

11215 Stage 1 Sharks Residential Response to Draft Conditions

21 August 2013

Below is a table of the proposed changes, with words to be deleted shown in red bold italics strike through and words to be included in blue bold italics.

Council Condition				Proponent Response
1. Pedestrian Access				
A legible street access from the Solander Field frontage to lift 2 shall be provided to enable direct pedestrian access to the northern units of Building F from Level 2 and above. The lower ground floor pool and gym components shall be reconfigured as necessary.				Plans illustrating this access have been provided to Council and verbal confirmation has been received that this condition is satisfied.
2. Approved Plans/Documents				
DA02	E <i>F</i>	Stage 1 – Site Plan	12.04.13 <i>19.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA20	H <i>J</i>	Lower Ground Floor	XX.06.13 <i>06.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA21	H	Ground Floor	XX.06.13 <i>25.06.13</i>	Amended to reflect most recent plan which Council has on file.
DA22	F <i>G</i>	Level 1	12.04.13 <i>05.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA23	F <i>G</i>	Level 2	12.04.13 <i>05.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA24	F <i>G</i>	Level 3	12.04.13 <i>05.08.13</i>	Amended to reflect current plan name which Council has on file.
DA25	F <i>G</i>	Level 4	12.04.13 <i>05.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA26	F <i>G</i>	Level 5	12.04.13 <i>05.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA27	F <i>G</i>	Level 6	12.04.13 <i>05.08.13</i>	Amended to reflect current plan name which Council has on file.
DA28	F <i>G</i>	Level 7	12.04.13 <i>05.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA40	D <i>G</i>	North Elevation	12.04.13 <i>06.08.13</i>	Amended to reflect most recent plan which Council has on file.
DA41	D <i>F</i>	South Elevation	12.04.13 <i>25.06.13</i>	Amended to reflect current plan name which Council has on file.

DA42	D F	East Elevation	12.04.13 25.06.13	Amended to reflect most recent plan which Council has on file.
DA43	D F	West Elevation	12.04.13 06.08.13	Amended to reflect most recent plan which Council has on file.
DA50	C D	Section AA	25.03.13 05.08.13	Amended to reflect current plan name which Council has on file.
DA51	C D	Section BB	25.03.13 05.08.13	Amended to reflect most recent plan which Council has on file.
DA52	C D	Section CC	25.03.13 05.08.13	Amended to reflect most recent plan which Council has on file.
DA53	C D	Section DD	25.03.13 05.08.13	Amended to reflect current plan name which Council has on file.
Note: In accordance with Condition 29 Concept Approval No. MP-0229, the two replacement playing fields shall be completed prior to commencing the residential component of the Concept Approval.				This note repeats Condition 29 of the Concept Plan Approval, not adding any value to the consent.

New Condition 3 – Staging of demolition and construction

Notwithstanding any other condition of this consent, the consent permits separate Construction Certificates and Occupation Certificates to be issued for the development and approved by this consent authority in stages, provided that all conditions of consent relevant to the development incorporated within each stage have been complied with prior to the release of the Construction Certificate or Occupation Certificate for that stage.	This condition is requested to allow for the staged issue of Construction Certificates and Occupation Certificates, as sought in the application. The staged issue of these certificates will enable various works to occur on the site, with only conditions relevant to that stage needing to be satisfied prior only to the issue of the certificate.
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3. Car Parking

