2011SYE020 – 273A Fowler Road, Illawong

DA11/0090

ASSESSMENT REPORT APPENDICES

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Peter Brooker - 9710 0571
File Ref: PAD10/0088

11th October, 2010

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P Azar
1/265-267 Fowler Road
ILLAWONG NSW 2234

Dear Sir,

Pre-Application Discussion No. PAD10/0088
Proposal: Residential Flat Building
Property: 273A Fowler Road ILLAWONG NSW 2234

I refer to the pre-application discussion held on 6th October, 2010 regarding the above premises.

The following is a summary of the matters addressed at the meeting. The contents of this letter do not bind Council to granting consent for the proposed development if and when an application is made for such a proposal.

Description of Site and Proposal:

The proposal presented for discussion was for a multi storey residential flat development comprising of approximately ninety (90) residential units and basement carparking within the Zone 9 – Local Centre area pursuant to the Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006). The site has an area of approximately 4,705 sqm and is situated about the south eastern corner of the intersection of Fowler Road and Hobart Place.

The site adjoins a well established local shopping precinct known as the Illawong Village Shopping Centre with an associated open park area about its northern and western boundaries. To the south and on the opposite side of Fowler Road there is the Illawong Public School a small community centre facility located within a substantially treed area which is remnant of the original natural bushland feature of the locality.

The area on the opposite side of Hobart Place is developed with generally two storey single detached dwellings that have outlooks toward the Georges River waterway due to the steep topography of the land.

The subject site has a relatively steep fall of approximately 10.0m from the south west corner of the site down toward its north eastern boundary adjacent to Hobart Place. It is generally stepped as a result of previous development of a single small two (2) storey commercial building; carpark areas; disused tennis courts and a substantial retaining wall along the Hobart Place frontage.

Due to the configuration of the adjoining roadways the site presents itself externally mostly to Hobart Place which is of a long curvature with a significant dip about the centre of that frontage to the site. This gives the impression that the site address is more orientated toward Hobart Place rather than Fowler Road which is its known address.

It has been stated that a residential flat development previously approved by the Land and Environment Court in November 2001, has been activated and is as such current. However, there is no evidence of any construction being carried out on site or any current record of a construction certificate being issued. This development was consented under significantly different and reduced floor area allowances which results in a lower density of thirty four (34) residential units.

Whilst there were some alternative configurations presented at this meeting the proposal reviewed as being the preferred scheme, was described as “4 + 1” which was understood to be indicative of the overall height of the building proposed. It is on the basis of this scheme that the following comments are provided.

Comments on the Proposal:

Issue 1: Zone Objectives

Whilst under SSLEP 2006 the proposal is permissible on this particular site, the objectives of the zone are:-

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

(b) to promote viable, small, local and specialty shops to support the needs of the local community and provide local employment,

(c) to provide for a mix of commercial, office, retail and residential buildings,

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

The design concept as presented at the meeting is a high density residential development which is in contrast with the surrounding relatively low scale development locality, and as such, will need to provide justification of how these objectives of the zone are achieved.

Issue 2: Context / Zone Interface

The location of subject site and the steep slope of the topography to the north will expose a development of this scale to view from the nearby Georges River waterway and intermediate properties. It is also adjoins Zone 12 and Zone 1 planning zones areas which by their nature of development, contain a large quantity of open and treed spaces, providing generous separation between building forms.

The circumstances of this type of interface dictate that the design for development will be required to address the transition between theses zones in a suitable manner which recognises the differences in scale between developments, its exposure to distant view and the natural environmental qualities of the locality.

Issue 3: Building Height

The particular number of storeys above the existing site ground levels proposed by the development was not able to be determined at this time due to a lack of detail survey information. However, it appeared evident that the proposal will have additional storey height above the maximum, three (3) storey limit as defined under Clauses 38(8)(b)(ii) and (14)(b) of SSLEP 2006.

The impacts resulting from the proposed height of the development will be of significant concern and as such will be an important issue to attend to in order for the proposal to be supported.

Issue 4: State Environmental Planning Policy No.65 (SEPP65)

This policy is applicable to current design due to its classification as a residential flat building. This policy requires the design to be verified by a qualified designer (architect) and reviewed by a design review panel as constituted under this policy.

A separate review of its design quality will be undertaken by Council's Architectural Review Advisory Panel (ARAP) as an element of the development application assessment procedure.

It is understood that a presentation of this early concept of the design will be made to ARAP prior to any formal development application to assist in exploring design opportunities for the development and the site. Comments from the ARAP review will be provided under separate correspondence.

Generally, the design of the proposed development will result in a building form that has a significant mass and visual presence due to its height, close proximity to front boundaries and continuous floor level alignment for the full length of the street frontages. These factors create a built form with a dominant appearance contrary to the existing lower scale character of the adjoining streetscape areas.

Issue 5: Landscaping

Although there are no landscape area requirements under SSLEP 2006 for this zone it is apparent that the size and type of development proposed would benefit from well considered landscaped features of a high quality.

Two aspects of good landscaping are:-

1. The appearances of hard edged building forms from public areas are soften through filtered views.
2. The attractiveness and usefulness of well considered landscaped open space areas for either private or communal activities associated with the development are significantly enhanced.

Whilst there are a number of tall trees within the footpath area of Hobart Place they cannot be relied upon to provide the soft screening effect of the development that would be desired to reduce the impact of the proposed development. This is because there is no surety that these trees can be retained as they are located in the public way and not within the control of the owners of the site.

There was some discussion as to whether some additional landscape planting could be provided by the development by extending into the public verge areas. This has been reviewed and determined as unacceptable for essentially the same circumstances as the existing trees.

Landscaping features are also beneficial for future residents of a residential flat building in that it provides access to open space areas where interactions with natural environmental conditions and other residents can occur for their well-being. The proposal indicates an open area located internally. This space would also be separate from any external public spaces and as such it is considered that it would not provide the required quality of space to fulfil these types of aspects. The isolation; the impersonal atmosphere created by the overlooking from apartments around its perimeter and the deep well configuration of these spaces are factors within this proposed design that are considered undesirable and not conducive to a reasonable landscape quality.

Discussions indicated that it is proposed to activate this internal space with a pathway network to allow residents pedestrian access to the adjoining shopping precinct. This access would be by a secluded path onto Fowler Road bounded by blank walls which could create spaces of concealment and thereby encourage undesirable or criminal activities to occur contrary to safety by design principles.

Generally, there appears to be limited space to provide landscape features that would enhance the quality of the development or soften its visually dominant appearance and as such a very high quality landscaping design would be expected to be submitted in conjunction with and proposed development application of this type.

Issue 6: Traffic and Car Parking

Due to the higher density of residential development that is proposed on the site as well as the relatively remote locality of the area it would be reasonable to expect a higher than usual dependence upon private transport use. It is therefore suggested that in this instance a traffic report be submitted with a development application proposal to demonstrate the impact of the additional vehicle movements that could be expected by the proposal.

Council's engineer has noted that there are minimum dimensions required for driveways and car parking spaces that are required to be provided for in the future design development of the proposal to ensure compliance with Australian Standards AS2890.1 and AS2890.6.

Issue 7: Bushfire

The site is noted to be located within a bushfire interface and prone area which for a proposal of this size, type and density will require a referral to the NSW Rural Fire Service for their comment. Dependant upon their response, this could influence the proposed design to incorporate bushfire safeguard features to protect openings and reduce flammable materials.

It is recommended that contact is made with the NSW Rural Fire Services to clarify these construction requirements.

Issue 8: Sustainability

Council's engineer has noted that the provisions of Chapter 8 of SSDCP 2006 and Stormwater Management Specification allow strategies to harvest and reuse stormwater to the advantage of the development. These strategies provide sustainability measures that are desirable for environmental considerations and future residents of the proposed development.

Additionally, good design will ensure that the orientations of living spaces both internal and external have reasonable solar and ventilation access. The density of the proposal will make it difficult to achieve a standard of these features that will be necessary to demonstrate that it is of an exceptional quality needed to endorse its support.

Conclusion:

The above information is based on a meeting with Peter Azar (Owner / Applicant), Geoff Mead (Planner), Annraoi Morris (Architect), Karl May (Architect), John Smith (Council's Landscape Architect), Kabir Hossain (Council's Engineer) and Peter Brooker (Council's Architect / Planner) on 6th October, 2010 and the details presented in that discussion.

The information provided is in accordance with the environmental planning instruments, development control plans and codes that were current at the time of the meeting. It is the applicant's responsibility to check whether there have been any amendments, repeals or alternatively if any new instruments or policies have been adopted by the date of lodgement of the development application.

The proposal presents a design with an extent of variation in the number of storeys that will require a development of some considerable and recognisable merit for its support to be considered on a merit basis.

Whilst the design in comparison to the previously approved development is very good it does not yet achieve that level of quality that would overcome the concerns as discussed within this review. It is therefore considered that the proposal would be an overdevelopment of the site which would not be supported in its current configuration.

Should you consider the information to be inaccurate, it is the applicant's responsibility to contact Council for further clarification. Council reserves the right to request further information during the assessment of the development, should such information be considered necessary for assessment purposes.

Further, your attention is drawn to the requirement for you to ensure that you have made application for any Public Place Enquiry applications PRIOR to lodgement of your Development Application. Failure to obtain these approvals (where necessary) will delay the acceptance of your Development Application. Information regarding the Public Place Enquiry applications can be obtained from Council's Roadways Management Branch on 9710 0357 during normal business hours.

Prior to preparing a development application you are advised to refer to Council's "DA Guide" and other information provided regarding submission requirements. Council's Development Enquiry Officers are also available to assist. Incomplete applications will not be accepted and will result in delays.

It is hoped that this information is of assistance to you in the preparation of your development application. Should you require additional information please do not hesitate in contacting Peter Brooker during normal business hours on 9710 0571.

Yours faithfully

Mark Adamson
Manager – West Environmental Assessment Team
for J W Rayner
General Manager

Architectural Review Advisory Panel

Proposal:
Residential Flat Building
Property:
273A Fowler Road ILLAWONG NSW 2234
Applicant:
Peter Azar
File Number:
ARAP10/0012

The following is the report of the Architectural Review Advisory Panel Meeting held on 14 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.

"**4. Consideration of ARAP10/0012 – Pre-DA Proposal for a Residential Flat Building at 273A Fowler Road, Illawong**

Council's Andrew Conacher and Peter Brooker outlined the proposal, including providing details of Council's relevant codes and policies.

Jeff Mead, Karl May, Peter Azar and Annraoi Morris addressed the Panel regarding the aims of the proposal and the constraints of the site.

Description of Project
The proposed building is located within the Illawong retail/commercial precinct and is zoned Zone 9 - Local Centre. The site is located at the intersection of Fowler Road and Hobart Place. The adjacent property consists of a two (2) storey neighbourhood shopping centre that addresses Fowler Road. As the shopping centre has grown over time development has been concentrated in that portion of the centre away from the current site. This is the most difficult portion to develop.

The site falls steeply in a westerly direction along the Hobart Place frontage.

The proposal consists of a five (5) storey residential flat building comprising 90 units, a southern light well and a multistorey car park which is accessed from the residential component by three (3) sets of footbridges. A mix of 1, 2 and 3 bedroom units are included within the residential building, gaining street access from three lobbies located on Hobart Place.

In addition, there are three (3) units located on top of the proposed car parking structure that are separately accessed from Fowler Road.

The uppermost storey is recessed from the Hobart Place elevation.

Applicant's Presentation
The applicant advised that the proposal is designed in response to the current planning controls and represents an opportunity to develop a new residential character for the area. The proposal is at a higher density than the surrounding residential area, but is separated by the street network. The site is unique in that it is quite steep and is located adjacent to an established shopping centre.

Measured from the existing ground level, the proposal is visually three (3) storeys in height and the roof parapet height is equal to the shopping centre parapet height.

It was argued that the building has been designed with three (3) façade elements, a textured base below the ground floor level, an articulated central section that responds to the 'grain 'of the surrounding residential area and a roof form that expresses the vertical termination of the proposal.

Existing large trees located on the site will be retained within the street setback.

Comments
Further consideration of the following comments is recommended prior to resubmission:

Context
It was noted by the Panel that the proposed building is in excess of the Sutherland Shire Local Environmental Plan's (SSLEP 2006) requirement for height because the proposed height is five (5) storeys and the maximum permitted height is three (3) storeys. Noting the upper storey setback, the proposed building height is considered to be out of scale with the existing context, resulting in a poor relationship with the existing surrounding residential development.

An alternative submission may potentially be more appropriate after further consideration of compliance with regulatory controls as well as a more appropriate response to the site and surrounding area.

Even recognising that the height controls permit three (3) storey development, recognition should be given to a well mannered transition to the adjoining area.

The nature of the elevated site exacerbates the sharp contrast between this proposal and the surrounding area, where single dwellings are built predominately at or below street level. Residents in surrounding properties would have a legitimate expectation that no building would exceed the three (3) storey height limit.

It is recommended that in future schemes should it be considered necessary to propose additional upper levels of the building, this should be minimal and be set back to present the appearance of a three (3) storey building.

Scale
The use of a common floor level for the majority of the Hobart Place elevation makes the building appear monolithic. Possibly the building form could be better articulated by either expressing a closer response to the existing site levels and/or by visually breaking the building up vertically into smaller vertically proportioned building elements to give the

appearance of separate buildings with their own identity, entries etc. This is particularly relevant as the building sweeps around the corner.

Further development of the building's appearance is required to produce a design that reduces the visual impact.

Density
It is noted that the building complies with the floor space ratio associated with the zoning i.e. 2:1. Rather than the floor space being concentrated along the street frontage, the floor space should increase away from the road. Further modelling and design is required to determine whether this can be achieved with an acceptable impact.

Resource, Energy and Water Efficiency
Solar access to the rear courtyard is a concern, both for the amenity of the units with access to this area and also for the success of the landscaping scheme. It is noted that the proportions of this space are such that the height is three times the width, that it is oriented east-west and that it is located on the southern side of the residential portion of the building. The inclusion of pedestrian access bridges providing access from the units to the car park will also reduce solar access to this area even if they are not solid structures. Sun shade studies are recommended in this case to ensure that the desired amenity is achieved.

For the current car parking strategy to be acceptable, the quality of the courtyard spaces must significantly improve. This may only be possible by increasing the width of the courtyard or locating more of the development to the south thereby reducing the quantity of floor space adjacent to the street.

Landscape
Existing mature trees located along the Hobart Place frontage are to be retained. As the central courtyard provides amenity for the units' northern outlook, this space (as noted above) will require very careful treatment to ensure that the proposed green wall treatment to the car park will receive sufficient sunlight and nutrients to be successful. Mature trees as illustrated will require the formation of deep soil planting zones that require excavation, drainage and backfilling as well as solar access, as noted above.

Amenity
The design characteristics and nature of the courtyard space are a major concern (see landscape notes above). The proposed dimensions, proportions and orientation need to be tested and justified. An alternative solution would be preferred.

All units in the main residential building have the potential to receive good solar access and views to the north. The apartments located on the car park roof will also have potentially good amenity.

Safety and Security
There is a concern that some units within the building complex would be difficult for visitors to find i.e. the "Pizza Boy" test - how does an unfamiliar visitor find his/her way into and through the complex? Each lobby and possibly each portion of the building should have its own identity.

Access to the central courtyard should also be controlled, especially from the Fowler Road frontage and it should be clear how pathways work within the site.

Aesthetics
At this early stage the overall design concept of the building does not seem to have been adequately addressed and at present the project appears to be composed of various elements that need to relate to each other more strongly to form a more convincing composition

Recommendation/Conclusion:

This is a complex project located on a challenging site and any proposal will cause considerable local interest as it represents a new form of residential development for this area. Issues such as the relationship with the local context and the development of a more appropriate masterplan for the development of the site need further consideration. The quality of the courtyard environment and the success of this element in providing amenity to the residential units are questionable.

The treatment of additional storeys (eg setbacks) needs to be reconsidered to reduce streetscape impact in future schemes.

Achieving the density desired and the additional number of storeys proposed will depend on the success of the proposal in addressing all the issues included in the Sutherland Shire Local Environmental Plan 2006 and Sutherland Shire Development Control Plan 2006, as well as the SEPP 65 Residential Flat Design Code “

Colleen Baker
ARAP Coordinator

26 October 2010

Architectural Review Advisory Panel

Proposal:
Demolition of Existing Structures and Construction of a Residential Flat Building Consisting of 85 Apartments over Basement Parking and 85 Lot Strata Subdivision
Property:
273A Fowler Road ILLAWONG NSW 2234
Applicant:
Peter Azar
File Number:
DA11/0090

The following is the report of the Architectural Review Advisory Panel Meeting held on 17 February 2011 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 Development Application No. 11/0090 – Residential Flat Building at 273A Fowler Road, Illawong**

Council's David Jarvis, Peter Brooker and Paul Styman outlined the proposal, including providing details of Council's relevant planning instruments, codes and policies.

Annraoi Morris, Peter Azar and Scott Ibbotson addressed the Panel regarding the aims of the proposal and the constraints of the site.

The proposed six (6) storey residential flat building contains 85 units and is located within the Illawong retail/commercial precinct. Three (3) levels of basement car parking are provided with a single entry/exit point accessed from Hobart Place.

It is acknowledged that the design of the proposal has developed significantly to address some of the main concerns raised at the previous ARAP review (October 2010). However, some fundamental concerns remain and further consideration of the following issues is warranted.

Context/Scale
The proposal is of a different scale and character to both the existing retail and surrounding lower density residential dwellings on Hobart Place. Medium density housing provides a suitable transition from the retail use but the scale is out of context. Due to the elevated location of the site on the high side of the street, the contrasting scale of the existing and proposed residential buildings is exaggerated.

However, the retention of the existing street trees and the modulation of the building façade have helped to temper the scale of the proposal.

Built Form
Detail treatment of the buildings facing Hobart Place responds to the existing smaller scale buildings in the street. The overall outcome is generally acceptable.

The units located within the rear courtyard are orientated towards the rear of the units fronting Hobart Place. To access these units visitors are required to enter the lobby of one of the buildings fronting Hobart Place, then walk through either the courtyard or cross over a bridge to access the units. Both the access to the units and the outlook from the units are considered to be compromised. Introducing units within the courtyard also severely compromises the potential to create usable areas of common open space within the development.

Although the level of amenity provided to these units is considered to just reach an acceptable level, the strategy to introduce building forms within the internal courtyard is questionable. It is appreciated that the desire to incorporate these units is generated by a need to utilise the available floor space ratio rather than design objectives. From a design perspective it can only be concluded that the units within the courtyard should be deleted.

Density

To provide a medium density residential development that responds to the context of this site is extremely challenging. Within the planning controls a generous density is allowed and the proposal is so visually dominant that it has the appearance of being a higher density. The proposal is considered to provide a reasonable outcome that has maximised the potential density of the site by creating an appropriately modulated/articulated building.

Resource, Energy and Water Efficiency

The proposed building will provide a good level of solar access and natural ventilation to a high percentage of units.

Landscape

The existing street trees are considered to be a major asset to the site and significantly contribute to tempering the scale of the proposed building. Proposed street setbacks that allow existing street trees to be retained are commendable.

A space has been created at ground floor level between the rear of the units (south-west facing) and the car park. This space will be mostly a dank and cold environment, but will be extremely hot when the sun is overhead. This is an extremely difficult space in which to create a pleasant environment. It is suggested that the landscaping in this area could provide some amelioration to this extreme environment by providing both light and shade at different times of the day and year. This has not been achieved thus far.

The internal podium area has been designed as a space to be viewed down onto rather than experienced from within. It is a concern that the prolific use of raised planters will result in a space that will feel like passing through a series of walls when walking across the podium. To allow people to interact more with the landscaping it is recommended that more at grade planting be provided. This can be achieved by either dropping the level of the slab in specific areas or ramping up the level of the external space in selected locations.

The small amount of proposed lawn appears inappropriate. It is suggested that more mass planting and shade trees should be provided in place of the lawn.

Amenity
The replacement of the existing shops on Fowler Road with residential units is considered a missed opportunity. Some new shops at ground floor level in this location would help to relate the proposed development back to the existing shopping centre and provide some amenity back to the neighbourhood. An amendment to introduce shops is required.

Adequate provision of car parking spaces is difficult and will produce daily frustrations for drivers. A large number of stacked car parking spaces have been provided within the basement car park. This will inevitably create a level of inconvenience for residents who will be required to relocate cars to access their second car space.

The units located within the courtyard are in close proximity to the commercial building adjoining the south-western boundary of the site. It is suggested that landscaped screening be used to reduce potential privacy issues with the adjoining commercial building.

Safety and Security
A narrow passageway (1.25m wide) is proposed running from Fowler Road to into the central courtyard. This passage also provides right of way access to the community centre on the adjoining site.

It is a concern that the long narrow passage way will create an intimidating/unsafe environment that is conducive to anti-social behaviour. Ideally this space would be wider to create a better proportioned space that is overlooked by the residential flat building to provide a level of casual surveillance. If the proportions of the space are to remain as proposed it is recommended that a gate be located closer to Fowler Road to secure the lane way and that adequate external lighting be provided.

Social Dimensions
The proposal provides a wide variety of unit types.

Aesthetics
The aesthetics of the proposal are considered generally well resolved. However it is suggested that consideration be given to reducing the thickness of the level four roof profile. This element looks unnecessarily bulky, particularly as viewed in drawing DA051.

It is also suggested that further consideration be given to the treatment of balustrades. Fully transparent glazed balustrades will provide little privacy to the building occupants, particularly those at lower levels facing the street. It is suggested that at least part of the balustrades be formed using opaque glass.

It is requested that further detail information be provided to document the exact treatment of the façade. This can be in the form of a detailed section through the building (as required by SEPP 65) showing detail treatment of balustrades, screens and roof elements.

Recommendation/Conclusion:

The proposal responds to a challenging site and produces a building form that provides a reasonable level of amenity for its future occupants.

The least successful element of the proposal is the six (6) units located within the rear courtyard. It is recommended that these six (6) units be removed entirely. This would allow an improvement to the courtyard's landscape quality, which should incorporate a mixture of passive and active uses.

Although the proposed development is permitted in this location, it will be of a form and scale that are not consistent with existing development. Particularly along the northern boundary at Hobart Place, the proposed building could visually dominate the low density houses opposite. However, the retention of existing trees and proposed modulation of the façade are considered an acceptable response to the situation.

The Panel recommends that shops be considered for the ground floor level along Fowler Road.

Detail development of the podium landscaping and the right of way passage running from Fowler Road to the communal courtyard is required. Additional information (detailed section) to document detail treatment of the façade is also required."

Colleen Baker
ARAP Coordinator

07 March 2011

Architectural Review Advisory Panel

Proposal:
Demolition of Existing Structures and Construction of a Residential Flat Building Consisting of 70 Apartments over Basement Parking and 70 Lot Strata Subdivision
Property:
273A Fowler Road ILLAWONG NSW 2234
Applicant:
Peter Azar
File Number:
DA11/0090

The following is the report of the Architectural Review Advisory Panel Meeting held on 11 August 2011 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

"**5. Informal Referral - Consideration of Amended Plans for Development Application No. 11/0090 – Residential Flat Building at 273A Fowler Road, Illawong – No Interview With Applicant**

Council's David Jarvis, Peter Brooker and Michael Hornery outlined the proposal for the Panel, including providing details of Council's relevant codes and policies.

The proposed five (5) storey residential flat building contains 70 units and is located within the Illawong retail/commercial precinct. Two (2) levels of basement car parking are provided with a single entry/exit point accessed from Hobart Place close to Fowler Road.

Since the proposal was previously seen by the Panel it has developed significantly to address some of the main concerns raised. However, further comment/consideration of the following issues is required:

Context
The proposed development must relate to both the adjoining shopping centre and the adjacent single dwellings. Some of these houses are large and perform a role in screening the development from distant points. The contrasting scales of the site's immediate context are further emphasised by the site's elevated location. As the elevations of the shopping centre are unattractive, the proposal serves a useful purpose in screening those buildings.

The context of the site is challenging and the proposal responds to this context in a satisfactory manner.

Scale & Density
It is noted that the building setback from Hobart Place has been increased and the building's mass in this location has been reduced to provide a building of an appropriate

scale. The retention of the existing street trees and the modulation of the building façade also contribute to tempering the scale of the proposal to an acceptable level.

Built Form
Some recognition is given to the steep slope of the land although the built form does not set back to reflect the topography. Across the site various levels emphasise the horizontal.

The approach that has been taken by the applicant is to create a continuous but heavily articulated façade. This approach is not considered to be the optimum urban design response to this site. It is, however, a valid response to the context of the site that has been developed to provide an acceptable outcome.

The scale of the development could be further broken down by introducing more clearly defined breaks between parts of the building and stepping the building façade and/or balcony fronts to relate to the topography of the site.

Amenity
The proposal is generally well resolved and would offer a good level of amenity to its future occupants. The least successful units within the development are those within the unit block located internally south of the courtyard. These units have no clear street address, however their solar orientation is good and the upper level will enjoy attractive views to the north. To access these units visitors are required to enter the lobby of one of the buildings fronting Hobart Place, then walk through either the courtyard or cross over a bridge.

The courtyard areas associated with these units could be improved in scale and amenity.

Safety & Security
A 2.5m wide entry lane has been proposed to provide access to the level 2 podium from Fowler Road. The lane turns to the north and steps down (approximately 3m) as it accesses the podium. Sight lines between the podium and the laneway are broken by both the change in level and the change in direction. The environment created within this lane still raises safety concerns.

An amended design for the lane should be developed to establish sight lines between the podium and street. Ideally the laneway would open up adjacent to Unit 2.17 and the steps broken down into two (2) or three (3) flights that are spread across the length of the lane.

Resource, Energy & Water Efficiency
Most units are orientated appropriately to provide good solar access although quite a large number of units are single aspect. However, care must be taken in the detail treatment of the facades to ensure that solar access is controlled to provide shade in summer and allow solar access to units in winter.

The use of rainwater tanks and provision for solar panels are also recommended. Stormwater storage tanks are required and should be shown on the drawings.

Landscape
Generally, insufficient information is provided about the amended landscape proposal. On this site the landscaping will be critical. A potentially barren central space could become an oasis with good landscaping.

Opposite the existing houses the increased setback to Hobart Place is commendable. It is recommended that this space be treated with a continuation of the existing street trees and a ground cover. A second row of trees should be planted to duplicate the established trees and provide a simple, strong landscape finish to the deep setback.

Mounded landscaping on the podium instead of the raised planters has improved the quality of the internal courtyard space. However, the use of turf within the courtyard is discouraged - mass planting is considered to be an option more likely to survive the podium environment.

The selected trees located within the north-western corner of the podium will need to screen the blank walls of the adjoining building and absorb the reflected heat load from these walls. Consideration must be given to the selection of all podium trees to ensure that they will survive the courtyard environment, provide sufficient scale to the blank walls and provide amenity to people using the barbecue area here. To achieve these tree plantings, the slab should be set down sufficiently to provide an adequate soil depth. Likewise, the careful protection of the trees designated for retention to the northern edge of the site will be necessary throughout the construction process.

Detailed sections through both buildings showing the relationship to the courtyard area should be provided as part of this documentation.

Social Dimensions
The proposal provides a variety of unit types.

Aesthetics
The aesthetics of the proposal are considered generally well resolved. However, careful detail treatment of the facade is essential to ensure the design intent portrayed in the elevations is realised.

1:50 scale typical details through facades should be provided as part of the development application.

Recommendation/Conclusion:

The proposal has developed significantly to address many of the concerns raised at the previous ARAP review. In particular, the increased setback from Hobart Place and the reduced mass (from 85 units to 70 units) are commendable developments.

Recognising the zoning and the location of the development within the centre, the proposal is considered to be of an appropriate scale, provides a good level of amenity to its future occupants and relates to its immediate context in an acceptable manner.

However, further consideration of the Fowler Road access lane is recommended to provide a safer, more people friendly environment.

Further information documenting the detail treatment of the facades and landscaping illustrating how the design intent of the proposal will be realised should be provided for consideration by the Joint Regional Planning Panel."

Colleen Baker
ARAP Coordinator

22 August 2011

STATE ENVIRONMENTAL PLANNING POLICY No. 1

OBJECTION TO THE BUILDING HEIGHT DEVELOPMENT STANDARD

273A FOWLER ROAD I ILLAWONG

CLIENT: KEYSITES AND AZAR PTY LTD,
PO Box 4129, ILLAWONG

PROJECT REF: 0014/10

DATE: JULY 18, 2011

PLANNING INGENUITY

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STATE ENVIRONMENTAL PLANNING POLICY NO. 1
DEVELOPMENT STANDARDS
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

APPLICANT'S NAME: Azar Building & Constructions Services

SITE ADDRESS: 273A Fowler Road, Illawong

PROPOSAL: Residential Apartment Development

1. (i) Name of the applicable planning instrument which specifies the development standard;

Sutherland Shire Local Environmental Plan (LEP) 2006

(ii) The number of the relevant clause therein

Clause 33(8)(b)(ii)

2. Specify the nature of Development Standard sought to be varied and details of variation:

Clause 33 of SSLEP 2006 relates to building height limits throughout the Sutherland Shire. Subclause 33(8)(b)(ii) specifically relates to development within Zones 8, 9 and 10 (the site is within Zone 9) and states inter alia:

> **(8) Buildings in Zone 8, 9 or 10**
> A building on land in Zone 8—Urban Centre, Zone 9—Local Centre or Zone 10—Neighbourhood Centre must not comprise more than:
>
> (a) the maximum number of storeys specified on the Height and Density Controls Map in relation to the land concerned, or
> (b) if that map does not specify a maximum number of storeys in relation to the land concerned:
> (i) 2 storeys in the case of a building located on land in Zone 10—Neighbourhood Centre, or
> *(ii) 3 storeys in any other case.*
> (9) A building on land in Zone 8—Urban Centre, Zone 9—Local Centre or Zone 10—Neighbourhood Centre must not exceed any maximum height specified on the Height and Density Controls Map in relation to the land concerned.

The LEP Height and Density Control Maps do not specify a height limit for the subject site and as such a 3 storey height limit applies.

A 'storey' is defined under the LEP in the following terms:

"

> ***storey*** means a space within a building situated between one floor level and the floor level above, or the ceiling or roof above, and includes the space within the following:
>
> (a) foundation areas, garages, workshops, storerooms, basements and the like, whose external walls have a height of more than 1 metre, as measured vertically from the ground level immediately below,
>
> (b) an attic within a residential building, but only if:
>
> (i) the roof of the attic is pitched from more than 300mm above the floor of the attic or at an angle of more than 35 degrees, or
>
> (ii) the area of the attic exceeds 60 percent of the floor space of the floor level below."

In accordance with this definition, any 'basement' level that has external walls that are less than 1m above ground level is not counted as a *storey*. This includes habitable and non-habitable parts of the building that fall within the definition of a 'basement'. A 'basement' is defined under the LEP in the following terms:

> ***basement*** means the space of a building where the floor level of that space is predominantly below ground level and where the floor level of the storey immediately above is less than 1 metre above ground level.

'Ground level' is defined under the LEP in the following terms:

> ***ground level*** means:
>
> (a) if the level of the site has been modified by the carrying out of development under a development consent that has been commenced but not completed—the level of the land as it was prior to that modification, or
>
> (b) in any other case—the existing level of a site.

The existing level of the site is therefore the starting point for calculating the number of storeys of the proposed building, regardless of whether the levels positioned below ground are part of a habitable or non-habitable floor. Again, a basement can contain habitable parts (such as a dwelling) or non-habitable parts (such as a lift lobby or car park) of a building. This interpretation is further confirmed by point (b) of the 'Gross Floor Area' definition of SSLEP 2006, which states that *habitable rooms in a basement or attic* are calculated as GFA. It is therefore confirmed that a basement can contain either habitable floor space. The proposed GFA has been calculated accordingly and easily complies with the 2:1 FSR requirement.

The LEP Height and Density Control Maps do not specify a height limit for the subject site and as such a 3 storey height limit applies. At its highest point, the originally submitted DA had a technical height of 5 storeys (between gridlines 12 and 13 on the plans) although it is noted that the ground floor contains car parking only which is in the position of an existing excavated area of the site used for vehicular access.

The amended scheme has a predominant height of 3 storeys as viewed from Hobart Place (in accordance with the definitions of a *storey, basement* and *ground level* above). At its highest point the proposal has a technical height of 4 storeys which is located at the basement entry point from Hobart Place (refer Section C-C and D-D). This basement entrance point is at a part of the site which was previously excavated and therefore the existing ground level does not necessarily reflect the natural ground level. When viewed from Hobart Place, the building at this point will contain 3 residential levels above the basement entry point. The building located at the southern part of the site also has a four storey height.

The following graphic identifies the areas of non-compliance with the height requirement (the white parts of the building form above the pink blanket are the areas of non-compliance).

Figure 1: Existing ground plane elevated 3 storeys (shown 'pink')

3. State the objective of the standard to be varied as it relates specifically to the subject site and proposal:

The objectives of Council's building height standards are contained in clause 33(2) of the LEP that states, inter alia:

"
(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."

It is noted that these objectives apply to all zones and development types, not just to development within the Local Centre Zone. The importance of certain objectives is likely to be weighted according to the specific zone or development type. That is, some objectives are likely to be of more relevance to residential zones than commercial zones.

4. Explain how the proposal, notwithstanding the non-compliance with the development standard, will achieve the objective of the development standard.

Objective (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,

Objective (a)(i) places emphasis on achieving consistency with the "desired scale and character of the street and locality" rather than consistency with the existing scale and character. Whilst the latter is still of importance in assessing the appropriateness of the proposal, the emphasis on future character is of particular importance to the subject proposal.

Of assistance in interpreting this objective in terms of the notion of scale are comments made by Roseth SC in *Veloshin v Randwick Council* [2007] NSWLEC 428:

> "While bulk and scale tend to be used interchangeably, strictly speaking, bulk refers to the mass of a building and scale is properly used only when referring to the relative size of two or more things."

Where objective (a) talks about "desired scale", a comparison must be made to development that is desired or likely to result from planning controls relative to not only the site but also surrounding land.

The subject site is located at the eastern end of Illawong Village. The village contains a mix of one, two and three storey commercial/retail buildings. Located adjacent to the respective northwestern and southwestern boundaries of the subject site is Coles Supermarket and the rear of a commercial building that forms part of Illawong Village. These commercial buildings have a predominant height of 3 storeys or an equivalent height of 4 residential storeys (see Figure 2). The height of these buildings is greater than the height of the proposed development. However, because the definition of a storey does not contain a numerical limit for floor to ceiling heights, these existing buildings are consistent with the maximum permitted '3 storey' height

allowed under SSLEP 2006. It is unlikely that the height will be increased in the foreseeable future.

The proposal has a building height of 3 storeys to Fowler Road which is consistent with the anticipated building height under the controls.

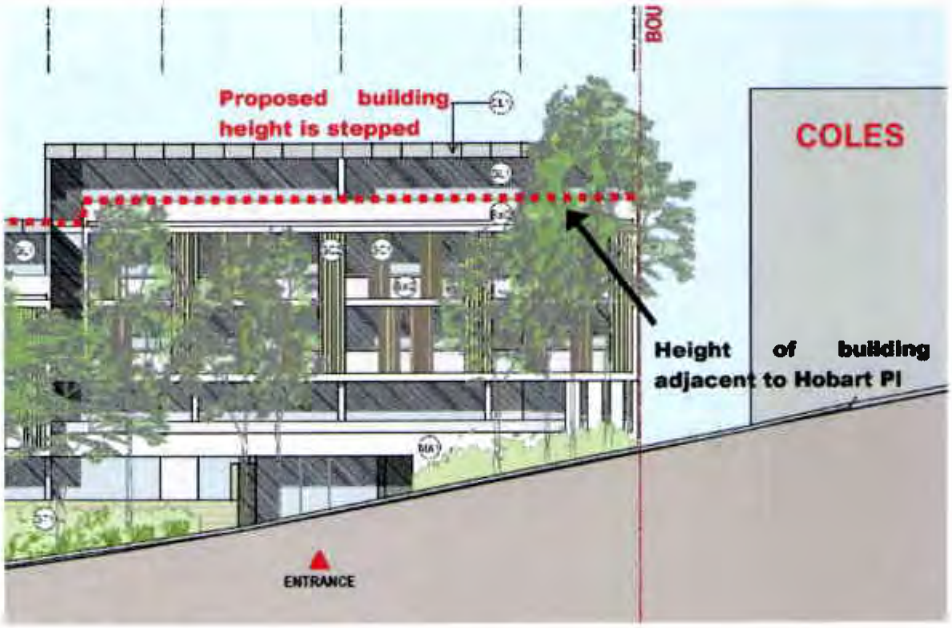


Figure 2: Maximum height of the proposed building is significantly less than the adjacent Coles supermarket when viewed from Hobart Place

In this regard and as demonstrated in the architectural plans provided with the application, the height of the proposed development as viewed from Hobart Place is lower than the height of the Coles Supermarket building. Whilst the proposal will read higher than adjacent dwellings to the north from the street, this is largely a result of site topography and orientation of those dwellings. As discussed elsewhere, dwellings to the north are three and four levels in height however this height is expressed to the north (and opposite foreshore of Georges River) rather than the street. Figure 3 clearly shows the combined scale of these dwellings which are considered to be akin to a higher density built form than single dwellings. The proposal is therefore not contrary to the existing and likely future scale of buildings in the locality.

