

Sutherland Shire
COUNCIL



Christine Edney - 9710 0838
File Ref: DA10/1008

29 July 2011



Panel Secretariat
Joint Regional Planning Panels
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Dear Sir/Ms

S.96 Modification Application No. MA11/0230
JRPP Reference No. 2010SYE089
Proposed Modification to Development Consent No. DA10/1008
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

Council has received an application to modify Development Consent No. DA10/1008.

Council wishes to advise that the determination notice in relation to the amendment to the abovementioned development application has now been finalised and sent to the applicant. A copy of the notice of determination is enclosed for your information.

Yours faithfully

Christine Edney
for J W Rayner
General Manager

Encl:

DEFERRED COMMENCEMENT / MODIFIED DEVELOPMENT CONSENT

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DATE OF DETERMINATION 15 Apr 2011

DATE OF MODIFICATION 29 July 2011

AUTHORITY Delegated Authority

DETERMINATION OF DEVELOPMENT APPLICATION NO. DA10/1008

Modification Application No. MA11/0230

LAND DESCRIPTION:

Part Lot C DP 29930 &
Lot D DP 29930
Part Lot 2, 3 & 4 DP 100517
971-975 Old Princes Highway ENGADINE NSW 2233

APPLICANT:

Conquest Constructions (NSW) Pty Ltd
PO Box 776
REVESBY NSW 2212

The Sutherland Shire Council, pursuant to Sections 80(3) and 96 of the Environmental Planning and Assessment Act 1979, hereby notifies that the abovementioned Development Application for development described below has been determined by the granting of a "**MODIFIED DEFERRED COMMENCEMENT**" development consent subject to the conditions specified in this notice.

PROPOSED DEVELOPMENT:

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

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

PART 1 - DEFERRED COMMENCEMENT CONDITIONS

To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 80(3) of the Environmental Planning and Assessment Act as amended. The Consent shall not operate until the applicant satisfies the Council as to the following matters.

The required information shall be submitted within 12 months of the date of issue of this development consent.

Note- Under the provisions of Clause 95A(5) of the Environmental Planning and Assessment Regulation 2000 upon submission of the required information, Council shall advise in writing whether or not it is satisfied as to the relevant matters.

1. Deferred Commencement Condition 1

A Site Auditor accredited under the Contaminated Land Management Act 1997 is to be appointed to oversee the contamination remediation works for the entire site. The applicant shall submit a Site Audit Statement and Site Audit report to Sutherland Shire Council's Director - Environmental Services.

2. Deferred Commencement Condition 2

The RAP shall be amended to include that all waste water collected on site e.g. from excavation dewatering or groundwater treatment processes, shall be classified and disposed of to a licensed waste facility and that no discharge of waste water to Council's stormwater system be permitted.

PART 2 - CONDITIONS OF CONSENT

Upon the satisfactory resolution of those matters listed above in Part 1 – Deferred Commencement Conditions and the receipt of written verification of this from Council, this Consent shall operate subject to the following conditions of development consent.

GENERAL CONDITIONS

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

3. Approved Plans and Documents

The development shall be implemented substantially in accordance with the details and specifications set out on the Drawing Nos. 1080 - 1 Issue B, 2 Issue A, 3 to 6 Issue B, 7 to 9 Issue A, 10 to 12 Issue B, D1 Issue B prepared by Bentley Architects, Drawing No L1 Issue B by Eximia Design, Drawing Nos CC0210 E1 Rev B, E2 Rev A, D1 to D3 Rev A, D4 and D5 Rev C, D6 to D8 Rev B, D9 to D11 Rev A by LMW Design Group P/L and any details on the application form and on any supporting information received with the application except as amended by the conditions specified and imposed hereunder.

Note 1:

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

Note 2:

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

Note 3:

Should the development the subject of the consent involve the subdivision of land and the issue of a subdivision certificate as defined under section 109c(1)(9) of the Environmental Planning and Assessment Act 1979, please note that Sutherland Shire Council must be appointed as the Principal Certifying Authority for all subdivision works.

