

Appendix Q

Building Height Assessment

Height Assessment
Seniors Living Proposal

Main Rd, Toukley

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INTRODUCTION

The proposed seniors living development does not fully comply with the development standards contained in SEPP Seniors Living. A justification of the height of the proposal is required to satisfy the DGRs for the project.

The DRGS identify key issues relating to height as follows:

Justify the proposal and demonstrate consistency with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.

Demonstrate the consistency of the proposal with the character of existing development in terms of the foreshore setting, the height, bulk and scale of nearby buildings and existing and future built form planning controls.

1.0 HEIGHT CONTROLS UNDER SEPP SENIORS LIVING

SEPP Seniors Living has height limits in zones where residential flat buildings are not permitted. These controls are development standards and variations to the standards are required for the proposal.

The relevant height standards in SEPP Seniors Living are:

Clause 40 (4) Height in zones where residential flat buildings are not permitted

If the development is proposed in a residential zone where residential flat buildings are not permitted:

- (a) the height of all buildings in the proposed development must be 8 metres or less, and

Note. Development consent for development for the purposes of seniors housing cannot be refused on the ground of the height of the housing if all of the proposed buildings are 8 metres or less in height. See clauses 48 (a), 49 (a) and 50 (a).

- (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and

Note. The purpose of this paragraph is to avoid an abrupt change in the scale of development in the streetscape.

- (c) a building located in the rear 25% area of the site must not exceed 1 storey in height.

Clause 50 (a) SEPP Seniors Living qualifies clause 40 (4) (a), by specifying circumstances under which height cannot be used as grounds for refusing an application as follows: :

***building height:** if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys),*

2.0 THE PURPOSE OF HEIGHT CONTROLS

Generally, the purpose of height controls is:

to protect the environment and amenity enjoyed by landowners.

to ensure new development is compatible with the natural and built character of the area.

to minimise environmental impacts (including overshadowing) as a result of the height of new buildings.

The note regarding the purpose of Clause 40 (4) (b) of SEPP SL is an explicit statement of the specific purpose of one of the three height standards. In justifying a variation to the height standard it will need to be demonstrated that there is no adverse effect arising from an “abrupt change in the scale of development in the streetscape” as a result of more than 2 storeys in that part of the site zoned 2(a).

3.0 INTERPRETATION OF SEPP SENIORS LIVING HEIGHT STANDARDS

SEPP Seniors Living contains 3 height standards in Clause 40(4), (a) maximum height 8 metres, (b) 2 storeys adjacent to a boundary of the site and (c) 1 storey in the rear 25 % of the site.

Interpretation of the height controls in the circumstances is made in the following way:

- i) any part of the building in the 2(a) zoned area over 8 metres is a non compliance.
- ii) any part of the development in the 2(a) zoned area more than 2 storeys in height and adjoining a boundary is a non compliance.
- iii) there is no rear 25% of the site in the circumstances because the site has 3 frontages, to the lake, to Main Rd and to Rowland Terrace.
- iv) the cumulative effect of the controls is ensure that the character and scale of development is appropriate for the locality and the height of the proposal does not have unacceptable environmental effects.

In assessing the effect of the height requirements under SEPP Seniors Living the following definitions are relevant:

scale a certain relative or proportionate size or extent: (Macquarie Dictionary)

streetscape means the character of a locality (whether it is a street or precinct) defined by the spatial arrangement and visual appearance of built and landscape features when viewed from the street. (definition in Clause 3 Interpretation of SEPP Seniors Living).

height in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the ground level immediately below that point. (definition in Clause 3 Interpretation of SEPP Seniors Living).

4.0 NON COMPLIANCES WITH CLAUSE 40(4) SEPP SL

The site comprises 5 lots, 2 are zoned 2(b) and 3 lots are zoned 2(a). Residential flat buildings are permitted in the 2(b) zone but not in the 2(a). Clause 30 of Wyong LEP allows the residential flat buildings in the 2(a) zone but cannot apply in the circumstances as it is a flexible zone boundary provision, the use of which is prohibited under SEPP 71.

As residential flat buildings are not permitted in the 2(a) zone the height provisions of Clause 40(4) apply.

