



Beth Morris
File Ref: LP06/553214



2 July 2012



Ms Juliet Grant
Regional Director- Sydney Region East
Department of Planning and Infrastructure
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SYDNEY NSW 2001

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4 JUL 2012
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Dear Ms Grant

Planning Proposal - Flora Street, Acacia Road, and President Ave Kirrawee - SSDLEP2006 Amendment 18

[In response, please quote File Ref: LP06/553214]

Sutherland Shire Council at its meeting on 12 June 2012 (EAP223-12) resolved to endorse a planning proposal to be sent to the Department of Planning and Infrastructure for Gateway approval.

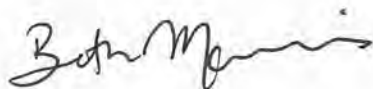
The planning proposal applies to 48- 92 Flora Street, 124-138 Acacia Rd, 2A&2B Fauna Place, 465-489 President Ave, Kirrawee. The planning proposal is to amend Sutherland Shire Local Environmental Plan 2006 to rezone 48-62 Flora St, 68-92 Flora Street, 124-138 Acacia Rd, 2A&2B Fauna Place, and 465-489 President Ave, Kirrawee to medium density and thereby prohibit development of land for residential flats. The planning proposal seeks to reduce the maximum permissible height to two storey/9m, and reduce the maximum permissible floor space to 0.7:1. The planning proposal also seeks to rezone 64-66 Flora Street (Lot 1 DP 505219 and Lot 1 DP 523842) Kirrawee for open space purposes.

The documents enclosed with this report are:

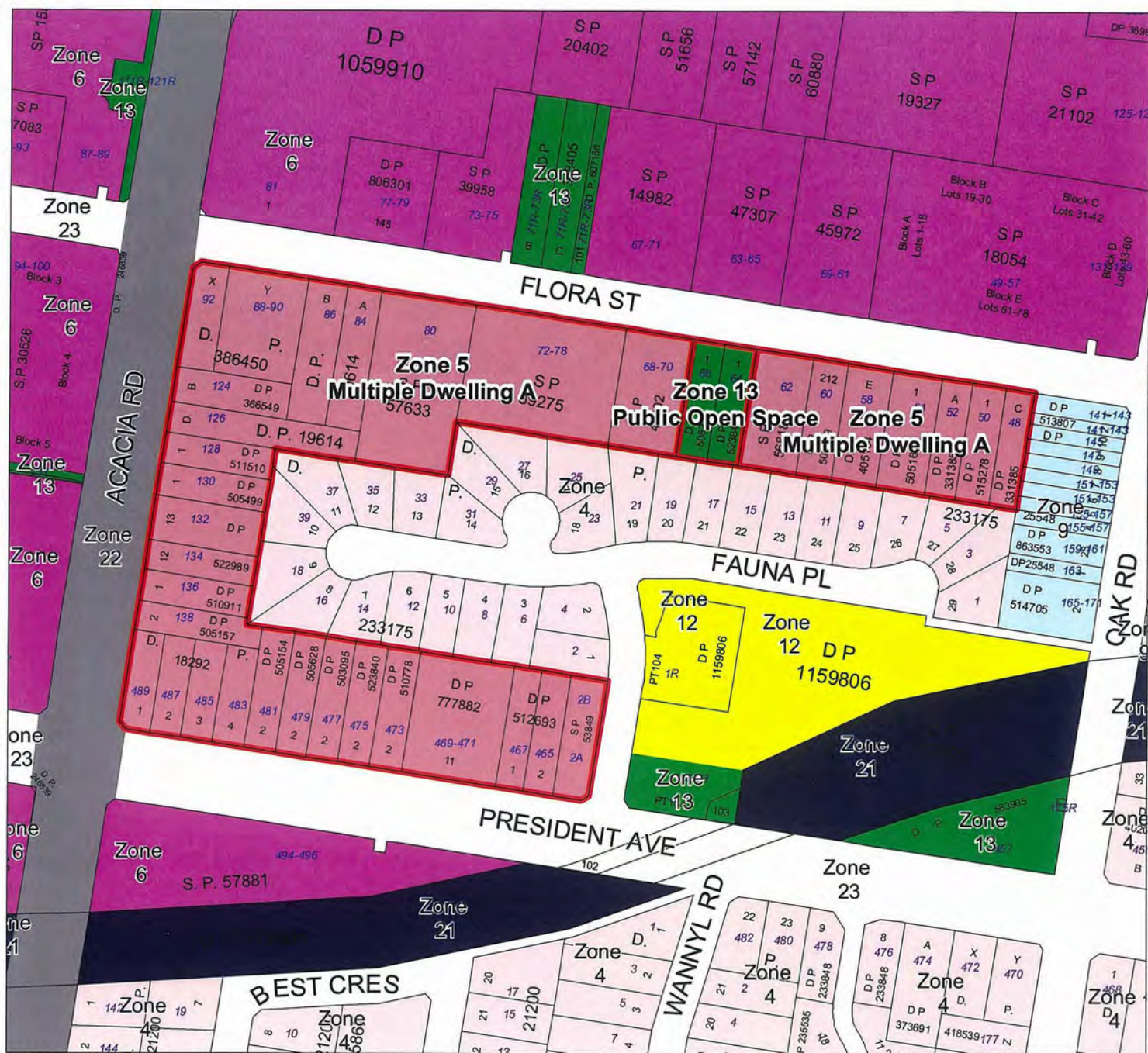
1. Sutherland Shire Council Planning Proposal for 48- 92 Flora Street, 124-138 Acacia Rd, 2A&2B Fauna Place, 465-489 President Ave, Kirrawee
2. Council Report (EAP223-12) Draft Planning Proposal - Flora Street Kirrawee, SSDLEP2006 Amendment 18
3. Council's initial Motion (MOT016-12), 7 May 2012
4. Council's refusal of DA11/1067 for 12 residential units at 64-66 Flora Street, Kirrawee (IHAP045-12 and EAP195-12).

Council looks forward to your earliest advice. If you require further information please contact Beth Morris on 9710 0376.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Beth Morris', with a stylized flourish at the end.

Beth Morris
Senior Policy Advisor - Environmental Planning
for J W Rayner
General Manager



Subject Land -

- 64-66 Flora St - to be rezone from Zone 6 Multi Dwelling B to Zone 13 Public Open Space
- 48-62, 68-92 Flora St; 124-138 Acacia Rd; 2A,2B & 465-489 President Ave - to be rezoned from Zone 6 Multi Dwelling B to Zone 5 Multi Dwelling A

STATEMENT OF RELATIONSHIP WITH OTHER PLANS

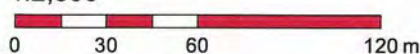
**AMENDS
SUTHERLAND SHIRE LOCAL
ENVIRONMENTAL PLAN 2006**

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

**DRAFT SUTHERLAND SHIRE LOCAL
ENVIRONMENTAL PLAN 2006
AMENDMENT No. 18 - Option 2**

**LOCATION 48-92 Flora St, 124-138 Acacia Rd &
2A,2B & 465-489 President Ave Kirrawee, KIRRAWEE**

1:2,500



CERTIFIED IN ACCORDANCE
WITH THE ENVIRONMENTAL
PLANNING & ASSESSMENT ACT
1979, AND REGULATIONS



THE HON. BRAD HAZZARD MP
MINISTER FOR PLANNING AND INFRASTRUCTURE
DATE

DRAWN BY J.Loo

DATE 29/05/2012

PLANNING OFFICER

B. Morris

CERTIFICATE PLAN NUMBER SSLEP2006 Amend 18

COUNCIL FILE NUMBER TBA

DEPT. FILE NUMBER TBA

CERTIFICATE ISSUED UNDER SEC.65 E.P&A ACT DATE TBA

Planning Proposal - Section 55 of the Environmental Planning and Assessment Act, 1979

LOCAL GOVERNMENT AREA

Sutherland Shire Council

NAME OF PLANNING PROPOSAL

Sutherland Shire Local Environmental Plan 2006 (Draft Amendment No 18)

ADDRESS OF LAND

The plan applies to 48- 92 Flora Street, 124-138 Acacia Rd, 2A&2B Fauna Place, 465-489 President Ave, Kirrawee

MAP

Attached showing the location of property affected by this plan.

DETAILS OF THE PLANNING PROPOSAL

1. A statement of the objectives or intended outcomes of the proposed local environmental plan. [Act s. 55(2)(a)]

The planning proposal aims to rezone 48-62 Flora St, 68-92 Flora Street, 124-138 Acacia Rd, 2A&2B Fauna Place, and 465-489 President Ave, Kirrawee to medium density and thereby prohibit development of land for residential flats. The planning proposal seeks to reduce the maximum permissible height to two storey/9m, and reduce the maximum permissible floor space to 0.7:1.

The planning proposal also seeks to rezone 64-66 Flora Street (Lot 1 DP 505219 and Lot 1 DP 523842) Kirrawee for open space purposes.

2. An explanation of the provisions that are to be included in the proposed local environmental plan. [Act s. 55(2)(b)]

Amendment to Sutherland Shire Local Environmental Plan 2006 (SSLEP2006) to:

- rezone the Zone 6 Multiple Dwelling B parts of the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, (48-62 Flora St, 68-92 Flora Street, 124-138 Acacia Rd, 2A& 2B Fauna Place, and 465-489 President Ave) Kirrawee, to Zone 5 Multiple Dwelling A.
- amend the SSLEP2006 Height and Density Controls Map – Kirrawee Centre by reducing the height limit for 48-62 Flora St, 68-92 Flora Street, 124-138 Acacia Rd, 2A&2B Fauna Place and 465-489 President Ave to 2 storeys/9 metres
- rezone 64-66 Flora Street (Lot 1 DP 505219 and Lot 1 DP 523842), Kirrawee from zone 6 Multiple Dwelling B to zone 13 Public Open Space
- amend the SSLEP2006 Height and Density Controls Map – Kirrawee Centre by removing the maximum permissible floor space ratio (FSR) for Area D from the map, the default FSR applying to the Multiple Dwelling A zone (SSLEP2006 clause 35) will apply.

3. Justification for those objectives, outcomes and provisions and the process for their implementation. [Act s. 55(2)(c)]

Need for planning proposal

1. Is the planning proposal the result of any strategic study or report?

The proposed amendment is not a direct result of any specific strategic study. On the 7th May 2012 Council resolved (MOT016-12) that parts of the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, Kirrawee be rezoned from Zone 6 Multi Dwelling B to zone 5 Multiple Dwelling A, with a 2 storey/9 metre height limit. The resolution followed Council's refusal (IHAP045-12 and EAP195-12) of DA11/1067 for 12 residential units (three x one and nine x two bedroom units, including three (3) adaptable units, and 15 parking spaces) at 64-66 Flora Street Kirrawee. Council also resolved to rezone part of the subject land for open space purposes (64-66 Flora Street).

Council considers that the forms of residential flat buildings permissible as a result of the current zoning and development controls are not desirable planning outcomes. The zoning and controls result in three and four storey residential flat development that are likely to have adverse amenity impacts on existing medium density townhouses in the locality, including adverse overlooking and privacy issues and adverse overshadowing. It is considered that such development will have an adverse impact on the streetscape and the amenity of the locality. It is considered that the current controls allow development of a height that is inconsistent with adjoining development.

In 2003, this locality was subject to a detailed planning process as part of the DUAP Living Centres Project, which resulted in the Kirrawee Local Area Masterplan. This plan envisaged a variety of housing types to accommodate the changing demographics of the Sutherland Shire and accommodate the greater number of people wishing to live near public transport.

The LAM was prepared following a 19 month consultation period, including exhibitions, newsletters, workshops, a shopfront display, business and residential surveys. The plan was adopted by Council on 1 September 2003 (EHC024-04). Council resolved to include the LAM in its drafting of the then new comprehensive Local Environmental Plan SSDLEP2004 (the Peoples Plan). It should be noted that under the LAM, the area was proposed to be zoned for medium density (townhouses).

The LAM proposed this area for medium density. It considered that a floor space ratio of 0.7:1 was appropriate for this precinct. The height controls contained in the LAM, for this precinct, ranged from 2 to 4 storeys. The two storey height limits reflect existing townhouse and villa development. For undeveloped sites the LAM envisaged that an additional third storey component could be setback from Flora Street/President Ave, in addition to the 7m building line setback. Three storey buildings would be limited to 9m to the ridge to limit the scale of development (flat roofs). Four storey developments on the corners fronting Acacia Road, better reflected the forms of development happening opposite, and forced vehicular access to be from the secondary Street (Flora Street/President Ave). The LAM required development midblock, facing Acacia Road, to be two storey and to gain access via President Ave or Flora Street. The LAM required three and four storey development at the front of the site to allow a greater setback to the rear, reducing the potential for adverse amenity impacts to the single dwellings in Fauna Place.

However, the subject land was subsequently rezoned from Residential 2(b) (townhouses) under Sutherland Shire Local Environmental Plan 2000 to Zone 6 Multi

Dwelling B (flats) in 2006 as part of the Sutherland Shire Local Environmental Plan 2006. The FSR had also increased to 0.8:1 and there was no 9m height limit for three storey development as proposed in the LAM. Council had no indication that the Minister was going to increase the development potential of this area.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The planning intent behind the planning proposal is to limit the size and scale of development, and to limit the adverse impacts to existing adjoining development. Retaining the existing zoning and reducing the height and density controls would still create development with potential adverse overlooking impacts. It is considered that limiting the permissible form of development to townhouses (as permitted in zone 5 Multiple Dwelling A) will reduce the potential for upper storey balconies which create overlooking and privacy issues for adjoining development.

3. *Is there a net community benefit?*

While the planning proposal is minor in nature, the proposal presents an opportunity to ensure development does not adversely impact on the streetscape and the amenity of the locality, and that the height of development is consistent with adjoining development.

The proposal also includes an opportunity for Council to increase open space provision in the locality.

Relationship to strategic planning framework

1. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

The proposed amendment is generally minor in nature. The proposal will have a minor effect on dwelling yield in the locality. The South Subregional Draft Subregional Strategy identifies Kirrawee as a Village – within 600m the typical dwelling range should be 2,100-5,500 dwellings and medium density housing is located in and around the main street. The Strategy states that villages are a place where Council should 'investigate increasing densities in all centres where access to employment, services, and public transport can be provided'. Furthermore the Strategy requires Council to plan for 10,100 new dwellings (to 2031), 80% of which are to be within centres.

Based on the reduced floor space ratio (0.8:1 to 0.7:1), the planning proposal will result in approximately 100 less dwellings. This is because townhouses tend to be larger dwellings and the take up rate is less, given the reduced economic feasibility of townhouses – townhouses tend to cost more to develop and do not benefit as much from economies of scale. Whilst minor, the proposal does not meet the objectives of the South Subregional Draft Subregional Strategy as it reduces the permissible residential density.

2. *Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?*

The planning proposal is not contrary to Council's community plan known as *Our Shire Our Future: Our Guide for Shaping the Shire to 2030*. The proposal will provide some housing choice in close proximity to transport nodes.

3. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal does not contravene any state environmental planning policies.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following planning directions apply:

- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 6.2 Reserving Land for Public Purposes - consistent
- 7.1 Implementation of the Metropolitan Strategy - consistent

Specific comment is warranted in relation to Directions 3.1 and 3.4. Council is consistent with Direction 6.2 as Council will be the acquisition authority.

3.1 Residential Zones - This Direction requires that Planning Proposals "not contain provisions which will reduce the permissible residential density of land". This planning proposal is inconsistent with the Direction, as it will reduce the permissible residential density of the land from 0.8:1 to 0.7:1. The Planning Proposal also prohibits the development of residential flats, and only allows townhouse development. Whilst the effect of the reduced floor space ratio is minor, the reduction in height standards will result in reduced opportunities for greater rear setbacks to the adjacent low density dwellings in Fauna Place. The planning proposal also rezones residential land for open space purposes, thereby reducing dwelling potential further.