In terms of the proposed building design, the form is well articulated by elevational treatment and subtle variations in detail. The appearance of the building will assist with integrating the building with surrounding development and likely future development rather than drawing attention to its height and scale through overstated architecture.

In effect, the proposed building will read as a dominant three storeys with a reduced penthouse level above when viewed from the most significant public domain areas in the vicinity of the site.

In relation to objective a(ii), Hobart Place contains a significant stand of native vegetation that will be retained and contributes to scale in the streetscape and public domain. The height and density of the existing vegetation is important in establishing the site context and useful in creating an appropriate transition between the built forms in the adjacent Zone 9 and Zone 1. The importance of the retention of the landscape features was also noted by Council's Architectural Review advisory Panel.

The highest point of the building fronting Hobart Place will be located below the tree line and the buildings will therefore be largely screened when viewed from numerous vantage points of Illawong and the opposite foreshore of the Georges River, as shown in Figure 3. As described in the landscape plans provided with the application, the site will be further embellished with new landscaping which ensures that the proposal complements and enhances the landscape characteristics of the locality.

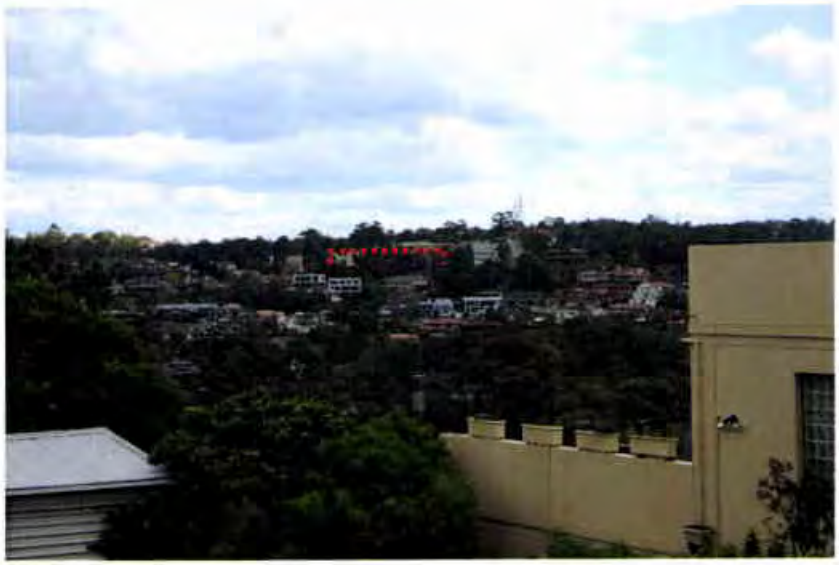


Figure 3: Subject site as viewed from opposite side of Georges River (subject site shown dashed red)

Objective (b)

to allow reasonable daylight access to all buildings and the public domain,

In terms of solar access, as shown in Shadow Diagrams of the proposed development prepared by Turner & Associates architects and discussed in the Statement of Environmental Effects submitted with this application, shadows cast by the proposal do not fall on any residential property and either fall on the subject site, on the adjacent commercial properties or onto Fowler Road or onto a portion of Illawong Public School grounds – refer to SEE for further discussion.

The proposal will not result in any shadow being cast on living areas or private open spaces of surrounding residential development. Given the

northern orientation of the subject site, the proposed building will enjoy high levels of solar access.

Accordingly, the proposal is considered to be consistent with Objective (b) of the height development standard.

Objective (c)

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

The impact of the proposed development on neighbouring properties in terms of views, privacy and overshadowing are discussed in detail in the Statement of Environmental Effects submitted with this application, where it is demonstrated that there will be no adverse amenity impacts created on any surrounding or nearby residential property.

Shadow will be cast by the proposed development onto the rear (northeastern elevation) of the commercial building adjoining the subject site, however as described previously, the height of the proposed building is consistent with a 3 storey commercial building so any shadow cast is not considered to be unreasonable or significant. Some view loss will also be created from the same building as a result of the proposed development, however, a building with compliant height would create the same view loss impact given the required viewing angle to gain views to the north of the Georges River and its foreshores. Any view loss created by the proposed development is therefore not considered to be unreasonable of significant. Overshadowing of the community centre located within the building adjacent to the commercial building is similar to the shadow cast by the LEC approved development on the subject site and therefore determined to be reasonable in the circumstances.

In terms of privacy, given that the proposal is situated adjacent to existing commercial uses, it is considered that aural or visual privacy impacts created by the proposal will be reasonable in the context of the zoning and likely anticipated impacts created by the permitted building form on the site.

Accordingly, the proposal is considered to be consistent with Objective (c).

Objective (d)

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

As indicated in discussion of Objective (a), the visual impacts of the proposed development are considered to be acceptable and consistent with the desired scale and character of development in the locality. The

proposal will present an active frontage to Hobart Place and Fowler Road and be consistent or compatible with the predominant height of buildings located within Illawong Village and on adjoining properties.

As highlighted within the architectural plans prepared by Turner & Associates architects and submitted separately with the application, the scale of the proposal is appropriate to the Local Centre zone and architecturally treated to reduce perceived building height and bulk. The building has a height of 3 storeys when viewed from Fowler Road, which is consistent with the LEP height control for the site. In addition, the proposed building represents a significantly higher quality architectural response to the local context than the existing buildings in the locality and in comparison to the building approved by the LEC. When viewed from Hobart Place the upper storeys are setback in order to maintain a building height of 3 storeys above existing ground level – see Figure 4.

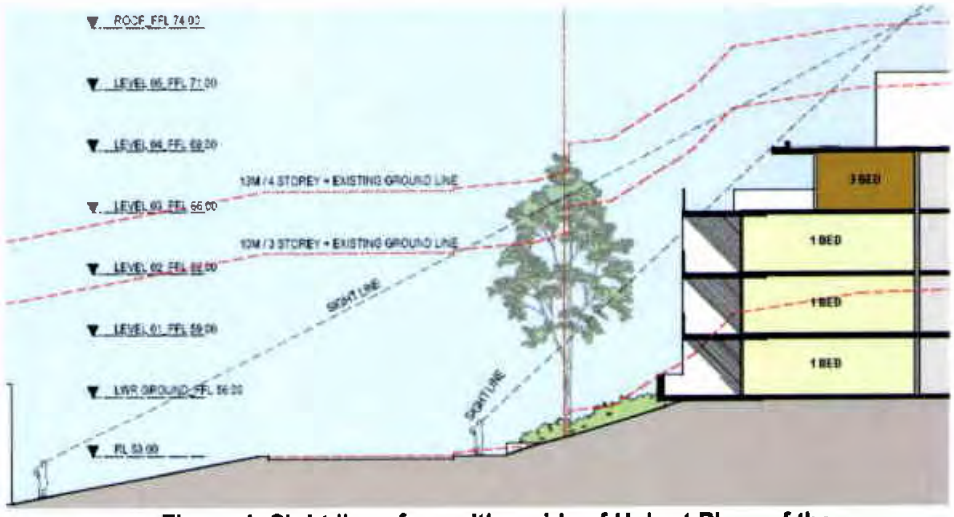


Figure 4: Sight lines from either side of Hobart Place of the proposed building

The buildings located on the opposite side of Hobart Place to the subject site are oriented to the north to capture views of the Georges River and its foreshores, and as such, these properties will not experience any adverse visual impacts. Furthermore and as described by Figure 4, the upper floors of the proposed development are setback so that a height above existing ground level of 3 storeys is maintained when viewed from either side of Hobart Place in front of the site. It is acknowledged that in real terms portions of the proposed building will have a four storey appearance because the subject site will be excavated to create an additional lower level, however, the building base is integrated into the ground line and screened by detailed landscaping which largely eliminates the ground level from view. In any case the existing LEC approved development for the subject site, which is still valid, has a four storey height and the external appearance of the proposed development is far superior by comparison.

Accordingly, it is considered that the proposed building will not result in any significant adverse visual impacts as a result of its height. In fact, it is considered that the proposal will significantly enhance the visual character of the Illawong Village and create a significant improvement to the existing site and in comparison to the Court approved development for the subject site.

Objective (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."

Objective (e) is not relevant to the current proposal.

Accordingly, notwithstanding non-compliance with the height development standard, the proposal is considered to satisfy the objectives of the standard. In the circumstances of the particular case, the SEPP No. 1 Objection for the non-compliance is considered to be well founded.

5. Will non-compliance with the development standard be inconsistent with any planning objectives for the locality? State why.

Under the LEP the subject property is within *Zone – Local Centre*, the specific objectives of which are identified in the LEP as follows:

> " **1 Objectives of zone**
> The objectives of this zone are as follows:
> (a) to identify appropriate land for the provision of a wide range of retail, business and professional activities,
> (b) to promote viable, small, local and specialty shops to support the needs of the local community and provide local employment,
> (c) to provide for a mix of commercial, office, retail and residential buildings,
> (d) to create attractive, vibrant and safe establishments and facilities as a focus for community spirit."

The proposal is considered to be entirely consistent with the objectives of the Zone. The zone objectives do not contain any specific built form objectives other than to create "attractive, vibrant and safe" establishments. The proposal will clearly activate both street frontages and upgrade the existing site with a contemporary residential development that is in high demand within the locality. Development of the site for residential uses will also help to increase the viability of nearby businesses through increase customer base. Further discussion of the proposal's compliance with zone objectives is included in the accompanying letter prepared by Planning Ingenuity Pty Ltd.

6. In the circumstances of the proposal, would strict compliance with the development standard:
(i) be unnecessary or unreasonable?
(ii) tend to hinder the attainment of the objectives under Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979?

(i) Yes. In the circumstances of the case, to require strict compliance with the three storey height limit, is considered to be unnecessary and unreasonable given the scale and form of commercial development on surrounding properties, which is consistent or compatible with the proposed building height. The height of the building is visually reduced through stepping of the building and variations in architectural treatment of the building to reduce apparent bulk and scale. In addition, the building FSR is significantly less than the permitted maximum and boundary setbacks are greater than the minimum required.

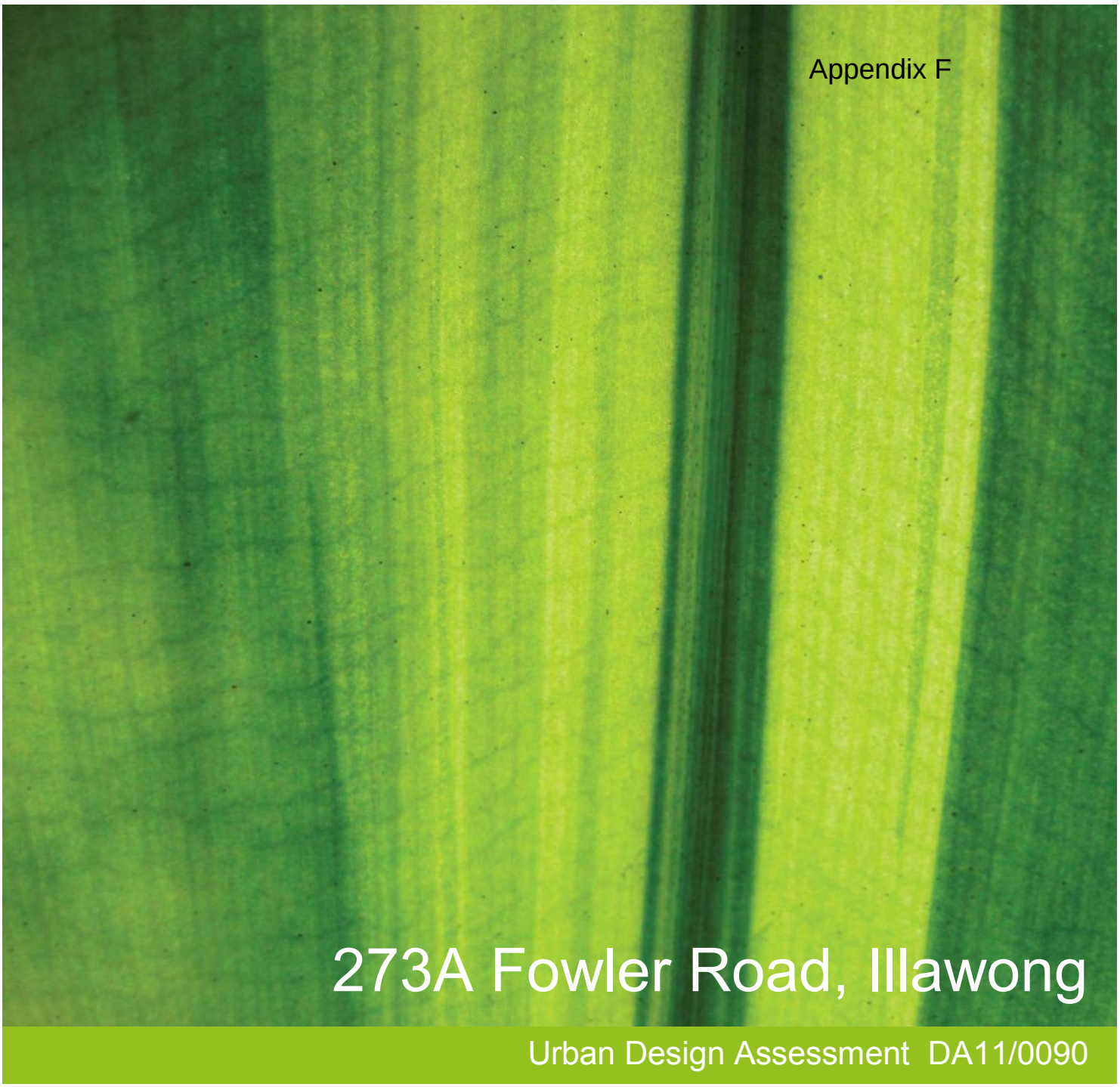
It is noted that a building with compliant height of three storeys throughout would not achieve a superior built outcome as the amenity of the apartments would be compromised (reduced solar access, reduced cross ventilation and lower percentage of apartments would capture views). Given that the proposed development is consistent with the existing and future scale of development in the locality, that it does not achieve the maximum permitted FSR and that the current LEC approval for the site is for a 4 storey building, there is no reasonable justification or compelling reason for pursuing a building with compliant height.

Therefore, in the current circumstances and in the absence of any significant adverse amenity impacts on surrounding properties, strict compliance with the control would in fact be counter-productive in terms of achieving the objectives of the control, the zone and Council's LEP and DCP. Accordingly, it is considered that strict compliance with the development standard is unreasonable and unnecessary and this Objection is well founded on the basis that the objectives of the standard are achieved notwithstanding non-compliance.

(ii) Yes. For the reasons stated in this Objection, it is considered that strict compliance with the development standard for height would specifically be contrary to the promotion and co-ordination of the orderly and economic use and development of land, an object of the Act. The proposed development is consistent and compatible with the size and scale of existing buildings in Illawong Village. In addition, it is important that development of local Centres is maximised to achieve the objectives of the zone and encourage business growth. The proposed FSR is significantly less than the permitted maximum. The subject site is

capable of absorbing the minor additional height proposed without any significant amenity impacts on surrounding development and in a manner that is consistent with the desired future character for the locality. Strict compliance would hinder or limit the contribution that development of the site can make to economic use of finite vacant land in the Illawong Village.

It has been demonstrated in this SEPP 1 that the proposed height variation is consistent with the decision of *Wehbe v Pittwater Council [2007] NSW LEC 827* where Chief Justice Preston determined that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy. The first of these 5 'tests' is whether *the objectives of the standard are achieved notwithstanding non-compliance with the standard.* As discussed in detail, the objectives of the standard are achieved despite the building height non-compliance.



Appendix F

273A Fowler Road, Illawong

Urban Design Assessment DA11/0090

August 2011

URBIS STAFF RESPONSIBLE FOR THIS REPORT WERE:

Director	Rohan Dickson
Senior Consultant	Yi-Juan Koh, Jason Duda
Consultant	Tomas van der Meer
Job Code	SD1102
Report Number	11 08 15 Urban Design Assessment

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Australia Asia Middle East
urbis.com.au

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FIGURES:

1 Introduction

1.1 PURPOSE OF THE REPORT

This urban design assessment report has been prepared in relation to amended plans submitted to Sutherland Council for DA 11/0090. The purpose of this urban design assessment report is to:

- Analyse the contextual features of the subject site and its surrounds;
- Analyse the existing built form and streetscape characteristics of Hobart Place and Fowler Road;
- Identify the desired future character of the subject site as conveyed through the existing planning framework;
- Assess the proposal's built form and height response against the existing character and desired future character for the area;
- Undertake a visual impact assessment to determine the visibility of the proposal from immediately adjoining as well as more distant view points; and
- Provide Council with a consolidated urban design assessment summary of the proposal.

An exhaustive compliance assessment against all the relevant planning and design controls has not been undertaken as part of this assessment, as it has been covered satisfactorily in the Statement of Environmental Effects (Planning Ingenuity, January 2011).

1.2 BACKGROUND

In relation to the subject application, an original DA was lodged in February 2011 (DA11/0090) with Sutherland Council. The original architectural plans proposed a total of 85 units over three to five storeys above existing ground level, with a floor space ratio of 1.74:1. The proposal provided a continuous building form addressing Hobart Place and Fowler Road, with a separate four storey building located at the rear of the site. Basement parking was located below existing ground level, and accommodated 152 vehicles.

Since lodging the original architectural plans in February 2011, the applicant has amended the plans to primarily reflect:

- Reduced building height – through the removal of one storey off the middle portion of the building (fronting Hobart Place).
- Reduced density – by removing 15 units from the overall development, resulting in a total of 70 units (FSR of 1.6:1).
- Reduced setbacks – setbacks to Hobart Place have been further increased and align with the property boundary and curve in the road.

1.3 KEY PLANNING CONTROLS

The key planning controls influencing the built form response, and the relationship to the proposal is noted as follows:

- Floor space ratio: maximum FSR of 2:1, which the proposal complies with at 1.6:1 (Clause 35, Sutherland LEP 2006).
- Building height: maximum 3 storeys, which the proposal satisfies in part, but exceeds by one storey in selected areas (Clause 33, Sutherland LEP 2006).
- Street setbacks: nil for ground uses and 2m setback for upper floors, which the proposal complies with (Clause 2.b.7, Sutherland DCP 2006).

1.4 THE PROPOSAL

The revised architectural scheme (Figure 1) reduces the appearance of bulk and building height through the removal of the top floor at the lowest point of the site. The density of the site has also been reduced by 17.6% of the number of originally proposed units.

The subject proposal encompasses the following key elements:

- 70 residential units across two building elements – main building fronting Hobart Place and Fowler Road, and another building located in the internal courtyard;
- Total of 118 car parking spaces across two storeys;
- Vehicular driveway off Hobart Place providing access to basement parking levels; and
- Landscape treatment along the site boundaries including central internal courtyard.

FIGURE 1 – LEVEL 2 PLAN (TURNER + ASSOCIATES)

2 Contextual Analysis

2.1 LOCAL CONTEXT

The subject site is located at 273A Fowler Road, Illawong, which forms part of the block zoned 9 – Local Centre in the Sutherland Local Environmental Plan 2006 (SLEP 2006). Fowler Road is the main vehicular connection between Alfords Point Road/Old Illawarra Road to Georges River. Fowler Road is a wide two-lane street with housing, open space and educational/community uses fronting onto the road.

Illawong Village Local Shopping Centre is adjacent to the subject site, and is currently occupied by a range of commercial and retail tenancies in addition to supermarket functions. Car parking structures associated with the Shopping Centre are also located in this area. The Illawong Public School is located south of the subject site. Buildings associated with the school are generally located behind a bushland buffer to Fowler Road. Areas further beyond the Illawong Public School and Illawong Village Shopping Centre are predominantly residential in nature. Residential development to the north of the subject site extends down to Georges River.

2.2 SUBJECT SITE

The subject site (Figure 2) is situated at the intersection of Fowler Road and Hobart Place. It has a site area of approximately 4,566sqm and currently adjoins the eastern side of the Illawong Village Shopping Centre (Figure 3). Existing features on the subject site include:

- Commercial/retail tenancies and a surface car park currently occupying the southern portion of the site fronting Fowler Road;
- Relatively steep fall of approximately 9-10m across the site;
- Northern portion of the site to Hobart Place currently steps down to a flat gravel area previously occupied by tennis courts;
- Rear of the Illawong Village Shopping Centre adjoining the western site boundary, visible from Hobart Place; and
- A retaining wall combined with vegetation along the north-eastern site boundary to Hobart Place.

FIGURE 2 – SITE PHOTOS FROM NORTH-WEST CORNER (LEFT) AND EASTERN CORNER (RIGHT)

FIGURE 3 – SITE AERIAL

3 Existing and Desired Future Character

3.1 EXISTING CHARACTER ANALYSIS

The existing character of the subject site and its surrounds are analysed in terms of the prevailing building forms relating to the current land use zones in the area.

3.1.1 LAND USE AND INTENSITY

Fowler Road

The subject site is zoned 9 – Local Centre in accordance with SLEP 2006 (Figure 4). Built forms along Fowler Road reflect varying land uses including the following:

- Zone 12 – Special Uses being educational establishment and community facilities to the south;
- Zone 1 – Environmental Housing (Environmentally Sensitive Land) to the north-east;
- Zone 9 – Local Centre being the Illawong Village Shopping Centre to the west; and
- Zone 3 – Environmental Housing (Bushland) located to the south-west and south-east.

The intensity of the developed land in the area is reflected through a variety of building forms reflecting the differing zones in the area. In particular, the Illawong Village accommodates a shopping centre as the subject Zone 9 – Local Centre permits significantly larger building footprints than the adjoining residential areas.

Hobart Place

The character along Hobart Place is significantly varied between the northern and southern sides of the street. The northern side is zoned 1 – Environmental Housing (Environmentally Sensitive Land), which permits building heights of not more than 2 storeys measured from the top roof height of 9m from natural ground level (Clause 33(4)(b) of SLEP 2006). In comparison, southern side of Hobart Place (specifically, the Illawong Village zoned 9 – Local Centre) permits building heights of not more than 3 storeys (Clause 33(14)(b) of SLEP 2006), with no numerical height control specified. The rear of the Illawong Village Shopping Centre fronts Hobart Place; resulting in „back-of-house' type uses addressing this street. In particular:

- Vehicular and servicing entry points associated with the Illawong Village Shopping Centre are located off Hobart Place;
- Three storey (equivalent height) blank façades of the Shopping Centre address Hobart Place, with varying setbacks to the street; and
- Decked car parking structure interfaces with the northern side of Hobart Place.

Further to the south-west, land adjoining the western side of Illawong Village is zoned 4 – Local Housing. Residential dwellings along this portion of Hobart Place are attached and detached housing, predominantly of a two to three storey scale.

FIGURE 4 – ZONING MAP (SLEP 2006)

3.1.2 BUILT FORM

Fowler Road

The built form response along Fowler Road reflects the variety of zones along the portion of the road visible from the subject site. In particular, the built form along Fowler Road illustrates:

- On approach from the south (western side) – predominantly detached residential dwellings with varying setbacks to Fowler Road.
- On approach from the south (eastern side) – buildings associated with Illawong Public School generously setback from Fowler Road behind surface car parking areas. The frontage of this portion of the street maintains a vegetated treatment.
- On approach from the east (northern and southern sides) –detached two storey residential dwellings with consistent setbacks to the street.
- Within the Illawong Village – on land currently zoned 9 – Local Centre, existing building forms reflect the internal uses on the site, namely:
  - Bulk and scale conducive to a shopping centre, being the Illawong Village Shopping Centre and associated car park structures, with a largely three storey structure being visible from Fowler Road.
  - An existing two storey commercial/retail tenancies on the subject site, setback behind a surface car park.

Building forms within the Illawong Village reflect the commercial/retail and associated uses permissible under the SLEP 2006. Adjacent areas zoned for residential purposes reflect more intense land uses immediately adjoining the Village (i.e. housing directly adjoining the shopping centre to the south-west along Hobart Place), and lower residential densities further away from the Village (i.e. residential areas further east along Fowler Road).

Hobart Place

The built forms along the southern side of Hobart Place associated with the Illawong Village Shopping Centre are large retail „box' footprints of two to three storey (equivalent) heights (Figure 5).

FIGURE 5 – PHOTOS OF ILLAWONG VILLAGE SHOPPING CENTRE (HOBART PLACE)

Further to the west around the bend along Hobart Place, existing attached three storey residential developments (Figure 6) establish more of a medium than low density streetscape character as it adjoins the Illawong Village Shopping Centre.


FIGURE 6 – ATTACHED HOUSING ADJOINING ILLAWONG VILLAGE SHOPPING CENTRE TO THE WEST

Along the northern side of Hobart Place, houses reflect a similar density in intensity and scale as they are predominantly three to four storey „large-house' residential typologies (some five storeys), but are not attached dwellings. However, due to the slope of the land away from the subject site, the scale of the residential dwellings on the northern side of the street is not wholly evident from Hobart Place; only two storey dwelling structures are predominantly visible from this area.

3.2 DESIRED FUTURE CHARACTER

The future built form character of the subject site is guided by the statutory controls contained in SLEP 2006; in particular, the zone objectives of the subject site. The subject site is zoned 9 – Local Centre, with the following zone objectives:

> *(a) To identify appropriate land for the provision of a wide range of retail, business and professional activities,*
>
> *(b) To promote viable, small, local and specialty shops to support the needs of the local community and provide local employment,*
>
> *(c) To provide for a mix of commercial, office, retail and residential buildings,*
>
> *(d) To create attractive, vibrant and safe establishments and facilities as a focus for community spirit.*

Notwithstanding the above zone objectives, development for the purpose of a residential flat building is permissible with development consent. SLEP 2006 does not preclude the ability for residential land use on the subject site. The subject proposal is assessed against the objectives of the zone:

In response to Objective (a):

- The subject site has been identified as suitable for a range of land uses, including residential, retail and commercial uses. The provision of a wide range of retail, business and professional activities is already concentrated into the Illawong Village Shopping Centre. The proposal will provide residential activities on the site to support the adjoining centre.
- The proposed residential development does not contradict this zone objective.

In response to Objective (b):

- The proposal will not compromise the viability of the centre. Rather, the location of additional new residences on the subject site will enhance the utilisation and patronage to the centre, promoting the viability of local businesses associated with the centre.

In response to Objective (c):

- The proposal enables the Illawong Village to realise this objective of the zone. As it currently stands, land zoned 9 – Local Centre associated with Illawong Village encompasses the existing Illawong Village Shopping Centre and the subject site. There are no residential uses located within the Illawong Village.

- Accordingly, the proposed residential development will fulfil a mix of uses within the centre, through the existing provision of commercial, office and retail uses within the shopping centre, and the provision of residential uses on the subject site. The proposal will provide for a horizontal mix of uses within the village.

In response to Objective (d):

- The proposal will contribute to an attractive, vibrant and safe village at Illawong in the following ways:

  - The proposed design treatment of the building offers a well-articulated and modulated building that provides a suitable built form response in this location within the Illawong Village.

  - The proposal will enhance the vibrancy of the Illawong Village through the location of new residents proximate to the Illawong Village Shopping Centre, thereby enhancing its patronage and pedestrian activity.

  - The proposal will provide a greater degree of safety and street activation than the current land use on the site affords. The proposal will establish residential units oriented towards Hobart Place and Fowler Road to provide casual surveillance of the public domain. Vehicular access to the site to consolidate to one location off Hobart Place, and is clearly separated from the main pedestrian access points into the site to reduce vehicular/pedestrian conflicts.

4 Built Form Assessment

4.1 BUILT FORM ASSESSMENT

Building Height

In accordance with SLEP 2006, the maximum building height on the subject site is restricted to three storeys. SLEP 2006 does not define the maximum height of a three storey development in numerical figures. Accordingly, the project architects Turner + Associates have generated an assumed 10m height plane (as illustrated in Figure 7) for a reasonably scaled three storey development.

FIGURE 7 – PROPOSAL WITH 10M HEIGHT PLANE IN PINK (TURNER + ASSOCIATES)

As illustrated in Figure 7, the proposal is largely compliant with a 10m height plane (existing ground level to top parapet height). The only areas that exceed this height plane are at the corner of Hobart Place and Fowler Road, and at the rear portion of the site associated with the unit block within the rear courtyard (top floor).

The proposed building height is considered an acceptable response for a site located within the Illawong Village, and one that adjoins the existing Shopping Centre. In particular, the following points are noted:

- The proposed height will not generate adverse impacts on the residential amenity of surrounding developments;
- The tallest building element (separate units located in the internal courtyard) of the proposal is located at the rear of the site, and will not be visible from Hobart Place. From Fowler Road, it is likely that this element may be visible, but will be read in the context of an existing building element being the commercial building/community centre fronting Fowler Road;
- The portion of the development that is slightly taller than a reasonably scaled three storey development (i.e. 10m height) is located at the corner of Hobart Place and Fowler Road. Due to the slope in the land, small corner elements extend beyond the 10m height plane. The form at this

intersection provides a defined built form element, while maintaining a three storey street wall in this location.

- Notwithstanding portions of the development that are four storeys, due to the slope of the site the building heights fronting Hobart Place do not exceed 10m in height.

Further, the proposed building height has been assessed in terms of its visual impacts on immediate areas adjoining the site, as well as more distant viewpoints. Please refer to Chapter 5 of this report, which provides a Visual Impact Assessment of the proposal against these parameters.

Streetscape Address

The proposal's main built form address is to Hobart Place, which is adjoined by the „back-of-house' uses associated with the Illawong Village Shopping Centre (west). The proposed streetscape address provides an improved response when compared to the existing development on the site, as well as existing adjoining uses along Hobart Place:

- The proposal activates the Hobart Place streetscape to a greater extent than the existing „back-of-house' development onsite. Currently, the side and rear façade of the existing commercial/retail tenancy block and car parking/servicing areas on the site front Hobart Place;

- The proposal also provides one consolidated vehicular access point off Hobart Place, allowing for a consistent residential built form address to Hobart Place;

- The proposal provides a greater degree of activation and surveillance, and a more suitable response to the adjoining residential dwellings on the northern side of the street than the rear portion of the Illawong Village Shopping Centre, which currently fronts onto Hobart Place;

- The proposal is well articulated to Hobart Place, and provides a suitable land use transition to the adjoining residential development to the north. Given the residential nature of the proposal, the degree of articulation is greater than a retail/commercial development would afford.

- Areas where the proposal offers a four storey street wall to Hobart Place are shielded behind perimeter vegetation, and will therefore not be clearly discernable from the street. Buildings fronting Hobart Place are also sufficiently setback to provide visual separation from residential dwellings on the northern side of the street.

Setbacks

The proposed setbacks to Hobart Place have been amended from the architectural plans originally lodged with Council. The north-facing building (balcony edge) is setback 3.145m – 4.54m from the Hobart Place site boundary on the lower ground floor, and 5.68m – 5.95m on the ground floor. The north-eastern portion of the development (balcony edge) is setback 6.715m from the Hobart Place site boundary.

The proposed setbacks to Hobart Place reflect residential setbacks that are consistent with existing setbacks on the northern side of the street. Further, Hobart Place provides a physical transition between the zone 9 – Local Centre uses associated with the subject site at the south, and the residential zone to the north. The proposed setbacks provide sufficient distance for a built form transition to be facilitated across Hobart Place.

4.2 ASSESSMENT AGAINST LEP HEIGHT OBJECTIVES

In addition to the height and streetscape commentary above, the proposal is also assessed in terms of its compliance with the underlying height objectives contained in Clause 33(2) of the SLEP 2006.

The proposal is assessed 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

- The proposal is consistent with the desired scale of development, as it is largely consistent with a 10m height plane (refer Figure 7) and largely maintains a three storey street wall (with the exception of certain locations where the slope of the land generates four storeys).

- The proposal is consistent with the desired character of the street, as the proposal provides a residential development that is permissible in the zone, and anticipated through the zone objectives.

(ii) complements any natural landscape setting of the buildings

- The proposal complements the natural landscape setting of the buildings surrounding the development, by maintaining street tree planting and proposing additional landscape treatment within the front setback to Hobart Place. This will reinforce the existing landscape setting within and around the subject site. The proposed building height will not reduce the proposal's ability to comply with this objective.

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

- The proposed development will provide a reasonable amount of solar access to internal units (all units receive 70% or greater solar access during mid-Winter);

- The proposal will not hinder the ability for adjoining residential areas to access daylight, as these areas are predominantly located to the north of the subject site. The proposed shadow impacts of the development will not reduce the quality of any surrounding open spaces or 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

- The proposal minimises the impacts of view loss and visual intrusion when viewed from adjoining or nearby properties, through the proposed building height which largely matches the height of the adjoining Illawong Village Shopping Centre. Please refer to the Visual Impact Assessment undertaken for the proposal, contained in Chapter 5 of this report.

- The proposal maintains adequate levels of privacy between units internal to the site, as well as privacy to adjoining residential areas through appropriate front and side setbacks.

- The proposal will not unduly overshadow adjoining residential properties, as these are largely located to the north of the subject site. Based on the Shadow Diagrams (Turner + Associates, DA050, Rev B) of the revised scheme, from around 3pm onwards the proposal will overshadow the northern portion of the Illawong Public School fronting Fowler Road, which is occupied by bushland.

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

- The proposal will not adversely impact views from adjoining properties, streets, waterways and public reserves as detailed in the Visual Impact Assessment contained in Chapter 5 of this report.

(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

- Not applicable. However, it is noted that the proposal as a non-commercial building, is compatible with the scale of the adjoining commercial/retail „box' of the Illawong Village Shopping Centre, through the proposed built form massing and height response.

4.3 ASSESSMENT AGAINST *SEASIDE V WYONG* PLANNING PRINCIPLE

The relationship between the subject proposal and the residential properties on the northern side of Hobart Place is to be considered in light of issues of bulk, scale and residential amenity, given the zone transition and interface between the Zone 9 – Local Centre on the southern side, and Zone 1 – Environmental Housing (Environmentally Sensitive Land) on the northern side of the street.

In the Judgement of *Seaside Property Development Pty Ltd v Wyong Shire Council* (2004) NSWLEC 117 at Contention 25, Commissioner Bly states "*any development proposal in one zone needs to recognize and take into account the form of existing development and/or development likely to occur in an adjoining zone*." In response to this, the following points are noted:

- The likely future can be taken from the zone objectives (Objective (c)) as detailed previously in this document, which anticipates development reflecting "*a mix of commercial, office, retail and residential buildings*". Accordingly, existing development on the northern side of Hobart Place should recognise and account for the likely redevelopment of land within the adjacent zone 9 – Local Centre, which permits:
  - Larger building footprints associated with permissible commercial/retail uses;
  - Height and scale of development reflecting three storey developments as per Clause 33 (14)(b) of SLEP 2006;
  - Vehicular servicing areas and car parking associated with shopping centre/town centre uses.
  - Figure 8 illustrates a reasonably complying retail/commercial „box' development on the subject site.
- The proposal establishes a suitable built form response of the existing Illawong Village Shopping Centre, as it provides a visual extension to the Shopping Centre in terms of consistent parapet heights particularly at the northern boundary interface.
- In terms of the proposed built form outcome, the current scheme reflects a similar bulk and scale of development as a commercial/retail development (permissible in the zone). To the extent that the proposal does not comply with the height control stipulated in Sutherland LEP2006, the proposal provides a greater degree of façade detailing and articulation of form than a commercial/retail development would.
- It is inevitable that impacts will occur as a result of a transition in zone, from a mixed use local centre zone to a residential zone. The development has taken into account the existing and desired future character of the subject site, adjoining residential developments, and the proposal:
  - Maintains a high level of amenity for residential dwellings to the north due to no overshadowing impacts, and appropriate setbacks maintaining visual and acoustic privacy.
  - Provides a suitable built form response at the zone interface, through the residential nature of the development that provides a more appropriate response than a large „box' retail development (i.e. a shopping centre extension).

