

2012SYE028 – 41-49 Willarong Road & 29 Koonya
Circuit, Caringbah

DA12/0166

ASSESSMENT REPORT APPENDICES

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DRAFT CONDITIONS OF CONSENT
Development Application No. 12/0166

GENERAL CONDITIONS

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

1. Approved Plans and Documents

The development shall be implemented substantially in accordance with the details and specifications set out on drawings No. A6000 (2), A6001 (2), A6002 (2), A7000 (3), A7000a (2), A7000C (3), A7001 (3), A7001B (3), A7002 (2), A7004 (1), A7005 (1), A7100 (3), A7101 (2), A7102 (2), A7103 (2), A7104 (2), A7105 (2), A7106 (2), A7200 (2), A7201 (2), A7202 (2), A8000 (2), A8001 (2), A8002 (2), A8003 (2), A8004 (2), A8005 (2) & A8006 (2) prepared by arc, the stormwater drainage design drawings No.0621 sheets SC01/C, SC02/C, SC03/D, SC04/C and SC05/C prepared by Neil Lowry and any details on the application form and on any supporting information received with the application except as amended by the conditions specified and imposed hereunder.

Note 1:

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

Note 2:

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

Note 3:

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

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

Note 4:

The following works or activities shall not be carried out 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.

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

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

3. Requirements of External Referral Authority

The development shall be conducted in accordance with the requirements of the Roads and Maritime Services (RMS)

A copy of the requirements of the RMS is attached to this development consent. Suitable amendments shall be made to the proposed development in accordance these requirements, if so required, and these details shall be submitted included within the Construction Certificate.

4. Safer By Design

To ensure appropriate levels of safety within the completed development the following matters shall be incorporated into the design:

- a) All levels of the carpark, pedestrian routes, communal areas and entry and exit points must be adequately lit to meet Australian Standard 1158.3.1. Lighting must be designed to reduce glare and pools of light and dark. Lighting must be compatible with the CCTV system and must be on at all times the facility is in use.
- b) All entry points to the facility (including car park) must be fitted with appropriate access control devices to restrict access outside operating hours.
- c) All security devices, including Closed Circuit Television System (CCTV), must be installed by a licensed security professional and must meet Australian Standard 4806. All lighting installed must be compatible with requirements of the CCTV system and must be of a quality that allows for the identification of individuals or groups of individuals engaging in anti-social behaviour or criminal activity.
- d) External lighting, handrails and other fixtures or fittings must be made from robust and vandal resistant materials.
- e) No entrapment or concealment areas are to be created.
- f) Graffiti is to be removed within seven (7) days.

A certificate issued by an appropriate accredited person to the effect that these design requirements have been met shall accompany the Occupation Certificate.

5. Pedestrian access from Taren Point Road

A direct pedestrian access is to be provided to the arcade within the Homemaker Centre from Taren Point Road upon the expiry of the commercial lease arrangements with the tenancies affected, which expire in February 2017.

6. Initial use of tenancies

This development consent does not provide approval for the use of any existing, approved or future tenancies. Separate development applications are to be lodged for the first/initial use of each of the new or extended tenancies.

7. Dilapidation Report

It is the applicant's responsibility to notify Council and the Principle Certifying Authority of any existing damage to public areas in the vicinity of the development site (all frontages) and buildings upon No.25, 27 and 31 Koonya Circle and No.39 Willarong Road. This shall be by way of 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 aforementioned adjacent properties, prior to the commencement of work (including demolition).

8. General Condition 5

The external finishes of the building are to be undertaken in accordance with the schedule of finishes listed in the schedule of finishes and fixtures prepared by arc Architects Pty Ltd revision A dated 14.6.12.

Bonds and Contributions

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

9. Environmental, Damage and Performance Security Bond

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

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

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

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

The value of the bond shall be \$5,120.00

- The bond amount includes a non refundable administration fee of \$120. Where the bond takes the form of a Bank Guarantee, the \$120 administration fee must be paid separately and not included in the bank guarantee.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount / bond purpose is permitted on a Bank Guarantee. Multiple bonds would require multiply bank guarantees to be lodged.

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

10. 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.

11. S94A - Contribution for Employment Zoned land S94A Levy Plan

Pursuant to s.80A(1) of the Environmental Planning and Assessment Act 1979, and Council's Section 94A Contribution Plan for Employment Zoned Land, a contribution of \$202,380.00 shall be paid to Sutherland Shire Council towards the cost of works contained in the contribution plan. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan. The amount payable of monetary s.94 contributions will be indexed on 1 July each year in accordance with the Contribution Plan and the following formula:

$$\text{Current outstanding Contribution} \times \text{current IPD} \div \text{previous year's IPD}$$

Payment shall be made prior to the issue of the Construction Certificate (in the case of development applications involving any building work).

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.

MATTERS RELATING TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

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

12. Detailed Landscape Plan

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

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

The Detailed Landscape Plan shall be based on the Concept Landscape Plan drawing Nos. LS_0000, LS_1001, LS_1002, LS_1003, LS_5002, LS_8001 Issue H & LS_5001 issue I prepared by Context dated 17/7/2012 and the landscape design report prepared by Context Landscape Designs ref No 11.552 Issue G dated July 2012.

The following changes shall be incorporated into the final design:

- a) The six (6) small feature trees proposed in the Taren Point Road frontage (see Context Dwg No. LS_1001) shall be *Glochidion ferdinandii* (Cheese tree).

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

13. Access Report

The recommendations contained within the access report prepared by Morris Goding Accessibility Consulting dated 23rd January 2012 shall be incorporated within the scope of works covered by the Construction Certificate.

14. Sustainable Management Plan

The environmental commitments made in the Sustainability Management Plan prepared by Cundall dated 19 June 2012 are to be incorporated within the scope of works covered by the Construction Certificate

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 comply with the approved architectural design drawings and provide the following;

A) Willarong Road

- a) Construct two 4m wide vehicular crossings and associated laybacks,
- b) Transition works for the footpath pavement and verge to eliminate any 'trip' hazards and create gentle change of grades,
- c) Turf all denuded areas of the footpath verge,
- d) Reinstatement the Road carriageway shoulder where damaged by gutter reconstruction,
- e) Adjust public services infrastructure where required,
- f) Relocate street parking signs where required,
- g) Remove street tree No.8 & No.10, and
- h) Install three (3) Eucalyptus Botryoides (Bangalay) Street Trees.

B) Koonya Circuit

- a) Establish the property alignment levels,
- b) Reconstruct the vehicular crossing that serves the loading dock driveway,
- c) Transition works for the footpath pavement and verge to eliminate any 'trip' hazards and create gentle change of grades,
- d) Turf all denuded areas of the footpath verge,
- e) Adjust public services infrastructure where required,
- a) Relocate street parking signs where required,
- b) Remove street tree No.5, and
- c) Install three (3) Tristaniopsis Laurina (Water Gum) Street Trees.

C) Taren Point Road

- a) Construct a link footpath pavement between the existing concrete footpath pavement and the proposed 'disable access ramp',
- b) Transition works for the footpath verge to eliminate any 'trip' hazards and create gentle change of grades,
- c) Turf all denuded areas of the footpath verge, and
- d) Adjust public services infrastructure where required.

Application for the road frontage works design shall be lodged with Sutherland Shire Council prior to release of the of the Construction Certificate and levels at the boundaries obtained from Sutherland Shire Council prior to commencement of works. 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: Any approved tree removals within the Road Reserve shall be organised in consultation with Council's Parks Tree Maintenance Officers (contact Customer Service Call Centre 9710 0333 to create CRMS request). Street trees are numbered on approved drawing 'Tree Retention & Protection'.

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.

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

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. 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.

19. 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 stormwater drainage design drawing and Australian Standard AS/NZS3500.3.2:1998, except where modified by the following;

- a) Create a 'crest' in the driveways and pedestrian access-way with associated side retaining walls to prevent flooding stormwater from inundating the site from Koonya Circuit. The finished upper surface level of the aforementioned crest shall accord with the recommendations made by FloodMit Flood Assessment Report July 2012,
- b) The reflux valve / check value must be installed within the development site and in close proximity to the Koonya Circuit front boundary to prevent surcharging flood waters from back flow,
- c) The basement pump-out system has been upgraded to be in compliance with Sections 5 and 9 and Appendix L of AS/NZS3500.3:2003, and
- d) The rainwater harvesting and reuse system shall be installed / constructed to comply with the following;
 - i) Harvest rainwater shall be used for landscape irrigation purposes and toilet flushing,
 - ii) The landscaped areas shall be provided with an automatic dripper irrigation system (not a spray system),
 - iii) The irrigation system must be detailed,
 - iv) The rainwater tanks shall have a minimum capacity of 75 cubic metres,
 - v) As rainwater is harvested from the surface of a car park, a stormwater treatment facility must be installed. This facility must be designed in compliance with the Department of Environment and Conservation document 'Managing Urban Stormwater - Harvesting and Reuse'. As the run-off will be used to irrigate publicly accessible areas with unrestricted access, Table 6.4 Level 2 stormwater quality criteria for public health risk management (page 49) must be used to establish a safe level of treatment for the stormwater run-off.
 - vi) The first rainwater receiving rainwater tank must be fitted with an appropriately sized first flush device that causes initial run-off stormwater to bypass the tanks,
 - vii) The rainwater tanks must have signs affixed to them stating that they contain stormwater and all stormwater related pipe lines must be labeled and differentiated by colour, and
 - viii) Ensure suitable proofing for the prevention of mosquito breeding.

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 design has been prepared having regard to the conditions of development consent, shall accompany the application for the Construction Certificate.

Certification from an appropriately qualified and experienced Environmental Scientist / Engineer, to the effect that the stormwater treatment facility design has been prepared having regard to the conditions of development consent, shall accompany the application for the Construction Certificate.

Note: Through construction of the crest additional stormwater will flow to the basement car park and the operation of an emergency overland flow to Koonya Circuit is not possible. It is recommended that consideration is given to the upsizing and upgrading of the basement pump-out system to deal with the aforementioned altered emergency flow situation and or the failure of or part blockage of the existing stormwater drainage system.

20. 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 for a B99,
- c) The maximum longitudinal grade of the proposed driveway ramp shall be 16.7%,
- d) All proposed aisle and parking bays shall be design to meet the numeric standards for 'user class' 3A, where A = 2.6m and 'aisle width' = 6.6m, and
- e) All 'disable' parking bays must be design in accordance with AS2890.6:2009.

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 B99 vehicle (Ford Falcon Sedan). The recommended condition will not necessarily protect exotic or altered cars from "scraping" the vehicular access-way.

21. Truck Access-way

The truck access-way to the loading dock off Koonya Circuit 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 access-way shall comply with AS2890.2:2002 for a HRV and the clear vertical clearance over this access-way of 4.5m,
- c) Signage must be installed at the entrance of the access-way to the loading dock that the height clearance is 4.5m and that the dock is unsuitable for AVs, and
- d) Create a 'crest' in the access-way to prevent flooding stormwater from inundating the site from Koonya Circuit. The finished upper surface level of the aforementioned 'crest' shall accord with the recommendations made by FloodMit Flood Assessment Report July 2012.

Certification from an Accredited Certifier or a Chartered Civil Engineer or a Registered Surveyor, to the effect that the truck access-way design has been prepared having regard to the conditions of development consent, shall accompany the application for the Construction Certificate.

22. Pedestrian Access-way

The pedestrian access-way off Koonya Circuit 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) A maximum longitudinal grade of 5%,
- c) Create a 'crest' in the access-way to prevent flooding stormwater from inundating the site from Koonya Circuit. The finished upper surface level of the aforementioned 'crest' shall accord with the recommendations made by FloodMit Flood Assessment Report July 2012.

Certification from an Accredited Certifier or a Chartered Civil Engineer or a Registered Surveyor, to the effect that the pedestrian access-way design has been prepared having regard to the conditions of development consent, shall accompany the application for the Construction Certificate.

23. Noise Control - Design of Plant and Equipment (Continual Operation)

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

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

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

Details of the acoustic attenuation treatment required to comply with this condition, shall be prepared by a practising acoustic engineer and shall be submitted with the Construction Certificate.

24. 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.

25. 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.

26. Sign to be Erected on Site

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.

27. Appointment of a Supervising Arborist

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

The Supervising Arborist shall:

- a) Be present during any works within the dripline of any tree marked for retention and have the authority to direct works to ensure the trees long term preservation.

- b) Ensure any excavation within the dripline of the tree/s is hand dug and to oversee works and strictly supervise that there is no disturbance or severing of roots greater than 50mm and to cleanly cut and treat those roots between 10-50mm in diameter.

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.

28. 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.

29. 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 3.00pm Saturdays. No work shall be carried out on Sundays and Public Holidays.

30. 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) To ensure that the removal and transportation of any asbestos material from the premises is carried out in an environmentally acceptable and safe manner, all work shall comply with the following:
 - i) Occupational Health and Safety Act 2000;
 - ii) Occupational Health and Safety Regulation 2001;
 - iii) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
 - iv) Protection of the Environment Operations Act 1997.