3.4 Integrating Land Use and Transport – This Direction requires Planning Proposals to consider locating zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development (DUAP 2001). This planning guideline sets principles for zoning, including a requirement that concentrated centres contain the highest appropriate densities of housing, employment, services and public facilities within an acceptable walking distance — 400 to 1000 metres — of major public transport nodes, such as railway stations and high frequency bus routes with at least a 15 minute frequency at peak times. The subject land is within a 400m catchment of Kirrawee Train Station. The proposal seeks to reduce the opportunities for increased densities and is therefore inconsistent with this Direction.

Whilst the planning proposal contravenes the Ministerial Directions, the results of the decreased development potential are minor.

7.1 Implementation of the Metropolitan Strategy - This Direction requires Planning Proposals to be consistent with the Metropolitan Plan for Sydney 2036. This plan aims to provide additional housing in proximity to centres. The proposal will partly meet the objectives on the plan in ensuring local planning controls include more low rise medium density housing in and around smaller local centres, such as Kirrawee.

Environmental, social and economic impact.

1. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The planning proposal will not have any adverse impacts on critical habitat, threatened species, populations or ecological communities, or their habitats.

2. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

There are no likely environmental effects from the planning proposal. The proposal seeks to deliver better development outcomes for the locality. Specific impacts which may result from the developments permissible as a result of the planning proposal will be assessed and managed as part of the development assessment process.

3. *How has the planning proposal adequately addressed any social and economic effects?*

The planning proposal is unlikely to raise any significant social and economic effects.

The land proposed to be zoned for open space purposes will be acquired by Council.

State and Commonwealth interests.

4. *Is there adequate public infrastructure for the planning proposal?*

The planning proposal is minor in nature and unlikely to cause any impact on public infrastructure.

5. *What are the views of the State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?*

Not applicable at this stage as planning proposal has not yet been submitted for Gateway Determination.

4. Details of the community consultation that is to be undertaken on the planning proposal. [Act s. 55(2)(e)]

Council proposes that the planning proposal be exhibited in accordance with any requirements as determined by the gateway process and the requirements of Section 29 of the Local Government Act, 1993 and Section 57 the Environmental Planning and Assessment Act, 1979.

Council proposes to give notice of the public exhibition of the planning proposal:

- In the local newspaper (The St George and Sutherland Shire Leader and the Liverpool City Champion);
- On Council's website;
- In writing to relevant adjoining landowners who may be affected by the proposal.

Environment and Planning

04/06/2012 EAP223-12

Draft Planning Proposal - Flora Street Kirrawee, SSDLEP2006 Amendment 18

File Number: LP/06/553214

Director: Environmental Services (BM:MC)

Report Item

REPORT IN BRIEF

Purpose

This report is in response to Council's request (MOT016-12 ) for a report to start the process of rezoning land at Flora Street, Kirrawee, from Zone 6 Multiple Dwelling B to partly Zone 5 Multiple Dwelling A and partly Zone 13 Public Open Space.

Summary

Council's decision to rezone the Zone 6 – Multiple Dwelling A land bounded by Flora Street, Acacia Road, and President Avenue, Kirrawee, must follow the statutory process for Planning Proposals. Council must adopt a Planning Proposal and it must be referred to the Department of Planning & Infrastructure for Gateway Determination before it can proceed to public exhibition. Public exhibition can only occur if it is supported by the Department. The purpose of the Gateway Determination is to provide a clear and publicly-available decision on each plan at an early stage. One of the underlying intentions of the Gateway Process is to only allow those plans likely to be ultimately supported by the Minister for Planning & Infrastructure to proceed to public exhibition.

Once on public exhibition the plan becomes a matter for statutory consideration in the determination of any development application. The weight given to it upon determination of an application is dependent on the imminence and certainty of the plan being gazetted. Following exhibition the plan is again reconsidered by Council and then, if supported, referred to the State Government to be made. Essentially, simple Planning Proposals may take up to 12 months and regularly take longer.

It is noted that the applicant has lodged an appeal against Council's refusal of DA11/1067 in the Land and Environment Court.

This Planning Proposal will reduce dwelling potential in an area that is in close proximity to the centres of both Sutherland and Kirrawee as well as being within approximately 300 metres of Kirrawee railway station. Reducing dwelling density in such a locality is contrary to the policy of the Department of Planning and Infrastructure, including S.117 Local Planning Directions and the South Subregion Draft Subregional Strategy. In particular, Local Planning Direction 3.1 which requires that Planning Proposals "not contain provisions which will reduce the permissible residential density of land". As such, there is no certainty that the State Government will support Council's endorsement of the Planning Proposal to public exhibition.

Reducing the permissibility of uses will not necessarily improve the residential amenity of the locality. The impacts of zone 5 permissible development - townhouses - on adjoining development are not dissimilar to residential flat development permitted under the current controls. The difference being that residential flats in Sutherland Shire are typically three (3) storeys in height. However, there is nothing to stop residential flats being two (2) storeys in height. It should also be noted that townhouse development can be closer to adjoining development, and have less landscaped area and opportunities for screen planting than residential flat buildings. When appropriately designed, overshadowing on adjoining properties from three (3) storey flats or two (2) storey townhouses is similar.

The motion also proposes to zone and acquire 64-66 Flora Street for open space. Council's existing policy on open space acquisition does not support the acquisition of open space to create 'pocket parks'. Council's current Section 94 Contribution Plan, the 2005 Shire Wide Open Space and Recreational Facilities Plan, focuses on existing open space commitments and open space facilities such as cycleways, active recreation areas, foreshore links and the like. It is also noted that there is a large park in Flora Street, opposite the site 50m to the west. There is no demonstrated need for open space of the size and configuration of that proposed in this locality. The acquisition is not included in any Section 94 Plan and is currently unfunded. The acquisition of two (2) lots for open space is therefore not supported on planning grounds.

The current Planning Proposal is difficult to support on planning grounds. The Planning Proposal is contrary to Ministerial Directions because it reduces residential density in a locality that enjoys ready access to a centre and public transport. As such it is not considered likely that the Department of Planning & Infrastructure will allow the Planning Proposal to proceed to exhibition.

Given the limited planning grounds in support of the Planning Proposal, it is considered that Council should reconsider its approach. Given that Council's primary concern is the impact of three (3) storey development on existing single dwellings and townhouses, perhaps a better way forward is for Council to simply reduce the height limit. If the building height limit for the precinct was reduced to two (2) storeys and nine (9) metres, the zone could remain as Zone 6 Multiple Dwelling B. Residential flats would simply be confined to two (2) storeys in height. Under this scenario, Council would have to accept reduced setbacks in order to allow sufficient density to be achieved. Also, it would be much harder for new development to meet the solar access requirements of SEPP65; Design Quality Residential Flat Buildings.

While it has shortcomings, this approach is more in keeping with State Directions. Council could present a case that both housing choice and density were being maintained, as only the height standard is being changed. If development was limited to two (2) storeys the impact from development on 64-66 Flora Street would be no greater than expected from a large single dwelling or townhouses. As such it would not be necessary for Council to seek to purchase the proposed open space site to mitigate impact on neighbours.

Two (2) options are presented to Council for its consideration. Option 1 (Planning Proposal Appendix A) responds to Council's initial motion (MOT016-12). Option 2 does not include rezoning part of the land for open space and reduces the maximum height limit for the precinct to two (2) storeys/9m. It is a pragmatic solution to reduce the potential for adverse effects on adjoining development whilst retaining the existing permissibility and density of

development.

It is recommended that Council reconsider its position in relation to the rezoning land at Flora Street, Acacia Road, and President Avenue, Kirrawee.

REPORT IN FULL

Background

On 7 May 2012 Council resolved (MOT016-12) that parts of the block bounded by Flora Street, Acacia Road, President Avenue and Oak Road, Kirrawee be rezoned from Zone 6 Multi Dwelling B to Zone 5 Multiple Dwelling A, with a two (2) storey/9 metre height limit. The resolution followed Council's refusal of DA11/1067 for 12 residential units at 64-66 Flora Street, Kirrawee (IHAP045-12 and EAP195-12). Council also resolved to rezone 64-66 Flora Street for public open space.

Council's Motion (MOT016-12) is as follows:

1. *That Council rezone the Zone 6 High Density parts of the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, Kirrawee, to Zone 5 Medium Density with a 2 storey and 9 metre height limit under SSLEP 2006.*
2. *That this be expedited and include having the re-zoning on statutory public consultation as soon as possible.*
3. *That Council invite the Director General of Department of Planning and Infrastructure (or his representative) to inspect the site (including from a north facing rear yard in Fauna Place) to see the impact of the current incorrect zoning.*
4. *That Council receive a report in the next round to start the process to rezone the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, Kirrawee, including the rezoning of 64-66 Flora Street as open space.*

Council has separately written to the Department requesting an on-site meeting, however details have not been confirmed at this stage.

This report assesses the merits of the proposal and the outlines the statutory requirements of proceeding with the rezoning.

The Planning Proposal

The planning proposal seeks to rezone the Zone 6 Multiple Dwelling B parts of the block bounded by Flora Street, Acacia Road, and President Avenue, Kirrawee, to Zone 5 Multiple Dwelling A (see Appendix A). Accompanying this is a reduction in the height limit to two (2) storey/9 metres under SSLEP 2006.

The Planning Proposal also seeks to zone 64-66 Flora Street (Lot 1 DP 505219 and Lot 1 DP 523842), Kirrawee from Zone 6 Multiple Dwelling B to Zone 13 Public Open Space.

Whilst not specifically resolved by Council, it is assumed that the permissible floor space ratio (FSR) will also be removed from the SSLEP2006 Height and Density Controls Map, and therefore be reduced from the mapped FSR of 0.8:1 to the default FSR applying to the Multiple Dwelling A zone (SSLEP2006 clause 35).

In arriving at this decision Council was of the view that the current pattern of zones created a poor transition between existing and potential building forms. Essentially Council's view was informed by its consideration of DA11/1067 where it considered that the three (3) storey residential flat building resulted in excessive overlooking and visual intrusion from bulk and scale on existing adjoining townhouses and single dwelling in Fauna Place.

The Locality

The subject land is located west and directly adjacent to Kirrawee town centre (Appendix B). The entire precinct under consideration is within 400 metres of Kirrawee Railway Station. Existing development comprises largely of older style single dwellings. Approximately 50% of the land fronting Flora Street has been developed into two (2) storey townhouse development and single storey villas. Fronting President Avenue and Acacia Road is one (1) townhouse/villa development and predominantly single dwellings.

The subject land surrounds a low density (Zone 4 Local Housing) area of single and two (2) storey brick dwellings in Fauna Place. This area was developed in the 1960's and some houses have been recently improved.

Opposite the subject land, in Flora Street are three (3) storey residential flats. Similarly, opposite in Acacia Road and President Avenue, are three (3) and four (4) storey residential flats. The area is undergoing transition with older style dwellings being replaced with higher density development.

Background to the current zoning - Kirrawee Local Area Masterplan and SSLEP2006

The subject land was rezoned from Residential 2(b) (townhouses) under Sutherland Shire Local Environmental Plan 2000 to Zone 6 Multi Dwelling B (flats) in 2006 as part of the Sutherland Shire Local Environmental Plan 2006 (SSLEP2006). This plan was informed by the Kirrawee Local Area Masterplan (LAM).

The LAM was initially prepared for Kirrawee Town Centre in 2003. This exercise was led by the Urban Design Advisory Service(UDAS) which was a unit within the Department of Infrastructure, Planning and Natural Resources (now the Department of Planning & Infrastructure), Sutherland Shire Council, Council's Economic Development Committee and Sydney Water (the owners of the Brick Pit site). This project was funded through the NSW Government's Metropolitan Living Centres Program and presented a comprehensive analysis of the aesthetic, social and economic values of the existing centre, and a vision to guide future development within the centre. Extensive community consultation was a key feature of this master planning process. A major objective of the LAM was to ensure that future development supports the existing character and the ongoing viability of the existing businesses in the heart of the centre. The LAM aimed to provide a variety of housing types to accommodate the changing demographics of the Sutherland Shire and accommodate the greater number of people wishing to live near public transport.

The LAM was prepared following a 19 month consultation period, including exhibitions, newsletters, workshops, a shopfront display, business and residential surveys. The plan was adopted by Council on 1 September 2003 (EHC024-04 ). Council resolved to include the LAM in its drafting of the then new comprehensive Local Environmental Plan SSDLEP2004 (the Peoples Plan). The LAM considered that a floor space ratio of 0.7:1 was appropriate for this precinct. The height controls contained in the LAM, for this precinct, ranged from two

(2) to four (4) storeys. The two (2) storey height li
 development. For undeveloped sites the LAM envisaged that an additional third storey component could be setback from Flora Street/President Avenue, in addition to the 7m building line setback. Three (3) storey buildings would be limited to 9m to the ridge to limit the scale of development (flat roofs being likely).

Four (4) storey developments on the corners fronting Acacia Road, better reflected the forms of development happening opposite, and forced vehicular access to be from the secondary Street (Flora Street/President Avenue) was also recommended. The LAM required three (3) and four (4) storey development at the front of the site to allow a greater setback to the rear, reducing the potential for adverse amenity impacts to the single dwellings in Fauna Place. The LAM required development midblock, facing Acacia Road, to be two (2) storeys and to gain access via President Avenue or Flora Street.

Council prepared SSDLEP2004 which incorporated the LAM and proposed to zone the precinct Multiple Dwelling A, limiting development to townhouses. However, when SSLEP2006 was gazetted by the NSW Minister for Planning in November 2006, the zoning was Multiple Dwelling B (allowing flats and townhouses) instead. The FSR had increased to 0.8:1 and there was no 9m height limit. Council had no indication that the Minister was going to increase the development potential of this area.

Development control and the effects of the rezoning – Townhouses versus Residential flats

The current highest and best use of the land is for residential flat buildings. The proposed highest and best use of the land, under the planning proposal, is townhouses. The following table illustrates the main development controls under the current zoning, and the proposed development controls under the planning proposal, for the densest permissible use:

Development Standard	Current Residential flat development controls	Proposed Townhouse development controls
Height	2 & 3 storey. 4 storey where specifically nominated	2 storey / 9m
FSR	0.8:1 residential flats and townhouses	0.7:1 townhouses
Front setback	7.5m	7.5m
Rear setback	4m	4m
Side setback	4m	1.5m single storey 3m upper storey
Landscaped area	40%	35%

The issue is whether residential flat development will result in greater amenity impacts than townhouse development. It is noted that by its third storey, residential flat development will create a bulkier appearance. However, whether this has an impact on adjacent development is dependent upon design. The LAM anticipated a taller building set towards the front of the lot. This form minimises impact because it provides a deep rear setback to control overlooking with the depth of building not being dissimilar to that of a single dwelling. Alternatively the third storey of any residential flat building could be set back from the side boundary so that the third storey did not contribute to overlooking.

It should also be noted that the FSR limit for flats (0.8:1) in this location is only marginally greater than townhouses (0.7:1). The increased permissible FSR for all development in this locality (excluding single dwellings and dual occupancies) results in development that has 12.5% greater floor space than regular townhouse development. This is because the FSR in this precinct is not as great as the FSR most commonly permitted (1:1) for flats.

It is also evident that the controls promote residential flat development that results in more landscaped area and greater side setbacks. Greater setbacks allow for better landscaping and screen planting and hence the landscape requirement for residential flat development is also greater. Townhouse development will be closer to adjoining development and may result in overlooking issues because there are generally more dwellings facing side boundaries. It is also much harder to retain existing trees and vegetation as part of a townhouse development as opposed to residential flats due to the reduced setbacks.

The greater setbacks for residential flat development are used to offset the potential impacts of greater permissible height, in particular to ameliorate the effects of overshadowing. Overshadowing impacts of development in Flora Street will mostly fall towards the rear to dwellings in Fauna Place. Along Acacia Road, shadows from four (4) storey development on the corner of Flora Street would fall towards development to the south. However, whether overshadowing from new buildings is unreasonable is largely determined by the space between buildings.

It is noted that overshadowing of older style existing townhouse development along Flora Street to adjacent properties to the east and west is largely due to the dividing fences at present. The existing older style townhouses have made themselves vulnerable to overshadowing because the townhouses have very limited setbacks, to as little as 1.5m. In comparison, residential flats must be set back 4m from side boundaries. It is likely that three (3) storey developments will result in minor additional overshadowing of the upper wall of the adjacent townhouse buildings. In the case of DA11/1067 this additional overshadowing is likely to be the area above the upper storey window.