Note 4:

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

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

Note 5:

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

4. Prescribed Conditions - General

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

A. Compliance with the Building Code of Australia

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

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

Builders details shall be provided to Council with the Notice of Commencement.

5. Approvals Required under Roads Act or Local Government Act

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

- a) Placing or storing materials or equipment;
- b) Placing waste containers or skip bins;
- c) Pumping concrete from a public road;
- d) Standing a mobile crane;
- e) Pumping stormwater from the site into Council's stormwater drains;
- f) Erecting a hoarding;
- g) Establishing a construction zone;
- h) Opening the road reserve for the purpose of connections including telecommunications, water, sewer, gas, electricity and stormwater; or
- i) Constructing a vehicular crossing or footpath.

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

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

6. Dedication of land

A strip of land 1.4 metres wide and 25 metres in length (measured from the western boundary of the main site) adjoining Toms Lane shall be dedicated to Council as road reserve prior to or at the time of strata subdivision of the building, or prior to occupation of the building if the building is not strata titled. Such area shall be concrete surfaced to council requirements prior to dedication.

7. Public Place Environmental, Damage & Performance Security Bond

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

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

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

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

The value of the bond shall be \$50,110.

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

8. Landscape Security (Tree Protection)
(Deleted 29 July 2011)

9. Public Liability Insurance

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

Section 94 Contributions

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

10. Community Facilities, Shire Wide 2003 Plan

A monetary contribution of \$34,724.02 shall be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 34 proposed Residential Flat Units, Apartments etc, with a concession for 5 existing allotments.

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

Payment shall be made prior to the issue of the Construction Certificate.

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

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

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council's Contributions Plan – Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of \$198,326.40 shall be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 34 proposed Residential Flat Units, Apartments etc, with a concession for 5 existing allotments.

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

Payment shall be made prior to the issue of the Construction Certificate.

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

MATTERS RELATING TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

12. BASIX Requirements

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

13. Design Changes Required

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

- a) The seven resident bicycle parking spaces shall be changed to individual secure lockers designed in accordance with AS2890.3.
- b) Doors shall be provided between the commercial lobby and commercial tenancies 2 and 3 to allow direct servicing of those tenancies from the commercial lift without the need to use the footpath in front of the premises.
- c) Subject to the agreement of the owners of No.17 Nolan Avenue the fence between the rear of their site and the rear part of the subject site shall be raised in height to similar to the fence at the rear of No 15 Nolan Avenue. If needed for soil retention the fence may contain a retaining wall component.
- d) The street tree species for planting to the Old Princes Highway frontage shall be changed to Fraxinus tree species.

14. Site Management Plan

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

- a) What actions and works are to be employed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, and the like.
- b) The proposed method of loading and unloading excavation machines, building materials.
- c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition / construction.
- d) How it is proposed to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be certified by a Certifier accredited in civil engineering.
- f) The provision of temporary fencing to secure the work site (fencing, hoarding or awnings over public land require Council approval under the Roads Act).
- g) The control of surface water flows within and through the construction site to minimise erosion and movement of sediment off site.
- h) The type and location of erosion and sediment control measures, strategies to minimise the amount of soil uncovered at any time, the conservation of topsoil for re-use on site, the location and protection of stockpiles.
- i) Identify all trees that are to be retained and the measures proposed to protect them (including fencing, mulching, watering, erection of signs excluding access to the protection zone, etc), and identify areas for revegetation.

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

15. Verification of Design for Construction – SEPP 65

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

16. Safety and Security

To ensure safety and security:

- (1) All pathways shall be lit to ANZS 1158.3- 1 -Public Lighting standard or higher with special consideration to the requirement of facial recognition at 15 metres. Lighting should be even and not contain pools of light and dark.

- (2) Security access to the resident parking areas shall meet minimum Australian Standard requirements.
- (3) Pedestrian routes through the parking areas shall be clearly marked and shall be lit to a minimum of ANZS1158.3- 1 standards.
- (4) The walls and ceilings of the car park shall be light coloured. Lighting of the carpark shall meet or exceed relevant Australian standards.

17. Tree Retention

The Bangalay gum tree at the rear of the site shall be retained. Appropriate tree protection measures as detailed in the Landscape Plan submitted with the application shall be implemented.

