



KEMPSEY
Shire Council

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

9th May 2006

DSDS1	PROPOSED DWELLING - POINT PLOMER ROAD
	FILE: T6-05-94 TJN { Folio No. * }

SUMMARY:

Reporting that Council has received an application to erect a dwelling for which an objection has been received. [\(Appendix A\).](#)



Applicant: Bernhard Waschl
Subject Property: Lot 2 DP 749884
 Point Plomer Road, Crescent Head
Zone: 7(d) Scenic Protection

BACKGROUND:

An application was received by Council in early 2005. This proposal was considered a tourist facility, due to its design, scale and nature. The applicant was referred to the Department of Planning to lodge the application because, at that time, the development was considered to be "state significant development" under the provisions of State Environmental Planning Policy 71.

In a letter dated 16th March 2005, the applicant responded seeking advice in order to make sure that the development proceeded in accordance with the current laws and policies.

Due to foreshadowed changes to SEPP 71, a reply was delayed until June 2005, when Council advised the following: -

- That due to changes in SEPP 71 and the implementation of SEPP (Major Projects), the application could be considered as a local development application, and the applicant was invited to lodge the application with Council.
- In considering the application, Council would have regard for the exhibited draft Plomer Road LEP.

- That the proposal in its original form did not appear to meet the zone objectives or comply with the provisions of the Plomer Road LEP.

In July 2005, the applicant formally lodged the application accompanied by a submission regarding scenic protection issues and the Plomer Road LEP.

In August 2005 the applicant was advised that the proposal still represented tourist accommodation and was required to be referred to the Rural Fire Service as integrated development. Additional information regarding site surveys, longitudinal sections of driveways and BASIX requirements were sought.

In January 2006, a meeting was held with the applicant's representative, the result of which was the lodgement of the current amended application in February 2006 which is considered to be a dwelling-house, and not tourist accommodation.

Heads of Consideration

The proposal has been examined having regard for the Heads of Consideration identified under Section 79C(1) of the Environmental Planning and Assessment Act 1979 with the following matters considered to be of particular relevance to the proposal.

State Environmental Planning Policy No 44 – Koala Habitat Protection

The application included an assessment of the habitat that concluded that the vegetation does not meet the criteria for potential Koala habitat as defined under the policy.

State Environmental Planning Policy 71 – Coastal Protection

The site is not a sensitive coastal location as defined by the SEPP meaning referral to the minister is not required. However Council is required to assess the proposal in accordance with the "Matters for Consideration" as outlined within clause 8 [\(Appendix B\)](#).

- a) It is considered that the proposal is consistent with the aims of the policy.
- b) The proposal is situated a substantial distance from any coastal foreshore and will not interfere with any public access to the foreshore.
- c) As the site is not located adjacent to any foreshore there is no requirement to enhance any existing public access.

- d) The suitability of the development is discussed below. See "Visual Impact Assessment" and "Suitability of Development" for a full appraisal of this.
- e) The site is not located adjacent to any coastal foreshore and therefore will not overshadow any public foreshore reserve.
- f) The proposal is not considered to significantly impact on the scenic qualities of the area. See "Visual Impact Assessment" for a full appraisal of this.
- g) A flora and fauna impact assessment has been lodged. See "Flora and Fauna".
- h) There will be no direct impacts on marine ecosystems.
- i) The proposal will have a cumulative impact on wildlife corridors. See "Flora and Fauna".
- j) There are no perceived impacts upon coastal processes.
- k) The site has no foreshore frontage so conflict between land and water based activities will not result from this development.
- l) The site was found to have minimal value as an item of aboriginal archaeological heritage. See "Aboriginal Heritage".
- m) The applicant will be required to treat stormwater to an acceptable level to minimize impacts on coastal water bodies.
- n) The site has minimal archaeological value to both Europeans and Aboriginal people.
- o) No rezoning is proposed.
- p)
 - i. The proposal will lead to cumulative impacts on the environment. These impacts require mitigation measures. See Flora and Fauna below.
 - ii. The proposal Complies with BASIX requirements and is considered to have addressed efficient energy and water usage.

State Environmental Planning Policy – BASIX

A BASIX certificate has been obtained and submitted to Council.