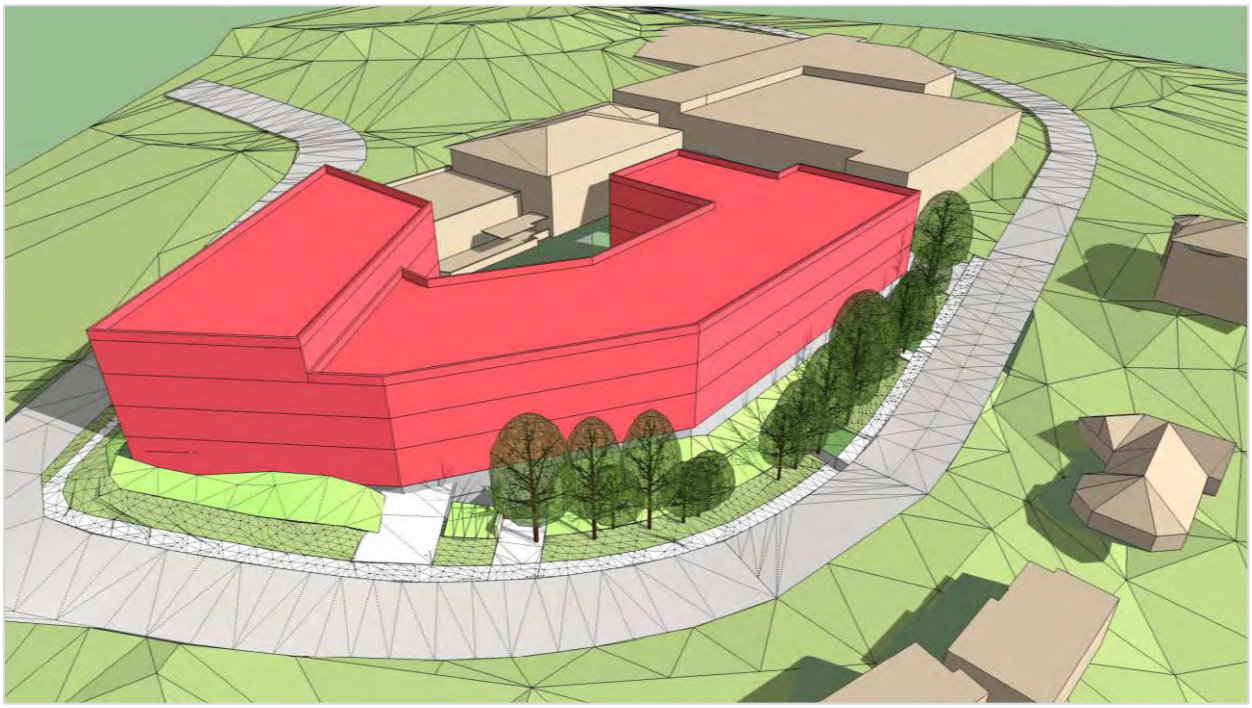

FIGURE 8 – REASONABLY COMPLYING RETAIL/COMMERCIAL „BOX' (TURNER + ASSOCIATES)

It is further noted in *Seaside Property Development Pty Ltd v Wyong Shire Council* that "*whilst impacts must be within reason they can nevertheless occur*" (Clause 25). The following points demonstrate the proposal's reasonableness of impacts on surrounding developments:

- Solar access – the proposal will maintain a high level of natural solar access to surrounding residential areas. Similarly, the internal units within the proposal receive adequate (70% or greater) solar access during mid-Winter.

- Overshadowing – the proposal does not unduly overshadow surrounding residential developments. The majority of residential dwellings are located to the north of the subject site, and are accordingly not affected by shadows generated by the proposal.

- Visual and acoustic privacy – the proposal is sufficiently set back from Hobart Place to ensure noise impacts are ameliorated, and that there are no direct sight lines overlooking private open spaces etc.

In accordance with the planning principle contained in *Seaside Property Development Pty Ltd v Wyong Shire Council,* the proposed development provides a reasonable built form outcome that is both permissible in the zone and anticipated by the zone objectives. The amenity impacts of the proposal on surrounding residential areas are reasonable, and have not been exacerbated by the proposed height of built form of the proposal.

Adjoining residential development on the northern side of Hobart Place should take into account the form of development likely to occur on the subject site. To the extent that these developments reflect „big-house' typologies as they range from 4-5 storeys, these developments acknowledge their location at the zone interface, and provides a suitable transition from core local centre uses to the south, to low to medium density residential dwellings to the north.

4.4 OTHER CONSIDERATIONS

Land and Environment Court Appeal (LEC Proceedings No. 11089 of 2000)

As detailed in the Statement of Environmental Effects lodged with the subject DA (DA11/0090), a previous Land and Environment Court case was commenced in 2000 (No. 11089 of 2000, Commissioner S J Watts) for a previous scheme involving the erection of a five storey residential flat building (34 units) and basement parking. Through the appeals process, the scheme was amended by removing the upper (fifth) floor resulting in a total of 31 apartments. The scheme was lodged and assessed under the Sutherland LEP 2000 (SLEP 2000), which was the applicable instrument at the time.

A key difference between the SLEP 2000 and SLEP 2006 (applicable to the subject DA) in terms of anticipated built form outcomes, relates to building height. The SLEP 2000 (now repealed) stipulated a maximum height control to the highest point on the roof being 9m, without specifying a maximum number of storeys. The current SLEP 2006 stipulates a maximum 3 storey height, without specifying a maximum numerical height control.

Irrespective of the statutory differences between the SLEP 2000 and SLEP 2006, the built form outcome of the Court-approved scheme reflected a similar outcome to what is currently being proposed by the amended scheme (refer Figure 9 and Figure 10). The Court-approved scheme involved:

- Wholly residential land use on the site, which was permissible under SLEP 2000 and remains a permissible use with consent, under the SLEP 2006.
- A predominantly three to four storey development, increasing in building height towards the middle of the site (fronting Hobart Place). The current scheme proposes a similar built form outcome to Hobart Place, and demonstrates a greater articulation in the massing of the building by stepping the building form to reflect the slope of the land as it falls away from the adjacent shopping centre.
- Upper (fourth) floors setback at the north-eastern site frontage, which is replicated in the current scheme.

Based on the scheme the subject of the Court proceedings (Court Judgement included in Appendix A), it is noted that the Court found:

- The removal of the neighbourhood businesses and public parking currently on the site, and replacement of 100% residential use acceptable in the circumstances (Clause 54).
- The Commissioner was satisfied that the commercial viability of the adjoining businesses in the centre would continue to “serve the neighbourhood, despite the commercial component being reduced in size [as a result of the proposed development]” (Clause 52).
- The proposed residential development would be “attached to the existing development and thereby integrated into it” (Clause 55).
- The proposed built form address to Hobart Place was to the satisfaction of the Commissioner, who stated that “there is a reasonable physical relationship with the adjoining and nearby residential area…I would not refuse the application for this reason” (Clause 56).
- In summation, the Commissioner was “satisfied that the form of the proposed development for residential flats is appropriate, despite the removal of some of the neighbourhood business uses” (Clause 92).

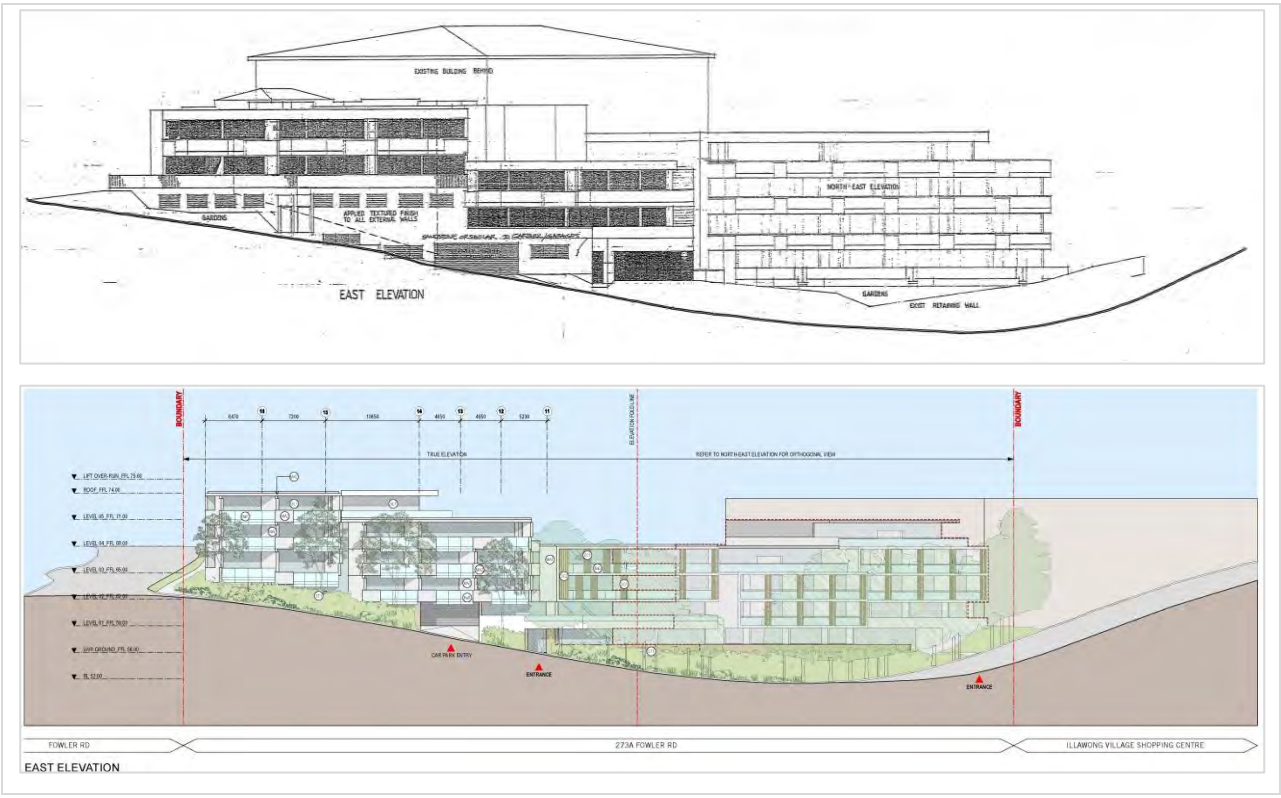

FIGURE 9 – EAST ELEVATION COMPARISON: COURT APPROVED PLANS (TOP, MOULANG PERFORMANCE STRATEGIES) AND PROPOSED SCHEME (BOTTOM, TURNER + ASSOCIATES)

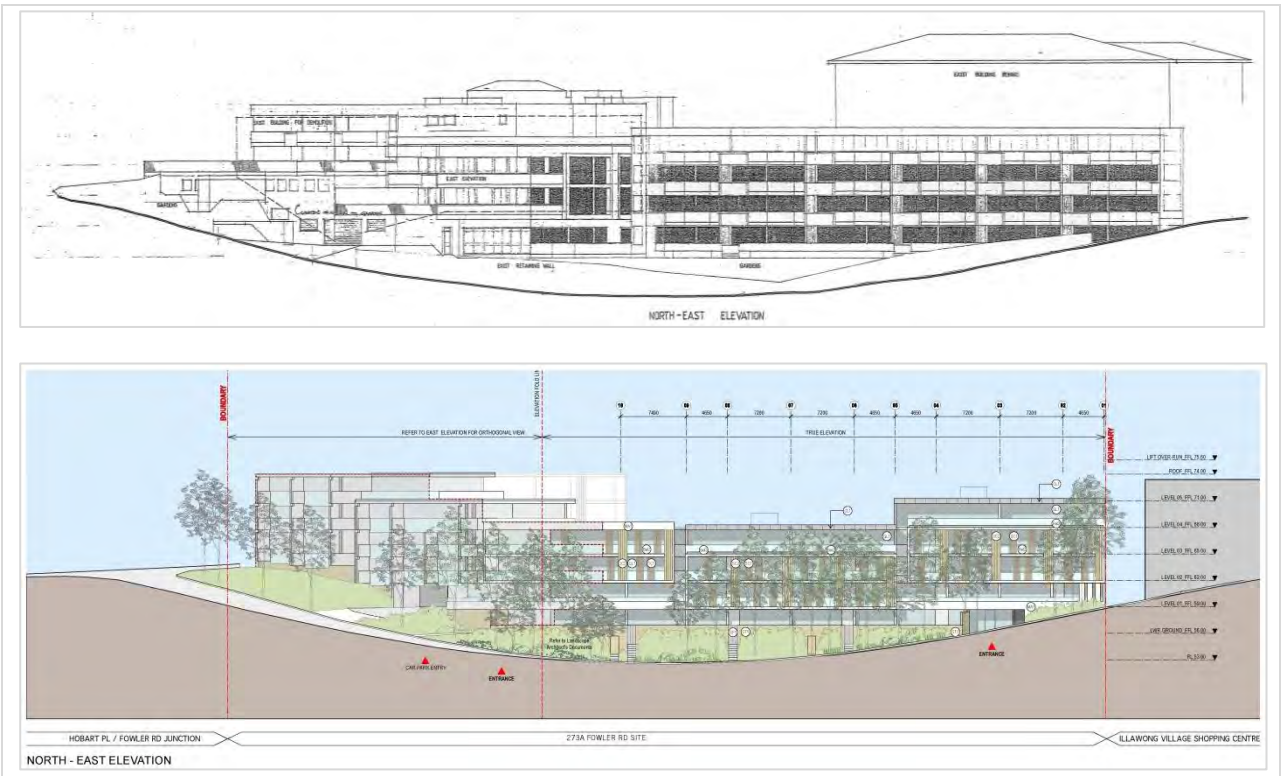

FIGURE 10 – NORTH-EAST ELEVATION COMPARISON: COURT APPROVED PLANS (TOP, MOULANG PERFORMANCE STRATEGIES) AND PROPOSED SCHEME (BOTTOM, TURNER + ASSOCIATES)

5 Visual Impact Assessment

In addition to the built form assessment undertaken in this report, the scheme is assessed in terms of its visual impact on the public domain and development in the local visual catchment. This section of the report is structured in a way that:

- Identifies the approach undertaken for the visual impact assessment;
- Defines the local visual catchment and assesses the likely visual impacts of the development; and
- Identifies likely areas surrounding the subject site where the proposal will be visible from, and assesses the impacts (particularly along Hobart Place at the land use zone interface).

5.1 APPROACH

The process that Urbis used in conducting this visual analysis included, but was not limited to:

1. Research and Site Visit
   - Desktop Geographical Information Systems (GIS) work to generate a local visual catchment, and site visit to „ground truth' these GIS results.
   - Identification of local visual catchment.
2. Identification of Visual Quality
   - Assessing the quality of views based on the existing visual conditions and sensitivity to change.
3. Analysis
   - Detailed evaluation of common elements of the landscape to understand the visual character and how it is experienced by people in the public domain. Potential private domain view impact is noted but not accessed in this section.
   - An assessment of the relative importance of each common element in the context of the landscape.
4. Summary of findings

5.2 VISUAL IMPACT ASSESSMENT

5.2.1 LOCAL VISUAL CATCHMENT

The local visual catchment (i.e. locations where the proposed development is likely to be visible from is illustrated in Figure 11. In generating this diagram, it is noted that:

- The likely visibility of the development was based on the top height of the building (being the top floor of the rear units located within the internal courtyard. This height of approximately 12m from ground level is not replicated across the whole site; rather, a majority of the development is 10m or below in height.
- Accordingly, a site visit „ground truthing' the GIS-generated local visual catchment mapping found that trees and existing development often interrupted visibility.

Viewpoints have not considered from areas beyond the 1km radius, as from this distance the proposed development will not be clearly discernable. The visual impact of the development from points beyond the 1km radius, are mitigated by a combination of distance, existing urban development and existing dense bushland vegetation.

Sensitive viewpoints and sites are identified as those with sensitive receptors (such as residents or recreational users) that experience a significant visual change as a result of the proposed development. Determining the existing landscape's sensitivity to change also depends on the degree to which the landscape has already been altered by urban development.

The local visual catchment illustrates that:

- The proposed development will likely be visible from surrounding areas within a 500m radius;
- The proposed development may be seen from areas to the north of the Georges River and west of the subject site within 1km from the site; and
- The proposed development may be visible from more distant areas north-east of the subject site, within a 2km radius.

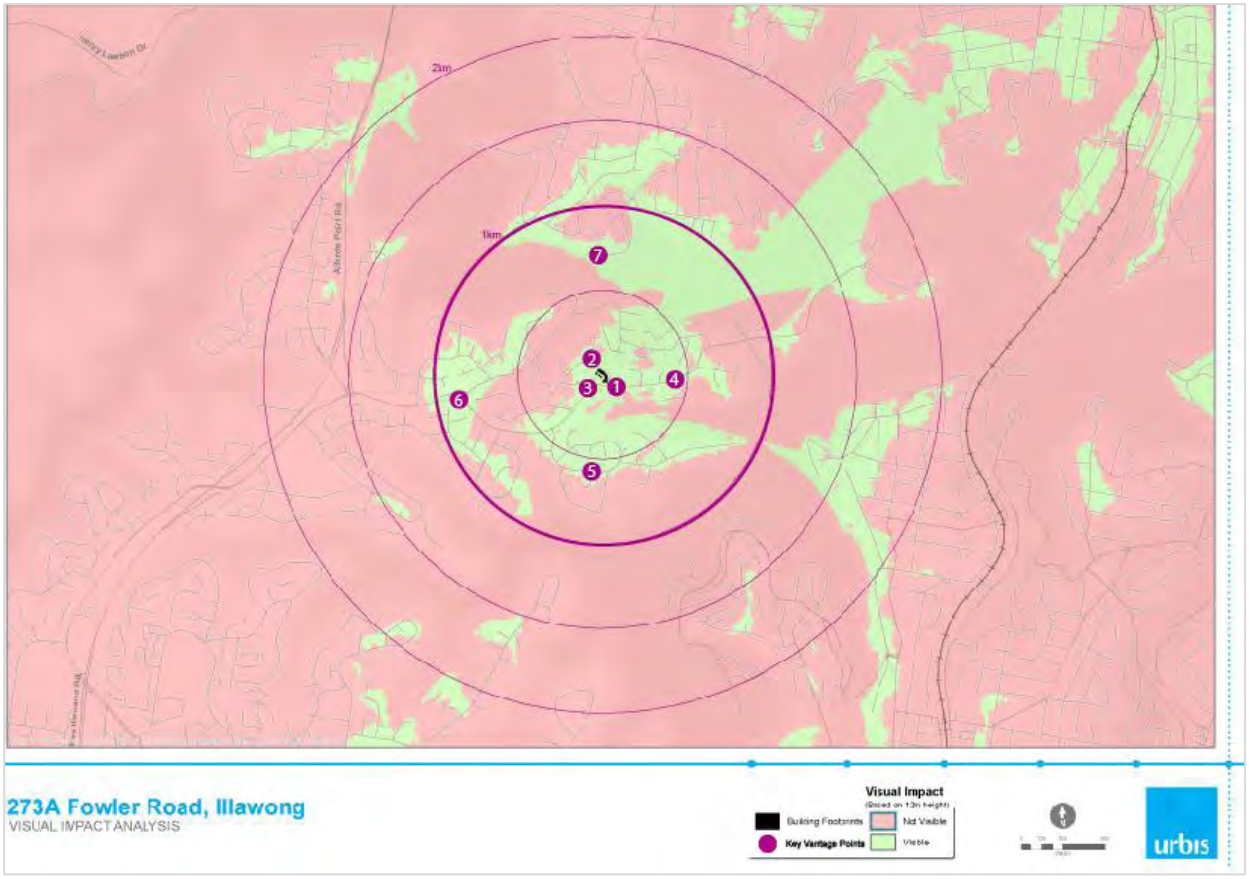

FIGURE 11 – LOCAL VISUAL CATCHMENT

5.2.2 VANTAGE POINT ANALYSIS

Seven key vantage points have been identified from the catchment analysis and site visit as the most sensitive points (as mapped in Figure 11), and are assessed in this section. The frequency that the proposed development is experienced has also been considered as part of this visual impact assessment.

VANTAGE POINT 1 – HOBART PLACE AND FOWLER ROAD

FIGURE 12 – VANTAGE POINT 1: HOBART PLACE AND FOWLER ROAD

Location

The vantage point is located approximately 200m east of the subject site, on the eastern approach route to site.

Visual Quality

The site is partially visible with existing trees interrupting views to the northern part of the site. A tree line along the southern side of the road directs views towards the subject site. The northern side of the road is characterised by a skyline of buildings and trees.

Analysis

The proposed development will be visible from this view point, but will not change the character of buildings and trees visible from this vantage point. The proposed development will provide a built form continuation of existing developments associated with the Illawong Village Shopping Centre, that are visible from this location.

VANTAGE POINT 2 – HOBART PLACE AND THOMPSON AVENUE

FIGURE 13 – VANTAGE POINT 2: HOBART PLACE AND THOMPSON AVENUE

Location

The vantage point is located approximately 200m north-west of the subject site and is the local high point.

Visual Quality

The proposed development will be visible from this vantage point resulting in a reduced extent of the distant tree line which currently terminates on the existing shopping centre. It is noted that the distant tree line is also interrupted by existing trees on the site.

Analysis

While the proposed development will results in reducing the extent of the distant tree line, a maximum three storey building height applicable to the site would also likely remove this distant view.

Residential dwellings on the northern side of Hobart Place adjacent to the site contain limited fenestrations on the southern façades. The views afforded are generally to the north/ north east over and along the Georges River. A number of the dwellings are also sunken below the roadway also limiting the potential for impact from the proposed development. Impacts of the proposed development on adjacent development are also assessed in Section 4.3 of this report against the planning principle of *Seaside v Wyong*.

VANTAGE POINT 3 – FOWLER ROAD BUS STOP OPPOSITE ILLAWONG PRIMARY SCHOOL

FIGURE 14 – VANTAGE POINT 3: FOWLER ROAD BUS STOP (OPPOSITE ILLAWONG PRIMARY SCHOOL)

Location

The vantage point is located approximately 100m south west of the subject site, on the western approach route to the Illawong Village Shopping Centre.

Visual Quality

The view afforded from this point to the subject site comprises existing development associated with the Illawong Village Shopping Centre in the mid ground, with an interrupted distant view to Hurstville (located approximately 10km from the site) during clear weather conditions in the background. However, this view is not able to be experienced for long distances given that it is not viewed by local open spaces and drivers will be the primary viewers.

Analysis

The proposed development will form a defined built edge along the northern side of Fowler Road. The proposed development will remove the distant views to Hurstville from this location. However, while the proposal results in the removal of a distant view to Hurstville from the public domain, this is not inconsistent with the planning controls for the site.

The proposed development will provide a façade of visual interest and articulation when viewed from this vantage point, and will read as a built form extension to the existing Illawong Village Shopping Centre (eastern portion).

VANTAGE POINT 4 – BRADLEY PLACE AND FOWLER ROAD

FIGURE 15 – VANTAGE POINT 4: BRADLEY PLACE AND FOWLER ROAD

Location

The vantage point is located approximately 500m east of the site.

Visual Quality

The quality of this view comprises low density detached dwellings in the context of street trees and vegetation. Distant views to some bushland are visible from this location.

Analysis

Although this location was identified by the GIS-generated local visual catchment as being able to view the proposed development, the site is not visible. Accordingly, the proposed development will not be visible due to the existing development and vegetation.

Views in the vicinity of this vantage point will not be impacted by the proposed development.

VANTAGE POINT 5 – AUSTIN STREET AND KIRBY PLACE

FIGURE 16 – VANTAGE POINT 5: AUSTIN STREET AND KIRBY PLACE

Location

The vantage point is located approximately 500m south of the subject site.

Visual Quality

Existing development and large trees block the ability to view the subject site and proposed development from the public domain.

Dwellings on the northern side of Austin Street are afforded views to the tree line located to the north. The existing larges trees located in the open space area located to the south of the site, on the southern side of Fowler Road limit the ability to view the proposed development.

Analysis

Views afforded in the vicinity of this vantage point will not be impacted by the proposed development, due to existing vegetation and open space located between this view point and the subject site.

VANTAGE POINT 6 – LOCAL HIGH POINT FOWLER ROAD

FIGURE 17 – VANTAGE POINT 6: LOCAL HIGH POINT ON FOWLER ROAD (BETWEEN OLD FERRY ROAD AND HERITAGE DRIVE)

Location

The vantage point is located west of the site on a local high point on Fowler Road between Old Ferry Road and Heritage Drive.

Visual Quality

Existing trees along the road block the visibility from this view point to the site and proposed development. This view point currently comprises residential developments and front vegetated setbacks in the fore and mid ground, with a tree line and interface with the sky in the background.

Analysis

As the site is not visible from this location due to the existing tree line, views will not be adversely impacted by the proposed development in this location.

VANTAGE POINT 7 – RECREATION RESERVE FOREST ROAD

FIGURE 18 – VANTAGE POINT 7: RECREATION RESERVE, FOREST ROAD

Location

The vantage point is located approximately 700m north of the subject site.

Visual Quality

The view from this location comprises a broken tree line above the topographic ridge. Residential dwellings are visible on the northern face of the ridge, with some buildings intermittently visible on the ridge line, interrupting the interface between the tree line and the sky.

Analysis

The proposed development will not be able to be seen from this vantage point, due to the topographic form of the ridgeline and existing trees. It is also acknowledged that views towards the southern bank of the Georges River may be afforded from the Georges River. While the proposed development may be visible from points on the river, the development would be within the existing character of existing buildings visible within the tree line along the ridge.

5.3 SUMMARY OF VISUAL IMPACTS

The areas likely to be able to view the proposed development from within a 1km radius of the subject site have been assessed and tested based on the GIS visual catchment analysis and a site visit. Key findings from the analysis indicate that:

- To the north of the site within a 1km radius – a broken tree line is the dominant feature for distant vantage points, with development visible on the rising terrain from the Georges River. The proposed development will not substantially impact the existing views as vantage points located to the north of the subject site and south of the Georges River are generally lower in elevation and are oriented away from the proposed development.

- To the south of the site within a 1km radius – dwellings experience direct views to the ridgeline that Fowler Road follows. Existing open space and vegetation between the subject site and south-lying areas limits the ability to view the proposed development. To the immediate south-west, distant views to Hurstville can be afforded during clear weather conditions.

- To the east of the site within a 1km radius – views from the east are along the ridgeline and terminate on existing trees and buildings. While the views afforded in the vicinity of the vantage points located within 500m will change, the character of a building and tree skyline will remain the same.

- To the west of the site within a 1km radius – distant views from the west are interrupted by large trees. Development to the west is located higher in elevation and existing development to the immediate west is of a similar scale.

While the proposed development will be visible from certain areas in both the public domain and private domains as identified in the key vantage points, there is no significant loss of views experienced as a result of the development. Further, as identified in Section 4.3 of this report the impact of the proposed development on adjoining development is reasonable as there is adequate visual separation.

6 Conclusion

This urban design assessment relates to amended plans lodged with Sutherland Council for a proposal at 273A Fowler Road, Illawong. The proposal seeks to construct a residential flat building of part three/four storeys accommodation with 70 units on the site.

Key characteristics of the visual catchment along Hobart Place and Fowler Road from the subject site have been identified in terms of the prevailing land use and built form. The streetscape along Fowler Road comprises a range of building typologies, reflecting the various land uses fronting the street. This includes detached one and two storey residential dwellings, Illawong Public School and the Illawong Village Shopping Centre. The character of Hobart Place currently reflects two different land use zones as the northern side of the street that encompasses detached residential dwellings (predominantly 2 storeys) and the southern side of the street accommodates large „box' retail development being the Illawong Village Shopping Centre. Medium density attached three storey housing is located further west on Hobart Place, adjoining the Shopping Centre.

The future desired character for the site as contained in the zone objectives for SLEP 2006 anticipates a mix of commercial, office, retail and residential buildings. The proposed residential flat building is a permissible use within the zone, and provides a more suitable land use transition from the core local centre uses (associated with the Illawong Village Shopping Centre) to the residential development on the northern side of Hobart Place.

The proposed development is a suitable built form response at the local centre/residential zone interface for the following reasons:

- The tallest building element of the proposal being the separate units located in the internal courtyard, is located at the rear of the site, and will not be visible from Hobart Place;
- The height of the development reflects the prevailing height of the adjoining Illawong Village Shopping Centre;
- The portion of the development that is slightly taller than a reasonably scaled three storey development (i.e. 10m height) is located at the corner of Hobart Place and Fowler Road. Due to the slope in the land, small corner elements extend beyond the 10m height plane. The proposed built form at this intersection provides a defined built form element, while maintaining a three storey street wall in this location;
- Areas where the proposal offers a four storey street wall to Hobart Place are shielded behind perimeter vegetation, and will therefore not be clearly discernable from the street. Buildings fronting Hobart Place are also sufficiently setback to provide visual separation from residential dwellings on the northern side of the street;
- The proposed setbacks to Hobart Place reflect residential setbacks that are consistent with existing setbacks on the northern side of the street. Hobart Place provides a physical transition between the zone 9 – Local Centre uses associated with the subject site at the south, and the residential zone to the north; and
- The visual impacts of the proposal on surrounding areas has found that likely impacts are negligible, given the existing presence and visibility of development in the context of bushland. The proposed building height will not adversely affect views to the water from adjoining areas.

The proposal has also been assessed against the underlying height objectives contained in Clause 33(2) of the SLEP 2006 and the planning principle of *Seaside Property Development Pty Ltd v Wyong Shire Council* dealing with development at the interface of two different land use zones. Key findings from this assessment show that:

- Notwithstanding minor portions of the development that exceed 10m in height, the proposal will not adversely affect surrounding developments. In particular, the proposal will maintain a high level of amenity for adjoining residential dwellings in terms of solar access due to lack of overshadowing by the development, and visual and acoustic privacy;

- The proposal provides a suitable built form response at the zone interface, through the residential nature of the development that provides a more appropriate response than a large „box' retail development (i.e. a shopping centre extension); and

- The proposal provides a greater level of articulation and building modulation to Hobart Place than a permissible shopping centre extension development would afford.

It is further noted that NSW Land and Environment Court approved a previous scheme (LEC Proceedings No. 11089 of 2000), with the following similarities to the current scheme:

- A wholly residential land use on the site, which was permissible under SLEP 2000 and remains a permissible use with consent, under the SLEP 2006;

- A predominantly three to four storey development, increasing in building height towards the middle of the site (fronting Hobart Place). The current scheme proposes a similar built form outcome to Hobart Place, and demonstrates a greater articulation in the massing of the building by stepping the building form to reflect the slope of the land as it falls away from the adjacent shopping centre; and

- Upper (fourth) floors setback at the north-eastern site frontage, which is replicated in the current scheme.

The proposed urban design response combined with the minimal amenity and visual impacts on surrounding areas renders the proposal a reasonable built form response to the prevailing character of the street and surrounding area. The proposal provides a compatible built form outcome that addresses both the adjoining Illawong Village Shopping Centre and adjacent residential development in a manner conducive to the site's location at the zone interface.

Appendix A NSW Land and Environment Court Judgement No. 11089 of 2000

Duplicate

Land and Environment Court of New South Wales

Record of Hearing

Commissioner	S J Watts	
Number	11089 of 2000	
Parties	Applicant	**Illawong Village Pty Limited**
	Respondent	**Sutherland Shire Council**
Key issues	• Height of the proposal, both in terms of the 7.2m wall height and the 9.0m overall height, • SEPP1 objection, and • SSLEP2000.	
Statutes	• *Sutherland Shire Local Environmental Plan* 1993, (the SSLEP) • *Sutherland Shire Local Environmental Plan* 2000, (the SSLEP2000) • *Environmental Planning and Assessment Act 1979*; ss 79C, 97	
Hearing dates	10 and 11 April 2001; Adjourned to callover 13 June 2001 to permit the applicant to amend its plans and for the council to readvertise if necessary. Further hearing 15, 16, and 17 October 2001. Adjourned to callover 6 November 2001. Second amended plans tendered on 7 November 2001	
Judgment	Reserved	
Date of judgment	13 November 2001	
Appearances	Applicant	Mr N D Howie, solicitor
	Respondent	Mr G Newport, barrister instructed by Mr J Reilly, solicitor
Solicitors	Applicant	Wilshire Webb
	Respondent	Sutherland Shire Council in house
Number of pages	27	
Summary of orders	Appeal upheld	

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generally set on large parcels of land and well landscaped. Most of the dwellings are of one and two storeys.

10 The character of Illawong is best described in the *Sutherland Shire Local Environmental Plan 2000*, (SSLEP) as a residential area in an environmentally sensitive locality: ..

- *where the scale, amenity and general character of the area is preserved; and*
- *where the streetscape and views to the land from the waterways are characterised by 1 and 2 storey detached residential buildings; and*
- *which is protected from visually intrusive development, especially where buildings or works may be viewed from the waterway or on sites which contain significant vegetation or natural features which should be preserved; and*
- *where non residential uses provide necessary services to the local neighbourhood without adversely affecting the residential amenity.*

11 To the southwest of the land is the Illawong Uniting Church. On this side of the land are also recently completed dwelling houses, and a row of townhouses fronting Hobart Place.

Relevant planning controls

12 The relevant planning controls are:

Sutherland Shire Local Environmental Plan 1993, (the SSLEP)

13 The SSLEP was gazetted on 12 November 1993, under which the land is zoned Neighbourhood Business 3(b) and the proposal is permissible with consent. The maximum floor space ratio (FSR) is 1:1 with 50% of the allowable gross floor area as a maximum for residential development.

14 The development control table to the SSLEP, includes *"...residential flats only in developments including shops, business or office premises."*

Sutherland Shire Local Environmental Plan 2000, (the SSLEP2000)

15 The SSLEP2000 was gazetted 15 December 2000, under which the land is zoned Neighbourhood Business 3(b). Under this instrument the proposal is permissible with

consent, and the table of uses has been expanded from that contained in the SSLEP to include integrated public transport and pedestrian networks and viable neighbourhood centres supported by appropriate forms of residential development. The development control table to the SSLEP2000 includes *"...residential flats, only in buildings subject to another permitted use."*

16 Under the SSLEP2000 there is a savings clause[1] that applies and as the development application is yet to be determined finally, the matter falls to be determined under the SSLEP.

17 There is no specific development control plan applying to the land.

The proposal and its history

18 Development application No 10480 was lodged with the respondent council on 6 September 2000. The proposal was described in plans prepared by MPS No DA 5.1 to DA 5.10 inclusive dated June 2000; by Wallis and Moore Pty Limited, Part Survey Plan No 19190A1, dated 6 June 2000; Site Image Landscape Plan No Q926 LP100 Issue A, dated September 2000; and Site Image Landscape Plan No Q926 LP101, Issue C, dated 19 July 2000.

19 It was originally proposed to:

- demolish Block 3;
- remove all existing trees between Block 3 and the tennis court;
- erect a five storey residential flat building comprising thirty four (34) dwelling units, now thirty one (31) dwelling units, (twenty four (24) x two bedroom units and seven (7) x three bedroom units and car parking for originally sixty two (62) now forty seven (47) vehicles in basements and at ground level.

20 As the proposal then failed to comply with the maximum residential FSR under the SSLEP the applicant submitted a *State Environmental Planning Policy No 1,* (SEPP1) objection[2] to the residential component standard[3] of 50% of the gross floor area (GFA). The applicant calculated the GFA as 6,210m^2 and this would represent around

[1] Clause 6(2) of the SSLEP2000
[2] Prepared by Colston Budd Hunt & Kafes Pty Limited dated August 2000
[3] Clause 30 of the SSLEP for residential development within the 3(b) zone

40.48% of the total permissible GFA on a site area and total GFA of 15,340m^2. However, the council's witness Mr W Long calculated the GFA as 8,189m^2, and included those parts of the basement car parking area that protrude more than 1.0m above the natural ground level. This would represent 53% of the total permissible GFA.

21 The applicant has argued that the departure from the standard *"...is marginal and is able to be remedied in the future as the maximum FSR has not been achieved."*

First amended proposal

22 The development application was amended to:

- remove the top (5th) floor of the western wing comprising three x 3-bedroom dwellings;
- remove roof-top terraces;
- reduce the number of car parking spaces to forty seven (47);
- remove car parking area on Level 1, and to remove open walkways and storage areas and replace with a landscaped courtyard;
- reducte the size of all balconies and step back the uppermost awning on the western wing of the proposed development;
- reduce the size of the lift lobby on all levels and removal of external elements on the northern boundary of Council's Community Centre; and
- modify the access passageways to units on Levels 2, 3 and 4 of the western wing.

23 The first amended drawings were prepared by Moulang Performance Strategies dated April 2001, and included:

- Drawing No DA5.2A; Proposed New Site Plan,
- Drawing No DA5.3A; Floor Plan Level 1,
- Drawing No DA5.4A; Floor Plan Level 2,
- Drawing No DA5.5A; Floor Plan Level 3,
- Drawing No DA5.6B; Floor Plan Level 4,
- Drawing No DA5.7A; Floor Plan Level 5,
- Drawing No DA5.8B; Roof Plan,
- Drawing No DA5.9B; Sections and
- Drawing No DA5.1 OA; Elevations.

24 The first amended landscape drawings prepared by Site Image, Landscape Architects are:

- Drawing No Q926/LPIOOIE; Landscape Plan, dated 3 May 2001,
- Drawing No Q926/LPIOI/C; Landscape Design Sections, dated 7 May 2001,
- Drawing No Q926/LPIO2/A; Landscape Planting Plan, dated 27 April 2001,
- Drawing No Q926/LPIO3/A; Landscape Hardscape & Levels Plan, dated 27 Apri12001, and
- Drawing No Q926/LPO4/ A; Landscape Sections, dated 27 April 2001.

Second amended proposal

25 During the course of the hearing, following the site inspection and prior to submissions the applicant agreed to amend the proposal by lowering the car park and the buildings above it by 750mm[4]. This was achieved by moving the position of the ramp to the car park down hill in Hobart Place. In other respects the second amendment is similar to the first.