Three (3) storey flats will not significantly overshadow adjacent properties directly to the rear given the greater setbacks made possible by the limited extent of permissible floor space and the greater requirement for landscaped area. The controls work in concert, creating more space between buildings and limiting the impacts of development on adjoining development.

In the case of DA11/1067, overshadowing to the south is as a result of mature trees both on the subject property (to be retained) and on the southern properties. The height of these trees is significantly greater than the permissible building envelopes for either townhouses or residential units. If the impact of the trees is discounted, overshadowing to the rear by two (2)

storey townhouses, at a 4m rear setback, is equivalent to the overshadowing caused by three (3) storey residential flat building at an 8m setback as proposed.

In essence it is not the development type that creates unacceptable impacts, but the form of development. Simply because residential flats are permissible, does not mean that the entire building must be three (3) storeys. Elements could be set back or set down to achieve better transition to adjacent building forms. Similarly a townhouse may have a third storey attic element.

Statutory Process

The Environmental Planning and Assessment Act, 1979 (EP&A Act) sets out a statutory process for the making of Local Environmental Plans (LEPs). Under these provisions, the process of making a new LEP or amending an LEP now centres on the preparation of a "planning proposal" which is followed by a "gateway determination" by the NSW Department of Planning and Infrastructure (DOPI). The intent of the provisions is to speed up the time taken to prepare and process a LEP and ensure that State and Council resources are only allocated to those plans likely to be supported by the Minister for Planning & Infrastructure.

A planning proposal is usually initiated and prepared by the relevant planning authority (a council). Council must, as part of its assessment, consider the broader strategic policy context. This broader strategic policy context is set out in the Department's Guide for Preparing Planning Proposals and includes:

- Consistency with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies);
- Consistency with the local council's Community Strategic Plan, or other local strategic plans, environmental planning instruments, control and policies, including SSLEP 2006 and SSDCP 2006;
- Consistency with applicable state environmental planning policies; and
- Consistency with applicable Ministerial Directions (s.117 directions).

After formal consideration of the submission, Council must determine whether the proposal should proceed to the next stage or not. Should Council decide there is merit in a proposal, the proposal will be forwarded to the DOPI for assessment through the 'Gateway' process. The Gateway is essentially an early assessment of the merits of the proposal to determine whether the proposal is consistent with State objectives and whether it is likely to be ultimately made by the Minister for Planning & Infrastructure. Relevant State stakeholders are consulted as part of the Gateway process.

Preliminary Assessment of the Planning Proposal

The merits of the planning proposal are assessed in the context of the relevant planning framework below:

S.117 of the EP&A Act 1979 - Ministerial Directions

Under section 117 of the EP&A Act the Minister for Planning & Infrastructure has issued Local Planning Directions that planning proposals must be consistent with. In this case the following planning directions apply:

- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 6.2 Reserving Land for Public Purposes
- 7.1 Implementation of the Metropolitan Strategy.

The Planning Proposal includes rezoning 64-66 Flora Street to Zone 13 Public Open Space and this must also be considered in terms of the broader strategic policy context. Council is consistent with Direction 6.2 as Council will be the acquisition authority. Specific comment is warranted in relation to Directions 3.1, 3.4 and 7.1.

3.1 Residential Zones - This Direction requires that Planning Proposals “not contain provisions which will reduce the permissible residential density of land”. This planning proposal is inconsistent with the Direction, as it will reduce the permissible residential density of the land from 0.8:1 to 0.7:1. The Planning Proposal also prohibits the development of residential flats, and only allows townhouse development. The planning proposal also rezones residential land for open space purposes, thereby reducing dwelling potential further.

3.4 Integrating Land Use and Transport – This Direction requires Planning Proposals to consider locating zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for planning and development (DUAP 2001). This planning guideline sets principles for zoning, including a requirement that concentrated centres contain the highest appropriate densities of housing, employment, services and public facilities within an acceptable walking distance — 400 to 1000 metres — of major public transport nodes, such as railway stations and high frequency bus routes with at least a 15 minute frequency at peak times. The subject land is within a 400m catchment of Kirrawee Train Station. The proposal seeks to reduce the opportunities for increased densities and is therefore inconsistent with this Direction.

7.1 Implementation of the Metropolitan Strategy - This Direction requires Planning Proposals to be consistent with the Metropolitan Plan for Sydney 2036. This plan aims to provide additional housing in proximity to centres. The proposal will partly meet the objectives of the plan in ensuring local planning controls include more low rise medium density housing in and around smaller local centres, such as Kirrawee. However, the Planning Proposal actually reduces the density of residential development in proximity to a centre and is therefore inconsistent.

South Subregion - Draft Subregional Strategy 2007 (Subregional Strategy)

The South Subregional Draft Subregional Strategy identifies Kirrawee as a Village – within 600m the typical dwelling range should be 2,100-5,500 dwellings. Medium density housing is located in and around the main street. The Strategy states that villages are a place where Council should ‘investigate increasing densities in all centres where access to employment, services, and public transport can be provided’. Furthermore, the Strategy requires Council to plan for 10,100 new dwellings (to 2031), 80% of which are to be within centres.

Based on the reduced floor space ratio (0.8:1 to 0.7:1), the planning proposal will result in approximately 100 less dwellings in the precinct. This is because townhouses tend to be larger dwellings and the take up rate is less, given the reduced economic feasibility of townhouses. Townhouses tend to cost more to develop and do not benefit as much from economies of scale.

Consequently, the proposal does not meet the objectives of the South Subregional Draft Subregional Strategy as it reduces the permissible residential density in a locality targeted for increased density.

Sutherland Shire Local Environmental Plan 2006 (SSLEP2006)

SSLEP2006 identifies Kirrawee as a centre with potential for additional housing. The nearby zone 7 Mixed Use – Kirrawee area (Kirrawee Brick Pit) is identified as a work/live precinct suitable for high density housing. From SSLEP2006 it is evident that land in proximity to centres, particularly railway stations is suitable for higher density housing. Only the area near Como Station does not have capacity for higher density development, and this area has significant environmental constraints. In relation to housing capacity, the planning proposal is contrary to the logic of the existing planning framework.

The Planning Proposal also includes zoning 64-66 Flora Street to zone 13 Public Open Space. Rezoning land for open space requires an acquisition authority and this must be Council, as no other authority would have an interest in acquiring the land for open space.

Council's Open Space Land Acquisition Policy does not support the acquisition of open space to create 'pocket parks'. The policy requires acquisitions to be consistent with Council's S94 Plans and current open space zoning commitments. Council's current Section 94 Contribution Plan, the 2005 Shire Wide Open Space and Recreation Plan, focuses on existing open space commitments and Shire active open space facilities such as cycle ways, active recreation areas, foreshore links and the like. The plan states that acquisitions will be limited to important links or extensions to existing open space or recreation facilities.

Furthermore, it is noted that there is a park in Flora Street, opposite the site and 50m to the west. This park is twice as large as that proposed (2,340sq.m.) and has recently been upgraded with playground equipment and an 'adventure trail'. This park also includes an area for informal ball play. Acquisition of open space to expand the existing park would be preferable to the current proposal but unfortunately is not possible. Nearby, the Kirrawee Brick Pit development is likely to have significant open space to meet a regional need. The acquisition of two (2) small lots (1,363sq.m.) opposite an existing park would not serve an additional recreation purpose and would only add to Council's maintenance costs. The acquisition and rezoning for open space purposes is therefore not supported.

Options and Conclusion

Option 1 – rezone in accordance with MOT016-12

In accordance with Council's Motion (MOT016-12), the attached Planning Proposal (Appendix A), SSLEP2006 Amendment 18, has been prepared. Whilst not specifically resolved by Council, it is assumed that the permissible floor space ratio (FSR) is also intended to be reduced. As such the attached Planning Proposal also seeks to remove the precinct from the SSLEP2006 Height and Density Controls Map, reducing the FSR from 0.8:1 as shown on

the map to the default 0.7:1 FSR applying to the Multiple Dwelling A zone (SSLEP2006 clause 35).

Should Council support the direction as currently proposed, the appropriate Council resolution to proceed to DOPI Gateway Determination is as follows:

1. That the Planning Proposal - SSLEP2006 Amendment 18 (Appendix A), include the following elements:
 - the rezoning of 64-66 Flora Street (Lot 1 DP 505219 and Lot 1 DP 523842), Kirrawee to zone 13 Public Open Space,
 - the rezoning those parts of the block bounded by Flora Street, Acacia Road, President Avenue and Oak Road, Kirrawee, currently Zone 6 Multiple Dwelling B to Zone 5 Multiple Dwelling A,
 - removal of the maximum permissible height from the SSLEP2006 Height and Density Controls Map, and thereby reducing the maximum height limit to 2 (two) storey/9 metres under SSLEP2006, and
 - removal of the maximum permissible floor space ratio (FSR) from the SSLEP2006 Height and Density Controls Map, thereby reducing the FSR of 0.8:1 to the default 0.7:1 FSR applying to townhouses in the Multiple Dwelling A zone (SSLEP2006 clause 35).
2. That the Planning Proposal, being consistent with point 1, be adopted and referred to the Department of Planning for Gateway Determination.

Option 2 - maintain density and reduce height

Having assessed the merits of the proposal this direction is not recommended on planning grounds. The Planning Proposal is contrary to Ministerial Directions because it reduces residential density in a locality that enjoys ready access to a centre and public transport. As such, it is not considered likely that the Department of Planning & Infrastructure will allow the Planning Proposal to proceed to exhibition.

In addition, the proposed park is contrary to Council's own Land Acquisition Policy. The immediate locality does not need additional small pockets of open space. The acquisition is not included in any Section 94 Plan and is currently unfunded.

Given the limited planning grounds in support of the Planning Proposal, it is considered that Council should reconsider its approach. Given that Council's primary concern is the impact of three (3) storey development on existing single dwellings and townhouses, perhaps a better way forward is for Council to simply reduce the height limit. If the building height limit for the precinct was reduced to two (2) storeys and nine (9) metres, the zone could remain as Zone 6 Multiple Dwelling B. Residential flats would simply be confined to two (2) storeys in height. Under this scenario, Council would have to accept reduced setbacks in order for sufficient density to be achieved. Also, it would be much harder for new development to meet the solar access requirements of SEPP65; Design Quality Residential Flat Buildings.

While it has short comings, this approach is more in keeping with State Local Planning Directions. Council could present a case that both housing choice and density were being maintained, as only the height standard is being changed. If development was limited to two (2) storeys the impact from development on 64-66 Flora Street would be no greater than expected from a large single dwelling or townhouses. As such it would not be necessary for

Council to seek to purchase the site to mitigate impact on neighbours.

Should Council wish to proceed on this basis, an appropriate resolution would be:

1. That the Planning Proposal - SSLEP2006 Amendment 18), include the following elements:
 - amendment of the maximum permissible height on the SSLEP2006 Height and Density Controls Map – Kirrawee Centre, for those parts of the block bounded by Flora Street, Acacia Road, and President Avenue, Kirrawee, currently Zone 6 Multiple Dwelling B , from a maximum of two (2) and four (4) storeys (and by default three (3) storeys) to a maximum two (2) storey/9 metres.
2. That the Planning Proposal, be amended to be consistent with point 1.
3. That the Planning Proposal be adopted and referred to the Department of Planning & Infrastructure for Gateway Determination.

Conclusion

Two (2) options are presented for Council's consideration. The first option, the Planning Proposal prepared in response to MOT016-12, is unlikely to be supported by the Department of Planning and Infrastructure at Gateway Determination stage as it is inconsistent with State Local Planning Directions. The second option, to reduce the maximum permissible height of the precinct to two (2) storeys only, is consistent with State Local Planning Directions and is more likely to be supported by the Department of Planning and Infrastructure at Gateway Determination stage.

It is recommended that Council reconsider its position in relation to the rezoning land at Flora Street, Acacia Road, and President Avenue, Kirrawee.

Report Recommendation:

That reconsideration of Council's position in relation to the rezoning land at Flora Street, Acacia Road, and President Avenue, Kirrawee be given.

Draft Planning Proposal - Flora Street Kirrawee, SSDLEP2006 Amendment 18

To view the document: *double click on Icon and select 'View'*
To print document: *select 'File', then select 'Print'*
To return to report: *select 'File', the select 'Exit'*

As some diagrams may be in 'landscape' format, it may be necessary to rotate or magnify by using the icons on the toolbar.

Appendix A - Planning Proposal



SSLEP2006_A18_FloraSt_Option 1.pdf

To view the document: *double click on Icon and select 'View'*
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Planning Proposal.docx

To view the document: *double click on Icon and select 'View'*
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As some diagrams may be in 'landscape' format, it may be necessary to rotate or magnify by using the icons on the toolbar.

Appendix B - Aerial



Flora Street Locality.pdf

Committee Recommendation:

That no planning changes be made to SSLEP2006 and SSDLEP2006 Amendment 18 be abandoned.

Council Resolution:

1. That the Planning Proposal - SSLEP2006 Amendment 18 (Appendix A), include the following elements:
 - The rezoning of 64-66 Flora Street (Lot 1 DP 505219 and Lot 1 DP 523842), Kirrawee to zone 13 Public Open Space,
 - The rezoning those parts of the block bounded by Flora Street, Acacia Road, President Avenue and Oak Road, Kirrawee, currently Zone 6 Multiple Dwelling B to Zone 5 Multiple Dwelling A,
 - Removal of the maximum permissible height from the SSLEP2006 Height and Density Controls Map, and thereby reducing the maximum height limit to 2 (two)

storey/9 metres under SSLEP2006, and

- Removal of the maximum permissible floor space ratio (FSR) from the SSLEP2006 Height and Density Controls Map, thereby reducing the FSR of 0.8:1 to the default 0.7:1 FSR applying to townhouses in the Multiple Dwelling A zone (SSLEP2006 clause 35).

2. That the Planning Proposal, being consistent with point 1, be adopted and referred to the Department of Planning for Gateway Determination.

Environment and Planning

MinuteNumber: 869

Council Meeting Date: 07/05/12

30/04/2012 EAP195-12

Proposal:

IHAP045-12 - Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Car Parking - Flora Street, Kirrawee

Property:

Nos. 64 & 66 (Lot 1 DP505219 & Lot 1 DP523842) Flora Street, Kirrawee

Applicant:

Bill Zervos

File Number: **DA11/1067**

Director: **Environmental Services (MA)**

Report Item

Background

A full report in relation to this development application is contained within EAP174-12 (□) incorporating IHAP045-12. Council staff had originally recommended conditional approval of the application, whereas the IHAP had recommended refusal. The IHAP's reasons for refusal were expressed as:

1. *... the proposal is not sympathetic to the existing streetscape on the southern side of Flora Street and the existing and likely future development of the allotments surrounding the development site; and*
2. *... the proposal would have an unacceptable amenity impact on adjoining development; most particularly overlooking of dwellings in the townhouse developments along the eastern and western boundaries of the development site.*

Council considered the above application at its meeting held on 23 April 2012. The following resolution was passed at the meeting:

1. *That consideration of Development Application No. 11/1067 for Residential Flat Building Development – Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Car Parking at Lot 1 DP 505219 and Lot 1 DP 523842 (Nos. 64-66) Flora Street, Kirrawee be deferred to enable a site inspection to be undertaken which includes the properties of the objectors, especially Fauna Place, the matter to be considered at the next round of Committees.*
2. *That a report be provided including additional information on the development application.*

Site inspection

A site inspection was undertaken on Friday 27 April 2012. The inspection was attended by Councillors Blight, Walton, Boorman, McCallum, Forshaw and Kelly. Mr Bill Zervos (Architect for the project) and Mr Mark Adamson (Manager - West Assessment Team) were also in attendance.

Councillors present received a briefing on the proposal whilst viewing the submitted plans. The site was viewed both from Flora Street and Fauna Place.

Additional Information on the Proposal

This briefing note is intended to provide the Councillors with the additional information requested in the above resolution. In particular, information on 'options' for the application was requested by Councillors. The design presently before Council was subject to numerous amendments during the assessment process in response to both the Architectural Review Panel and requests by development assessment officers. This included responsive setbacks to the side and rear boundaries, resulting in a built form that exceeds Council's adopted standards for flat buildings at numerous points and a development significantly below the maximum permitted F.S.R. in the zone (0.8:1 permitted, 0.751:1 proposed).