31. Support for Neighbouring Buildings

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

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

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

32. 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.

33. 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.

Landscaping Requirements

These conditions are imposed to ensure the retention and enhancement of the existing landscaping.

34. Removal of Trees

The issue of the Construction Certificate gives approval for the removal of the following trees:

- a) Any trees specifically identified in the consent “existing tree to be removed”, i.e. Tree No. 11.
- b) Any trees growing within the building footprint of the approved structures.
- c) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
- d) Any tree species listed in Clause 57 of the SSLEP 2006 Council's Controls for Preservation of Trees and Bushland Vegetation.
- e) Any approved tree removals within the road reserve (i.e. Tree Nos. 5, 8 and 10) shall be organised in consultation with Council's Parks Tree Maintenance Officers (contact Customer Service Call Centre 9710 0333 to create CRMS request).

The trees referred to in this condition (trees 5,8, 10 & 11) are shown on the tree retention and protection sketch plan dated 2012.07.16.

All other vegetation not specifically identified above, and protected by Council's Controls for Preservation of Trees and Bushland Vegetation shall be retained and protected from construction damage. These Controls for Preservation of Trees and Bushland Vegetation protects any vegetation unless written consent is obtained.

35. Tree Retention and Protection

The following trees as shown on the tree retention and protection sketch dated 2012 07 16, shall be retained and protected:

Tree No.	Tree Species	Location on site
1	<i>Melaleuca quinquenervia</i>	Taren Point Rd frontage
2	<i>Melaleuca quinquenervia</i>	Taren Point Rd frontage
3	<i>Melaleuca quinquenervia</i>	Taren Point Rd frontage
4	<i>Melaleuca quinquenervia</i>	Taren Point Rd frontage
6	Eucalypt spp.	NE corner Willarong Rd
6A-E	Waterhousia spp	Clump, NE corner Willarong Road
7	Eucalypt spp.	Street tree, Willarong Rd
9	Eucalypt spp.	Street tree, Willarong Rd

- A. These trees identified for retention shall be protected by the following measures:
- a) To the Taren Point Road frontage, protective fencing constructed of 1.8m high chain wire mesh supported by robust posts shall be installed around the trees referenced above to the footpath on the western edge and the dripline on other sides as shown on the attached plan (coloured pink).

- b) To the Willarong Road frontage, protective fencing constructed of 1.8m high chain wire mesh supported by robust posts shall be installed around the street trees from the kerb to the footpath in one direction and to the dripline in the other as shown on the attached plan (coloured pink).
- B. This fencing shall be installed prior to the commencement of any works subject to this consent and remain in place until all works are completed. Signage shall be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- C. The tree protection zone within the protective fencing shall be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- D. No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- E. Any approved works within this tree protection zone shall be under the direction of, and to the satisfaction of, a suitably qualified and experienced Arborist.

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.

36. 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.

37. 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) An appropriately qualified and experienced Environmental Engineer shall certify that the stormwater treatment facility was constructed / installed to their satisfaction and in accordance with the Development Consent and section 7.5 and table 7.2 of the Department of Environment and Conservation document 'Managing Urban Stormwater - Harvesting and Reuse'. 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 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.
- d) The Supervising Engineer shall certify that the basement pump-out system was constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.

38. Noise Emission - Equipment

Certification from a suitably qualified Acoustic Engineer certifying that the noise from all sound producing plant, equipment, machinery, mechanical ventilation and / or the refrigeration system complies with the terms of the development consent. This shall be submitted to the PCA as part of the application for the Occupation Certificate.

39. Mechanical or Natural Ventilation

Certification from a suitably qualified Mechanical Engineer certifying that all work associated with the installation of the mechanical or natural ventilation systems has been carried out in accordance with the conditions of the development consent. This shall be submitted to the PCA as part of the application for the Occupation Certificate.

40. Completion of Landscaping

Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect within three months after the issue of the Final Occupation Certificate for the development. This Certification shall verify that the landscape works have been completed to the stage of practical completion in accordance with the approved detailed landscape plan and relevant conditions of this consent.

Note: A Landscape Designer is a person eligible for membership of the Australian Institute of Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

41. 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.

42. Stormwater Drainage Systems - Easements

- a) A stormwater drainage easement shall be created over the proposed interlot stormwater drainage pipelines and associated structures that traverse No.29 Koonya Circuit.
- b) A stormwater drainage easement shall be created over the proposed stormwater drainage pipelines and associated structures that drain the car park, where they traverse No.41 to 49 Willarong Road.
- c) A stormwater drainage easement shall be created over the proposed stormwater drainage pipelines and associated structures that drain the car park, where they traverse No.29 Koonya Circuit.

43. Vehicular Access-ways, Pedestrian Access-ways, Services & Loading Docks

- a) An easement shall be created upon No.29 Koonya Circuit, over the vehicle access-way to the loading dock off Koonya Circuit for the benefit of No.41 to 49 Willarong Road.
- b) An easement shall be created upon No.29 Koonya Circuit, over the vehicle access-way to the car park off Koonya Circuit for the benefit of No.41 to 49 Willarong Road.
- c) An easement shall be created upon No.41 to 49 Willarong Road, over the vehicle access-way to the car park upon No.29 Koonya Circuit for the benefit of No.29 Koonya Circuit.
- d) An easement shall be created over the loading dock and associated manouvering area upon No.41 to 49 Willarong Road, access off Koonya Circuit, to allow the Café operator, located upon No.29 Koonya Circuit, to use this facility.
- e) Pedestrian access-way easements shall be created where required to allow access to 'new showroom 1555sq.m'.
- f) Easements shall be created where required to allow services to 'new showroom 1555sq.m'.

44. Positive Covenant - Stormwater Treatment

A positive covenant shall be created on the title of the property pursuant to Section 88E of the Conveyancing Act, 1919 as amended or the Real property Act with respect to the maintenance of the stormwater treatment facility required as a condition of this development consent. To this end the registered proprietor(s) of the property thereby burdened shall covenant with Sutherland Shire Council and its successors not to use the property except as permitted by this development specifically with respect to the provision and maintenance of stormwater treatment facilities. The location and extent of the treatment measure shall be delineated on the Plan of Subdivision.

OPERATIONAL CONDITIONS

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

45. Hours of Trading

To minimise the impact of the development on the surrounding environment, the use of the premises shall be restricted to between the hours of 7.00am and 9.00pm Mondays to Fridays and 8.00am and 6.00pm on Saturdays, Sundays and Public Holidays.

46. External Lighting

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

47. Deliveries - Loading and Unloading

- a) In the interests of public safety and amenity, all delivery vehicles servicing the property shall stand within the curtilage of the site and shall be able to be driven in a forward direction when entering and leaving the site.
- b) Loading and unloading of vehicles from the roadway is not permitted.
- c) The Loading Docks and associated access-way and manoeuvring areas are unsuitable for Articulated Vehicles (as defined in AS2890.2:2002). All current and future leasing contracts shall advise the operators of all businesses of the aforementioned limitation on Articulated Vehicles.

48. Stormwater Treatment Facility

The operation of the stormwater treatment facility installed within the development approved by this consent as required by conditions shall be maintained in good operating order at all times. This facility must be maintained and monitored to ensure appropriate levels of filtration in accordance with section 7 and table 7.3 of the Department of Environment and Conservation document 'Managing Urban Stormwater - Harvesting and Reuse'.

END OF CONDITIONS

Carolyn Howell - 9710 0841
File Ref: PAD11/0018

28 March 2011

13/01/2011 10:00:01 02/33/2012 22/22/13

Caringbah Homemaker Centre P/L
C/- Urbis Pty Ltd
GPO Box 5278
SYDNEY NSW 2001

Attention: Andrew Harvey

Dear Sir

Pre-Application Discussion No. PAD11/0018
Proposal: Additional Bulky Goods Floor Space
Property: 41-49 Willarong Road & 29 Koonya Circuit Caringbah

I refer to the pre-application discussion held on 9 March 2011 regarding 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 site is located within Zone 11 – Employment under the provisions of Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006). The site is located within a precinct where bulky goods premises are permissible.

The site is irregular in shape and has an area of approximately 2.2 hectares. The site has frontage of approximately 88m to Willarong Road, approximately 70m to Taren Point Road and approximately 31m to Koonya Circuit. Surrounding the site are a variety of industrial and bulky goods premises. Many of the surrounding and nearby properties are single storey and those that are two (2) storeys in height are significantly lower than the existing development upon the subject site.

Across Willarong Road, to the east, are residential properties. The eastern side of Willarong Rd is zoned Zone 4 – Local Housing. Willarong Road is not zoned and therefore Zone 4 and Zone 11 are deemed to adjoin one another.

The site currently contains a two storey bulky goods premises with a gross floor area of approximately 22,000m². Car parking for 576 vehicles is provided. Vehicular access to the site is provided from both Willarong Road and Koonya Circuit. Loading facilities are provided from both the Koonya Circuit and the Willarong Road entrances.

The proposal is for the addition of another storey over the existing premises. This new storey will consist of approximately 11 755m² of floor area. The additional level is proposed to be constructed generally over the roof level of the existing building as you have expressed a desire to keep the existing stores operational while construction takes place.

It is proposed to provide car parking for an additional 90 vehicles. Access from the street to the existing car parking and loading facilities would remain unchanged. The additional 90 car parking spaces are proposed to be provided adjacent to the new bulky goods level and accessed via a ramp that will be accessible and visible from Willarong Road.

Comments on the Proposal:

Permissibility

Bulky goods premises are a permissible use upon the subject site. SSLEP 2006 defines bulky goods premises as follows:

“means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, or*
 - (b) direct vehicular access to the site of the building or place by members of the public, for the purpose of loading and unloading such goods into or from their vehicles after purchase or hire,*
- but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire of bulky goods.”*

In this regard you should be aware that all current and future occupants of the site must fall within this definition.

Floor Space Ratio

SSLEP 2006 sets a maximum floor space ratio of 1:1 for this site. Your proposal seeks a significant variation to this development standard (1.53:1 per your calculations). Careful attention should be paid to the definition of gross floor area contained within SSLEP 2006. In particular, car parking in excess of Council's requirements is included as gross floor area.

The development standard applies to all sites within the Employment Zone across the Shire. The standard was set following analysis of the scale and intensity of development that could be accommodated and is considered desirable in Employment Zones. Council would expect compliance with the development standard unless compliance could be shown to be unreasonable and unnecessary.

A sound planning argument for the proposed variation was not presented to Council Officers at our meeting. Council has concern about the scale of the proposal taking into account the existing and permitted development in the locality. Traffic issues are also critical in this locality when considering the impact of increased intensity of use.

Based on the information presented at our meeting and the above concerns, it is very unlikely that Council would support the proposed variation.

Should a variation be sought it must be accompanied by an objection pursuant to the requirements of State Environmental Planning Policy No.1 – Development Standards. As is the case with any application seeking a variation to a development standard, an applicant must demonstrate that numerical compliance is unreasonable and unnecessary in the circumstances of the case and that the objectives for the particular control have been met.

Landscaped Area

SSLEP 2006 requires that a minimum landscaped area of 10% of the site area be provided. It is unlikely from the documentation presented that either the current development or the proposal complies with this development standard.

Careful assessment of the proposal in accordance with the definition of 'landscaped area' as contained within SSLEP 2006 should be undertaken and detailed calculations provided to Council as a part of any future development application.

Council would expect compliance with this development standard. If the existing landscaping approved under superseded controls does not comply, there may be some scope to vary the standard, provided that existing landscaped areas were embellished to a high standard.

Should a variation be sought, the future development application must be accompanied by an objection pursuant to the requirements of State Environmental Planning Policy No.1 – Development Standards.

Height

SSLEP 2006 provides a maximum building height of 12m. Part of the façade of the existing building currently exceeds this height limit. In the context of the surrounding development, the existing building is significantly taller than its neighbours and other development in the area.

The proposed development has a height in excess of 21m. The increased height appears to have little planning merit and is unlikely to be supported by Council. The proposed building would be highly visible from long distances, especially to the north and south from Taren point Road, due to the height of adjacent buildings being significantly lower.

Part of the reason for the excessive height was attributed to the desire to keep the building operational whilst construction work is undertaken. This is not considered a sound planning reason to put forward a case to vary the development standard to the extent proposed.

Should a variation to the height control be sought then the future development application must be accompanied by an objection pursuant to the requirements of State Environmental Planning Policy No.1 – Development Standards.

Traffic

Pursuant to Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007, the proposed development is traffic generating development and must be forwarded to the RTA for comment. A traffic report will need to accompany any future development application.

The report will need to examine the ability of the immediate streets to accommodate the proposed volumes of traffic. The report should also consider the impact of the current proposal for the redevelopment of Bunnings Caringbah. The capacity and service levels of the roundabout in Koonya Circuit, the impact on Willarong and Parraweena Roads and the service level of nearby traffic signals are also matters requiring investigation.