Notification

26 The original application was notified to nearby owners and occupants and sixty four (64) submissions were received. These submissions related to concerns including:

- the quality of design of the proposal,
- the size of the units,
- reduction in amenity of the neighbouring area,
- the loss of existing business opportunities,
- increase in traffic,
- lack of car parking, safety and
- the inappropriateness of this type of development at Illawong.

27 The submission on the original application by the Illawong and Alfords Point Progress Association summarises the concerns that:

- a five storey residential flat building comprising thirty four flats is inappropriate to Illawong,
- additional cars generated by the flats would be concentrated in an area that is already overtaxed by traffic and a lack of local parking,
- children and the elderly would be at risk from the additional traffic,
- the local medical centre, hardware store, restaurant, and tennis courts would be lost,

[4] Exhibit Y Plans showing the second amendment; The drawing numbers are recorded in Condition No 2

- Landscaping proposed involves removal of mature trees, which were part of original landscape work when the shopping centre was built. These trees should be retained,
- Still non-compliance with Council's height requirement exist,
- Area has very poor public transport,
- Proposal does not meet the objectives of LEP 1993 and SSLEP 2000,
- Proposal does not meet height requirements of Council land the SEPP1 objection should not be supported,
- The independent town planning report of Warren Long, prepared on behalf of the Progress Association also agreed with Kerry Nash's position, thereby adding weight to Council's case. Mr Long remains opposed to the development, and
- Council should stick to its guns and refuse this amendment, and let the matter continue to proceed to the Court.

29 The second amendment was made to respond to a draft condition of consent that the eastern section of the proposal be lowered 1m. No further advertising was necessary.

The council's decision

30 At the time of filing the appeal the council had not formally refused the development application. The council refused it on 6 November 2000, for reasons that are reflected in the issues.

The issues

31 On 21 December 2000 the council filed a statement of issues.

> *Issue 1-Non-compliance with the objective of the 3(b) Neighbourhood Business Zone as provided in the Sutherland Shire Local Environmental Plan 1993 (SSLEP), in that what is proposed is a large scale residential flat building, which is inimical to a wide range of retail and commercial activities; and*
>
> *Issue 2 -Non-compliance with the description of the 3(b) Neighbourhood Business Zone of the SSLEP, in that a large scale residential flat building does not meet that description.*
>
> *Issue 3- Non-compliance with objectives (a), (b) and (c) of the 3(b) Neighbourhood Businesses Zone as provided in the Sutherland Shire Local Environmental Plan 2000 (SSLEP 2000), specifically:*
>
> > *(a) The proposal is not in keeping with providing small-scale retail and business activities that aim to serve the daily needs of the local community, in that it is a freestanding large scale residential flat building that will not be used in conjunction with the existing retail and business development. The proposal will*

- there would be likely to be difficulty of access especially in times of bush fire threat,
- the proposal would not be well integrated in the existing village shopping centre,
- there would be a potential to subdivide the proposed residential flats off from the shopping centre,
- there might be anti-social behaviour as a result of the development,
- the amenity of the existing centre would be downgraded as a result of overshadowing, loss of view and open outlook,
- the proposal would not comply with the council's requirements in terms of floor space ratio and height,
- there would be likely to be noise impacts particularly from the accessible roof terraces, and
- the bulk and scale would have a dominant effect when viewed from properties to the north, north east and the Georges River.

28 The first amended proposal was notified in accordance with Council's policy and 14 objections were received. The issues raised by the objectors are:

- The reduction in parking will make existing traffic situation worse,
- Not the development per se that is the problem-but the residential flat structure
- Loss of tennis courts impacts upon the nearby public school, as well as broader community,
- Number of units proposed is not in keeping with the village atmosphere of Illawong area,
- Hobart Place is not coping with parking now-will be worse after proposal,
- Greedy actions by developer-eliminating uses such as tennis courts, medical centre, hardware store etc,
- Incompatible with surrounding residential character, and proposal is unrelated to shopping centre, which is against the objectives of the zoning,
- Proposed building will be highly visible from the Georges River,
- Unfortunate precedent,
- Traffic movements to and from the site will be excessive,
- Greater problems with traffic and parking will create safety concerns for residents/children,
- Hobart Place with its gradient, narrow width and curve is already extremely dangerous,
- High rise nature of development will result in loss of privacy to nearby residences, particularly in Hobart Place,
- Style of building, and the façade, are compatible with surrounding neighbourhood,

adversely impact upon the remaining activities within the Shopping Centre precincts.

(b) A large scale freestanding residential flat building is incompatible with a key objective of creating a business centre

(c) Residential development with the zone must be appropriate. The proposal is inappropriate, by reason of height, scale, bulk and other matters set out below.

Issue 4-Non- compliance with clause 30 of SSLEP, in that the maximum floor space for the Residential component of the development is exceeded

Issue 5- Non-compliance with clause 28(1)(a) and (1)(b) of the SSLEP, in that the maximum ceiling height is exceeded by approximately 4.4 metres and 2.7 metres respectively.

Issue 6 Non-compliance with clauses 43(1)(a) and 43(1)(b) of the SSLEP 2000. Non-compliance with clause 45(1) of the SSLEP 2000 in that the maximum floor space for the residential component of the development is exceeded.

Issue 7 The unsuitable internal design and configuration of the proposal, specifically:

(a) location and amenity of lower floor units;

(b) adverse visual privacy and acoustic impacts to occupants of the units arising from internal circulation design;

(c) unsatisfactory car parking arrangements, including distance from parking spaces to units;

(d) unsatisfactory privacy impacts arising from the trafficable roof area layout;

(e) whether the provision of light is acceptable

Issue 8 The provision of ventilation to units, including whether the Building Code of Australia can be complied with in respect of ventilation.

Issue 9 Adverse impact upon streetscape, including the proposal's inappropriate scale, bulk and presentation to Hobart Place. The proposal is not sensitive to the surrounding residential development.

Issue 10 Adverse impact upon the Community Centre including overshadowing and privacy concerns.

Issue 11 Whether the form of the proposed development for residential flats is appropriate, considering that the proposal will result in the removal of viable neighbourhood business uses, and public parking required to service the existing neighbourhood business component.

Issue 12 Matters raised by resident objectors.

32 The following emerged as the salient issues:

- Height of the proposal, both in terms of the 7.2m wall height and the 9.0m overall height,
- SEPP1 objection, and
- SSLEP2000.

The hearing

33 The appeal was filed 16 November 2000 and is within time.

34 At the hearing the court heard evidence on behalf of the respondent council from:

- Mr K R Nash, consultant town planner,
- Mr W Long, consultant town planner, and
- Mr A Falato, building surveyor.

35 On behalf of the applicant evidence was given by:

- Mr L B Hunt, consultant town planner,
- Mr J Moulang, building designer, and
- Mr R Shepherd, building surveyor.

36 A site inspection was taken in company with the parties on the morning of 17 October 2001.

The evidence

37 I have considered the evidence of:

Mr K R Nash:

38 who addressed issues and concluded:

> *The proposed development is for the demolition of a part one/part two storey retail and commercial building, associated outbuildings, 2 tennis courts and 27 parking spaces at the north-eastern section of Illawong Shopping Centre and the erection of a residential flat building, comprising 34 dwelling units over 5 levels and associated car parking for 63 vehicles and 3 wash bays.*
>
> *The subject site is located in a 3(b) Neighbourhood Business zone under the Sutherland LEP 1993. The LEP embodies relevant objectives and*

solar access, natural light and ventilation. Units 1, 7 and 13 will also experience noise nuisance from truck movements on the adjacent elevated loading dock ramp.

Overall, the proposal represents an overdevelopment of the site with detrimental impacts on surrounding residential precincts including the Community Centre.

For these reasons and for the reasons set out in this report the application before the Court should be refused.

39 He analysed the amended application and was satisfied that it *"...resolves a number of planning issues addressed in the Land & Environment Court proceedings, namely":*

(i) Cl30 SSLEP 1993 -Residential Component Floor Space
The reduction in gross floor area of the residential component does not satisfy the provisions of clause 30 of SSLEP1993 that requires that the residential component must not exceed 50% of the gross floor area of the development. The amendments to the proposal reduce the floor area by 1,074 square metres to 6,335 square metres, which represents 51.2% of the total floor space. Thus this matter of non-compliance remains an issue for the Court.

(ii) Cl45 DSSLEP2000 -Residential Component Floor Space
Under the provisions of clause 45(1) of Draft SSLEP2000, the removal of 3 dwelling units and the car parking spaces in excess of the parking requirements results in the residential component being reduced by 1,023 square metres to a total of 5,237 square metres which represents 46.5% of the total floor area, thereby complying with the standard.

The difference in the outcomes arises from a change to the definition of "gross floor area" under Draft SSLEP2000, such that car parking space protruding more than 1 metre above natural ground level is no longer included in the floor area calculations.

Maximum Building Height
The amended proposal does not comply with the maximum building height controls under clause 28(1) of SSLEP1993 or clause 43(1) of Draft SSLEP2000. The extent of non-compliance is considered significant in that 9 units exceed the 7.2 metre ceiling height control by up to 4.25 metres (Unit 29) and 4 units exceed the 9.0 metre roof height control by up to 2.7 metres (Unit 29). The extent of non-compliance ...remains as an issue for the Court.

It should be noted that the amended plans involved the renumbering of the proposed dwelling units under the original proposal. Units 32, 33 and 34 have been renumbered 29, 30 and 31.

Visual Impact
The reduction in the height of the west wing of the building (by the deletion of 3 units) and the reduction in the size of the balconies and

development standards relating to height and residential floor area component of the site.

The proposed development is incompatible with the objective of the 3(b) zone and does not comply with the abovementioned development standards in the following terms:

Height - ceiling	*Proposed:*	*12.5 metres*
	Maximum permitted:	*7.2 metres*
Height - roof	*Proposed:*	*13.8 metres*
	Maximum permitted:	*9.0 metres*
Residential component	*Proposed:*	*55.4%* *(first amendment 51.24%)* *(second amendment 49.83%)*
	Maximum permitted:	*50.0%*

As can be seen the extent of non-compliance is substantial. The applicant submitted SEPP 1 objections for variation of the development standards.

The SEPP 1 objections are not supported.

The Draft Sutherland LEP 2000 also applies to the site. The site is zoned 3(b) Neighbourhood Business and the development standards applying to the zone remain the same.

In addition to the statutory non-compliance, the proposed development, by virtue of its height, bulk and elongated building mass will be out of scale and character with the surrounding residential areas. These residential zones 2(a1), 2(e1) and 2(e2) also have the same height controls as those relating to a 3(b) zone, thereby ensuring a compatibility of scale and character.

The proposed 5-storey development will be totally out of character with the objectives and outcomes envisaged under LEP 1993 and the existing built form.

The proposal will have a detrimental impact on the streetscape of Hobart Place and when viewed from Georges River.

The impact of the proposed development on the Illawong Community Centre will be significant and detrimental in terms of overshadowing, privacy and toss of outlook and views.

The loss of 27 car spaces and the lack of visitor parking for the proposed residential flat building will seriously reduce the capacity of the shopping centre car park to accommodate customer parking at peak times.

Furthermore, the design of the proposed residential flat building will result in a very poor level of internal amenity for Units 1-18 in terms of

> *(iii) the reduction in the floor level of the car parking area on Level 2 by 1000mm to RL 57 and RL 58. Level 3 car parking area would correspondingly reduce to RL 61.*
>
> *These measures would reduce the roof height control non-compliance to one dwelling unit (Unit 30), which would exceed the control by 400mm.*

40 He summarised his opinions in respect of the first amended plans:

> *The amended development application has addressed a number of key concerns of Council relating to the height of the building, privacy impacts on adjoining residents and the internal amenity of passageways to the west wing of the development. The amendments also ameliorate the detrimental impacts on the existing Community Centre.*
>
> *However, it is my view that the non-compliance with the planning standards in SSLEP93 and Draft SSLEP2000 remains significant and contrary to the planning objectives and outcomes envisaged in the respective planning instruments.*
>
> *For these reasons and for the reasons set out in the Report on Planning Issues dated March 2001 and this Supplementary Report the application before the Court should be refused.*

Mr W Long:

41 who had visited the site, the surrounding locality, considered the relevant planning controls, the impacts of the proposal and concluded[5]:

> *the proposed development for a freestanding, 5 storey residential flat building and associated parking for sixty two (62) vehicles is not an appropriate form of development for the site and should therefore be refused.*

42 Mr Long was of the opinion that the proposal would exceed the maximum allowable FSR under the SSLEP and[6]:

> *...that support of the applicant's SEPP1 objection to the maximum gross floor area standard of clause 30 could result in an excessive proportion of residential floor space to commercial floor space in perpetuity.*

43 And

> *...the SEPP1 objection ...is not well founded and should not be supported.*

44 In respect of the first amended plans he told the Court that the proposal:

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[5] Exhibit 3 p 14
[6] Exhibit 3 p 8

canopies facing Hobart Place will result in a lessening of the visual impact of the proposed development when viewed from the street.

Internal Amenity
The redesign of the fully glazed and louvred walkways to the units in the western wing will address privacy, internal anlenity and natural ventilation concerns raised in relation to the original proposal.

Privacy
The removal of the roof terraces will reduce concerns relating to aural and visual privacy of residents in the vicinity.

Community Centre
Redesign of building elements adjoining the northern boundary of the Community Centre and a reduction in the size of the lift lobby will ameliorate detrimental impacts on the internal and external amenity of the community centre and its users.

Landscaped Area
The deletion of the car parking area on Level 1 and the removal of storage areas (Level 2) and walkways from Levels 2, 3 and 4 will enable improved landscape opportunities and result in an improved level of amenity and outlook for future occupants.

Planning Commentary
In the context of the assessment of the amended development application detailed above it is considered that the non-compliance with the planning standards relating to the residential component of the gross floor area (clause 30 SSLEP93) and the height of the building (cl.28 SSLEP93 and cl.43 DSSLEP2000) remain the key issues before the Court.

In my view the extent of non-compliance with the 7.2 metres ceiling height by 9 of the 11 dwelling units on the upper levels is unacceptable -the extent of non-compliance ranges from 0.15 metres to 4.25 metres. Units 29, 30 and 31 all exceed the ceiling height control by more than 2.55 metres, which is the equivalent of an additional storey.

Similarly, units 29, 30 and 31 exceed the roof height control by 2.7, 1.6 and 1.0 metres respectively. Thus Unit 29 exceeds the roof height control by the equivalent of an additional storey.

Whilst the applicant has utilised a flat roof to maximise the number of units on the site it is considered that the design of the amended proposal is contrary to the underlying objectives of the building height control, namely to be compatible with the prevailing 2-storey scale of development with pitched roofs within the neighbourhood shopping centre and in surrounding residential precincts.

In my view a higher degree of compliance with the building height standard could be achieved by the following measures, namely:

(i) the deletion of Unit 29;
(ii) the reduction in the floor to ceiling height of 100mm on all residential levels;

Mr L B Hunt:

47 concluded[9] that:

> *...the proposed height exceedance is acceptable in its context. It will not result in the exceedance of the maximum FSR allowed on the site and will have no implications in terms of views, overshadowing and privacy. Furthermore, the proposed arrangement of building bulk on the site, leading to the exceedance of the height control, will allow for greater setbacks and landscaping, and thus yield a superior built form. Secondly, the non-compliance with the residential floorspace standard does not impact on the zone's objectives, as a viable neighbourhood shopping centre will continue to operate from the site. Accordingly, insistence upon compliance with these development standards is considered unreasonable and unnecessary in view of the circumstances and the objectives of the controls. Further, the objects in Section 5 of the Act are pursued by the subject proposal. Lastly, non-compliance with these standards will not raise any matter of significance for state or regional planning, other than the positive achievement of urban consolidation policies. Therefore, it is considered that the application is worthy of approval and the SEPP1 objections should be upheld.*

48 He prepared a supplementary report dealing with the amended application.[10]

Mr J Moulang:

49 who was of the opinion[11]:

> *...that the design objectives and the relevant policy guidelines have been adequately met. That the development as proposed, is appropriate for the site and will positively add to the quality of ambience of Illawong.*

Mr R Shepherd:

50 who addressed the landscaping aspects of the proposal concluded that:

> *Any perception of height, scale and bulk of the proposed built form will be substantially ameliorated by the proposed landscaping.*
>
> *...it is difficult to reconcile the commentary that the residential landuse is inappropriate to Hobart Place. In conjunction with proposed building setbacks and landscaping and limiting impact through restricting pedestrian access for the residents primarily to Fowler Road, the residential landuse is judged as eminently suited to this location. The primary orientation of the existing houses opposite the site to the northern panoramic views (away from the development site) reinforces that the impact upon the existing residents would be relatively small, and must be*

[9] Exhibit E p 42
[10] Exhibit R
[11] Exhibit K para 7

is not an appropriate form of development for the site and should therefore be refused.

Mr A Falato:

45 who addressed Issues 5, 7, 8, 9, 10 and 11 concluded[7]:

... that the proposed development is unacceptable in terms of:

The proposal exceeds the maximum permissible ceiling and roof height development standards contained in Clause 28 of SSLEP 1993 with significant and adverse impacts on the character of adjoining and nearby development and the compatibility of the development with adjoining development.

The proposal results in poor levels of amenity in terms of privacy, light and ventilation for the building occupants and; results in unsatisfactory privacy impacts on adjoining properties.

The proposal results in poor levels of resident amenity as a consequence of failing to provide adequate ventilation to units 1-18.

The proposal will have an adverse impact on the streetscape and diminish the visual amenity of the locality in terms of inappropriate scale and excessive building bulk.

The proposal will have a detrimental impact in terms of overshadowing of the terrace to the Community Centre and mutual loss of aural and visual privacy.

The proposed residential form of the development will result in the removal of viable neighbourhood business uses, loss of public car parking and will prejudice the future viability of the neighbourhood business centre.

Due to the nature of the proposal and its likely adverse impacts, as discussed above, it is considered that the proposal should not be approved.

46 Mr Falato considered the first amended plans[8]:

...address a number of the concerns expressed in my previous Statement of Evidence. Nonetheless, the proposed building height, its bulk and lack of compatibility with nearby residential development remain at odds with the outcomes envisaged for development in the Neighbourhood Business zone.

In my opinion the development in the form proposed should not be approved.

[7] Exhibit 2 p 14
[8] Exhibit 13 p 3

considered primarily positive, particularly given the alternative for commercial development.

The findings

51 I make my findings after having considered the evidence and submissions:

Issue 1. Non-compliance with the objective of the 3(b) Neighbourhood Business Zone as provided in the Sutherland Shire Local Environmental Plan 1993 (SSLEP), in that what is proposed is a large scale residential flat building, which is inimical to a wide range of retail and commercial activities; and

Issue 2. Non-compliance with the description of the 3(b) Neighbourhood Business Zone of the SSLEP, in that a large-scale residential flat building does not meet that description.

52 The existing neighbourhood business centre meets the objectives of the 3(b) Neighbourhood Business zone of the SSLEP, to provide a wide range of retail and commercial activities to serve the surrounding neighbourhood. The centre presently includes a number of established businesses, some of which have operated since the centre opened in the late 1980's and the present high occupancy rate indicates to me that the centre is economically viable. I am satisfied that it would continue in this role to serve the neighbourhood, despite the commercial component being reduced in size.

53 The zone permits *"residential flats only in developments including shops, business or office premises."* The proposed use as residential flats is permissible in the existing shopping centre and business development.

54 The proposal is permissible under the planning instrument and may be dealt with by the Court on appeal. I consider that the removal of some of the neighbourhood business uses and public parking is acceptable in the circumstances. There is no need for the applicant to guarantee that these uses and the related parking will be replaced.

55 Mr Nash argued that *"...a freestanding, five-storey residential flat building is not a form of development that meets the objectives and the description of the 3(b) Neighbourhood Business zone,"* of the SSLEP and that *"...[t]he applicant has failed to address the relevant objectives of the zone."* I consider that the proposed residential component would be attached to the existing development and thereby

integrated into it, and thus I would not refuse the application for the reason advanced by Mr Nash. In this regard I prefer the evidence of Mr Hunt.

56 I am also satisfied that there is a reasonable physical relationship with the adjoining and nearby residential area, and that the proposal would meet the objectives and the description of the 3(b) zone of the SSLEP and that this issue is met. I would not refuse the application for this reason.

Issue 3. Non-compliance with objectives (a), (b) and (c) of the 3(b) Neighbourhood Businesses Zone as provided in the Sutherland Shire Local Environmental Plan 2000 (SSLEP 2000), specifically:

> (a) The proposal is not in keeping with providing small-scale retail and business activities that aim to serve the daily needs of the local community, in that it is a freestanding large-scale residential flat building that will not be used in conjunction with the existing retail and business development. The proposal will adversely impact upon the remaining activities within the Shopping Centre precincts.
>
> (b) A large scale freestanding residential flat building is incompatible with a key objective of creating a *business* centre
>
> (c) Residential development with the zone must be *appropriate.* The proposal is inappropriate, by reason of height, scale, bulk and other matters set out below.

57 The objectives of the 3(b) Neighbourhood Business zone under the SSLEP2000, are similar to those for land in the SSLEP. A savings provisions under cl 6(2) of the SSLEP2000 applies and it is relevant to consider future planning objectives under that instrument.

58 Permissible uses under the SSLEP2000 include ...*"residential flats, only in buildings subject to another permitted use"*

59 Mr Nash stated the council's case in this issue, in that:

> *It is questionable whether the proposed development for a freestanding residential flat building as a separate building is a permissible use in the zone pursuant to the description in the development control table of the SSLEP 2000. The description is specific and rather than allow for residential flats on land subject to another permitted use, the description refers to residential flats only in buildings, that in my opinion envisages the integration of residential flats or dwellings within the neighbourhood*

Issue 5. Non-compliance with clause 28(1)(a) and (1)(b) of the SSLEP, in that the maximum ceiling height is exceeded by approximately 4.4 metres and 2.7 metres respectively.

66 This issue relates to the two components of the height standard under the SSLEP including a maximum ceiling height and a maximum height for the roof.

67 Mr Nash identified the underlying purpose of this height standard as being *"...to achieve a certain form of development or desired local character for the area that responds to the landform and does not exceed two-storeys or a height of 9m."* The standard is silent on the number of storeys so in that regard I have not given great weight to that aspect of Mr Nash's evidence.

68 Mr Nash was of the opinion that especially in residential zones that:

> *Considered together the ceiling height and roof height promotes a pitched roof form. In this context it is appropriate that the same standard should apply to the neighbourhood business zones to ensure that the form, height, number of storeys and bulk and scale of development in these zones is compatible with the residential area in which they are located.*

69 The applicant has submitted a SEPP1 objection to the height standard of clause 28(1)(a) and 28(1)(b) of the SSLEP[14],

70 The extent of non-compliance of the first amended proposal is described in the SEPP1 objection:

> *The proposed exceedance of the 9-metre roof height standard occurs over some 39% of the building's footprint, with 16% of the footprint up to 1m over the height control, c.12% at 1-2 metres over and c.11% greater than 2 metres over, as compared with the 1985 ground levels, being the ground levels prior to the centre's development in 1987. ...The greatest exceedance occurs near unit 31 (now unit 29) where the roof of the unit has an elevation of some 2.7 metres in excess of the 9 metre roof standard.*

71 The extent of the non-compliance is reduced by 750mm in the second amendment[15].

72 The applicant's has based the SEPP1 objection to the height standard on the fact that commercial developments *"...typically comprise large "box" structures with flat roofs,"* and different rules to those applying to residential developments might be seen

[14] Prepared by Colston Budd Hunt & Kafes Pty Ltd dated August 2000
[15] Exhibit Y

> *business development, not as a separate building which is the case in the subject proposal.*

60 The *"freestanding residential flat building"* is one that is attached to the existing shopping centre. It could be argued that it is in a building subject to another permitted use. I have had regard to the terms of the SSLEP2000 and in this particular case, I would not refuse the application as being inconsistent with the objectives of the SSLEP 2000 or not complying with the description of permitted development in the 3(b) Neighbourhood Business zone under the SSLEP2000.

Issue 4. Non- compliance with clause 30 of SSLEP, in that the maximum floor space for the Residential component of the development is exceeded

61 The definition of GFA under the SSLEP allows for the exclusion of basement car parking only if it does not project more than 1m above the natural ground level.

62 In the second amended proposal the car park would be lowered by 750mm, and thus less of the car parking area would need to be included in the GFA calculation.

63 Before the second amendment[12], the residential component of the proposal represented 51.24% of the total GFA. After the second amendment the proposed residential GFA would be 5,987m^2 and when added to the existing GFA of 6,028m^2 the total GFA would be 12,015m^2 and the residential component would represent 49.83% of that total.

64 Thus the residential component would now comply with the standard and both parties agree that there is no need for the applicant to rely on SEPP1 objection[13] to the residential component of the GFA standard under cl 30 of the SSLEP.

65 I would not refuse the application for the reasons contained in this issue.

[12] Exhibit Y
[13] Exhibit U

to apply. It was argued by Mr Hunt for the applicant, that the space above the 7.2m ceiling height in a commercial building may well be used for plant and equipment and the parapet may well be at the 9m height. He argued that the proposed residential flat building would be of a height similar to such a commercial development, and a building of similar bulk as that proposed, might result.

73 Mr Nash is critical of the SEPP1 objection and that:

> *...in effect disregards the 7.2m ceiling height control as though it doesn't even apply except as a notional control on the total development floor space.*
>
> *The objection fails to address the objectives of the standard, which relates to the maximum height, number of storeys and the form of development in the 3(b) zone and the residential (a), (b) and (e) zones.*

74 Mr Nash considered the objection *"...should not be founded on an opinion that a development standard is inappropriate in respect of a particular zoning or type of development."* In this view he is correct, however in the particular circumstances of this case, given the steeply sloping nature of the land, I am satisfied that the SEPP1 objection may be upheld. I am satisfied that the proposal responds well to the local conditions and steps with the slope of the land along the Hobart Place frontage and would be of an appropriate scale and consistent with the desired local character of Hobart Place.

75 I have considered the SEPP1 objection to ceiling height and overall height under the SSLEP in the light of the decision of his Honour Justice Lloyd in *Winten*[16]. His Honour at para 26 of that judgment stated whilst applying the principles of *Hooker Corporation*[17]:

> *...it seems to me that SEPP1 requires answers to a number of questions (not necessarily in the following order). First, is the planning control in question a development standard? Second, what is the underlying object or purpose of the standard? Third, is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act? Fourth, is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? Fifth, is the objection well*

[16] *Winten Property Group Limited -v- North Sydney Council, NSWLEC 46, 6 April 2001* paras 22 - 26
[17] *Hooker Corporation Pty Limited v Hornsby Shire Council* (NSWLEC, 2 June 1986, unreported)

> *founded? In relation to the fourth question, it seems to me that one must look to see whether a development, which complies, with the development standard is unreasonable or unnecessary, as noted by Cripps J in the Hooker Corporation case.*

76 I have answered each of these questions.

77 First, the planning control of height standard of cll 28(1)(a) and 28(1)(b) of the SSLEP of ceiling height and overall height, is a development standard.

78 Second, the underlying object or purpose of the standard is as identified by Mr Nash, *"...to achieve a certain form of development or desired local character for the area that responds to the landform."*

79 Third, compliance with the development standard would be consistent with the aims of the Policy, and in particular compliance with the development standard would not tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EPA Act?

80 Fourth, compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case, given the slope of the land and the fact that the proposal more than complies on the uphill side and that it steps along the Hobart Place frontage with the topography. In addition, given the fact that the land was previously filled the proposal would not appear as high above the existing ground level as one might otherwise have anticipated. In accordance with the lowering of the proposal in the second amendment, the development is in greater compliance than originally submitted. I consider it not necessary to remove Units 29, 30 and 31 as proposed in conditions by Mr Nash.

81 Fifth, the SEPP1 objection to the height standard of cll 28(1)(a) and 28(1)(b) of the SSLEP is well founded and I would not refuse the application for this reason.

Issue 6. Non-compliance with clauses 43(1)(a) and 43(1)(b) of the SSLEP 2000. Non-compliance with clause 45(1) of the SSLEP 2000 in that the maximum floor space for the residential component of the development is exceeded.

82 As the height standard and the floor space ratio standards under the SSLEP2000 are similar to those that apply under the SSLEP for the 3(b) zone, I am satisfied that the proposal would be similarly inconsistent with the height and floor space ratio standards of the SSLEP. I have dealt with those above and would not refuse the application for this reason.

Issue 7. The unsuitable internal design and configuration of the proposal, specifically:

(a) location and amenity of lower floor units;

(b) adverse visual privacy and acoustic impacts to occupants of the units arising from internal circulation design;

(c) unsatisfactory car parking arrangements, including distance from parking spaces to units;

(d) unsatisfactory privacy impacts arising from the trafficable roof area layout;

(e) whether the provision of light is acceptable

83 Mr A Falato for the respondent dealt with this issue and was critical of the proposal.

84 I prefer the evidence of Mr Hunt and accept that the proposed ceiling height and overall height is acceptable in its context and that internal design issues may be adequately dealt with by conditions.

Issue 8. The provision of ventilation to units, including whether the *Building Code of Australia* can be complied with in respect of ventilation.

85 Mr A Falato addressed this issue, and I am satisfied that it may be adequately addressed by conditions.

Issue 9. Adverse impact upon streetscape, including the proposal's inappropriate scale, bulk and presentation to Hobart Place. The proposal is not sensitive to the surrounding residential development.

86 I would not refuse the application on the evidence of Mr Nash that the proposal would:

> *...have a dominant presence in the streetscape due to its height, number of storeys and the horizontal nature of the unrelieved glazed facade. It will also be prominent when viewed from various vantage points in the immediate area.*

87 I prefer the evidence of Mr Hunt that the proposal is satisfactory and steps with the slope of the land, would meet the aims of the SSLEP and worthy of approval in its context.

88 There would be some opportunity to re-establish the canopy of tall tree species that exist on the land despite the likely priority of residents on the retention of open views to the north. In regard to views retention the proposal would be similar to dwellings on the low side of Hobart Place to the north of the subject land. These properties have been designed to take advantage of the northerly views and some are three storeys and some have gardens cleared of trees to enhance the outlook.

89 I am satisfied that the proposal would be compatible with, not antipathetic to, the single-storey and two-storey street height and scale of dwellings opposite in Hobart Place.

Issue 10. Adverse impact upon the Community Centre including overshadowing and privacy concerns.

90 Mr Nash expressed concern for overshadowing and privacy of the community centre. Overshadowing of the community centre has been improved in both the first and second amendments and is now not a sufficient reason for refusal of the application.

Issue 11. Whether the form of the proposed development for residential flats is appropriate, considering that the proposal will result in the removal of viable neighbourhood business uses, and public parking required to service the existing neighbourhood business component.

91 Mr Nash was of the opinion that:

- Sufficient of the neighbourhood business uses and facilities to cater for the needs of the local community would be maintained and despite the loss of the existing medical centre, hardware store, restaurant and tennis courts I would not refuse the application;
- The proposal is sufficiently integrated with the existing village shopping centre to warrant approval;
- The potential to subdivide the residential flat building so as to create a separate entity to the existing shopping centre, is not a matter to be considered at this time;
- There was no evidence that anti social behaviour would be generated by the proposal;
- The overshadowing, loss of view and open outlook from the existing community centre and children's play area, is not sufficient to warrant refusal of the application. During the course of the proceedings the height of the eastern section of the proposal was lowered by 750mm and this would lessen the extent overshadowing;
- The proposal sufficiently complies with the council's planning requirements of height and floor space ratio as to be favourably considered;
- There was no evidence to suggest that there would be noise of a sufficient magnitude resulting from the concentration of thirty-four new dwellings as to warrant refusal of the application. The potential noise of persons using the large terraces would be noise normally associated with living. The accessible roof terraces were deleted from the application in the first amendment;
- The overall bulk and scale of the building would not be such as to dominate the view from properties to the north, northeast and the Georges River. I am satisfied that the proposal would step with the land and fits well with the existing buildings in the vicinity.

96 For the above reasons, the appeal is upheld.

Conditions

97 The conditions are those in Exhibit 8, as amended by the applicant's response to conditions in Exhibit AA and as amended during the hearing.

98 I have amended Condition No 1 to make reference to the drawing describing the second amendment that reduced the floor levels of the eastern wing by 750mm, and also to refer to the amended landscaping plans. As explained above the reduction in the floor levels to the eastern wing has two main benefits being to limit the overall height of the eastern part of the building and to bring the residential component into compliance with the planning controls.

> *This proposal can only be achieved by the demolition of Block 3 and the removal of those existing neighbourhood business uses. It also necessitates the removal of 30 public parking spaces 20 of which are directly linked to the adjacent Public School precinct. When the original development was considered in the late 1980's there was a shortfall in off-street parking relative to the commercial floor space proposed. The Council approved the application on the basis that an area of Fowler Road between Block 2 and the Illawong Uniting Church be formed for use as public parking.*
>
> *In my opinion it would be reasonable for any redevelopment of the site to provide for all of the parking generated by the development, within the development site. The reliance upon public land to balance the off street parking demand supports my assessment of the constraints of the site and the overdevelopment that has already occurred.*

92 I am satisfied that the form of the proposed development for residential flats is appropriate, despite the removal of some of the neighbourhood business uses. In this regard I prefer the evidence of Mr Hunt. The proposal provides car parking in accordance with the council's requirements and I am satisfied that this is not a reason to refuse the application.

Issue 12. Matters raised by resident objectors.

93 The sixty four submissions to the original proposal related to a variety of issues including the quality of the design of the building, the size of the units, amenity issues, the loss of existing business uses, traffic, parking and safety.

94 The proposal is permissible within the Neighbourhood Business 3(b) zone under the SSLEP and the council has obviously decided that the proposed uses are not necessarily more appropriately located close to a business centre, employment opportunities, public transport, and possibly a train station as was put by many of the objectors and specifically by the Illawong and Alford's Point Progress Association.

95 Of the major resident concerns:

- I am satisfied that traffic likely to be generated by thirty one dwellings would not unreasonably exacerbate parking and traffic problems in the area given that some of the commercial uses would be replaced;
- There would not be such potential traffic hazards for children and elderly residents as to warrant refusal of the application;
- The likely impact of these vehicles in times of bush fire emergency would not be sufficient as to warrant refusal of the application;

Conditions of development consent

Annexure A

Illawong Village Pty Limited
v
Sutherland Shire Council

Illawong Shopping Village, (No.273 Fowler Road Illawong).

1 **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.

2 **Approved Plans**
The development shall be implemented substantially in accordance with the details and specifications set out on the plan/drawing No DA5.2B, DA5.3B, DA5.4B, DA5.5B, DA5.6C, DA5.7B, DA5.8C, DA5.9C and DA5.10C drawn by Moulang Performance Strategies, dated October 2001 and landscape plans prepared by Site Image No LP100E, LP101C, LP102A, LP103A and LP104A and any details on the application form and on any supporting information received with the application except as amended by the conditions specified and imposed hereunder.

NOTE 1: NOTHING IN THIS DEVELOPMENT CONSENT WHATSOEVER APPROVES OR AUTHORISES THE COMMENCEMENT, ERECTION OR CONSTRUCTION OF ANY BUILDING OR SUBDIVISION WORKS.

NOTE 2: PRIOR TO ANY BUILDING WORK OR SUBDIVISION WORK BEING CARRIED OUT A 'CONSTRUCTION CERTIFICATE' MUST BE OBTAINED FROM AN ACCREDITED CERTIFIER.

NOTE 3: PRIOR TO ANY WORK BEING CARRIED OUT IN ACCORDANCE WITH THIS DEVELOPMENT CONSENT, THE PERSON IMPLEMENTING THE CONSENT MUST:

(A) NOTIFY THE COUNCIL OF THE APPOINTED PRINCIPAL CERTIFYING AUTHORITY; AND

(B) GIVE THE COUNCIL AT LEAST 2 DAYS' NOTICE OF THE INTENTION TO CARRY OUT EITHER BUILDING AND/OR SUBDIVISION WORKS.

3 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

99 I have deleted reference to the sailcloth awnings over the internal courtyard in Condition 6. I am satisfied that these screens would not significantly reduce the amount of light received within that space.

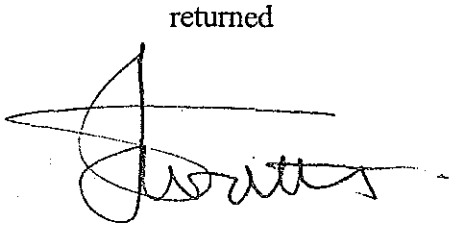
Orders

100 My orders are:

1. The appeal under s 97 of the *Environmental Planning and Assessment Act 1979* be upheld.

2. Development Application No 010480 lodged with the respondent council on 6 September 2000 to demolish part of the Illawong Shopping Centre and to erect a five storey residential flat building comprising originally thirty four (34) dwelling units (now thirty one (31) dwelling units) and car parking for sixty two vehicles (now forty seven (47) vehicles), at No 273 Fowler Road, Illawong, being Lot 1 in DP 803813 be approved subject to Conditions 1 to 81 in Annexure A.

