

**DRAFT CONDITIONS OF DEVELOPMENT CONSENT**  
**Development Application No. 12/0476**

**PART 1 - DEFERRED COMMENCEMENT CONDITIONS**

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

The required information shall be submitted within 24 months of the date of issue of this development consent.

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

	<b>DRAFT CONDITIONS OF COUNCIL</b>	<b>AMENDED CONDITION AS PROPOSED BY BREEN</b>
	<p><b>GENERAL CONDITIONS</b></p> <p>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.</p> <p>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.</p>	<p>Delete as unnecessary</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
1.	<p data-bbox="230 240 1030 272"><u>Deferred Commencement Condition 1 - Environment/Landscape</u></p> <p data-bbox="181 312 495 344">(a) <u>Detailed Tree Survey</u></p> <p data-bbox="230 384 1090 448">A detailed survey shall be prepared by a Registered Surveyor is to be submitted and approved by Council. This survey is to show:</p> <ul data-bbox="230 488 1122 695" style="list-style-type: none"> <li>(i) All existing trees with a trunk diameter greater than 150mm to be retained or removed within a 10m wide strip on either side of the boundary with Cronulla High School and the oval and along the site frontage to Bate Bay Road.</li> <li>(ii) All trees within proposed Lots 101, 102 and 103 and the verge along Captain Cook Drive shall also be surveyed.</li> </ul> <p data-bbox="230 735 1120 799">The survey shall detail the tree centre, canopy spread and existing level at the base of the tree.</p> <p data-bbox="181 839 412 871">(b) <u>Aborist Report</u></p> <p data-bbox="230 911 1111 1015">A detailed aborist report is to be prepared for all trees to be retained on site and adjoining land that are affected by the construction works. The aborist report is to be submitted and approved by Council.</p> <p data-bbox="181 1054 542 1086">(c) <u>Detailed Landscape Plan</u></p> <p data-bbox="230 1126 1113 1374">A detailed landscape plan for the residential area, taking into account information provided in the tree survey and arborist report, shall be submitted to Council for approval. The 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</p>	<p data-bbox="1211 240 1635 272"><u>Insert as standard condition under</u></p> <p data-bbox="1211 312 1973 344"><b><u>Matters Relating to the issue of a Construction Certificate</u></b></p> <p data-bbox="1211 384 1514 416"><u>Environment/Landscape</u></p> <p data-bbox="1211 456 1473 488">Detailed Tree Survey</p> <p data-bbox="1211 528 2072 592">A detailed survey shall be prepared by a Registered Surveyor is to be submitted and approved by Council. This survey is to show:</p> <p data-bbox="1256 632 2067 839"><del>All existing trees with a trunk diameter greater than 150mm to be retained or removed within a 10m wide strip on either side of the boundary with Cronulla High School and the oval. and along the site frontage to Bate Bay Road. All trees within proposed Lots 101, 102 and 103 and the verge along Captain Cook Drive shall also be surveyed.</del> <b><u>the school</u></b> <b><u>school</u></b></p> <p data-bbox="1211 879 2033 943">The survey shall detail the tree centre, canopy spread and existing level at the base of the tree.</p> <p data-bbox="1211 983 1391 1015"><u>Aborist Report</u></p> <p data-bbox="1211 1054 2074 1190">A detailed aborist report is to be prepared for all trees <b><u>with a trunk diameter of greater than 150mm</u></b> <del>to be retained on site and on</del> adjoining land that are affected by the construction works. The aborist report is to be submitted and approved by Council.</p> <p data-bbox="1211 1230 1523 1262"><u>Detailed Landscape Plan</u></p> <p data-bbox="1211 1302 2029 1374">A detailed landscape plan for the <b><u>land and roadways associated with the Stage 1 works</u></b> <del>residential area,</del> taking into account</p>

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<p>Landscape Architect). The detailed landscape plan shall accord with the environmental and landscape aims of Sutherland Shire Council's <i>Greenhills Beach Development Control Code</i>, <i>Kurnell</i> and <i>Urban Tree and Bushland Policy</i>.</p> <p>The detailed landscape plan shall contain the following information clearly shown in plan, section and detail:</p> <p>(i) The proposed contours/levels, the road and footpath layout, kerbs and gutters, proposed driveway crossings, pram ramps, raised thresholds, road narrowings, underground services, fences, grass verges, mass planting beds, and trees and shrubs in grass including edging, staking and temporary protective measures for street trees.</p> <p>(ii) A detailed planting plan showing the following information:</p> <ul style="list-style-type: none"> <li>• Street tree planting: <ul style="list-style-type: none"> <li>• Street trees shall be of mixed species and sizes (large and small trees) irregularly planted in the verges, to achieve an informal bushland character in keeping the site's environmentally sensitive location in Kurnell - note that formal avenues of individual trees of single species are not acceptable.</li> <li>• On the side of the road where there is no footpath, trees shall be planted in loose clumps rather than rows, at centres varying between 600mm and 5m.</li> <li>• Allow approximately three (3) trees per 15m length of road frontage.</li> <li>• Street trees shall provide adequate stopping sight distance compliant with the requirements of AUSTROADS and the proposed posted speed limit of 50km/hr.</li> <li>• 900mm deep root barriers shall be installed around all</li> </ul> </li> </ul>	<p>information provided in the <del>tree survey</del> and arborist report, shall be submitted to Council for approval. The 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 detailed landscape plan shall accord with the environmental and landscape aims of Sutherland Shire Council's <i>Greenhills Beach Development Control Code</i>, <i>Kurnell</i> and <i>Urban Tree and Bushland Policy</i>.</p> <p>The detailed landscape plan shall contain the following information clearly shown in plan, section and detail:</p> <p>The proposed contours/levels, the road and footpath layout, kerbs and gutters, proposed driveway crossings, pram ramps, raised thresholds, road narrowings, underground services, fences, grass verges, mass planting beds, and trees and shrubs in grass including edging, staking and temporary protective measures for street trees.</p> <p>A detailed planting plan showing the following information:</p> <ul style="list-style-type: none"> <li>• Street tree planting: <ul style="list-style-type: none"> <li>• <del>Street trees shall be of mixed species and sizes (large and small trees) irregularly planted in the verges, to achieve an informal bushland character in keeping the site's environmentally sensitive location in Kurnell - note that formal avenues of individual trees of single species are not acceptable.</del></li> <li>• <del>On the side of the road where there is no footpath, trees shall be planted in loose clumps rather than rows, at centres varying between 600mm and 5m.</del></li> <li>• <del>Allow approximately three (3) trees per 15m length of</del></li> </ul> </li> </ul>

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<p>street trees and landscaping.</p> <ul style="list-style-type: none"> <li>• Dense massed plantings of low shrubs, grasses and ground covers at road narrowings that prevent pedestrian movements onto and across the thresholds/slowpoints.</li> <li>• The proposed 3m wide landscaped buffer zone along the Captain Cook Drive frontage.</li> <li>• The eastern most boundary with Don Lucas Reserve, including details of the fence and kerb along the boundary designed to prevent fertilisers, pesticides and weeds from the residences contaminating the revegetation area.</li> <li>• Screen plantings of five (5) mixed indigenous small trees and tall shrubs (appropriate to the location as listed below) inside the drainage easement along the rear of each lot on the perimeter of the site adjoining Cronulla High School, the Australand development and Don Lucas Reserve.</li> <li>• Small tree planting of mixed species to one side of the pedestrian laneways between Road No. 1 and Don Lucas Reserve/Bate Bay Road. Trees shall be planted at informal spacings centres between 3-5m.</li> <li>• The proposed mass plantings between the footpath and front boundary of the lots.</li> <li>• Plants are to be selected from the species listed below, according to the location, elevation and aspect of the trees proposed: <ul style="list-style-type: none"> <li>• <u>Low lying land adjoining Cronulla High and near Captain Cook Drive - RL8m and lower</u></li> </ul> </li> </ul> <p>Trees                      <i>Angophora costata, Casuarina glauca, Cupaniopsis anacardioides Eucalyptus botryoides, Eucalyptus robusta.</i></p>	<p><del>road frontage.</del></p> <ul style="list-style-type: none"> <li>• Street trees shall provide adequate stopping sight distance compliant with the requirements of AUSTROADS and the proposed posted speed limit of 50km/hr.</li> <li>• <del>900mm deep root barriers shall be installed around all street trees and landscaping.</del></li> <li>• Dense massed plantings of low shrubs, grasses and ground covers at road narrowings that prevent pedestrian movements onto and across the thresholds/slowpoints.</li> <li>• The proposed 3m wide landscaped buffer zone along the Captain Cook Drive frontage.</li> <li>• The eastern most boundary with Don Lucas Reserve, including details of the fence and kerb along the boundary designed to prevent fertilisers, pesticides and weeds from the residences contaminating the revegetation area.</li> <li>• <del>Screen plantings of five (5) mixed indigenous small trees and tall shrubs (appropriate to the location as listed below) inside the drainage easement along the rear of each lot on the perimeter of the site adjoining Cronulla High School, the Australand development and Don Lucas Reserve.</del></li> <li>• Small tree planting of mixed species to one side of the pedestrian laneways between Road No. 1 and Don Lucas Reserve/Bate Bay Road. Trees shall be planted at informal spacings centres between 3-5m.</li> <li>• <del>The proposed mass plantings between the footpath and front boundary of the lots.</del></li> <li>• Plants are to be selected from the species listed below, according to the location, elevation and aspect of the trees proposed: <ul style="list-style-type: none"> <li>• <u>Low lying land adjoining Cronulla High and near</u></li> </ul> </li> </ul>

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	<p>Ground covers and Tufted Plants</p> <p><i>Carpobrotus glaucescens, Dianella caerulea, Dianella congesta, Dichondra repens, Hibbertia scandens, Isolepis nodosus, Juncus usitatus, Lomandra longifolia, Scaevola calendulacea.</i></p> <p>• <u>Sloping hind dune areas (land oriented North to West) between RL 18m and 8m - Kurnell Dune Forest</u></p> <p>Trees</p> <p><i>Angophora costata, Cupaniopsis anacardioides.</i></p> <p>Small trees</p> <p><i>Banksia integrifolia subsp. Integrifolia, Glochidion ferdinandi, Kunzea ambigua, Leptospermum laevigatum, Melaleuca armillaris, Monotoca elliptica.</i></p> <p>Shrubs</p> <p><i>Acacia longifolia subsp. sophorae, Baeckea imbricate, Banksia ericifolia, Breynia oblongifolia, Correa alba, Notelaea longifolia, Pelargonium australe, Phebalium squamulosum, Westringia fruticosa.</i></p> <p>Ground covers and Tufted Plants</p> <p><i>Carpobrotus glaucescens, Dianella caerulea, Dianella congesta, Dichondra repens, Hibbertia</i></p>		<p><u>Captain Cook Drive - RL8m and lower</u></p> <p>Trees</p> <p><i>Angophora costata, Casuarina glauca, Cupaniopsis anacardioides Eucalyptus botryoides, Eucalyptus robusta.</i></p> <p>Ground covers and Tufted Plants</p> <p><i>Carpobrotus glaucescens, Dianella caerulea, Dianella congesta, Dichondra repens, Hibbertia scandens, Isolepis nodosus, Juncus usitatus, Lomandra longifolia, Scaevola calendulacea.</i></p> <p>• <u>Sloping hind dune areas (land oriented North to West) between RL 18m and 8m - Kurnell Dune Forest</u></p> <p>Trees</p> <p><i>Angophora costata, Cupaniopsis anacardioides.</i></p> <p>Small trees</p> <p><i>Banksia integrifolia subsp. Integrifolia, Glochidion ferdinandi, Kunzea ambigua, Leptospermum laevigatum, Melaleuca armillaris, Monotoca elliptica.</i></p> <p>Shrubs</p> <p><i>Acacia longifolia subsp. sophorae, Baeckea imbricate, Banksia ericifolia, Breynia oblongifolia, Correa alba, Notelaea longifolia,</i></p>

