

To be held at 5pm on

Tuesday 20 October 2020

Council Chambers

11 Manning Street, KIAMA NSW 2533

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

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16 ADDENDUM TO REPORTS

17.1 10.2020.106.1 – Lot 317 DP 703905 – 68 Barton Drive, Kiama Downs - Demolition of laundry, garage and pool, alterations to garage and laundry and 2 Lot Subdivision

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

Summary

This report reviews Development Application 10.2020.106.1 which involves the construction of a demolition of laundry, garage and pool, alterations to garage and laundry and 2 lot subdivision.

The report recommends that Council approve Development Application No 10.2020.106.1 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 2020, with the exception of the controls requiring a 5m wide access corridor and 1m wide landscaping strip either side of the driveway.

Requests to vary 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: 14 days from 16/07/2020 to 29/09/2020.

Submissions: Nil submissions.

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Reason for the Report

This report is submitted to Council because only the elected Council can delegate authority to the Mayor and the General Manager to affix the seal of Council to a document to release the restriction as to user secondly referred to in the Section 88B Instrument attached to Deposited Plan 73905, specifically Lot 317.

Attachments

1 10.2020.106.1 - plans

Enclosures

Nil

RECOMMENDATION

That Council approve Development Application No 10.2020.106.1 under Section 4.16 of the Environmental Planning and Assessment Act 1979, subject to the conditions at the end of this report, and delegate authority to the Mayor and General Manager to affix the Council seal to the relevant documentation to release the restriction as to user secondly referred to in the Section 88B Instrument attached to Deposited Plan 73905, specifically for Lot 317.

BACKGROUND

Development Site

The property is described as Lot 317 DP 703905 which is located at 68 Barton Drive Kiama Downs.

The overall site measures 1299m² and is rectangular in shape. The site currently contains Class 1 and Class 10 structures and is bounded by residential development containing principally dwellings.

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

The site is built upon and slopes slightly from the south corner to the north corner with a fall of 7m or 10.7%. The site drains to the adjoining public roads.

Access to the property is gained through an existing driveway off Barton Drive (i.e. a Public Road). The site is serviced by water, sewer, electricity and telecommunications.

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Figure 1 – Locality Plan

The site is subject to the following constraints

Restriction as to user – Section 88B Instrument



Figure 2 – Site Photograph (Aerial View)

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Background

The Development Application history is as follows:

DA No	Description	Lodgement	Determined	Decision
06.1985.313.1	Dwelling	11/09/1985	03/10/1985	Approved
06.1993.342.1	Dwelling additions	30/08/1993	13/09/1993	Approved
12.2004.7.1	Swimming Pool	27/02/2004	03/03/2004	Approved

Restriction as to User on the Subject Site

Council has received a request to remove the restriction-as-to-user secondly referred to in the Section 88B Instrument attached to Deposited Plan 73905 for Lot 317.

The restriction states:

"That no dwelling house, garage or outbuilding shall be erected on that part of the land burdened provided that this restriction shall not preclude the construction of a tennis court, swimming pool or barbecue on the land."

It is understood the restriction was placed on these lots to provide a buffer to the former Bombo quarrying activity previously operating to the south of the lots within DP 73905. Given that the Kiama bypass now provides for an effective buffer between any potential quarrying activities and the property in question, there is no substantive reason for the continuance of such a restriction.

A report was presented to Council on 26 June 2012 advising of the lack of need for the restriction. Council resolved to support the release of the second restriction-as-to-user identified within the Section 88B Instrument attached to Deposited Plan 703905. Council also resolved to contact the owners of Lots 315 to 326 in DP 703905 to provide advice that Council would give favourable consideration to a formal request made by them to release the restriction provided they met all costs associated with its removal.

It is therefore requested that the Council delegate authority to the Mayor and the General Manager to sign and affix the seal of Council on the relevant documentation releasing the restriction-as-to-user secondly referred to in the Section 88B Instrument attached to Deposited Plan 73905, specifically, Lot 317.

Description of the Proposed Development

The proposal involves the demolition of laundry, garage and pool, alterations to garage and laundry and 2 lot subdivision. The proposal details are as follows:

- Partial demolition of garage and laundry totalling 21m²;
- Removal of existing swimming pool;
- 7m² addition to front portion of garage;
- Subdivision of Lot 317 DP 703905 into proposed Lot 1 with an area of 651.33m² and Lot 2 with an area of 550.04m² (647.01m² including access handle);

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- Retention of existing dwelling on proposed Lot 1;
- Construction of a 3.5m wide access corridor (0.5m wide landscaping strip);
- Kerbside bin collection point for proposed Lot 2; and
- Construction of hard stand space in front of existing dwelling.

The proposal is shown in Figures 3-6 below:

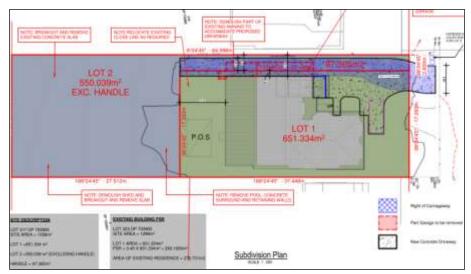


Figure 3 - Subdivision Plan



Figure 4 – 3D Elevation (streetscape Barton Drive)

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Figure 5 - 3D West Elevation

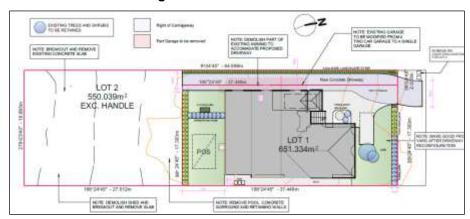


Figure 6 - Landscape Plan

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

This policy does not apply to the proposal as the alterations and additions have an estimated construction cost of less than \$50,000.00.