A. Design

ii. Captain Cook Drive/Central Road Intersection —The design of the intersection shall be modified such that the Heavy Rigid Vehicle manoeuvre left turn from Captain Cook Drive into Central Road commences wholly within Lane 1 (the kerbside lane) of Captain Cook Drive and does not encroach onto the Captain Cook Drive Lane 2 (eastbound). The provision of the right turn bay into Captain Cook Drive from Central Road shall be positioned clear of the Heavy Rigid Vehicle swept manoeuvring path from Captain Cook Drive into Central Road. - The intersection design shall incorporate widening of the southbound carriageway in Central Road to provide sufficient width for both left and right turning vehicles into Captain Cook Drive together with sufficient queuing length for both	The first bullet point of this condition is requested to be deleted as it relates to the design of the intersection of the Central Boulevard and Captain Cook Drive, which is not the subject of this application. Approval for this intersection has been sought as part of the Project Application (PA) for the Retail/Club component of the Concept Plan. This PA is currently with the Planning Assessment Commission for a determination with a recommendation for approval. During the assessment of the PA, Council had the opportunity to provide comment on the design of this intersection.
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<p>these manoeuvres to cater for the anticipated peak period demand for the residential estate. The four visitor parking spaces shown on the eastern and western alignments of the Central Road between the intersection with Captain Cook Drive and the entry point for the Stage 3 site development shall be removed to accommodate this amendment</p>	
4. Requirement of Authorities	
<p>i. Roads and Maritime Services</p> <p>The works, including the following, shall be designed and constructed as per the NSW Roads and Maritime Services letter dated 17 June 2013:</p> <ul style="list-style-type: none"> —The traffic light signalised intersection at the intersection of Captain Cook Drive and "Central Road". —The pedestrian fence within the median along Captain Cook Drive between Gannons Road and Woollooware Road. <p>The developer will be required to enter into a Major "Works Authorisation Deed" (WAD) prior to the approval of the detailed signal and civil design plans for construction.</p>	<p>As stated above, approval for the construction of the intersection of Captain Cook Drive and the Central Boulevard has been sought as part of the Retail/Club PA. The provision of a pedestrian fence within the median along Captain Cook Drive is also sought as part of the Retail/Club PA. As such, this condition is requested to be removed as these works do not form part of this application.</p>
7. Public Place Environmental, Damage & Performance Security Bond	
A. Before Construction	
<p>Prior to the issue of a Construction Certificate, the person acting on this consent must provide security to Sutherland Shire Council against damage caused to any Council property and / or the environment and as a performance bond for works constructed as a consequence of the implementation of this consent. The security may be provided by way of a deposit with Council or a bank guarantee. A non refundable inspection / administration fee is included in the bond value.</p> <p>It is the responsibility of the person acting on this consent to notify Sutherland Shire Council of any existing damage to public areas in the vicinity of the development site by the submission of a current dilapidation report supported by photographs. This information must be submitted to Council at least two (2) days prior to the commencement of works.</p> <p>In the event that the dilapidation report is not submitted two days prior to commencement and the public area sustains damage the person acting on this consent may be held liable.</p> <p>Should any public property and / or the environment sustain damage as a result of the</p>	<p>An amendment to the bond amount is requested to remove undue financial impositions on the proponent during the construction of the proposal.</p> <p>It is acknowledged that a bond is important in ensuring the security of Council assets, yet it is highlighted that as part of the proposal the proponent will rebuild existing Council infrastructure such as footpaths along Captain Cook Drive and the private road next to Solander Playing Fields. The proposal is isolated from any significant Council assets, with minimal opportunity for any significant damage to occur which would warrant a bond of \$100,000.</p> <p>As such, it is requested that a more proportionate and appropriate bond amount be required to reflect the nature of the proposal.</p>

<p>works associated with this consent, or if the works put Council's assets or the environment at risk, or the works fail, Council may carry out any works necessary to repair the damage and / or remove the risk. The costs incurred must be deducted from the bond.</p> <p>The value of the bond is \$100,000.00 \$20,000</p>	
SECTION 94 CONTRIBUTIONS	
<p>The following dedication of land and/or monetary contributions have been levied in relation to the proposed development pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.</p> <p>The Contributions Plan may be viewed on line on Council's web page (search for S94 Contributions Plan). A copy may also be viewed or purchased at the Customer Service Counter in Council's Administration Centre, Eton Street, Sutherland during office hours.</p> <p><i>Note: Alternative arrangements including works in kind, may satisfy the Section 94 contributions where agreed to by the applicant and Council in accordance with the relevant Section 94 contribution plans.</i></p>	<p>This note is requested to be included to allow scope for an alternative method of contributions to satisfy the Section 94 contributions associated with the proposal. In its current form, the consent does not allow for other arrangements to be met between Council and the proponent, as suggested in Section 11 of the Officers Assessment Report. The applicant and Council have been undertaking ongoing discussions in regards to the payment of Section 94 contributions, investigating the opportunity for alternative mechanisms such as carrying out works in kind.</p>
11. Design and Construction of Works in Road Reserve	
<p>... The frontage works shall include the following tree planting unless shown otherwise within Sutherland Shire Council's detailed frontage design:</p> <p>— Captain Cook Drive ten (10) Eucalyptus botryoides (Bangalay)</p> <ul style="list-style-type: none"> - Council's Solander Fields car park driveway - six (6) Eucalyptus robusta (Swamp Mahogany) 	<p>The proposed species illustrated on the submitted Landscape Drawings (<i>Araucaria heterophylla</i> - Norfolk Island Pines) directly reflecting comments from Sutherland Shire Council's Architectural Review and Advisory Panel. The proposed trees are considered to provide a well framed gateway entry to the site, immediately notifying visitors that they have arrived at the site. These native pine trees also continue the theme of native pine tree planting along the stadium and retail frontages.</p> <p>The proposed native pine trees are also reflective of other areas around Botany Bay including along the Georges River/ Dolls Point and Cook Park (along Grand Parade), which all feature a mix of native pines and <i>Araucaria columnaris</i> – Cook Pine, which is a closely related species.</p> <p>It is also noted that the proposed native pines will be require less maintenance and upkeep than the recommended trees (Bangalay) as they will create less leaf litter.</p> <p>The recommended trees in this condition (Bangalay) will not achieve the same outcome as the above, resulting in a less grand entry into the site and no reference to the surrounding context of the Concept Plan site and Botany Bay.</p>

