



## **DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT**

12<sup>th</sup> September 2006

<b>DSDS11</b>	<b>PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING TWO (2) STOREY DWELLING FILE: T6-06-74 DJW</b>
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### **SUMMARY:**

Reporting that Council has received a Development Application for alterations and additions to an existing two storey dwelling for which objections have been received.

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**Applicant:** Mrs R M Short  
**Subject Property:** Lot 325 DP 7544441 No 2 Dulconghi Street  
Crescent Head  
**Zone:** 2 (a) (Residential "A" Zone)

### **Proposed Development**

The site contains an existing two storey dwelling situated on the eastern side of Dulconghi Street. The front boundary width is 20.1m with a site area of 613.2m<sup>2</sup>. The land is very steep and falls to the north 9.1metres over a distance of approximately 30.5 metres, i.e. a slope of 30%. The slope of the site on footprint of the proposed building work is 28%.

[\(Appendix S\)](#)

The proposal is to build alterations and additions to an existing two storey dwelling on the subject allotment.

### **Heads of Consideration**

The proposal has been examined having regard to the Heads of Consideration identified under Section 79 C (1) of the Environmental Planning and Assessment Act 1979.

### **Kempsey Local Environment Plan 1987(KLEP)**

The proposed may be defined as 'dwelling house' and is permissible with consent in the 2(a) Residential "A" zone under Kempsey Local Environmental Plan 1987.

The proposal is not contrary to any State Environmental Planning or North Coast Regional Environmental Plan.

## Building Height

Building heights within various residential and commercial zones are controlled by Clauses 24 and 25 of Kempsey Local Environmental Plan 1987. In respect to residential zones, buildings are restricted to two (2) storeys with a topmost floor ceiling level of not more than 6.2 metres above natural ground level unless the topography of the site makes it impractical to comply.

Council's Height of Buildings Policy sets out the circumstances under which Council will consider compliance to be impractical. Council's Policy provides that it is impractical to comply with the 6.2 metre height limit where slopes exceed 10% within the footprint of the building provided the ceiling height is not more than 7.2 metres with an overall ridge height of 9.2metres. The proposed ceiling height is 6.5 metres with an overall ridge height of 7.85 metres. (See Protection of Views)

## **DCP Crescent Head - Local Housing Strategy**

The proposal has been assessed under the requirements of DCP Crescent Head. The location of the proposal is contained within a defined low density area for which single dwellings only are permitted.

An assessment of the proposal against the relevant requirements of DCP Crescent Head may be summarised as follows:

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES/NO	COMPLIANCE PERFORMANCE OBJECTIVE
<b>Density Proposed</b>	500m <sup>2</sup>	613.17m <sup>2</sup>	yes	yes
<b>Front Setbacks</b>	5m	3.611 & 6.711m m	<b>no</b> existing primary boundary setbacks	<b>yes*</b>
<b>Side Setback</b>	0.9m, 1.5m & 2m	Southern Side 0.9m to 2.319m Northern Boundary 0.9m to 4.3m	yes  <b>no</b>	yes  yes*

<b>Rear</b>	1.5m	> 1.5m	yes	yes
<b>Car Parking &amp; Access</b>	2 covered spaces and two stacked spaces	2covered spaces & two stacked spaces	yes	yes
<b>Private Open Space</b>	25m <sup>2</sup>	>25m <sup>2</sup>	yes	yes
<b>Safety in Design</b>	Comply with the NSW Department of Planning's document Crime Prevention and the Assessment OF Development Application Guidelines.	Complies with surveillance and access control.	yes	yes
<b>Landscaping</b>	165m <sup>2</sup>	>165m <sup>2</sup>	yes	yes
<b>Height Existing two storey dwelling</b>	7.2m	6.5m Underside of raked ceiling	yes	yes
<b>Solar Access</b>	2hrs Between 9.00am & 3.00pm	>2hrs	yes	yes
<b>Visual Privacy</b>	Minimal loss of Privacy	Minimal loss	yes	yes
<b>Cut and Fill</b>	1.5m	3.7m	yes – see comments on cut and fill together with proposed conditions of approval	yes*
<b>Landscaping</b>	165m <sup>2</sup>	>165m <sup>2</sup>	yes - to be conditioned and provided with the Construction Certificate	yes
<b>Views</b>	Compliance with Planning	Does not meet the	<b>no</b>	<b>no*</b>