3. The exhibits with the exception of Exhibits P, Q, Y, Z, AA, 8 and 11 may be returned



S J Watts
Commissioner of the Court
SW

4 **PRESCRIBED CONDITIONS**

The following are prescribed conditions of development consent pursuant to s.80A(11) of the *Environmental Planning and Assessment Act 1979* and cl.78 of the *Environmental Planning and Assessment Amendment Regulation 1998*

Compliance with the *Building Code of Australia*

All building work must be carried out in accordance with the provisions of the Building Code of Australia. (Clause 78A (1) of Regulation.)

Residential building work

1) Building work that involves residential building work (within the meaning of the *Home Building Act 1989*) must not be carried out unless the **principal certifying authority** for the development to which the work relates:

(a) in the case of work to be done by a licensee under that Act:
(i) has been informed in writing of the licensee's name and contractor licence number, and
(ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or

(b) in the case of work to be done by any other person:

(i) has been informed in writing of the person's name and owner-builder permit number, or
(ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of "owner-builder work" in section 29 of that Act,

and is given appropriate information and declarations under paragraphs (a) and(b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

2) A certificate purporting to be issued by an approved insurer under Part 6 of the *Home Building Act 1989* that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part. (Clause 78C of Regulation.)

Excavations and backfilling

(a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

(b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property. (Clause 78D of Regulation.)

Retaining Walls and Drainage
If the soil conditions require it:

(a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided, and

(b) adequate provision must be made for drainage. (Clause 78E of Regulation.)

5 PRESCRIBED CONDITIONS (Continued)

Protection of Public Places

1) If the work involved in the erection or demolition of a building:

   (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

   (b) building involves the enclosure of a public place,

2) A hoarding or fence must be erected between the work site and the public place.

3) 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.

4) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

5) Any such hoarding, fence or awning is to be removed when the work has been completed. (Clause 78G of Regulation).

Signs to be Erected on Building and Demolition Sites
A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

(a) stating that unauthorised entry to the work site is prohibited, and

(b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

provided by way of a deposit with the Council or a guarantee satisfactory to the Council.
Should any of Council's property sustain damage during the course of the demolition works Council may carry out any works necessary to repair the damage .The cost of these works will be deducted from the security.
A request for release of the security may be made to the Council after all demolition work has been completed.

9 **Council Property & Environment Damage Security – Construction**
Before the commencement of any works or the issue of a construction certificate the applicant shall provide security to the value of $50000.00 for the payment of the cost of making good any damage caused to any Council property and/or the environment as a consequence of the implementation of the consent. The security may be provided by way of a deposit with the Council or a satisfactory guarantee.
Should any of Council's property and/or the environment sustain damage during the course 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. The security will be released by request after the completion of all works.

10 **Construction Performance Security**
Before the issue of a construction certificate the applicant shall provide security to the value of $ 5000.00 for the payment of the cost of remedying any defects in any public work that arise within 6 months after issue of an occupation certificate as a consequence of the implementation of the consent. The security may be provided by way of a deposit with the Council or a guarantee satisfactory to the Council.
Council may carry out any works necessary to correct the defects and the cost of these works will be deducted from the security.
A request for release of the security may be made to the Council 6 months after the occupation certificate has been issued.

11 **Landscape Security (Tree Protection)**
Before the commencement of site works or the issue of a construction certificate the applicant shall provide security to the Council to the value of $2000.00 for the payment of the cost of providing effective protection of the existing street trees in Hobart Place during the development construction period:

The security may be provided by way of a deposit with the Council or a guarantee satisfactory to the Council.
If Council determines that works are necessary to ensure protection or replacement of the nominated trees in accordance with the terms of the development consent the cost of these works will be deducted from the security.

12 **Detailed Landscape Plan**

Any such sign is to be removed when the work has been completed. (Clause 78H of Regulation.)

Toilet Facilities

1) Toilet facilities are 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.

2) Each toilet provided:

(a) must be a standard flushing toilet, and
(b) must 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 must be completed before any other work is commenced.

6 **Design changes required**

To reduce the environmental impact of the development proposal the following are required:

(a) Deleted.

(b) Design changes to ensure adequate provision for visitor car parking, six visitor car parking spaces are to be allocated within the parking area on Floor Plan Level 3. The visitor car spaces are to be clearly line marked as "visitor" spaces. Appropriate signage is to be provided on the Fowler Road frontage of the development identifying the availability of visitor parking and intercom access is to be provided to ensure its use. Details are to be included in this application for a construction certificate.

(c) **Deleted.**

7 **BEFORE WORK IS COMMENCED AND/OR CONSTRUCTION CERTIFICATE ISSUED**

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

8 **Council Property Security – Demolition**

At least two days prior to the commencement of demolition works the applicant shall provide security to the value of $10,000.00 for the payment of the cost of making good any damage caused to any Council property as a consequence of the implementation of the consent. The security may be

(c) Demolition of existing kerb and gutter at the proposed point of access and replacement with a concrete layback crossing.

(d) Removal of all redundant layback crossings and reconstruction with integral concrete kerb and gutter.

(e) Removal of all redundant footpath crossings and reinstatement in accordance with Council's requirements.

(f) A layback crossing at the access points, such to be no closer than 6 metres to the intersection of adjacent roads..

(g) The footpath crossing in Fowler Road and Hobart Place is to be 5.5m wide.

(h) A dish crossing at each access point.

(i) Regrading, topsoiling and turfing of the footpath area to final design levels across the full frontage of the site and across adjacent properties if required.

(j) Construction of a footpath crossing to the levels issued by the Council.

(k) Provision of pedestrian kerb ramps at intersections.

(l) Construction of a footpath across the full frontage of the site.

(n) Erosion and sediment controls.

Council must give permission for the carrying out of the proposed works, under the *Roads Act 1993* prior to the commencement of works or the issue of a construction certificate.

19 Nomination of Engineering Works Supervisor

Prior to the issue of a construction certificate the applicant shall nominate an accredited certifier in civil engineering to act on the applicant's behalf in the supervision of all civil and drainage construction covered by Council's current "Specification for Civil Works Associated with Subdivisions and Developments".

The accredited certifier shall:

1) provide an acceptance in writing to the effect that he/she/it will supervise sufficient of the works in progress 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,

2) On completion of the works certify that the works have been constructed in compliance with the approved plans, specifications and conditions of approval, and

3) Certify that the works-as executed plans are a true and correct record of what has been built.

20 Site management plan

A detailed landscape plan shall be prepared to ensure the landscaping is appropriate to the development and provides reasonable amenity for neighbouring properties. The plan shall accord with the landscape concept plan, Council's Landscape Development Control Plan and the relevant conditions of this development consent. Certification from the Council or an accredited certifier to the effect that the detailed landscape plan has been prepared having regard to these requirements shall be submitted with the construction certificate.

13 **Public Risk Insurance**
Before the commencement of work or the issue of a construction certificate the owner or contractor shall provide evidence to the Council of a Public Risk Insurance Policy with a minimum cover of $5 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works. The Policy is to note Council as an interested party.

14 **Conditions Relating to Works in the Road Reserve**
These conditions are imposed to ensure that adequate road works are provided to minimise the adverse effect of traffic generated by the development.

15 An access application shall be made to the Council to obtain footpath crossing levels before designing internal driveways and carparking. A copy of the issued levels shall accompany the application for the construction certificate.

16 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 the Council or the Roads and Traffic Authority for every opening of the public road reserve..

Note: An application fee of $55 applies (Account No. 49200).

17 A Road Opening Approval under s 138 of the *Roads Act 1993* (NSW) has been included with this development consent. The approval does not operate until the Council has received:

(a) the security bond or bank guarantee for the affected public land;
(b) notification of the Principal Certifying Authority; and
(c) notification of the date of commencement.

18 **Construction of Frontage Works**
The following road frontage works shall be constructed in accordance with the requirements of Council's adopted "Specification for Civil Works Associated with Subdivisions and Developments":

(a) A temporary concrete footpath crossing for construction vehicle access.;

(b) Drainage.

Prior to the commencement of works or the issue of a construction certificate the applicant shall submit to and obtain Council approval of a construction and site management plan that clearly sets out 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 building activities, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like,

(ii) the proposed method of loading and unloading excavation machines, building materials, formwork and the erection of any part of the structure within the site,

(iii) the proposed areas within the site to be used for the storage of excavated material, construction materials and waste containers during the construction period,

(iv) how it is proposed to ensure that soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways,

(v) 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 an accredited certifier in civil engineering.

Any use of the footpath or road reserve for construction purposes requires Council approval under the *Roads Act*. Where it is proposed to:

(a) pump concrete from within a public road reserve or laneway,
(b) stand a mobile crane within the public road reserve or laneway,
(c) use part of Council's road/footpath area,
(d) pump stormwater from the site to Council's stormwater drains, or
(e) store waste containers, skip, bins, and/or building materials on part of Council's footpath or roadway

an application for a construction zone, a pumping permit, a hoarding, an approval to stand a mobile crane or an application to pump water into a public road, together with the necessary fee in accordance with Council's adopted schedule of fees and charges, shall be submitted to Council and approval obtained before a construction certificate is issued.

21 Soil and Water Management

Prior to the commencement of works or the issue of a construction certificate, the applicant shall submit to and obtain Council approval of a Soil and Water Management Plan and Statement which clearly identifies site features, constraints and soil types together with the nature of proposed land disturbing activities and also specifies the type and location of erosion and sediment

control measures and also rehabilitation techniques necessary to deal with such activities.

The Plan shall be compatible with any Construction Management Plan and shall ensure the following objectives are achieved, namely

1. All possible sediment controls are installed before commencing work.
2. To minimise the area of soils exposed at any one time.
3. To conserve top soil for re-use on site.
4. To identify and protect proposed stockpile locations.
5. To preserve existing vegetation and identify revegetation techniques and materials.
6. To control surface water flows through the development construction site in a manner that:

   (a) Diverts clean run-off around disturbed areas
   (b) Minimises slope gradient and flow distance within disturbed areas.
   (c) Ensures surface run-off occurs at non-erodable velocities.
   (d) Ensures disturbed areas are promptly rehabilitated

7. Trap sediment on site to prevent off site damage
8. Hay bales are not to be used as sediment control devices and are not to be used on any hardstand areas.
9. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilised (includes landscaping).

22 Appointment of a Principal Certifying Authority

No works in connection with this development consent are to be commenced until the applicant:

(i) has had detailed plans and specifications endorsed with a construction certificate
(ii) has appointed a principal certifying authority, and
(iii) has notified the Council of the appointment.

The applicant may appoint the Council (Sutherland Shire Certification Services) or an accredited certifier as the principal certifying authority for the development.

If the principal certifying authority is not the Council, then the person so nominated must provide an acceptance of the nomination in writing to the Council.

If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of appropriate certificates.

23 Pre-commencement Site Inspection

Open Space, after identifying the likelihood that this development will require or increase the demand for local and district open space within the area. It has been calculated on the basis of 69 new bedrooms.

The contribution will be indexed on 1 July in each year in accordance with indexing methods outlined in the Plan, with amended rates being available from Council.

Payment is required on or before the times stated in clause 8 of the Contributions Plan unless the Council accepts a deferred or periodic payment in accordance with clause 9 of the Contributions Plan.
Note: Council has resolved that in relation to section 94 contributions for open space that all applications from the date that the Draft Sutherland Shire Contribution Plan – Open Space 2000 was publicly exhibited (28/11/2000), allow payments of the section 94 contributions for open space to be in accordance with the plan applying at the time of payment.

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.

29 **Community Facilities, Menai and Woronora Heights**
A monetary contribution of $20,460.00 shall be made for the cost of providing community facilities. (A/c No. 767900)

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 Menai District and Woronora Heights, after identifying the likelihood that this development will require or increase the demand for community facilities within the area. It has been calculated on the basis of 54 new dwellings.

The contribution will be indexed on 1 July in each year in accordance with the indexing methods outlined in the Plan, with amended rates being available from Council.

Payment is required on or before the times stated in clause 2.5.1 of the Contributions Plan unless the Council accepts a deferred or periodic payment in accordance with clause 2.5.2 of the Contributions Plan.

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.

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

31 **Internal driveway profile**

The Principal Certifying Authority and/or the Supervising Engineer shall undertake a pre-commencement site inspection with Council's Assessment Offficer(s) prior to any siteworks or demolition works. The purpose of this inspection is to facilitate the implementation of the development consent and to offer assistance in relation to the conditions of consent, and to clarify any matters of concern.
Contact must be made with a Council's Environmental Assessment Officer(s) to arrange for the inspection.

NOTE 1: Failure to comply with this condition will constitute a breach of the *Environmental Planning and Assessment Act 1979* (NSW) which carries substantial penalties.

NOTE 2: An inspection fee of $126.50 applies (Account No. 1721550).

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

25 Prior to the issue of an occupation certificate or before the release of a linen plan of subdivision a compliance certificate under s73 of the *Sydney Water Act 1994,* shall be submitted to the Council. Sydney Water may require the construction of works and/or the payment of developer charges.

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

27 **Carwash Bay**
The car parking area shall contain a car wash bay that shall be drained to the sewer. Evidence of a permit for the car wash bay from Sydney Water, Wastewater Source Control Branch, shall accompany the application for a construction certificate.

28 **Section 94**
Acquisition and/or Augmentation of Public Open Space
A monetary contribution of **$330,993.00** shall be paid to Sutherland Shire Council for the cost of acquiring and augmenting public open space in lieu of its physical provision. The contribution is for the following:

Local reserve land acquisition **$289,179.00** (A/c No. 9800062)
District reserve embellishment **$5,589.00** (A/c No. 9800063)
Local reserve embellishment **$36,225.00** (A/c No. 9800064)

This contribution has been assessed pursuant to s.94 of the *Environmental Planning and Assessment Act,* and the Sutherland Shire Contributions Plan –

37 Water from pathways and access drives shall be prevented from entering the road reserve as surface flow. This can be achieved by constructing a box drain at the boundary equipped with a 300mm wide grate and frame to collect the flow or directing the flow to a sag pit within the property.

38 The rate of discharge of stormwater from the site to a drainage system under Council's control shall be controlled so that it does not exceed the pre-development rate of discharge. Certification from an accredited certifier to the effect that this requirement has been met shall accompany the application for the construction certificate.

39 The design floor level, including the level of any opening in the wall adjacent to the drainage pipeline, shall be set above the level of the overland flow of stormwater generated by a storm of design recurrence interval of 1 in 100 years, flowing along the overland escape route within the drainage easement within or adjacent to the site. Certification from an accredited certifier to the effect that this requirement has been met shall accompany the application for the construction certificate.

40 A depression that allows a stormwater escape route over the full width and length of the drainage pipeline shall be provided. The escape route shall be designed to have the capacity to carry the difference between a 1 in 100 year flow and half the flow in the pipeline within the easement. Certification from an accredited certifier to the effect that this requirement has been met shall accompany the application for the construction certificate.

41 **Basement car park**
The minimum headroom in the parking area shall be 2.2m measured from the parking floor to the underside of any beam or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position. Certification from the Council or an accredited certifier that this design requirement has been met shall accompany the application for the construction certificate.

42 All garages shall have a minimum width of 3m with a minimum door opening of 2.75m wide x 2.2m high clear of any necessary hinges, jambs or fixtures required for the operation of the garage doors and any services within the garage area. Certification from an accredited certifier that this design requirement has been met shall accompany the application for the construction certificate.

43 **Garbage storage area**
To ensure proper storage of waste from the premises, an enclosed garbage storage area shall be provided. The area shall be constructed with a smooth impervious floor graded to a floor waste and provided with a tap and hose to facilitate regular cleaning of the bins. Waste water is to be discharged to the sewer in accordance with the requirements of Sydney Water. To minimise noise and odour, the garbage storage area shall be positioned so that waste bins are located away from nearby premises.

The design of the internal driveway profile shall:

(a) provide adequate sight distance for the safety of pedestrians using the footpath area;
(b) align with Council's issued footpath crossing levels;
(c) provide a maximum grade of 5% for the first 3 metres inside the property boundary; and
(d) comply with AS2890.1(1993) and AS2890.2(1989).

Certification from an accredited certifier to the effect that these design requirements have been met shall accompany the application for the construction certificate.

32 **Drainage design**
The drainage for this development proposal shall be designed in accordance with the Institution of Engineers' publication "Australian Rainfall and Runoff" (1987), Council's "Urban Drainage Design" Manual and Council's "Stormwater Management Policy and Guidelines".
Evidence that these design requirements have been met shall accompany the application for the construction certificate.
The design is to be prepared by a Chartered Civil Engineer, with National Professional Engineering Registration (NPER) in the construction of civil works or a survey company of Registered Surveyors with "preliminary accreditation" from the Institution of Surveyors NSW Inc. or an accredited certifier on A1 or A2 sheets and is to include:

33 * Certification from the engineer/registered surveyor/ or an accredited certifier that the design has been prepared in accordance with Australian Rainfall and Runoff (1987), Council's Drainage Design Manual and Council's "On-site Stormwater Detention Policy and Technical Specification.

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

35 * A layout of the drainage system showing existing and proposed pipe sizes, type, class, grades, lengths, invert levels, finished surface levels and location of all pipes with levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan.

I0214 * A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line.

36 A physical barrier (eg. concrete kerb or earth mound within the landscaping) shall be provided around the perimeter of the site to prevent the discharge of surface water flows onto adjoining properties or the road reserve.

49 **Erosion Control**
Erosion and sediment control measures shall be implemented and maintained, during the course of construction, to minimise downstream sediment transfer particularly with respect to watercourses, stormwater outlets, fire trails, batters and disturbed ground. All control measures are to be maintained in accordance with the Councils "Specification for Civil Works Associated with Subdivisions and Developments" and the Department of Land and Water Conservation's "Urban Erosion and Sediment Control - Field Guide".

50 Runoff and erosion controls are to be installed prior to commencement of any site works and shall be continuously maintained during the period of construction or demolition. The measures are to incorporate:

(a) diversion of uncontaminated runoff around cleared or disturbed areas,
(b) a silt fence or other device to prevent sediment and other debris escaping from the cleared or disturbed areas into drainage systems or waterways,
(c) controls to prevent tracking of sediment by vehicles onto adjoining roadways by means of a "cattle grid" type shaker pad and associated ballast drive or similar controls , and
(d) disturbed areas being turfed, mulched, paved or other methods approved by the Council.

51 Topsoil, excavated material, construction & landscaping supplies and on site debris are to be stockpiled within the erosion containment boundary and shall not encroach upon the footpath, nature strip or road.

52 **Construction materials and machinery must be kept on site**
All construction materials, sheds, skip bins, temporary water closets, spoil, etc, shall be kept within the property. No vehicles or machines shall be permitted to stand on Council's footpath.

53 **Parking areas and access**
All "one way" traffic aisles in the carparking area shall be clearly identified by signposting and pavement marking.

54 The ingress and egress crossing shall be clearly signposted as such.

55 The internal driveway and carparking area shall be paved using materials other than plain or exposed aggregate concrete.

56 **Works in connection with temporary footpath crossings**
A minimum 3 metre long cattle grid shall be constructed immediately within the property boundary to connect with the temporary footpath crossing. The cattle grid shall then connect to a minimum length of 7 metres of 100mm road ballast, 250mm thick.

57 **Spoil deposited on public roads**

Details showing these design requirements shall accompany the application for a construction certificate.

44 Ventilation

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

(a) the Building Code of Australia.
(b) **Deleted.**
(c) AS 1668 Part 2 - 1991.
(d) the *Public Health Act 1991.*
(e) the *Public Health Act 1991* – Regulation.
(f) Work Cover Authority.
(g) AS 3666 – 1989.

Certification from the Council or an accredited certifier to the effect that the design has been prepared having regard to these requirements shall accompany the application for the construction certificate.

45 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 Permitted hours for building and demolition work

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 5.00pm Saturdays. No work shall be carried out on Sundays and public holidays.

47 Noise control during construction and demolition

For construction and demolition periods of 4 weeks or less the L10 level, measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 20dB(A).

For construction and demolition periods greater than 4 weeks and not exceeding 26 weeks the L10 level, measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the background level by more than 10 dB(A).

48 Vibration damage

If it is proposed to use a hydraulic hammer 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 so there will be no vibration damage or loss of support to buildings in close proximity.
The report shall be submitted prior to the issue of a construction certificate.

63 **Works as executed drawings**
Certification from an accredited certifier shall be provided to the effect that:

1. All engineering works have been carried out in accordance with the terms of the development consent and the approved engineering drawings with regard to location and level.

2 All pipes, pits and detention facilities lay within their relevant easements.

3. All construction within private land has appropriate easement, right-of-way or restriction-as-to-user over the whole of the structure.

Works-as-Executed drawings containing all relevant information as required by Council's "Specification for Civil Works Associated with Subdivisions and Developments" shall accompany the certification and be submitted to the Council prior to the issue of a occupation certificate.

64 Certification from an accredited certifier shall be provided to the effect that:

1. All engineering works have been carried out in accordance with the terms of the development consent, the approved engineering drawings and the Council's standards and specifications.
2. The design and construction of the drainage system is generally in accordance with the requirements of "Australian Rainfall and Runoff", Council's "Urban Drainage Design Manual" and Council's On-site Detention Policy and was carried out in order that stormwater runoff downstream is neither increased nor concentrated and that all assumptions made during the design were not rendered invalid by the conditions of the site.

Works-as-Executed drawings containing all relevant information as required by Council's "Specification for Civil Works Associated with Subdivisions and Developments" shall accompany the certification and be submitted to the Council prior to the issue of a occupation certificate.

65 **Need for certification**
Certification from an accredited certifier to the effect that the following work has been completed shall accompany the application for the occupation certificate:

* erosion controls have been implemented as required in the development consent.

* the building has been set-out by survey in accordance with the requirements of the development consent.

* at completion of the lowest floor the levels reduced to AHD comply with the levels approved in the development consent.

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 roads is taking place the cartage of spoil shall cease if Council so directs.

58 **Spoil from works within the road reserve**
Any spoil from works within the road reserve shall be removed immediately upon deposition.

59 **Landscaping requirements**
These conditions are imposed to ensure the retention and enhancement of the existing landscaping.

60 The communal open space areas shall be provided with a water efficient irrigation system to enable effective landscape maintenance.

61 All trees are to be protected during construction in accordance with the requirements set out in the Landscape Development Control Plan. This includes provision of protective fencing, exclusion of storage materials from within the drip zone, erosion control and soil pH maintenance.
Existing trees not being removed as part of the development proposal must be retained.

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

(i) the demolition of the existing building shall be carried out strictly in accordance with Australian Standard 2601-1991 "The Demolition of Structures",
(ii) the owner or the demolition contractor shall notify Council of any existing damage to the footpath and/or road reserve prior to commencement of work. Any damage other than that noted prior to commencement of the demolition will be the responsibility of the owner of the property for repair or reinstatement, and
(iii) the applicant shall ensure that the demolition contractor has a current public risk insurance cover for a minimum of $5 million. A copy of the Policy must be submitted to the Council prior to demolition.

If the building contains asbestos sheeting or asbestos products the demolition shall only be carried out by persons licensed by the Workcover Authority. The formal approval of the Workcover Authority is required prior to commencement of work where the area of the sheeting or product exceeds 200 square metres.

I0529 POST CONSTRUCTION CONDITIONS
These conditions are imposed to ensure all works are completed in accordance with the Development Consent.

71 A compliance certificate from the Council or an accredited certifier shall be provided before (occupation of the building/filling the pool with water) to the effect that the building works and associated development have been constructed in accordance with the development consent and construction certificate.

72 A compliance certificate from the Council or an accredited certifier shall be provided before (occupation of the building/filling the pool with water) with respect to the following specified aspects of the development certifying that the works have been completed and comply with the terms of the development consent:

73 A compliance certificate from the Council or an accredited certifier shall be provided before (occupation of the building/filling the pool with water) with respect to the following specified conditions of the development consent certifying that these conditions have been complied with:

74 **Need for occupation certificate**
The building shall not be occupied or used until an occupation certificate is issued by the principal certifying authority.

75 **OPERATIONAL CONDITIONS**
These conditions are imposed to ensure that the use of the building does not adversely impact on the amenity of the neighbourhood and the environment.

76 **Connection to the sewer**
All carwash, engine degreasing and steam cleaning shall be conducted in a washbay that is graded to an internal

77 Drainage lines shall be constructed to service all lots, which are not capable of being drained by gravity means within the natural catchment. These drainage lines shall be connected to a drainage system within a public road or pipeline within an existing drainage easement. Filling of the site to redirect the stormwater is not permitted.

78 **Maintenance of detention facilities**
A Positive Covenant shall be created pursuant to Section 88B of the *Conveyancing Act 1919* as amended and Section 7(3) of the *Strata Titles Act 1973* with respect to the maintenance of the required detention facilities. The location and extent of the detention facilities shall be delineated on the Strata Plan of Subdivision.

79 **Public utilities**
Arrangements shall be made with Energy Australia in relation to:

(a) the necessity for the provision of underground low voltage electricity conduits within the footway area of Fowler Road,
(b) the method of connection of the property to the Energy Australia supply, ie. either underground connection or by overhead supply, and

* stormwater drainage has been constructed in accordance with the terms of the development consent.

* any discharge to the sewer from the subject premises is in accordance with the requirements of the Trade Waste Section of Sydney Water Corporation Ltd.

* the acoustic qualities of the building comply with the requirements of AS 2107 - 1989.

* the noise from all sound producing plant, equipment, machinery or fittings associated with or forming part of the mechanical ventilation and/or the refrigeration system complies with the terms of the development consent.

* all work associated with the installation of the mechanical ventilation systems has been carried out in accordance with the conditions of the development consent.

* the works have been completed and comply with the approved plans, conditions and specifications.

* works undertaken in the road reserve have been completed in accordance with the conditions of the Road Opening Approval.

66 **Compliance Certificates**
The following conditions are imposed to ensure that conditions of this consent are satisfactorily completed at the appropriate stages of the development.

67 A compliance certificate from the Council or an accredited certifier shall be provided before occupation of the development verifying that the landscape works have been completed in accordance with the detailed landscape plan approved in conjunction with the construction certificate.

68 A compliance certificate from the Council or an accredited certifier shall be provided before occupation of the development to the effect that bushland regeneration works have been completed in accordance with the development consent.

69 A compliance certificate from the Council or an accredited certifier shall be provided before occupation of the development to the effect that tree preservation (including fencing), pruning, and surgery has been completed in accordance with the approved plans and conditions.

70 A compliance certificate from the Council or an accredited certifier shall be provided at the completion of the demolition works to the effect that the works have been carried out in accordance with the development consent.

(c) the need for the provision of a kiosk-type substation.

80 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.
The following statutory safety measures are existing and shall be fully maintained in accordance with the approved standard and inspected annually:

81 A list of all fire safety measures installed, or proposed to be installed, as part of the development, must be submitted with any future application for a construction certificate. The list must describe the extent, capability and basis of design of each fire safety measure.

S J Watts
Commissioner of the Court

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Proposed Residential Development

273A Fowler Road, Illawong

TRAFFIC AND PARKING ASSESSMENT REPORT

19 January 2011

Ref 10222

VARGA TRAFFIC PLANNING Pty Ltd
Transport, Traffic and Parking Consultants

Suite 6, 20 Young Street, Neutral Bay NSW 2089 - PO Box 1868, Neutral Bay NSW 2089
Ph: 9904 3224 Fax: 9904 3228, Email: varga@vtp.net.au

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LIST OF ILLUSTRATIONS

1. INTRODUCTION

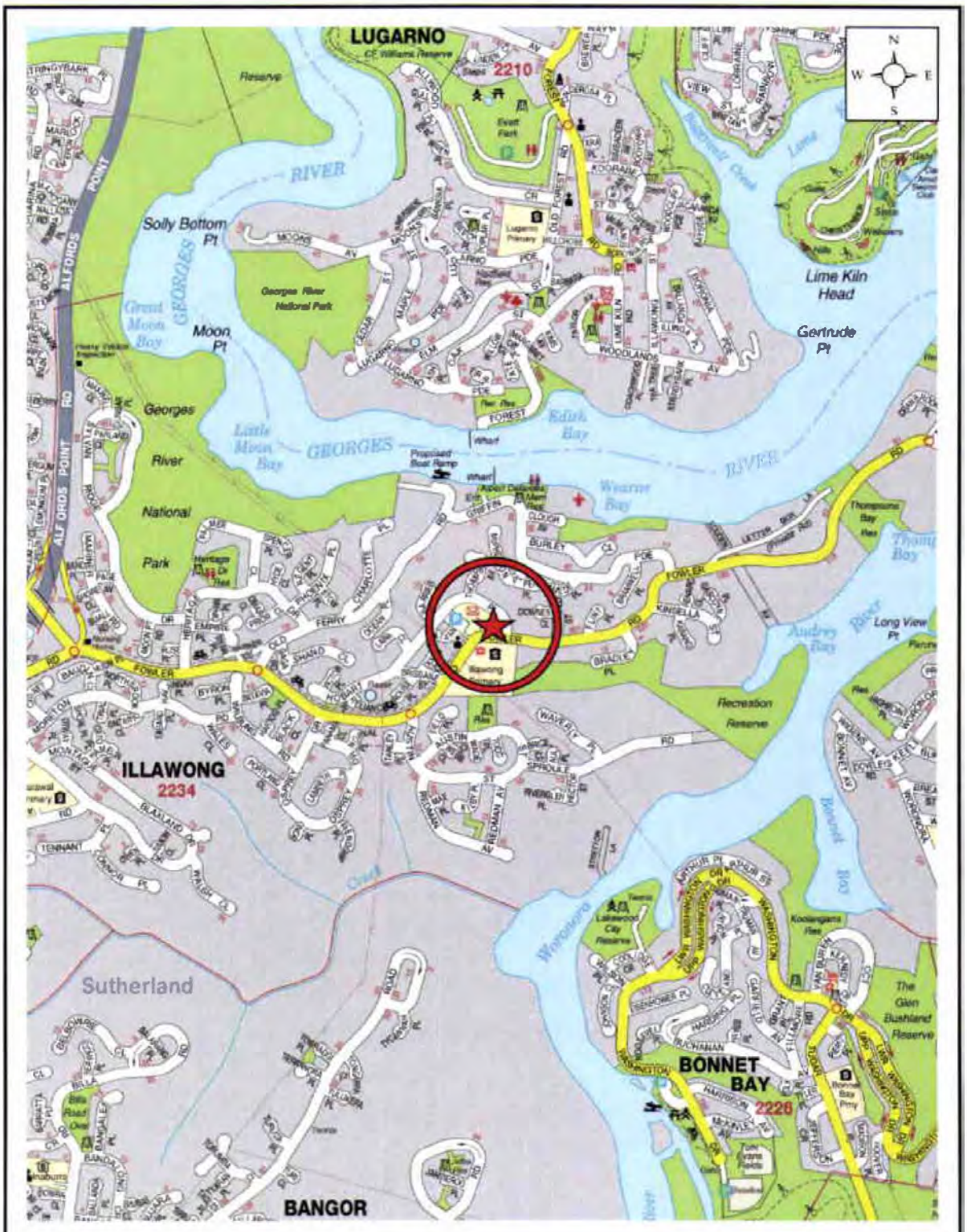
This report has been prepared to accompany a Development Application to Sutherland Shire Council for a residential development proposal to be located at 273A Fowler Road, Illawong (Figures 1 and 2).

The Land and Environment Court of NSW have previously approved the construction of a five-storey residential apartment building on the site comprising 31 dwellings and 47 car spaces.

The proposed development will involve the demolition of the existing commercial/retail building on the site to facilitate the construction of a new five-storey residential apartment development, with car parking to be provided in a new multi-level undercover car parking area in accordance with Council's requirements.

The purpose of this report is to assess the traffic and parking implications of the development proposal and to that end this report:

- describes the site and provides details of the development proposal
- reviews the road network in the vicinity of the site, and the traffic conditions on that road network
- estimates the traffic generation potential of the development proposal, and assigns that traffic generation to the road network serving the site
- assesses the traffic implications of the development proposal in terms of road network capacity
- reviews the geometric design features of the proposed car parking facilities for compliance with the relevant codes and standards
- assesses the adequacy and suitability of the quantum of off-street car parking provided on the site.



VARGA TRAFFIC PLANNING Pty Ltd
Transport, Traffic and Parking Consultants

LOCATION
FIGURE 1

VARGA TRAFFIC PLANNING Pty Ltd
Traffic and Parking Consultants

SITE

FIGURE 2

2. PROPOSED DEVELOPMENT

Site

The subject site is located on the north-western corner of the Fowler Road and Hobart Place intersection, adjacent to the Illawong Village Shopping Centre. The site has a street frontage approximately 58m in length to Illawong Road, 119m in length to Hobart Place and occupies an area of approximately 4,566m^2.

The subject site is currently occupied by a one/two-storey mixed-use retail/commercial building with a number of tenants, including a hardware store. The cumulative floor area of the building has been estimated to be approximately 670m^2.

Off-street parking is currently provided for 30 cars in two separate outdoor car parking areas. The southern car park is located on the southern side of the building with vehicular access via separate entry and exit driveways out onto Fowler Road. The northern car park is located on the northern side of the building with a shared entry/exit driveway out onto Hobart Place.

The remainder of the site (i.e. the north-western corner) is vacant.

Proposed Development

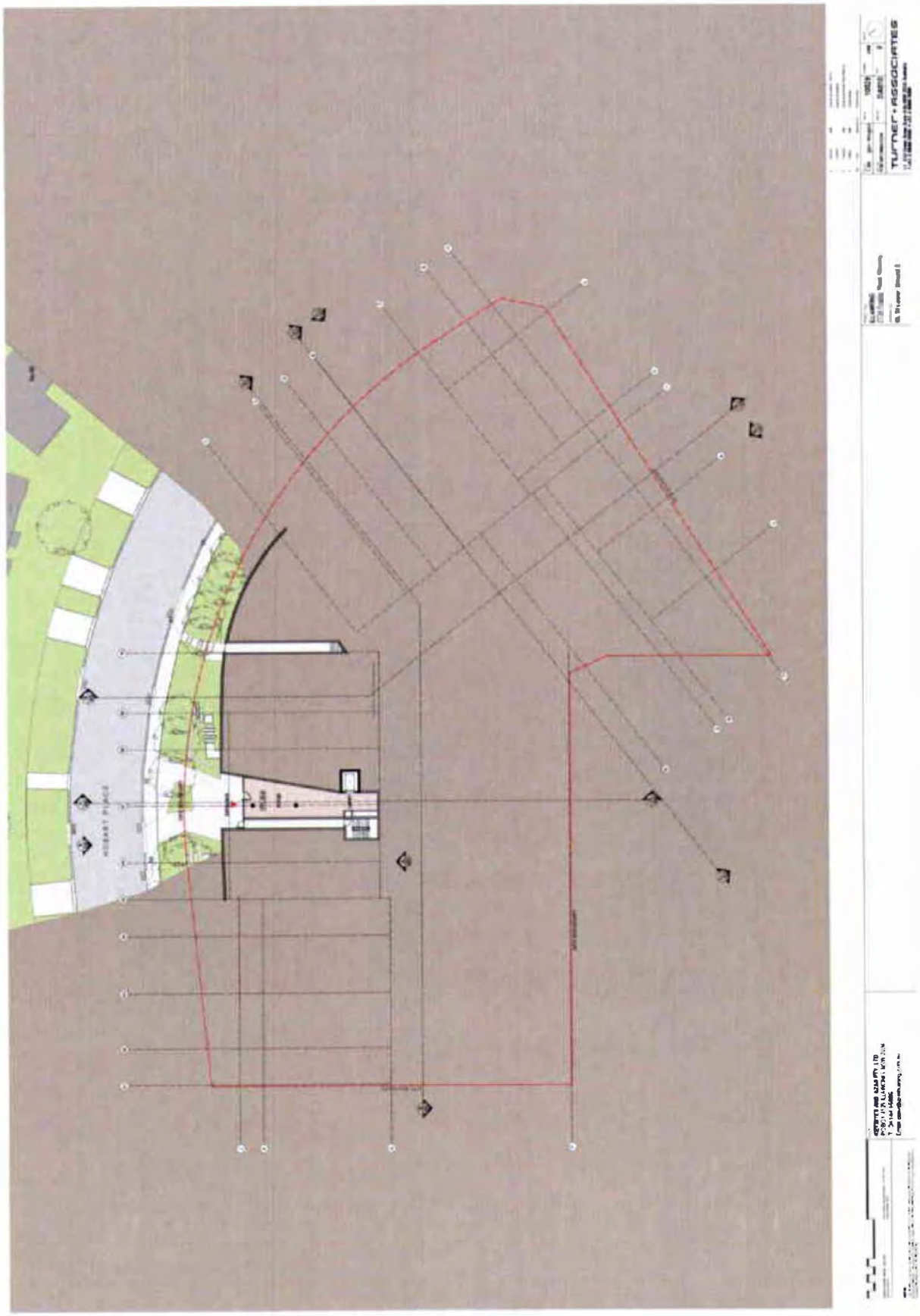
The proposed development will involve the demolition of the existing retail/commercial building on the site to facilitate the construction of a new five-storey residential apartment building.

