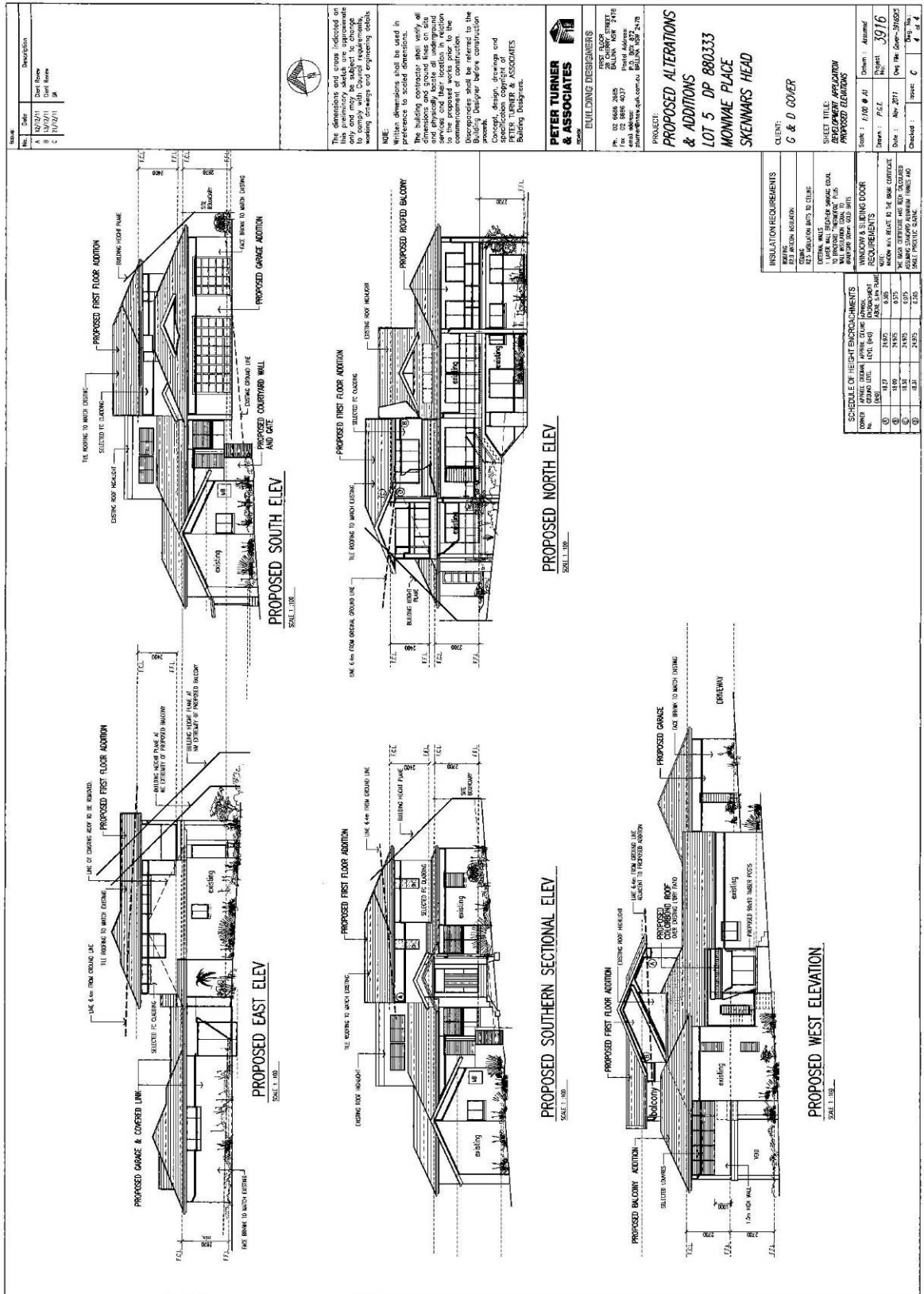


8.1 **DA 2011/546 - 7 Monivae Place, Skennars Head**





5th March 2012

Mark & Shelly Cawley
5 Monivae Place
SKENNARS HEAD NSW 2478

Attention: Bede Cooney

RE: DA 2012/546 — Lot 5 DP 880333, No. 7 Monivae Place, Skennars Head

We believe Ardill Payne & Partners have not sufficiently resolved or addressed our objections in their letter dated 7th February 2012.

