

JRPP No:	2010SYE011
DA No:	DA10/0076
PROPOSED DEVELOPMENT:	Demolition of existing residential flat building and construction of a new residential flat building with strata subdivision 12 Ozone Street, Cronulla - Lots 1-11, SP 831 & Lots 12-13, SP 66933
APPLICANT:	Presflow Pty Ltd
REPORT BY:	Carolyn Howell, Assessment Officer Planner Sutherland Shire Council (02) 9710 0841

Supplementary Assessment Report and Recommendation

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

Following receipt of revised plans from the applicant, this report has been prepared as an addendum to the report scheduled for consideration by the Joint Regional Planning Panel on 30 June 2010 at Sutherland Shire Council (JRPP No. 2010SYE011 for DA10/0076).

1.2 Proposal

The application remains for the demolition of an existing residential flat building containing twelve (12) units and the construction of a new residential flat building containing six (6) units with strata subdivision at the above property. The main changes are to the ground floor terrace and the basement car park.

1.3 The Site

The subject site is located on the eastern side of Ozone Street, Cronulla. The site runs east-west between Ozone Street and The Esplanade.

1.4 The Issues

The main issues identified remain unchanged and are as follows:

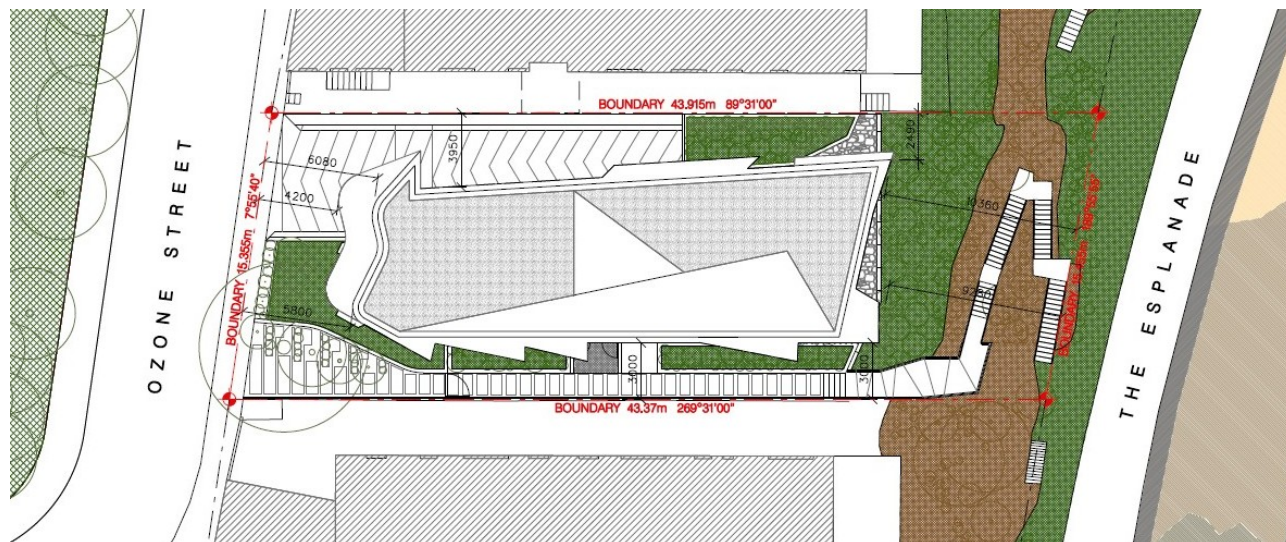
- Height
- Landscaped area
- Setbacks
- Impact on heritage listed cliff
- View loss
- Privacy

1.5 Conclusion

Following detailed assessment of the proposed development, including the revised scheme, the current application is not considered worthy of support and should be refused for the reasons outlined in the main assessment report and this supplementary report.

2.0 DESCRIPTION OF AMENDED PROPOSAL

The description of the development above ground remains largely unchanged as a result of the revised plans. The proposed development remains for the demolition of an existing building and the construction of a six (6) storey residential flat building containing a single unit on each level. The application includes strata subdivision of the development.



Site plan showing the revised proposal

Below the ground the proposal has been modified by increasing the number of levels of basement car parking from two (2) levels to two and a half (2 ½) levels. The number of car parking spaces proposed remains at thirteen (13), however the basement car park has been reconfigured and moved 2.3 metres west. In addition, storage is provided for each unit within the basement as well as bicycle storage in accordance with Council's controls.

Pedestrian and vehicular access to the site remains unaltered by the revised plans. In relation to the levels above ground:

Ground Level:

The only change to the ground level of the development is the eastern terrace which has been reduced in size.

Levels 1 to 5:

There is no change to the description of levels 1 to 5 as a consequence of the revised plans (refer to the main report).

3.0 SITE DESCRIPTION AND LOCALITY

There is no change to the "Site Description or Locality" as a consequence of the revised plans (refer to the main assessment report).

4.0 BACKGROUND

There is no change to the “Background” as a consequence of the revised plans (refer to the main assessment report).

5.0 ADEQUACY OF APPLICANT’S SUBMISSION

The revised submission included architectural drawings and a letter to Council. The applicant’s submission did not include a revised landscape plan.

The following information remains missing from the application or is inadequate:

- The geotechnical report failed to provide any firm recommendations or conclusions in relation to likely impact of the proposed works on the stability of the cliff.
- Insufficient detail has been provided in relation to louvres and shutters to enable an assessment of their effectiveness.
- The plans fail to delineate setback lines including side boundary setbacks and the development standard for height.

6.0 PUBLIC PARTICIPATION

The revised plans have not been publicly exhibited.

In relation to revised plans clause 1.b.1.5 of Chapter 12 of SSDCP 2006 states the following:

1. *Where revised plans are submitted during the course of the assessment and prior to Council’s or the Court’s determination, these revised plans will be publicly exhibited in the same manner as the original application, but only where the changes being sought intensify or change the external impact of the development to the extent that neighbours, in the opinion of Council, ought to be given the opportunity to comment.*

Given the nature of the proposed changes, in the opinion of Council, the revised plans are not required to be publicly exhibited.

