

2011SYE068 – 16 Arthur Street, Cronulla
DA11/0541

ASSESSMENT REPORT APPENDICES

Appendix	A	Draft Conditions of consent
	B	Correspondence from Council re pre-application discussion meeting – dated 3 May 2011
	C	Architectural Review Advisory Panel report of 7 July 2011
	D	SEPP No. 1 Objection – Building Height
	E	SEPP No. 1 Objection – Floor Space Ratio

Draft Conditions of Development Consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

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

1. Approved Plans and Documents

The development shall be implemented substantially in accordance with:

- a) the architectural plans 2226-01 Issue B (roof plan), 2226-02 Issue B (basement plan/ long section), 2226-03 Issue B (ground floor plan), 2226-04 Issue B (first and second floor plans), 2226-05 Issue B (elevations), and 2226-12 Issue B (detailed sections), all dated August 2011 and prepared by Innovative Architects;
- b) the landscape plan 35/11 Sheet 1 Issue C, dated 17/08/11 and prepared by sitedesign studios.
- c) the details and specifications set out on the stormwater drainage design drawings No.11067 sheets C01 & C02 prepared by CPM Engineering, the construction & site management plan drawing No.11067 sheet C03 prepared by CPM Engineering; and
- d) any details on the application form and on any supporting information received with the application except as amended by the conditions specified and imposed hereunder.

Note 1:

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

Note 2:

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

Note 3:

The following works or activities shall not be carried out within the Road Reserve without approval under the Roads Act 1993:

- a) Placing or storing materials or equipment;
- b) Placing waste containers or skip bins;
- c) Pumping concrete from a public road;
- d) Standing a mobile crane;
- e) Pumping stormwater from the site into Council's stormwater drains;
- f) Erecting a hoarding;

- g) Establishing a construction zone;
- h) Opening the road reserve for the purpose of connections including telecommunications, water, sewer, gas, electricity and stormwater; or
- i) Constructing a vehicular crossing or footpath.

Note 4:

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

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

2. Prescribed Conditions - General

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

A. Compliance with the Building Code of Australia

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

B. Residential building work

1. Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the **Principal Certifying Authority (PCA)** for the development to which the work relates:

- a) in the case of work to be done by a licensee under that Act:
 - i) has been informed in writing of the licensee's name and contractor license number, and
 - ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, or
- b) in the case of work to be done by any other person:
 - i) has been informed in writing of the person's name and owner-builder permit number, or
 - ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of "owner-builder work" in section 29 of that Act,
 - iii) and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under

either of those paragraphs.

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

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

Builders and Insurance details required under part B above shall be provided to Council with the Notice of Commencement. In relation to non-residential building work Builders details shall be provided to Council with the Notice of Commencement.

3. Approvals Required under Roads Act or Local Government Act

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

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

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

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

Bonds and Contributions

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

4. Environmental, Damage & Performance Security Bond

Before the commencement of any works (including demolition) or the issue of a Construction Certificate, the applicant shall provide security to Council against damage caused to any Council property and / or the

environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with the Council or a satisfactory guarantee. A non refundable inspection / administration fee is included in the bond value.

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

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

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

The value of the bond shall be determined as follows:

Development Value	Refundable Deposit <input type="checkbox"/>
Less than \$50,000 <input type="checkbox"/> <input type="checkbox"/>	\$2,110.00
\$50,000 - \$150,000	\$2,110.00
\$150,001 - \$300,000	\$3,110.00
Greater than \$300,000	\$5,110.00
Swimming Pools	\$2,110.00
Demolition / Earthworks	\$3,110.00

- ☐ Bond amount includes a non refundable administration fee of \$110. Where the bond takes the form of a Bank Guarantee, the \$110 administration fee must be paid separately.
- ☐☐ Development valued at less than \$50,000 only where:
 - ☐ deliveries or removal of materials occur in vehicles of Small Rigid Vehicle (4.0 tonnes) size or larger and / or
 - ☐ there is delivery or removal of construction machinery, and
 - ☐ a constructed footpath or a stormwater pit exists along the frontage of the property or within 10 metres on either side of the property.

Note: All enquiries in relation to bonds should be directed to Council's Civil Assets Manager on 97100134.

5. Public Liability Insurance

Prior to the commencement of work or the issue of a Construction Certificate, the owner or contractor shall take out a Public Liability

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

Section 94 Contributions

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

6. Community Facilities, Shire Wide 2003 Plan

A monetary contribution of \$2144.24 shall be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 3 proposed Residential Apartments etc, with a concession for 1 existing allotment.

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

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

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

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

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council's Contributions Plan – Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of \$10564.35 shall be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 3 proposed Residential Apartments etc, with a concession for 1 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the

Implicit Price Deflator for Gross Fixed Capital Expenditure – Private Dwellings, with amended rates being available from Council.

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

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

MATTERS RELATING TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

8. BASIX Requirements

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

9. Design Changes Required

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

- a) The driveway/ basement entry ramp shall be amended to comply with AS2890.1: 2004, and shall begin to ramp down into the basement from the boundary of the site (not the public way as proposed). This modification will require the floor levels of (at least) the basement and ground floor to be raised.
The building is to be modified to accommodate this requirement without raising the overall maximum proposed height of the building, by reducing the westward extent of the ground floor study and reducing floor-to-ceiling clearances within the building as required, or an alternative method to be approved by Sutherland Shire Council's Director Environmental Services
The Engineering design requirements associated with this modification are set out in detail in the condition of this consent titled '*Vehicular Access-way & Parking Layout*' (below).
- b) The proposed scheme of landscaping is to be modified to incorporate two mid-sized trees which will reach at least 1500mm in height at maturity to be located on either side of the stairway leading to the courtyard at the eastern side of the building.

- c) The proposed 1.6m high curved wall around the outer edge of the courtyard at the eastern side of the building is to be reduced to project no more than 500mm above the proposed level of the courtyard (ie. RL 11.00). If the wall is intended to enhance privacy, screen planting may be introduced as a replacement.
- d) The north-facing inset balconies to the first and second floors are to be provided with planter boxes or similar, capable of accommodating screen planting. The proposed scheme of landscaping is to be amended to incorporate low-height screen planting at the edge of these balconies.
- e) The southern walls of the east-facing terrace balconies are to be amended to incorporate clear glazing or some other visually permeable treatment from a level of 1200mm taken from the finished floor level up to the underside of the slab above.
- f) The north-facing window of the proposed 'study' on each level above ground is to be frosted or screened with louvres to reduce privacy impacts on the neighbouring building to the north.

Details of these design changes shall accompany the Construction Certificate.

10. Site Management Plan

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

- a) What actions and works are to be employed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from building activities, crossings by heavy equipment, plant and materials delivery, and the like.
- b) The proposed method of loading and unloading excavation machines, building materials.
- c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition / construction.
- d) How it is proposed to ensure that material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways.
- e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be certified by a Certifier accredited in civil engineering.
- f) The provision of temporary fencing to secure the work site (fencing, hoarding or awnings over public land require Council approval under the Roads Act).
- g) The control of surface water flows within and through the construction site to minimise erosion and movement of sediment off site.

- h) The type and location of erosion and sediment control measures, strategies to minimise the amount of soil uncovered at any time, the conservation of topsoil for re-use on site, the location and protection of stockpiles.
- i) Identify all trees that are to be retained and the measures proposed to protect them (including fencing, mulching, watering, erection of signs excluding access to the protection zone, etc), and identify areas for revegetation.

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

11. Swimming Pools New and Pool Alterations/ Renovations

To minimise the impact of the swimming pool on the amenity of adjoining properties and to ensure the safety of persons, the design and construction of the swimming pool or spa pool and associated equipment shall comply with the following requirements:

- a) The *Swimming Pools Act & Regulations* applicable at the time of construction.
- b) Australian Standard 1926 Swimming Pool Safety as prescribed under the Building Code of Australia.
- c) Protection of the Environment Operations Act 1997.
- d) The swimming pool/spa pump and associated equipment shall be sound insulated and/or isolated so that the noise emitted does not exceed an LAeq (15min) of not more than 5 dB(A) above the background level in any octave band from 31.5Hz to 8KHz centre frequencies inclusive at the boundary of the site.

