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| <b>JRPP No:</b>              | <b>2012SYE065</b>   |
| <b>DA No:</b>                | <b>DA12/0476</b>  |
| <b>LGA:</b>                  | <b>Sutherland Shire</b>   |
| <b>Proposed Development:</b> | <b>Staged Development - Masterplan Layout of 161 Residential Lots, Remediation and Bulk Earthworks; Stage 1: Development Including Initial Development of Three (3) Existing Lots into Six (6) Super Lots, Vegetation Removal, Site Remediation, Bulk Earthworks, Construction of Associated Road and Infrastructure, Augmentation of Existing Wetland Basin Stormwater Treatment Facility, Landscaping and (if required) Installation of Passive Gas Venting System on Part of Don Lucas Reserve</b> |
| <b>Site/Street Address:</b>  | <b>Lot 22 DP 226424, Lot C DP 370539, Lot 115 DP 777967, Lot 116 DP 777967 &amp; Lot 7304 DP 1130200 - 15R Bate Bay Road &amp; 452 Captain Cook Drive, Greenhills Beach and 405-417 Captain Cook Drive &amp; 31 Lindum Road, Kurnell</b>  |
| <b>Applicant:</b>            | <b>Breen Property Pty Ltd</b>   |
| <b>Submissions:</b>          | <b>11</b>   |
| <b>Recommendation:</b>       | <b>Approval</b>   |
| <b>Report By:</b>            | <b>Annette Birchall – Environmental Assessment Officer (Planner) Sutherland Shire Council</b>   |

## **Supplementary Assessment Report and Recommendation**

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### **1.0 EXECUTIVE SUMMARY**

#### **1.1 Reason for Report**

At its Meeting of 28 February 2013 the Joint Regional Planning Panel (JRPP) considered a revised landform for the above mentioned development.

At this meeting the JRPP resolved to approve the application subject to:

- a) a contour plan generally in line with the applicant's submission, though the plan can be modified in minor ways, subject to discussion between the applicant and council's staff;
- b) a revised set of conditions which clarify the requirement for landscaping and the staging of the application; and
- c) a maximum building envelope height of 4.5m on proposed lots 267-272 inclusive, measured at the building line.

The purpose of this report is to:

- Provide the JRPP with a contour plan for the site as agreed to between Council and the applicant.
- Provide the JRPP with a revised set of conditions following consideration of staging of the works and further discussions regarding landscaping.

## 1.2 Conclusion

The application satisfies the resolution of the JRPP and should be approved subject to the recommended conditions detailed in Appendix 'A'.

## 2.0 BACKGROUND

- At its Meeting of 28 February 2013 the Joint Regional Planning Panel (JRPP) considered a revised contour plan and conditions as requested by the Panel at its meeting of 7 November 2012. The JRPP resolved as follows:
  - 1) The Panel resolves unanimously that it will approve the application subject to
    - a) a contour plan generally in line with the applicant's submission, though the plan can be modified in minor ways, subject to discussion between the applicant and council's staff;
    - b) a revised set of conditions which clarify the requirement for landscaping and the staging of the application; and
    - c) a maximum building envelope height of 4.5m on proposed lots 267-272 inclusive, measured at the building line.
  - 2) The Panel recognises that the landform proposed by the council's assessment officer complies with the Panel's resolution at its last meeting on 7 November 2012. The reason why the Panel finally accepted the landform proposed by the applicant is that it placed major weight on the fact that exporting contaminated fill from the site was undesirable.
  - 3) The Panel considered the concerns of objectors, particularly those from Bate Bay Road. It imposed the height limit of 4.5m on proposed lots 267-272 because it considered that this was the most effective way to respond to those concerns.
  - 4) The Panel requests the applicant and the council's staff to consult in relation to a final set of conditions and a contour plan based generally on the applicant's proposal, but which may be varied in minor ways to achieve a better environmental result. The Panel requests that the conditions and landform plan be completed by 15 March 2013, after which the council's assessment officer will submit a supplementary report to the Panel. Following receipt of the report, the Panel will determine the application by communicating by electronic means.
- On 5 March 2013 Council officers met with the applicant and planning consultant to discuss minor modifications to the contour plan and practical timing of the works in order to resolve conditions of consent.
- Following this meeting and several subsequent telephone discussions, final contour plans were received on 12 March 2013.
- On 11 March, Council officers met with the applicant and their Landscape Architect to discuss the landscape condition. It was agreed that the applicant

would prepare a detailed landscape plan for key areas of the site for review by Council.

### **3.0 CHANGES**

#### **3.1 Contour plan**

The Panel resolved to approve '*a contour plan generally in line with the applicant's submission*'. In this resolution, the Panel determined that the plan can be modified in minor ways subject to discussion between the applicant and council's staff.

On 5 March, Council staff met with the applicant and the applicant's planning consultant to discuss any modifications to the landform as submitted. Several revisions and phone calls were exchanged following this meeting to produce the landform submitted.

Minor changes to the contours include:

- improving the gradient across the central portion of Road 2 to provide an appropriate cross fall;
- realigning the 10m contour adjacent to the Australand development to better relate to properties within the Australand development; and
- reducing the gradient with the Don Lucas Reserve in order to reduce the extent of retaining structures within public land.

All aspects of the revised contour plan are supported by both Council and the applicant.

#### **3.2 Conditions**

Several conditions of consent were being contended by the applicant and, in their resolution of 28 February, the Panel requested '*a revised set of conditions which clarify the requirement for landscaping and the staging of the application*'.

##### **3.2.1 Landscaping**

Council's Landscape Architect and Environmental Scientist met with the Applicant and the applicant's Landscape Architect on 11 March. Further detailed landscape plans were submitted for discussion following this meeting, however, Council were not satisfied that these were sufficiently adequate to enable the removal of the condition relating to street trees as sought by the applicant. Nonetheless, both Council and the applicant were satisfied that this condition could be reworded to the satisfaction of both parties.

##### **3.2.2 Staging**

The Applicant's staging requirements were discussed in a meeting on 5 March and all relevant conditions have been modified to reflect these requirements to the satisfaction of the applicant.

### 3.2.3 Cronulla High School

During the JRPP meeting on 28 February, the Department of Education and Communities (DEC) stated concerns relating to the impact of the development on the learning environment of the school. This concern largely related to that of noise impacts from the extensive earthworks and construction activities. Several example conditions which have been placed on developments adjacent to other schools were presented to the Panel.

One of these conditions required the applicant to obtain information in relation to sensitive school periods, such as exam times, to consider these times in their schedule of works and to communicate on a regular basis with the school. This condition was generally agreed to by the Applicant at the meeting. Agreement to include this condition has since been confirmed and the condition added.

Further discussions between Council, the School, DEC and the Applicant resulted in an agreement to include of a further condition relating to noise mitigation.

In the General Terms of Approval (GTA) issued by the EPA, a Construction Noise Management Plan (CNMP) is to be prepared in consultation with the EPA and is required to include construction work times developed in conjunction with the school, noise and vibration objectives identified in accordance with the *NSW Interim Construction Noise Guidelines and Assessing Vibration: A Technical Guideline* and measures to monitor noise performance, amongst others.

This condition is considered to be sufficiently detailed to ensure the CNMP will reasonably monitor and manage noise from the development. As the GTAs relate to remediation activities, the new condition of consent has been recommended to expand this management plan to include all works undertaken as part of this development.

### 3.2.4 Other changes

There have been further amendments to and rearrangement of some existing conditions as well as the addition of others including the Panels resolution to limit the height of future buildings on proposed lots 267-272. Both Council and the Applicant are now satisfied with the recommended conditions of consent.

## 4.0 CONCLUSION

The applicant and Council have addressed the resolution of the JRPP at its Meeting of 28 February 2013.

Following negotiations between Council and the applicant, the final contour plan and conditions of consent have been agreed to by both parties.

Subject to the recommended conditions of consent the proposed development can now be finalised.

## 5.0 RECOMMENDATION

That Development Application No. 12/0476 for a Staged Development Including the Masterplan Layout of 161 Residential lots and Stage 1 Works Including the Initial Development of Three (3) Existing Lots Into Six (6) Super Lots, Vegetation Removal, Site Remediation, Bulk Earthworks, Construction of Associated Road and Infrastructure, Augmentation of the Existing Wetland Basin Stormwater Treatment Facility and Landscaping on Lot 22 DP 226424, Lot C DP 370539, Lot 115 DP 777967, Lot 116 DP 777967 and Lot 7304 DP 1130200 (Nos. 15R Bate Bay Road & 452 Captain Cook Drive, Greenhills Beach and Nos. 405-417 Captain Cook Drive & 31 Lindum Road, Kurnell be approved, subject to the draft conditions of consent detailed in **Appendix A** of the Report.