7.0 STATUTORY CONSIDERATIONS

There is no change to the “Statutory Considerations” as a consequence of the revised plans (refer to the main assessment report).

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	REQUIREMENT	PROPOSAL	COMPLIES?
Height SSLEP 2006	Max 4 Storeys to Ozone St Max 6 Storey to The Esplanade	6 Storeys	No (unchanged)
Floor Space Ratio SSLEP 2006	1.8:1	1.7:1	Yes (unchanged)
Landscaped Area SSLEP 2006	40%	27.4% (applicant) 23% (council)	No
Allotment :- size width	1800sqm 30m	645m ² 15m	No (unchanged) *applicant seeks exception through clause 41(6) of SSLEP 2006
Setbacks:- The Esplanade Northern side Southern side Ozone St	6m from cliff edge 4m 4m 4m street level 8m second level & above	0.5m from cliff edge 2m 2m 4m 5m	No No (unchanged) No (unchanged) Yes (unchanged) No (unchanged)
Site Coverage	Max 40%	43%	No
Open space:- Common Private	Min 100sqm area Min 10m wide Min 12 sqm area Min 2.5m wide	None None >12m ² >2.5m	No (unchanged) No (unchanged) Yes (unchanged) Yes (unchanged)
Apartment:- Internal height Room size Total size	Min 2.7m Min 3m width Min 130sqm	achievable >3m >130	Yes (unchanged) Yes (unchanged) Yes (unchanged)
Building Depth	Max 18m	<18m	Yes (unchanged)
Ventilation:- Cross ventilation Kitchen	Min 60% of dwgs 25% w a window	Yes	Yes (unchanged)
Solar access:- Open space Adjoining property	Direct sun 10am- 2pm No greater than 1/3 of existing sunlight lost between 9am – 3pm	Yes Complies	Yes (unchanged) Yes (unchanged)
Adaptable dwelling	20% of units = 2 required	2	Yes (unchanged)
Car parking:- Resident Visitor	Max 1.5 spaces/dwg = 9 1 space/5 dwellings = 1.2	12 resident 1 visitor	No (unchanged) Yes
Bicycles:- Resident Visitor	1 per 5 units (2) 1 per 10 units (1)	2 1	Yes Yes (unchanged)
Storage:- Area Size	1sqm per unit 6m ³	>1 sqm per unit > 6m ³	Yes Yes

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

9.1 NSW Office of Water

Referral of the revised plans to the NSW Office of Water was not necessary.

9.2 Department of Planning

There was insufficient time to refer the application to the Department of Planning however given the nature of the changes and the previous advice given from the Department of Planning it is unlikely that their position would change.

9.3 Architectural Review Advisory Panel (ARAP)

The Council's ARAP have not provided comment on the revised plans.

9.4 Council's Architect

Council's internal Architect reviewed the revised plans together with the comments made by ARAP. A full of copy of this internal report is provided in Appendix A. In conclusion, this report stated:

"A more prudent approach has now been adopted by stepping back of the basement and ground floor terrace from the cliff face. This approach will improve opportunities for proposal to relate to the heritage cliff face in an appropriate manner. However the strategy now outlined in the revised drawings for the treatment of the cliff face is unclear and potentially inappropriate. Further clarification of this issue is required.

The lack of detailed sectional facade information as previously outlined also remains a concern. Further development of the car park entry to improve vistas from the street down to the ocean and presentation to the street is also recommended."

9.5 Heritage Architect

Council's internal Heritage Architect provided an assessment of the revised proposal. A full copy of this internal report is provided in Appendix B. In summary, Council's internal Heritage Architect does not support the proposal and, in conclusion, noted the following:

"The design shown in the revised plans is an improvement from previous design schemes however the proposed works still fail to incorporate design strategies to address the heritage significance of the site and ameliorate the impact of the proposed works on the cliff face.

The proposed "new cliff face" defeats the purpose of the conservation of a landform as understood in the Burra Charter (article 14) obliterating its highly desirable quality of a natural irregular rock face. Filling the face of the cliff will have a negative impact on its heritage significance, changing its character into an overtly man made soft landscaped area which is not acceptable on heritage grounds.

There should be no new cliff face staircase or look out constructed. This principle was established in "Innovative Architects Pty Ltd v Sutherland Shire Council"

(10302 of 2009) which supported the removal and non-replacement of the existing staircase down the cliff face to the Esplanade.

The Burra Charter (article 3) calls for a “cautions approach” and understanding of the place before proposing changes to a heritage item. The proposed works are actually the consequence of a design approach directed at maximising the benefits to the proposed development at the expense of the conservation of listed heritage items and the public enjoyment of the foreshore.”

9.6 Engineering

Council's Development Engineer has undertaken an assessment of the revised plans and notes the improvement to the design in terms of its location to the theoretical face of the cliff. However Council's Engineer remains concerned in relation to the extent of excavation and its proximity to the cliff. For this reason the application is not supported. A full copy of this internal report is provided in Appendix C.

9.7 Building

Council's Building Surveyor has reviewed the revised plans and advised that there is no change to the previous advice given that subject to suitable conditions of development consent no objection is raised to the proposal on BCA grounds.

10.0 ASSESSMENT

Following a detailed assessment of the amended 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 to this application.

10.1 Height

There is no change to the assessment of “Height” as a consequence of the revised plans (refer to the main assessment report).

10.2 Landscaped Area

As a result of the revised plans there is a change to the amount of landscaped area provided on site. A calculation of landscaped area in accordance with the definition contained within SSLEP 2006 has found that 23% landscaped area is provided on the revised scheme. The applicant claims that a landscaped area of 27.4% is achieved; the difference in the figures is a result of the applicant including part of the pedestrian access path as landscaped area.

It should be noted that the applicant has not lodged a revised SEPP 1 objection. There has been a very marginal increase in the amount of landscaped area provided on site however, the previous assessment of “Landscaped Area” has not changed and the extent of variation remains unacceptable.

Refer to the assessment of “Landscaped Area” within the main assessment report.

10.3 Allotment Size and Width

There is no change to the assessment of “Allotment Size and Width” as a consequence of the revised plans (refer to the main assessment report).