Parking

Sutherland Shire Development Control Plan 2006 (SSDCP 2006), clause 7.1.b.1.8, requires car parking for traffic generating development to be provided at the rate stipulated in the *RTA Guide to Traffic Generating Development*. Your application must demonstrate compliance with this control.

Motorcycle and bicycle parking must also be provided in accordance with the provisions of SSDCP 2006.

Setbacks

SSDCP 2006 requires a setback of 6m to Taren Point Road, 9m to Willarong Road and 9m to Koonya Circuit. It is noted that this proposal involves alterations and additions to an existing building which, in part, breach these setbacks.

SSDCP 2006 requires the setback to Taren Point Road to be landscaped. Any future development application must have regard to the objectives and controls relating to setbacks contained within SSDCP 2006.

Relationship with the Street

Section 11, Chapter 3, of SSDCP 2006, relates to streetscape and building form and will need to be addressed as a part of any future development application. It is noted that the plans presented were conceptual and that minimal architectural detail was provided.

The pedestrian entry into the site from Taren Point Road should be improved to provide access into the centre as opposed to the current arrangement of entering through a bulky goods tenancy. The entrance into the development will need to be upgraded to ensure compliant access for disabled persons.

Context

The proposal appears to have little regard for its context and the scale of existing and likely future surrounding development.

The proposed development will be visible from all aspects due to its bulk, scale and visual dominance. This context demands a high quality design. While the proposal presented to Council was conceptual it failed to demonstrate any recognition of its

exposure to the surrounding locality. The current scheme is likely to result in a bland visual presentation from some aspects.

The proposed ramp to the upper level parking is considered unacceptable. It is considered to unnecessarily dominate the streetscape because of its height and gradient, and an alternate solution would be required.

Access

Any future development application must demonstrate compliance with the section 16, Chapter 3 of SSDCP 2006 in relation to accessibility. Given the scale of the development, Council would expect that the application would be accompanied by an access report prepared by a suitably qualified access consultant, demonstrating compliance with the relevant Australian Standards and Section D of the Building Code of Australia. Your attention is drawn to changes to the BCA that will take effect in May 2011 in response to the release of the Premises Standard.

Flooding

Part of the site is mapped by Council as "Initial Assessment Potential Flood Risk" and therefore the provisions of Section 4, Chapter 5 of SSDCP 2006 apply. Any future development application will need to address the relevant provisions. In this regard you should contact Council's Stormwater Management Engineer, Guy Amos on 9710 0857.

Architectural Review Advisory Panel (ARAP)

As discussed, should you wish to proceed with the current proposal it is recommended that you have a pre-lodgement meeting with Council's ARAP. Appointments with ARAP can be arranged by contacting ARAP Co-ordinator, Colleen Baker, on 9710 0551. A fee applies for pre-lodgement meetings.

Joint Regional Planning Panel

Given that the estimated capital expenditure will be in excess of \$10 million, the application will be determined by the Sydney East Joint Regional Planning Panel (JRPP) according to the provisions of Part 3 of State Environmental Planning Policy (Major Development) 2005. The development application would be lodged with Council in the usual manner, assessed and then reported upon to the JRPP by Council officers.

Section 94A

The proposed development would be subject to the provisions of Councils applicable contributions plan, i.e. *Section 94A Developer Contributions Plan Land within the Employment Zone*. This plan applies a 1% levy for works in excess of \$200,000.

Number of Copies of Documentation

Should you wish to proceed with an application, Council requires eight (8) copies of all documentation and two (2) discs containing copies of all documentation. A set of the plans at A3 size is also required for referral to Council's ARAP.

Conclusion:

The proposed development is for alternations and additions to an existing bulky goods retail premises. In terms of the current planning controls, the site is currently developed to or beyond its maximum potential.

The proposed development involves a number of significant breaches to statutory development standards. The proposal is considered to be an overdevelopment of the site and is very unlikely to be supported in the form presented.

Council is in the process of reviewing its controls generally as a part of its preparation of a Standard Instrument. A draft plan is likely to be on public exhibition in early 2012. It is not possible at this stage to conclude whether this review will result in any changes to the planning controls applying to this site or the applicable zone.

The above information is based on a meeting with Peter Barber, Chris Greig, Peter Brooker, James Gogoll and Carolyn Howell on 9 March 2011 and the details presented in that discussion.

The information provided is in accordance with the environmental planning instruments, development control plans and codes that were current at the time of the meeting. It is 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 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 and will result in delays.

I trust that this information helps you. If you need more information please do not hesitate to contact Carolyn Howell during normal business hours on 9710 0841.

Yours faithfully

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

Architectural Review Advisory Panel

Proposal:

Extensions to Caringbah Homemakers Centre

Property:

41-49 Willarong Road CARINGBAH NSW 2229

Applicant:

Caringbah Homemaker Centre Pty Limited

File Number:

ARAP11/0007

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.

"3. Consideration of ARAP11/0007 – Pre-DA Proposal for Extensions to Caringbah Homemakers Centre at 41-49 Willarong Road/29 Koonya Circuit, Caringbah

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

Darren Holland, Paul Rudolph, Andrew Harvey and Stephen White addressed the Panel regarding the aims of the proposal and the constraints of the site.

The existing centre is located within the Caringbah bulky goods precinct. Within this precinct are other retail outlets that cater for a similar home maker niche. The proposed alterations and additions to the centre consist of:

- A Level 2 addition designed to accommodate a single large (8500sqm) retail tenant.
- An upper level car park accommodating 139 spaces.
- The subdivision of Level 1 into smaller tenancies and a new mall created to provide access to those tenancies.
- A proposed Level 1 tenancy is addressing Koonya Circuit. Access to this tenancy is provided via an entry point/café located on the ground floor.
- Upgraded elevational treatments.
- Additional perimeter landscaping.

During their explanation of the proposal the Council officers identified how the existing development does not satisfy the current development standard for landscaped area and how the proposed development exceeds the standards for height and floor space ratio. While the Panel did not separately assess whether the proposed variations warranted support, the additional height, bulk and site coverage are relevant issues for other SEPP No. 65 criteria. Given the extent of the requested variations, the Panel considered whether the design solution was of sufficient merit that it would produce a material benefit to the community.

The applicant explained that the complex had become tired and that the aim of the proposed alterations and additions was to increase the amount of retail space, provide an improved retail experience and develop stronger connections with the rest of the bulky goods precinct.

Context

The additional retail space created addressing Koonya Circuit and the proposed link to the adjoining Domayne retail outlet contributes to providing a stronger connection with the surrounding retail precinct. No consideration has been given to potential links to the south. These external links relate poorly to the circulation within the centre and the potential pedestrian network of the precinct. Included in the proposal is a rudimentary concept that could be developed further.

Development within the precinct satisfies the 12m height limit and there is a consistency within the precinct. Although the quality of the surrounding developments may vary considerably, there is an established pattern of building height that is not recognised.

Amenity

The current proposal requires pedestrians accessing the site from Koonya Circuit to walk through a tenanted space then out into a car park before accessing the mall. From the Level 1 entry point the mall snakes around to the western atrium where a narrow corridor provides access to Domayne.

The circulation within the existing centre is essentially very simple. Visitor parking is located within the eastern (Willarong Road) portion of the site and three (3) entry points are connected to simple linear circulation routes within the building. The proposed additional level, the additional Level 1 mall and the connection of the centre to the Domayne and Koonya Circuit have all added a level of complexity to the centre's circulation. The current proposal has yet to develop clear/rational circulation routes through the centre and also provide well defined connections with the surrounding precinct.

It is suggested that a clearer circulation strategy would be to configure the mall as a simple "U" shaped loop, which would allow visitors to walk around the centre past all retail outlets then back to the car park. On the western face of the "U" a clearly defined linear circulation route providing access to Koonya Circuit could be provided.

It is acknowledged that the rationalisation of the circulation through the centre will be restricted by the requirements of existing and future tenants. The need to provide large tenancies for bulky goods retailers is a constraint. However, a master plan for the long term development of the centre should be established to ensure that an appropriate design is eventually realised.

The proposal's circulation strategy should not stop at the door of the centre and should provide a three (3) dimensional solution. An analysis of the circulation patterns through the retail precinct should be undertaken. This information should be used to generate a proposal that responds to the surrounding precinct and improves circulation through the precinct.

Built Form/Aesthetics

Learning from what has previously occurred it is recommended that the elevational treatment on the Taren Point Road frontage be developed to incorporate building signage. It is also suggested that the parapet to the upper level car park facing Willarong Road be developed to conceal the cars.

Resource, Energy & Water Efficiency

The centre is currently an inward looking box that relies heavily on artificial light and air conditioning. Little has been done to develop the building to be more sustainable and provide an improved environment for people who shop and work within the centre. Further development of the current proposal to provide a sustainable building that incorporates natural light and ventilation is strongly encouraged.

Density/Scale

The proposal does not comply with the site's current height and floor space ratio controls.

Although a more considered treatment of the building could allow a building of the proposed height and density to be accommodated, no compelling public or architectural benefits have been provided to justify the proposed non compliance with the site's height and floor space ratio controls.

Social Dimensions

No compelling public benefit has been provided by the current proposal to justify the increase in density and height. For the Panel the argument that the community benefits from additional retail competition is not sufficient.

Landscape

The use of Chinese Elms is not appropriate - larger trees should be used to temper the scale of the proposal. Willarong Road has a number of ironbarks and casuarinas. These trees should form the planting pallet for the centre, providing a pedestrian friendly garden environment appropriate for a home maker centre. To help achieve this, the extent of planting should be increased to provide a minimum of 10% deep soil planting as required by the current controls. Providing trees within the car park will also contribute to creating such an environment.

Recommendation/Conclusion:

No compelling public or architectural benefits have been provided to justify the proposed non compliance with the site's height and floor space ratio controls.

The proposal in its current format is not supported by the Panel.

A stronger case for increasing the height and floor space ratio of the site could be made if issues relating to circulation, connection to the surrounding precinct and environmental sustainability were addressed."

Colleen Baker
ARAP Coordinator
18 July 2011

Architectural Review Advisory Panel

Proposal:

Bulky Goods Development - Alterations and Additions to the Existing Caringbah Homemaker Centre, Additional Carparking and Landscaping

Property:

29 Koonya Circuit CARINGBAH NSW 2229

41-49 Willarong Road CARINGBAH NSW 2229

Applicant:

Caringbah Unit Trust

File Number:

DA12/0166

The following is the report of the Architectural Review Advisory Panel Meeting held on 29 March 2012 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. 12/0166 – Alterations & Additions to the Existing Caringbah Homemaker Centre at 41-49 Willarong Road & 29 Koonya Circuit, Caringbah

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

Andrew Harvey, Steve White, Darren Holland, Cate Wallace, Paul Rudolph and Ian Goodman addressed the Panel regarding further development of the proposal and how they have addressed the concerns raised by the Panel at the previous meeting.

The development strategy for the site outlined by the applicant is notably different to that presented at the pre-DA ARAP meeting held in July 2011. Previously it was proposed to locate the bulk of the additional retail space above the existing retail centre, creating a taller building form that provided a significant setback (approximately 60m) from Willarong Road.

Now it is proposed to locate the bulk of the additional retail space at Level 1, above the existing Willarong Road car park. This results in a lower building form infilling the site, leaving modest setbacks to its three (3) street frontages. Though this basic strategy is considered to be a reasonable response to the site, further consideration of the following issues are necessary if the proposal is to be developed to reach an acceptable standard:

Context

With the submitted drawings there is an inadequate description of the immediate context of the site. Of particular concern is the lack of information showing how the proposal relates to the existing residential dwellings on Willarong Road. These dwellings should be shown on the plans and incorporated into sectional studies through the site. It is

essential that consideration is given to the interface between the proposed addition to the centre and the existing residential dwellings.

From the drawings of the elevations it appears that the proposal will be very imposing within the streetscape.

Scale/Density

It was identified that the current proposal does not comply with the site's density (floor space ratio) controls. Under the relevant LEP the maximum floor space has been realised. Any additional floor space will only be considered for approval if there is a notable increase in the architectural quality of the proposal. For example, the panel has previously encouraged the applicant to substantially improve the energy efficiency of the building through innovative design measures. These measures should exceed (not simply conform with) current standards. All adverse impacts of this additional floor space (in terms of built form and height) should also be avoided.

Although a more considered treatment of the proposal could allow a building of the proposed density to be accommodated on this site, the building as currently proposed does not accommodate the proposed density in a satisfactory manner. No compelling public or architectural benefits were provided to justify increasing the density of the proposal beyond that which is permissible.

Particularly within the eastern section of the site a well designed building could present a better architectural solution than the current car park. However, the poor quality of the existing streetscape should not be the basis for constructing another building of no interest architectural quality. An increase in density must be justified by a higher quality outcome.