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	<p><i>scandens, Lomandra longifolia, Scaevola calendulacea.</i></p> <ul style="list-style-type: none"> <li><u>Exposed foredune areas facing sea (land oriented East to South) - RL18m to RL 14m - Coastal Foredune Wattle Scrub</u></li> </ul> <p>Small trees      <i>Leptospermum laevigatum, Banksia integrifolia subsp. Integrifolia, Monotoca elliptica.</i></p> <p>Shrubs      <i>Acacia longifolia subsp. sophorae, Allocasuarina distyla, Breynia oblongifolia, Correa alba, Leucopogon parviflorus, Pelargonium australe, Rhagodia candolleana, Westringia fruticosa.</i></p> <p>Ground covers and Tufted Plants      <i>Carpobrotus glaucescens, Dianella caerulea, Dianella congesta, Lomandra longifolia, Scaevola calendulacea.</i></p>		<p><i>Pelargonium australe, Phebalium squamulosum, Westringia fruticosa.</i></p> <p>Ground covers and Tufted Plants      <i>Carpobrotus glaucescens, Dianella caerulea, Dianella congesta, Dichondra repens, Hibbertia scandens, Lomandra longifolia, Scaevola calendulacea.</i></p> <ul style="list-style-type: none"> <li><u>Exposed foredune areas facing sea (land oriented East to South) - RL18m to RL 14m - Coastal Foredune Wattle Scrub</u></li> </ul> <p>Small trees      <i>Leptospermum laevigatum, Banksia integrifolia subsp. Integrifolia, Monotoca elliptica.</i></p> <p>Shrubs      <i>Acacia longifolia subsp. sophorae, Allocasuarina distyla, Breynia oblongifolia, Correa alba, Leucopogon parviflorus, Pelargonium australe, Rhagodia candolleana, Westringia fruticosa.</i></p> <p>Ground covers and Tufted Plants      <i>Carpobrotus glaucescens, Dianella caerulea, Dianella congesta, Lomandra longifolia, Scaevola calendulacea.</i></p>

## BREEN COMMENTS

**As per the Opinion from Henry Davis York, this draft condition is unlawful. To rectify this matter, it should be inserted as a standard condition of consent.**

As defined by the RAP, the whole of the site is to be remediated by removing soil and re-compacting this material in layers to meet strict geotechnical and environmental requirements. This includes the area within 10m of the Cronulla High School and Bate Bay Road boundaries. It is therefore not possible to retain trees in soil that will be excavated, validated and re-compacted., and therefore the survey should be limited to trees on the school side of the boundary only. These trees located on property owned by Cronulla High School will be retained, with suitable protection measures installed during construction works.

In relation to the design of the landscaping, this was undertaken by a highly experienced and respected landscape architect, Clouston Associates. Following review and consideration of the Greenhills Beach DCC and the Kurnell and Urban Tree and Bushland Policy as it applies to the site, Clouston Associates made the following comments in relation to Council's detailed landscaping design conditions:

Council's intent to recreate bushland in the public domain is difficult to achieve in a residential estate with standard size nature strips and relatively narrow lot frontages, nor is it really practical nor even reflective of local bushland (which in this area is mostly coastal heath, which does not lend itself to street tree planting if other matters like CPTED are considered and certainly would compromise sightlines):

- 3 trees per 5 metre lot frontage implies small trees with lower canopies, and limits locations for access driveways. In practice, some form of informality in street tree spacing and mixing of species will be introduced during detailed design development;
- 600mm between trees is poor specification and leads to unsatisfactory tree health and reduced life expectancy. Multi stemmed trees may be possible, but these do not generally lend themselves well to street environments;
- In best practice, root barriers are a last resort. Research shows that root environments where the natural root progression is inhibited significantly it leads to poor stability in the long term. In effect if root barriers are required then the tree is the wrong size or in the wrong place. This can be addressed in design development
- Dense low plantings will not prevent pedestrian access at thresholds if this is the most direct route. Threshold design should seek to prevent this occurring and planting should be a design adjunct not a prevention measure;
- Screen planting to the school can be achieved but appears completely contrary to CPTED goals and the integration of the school into the local community. Casual surveillance of the fields from the residences and gardens will minimise inappropriate uses of the fields, especially outside school hours.
- Species lists; Discussion with Council have not resolved the issue of the prescribed species relating to natural contexts, with no reference to the different design conditions which will apply in each zone, ie streets, gardens, nature strips. Not all these species are all viable, practical or long lasting within a residential estate and associated street context. Nonetheless, the design development will use the species required.

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2.	<p data-bbox="230 240 866 268"><u>Deferred Commencement Condition 2 - Civil Works</u></p> <p data-bbox="183 312 1111 411">(a) To reduce the environmental impact of the internal roads and proposed traffic calming structures, the following design changes shall be implemented -</p> <p data-bbox="230 456 1111 555">(i) The road narrowing and proposed contrasting pavement treatment and pedestrian crossing in Road No. 2 at its northern intersection with Road No. 1 shall be deleted.</p> <p data-bbox="230 600 1111 660">(ii) The eastern kerb blister in Road No. 1 at its intersection with Road No. 4 shall be removed to create a standard "T" intersection.</p> <p data-bbox="230 705 1111 909">(iii) Contrasting pavement treatments shall only be provided at the proposed one-way slow points in Roads 1 and 2 and the raised threshold north of the intersection of Roads 1 and 2. The blistered nature strip (footpath area) adjacent to either side of the contrasting pavement treatments shall be densely landscaped so as to prevent pedestrian movements onto and across the threshold/slowpoints.</p> <p data-bbox="230 954 1111 1050">(iv) The length of the contrasting pavement at the one-way slowpoints shall be reduced by approximately 50% so as to be located between the built out blisters only.</p> <p data-bbox="230 1094 1111 1374">(v) The proposed raised threshold at the intersection of Bate Bay Road and Road No. 2 is to be redesigned so as to align with the footpath allocation for Bate Bay Road to provide for direct pedestrian movements across the top of the threshold rather than being positioned within the development site. In this regard the threshold shall also act as a visual barrier to dissuade motorists from utilising Road No. 2 to gain alternate access to the adjacent Australand development.</p>	<p data-bbox="1211 240 1635 268"><u>Insert as standard condition under</u></p> <p data-bbox="1211 312 1973 373"><b><u>Matters Relating to the issue of a Construction Certificate</u></b> <b><u>Civil Works</u></b></p> <p data-bbox="1211 418 1639 445">Condition 2(a) noted and accepted</p>



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<p>(b) To provide safe vehicle access while maintaining suitable amenity to the future property owners, the following design changes shall be implement -</p> <p>(i) No direct vehicular access shall be provided to Lots 270, 271, 272, 273 and 274 (at minimum) from Bate Bay Road. To prevent the use of excessive numbers of Right of Carriageway's to access these lots, the area generally east of Road 2 is to be redesigned to provide at least the following -</p> <ul style="list-style-type: none"> <li>• Lots fronting Bate Bay Road and lots fronting Road 1 between Road 3 and Road 2, are to be reorientated to an east-west orientation to create a double row of east-west lots.</li> <li>• The western most lots are to front and be accessed from the eastern side of Road 2.</li> <li>• The adjoining east facing lost shall front and be accessed from a new road as detailed below.</li> <li>• A new north-south orientated road corridor is to be created linking Road 1 to Bate Bay Road. The carriageway of this road shall terminate in a turning head adjacent to Bate Bay Road, providing pedestrian access between the two only at this point.</li> <li>• The western most end of Road 1 may be deleted.</li> <li>• Lots in this area currently accessing Road 2 and Road 2 may be redesigned to accommodate the above mentioned changes and provide suitable orientation, access and amenity.</li> </ul> <p>(ii) Proposed Lot 108 is to be accessed from its southernmost end.</p> <p>(iii) Proposed Lots 104 to 107 are to be accessed via Right of Carriageway from Road 1.</p>	<p><del>To provide safe vehicle access while maintaining suitable amenity to the future property owners, the following design changes shall be implement-</del></p> <p><del>No direct vehicular access shall be provided to Lots 270, 271, 272, 273 and 274 (at minimum) from Bate Bay Road. To prevent the use of excessive numbers of Right of Carriageway's to access these lots, the area generally east of Road 2 is to be redesigned to provide at least the following-</del></p> <ul style="list-style-type: none"> <li>• <del>Lots fronting Bate Bay Road and lots fronting Road 1 between Road 3 and Road 2, are to be reorientated to an east-west orientation to create a double row of east-west lots.</del></li> <li>• <del>The western most lots are to front and be accessed from the eastern side of Road 2.</del></li> <li>• <del>The adjoining east facing lost shall front and be accessed from a new road as detailed below.</del></li> <li>• <del>A new north-south orientated road corridor is to be created linking Road 1 to Bate Bay Road. The carriageway of this road shall terminate in a turning head adjacent to Bate Bay Road, providing pedestrian access between the two only at this point.</del></li> <li>• <del>The western most end of Road 1 may be deleted.</del></li> <li>• <del>Lots in this area currently accessing Road 2 and Road 2 may be redesigned to accommodate the above mentioned changes and provide suitable orientation, access and amenity.</del></li> </ul> <p>Proposed Lot 108 is to be accessed from its southernmost end.  <b>Proposed Lots 104 to 107 are to be accessed via Right of Carriageway from Road 1.</b></p>

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<p><b>In relation to draft condition 2(a), as per the Opinion from Henry Davis York, this draft condition is unlawful. To rectify this matter, it should be inserted as a standard condition of consent.</b></p> <p><b>In relation to condition 2(b), as per the Opinion from Henry Davis York, this draft condition is unlawful. This condition should be deleted on the following grounds.</b></p> <p>A Level 3 IPWEA accredited Road Safety Auditor has certified that the currently proposed access to lots 270, 271, 272, 273 and 274 is safe (refer letter dated 08/08/2012 from Cardno's Clement Lim), therefore we do not believe that a change to access arrangements to these lots is required on safety grounds. The driveway crossings will not unreasonably obstruct or compromise the safe use of the footpath by pedestrians or cyclists, especially bearing in mind the low number of vehicle movements using these five driveways. The number of on-street parking spaces lost on Bate Bay Road is minimal (five at most) and offset by spaces gained on Road 1.</p> <p>The reconfiguration is not required for residential amenity reasons and has adverse amenity impacts on the affected lots, by introducing vehicle access, parking etc in the north facing rear yards and bringing more traffic down the internal streets and immediately adjacent to other houses. The new rear roadway (off Road 1) would reduce the number of lots, add to the cost of the development with the additional road construction and is an unnecessary over-engineered solution to a non-existent problem. The changes contemplated by the deferred commencement condition would compromise these principles, and would require the development to "turn its back" on the only continuous road frontage to the site, a road frontage that is non-arterial and has a residential character.</p> <p>The requirement for Proposed Lot 108 to be accessed from its southernmost end can be accommodated.</p> <p>A Level 3 IPWEA accredited Road Safety Auditor has certified that the currently proposed access to lots 104 to 107 is safe, therefore we do not believe that a change to access arrangements to these lots is required on safety grounds. Providing a Right of Carriageway at lots 104 to 107 will potentially result in lots that are too narrow and will result in a limitation on the configuration/type of dwelling that can be accommodate in these lots. Given the local nature and associated low traffic volumes at Road 1 and Trinity Street, the access arrangements currently proposed are satisfactory</p>	
(c) Any layback entry to a Right of Carriageway should be minimum 3.0m wide.	Condition noted and accepted
(d) To ensure slope and vegetation stability and provide a natural transition	Condition to be deleted