	Principles for assessment of view sharing	principles		
<b>Erosion and Sediment Control</b>	Demonstrate control	To be provided with construction Certificate	yes	yes

\* See comment

### Front Setback

The reduced front setback relates to the existing deck and it is proposed to demolish an existing carport which is approximately only 0.3metres from the front boundary, thereby increasing the existing setback.

### Northern Side Setback

It should be noted that the non-compliant setback relates to the existing part of the building. The proposed part of the building exceeds Council's requirements.

### Cut and Fill

The applicant proposes to provide a 3.7m cut and retain the area with battering and an internal retaining wall. DCP Crescent Head provides that a retaining wall height may exceed 1.5 metres if internal or under proposed house.

It is considered that the applicant has demonstrated that compliance will be achieved as: -

1. The cut area will not be visually evident externally when the building is completed.
2. The cut area will not have any adverse impact on the adjoining neighbourhood or street scape.
3. The cut area is to be certified and designed by a Geotechnical Engineer

### Protection of Views

DCP Crescent Head provides principles to be applied to applications to determine the impact of the development on the views enjoyed by adjoining properties

#### Step 1

#### Where views will be affected:

*"Water views are more valuable than land views."*

The proposal will result in a loss of views of the water, foreshore and distant Hat Head foreshore.

## Step 2

### Where are views obtained from?

*"Views across side boundaries cannot be protected by unreasonable requirements."*

*"Views from sitting positions can not be protected by unreasonable requirements."*

The dwelling at No 4 has been designed to take advantage of the primary views to the north across the side boundary.

## Step 3.

### Where is the impact?

*"Views from living areas and kitchens are more important than from bedrooms and service areas."*

The losses of views are from the living and kitchen areas

*"Assess view loss in qualitative terms-*

*The loss would be severe."*

## Step 4.

### Is the proposal reasonable?

*"Does the proposal comply with other controls in this DCP?"*

The proposal complies with other controls in the DCP Crescent Head.

*"If it does comply would a more clever design provide the same development potential and amenity and reduce the impact on views? If not, impact probably considered as capable and view sharing reasonable"*

An amended design would provide the same development potential and amenity and reduce the impact on the views. It is considered that the roof and chimney located over the proposed living room should be reduced from a maximum ridge height of RL 46.83mAHD to 45.35mAHD.(i.e. a reduction of 1.48 metres) It should be noted that this can readily be achieved by reducing the roof pitch and floor to ceiling heights.

## Applicant's Submission

The applicants Consultants have provided a supporting report and justification letter in favour of the variations. [\(Appendix T, part 1, part 2, part 3, part 4, part 5\)](#)

## Bush Fire Prone Area

The application was referred to the NSW Rural Fire Services for consideration. The NSW Rural Fire Services assessed the proposed additions/alterations to the dwelling as requiring Level 3 Construction complying with AS 3959-1999 and provided advice that the development should have additional conditions. The conditions have been incorporated into the recommended development consent.

## State Environmental Planning Policy 71 – Coastal Protection

The subject lot falls within the coastal zone as defined by SEPP 71, however the site is not classified as a sensitive coastal location. Council is required to have regard for the matters as set out by Clause 8.