Built Form/Aesthetics

The proposal infills the site, creating three (3) individual street frontages - each frontage addresses a very different street context:

- Willarong Road

It was explained by the applicant that the Willarong Road elevation has been developed to limit potential privacy issues with the residential dwellings across the street. Proposed landscaping was to be used to create a further buffer between the centre and the adjacent residential dwellings. The intent to limit potential privacy issues with the neighbouring dwellings is understandable however this approach has resulted in a defensive building with a utilitarian "back of house" appearance.

The Willarong Road elevation forms part of a street that is partly residential. It is not expected that the treatment of the centre's elevation should in any way mimic the adjacent residential dwellings. It should make a positive contribution to the street. Further articulation of the building form and a more refined use of materials could help achieve this goal. A more sensitive treatment of the car park ramps should also be developed. It is suggested that these ramps could be integrated into the form of the building to help reduce their current visual prominence.

- Taren Point Road

The elevational treatment of Taren Point Road is a cosmetic variation upon the existing facades. However the existing centre sets a very low standard. The proposed elevational treatment is devoid of imagination and appears to be providing large areas of commercial signage with no functional benefits to the centre. In particular, the proposed fragmented grid structure is gratuitous and lacking any compositional logic.

- Koonya Circuit

The introduction of some retail space and a pedestrian entrance at ground floor level make a positive contribution to Koonya Circuit. However the proposed elevational treatment is much the same as that proposed to Taren Point Road.

Resource, Energy & Water Efficiency

The applicant explained that two (2) skylights or light wells have been added above mall areas to introduce natural light into the centre. Whilst it is acknowledged that this represents an improvement upon the proposal previously reviewed by ARAP, the commitment to providing an environmentally sustainable building remains unconvincing. Compared to innovative projects this response is elementary.

Amenity

The applicant explained that a low key entrance providing access from Willarong Road directly into the Level 1 tenancy (Freedom Furniture) had been provided. The entry would provide a discrete point of pedestrian access for local resident that minimised the potential to compromise the privacy of the adjacent dwellings.

The intent to minimise disturbance to the neighbouring residential dwellings is a valid concern, however this should not detract from creating a clear, legible point of entry. The currently proposed entry is not legible in the elevations provided and appears on plan to be providing an entry point similar in spatial quality to a fire egress stair.

Safety & Security

The inclusion of a pedestrian point of entry from Koonya Circuit is a positive contribution to connecting the centre with the surrounding retail precinct. However further consideration should be given to the quality of this space. The pedestrian link is located in an undercroft area, with a loading dock located along its western side and plant rooms/a car park on its eastern side. Consideration should be given to creating clear sight lines from the street to the retail tenancies/centre entrance, providing appropriate levels of lighting and avoiding hidden recesses along the length of the walkway.

Landscape

Both the extent and quality of the proposed landscaping are not considered adequate. It is noted that the development standard for landscaped area is not satisfied. The proposed planting bed to Willarong Road is very narrow and does not provide a strong interface with the residential dwellings and gardens across the road. A significant increase in landscaping along this frontage is required. There is an opportunity to create a welcoming pedestrian space on the Willarong Road frontage by removing the car spaces and providing a better point of entry. Space exists for large shrubs or trees. Also, the roof top planters are too narrow and would not allow the size of plant necessary to make an impact along this elevation.

An arborist's report is required to justify the removal of the existing Melaleucas on Taren Point Road which appear healthy and to have a reasonable area for rootball development. Any additional trees located on Taren Point Road should be of a significantly larger scale than those currently proposed to work with the building elevation and contribute to the tree canopy of the street environment.

Social Dimensions

No compelling public benefits are provided by the proposal beyond that of creating additional retail outlets.

Recommendation/Conclusion:

The building as currently proposed does not accommodate the proposed density in a satisfactory manner. No compelling public or architectural benefits have been provided to justify increasing the proposed density of the complex beyond that which is permissible by the site's current controls. Support for the application is not warranted.

Further contextual information is required to help inform a more considered response to the proposal's interface with the residential dwellings on Willarong Road. Further development of all elevations and landscaping is also strongly recommended. A considered commitment to providing an environmentally sustainable building would also help justify the increased density being sought for the centre.

The proposal in its current format is not supported by the Panel."

Colleen Baker
ARAP Coordinator

19 April 2012

DA12/0166

Our Reference: SYD12/00350
Your Reference: DA 12/0166
Contact: Ravi Raveendra
Telephone: 8849 2540



Transport
Roads & Maritime
Services

29 MAY 2012

M. Horner

The General Manager
Sutherland Shire Council
Locked Bag 17
SUTHERLAND NSW 1499

Attention: Michael Hornery

**BULKY GOODS DEVELOPMENT- ALTERATIONS AND ADDITIONS TO THE
EXISTING CARINGBAH HOMEMAKER CENTRE
41-49 WILLARONG ROAD & 29 KOONYA CIRCUIT
CARINGBAH**

Dear Sir/Madam,

I refer to your letter dated 21 March 2012 (Your Reference: DA12/0166) with regard to the abovementioned development proposal, which was referred to the Roads and Maritime Services (RMS) for comment in accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007

The RMS has reviewed the subject development application and raises no objections to the proposed alterations and additions to the existing home maker centre subject to Council's approval and the following comments being included in Council's conditions of consent:

1. A Road Occupancy Licence should be obtained from the Transport Management Centre (TMC) for any works that may impact on traffic flows on Taren Point Road during construction activities.
2. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Taren Point Road.
3. All vehicles are to enter and leave the site in a forward direction.
4. All works/regulatory signposting associated with the proposed development are to be at no cost to the RMS.

Roads and Maritime Services

Any inquiries into this matter should be directed to Ravi Raveendra on telephone 8849 2540 or facsimile 8849 2918.

Yours sincerely,



Chris Goudanas
Land Use Planning and Assessment Manager
Transport Planning Section, RMS Sydney Region

28 May 2012



SEPP1 Objection – Building Height

Caringbah Homemaker Centre

March 2012

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Executive Summary

Variation of the building height standard contained in Clause 33 of *Sutherland Local Environmental Plan 2006* (the LEP) is permitted pursuant to the *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1). Strict application of the standard is unnecessary and unreasonable for the following reasons:

- The existing centre has a maximum building height of 12.5 metres fronting Taren Point Road (excluding turrets), and therefore already exceeds the 12 metre building height standard.
- The proposal does not seek to increase the overall height beyond 12.5m. It seeks to extend the current envelope closer to the Koonya Circuit and Willarong Road street boundaries.
- The proposed building heights have been configured in a logical manner to ensure that the built form positively responds to the surrounding context and provides a more consistent streetscape presentation to Taren Point Road, Willarong Road and Koonya Circuit.
- The proposed variation will not give rise to any unreasonable amenity impacts on surrounding residential or commercial uses including potential overshadowing, noise or operational impacts.

1 Introduction

This SEPP 1 objection has been prepared having regard to the most recent guidance issued by the Department of Planning and Infrastructure “*Varying development standards: A guide*” published in August 2011.

As noted in the Guide, applications to vary development standards should address matters set out and established by Preston CJ in *Wehbe v Pittwater Council* [2007] NSWLEC 827. In his judgement, Preston CJ summarised the way in which an application to vary a development standard under SEPP 1 is to be considered by a consent authority. That is, a consent authority must be satisfied as to 3 matters before it can uphold a SEPP 1 objection:

1. The consent authority must be satisfied that the objection is well founded, and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
2. The consent authority must be of the opinion that granting consent to the development application would be consistent with SEPP 1's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979* (The Act). As noted by Preston CJ, this matter is cumulative with the first matter.
3. The consent authority must be satisfied that a consideration of the matters set out in clause 8(a) and (b) of SEPP 1 justify the upholding of the SEPP 1 objection. That is:
 - a. whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
 - b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

Preston CJ then expressed five potential ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

Under the circumstances of this case, as is further outlined below, the objection to the building height standard in the LEP is well-founded and is consistent with the aims of SEPP 1 because the objectives of the building height standard in the LEP are achieved, notwithstanding the non-compliance.

2 Proposed Variation to Development Standard

2.1 RELEVANT ENVIRONMENTAL PLANNING INSTRUMENT

This SEPP 1 objection relates to a development standard contained within the LEP.

2.2 DEVELOPMENT STANDARD BEING VARIED

This SEPP 1 objection seeks to vary the building height standard stipulated in Clause 33 of the LEP. Specifically, subclauses (11) & (12) of Clause 33 state:

A building on land in Zone 11—Employment must not exceed a height of 12 metres, as measured vertically from ground level to the highest point of the roof.

Despite subclause (11), a building on land in Zone 11—Employment that adjoins land in Zone 3—Environmental Housing (Bushland) or Zone 4—Local Housing must not exceed a height of 9 metres, as measured vertically from ground level to the highest point of the roof.

2.3 PROPOSED VARIATION

The table below provides an overview of the existing and proposed building heights in comparison with the LEP standard.

TABLE 1 – OVERVIEW OF EXISTING, PROPOSED HEIGHTS AND DIFFERENCE FROM LEP STANDARD

STREET	STANDARD	EXISTING HEIGHT	PROPOSED HEIGHT	DIFFERENCE FROM EXISTING DEVELOPMENT	DIFFERENCE FROM STANDARD
Taren Point Road	12m	Parapet: 12.5m (RL19)	Parapet: 12.5m (RL19)	As existing	+0.5m
		Top height (turret): 20.5m (RL27.00)	Top height (turret): 18.15m (RL24.675)	-2.35m	+6.15m
Koonya Circuit	12m	Kerb height (Nil)	Parapet: RL19 (12.5m)	+12.5m	+0.5m
Willarong Rd	12m	Kerb height (Nil)	Parapet: 12.5m (RL19)	+12.5m	+0.5m

3 Grounds for objection to the standard

3.1 OBJECTIVES OF THE STANDARD BEING VARIED

The explicit objectives of Clause 33 are:

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

3.2 OBJECTIVES OF THE STANDARD ARE ACHIEVED NOTWITHSTANDING NON-COMPLIANCE WITH THE STANDARD

As already noted, before a consent authority can uphold a SEPP 1 objection, the consent authority must be satisfied that:

- the objection is well-founded; and
- the granting of consent is consistent with the aims of SEPP 1.

Having regard to the objectives of the standard in clause 33 of the LEP, it is clear that despite the non-compliance, the proposal achieves these objectives. As a result, the SEPP 1 objection is well-founded and strict compliance with the standard is unnecessary and unreasonable in these circumstances.

Each of the above objectives and how the proposal achieves these are individually detailed below.

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

The proposal is consistent with this objective because it positively responds to the existing and desired street edge building form character and also presents a building height and scale that satisfies the objective.

In terms of the building street edge character, Figures 1 & 2 below provide a graphical analysis of the existing context and the proposed design response thereto. These figures indicate existing street edges, gaps in the streetscape and the street edge response.