Noise from 7 Monivae Place is already an issue. It is constant, often offensive and can be heard from the inside of our home. Due to the proximity and use of this proposed extension it would be pertinent to say that this would result in an increase in noise.

The 1m high wall and selected louvers 'will not 'protect the privacy of the adjoining property, nor will it address the issue of noise & lighting. In addition, to create an outdoor room over the proposed balcony extension, the proposed roof over this area will amplify even the most moderate noise. Should the proposed selected louvers be installed and fixed into a position to reduce viewing, this will not address the issue of noise and lighting.

As suggested by Vince Hunt, it would be reasonable to build a solid insulated wall as per the existing kitchen. However, at very least a 1.7m wall with high fixed louvers would reduce noise hazards. As there is no view to the west other than our house (our bedroom, bathroom and change room), it is reasonable to suggest that this will allow privacy / functionality to the users and significantly reduce the impact of this extension on the adjoining property.

Loss of amenity to other neighbours in the planning of this alteration/ extension is obviously a concern to the Gover's. Ardill, Payne, & Partners have stated;
"significant amount of time and energy has been committed to the design of the proposed development in an attempt to minimise impacts upon adjoining and adjacent properties whilst achieving a functional, practical and attractive outcome for the owners".

This would suggest that fair process in making a decision should include at this stage of the planning, alterations to achieve all objectives.

The alternative for us is to use due process to deal with the increased noise which I believe will not create good neighbourly relations now or into the future for the owners of these adjoining properties.

Yours faithfully

Shelly and Mark Cawley

Mr Vince Hunt
Building Services
Ballina Shire Council

Greg and Debi Gover
7 Monivae Place
Skennars Head, NSW, 2478

21.2.2012

Re: DA2011/546

Dear Vince,

As discussed on the phone earlier today, I am writing to advise you that we have considered alternative plans for the site of our proposed garage.

We have other plans for development along the western side our block of land. In the future we plan to use this space for a pool and for a discrete outdoor area.

We have considered other design alternatives for the garages but have excluded these on the basis of greater impact upon our direct neighbours, building difficulty, and access to the garaging.

Objections to our proposed extensions are centred on loss of views.

There are three main points I would raise in regard to the view in question.

1. It is distant
2. It is filtered
3. It is not sustainable

The view extends across two properties before it reaches our property, and both of these properties have maturing planting for privacy that will obliterate the view in a few short years. This is evident in the council photograph from No1. Monivae Place.

There is a total of six private properties and Crown Lands in the way of the view prior to the ocean. Any of these properties can obstruct the view with maturing plantings.

There is a stand of maturing tuckeroos on the brow of the hill of the Wright's property which is in a direct line of the 'view corridor', it currently stands 2-3 metres in height and is growing quickly. This is clearly evident from an inspection from the northern boundary of our property or from Skennars Head Road. The view again will totally obstructed within a few short years.

We would ask that council takes this into consideration in relation to our application to extend our home.

Sincerely,

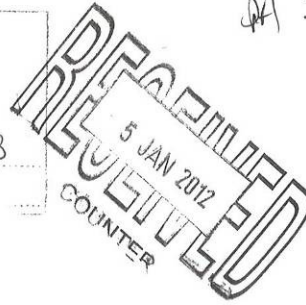
Greg and Debi Gover

*Receives
21/2/12*

3rd January 2011

Mark & Shelly Cawley
5 Monivae Place
Skennars Head NSW 2478
smcawley@aapt.net.au
PH: 02 66 874 974

RECORDS SCANNED
06 JAN 2012
Doc No.....1960203
Batch No.....



JA 2011 / 546.
Bede

Property: Lot 5 DP 880333 , No 7 Monivae Place Skennars Head

Objections to 'elements' of the proposed dwelling alterations and additions have been discussed in consultation with Vince Hunt on 3.1.2012 and these recommendations were put forward-

Proposed extension to existing balcony

The proposed extension to the entertainment balcony will result in loss of amenity in regards to privacy in; our upper level bedroom, change-room, bathroom, balcony, courtyards and front entry to our property. Extra noise and lighting will also be substantial due to the proximity and use of this addition.

