

RECORD OF DECISION

THE SYDNEY EAST JOINT REGIONAL PLANNING PANEL

MEMBERS:

John Roseth
David Furlong
Phil Blight

Chair
Panel Member
Panel Member

The Panel considered the change to the minutes of the meeting held on 30 June 2010 and this is a record of the process and decision.

ITEM 1 - ***2010SYE011 Sutherland DA No. 10/0076 - Demolition of Existing Residential Flat Building and Construction of a New Residential Flat Building with Strata Subdivision, 12 Ozone Street, Cronulla***

1. The JRPP considered the application and a 3-1 majority of the JRPP (John Roseth, David Furlong and Mary-Lynne Taylor) resolved that it would approve the application subject to conditions of development consent being formulated by the Council's assessment staff, which include the following four conditions:
 - (a) That all the proposed work located to the east of the building intended to provide access to The Esplanade (ie the proposed access stairs, the lookout and associated landscaping and structures) be deleted from the application. Any future proposed works of this nature shall be the subject of a further development application once the site conditions are fully understood. The existing access stairs and associated structures may be demolished as part of this consent.
 - (b) That the car parking basement and the building and balconies be reduced so that they comply with the cliff setback, as described in the diagram accompanying Amendment 6 to Sutherland Shire Development Control Plan 2006 placed on public exhibition on 1 March 2010 (being a distance measured back 13 metres along the northern boundary and 11 metres along the southern boundary).
 - (c) That the applicant submit evidence to Council demonstrating that attempts have been made to achieve amalgamation with adjoining properties in order to satisfy Clause 41(6) of Sutherland Shire Local Environmental Plan 2006.
 - (d) That further information be submitted showing the design detail of the louvres, shutters and screens proposed on the side elevations demonstrating that they will be effective in achieving privacy for the residents of the adjoining buildings.
2. Councillor Phil Blight would not approve the current application because the applicant has not made a reasonable attempt at amalgamation (at least for two lots) to improve the design of the building, the amenity of local residents and to reduce non-compliance.
3. When the totality of conditions is prepared, the Panel would approve the application in a meeting conducted by electronic communication, unless a public meeting is required because of a dispute about conditions that is required to be resolved in public.

The Panel considered Council's letter dated 15 September 2010 (Appendix 1) and the applicant comments in relation to the draft conditions.

Resolved

That development application No 10/0076 - Demolition of Existing Residential Flat Building and Construction of a New Residential Flat Building with Strata Subdivision, 12 Ozone Street, Cronulla, be approved, subject to conditions in Appendix 2.

Endorsed by

John Roseth
Chair, Sydney East Region Planning Panel
20 September 2010



Mrs Colleen Baker - 9710.0551
File Ref: DA10/0076

15 September 2010

Ms Carol Pereira-Crouch
Panel Secretariat
Joint Regional Planning Panels
GPO Box 3415
SYDNEY NSW 2001

Dear Ms Pereira-Crouch

Development Application No. 10/0076 - Demolition of Existing Residential Flat Building and Construction of a New Residential Flat Building at 12 Ozone Street, Cronulla

[In response, please quote File Ref: DA10/0076]

Your Reference: 2010SYE011

As you are aware the Joint Regional Planning Panel's (JRPP) considered the subject application on 30 June 2010 and resolved as follows:

"1. A 3-4 majority of the JRPP (John Roseth, David Furlong and Mary-Lynne Taylor) has resolved that it would approve the application subject to conditions of development consent being formulated by the Council's assessment staff, which include the following four conditions:

- (a) That all the proposed work located to the east of the building intended to provide access to The Esplanade (ie the proposed access stairs, the lookout and associated landscaping and structures) be deleted from the application. Any future proposed works of this nature shall be the subject of a further development application once the site conditions are fully understood. The existing access stairs and associated structures may be demolished as part of this consent.*
 - (b) That the car parking basement and the building and balconies be reduced so that they comply with the cliff setback, as described in the diagram accompanying Amendment 6 to Sutherland Shire Development Control Plan 2006 placed on public exhibition on 1 March 2010 (being a distance measured back 13 metres along the northern boundary and 11 metres along the southern boundary).*
 - (c) That the applicant submit evidence to Council demonstrating that attempts have been made to achieve amalgamation with adjoining properties in order to satisfy Clause 41(6) of Sutherland Shire Local Environmental Plan 2006.*
 - (d) That further information be submitted showing the design detail of the louvres, shutters and screens proposed on the side elevations demonstrating that they will be effective in achieving privacy for the residents of the adjoining buildings.*
- 2. Councillor Phil Blight would not approve the current application because the applicant has not made a reasonable attempt at amalgamation (at least for two lots) to improve*

the design of the building, the amenity of local residents and to reduce non-compliance.

3. *When the totality of conditions is prepared, the Panel would approve the application in a meeting conducted by electronic communication, unless a public meeting is required because of a dispute about conditions that is required to be resolved in public."*

Since that meeting the following communications have occurred between Council Officers and the applicant.

On 2 July 2010 the applicant provided via email a letter from Suzanne Hibberd of Abode Property Agents dated 9 April 2010. This letter relates to the attempts which have been made to secure the adjoining sites into the development site. This letter seeks to satisfy item 1(c) of the JRPP resolution. A copy of this letter is attached for the JRPPs information.