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, therefore the land is considered to be suitable for the proposed use.

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

Clause 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. Council's Development Control Plan (DCP) 2012 outlines that certain trees can be removed without requiring consent. No trees are proposed to be removed as part of this development.

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 a subdivision under the provisions of Kiama 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 proposal is considered consistent with the relevant zone objectives. This is achieved by the proposed subdivision providing additional housing opportunities to the locality coupled with increasing economic and employment opportunities for individuals who work from home, which can provide for additional facilities and services to serve the wider community.

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 450m² on the Lot Size Map.

Proposed lots will have an area of 651.33m² and 647.01m² respectively and comply 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 existing dwelling has a maximum height of 5.8m above existing ground level and as such complies.

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 Floor Space Ratio (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 development is 276.7m². In this regard the proposed development has a FSR of 0. 42:1 with the site and as such complies.

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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 or within the vicinity of the property. The proposal will not adverse heritage significance within the area.

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 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

Nil

Kiama Development Control Plan 2020

The proposed development is not inconsistent with the objectives Kiama DCP 2020. The minor non-compliances are addressed below.

The proposed subdivision has an access corridor 3.5m comprising of a 3m wide carriageway and 0.5m wide landscaping strip adjacent to the western boundary. This does not comply with controls 5.1.17 and 5.1.18 of Kiama DCP 2020 as outlined below:

- **5.1.17** The minimum access corridor width for a battle axe allotment shall be 5m with a minimum carriageway width of 3m for the entire length of the access handle.
- **5.1.18** A 1m wide landscaping strip shall be provided along each side of the required 3m wide road pavement. The landscaping strip shall be planted with suitable small trees, shrubs and groundcovers.

Applicant's Justification

The access corridor provided is 3.5m in width and consists of a 3m wide access driveway flanked to one side by a 500mm wide landscape strip. In order for the driveway to meet Council's requirements, the 1.5m shortfall in access corridor width is made up entirely of a shortfall in landscaping, with a 1m shortfall provided to one side and 500mm to the other.

- The narrower available access corridor has not compromised the provision of safe access to proposed Lot 2 as a 3m wide access driveway width has been maintained.
- Because of the position of the existing dwelling house on the subject site, the maximum corridor width that can possibly be achieved is 3.5m. With priority being given to the provision of a clear 3m access driveway, the corridor remaining available for landscaping is just 500mm wide.

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- Council has approved 4 other development applications along this section of Barton Drive for similar subdivisions (ie subdivisions proposing the retention of an existing dwelling house and creation of a battle-axe allotment at the rear). These developments included corridor widths ranging from 3m to 4m and landscape strips from 0m to 1m.
- Despite not achieving a 5m access corridor width, the proposed subdivision has been designed so that proposed Lot 2 has a road frontage of 2m on the western side of the access driveway, available for the placement of waste bins on collection days.
- The access driveway crossing servicing the development has been offset from the western side boundary by to allow for the provision of a landscaped garden bed at the front boundary, which can sustain adequate planting to provide some visual relief between the driveway and the boundary at the street frontage. The horizontal alignment of the driveway incorporates a slight meander so that the 'gun barrel' effect of a long straight driveway is mitigated.
- Although not 1m in width, the landscape strip along the western side of the
 access driveway provides some separation between the driveway and the side
 boundary, noting that there is currently only paving and no planting at all between
 the dwelling house and the boundary fence.
- The proposed subdivision is consistent with the relevant objectives of Chapter 5 of Kiama DCP 2020 in that:
 - The proposed subdivision is consistent with a number of similar, approved subdivisions in this section of Barton Drive. The proposal is therefore consistent with the objective of being "sympathetic to the surrounding subdivision pattern and the amenity of the residential neighbourhood" of this locality.
 - The existing dwelling house is an inherent site constraint. Even with modification of the existing double garage, only 3.5m of access corridor width is available. Despite the non-compliances, the development proposal will not have an adverse environmental impact.
 - The proposed development comprises one street-front allotment with one battle-axe allotment behind. This is consistent with the emerging subdivision pattern of this part of Barton Drive (as evidenced by the comparable development approvals issued by Council and other similar development applications currently under consideration by Council).
 - The development proposal only proposes 1 battle-axe allotment, and not a series of battle-axe allotments sharing a common access driveway, and is therefore consistent with objective O:5.1.23.