- Note:
- i) The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1.
 - ii) Additional information is available from Sutherland Shire Swimming Pool Environmental Specification 2007.

Details of all child-resistant barriers (existing and proposed) to be utilised to comply with the requirements of the *Swimming Pools Act* and Regulations applicable at the time shall be shown on the Construction Certificate plans. The information is required for recording in Sutherland Shire Pool Register. Council must be notified of any changes to the child-resistant barriers indicated on the approved plans.

Note:

- ☐ Landscaping and ancillary structures are not to intrude into the child-resistant barrier Non-Climbable Zone.
- ☐ Only structures associated with the pool can be located within the pool area. Should the structure be used in any way with the

dwelling or outdoor activity other than the pool then the structure cannot be within the pool area. This includes clothes lines, barbeque, sheds, entertainment structure, outside toilet.

12. Verification of Design for Construction – SEPP 65

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

13. Dilapidation Report

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site (both frontages) and to notify the owners of buildings upon adjacent properties of any existing damage to such buildings, through the submission of a current dilapidation report supported by photographs. This information shall be submitted at least two (2) days prior to the commencement of works (including demolition). Should any public property sustain damage during the course of the works Council may carry out any works necessary to repair or stabilize the damage and the cost of these works will be deducted from the security.

A copy of the dilapidation report with photographs must be given to the Owners of the adjacent properties, the Principal Certifying Authority and Sutherland Shire Council prior to the commencement of work (including demolition).

14. Design and Construction of Drainage Works - No.11R The Esplanade

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant within No.11R The Esplanade in conjunction with the development. The design drawing shall generally comply with the approved amended stormwater drainage design drawing and provide the following;

- a) Construct three junction pits with loose fit gas tight lid and surround,
- b) Install 375mm reinforced concrete pipe,
- c) Repair the 3m wide footpath pavement to the extent where such footpath is damaged or removed to facilitate the required drainage works,
- d) Transition works for the footpath pavement and verge to eliminate any 'trip' hazards, create gentle change of grades and eliminate "ponding",
- e) Turf all denuded areas, and
- f) Adjust public services infrastructure where required.

Application shall be made for the design drawing for works within the Esplanade reserve prior to the issuing of the Construction Certificate. The creation of this design shall be undertaken by Sutherland Shire Councils Engineering Division.

Note 1: Councils Engineering Division charges a fee for the creation of the frontage works design. A quotation may be obtained by contacting the Sutherland Shire Councils Assets Manager.

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

Note 3: The approved stormwater drainage design has been marked up to indicate the desired outcomes of this condition.

Note 4: For further assistance on this matter please contact Council officer Mr. Guy Amos (Manager of Stormwater) on 97100857.

15. Design and Construction of Frontage Works

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

- a) Establish the property alignment levels,
- b) Remove the redundant vehicular crossings,
- c) Construct a 4m wide vehicular crossing and associated layback,
- e) Transition works for the footpath pavement and verge to eliminate any 'trip' hazards and create gentle change of grades,
- f) Construct a 1.2m wide footpath pavement,
- g) Turf all denuded areas of the footpath verge,
- h) Reinstate the Road carriageway shoulder where damaged by gutter reconstruction,
- i) Adjust public services infrastructure where required,
- j) Plant two street trees in place of the existing street tree to be removed.

The road frontage works design drawing shall be prepared and submitted as part of the Construction Certificate. The creation of this design shall be undertaken by Sutherland Shire Councils Engineering Division.

Note 1: Councils Engineering Division charges a fee for the creation of the frontage works design. A quotation may be obtained by contacting the Sutherland Shire Councils Assets Manager.

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

Public Utility Authorities Requirements

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

16. Sydney Water - Referral Requirements

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

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

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

17. Public Utility Authorities

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

18. Car Wash Bays

To ensure that waste water is dealt with in an acceptable manner, the car wash bay shall be designed and discharged to the sewer in accordance with the requirements of the Sydney Water Wastewater Source Control Branch. Evidence of a trade waste agreement shall be submitted with the Construction Certificate.

19. Works Supervising Engineering.

Prior to the commencement of any works the applicant shall nominate an appropriately qualified Accredited Certifier in civil engineering works or a Charter Civil Engineer to supervise the construction of the Road frontage works, the stormwater drainage system, the rainwater harvesting and rainwater reuse systems. On completion of the works certify that the aforementioned works have been constructed in compliance with the approved plans, specifications and conditions of Consents.

20. Stormwater Drainage System

Plans including all engineering details relevant to the site regarding collection and dispersal of stormwater from the buildings shall be submitted with the construction certificate. The stormwater drainage system shall be designed and constructed in accordance with the approved concept stormwater drainage design drawing, the BASIX Certificate issued against the development and Australian Standard AS/NZS3500.3.2:1998, except where modified by the following;

- a) The proposed stormwater drainage shall discharge to Council's augmented drainage system, constructed by the developer / applicant, within No.11R The Esplanade (cite; condition "Design and Construction of Drainage Works - No.11R The Esplanade"), and
- b) The minimum size of the rainwater tank shall be 20,000 litres.

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

21. Vehicular Access-way & Parking Layout

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

- a) Align with Council's issued vehicular crossing levels,
- b) The vertical alignment of the vehicular access-way shall comply with AS2890.1:2004 to ensure a B85 vehicle will not scrape the surface of the crossing, driveway or basement floor,
- c) The maximum longitudinal grade of the driveway shall be 25%, measured along the vehicle wheel path for the inside curve,
- d) Provide a maximum grade of 7% for the first 2m inside the property boundary,
- e) The maximum grade of the finished floor of the basement shall be 5%,
- f) The minimum headroom in the basement parking area shall be 2.2m measured from the surface of the floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position,
- f) A parking bay within the garage assigned to the "Adaptable" Unit shall have the head height clearance of 2.5m, except where this space is encroached by a roller door, and
- g) The proposed security door fitted to the car parking area entrance shall be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

Certification from an Accredited Certifier or a Chartered Civil Engineer or a Registered Surveyor, to the effect that the car park layout and vehicle access-way have been prepared having regard to the conditions of development consent, shall accompany the application for the Construction Certificate.

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

22. Submission of Fire Safety Schedule

A Fire Safety Schedule shall be issued by an appropriately qualified

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

PRE-COMMENCEMENT CONDITIONS

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

23. Pre-Commencement - Notification Requirements

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

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

24. Pre-commencement Site Inspection - Road Frontage Works

The Principal Certifying Authority and / or the Supervising Engineer shall undertake a site inspection with Council staff prior to commencement of the drainage works within No.11R The Esplanade. The purpose of this inspection is to enable Council's Manager of Parks & Waterways to clarify Council's requirements, as the manager of the Reserve, in relation to the carrying out of the works. Contact shall be made with Council's Manager of Parks & Waterways on 97100473 to arrange for the inspection.

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

25. Signs to be Erected on Building and Demolition Sites

A rigid and durable sign shall be erected prior to the commencement of work and maintained in a prominent position on the work site. The responsibility for this to occur is that of the principal certifying authority or

the principal contractor.

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

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

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

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.

26. Environmental Site Management DCP

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

27. Permitted Hours for Building and Demolition Work

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

28. Demolition Work

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

- a) The demolition of the existing building shall be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- b) It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a dilapidation report supported with suitable photographic records. This information shall be submitted to Council prior to the commencement of work. Any damage other

than that noted prior to commencement of the demolition shall be the responsibility of the owner of the property for repair or reinstatement.