The landscape plans submitted in support of the application will also provide for suitable screening to assist with amenity impacts and provide balance to the built form.

There are any number of potential options for the determination of the application, including the conditional approval previously recommended by Council assessment staff or the refusal recommended by the IHAP.

However, in considering possible options that may allow some form of redevelopment on the site to proceed, but at the same time take the concerns of the IHAP into account, the following alternatives may be suitable:

- (a) That the design be amended to reduce the apparent scale of the building by reducing the overall height as much as possible, reducing internal floor-to-ceiling heights, and amending the uppermost floor of the development so that it is set in from all sides of the building within a typical roof 'envelope' so as to have the appearance and proportions of an attic level. This option may allow the applicant to achieve a similar development yield in line with a permissible building envelope, but potentially mitigate the urban design concerns associated with the contextual fit of the building, which reads as a three (3) storey RFB adjoined by two (2) storey townhouses. Careful consideration would need to be given to privacy and overshadowing impacts associated with this revised design. To accommodate this strategy a reduction in F.S.R. is likely if the existing articulated side and rear setbacks remain unaltered.
- (b) That the design be amended to reorganise the massing of the building such that the building is tallest at the street edge and reduces down to a two (2) storey scale for its rear half. This option would allow the building's scale (and associated impact) to be reduced at the more sensitive interface between the site and neighbouring 'back yards'. It is likely that this alternative will also reduce the development yield on the site.
- (c) That, in considering the current design, the proposed moveable balcony louvres may be fixed in position so as to limit overlooking of adjoining private open space and balconies as far as practicable. The applicant has also agreed to provide fixed horizontal louvres to a height of 400mm above the proposed masonry balcony edges to minimise overlooking to boundaries.

- (d) That the entire proposal be revised to be for a medium density development, comprising townhouses and/or villas, in keeping with the immediate neighbours. This option would reduce the 'intensity' of development on the site and would improve the site's relationship with its immediate neighbours.

Conclusion

The design of the building before Council has been revised following the advice of Council's Architectural Review Advisory Panel (ARAP). The revisions have sought to reconcile the scale of the building with that of the neighbouring development, whilst still realising the development potential of the zone as far as practicable.

It is acknowledged that the southern side of Flora Street is characterised by townhouse development displaying a two (2) storey character and the proposed development introduces a three (3) storey element in this location. However, it must also be recognised that residential flat buildings are a permissible and anticipated outcome in this zone and residential flat buildings currently exist along the northern side of Flora Street and opposite the development site. It is both sides of the street that contribute to the character of Flora Street. It is at the zone interface between Fauna Place and Flora Street that the issue of scale is more apparent. The current application provides setbacks to the southern boundary double that permitted for residential flat buildings. (4m permitted, 8.27m proposed.) It is also significantly further from its rear boundary than its adjoining townhouse neighbours. This setback is also proposed to be supplemented by significant planting. It is concluded that the proposal results in a balanced outcome. Whilst the building is higher than its neighbours, greater setbacks have been provided.

Alternative options for the redevelopment of the site exist, but any alternative that significantly alters the form of the proposed building would not be substantially the same as the original proposal and would require a separate development application.

That Council select one of the following recommendations:

- (a) That the application be determined in accordance with the staff recommendation (for approval) with the inclusion of a condition that the movable full height louvre panels as indicated on the submitted plans be fixed in position and the inclusion of additional 400 mm horizontal louvres on balcony edges so as to limit overlooking of adjoining private open space and balconies as far as practicable.
- (b) That if one of the 'alternative' development design options is considered more suitable, then the IHAP recommendation be adopted (refusal) and the applicant be requested to submit a new development application along the lines of one of the alternative A - D options within this report .

(The following point was added by Procedural Motion at the Environment & Planning Committee meeting held on 30 April 2012).

- (c) IHAP Recommendation.

Report Recommendation:

That the additional report on IHAP045-12 - Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Car Parking - Flora Street, Kirrawee containing design options be considered.

Committee Recommendation:

That this matter be deferred pending a further report of the likely legal costs and percentage of if Council would likely win or lose.

Council Resolution:

1. That DA11/1067 for Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Car Parking - Flora Street, Kirrawee at Nos. 64 & 66 (Lot 1 DP505219 & Lot 1 DP523842) Flora Street, Kirrawee be refused for the following reasons:

- a) The application is considered unacceptable pursuant to the provisions of s.79C(1) (a) (i) of the Environmental Planning and Assessment Act 1979 in that the proposal does not comply with the 1800 m2 minimum site area requirement in Clause 41(5) of Sutherland Shire Local Environmental Plan 2006.
- b) The application is considered unacceptable pursuant to the provisions of s.79C(1) (a) (i) of the Environmental Planning and Assessment Act 1979 in that proposal does not comply with the 30 metre minimum site frontage requirement in Clause 41(5) of Sutherland Shire Local Environmental Plan 2006.
- c) The application is considered unacceptable pursuant to the provisions of s.79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that the site coverage does not comply with the provisions of Clause 4.b.1 of Chapter 3 of Sutherland Shire Development Control Plan 2006.
- d) The application is considered unacceptable pursuant to the provisions of s.79C(1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that the proposal does not comply with the provisions of Clause 7.b.4.3.b of Chapter 3 of Sutherland Shire development Control Plan 2006 in that the communal open space area does not have a minimum dimension of 10 metres in both directions.
- e) The application is considered unacceptable pursuant to the provisions of s.79C(1) (b) of the Environmental Planning and Assessment Act 1979 in that the proposal will adversely impact on the privacy of the residents of adjoining sites.
- f) The application is considered unacceptable pursuant to the provisions of s.79C(1) (b) of the Environmental Planning and Assessment Act 1979 in that the proposal will overshadow adjoining sites.
- g) The application is considered unacceptable pursuant to the provisions of s.79C(1) (b) of the Environmental Planning and Assessment Act 1979 in that the proposal will adversely impact on traffic in Flora Street.
- h) The application is considered unacceptable pursuant to the provisions of s.79C(1) (b) of the Environmental Planning and Assessment Act 1979 in that the proposal will adversely impact on on-street parking availability in Flora Street.

- i) The application is considered unacceptable pursuant to the provisions of s.79C(1) (b) of the Environmental Planning and Assessment Act 1979 in that the height of the proposal is inconsistent with adjoining development.
 - j) The application is considered unacceptable pursuant to the provisions of s.79C(1) (e) of the Environmental Planning and Assessment Act 1979 in that the proposal would not be in the public interest.
2. That the applicant not be charged a development application fee for the submission of a further development on the site.

Council Meeting

MinuteNumber: 871

Council Meeting Date: 07/05/12

07/05/2012

MOT016-12 Proposed Re-Zoning in Kirrawee

File Number: LP/06/553214

Director:

Report Item

(Received: 02/05/12)

Pursuant to Notice, Councillor Blight submitted the following Motion:

1. That Council rezone the Zone 6 High Density parts of the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, Kirrawee, to Zone 5 Medium Density with a 2 storey and 9 metre height limit under SSLEP 2006.
2. That this be expedited and include having the re-zoning on statutory public consultation as soon as possible.
3. That Council invite the Director General of DoPI (or his representative) to inspect the site (including from a north facing rear yard in Fauna Place) to see the impact of the current incorrect zoning.
4. That Council receive a report in the next round to start the process.

Report Recommendation:

MOT016-12 Proposed Re-Zoning in Kirrawee

Committee Recommendation:

MOT016-12 Proposed Re-Zoning in Kirrawee

Council Resolution:

1. That Council rezone the Zone 6 High Density parts of the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, Kirrawee, to Zone 5 Medium Density with a 2 storey and 9 metre height limit under SSLEP 2006.
2. That this be expedited and include having the re-zoning on statutory public consultation as soon as possible.

3. That Council invite the Director General of Department of Planning and Infrastructure (or his representative) to inspect the site (including from a north facing rear yard in Fauna Place) to see the impact of the current incorrect zoning.
4. That Council receive a report in the next round to start the process to rezone the block bounded by Flora St, Acacia Rd, President Ave and Oak Rd, Kirrawee, including the rezoning of 64-66 Flora Street as open space.

Independent Hearing and Assessment Panel

MinuteNumber: 805

Council Meeting Date: 23/04/12

21/03/2012 IHAP045-12

Proposal:

Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Carparking – Flora Street, Kirrawee

Property:

Lot 1 DP 505219, Lot 1 DP 523842 64 (No. 64 & 66) Flora Street, Kirrawee

Applicant:

Bill Zervos

File Number: **DA11/1067**

Director: **Environmental Services (CE)**

Report Item

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

This application is referred to the Independent Hearing and Assessment Panel (IHAP) because of unresolved objections.

1.2 Proposal

The application is for the demolition of two (2) dwellings and construction of a 12 unit residential flat building with basement carparking at the above property.

1.3 The Site

The subject site is located on the southern side of Flora Street in Kirrawee between Oak Road and Acacia Road.

1.4 The Issues

The main issues identified are as follows:

- Height.
- Parking.
- Privacy.

1.5 Conclusion

Following detailed assessment of the proposed development the application is considered worthy of support, subject to minor amendments and the imposition of appropriate conditions.

2.0 DESCRIPTION OF PROPOSAL

An application has been received for demolition of two (2) dwellings and construction of a new residential flat building with basement carparking at the above property. The proposal is a mix of three (3) x one (1) and nine (9) x two (2) bedroom units and includes three (3) adaptable units. A total of 15 parking spaces are proposed being 12 resident and three (3) visitor spaces. One (1) of the visitor spaces also acts as a car wash bay.

A site plan is provided in Appendix “B”.

3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 64 and 66 Flora Street and is on the southern side of Flora Street mid way between Oak Road and Acacia Road. The site has a total area of 1347 m² and has a frontage of 26.82 metres

The surrounding development is mixed in character with townhouse complexes to the east and west, residential flat buildings to the north and single dwellings to the rear (fronting Fauna Place). The site is 280 metres (walking distance) from Kirrawee Railway Station. The majority of surrounding development was developed prior to 2006. Prior to 2006 the zoning allowed residential flat buildings to the north of Flora Street, and only villas and townhouses along the south side of Flora Street (where the site is located) as a buffer to the single dwelling residential area in Fauna Place.

A locality plan and an aerial photo are provided in Appendices “C” and “D”.

4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD 11/0025) was held on 22 March 2011 regarding this development and a formal letter of response was issued dated 28 March 2011. The main issues raised by Council included site area and width, location of building entry, solar access, communal open space, unit mix and basement design.
- A pre application consideration by the Architectural Review Advisory Panel was held on 16 June 2011. The ARAP commented regarding location of building entry, landscaping / open space and articulation of side elevations.
- The current application was submitted on 02 November 2011.
- The application was placed on exhibition, with the last date for public submissions being 24 November 2011. Eighteen (18) submissions were received (see discussion below).
- The application was considered by Council’s Submissions Review Panel on 28 November 2011.
- The plans were considered by the Architectural Review Advisory Panel on 24 November 2011. A full copy of the advice is provided in Appendix “E”.
- By letter dated 21 December 2012 Council requested that the applicant provide amended plans and submit additional information. The amended plans were lodged on 17 January 2012.

- The amended plans were placed on exhibition with the last date for public submissions being 8 February 2012. Thirteen (13) submissions were received.
- An Information Session was held on 21 February 2012 and 11 people attended.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documents submitted with the application or following request by Council, the applicant has provided adequate information to enable an assessment of this application.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006).

In relation to the original notification eight (8) adjoining or affected owners were notified of the proposal and 18 submissions were received as a result.

In relation to the notification of the amended plans 22 adjoining or affected owners were notified of the proposal and 13 submissions were received.

Submissions were received from the following properties:

Address	Date of Letter/s	Issues
10/67-71 Flora Street	25 November 2011	No grounds identified
2/68-70 Flora Street	24 November 2011 6 February 2012	Issues 2,3,6,7 and 8 Issues 1,2,4,6,7 and 8
3/63-65 Flora Street	18 November 2011	Issues 4,10,11 and 12
15 Fauna Place	10 November 2011	Issues 7
2/68-70 Flora Street	18 November 2011 6 February 2012	Issues 2,4,5,6 and 7 Issues 2,4,5,6,7,8 and 12
1/68-70 Flora Street	18 November 2011 1 February 2012	Issues 4 and 7 Issues 1,2 4 and 7
8/68-70 Flora Street	18 November 2011 31 January 2012	Issues 2,4,6 and 7 Issues 2,7 and 15
68-70 Flora Street	15 November 2011 3 February 2012	Issues 2,3,4,5,7 and 9 Issues 2,3,4,6,7,8 and 9
68-70 Flora Street	21 November 2011	Issues 4 and 13
4/68-70 Flora Street	21 November 2011 7 February 2012	Issues 2,3,6 and 7 Issues 2,3,4,6 and 7
14/63-65 Flora Street	21 November 2011	Issue 4
Top floor, 63 Flora St	22 November 2011	Issues 2,4,7, 8 and 14
5/63-65 Flora Street	23 November 2011	Issues 1,2,4 and 8
6/63-65 Flora Street	23 November 2011	Issues 1,8 and 12
60 Flora Street	23 November 2011 1 February 2012	Issues 2 and 4 Issues 2,4 and 12
4/63-65 Flora Street	24 November 2011 8 February 2012	Issues 4,5,8,12 and 15 Issues 4,5,8,12 and 15

62 Flora Street	24 November 2011 8 February 2012	Issues 2,4,6,7 and 12 Issues 2,4 and 7
6/72 Flora Street	24 November 2011	Issues 4 and 5
68-70 Flora Street	16 November 2011	Issue 4
67-71 Flora Street	6 February 2012	Issues 4 and 10
8/68-70 Flora Street	31 January 2012	Issues 2,4,6,7,11 and 15
31/67-71 Flora Street	7 February 2012	Issues 4 and 15
10/73-75 Flora Street	8 February 2012	Issues 2,4,5 and 12

The issues raised in these submissions are as follows:

6.1 Issue 1: Height - The area historically had a two (2) storey limit and that the proposal is a precedent for three (3) storey development

Comment: The proposal complies with the applicable three (3) storey height limit. This three (3) storey limit has applied since SSLEP 2006 came into force.

6.2 Issue 2: The proposal is for flats not townhouses - Historically area was townhouse zone/ having flats instead of townhouses will be out of context with streetscape and constitutes overdevelopment

Comment: A residential flat building is permissible in the zone and has been since SSLEP 2006 came into force. The proposal complies with the applicable height, floor space ratio and landscaped area controls. Prior to 2006 the northern side of Flora Street was zoned for residential flat buildings and the southern side for villas and townhouses. There are still a number of sites on the southern side of the street which have not been redeveloped and over time the character of the street will change to a three (3) storey flat building character to match the northern side of the road.

6.3 Issue 3: Lot undersized

Comment: This matter is discussed in detail in the 'Assessment' section of this report.

6.4 Issue 4: Parking

Comment: This matter is discussed in detail in the 'Assessment' section of this report. Several of the objections mentioned impacts of parking on garbage bin and clean- up waste collection and impact of bins on on- street parking.

6.5 Issue 5: Construction Impacts – parking, traffic, noise, materials storage

Comment: Any construction on the site has the potential for construction impacts however, it is considered that these can be controlled by the imposition of conditions. As well as standard conditions it is conditioned that the basement car park as soon as completed be used as far as practicable for worker parking and amenities, materials storage and the like (Condition 15).

6.6 Issue 6: Overshadowing

Comment: This issue is discussed in detail in the 'Assessment' section of this report.

6.7 Issue 7: Privacy (Visual and acoustic)

Comment: This matter is discussed in detail in the 'Assessment' section of this report.

6.8 Issue 8: Loss of outlook / Views

Comment: One of these objections relates to the outlook from a flat building across road (diagonally to the north west) becoming of a building not trees. The large pine tree in the front setback of No. 66 is to be retained and this would be in the objector's line of site to the building. The other two (2) objections are regarding loss of views to the Royal National Park from units in the building directly across the road. These units would lose some or all of their views even if the existing houses were replaced with two (2) storey townhouses with pitched roofs. Having regard to view loss planning principle it is not considered to be significant in this case.