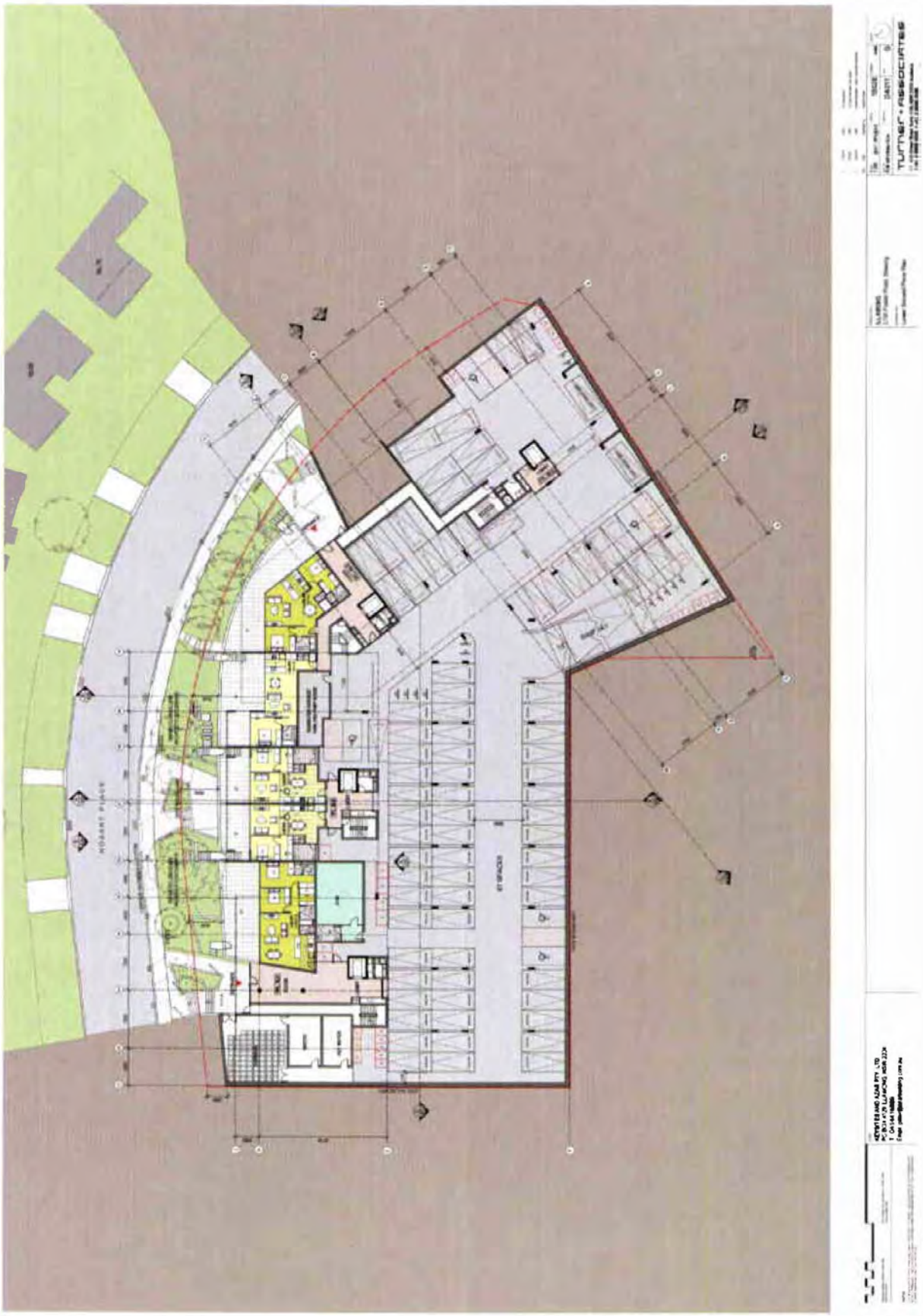
A total of 85 residential apartments are proposed in the new building as follows:

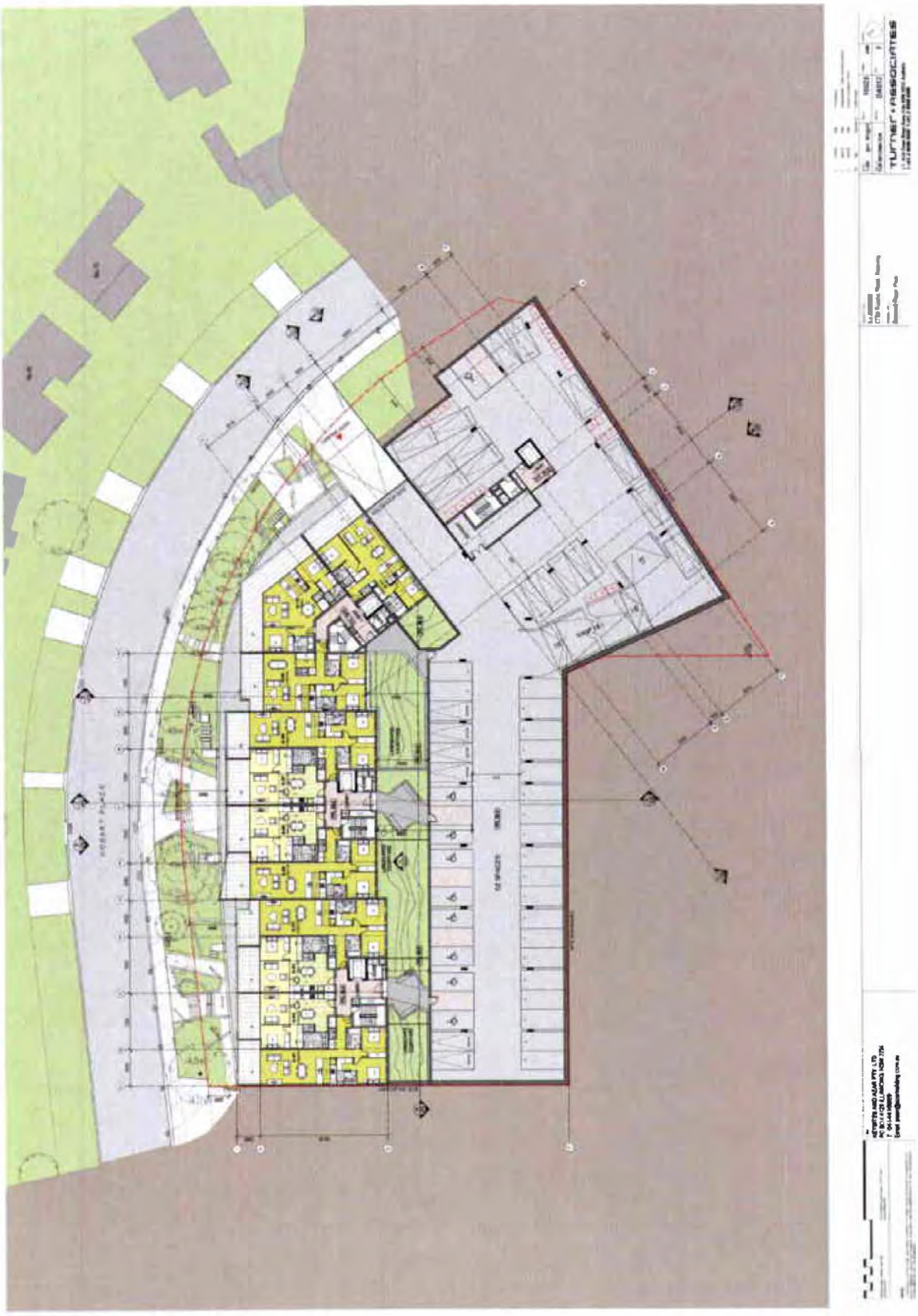
1 bedroom apartments:	22
2 bedroom apartments:	53
3 bedroom apartments:	10
TOTAL APARTMENTS:	**85**

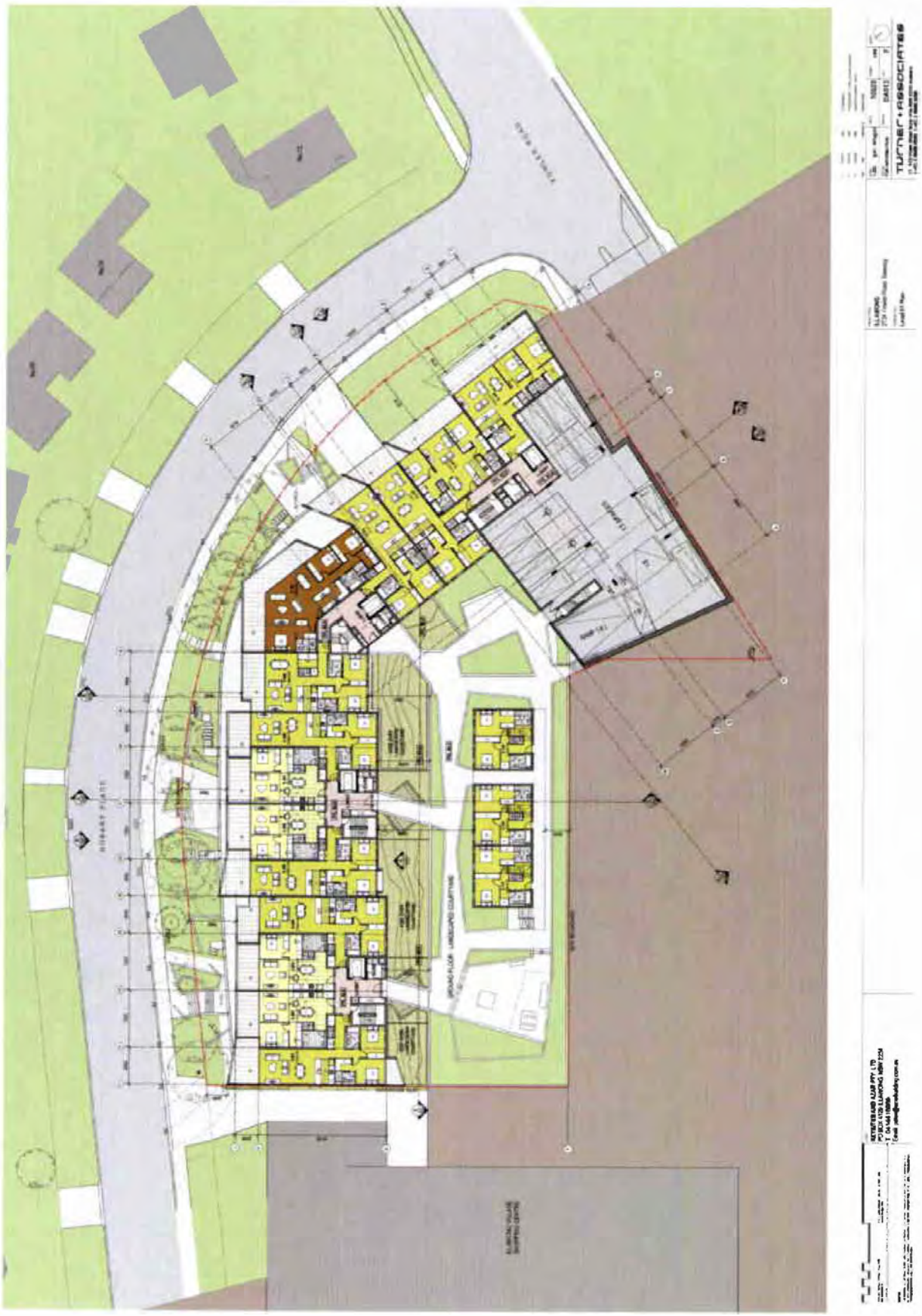
Off-street car parking is proposed for a total of 152 cars in a new parking area in accordance with Council's requirements. Vehicular access to the car parking facilities is to be provided via a new entry/exit driveway located in Hobart Place, just north of the Fowler Road intersection.

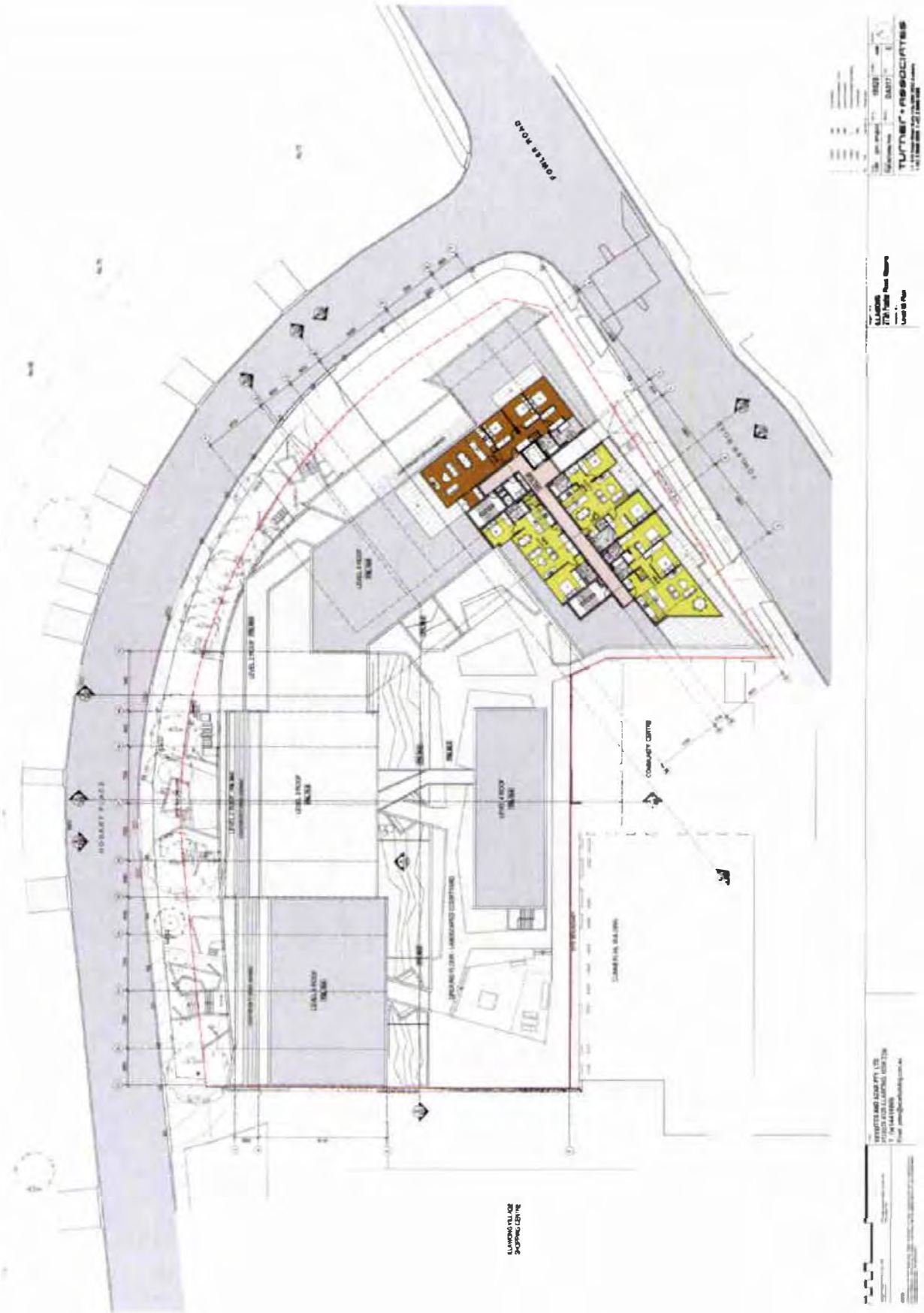
Plans of the proposed development have been prepared by *Turner + Associates* and are reproduced in the following pages.

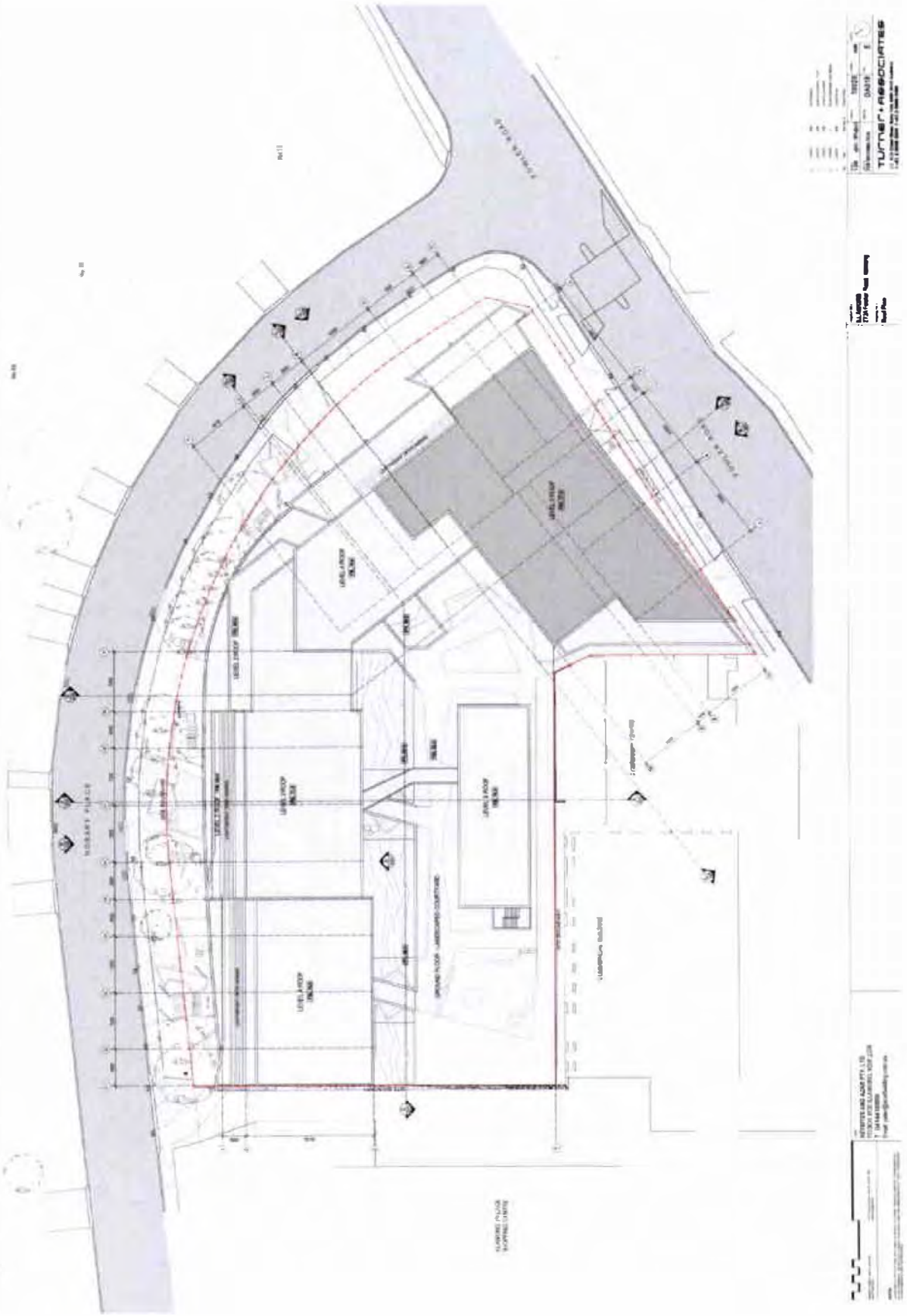

TURNER+ASSOCIATES








FOWLER ROAD
HOBART ROAD
COMMUNITY CENTRE
TURNER + ASSOCIATES



3. TRAFFIC ASSESSMENT

Road Hierarchy

The road hierarchy allocated to the road network in the vicinity of the site by the Roads and Traffic Authority is illustrated on Figure 3.

Alfords Point Road is classified by the RTA as a *State Road* and provides the key north-south road link in the area, linking Menai to Padstow Heights. It typically carries two traffic lanes in each direction in the vicinity of the site, with opposing traffic flows separated by a centre median island. Kerbside parking is not permitted along either side of the road.

Fowler Road is a local, unclassified road which performs the function of a *collector route* through the Illawong area. It typically carries one traffic lane in each direction with kerbside generally parking permitted.

Hobart Place is also a local, unclassified road which is primarily used to provide vehicular and pedestrian access to frontage properties. Kerbside parking is generally permitted on both sides of the road.

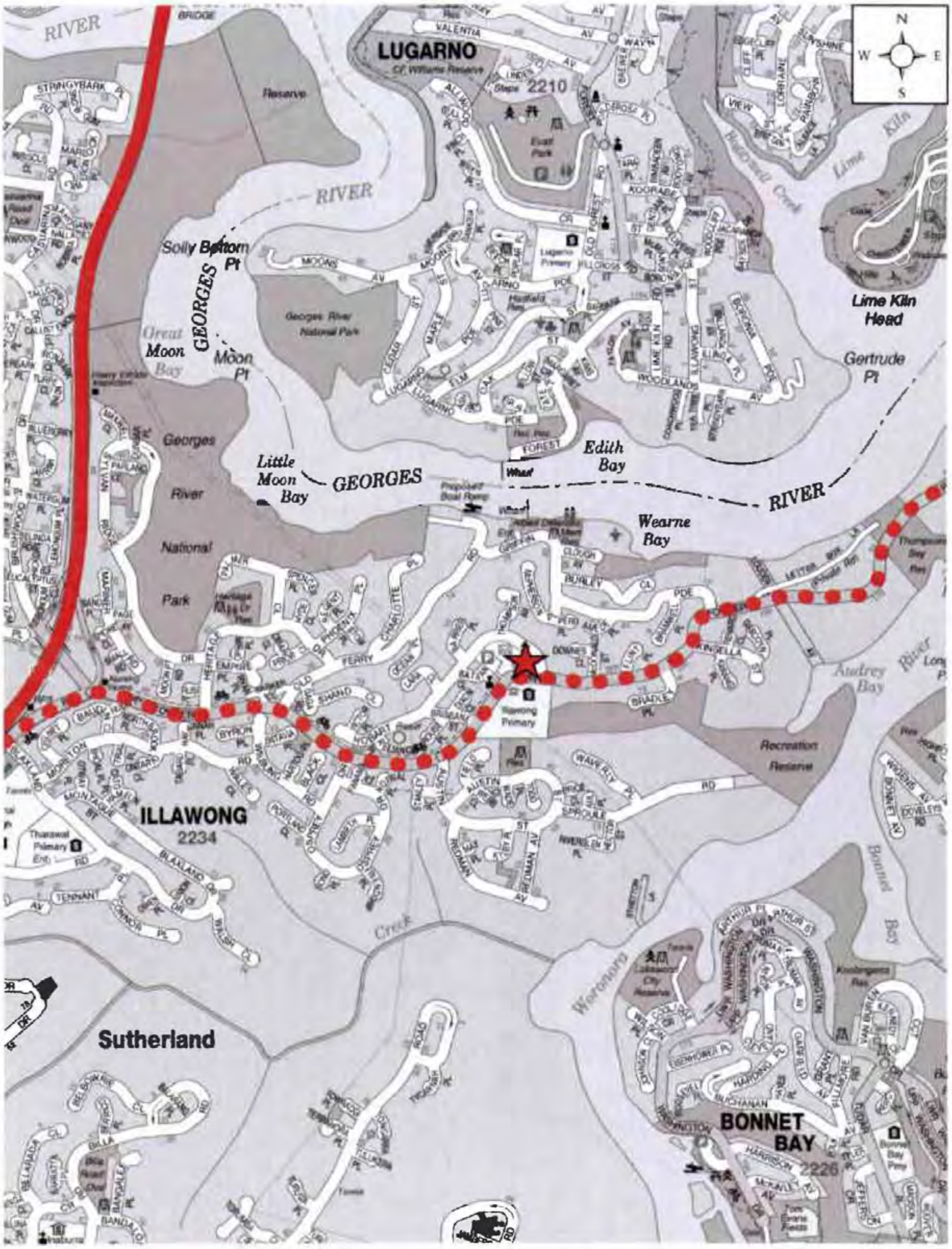
Existing Traffic Controls

The existing traffic controls which apply to the road network in the vicinity of the site are illustrated on Figure 4. Key features of those traffic controls are:

- a 50 km/h SPEED LIMIT which applies to Fowler Road, Hobart Place and all other local roads in the area

- RAISED PEDESTRIAN CROSSINGS in Fowler Road including outside the site frontage

- SCHOOL ZONE restrictions in Fowler Road, in between Hobart Place and Brisbane Street, including along the site frontage.



Key: State Road

Collector Road

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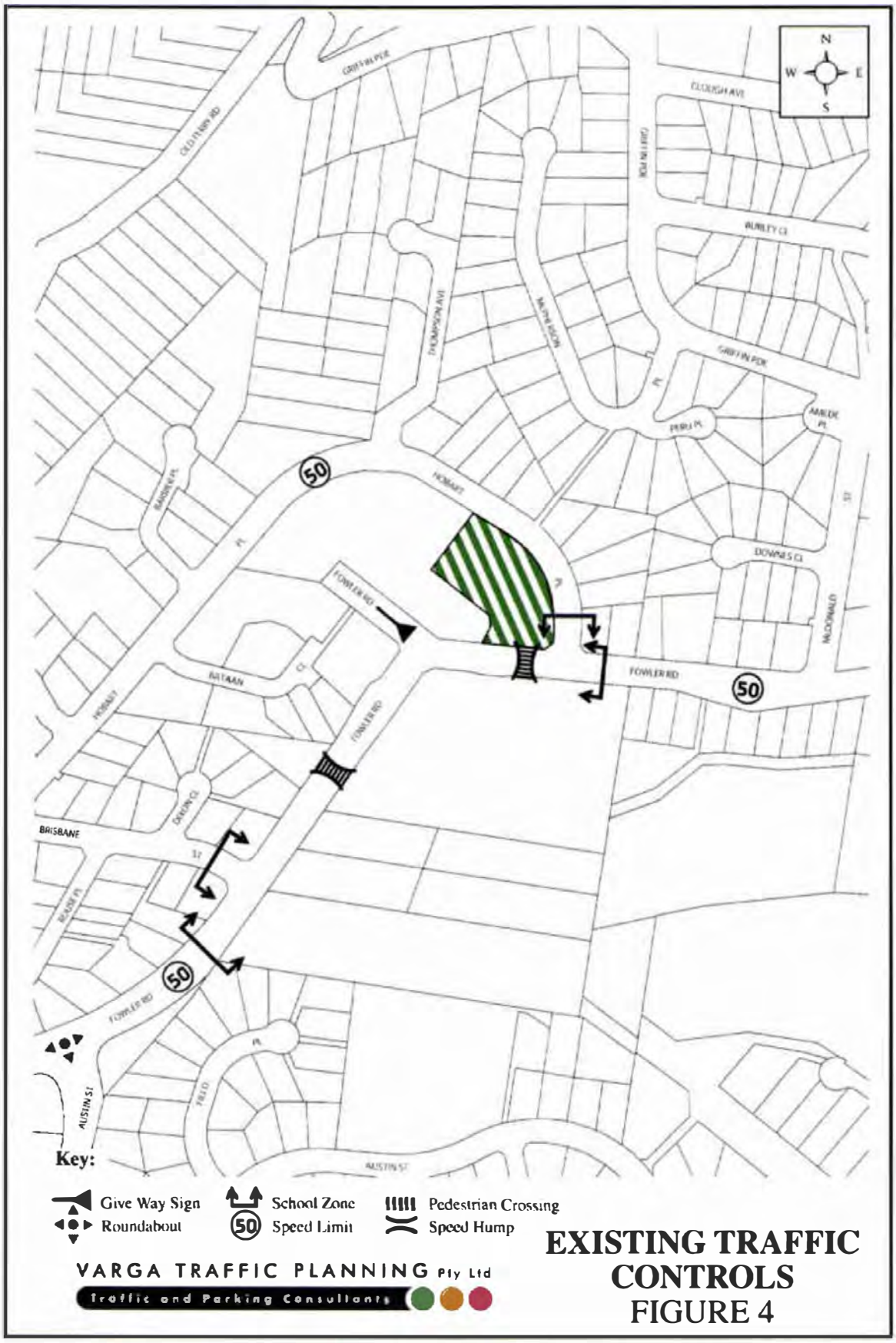
ROAD HIERARCHY

FIGURE 3


N
W
E
S
50
FOWLER RD
HOBART
BRISBANE
AUSTIN ST
Key:
Give Way Sign
Roundabout
School Zone
Speed Limit
Pedestrian Crossing
Speed Hump
VARGA TRAFFIC PLANNING Pty Ltd
Traffic and Parking Consultants
EXISTING TRAFFIC CONTROLS
FIGURE 4

Existing Traffic Conditions

An indication of the existing traffic conditions on the road network in the vicinity of the site is provided by peak period traffic surveys undertaken as part of this traffic study. The traffic surveys were undertaken in Fowler Road where it intersects with Hobart Place. The results of the traffic surveys are reproduced in full in Appendix A and reveal that:

- two-way traffic flows in Fowler Road past the site frontage are typically in the order of 350-420 vehicles per hour (vph) during peak periods

- two-way traffic flows in Hobart Place past the site frontage are lower, typically in the order of 50 vph during peak periods.

Projected Traffic Generation

An indication of the traffic generation potential of the development proposal is provided by reference to the Roads and Traffic Authority's publication *Guide to Traffic Generating Developments, Section 3 - Landuse Traffic Generation (October 2002).*

The RTA *Guidelines* are based on extensive surveys of a wide range of land uses and nominates the following traffic generation rates which are applicable to the development proposal:

> **High Density Residential Flat Buildings in Sub-Regional Centres**
> 0.29 peak hour vehicle trips/dwelling

The RTA Guidelines also make the following observation in respect of high density residential flat buildings:

> **Definition**
> A *high density residential flat building* refers to a building containing 20 or more dwellings. This does not include aged or disabled persons housing. *High density residential flat buildings* are usually more than 5 levels, have basement level carparking and are located in close proximity to public transport services. The building may contain a component of commercial use.

Factors

The above rates include visitors, staff, service/delivery and on-street movements such as taxis and pick-up/set-down activities.

Application of the above traffic generation rate to the residential apartments outlined in the development proposal yields a traffic generation potential of approximately 25 vehicle trips per hour during commuter peak periods.

That projected future level of traffic generation potential should however, be offset or *discounted* by the volume of traffic which could reasonably be expected to be generated by the existing uses of the site, in order to determine the *nett increase (or decrease)* in traffic generation potential expected to occur as a consequence of the development proposal.

Surveys conducted at the existing site access driveways in Fowler Road and Hobart Place have indicated that the existing site generates up to 32 vehicle trips during peak periods.

Accordingly, it is likely that the proposed development will result in a slight *decrease* in the traffic generation potential the site of approximately 7 vph as set out below:

Projected Nett Decrease in Peak Hour Traffic Generation Potential as a consequence of the development proposal

Projected Future Traffic Generation Potential:	25 vehicle trips
Existing Traffic Generation Potential:	32 vehicle trips
NETT DECREASE IN TRAFFIC GENERATION POTENTIAL:	**-7 vehicle trips**

For the purposes of this assessment however, it has been assumed that *all* of the projected future traffic flows of 25 peak hour vehicle trips will be new or *additional* to the existing traffic flows currently using the adjacent road network.

That projected increase in traffic activity as a consequence of the development proposal is minimal and will clearly not have any unacceptable traffic implications in terms of road network capacity, as is demonstrated by the following section of this report.

Traffic Implications - Road Network Capacity

The traffic implications of development proposals primarily concern the effects that any *additional* traffic flows may have on the operational performance of the nearby road network. Those effects can be assessed using the INTANAL program which is widely used by the RTA and many LGA's for this purpose. Criteria for evaluating the results of INTANAL analysis are reproduced in the following pages.

The results of the INTANAL analysis of the Fowler Road & Hobart Place intersection are summarised on Table 3.1 below, revealing that:

- the Fowler Road & Hobart Place intersection currently operates at *Level of Service "A"* under the existing traffic demands with total average vehicle delays in the order of 1-2 seconds/vehicle

- under the projected future traffic demands expected to be generated by the development proposal, the Fowler Road & Hobart Place intersection will continue to operate at *Level of Service "A"*, with increases in average vehicle delays of ***less than*** 1 second/vehicle.

In the circumstances, it is clear that the proposed development will not have any unacceptable traffic implications in terms of road network capacity.

TABLE 3.1 - RESULTS OF INTANAL ANALYSIS OF FOWLER ROAD & HOBART PLACE

Key Indicators		Existing Traffic Demand		Projected Development Traffic Demand	
		AM	PM	AM	PM
Level of Service		A	A	A	A
Degree of Saturation		0.12	0.07	0.13	0.07
Average Vehicle Delay (secs/veh)					
Fowler Road (west)	L	2.9	2.9	2.9	2.9
	T	0.0	0.0	0.0	0.0
Fowler Road (east)	T	0.1	0.1	0.1	0.1
	R	4.1	4.3	4.1	4.3
Hobart Place (north)	L	3.3	4.4	3.4	4.4
	R	5.1	6.4	5.2	6.4
TOTAL AVERAGE VEHICLE DELAY		**0.9**	**1.5**	**1.2**	**1.8**
		FOW_HOBX		FOW_HOBP	

Criteria for Interpreting Results of Intanal Analysis

1. Level of Service (LOS)

LOS	Traffic Signals and Roundabouts	Give Way and Stop Signs
'A'	Good operation.	Good operation.
'B'	Good with acceptable delays and spare capacity.	Acceptable delays and spare capacity.
'C'	Satisfactory.	Satisfactory but accident study required.
'D'	Operating near capacity.	Near capacity and accident study required.
'E'	At capacity; at signals incidents will cause excessive delays. Roundabouts require other control mode.	At capacity and requires other control mode.
'F'	Unsatisfactory and requires additional capacity.	Unsatisfactory and requires other control mode.

2. Average Vehicle Delay (AVD)

The AVD provides a measure of the operational performance of an intersection as indicated on the table below which relates AVD to LOS. The AVD=s listed in the table should be taken as a guide only as longer delays could be tolerated in some locations (ie inner city conditions) and on some roads (ie minor side street intersecting with a major arterial route).

Level of Service	Average Delay per Vehicle (secs/veh)	Traffic Signals, Roundabout	Give Way and Stop Signs
A	less than 14	Good operation.	Good operation.
B	15 to 28	Good with acceptable delays and spare capacity.	Acceptable delays and spare capacity.
C	29 to 42	Satisfactory.	Satisfactory but accident study required.
D	43 to 56	Operating near capacity.	Near capacity and accident study required.
E	57 to 70	At capacity: at signals incidents will cause excessive delays. Roundabouts require other control mode.	At capacity and requires other control mode.

3. Degree of Saturation (DS)

The DS is another measure of the operational performance of individual intersections.

For intersections controlled by traffic signals[1] both queue length and delay increase rapidly as DS approaches 1, and it is usual to attempt to keep DS to less than 0.9. Values of DS in the order of 0.7 generally represent satisfactory intersection operation. When DS exceeds 0.9 queues can be anticipated.

For intersections controlled by a roundabout or GIVE WAY or STOP signs, satisfactory intersection operation is indicated by a DS of 0.8 or less.

[1] *The values of DS for intersections under traffic signal control are only valid for cycle length of 120 secs.*

4. PARKING IMPLICATIONS

Existing Kerbside Parking Restrictions

The existing kerbside parking restrictions which apply to the road network in the vicinity of the site are illustrated on Figure 5 and comprise:

- NO STOPPING restrictions in along both sides of Fowler Road in the vicinity of the site including along the majority of the site frontage

- generally UNRESTRICTED kerbside parking elsewhere in Fowler Road and throughout the local area including Hobart Place

- BUS ZONES located on both sides of Fowler Road.

Off-Street Parking Provisions

The off-street parking requirements applicable to the development proposal are specified in Council's *Development Control Plan 2006, Chapter 7 – Vehicular Access, Traffic, Parking and Bicycles* document in the following terms:

Residential Flat Buildings

1 bedroom apartments:	1.0 space per dwelling
2 bedroom apartments:	1.5 spaces per dwelling
3 bedroom apartments:	2.0 spaces per dwelling
Visitors:	1.0 space per 4 dwellings

Application of the above parking requirements to the 85 residential apartments outlined in the development proposal yields an off-street parking requirement of 143 parking spaces as set out below:

Residents:	121.5 spaces
Visitors:	21.2 spaces
TOTAL:	**142.7 spaces**

Key:

- No Stopping
- No Parking
- BZ Bus Zone
- * School Peak Periods

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Traffic and Parking Consultants

EXISTING PARKING CONTROLS
FIGURE 5

The above requirements are satisfied by the proposed provision of 152 off-street car parking spaces.

The geometric design layout of the proposed carparking facilities have been designed to comply with the relevant requirements specified in the Standards Australia publication *Parking Facilities Part 1 - Off-Street Carparking AS2890.1* in respect of parking bay dimensions, ramp gradients and aisle widths.

In summary, the proposed parking facilities satisfy the relevant requirements specified in both Council's Parking Code as well as the Australian Standards and it is therefore concluded that the proposed development will not have any unacceptable parking implications.