10.4 Setback from Eastern boundary (the Esplanade)

The revised scheme relocates the basement car park and ground level terrace 2.3m further west. There has been no change to the built form above ground level. There has been a minor adjustment to the level of the proposed lookout. However the lookout has not been setback to match the change to basement and terrace setback.

The bulk of the assessment undertaken in the “Setback from the Eastern Boundary (the Esplanade)” within the main assessment report remains unchanged. Following is an assessment of the revised scheme which should be read in conjunction with the assessment within the main report.

Setting the basement and ground floor terrace back results in it being unlikely that the basement will puncture the assumed location of the cliff face. However, the treatment of the cliff remains of significant concern. The proximity of the extensive basement excavations to the likely location of the cliff and the height of the basement, relative to the ground to the east, will result in portions of the basement being exposed because of the extent of soil stratum east of the excavation. It is unclear exactly how much basement will be exposed.

This lack of clarity is a result of two factors. Firstly, it is unknown what remains of the cliff beneath the existing structures on site. Secondly, if it is not known how whatever remains of the cliff will stand up to the extensive excavation proposed. There is a lack of geotechnical information in this regard and a precautionary approach must be taken.

In the previous scheme the elevations showed that an extensive portion of the basement car park would be exposed and it was proposed to deal with this via sandstone cladding. In the current scheme the treatment of the cliff is unclear however it appears that the applicant is proposing to fill in part against the basement car park. The notation on the sections (DA-1006, DA-1401) and elevations (DA-1302, DA-1303) refers to the “proposed line of cliff face”. “Proposed” implies that it will be something that is constructed rather than something that is “existing” or “assumed to be existing”.

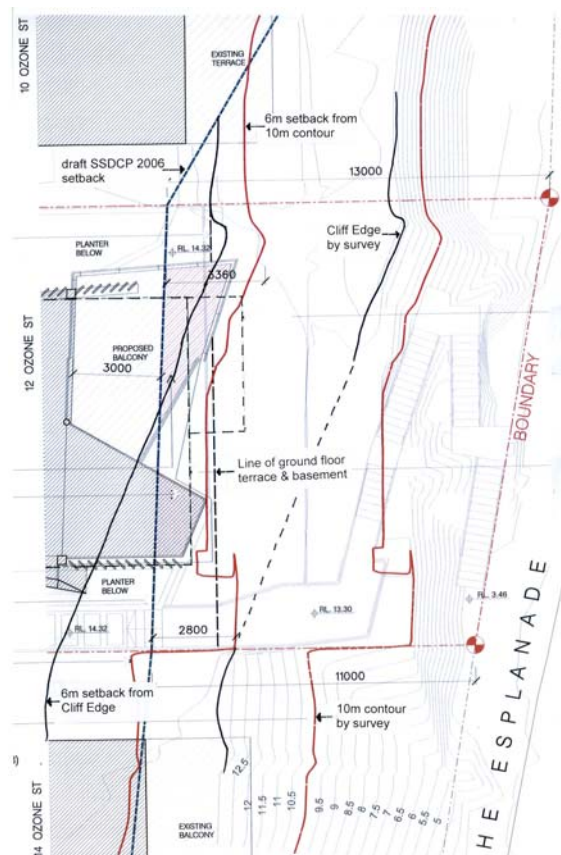
From the elevations and sections it is evident that portions of the cliff will be reconstructed as the “proposed line of cliff face” is located above existing structures and therefore must be reconstructed. The reconstruction of the cliff face is considered to be undesirable from a heritage perspective as the *Burra Charter* states the new work should readily be identifiable as such (article 22.2).

Above ground level the development remains unaltered and the positioning of the building forward of the existing development on site and the setback mapped by draft SSDCP 2006 (amendment No.6) is unacceptable. The existing building is visually very prominent because of its location, relative to the cliff and its height. The proposal is for a building that is significantly taller than neighbouring buildings and it is therefore essential that the building be setback appropriately to ensure that this tall slender building sits comfortably in this location. Setting the building back in accordance with the setback mapped by draft SSDCP 2006 (amendment No.6) is considered an appropriate balance between the

setback envisaged by SSDCP 2006 (being 6m setback from the cliff edge) and the location of the adjoining buildings.

To modify the proposal to comply with this setback below ground would involve the deletion of three (3) car parking spaces which are provided in excess of Council's maximum DCP control and the reconfiguration of storage areas. Above ground it would involve modifications to the winter gardens; generous balconies and the ground floor terrace.

The following plan shows the setback required by SSDCP 2006, being six (6) metres from the "cliff edge"; by draft SSDCP 2006 (amendment No.6), being the line between 13 metres back from the northern boundary and 11 metres back from the southern boundary; and the applicant's proposal of six (6) metres from the surveyed ten (10) metre contour line. In addition the surveyed top of cliff and the ten (10) metre contour are shown.



Revised plan showing the various interpretations of the setback control

In relation to the Foreshore Building Line the revised proposal complies with the setback standard detailed in clause 17(3)(b)(i) of SSLEP 2006.

10.5 Setback to Ozone Street

There is no change to the assessment of "Setback to Ozone Street" as a consequence of the revised plans (refer to the main assessment report).

10.6 Side Boundary Setbacks

There is no change to the assessment of “Side Boundary Setbacks” as a consequence of the revised plans (refer to the main assessment report). Concern remains about the retention of views through the side boundary setbacks to the ocean from Ozone Street.

10.7 Access to the Esplanade

The revised plans do not modify the proposed access to the Esplanade or the proposed lookout. While the ground floor terrace and basement car park have moved 2.3m west there has been no corresponding shifting of the proposed lookout. The lookout now extends five (5) metres forward of the building only one (1) metre lower than the level of the ground floor terrace. To put this into perspective, the proposed lookout is located in approximately the same location as the existing lookout on the site only it is proposed to be 1.6 metres higher.

The proposed lookout will be a visually prominent element for which there appears to be no justification. The lookout is for the benefit of the occupants of the building only, all of whom will have panoramic views from their individual dwellings anyway.

As stated in the previous report given the level of detail provided and the prominence of this heritage listed cliff it is considered inappropriate to approve the lookout or access stairs. If the application was to be approved it would be appropriate to delete the look out and access stairs from the proposal and submit a further application for these works once existing structures are removed and the site conditions are fully understood.