18. Lot Consolidation

Documentation demonstrating that the lots have been consolidated must be submitted to the Principal Certifying Authority prior to the issue of Occupation Certificate. Note: All other conditions requiring a subdivision certificate relate to the strata subdivision.

19. Road Opening Approval Required

No work whatsoever shall be carried out within the Public Road Reserve unless a "Road Opening Permit" under the Roads Act, 1993 (NSW) has been issued by either Council or the Roads and Traffic Authority for every opening of the public road reserve.

Note: An application fee is payable for this application.

20. Nomination of Engineering Works Supervisor

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

The engineer shall:

- a) provide an acceptance in writing to supervise sufficient of the works to ensure compliance with:
 - i) all relevant statutory requirements;
 - ii) all relevant conditions of development consent;
 - iii) construction requirements detailed in the above Specification; and
 - iv) the requirements of all legislation relating to environmental protection;
- b) on completion of the works certify that the works have been constructed in compliance with the approved plans, specifications and conditions of approval; and
- c) certify that the Works As Executed plans are a true and correct record of what has been built.

21. Sydney Water - Notice of Requirements

Prior to the issue of a Construction Certificate or Subdivision Certificate the applicant shall obtain a Notice of Requirements under the Sydney Water Act 1994, Part 6 Division 9 from Sydney Water and submit the Notice to the Council.

22. Public Utility Authorities

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

23. Drainage Construction

The stormwater drainage on the site is to be constructed generally in accordance with plan CC0110 D1 to D14 Rev A prepared by LMW Design Group P/L dated July 2010 and the required amendments to comply with Water Quality Control objectives.

Detailed plans must be prepared by a suitably qualified engineer and shall fully comply with Sutherland Shire Development Control Plan 2006 (Chapter 8 - Ecologically 'Sustainable Development'; Section 6 - 'Stormwater Management') Sutherland Shire Environmental Specification – Stormwater Management and AS-3500.3 2003. The plans must be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

24. On site parking facilities

The on-site vehicular manoeuvring and parking facilities design shall:

- Comply with AS2890.1 (2004), AS2890.2 (2002) and AS2890.6 (2009) in relation to the design of vehicular access, parking and general manoeuvring.
- Ensure car wash bays and visitor parking spaces are suitably signposted.
- Incorporate a CCTV system into the intercom system to ensure that the visitor space availability can be determined.

Plans prepared by an appropriately accredited person and showing compliance with the above design requirements shall accompany the Construction Certificate.

25. Geotechnical report

A geotechnical report prepared by a suitably qualified engineer is to be completed for the subject property. The geotechnical report is to detail the sites geotechnical characteristics and the recommendations for construction. The recommendations of the geotechnical report are to be used in the design of the retaining structures, footings and excavations.

The structural design of the retaining walls and footings shall be designed by a suitably qualified engineer to meet the requirements of the geotechnical report. The structural design details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

26. Design of retaining structures

All retaining structures greater than 600mm in height are to be designed and certified for construction by a suitably qualified engineer. The structural design is to comply with, all relevant design codes and Australian standards and recommendations of the Geotechnical report.

27. Geotechnical Monitoring Program

Excavation works associated with the proposed development must be overseen and monitored by a suitably qualified engineer. A Geotechnical Monitoring Program shall be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate. The Geotechnical Monitoring Program must be produced by suitably qualified engineer ensuring that all geotechnical matters are regularly assessed during construction.

The Geotechnical Monitoring Program for the construction works must be in accordance with the recommendations of the Geotechnical Report and is to include:

- Recommended hold points to allow for inspection by a suitably qualified engineer during the following construction procedures;
 - Excavation of the site (face of excavation, base, etc)
 - Installation and construction of temporary and permanent shoring/retaining walls.
 - Foundation bearing conditions and footing construction.
 - Installation of sub-soil drainage.
- Location, type and regularity of further geotechnical investigations and testing.

Excavation and construction works must be undertaken in accordance with the Geotechnical Monitoring Program.