6.9 Issue 9: Loss of Trees/ Lack of space for tree planting

Comment: The large pine tree in the front setback is being retained as are two (2) trees in the rear yard. A tree in the south eastern corner of the site is being removed, however, it is a camphor laurel. This species is exempt from Council Tree Preservation Order and accordingly is a tree which could be removed without approval. Considerable new landscaping is proposed. In the original plans, landscaped area was under- provided and was in part narrow strips unsuitable for tree planting. The amended plans now comply with SSLEP2006 requirements and provide large areas suitable for tree planting.

6.10 Issue 10: That there are already too many flats in the area

Comment: The area is zoned to allow residential flat buildings due to its proximity to the railway station and is likely to become more densely developed over time.

6.11 Issue 11: Impact on water pressure and other services

Comment: This issue is not substantiated. A loss of water pressure is unlikely to result as the site is in close proximity to a Sydney Water pumping station.

6.12 Issue 12: Traffic

Comment: These objections were concerned that the proposal will increase traffic in the street and one (1) objector was concerned regarding safety aspects of traffic impacts on the elderly residents of a retirement village at the western end of the street. Including the retirement village there are already more than 480 units/townhouses with vehicular access from this part of Flora Street (and nine (9) houses, 10 commercial premises and an aged care facility). Several flat buildings fronting the Princes Highway have their vehicular access from Flora Street for traffic reasons. The 10 additional dwellings (12 units less two (2) houses) proposed would therefore only have a relatively minor traffic impact in proportionate terms.

6.13 Issue 13: That traffic issues with the Oak Road - Princes Highway intersection should be resolved before any further developments are approved

Comment: Development in the area cannot be put on hold until this intersection is upgraded.

6.14 Issue 14: Impact of lights of vehicles exiting the car park on flats opposite.

Comment: The site opposite has parking slightly out of the ground so cars at the top of the ramp which is at a similar level would shine at the car park level rather than at habitable space. The rooms in line with the ramp are kitchen and living rooms not bedrooms. Any impact from vehicles coming up the ramp would be short in duration. Having parking in a basement rather than at ground level improves other aspects of the proposal (amenity, building appearance, overshadowing, open space provision) and it is considered that the infrequent impact of light from cars is outweighed by these positives.

6.15 Issue 15: Potential loss of value from overdevelopment of area - Loss of views

Comment: This has not been substantiated by a property valuer or the like and is not a head of consideration under Section 79 (C) of the Environmental Planning Act.

Submission Review Panel (SRP)

As a result of the submissions received and the issues that were raised, the recommendation of Council's SRP was for the application to be referred to Council's Independent Hearing and Assessment Panel (IHAP) for consideration.

7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone 6 – Multiple Dwelling pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being a residential flat building, is a permissible land use within the zone with development consent from Council.

The following Environmental Planning Instruments (EPI's), Development Control Plans (DCP's), Codes or Policies are relevant to this application:

- State Environmental Planning Policy No. 1 – Development Standards (SEPP 1).
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65).
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.
- Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006).
- Sutherland Shire Development Control Plan 2006 (SSDCP 2006).
- Sutherland Shire Open Space and Community Facilities Section 94 Plans.

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls and a compliance checklist relative to these:

Standard/ Control	Required	Proposed	Complies? (% Variation)
Sutherland Shire Local Environmental Plan 2006			
Clause 34 – Height	Maximum three (3) storeys	Three (3) storeys	Yes
Clause 35- Floor Space Ratio	Maximum 0.81:1	0.751:1	Yes
Clause 36 – Landscaped Area	Minimum 40%	41.43.%	Yes
Clause 41- Site Area and frontage	Minimum 1800 m ² Minimum 30 metre	1347 m ² 26.82 metres	No No (see discussion below)

	frontage		
Sutherland Shire Development Control Plan 2006			
Front setback	Minimum 7.5 metres	8.82 metres	Yes
Side setback	Minimum 4 metres	4 metres	Yes
Rear setback	Minimum 4 metres	8.27 metres	Yes
Site Coverage	Maximum 40 %	41.58%	No but limited to basement footprint and considered acceptable
Communal Open Space	Minimum 100 m ² with minimum 10 metre dimension	186.3 m ² main area 10.9 m x 8.82 m	Yes No See report
Car parking	Maximum 19 spaces	15 spaces	Yes
Bicycle parking	Minimum four (4) spaces	Four (4) spaces	Yes

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

9.1 Architectural Review Advisory Panel (ARAP)

Council's ARAP considered the proposal at both pre-development application and development application stages. At development application stage ARAP commented positively on the proposal and requested minor amendments. These amendments have been incorporated into the amended plans which are the subject of this report and Council's ESD Architect has advised that ARAP's concerns have been satisfactorily addressed. The comments from ARAP are appended as Appendix "E".

9.2 Architect

Comment: Council's Assessment Architect has advised that

- *"From an architectural viewpoint, the degree of compliance and overall quality of design has steadily improved.*
- *The proposal is subject to the requirements of SEPP65 and compliance with the associated Residential Flat Design Code (RDFC) is also required. The overall compliance with the requirements of the RDFC is reasonable, given the site orientation.*
- *The revised appearance of the building is now more consistent for all elevations; more care has been taken with the expression of all elevations.*
- *It is considered that the concerns raised (βυσΑΡΑΠ) ~~have now been satisfactorily addressed~~..... the proposal can be supported architecturally*

9.3 Landscape Architect:

Comment: Council's Landscape Architect has advised that the proposed landscaping is an acceptable design and that the proposal is acceptable subject to the imposition of appropriate conditions.

9.4 Engineer

Comment: Council's Assessment Engineer has advised that the proposal is acceptable, subject to the imposition of appropriate conditions.

9.5 Health

Comment: Council's Environmental Health Officer has advised that the proposal is acceptable, subject to the imposition of appropriate conditions. The conditions relate to ventilation of the car park and internal laundries.

10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important in the assessment of this application.

10.1 Floor Space Ratio, Landscaped Area and Height

Comment: The amended proposal complies with the applicable floor space ratio, landscaped area and height development standards contained within Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006).

10.2 Site Area and Site Frontage

Comment: The proposal does not comply with the 1800 m² minimum site area and 30 metre minimum frontage requirements for residential flat buildings under Clause 41(5) of SSLEP2006 as the site has an area of 1347 m² and a frontage of 26.82 metres. These variations are 25 % and 10.6% respectively.

However, Clause 41(6) of SSLEP 2006 provides as follows:

Despite subclause (5) a lot of land in Zone 6 – Multiple Dwelling B on which it is proposed to erect a residential flat building may be less than 1,800 square metres , or have a minimum width of less than 30 metres, if the consent authority is satisfied that:

- (a) The amalgamation of the lot with an adjoining lot is not reasonably feasible, or*
- (b) The orderly and economic use and development of the lot and the adjoining lot can be achieved is amalgamation is not feasible."*

As a result of Clause 41 (6), a State Environmental Planning Policy No 1 (SEPP 1) objection is not required for variation of these development standards. The non-compliance with the minimum site area and minimum frontage development standards is a result of past development in this area resulting in these two lots being left in isolation from other lots which have not been redeveloped.

As the adjoining lots to both sides are already redeveloped (as strata titled townhouse complexes) the amalgamation of the site with adjoining lots is not feasible. The current proposal is considered to allow for the orderly and economic development of the site and does not inhibit the development of the adjoining sites (as they are already developed). It is noteworthy that the proposal is Floor Space Ratio compliant.

Clause 37 of SSLEP 2006 sets out the following objectives for the minimum site area and site frontage development standards contained in Clause 41:

- (d) *To ensure that the area and width of lots are sufficient for their intended purpose and provide sufficient space for negative externalities to be resolved on site,*
- (e) *To ensure that sufficient area of land is available, in connection with development, for landscaping drainage and parking so as to achieve a satisfactory residential amenity,*
- (f) *To ensure new development complements the established scale and character of the streetscape where the development is carried out, and does not dominate the natural qualities of its setting"*

It is considered for the following reasons that the departure from the minimum site area and frontage requirements is consistent with the objectives of the development standards and appropriate for this site:

- (i) The proposal allows for orderly and economic development of the site.
- (ii) The amalgamation of the site with adjoining lots is not feasible as the adjoining sites are already developed.
- (iii) The proposal complies with the other development standards in SSLEP 2006 and controls in SSDCP 2006 for density, landscaping, parking and drainage etc.
- (iv) The scale of the building is in keeping with other residential flat buildings in Flora Street and with Council's height and density controls i.e in keeping with the existing and desired future character of the street.

10.3 Kirrawee Locality Strategy

Comment: The proposal is considered to be consistent with the provisions of the Precinct 4: Flora Street West Precinct guidelines in the Kirrawee Locality Strategy set out in SSDCP 2006, in particular those relating to streetscape and the provision of deep soil zones. The provisions have an emphasis on the protection of remnant trees within the rear setback, provision of deep soil zones within the front and rear setbacks and maintaining the landscape character of the locality. The current proposal is considered to comply with these provisions. An existing camphor laurel is to be removed (an exempt species) but appropriate replacement planting is being provided.

10.4 Setbacks

Comment: The proposed building has a front setback of 8.82 metres which is slightly in excess of the required 7.5 metres. The additional setback is to provide a greater distance to ramp down to the basement and to allow for the preservation of a substantial tree in the front setback. The additional setback is minor and considered to be acceptable.

The proposal complies with the minimum 4 metres setback required by SSDCP 2006. The side walls are articulated as required by Clause 3.b.9 of Chapter 3 of SSDCP 2006.

The proposed rear setback is 8.27 metres which is in accord with the minimum 4 metre setback required by SSDCP 2006.

10.5 Parking

Comment: Council's Parking Policy in Chapter 7 of SSDCP 2006 sets maximum rates of parking in areas around main centres / transport hubs (such as this site) so as to encourage the use of public transport instead of cars.

The original plans provided 21 car parking spaces at basement level of which six (6) spaces were tandem (stacked) spaces. To increase the proposal's landscaped area (and thereby reduce privacy impacts on the adjoining premises to the west) it was recommended that the proposal be amended to delete the tandem spaces. Tandem spaces by their nature are more difficult to use and the inner space tends to be used for storage rather than parking. Deletion of the tandem spaces will have minimal negative impact on street parking but significant positive impacts regarding landscaping and privacy.

The amended proposal requires a MAXIMUM of 19 spaces under SSDCP 2006. Fifteen (15) spaces are proposed being 12 resident and three (3) visitor spaces. One (1) of the visitor spaces is also a car wash bay. Three (3) of the resident spaces are accessible spaces with adjacent shared zones and these spaces will be allocated to the adaptable units. The 12 residential spaces are four (4) less than the maximum required.

One (1) of the objectors submitted a parking analysis at the Information Session which claimed that parking demand in the street was 452 vehicles which exceeds available on site (296) and on street (95) parking combined. This analysis was based on 1.7 cars per household.

Based on surveys in 2001 of more than 1000 flat buildings Council has established that two (2) bedroom units (shire- wide) generate an average of 1.4 spaces each and three (3) bedroom units generate 1.3 to 1.6 spaces each with the lower 1.3 rate being in Miranda and in the Sutherland /Kirrawee area (where access to public transport and services is best). Based on 1.4 spaces per unit and 1.7 per house the generation of the units and houses in Flora Street would be in the order of 376 spaces. Based on the objector's parking supply figures for the houses and townhouses and an investigation of the strata plans for the flat buildings there are 368 onsite parking spaces available in this part of Flora Street. On this basis the undersupply is in the order of eight (8) spaces not 157 as suggested by the objector. The street is also used for commuter parking during the day.

With regard to validity of Council's survey, it is considered that the low population growth and a consistent demographic profile in the Sutherland Shire over the past decade are unlikely to have significantly changed the car parking demands surveyed.

It is considered that the provision of four (4) spaces less than the maximum permitted on this site is reasonable. The negative impacts of the parking under provision are considered to be outweighed by the positives of increased deep soil landscaping and improved privacy. In any case, the proportionate increase in traffic volume and parking demand is relatively minor in context. It is also noteworthy that the site is well serviced by public transport.

10.6 Privacy

Comment: The original plans had west facing podium terraces above the front tandem parking spaces. These terraces extended to 900 mm off the western boundary and 1 metre above ground level. As a result they caused overlooking of the courtyards and living rooms of the townhouses at No.68-70 Flora Street (to the west of the site).

In the amended plans (as a result of a deletion of the tandem parking spaces) the western ground floor units have their open space at natural ground level and the privacy impacts are substantially reduced. The amended plans also provide for substantial screen planting adjacent to the side boundaries.

The first and second floor front units have their balconies facing the street and fixed privacy screens to the sides of the balconies. The rear units have louvered sliding privacy screens facing the side boundaries. There are no balconies at first or second floor facing the rear and two (2) large trees are to be retained in the rear yard. It is considered that reasonable measures have been undertaken to minimise the proposal's privacy impacts.

10.7 Overshadowing

Comment: The site has a north- south orientation which results in the sites to the east and west each being overshadowed from this proposal for only a small part of the day. The submitted shadow diagrams show that at 9am in mid winter the windows of the front two (2) townhouses to the west are not overshadowed, nor is the courtyard of the front townhouse and approximately half of the yard of the second townhouse. From 9am the windows of the front building at No. 68-70 Flora Street will be in sun and from 11am the rear building would cease to be overshadowed by the proposal. The townhouse/ villa complex to the east (No.62) only has a narrow 1.5 m wide side passage facing the subject site. The front townhouse and the upper floor of the rear townhouse at No.62 will retain solar access till after 3pm and the ground floor of the rear townhouse would retain solar access till 1.45 pm. The yards of the houses to the south are currently overshadowed by the camphor laurel trees at the rear of the subject site and a eucalypt at No.19 Fauna Place.

10.8 Trees / Landscaping

Comment: The large pine tree in the front setback is being retained as are two (2) trees in the rear yard. A tree in the south eastern corner of the site is being removed however, it is a camphor laurel which is a species exempt from Council Tree Preservation Order which could be removed without approval. Considerable new landscaping is proposed. In the original plans the landscaped area was significantly under provided and was in part narrow strips along the boundaries unsuitable for tree planting.

The amended plans now comply with SSLEP2006 landscaped area requirements and provide large areas suitable for tree planting. Substantial screen planting is proposed adjacent to the boundaries. Most of the western and rear setback areas have been allocated as private open space to the adjacent ground floor units rather than provided as communal areas. This is in line with the recommendations of the Architectural Review Advisory Panel.

10.9 Open Space

Comment: In the original plans, 226 m² of communal open space was provided. The ARAP recommended that the rear yard area would be better maintained and used if it was changed to being mostly private open space for the two (2) ground floor rear units. This design change was

made and the communal open space is now 186.3 m² with the largest area being 100.8 m². Whilst the amount of open space has actually increased the area which is communal in nature has decreased. The largest parcel whilst more than the 100 m² (10 m x 10 m minimum) required by SSDCP 2006 has one (1) dimension, at 8.82 m, slightly less than the 10 m required. This is considered to be acceptable and compliant with the objectives of the control in that a significant area has been provided and an improved balance of private and communal open space has resulted.

All units have private balconies compliant with SSDCP 2006.

10.10 Site coverage

Comment: The proposal entails a minor variation to the 40 % site coverage control in Chapter 3 of SSDCP2006. The departure is 1.58% (or 21.28 m²) and is considered to be acceptable given its size and the proposal's compliance with other relevant controls. In particular, it is noted that the landscaped area provision is more than compliant. The non compliance is due to the basement car park being larger than the building itself and being partly above ground level. The ground floor of the building itself covers well below 40 % of the site.

10.11 Other matters

Comment: The past uses of the site have been farming and residential and accordingly it is considered that there is no likely site contamination and that the site is suitable for the proposed use under the provisions of State Environmental Planning Policy No 55 – Site Contamination.

Documentation has been submitted showing compliance with State Environmental Planning Policy (Building Sustainability Index-BASIX).

The site is potentially affected by road noise from the Princes Highway. This has been addressed in the application (and by recommended Condition 31). The site is 165 metres from, but does not have a direct line of sight to, the Highway.

