

## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

13 June 2006

<b>DSDS1</b>	<b>PROPOSED DEVELOPMENT OF 6 RESIDENTIAL UNITS - 35 MCINTYRE STREET, SOUTH WEST ROCKS FILE: T6-06-98 GGL</b>
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### SUMMARY:

Reporting that Council has received amended plans for a proposed development previously considered at Council's meeting of 9<sup>th</sup> May 2006 ([Appendix A, part 1, part 2, part 3](#))



**Applicant:** Alan Rudge Architects  
**Subject Property:** Lot 296 DP 754396 No 35 McIntyre Street,  
South West Rocks  
**Zone:** 2 (c) (Residential "C" Zone)

### Background:

At its meeting of 9<sup>th</sup> May 2006 Council resolved: -

- "A. *That the applicant be invited to submit amended plans providing for: -*
- a) *a reduction in height to comply with Councils Height of Buildings Policy*
  - b) *increased setback of the eastern and rear boundaries to comply with DCP22*
  - c) *redesign to provide for any fence on the boundary to not exceed 1.8metres in height*
  - d) *demonstration that solar access for adjoining dwellings is reasonably maintained*
  - e) *satisfactory design to provide visual privacy between the development and adjoining residences to the east.*
- B. *That if amended plan or written notice of the applicants intention to submit amended plans, is not received within 30 days of the applicant being notified of Council decision that the application be refused for the following reasons: -*
- a) *The building does not comply with clause 24 of Kempsey LEP1987 as the applicant has failed to demonstrate that*

- compliance is impractical due to the topography of the site as specified in Council's Height of Building Policy*
- b) The objection under SEPP1 fails to demonstrate that the standard is unreasonable in the circumstances*
  - c) The development does not comply with the side setbacks contained in DCP22*
  - d) The development would impact on the solar access for the dwellings in the adjoining land*
  - e) The development would result in significant overlooking of adjoining residential living areas*
  - f) Approval of the development would set an undesirable precedent for similar proposal in the locality and the Shire."*

Amended plans have been submitted for Council's consideration.

## **Description of Amended Plans**

- a) **Height**

The previous plans incorporated external parapet walls with raking ceilings. The building contained three separate ceilings with heights (measured at the wall plate at the bottom of the rake) of 6.9m, 7.5m and 6.2m. At the top of the rake, heights were 6.9m, 7.5m and 6.5m.

The amended plans incorporate a pitched roof on the eastern elevation so that the ceiling height of the external wall is reduced. The resultant ceiling heights range from 5.9m to 7.2m. The overall building height does not exceed range from 8.2m at any point.
- b) **Setbacks**

The amended plans provide for increased setback to the eastern and southern boundaries, with reductions in the floor area of the top floor levels of the development. The development now complies with the DCP requirements for setbacks.
- c) **Fences**

The pool fence on the southern (rear) boundary has been setback 1m and complies. The pool fence on the eastern boundary has a height which grades from 1.5m up to 2.2m due to the fall of the ground. The top 0.8m of the wall is to be constructed of glass bricks and is considered acceptable.
- d) **Solar Access**

The reduction in wall heights and increased setbacks to the eastern boundary has reduced the overshadowing of the neighbouring balcony to less than 2 hours which is considered reasonable in the circumstances

- e) Visual Privacy  
The amended plans delete 2 ground level balconies and provide privacy screens adjacent ground floor window. This adequately addresses the privacy issues.

## **Matters for consideration**

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

### **Kempsey LEP 1987**

The proposed development is defined as a "residential flat building" under KLEP 1987 and is permissible with Council's consent under the 2(a) (Residential "C" Zone).

Clause 24 provides that Council shall not grant consent to a building which contains more than two storeys', or having a topmost floor with a ceiling level of more than 6.2metres above natural ground level. The development does not comply and consequently requires an objection pursuant to State Environmental Planning Policy No 1 – Development Standards. (see Building Height)

### **Environmental Planning Policy No 6 – Number of storeys**

Pursuant to State Environmental Planning Policy No 6 - Number of Storeys in a Building, the building is defined as a three storey building as the proposed underground car park and ancillary storage area would be a "storey" under the Policy.

### **State Environmental Planning Policy No 1**

The applicant seeks council's agreement to the use of SEPP 1 to vary the 2 storey building height limit and the 6.2metre top ceiling level.