28. Construction Methodology Report

There are structures on neighbouring properties that are deemed to be in the zone of influence of the proposed excavations. A suitably qualified engineer must prepare a Construction Methodology Report demonstrating that the proposed excavation will have no adverse impact on any surrounding property and infrastructure. The report must be submitted to Principal Certifying Authority prior to issue of a Construction Certificate. The details must include a geotechnical report to determine the design parameters appropriate to the specific development and site.

The Report must include recommendations on appropriate construction techniques to ameliorate any potential adverse impacts.

The development works are to be undertaken in accordance with the recommendations of the Construction Methodology report.

29. Predevelopment Dilapidation report

A dilapidation report shall be provided to the extent possible in consultation with the owners of the adjoining properties:

- 987 & 989 Old Princess Hwy.
- 963 Old Princess Hwy.
- 15, 17 and 19 Nolan Ave.
- 10 Toms Lane.
- Council's road infrastructure. Old Princess Hwy (from corner of Railway Parade to Caldara Ave) & Toms Lane.

The Dilapidation report must be conducted by a suitably qualified engineer prior to the commencement of any demolition, excavation or construction works. The extent of the survey must cover the structures that have the potential to be affected by any excavation works including dewatering, and/or construction works including vibration. The Initial dilapidation report must be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate and a copy forwarded to the owners of the affected properties.

30. Soil and water management / site management plan

Soil and Water Management / site management plan shall be prepared by a suitably qualified consultant must be submitted to the Principal Certifying Authority to prior to the issue of the Construction Certificate. The plan must be completed in accordance with the guidelines set out in Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006, Sutherland Shire Environmental Specification 2007 - Environmental Site Management and the manual *"Managing Urban Stormwater, Soils and Construction Fourth Edition 2004 Volume 1"* prepared by LANDCOM.

The soil and water management / site management plan must detail:

- a) The actions and works that are to be employed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and deliveries.
- b) The proposed method of loading and unloading excavation machines, building materials.
- c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition / construction.

- d) How it is proposed to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- e) The provision of temporary fencing to secure the work site (fencing, hoarding or awnings over public land require Council approval under the Roads Act).

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

31. Design and Construction of Works in Public Areas

Council has determined that the proposed development generates a need for works to be undertaken within the existing or proposed Public Areas. Survey and design plans are to be prepared by Council's Consulting Services Unit and issued by Council's Civil Assets Manager.

The design and construction of the works shall include but not be limited to the following:

- a) Stormwater drainage connection pipeline to Council's existing drainage pit within Toms Lane.
- b) Reconstruct Council's existing drainage pit to Council's standard drawing 10000 within Toms Lane.
- c) Demolition & removal of redundant kerb & gutter.
- d) Construct kerb & gutter within Toms Lane.
- e) Construct dish kerb within Toms Lane.
- f) Construct concrete infill (footpath) behind new kerb & gutter within Toms Lane.
- g) Road pavement reconstruction and/or construction as shown on Council's design plan.
- h) Reconstruction of any cracked and/or damaged kerb and gutter as shown on Council's design plan.
- i) Removal of all redundant layback crossings and reconstruction with integral concrete kerb and gutter.
- j) Removal of all redundant footpath crossings and reinstatement in accordance with Council's design.
- k) Construct within the Old Princes Hwy the footpath area with decorative pavers for the full width and length of the development site as shown on Council's design plan.
- l) Demolition of existing kerb and gutter at the proposed access points and replacement with an integral concrete layback crossing.
- m) Construction of all footpath crossings in accordance with the levels issued by Council.
- n) Erosion and sediment controls.

- o) Provision of street trees in accordance with Council's Urban Tree Policy as shown on Council's design plan.
- p) Provision of street signage and line marking as approved by Council's Traffic Transport Manager as shown on Council's design plans.
- q) Adjustment to Service Authority infrastructure and installation of conduits where applicable.

It should be noted that the design may require works beyond the boundaries of the site and appropriate transitions to match the existing infrastructure at an acceptable construction joint.

The preparation and issue of the plans will be subject to a fee and approval under the provisions of the Roads Act 1993 and/or Local Government Act 1993, prior to the occupation of or commencement of any works within the Public Area.