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Assessing Officer's Comments

- The proposed variation relates directly to the requirement to have a 1m wide landscaping strip either side of a 3m wide carriageway. The proposed carriageway maintains a compliant width of 3m to ensure safe and proper access to the proposed lot. Increasing the width of the landscaping strip would result in a non-compliant carriageway, adversely impacting upon access to the proposed lot.
- The ability for the proposal to comply with the relevant controls is severely impacted upon by the location of the existing dwelling house which is proposed to be retained (and reduced in size). The proposal seeks to demolish a portion of the existing garage to allow for access to the proposed lot at the rear. Further reducing the width of the existing garage to provide a compliant landscaping strip would result in an unusable garage that is not of sufficient size to accommodate a vehicle.
- It is considered that the provision of a compliant access way is more favourable than increasing the landscaping strip that would result in both the landscaping strip and the carriageway not complying with the relevant DCP controls.

A similar Development Application (10.2017.320.1) at 82 Barton Drive was reported to the elected Council for determination due to significant non-compliances with Kiama DCP 2012, relating to the proposed 3.2m wide access corridor comprising a 3m wide driveway and 0.2m wide landscaping strip. Given the extent of the non-compliances, Council staff recommended that the application be refused. The elected Councillors resolved to approve the Development Application creating a precedent for similar applications to be approved even though they too fail to comply with the minimum access handle width requirements contained in Kiama DCP 2020.

More recently, a Development Application No 10.2020.10.1 was approved for a 2 lot Torrens Title subdivision at 80 Barton Drive, Kiama Downs. This development included a 4.36m wide access corridor comprising of a 3m wide driveway, 0.9m wide landscaping strip adjacent to the existing dwelling and a 0.466m landscaping strip on the boundary to the adjacent property.

Having regard to recent determinations made by the elected Council (10.2017.320.1) and determinations made under delegated authority (10.2020.10.1), it is considered that the control has been abandoned. Additionally, with the proposed development providing minor landscaping relief on the access handle comparative to previous approvals, it's for these reasons the application is considered to be reasonable in the circumstances and is recommended for approval.

The proposed development generally complies with the relevant controls of Kiama DCP 2020, and where strict compliance is not achieved the objectives of the controls are maintained.

Any Planning Agreement

Nil.

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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.

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.

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.

Privacy and Overlooking

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

Overshadowing

The existing dwelling is being maintained as a single storey dwelling house and no overshadowing impacts are anticipated. No development is proposed on the vacant lot as part of this application and therefore overshadowing impacts are to be assessed in future applications.

Views

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

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Vehicular Access, Parking and Manoeuvring

Sufficient car parking is proposed.

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.

Environmental Impacts

Vegetation Removal – No vegetation is to be removed.

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 – 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 14 days in which to comment on the proposal. At the conclusion of the notification period nil submissions were received.

External Referrals

The application was referred to the following State Government Departments.

Transport for NSW

The application was referred to Transport for NSW (formerly NSW RMS) for comments regarding potential impacts to the state road network, mainly the Princes Highway. The following comments were received:

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- Barton Drive is a local road, managed by Kiama Council. It is a matter for Council to consider and determine if the proposed arrangements for the development are acceptable from a network perspective (i.e. acceptable in terms of safety and efficiency).

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.

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.

<u>Landscape Design Officer</u>

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.

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

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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 10.2020.106.1 dated except as amended by the following conditions: (9005.doc)
- (2) 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)
- (3) The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this development consent on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:
 - a Motor vehicle insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or Roads and Traffic Authority permit (Including Compulsory Third Party insurance). Primary producer's registration is not valid registration for use on Public Road construction work.
 - b Workers Compensation Insurance.
 - c Twenty Million Dollar Public Liability Insurance. (g155.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:
 - a The variation in hours required.
 - b The reason for that variation.
 - c 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. The following items shall be submitted to Council with the Road Occupancy application form a minimum of five days before approval is required:
 - A completed application form;
 - Fees in accordance with Council's adopted fees and charges;

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 - A traffic control plan endorsed by a person with Roads & Maritime Services accreditation. The traffic control plan shall satisfy the requirements of the latest versions of Australian Standard AS1742 Traffic Control Devices for Works on Roads and the RTMS Traffic Control at Worksites Manual. This plan is required to maintain public safety, minimise disruption to pedestrian and vehicular traffic within this locality and to protect services, during demolition, excavation and construction phases of the development;
 - Public liability insurance for an amount of no less than \$20M;
 - Where excavation of a road or path surface will take place, a security bond in accordance with Council's adopted fees and charges
- (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) 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;
 - Proposed Lot 1 68 Barton Drive, Kiama Downs
 - Proposed Lot 2 68A Barton Drive, Kiama Downs
- (8) The demolition works associated with this development must not commence until a Construction Certificate has been issued for the development.
- (9) The alterations to the existing dwellings garage area **must** be wholly contained within the properties boundary.

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 the Subdivision Certificate. The total contribution required for the development is \$7,366.88. (bo005.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:
 - Has been informed in writing of the person's name and owner builder permit number;

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 - 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. (ptio05.doc)
- (2) The developer shall lodge with Council a bond of \$4000, 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 <u>approval</u> by Council of a waste compliance certificate, inclusive of supporting documentation (dockets/receipts) verifying compliance with the Waste Management Plan as provided to Council. (pt013.doc)
- (3) 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 a Subdivision Works Certificate by Council; and
 - b You **must** appoint a Principal Certifying Authority (can be either Council or an Accredited Certifier); and
 - c You **must** notify the Council of the appointment; and
 - d You **must** give at least two (2) days' notice to Council of your intention to commence work.