- As the proposed extension to the balcony has no views to the west other than our property it would be reasonable to request the wall of the west elevation be a minimum of 1700 high with open louvers above.
- The suggested material was a light weight clad insulated wall which would greatly reduce noise and light from the proposed outside entertainment area.

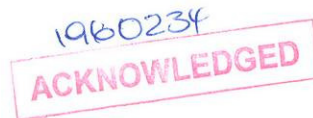
Proposed first floor addition

The proposed first floor edition (parent retreat balcony) which exceeds building height plane as shown in the east elevation, would result in loss of amenity to the privacy of our bedroom- balcony, courtyards and pool area as the viewing from this elevated position looks down into our property

- A reduction in the width of this balcony to comply with regulations together with screening on the western end would address this problem

Yours Faithfully

Mark & Shelly Cawley



S E Tyler-Wade & D B Tyler
98 Killarney Crescent
SKENNARS HEAD NSW 2478

13 February 2012

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Regulatory Services

Re: DA 2011/546, 7 Monivae Place, Skennars Head

Dear Sir

We would like to thank Council for providing us with a copy of the Ardill Payne & Partners report dated 7 February 2012.

It is presumed that the submissions by Mr Snellgrove of Ardill Payne & Partners have been prepared in consultation with the applicant and the owners and represents their opinions. Therefore a reference to the submissions and/or a reference to the applicant below refers to all of these parties.

Following a review of all of the documents available to us we would like to provide the following points for council to consider in making its determination of the application.

The Ardill Payne & Partners report dated 20 December 2011 States that the land has elevations ranging from 20-16 m AHD. The report fails to mention that the difference in these elevations occurs over a distance of more than 40m resulting in an overall grade of less than 10% for the site.

The above referenced report also states that the views from the property at 1 Monivae Place have the potential to be impacted by any works on the subject property. The same report also states that the view corridor will not be compromised by the proposed second storey addition. The report fails to mention the devastating effect the proposed three car garage will have on the views from both 1 Monivae Place and our property.

The above referenced report also states that the second storey extension will not project into the skyline. This may be the case when viewed from the North. However, it is not the case when viewed from the South in the direction of the designated scenic area.

The above referenced report also states that the neighbours did not raise any objections to the proposed development and that three letters were proved to confirm such. This is incorrect as the owners of the neighbouring property at 5 Monivae Place did not provide a letter of support and in fact have lodged an objection to the development.

We question whether the information omitted from this submission is by accident or a deliberate attempt to mislead Council.

It is also noted that no other single dwelling development in the vicinity (and most likely in the entire estate) has a three car garage approximately 10.5m wide as the most prominent feature when viewed from the street frontage.

The Ardill Payne & Partners report dated 7 February 2012 states that it is not possible to fit the new garage in the front yard such that it would be recessed into the built form. This indicates that the perhaps the applicant is attempting to construct something where it should not be built.

The applicant appears to be "clutching at straws" to justify the location of the proposed garage by stating that it will provide privacy to the front door from a property in excess of 40m away. This is somewhat curious when the Ardill Payne & Partners submission later states that privacy screening to the Parents Retreat balcony is not warranted in part because the dwelling on the adjoining property is 19m away.

The provisions of SEPP 6 are consistent with the method of determining the number of storeys provided in my previous submission. It is noted that when viewed from the Northern Elevation a vertical line drawn near the Western end of the Parents Retreat will pass through three separate storeys.

The applicant appears to be reluctant to accept that the planning principle of view sharing can be applied to developments other than that of *Tenacity Consulting Pty Ltd vs Warringah Council*. Despite the principle being clearly outlined to them, the applicant has chosen not to adopt the four step method.

The applicant has chosen to refer to the section of Senior Commissioner Roseth's judgement whereby he states that, in relation to the notion of view sharing, "Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable" (emphasis added by the applicant).

This suggests that in this case the applicant feels that it is quite reasonable to take away the entire ocean view from 1 Monivae Place and a substantial portion from our property. It should also be noted that the view referred to here is that portion that remains following the construction of the existing dwelling.

Mr Snellgrove is correct in stating that there is no reference to view sharing in the Ballina LEP. However the LEP is a broad ranging document intended to cover issues for the entire Council area. Development Control Plans are more specific to particular issues and areas. As such it is appropriate for Part 4.5.1 of Chapter 16 to contain the reference to view sharing.