A fee quotation may be obtained by submitting a "Detailed Frontage Design Application". NOTE: In this condition, Council means the Sutherland Shire Council.

Approval of the design plans as well as permission under the Roads Act, 1993 shall be obtained from Council prior to the issue of a Construction Certificate.

32. Garbage, Recycling and Green-waste Storage Area

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

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

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

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

33. External Lighting - (Amenity)

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

34. Building Ventilation

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

- a) The Building Code of Australia.
- b) AS 1668 Part 1 - 1998.
- c) AS 1668 Part 2 - 1991.
- d) The Public Health Act - 1991.
- e) The Public Health (Microbial Control) - Regulation 2000.
- f) AS 3666.1 - 2002.
- g) AS 3666.2 - 2002.
- h) AS 3666.3 - 2000.

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

35. Noise from Road

To minimise the impact of noise from the nearby major road on the occupants, the building shall be constructed in accordance with the recommendations of the Acoustic Report by Acoustic Logic dated 22 October 2010 approved as part of this application.

Details of the proposed acoustic treatment shall accompany the Construction Certificate.

36. Noise Control - Design of Plant and Equipment (General Use)

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems, shall be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

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

37. Car-Park Ventilation – Alternate system

As the basement car-park does not comply with the natural ventilation requirements of Part 7.4 of AS1668.2 - 1991, the car-park shall be either mechanically ventilated by a mechanical ventilation system complying with AS1668.2 -1991 OR alternatively by the natural ventilation system proposed providing it is certified by a practicing mechanical ventilation engineer to the effect that the system is an adequate system of natural ventilation. The certification shall confirm that the system will protect the health of the occupants of the car-park at any time it is used and would satisfy the exposure rates specified in Clause 7.2.2 of AS1668.2 – 1991.

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

38. Energy Efficiency - General

Details demonstrating how it is intended to comply with the energy efficiency requirements of any relevant Development Control Plan through the use of recycled, plantation timber and non-polluting building materials etc shall accompany the Construction Certificate. Choice of materials shall be made from the items listed in the Sustainable Materials Schedule.

BCA Fire Safety Conditions

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

39. BCA Assessment Report

A Building Code of Australia Assessment Report shall be submitted with the Construction Certificate. This shall be prepared by an appropriately qualified person and shall provide recommendations regarding what is required to ensure the proposed development is brought into conformity with the *Building Code of Australia*. The report shall address how it is proposed to protect persons using the building, egress from the building and restriction of the spread of fire from the building to other buildings nearby. Further, all recommendations contained within this report shall be incorporated within the scope of works covered by the Construction Certificate.

40. Submission of Fire Safety Schedule

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

PRE-COMMENCEMENT CONDITIONS

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

41. Pre-Commencement - Notification Requirements

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

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

42. Signs to be Erected on Building and Demolition Sites

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

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

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

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

43. Remedial Works

The remedial works recommended in the submitted Remedial Action Plan shall be completed under the supervision of an appropriately qualified environmental scientist prior to the commencement of the work approved by this development consent. Certification from an appropriately qualified person verifying that the site has been fully remediated in accordance with the recommendations of the Remedial Action Plan shall be completed and submitted to Council within 30 days of the completion of the remedial works.

44. Appointment of a Supervising Arborist

Prior to the commencement of any demolition or works on site the applicant shall engage a suitably qualified and experienced Arborist (a person with current membership of the National Arborists Association of Australia at a grade of General Member, Affiliate Member or Life Member or alternatively a person who has obtained a TAFE Certificate in Horticulture (Arboriculture) Level 2 or higher).

The Supervising Arborist shall:

- a) Be present during any works within the dripline of any tree marked for retention and have the authority to direct works to ensure the trees long term preservation.
- b) Ensure any excavation within the dripline of the tree/s is hand dug and to oversee works and strictly supervise that there is no disturbance or severing of roots greater than 50mm and to cleanly cut and treat those roots between 10-50mm in diameter.