An access report from a qualified consultant has been submitted indicating that the proposal is or can be made compliant with the applicable standards. Three (3) adaptable units each with an accessible parking space have been provided, which satisfies SSDCP 2006.

Onsite stormwater detention and rainwater retention / reuse are provided for to the satisfaction of Council's Engineer.

11.0 SECTION 94 CONTRIBUTIONS

The proposed development will introduce additional residents to the area and as such will generate Section 94 Contributions in accordance with Council's adopted Contributions Plans. These contributions include:

Open Space:	\$68,668.26
Community Facilities:	\$12,146.80

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of 12 new residential units with a concession of two (2) existing allotments. (Conditions 7 and 8.)

12.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

There was no declaration of affiliation, gifts or political donations noted on the development application form submitted with this application.

13.0 CONCLUSION

The proposed development is for the demolition of two (2) dwellings and construction of a new residential flat building with basement carparking at 64 and 66 Flora Street, Kirrawee.

The subject land is located within Zone 6 – Multiple Dwelling B pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being a residential flat building, is a permissible land use within the zone with development consent.

In response to the initial public exhibition, 18 submissions were received. In relation to notification of the amended plans 13 submissions were received. The matters raised in these submissions have been discussed in this report and include height, overshadowing, lot size and parking.

The proposal includes a variation to the minimum site area and frontage development standards for residential flat buildings under SSLEP 2006 and to the site coverage SSDCP 2006 control. These variations have been discussed and are considered acceptable. The proposal complies with Council's development standards in respect to height, density and landscaped area.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979, together with the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. 11/1067 may be supported for the reasons outlined in this report.

Report Recommendation:

That Development Application No. 11/1067 for Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Carparking at Lot 1 DP 505219, Lot 1 DP 523842 (Nos. 64-66) Flora Street, Kirrawee be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.

APPENDIX "A"

DRAFT CONDITIONS OF DEVELOPMENT CONSENT
Development Application No. 11/1067

GENERAL CONDITIONS

These general conditions are imposed to ensure that the development is carried out in accordance with the development consent, having regard to the environmental circumstances of the site.

1. Approved Plans and Documents

The development shall be implemented substantially in accordance Drawing Nos 1/8A to 8/8A by Miles Prsa- Architect, Drawing Nos LP/102/2011 Rev C sheets 1 and 2 by Jennings Landscape Consultancy and Stormwater Drainage Plan / Drawing No. 40810RH, sheets 1-2 Amendment 5 prepared by Harrison Friedmann & Associates P/L and any details on the application form and on any supporting information received with the application except as amended by the conditions specified and imposed hereunder.

Note 1:

Nothing in this development consent whatsoever approves or authorises the **commencement, erection or construction of any building or construction works.**

Note 2:

Prior to the commencement of any building or construction work being carried out a 'construction certificate' shall be obtained from Council or an Accredited Certifier.

Note 3:

Prior to any work being carried out relating to the development the subject of the consent, the person implementing the consent shall provide Council with:

- a) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from the PCA.
- b) Notification of the commencement of building works with a minimum of 2 days notice of such commencement.

Note 4:

Should the development have a BASIX Certificate, your attention is drawn to the commitments made in the BASIX Certificate which forms part of the development consent and the necessity to comply with these as required under the Environmental Planning and Assessment Act 1979.

2. Prescribed Conditions - General

The following are prescribed conditions of development consent pursuant to s.80A(11) of the Environmental Planning and Assessment Act 1979 and cl.98 of the Environmental Planning and Assessment Regulation 2000.

A. Compliance with the Building Code of Australia

The development must be carried out in accordance with the provisions of the Building Code of Australia.

B. Residential building work

1. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the **Principal Certifying Authority** (PCA) for the development to which the work relates:

- a) in the case of work to be done by a licensee under that Act:
 - i) has been informed in writing of the licensee's name and contractor license number, and
 - ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
- b) in the case of work to be done by any other person:
 - i) has been informed in writing of the person's name and owner-builder permit number, or
 - ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of "owner-builder work" in section 29 of that Act,
 - iii) and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

2. A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

C. Details to be provided to Council with the Notice of Commencement

Builders and Insurance details required under part B above shall be provided to Council with the Notice of Commencement.

3. Approvals Required under Roads Act or Local Government Act

The following works or activities shall not be carried out on public land (including a road) adjacent to the development site without approval under the Roads Act 1993 and/or the Local Government Act 1993:

- a) Placing or storing materials or equipment;
- b) Placing waste containers or skip bins;
- c) Pumping concrete from a public road;
- d) Standing a mobile crane;
- e) Pumping stormwater from the site into Council's stormwater drains;
- f) Erecting a hoarding;

- g) Establishing a construction zone;
- h) Opening the road reserve for the purpose of connections including telecommunications, water, sewer, gas, electricity and stormwater; or
- i) Constructing a vehicular crossing or footpath.

An application, together with the necessary fee, shall be submitted and approval granted by Council prior to any of the above works or activities commencing.

Note - Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

4. Dilapidation report

The applicant is to provide a dilapidation report of all adjoining properties and any of Councils infrastructure located within the zone of influence of the proposed excavation. The dilapidation report must be conducted by a suitably qualified engineer **prior to the commencement of any demolition, excavation or construction works**. The extent of the survey must cover the zone of influence that may arise due to excavation works, including construction induced vibration. The Initial dilapidation report must be submitted to the Principle Certifying Authority **prior to issue of a Construction Certificate**. A second dilapidation report, recording structural conditions of all structures originally assessed prior to the commencement of works, must be carried out at the completion of the works and be submitted to Principle Certifying Authority **prior to issue of an Occupation Certificate**.

5. Public Place Environmental, Damage & Performance Security Bond

Before the commencement of any works (including demolition) or the issue of a Construction Certificate, the applicant shall provide security to Council against damage caused to any Council property and / or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with the Council or a satisfactory guarantee. A non refundable inspection / administration fee is included in the bond value.

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a current dilapidation report supported by photographs. This information shall be submitted to Council at least two (2) days **prior** to the commencement of works.

Should any public property and / or the environment sustain damage during the course of and as a result of construction, or if the construction works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and / or remove the risk. The costs incurred shall be deducted from the security.

A request for release of the security deposit may be made to Council after all works relating to this consent have been completed. Such a request shall be submitted to Council on the '*Bond Release Request Form*' signed by the owner or any person entitled to use of the consent.

The value of the bond shall be \$20,000.

Note: Bond amount includes a non refundable administration fee of \$110. Where the bond takes the form of a Bank Guarantee, the \$110 administration fee must be paid separately.

6. Public Liability Insurance

Prior to the commencement of work or the issue of a Construction Certificate, the owner or contractor shall take out a Public Liability Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. Evidence of this policy shall be submitted to Council prior to commencement of work or the issue of a Construction Certificate.

Section 94 Contributions

The following contributions have been levied in relation to the proposed development pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

7. Community Facilities, Shire Wide 2003 Plan

A monetary contribution of \$12,146.80 shall be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 12 proposed Residential Flat Units, Apartments etc, with a concession for 2 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

Payment shall be made prior to the issue of the Construction Certificate (in the case of development applications involving any building work).

The Contributions Plan may be inspected or a copy purchased at the Customer Service Counter in Council's Administration Centre, Eton Street, Sutherland during office hours.

8. Monetary Contribution for Shire-Wide Open Space and Recreational Facilities

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council's Contributions Plan - Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of \$68,668.26 shall be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 12 proposed Residential Flat Units, Apartments etc, with a concession for 2 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

Payment shall be made prior to the issue of the Construction Certificate (in the case of development applications involving any building work).

The Contribution Plan may be inspected or a copy purchased at the Customer Service Counter in Council's Administration Centre, Eton Street, Sutherland during office hours.

MATTERS RELATING TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions involve either modification to the development proposal or further investigation prior to the issue of a Construction Certificate, so as to ensure that there will be no adverse impact on the environment or adjoining development. This information shall be submitted with the Construction Certificate.

9. BASIX Requirements

The Construction Certificate shall comprise all necessary documentation and information sufficient to verify that all commitments contained within the BASIX Certificate relevant to the issue of a Construction Certificate for works approved by this development consent have been included in the development.

10. Design Changes Required

The following design changes shall be implemented:

- a) The grilles to the basement car park shall where they adjoin storage areas either be deleted or be fitted with weather protection louvres or the like.
- b) The lawn area adjacent to Unit 3 shall be extended (as a strip a minimum of 1 metre wide) from the main lawn area at the rear up to the stairs from the terrace.

Details of these design changes shall accompany the Construction Certificate.

11. Design and Construction of Works in Public Areas

Council has determined that the proposed development generates a need for the following works to be undertaken by the Applicant in the Road Reserve:

- (a) A temporary concrete footpath crossing for construction vehicle access.
- (b) Road pavement construction as detailed on Council's design plan.
- (c) Stormwater drainage work.
- (d) Demolition of existing kerb and gutter at the proposed point of access and replacement with a concrete layback crossing.

- (e) Removal of all redundant layback crossings and reconstruction with integral concrete kerb and gutter.
- (f) Removal of all redundant footpath crossings and reinstatement in accordance with Council's requirements.
- (g) Construction of concrete kerb and gutter across the full frontage of the site.
- (h) The footpath crossing in Flora Street to be 5.5 m wide.
- (i) Construction of a concrete footpath across the full frontage of the site.
- (j) Regrading, topsoiling and turfing of the footpath area to final design levels across the full frontage of the site and across adjacent properties where existing levels are altered and to all disturbed areas.
- (k) Construction of a footpath crossing to the levels issued by the Council.
- (l) Erosion and sediment controls.
- (m) Provision of street landscaping and tree planting as specified by Council.
- (n) Adjustment to public services infrastructure where appropriate.

An application under the Roads Act, together with the necessary fee, shall be submitted and alignment levels shall be issued by Council prior to the issue of a Construction Certificate. Approval under the Roads Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in enforcement action by Council.

Survey and design plans for the above works shall be prepared by Council's Engineering Division and issued by Council's Civil Assets Manager. A fee quotation may be obtained by submitting a "Detailed Frontage Design" application to Council. The application form can be obtained from Council's web site.

12. Site Management Plan

An Environmental Site Management Plan shall accompany the Construction Certificate. This plan shall satisfy the Objectives and Controls in Part 4 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and shall address the following:

- a) What actions and works are to be employed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, and the like.
- b) The proposed method of loading and unloading excavation machines, building materials.
- c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition / construction.
- d) How it is proposed to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be certified by a Certifier accredited in civil engineering.
- f) The provision of temporary fencing to secure the work site (fencing, hoarding or awnings over public land require Council approval under the Roads Act).
- g) The control of surface water flows within and through the construction site to minimise erosion and movement of sediment off site.

- h) The type and location of erosion and sediment control measures, strategies to minimise the amount of soil uncovered at any time, the conservation of topsoil for re-use on site, the location and protection of stockpiles.
- i) Identify all trees that are to be retained and the measures proposed to protect them (including fencing, mulching, watering, erection of signs excluding access to the protection zone, etc), and identify areas for revegetation.

Note: The footpath and road reserve shall not be used for construction purposes (including storage of skips or building materials, standing cranes or concrete pumps, erecting hoardings, or as a construction zone) unless prior approval has been granted by Council under the Roads Act 1993.

13. Soil and Water Management

Prior to the commencement of works or the issue of a Construction Certificate, the applicant shall submit to and obtain Council approval of a Soil and Water Management Plan and Statement which clearly identifies site features, constraints and soil types together with the nature of proposed land disturbing activities and also specifies the type and location of erosion and sediment control measures and also rehabilitation techniques necessary to deal with such activities.

The Plan shall take into account the objectives of Council's Environmental Site Management Development Control Plan and shall be compatible with any Construction Management Plan thus ensuring the following objectives are achieved, namely:

- a) All possible sediment controls are installed before commencing work.
- b) To minimise the area of soils exposed at any one time.
- c) To conserve topsoil for re-use on site.
- d) To identify and protect proposed stockpile locations.
- e) Provide an indication of all existing trees present on the site or which are affected by the works on the site including trees on adjoining properties together with the location of the full extent of protective fencing and other tree protection barriers and root protection bridging structures and the like to be utilised in locations agreed with the project arborist. The trees are to be indicated as "tree to be retained" and or "tree to be removed".
- f) To preserve existing vegetation and identify revegetation techniques and materials.
- g) To control surface water flows through the development construction site in a manner that:
 - i) Diverts clean run-off around disturbed areas.
 - ii) Minimises slope gradient and flow distance within disturbed areas.
 - iii) Ensures surface run-off occurs at non-erodable velocities.
 - iv) Ensures disturbed areas are promptly rehabilitated.
- h) Trap sediment on site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilised (includes landscaping).

14. Limit Window Opening

Where it is possible for a person to fall through an openable window from a floor greater than 1.0 m above the surface outside the window, a barrier shall be provided to restrict the opening so that at any point a 125 mm sphere cannot pass through. The barrier can be provided in any form fit for the intended purpose, including a screen, louvres or mesh, and may also serve other purposes such as protection from bushfire hazard, security or solar heat load. A child-proof device fitted to a window that allows it to be locked in a position so that the aperture is no greater than 125 mm when children are present is also acceptable. This condition does not apply to windows with a sill height of 1500 mm or more above the floor inside the building immediately below the window.

Measures proposed to comply with this condition shall be indicated on the Construction Certificate drawings and the measures shall be in place before the issue of an Interim or Final Occupation Certificate.

15. Construction Parking

Once the basement car parking level is completed it shall be used as far as practicable for the parking of construction workers vehicles, storage of building materials and equipment, workers amenities and the like.

16. Access Application

An access application shall be made to Council to obtain footpath crossing and boundary alignment levels before commencing the final design of internal driveways, paths and car park area. The proposal shall comply with the levels issued by Council and a copy of the issued levels shall accompany the Construction Certificate.

17. Road Opening Approval

A "Road Opening Approval" under *Section 138 of the Roads Act, 1993 (NSW)* has been granted with respect to the following works undertaken within the road reserve pertinent to this development consent; telecommunications, sewer, stormwater, gas, electricity and water connections.

The "Road Opening Approval" is attached to this development consent.

18. Nomination of Engineering Works Supervisor

Prior to the issue of a Construction Certificate the applicant shall nominate an appropriately accredited certifier to supervise all public area civil and drainage works to ensure that they are constructed in compliance with Council's current "Specification for Civil Works Associated with Subdivisions and Developments".

The engineer shall:

- a) provide an acceptance in writing to supervise sufficient of the works to ensure compliance with:
 - i) all relevant statutory requirements;
 - ii) all relevant conditions of development consent;
 - iii) construction requirements detailed in the above Specification; and
 - iv) the requirements of all legislation relating to environmental protection;

- b) on completion of the works certify that the works have been constructed in compliance with the approved plans, specifications and conditions of approval; and
- c) certify that the Works As Executed plans are a true and correct record of what has been built.

19. Sydney Water - Notice of Requirements

Prior to the issue of a Subdivision Certificate or Final Occupation Certificate (whichever occurs first) the applicant shall obtain a Notice of Requirements under the Sydney Water Act 1994, Part 6 Division 9 from Sydney Water and submit the Notice to the Council.

20. Public Utility Authorities

Arrangements shall be made to the satisfaction of all Utility Authorities including cable television network providers in respect to the services supplied to the development by those authorities. The necessity to provide or adjust conduits/ services within the road and footway areas shall be at full cost to the applicant.

21. Carwash Bay

The car parking area shall contain a car wash bay in accordance with the relevant Development Control Plans that are drained to the sewer. Evidence of a permit issued for the car wash bay by Sydney Water, Wastewater Source Control Branch, shall accompany the Construction Certificate.

22. Internal Driveway Profile

The internal driveway profile shall be designed to:

- a) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- b) Align with Council's issued footpath crossing levels.
- c) Provide a maximum grade of 5% for the first 3 metres inside the property boundary.
- d) Comply with AS2890.1(2004) and AS2890.2 (2002) in relation to the design of vehicular access, parking and general manoeuvring.

A Compliance Certificate issued by an appropriately accredited person to the effect that these design requirements have been met shall accompany the Construction Certificate.