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	between the development and the Reserve, the proposed fill batter within the Don Lucas Reserve shall be reduced to a maximum 20% and there shall be no retaining walls or other structures constructed within the Reserve to support these batters. Any fill within the Reserve shall not extend any further east than currently shown.	
	<p><b>BREEN COMMENT</b></p> <p>Following extensive consultation with Council Planning and Engineering teams in January 2012, Breen Property reached agreement as to the profile and treatment of the proposed integration of the Don Lucas Reserve with the development site. This agreement included the general slope of the batters being generally 1:4 (25%) with localised batters of 1:3 (33%) and 1:2 (50%). Where batters were proposed to be steeper than 1:4, vegetation that did not require mowing was to be selected. Our highly experienced and respected landscape architect Clouston Associates have nominated vegetation in this transition area that are selected from Council's species list, provide a natural transition between the development and the reserve, and ensure the stability and safe maintenance of the landform. This agreement included the use of retaining walls to the rear of buildings currently being used by the NSW Government's Soil Conservation Services, and these walls are not visible from the beach area. As the concept for this proposed transition was agreed prior to the submission of this proposal, and the proposal was submitted on this basis, Breen Property see no merit based reason to amend the proposed landform at the gully/reserve boundary and this condition should therefore be deleted.</p>	
3	<p><u>Deferred Commencement Condition 3 - Stormwater System</u></p> <p>(a) The Passive Aquifer Recharge Basin (Infiltration Basin) shall be redesigned to provide a more natural system by replacing the stepped sandstone boulder edging with a sloped natural batter to be planted as per requirements set out in Deferred Commencement Condition 4. The design is to ensure that the required volume of infiltration is retained.</p> <p>(b) A detailed design of the drainage system for the development shall be prepared in consultation with Council. To provide an effective drainage systems which can be adequately and safely maintained, the drainage system shall incorporate the following:</p> <p>(i) The drainage system is to be designed around a tailwater level of 0.9</p>	<p><u>Insert as standard condition</u>  <u>Matters Relating to the issue of a Construction Certificate -</u>  <u>Stormwater System</u></p> <p>The Passive Aquifer Recharge Basin (Infiltration Basin) shall be redesigned to provide a more natural system by replacing the stepped sandstone boulder edging with a sloped natural batter to be planted as per the conditions of this consent. The design is to ensure that the required volume of infiltration is retained.</p> <p>A detailed design of the drainage system for the development shall be prepared in consultation with Council. To provide an effective drainage systems which can be adequately and safely maintained, the drainage system shall incorporate the following:</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>metres AHD to allow for Sea Level Rise.</p> <p>(ii) Reduce the extent of pipelines being located within the proposed road carriageways.</p> <p>(iii) Relocate the proposed pipeline within Trinity Street such that it is retained under the kerb line to a greater extent and not be located within the mid portion of the nature strip (footpath area) to the west of proposed Lot 105.</p> <p>(iv) Further investigation of the location and level of all existing public utility services, cable network services and the like within the footpath areas of Captain Cook Drive and Elouera Road to establish the exact alignment of the proposed stormwater drainage pipelines and the future kerb alignment within Captain Cook Drive.</p> <p>(v) Relocate the proposed Gross Pollutant Traps within Captain Cook Drive to provide adequate and safe access for maintenance.</p> <p>Revised plans are to be submitted to Council for approval.</p>	<p>The drainage system is to be designed around a tailwater level of 0.9 metres AHD to allow for Sea Level Rise.</p> <p>Reduce the extent of pipelines being located within the proposed road carriageways.</p> <p><del>Relocate the proposed pipeline within Trinity Street such that it is retained under the kerb line to a greater extent and not be located within the mid portion of the nature strip (footpath area) to the west of proposed Lot 105.</del></p> <p>Further investigation of the location and level of all existing public utility services, cable network services and the like within the footpath areas of Captain Cook Drive and Elouera Road to establish the exact alignment of the proposed stormwater drainage pipelines and the future kerb alignment within Captain Cook Drive.</p> <p><del>Relocate the proposed Gross Pollutant Traps within Captain Cook Drive to provide adequate and safe access for maintenance.</del></p> <p><del>Revised plans are to be submitted to Council for approval.</del></p>
<b>BREEN COMMENTS</b>		
	<p><b>As per the Opinion from Henry Davis York, this draft condition is unlawful. To rectify this matter, it should be inserted as a standard condition of consent.</b></p> <p>The current alignment of the pipeline within Trinity Street is considered suitable as it minimises destruction of existing infrastructure (kerb and pavement) and does not conflict with existing and proposed services. A short run under the grassed section of the widened verge is a reasonable approach as it involves less reconstruction than following the kerb line to Captain Cook Drive, and this approach is consistent with ESD principles.</p> <p>In relation to the need to relocate the GPTs for maintenance access, reference is made to drawing 600210-3070 "Details of Maintenance Bays for</p>	

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	GPT's".	
4	<p><u>Deferred Commencement Condition 4 - Vegetation Management Plan (VMP)</u></p> <p>In order to ensure the retention, restoration and revegetation of the subject site, a Vegetation Management Plan (VMP) shall be prepared and submitted and approved by Council.</p> <p>The VMP shall address the revegetation and ongoing management of vegetation within the following management zones -</p> <p>(a) The Don Lucas Reserve</p> <p>(b) The Proposed Infiltration Basin</p> <p>The VMP must include (but not necessarily be limited to) the following two phases relating to vegetation management:</p> <p><u>Establishment Phase:</u></p> <ul style="list-style-type: none"> <li>• A figure/plan showing the above two management zones on the site;</li> <li>• The exact location of vegetation to be removed and retained on the site as part of the developmental proposal;</li> <li>• Details of revegetation works, including a list of species to be utilised during replanting on site (including species appropriate for the different management zones as detailed below);</li> <li>• Planting densities and species mix for replanting (as detailed below)</li> <li>• Specific landscaping treatments in each zone (e.g. fuel management, mulching, soil and stormwater management - which must ensure no</li> </ul>	<p><b>As per the Opinion from Henry Davis York, this draft condition is unlawful. To rectify this matter, it should be inserted as a standard condition of consent.</b></p> <p>Condition noted and accepted.</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN						
	<p>adverse impacts on vegetation areas);</p> <ul style="list-style-type: none"><li>Clearly defined vegetation protection areas (including exact location of trees and vegetation to be retained and removed), provided on a plan;</li><li>Vegetation and tree protection measures to be employed in vegetation protection areas, as well as activities that are permitted to take place in these areas;</li><li>Specific identification and location of all weeds on site, and management techniques for the control of each.</li></ul> <p>(a) Don Lucas Reserve</p> <p>This area must be revegetated with suitable indigenous Coastal Foredune Species utilising (at a minimum) the species listed below. If any of the listed species cannot be sourced, they must be replaced with another suitable species.</p> <p>The following densities must be utilised - 1 tree per 3m<sup>2</sup>, 2 shrubs per 1m<sup>2</sup> and 3 groundcovers per 1m<sup>2</sup>.</p> <table><tr><td>Small trees</td><td><i>Acacia longifolia subsp. sophorae</i>, <i>Leptospermum laevigatum</i>, <i>Banksia integrifolia subsp. integrifolia</i>, <i>Monotoca elliptica</i>.</td></tr><tr><td>Shrubs</td><td><i>Leucopogon parviflorus</i>, <i>Breynia oblongifolia</i>, <i>Rhagodia candolleana</i>.</td></tr><tr><td>Ground covers and Tufted Plants</td><td><i>Spinifex sericeus</i>, <i>Carpobrotus glaucescens</i>, <i>Ficinia nodosa</i>, <i>Pelargonium australe</i>, <i>Dianella</i></td></tr></table>	Small trees	<i>Acacia longifolia subsp. sophorae</i> , <i>Leptospermum laevigatum</i> , <i>Banksia integrifolia subsp. integrifolia</i> , <i>Monotoca elliptica</i> .	Shrubs	<i>Leucopogon parviflorus</i> , <i>Breynia oblongifolia</i> , <i>Rhagodia candolleana</i> .	Ground covers and Tufted Plants	<i>Spinifex sericeus</i> , <i>Carpobrotus glaucescens</i> , <i>Ficinia nodosa</i> , <i>Pelargonium australe</i> , <i>Dianella</i>	
Small trees	<i>Acacia longifolia subsp. sophorae</i> , <i>Leptospermum laevigatum</i> , <i>Banksia integrifolia subsp. integrifolia</i> , <i>Monotoca elliptica</i> .							
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Ground covers and Tufted Plants	<i>Spinifex sericeus</i> , <i>Carpobrotus glaucescens</i> , <i>Ficinia nodosa</i> , <i>Pelargonium australe</i> , <i>Dianella</i>							

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p><i>congesta</i>, <i>Dichondra repens</i>, <i>Scaevola calendulacea</i></p> <p>(b) Proposed Infiltration Basin</p> <p>This area must be revegetated with suitable wetland species selected from the NSW Office of Environment and Heritage Final Determination for Freshwater Wetlands found at <a href="http://www.environment.nsw.gov.au/determinations/SydneyFreshwaterWetlandsSydneyEndComListing.htm">http://www.environment.nsw.gov.au/determinations/SydneyFreshwaterWetlandsSydneyEndComListing.htm</a>.</p> <p>Revegetation of this area should be designed in accordance with the guidelines outlined on pages 15 and 16 within the Sutherland Shire Indigenous Plants Guide found at <a href="http://www.sutherlandshire.nsw.gov.au/Environment/Plants/Indigenous_Plants_Guide">http://www.sutherlandshire.nsw.gov.au/Environment/Plants/Indigenous_Plants_Guide</a> and include a variety of trees/shrubs and groundcovers at a density justified by the Bush Regenerator/Ecologist.</p> <p><u>Maintenance Phase:</u></p> <ul style="list-style-type: none"> <li>• Specific management timeframes, performance monitoring and maintenance, and links to performance measures as well as expected outcomes and responses.</li> <li>• Specific management responsibilities.</li> <li>• Any other habitat management or improvement measures deemed suitable for the site.</li> </ul> <p>The VMP shall be prepared by an appropriately qualified and experienced bush regenerator/ecologist.</p>	
5	<u>Deferred Commencement Condition 5 - Deletion of Lots 101 to 103</u>	

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>Due to the visual impact of the residential development of Lots 101, 102 and 103 on Captain Cook Drive and the poor quality amenity which would be afforded to future residents of these lots, Lots 101, 102 and 103 shall not be used for residential purposes.</p> <p>Consequently, the proposed Right of Carriageway off Trinity Street providing access to Lots 101, 102, 103 and 104 shall be deleted.</p>	Condition to be deleted.
BREEN COMMENTS		
	<p>There are no merit grounds, or other reasons, to delete these allotments and/or prescribe that they “shall not be used for residential purposes”. Firstly, this application does not seek approval for any residential development, nor does it include any plans or elevations of dwelling houses or other buildings. It is simply not possible to claim that the visual impact on any residential development is unacceptable in the absence of this information. The visual impact of the residential dwellings is likely to be positive on this streetscape and/or can be mitigated by design, fencing and landscaping. Secondly, and for the same reasons, it is not possible to determine at this stage that the future residents of these lots will suffer from a “poor quality amenity”. The noise impacts from the roadway are the same or better than that occurring on numerous other roadways in Sutherland or elsewhere in the metropolitan area. They can be managed with suitable acoustic treatments to be provided with the DAs for the houses. Thirdly there is no valid a reason to sterilise the use of the land for residential purposes as permitted by the current and very recently applied residential zoning, nor to prevent the subdivision of the land into allotments capable of being used for residential purposes, (subject to future approvals).</p> <p>Furthermore, to impose such a condition would create an unacceptable precedent for other land located on a busy road and is contrary to the objectives of the zone and the objects of the Act.</p> <p>As part of the traffic assessment undertaken by Colston Budd Hunt &amp; Kafes and by our IPWEA Accredited Level 3 Site Auditor, Cardno, it has been confirmed that the proposed Right of Way between lots 103 and is appropriate and safe (Insert reference to letter from Cardno). Breen Property therefore see no merit based reason to disallow these driveways and this condition should therefore be deleted.</p>	
<u>6</u>	<u>Deferred Commencement Condition 6 - Fill</u>	Condition to be deleted



DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
<p>In order to reduce the impact of the proposed landform while providing certainty in regards to constructing the final landform, the following changes shall be submitted to Council for approval:</p> <p>(a) The Remedial Action Plan (RAP): The RAP '<i>On-Site Containment of Fill Material and Removal of Copper Slag, CES, 11 May 2010</i>', is to be revised to include methods of process the existing fill material to recover and reuse up to 32% of the required clean capping layer.</p> <p>The revised RAP is to ensure that no less than the top 600mm of the clean capping layer will only comprise of certified clean imported VENM.</p> <p>(b) A Site Audit Report: A new Site Audit Report verifying that the RAP is appropriate to render the site suitable for residential use and a Site Audit Statement produced in accordance with the NSW Contaminated Land Management Act 1997, is to accompany the revised RAP.</p> <p>(c) Revised Plans: Revised plans showing contours reflecting the allowance of a maximum of 480,000<sup>3</sup> of total fill on the site.</p> <p>Revised contours are to focus on reducing the height of the northern portion of the ridge line and providing more gradual gradients to meet the levels of adjacent properties.</p>	
BREEN COMMENTS	
<p><b>As per the Opinion from Henry Davis York, this draft condition is unlawful. This condition is legally uncertain and lacks finality. It should be deleted.</b></p> <p>There is no rationale supporting Council's desire "to reduce the impact of the proposed landform". Council agrees that the site should meet the existing contours and levels that are on its boundary with Bate Bay Road. With only a couple of exceptions, (apart from Australand) there were few comments received from the public that objected to the overall site levels. Four residents living on the southern side of Bate Bay Road, mainly objected to a loss of views.</p>	

DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>The proposed re-contoured landform and subsequent development is designed to be sensitive and sympathetic to its setting behind the Beach and Reserve and to the adjacent precincts and High School. The proposed re-contoured landform and subsequent development is designed to be sensitive and sympathetic to its setting behind the Beach and Reserve and to the adjacent precincts and High School.</p> <p>The Remediation Action Plan for the site has been reviewed by a NSW accredited site auditor and a Site Audit Report and Site Audit Statement issued. The appointed NSW EPA accredited site auditor (EPA Accredited Site Auditor Number 9808 (Mr. Graeme Nyland of Environ Australia Pty Ltd)) assesses that the nature and extent of the contamination has been appropriately determined, that the remedial action plan is appropriate, and that if the site is remediated in accordance with the remediation action plan, the site can be made suitable for purpose.</p> <p>The Remediation Action Plan proposes an efficient and relatively common method of remediation. The remediation involves the use of conventional earthwork plant, methods, techniques and procedures.</p> <p>Detailed modelling and assessment has been undertaken at the request of Council to assess anticipated volumes of suitable fill that could be recovered for re-use in the clean capping layer (refer to CES document referenced: CES070313-HDY-170912 dated 17 September 2012). The results of the modelling indicate that 18% of the fill on site is potentially suitable for re-use in the clean soil capping. The modelling was carried out in cooperation with the Sutherland Shire Council's Manager/Principal Environmental Scientist, who in his email of 19 September 2012 wrote in regards to the CES fill assessment report that</p> <p><i>"The report assesses potential reuse of the existing fill materials in accordance with the broad reuse principles we discussed and agreed at our meeting of 7 September 2012. I therefore agree with the conclusions of this report and consider that the recycling/reuse calculations contained within the report represent an acceptable basis on which to progress this matter".</i> (Mr. Ian Drinnan Email to Mr. Tom Breen on 19/09/2012 at 2:49 pm).</p> <p>As the remediation works progress and the earthwork operations become increasingly familiar and practiced, increased clean fill recovery efficiencies would be expected to eventuate. It may be possible to process the existing fill material to recover somewhat more than 18% of the required clean capping layer, however as per any earthworks project of this nature, this cannot be assured (nor will the exact volume of material suitable for re-use be definitive known until completion of the remediation works). As such, an arbitrary and baseless figure such as 32% should not be incorporated into the conditions of consent.</p> <p>The report by C M Jewell &amp; Associates clearly states: "the aspect of a more aggressive fill recovery regime that would be of most concern to a site auditor is the increased risk of inadvertently incorporating ACM into the cap." It also states that: "The EPA's General Terms of Approval make it clear that the risks associated with the generation of dust that might contain asbestos fibres is of great concern to the EPA. A more aggressive strategy that involved greater community risk would be unlikely to gain approval, and if approved would involve onerous EPL conditions. In my view, there is little benefit in developing an alternative remediation strategy which may not be approved because of the higher environmental risks it entails, and proceeding with the current remediation strategy is to be preferred over developing an alternative strategy."</p>

DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>Furthermore, the RAP proposed as it stands is an efficient and appropriate plan for the remediation of the site which has been subject to review and issuance of supportive site audit statement and report by an accredited NSW site auditor. The assertion that the Remediation Action Plan should be revised which would subsequently result in the requirement of a new Site Audit Report and a new Site Audit Statement is unnecessary and inappropriate.</p> <p>The requirement to ensure that no less than the top 600mm of the clean capping layer will only comprise of certified clean imported VENM is acceptable and will be addressed in the Remediation and Earthworks Detailed Design Plans, Construction Environmental Management Plan and Soil and Groundwater Validation Plans that are required as a condition of the Site Audit Statement and as required under Condition 28.</p> <p>The agreed final landform and associated volumes should be the governing criteria for fill volumes at the site (as is the norm for earthwork projects of this nature) and as is necessary to avoid constant adjustment to ground elevations and resulting redesign and re-construction of lots, services and infrastructure.</p>
<p><b>PART 2 - CONDITIONS OF CONSENT</b></p> <p>Upon the satisfactory resolution of those matters listed above in Part 1 - Deferred Commencement Conditions and the receipt of written verification of this from Council, this Consent shall operate subject to the following conditions of development consent.</p> <p><b>GENERAL CONDITIONS</b></p> <p>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.</p>	<p><del><b>PART 2 - CONDITIONS OF CONSENT</b></del></p> <p><del>Upon the satisfactory resolution of those matters listed above in Part 1 - Deferred Commencement Conditions and the receipt of written verification of this from Council, this Consent shall operate subject to the following conditions of development consent.</del></p> <p><b>GENERAL CONDITIONS</b></p> <p>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.</p>
<p>7. <u>Approved Plans and Documents</u></p> <p>The development shall be implemented substantially in accordance with the details and specifications set out on the Plan/Drawing No's. 600201-3002 &amp; 3003 Revision 5, 600201-3006 Revision 6, 600201-3007 &amp; 3008</p>	<p><u>Approved Plans and Documents</u></p> <p>The development shall be implemented substantially in accordance with the details and specifications set out on the Plan/Drawing No's. 600201-<del>3001</del>, 3002 &amp; 3003 Revision 5, <b><u>600201-3005 Revision 3</u></b>,</p>

DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
<p>Revision 2, 600201-3009 &amp; 10 Revision 3, 60021-3011 to 3014 Revision 5, 600201-3015 Revision 4, 60021-3016 Revision 5, 600201-3017 Revision 4, 600201-3020 to 3023 Revision 3, 600201-3030, 3035 Revision 4, 60021-3037 Revision 3, 600201-3040 Revision 4, 600201-3050 Revision 5, 600201-3055 Revision 4, 600201-3060, 3065 &amp; 3066 Revision 5, 600201-3067 Revision 2 and 600201-3070 Revision 2 prepared by Cardno and any details on the application form and on any supporting information received with the application except as amended by the Deferred Commencement Conditions and by the conditions specified and imposed hereunder.</p> <p><b>Note 1:</b>  <u>The development consent does not give approval to any form of gas ventilation system within the Don Lucas Reserve. If such a system is found to be required, a new development application is to be submitted for approval by Council.</u></p> <p><b>Note 2:</b>  Nothing in this development consent whatsoever approves or authorises the commencement or construction of any subdivision works.</p> <p><b>Note 3:</b>  Prior to the commencement of any subdivision work a 'Construction Certificate' shall be obtained from the Council or an Accredited Certifier.</p> <p><b>Note 4:</b>  As the development the subject of this consent involves the subdivision of land and the issue of a subdivision certificate as defined under section 109c(1)(9) of the Environmental Planning and Assessment Act 1979, please note that Sutherland Shire Council must be appointed as the Principal Certifying Authority for all subdivision works.</p>	<p>600201-3006 Revision 6, 600201-3007 &amp; 3008 Revision 2, 600201-3009 &amp; 10 Revision 3, 60021-3011 to 3014 Revision 5, 600201-3015 Revision 4, 60021-3016 Revision 5, 600201-3017 Revision 4, 600201-3020 to 3023 Revision 3, 600201-3030, 3035 Revision 4, 60021-3037 Revision 3, 600201-3040 Revision 4, 600201-3050 Revision 5, 600201-3055 Revision 4, 600201-3060, 3065 &amp; 3066 Revision 5, 600201-3067 Revision 2 and 600201-3070 Revision <u>21</u> prepared by Cardno and any details on the application form and on any supporting information received with the application except as amended by <del>the Deferred Commencement Conditions and by the</del> conditions specified and imposed hereunder.</p> <p><b>Note 1:</b>  <u>The development consent does not give approval to any form of gas ventilation system within the Don Lucas Reserve. If such a system is found to be required, a new development application is to be submitted for approval by Council the consent authority.</u></p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p><b>Note 5:</b> 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:</p> <p>(e) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from the PCA.</p> <p>(f) Notification of the commencement of building and/or subdivision works with a minimum of 2 days notice of such commencement.</p>	
8.	<p><u>Prescribed Conditions - General</u></p> <p>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.</p> <p><b>A. Details to be provided to Council with the Notice of Commencement</b> Builders and Insurance details shall be provided to Council with the Notice of Commencement.</p>	<p><u>Prescribed Conditions - General</u></p> <p>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.</p> <p><b>A. Details to be provided to Council with the Notice of Commencement</b> Builders and Insurance details shall be provided to Council with the Notice of Commencement.</p>
<b>BREEN COMMENTS</b>		
9.	<p><u>Staged Development</u></p> <p>Due to the scale and complexity of the proposed development, Development consent is granted for that part of the proposal comprising:</p>	<p><u>Development</u></p> <p><del>Due to the scale and complexity of the proposed development, Development consent is granted for that part of the proposal comprising:</del></p>

DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
<ul style="list-style-type: none"> <li>• Subdivision of the Shearwater Landing Site to create six lots;</li> <li>• Soil remediation of the Shearwater Landing Site;</li> <li>• Bulk earthworks of the Shearwater Landing Site;</li> <li>• Construction of roads associated with the land identified as Precinct 1;</li> <li>• Construction of infrastructure services in shared underground trenches within roadways in Precinct 1;</li> <li>• Construction of infrastructure services in shared underground trenches within an infrastructure corridor in Precinct 2;</li> <li>• Construction of connecting infrastructure to services outside of the Development Site;</li> <li>• Landscaping of the public domain associated with the Precinct 1 roads;</li> <li>• Installation of a passive aquifer recharge system on the Shearwater Landing Site;</li> <li>• The augmentation of Council's existing stormwater treatment facility on Council land on the Wetland Basin Site; and</li> <li>• Landscaping of the Reserve site, being the small affected area of the Don Lucas Reserve.</li> </ul> <p>The following specified parts or aspects of the development shall be the subject of a further application for development consent:</p> <ul style="list-style-type: none"> <li>• Installation of a passive gas venting system on the Reserve Site if required;</li> <li>• The subdivision of Precinct 1 to create 128 residential allotments; and</li> <li>• The construction of roads, infrastructure services, landscaping and subdivision to create 33 residential allotments in Precinct 2.</li> </ul>	<p><b><u>In accordance with Section 83B, development consent is granted for the overall conceptual layout, involving:</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>The proposed road and residential lot layout of the land (ultimately resulting in 161 residential lots) which is to be delivered in two precincts (Precincts 1 and 2); and</u></b></li> <li>• <b><u>The infrastructure concept for the Development Site.</u></b></li> </ul> <p><b><u>In accordance with Section 83B(3)(b), development consent is also granted for Stage 1 of the proposed development. The works that fall within Stage 1 are called the Stage 1 Works and include:</u></b></p> <ul style="list-style-type: none"> <li>• Subdivision of the Shearwater Landing Site to create six lots;</li> <li>• Soil remediation of the Shearwater Landing Site;</li> <li>• Bulk earthworks of the Shearwater Landing Site;</li> <li>• Construction of roads associated with the land identified as Precinct 1;</li> <li>• Construction of infrastructure services in shared underground trenches within roadways in Precinct 1;</li> <li>• Construction of infrastructure services in shared underground trenches within an infrastructure corridor in Precinct 2;</li> <li>• Construction of connecting infrastructure to services outside of the Development Site;</li> <li>• Landscaping of the public domain associated with the Precinct 1 roads;</li> <li>• Installation of a passive aquifer recharge system on the Shearwater Landing Site;</li> <li>• The augmentation of Council's existing stormwater treatment facility on Council land on the Wetland Basin Site; and</li> <li>• Landscaping of the Reserve site, being the small affected area of the Don Lucas Reserve.</li> </ul>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
		<p>The following specified parts or aspects of the development shall be the subject of a further application for development consent:</p> <ul style="list-style-type: none"> <li>• Installation of a passive gas venting system on the Reserve Site if required;</li> <li>• The subdivision of Precinct 1 to create 128 residential allotments; and</li> <li>• The construction of roads, infrastructure services, landscaping and subdivision to create 33 residential allotments in Precinct 2.</li> </ul>
<b>BREEN COMMENTS</b>		
	<p><b>As per the Opinion from Henry Davis York, it is essential that the development consent approve the concept proposal in the development application being the proposed 161 residential lot and road layout and the infrastructure proposal.</b></p> <p><b>In addition, the development consent must approve the Stage 1 Works.</b></p>	