There are 3 and 4 storeys proposed in areas zoned 2(a) and the height of part of these building sections is over 8 metres. The non compliance is over the eastern 3 lots of the site, but does not apply to the Rowland Terrace frontage as in this area the height is 2 and 3 storeys but is less than 8 metres in height for the purposes of SEPP Seniors Living, the extent of height non-compliances is shown in Attachment 1.

The 8 metre height non compliance is located in the middle of the building. The western and eastern ends of the building i.e. facing the Beachcomber and Rowland Terrace are complying.

Facing Rowland Terrace the building is 2 and 3 storeys. This most eastern block of the building complies with the 8 metre height limit. However, SEPP Seniors Living requires that adjacent to a boundary 2 storeys is required. This is also a non compliance. The notes and definitions in the SEPP clearly convey that the requirement for 2 storeys is to avoid an abrupt change of scale in the streetscape as viewed from the street. Given compliance with the 8 metre height limit there is no abrupt change of scale to Rowland Terrace.

Site analysis reveals the height non compliances may have environmental effects as follows:

on views from Rowland Terrace;

on views from the lake;

on views from the Toukley Gardens Park ; and

on views from Main Rd.

There are no adverse overshadowing effects as a result of the proposed building height. There are no amenity effects of the non compliances on adjoining dwellings that arise as a result of the height of the proposal. The effects of the non compliance are limited to the aesthetics of the building as seen from public places.

5.0 THE AIMS AND OBJECTIVES OF SEPP SL.

General compliance with aims of SEPP SL is a precondition for a successful variation to the standards of Clause 40(4).

Aims of SEPP SL

- (1) This Policy aims to encourage the provision of housing (including residential care facilities) that will:
 - (a) increase the supply and diversity of residences that meet the needs of seniors or people with a disability, and
 - (b) make efficient use of existing infrastructure and services, and
 - (c) be of good design.
- (2) These aims will be achieved by:
 - (a) setting aside local planning controls that would prevent the development of housing for seniors or people with a disability that meets the development criteria and standards specified in this Policy, and
 - (b) setting out design principles that should be followed to achieve built form that responds to the characteristics of its site and form, and
 - (c) ensuring that applicants provide support services for seniors or people with a disability for developments on land adjoining land zoned primarily for urban purposes.

An opportunity is presented on the site to achieve the overall intent of the policy in a very favourable location that is part of the future Toukley Town Centre. SEPP Seniors Living provides specifically for the setting aside of local controls.

6.0 THE LOCALITY AND STREETSCAPE

The area generally is in transition, a process reinforced by strategic planning controls that promote higher density development. The sections of the Main Rd precinct either side of the site have a mixed commercial character with the exception of the park. This section of Main Rd is a visually diverse with buildings varying considerably in setback, character and scale. The volume of traffic gives the locality a busy feel. The landscaping varies from none, to the traditionally maintained area of Toukley Gardens Park, to lots where large trees remain.

Overall the main features are some very large trees, constant traffic, commercial signage, and older, variable commercial building form set against the large Beachcomber motel and car park and the White Sails apartments. The proposed development site is screened by trees in the park and on the Beachcomber Hotel site.

The future character of Main Rd as established by the Draft Toukley Strategy is residential 3 to 4 storeys facing the south side of Main Rd and residential 3 storeys facing the north side of Main Rd. As can be



The site showing its relationship to Main Rd, Rowland Terrace and surrounding land use.

seen from the image above there are already buildings of substantially more than residential scale in the locality.



The current view along Rowland Terrace towards the site.

The future character of Rowland Terrace is residential 3 to 4 storeys on the south, and high side, side of the street with no change to 2 storey residential character on the north, and water side of street. The Rowland Terrace is character is currently residential. Visually the street is a mix of building styles and ages. The view west along the street terminates in the cul de sac. At the end of the Terrace is a double dark brick garage of minimal visual appeal sitting below the tree line. It is very quiet compared to the activity on Main Rd. The development in the cul de sac is framed by the trees in Toukley Gardens Park and behind on the Beachcomber site.

From the water the character is developed urban with the large buildings to the west of the site grading through lower density residential to the foreshore park.



The Beachcomber and White Sails buildings west of the site.

7.0 CURRENT HEIGHT CONTROLS UNDER WYONG LEP 1991

The site is zoned 2(a) and 2(b) under Wyong LEP. The zone objectives set out below.