- c) The applicant shall ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.
- d) If demolition is to commence prior to the issue of a Construction Certificate, the applicant shall submit to Council a Site Management Plan – Demolition for assessment prior to the commencement of any demolition work. This plan shall satisfy the objectives of Council's Environmental Site Management Development Control Plan and shall consider the following:
 - i) What actions and works are proposed to ensure safe access to and from the site and what protection will be provided to the road and footpath area from demolition activities, crossings by heavy equipment, plant and materials deliveries and the like;
 - ii) The proposed method of loading and unloading demolition machines within the site;
 - iii) The proposed areas within the site to be used for the storage of demolished material and waste containers during the demolition period;
 - iv) How it is proposed to ensure that soil / demolished material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
 - v) The requirements of any site specific Development Control Plan that may affect this development site.
- e) Pre-Commencement Inspection
If demolition is to commence **prior** to the issue of a Construction Certificate, the Builder/principal contractor shall undertake a pre-commencement site inspection with Council's Engineering Compliance Officer and Council's Civil Asset Manager. The purpose of this inspection is to facilitate the implementation of the consent specifically with regard to the impact on the public way and to clarify any matters of concern.

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

29. Demolition – Removal of Asbestos Material

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

- a) Occupational Health and Safety Act 2000;
- b) Occupational Health and Safety Regulation 2001;
- c) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];

- d) Workcover NSW 'Working with Asbestos – Guide 2008'; and,
- e) Protection of the Environment Operations Act 1997.

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

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

30. Excavations and Backfilling

- a) All earthworks including excavation and backfilling shall be executed safely and in accordance with appropriate professional standards.
- b) All excavation must be properly guarded and protected to prevent them from being dangerous to life or property.

31. Imported 'Waste Derived' Fill Material

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

- a) The only waste derived fill material that may be received at the development site shall be:
 - i) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997).
 - ii) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.
- b) Any waste-derived material the subject of a resource recovery exemption received at the development site shall be accompanied by documentation as to the material's compliance with the exemption conditions and shall be provided to the Principal Certifying Authority on request.

32. Support for Neighbouring Buildings

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

- a) Shall preserve and protect the building from damage.
- b) If necessary, shall underpin and support the building in an approved manner.
- c) Shall, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

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

33. Protection of Public Places

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

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

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

34. Noise Control during Construction and Demolition

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

35. Vibration damage

To minimise vibration damage and loss of support to the buildings in close proximity, a report shall be prepared by a qualified geotechnical engineer detailing the constraints to be placed on earthmoving and building plant and equipment. This report is to be provided to the satisfaction of the Principal Certifying Authority and shall accompany the Construction Certificate.

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

37. Disposal of Site Soils

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

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

38. Dewatering of Excavation

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

- a) It shall not contain a concentration of suspended sediment exceeding 50 mg/L.
- b) It shall have a pH of between 6.5-8.
- c) It shall comply with the ANZECC Guidelines for Marine and Freshwater Quality, for Protection of Aquatic Ecosystems (95% protection level).

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

39. Street Planting

Street tree planting shall be provided within the road reserve fronting the subject site utilising 2 x Cupaniopsis Anacardioides of a 'super advanced' size stock in accordance with Council's "Urban Street Tree Planting Guide". Street trees shall be planted with staking and tying in a mulched and edged landscape area, in accordance with Figure 11 of Council's Landscape Development Control Plan, within three (3) months of completion of work on the site. The tree(s) shall be maintained until they reach a diameter of 100mm measured at 500mm above ground level.

POST CONSTRUCTION CONDITIONS

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

40. Section 73 Compliance Certificate

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

Advice from Sydney Water:

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

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

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

- a) The Supervising Engineer shall certify that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned letter of certification.
- b) The Supervising Engineer shall certify the Road Works were constructed to their satisfaction and in accordance with the Development Consent and associated Roads Act Consent. Prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned letter of certification.
- c) The Supervising Engineer shall certify the Drainage Works within No.11R The Esplanade were constructed to their satisfaction and in accordance with the Development Consent and associated Local Government Act Consent. Prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned letter of certification.
- d) A W.A.E.D shall be prepared to show the stormwater drainage system, detailing the alignment of pipelines, pits, the rainwater tank and the stormwater drainage system with No.11R The Esplanade. The W.A.E.D. shall be prepared by a Registered Surveyor and prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned W.A.E.D.

42. Set out of Building

Certification from a Registered Surveyor certifying that the building has been set-out in relation to location and levels, in accordance with the requirements of the development consent shall be provided to the Principal Certifying Authority as part of the Construction Certificate and a final verification from the Surveyor shall be provided to the PCA prior to the issue of an Occupation Certificate.

43. Prior to Occupation or Use of the Development

The Development shall not be occupied or used until:

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

Subdivision Plan Requirements

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

44. Linen Plan of Subdivision to conform with Development Consent

The Linen Plan of Subdivision shall conform with Council's Development Consent No.DA11/0541 and all relevant conditions thereunder.

45. Allocation of Common Property

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

46. Endorsement of Linen Plan of Strata Subdivision

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

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

OPERATIONAL CONDITIONS

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

47. Maintenance and Operational Efficiency of BASIX Requirements

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

48. Noise Control - Residential Air Conditioning Unit / Heat Pump Water Heater

To minimise the noise impact on the surrounding environment, the use of the air conditioning unit and / or heat pump water heater shall not cause an LAeq (15min) sound pressure level in excess of 5 dB(A) above the ambient background level, at any time the unit operates, when measured at the most affected point on or within any residential property boundary.

Notwithstanding the above requirements, between the hours of 10.00pm and 8.00am on weekends and public holidays and 10.00pm and 7.00am any other day, noise emitted shall not be heard within any residence or sole occupancy unit with its windows and/or doors open or closed.

49. Noise Control – Design of Plant & Equipment (From Residential Unit Block)

To minimise the impact on the surrounding residents, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems shall be operated so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background noise level when measured at the most affected point on or within any residential property boundary or at the external edge of any sole occupancy unit balcony within the premises itself at any time the equipment operates. Notwithstanding the above requirements, any noise generated by the plant and/or equipment must not be heard within a habitable room in any sole occupancy unit or other residential premises (regardless of whether any door or window to that room is open):

- (a) before 8am or after 10pm on any Saturday, Sunday or public holiday, or
- (b) before 7am or after 10pm on any other day.

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

50. Noise from Swimming Pool Pumps and Associated Equipment

The swimming pool / spa pump and associated equipment shall be

maintained and operated so that the noise emitted does not exceed an LAeq (15min) of not more than 5 dB(A) above the background level when measured at the most affected point on or within any residential property boundary. Notwithstanding the above levels, the swimming pool / spa pump(s) and any associated equipment shall not be operated between 8.00pm and 7.00am on weekdays and 8.00pm and 8.00am weekends and Public Holidays if the noise they generate can be heard within a habitable room in any other residential premises regardless of whether any door or window to that room is open.

END OF DETERMINATION

Luke Murtas – 02 9710 0485
File Ref: PAD11/0046

3 May 2011

1301013002011220211232031010102113

MKX Pty Ltd
ATTN: Michael Cripps
PO Box 81
SUTHERLAND NSW 1499

Dear Mr Cripps,

Pre-Application Discussion No. PAD11/0046

Proposal: Demolition of a dwelling and construction of a three storey residential flat building including three apartments with basement car parking.

Property: 16 Arthur Avenue Cronulla

I refer to the pre-application discussion held on 19 April 2011 about the above property. 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 subject site is located on the eastern side of Arthur Avenue in Cronulla, north of Ingalara Avenue. The site has a frontage to The Esplanade and has an easterly outlook towards Blackwoods Beach. The site is within Zone 6 - Multiple Dwelling B under the *Sutherland Shire Local Environmental Plan 2006* (SSLEP 2006).

The land has a regular shape, with a frontage of approximately 15m to Arthur Avenue, a depth of approximately 58.5m and an area of approximately 880m². This is based on the survey information supplied – it is noted that this figure does not correlate exactly with Council's land information system, and a survey should be provided with the application to confirm the land area. The land falls by approximately 3.3m from the street (west) boundary to The Esplanade (east) side.