FIGURE 1 – EXISTING CONTEXT AND OPPORTUNITIES

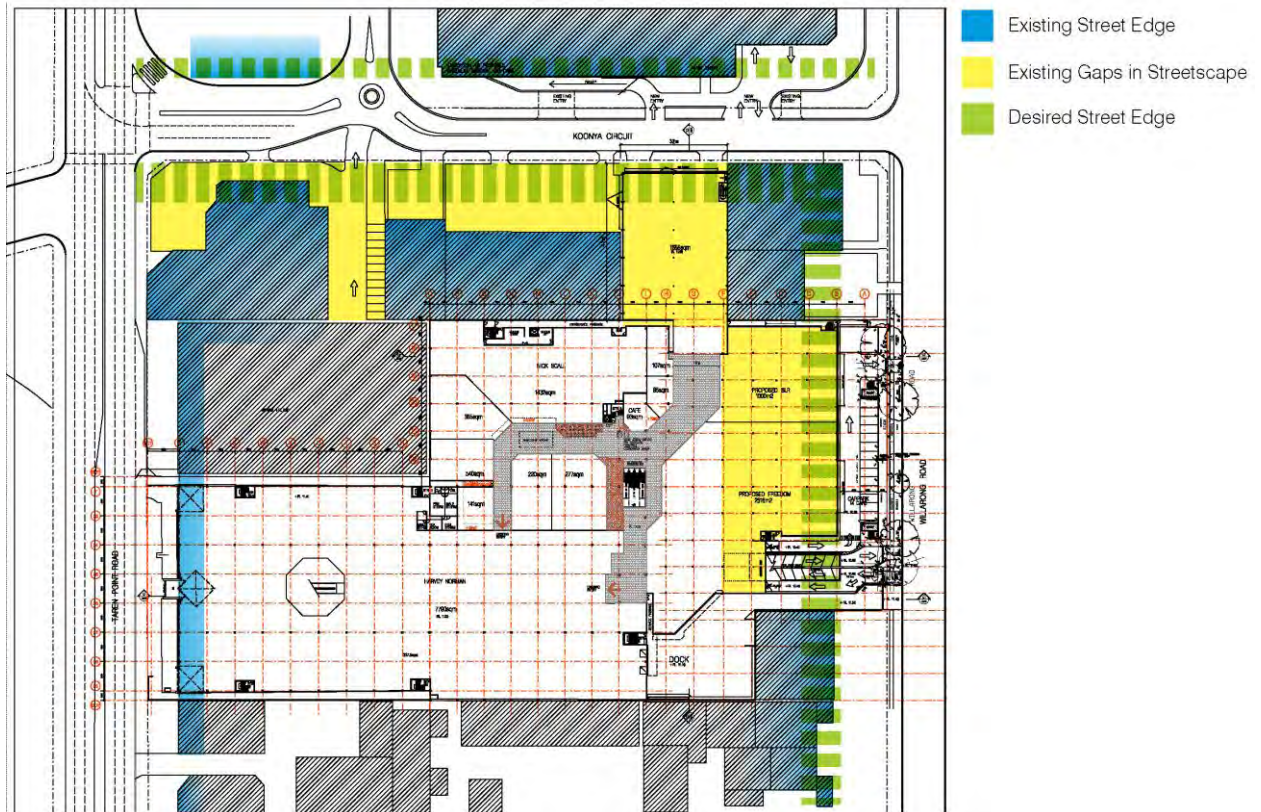
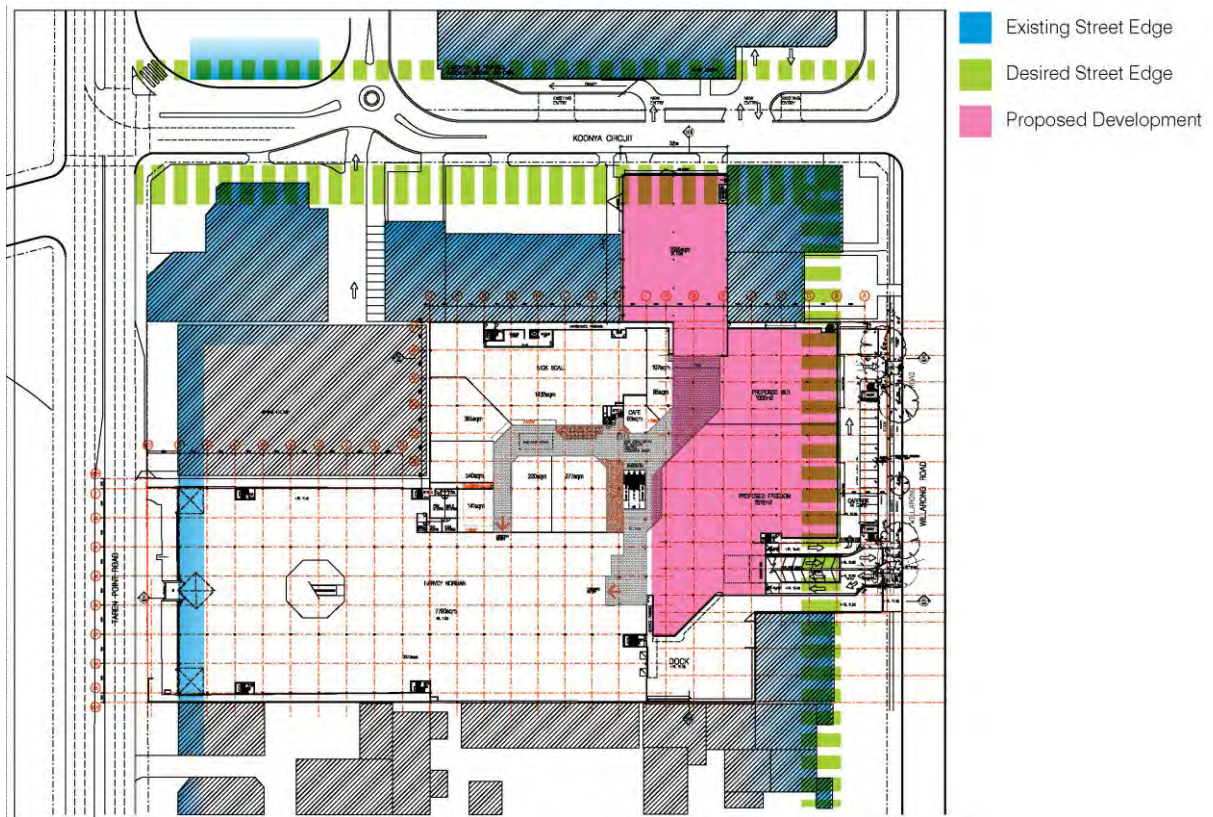


FIGURE 2 – PROPOSED DESIGN RESPONSE TO EXISTING OPPORTUNITIES



Figures 1 & 2 above illustrate how the proposal will create an important “building infill” to Willarong Road and Koonya Circuit streetscapes. The Taren Point Road frontage will remain unchanged.

While Willarong Road has a 3m setback DCP control, a legacy of past planning controls has created a distinct 20m building setback condition along the street block that the homemaker centres sits within. The proposal reinforces the existing building line along this part of the street to create a consistent built edge to the street.

Koonya Circuit presently has a less consistent building edge presentation to the street. The DCP controls seek to establish a 3m side setback for the site to this street. The proposal will infill a small part of the gap in the built form by extending the building footprint close to the street edge, complementing the character of the adjoining corner site and the approved Bunnings Warehouse development on the opposite side of the road.

As illustrated in Figures 1 and 2 above, the site accommodates three street interfaces which have separate and distinct scale and characters. Therefore, the proposed building height has carefully considered the existing and desired building height character to achieve a height outcome that is consistent with that desired for the locality. This is discussed further below.

Taren Point Road – façade enhancements (no additional bulk or height)

Taren Point Road is characterised by a range of building heights and forms and thus does not have a consistent scale and character.

The northern and southern ends are composed of a range of single-storey attached and detached premises, many with gaps in the built form to accommodate car parking, or rear access roads. The subject site and Domayne represent the tallest building masses along this frontage, with buildings either side diminutive in comparison. Building heights either side of Caringbah Homemaker Centre and Domayne essentially step down to single-storeys as shown in the photographs below.

The upper height of Caringbah Homemaker Centre is defined by the turrets (currently 20.5m) located in the middle, and either side of the building edge to the north and south. In combination with the existing street trees at this frontage, the turrets (rather than the parapet) are the main built form elements perceived from the northern and southern approaches along Taren Point Road.

As shown in Picture 1 below, the building already exceeds the height standard.

PICTURE 1 – EXISTING TAREN POINT ROAD ELEVATION



Although the proposal does not comply with the numeric control, it achieves the objective of the control for the following reasons:

- The proposal decreases the size of the building turrets by 2.35m. This will reduce the maximum height of the development from Taren Point Road as illustrated in Picture 2 below.

PICTURE 2 – PROPOSED TAREN POINT ELEVATION



- The proposal does not seek to go beyond the existing 12.5m parapet height of the existing building. Only the turrets extend beyond the height limit. For this reason, the proposal is considered to be consistent with the height objective.
- The retention of the turrets (in a reduced and more contemporary aesthetic) is an acceptable building element to retain because they provide a visual relief to a long horizontal façade, and therefore break up the building mass and bulk.
- As shown in the picture above, the building will have a compatible street height form to the Domayne building. This will positively reinforce that pre-eminence of the Homemaker Centre as the major bulky goods development within the Employment zone.

Koonya Circuit – strengthening the street edge presentation and activating the streetscape

In Koonya Circuit, development is characterised by a range of small-scale bulky goods premises, fast food, and other premises including; Australia Post, Rays Outdoors, Pet Barn, Subway and Oporto. On the opposite side of the road is Bunnings Warehouse which has recently had development consent granted for the construction of a new store. This approved building has a height of up to 14m along Koonya Circuit. A photomontage of the Koonya Circuit presentation is provided below.

Development on the southern side of Koonya Circuit is predominantly setback from the street edge with car parking and loading facilities integrated into the streetscape. However, along the eastern end of the street (nearer to Willarong Road) sites are built to the boundary – these sites, in conjunction with Bunnings, represent a higher standard of visual quality than typical development along on the southern side of Koonya Crescent.

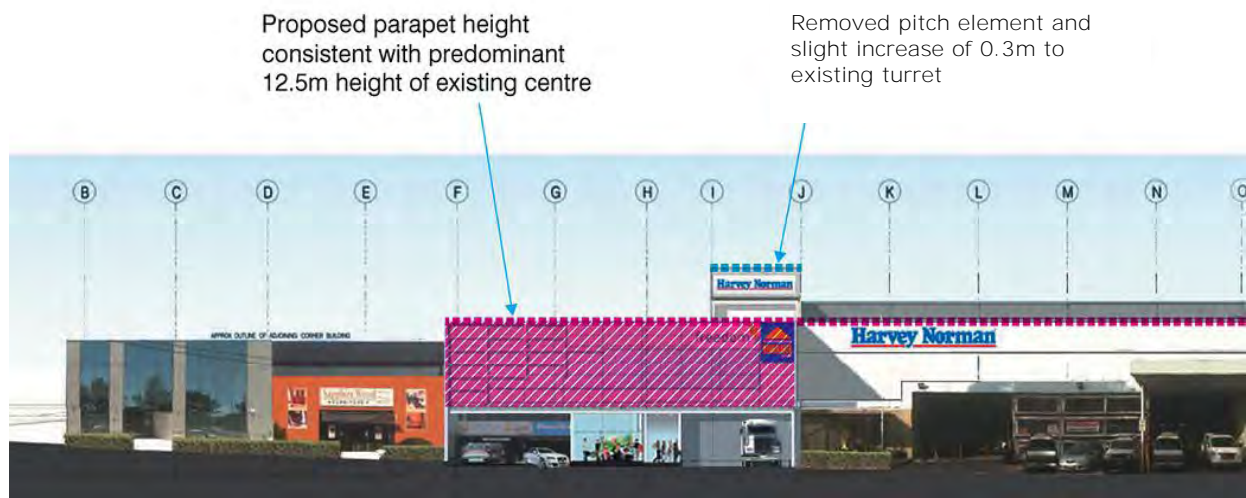
The proposal extends the building form across to the site frontage at a height level that is complementary to the existing scale along the street. The introduction of built form and active use of this frontage will create a stronger, uniform built edge and new landscaping and embellishments will be introduced. This will improve the streetscape and general amenity of the current access and loading dock area.

PICTURE 3–EXISTING HEIGHT AT KOONYA CIRCUIT



Current void in street edge

PICTURE 4– PROPOSED HEIGHT AT KOONYA CIRCUIT



Willarong Road – Ensuring consistency with surrounding building frontages and limiting car parking dominating the streetscape

Buildings along the western side of Willarong Road are predominantly setback some 20 metres from the street edge as illustrated in Figures 1 and 2. However, unlike the surrounding sites within this block, the site accommodates a large quantum of car parking, within a setback over 90 metres from this frontage.

PICTURE 5 – EXISTING ELEVATION OF WILLARONG ROAD



WILLARONG ROAD -EAST ELEVATION EXISTING

PICTURE 6– PROPOSED ELEVATION ALONG WILLARONG ROAD



As illustrated in the picture above, the proposal improves the streetscape presentation to Willarong Road by extending the building footprint to an alignment consistent with the surrounding built form and providing enhancements and embellishments within the revised setback. Furthermore this illustrates that the building height along this frontage is consistent with the height objective as it is appropriately scaled in its surrounding built form context.

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

As shown in the shadow diagrams at **Appendix C**, the proposed building extension predominantly casts shadows over the roofs of the adjoining industrial buildings to the south in the morning and afternoon on 21 June which are already affected by shadow from the existing building. By the afternoon, the shadow shifts away from the industrial building providing daylight access to most businesses in the neighbouring industrial area.

In terms of the public domain, in the morning period a shadow will continue to be cast partly onto Taren Point Road, as currently exists. This shadow does not have an unreasonable impact on the public domain because that space is afforded direct solar access from mid-morning through to the afternoon during winter. By 3pm in the afternoon, shadow will be cast over the footpath on Willarong Road and partially onto the road but it does not extend across to the eastern residential side of the road.

This analysis demonstrates that the shadow cast by the proposed development will not create any unreasonable impact in terms of daylight access to buildings or the public domain and therefore is consistent with this objective.

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

There are no residential properties directly adjoining the site to the north or south, however there are a range of residential properties to the east on the opposite side of Willarong Road.

The proposed built form is separated by approximately 44 metres from the building line of these dwellings. This physical separation positively contributes to mitigating adverse visual impacts of the development on nearby residential properties.

To further mitigate the visual impact, the proposal incorporates a widened landscaped buffer along the Willarong Road frontage from that which currently exists. The landscape plan incorporates new plantings that will positively contribute to softening the visual impact of the new building from the nearby residential properties. Willarong Road residents' views to the east are primarily to the car park deck of the existing Caringbah Homemaker Centre. This view will be improved by replacing unsightly car parking with an attractive built form that creates no privacy impacts and will be visually softened through new street planting.