As noted in my previous submission, we agree that the floor space ratio is within the planning controls (stated in the Ardill Payne & Partners submission at 0.27:1).

However, with a FSR of 0.27:1 and multiple level construction, the site coverage will be substantially less than the 67% allowed and possibly in the vicinity of 20%. This is a very low site coverage for an urban residential allotment and indicates the proposed development may not be fully utilising the land area available for development.

Because the existing development on the site prevents or limits the options available for future development does not mean that the new development should be allowed to breach Council's planning controls.

In summary, the facts of the case are:

1. The proposed development does not comply with Council's ceiling height planning controls.
2. The proposed development does not meet Council's view sharing objective.
3. The proposed development obliterates the ocean view from 1 Monivae Place and substantially reduces it from 98 Killarney Crescent.
4. The applicant has not provided reasonable grounds for Council to grant exemptions or variations to its planning controls.
5. The applicant has stated that no alternative designs are suitable to them.

Council should consider the proposal in respect of the entire development and question whether or not it would be approved if submitted as a single application on this vacant parcel of land.

In light of the above, we believe Council has no alternative than to refuse the application.

Sincerely

Sue Tyler-Wade & David Tyler

S E Tyler-Wade & D B Tyler
98 Killarney Crescent
SKENNARE HEAD NSW 2478

Home.: 02 6687 6141
Sue: 0415 666 776
David: 0428 003 543

29 January 2012

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Regulatory Services

**Re. DA 2011/546 – 7 Monivae Place, Skennars Head
Objection to Development Application - Additional Information**

Dear Sir

In reference to our previous submission dated 18 January 2012, we would like to submit the following additional information to be considered by Council in determining the subject application.

This submission relates specifically to the potential for landscaping at the subject property to have a detrimental impact on the views to the north from a number of properties in Monivae Place and Killarney Crescent.

It is noted that our neighbours, Mr & Mrs Poynting, have lodged an objection to the development. Their submission includes information regarding a threat by the owner of 7 Monivae Place (Mr Gover) to plant trees within his property to deliberately block out the view from both of our properties.

Although I we did not witness this conversation between Mr Gover and Mr & Mrs Poynting, we did witness Mr Gover enter and leave the Mr & Mrs Poynting's property on the evening of 24 January 2011. It was only a short time later that Mr & Mrs Poynting informed me of the conversation. It should also be noted that Tuesday 24 January was the first day that my previous submission had been posted on Council's web site. We feel that Mr Gover's behaviour is unethical, disrespectful and in complete contradiction to the tone of the submission by Ardill Payne & Partners. It appears that from Mr Gover's verbal outburst, he has no respect for the principal of view sharing or

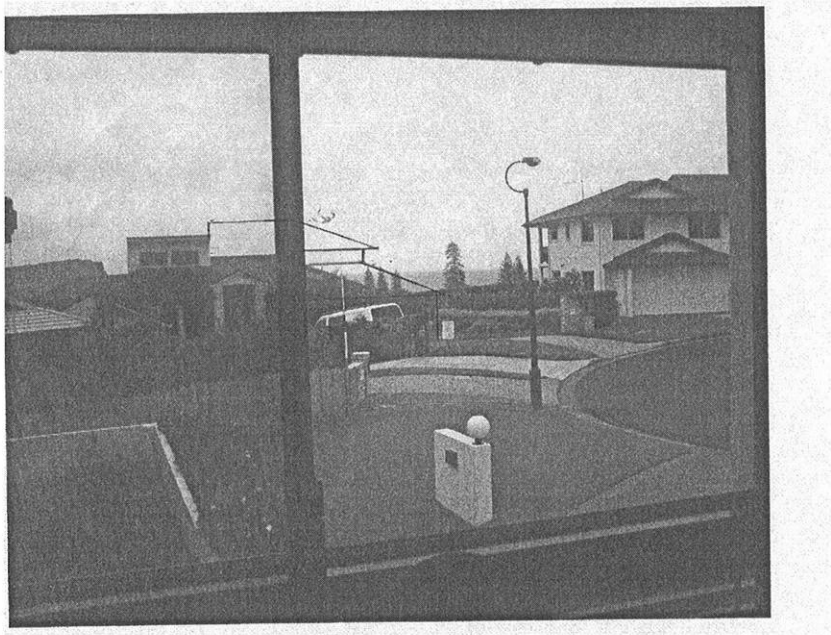
the enjoyment of the view by any property owners or occupants in the vicinity of the proposed development site.