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
10.	<p><u>Requirements of IDA Approval Authorities</u> The development shall be conducted in accordance with all conditions of approval of the following Approval Authorities under Section 91A of the Environmental Planning and Assessment Act 1979:</p> <ul style="list-style-type: none"> <li>• Heritage Office</li> <li>• Environmental Protection Authority</li> <li>• NSW Office of Water (formerly Department of Water and Energy)</li> <li>• Rural Fire Service.</li> </ul> <p>A copy of the requirements of the approval Authorities is attached to this development consent. Suitable amendments shall be made to the proposed development in accordance with these requirements and these details shall be submitted to Council along with the Construction Certificate.</p>	<p><u>Requirements of IDA Approval Authorities</u> The development shall be conducted in accordance with all conditions of approval of the following Approval Authorities under Section 91A of the Environmental Planning and Assessment Act 1979:</p> <ul style="list-style-type: none"> <li>• Heritage Office</li> <li>• Environmental Protection Authority, <b><u>with the exclusion of condition 4.7.</u></b></li> <li>• NSW Office of Water (formerly Department of Water and Energy)</li> <li>• Rural Fire Service.</li> </ul> <p>A copy of the requirements of the approval Authorities is attached to this development consent. Suitable amendments shall be made to the proposed development in accordance with these requirements and these details shall be submitted to Council <b><u>the Consent Authority</u></b> <del>along with the</del> <b><u>prior to the issue of a</u></b> Construction Certificate.</p>
BREEN COMMENTS		
<p>EPA General Terms of Approval Condition 4.7 states:</p> <p><i>4.7 All stockpiling, sorting and screening of the fill material must be undertaken in a fully enclosed building designed, operated and maintained to ensure activities are not carried out in an unacceptable manner.</i></p> <p><i>Note: The only external stockpiling of material permitted on the premises is clean validated soil.</i></p> <p>Page 12 of the NSW Environmental Protection Authority (EPA) letter referenced: DOC12/33820 dated 12 October 2012 entitled: Integrated Development Staged Development: Masterplan Layout of 161 Residential Lots, Remediation and Bulk Earthworks – 15R Bate Bay Road - Greenhills Beach - DA No 12/0476 states the following:</p> <p><i>“The SEE states that considering the random distribution of contamination (that is, heavy metals, asbestos and hydrocarbons) and the heterogeneous nature of the fill, the screening and sorting is not intended to remove all contamination within the on site fill material. It is proposed</i></p>		



DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p><i>to emplace the material back into the site and cap with a two metre layer of clean fill. Whilst the SEE proposes a suite of measures for the management of dust and odour, there is no detailed assessment on their adequacy to achieve recognised air quality and amenity goals. Given the nature of the proposed activity (contaminated soil treatment), the significant amount of fill material requiring treatment and its sensitive location (adjoining a school and a residential community), the EPA had recommended in its response dated 12 December 2011 that an Air Impact Assessment (AIA) should be undertaken as part of the SEE. This AIA should be done in accordance with the Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (2005). Such an assessment would confirm the adequacy of the proposed dust and odour mitigation measures and also inform any associated Management Plans and Monitoring Programs.</i></p> <p><i>The EPA considers that the proposed treatment process involving the stockpiling, handling and mechanical screening of the fill material has the potential to cause air pollution by liberating pollutants such as asbestos fibres (we note that the RAP (page 28) refers to asbestos fibre bundles but does not appear to discuss fibre bundles further, considering only asbestos cement sheet). In addition, the excavation and processing may uncover previously unknown contaminants. <b>In the absence of the above assessment</b> and the potential for the handling and treatment process to cause air pollution the EPA has recommended that all stockpiling, sorting and screening of the fill material must be undertaken in a fully enclosed building fitted with appropriate air emission controls. The EPA has recommended a General Terms of Approval (GTA) for this requirement to be secured as a Condition of Consent. (Attachment A, Condition 4.7)”</i></p> <p>Hence from the above it is clear that Condition 4.7 has been included by the EPA conditional upon an Air Impact Assessment being undertaken. CES document referenced CES070313-HDY-22052012 dated 22 May 2012 entitled “Air Quality Assessment &amp; Air Quality Management Plan: Remediation Works at Shearwater Landing Proposed Subdivision Bate Bay Road, Greenhills Beach” provides both an air impact assessment and management measures. We are not aware whether or not Council or the EPA has reviewed a copy of this report, however we consider that the assessment and management measures proposed in CES070313-HDY-22052012 are adequate and appropriate. Should however the EPA have comments or queries regarding the Air Quality Assessment &amp; Air Quality Management Plan, these will be addressed to the EPA satisfaction.</p> <p>Condition 4.8, Page 5 of the NSW Environmental Protection Authority (EPA) letter referenced: DOC12/33820 dated 12 October 2012 entitled: Integrated Development Staged Development: Masterplan Layout of 161 Residential Lots, Remediation and Bulk Earthworks – 15R Bate Bay Road - Greenhills Beach - DA No 12/0476 states that an Air Quality Management Plan must be prepared and implemented for the project. As stated above, CES document referenced CES070313-HDY-22052012 dated 22 May 2012 entitled “Air Quality Assessment &amp; Air Quality Management Plan: Remediation Works at Shearwater Landing Proposed Subdivision Bate Bay Road, Greenhills Beach”, provides such a plan. As stated above, we are not aware whether or not council or the EPA has reviewed a copy of this plan prior to issuing the General Terms of Approval, however this should be confirmed and should the EPA have any comments or concerns regarding this plan, these will be addressed.</p> <p>Having regard to the above, it appears the EPA has not reviewed or considered the Air Quality Assessment &amp; Air Quality Management Plan prepared for</p>

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<p>the site. It would therefore be unreasonable for such an onerous requirement as EPA General Terms of Approval Condition 4.7 be imposed on the proponent without consideration to the Air Quality Assessment &amp; Air Quality Management Plan prepared for the site. Accordingly, Condition 4.7 should be deleted. Alternatively, the proponent could be required to submit to the EPA the Air Quality Assessment &amp; Air Quality Management Plan: Remediation Works at Shearwater Landing Proposed Subdivision Bate Bay Road, Greenhills Beach” report and obtain the EPA's approval prior to the issue of a construction certificate.</p> <p>This issue is also discussed in the Chris Jewell report attached to Breen's JRPP submission. He notes that measures can be implemented to deal with this issue.</p>	
<p>11.      <u>Approvals Required under Roads Act or Local Government Act</u></p> <p>The following works or activities shall not be carried out on public land (including a road) adjacent to the development site without approval under the Roads Act 1993 and/or the Local Government Act 1993:</p> <ul style="list-style-type: none"> <li>(a) Placing or storing materials or equipment;</li> <li>(b) Placing waste containers or skip bins;</li> <li>(c) Pumping concrete from a public road;</li> <li>(d) Standing a mobile crane;</li> <li>(e) Pumping stormwater from the site into Council's stormwater drains;</li> <li>(f) Erecting a hoarding;</li> <li>(g) Establishing a construction zone;</li> <li>(h) Opening the road reserve for the purpose of connections including telecommunications, water, sewer, gas, electricity and stormwater; or</li> <li>(i) Constructing a vehicular crossing or footpath.</li> </ul> <p>An application, together with the necessary fee, shall be submitted and approval granted by Council prior to any of the above works or activities commencing.</p> <p>Note - Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.</p>	<p>Condition noted and accepted.</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
12	<p><u>Pet Ownership</u></p> <p>A Restriction as to User shall be created over the title of all residential allotments under the provision of Section 88B of the Conveyancing Act, 1919, as amended giving effect to the following restrictions for the keeping of dogs and cats in order to protect native fauna and flora.</p> <p>The keeping of cats on this property shall be subject to the following conditions-</p> <p>(a) A maximum of two (2) cats are permitted to be kept on the property at any time.</p> <p>(b) Cats must be kept completely within the dwelling house or in a cattery or cat run within the dwelling curtilage at all times (day and night).</p> <p>The keeping of dogs on the property shall be subject to the following conditions-</p> <p>(a) A maximum of two (2) dogs are permitted to be kept on the property at any time.</p> <p>(b) Unrestrained dogs shall be kept within the dwelling curtilage during the hours between sunset and sunrise each day by fencing/caging enclosures, leashing or physical restraint.</p> <p>(c) Dogs are not permitted to enter areas of indigenous vegetation at any time.</p> <p>(d) Dogs must be kept restrained on a leash on all access tracks to and from the property.</p>	Condition to be deleted.
	<b>BREEN COMMENTS</b>	

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	This proposed condition of consent is not relevant to the proposed development. It would be more appropriately placed on development applications relating to the future individual dwellings.	
13.	<u>Site Access</u>  No vehicles or machinery associated with the approved works are to access the site from Bate Bay Road.	<u>Site Access</u>  No <b>heavy</b> vehicles or machinery associated with the approved works are to access the site from Bate Bay Road, <b><u>other than vehicles involved in the installation and connection of stormwater and utility services within the Bate Bay Road reserve.</u></b>
<b>BREEN COMMENTS</b>		
	To facilitate access for a site office for Breen Property staff and their consultants, it is requested that only light vehicles be permitted to access the site from Bate Bay Rd. Furthermore, heavy vehicle access will be required to this area during stormwater/utility service installation and connections within Bate Bay road reserve.	
14.	<u>Remediation Works</u>  The remediation works recommended in the approved Remedial Action Plan shall be completed under the supervision of an appropriately qualified environmental scientist.	Condition noted and accepted.
	<b>Bonds and Contributions</b>  The following security bonds and contributions have been levied in relation to the proposed development.	
15.	<u>Public Place Environmental, Damage &amp; Performance Security Bond</u>  Before the commencement of any works (including demolition) or the issue of a Construction Certificate, the applicant shall provide security to Council against damage cause 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	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>non refundable inspection/administration fee is included in the bond value.</p> <p>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 <b>prior</b> to the commencement of works.</p> <p>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.</p> <p>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 '<i>Bond Release Request Form</i>' signed by the owner or any person entitled to use of the consent.</p> <p>The value of the bond shall be \$100,000.</p> <p>Note: 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.</p>	
16	<p><u>Public Liability Insurance</u></p> <p>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 any 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.</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p><b>MATTERS RELATING TO THE ISSUE OF A CONSTRUCTION CERTIFICATE</b></p> <p>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.</p> <p><b>Design Conditions</b></p> <p>These design conditions are imposed to ensure the development, when constructed, meets appropriate standards for safety and convenience.</p>	
17	<p><u>Design and Construction of Works in Public Areas</u></p> <p>Council has determined that the proposed development generates a need for the following works to be undertaken by the Applicant in the Road Reserve:</p> <ul style="list-style-type: none"> <li>(a) A temporary concrete footpath crossing incorporating shaker pad and wheel wash bay for construction vehicle access.</li> <li>(b) Road pavement construction.</li> <li>(c) Stormwater drainage work.</li> <li>(d) Removal of all redundant layback crossings and reconstruction with integral concrete kerb and gutter.</li> <li>(e) Construction of 150mm concrete barrier kerb and gutter across the full frontage of the site in Captain Cook Drive.</li> <li>(f) A layback crossing at the access points including within mountable kerb, such to be no closer than 6 metres to the intersection of adjacent roads.</li> <li>(g) Construction of combined cycleway/footpath across the full frontage of</li> </ul>	Condition noted and accepted, other than part (i) as discussed below.

DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
<p>the site in Captain Cook Drive.</p> <ul style="list-style-type: none"> <li>(h) Regrading, topsoiling and turfing of the footpath area to final design levels across the full frontage of and within the site and across adjacent properties where existing levels are altered and to all disturbed areas.</li> <li>(i) Provision of conduits for the future undergrounding of public utility services, cables television and communications cables across the full frontage of the site.</li> <li>(j) Erosion and sediment controls.</li> <li>(k) Provision of street landscaping and tree planting as specified by Council.</li> <li>(l) Adjustment to public services infrastructure where appropriate or required by the applicable service provider.</li> <li>(m) Provision of pedestrian kerb ramps at intersections.</li> <li>(n) Provision of linemarking and signposting as detailed on Council's design plan.</li> <li>(o) Street lighting.</li> <li>(p) Street name signs, traffic advisory and regulatory signs and linemarking as required.</li> <li>(q) Pedestrian kerb ramps at intersections.</li> </ul> <p>An application under the Roads Act, together with the necessary fee, shall be submitted and alignment levels shall be issued by Council prior to the issue of a Construction Certificate. Approval under the Roads Act cannot be granted by a Principal Certifying authority or by a Private Certifier. Failure to obtain approval may result in enforcement action by Council.</p> <p>Survey and design plans for the above works shall be prepared by Council's Engineering Division and issued by Council's Civil Assets Manager. A fee quotation may be obtained by submitting a "Detailed Frontage Design" application to Council. The application form can be obtained from Council's web site.</p>	
	<p>Provision for conduits for undergrounding of all services is considered onerous considering that it is highly unlikely these conduits will ever be used.</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	It should be noted that additional/improved street lighting is proposed for only new intersections with existing roads (o).	
18	<p><u>Site Management Plan</u></p> <p>An Environmental Site Management Plan shall accompany any Construction Certificate. This plan shall satisfy the Objectives and Controls in Sutherland Shire Environmental Site Management Plan Development Control Plan and shall address the following:</p> <ul style="list-style-type: none"> <li>(a) What actions and works are to be employed to ensure safe access to and from the site and what protection will be provided to the road and footpath areas from building activities, crossing by heavy equipment, plant and materials delivery, and the like.</li> <li>(b) The proposed method of loading and unloading excavation machines, building materials.</li> <li>(c) Areas within the site to be used for the storage of excavated material, construction materials and waste containers during demolition/construction.</li> <li>(d) How it is proposed to ensure that material is not transported on wheels or tracks or vehicles or plant and deposited on surrounding roadways.</li> <li>(e) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be certified by a Certifier accredited to civil engineering.</li> <li>(f) The provision of temporary fencing to secure the work site (fencing, hoarding or awnings over public land require Council approval under the Roads Act).</li> </ul>	Condition noted and accepted.



	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>(g) The control of surface water flows within and through the construction site to minimise erosion and movement of sediment off site.</p> <p>(h) The type and location of erosion and sediment control measures, strategies to minimise the amount of soil uncovered at any time, the conservation of topsoil for re-use on site, the location and protection of stockpiles.</p> <p>(i) Identify all trees that are to be retained and the measures proposed to protect them (including fencing, mulching, watering, erection of signs excluding access to the protection zone, etc), and identify areas for revegetation.</p> <p>Note: The footpath and road reserve shall not be used for construction purposes (including storage of skips or building materials, standing cranes or concrete pumps, erecting hoardings or as a construction zone) unless prior approval has been granted by Council under the Roads Act 1993.</p>	
19	<p><u>Pavement Design</u></p> <p>(a) In accordance with Council's "Engineering Specification for Subdivisions and Developments" the design of the roadways shall comply with the following pavement design Equivalent Standard Axle criteria - Roads No.1 and No.2, <math>5 \times 10^5</math> ESA, Roads No.3, No.4 and No.5, <math>1 \times 10^5</math> ESA.</p> <p>(b) "Tripstop" footpath expansion joint material shall be employed at every joint in the concrete footpath areas throughout the entire site.</p>	Condition noted and accepted.
20	<p><u>Nomination of Engineering Works Supervisor</u></p> <p>Prior to the issue of a Construction Certificate the application shall nominate an appropriately accredited certifier to supervise all public area civil and</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>drainage works to ensure that they are constructed in compliance with Council's current "Specification for Civil Works Associated with Subdivisions and Developments".</p> <p>The engineer shall:</p> <p>(a) Provide an acceptance in writing to supervise sufficient of the works to ensure compliance with:</p> <ul style="list-style-type: none"> <li>(i) All relevant statutory requirements;</li> <li>(ii) All relevant conditions of development consent;</li> <li>(iii) Construction requirements detailed in the above Specification; and</li> <li>(iv) The requirements of all legislation relating to environmental protection;</li> </ul> <p>(b) On completion of the works certify that the works have been constructed in compliance with the approval plans, specifications and conditions of approval; and</p> <p>(c) Certify that the Works As Executed plans are a true and correct record of what has been built.</p> <p>Public Utility Authorities Requirements</p> <p>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.</p>	
21	<p><u>Public Utilities - Subdivision</u></p> <p>Arrangements shall be made with Energy Australia, Telstra, cable television network providers and other public utilities in relation to:</p> <p>(d) The provision of underground low voltage electricity conduits and cable television conduits within the footway area of Bate Bay Road and Captain Cook Drive.</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>(e) The method of connection of the property to the Energy Australia supply, ie either underground connection or by overhead supply.</p> <p>(f) The need for the provision of a kiosk-type substation.</p>	
	To clarify, it is not proposed to underground existing overhead cables in Bate Bay Road or Captain Cook Drive or to provide kiosk substations external to the site.	
22	<p><u>Sydney Water - Notice of Requirements</u></p> <p>Prior to the issue of a Subdivision Certificate the applicant shall obtain a Notice of Requirements under the Sydney Water Act 1994, Part 6 Division 9 from Sydney Water and submit the Notice to the Council.</p>	<p>Sydney Water - Notice of Requirements</p> <p>Prior to the issue of a Subdivision Certificate <b><u>for any residential lots</u></b>, 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.</p>
	<b>BREEN COMMENTS</b>	
	Minor proposed change to clarify proposed condition of consent.	
23	<p><u>Drainage Design - Detailed Requirements</u></p> <p>The drainage for the development proposal shall be designed in accordance with the Institution of Engineers' publication "Australian Rainfall and Runoff" (1987), Council's "Urban Drainage Design" Manual together with Council's "Stormwater Management Policy and Guidelines" and "On-Site Stormwater Detention Policy and Technical Specification".</p> <p>The design shall also take into account the specific requirements of any Development Control Plan, Catchment Management Plan or Stormwater Management Plan relevant to the site.</p> <p>The design shall include:</p>	<p><u>Drainage Design - Detailed Requirements</u></p> <p>The drainage for the development proposal shall be designed in accordance with the Institution of Engineers' publication "Australian Rainfall and Runoff" (1987), Council's "Urban Drainage Design" Manual together with Council's "Stormwater Management Policy and Guidelines" and "On-Site Stormwater Detention Policy and Technical Specification".</p> <p>The design shall also take into account the specific requirements of any Development Control Plan, Catchment Management Plan or Stormwater Management Plan relevant to the site.</p> <p>The design shall include:</p>

DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
<p>(a) A detailed drainage design supported by a catchment area plan and drainage calculation (including a Hydraulic Grade Line Analysis) incorporating all of the design changes detailed within this consent.</p> <p>(b) A layout of the drainage system showing existing and proposed pipe sizes, type, class, grades, lengths, invert levels, finished surface levels and location of all pipes and levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan.</p> <p>(c) A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line.</p> <p>(d) A physical barrier (eg. concrete kerb or earth mound within the landscaping) shall be provided around the perimeter of the site to prevent the discharge of surface water flows onto adjoining properties or the road reserve.</p> <p>(e) The rate of discharge of stormwater from the site to a drainage system under Council's control shall be controlled so that it does not exceed the pre-development rate of discharge. Specific certification from the designer to this effect shall be incorporated in the submitted drainage plans/details.</p> <p>(f) The design floor level , including the level of any opening in the wall adjacent to the drainage easements for any future residential dwelling constructed on the development site, shall be set a minimum of 500mm above the level of the overland flow of stormwater generated by a storm of design recurrence interval of 1 in 100 years, flowing along the overland escape route within the drainage easement within or adjacent to the site. Specific certification from a designer to this effect shall be incorporated in the submitted drainage design/details.</p> <p>(g) A drainage depression shall be provided for the full width and length of the drainage easements that facilitate the overland escape flow of stormwater. The escape route shall be designed to have the capacity to carry the difference between a 1 in 100 year flow and half the flow in the</p>	<p>A detailed drainage design supported by a catchment area plan and drainage calculation (including a Hydraulic Grade Line Analysis) incorporating all of the design changes detailed within this consent.</p> <p>A layout of the drainage system showing existing and proposed pipe sizes, type, class, grades, lengths, invert levels, finished surface levels and location of all pipes and levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan.</p> <p>A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line.</p> <p><del>A physical barrier (eg. concrete kerb or earth mound within the landscaping) shall be provided around the perimeter of the site to prevent the discharge of surface water flows onto adjoining properties or the road reserve.</del></p> <p><del>The rate of discharge of stormwater from the site to a drainage system under Council's control shall be controlled so that it does not exceed the pre-development rate of discharge. Specific certification from the designer to this effect shall be incorporated in the submitted drainage plans/details.</del></p> <p><del>The design floor level , including the level of any opening in the wall adjacent to the drainage easements for any future residential dwelling constructed on the development site, shall be set a minimum of 500mm above the level of the overland flow of stormwater generated by a storm of design recurrence interval of 1 in 100 years, flowing along the overland escape route within the drainage easement within or adjacent to the site. Specific certification from a designer to this effect shall be incorporated in the submitted drainage design/details.</del></p> <p>A drainage depression shall be provided for the full width and length of the drainage easements that facilitate the overland escape flow of stormwater. The escape route shall be designed to have the capacity</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>pipeline within the easement. Specific certification shall be provided by the designer to this effect as part of the submitted drainage design/details.</p> <p>(h) Where underground service lines (ie, water, drainage, sewerage and gas) are required which are in conflict with the location of the root zone of trees and significant vegetation to be retained, the lines shall be excavated by hand or by directional or underboring techniques to reduce any adverse impact on the root zone of the trees.</p> <p>A compliance certificate issued by an appropriately accredited person to the effect that these design requirements have been met shall accompany the Construction Certificate.</p>	<p>to carry the difference between a 1 in 100 year flow and half the flow in the pipeline within the easement. Specific certification shall be provided by the designer to this effect as part of the submitted drainage design/details.</p> <p>Where underground service lines (ie, water, drainage, sewerage and gas) are required which are in conflict with the location of the root zone of trees and significant vegetation to be retained, the lines shall be excavated <del>by hand or by directional or underboring</del> <b>using</b> techniques to reduce any adverse impact on the root zone of the trees.</p> <p>A compliance certificate issued by an appropriately accredited person to the effect that these design requirements have been met shall accompany the Construction Certificate.</p>
<b>BREEN COMMENTS</b>		
	<p>The requirements for part (d) are not practical due to the difficulties associated with maintaining earth mounds on land owned by a third party during house construction.</p> <p>Post development flows will be as reported in Cardno's engineering report, which describes a small but acceptable increase in flow compared to the existing case.</p> <p>Part (f) relates to the future design of dwellings floor levels by others. This condition should therefore be deleted.</p>	
	<p><b>PRE-COMMENCEMENT CONDITIONS</b></p> <p>The following conditions are imposed to ensure that all pre-commencement matters are attended to before work is commenced.</p>	
24	<u>Pre-Commencement - Notification Requirements</u>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>No works in connection with this development consent shall be commenced until:</p> <ul style="list-style-type: none"> <li>(a) A Construction Certificate has been issued and detailed plans and specifications have been endorsed and lodged with Council;</li> <li>(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</li> <li>(c) Notice of commencement has been provided to Council 48 hours prior to commencement of construction work on the approved development.</li> </ul>	
25	<p><u>Pre-commencement Inspection</u></p> <p>A pre-commencement meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00am and 4.30pm Monday to Friday. Prior to this meeting the relevant sections of the Environmental Site Management Plan (ESMP) must be implemented. The meeting must be attended by a representative of Council's Civil Assets Branch, the PCA, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.</p> <p>The purpose of the meeting is to:</p> <ul style="list-style-type: none"> <li>(i) Inspect the implementation of relevant sections of the ESMP such as safe passage for pedestrians, the installation of sediment and erosion controls, hoardings, Work and Hoarded Zones;</li> <li>(ii) Check the installation and adequacy of all traffic management devices;</li> <li>(iii) Discuss/explain any sections of the development consent that may</li> </ul>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>require clarification or elaboration;</p> <p>(iv) Confirm that a Construction Certificate has been issued where necessary and all Council fees paid;</p> <p>(v) Vet the compliance of any special/specific conditions of consent;</p> <p>(vi) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments - January 1996; and</p> <p>(vii) Confirm that the builder/site manager/principal contractor has a copy of the Sutherland Shire Development Control Plan 2006 and Environmental Specification 2007.</p>	
26	<p><u>Signs to be Erected Sites</u></p> <p>A rigid and durable sign shall be erected prior to the commencement of work and maintained in a prominent position site. The responsibility for this to occur is that of the principal certifying authority or the principal contractor.</p> <p>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:</p> <p>(a) show the name, address and telephone number of the principal certifying authority for the work, and</p> <p>(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</p> <p>(c) state that unauthorised entry to the work site is prohibited.</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
27	<p><u>Appointment of a Supervising Arborist</u></p> <p>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 5).</p> <p>The Supervising Arborist shall:</p> <ul style="list-style-type: none"> <li>(a) Approve the temporary protective fencing around trees to be retained before any excavation or construction begins.</li> <li>(b) Be present during any works within the dripline of any tree marked for retention on Council land and have the authority to direct works to ensure the trees long term preservation.</li> <li>(c) 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.</li> </ul>	Condition noted and accepted.
28	<p><u>Detailed remediation plans</u></p> <p>Prior to the commencement of remediation works, the following detailed plans, as required by the site auditor in the submitted Site Audit Statement, are to be prepared -</p> <ul style="list-style-type: none"> <li>(a) Remediation and Earthworks Detailed Design Plan/s.</li> <li>(b) Construction Environmental Management Plan.</li> <li>(c) Soil and Groundwater Validation Plan.</li> </ul>	Condition noted and accepted.