Zone No 2 (a) (Residential Zone)

1 Objectives of zone

The objectives are:

- (a) to provide land primarily for detached housing generally not exceeding a height of 2 storeys and with private gardens in an environment free from commercial and other incompatible activities and buildings, and
- (b) to provide for other uses, but only where they:
 - (i) are compatible with the residential environment and afford services to residents at a local level, and
 - (ii) are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for detached housing, and
- (c) to provide for home-based employment where such will not:
 - (i) involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or
 - (ii) have a material adverse impact on residents.

Zone No 2 (b) (Multiple Dwelling Residential Zone)

1 Objectives of zone

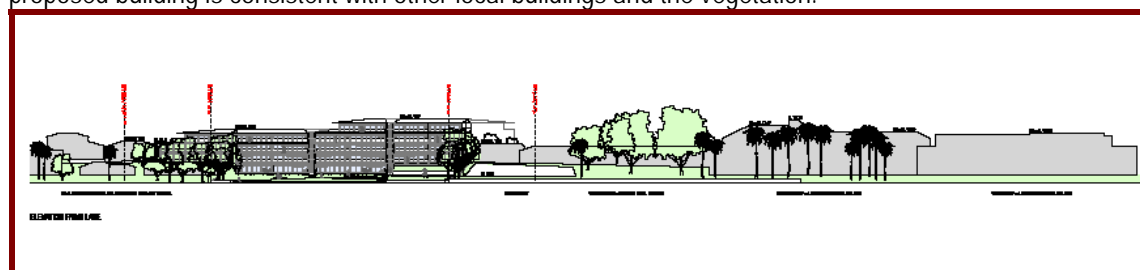
The objectives are:

- (a) to cater for a wide range of housing types essentially domestic in scale and character and generally not exceeding a height of 2storeys, and
- (b) to provide for other uses which:
 - (i) are compatible with the residential environment and afford services to residents at a local level, and
 - (ii) are unlikely to adversely affect residential amenity or place demands on services beyond the level reasonably required for residential uses, and
- (c) to provide home-based employment where such will not:
 - (i) involve exposure to view from any public place of any unsightly matter, or any raw material, equipment, machinery, product or stored finished goods, or
 - (ii) have a material adverse impact on residents.

The height limit embodied in the objectives of both zones is "generally not exceeding a height of two storeys". The wording anticipates buildings exceeding 2 storeys. The objectives also provide for other uses with no height limits subject to residential compatibility and amenity criteria being met.

In accordance with the zone objectives Council has taken a flexible approach to heights in the 2(a) and 2(b) zones. On adjoining land zoned 2(b) parts of the Beachcomber building are 4 storeys.

There are multiple examples of dwelling houses exceeding 2 storeys in the 2(a) zone. Many of these examples are on foreshore sites where the height takes advantage of a sloping site to maximise the amenity provided by water views. The Wyong LEP controls are generally subordinate to SEPP Seniors Living which has the specific aim of overriding local controls. However, the height non compliances under SEPP Seniors Living arise directly from the linked operation of the SEPP with the LEP. Given the extent of height non compliance with the local instrument, similarly variation under SEPP Seniors Living is reasonable in the circumstances. As can be seen from the water elevation below the height of the proposed building is consistent with other local buildings and the vegetation.



8.0 THE POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROPOSAL RELATED TO HEIGHT

As indicated earlier the main height effects have been assessed as visual. There is however a range of potential effects as outlined below.

Visual

No abrupt change in scale of streetscape is generated by the non complying height components of the proposal.



Photomontage (cropped) Main Rd.

The views from the east of the non complying 3 storey section building facing Main are screened by the park vegetation. The views from the west are of complying (height) sections of the building.



Montage of view from Beachcomber jetty

The view from the lake will not be unduly affected as the local landscape can accommodate new buildings comparable in scale and visual effect to the Beachcomber and White Sails developments. The development provides a transition in height and scale across the site to the adjoining low density residential to the east.

The view from Rowland Terrace is mostly of sections of the building complying with the SEPP SL height limit of 8 metres. As viewed from Rowland Terrace the proposal is larger than other buildings but is still residential in scale.



Photomontage of Rowland Terrace View

Overlooking / privacy

There is no significant overlooking from the non complying parts of the building to adjoining residences in the 2 (a) zone. There is no effect on the visual privacy or amenity of these dwellings as private open space areas are screened by existing vegetation, by the buildings on these sites and by level changes.