The site currently contains a detached single storey brick dwelling, with a freestanding garage located at the Arthur Avenue frontage. The existing dwelling is set back approximately 30m from Arthur Avenue and approximately 5m from The Esplanade.

To the east of the site across The Esplanade is a largely 'natural' setting, with a landscaped verge, rock cliffs and an ocean beach beyond. The surrounding built environment is characterised by medium density, predominantly residential buildings.

To the immediate south of the site is a nine storey residential flat building known as *Ki Ewa*, with a group of two storey townhouses and the *Stella Maris* nursing home further to the south, fronting Ingalara Avenue. Opposite the site on the western side of Arthur Avenue, three and four storey residential flat buildings prevail up until Arthur Walk, a pedestrian lane between Ewos Parade and The Esplanade. To the north of the site is a pair of three storey residential flat buildings known as *South Reef* and *North Reef*. Beyond these buildings across Arthur Walk is a heritage listed cottage and, further north, a nine storey residential flat building known as *Rugby*. The Esplanade is also identified as a heritage item under SSLEP 2006.

The nearest non-residential land uses are located approximately 120m to the west and include a small group of neighbourhood shops fronting Ewos Parade. The Shelley Beach reserve, which includes a public park and ocean pool, is located approximately 300m to the south of the site. Cronulla railway station is located approximately 650m to the northwest.

The proposal is for the demolition of the existing dwelling on the site and construction of a new three storey residential flat building over a single level of basement. The scheme presented to Council includes:

- three residential apartments (one on each floor of the building), each containing three bedrooms and a study/ retreat clustered at the western side of the building, and kitchen and living areas leading onto a terrace balcony to the eastern side;
- an entry loggia at the southwest corner of the site, and a pedestrian entry path along the southern boundary leading to a central lobby with a lift and common stair core at the middle section of the southern side of the building;
- a curved driveway ramp located slightly north of the existing driveway crossing, leading to the basement level which contains three garages, storage space, a garbage room and lift lobby; and
- landscaping of the site including masonry boundary walls and stone paths around the perimeter of the site, hedges and screen trees along the boundary lines, a cluster of larger trees to the street side, lawn-covered courtyards and decorative walls and water features.

The proposed building is set 7.5m from the eastern boundary to The Esplanade, approximately 15.5m from the western (street) boundary, a minimum of 2m from the southern boundary and a minimum of 2.4m from the northern boundary, apart from a point encroachment at the northern side where the plunge pools are located.

Comments on the Proposal:

1. Development Standards

Pursuant to SSLEP 2006, the following development standards apply to the site:

- Building Height – maximum 3 storeys (for residential flat buildings);
- Floor Space Ratio ('FSR') – maximum of 0.7:1;
- Landscaped area – minimum of 40% of the site area; and
- Lot size and dimensions – minimum 1800m² area and 30m width.

The pre-application package indicates that an FSR of 0.81:1 is proposed. This exceeds the maximum permissible FSR and represents a variation of approximately 16% to the SSLEP 2006 development standard.

However, it should be noted that the SSLEP defines 'gross floor area' (used to calculate FSR) as inclusive of parking spaces which are in excess of Council requirements. It is noted that basement car parking spaces in excess of Council's requirements for the site (1.5 per apartment with 3 or more bedrooms) have not been counted towards the FSR calculation. The proposal is therefore technically further over the permissible FSR than has been stated.

As a preliminary estimate, the parking spaces in excess of Council's requirement would result in approximately 66m² of additional gross floor area, or a proposed FSR of 0.89:1 (assuming that the floor space and site area calculations provided to Council are accurate).

The proposed variation to the FSR standard would need to be supported by way of an objection made under *State Environmental Planning Policy No. 1 – Development Standards* ('SEPP 1'). This requires that an applicant demonstrate why strict compliance with a development standard would be 'unreasonable' or 'unnecessary'.

Based on a preliminary assessment, there may be a reasonable argument made in support of an FSR variation as the bulk and scale of the building is generally in keeping with the surrounding area, the building is compliant in terms of height and the excess floor space is in large part located within a basement level.

However, support for a variation could only be justified if it is demonstrated that impacts on the environment and neighbouring properties are not exacerbated by the additional floorspace. In this respect, it is recommended that a comprehensive analysis of the bulk and scale-related impacts of the proposal is submitted, including shadow diagrams prepared in plan and elevation at regular short intervals, 3D modelling of the proposed and surrounding building envelopes from various perspectives, an assessment of appropriate building separation and privacy measures and a view analysis from surrounding properties. View loss considerations will be critical.

In addition, it should be noted that the SSLEP definition of 'landscaped area' is akin to a 'deep soil' requirement, and does not include any paved areas or planter boxes, or areas of planting which lie above basement levels. The pre-application package presented to Council indicates that the landscaped area proposed is compliant at exactly 40% of the site area. The application should confirm that landscaped area has been calculated strictly in accordance with the definition in the SSLEP. Should the landscaped area not comply, the variation would also need to be supported by a SEPP 1 objection. You are advised that Council would be unlikely to support two variations to core development standards (the other being FSR) for the substantial redevelopment of a relatively unconstrained site.

It is noted that the subject site does not achieve the required minimum lot size or dimension required under SSLEP 2006 for a residential flat building within Zone 6. Whilst the variation may be unavoidable due to the impracticality of amalgamation with

adjoining sites, it would also need to be supported by a SEPP 1 objection. The justification submitted should have regard to Clause 41(6)(b) of the SSLEP 2006 which allows Council to permit variations to the standard where amalgamation with adjoining sites is not reasonably feasible and the subject land can be put to 'orderly and economic use'.

Whilst Council raises no significant objection in principle to the proposed use of the land in terms of orderliness and economy, evidence should be supplied to demonstrate that site amalgamation is not feasible.

It should be noted that *State Environmental Planning Policy No. 71 – Coastal Protection* also applies to the site.

2. Residential Amenity and Building Design Issues

Given the location of the site and the large number of residential apartments in the immediate vicinity, it would be reasonable to anticipate that some neighbours will make submissions during the exhibition of an eventual DA. In Council's experience, it is likely that submissions will raise issues in relation to residential amenity – particularly in terms of view loss, visual and acoustic privacy and overshadowing. The proposed variation to the FSR control is more likely to be supported if the impacts of building bulk and scale, including view loss, overshadowing and visual impact on the public domain are minimised.

It is acknowledged, as mentioned by your planning consultant at the meeting, that *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings* ('SEPP 65') technically does not apply as the proposed building contains only three apartments. Despite this, it is recommended that the design quality principles of SEPP 65 and the 'rules of thumb' in the associated Residential Flat Design Code ('RFDC') be used as a guideline for the proposal, in light of the fact that the proposal is for a residential flat building (as defined in SSLEP 2006) and the surrounding development consists almost exclusively of residential flat buildings.

Particular attention should be given to appropriate building separation. Whilst it is not necessary to strictly apply the numerical 'rules of thumb' set out in the RFDC, the application should demonstrate that adequate separation is provided between the proposed building and the more sensitive sections of the neighbouring buildings.

The proposed building does not comply with the side setback control of 4m for residential flat buildings set out in the SSDCP 2006. It is noted that the neighbouring buildings have balconies, bedrooms and living rooms within 3m of the boundary, and that windows in the neighbouring development are directly opposed to some proposed windows. Privacy screens, louvres and other such treatment may be required to ensure adequate visual and acoustic privacy between the buildings.

A detailed overshadowing analysis should also be provided. It is noted that the proposal will cast new shadows on the lower levels of the building to the south. The overshadowing analysis should include shadow diagrams at regular intervals and in elevation where required, and identify the use of areas affected by new shadows. All plant rooms, lift overruns and the like must be clearly shown on the submitted plans.

As discussed above, it is recommended that a comprehensive analysis of the proposed development in terms of visual and view impacts is undertaken, in light of the aspect currently enjoyed by the surrounding development around the subject site. The assessment should include architectural modelling of the proposed building in context and should also have regard to Council's controls on view sharing and the 'Tenacity' case planning principles.