23. Drainage Design - Detailed Requirements

A detailed drainage design shall be prepared in accordance with Sutherland Shire Development Control Plan 2006 (Chapter 8 - Ecologically 'Sustainable Development'; Section 6 - 'Stormwater Management'), "Australian Rainfall and Runoff (1987)", Council's Drainage Design Manual and Council's "On-site Stormwater Detention Policy and Technical Specification".

The design shall include:

- a) A detailed drainage design supported by a catchment area plan and drainage calculations (including a Hydraulic Grade Line Analysis).

- b) A layout of the drainage system showing existing and proposed pipe sizes, type, class, grades, lengths, invert levels, finished surface levels and location of all pipes with levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan.
- c) A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line.
- d) A physical barrier (eg. concrete kerb or earth mound within the landscaping) shall be provided around the perimeter of the site to prevent the discharge of surface water flows onto adjoining properties or the road reserve.
- e) The rate of discharge of stormwater from the site to a drainage system under Council's control shall be controlled so that it does not exceed the pre-development rate of discharge. The volume of on site stormwater detention can be reduced by one third the volume of rainwater tanks used for harvesting and reuse, The rainwater tanks must be permanently connected to toilets, car washing, irrigation and other non- potable uses. Specific certification from the designer to this effect shall be incorporated in the submitted drainage plans / details.
- f) Where underground service lines (ie, water, drainage, sewerage and gas) are required which are in conflict with the location of the root zone of trees and significant vegetation to be retained, the lines shall be excavated by hand or by directional or underboring techniques to reduce any adverse impact on the root zone of the trees.

A Compliance Certificate issued by an appropriately accredited person to the effect that these design requirements have been met shall accompany the Construction Certificate.

24. Drainage Design (Stormwater Disposal)

To ensure the efficient disposal of stormwater and that no problem is caused to surrounding premises, the stormwater from the development shall be discharged to the street gutter.

25. Stormwater Treatment

An appropriate stormwater treatment measure, selected from the Environment Protection Authority's document "Managing Urban Stormwater - Treatment Techniques, November 1997", shall be provided as part of the permanent site stormwater (water quality) management system.

26. Garbage, Recycling and Green-waste Storage Area

To ensure proper storage of waste from the premises, an enclosed garbage and recycling storage area shall be provided. This facility shall be designed and positioned to accommodate (and if necessary provide collection access to) waste and recycling bins to Council's requirements and in order to minimise noise and odour, it shall be located as far as possible away from nearby premises. Within this area a smooth impervious floor shall be provided that is graded to a floor waste and a tap and hose provided to facilitate regular cleaning of the bins. All waste water shall be discharged to the sewer in accordance with the requirements of Sydney Water.

The required number and type of waste and recycling material containers shall be provided at the full cost of the developer.

Details of the garbage, recycling and greenwaste storage area shall accompany the Construction Certificate.

The works included above shall be completed prior to the issue of an occupation certificate.

27. External Lighting - (Amenity)

Any lighting on the site shall be designed and operated so as not to cause a nuisance nor adverse impact on the other residents of the surrounding area nor to motorists on nearby roads. All external lights shall be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

28. Building Ventilation

To ensure that adequate provision is made for ventilation of the building mechanical and / or natural ventilation systems shall be provided. These shall be designed, in accordance with the provisions of:

- a) The Building Code of Australia.
- b) AS 1668 Part 2 - 1998.

Details of all mechanical and / or natural ventilation systems, along with specific certification provided by an appropriately qualified person verifying compliance with the abovementioned requirements, shall accompany the Construction Certificate.

29. Noise Control - Design of Plant and Equipment (From Residential Unit Blocks)

To minimise the impact on the surrounding residents, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems shall be acoustically attenuated so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background noise level when measured at the most affected point on or within any residential property boundary or at the external edge of any sole occupancy unit balcony within the premises itself at any time the units operate. Notwithstanding the above requirements, any noise generated by the plant and/or equipment must not be heard within a habitable room in any sole occupancy unit or other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8am or after 10pm on any Saturday, Sunday or public holiday, or
- (b) before 7am or after 10pm on any other day.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1.

30. Car-Park Ventilation - Alternate System

As the basement car-park does not comply with the natural ventilation requirements of Part 7.4 of AS1668.2 - 1991, the car-park shall be either mechanically ventilated by a mechanical ventilation system complying with AS1668.2 -1991 OR alternatively by the

natural ventilation system proposed providing it is certified by a practicing mechanical ventilation engineer to the effect that the system is an adequate system of natural ventilation. The certification shall confirm that the system will protect the health of the occupants of the car-park at any time it is used and would satisfy the exposure rates specified in Clause 7.2.2 of AS1668.2 - 1991

Details of the method of ventilation and relevant certification shall accompany the Construction Certificate.

31. Road Noise Design Criteria

To minimise the impact of noise and vibration from the adjoining major road on the occupants of the development, the building shall be designed to meet the internal noise level criteria provided in:

- a) State Environmental Planning Policy (Infrastructure) 2007; and,
- b) 'Development near Rail Corridors and Busy Roads - Interim Guideline' produced by the NSW Department of Planning.

32. Submission of Fire Safety Schedule

A Fire Safety Schedule shall be issued by an appropriately qualified person and provided to Council as part of the Construction Certificate in accordance with the *Environmental Planning and Assessment Regulation 2000*. This schedule shall distinguish between current, proposed and required fire safety measures, with the minimum standard of performance being indicated for each fire safety measure. The Fire Safety Schedule shall identify each fire safety measure that is a Critical Fire Safety Measures and the intervals at which supplementary fire safety statements shall be given to the Council in respect of each such measure.

PRE-COMMENCEMENT CONDITIONS

The following conditions are imposed to ensure that all pre-commencement matters are attended to before work is commenced.

33. Pre-Commencement - Notification Requirements

No works in connection with this development consent shall be commenced until:

- a) A Construction Certificate has been issued and detailed plans and specifications have been endorsed and lodged with Council;
- b) A Principal Certifying Authority has been appointed. Council shall be notified of this appointment along with details of the Principal Certifying Authority, and their written acceptance of the appointment; and
- c) Notice of commencement has been provided to Council 48 hours prior to commencement of construction work on the approved development.

34. Pre-commencement Inspection

The pre-commencement meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00 am and 4.30 pm Monday to Friday. Prior to this meeting the relevant sections of

the Environmental Site Management Plan (ESMP) must be implemented. The meeting must be attended by a representative of Council's Civil Assets Branch, the PCA, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Inspect the implementation of relevant sections of the ESMP such as safe passage for pedestrians, the installation of sediment and erosion controls, hoardings, Work and Hoarded Zones;
- ii) Check the installation and adequacy of all traffic management devices;
- iii) Discuss/explain any sections of the development consent that may require clarification or elaboration;
- iv) Confirm that a Construction Certificate has been issued where necessary and all Council fees paid;
- v) Vet the compliance of any special/specific conditions of consent;
- vi) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments - January 1996; and,
- vii) Confirm that the builder/site manager/principal contractor has a copy of the Sutherland Shire Development Control Plan 2006 and Environmental Specification 2007.

35. Signs to be Erected on Building and Demolition Sites

Where proposed works affect the external walls of a building, a rigid and durable sign shall be erected prior to the commencement of work and maintained in a prominent position on any work site on which building work, subdivision work or demolition work is being carried out. The responsibility for this to occur is that of the principal certifying authority or the principal contractor.

The signage, which must be able to be easily read by anyone in any public road or other public place adjacent to the site, must:

- a) show the name, address and telephone number of the principal certifying authority for the work, and
- b) show the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) state that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

CONSTRUCTION CONDITIONS

These conditions are imposed to ensure the development does not unreasonably impact on the amenity of the locality during the construction or demolition phase.

36. Environmental Site Management DCP

All construction work approved by this development consent shall be undertaken in accordance with the objectives and controls in Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management.

37. Permitted Hours for Building and Demolition Work

To minimise the noise impact on the surrounding environment all building and demolition work shall be carried out only between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive, 8.00 am and 3.00 pm Saturdays. No work shall be carried out on Sundays and Public Holidays.

38. Toilet Facilities

Toilet facilities shall to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a) shall be a standard flushing toilet, and
- b) shall be connected:
 - i) to a public sewer, or
 - ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause shall be completed before any other work is commenced.

39. Demolition Work

To ensure that demolition of structures is carried out in an environmentally acceptable and safe manner:

- a) The demolition of the existing building shall be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- b) It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a dilapidation report supported with suitable photographic records. This information shall be submitted to Council prior to the commencement of work. Any damage other than that noted prior to commencement of the demolition shall be the responsibility of the owner of the property for repair or reinstatement.
- c) The applicant shall ensure that the demolition contractor has a current public risk

insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

- d) If demolition is to commence prior to the issue of a Construction Certificate, the applicant shall submit to Council a Site Management Plan - Demolition for assessment prior to the commencement of any demolition work. This plan shall satisfy the objectives of Council's Environmental Site Management Development Control Plan and shall consider the following:
 - i) What actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from demolition activities, crossings by heavy equipment, plant and materials deliveries and the like;
 - ii) The proposed method of loading and unloading demolition machines within the site;
 - iii) The proposed areas within the site to be used for the storage of demolished material and waste containers during the demolition period;
 - iv) How it is proposed to ensure that soil / demolished material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
 - v) The requirements of any site specific Development Control Plan that may affect this development site.
- e) **Pre-Commencement Inspection**
 If demolition is to commence **prior** to the issue of a Construction Certificate, the Builder/principal contractor shall undertake a pre-commencement site inspection with Council's Engineering Compliance Officer and Council's Civil Asset Manager. The purpose of this inspection is to facilitate the implementation of the consent specifically with regard to the impact on the public way and to clarify any matters of concern.

Note: An inspection fee shall be paid to Council prior to the meeting. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

40. Demolition - Removal of Asbestos Material

To ensure that the removal and transportation of any asbestos material from the premises is carried out in an environmentally acceptable and safe manner, all work shall comply with the following:

- a) Occupational Health and Safety Act 2000;
- b) Occupational Health and Safety Regulation 2001;
- c) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
- d) Workcover NSW 'Working with Asbestos - Guide 2008'; and,
- e) Protection of the Environment Operations Act 1997.

Should works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact the NSW Workcover Authority. Asbestos waste in any form shall be disposed of at a waste facility licensed by the Department of Environment Climate Change & Water to accept asbestos waste.

The applicant shall notify Council's Environment & Health Regulation Unit (phone (02) 97100333 during normal business hours) of any proposed removal of asbestos material not less than 72 hours prior to the commencement of the work.

41. Excavations and Backfilling

- a) All earthworks including excavations and backfilling associated with the erection or demolition of a building shall be executed safely and in accordance with appropriate professional standards.
- b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- c) All canopy, trunk and root system of all trees to be retained on site and neighbouring properties shall be protected from damage during excavation.

42. Noise Control during Construction and Demolition

To minimise the impact on the surrounding environment the LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, shall not exceed the ambient background level (LA90 15 min) by more than 10dB(A) when measured at the nearest affected premises.

43. Vibration Damage

To minimise vibration damage and loss of support to the buildings in close proximity where a hydraulic hammer is to be used within 30 metres of any building (other than a path or a fence) a report shall be prepared by a qualified geotechnical engineer detailing the maximum size of hammer to be used for excavation purposes. This report shall accompany the Construction Certificate.

44. Environment Protection and Management

The environment protection and management measures described in the required Environmental Site Management Plan (including sediment controls and tree protection) shall be installed or implemented prior to commencement of any site works and continuously maintained during the period of construction or demolition. These measures shall generally be in accordance with the requirements of Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management.

45. Run-off and Erosion Controls

Run-off and erosion controls shall be installed prior to commencement of any site works and shall be continuously maintained during the period of construction or demolition. These control measures shall generally be in accordance with the requirements of Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management and shall specifically address the following matters:

- a) diversion of uncontaminated runoff around cleared or disturbed areas;
- b) a silt fence or other device to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways;

- c) controls to prevent tracking of sediment by vehicles onto adjoining roadways and public areas; and
 - d) disturbed areas shall be stabilised either temporarily or permanently by the use of turf, mulch, paving or other methods approved by the Council.
46. Stockpiling of Materials During Construction
Topsoil, excavated material, construction and landscaping supplies and on site debris shall be stockpiled within the erosion containment boundary and shall not encroach beyond the boundaries of the property or the drip-line of any tree marked for retention. For further information, refer to Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management.
47. Construction Materials and Machinery Must be Kept Within the Site
All construction materials, sheds, skip bins, temporary water closets, spoil, and the like, shall be kept within the property. No vehicles or machines shall be permitted to stand on Council's footpath. For further information, refer to Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management.
48. Spoil Deposited on Public Way (Roads or Reserves)
Any spoil deposited on public roads during cartage of materials from or to the site shall be removed immediately to the satisfaction of Council. If Council determines that excessive depositing of spoil onto the public way is taking place then the cartage of spoil shall cease if so directed by Council.
49. Vibration Control - Residential
Any proposed security door fitted to the car parking area entrance shall be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.
50. Certification Requirement - Prior to Pouring of Concrete
Certificate shall be provided from a registered surveyor at the following stages of construction to ensure that when completed the structure will comply with the design details endorsed and accompanying the Construction Certificate:
- a) Prior to the pouring of the initial / lowest floor slab, verifying the location and level of the steel / formwork is such to ensure that the concrete when poured will comply with the approved floor level.
 - b) Prior to the pouring of each floor slab, verifying the location and level of the steel/formwork is such to ensure that when completed, the building will comply with the approved roof height.
51. Provision of Letter Box Facilities
Suitable letter box facilities (including Owner's Corporation in the case of strata units) shall be provided in accordance with Australia Post specifications.

52. Irrigation System

The communal open space areas shall be provided with an efficient irrigation system to enable effective landscape maintenance. Details of this shall be provided in the landscape plan which shall accompany the Construction Certificate.

53. Removal of Trees

The issue of the Construction Certificate gives approval for the removal of the following trees:

- a) Any trees specifically identified in the consent "existing tree to be removed".
- b) Any trees growing within the building footprint of the approved structures.
- c) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- d) Any tree species listed in Clause 57 of the SSLEP 2006 Council's Controls for Preservation of Trees and Bushland Vegetation.
- e) Any approved tree removals within the road reserve shall be organised in consultation with Council's Parks Tree Maintenance Officers (contact Customer Service Call Centre 9710 0333 to create CRMS request).

All other vegetation not specifically identified above, and protected by Council's Controls for Preservation of Trees and Bushland Vegetation shall be retained and protected from construction damage. These Controls for Preservation of Trees and Bushland Vegetation protects any vegetation unless written consent is obtained.

54. Tree Retention and Protection

The following tree/s as marked on the Plan No.Lp/102/2011 prepared by L.W. dated Feb 2012 shall be retained and protected:

Tree No.	Tree Species (botanical and common name)	Location on site
1	Cinnamomum camphora - Camphor laurel	Rear Yard
2	Araucaria hetrophylla - Norfolk Island Pine	Rear Yard
3	Cedrus deodar - Himalayan Cedar	Front yard

These trees identified for retention shall be protected by the following measures:

- a) Protective fencing constructed of 1.8 m high chain wire mesh supported by robust posts shall be installed at a minimum radius of 5 m from the trunk of each tree referenced above. This fencing shall be installed prior to the commencement of any works subject to this consent and remain in place until all works are completed. Signage shall be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- b) The tree protection zone within the protective fencing shall be mulched with a maximum depth 75 mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- c) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling,

installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.

- d) Any approved works within this tree protection zone shall be under the direction of, and to the satisfaction of, a suitably qualified and experienced Arborist.

55. Pruning of Trees

Permission is granted for the selective pruning of overhanging branches and deadwood from the Camphor Laurel tree located at the rear of the site on the approved plans No. LP/102/2011 - Revision C prepared by LW dated Feb, 2012. All pruning shall be carried out by a qualified Tree Surgeon/Arborist and conform to the provisions of AS4373 - 1996 Australian Standard for Pruning Amenity Trees.

56. Rainwater Harvesting and Use

Tank Installation

The tank and support structure shall be placed on a suitable foundation in accordance with the manufacturer's or engineer's details. It must not rest (in full or part) on the footings of any building or structure or on a retaining wall without being specifically designed for.