Overlooking of public open space is a desirable outcome as it provides for increased surveillance and better public safety and amenity outcomes. Existing dwellings around the park have north outlooks and do not provide surveillance of the park.

Local character

The design responds to the Rowland Terrace residential scale and character and is consistent with the mixed character of Main Rd.

Amenity

The outlook of both adjoining dwellings in Rowland Terrace dwellings is away from the site so there will be no amenity effects on these dwellings.

The lake can be glimpsed under the park vegetation but only because the site has been cleared. Other residential sites adjoining the park are fully screened by 1.85m colourbond fences. Loss of the Lake glimpses is not significant.

Overshadowing

The proposal will not result in any unacceptable overshadowing of adjoining property.

Social

The effect of the proposal would generally positive as it enables a greater number of seniors living units to be provided in suitable location, there are also benefits in increased surveillance of the park.

Economic

The additional height generates positive economies of scale for development and greater economic and employment benefits locally.

Loss of development potential

The proposal will not affect the ability of adjoining owners to redevelop their land.

9 THE BUILT FORM OF THE PROPOSAL

The design building arises from the built form principles derived for the site in discussions with the NSW Department of Planning and Wyong Council. The built form is based on the character of surrounding developments, the topography, keeping below the local tree line and the future built form for the locality.

The non complying sections of the building actually complete the built form. Removing the non complying sections of the building would produce an unaesthetic architectural result.

10 HEIGHT VARIATION

A variation is sought is to the height standards in Clause 40 (4) of SEPP Seniors Living.

These standards apply in the 2(a) zoned part of the site but not the 2(b) zoned section of the site.

In the 2(a) zone section of the site building heights of over 8 metres and more than 2 storeys is sought to allow the opportunities for seniors living on the site to be fully realized.

11 GROUNDS FOR VARIATION OF HEIGHT STANDARDS

The variation is sought on the grounds that application of the agreed built form principles for the site will produce a sound planning and design outcome and that the height non compliances will not have significant adverse environmental effects.

Strict application of the SEPP SL height standards is unnecessary and unreasonable as they do not reflect the height capability of the site (both current and future) and would tend to hinder the achievement of the aims of SEPP SL.

The 2(a) zoned part of the site can support the heights as proposed without adverse environmental effects.

12 IS THE HEIGHT ACCEPTABLE?

The non compliances with SEPP SL arise from the built form principles developed for the site. The built form principles reflect SEPP 65 requirements, the topography of the site, adjoining development, the character of the locality, consultations with aged housing providers, and a built form design dialogue with Wyong Shire Council and the NSW Dept of Planning.

The built form determined to be appropriate for the site is:

- 3 residential storeys to Main Rd;
- 4 residential storeys to Lake Budgewoi; with ,
- 2 residential storeys to Rowland Terrace

The non compliances are with the SEPP SL standards that require :

- 8 height metres where the 2(a) zone applies; and
- 2 storeys only in the 2(a) zone. .

The purpose of the height standards is generally to protect the amenity of neighbours and ensure that development is appropriate for the setting. As already argued there are no amenity effects on neighbours.

There is no defining or consistent building scale for Main Rd. The building character is mixed as are the existing landuses. The building scale in Rowland terrace is low density residential but is proposed to increase to a mix of low density and medium density under current strategic planning settings (Draft Toukley Planning Strategy and Central Coast Regional Strategy).

With buildings over 8 metres and 2 storeys on adjoining sites and 3 storeys to Main Rd proposed under exhibited strategic planning controls no current or future conflict with the local character, amenity or streetscape is likely. The height of the building is appropriate in terms of both the current and future built form for the locality. The underlying purpose of the height standards in SEPP Seniors Living is that there be no abrupt scale changes to the streetscape. This purpose will not be compromised by allowing 3 and 4 storeys on 2(a) zoned parts of the site.

The proposal is consistent with the residential character of Rowland Terrace and will not result in an abrupt change of scale of the streetscape. The scale will appear appropriate for the streetscape as the building will sit well below the canopy of existing trees.

In the circumstances application of the standards is unnecessary as the height of the proposal is appropriate for the site and locality and does not produce any unacceptable consequences for neighbourhood amenity or the local streetscapes including the Toukley Gardens Park.