In considering a SEPP1 objection, Council must consider:

- A. What is the underlying objective of the standard?  
The two storey and 6.2metre height limits are considered to have the following objectives:
- i) Maintain exciting low rise character
  - ii) Limit overshadowing
  - iii) Protect privacy between development
  - iv) Limit impact on views from adjoining properties

The development presents as a 2-storey building to McIntyre Street. Due to the fall of the site and the basement level protruding 2.1metres above natural ground level, the Orara

Street frontage appears as an elevated 2 storey building. In this respect the development is consistent with the underlying objectives of the standard.

The topmost ceiling level at its highest point is 7.2metres above natural ground level which occurs in the centre to the rear of the proposal which is not visible from the McIntyre Street frontage. The design is considered to satisfy the objectives in relation to overshadowing privacy and impact on views.

- B. Is compliance with the standard unreasonable or unnecessary in the circumstances?

In relation to the two storey limit it is only the basement carpark that causes the development to be non compliant. The car park is primarily below natural ground level and if the height of the building otherwise complies, it is reasonable to allow the development.

In relation to the 6.2metre height limit as the development is considered to achieve the objectives in relation to low rise character, overshadowing privacy and impact on views it is considered reasonable to support the SEPP1 objection.

- C. Will compliance with the standard tend to hinder the attainment of the objects of the Act?

The objects of the Act include matters such as encouraging proper management and development of towns and villages for promoting the social and economic welfare of the community, promotion and coordination of the orderly and economic use and development of land.

The applicant argues that the design provides a lower density than the previous approval (6 rather than 7 dwellings), dwellings with high amenity having outlook over the communal area containing swimming pool and barbecue area, and that the height exceedance does not result in overshadowing or overlooking, and the building is consistent with other buildings in McIntyre Street.

The development is considered to provide a residential development with high amenity value. Strict compliance with the standard would likely require a further reduction in density or decreased amenity, or rear access to the basement carpark which would impact on adjoining development in Orara Street.

- D. Is the objection well founded?

In the circumstances the objection is considered to be well founded.

## **State Environmental Planning Policy 71 – Coastal Protection**

The proposed development is identified as being within the Coastal Zone. Council is required to consider Clause 8 matters in the SEPP, as outlined below:

- (a) The aims of the Policy set out in Clause 2.

*The proposal is generally consistent with the aims of the policy.*

- (b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.

*No impact on public access to coastal foreshore.*

- (c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.

*No opportunities to provide access as part of this application.*

- (d) The suitability of development given its type, location and design and its relationship with the surrounding area.

*The development has good merit in terms of type and location, design issues and its relationship with the surrounding area. See "Height" below.*

- (e) Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore.

*No overshadowing of coastal foreshore.*

- (f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

*The proposal will not impact on the scenic qualities of the NSW coast.*

- (g) Measures to conserve animals (within the meaning of Threatened Species Conservation Act 1995) and plants (within the meaning of the Act), and their habitats,

*No significant native vegetation exists onsite as it replaces an existing residential dwelling.*

- (h) Measures to conserve fish (within the meaning of Part 7A of the *Fisheries Management Act 1994*) and marine vegetation (within the meaning of that Part), and their habitats,

*No significant impacts. Stormwater from the site requires appropriate treatment.*

- (i) Existing wildlife corridors and the impact of development on these corridors,

*No significant impact.*

- (j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

*No significant impact.*

- (k) Measures to reduce the potential for conflict between land-based and water-based coastal activities,

*No conflict anticipated.*

- (l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aborigines,

*No known cultural places will be impacted.*

- (m) Likely impacts of development on the water quality of coastal water bodies,

*Provision needs to be made for treating stormwater. See below.*

- (n) The conservation and preservation of items of heritage, archaeological or historic significance,

*No known items of significance.*

- (o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

*Not relevant to application.*

- (p) Only in cases in which development application in relation to proposed development is determined:

- (i) *The cumulative impacts of the proposed development on the environment.*

*No significant cumulative impacts are anticipated.*

- (ii) *Measures to ensure that water and energy usage by the proposed development is efficient.*

*The development will comply with BASIX.*

Clause 16 of State Environmental Planning Policy 71 – Coastal Protection requires that the consent authority must consider stormwater disposal from the site and must not grant consent to a development application if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.

Consent will be conditioned upon the provision of stormwater harvesting and re-use on-site.

## **SEPP 65 Considerations**

The development application required to be considered under the provision of SEPP 6 as there are 3 or more storeys are proposed with the below ground car parking to protrude more than 1.2metres above ground level and more than 4 units are proposed.