45. Traffic Management Plan

A traffic management plan must be submitted and approved by Sutherland Shire's Traffic Committee prior to the submission of the plan to the Principal Certifying Authority. The traffic management plan must be prepared by a suitably qualified person. The plan is to detail construction vehicle routes, number and size of trucks, hours of operation for truck movements, access arrangements and what provisions have been made to reduce the impact on both pedestrian and vehicular traffic on the surrounding streets. A certification completed by a suitably qualified person must be submitted stating full compliance with AS-1742.3 2002. The plans and certification shall be submitted to the Principal Certifying Authority prior to the commencement of any site works.

CONSTRUCTION CONDITIONS

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

46. Environmental Site Management DCP

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

47. Permitted Hours for Building and Demolition Work

To minimise the noise impact on the surrounding environment all building and demolition work shall be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 1.00pm Saturdays. No work shall be carried out on Sundays and Public Holidays.

48. Toilet Facilities

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

Each toilet provided:

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

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

49. Demolition Work

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

- a) The demolition of the existing building shall be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- b) It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a dilapidation report supported with suitable photographic records. This information shall be submitted to Council prior to the commencement of work. Any damage other than that noted prior to commencement of the demolition shall be the responsibility of the owner of the property for repair or reinstatement.
- c) The applicant shall ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.
- d) If demolition is to commence prior to the issue of a Construction Certificate, the applicant shall submit to Council a Site Management Plan – Demolition for assessment prior to the commencement of any demolition work. This plan shall satisfy the objectives of Council's Environmental Site Management Development Control Plan and shall consider the following:
 - i) What actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from demolition activities, crossings by heavy equipment, plant and materials deliveries and the like;
 - ii) The proposed method of loading and unloading demolition machines within the site;

- iii) The proposed areas within the site to be used for the storage of demolished material and waste containers during the demolition period;
 - iv) How it is proposed to ensure that soil / demolished material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
 - v) The requirements of any site specific Development Control Plan that may affect this development site.
- e) Pre-Commencement Inspection
- If demolition is to commence **prior** to the issue of a Construction Certificate, the Builder/principal contractor shall undertake a pre-commencement site inspection with Council's Engineering Compliance Officer and Council's Civil Asset Manager. The purpose of this inspection is to facilitate the implementation of the consent specifically with regard to the impact on the public way and to clarify any matters of concern.

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

50. Demolition – Removal of Asbestos Material

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

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

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

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

51. Protection of Public Places

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

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

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

52. Noise Control during Construction and Demolition

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

53. Vibration damage

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

54. Environment Protection and Management

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

55. Stockpiling of materials during construction

Topsoil, excavated material, construction and landscaping supplies and on site debris shall be stockpiled within the erosion containment boundary and shall not encroach beyond the boundaries of the property or the drip-line of any tree marked for retention. For further information, refer to Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management.

56. Construction materials and machinery must be kept within the site

All construction materials, sheds, skip bins, temporary water closets, spoil, and the like, shall be kept within the property. No vehicles or machines shall be permitted to stand on Council's footpath. For further information, refer to Part 3 of Chapter 8 of Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management.

57. Spoil deposited on public way (roads or reserves)

Any spoil deposited on public roads during cartage of materials from or to the site shall be removed immediately to the satisfaction of Council. If Council determines that excessive depositing of spoil onto the public way is taking place then the cartage of spoil shall cease if so directed by Council.

58. Provision of Letter Box Facilities

Suitable letter box facilities (including Owner's Corporation in the case of strata units) shall be provided in accordance with Australia Post specifications.

59. Disposal of Site Soils

All soils excavated from the subject site are to be classified under the NSW DECC Waste Classification Guidelines (2009). Testing is required prior to off site disposal.

All waste materials shall be removed to appropriately licensed waste facilities by a suitably qualified contractor in accordance with NSW DECC Waste Classification Guidelines (2009).

Note: Attention is drawn to Part 4 of the NSW DECC Waste Classification Guidelines (2009) which makes particular reference to the management and disposal of Acid & Potential Acid Sulfate Soils.

60. Dewatering of Excavation

Any water from excavations to be discharged to Council's stormwater system must meet the following criteria:

- It shall not contain a concentration of suspended sediment exceeding 50 mg/L;
- It shall have a pH of between 6.5-8;

- It shall comply with the ANZECC Guidelines for Marine and Freshwater Quality, for Protection of Aquatic Ecosystems (95% protection level).