13 IS THE HEIGHT CONSISTENT WITH THE AIMS OF SEPP SENIORS LIVING?

The proposal will promote the social and economic welfare of the Toukley area by addressing the high current demand in the area for seniors and age housing consistent with the aims and objectives of SEPP Seniors Living.

The land owners have pursued a strategy of land consolidation in close proximity to Toukley town centre to create a significant seniors living opportunity. The proposal is also consistent with local and regional strategic policy that aims to increase population and the economic viability of the town centre.

The proposal is of good design. The proposal takes advantage of existing infrastructure particularly the proximity to the Toukley shops and services. The proposal will increase the diversity and availability of senior living housing.

Although the built form developed for the site does not fully comply with the SEPP Seniors Living Clause 40 standards it is nonetheless appropriate for the site and is consistent with all the other aims of SEPP Seniors Living. Consistent with the SEPP, the location provides an outstanding opportunity for seniors living.

14 ARE ANY PLANNING MATTERS OF STATE OR REGIONAL SIGNIFICANCE RAISED?

The building as proposed is consistent with the Central Coast Regional Strategy 2008 that provides for the establishment of Toukley as a town centre. Given existing and likely future development in the town centre area, the non compliances are a reflection of the reasonable development potential of the site.

No undesirable planning precedents are set by the non compliance and there are no significant environmental impacts as result. The non-compliances allow the outcomes of a sound environmental planning process to be realized. The process included a range of stakeholders including the relevant planning authorities. As the outcome is of very high design quality (under SEPPs 65 and SL) and satisfies an established local need the non- compliances are consistent with sound environmental planning. The variation will not undermine the application of SEPP SL on other sites and in other circumstances as it is based on a specific set of site and strategic circumstances.

15 HEIGHT JUSTIFICATION

The project DGRS require the proposal to meet the following criteria:

Justify the proposal and demonstrate consistency with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.

Demonstrate the consistency of the proposal with the character of existing development in terms of the foreshore setting, the height, bulk and scale of nearby buildings and existing and future built form planning controls.

The site is in an infill site providing an opportunity to transition between the larger scale buildings to the west and lower scale to the east.

The site is in an area under going transition to higher density development around the Toukley Town Centre. The site is ideally located for higher density residential development and is a significant seniors living opportunity. The building reflects built form principles derived for the site in consideration of local circumstances.

The zones applying to the site allow development higher than 2 storeys on the site. SEPP SL is thus more restrictive in the circumstances than the local controls. The proposal is consistent with the aims of SEPP Seniors Living and the strategic planning policies for the area under the Central Coast Regional Strategy Strategy and the draft Toukley Planning Strategy.

The SEPP Seniors Living height limits apply in zones where residential flat buildings are not permitted. However, the purpose of the height limits is to prevent abrupt changes of scale to the streetscape. As the proposal does not result in an abrupt change of scale the application of the height limits is unnecessary.

The proposal is similar in height and scale to the 4 storey developments immediately to the west of the site. The proposal will be entirely consistent with the expected height and built form of new medium density development for the immediate area. It is thus unreasonable to enforce the height limits when there are already developments of similar scale in the locality.

As the height non compliances will not result in any significant adverse environmental effects application of the height standards is unnecessary.

The relevant DGR requirements are:

Justify the proposal and demonstrate consistency with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.

Demonstrate the consistency of the proposal with the character of existing development in terms of the foreshore setting, the height, bulk and scale of nearby buildings and existing and future built form planning controls.

The only departure from planning controls relating to height is the standards under SEPP Seniors Living. This Height Assessment has justified and demonstrated the acceptability of the proposal under the DGRs.