<b>Matter for Consideration</b>	<b>Comment</b>
<b>Principle 1: Context</b>	The architectural design of the proposal will complement the amenity of the adjoining built environment and future developments in its surroundings.
<b>Principle 2: Scale</b>	See comments under height
<b>Principle 3: Built Form</b>	The building design provides sound internal amenity, is well proportioned and will contribute to the streetscape.
<b>Principle 4: Density</b>	The proposed density is considered appropriate and complies with DCP 22. It responds well to the existing medium to high-density area.
<b>Principle 5: Resource, Energy and Water Efficiency</b>	The development is in compliance with BASIX and designed for optimum use of passive and active solar design principles.
<b>Principle 6: Landscape</b>	The landscaping provided will reflect endemic species native to the Mid North Coast. Neighbour's amenity has been reasonably

	protected.
<b>Principle 7: Amenity</b>	The proposal has a northerly aspect with good sunlight, natural light with prevailing winds.
<b>Principle 8: Safety and Security</b>	All proposed units have balconies and decks that provide a high level of natural surveillance to public domain and internal pathways. The basement parking will be secure.
<b>Principle 9: Social Dimensions</b>	The proposed units will suit a socio-economic mix. The majority of purchasers are expected to be owner/occupiers and investors.
<b>Principle 10: Aesthetics</b>	The proposed building is considered to be aesthetically acceptable, with its breezy Mediterranean design elements of rendered colour finishes, height, detailing and voids, balconies and recreation areas.

### Development Control Plan (DCP) No. 22 – Local Housing Strategy (Urban Areas – 2003)

The proposal has been assessed in accordance with the provisions of DCP 22: -

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES/NO	COMPLIANCE PERFORMANCE OBJECTIVE
<b>Density</b>	780m <sup>2</sup>	1010m <sup>2</sup>	Yes	Yes
<b>Eastern Elevation Setbacks Level 1</b>				
- front	5m with 1.5m encroachment	5 m	Yes	Yes
- side	900 mm – 1.8 m average	900mm -1.8m Average	Yes	Yes
- rear	900 mm – 1.8 m average	3m	Yes	Yes
<b>Eastern Elevation Setbacks Level 2 Floor</b>				
- front	5m with 1.5m	5m	Yes	Yes

	encroachment			
<b>- side</b>	1.5 Minimum with average 3.9m	1.5m min average above 3.9m	Yes	Yes
<b>- rear</b>	1.5m Minimum with average of 3.9m	3m min average above 3.9m	Yes	Yes
<b>Carparking</b>				
<b>-Resident</b>	6 covered spaces	11 covered spaces	Yes	Yes
<b>-visitor</b>	2 visitor spaces		Yes	Yes
<b>-AS2890.1</b>	Compliance with standard	Access difficulties	Yes	Yes
<b>Private open space</b>				
Unit 1	25m <sup>2</sup> , 4m by 4m	32m <sup>2</sup> , 4m by 4m	Yes	Yes
Unit 2	25m <sup>2</sup> , 4m by 4m	28m <sup>2</sup> , 4m by 4m	Yes	Yes
Unit 3	15m <sup>2</sup> , > 2m in width for 80% of its area	25m <sup>2</sup> , > 2m in width for 80% of its area	Yes	Yes
Unit 4	15m <sup>2</sup> , > 2m in width for 80% of its area	25m <sup>2</sup> , > 2m in width for 80% of its area	Yes	Yes
Unit 5	15m <sup>2</sup> , > 2m in width for 80% of its area	25m <sup>2</sup> , > 2m in width for 80% of its area	Yes	Yes
Unit 6	15m <sup>2</sup> , > 2m in width for 80% of its area	25m <sup>2</sup> , > 2m in width for 80% of its area	Yes	Yes
<b>Land-</b>	330m <sup>2</sup>	332m <sup>2</sup>	Yes	Yes

<b>scaping</b>				
<b>Height</b>	6.2m to top plate with 1.7m for rake ceilings	Up to 7.2m to top plate with rake ceiling not exceeding 7.5m	<b>*No</b>	Yes
<b>Solar access</b>	No part of adjoining residential building to be overshadowed for more than 2 hours before 9am and 3pm	Overshadow adjoining residential building less than 2 hours before 9am and 3pm	Yes	Yes
<b>Privacy</b>	Avoid overlooking into adjoining private areas	No significant overlooking of adjoining properties	Yes	Yes
<b>Cut and fill</b>	1.5m	700mm to 2.5m	<b>*No</b>	Yes

\* = see Planning Comment

## Building Height

Clause 24(2) of KLEP 1987 provides that the 6.2metre height limit does not operate to prohibit Council from consenting to the erection of a 2 storey building on land where, because of the local topography it is impracticable to erect a 2 storey building on the land in compliance with the 6.2metre limit.