The planting of large shrubs, trees and other dense vegetation in the street frontage and along the eastern boundary of 7 Monivae Place would have a significant impact on the coastal views of not only our property and Mr & Mrs Poynting's property but also those at 2 Monivae Place and 37, 39 and 41 Killarney Crescent.

Therefore, it is requested that the applicant submit a landscaping plan showing the location and mature height of all plantings within the development site. It is also requested that a condition be included on any consent granted to require that all landscaping on the property is to be maintained as per the approved landscape plan.

Alternatively we would ask that a condition be applied stating that all landscaping and vegetation forward of the building line be maintained at a maximum height of 1.2m above ground level and all landscaping and vegetation behind the building line, and on or adjacent to the eastern boundary, be maintained at a maximum height of 1.8m above ground level. This restriction would be consistent with the maximum allowable fencing heights.

The image below indicates the probable impact the proposed building works will have on the ocean view from our lounge area. Even moderately tall landscaping towards the front of the property will have an even greater impact this view.



We would also like to submit the attached article that was published in the Northern Star on 21 January 2012. This article by real estate expert John McGrath particularly emphasises the financial value of a view and the need to protect views to maintain property values.

We ask that Council considers this expert opinion when assessing the proposed development in relation to the content of our submission.

With the exception the Floor Space Ratio of the development, all of the matters addressed in our original submission remain of concern to us and our objections, and the reasons for those objections, remain unchanged.

As noted in our initial submission it is still requested that a suitably qualified person erect a height pole on the development site that indicates the south east corner position and roof height of the proposed triple garage.

We trust Council will consider the above points very carefully in determining the outcome of the proposed development. Please feel free to contact us if you require clarification on any of the above points. I look forward to hearing from you in the near future in relation to our concerns.

Sincerely

Sue Tyler-Wade & David Tyler

Protecting your room with a view

Be sure that great outlook won't be built out before you buy, or stand to lose value



By **JOHN MCGRATH**
WHEN Australians dream of their ideal home, it usually involves an ocean or river view. It relaxes us, contributes to the ambience of our homes and adds a

huge amount of value to the property. But it's not just water that makes a great view. I've seen plenty of properties with breathtaking bushland and district views with no water in sight and beautiful little apartments overlooking parks. Any sort of pleasant, private outlook is a huge plus.

A great view creates emotion within buyers. They imagine waking up to views of the beach or entertaining on their terrace overlooking the water. A view is unique and if the buyers love it, they're likely to fight for it come auction day. However, there are a few things to remember if you're shopping for a property with views. Firstly, it's imperative that you find out whether the view could ever be built out... if your neighbour rebuilds in a few years and adds two extra levels, will you lose your view?



Talk to the council about height restrictions so you can work out whether your view could be interrupted by new houses in nearby streets. Find out if any blocks nearby are zoned for apartments so you can factor in potential medium or high-density development in your neighbourhood.
Lose your view and you'll lose money. Properties with views generally sell at a premium but you'll enjoy faster capital growth

over the long term. However, lose the view and you might find yourself selling at a loss even after many years of living there. That's how critical it is to make sure the view you're buying is protected. Do your due diligence! When you're assessing a property's views sit down on the lounge or lie on the bed to get a realistic perspective of what you'll be looking at when you live there. At inspections, a lot of buyers stand by windows appreciating the

view, but that's not where they'll spend their time if they buy the home. If you can't afford a view, consider towns in your area where it might be more affordable. For example, in Ballina or Ocean Shores, you'll pay less for a property with a beach view than at Lennox Head or Byron Bay.