The visual impact assessment should also have regard to the appropriateness of the proposed setbacks and bulk of the building as viewed from the public way along The Esplanade.

As mentioned at the meeting, it is recommended that the proposed setback to The Esplanade is increased by moving the building westwards. It is acknowledged that the proposed setback to The Esplanade is 'numerically' compliant (with Clause 17(3)(b)(ii) of SSLEP 2006) and provides the best outlook for the proposed building, however, this benefit should be balanced with the need to maintain the amenity of neighbouring properties and reduce bulk impacts on The Esplanade.

In light of the low utility of the extensive west street setback area, and the potential to create a more consistent and less visually prominent building line along The Esplanade, it is recommended that the eastern extent of the proposed building be pulled back to the 'average' line between the buildings to either side (approximately 4m westward).

It is noted that the setback to The Esplanade has been based on the minimum requirement set out in the LEP in terms of foreshore building lines. However, no indication has been provided that the proposed setback has taken into account the heritage status of The Esplanade. An increased setback may also assist in achieving an appropriate curtilage to the heritage-listed walking path along the eastern foreshore of South Cronulla. It is recommended that the application be accompanied by a heritage impact assessment (although not necessarily a full-scale heritage impact statement) that considers appropriate setbacks to The Esplanade, which should then inform the final design.

It is also recommended that you arrange to present the application to Council's Architectural Review Advisory Panel (ARAP) to identify and address any design issues prior to the lodgement of a development application. The inclusion of detailed plans and information relating to finishes and materials is recommended for this meeting. For further information, please contact the Panel Coordinator, Colleen Baker on ph. 02 9710 0551 or via email cbaker@ssc.nsw.gov.au.

3. Stormwater & Drainage

The stormwater drainage system must incorporate "Water Sensitive Urban Design" principles and accord with AS3500. There may also be a need to incorporate an on-site detention facility, subject to the final engineering design for stormwater management and the capacity of rainwater tanks provided. In light of the requirements of Clause 16 of *State Environmental Planning Policy No. 71 – Coastal*

Protection, any redevelopment of the site must provide a stormwater treatment device to “clean” stormwater discharging from the site.

There are a number of options for the management of stormwater leaving the site. It is noted that the construction of a private drainage system and associated easement across Crown Land to the receiving waters of Blackwoods Beach is problematic, as it is unusual for the Crown to be supportive of private drainage structures. In order of priority, starting with the most desirable, options for stormwater management include:

1. Installation of a pipeline within the footpath verge of The Esplanade adjacent to the eastern edge of the existing footpath pavement. This pipeline would connect to Council's existing gross pollutant trap pit at the eastern end of Ingalara Avenue, provided an appropriate hydraulic grade line can be achieved; or
2. Investigate a pipeline and associated pit (not shown on Council's assets register) that is believed to capture and drain the open dish drain located along the western edge of the footpath pavement of The Esplanade, adjacent to No.18 to 20 Arthur Avenue. If existing and fit for purpose connection to this pipeline may be acceptable.

It is also requested that the scope of works for the proposed development include the removal of the redundant earthenware pipeline, believed to be currently draining the existing dwelling upon No.16 Arthur Avenue, and appropriate remediation works.

4. Site Access

Crime Prevention through Environmental Design (CPTED), or 'Safer by Design' principles should be incorporated into the design and a summary of how the principles have been addressed should be provided with the Statement of Environmental Effects that accompanies the development application. Particular attention should be given to the design of basement access and egress, the driveway entry and the pedestrian access points to both the street and The Esplanade in this regard.

It is strongly recommended that you review the new Commonwealth 'Premises Code' accessibility provisions which came into effect in May 2011 (and will be incorporated into the Building Code of Australia) as these may influence the design and internal layout of the building.

In terms of Engineering design, the basement car park and driveway must be designed in accordance with AS2890.1: 2004. In addition, in accordance with SSDCP 2006, the driveway must have a maximum grade of 5% for the first 3m from the front boundary and be 5.5m wide. Widening the driveway beyond 5.5m to accommodate with the curved shape is not required. A handrail must be provided in close proximity to the side of the driveway ramp where the longitudinal grade of the driveway exceeds 16% (to assist occupiers move their garbage bins to the street for pickup).

The following road frontage works would also be required:

1. Provision of a 1.2m-wide footpath to Council's specification, set 900mm off and parallel to the front boundary;

2. Construction of a 5.5m-wide vehicular crossing to Council's specification and removal of the redundant existing crossing;
3. Provision of two street trees and landscaped embellishment of the 900mm wide strip between the aforementioned footpath and the front boundary;
4. Provision of a linkage footpath pavement to Council's specification to the front pedestrian entranceway to the property, and
5. Installation of a metal grate or the like over the dish drain adjacent to the gate to The Esplanade.

5. Other Issues

It is noted that the proposed basement level is to be excavated along the southern boundary of the site, and that the existing basement level on that adjacent site lies within close proximity of the boundary. To ensure that the design is appropriate and safe, the application must be accompanied by a geotechnical report and certification by an appropriately qualified and experienced Engineer with regard to the stability of the basement level(s).

Conclusion:

The above information is based on a meeting with Council Officers David Jarvis, James Gogoll and Luke Murtas on 19 April 2011 and the details presented in that discussion.

In principle, the bulk and scale of the proposed building is considered reasonable, provided that it can be demonstrated that amenity impacts on neighbouring properties can be minimised or appropriately mitigated.

It is acknowledged that the internal layout of the proposed apartments provides superior amenity and that the external finishes of the building and the proposed scheme of landscaping will ensure that the development has a positive visual impact. However, it is recommended that the building be realigned slightly to reduce visual intrusion on the Esplanade and reduce the impact of the building on the aspect enjoyed by the neighbouring properties.

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 your responsibility to check whether there have been any amendments or repeals, or if any new instruments or policies have been adopted before you lodge the development application.

If you consider the information to be inaccurate, it is your responsibility to contact Council for clarification. Council reserves the right to ask for more information during the assessment of the proposal, if such information is necessary for the assessment.

Also, you must make any required Public Place Enquiry applications BEFORE you lodge your Development Application. Failure to obtain these approvals (where necessary) may delay the acceptance of your Development Application. Information about Public Place Enquiry applications can be obtained from Council's Roadways Management Branch on 02 9710 0357 during normal business hours.

Before preparing a development application please refer to Council's "DA Guide" and other information provided about lodgement requirements. Council's Development

Enquiry Officers are also available to help. Incomplete applications will not be accepted, resulting in delays.

I trust that this information helps you. If you need more information please do not hesitate to contact Luke Murtas during normal business hours on 02 9710 0485.

Yours faithfully

Peter Barber
Manager – Coastal Environmental Assessment Team
for J W Rayner
General Manager

Architectural Review Advisory Panel

Proposal:

Residential Flat Building Development - Demolition of Existing Dwelling, Construction of Three (3) Residential Flats in Three (3) Storeys, Basement Car Parking and Three (3) Lot Strata Subdivision

Property:

16 Arthur Avenue CRONULLA NSW 2230

Applicant:

Innovative Architects Pty Ltd

File Number:

DA11/0541

The following is the report of the Architectural Review Advisory Panel Meeting held on 7 July 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. 11/0541 – Residential Flat Building at 16 Arthur Avenue, Cronulla (JRPP Application)

Council's David Jarvis and Luke Murtas outlined the proposal, including providing details of Council's relevant codes and policies.

Cameron Jones, Brandon Wallis, Michael Cripps and Jeff Mead addressed the Panel regarding the aims of the proposal and the constraints of the site.

"The proposal consists of the demolition of an existing dwelling and the construction of a three (3) storey residential flat building with a basement car park. A single large luxurious unit has been provided at each level.

This is a narrow site between two (2) existing residential flat buildings with direct access to The Esplanade. A three (3) storey building is located to the north and a nine (9) storey to the south of the site.