On 13 July 2010 Council Officer, Carolyn Howell, spoke with the applicant's contact person, Scott Barwick regarding the processing of the application. It was explained that following discussions with Angelo Candalepas and Alison McCabe on the day of the JRPP meeting it was Council's understanding that the applicant was going to submit revised plans to Council addressing the JRPP resolution. It was further explained that if they didn't intend to lodge revised plans that Council intended to deal with the JRPP resolution by way of a "deferred commencement" consent. Scott Barwick advised that he would advise Council of his intentions.

On 14 July 2010 Carolyn Howell phoned Scott Barwick who advised that he thought that they intended to lodge revised plans and that he would forward an email today advising Council of their intentions.

On 15 July 2010 Council received an email confirming that revised plans were being prepared and that they would be ready in approximately two (2) weeks).

On 9 August 2010 Council received revised plans from the applicant attempting to deal with the JRPP resolution. Council Officer's had concerns with the manner in which the applicant had attempted to deal with the JRPP resolution.

On 12 August 2010 Council Officers expressed their concerns with the revised plans to the JRPP members who were at Council's Administration building to determine another application. The JRPP agreed that the modified proposal could be significantly improved and that the applicant should be informed of this.

Later on 12 August 2010 Carolyn Howell emailed Scott Barwick, following a telephone conversation, expressing our concerns with the revised plans.

On 17 August 2010 Angelo Candalepas phoned Peter Barber, Manager Coastal Assessment Team, regarding Council's request for them to revise the plans.

On 19 August 2010 Candalepas & Associates submitted a revised sketch plan. This plan showed the building extending beyond the setback line.

On 26 August 2010 Candalepas & Associates were advised that the proposal must sit behind the setback line to comply with the JRPP resolution.

On 31 August 2010 revised plans were lodged with Council. It is considered that these plans, together with appropriate conditions satisfactorily address items 1(a), 1(b), and 1(d) of the JRPP resolution. A copy of these plans is attached.

On 8 September 2010 Council forwarded a copy of the draft conditions to the applicant for comment in accordance with the JRPP resolution.

On 13 September 2010 the applicant forwarded Council their comments in relation to the draft conditions. These are as follows:

"Please find our response to the draft conditions of consent provided for our comment. The proposed conditions are in the majority acceptable to the applicant. Revision, confirmation or deletion is requested to the following six (6) matters.

Condition 5

Our interpretation of the wording of this condition is that demolition can be pursued prior to the issue of a Construction Certificate. If this interpretation is correct we support and agree to this condition.

Condition 8

Council have also sought a \$20,000 bond at condition 6 for Public Place Environmental, Damage & Performance Security Bond. The further bond of \$100,000 proposed by condition 8 covers similar works and appears to be excessive given the limited frontage of the site and the extent of Council's infrastructure located in the vicinity of the site and which could possibly damaged or require replacement as a result of the proposed construction works. We request that the value of this bond be reviewed in light of condition 6, which is accepted, and the actual scope of Council infrastructure that is in the vicinity of the site.

Condition 11(a) and 23 (b) & (c)

As required by Council an amended BASIX Certificate has been provided in support of the amended proposal and which details all of the required BASIX commitments relating to water usage reduction and energy consumption reduction. The condition appears to be beyond power and conflicts with Clause 8(1) of SEPP (BASIX) 2004 which states:

(1) The competing provisions of an environmental planning instrument, whenever made, are of no effect to the extent to which they aim:

(a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, in the use of a building to which this Policy applies or in the use of the land on which such a building is situated, or

(b) to improve the thermal performance of a building to which this Policy applies.

That is, the BASIX commitments in regards to water consumption reduction are contained within the BASIX certificate and this condition seeks to add further requirements.

Part 11(a) and 23 (b) & (c) of the condition is opposed and is requested to be deleted to ensure consistency with the application of the provisions of SEPP (BASIX) 2004.

Condition 17

We request this condition be deleted. Our Stormwater Engineering Consultant has advised that the DA design as submitted has a 300mm pipe cutting across The Esplanade approximately 3m in length with a scour pad at the beach outlet, much the same as existing. Installation of our DA design will cause significantly less disruption to The Esplanade than Council's proposed condition requiring a 375mm pipe being approx 50m long to be laid along The Esplanade, which will be laid at a shallow fall and be prone to silting and therefore more maintenance for Council.

Deletion of condition 17(a) is requested.

Condition 24 (e)

Condition 24(e) proposes the swapping of the proposed adaptable parking space and the proposed visitor space. We request that the allocation remain as proposed. We would suggest and accept an alternate condition requiring the installation of directional signage to the provided visitor car parking space.

Condition 24 (g)

We request that the restriction on "caging" of the approved car spaces be deleted. The internal circulation has been designed to accommodate the security enclosure of the resident car spaces without impacting upon circulation. The deletion of this element of the draft consent is requested and would not adversely impact upon the function and performance of the basement car park."

Following receipt of the applicant's email, Carolyn Howell contacted Scott Barwick via email to ask what they intended the water within the proposed 15 cubic metre tank be used for if it was not to be used for irrigation, toilet flushing or clothes washing. In response to this enquiry the following response was received:

"Further to our discussion regarding conditions 11 and 23 relating to the re-use of the stormwater to be collected in the basement tank with a 15 cubic metre capacity, we can confirm that this collected water will be used for irrigation on-site. We therefore request that:

- Proposed Condition 11(a) be deleted consistent with our previous request as an "efficient" irrigation system is only relevant where potable water is being relied upon or forms part of the BASIX commitments.*
- Proposed Condition 23(b) be amended to read:*

The 15 cubic metre rainwater tank provided within the basement installed to harvest rainwater shall be utilised for on-site irrigation purposes. Details of the irrigation design shall be provided with the stormwater drainage design drawing and shall ensure that suitable proofing is incorporated to prevent mosquito breeding.

- Proposed Condition 23(c) be deleted as being redundant due to the suggested re-wording of condition 23(b) above."*

Further, today the applicant has advised:

"Further to our discussion this morning, we no longer press the concerns in relation to the caging of the car spaces as proposed in condition 24(g). In relation to condition 24(e) it remains the applicant's preference for the car parking allocation to remain as proposed on the plans.

*We have conferred with the designer of the engineering system and they have confirmed that the 15cubic metre tank is **not** part of any OSD offset and was proposed as a means of collecting water for re-use through on-site irrigation. Council's engineers concerns in relation to reduced OSD capacity therefore do not arise in this instance.*

We continue to request that the condition 11 (a) and 23 refer to re-use of the water via an irrigation system only."

In response to the applicant's submissions, the following comments are provided:

Condition 5 – agreed no change to condition required.

Condition 8 – Council has reviewed its position in relation to this condition and has accepted its deletion.

Conditions 11(a) – Council does not agree with the applicant's position that this condition is beyond power. The intention of the condition is to ensure that the landscaping is maintained for the perpetuity of the development and has nothing to do with BASIX. The applicant has subsequently advised that their proposed re-use of the collected stormwater will be used for on site irrigation; the application has been modified to accommodate this. The condition now reads:

11(a) The common open space areas shall be provided with a water irrigation system in accordance with relevant Australian Standards. The water shall be sourced from the stormwater tank provided on-site.

Conditions 23 (b) and (c) – The applicant's proposal includes provision of a 15 cubic metre tank stormwater tank. Council's Engineer has advised that:

- i) *Section 6 of Chapter 8 of SSDCP2006 requires the pre & post stormwater discharge from the development site to not increase. This reference generally drives the need to provide a stormwater drainage detention facility. In this particular case, based on a change to the impervious would most likely indicate that a detention facility is not required. Unfortunately, installation of a new modern stormwater drainage system will efficiently deliver more water faster to Council's stormwater drainage infrastructure in the Esplanade. There is concern that the existing shallow dish gutter and associated small pipeline in the Esplanade will be over whelmed, with surcharging stormwater sheeting across the Esplanade.*
- ii) *Given the applicant offered to install a 15,000 litres and clause 6.d.1(3) of Chapter 8 of SSDCP2006, it was unnecessary for Council to pursue any calculations or greater detail than was offered. The detention off-set offered in clause 6.d.1(3) relies on capturing and reusing rainwater. Hence; the reuse references in condition 23(b) and Condition No.11(a).*
- iii) *This condition is not about BASIX or demand on potable mains water, but about reducing stormwater discharge from the site.*

On the basis of this advice from our engineering staff it is recommended that the condition remain as is or alternatively an additional condition should be inserted requiring a drainage analysis to be undertaken. This condition may bring about the need to provide on site detention.

Condition 17(a) – Council does not agree with the applicant's position as a proliferation of private drains through The Esplanade to the beach is not desirable. It is Council's aim to reduce the number of private outfalls to the beach and to restrict future drainage outfalls to existing public drains.

Condition 24(e) – This condition requires that the visitor space currently proposed on basement level three (3) be swapped to be provided on basement level one (1). Council does not support the modification of this condition as suggested by the applicant. It is considered inappropriate to require a visitor to the building to go down three (3) levels to access a parking space. It is also difficult for a visitor to exit the site from the third level if all bays are full, as there is no turning area.

Condition 24(g) – The applicant no longer presses this issue and the condition remains unchanged.

At our meeting today with the JRPP members it was explained that conditions 17 (a); 23 (b) and 23(c) which relate to drainage and condition 24(e) which relates to the location of the visitor car parking space remain in dispute. In relation to these matters the Panel advised as follows:

Condition 17 (a) – should remain unchanged.

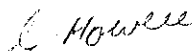
Condition 23(b) & 23(c) – the JRPP decided that the applicant should be given the option of either accepting the condition as is or to undertake a full drainage analysis and the potential need for on-site detention which may arise from this. This requires additional conditions to be added to the draft consent.

Condition 24(e) – should remain unchanged.

The draft conditions have been modified in accordance with Panel members Instructions. Please find attached a copy of the conditions of consent for your records.

Should you require any additional information, please contact Carolyn Howell of Council's Coastal Assessment Team on 9710 0841.

Yours faithfully



Carolyn Howell
for J W Rayner
General Manager



DEVELOPMENT CONSENT

Environmental Planning and Assessment Act 1979

DATE OF DETERMINATION

DATE OF OPERATION

DATE OF LAPSING

AUTHORITY

DETERMINATION OF DEVELOPMENT APPLICATION NO. DA10/0076

LAND DESCRIPTION:

S/P831, Lots 1-11 S/P 831
S/P66933, Lots 12-13 S/P 66933
12 Ozone Street, Cronulla
1-13/12 Ozone Street CRONULLA NSW 2230

APPLICANT:

Presflow Pty Ltd
C/- SJB Planning
Level 2 490 Crown Street
SURRY HILLS NSW 2010

Sutherland Shire Council, pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, hereby notifies that the abovementioned Development Application for development described below has been determined by the granting of development consent subject to the conditions specified in this notice.

PROPOSED DEVELOPMENT:

Demolition of Existing Residential Flat Building and Construction of a New Residential Flat Building with Strata Subdivision

The conditions of this consent which have been imposed to reduce or eliminate any detrimental effects that the proposed development might have on the environment including the amenity of the area are described on the following pages.

CONDITIONS OF CONSENT

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 with the details and specifications set out on the architectural design drawings No. 5491 sheets DA-1101/E, DA-1102/E, DA-1103/E, DA-1104/E, DA-1105/E, DA-1201/E, DA-1301/E, DA-1302/E, DA-1303/E & DA-1401/E prepared by Candalepas Associates, the concept stormwater drainage design drawings No. SY090638 sheets CK1.01/B & CK1.02/B prepared by ACOR Consultants, Geotechnical Investigation Report No. 23823Z Rpt of the 9 April 2010 prepared by Jeffery & Katauskas, the concept construction & site management plan drawing No. SY090638 sheet CK2.01/B prepared by ACOR Consultants 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, construction or subdivision works.

Note 2:

Prior to the commencement of any building, construction, or subdivision 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, and
- b) Notification of the commencement of building and/or subdivision works with a minimum of 2 days notice of such commencement.

Note 4:

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.

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. In relation to non-residential building work Builders details shall be provided to Council with the Notice of Commencement.

3. Timing of construction of certain aspects of the development

Pursuant to the recommendations of the Geotechnical Investigation Report forming part of this development consent, all development upon the cliff face (including the existing pedestrian access and retaining walls) shall be removed prior to the demolition of the existing residential flat building.

4. Dilapidation Report

The applicant/owner is to prepare a dilapidation report with photographs noting any damage to the existing buildings upon No.10 & 14 Ozone Street. A copy of the dilapidation report shall be submitted to Sutherland Shire Council for retention on record and the Owners of No.10 & 14 Ozone Street prior to the commencement of any works.

5. Site Management Plan - Demolition Work

This condition applies only where demolition is proposed prior to the issue of a Construction Certificate and appointment of a Principal Certifying Authority.

a) The applicant shall submit to Council a Site Management Plan – Demolition for assessment prior to the commencement of any demolition work. This plan shall comply with the approved construction & site management plan drawing, Council document "Environmental Site Management Sutherland Shire Environmental Specification 2007" and the Geotechnical Investigation Report No.23823ZRpt prepared by Jeffery and Katauskas Pty Ltd and satisfy the Objectives of Section 3 of Chapter 8 of SSDCP2006 and shall address the following:

- i) The sequence of the demolition works shall be that prior to the bulk excavation works all development upon the cliff face shall be removed (cite clause 4.2.1 of Geotechnical Investigation Report) and the cliff face protected,
- ii) 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,
- iii) The proposed method of loading and unloading demolition machines within the site;
- iv) The proposed areas within the site to be used for the storage of demolished material and waste containers during the demolition period;
- v) 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,

- vi) The type and location of erosion and sediment control measures, strategies to minimise the amount of soil uncovered at any time,
- vii) The demolition of the existing building and development upon the cliff face shall be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures,
- viii) The provision of temporary fencing to secure the work site. Along the eastern boundary this fence must be able to withstand falling rock from the cliff face (cite clause 4.1.2 of Geotechnical Investigation Report).
- b) Any localized collapse or fracture of the cliff face must be brought to the attention of Council's Senior Heritage Architect.
- c) 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 Manager, Parks & Waterways 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. 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.
- d) 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.
- e) 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:
 - i) Occupational Health and Safety Act 2000;
 - ii) Occupational Health and Safety Regulation 2001;
 - iii) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
 - iv) Workcover NSW 'Working with Asbestos - Guide 2008';
 - v) Protection of the Environment Operations Act 1997, and
 - vi) 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.
- f) Certification from a Chartered Civil Engineer and a Geotechnical Engineer, to the effect that the Site Management Plan - demolition was prepared in accordance with the above conditions of development consent.

Note 1: 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.

Note 2: For further information on friable asbestos licenses contact the NSW

Workcover Authority.

Note 3: 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.

Bonds and Contributions

The following security bonds and contributions have been levied in relation to the proposed development.

6. 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.

7. 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.

8. Deleted

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.

Design Conditions

These design conditions are imposed to ensure the development, when constructed, meets appropriate standards for public safety and convenience.

10. Design Changes Required

To reduce the environmental and/or ecological impact of the development proposal, the following design changes shall be implemented:

- a) The three "store" rooms within the basement car park shall be partitioned into six equal sized areas and allocated to each dwelling.

Details of these design changes shall accompany the Construction Certificate.

11. Detailed Landscape Plan

A Detailed Landscape Plan shall be prepared by an experienced Landscape Designer (a person eligible for membership of the Australian Institute of Landscape Designers and Managers) or Landscape Architect (a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect).

The plan shall accord with Section 6.7 of Councils Landscape Development Control Plan, which sets out the requirements for a Detailed Landscape Plan, and the relevant conditions of this consent.

The Detailed Landscape Plan shall be based on the Concept Landscape Plan Job No. 091211 Drawing No. CLP.01/C, sheets 1 & 2 prepared by Botanica dated received by Council on 19 May 2010 and shall address the following:

- a) The common open space areas shall be provided with a water irrigation system in accordance with relevant Australian Standards. The water shall be sourced from the stormwater tank provided on-site.
- b) The modified architectural plans approved pursuant to this consent.
- c) Appropriate stabilisation planting on the eastern side of the residential flat

building given the removal of the existing retaining walls and access stairs.

The Landscape Designer or Landscape Architect shall provide written certification to the Accredited Certifier that the Detailed Landscape Plan has been prepared having regard to the requirements of this consent. This certification and the Detailed Landscape Plan shall be submitted to the Accredited Certifier for approval prior to the issue of the Construction Certificate.

12. Design Requirements for Disabled Access and Adaptable Housing

A checklist list prepared by a person suitably accredited by the Association of Consultants in Access Australia shall be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing and AS1428 - Design for Access and Mobility. The report shall also contain a completed checklist (Appendix A - AS4299) demonstrating that at least two (2) units within the development comply with the requirements of a Class C Adaptable House, including car parking.

13. Verification of Design for Construction - SEPP 65

Design verification shall be provided by a suitably qualified designer (Architect) pursuant to SEPP 65 stating that the design intent approved by the Development Consent has been maintained in the building / architectural plans submitted with the Construction Certificate. This shall accompany the Construction Certificate.

14. Design of Privacy Screens

The privacy screens to the Northern and Southern elevation are to be constructed in accordance with detail 3 on drawing DA-1103 issue E, prepared by Candalepas Associates. The marble louvers are to be a minimum length of 450mm and spaced with maximum centres of 300mm the angle of the louvers must be consistent with that shown in detail 3. The hardwood louvers are to be a minimum length of 220mm and spaced at maximum centres of 150mm the angle of the louvers must be consistent with that shown in detail 3. Details shall be shown on the plans submitted with the Construction Certificate.

15. Site Management Plan

An Environmental Site Management Plan shall accompany the Construction Certificate. This plan shall comply with the approved construction & site management plan drawing, Council document "Environmental Site Management Sutherland Shire Environmental Specification 2007" and the Geotechnical Investigation Report No.23823ZRpt prepared by Jeffery and Katauskas Pty Ltd and satisfy the Objectives of Section 3 of Chapter 8 of SSDCP2006 and shall address the following:

- a) The sequence of the demolition works shall be that prior to the bulk excavation works all development upon the cliff face shall be removed (cite clause 4.2.1 of Geotechnical Investigation Report) and the cliff face

- protected;
- b) 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;
 - c) The proposed method of loading and unloading excavation machines, building materials;
 - d) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition / construction;
 - e) How it is proposed to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
 - f) The proposed method of support of the basement excavation adjacent to adjoining properties and the Road Reserve. The person causing the excavation to be made:
 - i) Shall preserve and protect the neighbouring buildings from damage, and
 - ii) If necessary, shall underpin and support the buildings in an approved manner, and
 - iii) Shall, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished, and
- The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, and
- The proposed method of support is to be certified by a Certifier accredited in civil engineering.
- g) The provision of temporary fencing to secure the work site. Along the eastern boundary this fence must be able to withstand falling rock from the cliff face (cite clause 4.1.2 of Geotechnical Investigation Report);
 - h) The control of surface water flows within and through the construction site to minimize erosion and movement of sediment off site;
 - i) 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;
 - j) 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; and
 - k) Any localized collapse or fracture of the cliff face must be brought to the attention of Council's Senior Heritage Architect.

Certification from a Chartered Civil Engineer and a Geotechnical Engineer, to the effect that the construction and site management plan was prepared in

accordance with the above conditions of development consent, shall accompany the application for the Construction Certificate.

Note: Council's Senior Heritage Architect may be contacted on telephone 97100181.

16. Design and Construction of Road Frontage Works

Council has determined that the proposed development generates a need for the following works to be undertaken by the Applicant in the Road Reserve in conjunction with the development. The design drawing shall generally comply with the approved architectural design drawings and accommodate the following;

- a) Establish the property alignment levels,
- b) Construct a 6m vehicular crossing and associated layback,
- c) Reconstruct the footpath pavement for the full frontage off the development site, except in the area of the proposed vehicular crossing,
- d) Provide transition works for the footpath pavement to eliminate any 'trip' hazards and create gentle change of grades,
- e) Repair the road shoulder carriageway adjacent to all new gutter works,
- f) Relocate street signage where required, and
- g) Adjust public services infrastructure where required.

The road frontage works design drawing shall be prepared and submission as part of the Construction Certificate. The creation of the design shall be undertaken by Sutherland Shire Council's Engineering Division.

Note 1: Council's Engineering Division charges a fee for the creation of the road frontage works design. A quotation may be obtained by contacting the Sutherland Shire Council's Assets Manager, on telephone 97100480.

Note 2: The applicant must obtain permission for the carrying out of the aforementioned road works from Council, under the Roads Act, prior to the release of the Construction Certificate.

17. Design and Construction of Drainage Works

Council has determined that the proposed development generates a need for the following works to be undertaken by the Applicant in the Esplanade in conjunction with the development. The design drawing shall generally comply with the approved architectural design drawings and accommodate the following;

- a) Install a 375mm diameter pipeline and construct associated pits, adjacent to the Esplanade frontage of No.12, 10 and 8 Ozone Street to enable a direct connection of the inlet junction pit "CL3.40m - IL2.65m" to Council's stormwater pit on the western side of the Esplanade adjacent to the north east corner of No.8 Ozone Street,
- b) Reconstruct the dish gutter and footpath pavement where required, and

- c) Adjust public services infrastructure where required.

The drainage works design drawing shall be prepared and submission as part of the Construction Certificate. The creation of the design shall be undertaken by Sutherland Shire Council's Engineering Division.

Note 1: Council's Engineering Division charges a fee for the creation of the drainage works design. A quotation may be obtained by contacting the Sutherland Shire Council's Assets Manager, on telephone 97100480.

Note 2: The applicant must obtain permission for the carrying out of the aforementioned drainage works from Council, under the Local Government Act, prior to the release of the Construction Certificate.

Public Utility Authorities Requirements

These conditions are imposed to avoid problems in servicing the development and reduce adverse impacts on the lot layout or the design of buildings or associated facilities.

18. Public Utilities - Subdivision

Arrangements shall be made with Energy Australia, Telstra, cable television network providers and other public utilities in relation to:

- a) The necessity for the provision of underground low voltage electricity conduits and cable television conduits within the footway area of Ozone Street, and
- b) The method of connection of the property to the Energy Australia supply, ie either underground connection or by overhead supply.

19. Sydney Water - Referral Requirements

The plans approved as part of the Construction Certificate shall be submitted to a Sydney Water Quick Check agent or Customer Centre to determine as to whether the development will affect Sydney Water's sewer and water mains, stormwater drains and / or easements, and if further requirements need to be met. Plans will be stamped appropriately.

Please refer to the web site www.sydneywater.com.au for:

- Quick Check agents details – see Building Development and Plumbing then Quick Check; and
- Guidelines for Building Over / Adjacent to Sydney Water Assets – see Building Development and Plumbing then Building and Renovation.

20. Engineering Works Supervisor

Prior to the commencement of any works the applicant shall nominate an appropriately qualified Accredited Certifier in civil engineering works or a Charter Civil Engineer to supervise all works within the Road Reserve and

construction of the stormwater drainage system. The Engineer shall:

- a) Provided an acceptance in writing to supervise sufficient of the aforementioned works to ensure compliance with the relevant conditions of Development Consent, and
- b) On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of Consents.

21. Nomination of Geotechnical Engineer

Prior to the commencement of any works the applicant shall nominate an appropriately qualified Geotechnical Engineering. This person shall be on site to supervise the bulk excavation works, removal of all existing development upon the cliff face and installation of the discharge stormwater drainage pipeline and associated boring through the cliff face (as required by conditions pertinent to "Stormwater Drainage, Rainwater Harvesting & Reuse System").

22. Nomination of Heritage Consultant

Prior to the commencement of any works the applicant shall nominate an appropriately qualified Heritage Consultant. This person shall be on site to supervise the removal of all existing development upon the cliff face and installation of the discharge stormwater drainage pipeline and associated boring through the cliff face (as required by conditions pertinent to "Stormwater Drainage, Rainwater Harvesting & Reuse System").

23. Stormwater Drainage, Rainwater Harvesting & Reuse System

Plans including all engineering details relevant to the site regarding collection and dispersal of stormwater from the site, buildings and the adjacent catchment shall be submitted with the construction certificate. The stormwater drainage system shall be designed and constructed generally in accordance with the approved stormwater drainage concept design drawing and Australian Standard AS3500.3:2003, except where modified to address the following;

- a) The design drawings are to indicate the alignment, sizes, type, class, grades and lengths of all the pipelines and associated structures. Detail the existing stormwater drainage system and point/s of discharge and if the existing development fully or partly drains to the sewer.
- b) The proposed 15 cubic metres rainwater tank shall be installed to harvest rainwater for irrigation purposes, all toilet flushing, a tap provided in the garbage room for the washing of bins and a tap provided in the laundry for clothes washing or a detention facility shall be provided to ensure the post-development discharge to the Esplanade is less than or equal to the pre-development discharge to the Esplanade. Any required detention vessel cannot be located in an approved landscape area. If the existing development discharges fully or partly to the sewer the detention calculations must take this into account,
- c) Any required rainwater tank shall be suitable screened for the prevention of

- mosquito breeding,
- d) The discharge pipeline "rainwater tank overflow and basement stormwater drainage outlet" shall be bored through the ground and then a pipe installed to enable a direct connection to the proposed inlet junction pit adjacent to the south east corner of the property. This is to ensure that there is no visual penetration or structural weakening of the cliff face, and
 - e) The stormwater drainage system shall be connected to the public drainage system installed/constructed as part of the drainage works required by Public Place Enquiry No.PPE10/0002 correspondence of the 20 July 2010 and condition "Design and Construction of Drainage Works".