(Appendix U)

- a. The proposal is not considered contrary to the aims and objectives as set out in clause 2 of the SEPP.
- b. The proposal is located 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. See comments in body of the report on suitability of the development in the locality.
- e. The site is not located adjacent to any coastal foreshore and therefore will not overshadow any public foreshore reserve.
- f. The surrounding area is predominately urban. The development will not detract from the scenic qualities of the New South Wales Coast line.
- g. The site will require minimal clearing therefore having minimal impact upon threatened species of flora and fauna.
- h. There will be no direct impacts on marine ecosystems.
- i. The lot is situated within an existing subdivision. There will be no impact upon any wildlife corridor.
- j. There is no perceived impacts upon coastal process
- k. The site has no foreshore frontage so conflict between land and water based activities will not result from this development
- l. Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of aboriginals have been considered.
- m. The applicant is required to treat storm water on site to an acceptable level to minimise impacts on coastal water bodies.
- n. There are no issues related to the conservation and preservation of items of heritage, archaeological or historic significant

## **NSW Coastal Policy 1997**

The design and locational principles as set out in Strategic Action 3.2.7 table 3 of NSW Coastal Policy have been incorporated in DCP Crescent Head. The proposal is considered to be consistent with the principal which seeks to ensure that buildings are consistent with the height and scale of existing development.

## Section 79C (1) (e) - ADVERTISING

The proposal was advertised in accordance with Council's Policy with four (4) objections received. The grounds for objections may be summarised as follows: - [\(Appendix V, part 1, part 2\)](#)

Objection	Planning Comment
1 There is insufficient information to undertake a full assessment of the proposal.	1 The additional information requested by Council from the applicant was submitted to objector's consultant and is considered to provide sufficient information to determine the impacts of the development.
2 The proposal is for the construction of a new dwelling rather than alterations and additions and should be assessed as such.	2 It is considered that the work comprises alterations and additions to an existing dwelling, however, the entire development has been assessed against DCP Crescent Head
3 The proposal does not comply with the height limit under DCP Crescent Head. A SEPP 1 Objection should have been provided.	3 See "Building Height". It is considered that a SEPP 1 Objection to the 6.2 metre height standard is not required as the applicant has demonstrated that it is impractical to comply due to the topography of the site as set down in Council's Height of Buildings Policy.
4 The proposal will result in significant loss of views from the dwelling at 4 Dulconghi Street.	4 See "Protection of Views"
5 Visual impact from adjoining dwelling	5 The proposed alterations and additions southern elevations have been designed to have minimum privacy impact by designing minimal window openings and nil private open space areas on that side. The

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| 6 | The proposal will have a significant adverse visual impact when viewed from public vantage points in the surrounding locality.  | 6 | southern elevation ceiling heights measures from the natural ground level are 3 metres and less therefore providing minimal bulk impact. Council required plans of landscaping locations in the initial stages. Detailed landscaping plans are to be submitted with the Construction Certificate and provided to the satisfaction of council.  |
| 6 | The surrounding area is predominately urban of very similar scale and, as such, it will not detract from the scenic qualities of the New South Wales coast line. There is also vegetation within the Road Reserve that will provide some screening of the building. | 7 | The Privacy Act prevents Council from providing floor plans and sections. A4 size plans were submitted to adjoining owners which comply with Clause 56 of the Environment Planning and Assessment Regulation 2000 and indicate the height and external configuration of the building.  |
| 7 | Plans provided by Council had no floor plans, no sections, not original scale of submitted plans.   | 8 | Applicant has provided streetscape and site plan analysis with landscaping locations.  |
| 8 | There is no site plan analysis or landscaping plan.   | 9 | When viewed from the village centre and public reserves, the building would be below the ridgeline. However, as in the case of other existing dwellings in Dulconghi Street, the building would protrude above the ridgeline when viewed from elevated properties towards the north as the land falls away towards the reserve. The recommended amendments to the roof structure would reduce impacts. |
| 9 | Would the roof line come above the ridge line?  |   |  |