An explanation was provided to the Panel in relation to why the application would be referred to the JRPP. Reference was also made to the more significant development standards which were not being satisfied. In part, these breaches of the development controls arise because the site is a small isolated lot. While acknowledging that the lot size generates difficulties for the applicant, it was noted by the Panel that several development standards are breached.

As the role of the Panel is to comment on architectural design issues, it was not appropriate to comment on the merits of the submissions for variation to the development standards.

The proposal is considered to be of an appropriate scale and appears to relate to its immediate context in a reasonable manner. However it is recommended that further consideration be given to the following issues:

Context

While the proposed building form appears to respond to its immediate context in a reasonable manner, more section drawings through the building are required to demonstrate more clearly how the proposed building relates to the adjoining sites and The Esplanade.

It is recommended that a more detailed treatment be given to the junction of private and open space at the entry. At present this is not clearly defined. In addition, the design of the edges to the public space at both the street and The Esplanade are not sufficiently shown in the documentation. These edges between the public and private space should be clear and carefully detailed.

Scale/Density

The proposal is of an appropriate scale and density.

Aesthetics/Built Form

For such a small building the aesthetic treatment is considered to be very busy - there are too many materials and window treatments used in an unconvincing manner. A consistent and rational approach to the aesthetic treatment of the building does not appear to have been used, for example:

- The curved forms of the clerestory roofs do not relate to the formal expression of the building.
- The hoods located over the windows on the southern elevation have no functional purpose, whilst the windows on the northern elevation that require sun-shading have no treatment.
- The use of a rough cast pebble treatment to the base of the building on the southern elevation, when a stone cladding has been used in all other similar locations.

Further rationalisation of the treatment of building elements is recommended.

As surrounding taller buildings will overlook the building, the roof will be a very visible face of the building. Large areas of plant should not be located on the roof. Material selection is important to ensure it provides a pleasant outlook.

A detailed section (scaled 1:20 or 1:50) is also required to more clearly show the design intent of the proposed building.

Resource, Energy & Water Efficiency

Consideration should be given to developing solar screening to north facing windows.

Landscape

The current location of the basement egress stairs intrudes into the landscape and creates an awkward relationship with the terrace of the ground floor unit. It is recommended that the stair be relocated. This garden space needs to be designed to

suit its function – is it part of the public domain to The Esplanade, is it the lower unit's front garden, or is it communal open space?

The small garden spaces that relate to the building are sensitively designed, however the same level of resolution has not been achieved for the front and rear garden; the Buxus hedge is of particular concern. The use of turf in this location is questioned, as are the scale and character of the "gabion" style planters.

The transplanting of the two palms as stated on the landscape drawings is commendable. However no new location for the palms is shown on in the documents. It is also strongly recommended that the existing street tree (Tuckeroo) should be retained and more street trees added.

Social Dimensions

Providing a housing option for wealthy people.

Amenity

A 10m wide landscaped area is provided between the proposed building and the adjacent walkway (The Esplanade). There is also a 3m change in level between the ground floor unit and the adjacent walkway. These two factors provide the opportunity to reduce privacy issues with the walkway whilst maintaining views out to the ocean. It is recommended that the detail section between The Esplanade and the proposed building be developed to maximise the privacy of future residents, whilst maintaining an appropriate presentation to the walkway.

The small courtyard provided on the northern face of the building will provide a sheltered external area that can be used in inclement weather. Incorporating this space is commendable, however it is suggested that a nominal increase in size and further consideration of its design, will provide a far more usable space.

The size and orientation of the master bedroom windows on the northern elevation may create potential privacy issues with the neighbouring building. Consideration should be given to providing screening to the northern face of these windows.

The proximity of bedrooms 3 and 4 to the main entrance of the building may also create potential privacy issues. Of particular concern is the height of the garden wall to the courtyard facing Arthur Avenue and the vertical slot window adjacent to the wardrobe. It is recommended that opaque glass be used in this window.

We understand that protection of the emergency egress to Arthur Avenue will rely on a fire-engineered solution.

Fire protection of the openings to the southern and northern facades is unclear. Further detail should be provided.

Recommendation/Conclusion:

The proposal is considered to be of an appropriate scale and appears to relate to its immediate context in a reasonable manner. However additional sections are required

through the building to more clearly demonstrate how the proposal relates to its immediate context and to clarify detail treatment of the proposed façade.

Further rationalisation/development of the aesthetic treatment of the building and landscape design are also recommended.”

Colleen Baker
ARAP Coordinator

18 July 2011

SEPP No. 1 OBJECTION – BUILDING HEIGHT (Cl. 33 SSLEP 2006)

DEMOLITION OF EXISTING DWELLING HOUSE AND CONSTRUCTION OF A
RESIDENTIAL FLAT BUILDING WITH BASEMENT CAR PARKING AND STRATA
TITLE SUBDIVISION

16 ARTHUR AVENUE | CRONULLA

CLIENT: MKX Pty Ltd
PO BOX 81 SUTHERLAND, NSW 1499

PROJECT REF: 0152/10

DATE: JUNE 7, 2011

PLANNING
INGENUITY

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

APPLICANT'S NAME: Innovative Architects

SITE ADDRESS: 16 Arthur Avenue, Cronulla

PROPOSAL: Residential flat building

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

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

Clause 33 of the LEP relates to building height limits throughout the Sutherland Shire. Subclause 33(14) specifically relates to development for the purposes of residential flat buildings and states inter alia:

- “ (14) **Residential flat buildings**
Despite anything to the contrary in this clause, a residential flat building 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—3 storeys.”

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 from the ground level of the lowest point on the site,
(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.”

The Height Map under SSLEP 2006 does not specify a maximum number of storeys in relation to the subject site and therefore a 3 storey height limit applies. The proposed building is generally three storeys in

height with the exception of approximately 7m in length at the eastern end of the building where the proposed basement level exceeds 1m above existing ground level (refer to Section A-A prepared by Innovative Architects). Accordingly, despite the proposal being for a 3 level building, it technically constitutes a 4 storey building at this point.

The development scheme presented to Council officers in a pre-application meeting was for a building that fully complied with the 3 storey height limit. That scheme provided for a building that was built to the 7.5m foreshore building line on the site. Despite that scheme complying with the LEP in terms of foreshore setback, Council officers encouraged that the building be setback further to the west, in excess of the FBL control. It was noted at the meeting that this would raise the level of the building above existing ground level however Council officers raised no objection to this implication and preferred an increased setback to the foreshore.

Accordingly, the proposed non-compliance is of a technical nature, affects a small part of the building and is a direct response to Council's comments related to building siting. In any case, it is considered that the proposal satisfies the objectives of the control.

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."

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

Objective (a)

In terms of objective (a), it is considered that the proposed building will read as a 3 storey building from adjoining properties and the public domain. The slight protrusion of the basement above ground level of just over 300mm will not alter the proposal's contribution to the area

character or result in a building that is out of scale with surrounding development. Particularly in the context of the adjoining building to the south which is 9 storeys in height, the slight breach of height will not be perceptible to the casual observer. The proposed landscape concept for the site which includes landscaping of the building base and treatment of the protruding basement with stone facing will further reduce the visual impacts of this basement protrusion. In terms of natural setting, the subject site does not contain any natural features of note and therefore subject to the proposed landscape scheme the proposal will be complimentary to the natural setting of the locality.

Objective (b)

Shadow impacts of the proposed development are discussed in Section 4.3.6 of the Statement of Environmental Effects prepared by Planning Ingenuity Pty Ltd.

In essence, SSDCP 2006 requires that development *"must not eliminate more than one third of the existing sunlight, to useable private open space and windows of living areas, of an adjoining property measured at 9am and 3pm on 21 June"*.

Whilst the proposal results in an increase in shadow beyond this control as a result of a single dwelling being replaced with a 3 storey residential flat building, the degree of overshadowing on that building does not preclude it from fully meeting the solar access 'rules of thumb' of the NSW Residential Flat Design Code, which states that:

"Living rooms and private open space for at least 70 percent of apartments in a development should receive a minimum of three hours of direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable".