North Coast Regional Environmental Plan 1988

Clause 30 requires Council to consider the objective relating to

Coastal Planning in determining the application (See Assessment of Visual Impacts).

Clause 32B applies to all land affected by the NSW Coastal Policy; the NSW Government Coastal Manual and North Coast Design Guidelines.

Coastal Design Guidelines for New South Wales

The proposal is defined as an isolated coastal dwelling in accordance with section 1.7 of these guidelines. The proposal is considered generally inconsistent with some elements of these guidelines, namely: -

1. Isolated coastal dwellings are to be located and constructed such that vegetation communities are left relatively undisturbed. In its current location, the dwelling will result in vegetation clearing on the block. See "Flora and Fauna" and "Visual Impact Assessment".
2. The guidelines encourage siting of the dwelling to minimize conflicts between native vegetation protection and clearing for bushfire management. See "Flora and Fauna" and "Visual Impact Assessment".
3. Dwellings in sensitive coastal landscapes are required to be designed to minimize visual impacts. This includes constructing a group of smaller buildings in preference to the one larger building. While this has not specifically been adhered to, the proposal will not result in any adverse visual impacts in accordance with the provisions of KLEP 1987. See "Visual Impact Assessment".
4. The bulk, scale and footprint of the dwelling is to be minimized. See "Suitability of Proposal".

The issues raised in these guidelines need to be assessed in conjunction with the provision of Kempsey Local Environmental Plan 1987 to determine the best possible outcome of development at the site.

New South Wales Coastal Management Manual

The proposal is not inconsistent with any guidelines outlined in the manual.

New South Wales Coastal Policy 1997

Subject to Council being satisfied that there will be no adverse affects on the visual amenity of the area, the proposal is generally consistent with the policy. See "Visual Impact Assessment".

Kempsey Local Environmental Plan 1987

The subject lot is zoned 7(d) "Scenic Protection" under Kempsey Local Environmental Plan 1987. The objective of this zone is: -

"To conserve the environmental and scenic quality of visually significant land by controlling development so that it will accord with the appearance of the landscape"

In determining whether or not the proposal is consistent with the zone objectives, Council is also required to consider the requirements of Clause 32 which provides that Council must be satisfied that the proposal: -

- a) Has been designed and sited so as to minimize disturbance to the natural appearance of the land from urban areas, arterial roads and scenic viewpoints.
- b) That the erection of the dwelling will result in as little clearing or lopping as possible.

It is considered that the dwelling has been located to minimise disturbance to the natural appearance of the land, when viewed from any public roads, lookouts and Crescent Head. The location will result in clearing of vegetation that could be reduced by siting the dwelling on already cleared areas of the site. Refer to "Visual Impact Assessment".

Point Plomer Road LEP

A checklist of the proposal against the objectives of Clause 64 (Point Plomer LEP) is below.

Objective	Compliance/Notes
a) To provide for the preservation of natural resources to ensure their availability for the benefit of future generations.	0.74 ha of vegetation will be removed. This can be off set by compensatory planting on site. See "Flora and Fauna"
b) To minimize the negative impacts of all new development.	Although removal of vegetation will negatively impact on the environment; this can be mitigated by requiring compensatory plantings to occur on cleared sections of the lot. See "Flora and Fauna"
c) To protect and enhance the areas natural beauty, low key scale and significant flora and fauna communities and habitat.	The proposed dwelling is of a significant scale, however, it will not have significant scenic impacts.