As outlined above, shadow diagrams demonstrate that the proposal will not cast any shadow on adjacent residential properties. While some limited shadows will be cast on the adjacent retail/commercial/industrial properties to the south, those properties will not be adversely affected by those shadows. There will therefore be no unacceptable amenity impacts on adjoining properties.

FIGURE 3 – SHADOW DIAGRAMS



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

We consider each relevant street interfaces below:

- Taren Point Road – Given that no additional height is proposed, the visual impact from a height perspective is unchanged. However, the façade improvements and additional landscape embellishments will create a more attractive and modern appearance to the streetscape which will have a positive visual impact.
- Koonya Circuit – The current appearance of this part of the street is defined by car parking, loading zones and is disjointed from the strong building edges of Bunnings and development on the corner of Willarong Road. The proposal, when viewed from the street and adjoining properties, will present a height which is consistent with the height and setback of 37 Koonya Circuit and the Bunnings approval and positively contribute to creating a more consistent and visually legible building street edge. As a result, we consider the visual impact will be improved by the proposal.
- Willarong Road – The current appearance of this part of the street is defined by car parking, loading zones, and is disjointed from the strong building edges of surrounding light industrial and commercial buildings along the southern side of Willarong Road. The proposal, when viewed from the street and adjoining properties, will present a building height which is consistent with the height and setbacks along Willarong Road. Furthermore, the Willarong Road frontage will not be presented as the “rear” of the development, as the new building form will create a more attractive and active frontage to the development. As a result, the visual impact will be improved by the proposal.

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

Not applicable. The site is zoned 11 – Employment.

(f) The consent authority must not consent to development for the purpose of a building unless it has considered the objectives of this clause.

Noted.

3.3 CONSISTENCY WITH THE AIMS OF SEPP 1

The objects listed in Section 5(a) of the Act, are:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment*
- (ii) *the promotion and coordination of the orderly and economic use of developed land*

Upholding the SEPP 1 objection is consistent with the aims of SEPP 1 because strict compliance with the height control would in this case hinder the fulfilment of these objects for the following reasons:

- The building already exceeds the maximum 12m height control. The proposal retains the building parapet height to Taren Point Road frontage, and reduces the height of the turrets as part of the façade upgrade. Therefore strict compliance would hinder the objectives of the EP&A Act by requiring a decrease in height of the existing building which could trigger a reduction in floorspace and thereby undermine the economic and social benefits the proposal delivers.
- The departures from the numeric height control are not significant, as they are no greater than 500mm. While the turrets exceed the height by 6.15m, the proposal reduces the existing turret height by 2.35m and utilises them as space for the integrated signage strategy which will positively contribute to an enhanced visual presentation of the development.

- As addressed in this SEPP 1, the environmental amenity impacts (solar access, privacy) of the proposed development are satisfactory and therefore there are no reasonable grounds to reduce the building height on these grounds.
- The proposal creates the opportunity to commit to a comprehensive internal and external building upgrade which will enhance the experience for shoppers and staff and present a more contemporary external appearance to Taren Point Road and Willarong Road.

For these reasons, strict compliance with the standard would hinder the achievement of these objects of the Act.

3.4 NO IMPACT ON STATE OR REGIONAL ENVIRONMENTAL PLANNING

Clause 8(a) of SEPP 1 requires the consideration of whether the non-compliance creates any matters of significance for state or regional planning.

The proposed building will not impact or alter the existing subregional centre hierarchy. Rather, the proposal is a positive response to the initiatives in the draft Centres Policy, Metropolitan Plan 2036, and draft South Subregional Strategy which support the expansion and focus of activity within existing centres to preserve retail hierarchies and promote the wide benefits that flow from creating viable centres with access to public transport.

The proposal will therefore not trigger any matters of state or regional planning significance.

3.5 PUBLIC BENEFIT WOULD NOT OTHERWISE BE SERVED

Clause 8(b) of SEPP 1 requires the consent authority to be satisfied that a consideration of the public benefit of maintaining the planning controls justify upholding the SEPP 1 objection. Strict compliance with the height control would not serve the public interest for the following reasons:

- Strict compliance with the building height control would mean that the range of customer benefits arising from the proposal would not be provided, resulting in the community failing to experience the benefits of greater choice and convenience that comes with a greater variety of bulky goods retailers in a single destination.
- The community would not benefit from the enhanced pedestrian connectivity from the centre, Bunnings Warehouse, and other retailers on Koonya Circuit.
- The presentation of the development to the highly visible Taren Point Road frontage would not be modernised and enhanced.
- Strict compliance with the height control would not create the new employment opportunities, which would make a positive contribution to the local economy.

For these reasons, the strict compliance with the height control would not serve the public interest.

4 Conclusion

The proposed variation to the building height standard is well founded and compliance with this development standard is unreasonable or unnecessary in the circumstances of the case because:

- The magnitude of variation is minor within the surrounding context and the proposal.
- No change to building height is proposed at the Taren Point Road frontage. The proposal seeks to extend this height to Willarong Road and Koonya Circuit, which is appropriate within the context of surrounding development of compatible scale and massing.
- The proposed additional bulk at Koonya Circuit will create a positive building infill to create a more attractive streetscape, being more consistent with the existing scale and character of development in the street.
- Compliance with the standard is unreasonable because the proposal positively responds to the objectives of the standard. In particular, the proposal is consistent with the surrounding locality and context.
- Strict compliance with the standard would unreasonably restrict the expansion and revitalisation of the centre which aligns strategically with the role and function of the key established bulky goods precinct within the Sutherland Shire.
- Non-compliance with the standard does not raise any adverse matters of state or regional significance. Rather, the proposal is a positive response to the initiatives in the draft Centres Guidance, Metropolitan Plan 2036, and the draft South Subregional Strategy.
- On balance, there will be public benefits to customers, surrounding business owners and nearby residents as a result of the proposed development, notwithstanding the proposed minor variation to the applicable height standard.



SEPP1 Objection – Building Density

Caringbah Homemaker Centre

March 2012

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Executive Summary

Variation of the building density standard contained in Clause 35 of the *Sutherland Local Environmental Plan 2006* (the LEP) is permitted pursuant to the *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1). Strict application of the standard is unnecessary and unreasonable for the following reasons:

- The site is located within a very limited supply of land zoned appropriately to accommodate bulky goods premises. Opportunities for expansion and revitalisation of existing centres are therefore limited. The additional retail floorspace is proposed to enhance, transform and expand the existing centre in accordance with the aims and objectives of the draft Centres Policy and South Subregional Strategy
- The revitalisation and expansion of the centre will support the role and function of the Caringbah Employment Zone through the provision of additional job opportunities and new bulky good tenants in response to demonstrated demand for additional bulky goods floorspace within the Sutherland Shire.
- The proposed building massing has been configured in a logical manner to ensure that the resultant built form positively responds to the surrounding context and provides a more consistent streetscape presentation to Willarong Road and Koonya Circuit.
- The proposed variation will not give rise to any unreasonable impacts in terms of traffic generation, built form or noise arising from intensity of activity

1 Introduction

This SEPP 1 objection has been prepared having regard to the most recent guidance issued by the Department of Planning and Infrastructure “*Varying development standards: A guide*” published in August 2011.

As noted in the Guide, applications to vary development standards should address matters set out and established by Preston CJ in *Wehbe v Pittwater Council [2007] NSWLEC 827*. In his judgement, Preston CJ summarised the way in which an application to vary a development standard under SEPP 1 is to be considered by a consent authority. That is, a consent authority must be satisfied as to three matters before it can uphold a SEPP 1 objection:

1. The consent authority must be satisfied that the objection is well founded, and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
2. The consent authority must be of the opinion that granting consent to the development application would be consistent with SEPP 1’s aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979* (the Act). As noted by Preston CJ, this matter is cumulative with the first matter.
3. The consent authority must be satisfied that a consideration of the matters set out in clause 8(a) and (b) of SEPP 1 justify the upholding of the SEPP 1 objection. That is:
 - a. whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
 - b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

Preston CJ then expressed five potential ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.]*

Under the circumstances of this case, as is further outlined below, the objection to the building density standard in the LEP is well-founded and is consistent with the aims of SEPP 1 because the objectives of the building density standard in the LEP are achieved, notwithstanding the non-compliance.

2 Proposed Variation

2.1 RELEVANT ENVIRONMENTAL PLANNING INSTRUMENT

This SEPP 1 objection relates to a development standard contained within the LEP.

2.2 DEVELOPMENT STANDARD BEING VARIED

This SEPP 1 objection seeks to vary the building density standard stipulated in Clause 35 (Building Density) of the LEP. Specifically, subclause (13) of Clause 35 states:

“The maximum floor space ratio applying to development for the purpose of a building on a site in Zone 11 – Employment is 1:1.”

2.3 PROPOSED VARIATION

The table below provides an overview of the existing and proposed building floor space ratios in comparison with the LEP standard.

The location of additional built form resulting from the proposed additional floorspace is shown in the figure below.

TABLE 1 – PROPOSED FSR NUMERIC OVERVIEW

STANDARD	CURRENT FSR	PROPOSED FSR	DIFFERENCE FROM CURRENT SITUATION	DIFFERENCE FROM STANDARD
Maximum 1:1	1.02:1	1.24:1	+0.22:1	+0.24: 1

FIGURE 1 – ADDITIONAL BULK PROPOSED



3 Grounds for Objection

3.1 OBJECTIVES OF THE STANDARD BEING VARIED

The explicit objectives of Clause 35 are:

- (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.*

3.2 OBJECTIVES OF THE STANDARD ARE ACHIEVED NOTWITHSTANDING NON-COMPLIANCE WITH THE STANDARD

As already noted, before a consent authority can uphold a SEPP 1 objection, the consent authority must be satisfied that:

- the objection is well-founded; and
- the granting of consent is consistent with the aims of SEPP 1.

Having regard to the objectives of the standard in clause 35 of the LEP, it is clear that despite the non-compliance, the proposal achieves these objectives. As a result, the SEPP 1 objection is well-founded and strict compliance with the standard is unnecessary and unreasonable in these circumstances.

Each of the above objectives and how the proposal achieves these are individually detailed below.

(a) *to ensure that development is in keeping with the characteristics of the site and the local area*

The site accommodates three street interfaces which have separate and distinct scale and characters. The proposed building massing has been carefully considered, taking into account these unique characteristics and the appropriate scale and character of each street and the local precinct.

Figures 2 & 3 below provide a graphical analysis of the existing context and the proposed design response thereto. These indicate existing street edges, gaps in the streetscape, and the street edge response.