This document does not technically apply to the subject proposal however is considered to be a reasonable guide to assessment of shadow impacts in higher density settings. Further, the proposed non-compliance is a result of Council's desire for the proposed building to be setback in excess of the FBL requirements that apply to the site and in any case, were the building to be lowered by just over 300mm to strictly comply with the height control, the shadow reduction would be negligible.

Given the east to west orientation of the site, the slight lowering of the eastern part of the basement to strictly comply would have no benefit for shadow impacts on the public domain, being to the street or The Esplanade.

Objective (c)

The impact of the proposed development on neighbouring properties in terms of views, privacy and overshadowing are discussed in detail in

Section 4.3.6 of the Statement of Environmental Effects submitted with this application.

As indicated, the technical non-compliance with the height control is a result of Council's desire that the proposed building be set back in excess of the minimum FBL requirement that applies to the site. The intent of this was to better protect views from units within the eastern part of the residential flat buildings to the north and south. As discussed in the Statement of Environmental Effects, the height of the proposed building does not significantly contribute to view impacts, rather retention of side corridors for views is of importance. Accordingly, the lowering of the building to strictly comply, which would require moving the building to the east would be counter-productive in terms of pursuing better view sharing.

Given that the proposed non-compliance is merely a result of a protruding basement, it will not have any significant additional impacts on privacy relationships with adjoining properties. In fact, strict compliance could be achieved with the height limit without changing the habitable floor levels (through stepping of the floor plates), however this would not result in any tangible benefit for neighbouring properties and would reduce amenity of the proposed units. Impacts of the proposed non-compliance on solar access are discussed above in relation to objective (b).

Objective (d)

As indicated above, the protrusion of the proposed basement level just over 300mm beyond the allowable 1m will have a negligible impact on the appearance of the building. The base of the building will be treated with stone facing and will be softened with landscape planting. It is considered that the additional setback to the FBL, which is the cause of the non-compliance, will in fact better assist with reducing the impacts of scale on the public domain and waterway than would lowering the degree of protrusion to achieve strict compliance. The proposed building will read as a 3 storey building from the street, waterway and The Esplanade. As detailed throughout the Statement of Environmental Effects, the proposed building is well articulated, uses a diverse mix of colours and materials, and is compatible with the scale of surrounding buildings (in fact, much less in scale than the building to the south).

Objective (e)

Objective (d) 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 6 – Multiple Dwelling B*, the specific objectives of which are identified in the LEP as follows:

Zone 6—Multiple Dwelling B

1 Objectives of zone

The objectives of this zone are as follows:

- (a) to allow residential flat buildings in a form that complements the predominantly urban landscape setting of the zone,
- (b) to allow development that is of a scale and nature that reflects its position as part of an urban centre,
- (c) to permit development on land at a density that is appropriate in terms of the land's proximity to the retail/commercial centre, public transport, services and employment opportunities,
- (d) to provide a range of housing choices in accessible locations."

The proposal is considered to be entirely consistent with the objectives of the Zone. The proposal will provide a quality residential flat development generally consistent with the provisions of the Sutherland Shire LEP 2006 and consistent with the intent of the Zone in terms of scale, density and built form. As discussed in detail above, the subject site is located in a context whereby several buildings exceed the height requirement and set the context for scale. In any case, the proposed non-compliance is much less than several of these buildings as it relates to a protrusion of just over 300mm above the allowable basement protrusion.

The site is located in an ideal locality for development of the density proposed given its proximity to Cronulla railway station and shopping centre. In planning terms, it is considered appropriate to provide for additional density in a high amenity locality and on a site that presents no significant constraints to development and is surrounded by similar development.

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 height requirement is considered to be unnecessary and unreasonable. In fact, to achieve strict compliance would require siting of the proposed building to the minimum FBL setback that was originally discouraged by Council

officers or introduction of additional steps within the building form which would reduce internal amenity. Therefore, such an approach to achieve technical compliance would be counter-productive. Given the scale of surrounding development and the architectural treatment of the proposed building, it is considered that the proposed non-compliance achieves the objectives of the control, the zone and LEP.

- (ii) Yes. The non-compliance with the height standard is not considered likely to have any significant adverse effect on adjoining or surrounding properties. The subject site is considered to be an ideal location for the proposed development, given the nature of surrounding development and the central location in close proximity to Cronulla railway station and town centre. The proposed non-compliance is a direct result of responding to surrounding properties and their view corridors and therefore is considered to provide a good balance for development of the site. Therefore, it is considered that insistence upon strict compliance would unnecessarily complicate orderly and economic development of an ideal site for the development type proposed, in accordance with the intentions of the zoning and the objectives of the Act.

SEPP No. 1 OBJECTION – FLOOR SPACE RATIO (Cl. 35 SSLEP 2006)

DEMOLITION OF EXISTING DWELLING HOUSE AND CONSTRUCTION OF A
RESIDENTIAL FLAT BUILDING WITH BASEMENT CAR PARKING AND STRATA
TITLE SUBDIVISION

16 ARTHUR AVENUE | CRONULLA

CLIENT: MKX Pty Ltd
PO BOX 81 SUTHERLAND, NSW 1499

PROJECT REF: 0152/10

DATE: JUNE 7, 2011

PLANNING
I N G E N U I T Y

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

APPLICANT'S NAME: Innovative Architects

SITE ADDRESS: 16 Arthur Avenue Cronulla

PROPOSAL: Residential flat building

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 35

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

Clause 35 of the LEP relates to building density. Subclause 35(9) specifically relates to development for the purposes of residential flat buildings and states inter alia:

(9) The maximum floor space ratio applying to development for the purpose of a building on a site in Zone 6 - Multiple Dwelling B is as follows:

(a) in the case of a dwelling house - 0.45:1,

(b) in the case of a residential flat building:

(i) if the area of the site is 1,200 square metres or less - 0.7:1, or

(ii) if the area of the site is more than 1,200 square metres and less than 1,800 square metres - the ratio calculated as follows:
((area of site in square metres x 0.0005) + 0.1:1)

(c) in the case of a townhouse or a villa house—0.7:1,

(d) in any other case:

(i) if a floor space ratio is specified on the Height and Density Controls Map in relation to the site concerned - the floor space ratio specified on that map, or

(ii) if a floor space ratio is not specified on that map in relation to the site concerned - 1:1.

Pursuant to Clause 35 of the LEP the subject site has a maximum FSR of 0.7:1. The proposal results in a gross floor area of 879.8m², which based on the site area of 879.8m², provides an FSR of 0.92:1. Accordingly, the proposal does not comply with clause 35 of SSLEP 2006.

We note that 97.5m² of the gross floor area is contained within the basement which is included as gross floor area as the basement exceeds 1m in height in isolated areas. The inclusion of the basement as gross floor area where it protrudes greater than 1m in height above natural ground level coincides with the two excess parking spaces on the eastern most part of the basement which would otherwise have been included as additional gross floor area.

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 floor space ratio standard are contained in clause 35(2) of the LEP that states:

- (a) to ensure that development is in keeping with the characteristics of the site and the local area,
- (b) to provide a degree of consistency in the bulk and scale of new buildings that relates to the context and environmental qualities of the locality,
- (c) to minimise the impact of buildings on the amenity of adjoining residential properties,
- (d) to ensure, where possible, that non-residential buildings in residential zones are compatible with the scale and character of residential buildings on land in those zones."

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

Objective (a)

As discussed in detail below in relation to objective (b), the development context of the subject site is generally set by residential flat buildings of differing ages and architectural styles and differing scale. Notwithstanding, several buildings within the locality exceed the three storey height limit and exceed the current FSR requirement particularly if ground level parking was to be construed as a contributor to building bulk. Adjoining the building to the south is a 9 storey development which significantly exceeds the FSR control. As such, the proposal is considered to be consistent with the overriding scale and pattern of development in the locality.