Plan of: SEPP SL
HEIGHT NON-COMPLIANCES

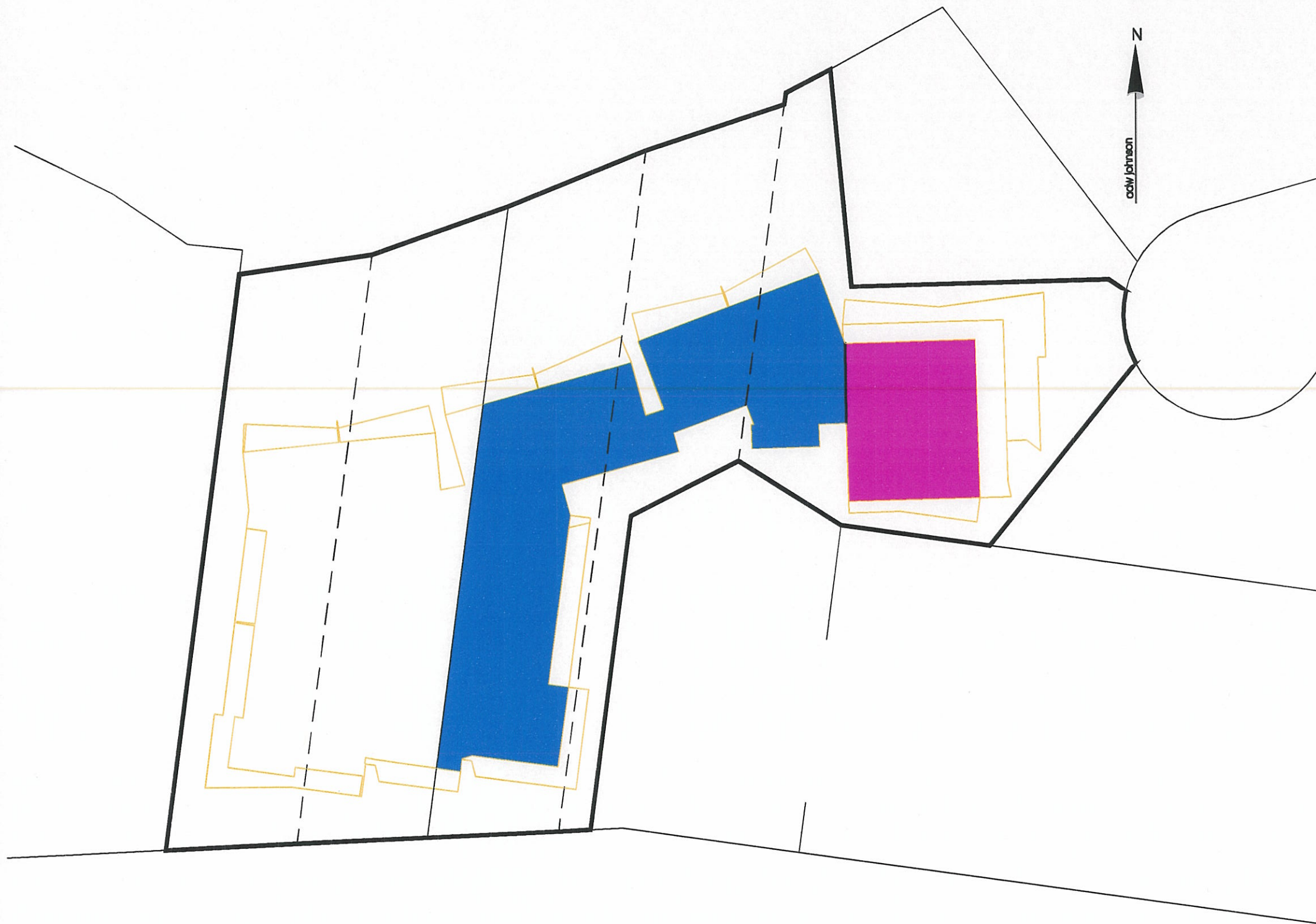
Location: MAIN ROAD
TOUKLEY





Council: WYONG

Datum: AHD
Origin: PM 17507
Projection: MGA (approx)
Origin: DCDB
North Direction: Grid
Contour Interval: 0.5m

Date: 30th March 2009
Sheet: 1
Plan by: MS
Project Manager: I.McN
Office: Hunter
Plan Purpose: EA

Version: A (30th March 2009)
Client:
Survey:
AutoCad: N:\36418da-1a.dwg
Our Ref: 36418



-  SITE BOUNDARY
-  PROPOSED BUILDING OUTLINE
-  8m HEIGHT LIMIT SEPP SL
NON-COMPLIANCE
-  MORE THAN 2 STOREYS NON-COMPLIANCE.

NOTE:
Height is measured under SEPP SL from
existing ground level to upper most ceiling.

A	1/4/2009	First draft
Ver.	Date	Comment

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