10.8 View loss

The revised plans do not modify the proposal above the ground level and as such there is no change to the previous assessment of views (refer to the main assessment report). Concern remains in relation to view loss from units 8 and 9 No. 10 Ozone Street and the loss of views between the buildings.

10.9 Privacy Impacts

The revised plans do not modify the proposal above the ground level and as such there is little change to the previous assessment of views (refer to the main assessment report for detailed assessment). The extension of the ground floor terrace to the northern boundary is considered undesirable and unnecessary. The proximity of the ground floor terrace creates no physical separation between the main outdoor area and the northern neighbour. The extension of the planter bed to east to meet the deep soil planting area is considered to create a superior privacy separation with minimal impact on the utility of the terrace.

Overall, the privacy relationship between the proposed development and its neighbours remains unclear. It has the potential to be far superior to the existing situation if the shutters and louvres are angled appropriately and far worse if they are not. At the ground level there is concern that the desire for improved privacy may lead future occupants to replace the low planting with more substantial plantings. If this was to occur it would erode views through the property from the street towards the ocean.

The lack of detail provided with the application does not allow a conclusion to be drawn in relation to the privacy relationship between this development and its northern and southern neighbours.

10.10 Shadow Impact

There is no change to the assessment of “Shadow Impact” as a consequence of the revised plans (refer to the main assessment report).

10.11 SEPP 65 – Design Quality of Residential Flat Development

There is no change to the assessment of “SEPP 65” as a consequence of the revised plans (refer to the main assessment report).

10.12 SEPP 72 – Coastal Protection

There is no change to the assessment of “SEPP 72” as a consequence of the revised plans (refer to the main assessment report).

10.13 Common Open Space

There is no change to the assessment of “Common Open Space” as a consequence of the revised plans (refer to the main assessment report). Given the nature of the development a common outdoor area is not considered to be necessary.

10.14 Site Coverage

The revised proposal remains non-compliant with the site coverage control of 40% stipulated within SSDCP 2006. Site coverage is that part of the site occupied by building. The proposal has a site coverage of 43%.

This control assists in apportioning development on the site allowing 40% for building; leaving 40% for landscaped area and 20% for ancillary development such as driveways, pedestrian paths and the like. This apportioning does not work on this site as the basement car park extends beyond the building footprint, and occupies some 67% of the site leaving little area for landscaping. In the circumstances of this application reducing the site coverage would not increase the amount of landscaping provided on site.

Failure to comply with this control does demonstrate that the extent of built form proposed on the site is inappropriate. If this development was modified to comply with the eastern boundary setback is also likely to comply with the site coverage control.

10.15 Car Parking

SSDCP 2006 sets a maximum number of car parking spaces in this location of 1.5 per unit or in the case of this application nine (9) car parking spaces. The DCP also requires the provision of one (1) visitor space. The proposal provides twelve (12) resident parking spaces and one (1) visitor space. The proposal therefore provides three spaces (3) in excess of Council’s maximum standard.

The obvious intention of the additional car parking is to provide two (2) car parking spaces for each unit; however it is these three (3) additional spaces which result in the breach to Council’s required cliff setback line and for this reason they cannot be supported.

10.16 Bicycle Storage

The revised plans demonstrate that the proposal complies with SSDCP 2006 requirements in relation to the provision of bicycle parking.

10.17 Storage

The revised plans demonstrate that the proposal complies with SSDCP 2006 requirements in relation to the provision of storage areas within the basement.

11.0 SECTION 94 CONTRIBUTIONS

There is no change to the assessment of “Section 94 Contributions” as a consequence of the revised plans (refer to the main assessment report).

12.0 DECLARATION OF AFFILIATION

There was no declaration of affiliation, gifts or political donations noted on the Development Application Form submitted with this application.

13.0 CONCLUSION

The revised plans go some way towards addressing the concerns of the previous report. The revised scheme relocates the ground floor terrace and basement car park 2.3 metres further west. The proposal is still 2.2 metres forward of the setback line established in draft SSDCP 2006 (amendment No.6) and results in an adverse visual impact when the development is viewed from the Esplanade and rock pools, and compromises the structural integrity of the heritage cliff face because of the proximity of the excavation.

There are still several aspects of the revised development that remain unacceptable. It is the cumulative impact of these matters, despite the improvements made by the revised plans, which results in the application being unsupportable in its current form.

14.0 RECOMMENDATION

That development application No. DA10/0076 for the demolition of the existing residential flat building and construction of a new residential flat building with strata subdivision at property Lots 1-10 SP831 and Lots 12-13 SP66933 known as No.12 Ozone Street, Cronulla, be refused for the following reasons:

1. 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 proposed development fails to comply with the development standard for maximum height, which contributes to the overdevelopment of the site.
2. The objection submitted pursuant with the provisions of cl.6 of SEPP No.1, with respect to the development standard for maximum height established in Clause 33(14)(a) of SSLEP 2006 is not considered to be well founded as the applicant has not adequately demonstrated why, in the case of this application, compliance with this development standard is either unreasonable or unnecessary.

3. 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 proposed development fails to comply with the development standard for minimum landscaped area.
4. The objection submitted pursuant with the provisions of cl.6 of SEPP No.1, with respect to the development standard for landscaped area established in Clause 36(5)(h) of SSLEP 2006 is not considered to be well founded as the applicant has not adequately demonstrated why, in the case of this application, compliance with this development standard is either unreasonable or unnecessary.
5. 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 proposed development fails to comply with the minimum allotment size and minimum width standard contained within SSLEP 2006 and fails to satisfy the exemption clause contained within clause 41(6) of SSLEP 2006 permitting a variation to this standard.
6. The application is considered unacceptable pursuant to the provisions of s.79C(1)(a)(i) and s.79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposed development fails to ensure an adequate setback to protect the integrity of heritage listed cliff both structurally and visually contrary to clauses 54(1)(e) and 55(2) of SSLEP 2006 and clause 3.b.12 of Chapter 3 of SSDCP 2006.
7. The application is considered unacceptable pursuant to the provisions of s.79C(1)(a)(i) and s.79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that the proposed development is unacceptable as it results in unreasonable view loss to neighbouring properties contrary to clause 49(b) of SSLEP 2006 and clause 15 of Chapter 3 of SSDCP 2006.
8. 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 proposed development is unacceptable as, based on the information available, it is likely to result in unreasonable privacy impacts to neighbouring properties contrary to clause 49(b) of SSLEP 2006.
9. 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 proposed development fails to comply with the site coverage control contained within clause 4.b.2 of chapter 3 of SSDCP 2006.
10. 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 proposed development provides car parking in excess of the maximum car parking requirements contained within clause 1.b.5 of chapter 7 of SSDCP 2006.
11. 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

proposed development fails to satisfy the design principles contained within SEPP 65 particularly in relation to context, landscaping, amenity and aesthetics.