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

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

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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.

- (4) The developer shall obtain a Subdivision Works Certificate prior to the commencement of any subdivision 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. (p1060.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. (p1062.doc)
- (7) A suitably qualified person shall prepare a Construction Environmental Management Plan (CEMP) for approval of the Principal Certifying Authority prior to any works commencing on site. The developer shall ensure that all construction work associated with the development is carried out in accordance with the approved Construction Environmental Management Plan (CEMP) and any variations are approved by the Principal Certifying Authority. A copy of the approved CEMP shall be kept on site at all times.

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

Asbestos - Licensed Contractors

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

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Asbestos - Notification of Neighbours

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

Asbestos - Tip receipts

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

Asbestos - Clearance Certificate

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

Asbestos - Less than 10m2 of Bonded Asbestos Sheeting

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

Completion of demolition works

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

(2) The techniques adopted for stripping out and for demolition shall minimise the issue of dust into the atmosphere. (dw030.doc)

Civil Engineering Design

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

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

The hydrologic modelling and hydraulic treatment detail including detailed calculations, drainage network layout, environmental controls (including the post-development first flush mechanism, water quality and sedimentation controls), all stormwater drainage structures and, where required, the proposed method of accessing the existing public stormwater drainage system. All drainage calculations are to be carried out in accordance with *Australian Rainfall and Runoff* published by Engineers Australia, and are to include a contoured catchment diagram and delineation of flow paths for storms of 1% Average Exceedance Probability (AEP);

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 - b Plan, longitudinal and cross sectional detail shall be provided for the proposed access driveways, car spaces and aisles;
 - The proposed pavement treatment to the access driveways, car spaces and aisles. The minimum surface treatment shall be reinforced concrete;
 - d The location and reduced level of all services under the control of public utilities or agencies;

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

Access Construction

- (1) The developer shall construct the footpath access driveway in compliance with the Standards Australia publication AS/NZS 2890.1 Parking Facilities Part 1: Off Street Car Parking and Council's "*Driveway and Footpath Works Procedure Manual*". (ac001.doc)
- (2) The developer shall restore any redundant vehicle crossing to barrier kerb in compliance with Council's "*Driveway and Footpath Works Procedure Manual*".
- (3) 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)

Stormwater Management

- (1) Stormwater shall be connected to the existing system. (sm005.doc)
- (2) 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 2012. Full hydrological and hydraulic calculations and civil engineering drawings shall be submitted to the Principal Certifying Authority prior to the issue of a Subdivision Works Certificate. (sm055.doc)
- (3) The developer shall provide on-site detention storage for stormwater runoff from the access way in conjunction with the proposed development drainage network. An on-site detention system shall be designed to ensure that post development flow rates from the site are no greater than pre-developed site runoff at each discharge point for all rainfall events up to 1% Annual Exceedance Probability. The applicant shall provide full hydrological and hydraulic computer modelling of the stormwater drainage system and provide this to the Principal Certifying Authority for assessment and approval prior to the issue of the Subdivision Works certificate. (SMD000,000)
- (4) 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 the Subdivision Certificate. (sm130.doc)

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- (5) 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)
- (6) 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 accredited Certifying Authority for assessment prior to the release of the Subdivision Works Certificate. (sm150.doc)
- (7) Stormwater runoff from all impervious surfaces on the property shall be collected and conveyed to a point suitable for integration with either the natural or constructed stormwater drainage system. A piped drainage system shall be provided to convey runoff from storms up to the 20% Annual Exceedance Probability (AEP). Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP. (sm155.doc)
- (8) 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 <u>and</u> allowance is made for surface run-off from adjoining properties in the design.

Civil Engineering Construction

- (1) The developer shall construct a minimum 3.0-metre-wide, 150-millimetre-thick concrete access way reinforced with SL72 fabric mesh from the kerb for the full length of the access corridor. (coc010.doc)
- (2) The developer shall carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to residents of adjacent properties. (cec015.doc)
- (3) The developer shall control the emission of dust from the site and in this regard watering and dust suppression equipment shall be kept on the site and used for this purpose. The developer must ensure that the contractor is able to control emission of dust from the site on weekends when windy conditions prevail. (cec025.doc)
- (4) All new construction work shall make smooth junctions with existing work. (cec060.doc)
- (5) The developer shall undertake civil engineering construction works in accordance with the requirements of Section C101 General Development Construction Specification of the Kiama Development Code, as appended to Kiama Development Control Plan 2012, and civil engineering drawings approved by the Principal Certifying Authority. (cec065.doc)

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- (6) 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 2012 and civil engineering drawings approved by the Principal Certifying Authority. (ceco70.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)
- (2) The developer shall bear the cost of relocation of any service utilities required in the provision of vehicular access. (us045.doc)