John McGrath is the chief executive officer of McGrath Real Estate



NO 1. MONIVAE PLACE



98 KILWANNY CRES.

1973565

SCANNED

27 JAN 2012

RECORDS

NK & RP Poynting
1 Monivae Place
SKENNARS HEAD NSW 2478

Home: 02 66877646
Mobile: 0414700512

26th January 2012

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Regulatory Services

**Re: DA 2011/546 – 7 Monivae Place, Skennars Head
Objection to Development Application**

Dear Sir

We are the owners of 1 Monivae Place Skennars Head which is the adjoining duplex to 98 Killarney Crescent, owned by David Tyler and Sue Tyler-Wade. As such we wish to endorse the submission lodged by David Tyler and Sue Tyler-Wade relating to the proposed dwelling alterations and additions for the property at 7 Monivae Place, Skennars Head.

If the proposed development proceeds, the ocean view from our residence, as measured at the horizon, will be totally obscured. At present this view is available to us from both sitting and standing positions in our first floor living area, external balcony and main bedroom. No other rooms in our home have such views. These areas are our principal living areas that are utilised every day throughout the year. The proposed triple garage will totally obscure both our sitting and standing views of the ocean. The proposed addition of another story to the existing building extends the roof line upwards and eastward and creates additional bulk and separation between our views of the ocean. The impact to us of the additional storey and the triple garage would be severe.

We consider this to be unacceptable for a building that does not conform to Council's planning controls. We also note that the existing development has already impacted significantly on our overall view and has obliterated the view of the headland from our balcony as well as significantly reduce our ocean views from our living areas.

It has been acknowledged by the developer's consultant, Ardill Payne and Partners, in their submission to Ballina Shire Council that the ocean views from our property at

1 Monivae Place will be significantly impacted by the proposed alterations and additions to 7 Monivae Place. The following is an extract from that submission:
'(b) It appears that the dwelling at No. 1 Monivae Place (Poynting) has the greatest potential for impacts on its views. This dwelling is oriented to the north with living rooms and a large balcony facing north. The views from these areas have the potential to be impacted by any works on the subject property.'

We would like to point out that the last sentence of this statement *'The views from these areas have the potential to be impacted by any works on the subject property'* is incorrect. Should the alterations/addition occur to the western side of the subject property, the impact on our ocean views would not be as severe and could be negligible; e.g. the addition of an additional story to the existing garage would not adversely impact on our ocean views, nor the views of neighbouring properties.

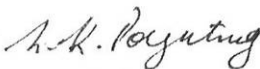
We would also like it recorded that on the evening of Tuesday 24th January Mr Greg Gover, the co-owner and developer of the property at 7 Monivae Place, Skennars Head, presented himself at our front door and indicated that should his development application be refused because of submissions/objections submitted by ourselves and/or David Tyler and Sue Tyler-Wade to Ballina Shire Council, he would ensure our ocean views would be obliterated as he would plant trees in his front yard to ensure this would happen. At the time the threat was made we had not made any submission or objection. Up to that time we enjoyed a cordial relationship with Mr & Mrs Gover as neighbours.

We are of the understanding that Council's policy allows for us to apply for a restriction on landscaping, especially restricting the mature height of plantings that would impact on our ocean view. We would appreciate Ballina Shire Council consider placing a landscaping restriction on the property at 7 Monivae Place Skennars Head regardless of the outcome of the current development application.

We trust Council will consider the above points very carefully in determining the outcome of the proposed development. Please feel free to contact us if you require clarification on any of the above points. We look forward to hearing from you in the near future in relation to our concerns.

Kind regards

Yours sincerely



Neville Poynting



Robyn Poynting

1969072
ACKNOWLEDGED

S E Tyler-Wade & D B Tyler
98 Killarney Crescent
SKENNARE HEAD NSW 2478

Home.: 02 6687 6141
Sue: 0415 666 776
David: 0428 003 543

18 January 2012

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Attention: Regulatory Services

**Re. DA 2011/546 – 7 Monivae Place, Skennars Head
Objection to Development Application**

Dear Sir

We are the owners of 98 Killarney Crescent, Skennars Head. As such, we wish to make a submission to Council regarding the abovementioned Development Application before Council relating to the dwelling alterations and additions for the property at 7 Monivae Place, Skennars Head. Our property is located on the corner of Killarney Crescent and Monivae Place. It should also be noted that some of the issues raised below may also have relevance to other objections submitted.