12. The application is considered unacceptable in that the application has failed to provide adequate information to enable a thorough assessment of the application.

SUTHERLAND SHIRE COUNCIL

TO: Carolyn Howell

FROM: David Jarvis

DATE: 22 June 2010

FILE REF: DA10/0076

SUBJECT: Application No. DA10/0076
Description: Demolition of Existing Residential Flat Building and
Construction of a New Residential Flat Building with Strata
Subdivision
Property: 12 Ozone Street CRONULLA NSW 2230
1/12 Ozone Street CRONULLA NSW 2230
2/12 Ozone Street CRONULLA NSW 2230
3/12 Ozone Street CRONULLA NSW 2230
4/12 Ozone Street CRONULLA NSW 2230
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10/12 Ozone Street CRONULLA NSW 2230

Carolyn

Thank you for the referral, the following comments relate to how the proposed drawing revisions received on 17th June 2010 have addressed previous architectural comments. Please note previous architectural comments have been high lighted in red.

Extent of car park

A geotechnical report has been provided to further investigate the existing site conditions. The report does not map the extent of rock that will provide cover to the car park or provide conclusive information regarding the condition of the rock in this location. It is evident from the report that this information will not be available until existing structures are removed from the site and a visual inspection of the condition of the rock can be undertaken. With out this information it is not currently possible to design a basement structure that best responds to the condition of the rock and preserves the heritage cliff face. It is there for recommended that a prudent approach is taken with the design of the basement that will provide the best opportunity to maintain the heritage cliff face and present the building to the esplanade in an appropriate manner, The basement should be set back further from the cliff face.

To allow the basement to be set back further from the cliff face parking bays on the eastern portion of the building (bays 4, 5, 6, 10, 11 and 12) could be removed and the basement taken down an additional level. The parking bay in the south west corner could also be reinstated providing adequate space is maintained for the proposed tree. This approach could increase the set back from the cliff by approximately 6m.

Alternatively the parking bays in the eastern portion of the basement (bays 4, 5, 6, 10, 11 and 12) could be reorientated to be parallel parking bays and the two bays in the south west corner reinstated. This approach could increase the set back from the cliff by approximately 3m.

An additional level of basement parking has been created and the parking bay in the eastern portion of the basement re-orientated to allow the basement to be set back an additional 2.3m from the eastern boundary. This is a more prudent approach to the design of the basement car park that will provide an improved opportunity to retain the existing heritage cliff face.

Extent of ground floor terrace and cantilevered terraces

The extent of ground floor terrace and cantilevered terraces on the north east corner of the building also need to relate appropriately to the heritage cliff face. Without further exploratory work to determine the profile of the cliff face it is not possible to determine if the proposal relates to the cliff face in an appropriate manner.

As stated above without further exploratory work to determine the profile of the cliff face it is not possible to determine if the proposal relates to the cliff face in an appropriate manner. The proposed reduction in the extent of the ground floor terrace is a more prudent approach to the design of the terrace that may provide an improved opportunity to relate the terrace to the heritage cliff face in an appropriate manner. However the revised approach to the treatment of the junction between the cliff face and the terrace is unclear.

Section 1 on drawing DA – 1401C now shows the line of the cliff face (annotated as proposed line of cliff face) finishing level with the proposed ground floor terrace. The previous revision of this drawing indicated the approximate level of the sand stone cliff finishing approximately level with the floor of the basement below. What does the additional proposed cliff consists of?

It is questionable if extending the existing heritage cliff face is an appropriate strategy that respects the heritage value of the cliff.

Car park entry ramp

It is evident that some developments to the vehicle entry ramp and adjacent boundary treatments have improved vistas from the street down to the ocean on the northern side of the building. However every effort should be made to maximise the potential for vistas from the street down to the ocean and improve the appearance of the car park entry. The following recommendations should be considered:

1. All boundary fence treatments should be light weight and transparent.

The extents of side boundary fences have been shown on drawings DA-1302C and DA-1303C. The height and extent of the fences are considered reasonable.

2. The portion of the planter bed positioned over the parking spaces (No 4 and 5) could be lowered to provide to head room of 2.2m. This will allow the planter to be dropped by approximately 500mm.

This issue remains unaltered.

3. To improve the presentation of the car park entry to the street the planter bed could be extended closer to the street. By tapering the under side of the slab at a gradient to match the entry ramp the slab can be extended approximately 4m closer to the street whilst still maintaining a minimum of 2.2m head room.

This issue remains unaltered.

Proposed steps down to esplanade

A geotechnical report has been provided to further investigate the existing site conditions. The report concludes that the condition of the cliff face cannot be determined until existing structures are removed. The appropriate positioning of the stairs cannot be determined until the condition and topography of rock face is determined.

The selected materials and general concept of the light weight stair is considered reasonable. However the flexibility to develop the design to respond appropriately to the site conditions once the cliff face is exposed is necessary.

This issue remains unaltered.

Detail sections

The success of the proposed contemporary building is largely dependant upon the quality of detail design. The potential privacy impact on adjoining properties and the environmental performance of the building is dependant upon the success of the selected louvered elements. The aesthetics success of the building is also dependant on the quality of the detail treatment of the building. It is considered that the proposal could potential be a good quality contemporary building however more detailed information is required to determine if this potential will be realised.

This issue remains unaltered.

Summary / Conclusion

The extent of information available in relation to the heritage cliff face is limited due to the numerous existing structures concealing the cliff face. It is there for recommended that a prudent approach is taken with the design of the building that will provide the best opportunity to maintain the heritage cliff face and present the building to the esplanade in an appropriate manner. The basement should be set back further from the cliff face.

Further development of the basement and car park entry is recommended to improve the proposals presentation to the street and enhance vistas down to the ocean in addition to improving opportunities to maintain the heritage cliff face. Further detail information of façade treatment is also required.

As previously stated by ARAP the proposal remains potentially a very good contemporary building of an appropriate scale and density. The proposal would be supported (architecturally) pending incorporation of the suggested developments to the basement / boundary treatments and further detail information of the façade treatment.

A more prudent approach has now been adopted by stepping back of the basement and ground floor terrace from the cliff face. This approach will improve opportunities for proposal to relate to the heritage cliff face in an appropriate manner. However the strategy now outlined in the revised drawings for the treatment of the cliff face is unclear and potentially inappropriate. Further clarification of this issue is required.

The lack of detailed sectional facade information as previously outlined also remains a concern. Further development of the car park entry to improve vistas from the street down to the ocean and presentation to the street is also recommended.

Regards

David Jarvis

SUTHERLAND SHIRE COUNCIL

TO: Carolyn Howell - Development Assessment Officer
Ext - 5841

FROM: Claudia Miro – Senior Heritage Architect
Ext - 5181

DATE: 22 June 2010

FILE REF: DA10/0076

SUBJECT: Application No. DA10/0076
Description: Demolition of Existing Residential Flat Building and
Construction of a New Residential Flat Building with Strata
Subdivision
Property: 12 Ozone Street CRONULLA NSW 2230
1/12 Ozone Street CRONULLA NSW 2230
2/12 Ozone Street CRONULLA NSW 2230
3/12 Ozone Street CRONULLA NSW 2230
4/12 Ozone Street CRONULLA NSW 2230
5/12 Ozone Street CRONULLA NSW 2230
6/12 Ozone Street CRONULLA NSW 2230
7/12 Ozone Street CRONULLA NSW 2230
8/12 Ozone Street CRONULLA NSW 2230
9/12 Ozone Street CRONULLA NSW 2230
10/12 Ozone Street CRONULLA NSW 2230
11/12 Ozo

Carolyn,

I refer to the revised plans Issue C , 17/6/2010 by SJB Planning and geotechnical report by Jeffery and Katauskas Pty Ltd received on the 4 May 2010 for proposed works at 12 Ozone Street Cronulla and my comments are,

Background

The site at No12 Ozone Street CRONULLA includes a heritage listed item, listed in the Schedule 6 of the SSLEP2006 as LF35. The item is a landform, a cliff face that is the backdrop of another heritage item "The Esplanade", a walking path on the eastern foreshore.

The cliff extends from the Kingsway and Cronulla Park.

Its significance is stated in the inventory sheet LF35 from the Sutherland Council's Heritage Inventory :

"The Sandstone cliff above the Esplanade walkway has high scenic qualities and is a landmark in the Cronulla foreshore. The cliff was also the centre of community action for the preservation of a 100m foreshore strip without development for the enjoyment of the

public. The cliff is the backdrop to the heritage listed "The Esplanade", a foreshore walking path built during the 1930's. It has Local significance."

The statement of significance also includes policies for the conservation of the heritage item as well as the Council's objectives on the conservation of landforms and landscapes.

"The continuation of the historical use of the site as a tourist attraction and the scenic quality of the landform must be considered when making decisions about the place."

The Esplanade (L059) and the Rock Pool (A050) (the "children's pool") are also items of heritage significance that date from the beginning of the century and contributed to the enjoyment of the foreshore with social and historical connections to the development of Cronulla as a coastal suburb.

Statutory Context

54 Heritage

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Sutherland Shire,
- (b) to conserve the heritage significance of heritage items, including associated fabric, settings and views,
- (e) to protect and recognise locally significant trees and natural landforms as part of Sutherland Shire's environmental heritage,
- (h) to limit inappropriate and unsympathetic development in the vicinity of cultural heritage items.

(2) Requirement for consent

Development consent is required for any of the following:

- (b) altering a heritage item, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (f) erecting a building on, or subdividing, land on which a heritage item is located.

(9) Heritage impact assessment

The consent authority may, before granting consent to any development on land on which a heritage item is situated, require a heritage impact statement to be prepared.

55 Significant trees or natural landforms

- (1) This clause applies to land on which a significant tree or significant landform is located.
- (2) The consent authority must not consent to development on land to which this clause applies unless it is satisfied that:
 - (a) the development will be carried out in a manner that ensures the continued good health of the tree or the continued structural integrity and visual quality of the landforms, and
 - (ii) the building will not encroach on, or adversely affect, any significant landform, and

Revised Proposal

The revised plans show a ground floor (FFL 14.32) terrace with low planting to the sides and car park basement are located within a setback of 6m setback from the 10m contour, however, the setback does not comply with the desirable minimum setback proposed by the SSDCP2006 Draft amendment 6 which requires a setback of 11m on south boundary and 13m on north boundary from east boundary or 6m from the 13m contour line which defines the top of the cliff.

Extract SSDCP2006

Precinct 8: Eastern Residential Area

Precinct 8 contains predominately medium density residential development at the edge of the cliff facing the ocean. Development should retain the compact residential nature of the area and ensure a high level of residential amenity is enjoyed by residents and existing adjoining residential development. Development at the cliff edge should be designed to ensure shadow and building heights do not erode the amenity of the foreshore below.

Precinct 9: The Esplanade

Precinct 9 consists of the foreshore along Bate Bay. It contains a strong, attractive walkway/linear open space linking Precincts 2 and 7, foreshore swimming areas and Cronulla Beach. The Precinct should be retained as a distinctive recreation area and its landscape character and pedestrian access should be protected and maintained to a high standard of appearance.

The SSDCP 2006 control objectives for Precinct 8 and 9 are designed in order that proposed developments do not erode the amenity of the foreshore.

Being established the significance of the sandstone cliff as an item of social and cultural value to the community, visually significant and part of the setting of "the Esplanade" and the rock pool; it is of outmost importance that the minimum requirements of setback are met by any development.

The issues regarding the conservation of the cliff face were discussed and supported in a recent court case at the Land and Environment Court of NSW where Commissioner Hussey validate the significance of the Sandstone cliff and the removal of existing unsympathetic stairs.

The geotechnical report concludes that it is not possible to assess the stability of the foreshore cliff face until the demolition of existing structures and de-vegetation.

The proximity of the car park wall and the required excavation to achieve the underground car park to the cliff face, adds further concern regarding the magnitude of stabilization works that may be required to accomplish the conservation of the cliff face.

The geotechnical report is not conclusive as to whether the excavation works for the underground car park are acceptable for the conservation of cliff face. They do not refute the possibility that the proposed works may cause de-stabilization of the cliff face, requiring extensive remedial works for the reconstruction of the cliff face.

The risk of the proposed excavation for the car park in close proximity of the cliff face (between 4m) is not acceptable on heritage grounds. The proposed excavation may cause de-stabilization of the cliff face and its restoration will involve extensive use of new fabric as concrete, bolts and sandstone blocks elements that will reduce the heritage significance of the item, assessed aesthetically as being a natural feature.

The report also detracts from the feasibility to build an outlook and stairs and recommends a new report when the demolition of existing structures and de vegetation is completed to assess if the building of new stairs and lookout is acceptable.

Conclusion

While the proposed removal of the existing unsympathetic structures and weeds is highly recommended and consistent with the objectives of clause 54 (a) and (e) and the recent findings of the Land and Environment Court (proceedings no 10302 of 2009), the impact of the new works is negative and not supported on heritage grounds for the following reasons,

- The design shown in the revised plans is an improvement from previous design schemes, however the proposed works still fail to incorporate design strategies to address the heritage significance of the site and ameliorate the impact of the proposed works on the cliff face.
- The geotechnical report is not conclusive as to whether the excavation works for the underground car park are acceptable for the conservation of cliff face. It is a likely that the proposed works may cause de-stabilization of the cliff face, which will require extensive remedial works to reconstruct the cliff face which are not acceptable on heritage grounds.
- I found that the proposed development fails to comply with the SSDCP 2006 draft amendment 6 of 6m setback from the 13m contour for the terrace, side plantings, and the prominent balconies overhanging the cliff face.
- It also fails Clause 55 (2)(a) to ensure the stability of the cliff face which may be compromised by the excavation works for the proposed car park. The risk of the cliff face collapsing and needing extensive stabilisation measurements is high and therefore the proposed works are not acceptable on heritage grounds.
- The proposed stairs and lookout fails to address the objectives of clause 54 (a) and (e) and Clause 55 (2, a) and the proposed works shall be refused.
- The proposed works will be overpowering and impact negatively in the visual setting of the Esplanade, with balconies sitting predominantly over the cliff face, in contravention of article 8 (Setting) of the Burra Charter which states that,

Article 8. Setting

Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place.

New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate.

Recommendations

The design shown in the revised plans is an improvement from previous design schemes however the proposed works still fail to incorporate design strategies to address the heritage significance of the site and ameliorate the impact of the proposed works on the cliff face.

The proposed “new cliff face” defeats the purpose of the *conservation* of a landform as understood in the Burra Charter (article 14) obliterating its highly desirable quality of a *natural* irregular rock face. Filling the face of the cliff will have a negative impact on its heritage significance, changing its character into an overtly man made soft landscaped area which is not acceptable on heritage grounds.

No new cliff face staircase and outlook shall be constructed, as established in recent court case judgement (12 McDonald St Cronulla) which supported the removal and non-replacement of the existing staircase down the cliff face to The Esplanade.

The Burra Charter (article 3) calls for a “cautions approach” and understanding of the place before proposing changes to a heritage item. I found that the proposed works are actually the consequence of a design approach directed to maximise the benefits to the proposed development at the expense of the conservation of listed heritage items and the public enjoyment of the foreshore.

For these reasons, it is in my view that the proposal should be refused on heritage grounds.

Claudia Miro
Senior Heritage Architect

SUTHERLAND SHIRE COUNCIL

TO:	Carolyn Howell - Development Assessment Officer (Planner)
FROM:	James Gogoll - Development Assessment Officer (Engineering)
DATE:	24 June 2010
FILE REF:	DA10/0076
SUBJECT:	Development Application Assessment Report No.DA10/0076 Construction New Residential Flat Building with Strata Subdivision Property: 1/12 to 11/12 Ozone Street CRONULLA NSW 2230