Council's Height of Buildings Policy provides guidance on when local topography is considered to render compliance with the 6.2m height limit as impractical. In general terms, the guideline is where the slope within the building footprint exceeds 10%. In the subject application, the average slope is about 7%. However, there are some steeper parts of the site, where the localised slope is up to 11%.

For sites with a slope less than 10%, the following provisions of the Policy apply:

- (i) For the purposes of establishing the 6.2metre ceiling height limit, the ceiling level of the building shall be taken at the external top plate of the building to the natural ground level.

- (ii) Where a garden, terrace or deck is covered by a roof where no top plate is proposed, the ceiling height shall be taken as the prolongation of the top plate within the room immediately adjoining.
- (iii) The maximum rise to the top of the roof from the external top plate shall be not greater than 2metres."

For sites with a slope of more than 10%, the following provisions apply:

- (ii) The external top plate of the building is not greater than 7.2metres above the natural ground level; and
- (iii) A maximum of 2.1metres measured from natural ground to finish ground floor level of the proposed building; and
- (iv) The maximum rise to the top of the roof from the external top plate shall be not greater than 2metres.

The design of the building incorporates 3 separate ceiling levels as the development steps down the slope from the McIntyre St frontage.

The proposed external top plate exceeds the 6.2m height limit in 2 places, being the middle and rear building ceiling levels. The maximum height in these 2 locations is 7.2m and 6.7m. The localised slope in these locations of the site is 9% and 11%. [\(Appendix B\)](#)

The overall height of the building does not exceed 8.2m

The maximum height of the ground floor level above natural ground level is 2.1m.

The proposal complies with the overall height limit of 8.2m that applies to buildings on slopes of less than 10%. The building complies with the ceiling height limit for slopes of less than 10% except for 2 locations where the localized slope is 9% and 11%. The proposal would comply with the Policy in respect to the requirements for slopes greater than 10%.

In the circumstances, and in consideration that the development otherwise complies in all respects of DCP 22, it is considered reasonable to approve the proposal.

## **Public Exhibition**

The initial proposal was advertised in accordance with Council's Advertising Policy with four (4) submissions having been received, one being confidential. No additional submissions have been received [\(Appendix C. part 1, part 2\)](#). The submissions can be summarised as follows: -

Objection	Planning Comment
1 Does the development have provisions for off street parking.	1 The proposed development Complies with the Council's car parking code.
2 Objector has sentimental value to property does not wish the property to be redeveloped.	2 Development Consent T6-05-23 was granted 17 July 2005 for the demolition of the property and is not part of this application.
3 The proposed development will deprive my unit of sun, light, breeze and privacy. No overshadow diagram was not available at Council.	3 The amended plans reduce overshadowing of the neighbouring balcony to less than 2 hours.
4 The proposed swimming pool located at the rear of the proposal should have restricted hours of use between 8.00am and 10.00pm.	4 A condition is to be imposed to restrict the pool use between the hours of 8.00am and 10.00pm.

## Applicant's Submission

The applicant has submitted amended plans to comply with Council's resolution. The impacts to the adjoining residential property have been significantly reduced by decreasing the wall heights and by providing the minimum average setbacks with compensatory areas to the second storey on the eastern elevation. Whilst there is a small encroachment to the 6.2m top plate heights, there is an equal amount under the 6.2m requirement and the proposal complies with overall height of 8.2metres. By reducing the wall heights and increasing the second storey setbacks, overshadowing is minimised with the adjoining premises receiving from overshadowing from 2 p.m. which complies as 3 hours of sunlight is achieved between 9am to 3p.m. The applicant has also deleted the proposed balconies on the eastern elevation without comprising the private open space requirement and a reduced the boundary fence height to 1.8metres, which will improve privacy and visual amenity between the two buildings. Additionally, the proposal complies with the performance objectives as outlined in DCP 22.