	See "Suitability of Proposal".
d) To protect and conserve environmentally significant land and land that is of particular natural or aesthetic significance.	While the proposal involves the clearing of land zoned for scenic protection it is considered that there will be no adverse impacts on the visual landscape. See "Assessment of Visual Impacts" and "Suitability of Proposal".
e) To protect areas of native vegetation, with special reference to threatened or regionally significant flora and fauna species, populations and ecological communities.	Areas of native vegetation are to be cleared. The impacts of this are to be weighed up against the potential scenic issues arising by locating the dwelling to minimize vegetation clearing. See "Visual Impact Assessment"
f) To protect, conserve and enhance evidence of cultural heritage, including aboriginal heritage.	Yes See "Aboriginal Heritage".
g) To enhance the character and identity of the South Crescent Head / Point Plomer Road area	The design of the proposal is not in keeping with existing character and size of existing residential development within the area. However, the dwelling would not be visible from Plomer Road, any other public road or lookout. See "Suitability of Proposal"
h) To allow for the protection and appropriate management of relics, trees or places which have identified heritage significance, including potential archaeological sites.	There are no identified heritage items on site.
i) To ensure development satisfies the principles of ecologically sustainable development having regard to environmental, social and economic impacts, intergenerational equity and the precautionary principle.	Proposal involves the removal of vegetation with an established habitat value. See "Flora and Fauna"
j) To ensure existing tourist facilities remain environmentally and economically sustainable.	Not applicable
k) To restrict the number of new	Not applicable

employment generating developments, including tourist facilities, in order to control tourist and traffic numbers and to minimize environmental harm.	
l) To protect existing residential amenity	No significant impact
m) To provide development standards to ensure the number of dwellings and design details for housing is appropriate for the site and surrounding area.	Proposal is not considered to be of a low key scale, however its siting on the lot makes it discrete.
n) To prevent fragmentation of rural land into smaller lots and thus restrict development.	Not applicable as no subdivision is proposed.

In addition to these objectives, Council must also consider the followings: -

Matter for Consideration	
a) The buildings have been designed to respect the low scale and discrete character of the area and shall be below vegetation canopies and ridge lines.	While the proposal is considered large, its siting makes it discrete, being below the vegetation canopy and ridgeline. See "Suitability of Proposal"
b) The proposed use will not generate excessive vehicular traffic.	The proposal will not generate excessive traffic.
c) Adequate landscaping has been incorporated and any significant tree or native vegetation are proposed to be retained including any locally significant koala feed tree species.	The location of the dwelling will result in clearing, some of which has identified habitat value. See "Flora and Fauna" "Visual Impact Assessment"
d) Any proposed vehicular entry has been designed to restrict views of the development.	Yes
e) Whether any significant aboriginal heritage has been identified, adequately protected and managed	No known items of Aboriginal heritage are located on site. See "Aboriginal Heritage"
f) The proposed development is ecologically sustainable in terms of energy efficient design, disposal of effluent and storm water, impacts on local flora fauna and significant habitat and wetlands.	While the proposal could be adjusted to minimize impacts on local flora and fauna, this needs to be balanced against potential scenic issues that this could create. See "Flora and Fauna"

	All other aspects are considered sustainable.
g) The proposed development respects the topography and setting of the site.	Proposal is below the ridge line and tree canopy, thereby reducing visual impacts.

The applicant has made a submission contending that the proposal Yes with the provisions of the clause of KLEP 1987. A copy is attached [\(Appendix C\)](#). See "Suitability of Proposal".

Suitability of Proposal

Council must take into account the suitability of the proposal given the sensitivity of the location. The aims of SEPP 71 and the matters for consideration outlined within Clause 8 of SEPP 71, and Clause 64 of KLEP clearly state that Council as the consent authority must take into account the following: -

1. That the bulk, type, scales and size of the development is appropriate for the location;
2. That the proposal is suitable given its type, location, design and relationship with the surrounding area; and
3. That the proposal is of a discrete and low key scale nature.

The proposal has a development footprint of approximately 700m² comprising of the following: -

Main Dwelling: 360m²

Swimming pool and associated hardstand area: 304m²

Pool House: 40m²

This does not include the proposed observatory, tennis court and pavilion which are located separately from the main development footprint. The overall height of the proposal is about 8m.

While it is evident that the proposal is much larger than many of the dwellings within the Point Plomer Road area, there are a number of factors that make refusal of the application based on its suitability difficult to substantiate: -

1. The location of the dwelling is such that it will not be visible from any scenic vantage points, or public roads. (See "Visual Impact Assessment"). This essentially makes the development "discrete".
2. The issue of bulk, size and scale is only a factor when development is visible from a public.

3. The location of the proposal is considered suitable despite the vegetation clearing required. A dwelling of any size located on the cleared lower slopes would be visible from Point Plomer Road. Vegetation clearing can be off-set by compensatory planting on the already cleared areas.
4. The only part of the development visible from Point Plomer Road is the tennis court and pavilion. These are of a size, that are considered, suitable given the composition of other structures in the area that are immediately visible from the road.