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| 10 | Rear setback of 3m is required however, I believe 5m is required at the rear of the reserve.                                | 10 | 1.5m permitted for two storey development at this location with compensatory area required to achieve an average of 3.0 metres which has been met. The land is not within the Special Rear Setback Area identified under DCP Crescent Head. |
| 11 | Side boundary needs to 3m   | 11 | 1.5m permitted for two storey development at this location with compensatory area required to achieve an average of 3.0 metres which has been met Northern boundary setbacks previously approved by council. (See "Northern Side Setbacks") |
| 12 | There is no shadow diagram.   | 12 | A shadow diagram was provided that indicates Compliance with DCP Crescent Head requirements.  |
| 13 | Visual Privacy would be impaired as proposal looms over landscape northern neighbours private open space would be violated. | 13 | There are no neighbours on the northern side only a reserve. See Point 5.   |
| 14 | With steep driveway is storm water disposal addressed.  | 14 | Engineer's details should be requested in conditions of consent.  |
| 15 | The proposal will impinge on the neighbours views.  | 15 | See" Protection of Views"   |
| 16 | Density is unacceptable.  | 16 | Density complies with DCP Crescent Head.  |
| 17 | Is there provision for two car parking spaces?  | 17 | Four car parking spaces are proposed.   |
| 18 | There is a lot of glass will this create glare?   | 18 | The amount of glass is consistent with other dwellings located in the area.   |

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| 19 | Development will create an excessive increase in people density.                                | 19 | Density complies with DCP Crescent Head.   |
| 20 | We believe a previous development was refused.  | 20 | An application for a whale watching tower to be located on the rear south east corner was previously refused and is not relevant to Council's consideration of the merits of the current application.                |
| 21 | Could the proposal be easily used for separate living quarters or commercial bed and breakfast. | 21 | The building is not designed to be readily adapted for more than one dwelling which would require separate consent. The building would lend itself to being used as a B&B which would also require separate consent. |
| 22 | Excessive building mass.  | 22 | The building complies with DCP Crescent Head and is similar in scale to other buildings in the area.   |
| 23 | Restricts view lines.   | 23 | See "Protection of Views"  |
| 24 | Restricts solar access.   | 24 | Shadow diagrams indicate compliance with DCP Crescent Head.  |
| 25 | Uses off site area.   | 25 | Agreed. The steps to the north of the new terrace should be relocated to the rear to prevent direct access to the Reserve. Fencing required to meet RFS recommendations would also prevent direct access.            |
| 26 | Setback encroachment of deck.   | 26 | See "Northern Side Setback"  |
| 27 | Exceeds Cut and Fill requirements.  | 27 | Complies with DCP Crescent Head. See "Cut and Fill".   |

28	Erosion and Sediment Control required	28	Erosion and Sediment Control plans are to be provided with the Construction Certificate
29	Site coverage is excessive.	29	Site coverage complies with DCP Crescent Head.

### ***Report Implications:***

- ***Environmental***

***From the information supplied to council, it is not anticipated that there will be any adverse environmental impacts from the proposed new alterations and additions to the existing dwelling.***

- ***Social***

***That for the period of construction, the development will provide employment for local tradespeople and others employed in the building.***

- ***Economic (Financial)***

***The proposal is considered to provide an economic benefit only for the period of construction***

- ***Policy or Statutory***

***The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, Kempsey Local Environmental Plan 1987 and Development Control Plan Crescent Head***

### **RECOMMENDATION:**

**A. That the applicant be requested to submit amended plans providing for:**

- 1. Reduction in the roof ridge height located over the proposed living room to a maximum height of RL 45.35 AHD.**
- 2. Relocation of the staircase away from the northern side boundary to the rear of the terrace.**

**B. That the applicant be advised that unless the requested plans or written advice to submit such plans is received within thirty (30) days of the date of notice being given, that the application will be refused for the following reason:**

- The proposal is contrary to Council's Development Control Plan Crescent Head – Local Housing Strategy as the proposal would result in an unacceptable and avoidable loss of views from the adjoining dwelling.
- C. Upon submission of the amended plans incorporating the requested amendments, that Development Application T6-06-74 be approved subject to the following conditions.:
1. Details are to be submitted for approval for the disposal of the excavated material prior to the release of the Construction Certificate.
  2. A schedule of finishes for the low tone non reflective finishes of the proposed buildings external façade including the fence shall be submitted with the Construction Certificate.
  3. Details of erosion control are to be submitted, approved and to be installed prior to commencing on site works.
  4. The cut excavation is not to exceed 3.7metres in depth.
  5. The Design Engineer is to supervise the excavation works.
  6. 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.
  7. 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.
  8. Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
  9. The dwelling is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.