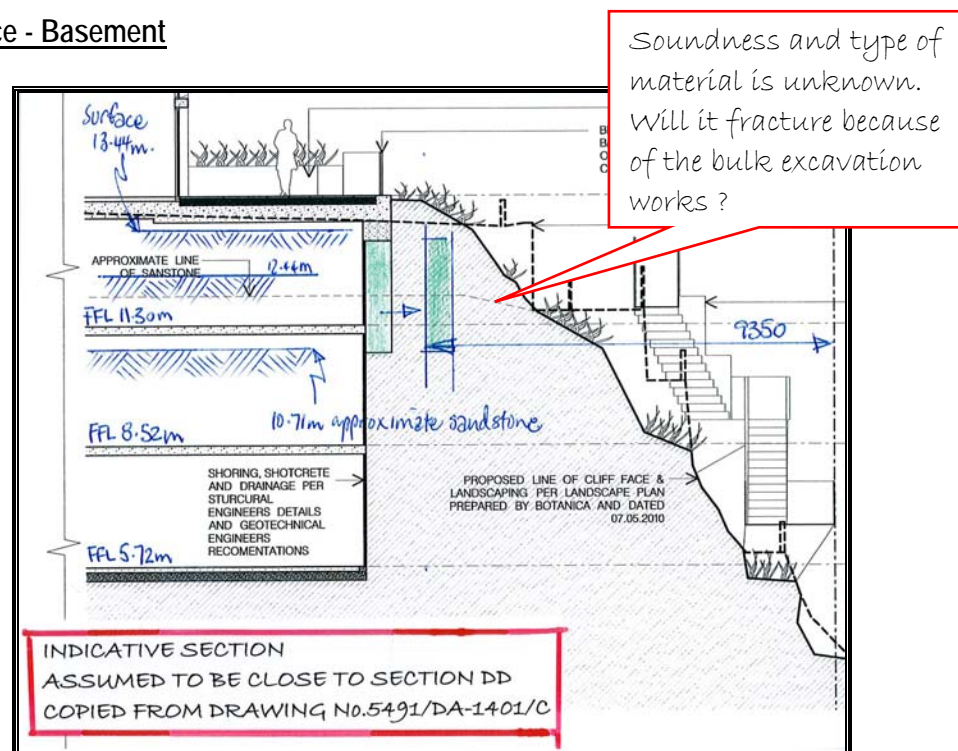
GENERAL

With reference to frontage works, stormwater management, rainwater harvesting, the car park layout pedestrian access and vehicle access, I have undertaken the engineering assessment of development application No.DA10/0076. In particular noting the following drawings and reports:

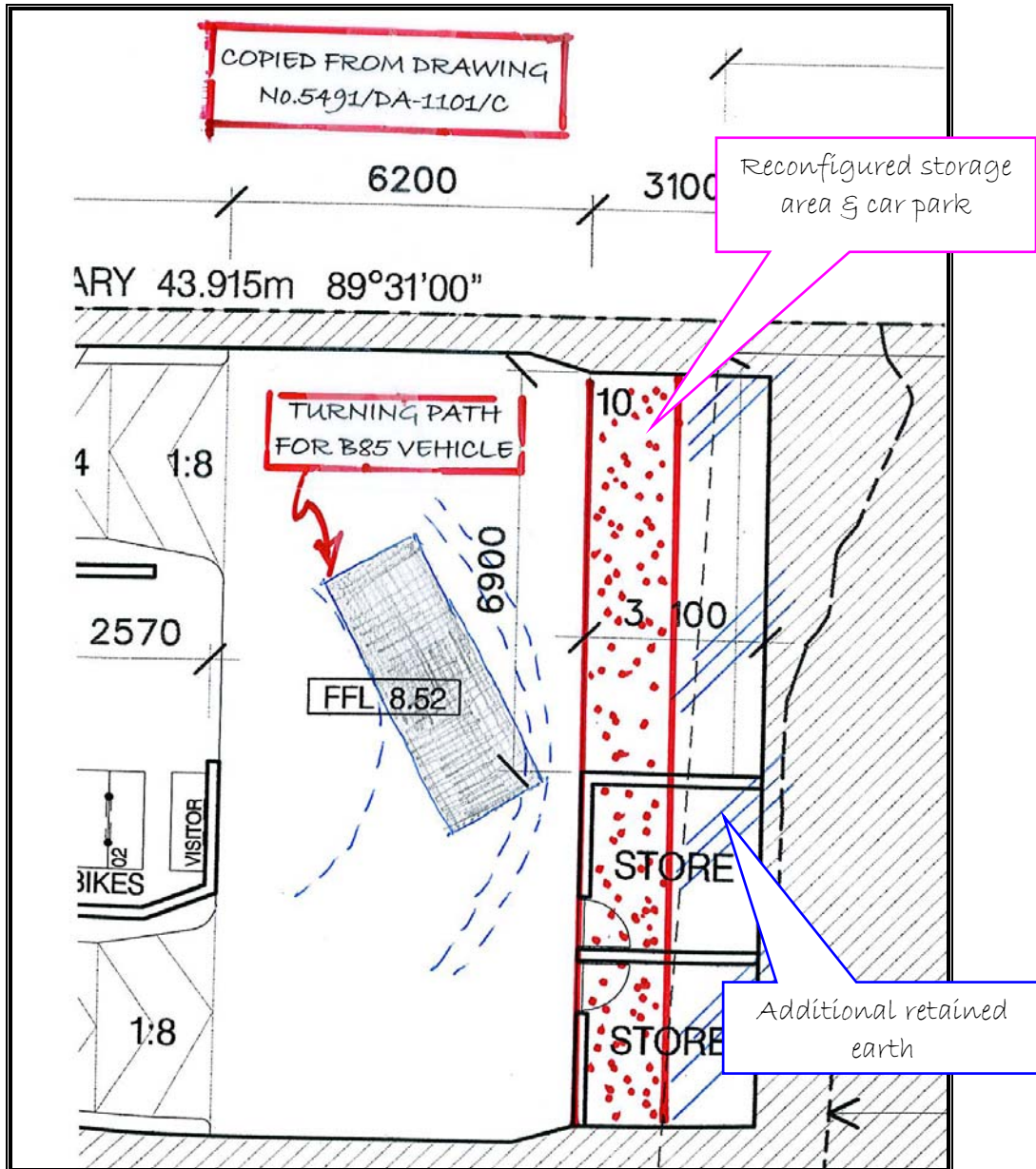
Drawing type	Reference numbers	Prepared by
Architectural	No.5491 sheets DA-1005/C, DA-1006/C, DA-1101/C, DA-1102/C, DA-1302/C, DA-1303/C & DA-1401/C	Candalepas Associates
Assessment	Dated 25 May 2010	James Gogoll

ASSESSMENT

1. Cliff Face - Basement



- i) The revised basement layout is an improvement as the outer eastern wall is located further away from the theoretical face of the heritage listed cliff, and
- ii) If car park bays 5, 10 & 12 were removed and the storage areas reconfigured as indicated on the following sketch, the volume of retained soil would significantly reduce the risk and would be supportable, provided suitable supervision is on hand at all times



2. Car Park & Vehicular Access-way

The car park and vehicular access-way were tested against AS2890.1:2004 and AS4299:1995. The basement car park layout is acceptable.

RECOMMENDATION

Based on my understanding and interpretation of all relevant Codes, Policies, Development Control Plan and good engineering practice it is recommended that approval is not granted, as the Applicant has not provided sufficient information to ensure that the upper soil stratum of the foreshore cliff face will be retained in compliance with the objectives of Clauses 54 & 55 of SSLEP2006 and associated item LF35 shown on Heritage Map No.39.

James Gogoll
Development Assessment Officer