESIGN	
No. 10 Title: Council Inter-Circuit DP 245502	Date: 30.09.20
Sheet Size: A3	



## 4 CONFIDENTIAL SUMMARY

### CONFIDENTIAL COMMITTEE OF THE WHOLE

Submitted to the Ordinary Meeting of Council held on 13 April 2021

#### PROCEDURE

- Recommendation to go into Closed Committee.
- Mayoral call for Public Representations.
- Consideration of Representations and issues to be removed from Closed Committee.
- Recommendation to exclude Press and Public if required.
- Closed Committee discussions if required.

#### 4.1 Exclusion Of Press And Public:

##### **RECOMMENDATION**

That in accordance with Sections 10 and 10A of the Local Government Act, 1993 as amended, Council close the meeting of the Confidential Committee of the Whole to the Press and Public on the grounds detailed under the report headings as detailed below.

#### 5.1 AKUNA STREET PROPERTY

**Reason for Confidentiality:** This matter deals with commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it as per Section 10A(2)(di) of the Local Government Act. .

## 5 CONFIDENTIAL REPORTS

### 5.1 Akuna Street Property

CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.1 Maintain the separation and distinct nature of local towns, villages and agricultural land

Delivery Program: 2.1.1 Develop and implement appropriate land use plans

#### **REASON FOR CONFIDENTIALITY**

*This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.*

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## 6 CLOSURE