	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
29	<p><u>Dilapidation Reports</u></p> <p>To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant shall organise dilapidation reports on all buildings within the Cronulla High School grounds, all buildings adjoining the site on Don Lucas Reserve and the buildings at 1 and 2 Kirkwood Road, 2, 4, 6, 8, 10 and 12 Bate Bay Road, 1 and 2 Berry Street, 1 and 3 Sanderson Street. The reports must be prepared by a suitably qualified and experienced person of the necessary expertise and a copy must be supplied to the owner(s) of each property and to the Principal Certifying Authority.</p>	Condition noted and accepted.
	<b>CONSTRUCTION CONDITIONS</b>	
	These conditions are imposed to ensure the development does not unreasonably impact on the amenity of the locality during the construction or demolition phase.	
30	<p><u>Permitted Hours for Building and Demolition Work</u></p> <p>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.</p>	Condition noted and accepted.
31	<p><u>Site Safety</u></p> <p>(a) All works associated with the development shall be executed safely and in accordance with appropriate professional standards.</p> <p>(b) All works must be properly guarded and protected to prevent them from being dangerous to life or property.</p>	Condition noted and accepted.
32	<u>Imported 'Waste Derived' Fill Material</u>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>In order to ensure that imported fill is of an acceptable standard for environmental protection purposes:</p> <p>(a) The only waste derived fill material that may be received at the development site shall be:</p> <p>(i) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations Act 1997).</p> <p>(ii) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.</p> <p>(b) Any waste-derived material the subject of a resource recovery exemption received at the development site shall be accompanied by documentation as to the material's compliance with the exemption conditions and shall be provided to the Principal Certifying Authority on request.</p>	
33	<p><u>Support for Neighbouring Buildings, Stormwater Drainage Systems and Fences</u></p> <p>If an excavation associated with the development extends below the level of the base of the footings of a building or of any stormwater drainage pipelines, pits or other facilities on an adjoining allotment of land, the person causing the excavation to be made:</p> <p>(a) Shall preserve and protect the building from damage.</p> <p>(b) If necessary, shall underpin and support the building/s, stormwater pipelines and pits, fences and other structures in an approved manner.</p> <p>(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.</p> <p>(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</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>carried out on the allotment of land being excavated or on the adjoining allotment of land.</p> <p>In this clause, allotment of land includes a public road and any other public place.</p>	
34	<p><u>Protection of Public Places</u></p> <p>To protect public safety and convenience during the course of constructing the works covered by this consent, the following matters shall be complied with:</p> <p>(a) If the work involved in the erection or demolition of a building or other development:</p> <p>(i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed, inconvenienced, or rendered unsafe; or</p> <p>(ii) building involves the enclosure of a public place, A hoarding or fence shall be erected between the work site and the public place.</p> <p>(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.</p> <p>(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.</p> <p>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.</p>	Condition noted and accepted.
35	<p><u>Noise Control during Construction and Demolition</u></p> <p>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</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	(LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.	
36	<p><u>Vibration Damage</u></p> <p>To minimise vibration damage and loss of support to the buildings in close proximity, a geotechnical engineer's report shall be prepared detailing constraints to be placed on earthmoving plant and equipment and the method of any excavation, shoring etc. This report shall accompany the Construction Certificate and a copy shall be provided to the Principal Certifying Authority.</p>	Condition noted and accepted.
37	<p><u>Environment Protection and Management</u></p> <p>The environment protection and management measures described in the required Environmental Site Management Plan (including sediment controls and tree protection) shall be installed or implemented prior to commencement of any site works and continuously maintained during the period of construction or demolition. These measures shall generally be in accordance with the requirements the Sutherland Shire Environmental Specification 2007 - Environmental Site Management.</p>	Condition noted and accepted.
38	<p><u>Run-off and Erosion Controls</u></p> <p>Run-off and erosion controls shall be installed prior to commencement of any site works and shall be continuously maintained during the period of construction or demolition. These control measures shall generally be in accordance with the requirements of Sutherland Shire Environmental Site Management Development Control Plan and the Sutherland Shire Environmental Specification 2007 - Environmental Site Management and shall specifically address the following matters:</p> <p>(a) diversion of uncontaminated runoff around cleared or disturbed areas; (b) a silt fence or other device to prevent sediment and other debris</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>escaping from the cleared or disturbed areas into drainage systems or waterways;</p> <p>(c) controls to prevent tracking of sediment by vehicles onto adjoining roadways and public areas; and</p> <p>(d) disturbed areas shall be stabilised either temporarily or permanently by the use of turf, mulch, paving or other methods approved by the Council.</p>	
39	<p><u>Construction of Public Frontage Works</u></p> <p>The following road frontage works shall be constructed in accordance with the requirements of Council's adopted "Specification for Civil Works Associated with Subdivisions and Developments":</p> <p>(a) A temporary concrete footpath crossing incorporating vehicle shaker pad/s and wheel wash bay for construction vehicle access.</p> <p>(b) Road pavement construction.</p> <p>(c) Drainage.</p> <p>(d) Demolition of existing kerb and gutter at the proposed point/s of access and replacement with a concrete layback crossing.</p> <p>(e) Removal of all redundant layback crossings and reconstruction with integral concrete kerb and gutter.</p> <p>(f) A layback crossing at the access points including within mountable kerb, such to be no closer than 6 metres to the intersection of adjacent roads.</p> <p>(g) Regrading, topsoiling and turfing of the footpath area to final design levels across the full frontage of the site and across adjacent properties if required.</p> <p>(h) Provision of pedestrian kerb ramps at intersections.</p> <p>(i) Construction of a combined cycleway/footpath across the full frontage of the site in Captain Cook Drive.</p> <p>(j) Erosion and sediment controls.</p> <p>(k) Street Lighting.</p> <p>(l) Street name signs, traffic advisory and regulatory signs and linemarking as required.</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	Permission shall be obtained for the carrying out of the proposed works, under the Roads Act, 1993 prior to the commencement of works or the issue of a Construction Certificate.	
40	<p><u>Disposal of Site Soils</u></p> <p>All soils excavated from the subject site are to be classified under the NSW DECC Waste Classification Guidelines (2009). Testing is required prior to off site disposal.</p> <p>All waste materials shall be removed to appropriately licensed waste facilities by a suitably qualified contractor in accordance with NSW DECC Waste Classification Guidelines (2009).</p> <p>Note: Attention is drawn to Part 4 of the NSW DECC Waste Classification Guidelines (2009) which makes particular reference to the management and disposal of Acid &amp; Potential Acid Sulfate Soils.</p>	<p>Disposal of Site Soils</p> <p>All soils <b>to be disposed of off site</b> excavated from the subject site are to be classified under the NSW DECC Waste Classification Guidelines (2009). Testing is required prior to off site disposal.</p> <p>All waste materials shall be removed to appropriately licensed waste facilities by a suitably qualified contractor in accordance with NSW DECC Waste Classification Guidelines (2009).</p> <p>Note: Attention is drawn to Part 4 of the NSW DECC Waste Classification Guidelines (2009) which makes particular reference to the management and disposal of Acid &amp; Potential Acid Sulfate Soils.</p>
	<b>BREEN COMMENTS</b>	
	Minor change to wording proposed as only those soils that need to be disposed of need to be classified under the Protection of the Environment Operations Act and Regulations.	
41	<p><u>Fill Material - Don Lucas Reserve</u></p> <p>To maintain the permeability of the land in the Don Lucas Reserve to both air and water, any fill materials placed within the gully of the Don Lucas Reserve shall comprise natural crushed sandstone only, with minimal clays and fines.</p>	Condition to be deleted.
	Permeability is maintained by the proposed gravel filled drain at the invert of the basin as shown on drawing 600201-3065. This treatment is sufficient to ensure infiltration rates are not reduced post development. We do not believe there is a need for fill to the reserve to be permeable.	
42	<p><u>Green and Golden Bell Frog Habitat</u></p> <p>To provide suitable habitat for the Green and Golden Bell Frog as required</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	by the Office of Environment and Heritage, the wetland augmentation works shall incorporate habitat features suitable for the Green and Golden Bell Frog.	
	<b>Landscaping Requirements</b> These conditions are imposed to ensure the retention and enhancement of the existing landscaping.	
43	<u>Street Planting</u> Provide street tree planting with a minimum pot size of 25 litres and a temporary tree guard in a mulched and edged landscape area within the road reserve in accordance with the detailed landscape plan and details as approved by Council as per Deferred Commencement Condition No. 1c). The trees shall be maintained until they reach a diameter of 100mm measured at 500mm above ground level or for two (2) years after dedication to Council, whichever comes first.	Street Planting Provide street tree planting with a minimum pot size of 25 litres and a temporary tree guard in a mulched and edged landscape area within the road reserve in accordance with the detailed landscape plan and details as approved by Council <del>as per Deferred Commencement Condition No. 4e)</del> . The trees shall be maintained until they reach a diameter of 100mm measured at 500mm above ground level or for two (2) years after dedication to Council, whichever comes first.
44	<u>Landscape Treatment of Infiltration Basin</u> The stormwater infiltration basin shall be densely planted and suitably mulched to augment the future landscape character of the site. The mulch shall be stabilised with a biodegradable material. The planting shall not materially reduce the volume of the stormwater infiltration channel required by this development and the plantings shall be as per the VMP prepared and approved by Council as prescribed in Deferred Commencement Condition No. 4	<u>Landscape Treatment of Infiltration Basin</u> The stormwater infiltration basin shall be densely planted and suitably mulched to augment the future landscape character of the site. The mulch shall be stabilised with a biodegradable material. The planting shall not materially reduce the volume of the stormwater infiltration channel required by this development and the plantings shall be as per the VMP prepared and approved by Council <del>as prescribed in Deferred Commencement Condition No. 4</del>
45	<u>Tree Retention and Protection</u> Any trees specifically identified in the detailed landscape plan (as per Deferred Commencement Condition No. 1c) ) as an “existing tree to be retained” shall be retained and protected by the following measures:	<u>Tree Retention and Protection</u> Any trees specifically identified in the <del>detailed</del> <b>approved</b> landscape plan <del>(as per Deferred Commencement Condition No. 1c) )</del> as an “existing tree to be retained” <b>and are directly affected by the proposed works</b> shall be retained and protected by the following measures:

DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
<p>(a) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts shall be installed around the trees referenced above to the two areas marked on the approved tree protection plan, to the satisfaction of, a suitably qualified and experienced Arborist.</p> <p>(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".</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts shall be installed around the trees referenced above to the two areas marked on the approved tree protection plan, to the satisfaction of, a suitably qualified and experienced Arborist.</p> <p>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".</p> <p>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.</p> <p>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.</p> <p>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.</p>
<b>BREEN COMMENTS</b>	
Only trees that have the potential to be affected by the proposed works are required to be protected.	
<p><b>POST CONSTRUCTION CONDITIONS</b></p> <p>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.</p>	



	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
46	<p><u>Section 73 Compliance Certificate</u></p> <p>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.</p> <p><i>Advice from Sydney Water: An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at <a href="http://www.sydneywater.com.au/customer/urban/index">www.sydneywater.com.au/customer/urban/index</a> or by telephone 13 20 92.</i></p> <p><i>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.</i></p>	<p><u>Section 73 Compliance Certificate</u></p> <p>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 <b><u>for residential lots</u></b>. Sydney Water may require the construction of works and/or the payment of developer charges.</p> <p><i>Advice from Sydney Water: An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at <a href="http://www.sydneywater.com.au/customer/urban/index">www.sydneywater.com.au/customer/urban/index</a> or by telephone 13 20 92.</i></p> <p><i>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.</i></p>
	<b>BREEN COMMENTS</b>	
	No proposed change	
47	<p><u>Works As Executed Information</u></p> <p>Certification shall be provided from a registered surveyor to the effect that:</p> <p>(a) All civil engineering works required by this development consent have been carried out in accordance with the terms of the development consent and the approved engineering drawings with regard to location and level.</p> <p>(b) All pipes, pits and detention facilities lay within their relevant existing or</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>proposed easements.</p> <p>(c) All rights-of-way or positive covenants required by conditions of this development consent have been provided.</p>	
48	<p><u>Works As Executed Drawings</u></p> <p>Certification shall be provided from the supervising engineer acting as an Accredited Certifier, to the effect that:</p> <p>(a) All civil engineering and stormwater works associated with development have been carried out in accordance with the terms of the development consent, the approved engineering drawings and in the case of public works Council's "Specifications for Civil Works associated with Subdivisions and Developments".</p> <p>(b) The construction of the drainage system for the proposed development has been carried out generally in accordance with the requirements of the approved stormwater drainage plans, Council's stormwater management policy and guidelines and Council's On-site Detention Policy and has been carried out in order that stormwater runoff downstream is not increased as a result of the development and that all assumptions made during the design remain valid. Works-as-Executed drawings certified in the above manner and containing all relevant information as required by Council's "Specification for Civil Works Associated with Subdivisions and Developments" shall accompany the Subdivision / Occupation Certificate.</p>	<p>Condition noted and accepted.</p>
49	<p><u>Site Validation</u></p> <p>Prior to the issue of any subdivision certificate, a Site Audit Report and Site Audit Statement is to be prepared by a NSW EPA Accredited Site Auditor that:</p> <p>(a) verifies that all requirements and conditions as detailed in the RAP and</p>	<p><u>Site Validation</u></p> <p>Prior to the issue of <del>any a</del> subdivision certificate <b><u>for residential lots</u></b>, a Site Audit Report and Site Audit Statement is to be prepared by a NSW EPA Accredited Site Auditor that:</p> <p>(a) verifies that all requirements and conditions as detailed in the RAP</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>associated Site Audit Report and Site Audit Statement were complied with; and</p> <p>(b) certifies that the site is suitable for the proposed uses.</p>	<p>and associated Site Audit Report and Site Audit Statement were complied with; and</p> <p>(b) certifies that the site is suitable for the proposed uses,</p> <p><b><u>for the land subject to the subdivision certificate application.</u></b></p>
	<b>BREEN COMMENTS</b>	
	Minor amendment proposed to clarify proposed condition of consent.	
50	<p><u>Validation Report</u></p> <p>A Validation Report which includes disposal receipts for materials (both soil and water) disposed of off-site and all groundwater monitoring results, shall be submitted to Council within three (3) months of the completion of remedial works and site validation.</p>	<u>Condition to be deleted.</u>
	<b>BREEN COMMENTS</b>	
	This proposed condition of consent is not required as the Site Auditor will require evidence of validation prior to the issue of its Site Audit Statement.	
	<p><b>Need for Certification</b></p> <p>To ensure that all works are completed in accordance with the Development Consent, certification from an Accredited Certifier shall accompany the Occupation Certificate, to the effect that the following works have been completed.</p>	No buildings are proposed in this development. Thus an occupation certificate is not required.
51	<p><u>Certification - Ground Lines</u></p> <p>Certification shall be provided by a registered surveyor upon completion of the bulk earthworks stage of the development verifying that the ground lines of the site as indicated on the proposed contour plan that accompanied the</p>	Condition noted and accepted.

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	development application, have been filled and graded to the correct approved levels in accordance with the terms of this development consent.	
52	<p><u>General Compliance</u></p> <p>Certification shall be submitted from the Principal Certifying Authority certifying that all works have been completed and comply with the approved plans, conditions and specifications.</p>	Condition noted and accepted.
53	<p><u>Works in Roadway</u></p> <p>A Compliance Certificate from an Accredited Certifier certifying that all works undertaken within the road reserves have been completed in accordance with the conditions of the Road Opening Approval and the approved design plans.</p>	Condition noted and accepted.
54	<p><u>Completion of Landscaping</u></p> <p>Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect within three months after the issue of the Final Subdivision 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.</p> <p>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.</p>	<p><u>Completion of Landscaping</u></p> <p>Certification shall be provided from a suitably qualified and experienced Landscape Designer or Landscape Architect within three months after the issue of <del>the Final Subdivision Certificate for the development</del> <b><u>the General Compliance Certification referred to in condition 52.</u></b> 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.</p> <p>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.</p>

BREEN COMMENTS		
	Minor amendment proposed to clarify proposed condition of consent.	
55	<p><u>Completion of Vegetation Management</u></p> <p>Certification shall be provided from a suitably qualified and experienced Bush Regenerator / Horticulturalist within three months after the issue of the Final Subdivision Certificate for the development. This Certification shall verify that the establishment phase of the vegetation management works have been completed in accordance with the approved Vegetation Management Plan (VMP) and relevant conditions of this consent.</p> <p>Regular Monitoring reports shall be submitted to the Director - Environmental Services - Sutherland Shire Council certifying that the required maintenance works are being carried out in accordance with the approved VMP.</p> <p>Note: A Bush Regenerator is a person eligible for membership of the Australian Association of Bush Regenerators and a Horticulturalist is a person eligible for membership of the Australian Institute of Horticulture.</p>	Condition noted and accepted.
56	<p><u>Stormwater Treatment</u></p> <p>Certification shall be provided from an Accredited Certifier prior to the issue of an occupation certificate for the development verifying that the stormwater treatment measure and positive covenant have been implemented in accordance with the requirements of this condition.</p>	<p><u>Stormwater Treatment</u></p> <p><del>Certification shall be provided from an Accredited Certifier prior to the issue of an occupation certificate for the development verifying that the stormwater treatment measure and positive covenant have been implemented in accordance with the requirements of this condition.</del></p>
BREEN COMMENTS		
	No positive covenants required as stormwater treatment is off-site and on land to be dedicated to council	
57	Final Site Inspection	Final Site Inspection

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>Prior to the issue of the Subdivision Certificate, a final site inspection relating to the public area shall be arranged by the applicant, and shall be undertaken by the applicant's Supervising Engineer and Council's Civil Assets Engineer. The purpose of the inspection is to ensure that notwithstanding the submission of any certificates required by the development consent, all impacts within the public area caused by the development have been satisfactorily addressed.</p> <p>Note: An inspection fee shall be paid to Council. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.</p>	<p>Prior to the issue of the Subdivision Certificate <b><u>for residential lots</u></b>, a final site inspection relating to the public area shall be arranged by the applicant, and shall be undertaken by the applicant's Supervising Engineer and Council's Civil Assets Engineer. The purpose of the inspection is to ensure that notwithstanding the submission of any certificates required by the development consent, all impacts within the public area caused by the development have been satisfactorily addressed.</p> <p>Note: An inspection fee shall be paid to Council. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.</p>
<b>BREEN COMMENTS</b>		
	Minor amendment proposed to clarify proposed condition of consent.	
	<p><b>Subdivision Plan Requirements</b></p> <p>The following conditions have been imposed in relation to the preparation and release of the Linen Plans of Subdivision.</p>	
58	<p><u>Linen Plan of Subdivision to Conform with Development Consent</u></p> <p>The Linen Plan of Subdivision shall conform with Council's Development Consent No.12/0476 and all relevant conditions thereunder.</p>	Condition noted and accepted.
59	<p><u>Drainage Easements - Subdivision</u></p> <p>Easements to drain water of minimum width 1m shall be created in favour of Sutherland Shire Council, over:</p> <p>(a) The alignment of interlot drainage lines,</p>	<p><u>Drainage Easements - Subdivision</u></p> <p>Easements to drain water of minimum width 1m shall be created in favour of Sutherland Shire Council, over:</p> <p>(a) The alignment of interlot drainage lines,</p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
	<p>(b) The area required for on-site infiltration, and (c) The rights of carriageway within relevant allotment(s).</p> <p>The easements and terms thereof shall be created under the provisions of s.88B of the Conveyancing Act, 1919.</p>	<p><del>(b) The area required for on-site infiltration, and</del> (c) The rights of carriageway within relevant allotment(s).</p> <p>The easements and terms thereof shall be created under the provisions of s.88B of the Conveyancing Act, 1919.</p>
	<b>BREEN COMMENTS</b>	
	Item (b) is better addressed in condition 61.	
60	<p><u>Interlot Drainage Lines - Subdivision</u></p> <p>Interlot drainage lines shall be constructed to service all allotments which are not capable of being drained by gravity means within the natural catchment of the site . These drainage lines shall be connected to a drainage system within a public road or pipeline within an existing drainage easement. Filling of the site to redirect the stormwater is not permitted without the consent of Council.</p>	<p><u>Interlot Drainage Lines - Subdivision</u></p> <p>Interlot drainage lines shall be constructed to service all allotments which are not capable of being drained by gravity means within the natural catchment of the site . These drainage lines shall be connected to a drainage system within a public road or pipeline within an existing drainage easement. Filling of <del>the site</del> <b>individual lots</b> to redirect the stormwater is not permitted without the consent of Council.</p>
61	<p><u>Positive Covenant - Stormwater Infiltration</u></p> <p>A positive covenant shall be created on the title of the property pursuant to Section 88E of the Conveyancing Act, 1919 as amended with respect to the maintenance of any stormwater infiltration measure 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 infiltration facilities. The location and extent of the treatment measure shall be delineated on the Linen Plan of Subdivision.</p>	<p><u>Stormwater Infiltration</u></p> <p><b><u>The Stormwater infiltration area shall comprise a separate allotment and shall be dedicated to Council three (3) months following the issue of the final subdivision certificate for the residential lots.</u></b> A positive covenant shall be created on the title of the property pursuant to <del>Section 88E of the Conveyancing Act, 1919 as amended with respect to the maintenance of any stormwater infiltration measure 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 infiltration facilities. The location</del></p>

	DRAFT CONDITIONS OF COUNCIL	AMENDED CONDITION AS PROPOSED BY BREEN
		<del>and extent of the treatment measure shall be delineated on the Linen Plan of Subdivision.</del>
BREEN COMMENTS		
	<p>Minor amendment proposed to clarify proposed condition of consent.</p> <p>The stormwater infiltration area is situated on land that is proposed to be dedicated to council as a separate lot. Accordingly, council will own and control this land and positive covenant is not required.</p>	
62	<p><u>Endorsement of Linen Plans of Subdivision by Council</u></p> <p>To facilitate the issue of the Plan of Subdivision, following completion of the requirements detailed in the conditions of this Development Consent and the issue of the Subdivision Certificate by Council, a film and eight (8) paper copies of the Plan of Subdivision shall be submitted to Council together with the Instrument (in duplicate) under Section 88B of the Conveyancing Act, where required for ultimate lodgement at the Land Titles Office.</p>	<b>Condition noted and accepted.</b>