APPENDIX A

TRAFFIC SURVEY DATA

R.O.A.R. DATA

Reliable, Original & Authentic Results

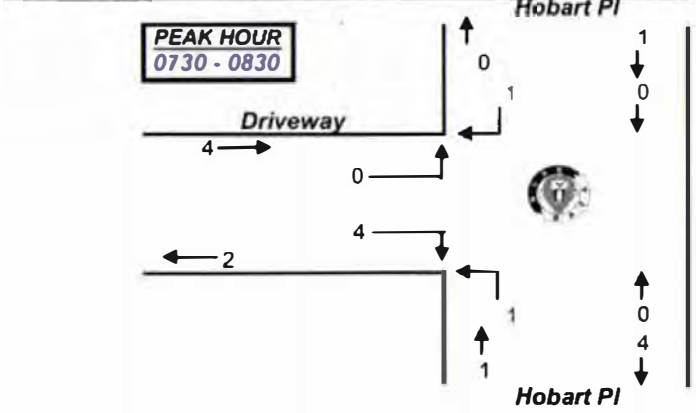
Ph.88196847, Fax 88196849, Mob.0418-239019

Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

All Vehicles

Time Per	NORTH Hobart Pl R	NORTH Hobart Pl T	WEST Driveway L	WEST Driveway R	SOUTH Hobart Pl L	SOUTH Hobart Pl T	TOTAL
0630 - 0645	0		0	0	0		0
0645 - 0700	0		0	0	0		0
0700 - 0715	0		0	0	1		1
0715 - 0730	0		0	0	1		1
0730 - 0745	0		0	1	0		1
0745 - 0800	1		0	1	0		2
0800 - 0815	0		0	1	1		2
0815 - 0830	0		0	1	0		1
0830 - 0845	0		1	0	0		1
0845 - 0900	0		0	1	1		2
0900 - 0915	0		0	0	0		0
0915 - 0930	0		0	0	1		1
Period End	1	0	1	5	5	0	12

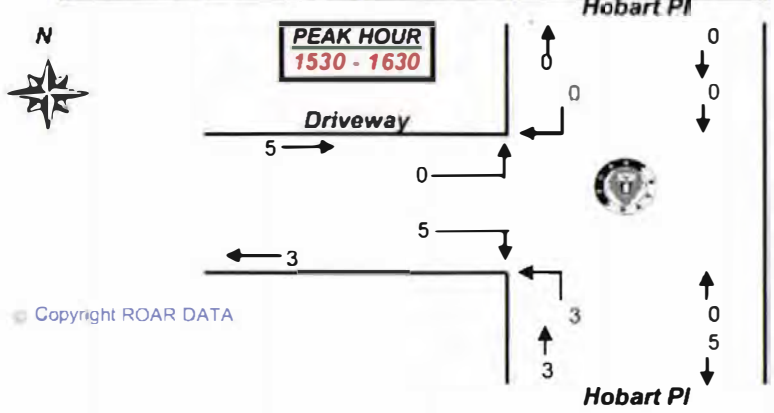
Peak Per	NORTH Hobart Pl R	NORTH Hobart Pl T	WEST Driveway L	WEST Driveway R	SOUTH Hobart Pl L	SOUTH Hobart Pl T	TOTAL
0630 - 0730	0	0	0	0	2	0	2
0645 - 0745	0	0	0	1	2	0	3
0700 - 0800	1	0	0	2	2	0	5
0715 - 0815	1	0	0	3	2	0	6
0730 - 0830	1	0	0	4	1	0	6
0745 - 0845	1	0	1	3	1	0	6
0800 - 0900	0	0	1	3	2	0	6
0815 - 0915	0	0	1	2	1	0	4
0830 - 0930	0	0	1	1	2	0	4
PEAK HR	1	0	0	4	1	0	6



All Vehicles

Time Per	NORTH Hobart Pl R	NORTH Hobart Pl T	WEST Driveway L	WEST Driveway R	SOUTH Hobart Pl L	SOUTH Hobart Pl T	TOTAL
1530 - 1545	0		0	1	0		1
1545 - 1600	0		0	1	1		2
1600 - 1615	0		0	2	1		3
1615 - 1630	0		0	1	1		2
1630 - 1645	0		0	0	0		0
1645 - 1700	0		0	0	3		3
1700 - 1715	0		0	0	2		2
1715 - 1730	0		0	0	1		1
1730 - 1745	0		0	0	1		1
1745 - 1800	0		0	0	0		0
1800 - 1815	0		0	0	0		0
1815 - 1830	0		0	1	0		1
Period End	0	0	0	6	10	0	16

Peak Per	NORTH Hobart Pl R	NORTH Hobart Pl T	WEST Driveway L	WEST Driveway R	SOUTH Hobart Pl L	SOUTH Hobart Pl T	TOTAL
1530 - 1630	0	0	0	5	3	0	8
1545 - 1645	0	0	0	4	3	0	7
1600 - 1700	0	0	0	3	5	0	8
1615 - 1715	0	0	0	1	6	0	7
1630 - 1730	0	0	0	0	6	0	6
1645 - 1745	0	0	0	0	7	0	7
1700 - 1800	0	0	0	0	4	0	4
1715 - 1815	0	0	0	0	2	0	2
1730 - 1830	0	0	0	1	1	0	2
PEAK HR	0	0	0	5	3	0	8



R.O.A.R DATA
Reliable, Original & Authentic Results
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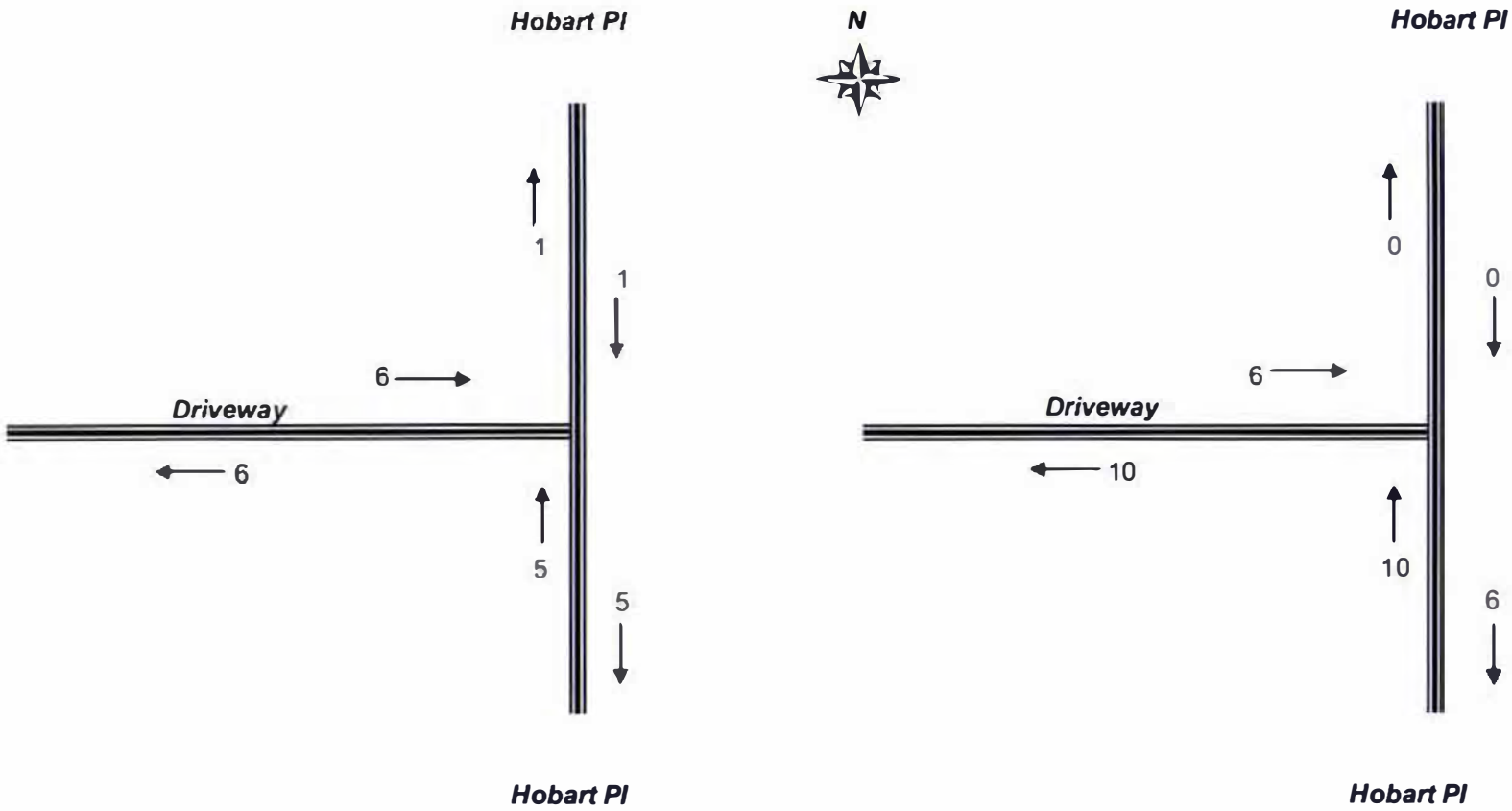
Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

TOTAL VOLUMES FOR PERIOD COUNTED



R.O.A.R DATA
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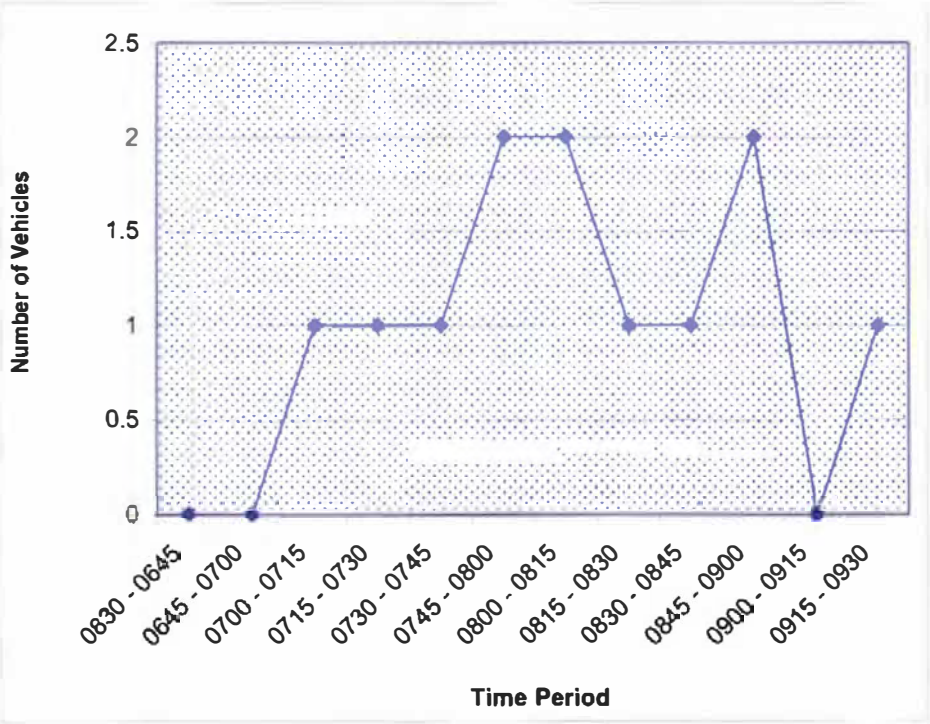
Ph.88196847, Fax 88196849, Mob.0418-239019

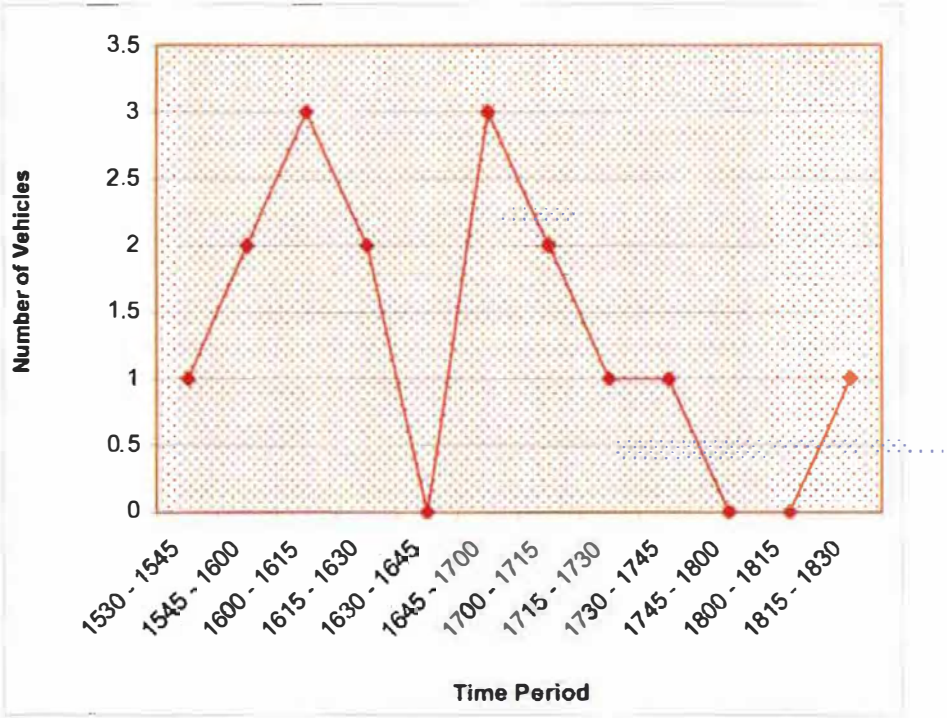
Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

AM

Hobart Pl & Driveway

PM





R.O.A.R. DATA
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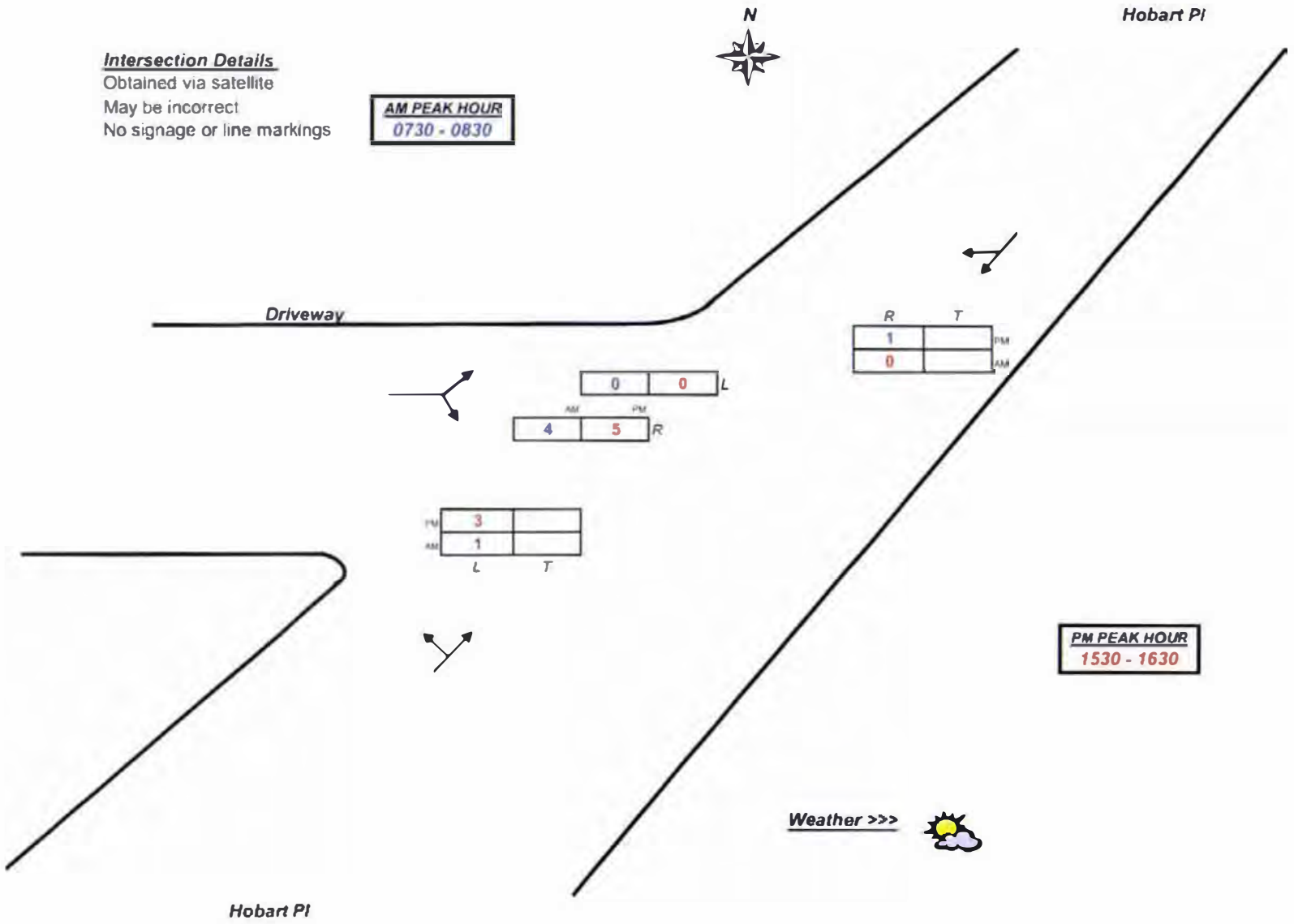
Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010



R.O.A.R. DATA

Reliable, Original & Authentic Results

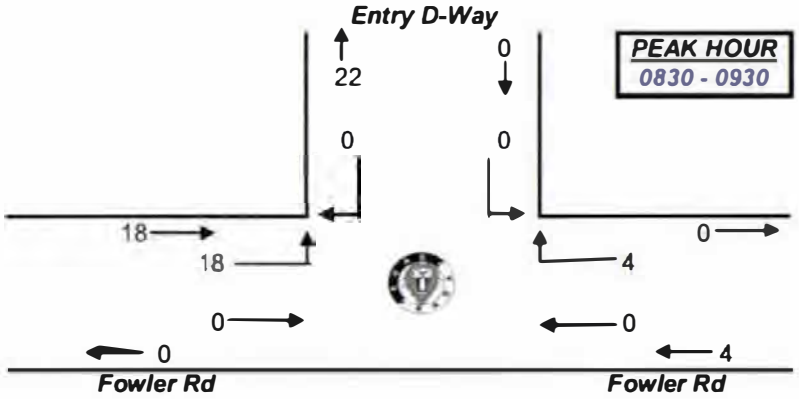
Ph 88196847, Fax 88196849, Mob.0418-239019

Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

All Vehicles

Time Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Entry D-Way R	NORTH Entry D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
0630 - 0645	0					0	0
0645 - 0700	0					0	0
0700 - 0715	1					0	1
0715 - 0730	1					0	1
0730 - 0745	0					0	0
0745 - 0800	1					0	1
0800 - 0815	1					0	1
0815 - 0830	3					0	3
0830 - 0845	1					1	2
0845 - 0900	6					1	7
0900 - 0915	3					0	3
0915 - 0930	8					2	10
Period End	25	0	0	0	0	4	29

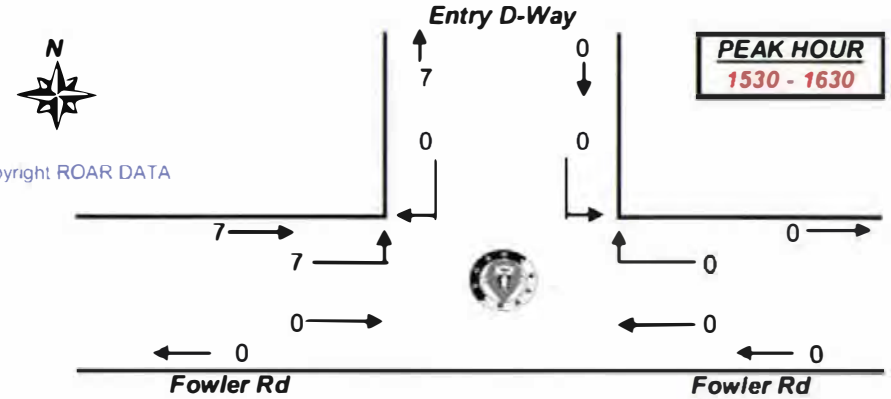
Peak Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Entry D-Way R	NORTH Entry D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
0630 - 0730	2	0	0	0	0	0	2
0645 - 0745	2	0	0	0	0	0	2
0700 - 0800	3	0	0	0	0	0	3
0715 - 0815	3	0	0	0	0	0	3
0730 - 0830	5	0	0	0	0	0	5
0745 - 0845	6	0	0	0	0	1	7
0800 - 0900	11	0	0	0	0	2	13
0815 - 0915	13	0	0	0	0	2	15
0630 - 0930	18	0	0	0	0	4	22
PEAK HR	18	0	0	0	0	4	22



All Vehicles

Time Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Entry D-Way R	NORTH Entry D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
1530 - 1545	3					0	3
1545 - 1600	2					0	2
1600 - 1615	1					0	1
1615 - 1630	1					0	1
1630 - 1645	0					0	0
1645 - 1700	0					0	0
1700 - 1715	0					2	2
1715 - 1730	1					2	3
1730 - 1745	0					0	0
1745 - 1800	0					0	0
1800 - 1815	0					0	0
1815 - 1830	0					0	0
Period End	8	0	0	0	0	4	12

Peak Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Entry D-Way R	NORTH Entry D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
1530 - 1630	7	0	0	0	0	0	7
1545 - 1645	4	0	0	0	0	0	4
1600 - 1700	2	0	0	0	0	0	2
1615 - 1715	1	0	0	0	0	2	3
1630 - 1730	1	0	0	0	0	4	5
1645 - 1745	1	0	0	0	0	4	5
1700 - 1800	1	0	0	0	0	4	5
1715 - 1815	1	0	0	0	0	2	3
1730 - 1830	0	0	0	0	0	0	0
PEAK HR	7	0	0	0	0	0	7



R.O.A.R DATA
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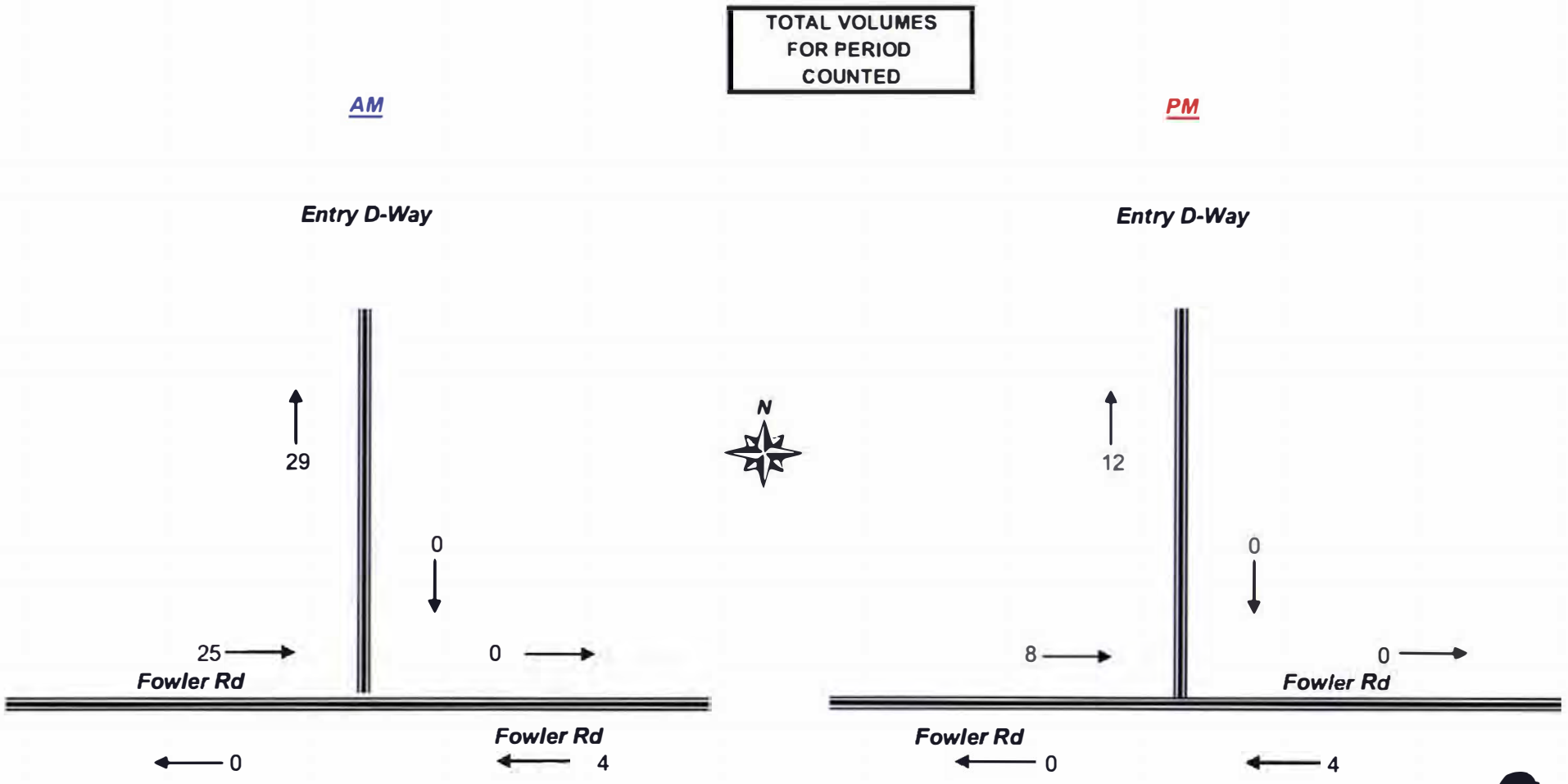
Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

TOTAL VOLUMES FOR PERIOD COUNTED



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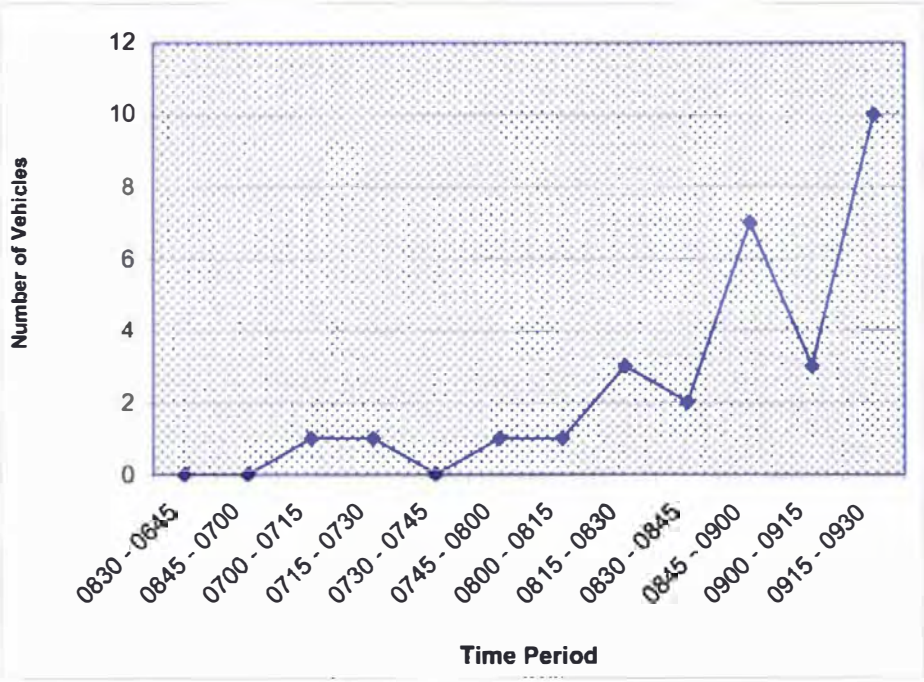
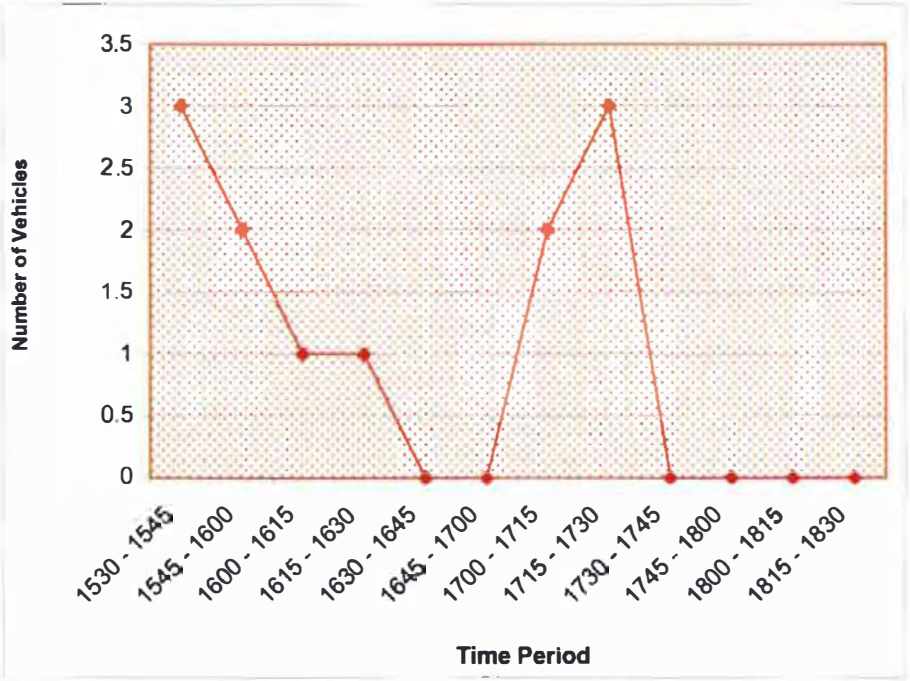
Ph.88196847, Fax 88196849, Mob.0418-239019

Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

AM ***PM***

Fowler Rd & Entry D-Way





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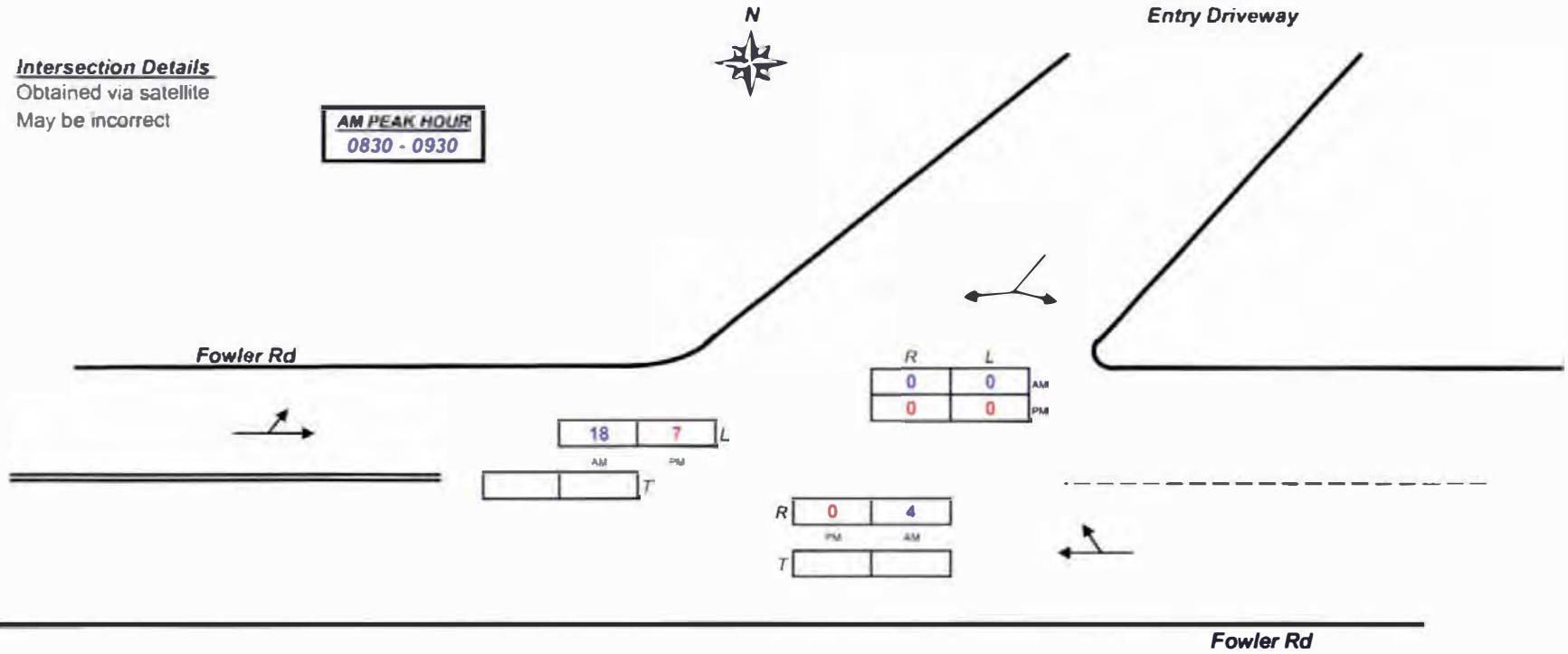


R.O.A.R. DATA

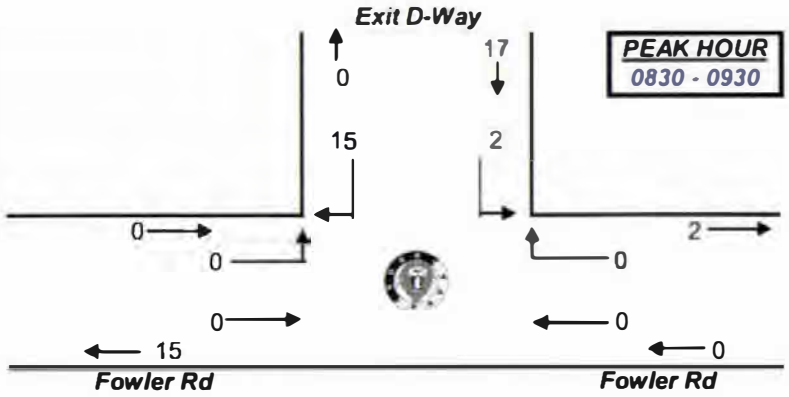
Reliable, Original & Authentic Results

Ph.88196847, Fax 88196849, Mob.0418-239019

All Vehicles

Time Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Exit D-Way R	NORTH Exit D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
0630 - 0645			0	0			0
0645 - 0700			1	0			1
0700 - 0715			1	1			2
0715 - 0730			0	0			0
0730 - 0745			0	0			0
0745 - 0800			1	1			2
0800 - 0815			0	0			0
0815 - 0830			4	0			4
0830 - 0845			1	0			1
0845 - 0900			4	0			4
0900 - 0915			4	0			4
0915 - 0930			6	2			8
Period End	0	0	22	4	0	0	26

Peak Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Exit D-Way R	NORTH Exit D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
0630 - 0730	0	0	2	1	0	0	3
0645 - 0745	0	0	2	1	0	0	3
0700 - 0800	0	0	2	2	0	0	4
0715 - 0815	0	0	1	1	0	0	2
0730 - 0830	0	0	5	1	0	0	6
0745 - 0845	0	0	6	1	0	0	7
0800 - 0900	0	0	9	0	0	0	9
0815 - 0915	0	0	13	0	0	0	13
0830 - 0930	0	0	15	2	0	0	17
PEAK HR	0	0	15	2	0	0	17

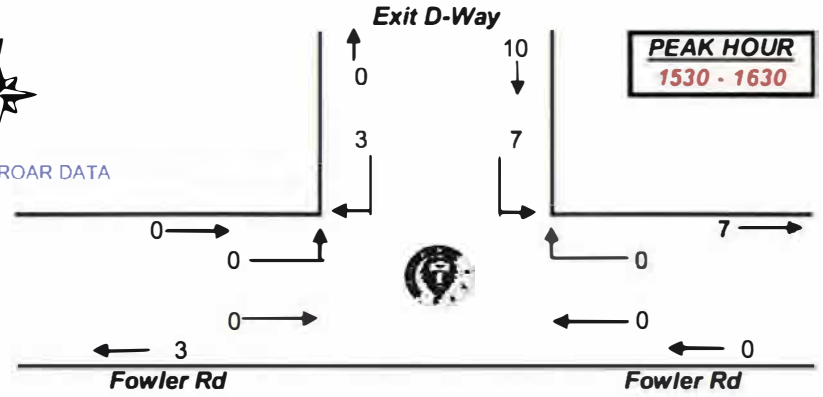


Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

All Vehicles

Time Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Exit D-Way R	NORTH Exit D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
1530 - 1545			1	3			4
1545 - 1600			0	3			3
1600 - 1615			0	1			1
1615 - 1630			2	0			2
1630 - 1645			0	0			0
1645 - 1700			1	0			1
1700 - 1715			2	1			3
1715 - 1730			2	0			2
1730 - 1745			0	0			0
1745 - 1800			0	0			0
1800 - 1815			1	0			1
1815 - 1830			1	0			1
Period End	0	0	10	8	0	0	18