Having viewed the documents on Council's web site I have a number of concerns with the proposed development. My concerns are addressed individually in more detail below. **Our objection relates to the non-compliance of the development with Council's planning controls that results in the loss of views that would reduce the amenity and value of our property should Council approve the proposed development.**

We have noted that the submission by Ardill Payne & Partners has been commissioned by the owners of the proposed development to be in support of the application. **As such, this report should not in any way be construed as being an independent and/or informative report.**

Similarly, the acceptance of the proposed development by those adjoining property owners that are not affected by the development should in no way detract from Council's responsibility to **fully investigate and assess our concerns regarding the proposal.** Conversely, the inaction by the owners in not seeking a submission of support

from us indicates that they are aware of the detrimental impacts the proposal will have on our property.

We have noted that the documents available for public viewing do not contain a site plan that indicates the extent of the proposed development or a cross section view. The only site plan that has been made available is that of the existing development. To fully and accurately assess the impacts this development will have on our property in more detail than described below, and whether it meets the development controls, it is requested that a site plan and section of the proposed development be made publicly available. It would be appreciated if these could be made available as a matter of priority so that our submission can be finalised prior to the end of the notification period and not cause any undue delay in the assessment process.

In relation to compliance with the Ballina Shire Combined Development Control Plan there are a number of parts within Chapter 16 which the proposal does not comply with or further information is needed in order to assess the proposal further. These include:

3

Part 2.2 e states that one of Council's objectives is to "ensure new development protects the amenity of adjoining premises". Although it may be argued that this objective is not relevant in this case as our property is not adjoining the proposed development site it is also reasonable to expect that Council would find it desirable to protect the amenity of any premises that may be detrimentally affected by a development.

4

Part 2.3.5 states that "New development must be designed to respect the ecological values of the site and its surroundings, and be sensitive to the terrain and landscape character, whilst also preserving views and vistas to and from the prominent landscape features, such as the escarpment, ridgelines, headlands, and beaches."

5

We have noted that Figure 4.4 of Chapter 16 indicates the area to the north of the proposed development as an important scenic area. Views to this area from our property contain portions of the Lennox Head headland, ocean and Norfolk Pines. The proposed development does not preserve our views to this area that is specifically addressed in Chapter 16 being an important scenic area.

The owners, by way of the Ardill Payne & Partners submission, have acknowledged that a view corridor exists to this area. Despite this, the application fails to address what has been done to preserve the view corridor or to describe to what extent it will be impacted upon.

6

Part 3.2.1, which relates to building design requires that "Unobtrusive garages, recessed into the built form" are significant in developing a desirable, contemporary beachside character in Lennox Head.

6 We consider the proposed triple garage is neither unobtrusive nor recessed into the built form. As a site plan has not been made available, an accurate assessment of the extent that this part of the development will impact on our views is not possible at this time. However, it can be readily ascertained by viewing the site from our property that the impact will be significant.

Part 3.2.2 states that one of Council's objectives is to "ensure that buildings are small scale, low in height and do not exceed two storeys above ground level".

Although the floor area of the building has not been calculated due to the restriction on the information that has been made available, it is obvious that the development cannot be considered small scale. Furthermore, in exceeding the 6.4m ceiling height limit of the Ballina Shire Council Local Environmental Plan and Policy Statement 7, the proposed building cannot be described as being low in height. It is also probable that the building exceeds the overall 8.4 metre height plane above the existing ground level as required by Chapter 16. This has not been addressed in the application or on the submitted plans.

As defined in the glossary to Chapter 16, the building also contains 3 separate storeys. We have noted that the submission by Ardill Payne & Partners refers to "an existing double storey brick and tile dwelling house" and "a proposed second storey extension at the north eastern corner of an existing dwelling house". The said extension is in fact the addition of another storey over the second storey of the existing building.

7 It is acknowledging that at times Council will allow buildings to exceed the building height limits. However it is our understanding that this is generally only allowed on steeply sloping sites or for other site specific matters where it is considered impractical to otherwise design the development to be within the building height limit and the development will not have an adverse affect on the amenity of other properties. At an approximate slope of 11% it is more likely that the slope of the land would be considered as moderate rather than steep

Although not stated in the Council's planning documents, it is also acknowledged that in determining the number of storeys it is generally considered to be measured in a straight vertical line at any point from the uppermost ceiling to the finished ground level adjacent to the lowest floor. Without the benefit of being able to view the existing and proposed floor plans it appears that at some points the development may exceed Councils 2 storey limit. Once again, even though Council may on occasions allow minor breaches of the 2 storey limit it is our understanding that this is generally only allowed on steeply sloping sites or for other site specific matters where it is considered impractical to otherwise design the development to be within the 2 storey limit and the proposal will not have an adverse affect on the amenity of other properties.