Assessment of Visual Impacts

Council is required to have regard for the visual impacts of the proposal when determining the application. The proposal requires the removal/disturbance of 0.74 hectares of vegetation.

Clause 32(2) of KLEP 1987 states that Council shall not consent to the erection of a building on land within Zone No. 7(d) unless it is satisfied that:

- a) The building has been designed and sited so as to minimize the disturbance to the natural appearance of the land from urban areas, arterial roads and scenic view points; and
- b) That the erection of the building will result in as little clearing or lopping of trees as possible.

The applicant has made a comprehensive submission regarding the visual impacts of this proposal. This shows that the proposal will not be visible from Point Plomer Road or Crescent Head Lookout. There is some concern that the dwelling may be visible from urban areas within Crescent Head. While the proposal and associated clearing will be visible from some urban view points, on Skyline Crescent it is considered that there is insufficient impact to refuse the application on this basis.

The issue of vegetation clearing and scenic impacts should be considered in terms of the requirements of Clause 32 of KLEP 1987 which relates to impacts on scenic quality. Although requiring less clearing, placement of the dwelling on the lower slopes of the land would result in a greater scenic impact (particularly when viewed from Point Plomer Road), than the proposed location. As stated, the currently proposed location of the dwelling would not be visible from any public vantage points due to it being almost completely shielded by vegetation on the lot. If approved in the proposed location, conditions should be placed on the consent requiring replanting of the cleared areas in accordance with a plan submitted prior to release of the Construction Certificate. This should include means to both establish an ecological community similar to that being removed (See

"Flora and Fauna"), and to ensure that the proposal is completely shielded from the road by revegetating the cleared area existing on the lower slope of the lot.

Planning for Bushfire Protection

The Rural Fire Service has provided advice stating that the dwelling should have asset protection zones as follows: -

1. The property around the dwelling on the western side to a distance of 25 metres shall be maintained as an Inner Protection Area.
2. The property around the dwelling to the northern, eastern and southern sides to a distance of 30 metres shall be maintained as an Inner Protection Area and 10 metres shall be maintained as an Outer Protection Area.

All asset protection zones can be accommodated on the lot. Prior to the release of any construction certificate, the applicant should be required to provide an accurate survey indicating the number, heights, location and crown widths of all trees within the identified asset protection zones. Trees are to be removed as selectively as possible to ensure that all trees of habitat value (i.e. hollow bearing) are retained, and to allow for the absolute minimum amount of vegetation clearing to be undertaken in order to meet the requirements of an inner protection zone (i.e. no continuous canopies).

Flora and Fauna

A flora and fauna assessment has been provided with the application. The following threatened species were detected on site: -

- Glossy Black Cockatoo
- Koala
- Little Bent Wing Bat.

With the following species being considered as potentially occurring on site: -

- Grey Headed Flying Fox
- Squirrel Glider
- Brush-tailed Phascogale
- Eastern Freetailed Bat
- Greater Broad Nosed Bat
- Northern Long Eared Bat
- Common Bent Wing Bat
- Little Bent Wing Bat.

Although concluding that the proposal is unlikely to result in any significant impacts on any threatened species a number of recommendations are made to reduce potential impact which should be incorporated in any consent including: -

- Retention of large hollow bearing trees within the outer fire protection area
- Retention of paperbarks along drainage lines
- Locating effluent disposal areas away from drainage lines
- Retention of runoff
- Prohibiting the keeping of dogs over 10kg
- Careful disposal of cleared vegetation

To offset these impacts, a condition should be placed on any consent requiring that compensatory revegetation occurs on the lower slopes of the lot. As mentioned previously, this needs to be undertaken in consultation with an appropriately qualified ecological consultant to ensure that an ecological community similar to that being removed is established. Additionally, within the provided report the consultant has provided a number of recommendations, which are included as recommended conditions of consent.

Aboriginal Heritage

Inspection of the site was undertaken by members of the local Aboriginal Land Council. It was concluded that the site showed very little signs of past aboriginal activity and as such the development is unlikely to disturb any Aboriginal relics.