### **REPORT IMPLICATIONS:**

- **Environmental**

*The proposal does not require the removal of any substantial or significant vegetation and no impacts from the built environment are anticipated.*

- *Social*

*The proposal will provide additional housing in South West Rocks.*

- *Economic (Financial)*

*No significant economic impact anticipated*

- *Policy or Statutory*

*The application has been assessed under Section 79(c) of the Environmental Planning & Assessment Act 1979.*

## **RECOMMENDATION:**

**A That consent be granted 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. 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.**
- 3. The application for the Construction Certificate shall be accompanied by a survey prepared by a registered surveyor identifying the natural ground level at the critical locations of the external wall and demonstrate that the uppermost ceiling height measured at the bottom of the rake on the external walls does not exceed 7.2m above natural ground level and that the overall height of the building does not exceed 8.2m above natural ground level.**
- 4. Prior to pouring of any of the floor slabs, submission of a surveyors report certifying that the floor levels are at of no higher than the floor level shown on t approved plans.**
- 5. Submission of a surveyors report upon completion of the building certifying the height complies with condition 3.**

6. 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.
7. Two days prior to commencing work 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.
8. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
9. The six residential units are not to be occupied prior to the issue of a Final Occupation Certificate by Council.

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.

10. Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
  - a) Installing a temporary structure on land.
  - b) Carrying out water supply work.
  - c) Installing, altering, disconnecting or removing a meter connected to a service pipe.
  - d) Carrying out sewerage work.
  - e) Carrying out stormwater drainage work.
  - f) Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.
  - g) Disposing of waste into a sewer of the Council.
11. Before the commencement of site works, 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.
12. 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.
13. If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the excavation shall:
- a) preserve and protect such building from damage; and
  - b) if necessary, underpin and support the building in an approved manner.
- Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).
- 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.
14. Access to the site for deliveries is to be confined to between 7.00 am and 5.00 pm daily. In this regard, a sign clearly indicating same is to be displayed at the entry to the development. Details, including location of signage, are to be provided with the plans for the required Construction Certificate.
15. The hours of construction are to be confined to 7.00 am to 5.00 pm, Mondays to Fridays, and 7.00 am to 12 noon, Saturdays.
16. Use of the pools is to be restricted to 8am to 10pm and a sign is to be displayed at the entrance to each pool to this effect.

17. All loading and unloading in connection with the use of the subject premises shall be carried out wholly within the subject property.
18. Building materials are not to be stored within the road reserve or any other public place.
19. Excavated material from the site is not to be placed within the road reserve or any other public place.
20. Vehicular access from the street to the property boundary is to be via a heavy duty layback and full width 150mm thick reinforced concrete paving. A detailed plan is to be submitted prior to the release of the Construction Certificate.
21. Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
22. All internal parking areas, access ways, turning areas, driveways and ramps are to be constructed in accordance with Council's Parking Code and Engineering Guidelines for Subdivision and Development before occupation of the building or commencement of the proposed land use. All such areas to be concrete paved. Details are to be submitted to Council for approval prior to the release of the Construction Certificate.

## Stormwater Treatment

23. All roofwaters and stormwater runoff from all paved areas within the allotment boundaries are to be collected and treated prior to discharge. Treatment is to include on-site harvesting, re-use and infiltration to achieve nil discharge in the 1 in 3 months storm event. For larger events runoff is to be directed and conveyed off-site by means of a sealed pipe system designed for a 1 in 10 year storm recurrence interval and connected via an industry recognized outlet arrangement to the existing public stormwater drainage receival and disposal system. A pit is to be provided adjacent to southern allotment boundary to provide separation between the private house drainage service drainage line and the downstream stormwater system to become under the jurisdiction of Council.
24. Detailed construction drawings and specifications for the entire stormwater management system which demonstrates compliance with the latest versions of

Australian Rainfall and Runoff, Stormwater Industry Associated Guidelines, proprietary product manufacturers specifications and relevant Australian Standards must be prepared for relevant aspects of the system (including materials, installation, bedding, backfilling, compaction and quality testing) prior to the issue of the construction certificate.