Water testing shall be carried out to ensure compliance with the above by a suitably qualified environmental scientist, and results provided to Council upon request. A permit may be required to discharge water to Council's stormwater system. Consultation with Council shall be undertaken prior to discharge of any water to stormwater.

61. Irrigation system

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

62. Podium Planting

Podium Planting shall be constructed in accordance with part 1, section 2.3.3 of Council's Landscape Environmental Specification.

63. Rainwater Harvesting and Use

Tank Installation

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

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

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

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

Plumbing Connections

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

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

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

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

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

Potable Water Back-up

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

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

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

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

Overflow

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

POST CONSTRUCTION CONDITIONS

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

64. Section 73 Compliance Certificate

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

Advice from Sydney Water:

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

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

65. Works As Executed Information

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

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

66. Works As Executed Drawings

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

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

67. Completion of Work on Public Land

No work shall be undertaken within the road reserve or on public land without approval from Council.

68. Post Development Dilapidation Report:

The applicant is to provide at the completion of the works a dilapidation report recording structural conditions of all structures originally assessed prior to the commencement of works. Such must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

69. Acoustic Treatment

Certification shall be provided from a suitably qualified acoustic engineer certifying that the acoustic treatment of the building complies with the requirements of the development consent. This shall accompany the Occupation Certificate.

70. Disabled Access and Adaptable Housing Certification

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

71. Verification of Design at Completion – SEPP 65

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

72. Prior to Occupation or Use of the Development

The Development shall not be occupied or used until:

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

73. Endorsement of Linen Plan of Strata Subdivision

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

Alternatively, a Subdivision Certificate issued by an Accredited Certifier and a copy of the registered Plan of Strata Subdivision shall be submitted to Council following completion of the requirements detailed in the conditions of this Development Consent.

OPERATIONAL CONDITIONS

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

74. Maintenance and Operational Efficiency of BASIX Requirements

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

75. Carparking Areas

- a) To ensure that the carparking area satisfies the demands of the development it shall be made available on an unrestricted basis at all times for residents and visitors vehicles.
- b) Use of the parking area shall be restricted to the occupiers of the premises their visitors, staff and customers.

76. Common Property

To ensure that the visitor /customer component of the car parking area satisfies the demands of the development it shall be made available as common property in any future strata subdivision.

77. Loading and Unloading

In the interests of public safety and amenity, all delivery vehicles servicing the property shall stand within the curtilage of the site and shall be able to be driven in a forward direction when entering and leaving the Old Princes Highway. Loading and unloading of vehicles from the roadway is not permitted.

78. External Lighting

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

79. Noise Control – Plant & Equipment (Continual operation)

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation systems and / or refrigeration systems, shall be operated so that the noise emitted does not exceed the Project Specific Noise level when measured at the most affected point on or within any residential property boundary.

The Project Specific Noise level shall be the most stringent noise level of the Intrusive and Amenity criteria and be calculated in accordance with the provisions of the Department of Environment and Climate Change Industrial Noise Policy.

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

80. Bins

The waste bins from the premises shall when placed out for collection be so placed as to not obstruct the laneway.

END OF DETERMINATION



for J W Rayner
General Manager
Sutherland Shire Council

NOTES

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

The cutting down, lopping, injury and destruction of trees is regulated by Sutherland Shire Local Environmental Plan 2006 and Sutherland Shire Development Control Plan 2006. A person who contravenes, causes or permits the controls in relation to trees to be contravened is guilty of an offence. Trees designated to be removed on the approved plans under this consent may be removed unless specified otherwise in the conditions in this consent. All other trees on the site covered by Council's controls referred to above must be retained.

Section 96AB of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application the right to lodge an application with Council for a review of such determination. Any such review must however be lodged within 28 days from this determination. Should a review be contemplated sufficient time should be allowed for Council to undertake public notification and other processes involved in the review of the determination. See S96AB (7) for details of determinations not subject to review under S96AB.

Division 8 (Appeals and Related Matters) of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of the application a right of appeal to the Land and Environment Court.