Consideration of Submissions

The proposal was advertised in accordance with Council's policy with one (1) objection from the Koala Preservation Society of NSW Inc. being received.

Objection	Planning Comment
1 The size of the development is excessive and will result in clearing of most of the remaining eucalypt forest.	1 The proposal will result in clearing of a significant amount of the remaining forest. See "Visual Impact" and "Flora and Fauna".
2 Concerned that the removal of tallowwood trees will effect the local population	2 The flora and fauna report indicates that while the land is not considered core koala

of koala's	habitat, it forms part of koala foraging habitat. Compensatory planting should be required.
3 Reduction in size of development envelope could be considered to reduce vegetation clearing.	3 See Planning comment 1 & 2

Conclusion

During assessment of the application it has been acknowledged that a balance needs to be reached between the zone objectives, clauses 32 and 64 of KLEP 1987 and the potential impacts on flora and fauna within the locality. By placing the dwelling on the cleared lower slopes of the lot, vegetation clearing would be reduced, however it would result in adverse scenic impacts being the prime purpose of the 7(d) zone. The current location of the dwelling means that it is shielded from all scenic and public vantage points. It should also be noted that a dwelling of more modest proportions would require a very similar area of vegetation to be cleared due to the requirements of Planning for Bushfire Protection.

The potential long term effects of flora and fauna disturbances are considered more practical to manage than impacts on the visual environment. For this reason it is recommended that the dwelling be approved in its proposed location, subject to conditions of consent, with specific conditions being placed to require compensatory plantings to occur on the lower slopes of the lot.

REPORT IMPLICATIONS:

- ***Environmental***

The proposal involves the disturbance / removal of at least 0.74 hectares of vegetation. This loss of habitat is to be offset through establishment of vegetation on the cleared lower slopes of the lot.

- ***Social***

There are no adverse social impacts that would arise as a result of this proposal.

- ***Economic (Financial)***

The proposal will bring an economic benefit for the period of construction only.

- ***Policy or Statutory***

The proposal is considered to provide the best balance to be consistent with the aims and objectives of KLEP 1987.

RECOMMENDATION:

That the application be approved subject to the following conditions:

1. The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
2. the pool house and tennis pavilion is not approved for or to be used for human habitation, industrial or commercial purposes. It is to be used ancillary to the dwelling house by people residing on site.
3. This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
4. This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
5. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
6. Two days prior to commencing Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
7. The buildings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
8. before the commencement of site works, demolition or building, the following activities must be completed:
 - (a) Installation of soil erosion and sedimentation control devices.
 - (b) Installation of safety fencing / hoardings between the property and the street
 - (c) Protection barriers for existing trees
 - (d) Installation of builder's toilets

(e) Installation of signage in prominent, visible position including:

- "Unauthorised site entry is prohibited"
- Name and phone number of builder or other responsible person for contact outside working hours.

9. Approval is subject to the condition that the builder or person who does the residential building work Complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that Complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.

10. before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work.

11. All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.

12. Compliance with the Building Code of Australia.

All building work must be carried out in accordance with the requirements of the (BCA).

A construction certificate shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.

13. A Survey Report is to be submitted on completion of the slab to ensure the location of the building is in accordance with the approval issued.

14. Means of implementation of the BASIX certificate are to be submitted prior to release of the construction certificate. Namely how it is proposed to collect all stormwater runoff within the proposed dam.

15. the hours of operation of the construction are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.

16. Building materials are not to be stored within the road reserve or any other public place.
17. Excavated material from the site is not to be placed within the road reserve or any other public place.
18. Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Rural Properties. Applicant is to consult Council's Sustainable Development Services Department for requirements before commencing construction.
19. Engineering details for the driveway are to be submitted and approved prior to release of the Construction Certificate.
20. Submission of a survey showing the location, height, and crown area of all trees within the required asset protection zone (as identified by conditions 26 and 27) for consideration of Council prior to release of the Construction Certificate. Any hollow bearing or potential hollow bearing trees within the area are to be identified by a suitably qualified ecological consultant.

Planning for Bushfire Protection 2001.