25. In relation to the management of seepage, leakage, drainage and any other waters entering the subterranean basement level of the development an industry recognised, detailed scheme of arrangement must be prepared, certified and submitted to Council for its approval prior to the issue of the Construction Certificate.
26. The plans for the required Construction Certificate are to include provision of a sump or other means suitable to prevent flooding in the event of water entering the basement in excess of 300mm in depth during a 1 in 10 year stormwater event in accordance with Australian Rainfall and Runoff without reliance on mechanical pumping. Such plans are to include the means of draining the basement following such an event.
27. The plans for the required Construction Certificate are to provide for planter boxes to be provided on all decks and balconies. Details of the plant species to be placed in the planter boxes to be
28. The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

**Inspections required:**

- (a) footings in position and prior to the pouring of concrete;
- (b) all steel reinforcement prior to the pouring of concrete;
- (c) completion of roof framing prior to wall sheeting being fixed;
- (d) wet area floor and wall surfacing prior to tiling;

- (e) completion of stormwater systems prior to backfilling.
- (f) driveway crossing prior to pouring concrete.

Note: Accounts will be forwarded for inspections which are required and / or undertaken in addition to those inspections for which a pre-payment has been made.

29. 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 footings, reinforced concrete slab, structural steel work is to be submitted prior to any work commencing on the building.
- b) 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.
- c) 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.
- d) 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. The builder is to certify the windows have been installed in accordance with AS2048.
- e) Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the verandah, patio or landing and steps for safety and convenience.

Such balustrade to conform with the requirements of:

(1) D2.16

of the Building Code of Australia.

Note: Spacing of rails not to exceed 125mm.

- f) 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.

- g) Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
- h) 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.
- i) Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- j) 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.
- k) The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8metres above the floor with cement render ceramic tiles or other approved finish impervious to water.
- l) 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.

30. The proposed building has been assessed by Council under the provisions of the Building Code of Australia as a Class 2 & 7 building, having a rise of 3 storeys. The buildings are to be constructed in Type A fire resistance construction. It is the builder's responsibility to ensure that all building elements have the minimum fire resistance level specified in Specification C1.1, Table 3 of the Building Code of Australia.
31. Every part of the building shall be constructed in a proper and workmanlike manner to achieve the required level of performance using materials that are not faulty or unsuitable for the purpose for which they are used.
32. A "Smoke Hazard Management System" shall be designed and installed within the building in accordance with the relevant provisions of Section E2.2a of the Building Code of Australia.
33. 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.
34. A survey certificate prepared by a registered surveyor being submitted to Council to verify that the work is being constructed at the level shown on the building approval. The work is not to proceed beyond the designated stage until a written release has been given by Council. The survey is to be submitted when the formwork is completed for the floor slab before concrete is poured.
35. Floors of balconies shall be graded and drained to a grated inlet connected to the stormwater drainage system.
36. Clothes drying facilities must comply with Part F, Clause F2.1 of the Building Code of Australia.
37. All materials used in the building shall comply with the provisions of Clause C1.10 of Building Code of Australia. A list of all the proposed construction and finishing materials detailing their early fire hazard properties (i.e. spread of flame and smoke development indexes) shall be compiled then submitted to Council for approval prior to their use in the Building.

38. Emergency lighting requirements must comply with Part E, Clause E4.2 of the Building Code of Australia.
39. Where protection is required, doorways, windows and other openings must be protected in accordance with Part C, Clause C3.4 of the Building Code of Australia.
40. The ceiling immediately below the roof and to the internal lining of any skylight shafts shall have a resistance to the incipient spread of fire to the roof space of not less than 60 minutes. (722B).
41. Lintels must comply with Clause 2.3 of Specification C1.1 of the Building Code of Australia.
42. Brick cavities shall be cleaned in accordance with the requirements of AS3700 – Masonry in Buildings.
43. Full details of the means of damp-proofing all garages below or partly below ground level shall be submitted to Council with the Construction Certificate.
44. Provisions shall be made for the installation of telephone and television services by installation of conduits during construction for each sole-occupancy unit.
45. No service installations shall be installed in exits or paths of travel leading to an exit except as conceded in D2.7 of the Building Code of Australia.
46. The space below a required non-fire-isolated stairway (including an external stairway) or ramp must not be enclosed to form a cupboard or enclosed space unless the enclosing walls and ceilings have a Fire Resistance Level (FRL) not less than 60/60/60 and any access doorways to the enclosed space must be fitted with a self closing 60/60/60 fire door.
47. Walls and floors separating sole-occupancy units and separating sole-occupancy units from a plan room, lift shaft, stairway, public corridor or the like must have Sound Transmission Class (STC) not less than 45.
48. A wall separating a bathroom, laundry or kitchen in one sole-occupancy unit from a habitable room (other than a kitchen) in an adjoining unit must have a Sound Transmission Class (STC) not less than 50 and must comply with F5.5 of the Building Code of Australia. Details of the proposed method of complying with F5.5

must be submitted to Council for approval prior to the commencement of construction.

49. Soil and waste pipes passing through more than one sole-occupancy unit must be separated from rooms in any sole-occupancy unit by construction complying with F5.6 of the Building Code of Australia.
50. A master television antenna shall be installed within the roof of the building and provision made for the connection thereto being made to each flat. Such installation to be in strict compliance with AS1477. Receiving Antenna for Radio and Television – construction and installation.
51. Upon completion and prior to occupation of the building, certificate from a practising Structural Engineer shall be submitted to Council certifying that the building has been erected in accordance with the approved structural drawings and is structurally adequate for the loads imposed.
52. Where structural reinforced concrete members are required to have a fire resistant rating, the practising Structural Engineer shall certify that the requirements of the relevant SAA Concrete Structures Code have been satisfied. This is to be submitted prior to occupation.
53. A certificate shall be submitted by a practising Structural Engineer certifying that the building has been designed in compliance with the requirement as detailed in AS 1170.4 "SAA Earthquake Loads".
54. Openings in floors, walls and shafts for services must comply with Section C, Clauses C3.12, C3.13 and C3.14 of the Building Code of Australia.
55. The hours of construction work are to be confined to 7.00 am to 6.00 pm, Mondays to Fridays, and 7.00 am to 12 noon, Saturdays.
56. Building materials are not to be stored within the road reserve or any other public place.
57. 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.

58. The following information to be submitted with the Construction Certificate.
- a) Two sets of specifications for the Class 2 & 7 building detailing the appropriate clauses of the BCA and Australian Standards for the work to be constructed.
  - b) Schedule of fire safety measures to be installed in the building.
59. The applicant's consultants are to provide certified plans and specifications with the Construction Certificate for the works to be constructed.
- a) The installation of the hydrants complying with Clauses E1-3 of the BCA and AS2419.
  - b) The installation of portable fire extinguishers.
  - c) The installation of the smoke management system complying with NSW, Part E Tables E2.2. of the Building Code of Australia.
  - d) Provide details of protecting the kitchen and dining room window openings located within 3 metres of the side boundary.
  - e) The installation of emergency lighting and exit signs complying with Part E4 and AS/NZS 2293 Part 1-1998.
  - f) The installation of plumbing and drainage complying with the requirements of the Local Government Act and Regulation, Australian Standard 3500 and New South Wales Code of Practice Standard 3500 plans as modified by any conditions of this consent.
60. Roofwaters are to be directed by means of sealed pipes to the Council's stormwater table. Details are to be provided with the plans for the required Construction Certificate.
61. A Survey Report is to be submitted on completion of slab formwork to ensure the location of the building is in accordance with the approval issued.

62. Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Construction Certificate.

You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-

- a) Payment of a contribution towards district water supply at the rate of \$1211 per equivalent tenement, i.e  $\$1256 \times 5 \text{ E.T} = \$6280$ . (Indexed 2005 / 2006)
  - b) Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$2302 per equivalent tenement, i.e  $\$2302 \times 5 \text{ E.T} = \$11,510$ . (Indexed 2005/2006)
  - c) Provision of separate sewer junctions, with a maximum of two connections per junction to the existing sewer main.
  - d) Details of separate water meter for watering service to be included prior to the release of the construction certificate.
63. The applicant is to pay a contribution towards the embellishment of open space and ancillary facilities for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$1,953. per additional dwelling unit, i.e  $\$1,953 \times 5 \text{ E.T} = \$9,765$ . (Indexed 2005 / 2006)

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

64. Payment of a cash contribution prior to the issuing of the required Construction Certificate towards Council's trunk drainage system in accordance with Council's Section 94 Plan for Stormwater Drainage at the rate of \$1,531 per equivalent tenement, i.e.  $\$1,531 \times 5 \text{ E.T.} = \$8856$  (Indexed 2005 / 2006).

The Plan may be inspected at Council's offices, Cnr Elbow and Tozer Streets, West Kempsey.

- 65. Security lighting to be provided in the car park, between the units and in the internal void areas. Lighting is designed and directed to minimize impacting upon adjoining residences. Details are to be submitted to Council for approval prior to the release of Construction Certificate.

**B** That the objectors be advised of Council's decision.

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