Geotechnical Requirements

- (1) The developer shall engage a Chartered Professional Engineer practising in the field of geoscience to prepare a final report to be submitted to the Principal Certifying Authority prior to the issue of the subdivision certificate. The report shall cover, but not be limited to:
 - a All earthwork operations.
 - b The suitability of each allotment for residential development. In this regard each Lot shall be given a classification in accordance with the Australian Standard AS 2870 1996 Residential Slabs and Footings.
 - c The exact extent of any restricted building zones or any other restrictions affecting any of the allotments. Particular attention shall be paid to the location and sub-surface drainage lines which shall be burdened with a restriction-as-to-user within the Section 88B Instrument. (gr040.doc)
- (2) Only clean fill (ie natural materials such as earth, rock and stone) is to be used in the development. Under no circumstances are any other material including (but not limited to) building, demolition, concrete, road materials and/or putrescible wastes, permitted to be used as filling on site. (groed.doc)
- (3) All imported fill to the development site shall list the location of its origin and shall be sampled in accordance with AS 4482.2 and tested by a certified National Association of Testing Authorities Australia (NATA) registered laboratory for contaminates. Based on the test results certification shall be provided to the Principal Certifying Authority prior to the issue of any occupation certificates by a suitably qualified geotechnical engineering consultant confirming the imported fill is suitable for use in residential development. Any imported fill found to not be suitable for residential use shall be removed / remediated in accordance with the NSW Department of Environment, Climate Change and Water requirements.

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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)

(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)

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:
 - 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.

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 - d All the above requirements must be in place for the duration of the construction works. (esc005.doc)
- (2) The developer shall submit to the accredited Certifying Authority for approval prior to the issue of the Subdivision Works 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.
- (3) The developer shall ensure that sediment-laden runoff from the site is controlled at all times subsequent to commencement of construction works. Sediment control measures must be maintained at all times and checked for adequacy at the conclusion of each day's work. (esco20.doc)

Landscaping Works

- (1) The landscaping shall be maintained actively and regularly for a period of 26 weeks commencing from the date of issue of the Occupation Certificate. (IMO20.doc)
- (2) At the end of the 26-week landscape maintenance period and after any defects that occurred during that period have been corrected, a final Compliance Certificate shall be provided from a suitably qualified landscape professional stating that all landscape works have been completed and maintained in accordance with the approved landscape plans and the conditions of this development consent. (WO35.doc)
- (3) Prior to issue of the Subdivision Certificate the developer shall provide a Compliance Certificate from a suitably qualified landscape professional or Council's Landscape Officer stating that all landscape works have been completed in accordance with the approved landscape plans and the conditions of the development consent. (IW170.doc)
- (4) The half-meter wide landscape strip shall be planted with suitable shrubs and groundcovers along the entire length of the driveway. The shrubs and groundcovers shall offer a variation in heights to form a significant softening of the hard surfaces. The ground shall be covered with 75mm minimum organic mulch.

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)

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- (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 the Final Occupation Certificate.
 - Supporting documentation (dockets/receipts) verifying recycling and disposal shall be attached to the Compliance Sheet. (po002.doc)
- (2) 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.
 - **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)

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) Under the provisions of Section 88B/88E of the Conveyancing Act 1919 the developer shall provide a restriction on the use of land and a positive covenant in favour of Kiama Municipal Council detailing protection measures and long term maintenance requirements for the on-site stormwater detention system and associated stormwater drainage infrastructure.

The document shall meet the standard terms applied by Council and shall be submitted to Council for assessment and approval and shall have these titles registered with NSW Lands & Property Management Authority under Sections 88B/88E of the Conveyancing Act 1919. (cr040.doc)

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- (3) 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;
 - b. Easement for drainage;
 - c. Drainage easement over overflow paths;
 - d. Right of way;
 - e. Restriction-as-to-user over Lot 2 which limits the lot to a single occupancy only.
 - f. Restricted building zone (if shown in the lot classification report)

Prior to Issuing of Subdivision Certificate

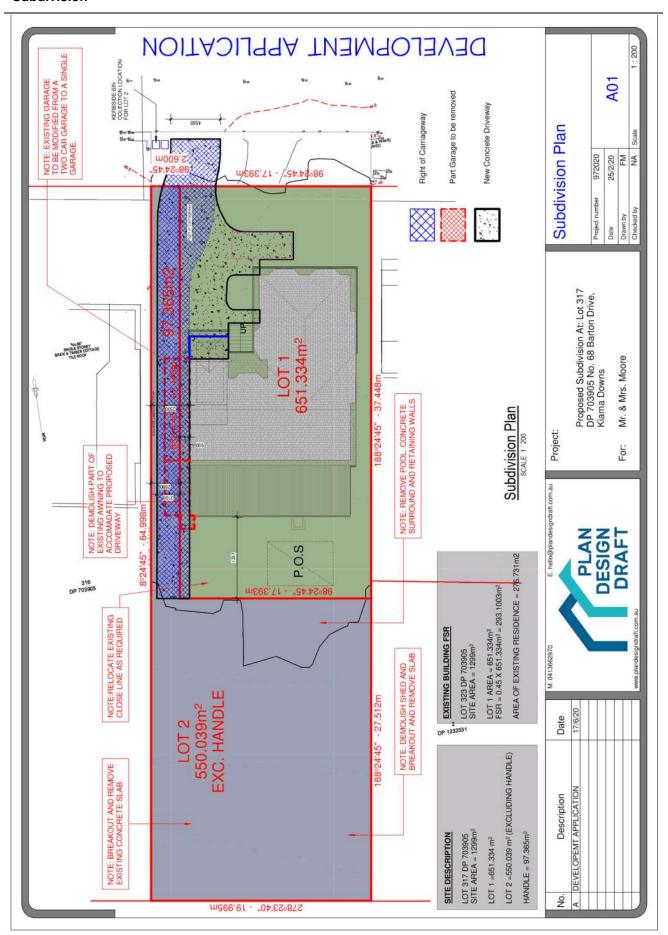
- (1) The Subdivision Certificate shall not be issued until all conditions of this Development Consent are complied with or satisfactory arrangements are made with the Principal Certifying Authority. (sub005.doc)
- (2) The developer shall submit the following items to the Principal Certifying Authority 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 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.