21. Construction shall comply with AS 3959 – 1999 level 2 “Construction of Buildings in Bushfire Prone Areas”.
22. The structure shall incorporate gutterless roofing or leafless guttering to prevent the build up of flammable material.
23. Roller doors, tilt-a-doors and the like shall be sealed to prevent entry of embers into the structure.
24. In recognition of the potentially unreliable reticulated water supply in the area a 5,000litre dedicated water supply tank shall be provided. A 65mm store fitting and ball or gate valve shall be installed in the tank.
25. Access shall comply with section 4.3.2 Planning for Bushfire Protection 2001.
26. The property around the dwelling on the western side to a distance of 25metres shall be maintained as an Inner Protection Area (IPA) as outlined within section 4.2.2 in Planning for Bushfire Protection.
27. The property around dwelling on the northern, eastern and southern sides to a distance of 30 metres shall be

maintained as an Inner Protection Area (IPA) and 10metres shall be maintained as an Outer Protection Area (OPA) as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.

28. Prior to issue of the Construction Certificate, an Integrated Property Management Plan (IPMP) shall be submitted, and approved by Council. The IPMP shall be prepared by a suitably qualified consultant, and shall incorporate the recommendations of the following specialists reports submitted with the application:
 - a) EPBC Act 1999 –MNES, Threatened Species Act 1995, SEPP 44 – Koala Habitat Assessments by Darkheart Eco-Consultancy dated January 2004,
 - b) Bushfire Protection Assessment by Conacher Travers dated April 2004.
29. The IPMP shall be certified by each author of the specialist reports as achieving the recommendations contained therein.
30. The IPMP shall, in particular, includes:
 - a) The identification of the need to remove any hollow bearing or potential hollow bearing trees identified by the survey required by Condition 20, in order to achieve the bushfire protection recommendations. Where there is an identified need to remove any of these trees, the IPMP shall incorporate any additional ameliorative measures recommended by Darkheart Eco-Consultancy (or a suitably qualified ecologist).
 - b) The identification of the limit of clearing required to provide the asset protection zone, and ensure that no clearing beyond this occurs.
 - c) Compensatory vegetation planting of the lower cleared section of the site.
 - d) Retention of the paperbark forest along the drainage line including plantings to extend along the drainage line to the eastern boundary of the lot, and shall include the planting of Forest Red Gum.
 - e) Onsite effluent disposal to be designed to be located as far as practical from the drainage line.
 - f) Surface water run-off from the house site and access road to be directed to appropriate silt traps before entering the drainage line.
 - g) Management of disposal of any cleared vegetation from the site to minimise any impacts on retained

vegetation.

31. Implementation of the IPMP prior to the issue of the occupation certificate.
32. The site is to be managed at all times in accordance with the IPMP.
33. Prior to issue of the Occupation Certificate, it will be necessary to create a suitable restricted as to user on the title of the lot
 - a) Prohibiting the keeping of dogs
 - b) Requiring management of the site in accordance with the approval Integrated Property Management Plan.

Such restriction shall nominate Kempsey Shier Council as the sole party to vary or modify and be in a form that binds successive owners.

36. Payment of a cash contribution towards the provision of additional open space in accordance with Council's Section 94 Plan for Outdoor Recreation at the rate of \$410 for dwellings on lots which have not been previously paid in accordance with Council's Section 94 Plan prior to issue of the Construction Certificate.

A copy of Council's Section 94 Contribution Plan may be inspected at Council's offices, corner Elbow and Tozer Streets, West Kempsey.

Advices

37. All contractors engaged in construction works involving the disturbance to subsurface sediments should be advised of their legal requirements with regard to Aboriginal cultural materials. Under the terms of the National Parks and Wildlife Act 1974 it is illegal for any person to knowingly disturb, deface, damage or destruction of an 'Aboriginal object' without first obtaining written consent to do so from the Department of Environment and Conservation. Should any materials thought to be of Aboriginal origin be detected during any stage of construction, work must immediately cease in their locality. Appropriate management advice should then be sought from both the DEC Northern Zone Cultural Heritage Unit at Coffs Harbour and the Kempsey LALC and Dunghutti Elders Council. Work should not resume in the subject locality until formal written clearance has been given by these organizations.

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R B Pitt

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES