

Submissions made directly to the Department of Planning, Housing and Infrastructure.

1.

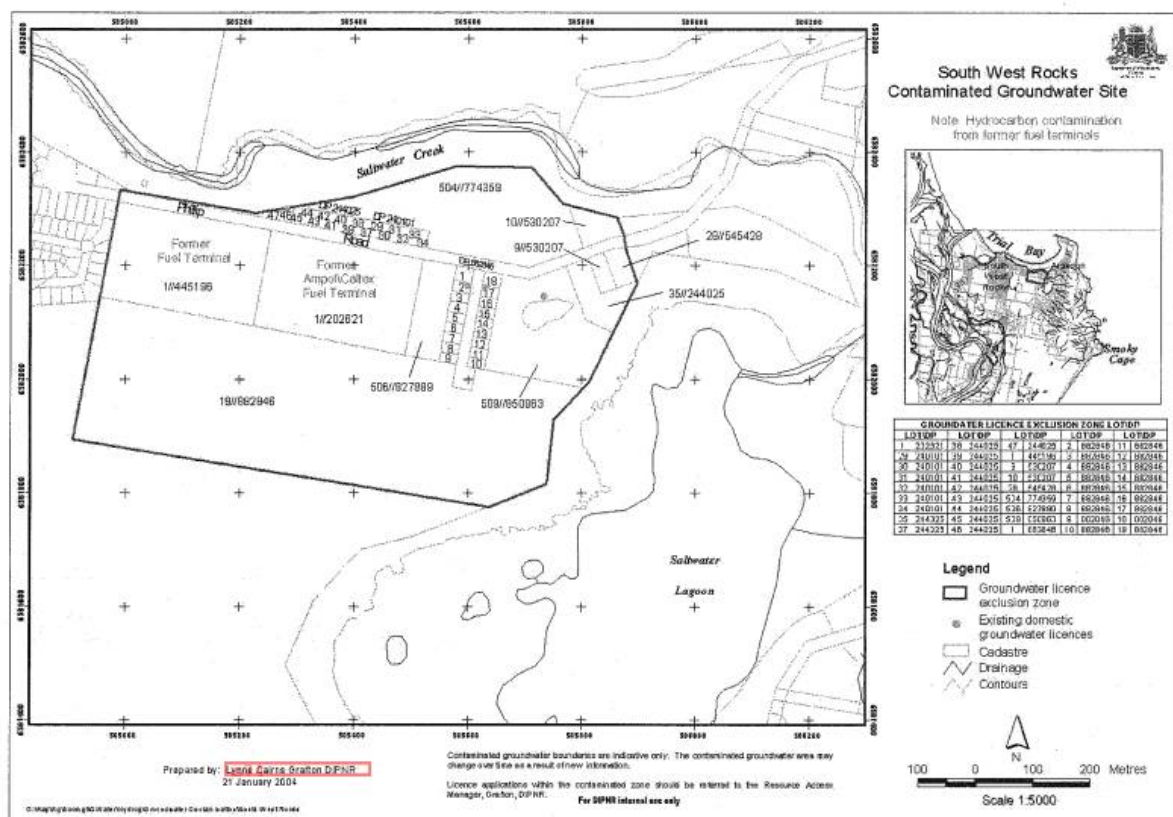
Case type	Public Submission
Submission type	I am making a personal submission
Title	Ms
First name	Debra
Last name	Holland
Organisation	
Position in the organisation	
Name withheld	1
Email	
Address 1	
Address 2	
Suburb/Town	Kempsey
Postcode	
State	
Do you have any Political Donations to report?	No
Please provide your view on the application	
Submission	<p>Ref: Planning proposal (Department Ref: PP-2023-2105): implementation of a height of buildings development standard to various sites in South West Rocks</p> <p>This submission is to endorse the proposed Kempsey Local Environmental Plan amendments identified in the South West Rocks (SWR) Structural Plan.</p> <p>The objectives and intended outcomes of the Planning Proposal will be achieved by introducing building heights on urban land that currently has no regulatory building height assigned.</p> <p>By assigning building heights to these land parcels, it will ensure that future development on these sites will align with the recommended strategic provisions within the SWR Structural Plan.</p> <p>All but three of these amendments place a height limit of 8.5m for residential dwellings with the remainder in small pockets along the main thoroughfare of Gregory Street having a height limit of 11m and includes the main shopping centre precinct.</p>

	<p>These height limits have been agreed to after extensive community consultation and advice from town planning and environmental agencies.</p> <p>The amendments ensure that the planned growth and expansion of residential housing maintains the character of South West Rocks and Arakoon as a sustainable tourism and holiday destination located in a coastal region defined by its natural landscape and national parks but with limited services and subject to isolation during flood and bushfire events.</p> <p>According to a recent report published on the NSW Planning website dated February 2023 while NSW population has continued to grow, this growth is now the slowest it has been in more than 100 years and recent uptakes in migrant numbers is mostly confined to city and major regional centres.</p> <p>The projected population growth in the more rural and coastal regions that began with the exodus from the cities during COVID 19 has stalled as a result of continued higher mortgage interest rates coupled with projected increases in Council rates and reduced services (as is occurring in Kempsey Shire – see SRV application to IPART).</p> <p>The recent expansion of several new serviced residential estates across South West Rocks and other towns and villages including Kempsey and Crescent Head has enabled the Shire to meet current and immediate demand.</p> <p>The SW Rocks estates include Seabreeze, Seascape, Ridgeview and Lomandra Shores which provide for a range of housing options including dual occupancy and strata title subdivision, one and two storey detached dwellings plus there are additional housing options including 'affordable housing' in a new estate (Steve Eagleton Drive) behind South West Rocks Shopping Centre.</p> <p>The slow uptake of serviced lots in the above estates reflects the lack of demand which is likely to remain for the foreseeable future but will ensure available stock should the economic situation improves.</p> <p>According to the 2021 Census, 38.7 per cent of the population of South West Rocks are over 65 and the town has an average age of 58 with this demographic growing in the past few years. Their accommodation needs are adequately covered by a</p>
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	<p>manufactured housing estate within the Ingenia holiday park and the large Sea Spirit owned Over 55 The Links estate.</p> <p>With all the major educational, medical, commercial, social and service industry facilities based in Kempsey it is inevitable that the provision of affordable housing stock be concentrated in this immediate area which also provides ready access to employment hubs. Again the Kempsey Growth Strategy is addressing this demand with new estates in north west, west and south of the town centre as well as satellite estates along the major traffic routes.</p> <p>One of the major inhibitors for high density multi storey housing in South West Rocks and Arakoon is directly linked to the location of the town straddling two headlands of hard granite type rock linked by sea and river frontage of flood prone coastal wetland “ in fact the Saltwater Creek and Lagoon precinct is remnant of the former harbour that existed in the retreat of the most recent ice age.</p> <p>There is approval for 18 townhouses to be built on Lot 2 DP 1091323 Phillip Drive and which can proceed with the proposed height limit of 8.5m. Due to the hydro-geological limitations of this site (which features a high water table that has been identified by the Environmental Protection Agency as containing PFAS and residual PAHS and heavy metals contaminants - see attachment), high acid sulphate soil content in parts and facing several engineering and structural restraints, any application to build multi-storey apartment complexes on this site (as put forward by the proponent) is unlikely to be successful.</p> <p>As such the continuation of medium density townhouse mixed use development under its current R3 zoning could proceed on this site and remain compatible with adjacent R1 zoning housing that will share the 8.5m height limit.</p> <p>Therefore I seek that this planning proposal (Department Ref: PP-2023-2105) be adopted immediately and without exception and that Kempsey Shire Council progress with an updated Local Environmental Plan.</p>
Submission attachment	96251
I agree to the privacy statement	1

I have read and understood the above	Case SUB-7066 is created successfully.
I understand that by clicking the Submit button. I am providing the information contained in this form to the Department of Planning Industry and Environment and confirm that that information is not false or misleading	
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Attachment:



Case type	Public Submission
Submission type	I am submitting on behalf of my organisation
Title	Miss
First name	Sally
Last name	Prowd
Organisation	
Position in the organisation	
Name withheld	0
Email	
Address 1	
Address 2	
Suburb/Town	North Sydney
Postcode	
State	
Do you have any Political Donations to report?	No
Please provide your view on the application	
Submission	Please find attached detailed submission.
Submission attachment	96801
I agree to the privacy statement	1
I have read and understood the above	Case SUB-7103 is created successfully.
I understand that by clicking the Submit button. I am providing the information contained in this form to the Department of Planning Industry and Environment and confirm that that information is not false or misleading	
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Attachment:

WILLOWTREE PLANNING



15 December 2023

REF: WTJ23-159

Department of Planning

Via email: kate.campbell@planning.nsw.gov.au

**RE: PLANNING PROPOSAL - SOUTH WEST ROCKS HOUSEKEEPING AMENDMENT BUILDING HEIGHTS
AMENDMENT TO KEMPSEY LOCAL ENVIRONMENTAL PLAN 2013 - PP-2023-2105**

Attention: Kate Campbell

Dear Kate,

Willowtree Planning have prepared this submission on behalf of Rise Projects, in response to the Planning Proposal (PP) ref: **PP-2023-2105**, which is on exhibition until the 15 December 2023. The South West Rocks Housekeeping Amendment (PP) has been prepared by Kempsey Shire Council (Council) to amend Clause 4.3 Maximum Height of Building under the *Kempsey Local Environmental Plan 2013* (KLEP2013) across 32 lots in South West Rocks. This submission has been prepared to consider the implications this PP would have in relation to Lot 2 DP1091323, located at Phillip Drive, South West Rocks (SW Rocks) (the Site). The PP as exhibited does not satisfactorily address all relevant matters or provide sufficient information as to why the departure from key State and Local strategic and statutory matters are acceptable. The PP fails to:

- Demonstrate there is sufficient strategic merit for the changes;
- Consider the site specific merits of the proposed changes;
- Provide sufficient justification as to the significant inconsistency with the Ministerial Directions; and
- Provide sufficient evidence that the amendment would not result in detrimental social, environmental and economic impacts to South West Rocks.

The following documents are also enclosed which provides further detailed information to support this submission:

- Visual Assessment – **Appendix 1**
- Feasibility Analysis – **Appendix 2**
- Cost Opinion Letter – **Appendix 3**
- Alternative Building Height Plan – **Appendix 4**

While this submission firmly opposes the proposed building height amendments, particularly on the Site, an alternative maximum height of building has been nominated in this submission, based detailed review of the site context, visual impacts and character, and feasibility, to present an appropriate site-specific maximum height limit development standard.

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1.0 SITE INTRODUCTION

The Site is located within South West Rocks, on the key road connection between South West Rocks town centre and Arakoon township and the Trial Bay Gaol. The Site is one of very few large and undeveloped, cleared sites within South West Rocks, which is appropriately zoned for residential development (R3 medium density residential pursuant to KLEP2013). Along Phillip Drive, there is a mix of low to medium density residential dwellings and facilities such as sports clubs and the NRMA South West Rocks Holiday Park. The Site is south of the existing coastal dune landforms, which sit at a significantly higher level, and are densely vegetated with established trees. The Site context is shown in **Figure 1**.

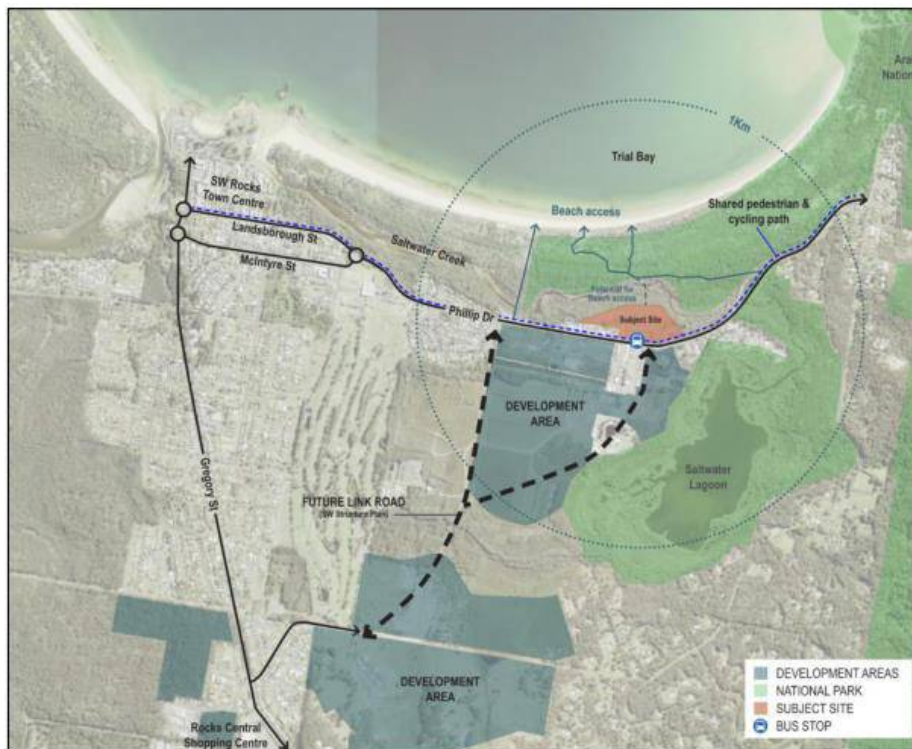


Figure 1. Site Context Map (Source: Rise Projects, 2023)

1.1 Site History

The Site gained development approval for a 180 dwelling resort, with associated retail and function centre, for buildings up to four storeys across the Site in 1993 (ref. **T4-91-195**). The project was paused in 1995 after it was substantially commenced and is still an active consent. The Site was then managed through regular clearing and slashing from 2001 due to the high bushfire risks to adjoining dwellings. In 2008, Rise Projects met with Council to discuss potential redevelopment of the Site for a mix of units and townhouses and began forming a masterplan with Council's Senior Staff and General Manager. The key goal of Council was to ensure that the visual impacts from development were minimal from the town, foreshore or nearby Trial Bay Gaol and to provide diverse housing options. In 2022, a development



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application was lodged and subsequently approved in 2023 for Stage 1 of the masterplan being 18 townhouses, 6 shop tenancies and 12 units in a two storey multi dwelling building (ref: **DA2200404**). In early 2023, the original 1993 consent was found to still be valid by the Land and Environment Court, due to being substantially commenced and as such would afford a minimum 4 storey development across the entirety of the Site. A formal pre-lodgement meeting was held with Council in September 2022 to discuss the remainder Stages 2 and 3 of the masterplan. A concept development application was formally lodged with Council on the 14 November 2023, prior to the commencement of the PP exhibition on the 16 November 2023.

1.2 Concept Proposal

The Concept development application (ref: **DA2300926**), is regionally significant development and seeks to provide a mix of affordable dwellings, serviced apartments, mixed residential apartment sizes and some cafes. Specifically, the proposal seeks:

- Stage 2 - four Residential Flat Buildings;
 - Providing 10% affordable units by GFA (approximately 1,150m² GFA)
 - Approximately 108 units, with a mix of 1 to 4 bedroom typologies
 - Driveways and basement car parking
 - Maximum buildings heights ranging from 16.5m to a maximum RL of 24.95m
 - Approximately 5 storeys
- Stage 3 - 5 buildings of a mix of Residential, Serviced Apartments, shops and food and drink premises;
 - Provision of approximately 175 units, with a mix of 1 to 3 bedroom typologies
 - Driveways and basement car parking
 - Maximum buildings heights ranging from 19m to a maximum RL of 27.7m
 - Approximately 6 storeys
- Associated landscaping; and
- Basement carparking.

The Concept application seeks to secure the following elements:

- Building envelopes for Stages 2 and 3
- Maximum Building Heights for Stage 2 of RL 24.95m
- Maximum Building Heights for Stage 3 of RL 27.7m
- Maximum GFA for Stage 2 of 12,000m²
- Maximum GFA for Stage 3 of 21,000m² for residential purposes
- Minimum non-residential Gross Floor Area (GFA) of 3,000m²
- Minimum 50% open space/ landscaping provision, including minimum deep soil planting of 20% of site area.
- Minimum tree planting of 40 trees across Stages 2 & 3
- Car parking rates as follows:
 - 205 parking spaces for Stage 2 (maximum)
 - 386 parking spaces for Stage 3 (maximum)

The proposed Stages are shown in **Figure 2**, with Stage 1 already approved, and the indicative 3D massing in **Figure 3**.



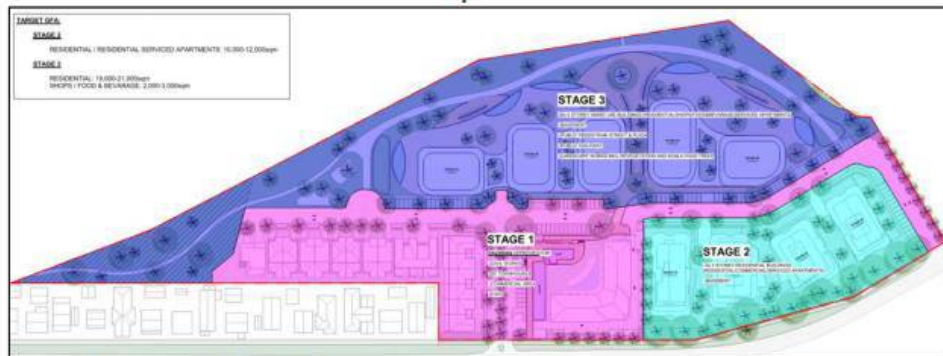


Figure 2. Proposed Staging Plan (Source: Rise Projects, 2023)



Figure 3. 3D Concept Proposal (Source: Rise Projects, 2023)

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2.0 STRATEGIC PLANNING ASSESSMENT

The strategic planning assessment undertaken and presented in the PP is significantly lacking in strategic planning justification that there is merit in the proposal. This is further considered in the ensuring sections.

2.1 Categorisation of PP

Council have prepared the PP to amend building heights on 32 lots in South West Rocks, including Lot 2 DP1091323, Phillip Drive (Site), to which this submission relates. The PP has been considered as a housekeeping amendment by Council, and the indicative timeline would allow for a gazettal of the KLEP2013 amendment by April 2024, which is approximately 6 months. It is considered that the PP is not a basic amendment, due to the considerable implications it could have on housing supply and impacts on existing land holdings. This was reaffirmed by the Department of Planning and Environment (DPE), notice detailed that the PP should be a Standard. There are serious concerns that this categorisation by Council demonstrates that due process has not been followed. It appears Council has tried to fast track the PP process without due consideration of the considerable environmental, social and economic implications of the building height restriction imposed across all sites. Furthermore, it is understood that Council is currently undergoing a comprehensive review of the KLEP2013, to make a number of more wholesale changes, including to zoning. It has not been articulated in the documentation why this PP, relating only to building heights, has been expedited ahead of the comprehensive review, when the issues and potential impacts should be considered alongside other zoning and land availability considerations, as a whole. The early lodgement of this PP is an attempt to curtail existing development rights for some of the specific sites, to restrict development. To proceed with this PP as a 'Housekeeping' Amendment is a disingenuous attempt by Council to introduce development standards to impede current ongoing planning applications and fails to ensure a comprehensive assessment and review of the KLEP2013 as a whole is undertaken.

2.2 Discrepancy With KLEP2013

The current zoning of the Site is R3 medium density pursuant to the KLEP 2013. The objectives of the R3 zone are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage urban infill and redevelopment in areas that surround existing or proposed facilities and services.

The PP would preclude the construction of many of the housing typologies which are permissible with consent in the R3 zone and therefore does not meet the objective to allow a diverse array of housing to be provided in a medium density environment. The height limit would restrict future development to a style compatible with a low density residential environment on the Site, being an 8.5m height limit, which would only allow townhouses or manor houses. The restriction to the height would limit the ability to provide services and facilities to serve the community and seeks to discourage urban infill development of an appropriately zoned site.

The following development is permitted with consent within the R3 zone:



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Attached dwellings; Boarding houses; Centre-based child care facilities; Community facilities; Group homes; Home industries; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Respite day care centres; Roads; Seniors housing; Tank-based aquaculture; Any other development not specified in item 2 or 4

Furthermore, Schedule 1, Clause 10 allows additional permitted uses on the Site including:

(2) Development for the purposes of food and drink premises, residential accommodation, shops and tourist and visitor accommodation is permitted with development consent.

The following key uses would be permissible with consent on the Site, as defined under the KLEP2013:

Residential accommodation means a building or place used predominantly as a place of residence, and includes any of the following—

- (a) attached dwellings,*
- (b) boarding houses,*
- (baa) co-living housing,*
- (c) dual occupancies,*
- (d) dwelling houses,*
- (e) group homes,*
- (f) hostels,*
- (faa) (Repealed)*
- (g) multi dwelling housing, (**multi dwelling housing** means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.)*
- (h) residential flat buildings, (**residential flat building** means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing.)*
- (i) rural workers' dwellings,*
- (j) secondary dwellings,*
- (k) semi-detached dwellings,*
- (l) seniors housing,*
- (m) shop top housing, (**shop top housing** means one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.)*

but does not include tourist and visitor accommodation or caravan parks.

Tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation,*
- (b) bed and breakfast accommodation,*
- (c) farm stay accommodation,*
- (d) hotel or motel accommodation,*
- (e) serviced apartments,*

but does not include—

- (f) camping grounds, or*
- (g) caravan parks, or*
- (h) eco-tourist facilities.*



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It is considered that these types of diverse uses, would be significantly restricted in delivery with an 8.5m height limit. A Residential Flat Building or mixed use building with tourist and visitor accommodation and any food and drink premises at ground floor would be unviable at two storeys. This is further supported by the Cost Opinion Letter which considers that two storey buildings are generally far greater in cost than terraces or other single dwelling houses (**Appendix 3**).

The PP is not compatible with and does not take into consideration the permissible uses in the R3 zone, and specifically on the Site. The proposed 8.5m height limit is more akin to development heights expected in an R2 Low Density Residential zone. Of particular note, the Ministerial Government recently released plans to fast track delivery of medium density diverse housing including 3-6 storey terraces, townhouses and residential flat buildings in Greater Sydney, through provisions to be implemented in the *State Environmental Planning Policy (Housing) 2021*, as to ensure Councils do not impede medium density development. While this is a direct intervention for Greater Sydney, the importance of diverse housing is prevalent throughout all of NSW and this PP seeks to minimise the opportunity for supply of diverse housing in South West Rocks.

It is noted within the PP that a Clause 4.6 variation may be considered to deliver higher density development based on site specific merits, however the Clause 4.6 process is intended to be used in exceptional circumstances and should not have to be utilised for permissible development that is appropriate in the context. To justify any departure from a development standard is an onerous process and should not be relied upon when this PP process may easily take into consideration appropriate building height limits. There is significant caselaw that diminishes the effectiveness of Clause 4.6 variations, and as such does not provide any certainty that such a request would be supported for any future development application. As a general rule of thumb, exceedances up to 20% may be considered by Councils, but where variations proposed are significantly in excess of a development standard, a Planning Proposal would usually be requested to be undertaken. It would also be considered illogical for a building height limit to be imposed and soon after varied by way of a Clause 4.6 variation.

2.3 Strategic Merit

A review of the relevant Strategic Plans and State Environmental Planning Policies (SEPPs) has been undertaken to consider if the PP has strategic merit and can justify substantial departures from the strategic planning framework. Commentary is included within **TABLE 1**.

TABLE 1. STRATEGIC PLANS		
Plan		Comment
Strategic Plans	Objective/ Priority	
North Coast Regional Plan 2041 (NCRP)	Objective 1: Provide well located homes to meet demand	The PP would not support provision of housing to meet the rising demand, as it would limit the amount of housing and especially medium density housing opportunities across South West Rocks. The PP would be seen to reduce the potential yield of the Site from some 180 units to approximately 85 dwellings likely to either be single dwelling houses or townhouses. The NCRP aims to target 40% of new



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		housing to be apartments to which this PP would directly contradict.
	Objective 2: Provide for more affordable and low cost housing	Height restrictions would result in affordable and low cost housing being difficult to achieve as part of any large scale development, as it relies on the viability and allowance for additional low cost housing to be developed alongside market housing.
	Objective 3: Protect regional biodiversity and areas of high environmental value	Height restrictions would result in increased sprawl and may require development of uncleared land previously not been identified for development to meet the demand. Council has failed to nominate as part of this PP additional land parcels which would cater to increased housing supply. In isolation this PP would result in a significant undersupply of housing. Insufficient information and evidence that there is available land supply has been provided with this PP.
	Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change	Height restrictions limit the opportunity for different building typologies and future housing products which may be better placed to be resilient to natural hazards and climate change.
	Objective 6: Create a circular economy	Height restrictions would result in any potential shop top housing opportunities, and tourist accommodation being viable and as such would hinder the economic development of South West Rocks. The PP would essentially limit development opportunity and reduce construction opportunities and local jobs within South West Rocks.
	Objective 12: Create a diverse visitor economy	The height restrictions would limit the opportunity for tourist and visitor accommodation to support and improve visitor economies as there is likely a need for all land to be utilised for housing, where mixed use development is unviable or unachievable.
	Objective 20: Celebrate local character	Local character should be enhanced and improved with the opportunity for compatible development to occur. The PP relies on existing nearby height limits as the foundation for imposing restrictive height limits across South West Rocks. The local character does not rely on a buildings height.
	Kempsey Narrative: <ul style="list-style-type: none"> Deliver housing at South West Rocks, in addition to West and South Kempsey. 	The PP does not foster delivery of housing or housing diversity and does not present any evidence that as to how diverse housing could still be achieved. In isolation the PP lacks detailed justification and information



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	<ul style="list-style-type: none"> Maintain the unique character of the area's towns and villages. Develop opportunities to achieve a diverse range of housing products across multiple towns that are fit for purpose. 	to be able to adequately consider the impacts on Kempsey and South West Rocks.
	Housing density can be low (<15dw/ha), medium (16-60 dw/ha) or high (>60dw/ha).	The PP would restrict the density for the Site to a low density number of <15 dwelling per hectare which is not compatible with the R3 zoning.
2042 Your Future Community Strategic Plan 2022 (CSP)	Enhancing and protecting our natural and built environment	Height restrictions would result in increased sprawl and building footprints, reduce overall landscaping and opportunities to retain the natural environment.
	Boosting and evolving Kempsey shire's prosperous economy	Height restrictions would largely dampen any potential shop top housing opportunities, tourist accommodation and as such would hinder the economic development of South West Rocks.
	Creating and celebrating a supportive, connected community	Restrictions to heights promotes sprawl and does not promote connected communities. The Site is within the active transport corridor between South West Rocks and Arakoon which could assist in providing better connections and routes between the two towns.
	Valuing, informed leadership that engages and inspires the community	Further restrictions within the KLEP 2013 does not promote change or inspire community cohesion.
Future Macleay, Growth & Character - Local Strategic Planning Statement 2020 (LSPS)	Planning priority H1: Deliver growth that does not compromise the Shire's rich biodiversity	Height restrictions would result in increased sprawl and building footprints and would result in reduced biodiversity.
	Planning priority W2: Enable the growth of tourism	Height restrictions limit the ability to provide ample tourist accommodation to support the growth in tourism.
	Planning priority C2: Provide great places to live and work	The PP would limit the availability of housing and does not support growth in the population to support existing businesses.
	Planning priority C6: Maintain the Shire's distinctive built character	The character of South West Rocks can be maintained without strict height limits being imposed.
	Planning priority S1: Plan for housing demand	The PP directly impacts the ability to provide sufficient housing for the area.
	Planning priority S2: Increase housing diversity and choice	The height restriction directly reduces the opportunity for diverse housing typologies and choice.
	Planning priority S3: Deliver more opportunities for affordable housing	Height restrictions would result in affordable and low cost housing being harder to achieve as part of any large scale development.



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Kempsey Local Growth Management Strategy 2023 (KLGMS)	<p>South West Rocks:</p> <ul style="list-style-type: none">▪ maintains its picturesque coastal setting through the management of development height, scale and density and protection of significant vegetation and key scenic view corridors;▪ is the key coastal lifestyle and tourism township for Kempsey Shire, providing a range of housing densities and types, supported by commercial, retail and industrial development appropriate for the scale of the township;▪ SW Rocks Structure Plan will address the ability to accommodate an additional 1,580 dwellings to 2041 including 200 semi detached and 360 flats/apartments.	<p>The PP is overly restrictive in managing density and does not ensure that South West Rocks provides a range of housing densities and types. Commercial, retail or industrial opportunities would not be supported by adequate housing or visitor accommodation to make them viable.</p> <p>The proposed amendment would not allow the delivery of the 360 apartments targeted, as the reduced heights would result in an oversupply of detached housing typologies only.</p>
South West Rocks Structure Plan 2023 (SWRSP)	<p>The picturesque coastal setting of South West Rocks is maintained through the management of development height, scale and density, and the protection of significant vegetation and key scenic views corridors. In addition to its distinctive natural setting and coastal landforms, the character of the town is also strongly influenced by it's Aboriginal cultural and maritime heritage. The vision also seeks to continue to improve the quality of the public realm and deliver street tree planting throughout residential areas to improve the pedestrian amenity of the whole town.</p>	<p>The overly restrictive height controls do not consider how the character and scenic views can be maintained while improving residential areas and amenity across the South West Rocks.</p>
SEPPs		
State Environmental Planning Policy (Housing) 2021 (Housing SEPP)	<p>The Building Height Amendment is inconsistent with a number of the provisions under the Housing SEPP for various housing typologies. While the Housing SEPP would prevail to the extent of inconsistencies, it is not considered that the PP supports the intent of the Housing SEPP to deliver housing diversity.</p>	



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State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)	The PP would restrict development that would be considered under SEPP 65, being residential development greater than 3 storeys and greater than 4 dwellings. An 8.5m restriction would not allow for 3 or more storeys and as such no development would be required to meet the SEPP 65 provisions.
State Environmental Planning Policy (Resilience and Hazards) 2021 (R&H SEPP)	The PP would likely result in greater impacts on the Coastal environment within which South West Rocks sits due to increased footprints of development. A height restriction does not limit impacts on the coastal environment, coastal wetlands or the coastal zone.

2.4 Ministerial Directions (Section 9.1 Directions)

The PP addresses the Ministerial Directions as required, however there is insufficient information provided to detail as to why the inconsistency with this Direction is acceptable.

The PP is inconsistent with Direction 6.1, as it does not meet the objectives:

(a) encourage a variety and choice of housing types to provide for existing and future housing needs,

Restricting building heights would limit development typologies and feasible delivery of affordable housing and diverse housing products.

(b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and

Restricting building heights would limit the development potential on existing appropriately zoned sites, which could make use of existing infrastructure and services.

(c) minimise the impact of residential development on the environment and resource lands.

Restricting buildings heights may result in detrimental impacts on the environment and other lands, through promoting greater urban sprawl and higher site coverage.

As detailed under Direction 6.1, a planning proposal must include provisions that encourage the provision of housing that will;

- (a) broaden the choice of building types and locations available in the housing market, and*
- (b) make more efficient use of existing infrastructure and services, and*
- (c) reduce the consumption of land for housing and associated urban development on the urban fringe, and*
- (d) be of good design.*



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The PP does not allow for greater building types and would not result in efficient use of existing infrastructure and services on land parcels which could already cater to increased densities. The PP would increase the consumption of land for housing and urban development.

Furthermore, Direction 6.1 (2)(b) notes that a planning proposal must not contain provisions which will reduce the permissible residential density of land. The current permissible density would allow residential flat buildings and shop top housing of greater densities than the 8.5m height limit would allow.

The PP does not adequately justify that the inconsistencies with Direction 6.1 are appropriate in the context of a strategy approved by the Planning Secretary, regional or district plans, and does not provide any significant technical studies that support the proposed amendments.

Furthermore, the PP is inconsistent with the following Ministerial Directions, as outlined in **TABLE 2**.

TABLE 2. MINISTERIAL DIRECTIONS		
Plan		Comment
Focus Area	Direction	
Focus area 1: Planning Systems	Direction 1.1: Implementation of Regional Plans	The PP would not allow for 40% of new dwellings to be medium density.
	Direction 1.4: Site Specific Provisions	No site specific merit assessment has been undertaken on any of the affected sites. A blanket building height of nearby existing heights has been utilised.
Focus area 3: Biodiversity and Conservation	Direction 3.1: Conservation Zones	In isolation the PP does not consider that the restriction to heights may require further urban sprawl and lower density development or the release of additional land to allow for housing.
Focus Area 4: Resilience and Hazards	Direction 4.1: Flooding	No consideration has been given to if sites are flood affected, as minimum floor levels would be required for flood affected sites, which may result in additional heights being required.
	Direction 4.2: Coastal Management	No consideration has been given to the impacts that increased low density development may have on the coastal environment and processes, such as from increased site cover.
	Direction 4.3: Planning for Bushfire Protection	No consideration is given to if sites are bushfire prone and may benefit from increased buffer zones or APZ requirements which may allow higher density development to be a better alternative.
Focus Area 6: Housing	Directions 6.1: Residential Zones	As detailed above, insufficient consideration has been provided.
	Direction 6.2: Caravan Parks and Manufactured Home Estates	The PP does relate to land which contains caravan parks and as such this direction should be considered.



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Focus area 7: Industry and Employment	Direction 7.1: Business and Industrial Zones	No consideration has been had for the impacts of delivering commercial floorspace through restricting height limits on E1 Local Centre zoned land.
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2.5 NSW Coastal Design Guidelines 2023

Under Local Planning Direction 4.2 (Coastal Management), planning proposals that seek to amend a local environmental plan in the coastal zone must be consistent with the NSW Coastal Design Guidelines.

Outcome B.2 Ensure urban development complements coastal scenic values –

- a. Limit ribbon development and urban sprawl wherever possible. In certain locations, place-based strategies may support increased development density and building heights as a better response to urban growth.*
- d. Ensure that building heights consider the effect on views from different vantage points.*

The PP will result in additional urban sprawl and should consider more effective and appropriate place based strategies to respond to the predicted growth. The PP does not consider the key views and vistas within South West Rocks and as such has not provided any context or detail around why the height limits were selected for each land parcel.

Under part 4.3.1, the Design Guidelines note that built form should reinforce the beauty and character of coastal places and ensure building types, scale, height and aspect integrates with coastal landforms and the environment, such as tree canopy and ridgelines. There has been no assessment of the building heights against the coastal forms and these building heights have been arbitrarily selected based on existing heights of development and does not allow for future sustainable growth within South West Rocks.

2.6 Site Specific Merit

The PP fails to address the site-specific merit of the building height amendments to any of the individual sites which are affected. There has been no consideration of nature, constraints, hazards or context of any of the sites, nor of any existing and approved development of the sites. In particular, the Site is constrained flooding and other environmental constraints, which would require a minimum floor level above natural ground level in some areas. Furthermore, the Site sits at a lower level than Phillip Drive, and as such future development of the Site when viewed from Phillip Drive would only capture the higher elements. No consideration has been given to the existing historic approvals on the Site which have substantially commenced, or the setting in which the Site sits and how this may be advantageous and allow greater heights. There is no consideration of views and vistas or key scenic values presented in the PP which underpins the restriction of heights across all the sites subject to the PP.

It is noted that all the affected sites, being some 32 lots, form largely 5 key development sites, and are currently not subject to a maximum building height development standard. An overview of the affected sites has been undertaken to consider the site specific merits of the PP in relation to all lots, including:

- Opportunity Site B – 98-102 Gregory Street – proposed restriction to 11m



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- Opportunity Site C - 255-279 Gregory Street - proposed restriction to 11m
- South West Rocks Country Club - 2 Sportsmans Way - proposed restriction to 8.5m
- Horseshoe Bay Reserve - including 19 Gregory Street and the Horseshoe Bay Holiday Park - proposed restriction to 8.5m
- Gordon Young Drive - Ingenia Holiday Park - proposed restriction to 8.5m

Opportunity Site B and C are to be restricted to an 11m height limit, however these are the key lots highlighted in the Structure Plan to accommodate substantial redevelopment. As detailed further in this submission, these sites may only be capable of achieving around 84 additional townhouses or apartments. With the additional height restriction, it is unlikely that redevelopment of these Sites would be viable from a financial perspective as detailed in **Appendix 2**. It is noted that these two sites are already partly developed for commercial uses which are essential to servicing the town.

The South West Rocks Country Club and surrounding land has been highlighted within the Structure Plan to provide tourist and visitor accommodation and the surrounding area already supports stadiums and developments greater than 8.5m in height. It is unlikely that this area could be redeveloped to provide additional tourist and visitor accommodation where limited to a two-storey height limit.

The Horseshoe Bay Reserve area, covers multiple sites which front the beach and Back Creek, and includes the recently development 19 Gregory Street. This land parcel forms part of the Old School Site under Chapter D4 of the *Kempsey Development Control Plan 2013* (KDCP2013). The KDCP2013 restricts development to a maximum height of 12.5m on this lot, and it is unclear why a more restrictive height limit would now be imposed which is inconsistent with the KDCP2013. Furthermore, 19 Gregory Street has now completed the redevelopment of apartments which are up to 22m in height from the western natural ground levels, facing onto Back Creek and the public open space in this location. The remainder of this area is largely either caravan park or existing heritage buildings and is zoned RE1 Public Recreation, which is unlikely to exceed an 8.5m height limit but also would have limited opportunity for redevelopment.

The Gordon Young Drive area contains the existing Ingenia Holiday Park, which is not considered a highly developable site being zoned RE1 Public Recreation and as such the 8.5m height appears appropriate in this instance.

Given the PP affects 5 key large sites, the PP is incomplete in its assessment, and fails to provide any justification on the site specific merits of the building heights to be imposed.

3.0 ENVIRONMENTAL, SOCIAL & ECONOMIC IMPACTS

The PP has not considered the environmental, social or economic impacts related to imposing height restrictions and has not provided any significant supporting documentation.

3.1 Environmental Impacts

Restricting building heights on land within South West Rocks would result in need for greater development footprints, encourage urban sprawl, and result in higher site coverage being required to achieve a similar quantum of housing or development. Where height limits are restricted, it is likely that future development would have an increased site cover and a reduction in landscaped and deep soil provision. Furthermore, the larger footprint would likely result in loss of significant vegetation and trees throughout South West Rocks and therefore a loss of biodiversity. As this PP has been undertaken in isolation of the KLEP2013 comprehensive review, there are no alternative development sites proposed which would be considered appropriate for residential expansion and it is unclear the full extent of



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environmental impacts that may result from this PP and subsequent comprehensive KLEP2013 review. The PP has not provided any documentation or evidence as to how it can determine there are no environmental impacts resulting from the height amendments.

3.2 Social & Economic Impacts

It is considered that there is a significant lack of evidence supporting the assumptions made that there are no social and economic impacts. A Social and Economic Assessment has not been undertaken to support this PP and as such there is no evidence to suggest that the PP would result in a positive impact. The PP does not support revitalisation of the existing commercial centre, as it restricts the building heights here to the existing height that most developments are in this location. There is no economic benefit or social benefit that would result from demolishing an existing asset to replace with a like for like built form.

The PP would significantly limit the provision of social, affordable or diverse housing opportunities, as the construction costs to deliver a 2-3 storey product are considerable and is not conducive to providing an associated product which is affordable. A Cost Opinion Letter has been prepared to support this submission to consider the feasibility of development typologies and the associated costs (**Appendix 3**). Based on considerable desktop analysis, a height limit of 8.5m means that the cost of building a Residential Flat Building (RFB) is considerably greater than developing a Townhouse and as such would likely preclude any development in the form of an RFB. Furthermore, the costs associated with building a 3 storey product would be far greater and likely unviable than construction of a development of 6 or more storeys.

The PP would essentially reduce the development potential of the affected lots, significantly impacting the social and economic environment for existing and future residents. The Feasibility Analysis undertaken (**Appendix 2**), considers that many of the sites targeted for future development by Council in the Structure Plan are no viable. It is evident that Councils PP has not been founded on sound economic assessments or analysis that ensures sufficient housing supply for the population that would in turn bring additional jobs to the locality.

New development would also provide opportunity for ageing in place, new services and facilities, as well as additional contributions and tax that would boost the economy of South West Rocks and support the livelihood of many existing residents. It is considered that the PP would restrict redevelopment so that these benefits could not be achieved. It is considered that an Economic and Social Impact Assessment should be undertaken to outline the potential positive and negative impacts that may result from the PP.

3.3 Alternative Development Sites

It is noted that in the South West Rocks Structure Plan 2023 (Structure Plan), Council has outlined that there is a requirement for 1,582 new dwellings by 2041. The KLGMS noted that the Structure Plan would assist in providing a pathway to allow an additional 360 apartments. The Structure Plan highlights that a majority of South West Rocks is of either high environmental value or wetland and riparian areas and is significantly constrained. Two opportunity sites (B and C) have been presented by Council as being able to cater for additional residential development, with both proposed to have a building height limit of 11m where previously there was no maximum height.

Based on an initial review of Opportunity Site B which currently contains the IGA, it is considered that Site B would only cater to an additional 34 dwellings being a mix of townhouses and apartments. Opportunity Site C, which contains the Rocks Central Shopping Centre (including Coles and



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Liquorland), may be able to cater to an additional 50 dwellings. As no other Sites have been identified by Council, it is unclear how Council will achieve the delivery of 1,582 dwellings, including 360 apartments by 2041, where the Opportunity Sites would only provide an additional 84 dwellings.

This is further considered in the Feasibility Analysis at **Appendix 2**. The feasibility of development on these two opportunities sites has been undertaken and Opportunity Site B shows there may be marginal viability in redevelopment. Opportunity Site C is considered unviable to be redevelopment due to the significant costs being higher than the residual land values.

A residential capacity assessment is also included in **Appendix 2**, which has been based on the draft Kempsey Local Housing Strategy, which targets 1,656 dwellings by 2041, of which 596 medium density. Based on the NCRP, 662 of the new dwellings should be medium density to provide the 40% target. It is estimated that the existing zoned residential lands may have capacity for an additional 1,521 dwellings, including 29 townhouses and 64 apartments. This has not factored in any constraints analysis, so is likely to be significantly lower. Based on this review, South West Rocks would still be 105 dwellings short of the 2041 target, with a surplus of 398-464 single dwellings and a deficit of 503-569 medium density apartments or townhouses.

As this PP for building height amendments have been done in isolation of a larger scale review which may consider zoning or other changes that would allow greater development opportunities, there is insufficient evidence provided that the PP would not effectively restrict development of much needed housing within South West Rocks.

3.3 Infrastructure Impacts

The PP notes that demand for local public infrastructure would not be altered. While it is considered that restricting development would restrict the need for additional infrastructure, this restriction would also reduce the possible contributions payable to Council and the ongoing Council tax to provide services for the community. The PP would therefore not support upgrades and improved infrastructure provisions for South West Rocks.

4.0 COMMUNITY CONSULTATION

Insufficient community consultation has been undertaken with landholders in relation to the PP. While the Structure Plan was exhibited, engagement for the Structure Plan was only undertaken between 25 January 2022 and 30 March 2022 prior to the 28 days of public exhibition. There was no further consultation with individual landholders who would be impacted significantly by the proposed amendments to building heights during the Structure Plan process, or since the Structure Plan was adopted.

It is evident from survey results during the initial consultation that the community views directly contradicted each other. For example, residents disagreed that more land should be allocated for residential development, but also had a preference to see residential development built outwards and take up more land (**Figure 4**).

"There should be more land allocated for residential development"	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
	4.8%	11.1%	17.6%	32.2%	34.3%
				Up	Out
"Would you prefer to see building up or building out?"				27.9%	72.1%



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Figure 4. Extract from Community Survey (Source: GHD, 2022)

The public consultation discussion paper prepared by GHD at page 24 recommended:

- *Formally identify the new housing areas currently being constructed to provide transparency to the community.*
- *Identify affordable housing opportunities in locations that have the potential to increase density and provide a range of housing options and choice.*
- ***Review height limitations in both residential and commercial zones to potentially increase density and offer housing options and choice.***
- *Identify housing topologies to meet demand in appropriate zones.*
- *Investigate opportunities to increase housing density and building height around the Rocks Shopping Centre.*
- *Promote infill development where appropriate to support future housing typologies.*
- *No further increase in R5 Large Lot Residential zoned land.*
- *Investigate up zoning vacant R5 land off Arakoon Road to R1 to accommodate housing of a higher density opportunities, i.e. seniors housing.*
- *Support the actions laid out in the Ageing Well in NSW: Action Plan 2021-2022.*

The Structure Plan and therefore the PP has seemingly not taken on board these recommendations and suggests imposition of a reduced height limits to a number of areas, which previously were not limited by height controls. It is not considered that the feedback from the Community was taken into account within the original Structure Plan nor that the expert recommendations from GHD were brought forward.

5.0 ALTERNATIVE RECOMMENDATION FOR BUILDING HEIGHT

It is understood that the PP aims to bring in a more consistent approach to building heights across South West Rocks to provide greater certainty to the community around the future of the area and ensure compatible future development can be delivered which retain the important coastal values and character. Significant investigations have been undertaken on the Site to consider an appropriate built form outcome, which would have minimal visual impacts and be of an appropriate character to integrate into South West Rocks township. While these have been presented in the current concept development application, detailed consideration has been given to an appropriate height limit across the Site which would be seen to ensure there are no impacts on important views and vistas, and would allow for the delivery of compatible development that is in keeping with the character of South West Rocks.

The Site is one of the only large scale, undeveloped, cleared sites that is already zoned to accommodate housing within South West Rocks. South West Rocks town is largely landlocked with National Parks and the coastline to the east and north, national park and the Back Creek to the south and Back Creek to the west. There is limited opportunity for large scale redevelopment, as proposed within the Concept Plan, which aims to deliver up to 283 apartments to directly respond to the need for 360 apartments in South West Rocks by 2041. The alternative building heights for the Site are shown within **Figure 5** below. The proposed building heights would see a maximum height limit of 8.5m across Stage 1 of the development, which is the height of the approved townhouse and multi dwelling development, with 8.5m to the frontage along Phillip Drive to better relate to the surrounding low density houses. A step up to a maximum RL21.7 for the front portion of the Site, where development would still be visible from Phillip Drive would ensure an appropriate stepped development approach, which sits below the tree line of the adjoining sand dunes to the beach. The rear of the Site would be limited to a height of RL24.30 which is below the highest ridgeline of the trees in the foreshore dune area.





Figure 5. Proposed Building Height Map (Source: Rise Projects, 2023)

5.1 Visual Impacts

A Visual Assessment (**Appendix 1**) has been undertaken to consider the potential impacts development on the Site within the parameters of the proposed building heights would have. It outlines that the highest point of any building (being a maximum height of RL24.3) would not be visible from any key points including the town centre, Trial Bay Beach and foreshore area or the Trial Bay Gaol. Future development in line with the building heights proposed would sit entirely below the existing tree line, and the stepping to Phillip Drive would assist in integration back into the streetscape context. The proposed heights would therefore have no visual impact on South West Rocks from any strategic locations.

The Visual Assessment has determined that the 8.5m building height limit has not seemingly been based on objective visual aids or effects and would unduly constrain the development potential of a Site which is a low to negligible visibility from important sensitive views.

5.2 Character

The R3 Medium Density Residential zone objectives do not consider local character as an objective of development within this zone, however, objective (1)(a) of Clause 4.3 Height of Buildings of the KLEP2013 is to preserve the existing character in residential and business areas within Kempsey. It is understood that the local coastal character of South West Rocks is an important aspect, which is reinforced through the local strategic plans, including the Structure Plan.

Planning Circular PS 21-026 provides an overview of local character and its role in NSW Planning. It notes that compatibility is different from sameness, as different features can coexist harmoniously. It also states:

Respecting character does not mean that new development cannot occur. Instead, it means that a design-led approach needs to be implemented which builds on the valued characteristics of individual neighbourhoods and places. Built form, bulk, scale and height as well as landscaping and good design all play a part in ensuring the character of an area is maintained while still allowing for new development to occur.

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Good design in the built environment is informed by and derived from its location, context and social setting. It is place-based, relevant to and resonant with local character and community aspirations. It contributes to evolving and future character and setting.

Notably, character should not restrict new development, but aims to guide how it can be delivered to build upon the character of neighbourhoods and places. The Site is a large area, which is intended to be developed through a staged masterplan which would see a stepped building height introduced to create a new internal precinct that integrates into the surrounding area. Importantly that is not visible from key view points in South West Rocks.

The existing character of South West Rock is a mix of townhouses, 2-4 storey apartment blocks and single dwelling houses. The Structure Plan identifies the Site within the Phillip Drive Precinct which has a largely environmental character and should promote an active transport link between South West Rocks, Trial Bay Gaol and Arakoon.

Recently approved and built development in the area has achieved heights up to 22m, such as on Sportsman Way for the new stadium building and of particular note at 19 Gregory Street, which directly adjoins the main public park area onto Back Creek. This development is shown in **Figure 6** below, as it is set above the public domain and clearly visible appearing greater than 4 storeys in height, it is noted that this is one of the sites which will be restricted to a height limit of 8.5m. This development is very visible from public spaces and Back Creek (being an Aboriginal heritage site) including from the pedestrian bridge. This was considered an appropriate scale building or an appropriate character in a key entrance into South West Rocks and is highly prominent and sensitive location.

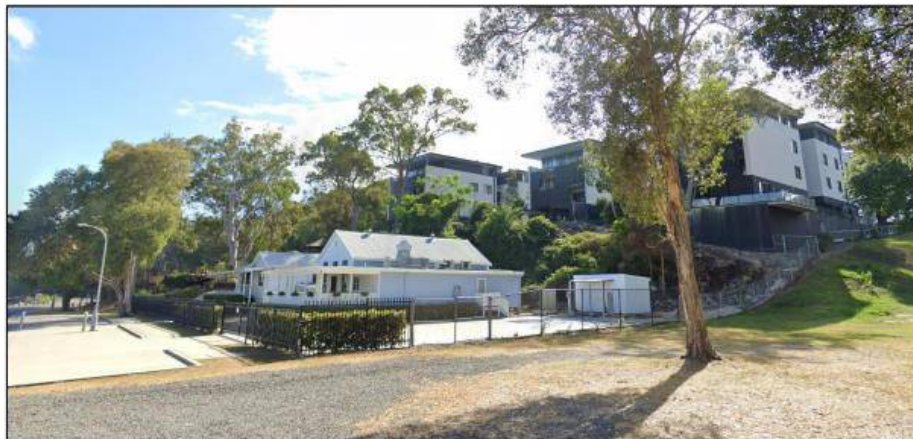


Figure 6. 19 Gregory Street (Source: Google Streetview, 2023)

The Site is not a prominent entrance into South West Rocks and is not visible from any key vantage points due to the surrounding dunes and native vegetation. It is considered that with appropriate detailed design and planning considerations including setbacks, stepping, articulation that development on the Site may still be considered within the existing character, but would be compatible with the local character as it would have no detrimental impact on that character. Detailed matters around character would need to be considered at a development application stage, however it is considered that the PP does not offer the opportunity to consider what scale of development may be suitable to achieving the local character or development that is compatible with the local character. The proposed alternative height limits are considered to enable the delivery of development which is



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both in keeping and highly compatible with the immediate surrounds and the local character of South West Rocks.

5.3 KLEP2013 Recommended Clauses

To ensure that the current live application for the concept development application on the Site is considered in its current form, and assessment can continue in a fair and reasonable way, the following savings provision is proposed to be included within the KLEP2013 should the PP proceed to gazettal.

Savings Provisions

If a development application has been made before the commencement of clause 4.3, as amended by Planning Proposal PP-2023-210, in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if Planning Proposal PP-2023-2105 had not been exhibited and clause 4.3, as amended by Planning Proposal PP-2023-210, had not commenced.

Furthermore, it is recommended that the building heights are adopted as outlined above, however to provide certainty about any future development on the Site, it is considered that an additional Site specific Clause could be inserted to ensure that future applications do not exceed the dominant tree line to provide certainty that future development would not have any visual impact. The following Clause is proposed:

Lot 2 DP 1091323, Phillip Drive, South West Rocks

(1) For the purposes of this Part—

building height (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

development means a building or place that is a permissible in the R3 Zone or permissible in accordance with clause 10 of Schedule 1 of this Plan,

the site means the site comprising all or any part of Lot 2 DP 1091323, Phillip Drive, South West Rocks

(2) Despite any other provision of this Plan (except a provision of this Part), consent may be granted for development on the site, provided that the building height does not exceed an RL of 24.3.

CONCLUSION

The PP is significantly lacking in strategic or site-specific merit, has not fully considered the economic, environmental or social implications and has not undertaken sufficient public consultation. The PP in its current form fails to:

- Consider the site specific merit of any of the sites impacted by the PP;
- Consider existing development approvals over land parcels and the height of existing development;



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- Provide any economic, environmental or social impact assessments that detail the potential implications of the PP;
- Provide sufficient evidence that there is available land supply to cater to the growing housing demand;
- Provide any justification based on visual analysis as to why the building heights were selected for each site;
- Provide sufficient justification as to how the PP meets the strategic intentions of the State Government and Councils own Strategic Planning documents; and
- Provide sufficient justification that would allow the contradiction of several ministerial directions;

The PP should not proceed in its current form given the significant lack of information and justification provided. It is recommended that the above alternative height limits are considered for the Site to ensure that ample housing supply of a diverse and affordable nature can be provided within South West Rocks.

Yours Faithfully



Sally Prowd
Senior Associate
Willowtree Planning Pty Ltd





ANGEL PLACE
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SYDNEY NSW 2000

URBIS.COM.AU
Urbis Ltd
ABN 50 105 256 228

14th December 2023

Liam Porritt
Senior Development Manager
Rise Projects
Level 1, 72a Willoughby Road
Crows Nest
North Sydney NSW 2065

Dear Liam,

SOUTH WEST ROCKS – VISUAL ANALYSIS ADDENDUM

Urbis has been engaged by Rise Projects to provide visual analysis opinion regarding development at 2/DP1091323 South West Rocks. This Addendum Letter has been prepared in support of an objection to Council's Planning Proposal (PP2300005 – SWR Structure Plan Building Heights) (**the planning proposal**) which seeks to amend (reduce) the *Height of Buildings Map* for various lots within South West Rocks.

This addendum letter considers the visibility of potential built form on the site at 2/DP1091323 South West Rocks. This site is currently subject to a Concept Development Application (DA2300926 **the DA**) for which Urbis have prepared accurate visibility analysis, following detailed site inspections from a variety of key view locations within the immediate and wider visual catchment. This advice includes commentary about the visibility of built forms similar to, but lower in height than what is proposed in the DA, as follows;

- Stage 2 South Buildings have been reduced from 5 storeys to 4 storeys;
- Stage 3 North Buildings have been reduced from 6 storeys to 5 storeys (**to a maximum height of RL 24.3**).

The massing described above is used as a guide to prove that the subject site is capable of accommodating larger height and scale development in visual terms, than is specified in **the planning proposal**.

Further the analytical photomontages of the amended massing show that the development as proposed is not visible in key views from sensitive public domain locations, and as such will not generate significant visual impacts from such medium-distant or distant locations.

Certiably accurate photomontages have been prepared by Urbis (*South West Rocks – Visual Assessment Photomontages (December 2023)*) which show the location, height, scale and massing of a potential scheme on the site and have been used for analysis from two sensitive public domain locations to inform our opinion:

- VPA: Near Stingray Rock looking south-east along Trial Bay Beach
- VPE: Looking south-west from Trial Bay Gaol Beach.

South West Rocks Visual Addendum



1.1 VISUAL EFFECTS ANALYSIS

1.1.1 VPA: Near Stingray Rock looking south-east along Trial Bay Beach

Analysis of the photomontage shows that:

- No Stage 2 or Stage 3 Buildings are visible.
- Intervening dense vegetation blocks views to the proposed built form.
- The character and scenic quality of the foreground, midground and distant composition is unaffected by the Proposal.
- The height of a proposed future built form of 5 storeys on the site would not create visual effects or any visual impacts in key sensitive public domain views from Trial Bay Front Beach.
- The photomontage demonstrates that the site can support built form up to RL24.3 as opposed to the 8.5m proposed building height in the Planning Proposal and will not create any visual effects or visual impacts in this regard.

1.1.2 VPE: Looking south-west from Trial Bay Gaol Beach.

Analysis of the photomontage shows that:

- No Stage 2 or Stage 3 Buildings are visible.
- The foreground, midground and distant visual composition is unaffected by the Proposal.
- Intervening dense vegetation blocks views to the Proposal.
- The height of a proposed future built form of 5 storeys on the site would not create visual effects or any visual impacts in key sensitive public domain views from Trial Bay Gaol Beach.
- The photomontage demonstrates that the site can support built form up to RL24.3 as opposed to the 8.5m proposed building height in the Planning Proposal and will not create any visual effects or visual impacts in this regard.

1.2 CONCLUSIONS

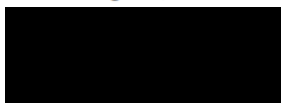
- Future potential built form up to RL 24.3m results in no visibility from the view places as shown in the photomontages.
- The future potential built form up to RL 24.3m does not generate any visual effects or visual impacts from the key sensitive public domain view locations assessed.
- Dense intervening vegetation between the site and view places effectively screens the built form that is proposed and shown.
- There is no visibility of built form on the site up to a maximum height of RL24.3 as demonstrated in the photomontages.
- The Planning Proposal to limit height on the site to only 8.5m appears not to be based on objective visual aids and visual effects established using certifiably accurate photomontages.
- Lower height limits as in the planning proposal, appears to unduly constrain development potential on a site that is of low or no visibility in the majority of important, sensitive public



domain views including VPA and VPE and others assed in relation to the submitted Concept DA for this site.

- In my opinion, the subject site can accommodate greater height development across the site on visual grounds.

Kind regards,



Jane Maze Riley
Director
+61 2 8233 9908
jmazeriley@urbis.com.au

London, United Kingdom

VISUALISATION ARTIST:

Ashley Peon, Urbis – Lead Visual Technologies Consultant
 Bachelor of Planning and Design (Architecture) with over 20 years' experience in 3D visualisation
 Priscilla Mactewson, Urbis – Visual Technologies Consultant
 Bachelor of Design (Landscape Architecture)
 Michael Adonis, Urbis – Design Assistant
 Bachelor of Architectural Design (Honours)

Jean-Marie Lhuillier - Director, National Design

Canon EOS 6D Mark II - 26 Megapixel digital SLR camera II full-frame sensor

Canon EF 24-105mm f/3.5-5.6 IS STM

- **SIEMENS 2075** with Axiomatic (S1) Modeling and Reader Program
- **Axiomatic 2075** (P1) (S1) Editing
- **Mathematical 70** (S1) (S1) Mapping / Processing
- **Mathematical 70** (S1) (S1) Printing

- Point data from NSW Government Spatial Services datasets - Hastings River / Mosley River 2010
- Depth of Pleistocene Channels from NSW Government Spatial Services datasets - North Inland 2010 - 11
- Aerial photography from Google Maps
- Proposed catchment delineation generated from ArcSWAT - 2012-5-10-10-00
- Proposed 2010 river network from ArcSWAT - 2012-5-10-08:30 (S1027) & 2012-5-10-04:30 (S1028)
- Feature survey received from Client - 2012-5-10-08:00
- Accepted 3D model received from Client - 2012-5-17-12

Please ensure images provided in the following pages have been prepared with a high degree of accuracy, in compliance with the requirements as set out in the practice direction for the use of visual aids in the Land and Environment Court of New South Wales.

The authors for each of the three publications are called out below.

- [illegible]



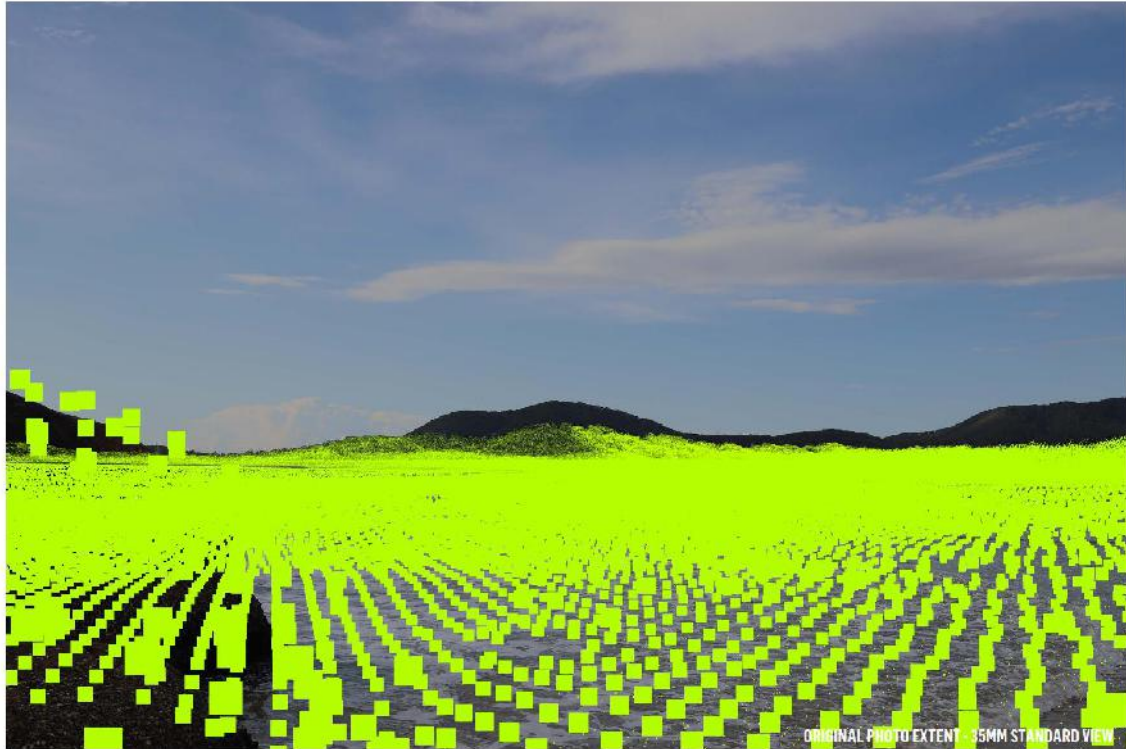
SOUTH WEST ROCKS - VISUAL ASSESSMENT PHOTOMONTAGES - VIEW LOCATION MAP

DATE: 2023-01-03
JWG/MO/PONT/172
DWG NO: 101-1462
REV: -



SOUTH WEST ROCKS - VISUAL ASSESSMENT VP A (PHOTO 6853) : NEAR STINGRAY ROCK LOOKING ESE ALONG TRIAL BAY BEACH | EXISTING CONDITIONS 2023-06-13 9:39 AEST

DATE: 2023-01-03
JWG/MO/PONT/172
DWG NO: 101-1462
REV: -



SOUTH WEST ROCKS - VISUAL ASSESSMENT

VP A (PHOTO 8853) : NEAR STINGRAY ROCK LOOKING ESE ALONG TRIAL BAY BEACH | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2022-12-01
JOB NO: 7704775
DRAWING NO: 101_A3
REV:



SOUTH WEST ROCKS - VISUAL ASSESSMENT

VP A (PHOTO 8853) : NEAR STINGRAY ROCK LOOKING ESE ALONG TRIAL BAY BEACH | PHOTOMONTAGE - PROPOSED DEVELOPMENT

DATE: 2022-12-01
JOB NO: 7704775
DRAWING NO: 101_A3
REV:



ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



SOUTH WEST ROCKS - VISUAL ASSESSMENT
VP E (PHOTO 6938) : LOOKING SW FROM TRIAL BAY GAOL BEACH | EXISTING CONDITIONS 2023-06-13 12:09 AEST

DATE: 2023-12-13
JOB NO: P-141110
DWG NO: VP_E
REV: -



ORIGINAL PHOTO EXTENT - 50MM STANDARD VIEW



SOUTH WEST ROCKS - VISUAL ASSESSMENT
VP E (PHOTO 6938) : LOOKING SW FROM TRIAL BAY GAOL BEACH | CAMERA MATCH 3D MODEL TO PHOTO

DATE: 2023-12-13
JOB NO: P-141110
DWG NO: VP_E
REV: -



SOUTH WEST ROCKS - VISUAL ASSESSMENT

VP E (PHOTO 8938) : LOOKING SW FROM TRIAL BAY GAOL BEACH | PHOTOMONTAGE - PROPOSED DEVELOPMENT

DATE: 2023-02-03
DRAWN: J. BARNES
CHECKED: J. BARNES
REV:



MitchellBrandtman
Quantity Surveyors & Construction Expert Opinion

32041

7 December 2023

By email: [REDACTED]

ATTENTION: MR LIAM PORRITT

Dear Liam,

RE: THE ROCKS DEVELOPMENT – SOUTH WEST ROCKS NSW

Mitchell Brandtman have been engaged by Rise Projects to conduct a high level desktop analysis and commentary on the behaviors of costs across residential building types in relation to permissible building heights between two and six storeys.

Two-Storey Buildings

For buildings with a height limit of 8.5 metres, Class 2 residential flat buildings (RFB)/Manor houses, generally have a significantly higher construction cost compared to Class 1 townhouse construction.

This is largely due to the Class 2 building requiring a more expensive Type B construction methodology over the Type C construction. Consequently, it is often impractical to develop a residential flat building in most situations, and Class 1A buildings (such as townhouses or terraces) become a more feasible and common choice. It's also worth noting that at this scale, the cost of construction has a greater impact on the value of the development product due to smaller margin on uplift value.

Buildings of Three Storeys or More

Three-storey residential flat buildings tend to have a considerably higher relative cost compared to lower height buildings. This is attributed to the Type A construction (including reinforced concrete floors, stairs, lifts, fire services etc.) that is necessitated at this height, along with the typical requirement for basement space for parking and services.

For four, five, and six-storey residential flat buildings, the relative cost decreases slightly as the height increases. This is because the fixed costs (such as Type A construction and basement works) have already been incurred at the three-storey level, resulting in a much smaller marginal cost for each additional storey. This is evident in the cost comparison table provided.

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Benchmark Construction Cost Table

Construction Type	Benchmark Cost per m ² (Excl. GST)	Building Class & Construction Type
Manor Houses/RFB	\$3,000 +	2 storey manor house / RFB (class 2, type B)
Townhouses	\$2,500 +	2 storey townhouses (class 1A, type C)
3 Level Units	\$4,500 +	3 storey RFB (class 2, type A)
6 Storey Units	\$3,850 +	6 storey RFB (class 2, type A)

Construction Types

Type A: This is the most fire-resistant type of construction and is typically used for high-risk buildings such as high-rise structures with many occupants. For example, buildings of class 2, 3, and 9 that are 3 or more storeys, and buildings of class 5, 6, 7, and 8 that are 4 or more storeys fall under Type A construction.

Type B: This type of construction falls between Type A and Type C in terms of fire resistance. It's used for buildings of class 2, 3, and 9 that are 2 storeys, and buildings of class 5, 6, 7, and 8 that are 3 storeys.

Type C: This is the least fire-resistant type of construction and is typically used for lower-risk buildings. For instance, buildings of class 2, 3, and 9 that are 1 storey, and buildings of class 5, 6, 7, and 8 that are 1 or 2 storeys fall under Type C construction.

We trust this information is sufficient for your purposes at this time.

Yours faithfully

MITCHELL BRANDTMAN



James Brandtman
Associate

BCMP, CQS AAIQS (#9246)

-
- 1 - HEIGHT LIMIT 8.5m (approx 2 Storeys)
 2 - HEIGHT LIMIT RL21.50 (approx 4 Storeys)
 3 - HEIGHT LIMIT RL24.30 (approx 5 Storeys)
- 7500
 1000
 1500
 1000
- PHILLIP DRIVE

[illegible]