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 - 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)
- (3) The developer shall submit to the Principal Certifying Authority, prior to the release of the Subdivision Certificate, two (2) copies of a certified Works-as-Executed (WAE) drawing including (but not limited to) the following:
 - a Final locations and reduced levels for all works associated with the development on both public and private land; and
 - b In contrasting coloured ink, all changes to the Approved Drawings and actual values of all levels shown on the Drawings.

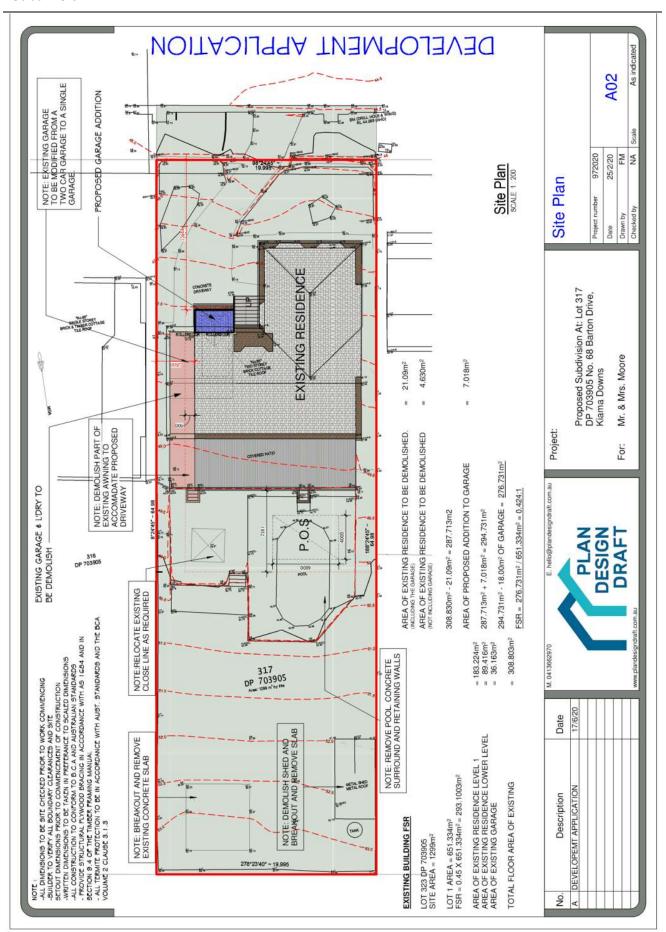
The WAE drawing shall be signed by a Registered Surveyor or Chartered Professional Engineer and certified that all the work as completed, including variations, meets the original intent of the Approved Drawing and will have no adverse impact on adjacent properties. (Sub025.doc)

- (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 "Restriction as to user" secondly referred to over the lot in DP 703905 shall be extinguished prior to lodgement of the Subdivision Certificate application.