10. An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.
11. 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.
12. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.

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.

13. 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.
14. 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.
15. A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.
16. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Your attention is drawn to the following requirements of the Building Code of Australia.

- a) Structural Engineer's Details for retaining walls, reinforced concrete slab and structural steel work is to be submitted prior to the issue of the construction certificate
  - b) Geotechnical Engineer's report shall be submitted to council for the excavation prior to issue of the construction certificate
  - c) Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
  - d) That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.
  - e) The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.
  - f) Should the veranda, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the veranda, patio or landing and steps for safety and convenience. Such balustrade to conform with the requirements of
- (1) Part 3.9.1. and 3.9.2 of BCA Housing Provisions of the Building Code of Australia.

Note: Spacing of rails not to exceed 125mm.

- g) Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:

Riser (R)		Going (G)		Quantity (2R + G)	
max	min	max	min	max	min
190	115	355	240	700	550

Note: Any openings between treads not to exceed 125mm.

- h) Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.

- i) Details of wall bracing to be carried out in accordance with Australian Standard 1684-1999 are to be submitted to Council prior to commencement of work.

- j) Kitchen exhaust fans are to be ducted externally of the building or a recirculation hood type be provided.

- k) Class 1(a) and 1(b) Buildings

An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.

The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.

- l) All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.

- m) The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.

- n) Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
  - o) Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - p) Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 17 The dwelling shall be constructed to include all the energy efficiency requirements contained within the single residence scorecard.
- 18 The hours of operation of the activity 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.
- 19 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Urban Properties. Applicant is to consult Mr Tony Castle of Council's Environmental Services Department for requirements before commencing construction.
- 20 Roof waters are to be directed by means of sealed pipes to the street gutter. Details are to be provided with the plans for the required Construction Certificate.
- 21 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
- a) diversion of uncontaminated up site runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.
  - b) sediment control fences at the down slope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.
  - c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

Protection of any kerb inlet pit located downstream of the site in accordance with

## Council's Engineering Guidelines for subdivision and development (drawing No SW20).

### Note:

- i) Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.
  - ii) Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.
22. Survey Certificate is to be submitted upon completion of the roof framing to ensure that the ridge height is at or below RL 45.33 metres A.H.D. above the kitchen area
  23. A survey certificate prepared by a registered surveyor being submitted to Council to verify the siting of the building in relation to adjacent boundaries, and work is not to proceed beyond that stage until a written release has been given by Council. The survey is to be submitted at completion of floor slab formwork before concrete is poured.
  24. Submit engineering details of the pre- treatment storm water disposal system prior to issue of the Construction Certificate
  25. Submission of a detailed landscaping plan providing for the establishment of suitable species endemic to the area, including the number and species of plants to be planted and the means of establishing the landscaping beds prior to release of the Construction Certificate.
  26. Construction shall comply with AS3959-1999 level 3 'Construction of Buildings in bushfire prone areas'. Details to be provided with the Construction Certificate.
  27. Roller doors, tilt-a-door and the like shall be sealed to prevent the entry of embers into the structure.
  28. The entire property shall be managed as an 'Inner Protection Area' as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001.
  29. Access to the rear of the property shall be provide for fire fighting purposes.

30. All fencing shall be constructed from non-combustible materials.
31. All glazing towards the bushfire hazard on the northern and eastern sides of the proposed structure shall be fire rated glass.
32. There is to be no exposed timber on the northern and eastern sides of the proposed structure.
33. A 1.8metre high radiant heat shield made of non-combustible materials shall be constructed along the full length of the northern and eastern boundaries adjacent to the hazard. A pedestrian access gate is to be along this boundary. Where steel cladding material is used; all posts and rails will be constructed from steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth. Details to be provided with Construction Certificate.
34. The applicant is to nominate the haulage route for disposal of overburden, including where it is proposed to place the material and submit details to council prior to release of the Construction Certificate.

A. That the objectors be advised of Councils decision.

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**R B Pitt**  
**DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES**