

2010SYE089 – 971 – 975 Old Princes Highway, Engadine

DA10/1008

## ASSESSMENT REPORT APPENDICES

- Appendix A Minutes from Architectural Review Advisory Panel Meeting (Pre-DA Referral)
- B Summary of Objections
- C Minutes from Architectural review Advisory Panel Meeting
- D Applicant's SEPP 1 Objection Building Height

## **Architectural Review Advisory Panel**

Proposal:

**Pre-DA Referral (ARAP) - 3rd Referral – Commercial/Residential Development**

Property:

**971-973 Old Princes Highway ENGADINE NSW 2233**

Applicant:

**Conquest Constructions (NSW) Pty Ltd**

File Number:

**ARAP10/0007**

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The following is the report of the Architectural Review Advisory Panel Meeting held on 24 June 2010 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

### **"2. Consideration of ARAP10/0007 - Pre-DA Proposal for a Commercial/Residential Development at 971–975 Old Princes Highway, Engadine**

Council's Andrew Conacher, Christine Edney and Ian McPherson outlined the proposal, including providing details of Council's relevant codes and policies.

Wayne Bentley, Steve Waters, John Curtis, Sue Deas and John Cooley addressed the Panel regarding further development of the proposal and how they have addressed the concerns raised by the Panel at the previous meetings.

#### Development History

A previous development application for the site was refused. This proposal continues to explore concepts for a revised application presented in preliminary form at a previous ARAP meeting.

#### Description of the Site

During the site inspection it was observed that the site consists of five (5) lots that are proposed to be amalgamated. The total area of the lot is 2514 square metres. There is a separate portion of the amalgamated lot located on the northern side of Toms Lane, whereas the majority of the lot is located between Toms Lane and the Old Princes Highway. The major lot falls to the north and there is no significant cross-fall from west to east.

The lot is bounded on the western side by two narrow lots that have not been included in this amalgamation and is bounded on the eastern side by a service station site.

Toms lane, which provides vehicular access to the site, is relatively narrow with partially formed kerbing and guttering. There is a manoeuvring bay approximately halfway along the lane on the northern side.

The site is zoned Zone 8 - Urban Centre which allows for mixed commercial and residential uses. The proposed use is permissible in this zone.

### Description of Proposal

The application consists of a two (2) level partly underground car park with access from Toms Lane. Fifteen (15) commercial car parking spaces including two disabled spaces are provided on the upper parking level as well as thirty three (33) residential car parking spaces provided on both the upper and lower car park levels.

On the ground floor six (6) single aspect units are provided, including both one (1) and two (2) bedroom apartments. Three (3) entry foyers are provided. The central foyer provides public lift access from the car parking levels to the commercial level only. The remaining entry foyers provide access to the residential units.

Four (4) commercial tenancies ranging in size from 86 m<sup>2</sup> to 110 m<sup>2</sup> are located on the southern aspect of the ground floor.

A two (2) metre setback is provided to the street frontage and a six (6) metre setback is provided to the Toms Lane frontage.

Levels 1, 2, and 3 each contain eight (8) “cross through” apartments. All units have a northerly outlook.

Level 4 contains four (4) x three (3) bedroom apartments with terraces. All units have a northerly outlook.

### Client's Brief

Wayne Bentley advised that the comments of the previous ARAP meeting on the initial concept had been encouraging and the scheme has been developed further. He noted that the commercial spaces have been moved forward and that the depth had been reduced. This has allowed for better communal areas and courtyards. Northern wings have now been developed, which provide privacy and articulation with more glazed areas and better solar access. This approach also benefited the ground floor single aspect units. The size and range of units has now been expanded.

The design of the street elevation has now been reviewed to provide more privacy to the units and the extent of brickwork has been reduced in favour of more lightweight materials.

### Context

The provision of five (5) storeys on the northern side of the Old Princes Highway was previously encouraged by the Panel as potentially providing a better solution for the site. As this would be contrary to the current controls and would set an important precedent, the Panel's support was on the proviso that the building achieved design excellence.

When a development application is submitted, the onus on demonstrating that design excellence has been achieved and the presentation of the required SEPP 1 Objection rests with the applicant. Council needs to be supplied with justification that it can assess and endorse if the proposal is to be supported.

### Built Form

Panel members recommend that working models of the design be used as a design tool in order to better understand the forms of the building, the street impact and the resulting amenity of the units. The articulated northern façade generally provides good compliance with the requirements of the Residential Flat Design Code, however it was noted that solar access to some rooms now relies on relatively deep light wells that provide light to corner windows. All units are oriented north, but the floor plan footprint design needs further consideration to improve amenity to these units.

A two (2) storey retail façade to the Old Princes Highway could be considered, however, this would be contrary to the single storey façade referred to in SSDCP 2006. A two storey façade would provide a better proportion of 2:3 to the street rather than 1:4. There may be other ways to strengthen the proportion of the base of the building through design details and materials rather than moving to two (2) full storeys at the street frontage.

It was also suggested that the entire building be relocated 2.0 metres to the north to lessen shadowing impact and widen the area available for street trees. If this was done there would need to be some adjustments to preserve the existing tree located near the north-eastern corner of the site. Such an approach would also represent a departure from SSDCP 2006 and on balance it may be better to investigate ways to accommodate street trees through clever use of the space available in the road reserve and the design of the awning over the footpath.

### Density

The scheme is an ambitious attempt to provide a densely developed floor plan that complies with the Residential Flat Design Code. This approach means that density and amenity issues need to be resolved, such as the floor plan issues noted above.

### Resource, Energy and Water Efficiency

Little information had been supplied at this stage and it is expected that these issues will be integrated into the design as it develops. The proposal enjoys good orientation and potential for solar applications for hot water and photovoltaics.

The provision of rainwater tanks should be incorporated for landscape maintenance, car washing etc.

### Landscape

The separate portion of the site located on the northern side of Toms Lane has good potential for an urban forest treatment that would make a significant contextual contribution to the development. A wide range of local tree species could be employed. The landscaped area and car parking need to be clearly defined with kerbing and low walling so that cars are excluded from this area.

The planter box to the northern side of the ground floor communal area should be deleted as it tends to enclose this space too much. Instead, the southern planter bed should be increased in width to provide privacy for the adjacent ground floor units.

Reducing the floor level of the communal area by between 300 mm and 600 mm would also improve privacy to the private courtyards. The current 1.8 metre high fence (1.0 m

planter and 0.8 metre high glazed screen) could then be lowered to reduce the sense of enclosure and provide views out of these spaces.

The provision of private outdoor drying units, concealed behind screens or translucent balustrades, could also be considered and this would free up the convoluted space presently allocated for communal drying. This space could then be added into the private courtyards to the ground floor apartments.

#### Amenity

The amenity of rooms located at the rear of the recessed light wells is a concern that should be reconsidered. Ground floor corridors could also be replanned to reduce length and glare from glazing at the northern entry. The Panel feels that the character of the deep recesses to the residential entries from the street is poor and that these spaces form an entrapment point. The design of these spaces should be reconsidered.

#### Safety and Security and Social Dimensions

The Panel generally had few concerns with these issues. It was noted that the ground floor residential entry should be separated for the commercial area and not deeply recessed, as mentioned above.

#### Aesthetics

There has not yet been a formal submission for proposed colours and materials, however, it is recommended that these be integrated into the proposal once massing and proportions have been finalised. It was emphasised that inexpensive materials could provide an acceptable outcome if handled correctly. Although Engadine is not an “upmarket” area for unit development, high standards of design, planning and amenity are still expected.

#### **Recommendation/Conclusion:**

The present proposal represents further development of the previous scheme. While some detailed comments have been provided by the Panel, it is also felt that there are still some basic issues to be resolved. This comment was also noted in the previous ARAP notes when a previous version of this concept was considered.

Generally these relate to amenity issues associated with the unit and floor plate planning as well as the further development in three dimensions of elevational proposals for the street and northern elevation. In the case of both elevations the Panel feels that while the elevations appear successful when viewed in two dimensions, they are less convincing when considered in three dimensions. The use of working models is recommended at all stages of the design development in order to produce a scheme that could be supported on the grounds of design excellence.”

Colleen Baker  
ARAP Coordinator

07 July 2010

## Summary of objections

Address	Date of Submission	Issue No. (see list of Issues below)
5/10 Toms Lane Engadine	26 October 2010	1
989 Old Princes Highway Engadine	26 October 2010 4 November 2010	1 and 8 1, 2, 4, 6 and 10
987 Old Princes Highway Engadine	4 November 2010	1 and 4
RMB 16 Kelton Pl Engadine-	5 November 2010	1
11/998 Old Princes Highway Engadine	8 November 2010	1, 2 and 3
4/998 Old Princes Highway Engadine	11 November 2010	1, 2, 3, 4 and 8
23/998 Old Princes Highway Engadine	12 November 2010	5 and 8
962 Old Princes Highway Engadine	9 November 2010	1 Also asked for change in street parking restrictions from 2 hr to 1 hr
15 Nolan Ave Engadine	10 November 2010	1, 3, 7, 10 and 11 Also asked for retention of gate to back lane and that a dilapidation report be done
17 Nolan Ave Engadine	9 November 2010	1, 2, 3 and 11
2/110-112 Wilson Pde Heathcote	22 November 2010	1, 2 and 3
8 Sierra Rd Engadine	10 December 2010	1, 2 and 8
67 Caldarra Ave Engadine	9 December 2010	1, 2 and 8
104 Thurlgona Rd Engadine	9 December 2010	1 and 2
16 Broulee Place Engadine	8 December 2010	2 and 8
16 Stephen Rd Engadine	13 December 2010 30 December 2010	2 and 8
35 Porter Rd Engadine	4 January 2011	1 and 2

Issue 1: Parking, servicing and traffic

Issue 2: Height

Issue 3: Privacy

Issue 4: Overshadowing

Issue 5: View loss

Issue 6: Site contamination

Issue 7: Property value

Issue 8: Changing character and amenity of area

Issue 9: Affect on breezes

Issue 10: Construction impacts

Issue 11: Works on land adjoining houses to rear

## **Architectural Review Advisory Panel**

Proposal:

**Mixed Commercial Residential Development - Demolition of Existing Buildings and Construction of a Mixed Commercial and Residential Development including Basement Parking and 38 Lot Strata Subdivision**

Property:

**971-975 Old Princes Highway ENGADINE NSW 2233**

Applicant:

**Conquest Constructions (NSW) Pty Ltd**

File Number:

**DA10/1008**

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The following is the report of the Architectural Review Advisory Panel Meeting held on 28 October 2010 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

### **"3. Consideration of Development Application No. 10/1008 – Residential Flat Building at 971-975 Old Princes Highway, Engadine**

Council's Andrew Conacher, Christine Edney and Ian McPherson outlined the proposal, including providing details of Council's relevant codes and policies.

Wayne Bentley, Steve Waters, Scott Ibbotson, John Curtis, Sue Deas and John Cooley addressed the Panel regarding further development of the proposal and how they have addressed the concerns raised by the Panel at the previous meeting.

This report has been prepared for consideration by the Joint Regional Planning Panel (JRPP).

#### Development History

This project has been formally presented to the Panel on several occasions, resulting in informal meetings with Council officers where issues identified by the Panel have been further explored. There has been a positive response from the applicant to the comments from the Panel. Consequently the scheme has developed further prior to development application submission.

#### Description of the Site

During the site inspection it was observed that the subject site consists of an amalgamation of five lots and is divided into two separate parcels of land separated by Tom's Lane, which forms the northern boundary of the major portion of the site.

The southern boundary abuts the Old Princes Highway and the site falls towards the north. Residential development adjoins the site to the north because the subject site defines the end of the commercial area.

Information was supplied by Council officers explaining that the site is within Zone 8 -

Urban Centre under SSLEP 2006. This zoning allows for mixed residential, retail and commercial uses and this proposal is permissible with development consent.

### Description of Proposal

The architect advised that the proposal consists of a mixed development of five storeys including 69 car parking spaces, 34 units and four (4) commercial tenancies.

### Context

The Panel noted that the adjacent residential flat/retail development to the south has been developed in accordance with the planning controls which also apply to the subject site. These controls permit a maximum height of three (3) storeys. Two (2) alternative schemes have been considered for the subject site and presented to ARAP (ie a three (3) storey development with a larger footprint and the present scheme that is for five (5) storeys and includes a smaller “footprint”). It was in response to comments from ARAP that the applicant pursued the option of reducing the footprint of the building and building a taller structure.

In the latter case, the Panel has previously commented that the scheme will set a precedent and will need to exhibit “design excellence”. The applicant has argued that the current proposal meets or exceeds the requirements of the Residential Flat Design Code’s “rules of thumb”, as well as Council’s numerical standards, and that this indicates that design excellence has been achieved.

The Panel suggests that these two matters, alone, do not constitute building design and must be extended to include the full range of architectural principles including urban context, scale, proportion, built form and aesthetics. Being such a “landmark” building, the submission should have demonstrated how “design excellence” has been achieved in all of these areas. There is also a concern that previous Panel comments have been applied too literally in this case i.e. possibly without detailed consideration of the underlying principles referred to and the resulting range of associated design options.

As well as Residential Flat Design Code and SSDCP 2006 compliance, the following qualities of the development need to be demonstrated:

- Appropriate response to site, context, scale, setback, streetscape and ESD issues.
- Impact on public domain.

Of principal concern are the proportions and scale of the street facade and awning, which were discussed as follows:

- Width of 3.3m high street awning at 2.0 metres - this is not sufficient width to provide weather protection to pedestrians given southern exposure?
- Height of street facade - it was noted that the previous scheme included a single storey facade. The 2 storey proposal, as presented, appears out of scale with the street and could unnecessarily impinge on the amenity of the apartments close behind at first floor level.
- Further submission - as this is an important streetscape element it is suggested that further design resolution be supplied on materials, finishes,



colours and architectural detail. This could be expanded to indicate how all the building facades could be treated.

### Scale

The Panel notes that the proposal's height is considerably greater than the relevant Council controls and surrounding development and needs to be assessed relative to the future desired character of the area. This increased height was in response to comments from the Panel when it viewed a shorter but bulkier building. That earlier option produced privacy impacts for the adjoining residential properties to the north. This five (5) storey solution concentrates development to the south.

The Panel discussed the impact of the increased overall height of the building and noted that this element of the design has increased the flexibility for producing a superior design and consequently increased the Panel's expectations of the design.

The Panel also questioned the two storey scale of the colonnade which presents the aesthetic qualities of a two storey commercial component below the residential floors. In fact, there is only one level of commercial space below the residential floors and therefore, correct aesthetics would require the colonnade to be single storey.

### Built Form

The Panel notes that the building form has been heavily articulated on the northern elevation to reduce the appearance of bulk and scale and allow good solar penetration to all units. The southern (street) elevation has also been articulated to provide modelling, visual interest and a rhythm to the streetscape.

It is noted that the two (2) tower form will not be readily visible from the street, although the building's location along a ridge line means that the building form could be read from both nearby and distant viewpoints. Generally, the distance between these sections is small and they are relatively short.

### Density

The applicant advised that due to the site's characteristics and properties it is difficult to achieve the maximum floor space ratio but that the current scheme, with a reduced 'footprint' and additional storeys, provides better amenity to all units than previous schemes. Consequently the density is accepted as being satisfactory.

### Resource, Energy and Water Efficiency

The applicant advised that the proposal exceeds the BASIX requirements and that various features such as gas boosted solar hot water supplied to all units, provision of water tanks for recycling and sensor activated energy efficient lighting have been incorporated into the design.

The Panel suggests that the proposed 10,000 litre water tank be doubled in capacity as there is ample collection area and the podium landscaping will require additional watering as well as the buffer planting to the north.

### Landscape

The proposed landscape treatment to the portion of the site located north of Tom's lane is considered to be very successful. This area and the landscaping on the north-eastern

corner of the building combine to provide a substantial landscaped area that offsets the scale and bulk of the proposed building. There is a wide species selection which offers good diversity and a range of habitat opportunities. Low walls should be used as an edge treatment to Tom's Lane to prevent vehicles parking in this area and to provide a clean edge to the planting areas adjoining the lane.

The selection of a local rainforest species (*Diploglottis australis*) for use as a street tree on the southern side of the building was discussed. The applicant advised that this species would grow straight with a high crown and would not interfere unnecessarily with the footpath or awning.

Changes made to relocate the community drying area and private courtyards have now achieved better amenity for residents.

Clotheslines in courtyards 1 and 20 should be located away from table locations and plantings between courtyards 3 and 18 presently do not provide sufficient privacy. In this case screening or denser planting is recommended.

Previous ARAP comments have now been incorporated and the landscape outcome is very good. An alternative selection to *Crinum pendiculatum* is suggested as this species is very subject to caterpillar destruction.

#### Amenity

The applicant advised that the proposed residential apartments have good overall amenity, especially regarding solar access and natural ventilation. A wide range of unit types and layouts are offered and accessible units are provided in 1, 2 and 3 bedroom formats.

The commercial premises are designed to allow good levels of visibility and access for shoppers.

#### Safety and Security

The Panel considers that the proposal offers good safety and security to residential and commercial users of the building and does not contribute to a loss of these qualities in adjacent public areas.

#### Social Dimensions

The applicant advised that there is an appropriate mix of 1, 2 and 3 bedroom units. Engadine provides housing which is more affordable and this project seeks to satisfy a wide range of demand.

#### Aesthetics

Particularly in a 'monolithic' painted concrete structure as presented, resolution of construction detail is critical to the building's appearance. In addition to the current submission to Council the applicant is encouraged to prepare a drawing showing how material, junctions, control joints, colours and finishes will be handled.

The use of dark, sombre colours as proposed on the south façade (which will be in shadow for most of the year) is questionable in this main street location.

Attention is required to the specific details of the eastern and western boundary walls, which will be exposed until abutting development proceeds.

### **Recommendation/Conclusion:**

As a design principle, the Panel accepts that a five (5) storey solution has the potential to produce a superior design that will have less impact on adjoining residential properties to the north. As this site is located on one of the main entrances into Engadine, a building that has a five (5) storey component will add interest to the streetscape.

The major issue for discussion remains that of design excellence, which is required to support the application for additional storeys. The submission of further information outlining how design excellence has been achieved is recommended.

As there has been a long period of dialogue which has allowed many issues to be identified and resolved, the proposal is now superior to what was initially proposed and general support is justified. However, some additional improvements can be made and these should be covered by conditions.

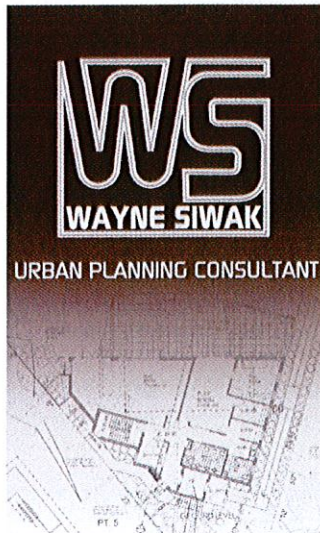
The street facade/awning treatment remains an issue of concern. The Panel made a negative comment about the previous design but the new design has not demonstrated a satisfactory understanding and resolution of the design issues including:

- Adequate weather protection to pedestrians
- Maximising available light and airiness to generally shaded street
- Integration of street trees into awning design
- Provision of light and openness to 1<sup>st</sup> floor apartments
- Use of higher quality materials adjacent to public areas
- expression of entry /address points
- Signage provision for future street level commercial/retail tenants
- Night time footpath illumination

This element requires a redesign.”

Colleen Baker  
ARAP Coordinator

17 November 2010

**Wayne Siwak****P:** (02) 9644 5420**M:** 0419 634 435**F:** 9743 8513**E:** [wsiwak@optusnet.com.au](mailto:wsiwak@optusnet.com.au)**Postal Address:** 26 Brennan Street Yagoona NSW 2199**STATE ENVIRONMENTAL PLANNING POLICY NO 1 OBJECTION  
'DEVELOPMENT STANDARDS' (Building Height)****Proposed Development**

Demolition of existing structures and construction of a mixed commercial and residential development including basement car parking and landscaping on the subject site

**Subject Site**

Part Lots C DP 29930, Lot D DP 29930, Part Lots 2, 3 and 4 DP 100517 Nos 971-975 Old Princes Highway Engadine

**Submission to**

Sutherland Shire Council

**Architect for the project**

Bentley Architects

**Prepared on behalf of**

Conquest Constructions (NSW) Pty Ltd

**Date**

September 2010

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## INTRODUCTION

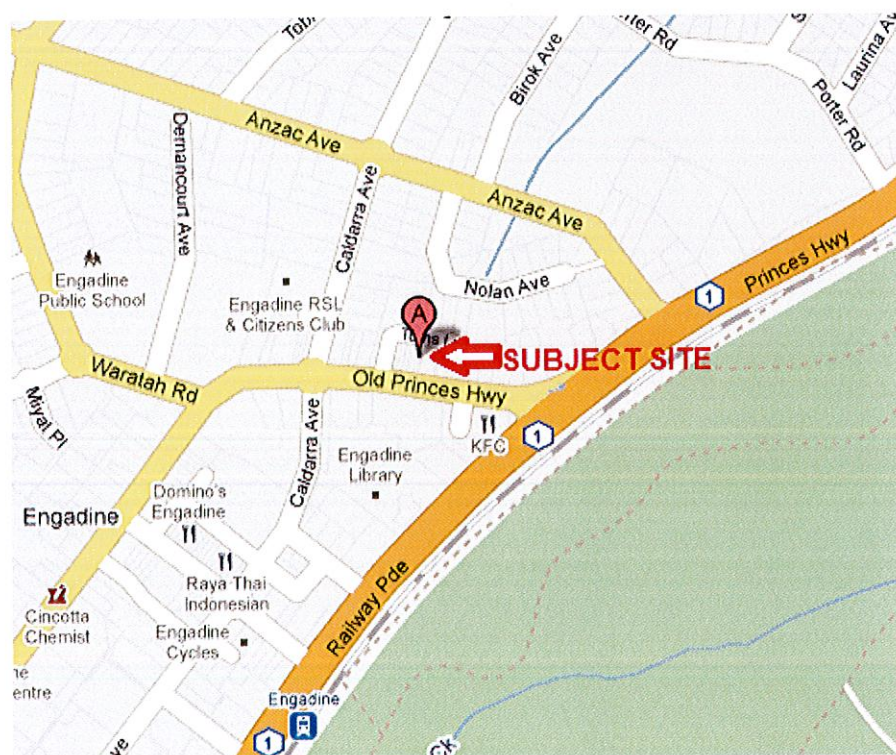
A State Environmental Planning Policy No 1 Objection 'Development Standards' (SEPP No 1) is a State Policy that can be used by an applicant of a Development Application to seek variation of a development standard contained within an environmental planning instrument.

This State Environmental Planning Policy No 1 Objection, an objection to a development standard, has been prepared in conjunction with a Development Application to Sutherland Shire Council for the 'demolition of existing structures and construction of a mixed commercial and residential development, including basement car parking and landscaping' on the subject site. The State Environmental Planning Policy No 1 Objection requests variation to Clause 33(8)(b)(ii) – Building Height standard under Sutherland Shire Local Environmental Plan 2006.

## SITE LOCATION AND CONTEXT

The site is located within the Local Government Area of Sutherland and, in a metropolitan context the subject site is situated approximately 30km south from the Sydney Central Business District. The site is situated within the Engadine Town Centre. The site is located on the northern side of Old Princes Highway between Toms Lane and Princes Highway. The area consists of commercial, retail, medical, service station, dwellings, multi-unit mixed commercial and residential developments of varying height and scale. It is considered that the proposed development is in keeping with the existing and likely future development of the surrounding area. Refer to location map below.

### Location Map



Source: Google Maps 2010

## **SITE INFORMATION**

### The Site

The site is described as Part Lots C DP 29930, Lot D DP 29930, Part Lots 2, 3 and 4 DP 100517 Nos 971-975 Old Princes Highway Engadine. The subject site consists of five (5) lots that are proposed to be amalgamated if development approval is granted for the proposed development. The subject site contains two (2) parcels of land that are separated by Toms Lane. The larger parcel of land which consists of lot D DP29930 and Part Lots 2, 3, and 4 DP100517 is located on the southern side of Toms Lane along Old Princes Highway and is basically a rectangular shaped parcel of land with a total site area of 2100.0 square metres. The site has frontage to Old Princes Highway of 54.57metres, side boundaries (eastern) of 39.62 metres, (western) of 39.745 metres and rear boundary (northern) of 51.44 metres. It contains an existing plant nursery (Engadine Plantation Garden Supplies) and auto electrician (Engadine Auto Electrics). The smaller parcel of land (Part Lot C DP29930) is located on the northern side of Toms land and has a site area of 414.0 square metres. This parcel of land is vacant and is used as a car parking area for the employees of the plant nursery. The subject site has direct street frontages to Old Princes Highway and Toms Lane. The total site area is 2514.0 square metres.

### Landform and Topography

The site has an approximate fall of 3.5 metres to the north and there is no significant cross-fall from west to east. A Survey Plan of the site has been prepared by a Registered Surveyor – ‘Stutchbury Jaques Pty Ltd Land Surveying Consultants’. Refer to Survey Plan attached with Development Application.

### Orientation and Climate

The subject site is oriented north-south. The prevailing winds come from the north-west in the morning and cool pleasant winds come from the east-north/east in the afternoon during summer.

### Utility Services

All utility Services are available to the site, which includes, water, electricity and phone and appropriate arrangements will be made with the Service Authorities.

### Existing Development

The subject site consists of five (5) lots. The site contains two (2) parcels of land that are separated by Toms Lane. The larger parcel of land that is located on the southern side of Toms Lane along Old Princes Highway contains an existing plant nursery (Engadine Plantation Garden Supplies) and an auto electrician (Engadine Auto Electrics). The smaller parcel of land that is located on the northern side of Toms land is vacant and is used as a car parking area for the employees of the plant nursery. All structures on the subject site will be demolished to accommodate the proposed development.

Refer to aerial photo of the subject site below.



### Aerial Photo



*Source: Google Earth – Imagery dated Jan 20, 2007*

It should be noted that the architect for the project has provided a 'Photo Study' of the subject site and adjoining developments. Refer to 'Photo Study' – Drawing No 13 attached with Development Application. Also a reduced copy of the 'Photo Study' – Drawing No 13 is attached and can be found in **Annexure 1** of the Statement of Environmental Effects.

### Existing Vehicle and Pedestrian Access

The subject site contains a number of vehicular driveways from Toms Lane and Old Princes Highway. Pedestrian access to the existing plant nursery and auto electrician for customers is directly from Old Princes Highway.

### **SUMMARY OF PROPOSAL**

The proposal consists of the following:

- The development proposes 'demolition of existing structures and construction of a mixed commercial and residential development including basement car parking and landscaping' on the subject site.
- All structures on the subject site will be demolished.
- The development proposes the construction of one (1) building. The building is basically a TT shaped structure. The TT shape design is preferred as it will allow for all of the residential units living areas to have northern aspects and therefore providing for good solar access. Also the TT shape design will allow a large north facing communal open space area to be provided on the ground floor; it will

provide north facing principal private open space areas for all units and will provide north facing landscaping areas at the rear of the building.

- The building will be a maximum five (5) storeys in height (including roof-top penthouses). The building will consist of two (2) levels of basement car parking, ground floor commercial suites and residential units, and residential units on levels 1- 4.
- The floor to ceiling height for the commercial area will be 3.0 metres and the residential will be 2.7 metres.
- The development proposes four (4) ground floor commercial suites and thirty four (34) residential units (6 units on ground floor and 28 above).
- The development will contain the following on each level:

Northern Parcel of Land (north side of Toms Lane – Area: 414sqm)

- 5 visitor car parking spaces (paved)
- Landscaping area

Southern Parcel of Land (along Old Princes Highway – Area: 2100sqm)

Lower Basement Level

- 33 resident car parking spaces/25 garages including 5 disabled/adaptable spaces
- 4 resident bicycle racks
- Separate secured storage areas 6.0 cubic metres - 18.0 cubic metres for residential units 10-34
- Stairs
- Two (2) residential lifts to the upper levels

Upper Basement Level

- 13 commercial car parking spaces and 2 visitor spaces including 2 disabled visitor spaces
- 16 resident car parking spaces/9 garages including 2 disabled/adaptable spaces
- 1 motor bike space
- 9 bicycle racks
- Stairs
- Pump room
- Electrical room
- Shared zone
- Basement exhaust fan room
- Residential garbage storage room
- Commercial garbage storage room
- Separate secured storage areas 6.0 cubic metres - 20 cubic metres for residential units 1-9
- Commercial lift to ground floor commercial suites
- 2 residential lifts to the upper levels
- External deep soil landscaping areas
- External garbage and delivery bay
- External carwash bays (2 spaces)
- Driveway from Toms Lane



### Ground Floor

- 4 commercial suites
- Unisex toilets
- Residential and commercial lobby areas
- Stairs
- 3 lifts
- Communal open space area of 166.0 square metres
- External clothes drying area
- Residential units 1, 2, 3, 18, 19 & 20 – are all adaptable units
- Private courtyards for residential units

### First Floor

- 8 residential units Nos 4, 5, 6, 7, 21, 22, 23 & 24
- Lobby areas
- 2 lifts
- Stairs
- Balconies and terraces

### Second Floor

- 8 residential units Nos 8, 9, 10, 11, 25, 26, 27 & 28
- Lobby areas
- 2 lifts
- Stairs
- Balconies

### Third Floor

- 8 residential units Nos 12, 13, 14, 15, 29, 30, 31 & 32
- Lobby areas
- 2 lifts
- Stairs
- Balconies

### Fourth Floor Level (roof-top penthouses)

- 4 residential units Nos 16, 17, 33 & 34 (including adaptable unit No 33)
- Lobby areas
- 2 lifts
- Stairs
- Terraces

- The size of the commercial suites are as follows:
  - Suite No 1 = 93.0sqm
  - Suite No 2 = 80.0sqm
  - Suite No 3 = 82.0sqm
  - Suite No 4 = 88.0sqm
- All units will contain bedroom/s, living and dining rooms, bathroom, a kitchen, laundry, built in robes, and the 3 bedroom units will have an ensuite off the master bedroom. All units are single level with zoned living and sleeping areas. There are 30 (88%) cross-through units which are naturally cross ventilated.

- The size and number of bedrooms for the residential units are as follows:
  - Unit No 1 = 77.0sqm 1 bedroom (adaptable unit)
  - Unit No 2 = 58.0sqm 1 bedroom (adaptable unit)
  - Unit No 3 = 93.0sqm 2 bedroom (adaptable unit)
  - Unit No 4 = 86.0sqm 2 bedroom
  - Unit No 5 = 83.0sqm 2 bedrooms
  - Unit No 6 = 83.0sqm 2 bedrooms
  - Unit No 7 = 83.0sqm 2 bedrooms
  - Unit No 8 = 86.0sqm 2 bedrooms
  - Unit No 9 = 83.0sqm 2 bedrooms
  - Unit No 10 = 83.0sqm 2 bedrooms
  - Unit No 11 = 83.0sqm 2 bedrooms
  - Unit No 12 = 86.0sqm 2 bedrooms
  - Unit No 13 = 83.0sqm 2 bedrooms
  - Unit No 14 = 83.0sqm 2 bedrooms
  - Unit No 15 = 83.0sqm 2 bedrooms
  - Unit No 16 = 105.0sqm 3 bedrooms
  - Unit No 17 = 104.0sqm 3 bedrooms
  - Unit No 18 = 93.0sqm 2 bedrooms (adaptable unit)
  - Unit No 19 = 58.0sqm 1 bedroom (adaptable unit)
  - Unit No 20 = 76.0sqm 1 bedroom (adaptable unit)
  - Unit No 21 = 83.0sqm 2 bedrooms
  - Unit No 22 = 83.0sqm 2 bedrooms
  - Unit No 23 = 83.0sqm 2 bedrooms
  - Unit No 24 = 83.0sqm 2 bedrooms
  - Unit No 25 = 83.0sqm 2 bedrooms
  - Unit No 26 = 83.0sqm 2 bedrooms
  - Unit No 27 = 83.0sqm 2 bedrooms
  - Unit No 28 = 83.0sqm 2 bedrooms
  - Unit No 29 = 83.0sqm 2 bedrooms
  - Unit No 30 = 83.0sqm 2 bedrooms
  - Unit No 31 = 83.0sqm 2 bedrooms
  - Unit No 32 = 83.0sqm 2 bedrooms
  - Unit No 33 = 106.0sqm 3 bedrooms (adaptable unit)
  - Unit No 34 = 104.0sqm 3 bedrooms

Total = 4 x 1 bedroom, 26 x 2 bedroom & 4 x 3 bedroom
- All units will contain a courtyard, balcony or terrace. The size of the principal private open space areas varies from 12.0 square metres to 92.0 square metres.
- The balconies will have a minimum width of 2.5 metres.
- A large communal open space area of 166.0 square metres will be provided on the ground floor. The communal outdoor area is appropriately located (orientated north) and will receive sunlight most of the day which is highly desirable. The communal outdoor area will be equipped with seating, tables and a BBQ and will be used by residents of the complex for relaxation and dining.
- The main pedestrian access to the building for the commercial suites and residential units will be directly from the Old Princes Highway Street frontage.

- All vehicular access to the site will be via Toms Lane. No vehicular access will take place from Old Princes Highway.
- A total of sixty nine (69) car parking spaces are proposed for the development. Forty nine (49) resident car parking spaces (including 7 disabled/adaptable spaces), seven (7) visitor car parking spaces (including 2 disabled spaces) and thirteen (13) commercial spaces will be provided for the development. Each residential unit and commercial suite will be allocated appropriate car parking spaces. A security gate with intercom system will be provided at the entrance to the basement car parking areas.
- The development will provide seven (7) adaptable units (Nos 1, 2, 3, 18, 19, 20 & 33) and the units will comply with AS 4299-1995-Adaptable Housing. The development will provide seven (7) disabled/adaptable car parking spaces for the adaptable units within the lower level and upper level basement car parking areas.
- One (1) motor cycle space will be provided on upper basement level adjacent to commercial car space Number 9.
- Bicycle storage racks for thirteen (13) bikes have been provided in the basement levels.
- A garbage, loading/unloading and car wash (2 bays) area will be provided on the upper basement level at the rear of the building.
- Separate garbage storage rooms for the residential and commercial components of the development will be provided on the upper basement level. The garbage facilities are conveniently located and will not compromise the amenity of adjacent properties.
- In accordance with Council's requirements secured storage areas of 6.0 – 20 cubic metres will be provided for each residential unit within the basement levels. Also storage cupboards have been incorporated into the design of the units.
- Three (3) lifts will be provided for the development from the lower basement level to the upper floors. All apartments will have lift access and all common and public areas are disabled accessible.
- The residential units will be provided with an internal mechanical clothes-drying unit. Also a communal clothes drying area will be provided on the ground level and this area will be adequately screened from public view.
- An awning will be provided along the Old Princes Highway frontage.
- Water harvesting will be provided in accordance with the BASIX requirements. A 10000L water tank will be provided for the development.

A reduced copy of the plans for the proposed development is attached and marked **Annexure 1** in the Statement of Environmental Effects.

Refer to Photomontage below showing proposed development.

### Photomontage

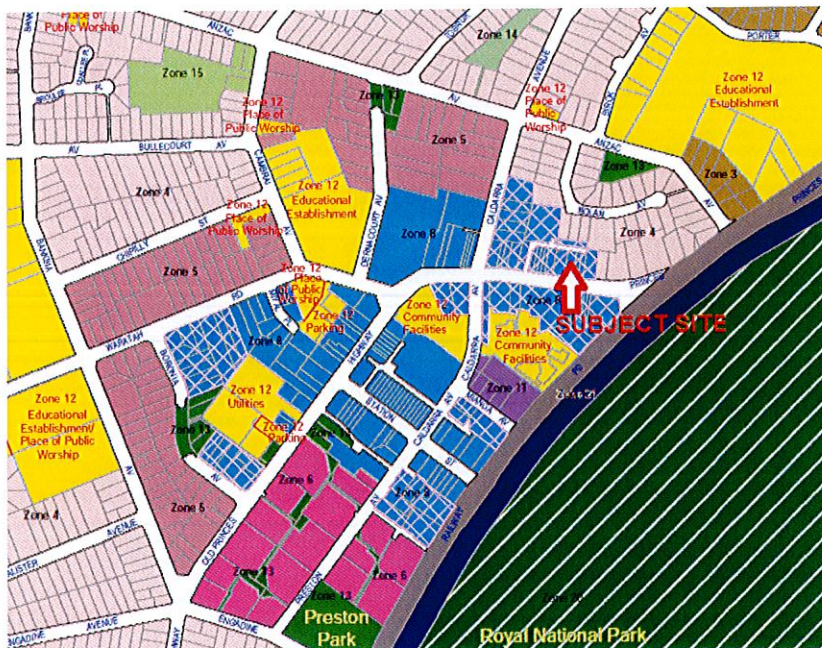


### ZONING OF THE SUBJECT SITE

#### Sutherland Shire Local Environmental Plan 2006

The subject site is located in 'Zone 8 – Urban Centre' under Sutherland Shire Local Environmental Plan 2006. Refer to figure below.

#### Zoning Map



Source: Sutherland Shire Local Environmental Plan 2006 Zoning Maps – Map 17



## Clause 11 – Zoning table

The No '8 – Urban Centre' Zone of Sutherland Shire Local Environmental Plan 2006 contains the following land use table:

### **2 Development allowed without consent**

Development for the purpose of drainage

Exempt development.

### **3 Development allowed only with consent**

Development (other than development included in item 2) for the purpose of:

*advertisements, arts and crafts centres, awnings, backpackers' accommodation, boarding houses, bulky goods premises, business identification signs, business premises, car parks, childcare centres, community facilities, convenience stores, educational establishments, entertainment facilities, food shops, hotels, medical facilities, **mixed use premises**, motels, motor showrooms, nightclubs, passenger transport facilities, places of assembly, places of public worship, railways, recreation areas, recreation facilities, registered clubs, residential flat buildings (but only on land identified on the map for such a purpose), restaurants, roads, seniors housing, service stations, service support industries, sex shops, **shop-top housing**, shops, tourist facilities, tourist information centres, utility installations (except for gas holders or generating works), vehicle rental centres, veterinary hospitals.*

Demolition not included in item 2.

### **4 Prohibited development**

Any development not included in item 2 or 3.

Mixed use premises and shop-top housing are all permissible within the No 8 – Urban Centre Zone subject to consent.

## **RELEVANT ENVIRONMENTAL PLANNING INSTRUMENT**

The Environmental Planning Instrument, which specifies the development standard, is Sutherland Shire Local Environmental Plan 2006.

## **DEVELOPMENT STANDARD**

The 'Building Height-Number of Storeys' standard at Clause 33(8)(b)(ii) of Sutherland Shire Local Environmental Plan 2006 is not framed as a prohibition. Clause 8(3) (a) of Sutherland Shire Local Environmental Plan 2006 indicates that Clause 33(8)(b)(ii) – relating to the 'Building Height-Number of Storeys' is a development standard and not a prohibition. Therefore a State Environmental Planning Policy No 1 Objection can be considered by Council for variation of this development standard.

The State Environmental Planning Policy No 1 Objection seeks variation to Clause 33(8)(b)(ii) of Sutherland Shire Local Environmental Plan 2006. The development standard embodied in Clause 33(8)(b)(ii) requires the development to conform to the following control:

*A building on land in Zone 8 – Urban Centre must not comprise more than 3 storeys.*

## **VARIATION TO DEVELOPMENT STANDARD SOUGHT**

The development standard to be varied is to permit the ‘demolition of existing structures and construction of a mixed commercial and residential development, including basement car parking and landscaping’ on the subject site. A building height of not more than 3 storeys is permitted for the development. The proposed development will contain a 5 storey building (including roof-top penthouses) on the subject site.

## **UNDERLYING OBJECT OR PURPOSE OF THE STANDARD**

In determining whether a development standard should be varied to permit the granting of development consent, it must be demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, having regard in particular to the stated and underlying objectives of the standard (if listed), the general aims and zoning objectives of the planning instrument, and the objectives of the Environmental Planning and Assessment Act 1979.

The objectives of this control are as follows:

- (a) *to ensure the scale of buildings:*
  - (i) *is consistent with the desired scale and character of the street and locality in which the buildings are located, and*
  - (ii) *complements any natural landscape setting of the buildings,*
- (b) *to allow reasonable daylight access to all buildings and the public domain,*
- (c) *to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) *to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*
- (e) *to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings on land in those zones.*
- (3) *The consent authority must not consent to development for the purpose of a building unless it has considered the objectives of this clause.*

## **STATE ENVIRONMENTAL PLANNING POLICY NO 1 OBJECTION**

Pursuant to State Environmental Planning Policy No 1 – Development Standards, Council may consent to a variation to the ‘Building Height-Number of Storeys’

standard. Whilst it is generally accepted that any variation should represent a minor 'departure', minor can be expressed in numerical terms or, alternatively, expressed in terms of the impact such departure will have in the area. That is to say that there are circumstances where a numerical departure may result in a 'negligible' or 'minor' impact in terms of the proposal and the existing surrounding development. In this case the variation sought is considered acceptable as the proposed building height will not adversely impact on the amenity of the area.

In support of the application for the 'demolition of existing structures and construction of a mixed commercial and residential development, including basement car parking and landscaping' on the subject site, we hereby **formally object** pursuant to State Environmental Planning Policy No 1 to the provisions of Clause 33(8)(b)(ii) – 'Building Height-Number of Storeys' standard of Sutherland Shire Local Environmental Plan 2006 on the basis that the development standard is, in this particular case, **unreasonable and unnecessary** and that the State Environmental Planning Policy No 1 Objection is well founded.

The basis of the Objection is as follows:

- The proposed development satisfies the objectives of the control.
- The proposed smaller building envelope and building height will reduce the bulk and scale of the development.
- The proposed smaller building envelope with a 5 storey building height will provide a superior design and will benefit the proposed residential units in terms of improved solar access and natural ventilation.
- The proposed building height provides a better solution for the site.
- The variation will not adversely impact on the amenity of the surrounding area in terms of solar access and privacy.
- The proposed development will not adversely impact on the streetscape.
- The proposed development complies with Council's maximum floor space ratio control.
- The development satisfies the general Aims of Sutherland Shire Local Environmental Plan 2006.
- The development satisfies the Objectives of the Zone under Sutherland Shire Local Environmental Plan 2006.
- The development satisfies the Objectives of the Environmental Planning and Assessment Act, 1979 (as amended).
- The departure will not set any undesirable planning precedent in the locality due to the fact that Council should consider each application on its merits.

- No matters of State or Regional significance are raised to the variation of the standard.
- The proposed development will have a positive effect on the social and economic environment.
- The proposed development incorporates the principles of *Design Excellence* and the high quality design will positively contribute to the character of the Engadine Town Centre.
- Compliance with the Building Height standard would hinder the attainment of the objects specified in Sections 5(a)(i) and 5(a)(ii) of the Environmental Planning and Assessment Act 1979.

On this basis, Council's consent to the proposed Development Application and variation to its 'Building Height-Number of Storeys' standard is sought.

#### **OBJECTS SPECIFIED IN SECTIONS 5(a)(i) & (ii) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

The objects of the Act are:

5(a)(i) – to encourage the proper management, development and conservation of natural and man-made resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purposes of promoting the social and economic welfare of the community and a better environment.

5(a)(ii) – to encourage the promotion and coordination of the order and economic use and development of land.

Compliance with the Building Height-Number of Storey's standard would hinder the attainment of the above objects of the Act in that:

- The proper development of man-made resources that is compatible with the character, height, bulk and scale of existing and likely future mixed commercial and residential development in the Engadine Town Centre and recognises the site's location (within Engadine Town Centre) and accessibility to shopping facilities, public transport, education facilities, medical facilities, and a variety of natural and man-made recreational facilities would be hinder or be discouraged.
- It would frustrate or even prevent the development of a high quality mixed commercial and residential development on the subject site. The social and economic welfare of the community would not be promoted as it would prevent the construction of a high quality and energy efficient development that would cater for the needs of the local community that currently has good access to public transport, recreational facilities, shopping, education and medical facilities.
- The co-ordination of the orderly and economic use and development of land would be discouraged as it would prevent the construction of a high quality development in an established area with very good access to existing services and infrastructure.



- It would discourage economic growth and employment opportunities in the area in particular the Engadine Town Centre.
- It would discourage the attainment of the State Government's Urban Consolidation objectives.
- It would discourage the State Government's objectives for the provision of high quality and energy efficient residential developments as required in State Environmental Planning Policy No 65 – 'Design Quality of Residential Flat Development'.
- It would hinder the positive contribution to the housing stock of the Sutherland Shire Local Government Area.

*It is considered that the proposed mixed commercial and residential development provides for the proper management of the subject site and the orderly and economic use of the land in accordance with the intentions of the zoning and the objectives of the Environmental Planning and Assessment Act 1979.*

## REASONS FOR VARIATION

The Objective of State Environmental Planning Policy No 1 is to provide flexibility in the application of planning controls where strict compliance would be **unreasonable or unnecessary**.

In this instance, compliance with the development standard is **unreasonable and unnecessary** for the following reasons:

### **The proposed development satisfies the objectives of the control**

The objectives of this control are as follows:

- (a) *to ensure the scale of buildings:*
  - (i) *is consistent with the desired scale and character of the street and locality in which the buildings are located, and*
  - (ii) *complements any natural landscape setting of the buildings,*

#### Comment:

The proposed development is designed to be in character and harmony with the type and scale of existing and likely future development in the Town Centre. The proposed bulk and scale of the proposed building is appropriate in terms of height and scale in relation to the street and surrounding development (2-4 storey residential buildings north of the site & 3 storey mixed commercial & residential building south). The building is very well proportioned and would not adversely compromise the general character of the streetscape and surrounding area. The built form expresses the different uses of the building and reads as a mixed commercial and residential development in the Engadine Town Centre. It is considered that the proposed development will promote a design that is in character with the surrounding area. The surrounding area is undergoing a transition (eg recent mixed commercial & residential development at 990 Old Princes Hwy). The intended scale is appropriate for the subject site and its future character, whilst also being considerate of future adjacent

development. The proposal has responded to the desired future character of the area by proposing a building that is 5 storeys (including roof-top penthouses) in height. It should be noted that the existing multi-unit residential development to the north of the site contains a 4 storey building (north/western). The site has been identified in consultation with Council that a 5 storey building form is appropriate to the desired future scale of the area. The scale is articulated to respond to the existing and likely future adjoining built form. There will be sufficient area within the rear building setback and rear parcel of land (north of Toms Lane) to provide more than adequate deep soil landscaping. The rear setback area will be adequately landscaped to soften the appearance of the building and provided screen planting through the use of shrubs and trees that will be in scale with the development. Also landscaping is proposed for the development in the form of planter boxes within the communal open space area on the ground level and at the edges along the terraces and balconies to preserve privacy and add small areas of greenery. The Sutherland Shire Development Control Plan 2006 indicates that street trees should be used to improve visual quality, provide shade and protection, define space, link separate visual elements, provide screening, and provide scale and identity. The development will provide street trees in accordance with Council's requirements along the street frontage of the site. The proposed landscaping will provide attractive landscaping which will improve privacy, provide summer shade and enhance the visual appearance of the building.

*(b) to allow reasonable daylight access to all buildings and the public domain,*

Comment:

The proposed development will not adversely impact on the amenity of the surrounding area in terms of solar access. The proposed building envelope will ensure that the proposed development does not adversely impact on the adjoining residential dwellings in terms of solar access. Shadow diagrams of the proposed development have been prepared in mid winter, March, September and December. The shadow diagrams provide an assessment (on the plans) of the impact of the development in terms of solar access to adjoining properties. Refer to shadow diagrams attached with Development Application. As can be seen from the shadow diagrams the proposed development will not adversely overshadow adjoining properties for long periods of time as the majority of shadows would fall on the adjoining roadways and commercial premises. The proposed development will not impact on the public domain.

*(c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*

Comment:

The proposed development will not adversely impact on the amenity of the surrounding area in terms of privacy and solar access. The proposed smaller building envelope will ensure that privacy is maintained between the proposed building and the existing multi-unit housing development to the north of the site. There will be more than adequate setback distances (23.5m-minimum) between the rear residential properties to the north and the proposed building. There will be sufficient area within the rear building setback and rear parcel of land (north of Toms Lane) to provide more than adequate deep soil screen landscaping. The rear setback area will be adequately landscaped to soften and screen the appearance of the building through the use of shrubs and trees that will be in scale with the development. More than adequate setback distances (22.0m-minimum) would be provided between the proposed

building and the existing mixed commercial and residential development south of the site. In terms of the eastern and western side, where the building is located on the property boundary a blank building wall is provided along those elevations. All units will be insulated to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). All units will have an Impact Isolation between floors which achieves an Acoustical Star Rating of 5 in accordance with the standards prescribed by the AAAC.

The proposed building envelope and height will ensure that the proposed development does not adversely impact on the adjoining residential dwellings in terms of solar access. Shadow diagrams of the proposed development have been prepared in mid winter, March, September and December. The shadow diagrams provide an assessment (on the plans) of the impact of the development in terms of solar access to adjoining properties. Refer to shadow diagrams attached with Development Application. As can be seen from the shadow diagrams the proposed development will not adversely overshadow adjoining properties for long periods of time as the majority of shadows would fall on the adjoining roadways and commercial premises. The loss of some views from the adjoining properties is within acceptable levels and that anticipated by the Sutherland Shire Development Control Plan 2006 controls given the subject site is located within the Engadine Town Centre.

*(d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*

**Comment:**

The surrounding area is characterised by commercial, retail, medical, service station, and residential developments of varying uses, buildings, type, height and scale. It is considered that the proposed development by its design and use will assist in balancing the precinct and will be in keeping with the existing and likely future developments in the area. The proposed smaller building envelope and height will reduce the bulk and scale of the development. It will allow sufficient area within the rear building setback for deep soil landscaping. The rear setback area will be adequately landscaped to soften the appearance of the building and provide screen planting through the use of shrubs and trees that will be in scale with the development. The deep soil screen planting will ensure that the amenity to existing and future residents is maintained. The proposed development will provide a highly articulated building so as to reduce the bulk and scale of the development and also to provide architectural interest in the design; will provide efficient spaces; will provide attractive on site landscaping areas; will provide a development compatible with existing and likely future developments in the area in terms of its bulk, scale, roof design, materials, textures and colours. The development has been specifically designed to suit this parcel of land, address the streetscape, and promote good urban design and to reflect the general architectural characteristics of the area. The scenic quality of the locality would be protected and embellished by the development. The bulk, scale, height, materials, textures and colours of the proposal have been carefully designed so that when viewed from other parts of the area the development will not be a dominant feature. It is considered that the scenic quality of the area will not be adversely affected by this development proposal and is consistent with the existing and likely future character of the area. It should be noted that unattractive and

outdated buildings and structures exist on the site and will be replaced by a high quality modern mixed commercial and residential development.

- (e) *to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings on land in those zones.*

Comment:

The proposed development will not prevent Council from achieving the above planning objective.

*It is considered that the proposed development satisfies the objectives of the control.*

**The proposed smaller building envelope and building height will reduce the bulk and scale of the development**

In lieu of providing a building that occupies most of the site a smaller building envelope and increased building height orientated towards the front section of the site along Old Princes Highway has been provided for the development. A building that could occupy most of the subject site would not only be excessive in its building bulk, but it could also adversely impact on the amenity of the area in terms of privacy and solar access. The proposed smaller building envelope and increased building height will not only reduce the bulk and scale of the development, but it will ensure that the development does not adversely impact on the amenity of the area in particular residential properties to the north and it will also provide more than adequate on site attractive and screen landscaping areas. The proposed development will provide a highly articulated building and the TT building shape/design will not only reduce the bulk and scale of the development, it will also provide architectural interest in the design; will provide efficient spaces; will provide attractive and screen on site landscaping areas; and will ensure that privacy to adjoining residential properties is maintained. The proposed building envelope and building height will allow sufficient area within the rear building setback for deep soil landscaping. The rear setback area will be adequately landscaped to soften the appearance of the building and provide screen planting through the use of shrubs and trees that will be in scale with the development. The deep soil screen planting will ensure that the amenity to existing and future residents is maintained. The smaller building envelope and proposed building height will ensure that privacy is maintained between the proposed building and the existing multi-unit housing development to the north of the site. There will be more than adequate setback distances (23.5m-minimum) between the rear residential properties to the north and the proposed building. Also it will avoid providing long corridors and excessive numbers of units on each floor.

**The proposed smaller building envelope with a 5 storey building height will provide a superior design and will benefit the proposed residential units in terms of improved solar access and natural ventilation**

The development proposes the construction of one (1) building. The TT shape design is preferred as it will allow all residential units living areas and principal private open space areas to have northern aspects and therefore providing for good solar access. Also the TT shape design will allow a north facing communal open space area to be provided on the ground floor and more than adequate on site landscaping areas.

### **The proposed building height provides a better solution for the site**

A number of meetings have been held with Council's 'Architectural Review Advisory Panel' and at these meetings the Panel has encouraged the proposed height and building envelope of the development. On 18 March 2010 and 24 June 2010 the Panel indicated *that it recognises that the proportions of the site in some respects (eg depth) make the site difficult to deal with. The presence of low density housing to the north is also a constraint. It is apparent that the planning controls do not facilitate a good design. Rather the controls encourage a low and bulky building when a building of varying height would be superior.*

In terms of the height of the building the Panel indicated that *the provision of a five (5) storeys on the northern side of the Old Princes Highway potentially provides a better solution for the site.* In light of the above comments the proposed smaller building envelope and building height has been designed to reduce the bulk and scale of the development; provide better amenity to residents of the development; to ensure that the proposed development does not adversely impact on the amenity of the area in terms of solar access and privacy in particular residential properties to the north; to provide deep soil landscaping at the rear of the site for privacy and aesthetics purposes; and to provide architectural interest in the built form. Council's 'Architectural Review Advisory Panel' has endorsed the proposed smaller building envelope and building height for the development.

### **The variation will not adversely impact on the amenity of the surrounding area in terms of solar access and privacy**

The proposed development will ensure that privacy is maintained between the proposed building and the existing multi-unit housing development to the north of the site. There will be more than adequate setback distances (23.5m-minimum) between the rear residential properties to the north and the proposed building. There will be sufficient area within the rear building setback and rear parcel of land (north of Toms Lane) to provide more than adequate deep soil screen landscaping. The rear setback area will be adequately landscaped to soften and screen the appearance of the building through the use of shrubs and trees that will be in scale with the development. More than adequate setback distances (22.0m-minimum) would be provided between the proposed building and the existing mixed commercial and residential development south of the site. In terms of the eastern and western side, where the building is located on the property boundary a blank building wall is provided along those elevations. All units will be insulated to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). All units will have an Impact Isolation between floors which achieves an Acoustical Star Rating of 5 in accordance with the standards prescribed by the AAAC. The proposed smaller building envelope will ensure that the proposed development does not adversely impact on the adjoining residential dwellings in terms of solar access. Shadow diagrams of the proposed development have been prepared in mid winter, March, September and December. The shadow diagrams provide an assessment (on the plans) of the impact of the development in terms of solar access to adjoining properties. Refer to shadow diagrams attached with Development Application. As can be seen from the shadow diagrams the proposed development will not adversely overshadow adjoining properties for long periods of time as the majority of shadows would fall on the adjoining roadways and commercial premises.

### **The proposed development will not adversely impact on the streetscape**

The streetscape and architectural character in proximity to the subject site is diverse, it includes mainly outdated and unattractive single to two storey commercial and retail buildings with one or two modern buildings. Basically the streetscape is a diverse mix of building types, heights, materials, textures, colours and uses. The streetscape is not consistent and is going through a transitional period. The development addresses the streetscape, promotes good urban design and addresses the adjacent sites in terms of amenity. The proposed development has been designed to be in character and harmony with the type and scale of existing and likely future development in the area. The high quality design of the development will complement the character of the area in terms of its facades, height, bulk, and scale, building form, materials, textures and colours. It will provide a high quality modern design, which will ensure its positive impact on the streetscape of Old Princes Highway. The proposed development is for a 5 storey building including a rooftop-penthouse level. The additional storeys involve the erection of a fourth floor and a rooftop-penthouse level. The penthouses are well setback from the boundaries of the site. The rooftop-penthouse level has been designed so as it forms an integral part of the design of the building and its impact will be no greater than the impact of the building without the penthouses. The building provides a strong 2 storey base facade when viewed from the street. The 2 storey facade strengthens the base of the building and reduces its appearance as a multi level building. The next 2 storeys of the building are stepped up and then it further step up to provide an attractive rooftop penthouse level. Visually the majority of the building will appear as a 3 - 4 storey building with the rooftop-penthouse level located more towards the middle of the building, and therefore it will have less impact on adjoining residential properties to the north and south in terms of privacy and overshadowing. The proposed building is highly articulated and the front facade of the building provides architectural interest in its 2 storey base facade design; its efficient spaces; its materials, textures and colours; and its continuous varied height awning design. It should be noted that the existing multi-unit residential development to the north of the site contains a 4 storey building (north/western). The proposed building height will be compatible with the adjoining residential building to the north/west of the site.

### **The proposed development complies with Council's maximum floor space ratio control**

The proposed building height will not increase the floor space ratio for the development. The proposed development complies with Council's floor space ratio control. In actual fact the proposed floor space ratio (1.37:1) is well below Council's maximum floor space ratio of 2:1.

### **The development satisfies the general Aims of Sutherland Shire Local Environmental Plan 2006**

The Aims of the Plan are as follows:

- (a) *to enable the achievement of the community's vision for Sutherland Shire through the proper management, development and conservation of the Shire's environmental resources,*

- (b) *to describe the intended environmental outcomes that will result from the effective implementation of this plan,*
- (c) *to promote an appropriate balance of development and management of the environment that will be ecologically sustainable, socially equitable and economically viable,*
- (d) *to provide for appropriate land use controls that protect critical requirements relating to the use of Commonwealth land for defence purposes,*
- (e) *to establish a broad planning framework for controlling development in Sutherland Shire,*

**Comment:**

The proposed development will not prevent Council from achieving the above long term planning Aims.

- (f) *to conserve items of environmental heritage,*

**Comment:**

The subject site is not listed as a Heritage Item under Sutherland Shire Local Environmental Plan, 2006 and the site is not located within a Heritage Conservation Area. In addition, the subject site has no archaeological significance.

- (g) *to preserve and enhance the quality of native vegetation and fauna,*

**Comment:**

In view of the careful design and nature of the development, it is considered that no adverse impact in terms of nearby flora and fauna will result from the proposed development. In fact, the proposed development will have a positive impact with regard to flora and fauna through the provision of landscaping in particular along the rear sections of the site. Council requires the planting of street trees along the primary frontage of the development. It is considered that street trees should be used to improve visual quality, provide shade and protection, define space, link separate visual elements, provide screening, provide scale and identity. The applicant will plant street trees in accordance with Council's requirements along the Old Princes Highway frontage of the site.

- (h) *to protect environmentally sensitive areas,*

**Comment:**

It is considered that the proposal will not adversely impact on the natural environment by reason of increased human habitation of the site or additional pollutant loads on natural or man-made systems. The owners of the property will ensure that the environment is not harmed and that all means will be employed to protect the environment in particular during the construction stage. It is considered that the proposal due to its careful design will not create a hazard or risk to surrounding environment.

- (i) *to conserve natural, indigenous and built heritage sites throughout Sutherland Shire,*

Comment:

Advice from Council staff has indicated that the subject site has no Aboriginal Heritage or archaeological significance.

- (j) *to encourage development that is energy efficient and supports access by public transport, walking and cycling,*

Comment:

The architect for this project has worked towards providing a reduction in energy consumption for the proposed development. When preparing the building design the architect has taken into consideration the occupancy comfort and energy efficiency. From an environmental viewpoint there is a need to ensure that the proposed development consumes less energy. It is considered important that the owners of the development are educated in relation to the various methods of energy efficiency. The site is well served by public transport facilities in the form of buses and rail. The subject site is within easy walking distance to Engadine Railway Station. The site is located within the Engadine Town Centre. The provision of multi-unit housing within or in close proximity to commercial areas served by good public transport linkages is not only desirable but also is in keeping with an increasing trend towards the promotion of public transport usage as a primary means of enhancing ecological sustainability and the reduction of greenhouse gases in the Sydney Region. The proposed development will assist in encouraging the use of public transport in line with Ecologically Sustainable Development principles.

- (k) *to provide opportunities for business interests to respond to the demands of the community for shopping and the provision of services,*

Comment:

The proposed development will not prevent Council from achieving the above planning Aim.

- (l) *to provide employment opportunities in Sutherland Shire,*

Comment:

It is envisaged that the proposed development will have a positive economic effect in relation to the creation of local employment during the construction stage and after the development has been completed (the provision of 4 ground level commercial suites).

- (m) *to put in place a framework of controls to address current and future housing needs,*

Comment:

The use of the land for a mixed commercial and residential development is considered to be an orderly and economic use of the subject land whilst ensuring that the development reflects the existing and likely future character of the locality and environment.



*(n) to allow for provision of community facilities and land for public purposes,*

Comment:

Sutherland Shire Local Environmental Plan 2006 does not require Council to acquire the subject site for the purpose of community facilities or land for public purposes.

*(o) to preserve and enhance the quality of life of the local community,*

Comment:

In view of the nature, scale and careful design of the development, it is considered that the proposal will not adversely affect the amenity of the area in terms of privacy, solar access, noise, car parking and traffic and will provide a development that will be within the environmental capacity of the existing and likely future mixed commercial and residential environment. The development will not compromise privacy to future residents as there are more than adequate setback distances (23.5m-minimum) between the rear residential properties to the north and the proposed building. More than adequate setback distances (22.0m-minimum) would be provided between the proposed building and the existing mixed commercial and residential development south of the site. In terms of the eastern and western side, where the building is located on the property boundary a blank building wall is provided along those elevations.

Shadow diagrams of the proposed development have been prepared in mid winter, March, September and December. The shadow diagrams provide an assessment (on the plans) of the impact of the development in terms of solar access to adjoining properties. Refer to shadow diagrams attached with Development Application. As can be seen from the shadow diagrams the proposed development will not adversely overshadow adjoining properties for long periods of time as the majority of shadows would fall on the adjoining roadways and commercial premises. All units will be insulated to achieve an Acoustical Star Rating of 5 in accordance with the standards prescribed by the Association of Australian Acoustical Consultants (AAAC). All units will have an Impact Isolation between floors which achieves an Acoustical Star Rating of 5 in accordance with the standards prescribed by the AAAC. The proposal complies with Council's car parking requirements and car parking space dimensions are in accordance with Council's Development Control Plan. All vehicles will be able to enter and leave the development in a forward direction. It is considered that the proposal will not significantly increase the amount of on street parking in the immediate area. Due to the nature and scale of the development, it is considered unlikely that the traffic generation from the development would adversely impact the performance of intersections in the locality.

*(p) to allow for improvements and appropriate additions to the recreational assets of Sutherland Shire.*

Comment:

The proposed development will not prevent Council from achieving the above planning Aim.

*It is considered that the proposed development is consistent with the general Aims of Sutherland Shire Local Environmental Plan 2006.*

**The development satisfies the Objectives of the Zone under Sutherland Shire Local Environmental Plan 2006**

The objectives of the Zone 8 – Urban Centre are:

- (a) to identify appropriate land for the provision of a wide range of retail, business and professional activities,*

Comment:

A number of unattractive buildings are situated on the subject site. A real opportunity exists for the redevelopment of the subject site to provide a high quality mixed commercial and residential development, which will enhance the surrounding area. The use of the land for the purpose of a mixed commercial and residential development is a permissible form of development in the current 8 – Urban Centre Zone. It is envisaged that the development after it has been constructed will remain on the site for many years, which therefore will enhance the surrounding area.

- (b) to promote viable businesses through increased economic and employment activity,*

Comment:

This particular section of the Town Centre is suffering from insufficient patronage and basically the area is an inactivity zone. It is envisaged that the proposed development through the provision of additional population will revitalise this section of the Town Centre. Also the proposal will generate an increase in residential facilities and population, which in turn will support the functions of the Town Centre, in particular the retail sector and increase employment opportunities and generate more visitors to the centre. In view of the nature (mixed commercial & residential) and location (within the Engadine Town Centre) of the proposed development it is considered that the proposal will encourage economic growth and employment opportunities in the area. The proposed development will provide a mixture of commercial and residential uses. The development will provide a population which should stimulate activity in this particular section of the Town Centre. Housing is seen as the land use with the best growth potential, and has a significant influence on increasing retail and employment activity, as well as contributing to better public security.

- (c) to provide for an integrated mix of commercial, office, retail and residential buildings,*

Comment:

The proposed mixed commercial and residential development satisfies Council's future intent with regards to desirable future uses. Also Council's Housing Strategy identifies environments such as at this location to make significant contributions to meeting new and local housing demand in the long term.

- (d) to create attractive, vibrant and safe establishments and facilities as a focus for community spirit.*

**Comment:**

The subject site is currently used as a plant nursery and an auto electrician. The buildings are outdated and unattractive. Over the years there has been an uncertainty as to the continuation of the existing uses of the site due to market forces. The provision of a mixed commercial and residential development will provide a permanent and practical use of the site, which will assist in the safety, health, vitality, cultural and social environment of the Engadine Town Centre. The proposed commercial and residential uses of the development satisfy Council's future intent with regards to desirable future uses.

*It is considered that the proposed development satisfies the Objectives of the 8 – Urban Centre Zone and a high quality mixed commercial and residential development will be constructed on the subject site.*

**The development satisfies the Objectives of the Environmental Planning and Assessment Act, 1979 (as amended)**

*Objects of this Act are:*

- (a) *to encourage:*
  - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iii) *the protection, provision and co-ordination of communication and utility services,*
  - (iv) *the provision the provision of land for public purposes,*
  - (v) *the provision and co-ordination of community services and facilities, and*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
  - (vii) *ecologically sustainable development, and*
  - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The design of the proposed development will ensure that adequate private open space, landscaping and communal open space are provided along with adequate car parking and safe access facilities. The proposed development will not adversely impact on the surrounding properties in terms of privacy, solar access and views. Therefore, the existing environment will be adequately protected but at the same time will allow a suitable development to proceed. The use of the land for a mixed commercial and residential development is considered to be an orderly and economic use of the subject land whilst ensuring that the development reflects the existing and likely future character of the locality and environment. Existing utility services are also available to the subject site. There are also medical facilities, shops (within Engadine Town Centre) and public transport (Engadine Railway Station & buses nearby) in

close proximity to the subject site. Overall, the subject site is well serviced by existing infrastructure. The existing environmental quality and capacity of the precinct will be retained with the development being compatible and sympathetic with surrounding development in the area. The proposed development will be energy efficient and will sustain ecological processes in the locality as far as practicable so as to promote human health and a healthy environment. The public interest is well served by the proposed development. In view of the careful design, nature and scale of the development and its location, it is considered that the health and safety of the public will not be affected.

*It is considered that the proposed development satisfies the Objectives of the Environmental Planning and Assessment Act, 1979.*

**The departure will not set any undesirable planning precedent in the locality due to the fact that Council should consider each application on its merits**

As already mentioned the proposed development satisfies the objectives of the building height control; the proposed smaller building envelope and building height will reduce the bulk and scale of the development; the proposed smaller building envelope and building height will provide a superior design and will benefit the proposed residential units in terms of improved solar access and natural ventilation; the proposed building height provides a better solution for the site; the variation will not adversely impact on the amenity of the surrounding area in terms of solar access and privacy; the proposed development will not adversely impact on the streetscape; and the proposed development complies with Council's maximum floor space ratio control. In light of the above reasons variation to Council's building height control is considered to be worthy of Council's support in this particular case.

In addition is considered that the proposed development by its design and use will assist in balancing the precinct and will be in keeping with the existing and likely future developments in the area. The proposed development will provide a highly articulated building so as to reduce the bulk and scale of the development and also to provide architectural interest in the design; will provide efficient spaces; will provide attractive on site landscaping areas; will provide a development compatible with existing and likely future developments in the area in terms of its bulk, scale, roof design, materials, textures and colours. The development has been specifically designed to suit this parcel of land, address the streetscape, and promote good urban design and to reflect the general architectural characteristics of the area. The proposed development will provide a positive impact to the public domain and streetscape of Old Princes Highway.

**No matters of State or Regional significance are raised to the variation of the standard**

It is considered that the proposed development satisfies the State Government's Urban Consolidation objectives and the State Government's objectives for the provision of high quality and energy efficient residential developments as required in State Environmental Planning Policy No 65 – 'Design Quality of Residential Flat Development'.

**The proposed development will have a positive effect on the social and economic environment**

It is considered that the proposed development will have a positive effect on the social and economic environment of the area. Recent social change that has had an impact on housing includes increased rates of female participation in the workforce, later marriage and childbearing and increasing divorce and separation rates. This relates to an increase in smaller, non-traditional, non-nuclear households including single persons and couples without children, single-parent families, the elderly and divorcees. This would translate into a demand for reductions in dwelling size and an increase in diversity of the housing stock, including more dense dwelling types that offer good security, lower maintenance and a compatible social environment. The increased use of multi-unit housing forms in established areas contributes to more efficient land use and servicing and potentially to lower housing costs. Also the development would provide employment opportunities during and after the construction stage. The proposed development would add to the level of retail spending in the Engadine Town Centre. The development would contribute to the wider choice of housing within the area. It would provide the opportunity for a person/s to live and work in the area and the development will create a high quality living environment. In view of the nature and location of the proposed development it is considered that the proposal will encourage economic growth and employment opportunities in the area.

**The proposed development incorporates the principles of *Design Excellence* and the high quality design will positively contribute to the character of the Engadine Town Centre**

The development proposes the construction of a mixed commercial and residential development consisting of four (4) commercial units and thirty four (34) residential units on the subject site. The building is well mannered and fits within the streetscape. The proposed building envelope provides a superior design and will benefit the proposed residential units in terms of improved solar access and natural ventilation. The development proposes the construction of one (1) building. The TT shape design is preferred as it will allow all residential units living areas and principal private open space areas to have northern aspects and therefore providing for good solar access. Also the TT shape design will allow a large north facing communal open space area to be provided on the ground floor. The proposed form includes solid, open, geometric elements and detailing which are defined and complimented by the use of materials, textures and colours to achieve a very high standard of architectural design. The building's visual presentation makes very good use of the site and opportunities while giving appropriate consideration for any future redevelopment of adjoining sites to the east and west. The building has a defined base, middle and rooftop elements (rooftop penthouses). The proposal offers good street manners in terms of interactivity with pedestrians by, in particular, the provision of commercial areas along the Old Princes Highway frontage. The proposed development will be energy efficient. All unit living rooms and principal private open space areas have northerly aspects. The majority of units (88%) have good cross ventilation. A large communal open space area (166sqm) is proposed on the ground floor which is north facing and therefore will receive sunlight most of the day. The proposed development will have solar panels on the roof; it will have water storage for garden use and energy saving lighting and devices throughout the building. The proposed development has been designed with the needs

of the disabled in mind. Particular attention has been given to such matters as providing lifts (3 lifts) from the lower basement level to the upper levels, adaptable units (7 units), disabled car parking spaces, ground floor disabled toilets, wider lobby areas on each level of the building. Adequate paths of travel at appropriate lengths, grades and width into and through the building for people with disabilities will be provided for the development. There will be sufficient area within the rear building setback and rear parcel of land (north of Toms Lane) to provide more than adequate deep soil landscaping (571sqm). The rear setback area and site will be adequately landscaped (738sqm-29.3% of site area) to soften the appearance of the building and provide screen planting through the use of shrubs and trees that will be in scale with the development. Also landscaping is proposed for the development in the form of planter boxes within the communal open space area on the ground level and at the edges along the terraces and balconies to preserve privacy and add small areas of greenery. The Development Control Plan indicates that street trees should be used to improve visual quality, provided shade and protection, define space, link separate visual elements, provide screening, and provide scale and identity. The development will provide street trees and paving in accordance with Council's requirements along the Old Princes Highway frontage of the site. The proposed landscaping will provide attractive landscaping which will improve privacy, provide summer shade and enhance the visual appearance of the building. Council's 'Architectural Review Advisory Panel' has indicated that the separate portion of the site located on the northern side of Toms Lane has good potential for an urban forest treatment that would make a significant contextual contribution to the development. A wide range of local tree species could be employed. The landscaped area and car parking need to be clearly defined with kerbing and low walling so that cars are excluded from this area. The separate portion of land will be landscaped in accordance with Council's requirements. The proposed development incorporates the principles of *design excellence* and the high quality design will positively contribute to the character of the Engadine Town Centre.

**Compliance with the Building Height standard would hinder the attainment of the objects specified in Sections 5(a)(i) and 5(a)(ii) of the Environmental Planning and Assessment Act 1979**

It is considered that the proposed development provides for the proper management of the subject site and the orderly and economic use of the land in accordance with the intentions of the zoning and the objectives of the Environmental Planning and Assessment Act 1979.

**CONCLUSION**

In view of the above justification it is considered that the State Environmental Planning Policy No 1 Objection, is well founded and the granting of consent to the Development Application would be consistent with the aims of State Environmental Planning Policy No 1 as set out in Clause 3 of the Environmental Planning and Assessment Act, 1979 (as amended). In summary it is considered that the State Environmental Planning Policy No 1 Objection should be supported by Council and the development standard varied for the following reasons:

- The proposed development satisfies the objectives of the control.

- The proposed smaller building envelope and building height will reduce the bulk and scale of the development.
- The proposed smaller building envelope with a 5 storey building height will provide a superior design and will benefit the proposed residential units in terms of improved solar access and natural ventilation.
- The proposed building height provides a better solution for the site.
- The variation will not adversely impact on the amenity of the surrounding area in terms of solar access and privacy.
- The proposed development will not adversely impact on the streetscape.
- The proposed development complies with Council's maximum floor space ratio control.
- The development satisfies the general Aims of Sutherland Shire Local Environmental Plan 2006.
- The development satisfies the Objectives of the Zone under Sutherland Shire Local Environmental Plan 2006.
- The development satisfies the Objectives of the Environmental Planning and Assessment Act, 1979 (as amended).
- The departure will not set any undesirable planning precedent in the locality due to the fact that Council should consider each application on its merits.
- No matters of State or Regional significance are raised to the variation of the standard.
- The proposed development will have a positive effect on the social and economic environment.
- The proposed development incorporates the principles of *Design Excellence* and the high quality design will positively contribute to the character of the Engadine Town Centre.
- Compliance with the Building Height standard would hinder the attainment of the objects specified in Sections 5(a)(i) and 5(a)(ii) of the Environmental Planning and Assessment Act 1979.

It is considered that in this particular case, strict adherence to the development standard is **unreasonable and unnecessary**. The State Environmental Planning Policy No 1 Objection is well founded and variation to Council's 'Building Height-Number of Storeys' standard under Clause 33(8)(b)(ii) of Sutherland Shire Local Environmental Plan 2006 is considered reasonable and necessary in this particular case.