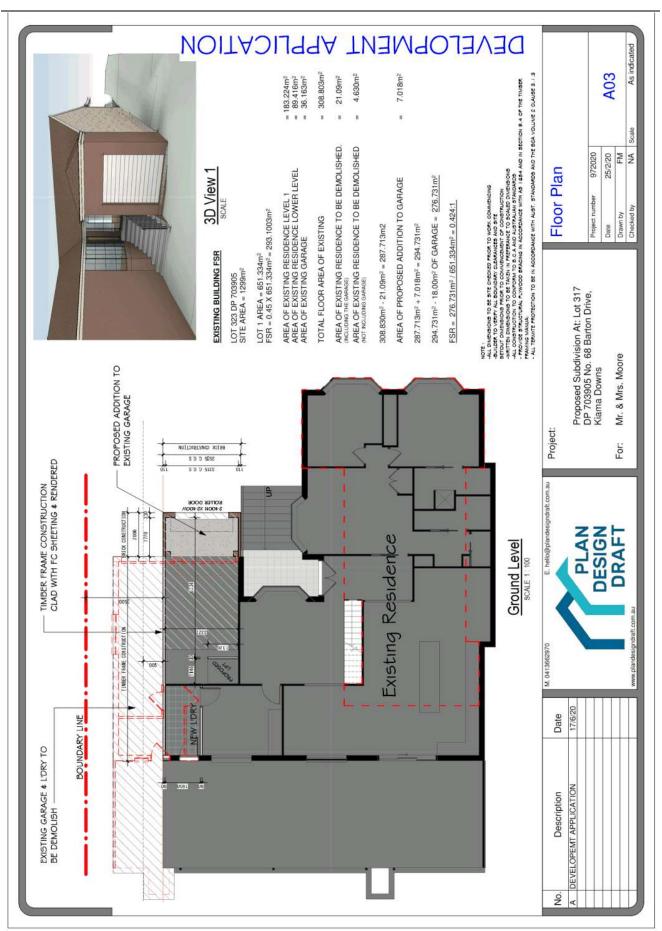
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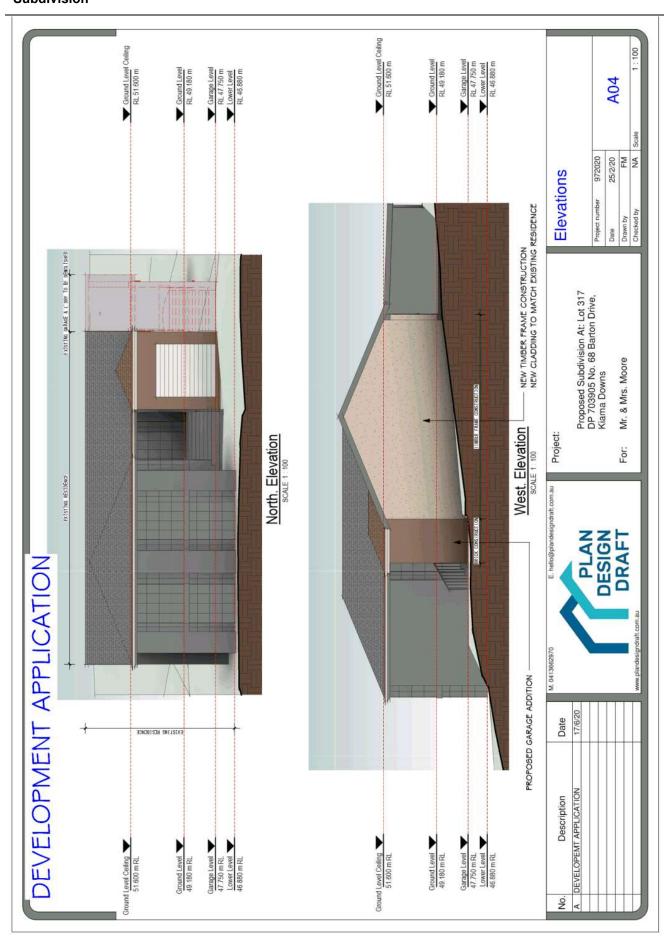
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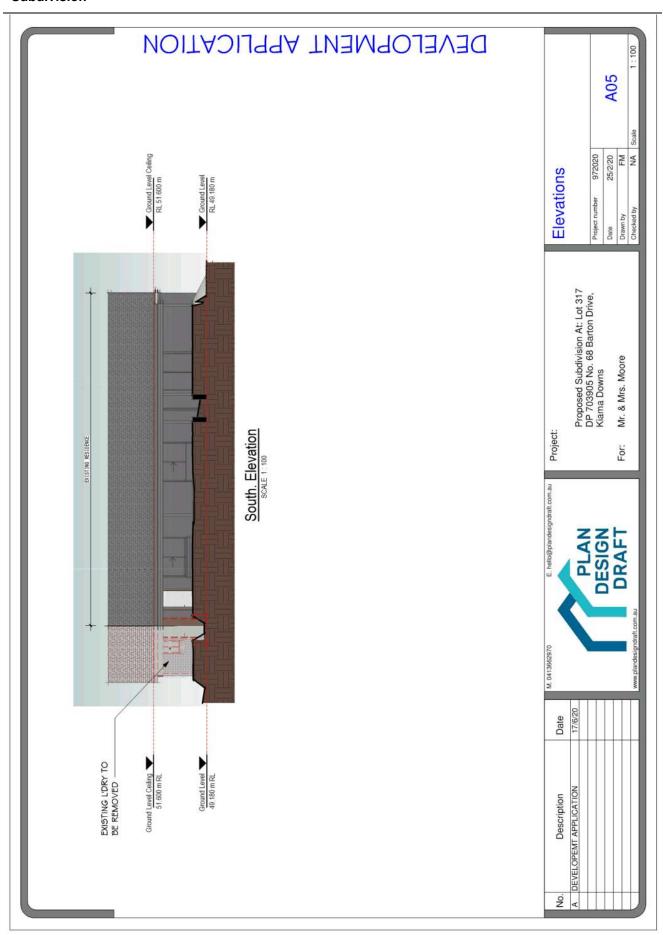
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Attachment 1