Peak Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Exit D-Way R	NORTH Exit D-Way L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
1530 - 1630	0	0	3	7	0	0	10
1545 - 1645	0	0	2	4	0	0	6
1600 - 1700	0	0	3	1	0	0	4
1615 - 1715	0	0	5	1	0	0	6
1630 - 1730	0	0	5	1	0	0	6
1645 - 1745	0	0	5	1	0	0	6
1700 - 1800	0	0	4	1	0	0	5
1715 - 1815	0	0	3	0	0	0	3
1730 - 1830	0	0	2	0	0	0	2
PEAK HR	0	0	3	7	0	0	10



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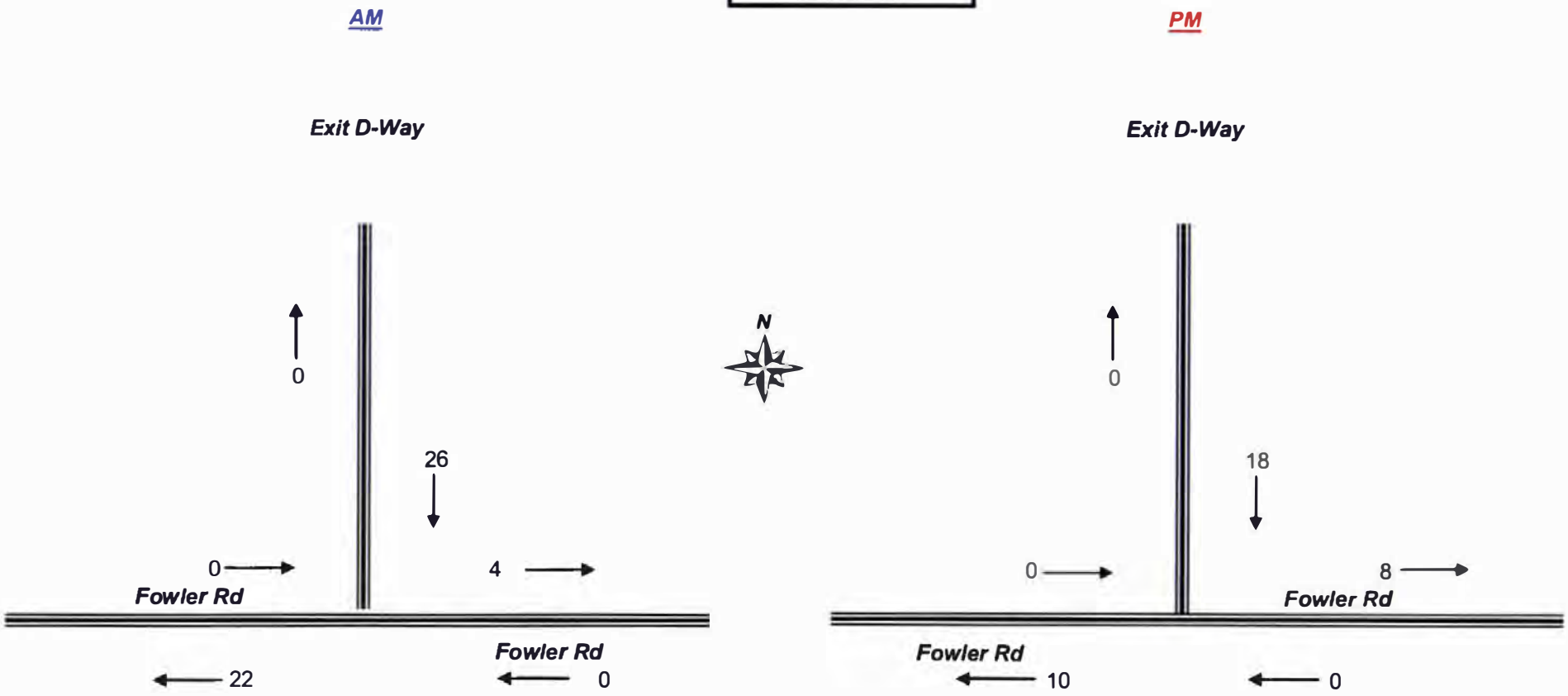
Reliable, Original & Authentic Results
Ph.88196847, Fax 88196849, Mob.0418-239019

Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

TOTAL VOLUMES FOR PERIOD COUNTED



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Reliable, Original & Authentic Results

Ph.88196847, Fax 88196849, Mob.0418-239019

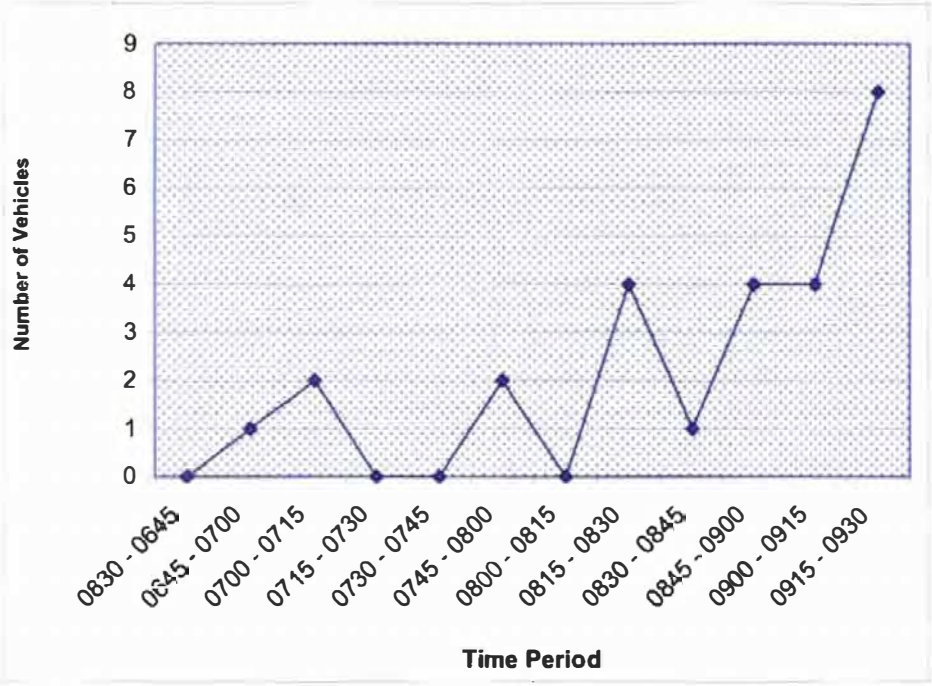
Client : Varga Traffic Planning

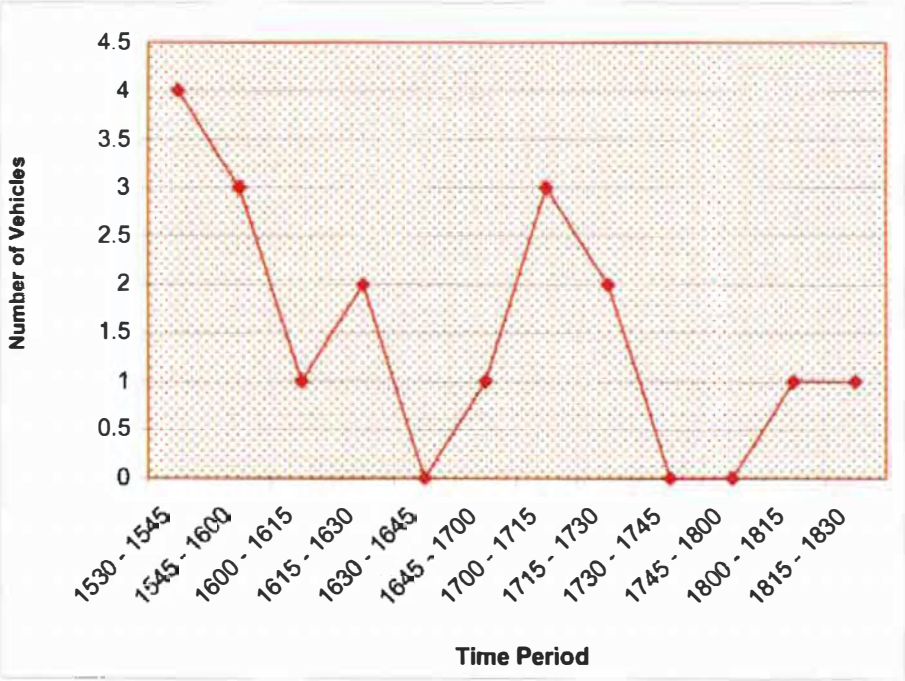
Job No/Name : 3329 II_LAWONG Hobart Place

Day/Date : Monday 18th October 2010

AM ***PM***

Fowler Rd & Entry D-Way





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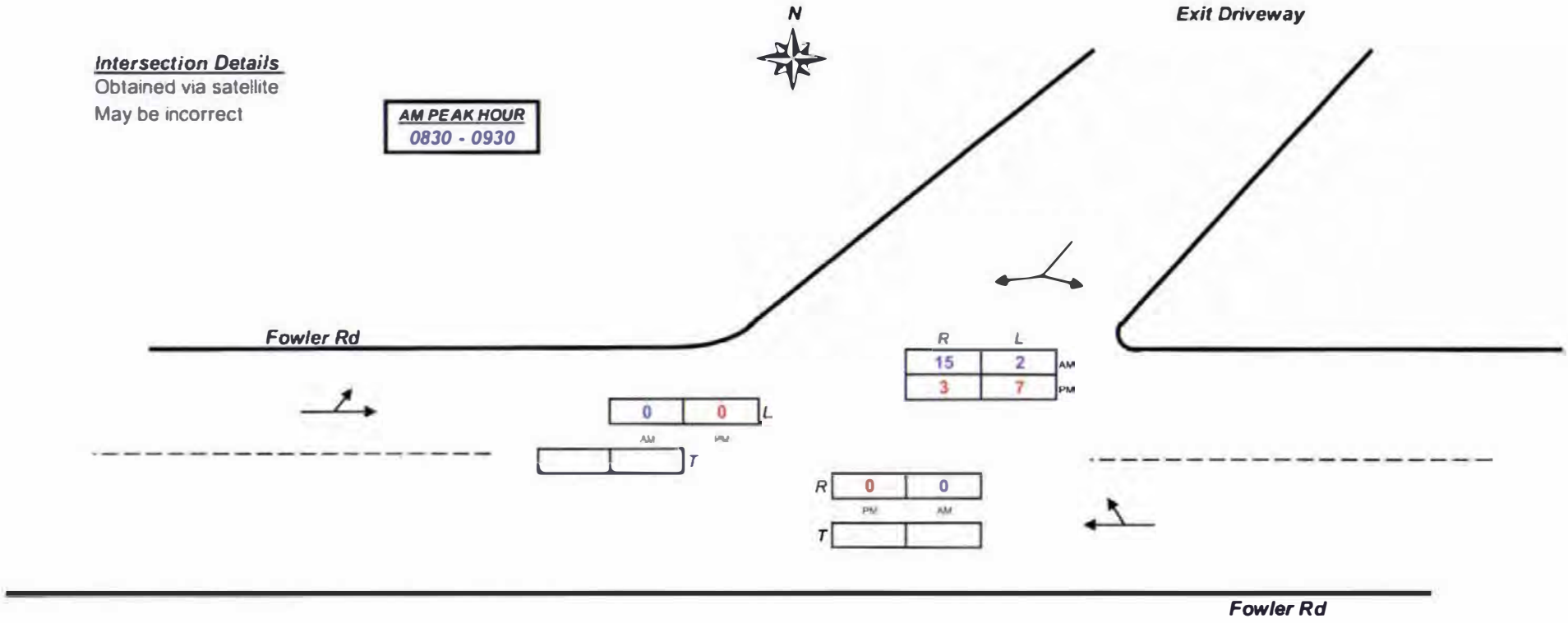

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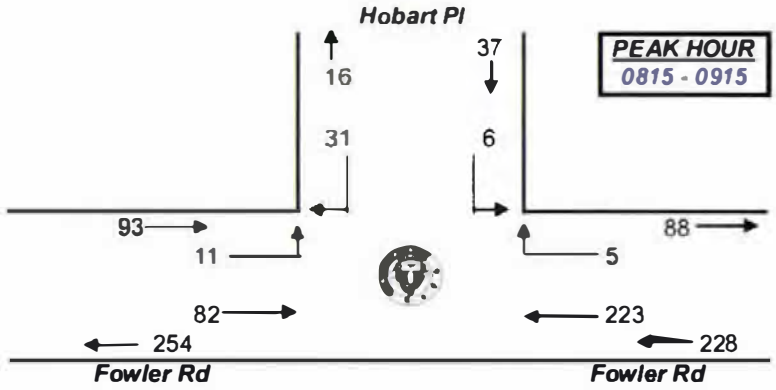
Ph.88196847, Fax 88196849, Mob.0418-239019

Client : Varga Traffic Planning
Job No/Name : 3329 ILLAWONG Hobart Place
Day/Date : Monday 18th October 2010

All Vehicles

Time Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Hobart Pl R	NORTH Hobart Pl L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
0630 - 0645	0	16	3	1	55	0	75
0645 - 0700	1	17	3	0	58	0	79
0700 - 0715	1	14	5	1	63	0	84
0715 - 0730	1	10	5	0	71	1	88
0730 - 0745	2	14	6	0	55	0	77
0745 - 0800	3	11	5	1	50	1	71
0800 - 0815	1	16	5	0	47	2	71
0815 - 0830	3	11	3	2	58	1	78
0830 - 0845	3	20	14	1	70	2	110
0845 - 0900	2	23	4	2	44	1	76
0900 - 0915	3	28	10	1	51	1	94
0915 - 0930	5	16	8	2	38	0	69
Period End	25	196	71	11	660	9	972

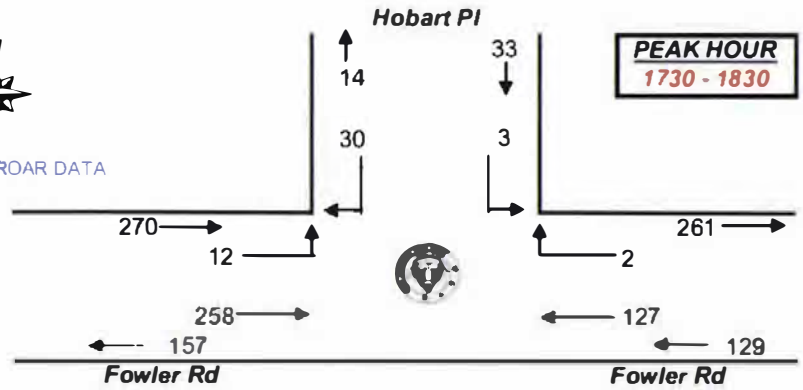
Peak Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Hobart Pl R	NORTH Hobart Pl L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
0630 - 0730	3	57	16	2	247	1	326
0645 - 0745	5	55	19	1	247	1	328
0700 - 0800	7	49	21	2	239	2	320
0715 - 0815	7	51	21	1	223	4	307
0730 - 0830	9	52	19	3	210	4	297
0745 - 0845	10	58	27	4	225	6	330
0800 - 0900	9	70	26	5	219	6	335
0815 - 0915	11	82	31	6	223	5	358
0830 - 0930	13	87	36	6	203	4	349
PEAK HR	11	82	31	6	223	5	358



All Vehicles

Time Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Hobart Pl R	NORTH Hobart Pl L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
1530 - 1545	6	65	19	0	36	2	128
1545 - 1600	8	41	4	3	25	2	83
1600 - 1615	4	48	8	1	26	1	88
1615 - 1630	3	41	5	2	23	0	74
1630 - 1645	0	50	6	0	21	1	78
1645 - 1700	4	48	4	0	32	1	89
1700 - 1715	2	53	8	4	27	2	96
1715 - 1730	2	48	8	1	32	1	92
1730 - 1745	1	66	9	2	25	2	105
1745 - 1800	5	46	8	0	22	0	81
1800 - 1815	2	74	8	1	45	0	130
1815 - 1830	4	72	5	0	35	0	116
Period End	41	652	92	14	349	12	1160

Peak Per	WEST Fowler Rd L	WEST Fowler Rd T	NORTH Hobart Pl R	NORTH Hobart Pl L	EAST Fowler Rd T	EAST Fowler Rd R	TOTAL
1530 - 1630	21	195	36	6	110	5	373
1545 - 1645	15	180	23	6	95	4	323
1600 - 1700	11	187	23	3	102	3	329
1615 - 1715	9	192	23	6	103	4	337
1630 - 1730	8	199	26	5	112	5	355
1645 - 1745	9	215	29	7	116	6	382
1700 - 1800	10	213	33	7	106	5	374
1715 - 1815	10	234	33	4	124	3	408
1730 - 1830	12	258	30	3	127	2	432
PEAK HR	12	258	30	3	127	2	432



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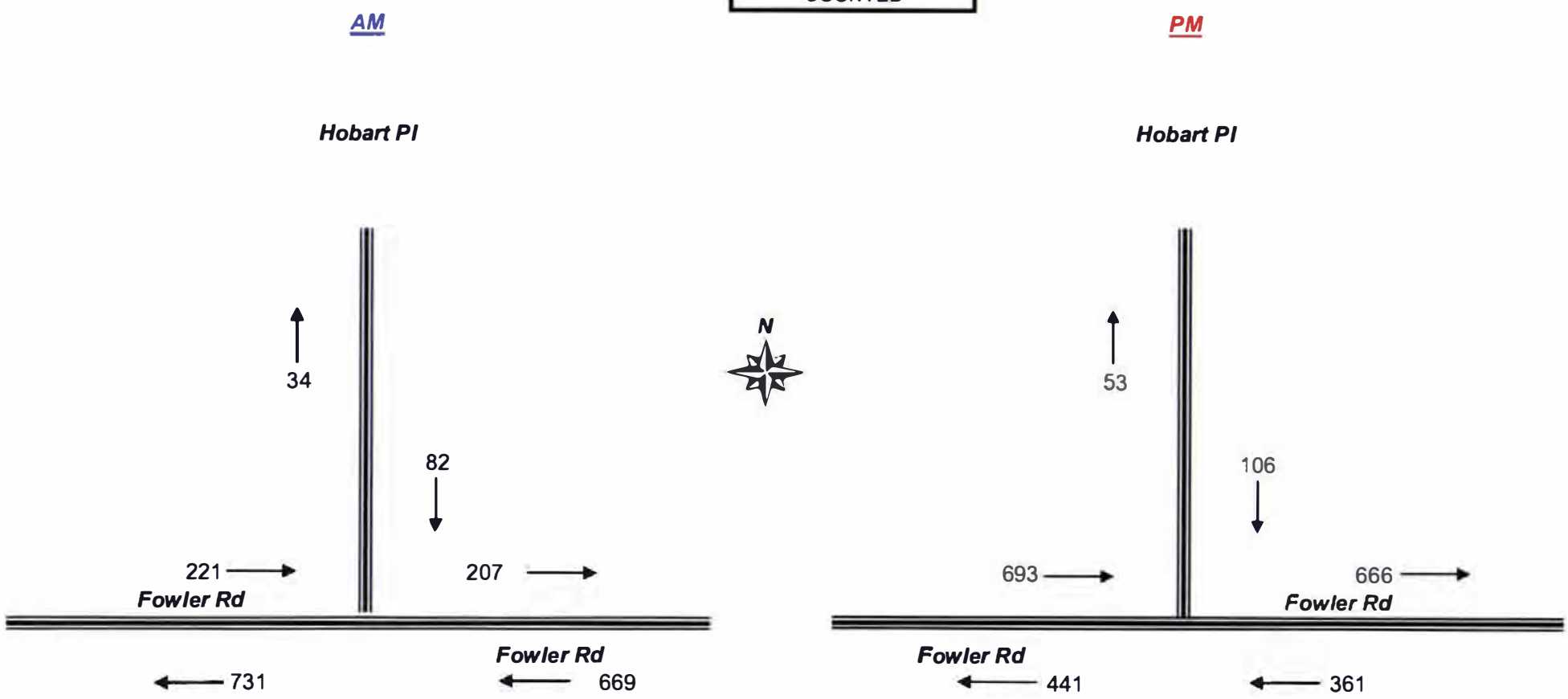
TOTAL VOLUMES FOR PERIOD COUNTED



R.O.A.R DATA

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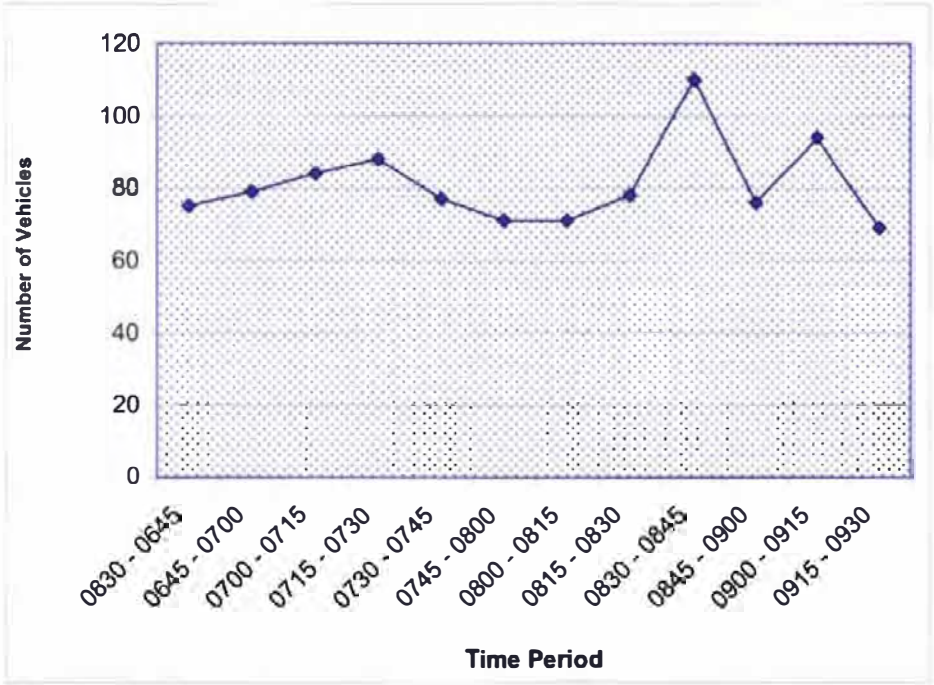
Client : Varga Traffic Planning

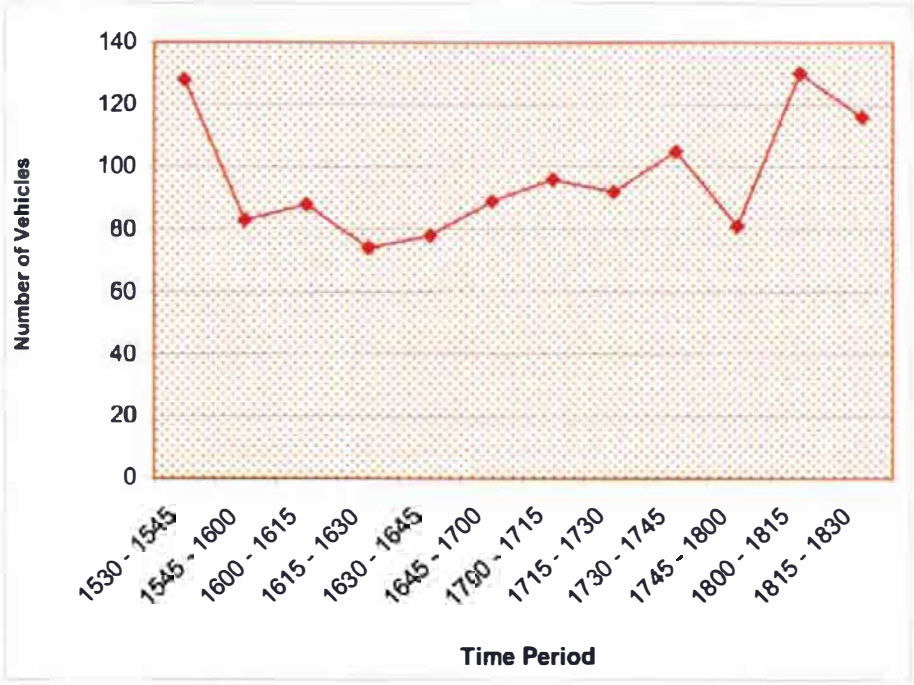
Job No/Name : 3329 ILLAWONG Hobart Place

Day/Date : Monday 18th October 2010

AM ***PM***

Hobart Pl & Fowler Rd





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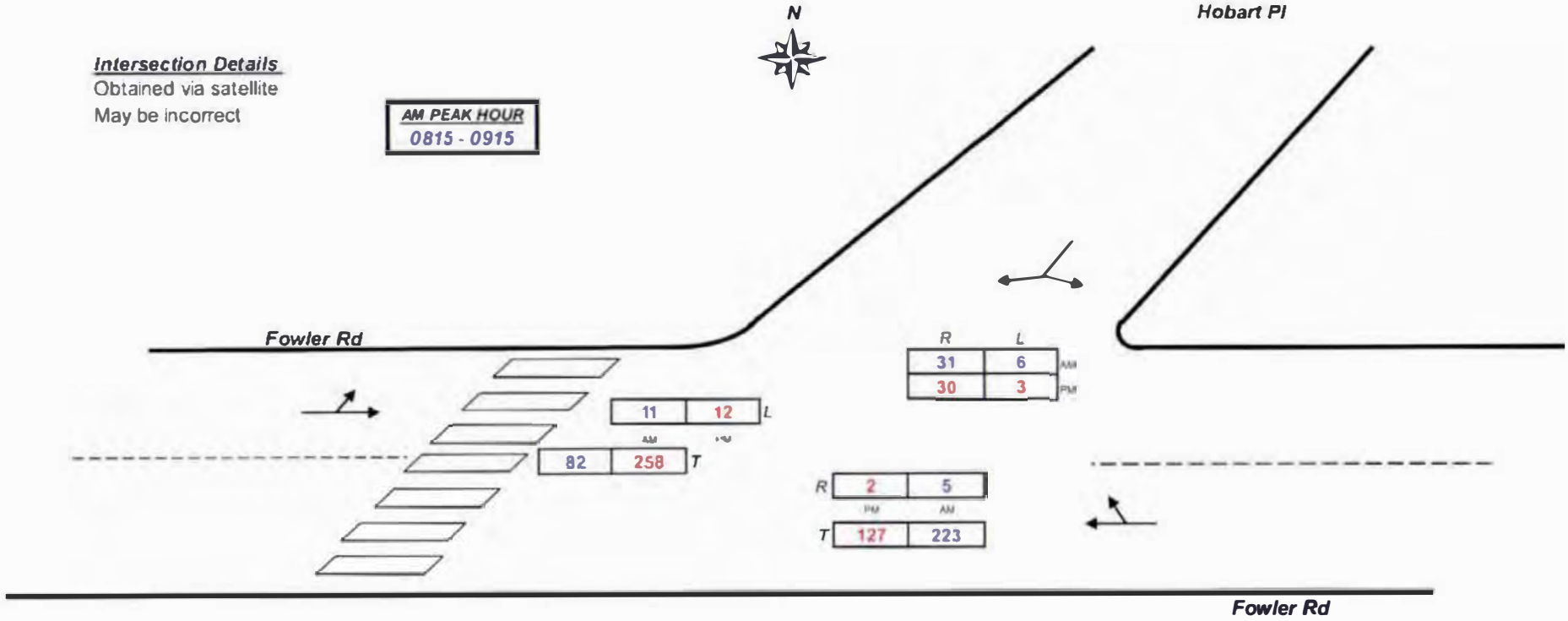

PM PEAK HOUR
1730 - 1830

Weather >>>

BUSHFIRE HAZARD ASSESSMENT

FOR

CONSTRUCTION OF A NEW RESIDENTIAL FLAT BUILDING

AT

273A FOWLER ROAD ILLAWONG NSW 2234

FOR

KEYSITES & AZAR PTY LTD

3 December 2010
Version A

Prepared by:

Barry Eadie Consulting Pty Ltd
50 Central Avenue Como West NSW 2226 • Ph: 02) 9528 7904 • Fax: 02) 9575 7756 • Mobile: 0432 739 443
email: barryeadie@optusnet.com.au • ABN: 61 111 815 215

Fire Safety • Bushfires • Risk Assesment • Dangerous Goods

CONTENTS

PREFACE

Readers of this report must be aware that the bushfire mitigation recommendations described in this report will not completely remove the risk of bushfire impacting the development site. Recommendations contained herein are designed to improve the bushfire related issues for the existing development. With regard to the application the implementation of recommendations in their entirety, together with the diligent maintenance of Asset Protection Zones, will provide for a reduction of the bushfire threat and the associated risk.

This report caters specifically for the requirements of this project and the Client. No warranty is intended or implied, or responsibility undertaken by Barry Eadie Consulting Pty Ltd for its use on any other project or by any third party.

This report does not include an environmental assessment, Aboriginal heritage assessment or identify endangered species in the area.

1 INTRODUCTION

1.1 Report Purpose

This report assesses the bushfire implications for the construction of a new four (4) storey building with setback part 5th storey that steps around the site in response to the irregular shape and the levels along the street boundaries. The building will accommodate 85 apartments, in a mix of 23% X 1 Bed, 67.5% X 2 Bed and 9.5% X 3 Bed and 142 car parking spaces contained within 3 parking levels at the rear of the site. The report will form part of the supporting documentation for a Development Application to Sutherland Shire Council. This Bushfire Hazard Assessment has been undertaken to determine the necessary requirements for the development in accordance with:

- NSW Rural Fire Service, Planning NSW, ***'Planning for Bushfire Protection' (2006);*** and
- AS 3959-2009: ***Construction of Buildings in Bush Fire Prone Areas.***

Barry Eadie Consulting Pty Ltd has been engaged by Keysites & Azar Building to prepare the Bushfire Hazard Assessment report, to be used in support of the Development Application.

2 BUSHFIRE LEGISLATION IN NSW

The ***Environmental Planning and Assessment Act 1979*** and the ***Rural Fires Act 1997*** were amended recently via the ***Rural Fires and Environmental Assessment*** Legislation ***Amendment Act 2002.***

The amendments to the legislation are not retrospective and consequently will not usually apply to development applications which were made, but not necessarily finally determined, before 1 August 2002.

With regard to the ***Environmental Planning and Assessment Act 1979***, the amendments:

a) Require local government councils to record on maps land identified by the Commissioner of the NSW Rural Fire Service as bushfire prone land; and

b) Prevent development consent being granted for the carrying out of development for certain purposes on bushfire prone land unless the consent authority is satisfied that the development conforms to certain documented bushfire protection specifications and requirements (***'Planning for Bushfire Protection' (2006)*** and ***AS 3959 – Construction of Buildings in Bushfire-Prone Areas***) or has consulted with the Commissioner;

'Planning for Bushfire Protection' (2006), defines bushfire prone areas as an area that can support a bushfire or is likely to be subject to bushfire attack. In general, a bushfire prone area is an area containing a high, medium or low bushfire hazard, or any area within 100 m of a high or medium bushfire hazard, or within 30 m of a low bushfire hazard. Bushfire hazard areas do not include existing urban areas or water bodies (other than wetland vegetation), and are identified by bushfire hazard mapping produced under an approved Bushfire Risk Management Plan, or other such map certified by the Commissioner of the NSW Rural Fire Service for this purpose.

3 SITE ASSESSMENT

NAME:	Keysites & Azar Pty Ltd
ADDRESS:	C/- Turner + Associates Level 1, 410 Crown Street Surry Hills NSW 2010
SITE ADDRESS:	273A Fowler Road, Illawong, NSW 2234
COUNCIL:	Sutherland Shire Council
TYPE of AREA:	Residential
TYPE of DEVELOPMENT:	79BA, Construction of new residential building.

Barry Eadie conducted an inspection of the site at 273A Fowler Road, Illawong and the surrounding area on 29 November 2010. The following assessment has been undertaken in accordance with the requirements of ***'Planning for Bushfire Protection' (2006)***. The proposal is for the construction of a new building on the subject Lot.

3.1 Location

The site is located adjacent to the Illawong Shopping Centre, which was previously part of the same development site. However the subject site has now been subdivided from the shopping centre as a stand-alone development site. The subject site is accesses directly off Fowler Road and Hobart Place. There are existing residential dwellings adjoining the subject site to the East, commercial / retail to the North and West and Illawong Primary School to the South. There is an area of bushland to the South across Fowler Road and to the East of the Primary School.

3.2 Vegetation

The vegetation has been assessed over a distance of 140 m from the existing bush vegetation both on and off site in all directions in accordance with Table A2.1 of ***'Planning for Bushfire Protection' (2006)***.

The only vegetation that could present a bushfire hazard is the area of vegetation to the South across Fowler Road. This area of vegetation runs down towards the school playing fields and would be classified as woodland with rocky outcrops.

The site is shown as Bushfire Buffer on the Council Bush Fire Prone Land Map however all the adjoining lots are existing residential and retail developments.

Vegetation across Fowler Road to South

View to East across Hobart Place.

3.3 Slope

Based on the site inspection, the slope of the land over a distance of 100 m from the indicative building lines in all directions has been assessed. In accordance with ***'Planning for Bushfire Protection' (2006)***, the slope has been assessed based on the gradient that will most significantly influence the fire behaviour of the site.

The subject site is flat to Fowler Road and falls steeply to the North at the rear. Across Fowler Road to the South the vegetation falls approximately 5^0 down-slope towards the playing fields.

3.4 Asset Protection Zone

The Asset Protection Zone (APZ) acts as a buffer zone between the development and the hazard. The primary purpose of an APZ is to ensure that a progressive reduction of bushfire fuels occurs between the bushfire hazard and any habitable structures. The APZ consists of an Inner Protection Area (IPA) and an Outer Protection Area (OPA).

The available APZ from the proposed building across Fowler Road is 22 metres.

3.5 Level of Construction

Table A2.4.2 of Australian Standard AS 3959-2009 ***Construction of Buildings in Bushfire-Prone Areas*** requires a construction standard of BAL 29 for woodland vegetation with a down-slope of 0-5^0.

As the only elevation that is directly exposed to the bushfire hazard is the southern elevation it will be recommended that the remainder of the development be constructed to BAL 19.

3.6 Fire Fighting Personnel Access

3.6.1 Public Road Access

Access is provided to the Site via sealed public roads, Fowler Road and Hobart Place are both capable of supporting fully loaded fire fighting vehicles.

3.6.2 Property Access

Property Access will be from the both Fowler Road and Hobart Place no additional access will be required.

3.7 Electricity Supply

It is preferable that transmission lines providing power to the proposed development should be installed underground. Satisfactory provisions are available, however, if this is not possible.

3.8 Gas

Reticulated or bottled gas shall be installed and maintained in accordance with AS/NZS 1596-2002: ***Storage and Handling of LP Gas*** and the requirements of the relevant authorities. If gas cylinders are to be kept close to buildings, the release valve must be directed away from the building and away from any hazardous materials such as firewood, so that it does not act as a catalyst to combustion.

3.9 Water Supply

As there is Town reticulated water supply available in both Fowler Road and Hobart Place, a supplementary form of water supply will not be necessary for fire fighting purposes.

4 RECOMMENDATIONS

Based on Barry Eadie's site inspection and assessment, the following recommendations would be required for proposed development of dwelling:

(a) The whole site be managed as an Inner Protection Area in accordance with ***'Planning for Bushfire Protection' (2006)***:

(b) The proposed building to be constructed to BAL 29 on the southern elevation and a minimum BAL 19 on the remaining elevations in accordance with AS 3959-2009 and section A3.7 of Addendum Appendix 3 of ***'Planning for Bushfire Protection' (2006)***.

(c) If any trees are to be located within the envisaged APZs, this is considered acceptable, providing the following conditions are met:

  (i) Vegetation is not to touch or overhang dwellings (canopy vegetation must not be within 5 metres of any building / dwelling);

  (ii) Vegetation is not species that retain dead material or deposit excessive quantities of ground fuel in a short period or in a danger period; and

  (iii) Vegetation is located far enough away from dwellings so that it will not ignite the dwelling by direct flame contact or radiant heat emission.

(d) Woodpiles, combustible material storage sheds, large areas / quantities of garden mulch and stacked flammable building materials should not be located within IPA of dwellings;

(e) Reticulated or bottled gas shall be installed and maintained in accordance with AS/NZS 1596-2002: ***Storage and Handling of LP Gas*** and the requirements of the relevant authorities.

5 CONCLUSIONS

Barry Eadie has conducted a site inspection and assessment of the site. The assessment has been undertaken in accordance with ***'Planning for Bushfire Protection' (2006)*** and AS 3959-2009: ***Construction of Buildings in Bush Fire Prone Areas.***

Provided the recommendations stated above are implemented in full, Barry Eadie Consulting Pty Ltd is of the opinion that the proposed development will increase the level of protection from bush fire and achieves the intent of the relevant legislation and in particular the requirements as set out in ***'Planning for Bush Fire Protection' (2006).***

6 REPORT BASIS INFORMATION

The report is based on the following:

(i) Site inspections carried out on 29 November 2010 by Barry Eadie;

(ii) Site Plan

7 REFERENCES

- NSW Rural Fire Service, Planning NSW, ***'Planning for Bushfire Protection' (2006).***
- AS 3959-2009: ***Construction of Buildings in Bush Fire Prone Areas.***

APPENDIX A – PROPOSED DEVELOPMENT PLAN