FIGURE 2 – EXISTING CONTEXT AND OPPORTUNITIES

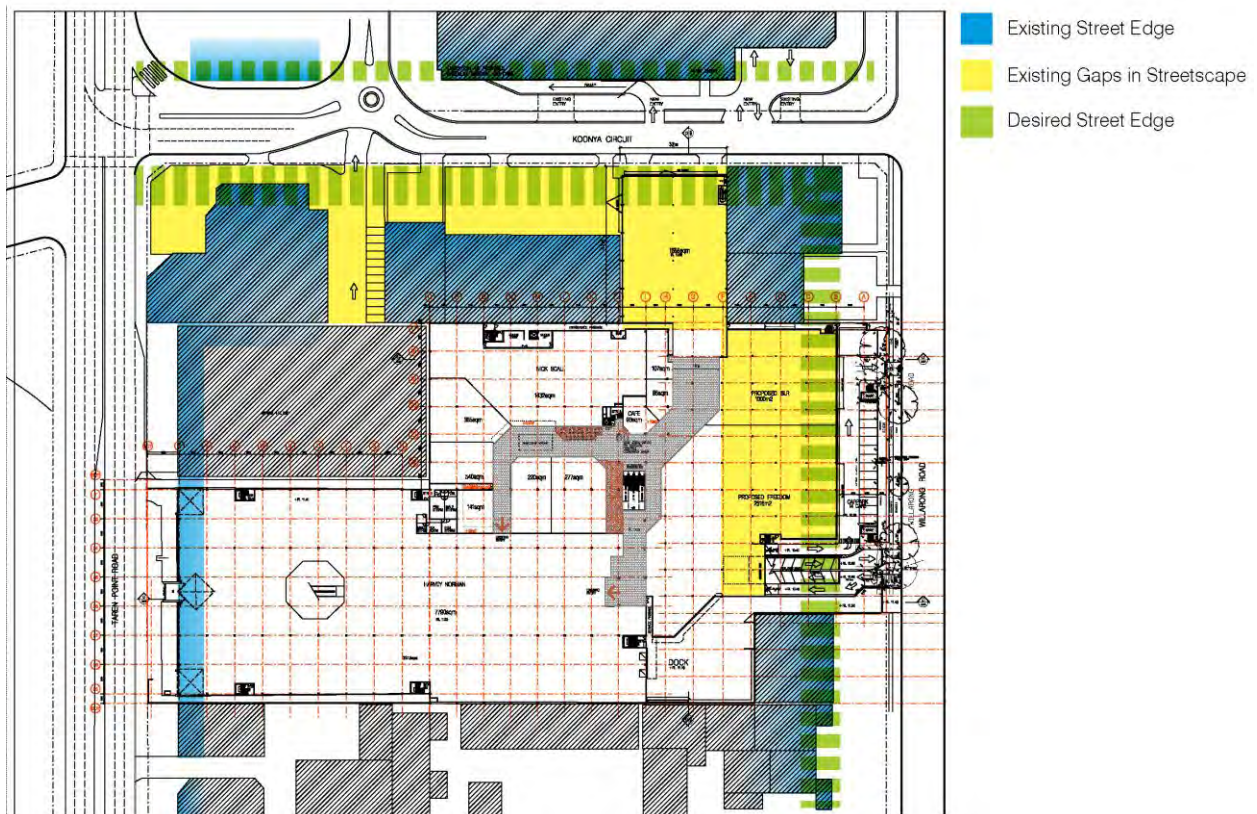
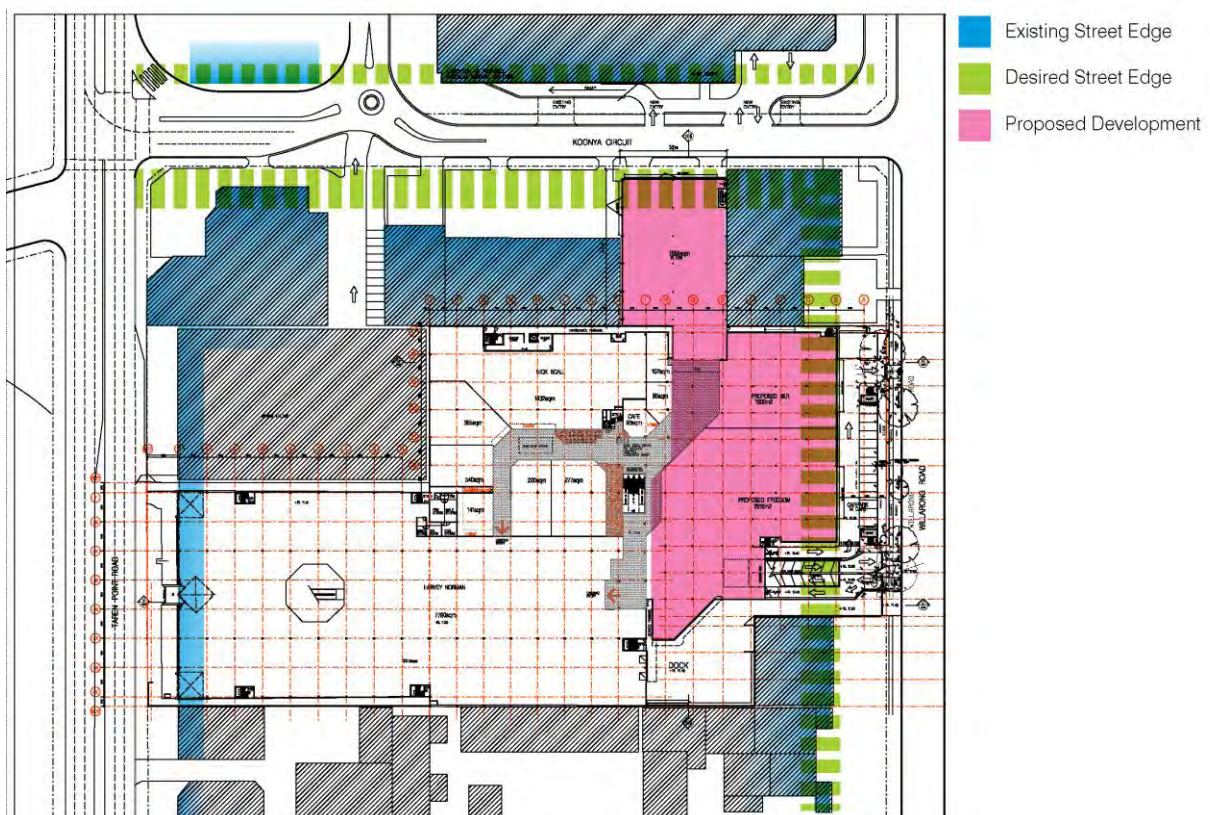


FIGURE 3 – PROPOSED DESIGN RESPONSE TO EXISTING OPPORTUNITIES



Taren Point Road – façade enhancements (no additional bulk or height)

No additional building mass is proposed along Taren Point Road as the existing built form is built to the boundary and the height currently exceeds the 12m height standard.

Koonya Circuit – strengthening the street edge presentation and activating the streetscape

In Koonya Circuit development is characterised by a range of small-scale bulky goods premises, fast food, and other premises including; Australia Post, Rays Outdoors, Pet Barn, Subway and Oporto. On the opposite side of the road is Bunnings Warehouse which has recently had development consent granted for the construction of a new store. This approved building has a height of up to 14m along Koonya Circuit.

Development on the southern side of Koonya Circuit is predominantly setback from the street edge with car parking and loading facilities integrated into the streetscape. However, along the eastern end of the street (nearer to Willarong Road) sites are built to the boundary – these sites, in conjunction with Bunnings, represent a higher standard of visual quality.

The proposal extends this higher quality built form across the site frontage. The introduction of built form and active use of this frontage will create a stronger, uniform built edge and new landscaping and embellishments will be introduced. This will improve the streetscape and general amenity of the current access and loading dock area.

Willarong Road – Ensuring consistency with surrounding building frontages and limiting car parking dominating the streetscape

Development along the western side of Willarong Road is predominantly built to the street edge. However, unlike the surrounding sites within this block, the centre accommodates a large expanse of open car parking, within a setback of over 90 metres from this frontage.

The proposal improves the streetscape presentation to Willarong Road by extending the building footprint to an alignment consistent with the surrounding built form and providing enhancements and embellishments within the reduced setback.

(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

The proposal provides a more consistent built form presentation to the three key street interfaces surrounding the site as detailed at (a) above.

(c) to minimise the impact of buildings on the amenity of adjoining residential properties

There are no residential properties directly adjoining the site to the north or south, however there is a range of residential properties to the east on the opposite side of Willarong Road.

The proposed built form is setback approximately 44 metres from the building line of these dwellings and provides additional landscaping within the retained setback to provide visual screening to these properties. Willarong Road residents' views to the west are primarily of the existing Caringbah Homemaker Centre. Much of this immediate view is screened or filtered by trees and vegetation within these properties and the street. This view will be improved by replacing unsightly car parking with an attractive built form.

Shadow diagrams included at **Appendix C** demonstrate that the proposal will not cast any shadow on adjacent residential properties. While some limited shadows will be cast on the adjacent retail/commercial/industrial properties to the south, those properties will not be adversely affected by those shadows. There will therefore be no unacceptable amenity impacts on adjoining 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.

Not applicable. The site is zoned 11 – Employment.

3.3 CONSISTENCY WITH THE AIMS OF SEPP 1

The objects listed in Section 5(a) of the Act, are:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment*
- (ii) *the promotion and coordination of the orderly and economic use of developed land*

Upholding the SEPP 1 objection is consistent with the aims of SEPP 1 because strict compliance with the FSR control would in this case hinder the fulfilment of these objects because there is insufficient additional floorspace permitted within the existing controls (approximately 1,049sqm) to facilitate a viable economic case to invest in the existing centre to accommodate this allowable floorspace.

The assessment within the Statement of Environmental Effects submitted in support of the proposal demonstrates that the environmental amenity impacts of the proposed development are satisfactory. Furthermore the magnitude of the departure is not significant given the scale of the existing development and the corresponding spatial organisation of where the additional floorspace is proposed.

By proposing additional floorspace beyond the numeric standard, the following benefits will be generated:

- The proposed expansion will strengthen the viability of the existing centre through the increased choice, range, and price competition that will accrue from the additional floorspace. This will also have a positive impact on the surrounding bulky goods precinct, by strengthening it as bulky goods shopping destination.
- The proposal will provide substantial positive economic impact through the creation of direct and indirect jobs¹ that would not otherwise be created.
- The proposal creates the opportunity to commit to a comprehensive internal and external building upgrade which will enhance the experience for shoppers and staff and present a more contemporary external appearance to Taren Point Road and Willarong Road.
- The proposal enables the ability to incorporate additional landscaping measures and a number of ESD initiatives that will maximise the environmental and economic operational efficiency of the development.
- The provision of additional bulky goods floorspace within the existing centre is consistent with the State Government directions contained within the Sydney Metropolitan Plan 2036, draft South Subregional Strategy and draft Centres Policy which seek to:
 - Promote the consolidation of retail floorspace within existing centres as a means to facilitate the orderly and economic use of the land.
 - Enable existing centres to plan for growth and change over time.
- Focusing the floorspace expansion at Caringbah Homemaker centre will support the continued viability of the surrounding bulky goods precinct.

For these reasons, strict compliance with the standard would hinder the achievement of these objects of the Act.

¹ 476 direct and indirect jobs are proposed.

3.4 NO IMPACT ON STATE OR REGIONAL ENVIRONMENTAL PLANNING

Clause 8(a) of SEPP 1 requires the consideration of whether the non-compliance creates any matters of significance for state or regional planning.

The proposed additional floorspace is not of a magnitude that will impact or alter the existing subregional centre hierarchy. As discussed above, the proposed floorspace expansion of the centre is entirely consistent with the existing state and regional strategic planning policies for centres.

The proposal will therefore not trigger any other matters of state or regional planning significance.

3.5 PUBLIC BENEFIT WOULD NOT OTHERWISE BE SERVED

Clause 8(b) of SEPP 1 requires the consent authority to be satisfied that a consideration of the public benefit of maintaining the planning controls justify upholding the SEPP 1 objection. Strict compliance with the FSR control would not serve the public interest for the following reasons:

- Strict compliance with the FSR control would mean that the range of customer benefits arising from the proposal would not be provided, resulting in the community failing to experience the benefits of greater choice and convenience that comes with a greater variety of bulky goods retailers in a single destination.
- The community would not benefit from the enhanced pedestrian connectivity from the centre Bunnings Warehouse and other retailers on Koonya Circuit.
- The neighbouring residents would not benefit from the enhanced landscaping area and quality along Willarong Road which would improve the current visual appearance of the development from nearby residents.
- Strict compliance with the FSR control would not create the new employment opportunities which would have a positive contribution to the local economy.

For these reasons, the strict compliance with the FSR control would not serve the public interest.

4 Conclusion

The proposed variation to the building density standard is well founded for the following reasons:

- Strict compliance with the standard would unreasonably restrict the expansion and revitalisation of the centre which aligns strategically with the role and function of the key established bulky goods precinct within the Sutherland Shire.
- The additional building bulk has been designed in a logical manner which strengthens and enhances the existing streetscapes along Koonya Circuit and Willarong Road. These frontages and access points to the Centre currently read as a negative void within their existing context.
- The proposed additional floorspace does not result in any adverse traffic, density, or built form impacts.
- Non-compliance with the standard does not raise any adverse matters of state or regional significance. Rather, the proposal is a positive response to the initiatives in the draft Centres Policy, Metropolitan Plan 2036, and draft South Subregional Strategy.
- On balance, there will be public benefits to customers, surrounding business owners and nearby residents as a result of the proposed development, notwithstanding the proposed minor variation to the applicable density standard.



SEPP 1 Objection – Landscape Area

Caringbah Homemaker Centre

March 2012

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Executive Summary

Variation of the landscape area standard contained in Clause 36 of the *Sutherland Local Environmental Plan 2006* ("the LEP") is permitted pursuant to the *State Environmental Planning Policy No. 1 – Development Standards* (SEPP 1). Strict application of the standard is unnecessary and unreasonable for the following reasons:

- The existing centre provides 1.9% of landscape area (deep soil) which is already below the minimum 10% standard. While additional opportunities for deep soil planting are limited, the applicant has proposed to increase the overall percentage to 2.1%.
- In addition, it is proposed to increase the amount of non-deep soil planting from the current level of 3.3% to 4% which will enhance the overall appearance and environmental performance of the site.
- The proposed variation will not give rise to any unreasonable amenity impacts on surrounding residential or commercial properties.

1 Introduction

This SEPP 1 objection has been prepared having regard to the most recent guidance issued by the Department of Planning and Infrastructure “*Varying development standards: A guide*” published in August 2011.