In terms of responding to the site characteristics, it is noted that there are no significant constraints to development in the sense of topographical, environmental or hazard risks. Similarly, the pattern of development in the locality presents no unusual relationships with adjoining properties that would require a special built form response in terms of privacy, views or overshadowing. Therefore, as detailed in Section 4.3.6 of the Statement it is considered that the proposal adequately responds to the site characteristics.

In relation to built form, the architectural character of the area is diverse, reflecting differing periods of development and redevelopment. There is no overriding common architectural theme. The proposal is contemporary in form however responds to the mix of building forms in the locality by incorporating a mix of materials including rendered brick, glass balustrades, zinc blades, stone and face brick detailing. Proposed landscaping will further integrate the development with the streetscape and will assist in softening the overall built form. Accordingly, the proposal is consistent with objective (a).

Objective (b)

The context of the site is well described by the site analysis plan submitted separately with this application and in Section 2 of the Statement. It is an area comprising multi-unit housing with considerable diversity in the age as well as the height, density and architectural style of development reflecting different periods of redevelopment in Cronulla. There are only two examples of single dwelling houses (including the subject site) remaining in this locality with almost all properties having been redeveloped at some time for multi-unit housing, consistent with the zoning of the land over a long period of time. The scale of development varies significantly with both large multi storey residential flat development as well as development reasonably anticipated by the current planning controls.

The properties either side of the subject site are a prime example locally of the variety in scale of development.

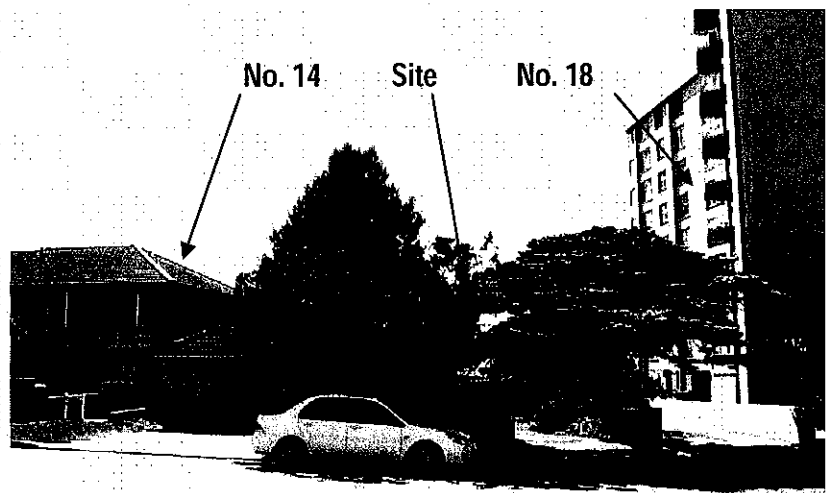


Figure 1 Adjoining properties looking from Arthur Avenue



Figure 2 Adjoining properties looking from The Esplanade

The proposal seeks to provide a modern development which respects the transition in density between Nos. 14 and 18 whilst having a three storey appearance. The proposal represents an appropriate scale of development consistent with the context and environmental qualities of the locality.

In terms of the proposed building design, it is considered that the form is well articulated and modulated and incorporates a diverse mix of building materials and detailing. In addition the proposed landscaped area complies with the relevant control. In particular, the proposal provides for large consolidated areas of deep soil that will be planted to a scale consistent with the building form and to enhance the tree canopy in the locality. As such, the proposal is more effective in reducing visual bulk compared with many existing developments in the locality.

Therefore, given the scale of surrounding development, the massing and design of the proposal and the integration of large areas of deep soil planting to soften the building form, it is considered that the proposal is consistent with objective (b).

Objective (c)

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. With regard to views, the site is currently underdeveloped and any form of development has the potential to result in some view loss from residential properties. The proposal, has a three storey appearance and has a comparatively modest building footprint (see site plan) which is configured on the site to minimise view loss by maintaining view corridors i.e. exceeding front and foreshore setbacks and maintaining reasonable building separation to adjoining properties. Therefore, the proposed additional gross floor area has no significant bearing on view loss.

In terms of privacy, the building separation to adjoining properties is sufficient despite non-compliance with the DCP setback provisions. The scheme incorporates large areas of substantial landscaping to provide

screening and the proposed building is appropriately treated on the northern and southern facades with privacy panels where adjacent private open space or primary window openings exist. In this context, it is considered that the additional gross floor area will not result in any significant additional privacy impacts.

In terms of solar access impacts on adjoining dwellings, the proposal results in an increase in shadow impacts to the adjoining southern property beyond Council's control a result of a single dwelling being replaced with a 3 storey residential flat building. It is however noted that the degree of overshadowing fully meets the solar access 'rules of thumb' of the NSW Residential Flat Design Code, which states that:

"Living rooms and private open space for at least 70 percent of apartments in a development should receive a minimum of three hours of direct sunlight between 9 am and 3 pm in mid winter. In dense urban areas a minimum of two hours may be acceptable".

This document does not technically apply to the subject proposal however is considered to be a reasonable guide to assessment of shadow impacts in higher density settings.

Furthermore, the DCP states in relation to apartment buildings, that at least 70% of apartments in a development should receive in excess of 3 hours of sunlight between 9am and 3pm or a minimum of 2 hours in dense urban areas. Each unit has at least 2 outdoor private open spaces. Between these spaces the proposal easily complies with the private open space sunlight control.

It is also noted that each unit has living rooms facing north and east where they will receive ample sunlight between the hours of 9.00am to 2.00pm during mid winter.

Accordingly, despite numerical non-compliance with the floor space ratio provision, the proposal is consistent with Objective (c) of the FSR development standard.

Objective (d)

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

Accordingly, notwithstanding non-compliance with the FSR 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 6 – Multiple Dwelling B*, the specific objectives of which are identified in the LEP as follows:

Zone 6—Multiple Dwelling B

1 Objectives of zone

The objectives of this zone are as follows:

- (a) to allow residential flat buildings in a form that complements the predominantly urban landscape setting of the zone,
- (b) to allow development that is of a scale and nature that reflects its position as part of an urban centre,
- (c) to permit development on land at a density that is appropriate in terms of the land's proximity to the retail/commercial centre, public transport, services and employment opportunities,
- (d) to provide a range of housing choices in accessible locations."

The proposal is considered to be entirely consistent with the objectives of the Zone. The proposal will provide a quality residential flat development generally consistent with the provisions of the Sutherland Shire LEP 2006 and consistent with the intent of the Zone in terms of scale, density and built form. As discussed in detail above, the subject site is located in a context whereby several buildings exceed the FSR requirement and set the context for scale.

The site is located in an ideal locality for development of the density proposed given its proximity to Cronulla railway station and shopping centre. In planning terms, it is considered appropriate to provide for additional density in a high amenity locality and on a site that presents no significant constraints to development and is surrounded by similar development.

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 limit any redevelopment of the site to an FSR of 0.7:1 is considered to be unnecessary and unreasonable given that the proposal seeks to provide an appropriate transition in density between the adjoining developments at Nos. 14 and 18 Arthur Avenue and is a consistent scale and form of development in the locality. The provision of off-street parking in the basement element of the building will reduce potential impacts on the streetscape by

diverting cars from parking on the street. In addition, the flat terrain together with the orientation of apartments in adjacent developments means that additional floor space can easily be accommodated on this site without adverse impact on amenity in terms of views, privacy or solar access of adjacent properties.

- (ii) Yes. The non-compliance with the FSR standard is not considered likely to have any significant adverse effect on adjoining or surrounding properties. The subject site is considered to be an ideal location for increased density, beyond Council's LEP controls, given the nature of surrounding development and the central location in close proximity to Cronulla railway station and town centre. To meet Council's density targets in a locality such as this is considered preferable to areas at the interface of zone boundaries or where surrounding development is of a scale that is fully compliant with Council's scale and density requirements. Therefore, it is considered that insistence upon strict compliance would unnecessarily complicate orderly and economic development of an ideal site for the development type proposed, in accordance with the intentions of the zoning and the objectives of the Act.