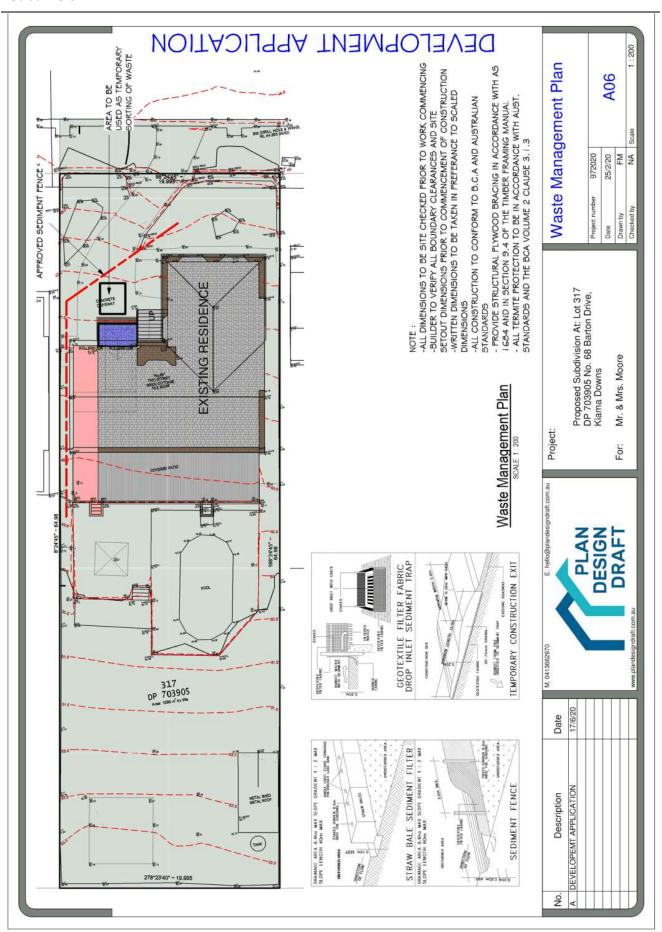
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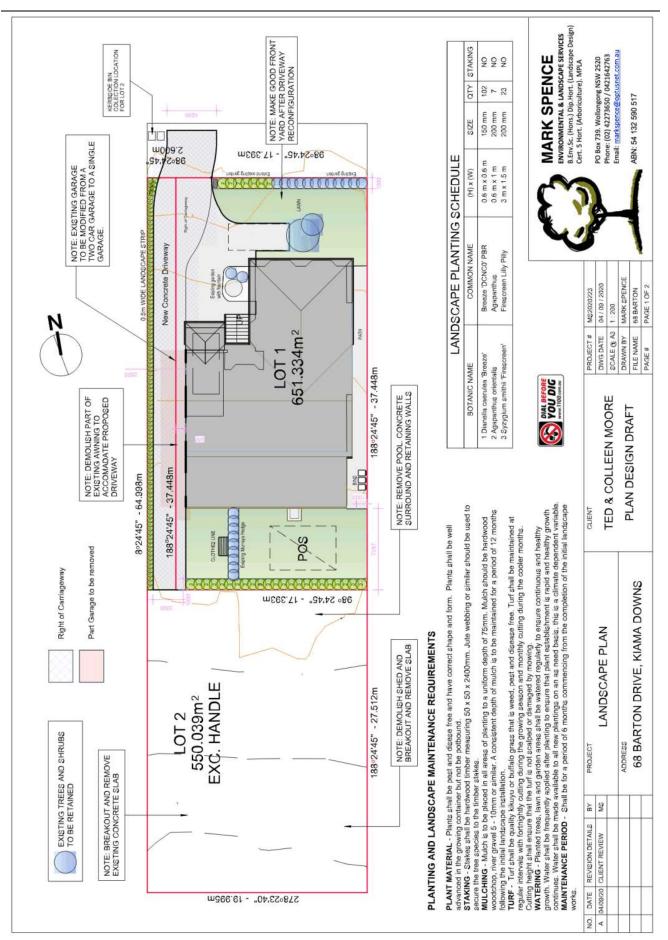
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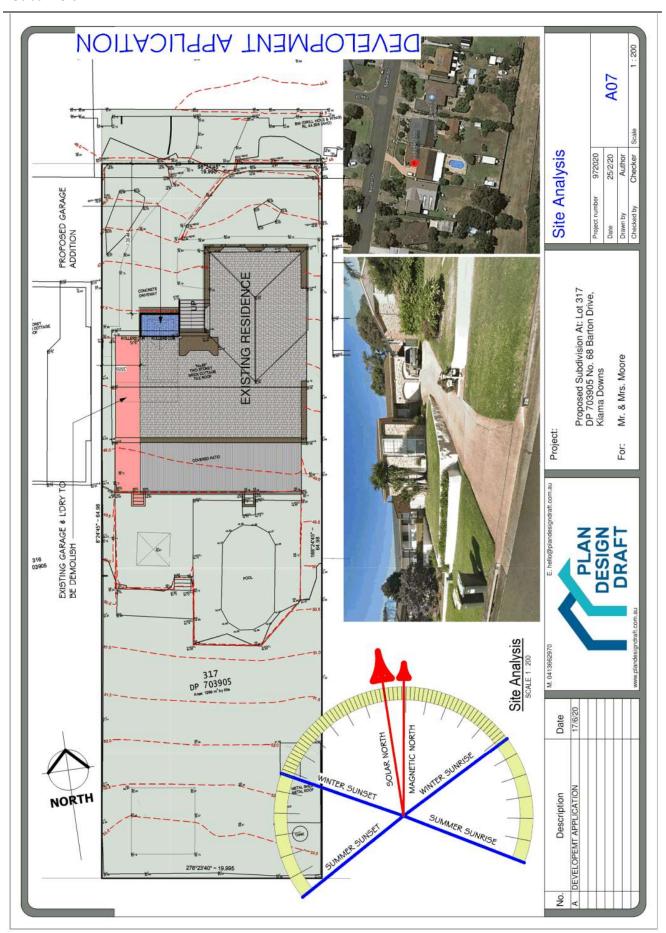
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