8

Without the benefit of being able to view the existing and proposed floor and site plans, it appears as though the development may come very close to, or even exceed, the 0.5:1 Floor Space Ratio as defined in the Glossary to Chapter 16. It is also noted that the designer has not included Floor Space Ratio calculations on the available plans.

9

Part 4.5.1 of Chapter 16, which deals with specific controls applicable to the Skennars Head Precinct, states that the development controls are in place to ensure "a built form that provides for sharing of views".

In relation to sharing of views, I refer to the Land and Environment Court of New South Wales case of *Tenacity Consulting Pty Ltd vs Warringah Council* and the principle of view sharing that was established in that case.

A planning principle may be described as a statement of a desirable outcome from a chain of reasoning or a list of appropriate matters to be considered in making a planning decision. The above planning principle established in *Tenacity Consulting Pty Ltd vs Warringah Council* is acknowledged by the Land and Environment Court.

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. To decide whether or not view sharing is reasonable, a four-step assessment is used. The view sharing planning principle as handed down in the judgement in *Tenacity Consulting Pty Ltd vs Warringah Council* is as follows:

"The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually

more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

In applying the above principles to this development we consider the view to the ocean and the iconic Lennox Head headland as highly valuable. At the time of purchasing our property the ocean view was noted in the sales brochure indicating it was a highly valuable selling point. Our ocean view at present includes a fore front of Norfolk Pines. If the proposed development proceeds, a number of these picturesque pines and a significant portion of the ocean, as measured at the horizon, will be totally obscured.

At present these views are available to us from both sitting and standing positions in our first floor living area and external balcony. No other rooms in our home have such views. These areas are our principal living areas that are utilised almost every day throughout the year.

The proposed triple garage will obscure a significant portion of our sitting and standing views of the ocean and pine trees from these areas. The proposed addition of another story to the existing building extends the roof line upwards and eastward and creates additional bulk and separation between our view of the headland and ocean. Whilst it may be considered that the impact of the additional storey may be moderate, the impact of the triple garage would be severe. We consider this to be unacceptable for a building that does not conform to Council's planning controls. We also note that the existing development has already impacted significantly on our overall view and has obliterated the view of the headland from our balcony.

In regards to the reasonableness of the proposal, we note that the proposed development breaches a number of development standards and fails to fulfil Council's documented objectives for the Skennars Head area. The submission by Ardill Payne & Partners for the owners' states that they abandoned a second storey design on top of the triple garage as it would have had a significant impact on the view corridor. Although such a design may have complied with the height restrictions it would not have been "fully compliant" as implied in the submission.

Furthermore, given that the owners are aware of the value of protecting the view corridor it is considered that a more subtle design may have been able to be developed that would not breach as many development controls and greatly reduce the impact on our property.

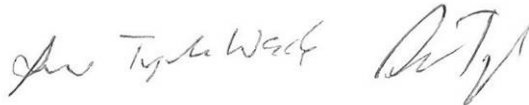
In our opinion, the proposal significantly and unreasonably reduces the amenity and value of our property. It is not consistent with the Ballina Shire Combined Development Control Plan or the Ballina Shire Council Local Environmental Plan and therefore the development application should be refused.

As mentioned previously, this submission cannot be finalised until such time as the requested additional information is made available to us. It is further requested that a suitably qualified person erect a height pole on the development site that indicates the south east corner position and roof height of the proposed triple garage.

We reserve our right to amend or add to the content of this submission at a later date when the above information has been made available.

We trust Council will consider the above points very carefully in determining the outcome of the proposed development. Please feel free to contact us if you require clarification on any of the above points. I look forward to hearing from you in the near future in relation to our concerns.

Sincerely

The image shows two handwritten signatures in black ink. The signature on the left is 'Sue Tyler-Wade' and the signature on the right is 'David Tyler'. Both are written in a cursive, flowing style.

Sue Tyler-Wade & David Tyler