Certification from an Accredited Certifier for stormwater design or a Chartered Civil Engineer, to the effect that the stormwater drainage, rainwater reuse and water harvesting systems have been prepared having regard to the conditions of development consent, shall accompany the application for the Construction Certificate.

24. Vehicular Access-way & Parking Layout

The vehicular access-way and car park layout shall be designed and constructed to comply with the approved architectural design drawings, except where modified by the following;

- a) Align with Council's issued vehicular crossing levels,
- b) The vertical alignment of the vehicular access-way shall comply with AS2890.1:2004 to ensure a B85 vehicle will not scrape the surface of the crossing, driveway or the parking bays,
- c) The two "Adaptable" car parking bays shall have a clear volumetric space of 5.4m (long) by 3.8m (wide) by 2.5m (high),
- d) The "visitor" car parking bay shall have a clear volumetric space of 5.4m (long) by 3.8m (wide) by the minimum vertical clearance specified in Figure 2.7 of AS/NZS2890.6:2009,
- e) The 3.8m wide visitor parking bay shall be relocated to "adaptable parking space 01" on the "basement level one floor plan" and the "adaptable parking space 01" shall be relocated to the area labelled "visitor" on "basement level three floor plan",
- f) The basements head height shall be 2.2m, as measured in comply with AS2890.1:2004, clear of any necessary hinges, jambs or fixtures required for the operation of the garage doors and any services within the garage area,
- g) All parking bays shall not be caged nor enclosed,
- h) Two parking bays shall be allocated to each dwelling, and
- i) Any proposed security door fitted to the basement car parking entrance shall be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

Certification from an Accredited Certifier or a Chartered Civil Engineer or a Registered Surveyor, to the effect that the car park layout and vehicle access-way have been prepared having regard to the conditions of

development consent, shall accompany the application for the Construction Certificate.

Note: Be advised that item b) is based on Council's minimum standard of a B85 vehicle (Ford Falcon Sedan). The recommended condition will not necessarily protect exotic or altered cars from "scraping" the vehicular access-way.

25. Garbage, Recycling and Green-waste Storage Area

To ensure proper storage of waste from the premises, the proposed facility shall be designed to accommodate waste and recycling bins to Council's requirements. 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.

BCA Fire Safety Conditions

The following conditions have been imposed for the purpose of ensuring that the proposed development meets BCA fire safety requirements.

26. 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.

27. Pre-Commencement - Notification Requirements

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

- a) A Construction Certificate / Subdivision 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.

28. Pre-commencement Site Inspection - Road Frontage Works

The Principal Certifying Authority and / or the Supervising Engineer shall undertake a site inspection with Council staff prior to commencement of the road frontage works. The purpose of this inspection is to enable Council's Civil Assets Engineer to clarify Council's requirements, as owner of the roadway, in relation to the carrying out of the works.

Contact shall be made with Council's Civil Assets Branch on 97100357 to arrange for the inspection.

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

29. 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.

30. Pre-commencement Site Inspection – Esplanade Frontage Works

The Principal Certifying Authority and / or the Supervising Engineer shall undertake a site inspection with Council staff prior to commencement of the Esplanade frontage works. The purpose of this inspection is to enable Council's Parks and Waterways Manager to clarify Council's requirements, as custodians

of the Esplanade, in relation to the carrying out of the works. Contact shall be made with Council's Parks and Waterways Manager on 9710 0473 to arrange for the inspection.

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

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.

31. Environmental Site Management DCP

All construction work approved by this development consent shall be undertaken in accordance with the Construction and Site Management Plan prepared pursuant to Condition 15 of this consent and 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.

32. 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 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 1.00pm Saturdays. No work shall be carried out on Sundays and Public Holidays.

33. Toilet Facilities

Toilet facilities shall 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.

34. 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.

35. 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.

36. 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.

37. Imported 'Waste Derived' Fill Material

In order to ensure that imported fill is of an acceptable standard for environmental protection purposes:

- A) The only waste derived fill material that may be received at the development site shall be:
 - i) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997).
 - ii) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.
- B) Any waste-derived material the subject of a resource recovery exemption

received at the development site shall be accompanied by documentation as to the material's compliance with the exemption conditions and shall be provided to the Principal Certifying Authority on request.

38. Support for Neighbouring Buildings

If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- a) Shall preserve and protect the building from damage.
- b) If necessary, shall underpin and support the building in an approved manner.
- c) Shall, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- d) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

39. Protection of Public Places

To protect public safety and convenience during the course of constructing the works covered by this consent, the following matters shall be complied with:

- a) If the work involved in the erection or demolition of a building:
 - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed, inconvenienced, or rendered unsafe; or
 - ii) building involves the enclosure of a public place,
A hoarding or fence shall be erected between the work site and the public place
- b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning shall be removed and any damage to any public place reinstated to Council's satisfaction when the work has been completed.

40. Noise Control during Construction and Demolition

To minimise the impact on the surrounding environment:

- a) For construction and demolition periods of four (4) weeks or less, 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 15min) by more than 20dB(A) when measured at the nearest affected premises.
- b) For construction and demolition periods greater than four (4) weeks, 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 15min) by more than 10dB(A) when measured at the nearest affected premises.

41. 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.

42. 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.

43. 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.

44. 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.

45. 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.

46. 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.

47. Certification Requirement - Prior to placement 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 by the approved architectural design drawings:

- a) Prior to the placing of concrete for the initial / lowest floor slab, verifying the location and level of the steel / formwork is such to ensure that the concrete when placed will comply with the approved floor level.
- b) Prior to the placing of concrete for 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.

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.

48. 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.

49. Works-As-Executed Drawings (W.A.E.D) and Certification of Works.

- a) The Supervising Engineer shall certify that the stormwater drainage system was constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned letter of certification.
- b) The Supervising Engineer shall certify that the frontage works were constructed to their satisfaction and in accordance with the Development Consent and associated Roads Act Consent. Prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned letter of certification.
- c) The Supervising Engineer or a Registered Surveyor shall certify that the volumetric space of the two "Adaptable" and the "Visitor" car parking bays complies with condition "Vehicular Access-way & Parking Layout".
- d) If a detention facility is constructed as part of the stormwater drainage system, a W.A.E.D shall be prepared to show the stormwater drainage system, detailing the alignment of pipelines, pits, the detention facility. The W.A.E.D. shall be prepared by a Registered Surveyor and prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned W.A.E.D.

Need for Certification

To ensure that all works are completed in accordance with the Development Consent, certification from an Accredited Certifier shall accompany the Occupation Certificate, to the effect that the following works have been completed.

50. 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.

51. General Compliance

Certification from the Principal Certifying Authority certifying that all works have been completed and comply with the approved plans, conditions and specifications.

52. 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.

53. Verification of Design at Completion – SEPP 65

Design verification shall be provided by a suitably qualified designer (Architect) pursuant to SEPP 65 stating that the design intent approved by the Development Consent has been maintained throughout the construction of the building / development. This shall be provided prior to the issued of the final Occupation Certificate.

54. 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.

Subdivision Plan Requirements

The following conditions have been imposed in relation to the preparation and release of the Linen Plans of Subdivision.

55. Linen Plan of Subdivision to conform with Development Consent

The Linen Plan of Subdivision shall conform with Council's Development Consent No. DA10/0076 and all relevant conditions thereunder.

56. Allocation of Common Property

Common property shall not be allocated by the Owners Corporation for the exclusive use of a proprietor. No modification shall be made to a Plan of Strata Subdivision without the prior development consent of Council.

57. Endorsement of Linen Plan of Strata Subdivision

Following completion of the requirements detailed in the conditions of this Development Consent a film and five (5) paper copies of the Strata Plan of Subdivision shall be submitted to Council together with the Instrument (in duplicate) under Section 88B of the Conveyancing Act, where required for ultimate lodgement at the Land titles Office.

Alternatively, a Subdivision Certificate issued by an Accredited Certifier and a copy of the registered Plan of Strata Subdivision shall be submitted to Council

following completion of the requirements detailed in the conditions of this Development Consent.

Note: Please note that the Strata Plan must detail the allocated car parking bays and the storage areas within the basement, cite; conditions "Vehicular Access-way & Parking Layout" and "design changes required".

57b. Positive Covenant over detention facilities – Strata Subdivision

If a detention system is provided as part of the stormwater drainage system 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.

58. 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.

59. Rainwater Harvesting and Reuse

If a detention system is partly or fully off-set through the provision of rainwater tanks, then the operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to the detention off-set requirements shall be maintained in good operational order at all times.

END OF DETERMINATION

for J W Rayner
General Manager
Sutherland Shire Council

NOTES

This Notice of Development Consent is issued by Sutherland Shire Council as the Authority responsible in respect of development under the provisions of the Sutherland Shire Local Environmental Plan 2006

A Tree Preservation Order had been proclaimed in the Sutherland Shire. A person who contravenes or causes or permits the Tree Preservation Order to be contravened is guilty of an offence. Trees, the subject of this Order other than those which have become dangerous shall not be cut down, topped, lopped, injured or wilfully destroyed except with the consent of Council. However, unless specified otherwise in this consent, those trees designated to be removed on the approved plans under this consent may be so removed.

Section 82A of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be completed within 12 months from this determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination. Please note also that you cannot request a review under S82A for any applications for Integrated Development, or any Land and Environment Court determined applications.

Note: Review provisions do not apply to Complying Development, Designated Development, State Significant Development and Integrated Development.

Section 97 of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court of New South Wales.

This consent will lapse unless the development is physically commenced within five (5) years from the Date of Operation of this consent, in accordance with Section 95 of the Environmental Planning and Assessment Act 1979 as amended.