As noted in the Guide, applications to vary development standards should address matters set out and established by Preston CJ in *Wehbe v Pittwater Council [2007]NSWLEC 827*. In his judgement, Preston CJ summarised the way in which an application to vary a development standard under SEPP 1 is to be considered by a consent authority. That is, a consent authority must be satisfied as to 3 matters before it can uphold a SEPP 1 objection:

1. The consent authority must be satisfied that the objection is well founded, and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.
2. The consent authority must be of the opinion that granting consent to the development application would be consistent with SEPP 1’s aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979* (the Act). As noted by Preston CJ, this matter is cumulative with the first matter.
3. The consent authority must be satisfied that a consideration of the matters set out in clause 8(a) and (b) of SEPP 1 justify the upholding of the SEPP 1 objection. That is:
 - a. whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
 - b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

Preston CJ then expressed the view that there are five possible ways in which an objection may be well founded and consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the council’s own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

Under the circumstances of this case, as is further outlined below, the objection to the landscape area standard in the LEP is well-founded and is consistent with the aims of SEPP 1 because the objectives of the landscape area standard in the LEP are achieved, notwithstanding the non-compliance.

2 Proposed Variation to Development Standard

2.1 RELEVANT ENVIRONMENTAL PLANNING INSTRUMENT

This SEPP 1 objection relates to a development standard contained within the LEP.

2.2 DEVELOPMENT STANDARD BEING VARIED

This SEPP 1 objection seeks to vary the landscaped area standard stipulated in Clause 36 (Landscaped Area) of the LEP. Specifically, subclause 5(i) of Clause 36 states:

—the minimum landscaped area of the site for the purpose of a building on any land in Zone 11 – employment: 10 per cent”

2.3 PROPOSED VARIATION

Table 1 below provides an overview of the existing and proposed landscaped areas in comparison with the LEP standard.

TABLE 1 – LANDSCAPING NUMERIC OVERVIEW

STANDARD	CURRENT	PROPOSAL	DIFFERENCE TO CURRENT SITE	DIFFERENCE TO STANDARD
10% (deep soil)	1.9%	2.1%	+0.2%	- 7.9%

*NB: The definition of 'landscape area' within the LEP excludes non-deep soil planting areas. Consequently, the proposal provides an increase from 3.3% to 4% of non-deep soil planting which is discussed in the later sections of this SEPP 1 Objection.

3 Grounds for Objection

3.1 OBJECTIVES OF THE STANDARD BEING VARIED

The explicit objectives of Clause 36 are:

- (a) to ensure adequate opportunities for the retention or provision of vegetation that contributes to biodiversity,*
- (b) to ensure adequate opportunities for tree retention and tree planting so as to preserve and enhance the tree canopy of Sutherland Shire,*
- (c) to minimise urban run-off by maximising pervious areas on the sites of development,*
- (d) to ensure that the visual impact of development is minimised by appropriate landscaping and that the landscaping is maintained,*
- (e) (Repealed)*
- (f) to ensure that landscaping carried out in connection with development on land in Zone 11—Employment is sufficient to complement the scale of buildings, provide shade, screen parking areas and enhance workforce amenities.*

3.2 OBJECTIVES OF THE STANDARD ARE ACHIEVED NOTWITHSTANDING NON-COMPLIANCE WITH THE STANDARD

As already noted, before a consent authority can uphold a SEPP 1 objection, the consent authority must be satisfied that:

- the objection is well-founded; and
- the granting of consent is consistent with the aims of SEPP 1.

Having regard to the objectives of the standard in clause 36 of the LEP, it is clear that despite the non-compliance, the proposal achieves these objectives. As a result, the SEPP 1 objection is well-founded and strict compliance with the standard is unnecessary and unreasonable in these circumstances.

Each of the above objectives and how the proposal achieves these are individually detailed below.

(a) To ensure adequate opportunities for the retention or provision of vegetation that contributes to biodiversity

With the exception of one Ironbark tree on the Willarong Road frontage, which is proposed to be removed and replaced, the proposal retains existing deep soil planting and landscaping. The figure below provides a visual representation of the existing and proposed developments.

FIGURE 1 – TAREN POINT ROAD EXISTING AND PROPOSED LANDSCAPE SCHEME





FIGURE 2 – WILLARONG ROAD EXISTING AND PROPOSED LANDSCAPE THEME



FIGURE 3 – KOONYA CIRCUIT EXISTING LANDSCAPING

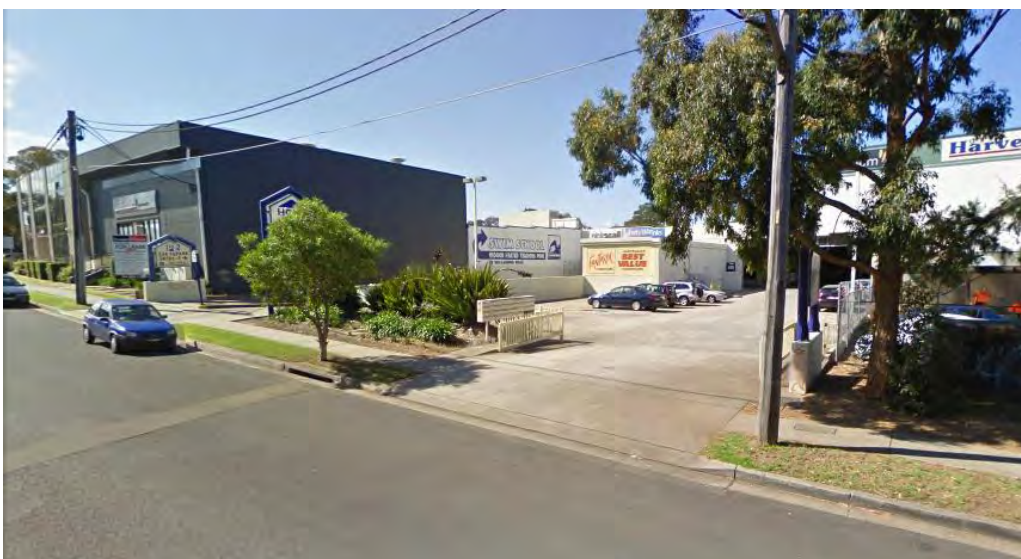


FIGURE 4 – PROPOSED KOONYA CIRCUIT LANDSCAPE PLAN



Additional landscaping facilitates the proposed implementation of Water Sensitive Urban Design (WSUD) initiatives. Four key principles have been adopted with regard to the provision of vegetation to ensure the long term sustainability of the project:

- Low water use plants - Low water use and robust plants have been adopted in accordance with “Sutherland Shire Plants: A Guide to Indigenous Plant Species Suitable for Landscape and Re-vegetation Projects.” The proposed selection has given preference to locally indigenous species that are adapted to the local soils and climate. However, non-indigenous species have also been included to provide colour and foliage accents. The species selected after establishment will have a low water requirement and will create a long term sustainable landscape.
- Irrigation efficiency - If irrigation is required, drip irrigation will be specified as it is more effective in supplying a slow and steady amount of water to beneath the soil surface preventing excess surface water build up reducing the rate of evaporation.
- Surface mulch - It is proposed that all planting areas will be installed with minimum 75mm layer of forest fines mulch. The mulch layer not only protects the soil from erosion and weed invasion it also insulates the soil and limits evaporation of the soil’s moisture reserves.
- Effective landscape maintenance - The landscape has been designed to ensure that effective long term maintenance can be achieved.

While the site is a heavily modified industrial site with little remnant biodiversity, the proposed increase in landscape area will increase biodiversity, notwithstanding that the increased landscape area does not comprise „deep soil’. For these reasons, the proposal is consistent with this objective.

(b) to ensure adequate opportunities for tree retention and tree planting so as to preserve and enhance the tree canopy of Sutherland Shire,

The report submitted with the landscape plan provides commentary on the retention and embellishment of trees to preserve and enhance the tree canopy of Sutherland Shire. With the exception of an ironbark (see Section 2.2 of Landscape Report), all existing trees along Willarong Road (near residential properties) are proposed to be retained and protected during construction.

On Taren Point Road, the existing street trees have been planted too close to the building and as a result lack a natural canopy due to severe pruning. These trees are proposed to be replaced with more suitable species planted in position that will enable the full growth of the trees crown and canopy in accordance with Sutherland Shire Council’s Tree Planting Program for Taren Point Road (DCP 2006).

The proposed development will thereby enhance the tree canopy of the locality.

(c) to minimise urban run-off by maximising pervious areas on the sites of development,

The proposed landscape concept for the site will assist in reducing impervious areas and reduce peak stormwater flows for rainfall events. Additional rainwater storage capacity will be installed to harvest roof water and overflow of the rainwater tank will discharge into the existing stormwater system to ensure no additional discharge.

The proposed additional landscape areas will further assist in retaining rainwater on the site.

(d) to ensure that the visual impact of development is minimised by appropriate landscaping and that the landscaping is maintained

To increase the amenity of the proposed redevelopment and minimise any potential visual impact on surrounding residences, the landscape concept proposes to provide screen planting to soften the built form.

It is proposed that screen planting be installed along the Willarong boundary to provide a green edge to the site, screening the view of cars from the adjoining residences. To soften the overall built form mass planting is proposed to be installed where suitable in the raised planter beds in the car parking area. Planter boxes are also proposed to the upper deck car park to provide an attractive treatment of this area.

The turf adjoining the mass planting along Taren Point Road is proposed to be regraded and re-laid to provide a smoother finish. The planting bed is also proposed to be extended to accentuate the building entrance and to also minimise pedestrian traffic degrading the turf.

(f) To ensure that landscaping carried out in connection with development on land in Zone 11—Employment is sufficient to complement the scale of buildings, provide shade, screen parking areas and enhance workforce amenities.

The existing development incorporates landscaping (maximum 2m in height) along the development boundaries, in particular Willarong and Taren Point Roads. These areas will be expanded to complement the scale of the proposed built form and enhance the attractiveness of the locality.

The additional provision of landscaping in the car park area will provide more effective screening of the car park and built form. Landscaping will also be introduced on the new level (eastern elevation) consistent with the objective to 'enhance workforce amenities'.

3.3 CONSISTENCY WITH THE AIMS OF SEPP 1

The objects listed in Section 5(a) of the Act, are:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment*
- (ii) *the promotion and coordination of the orderly and economic use of developed land*

Upholding the SEPP 1 objection is consistent with the aims of SEPP 1 because strict compliance with the height control would in this case hinder the fulfilment of these objects for the following reasons:

- The site already falls short of the required minimum 10% deep soil landscaping control and given the nature of the use and the floorspace configuration across the site, there is limited reasonable opportunity in this case to satisfy the control. The proposal maintains the current level of deep soil landscaping and creates additional site landscaping to create an improved quantum and quality of landscaping across the site. Therefore strict compliance would hinder the objectives of the Act as it would require significant reduction and demolition of the car parking area which could trigger adverse impacts such as additional local parking and traffic impacts and thereby undermine the economic and social benefits the proposal delivers.
- The departure from the numeric landscape area control when accounting for the total landscaping area (deep soil and non-deep soil) is not of such significance to undermine the desired visual character and environmental outcomes sought by the control when considered alongside the enhanced outcomes that the landscape plan will deliver as well as the improved stormwater management measures proposed in the SEE.

For these reasons, strict compliance with the standard would hinder the achievement of these objects of the Act.

3.4 NO IMPACT ON STATE OR REGIONAL ENVIRONMENTAL PLANNING

Clause 8(a) of SEPP 1 requires the consideration of whether the non-compliance creates any matters of significance for state or regional planning.

In the circumstances of this case, the landscaping on the site is a local consideration. The proposed landscaping numeric non-compliance does not affect State or Regional planning issues.

3.5 PUBLIC BENEFIT WOULD NOT OTHERWISE BE SERVED

Clause 8(b) of SEPP 1 requires the consent authority to be satisfied that a consideration of the public benefit of maintaining the planning controls justify upholding the SEPP 1 objection. Strict compliance with the landscape area control would not serve the public interest in the circumstances for the following reasons:

- Strict compliance with the landscape area control would mean that the range of customer benefits arising from the proposal would not be provided, resulting in the community failing to experience the benefits of greater choice and convenience that comes with a greater variety of bulky goods retailers in a single destination.
- The community would not benefit from the enhanced pedestrian connectivity from the centre, Bunnings Warehouse, and other retailers on Koonya Circuit.
- The neighbouring residents would not benefit from the enhanced visual appearance of the development.
- The presentation of the development to the highly visible Taren Point Road frontage would not be modernised and enhanced.

For these reasons, the strict compliance with the landscape control would not serve the public interest.

4 Conclusion

The proposed variation to the landscape area standard is well founded because:

- The existing 1.9% of landscaping (deep soil) has been retained, and the overall level of landscaping on the site has increased to 2.1%. Further, additional non-deep soil planting is proposed which increases the overall level of vegetation on the site.
- Stormwater management measures will ensure that despite the non-compliance, the proposal will not create any adverse impacts on surrounding properties arising from a lower provision of deep soil area on site.
- Compliance with the standard is unreasonable because the proposal positively responds to the objectives of the standard by increasing the amount of landscaping on site in manner that will soften the visual appearance of the development and improve its overall environmental performance.
- On balance, there will be public benefits to customers, surrounding business owners, and nearby residents as a result of the proposed development, notwithstanding the proposed minor variation to the applicable landscape area standard.
- Strict application of the standard is unnecessary and unreasonable under the circumstances.