The tank shall not be installed over or immediately adjacent to a stormwater drainage easement, water or sewer main or associated infrastructure without the consent of the appropriate authority.

The tank may be free standing, partially or wholly below ground level, incorporated into the building eaves or fixed to a wall.

The tank installation and all plumbing works shall be carried out by a plumber licensed with the NSW Department of Fair Trading.

Plumbing Connections

Pipes that may be in contact with rainwater for extended period are to comply with AS/NZS4020. In general, this does not apply to guttering or downpipes that deliver rainwater directly by gravity into the top of the rainwater tanks because contact with the water is transient.

Underground pipework delivering water to the tank, or between tanks, or from tanks to houses (for reuse in toilets and laundries) shall comply with AS/NZS4020.

Polyethylene pipes used for such pressure applications shall comply with AS/NZS4130.

The installation of tanks and associated pipework infrastructure shall comply with the following standards:

1. AS/NZS2179 - Specifications for rainwater goods, accessories and fasteners.
2. AS2180 - Metal rainwater goods - selection and installation.
3. AS/NZS3500 - National Plumbing and Drainage Code.
4. AS/NZS4130 - Polyethylene (PE) pipes for pressure applications.

Potable Water Back-up

Potable water from the back-up system shall be introduced directly to the rainwater tank/s and not to the distribution system. Potable water is to be supplied via a dry break connection.

For the developments where a single rainwater tank is used, this tank shall be considered as the Potable Water Make-up Tank. Should a development include more than one (1) rainwater tank, a single rainwater tank shall be nominated as the Potable Water Make-up Tank.

The Potable Water Make-up Tank shall be installed such that potable water is supplied when the storage level is reduced to between 5% and 10% of installed rainwater storage capacity.

At this level, an approved mechanical float device or electrical float switch is to be used to make up potable water.

Overflow

Intense or prolonged rainfall will exceed the capacity of the rainwater tank therefore a (gravity) overflow system shall be provided to an appropriate approved Council storm water drainage system and via any OSD or retention facility if required.

POST CONSTRUCTION CONDITIONS

These conditions are imposed to ensure all works are completed in accordance with the Development Consent prior to either the issue of an Occupation Certificate, a Subdivision Certificate or habitation / occupation of the development.

57. Section 73 Compliance Certificate

A Compliance Certificate under s73 of the Sydney Water Act, 1994, shall be submitted to Council by the PCA prior to the issue of an Occupation Certificate or before the issue of a Subdivision Certificate. Sydney Water may require the construction of works and/or the payment of developer charges.

Advice from Sydney Water:

An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at www.sydneywater.com.au/customer/urban/index or by telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer extensions can be time consuming and may impact on other services as well as building, driveway or landscaping design.

58. Works As Executed Information

Certification shall be provided from a registered surveyor to the effect that:

- a) All civil engineering works required by this development consent have been carried out in accordance with the terms of the development consent and the approved engineering drawings with regard to location and level.
- b) All pipes, pits and detention facilities lay within their relevant existing or proposed easements.
- c) All rights-of-way or positive covenants required by conditions of this development consent have been provided.

59. Works As Executed Drawings

Certification shall be provided from the supervising engineer acting as an Accredited Certifier, to the effect that:

- a) All civil engineering and stormwater works associated with development have been carried out in accordance with the terms of the development consent, the approved engineering drawings and in the case of public works Council's "Specifications for Civil Works associated with Subdivisions and Developments".
- b) The construction of the drainage system for the proposed development has been carried out generally in accordance with the requirements of the approved stormwater drainage plans, Council's stormwater management policy and guidelines and Council's On-site Detention Policy and has been carried out in order that stormwater runoff downstream is not increased as a result of the development and that all assumptions made during the design remain valid. Works-as-Executed drawings certified in the above manner and containing all relevant information as required by Council's "Specification for Civil Works Associated with Subdivisions and Developments" shall accompany the Subdivision / Occupation Certificate.

60. Fire Risk Identification Guide

Prior to the issue of an Occupation Certificate, a New South Wales Fire Brigades "Fire Risk Identification Guide" sticker shall be completed and permanently affixed to the inside of the dwelling's electricity meter box.

Further information can be obtained from the New South Wales Fire Brigades' website (www.fire.nsw.gov.au), your local Fire Station, or by searching the keyword "FRIDG" on Council's website (www.sutherlandshire.nsw.gov.au).

61. Consolidation of the Lots

The two lots shall be consolidated to form one lot prior to issue of any Occupation Certificate.

62. Set out of Building

Certificate from a Registered Surveyor certifying that the building has been set-out in relation to location and levels, in accordance with the requirements of the development consent.

63. Mechanical or Natural Ventilation

Certification from a suitably qualified Mechanical Engineer certifying that all work associated with the installation of the mechanical or natural ventilation systems has been carried out in accordance with the conditions of the development consent.

64. Completion of Landscaping

Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect within three months after the issue of the Final Occupation Certificate for the development. This Certification shall verify that the landscape works have been completed to the stage of practical completion in accordance with the approved detailed landscape plan and relevant conditions of this consent.

Note: A Landscape Designer is a person eligible for membership of the Australian Institute of Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

65. Disabled Access and Adaptable Housing Certification

Certification shall be provided by a person suitably accredited by the Association of Consultants in Access Australia, verifying that the development has been constructed in accordance with the requirements of AS4299 - Adaptable Housing and AS1428 - Design for Access and Mobility and in accordance with the report and checklist submitted with the Construction Certificate.

66. Prior to Occupation or Use of the Development

The Development shall not be occupied or used until:

- a) A Final Occupation Certificate is issued and provided to Council for the development; or
- b) An Interim Occupation Certificate is issued and provided to Council for the development. This shall clearly identify the part of the development to which the Interim Occupation Certificate relates.

67. Final Site Inspection

Prior to the issue of the Subdivision or Occupation Certificate, a final site inspection relating to the public area shall be arranged by the applicant, and shall be undertaken by the applicant's Supervising Engineer and Council's Civil Assets Engineer. The purpose of the inspection is to ensure that notwithstanding the submission of any certificates required by the development consent, all impacts within the public area caused by the development have been satisfactorily addressed.

Note: An inspection fee shall be paid to Council. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

68. Positive Covenant Over Detention Facilities - Strata Subdivision

A positive covenant shall be created on the title of the property pursuant to Section 88E of the Conveyancing Act, 1919 as amended and Section 7(3) of the Strata Titles Act, 1973 with respect to the maintenance of the required detention facilities. To this end

the registered proprietor(s) of the property thereby burdened shall covenant with Sutherland Shire Council and its successors not to use the property except as permitted by this development specifically with respect to the provision and maintenance of the detention facilities. The location and extent of the detention facilities shall be delineated on the Strata Plan of Subdivision.

OPERATIONAL CONDITIONS

These conditions are imposed to ensure that the use or operation of the development does not adversely impact on the amenity of the neighbourhood and the environment.

69. Maintenance and Operational Efficiency of BASIX Requirements

The operation of all devices or appliances installed within the development approved by this consent as stipulated in the BASIX Certificate shall be maintained in good operating order at all times.

70. Car Parking Allocation

Car-parking provided shall only be used in conjunction with the dwellings contained within the development, and shall be allocated to individual strata lots as part of their unit entitlement. Visitor parking facilities and/or car wash bays shall be designated as common property on any strata plan.

Parking shall be allocated on the following basis:

- Residential dwellings: 12 spaces (1 per unit)
- Visitors: 3 spaces
- Car wash bay: 1 space (shared visitor/ washbay space)

The accessible parking spaces shall be allocated to the adaptable units.

71. External Lighting

All external lights shall be operated and maintained in accordance with the Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting so as not to cause a nuisance or adverse impact on the amenity of residents of the surrounding area nor to motorists on nearby roads.

72. Noise Control - Design of Plant & Equipment (From Residential Unit Block)

To minimise the impact on the surrounding residents, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems shall be operated so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background noise level when measured at the most affected point on or within any residential property boundary or at the external edge of any sole occupancy unit balcony within the premises itself at any time the equipment operates. Notwithstanding the above requirements, any noise generated by the plant and/or equipment must not be heard within a habitable room in any sole occupancy unit or other residential premises (regardless of whether any door or window to that room is open):

- a) before 8am or after 10pm on any Saturday, Sunday or public holiday, or
- b) before 7am or after 10pm on any other day.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1.

73. Ventilation - Operation

To ensure that adequate ventilation within the building, all mechanical and / or natural ventilation systems shall be operated and maintained in accordance with the provisions of:

- a) The Building Code of Australia.
- b) AS 1668 Part 2 - 1998.

74. Car Park Access

If any security gate is fitted to the car park entry the visitor spaces must be accessible to visitors by an intercom or equivalent. Any intercom shall be located at least 6 metres clear of the property boundary and be wired to all units prior to an Occupation Certificate being issued or the building being occupied.

END OF CONDITIONS

APPENDIX "B"

DOC090312-09032012142827.pdf
Site Plan

APPENDIX "C"

DOC090312-09032012142842.pdf
Locality Plan

APPENDIX "D"

DOC090312-09032012142855.pdf
Aerial Plan

APPENDIX "E"

DOC090312-09032012143804.pdf
ARAP Minutes

APPENDIX "F"

DOC090312-09032012142909.pdf



DOC090312-09032012142916.pdf

North & West Elevations

South & East Elevations

Committee Recommendation:

IHAP RECOMMENDATION:

That Development Application No. 11/1067 for Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Car Parking at Lot 1 DP 505219 and Lot 1 DP 523842 (Nos. 64-66) Flora Street, Kirrawee be refused for the following reasons:

1. The application is considered unacceptable pursuant to the provisions of Section 79C (b) of the Environmental Planning and Assessment Act 1979 in that the proposal is not sympathetic to the existing streetscape on the southern side of Flora Street and the existing and likely future development of the allotments surrounding the development site.
2. The application is considered unacceptable pursuant to the provisions of Section 79C (b) of the Environmental Planning and Assessment Act 1979 as the proposal would have an unacceptable amenity impact on adjoining development; most particularly overlooking of dwellings in the townhouse developments along the eastern and western boundaries of the development site.

EAP RECOMMENDATION:

That Development Application No. 11/1067 for Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Car Parking at Lot 1 DP 505219 and Lot 1 DP 523842 (Nos. 64-66) Flora Street, Kirrawee be refused for the following reasons:

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Council Resolution:

The following decision of Council on 23/04/12 is extracted from the report EAP174-12:

1. That consideration of Development Application No. 11/1067 for Residential Flat Building Development - Demolition of Two (2) Dwellings and Construction of a New Residential Flat Building with Basement Car Parking at Lot 1 DP 505219 and Lot 1 DP 523842 (Nos. 64-66) Flora Street, Kirrawee be deferred to enable a site inspection to be undertaken which includes the properties of the objectors, especially Fauna Place, the matter to be considered at the next round of Committees.
2. That a report be provided including additional information on the development

application.

**Height and Density Controls -
 Kirrawee Centre**
 (Amendment No 18)

Ratio 1:8000

0 40 80 160 240 320 400m

**Building Heights in
 Storeys**

- 1** 1 Storey
- 2** 2 Storeys
- 3** 3 Storeys
- 4** 4 Storeys
- 5** 5 Storeys
- 6** 6 Storeys
- 7** 7 Storeys (28m max)
- 8** 8 Storeys (32m max)
- 9** 9 Storeys
- 10** 10 Storeys (40m max)
- Land referred to in Clause 33(10)
- deferred matter - SSLEP 2000 or Menai Town Centre LEP 1992 continues until resolved
- SSC LGA Boundary
- Excluded

Floor Space Ratio

- 1:1** Floor Space Ratio
- A** 2:1 applies to site/land area bounded by Stapleton/Merton/Flora/Belmont Streets, Sutherland
- B** 1:1 applies to site/land area as a whole
- C** 3.5:1 applies to amalgamated sites 5000m² or greater. Otherwise 3:1 applies
- deferred matter - SSLEP 2000 or Menai Town Centre LEP 1992 continues until resolved
- SSC LGA Boundary
- Excluded

Relationship with other Plans
 These maps are to be read in conjunction with
 Sutherland Shire Local Environmental Plan 2006

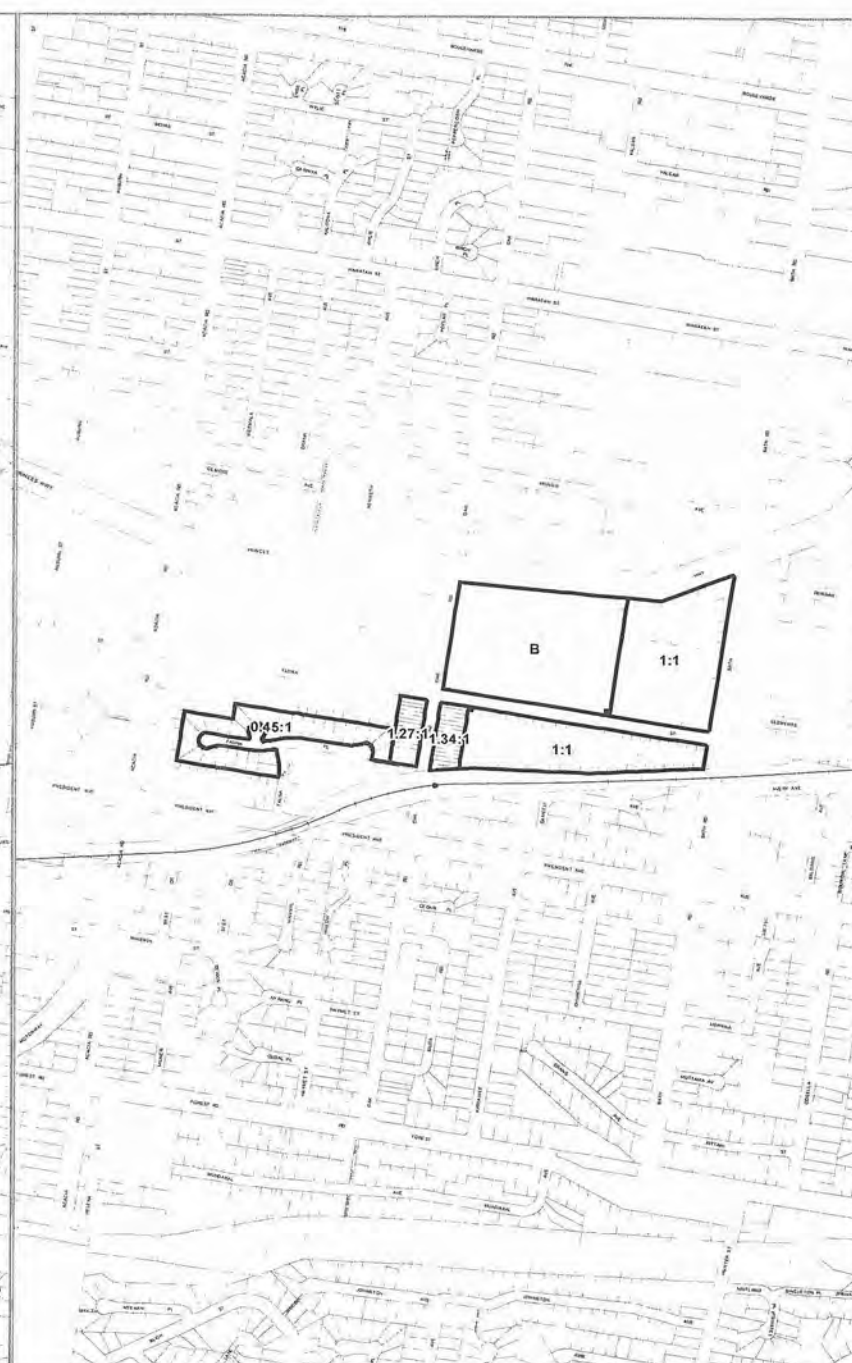
Sutherland Shire Council
 Environmental Planning Unit

Council File Number LP/06/553214
 DoP File Number TBA

This map is part of the set of maps included with the plan
 It was prepared on 12 June, 2012



Building Heights



Floor Space Ratio