12. Construction Management Plan and Construction Traffic Management Plan	
B. Before Construction	
<p>Prior to the application for any Construction Certificate, a construction Traffic Management Plan shall be prepared by a suitably qualified practitioner in traffic management. The plan shall comply with all relevant Standards and industry practices and detail all temporary signposting and linemarking and applicable traffic management devices, traffic signals, traffic co-ordinators and the like. The plan shall be submitted to Council <i>the PCA</i> for approval prior to the commencement of any site works other than site establishment or the installation of silt and erosion controls.</p>	<p>This condition is requested to be amended to reflect the use of a private certifying authority throughout the delivery of the development.</p>
22. Detailed Landscape Plan	
A. Design	
<p>... The plan must be prepared in accordance with Sutherland Shire Development Control Plan 2006 and the Sutherland Shire Environmental Specification 2007 (Landscaping Parts 1-5), <i>unless otherwise approved under the Concept Plan. In the event of an inconsistency with these documents and the Concept Plan Approval, the Concept Plan will prevail.</i></p> <p><i>As the subject site is identified as being within a Greenweb Support area, all new tree plantings must be indigenous species and 80% of understorey plants must be indigenous species. All indigenous species must be selected from Council's Native Plant Selector list (attached).</i></p>	<p>A sentence clarifying the role of the Concept Plan Approval in the assessment of the proposal is requested to be included, ensuring that it is clear that the Concept Plan prevails over the Sutherland Shire DCP and LEP if any inconsistency occurs.</p> <p>It is requested to delete the second paragraph of this condition as the range of planting on the site must be generally consistent with the approved Concept Plan Planting Strategy (Drawing No. 11017-EA-05). The proposal in its current form is generally consistent with this strategy as required under the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The use of native/ 'indigenous' species (through a Vegetation Management Plan or VMP undertaken by Ecological consultants and approved under the Concept Plan) has been concentrated in the public domain areas and within the 30-40m foreshore zone (subject to future stages). These areas are considered more appropriate for fauna habitat and movement, supporting the creation of a 'Greenweb Support Area'. The private domain and areas associated with heavy pedestrian/ communal and vehicular use are not considered appropriate places for the movement of Fauna.</p>

<p>i) The central courtyard on Level 1 between Buildings E1, E2 and F shall contain the following:</p> <ul style="list-style-type: none"> - A central common turfed or paved area of approximately 30m x 15m 120m², an all-weather shelter or pergola, lighting and fixed or moveable furniture suitable for gatherings and informal children's play; - Clear definition of private, semi-private and common open space through the use of different fence types, walls and planting; - A minimum number of 20 10 indigenous trees that will attain a minimum mature height of five to six metres. Each tree shall be provided with a minimum of 2m x 2m x 1-2m deep soil; - Deep soil areas shall be achieved by setting down planting areas within the floor slab as shown in Section C (Sheet 08) of the Concept Landscape Plan, or by a combination of planter boxes, low mounding and raised pathways, not mounding alone. 	<p>It is requested that the conditioned amendments to the landscaping plans be amended to better respond to the approved Concept Plan. The recommendations as suggested by Council would result in a dramatic deviation from the approved landscape plan under the Concept Plan, causing the proposal to be inconsistent with the Concept Plan Approval and in breach of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The amendments to the landscape plan as suggested by Council are also short sighted as they do not consider the master planned nature of the site and the significant areas of open space and communal facilities to be provided in future stages. In particular, adjoining the Stage 1 courtyard will be a large pool area with shading (to be delivered as part of Stage 2). Significant useable areas of open space as well as play and leisure facilities will be provided at the northern end of the Residential Precinct, as principally approved under the Concept Plan.</p> <p>The opportunity for further places of relaxation has been acknowledged, and therefore the proposed amendments have been requested. For instance, turfed areas and fixed furniture will be provided throughout the space, with the addition of more trees to provide shading. The requested amendment to the soil depth and manner of achieving these depths have been informed by previous experience and knowledge of the potential for growth of five metre high trees.</p> <p>Furthermore, it is noted that the approved Landscape Concept Plan and proposed Stage 1 Residential landscaping scheme has been prepared by a highly regarded and awarded landscape architecture firm, Aspect Studios. The landscape design is of a high quality and well thought out to respond to the master planned nature of the site, with the requested amendments further improving the amenity of the space in the context of the overall Concept Plan.</p>
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<p>ii) The central court and pool area must be provided with a water-efficient irrigation system connected to a pump and the rainwater tank, to enable effective landscape maintenance.</p> <p>iii) The landscape detail at the Solander Field frontage shall show the following:</p> <ul style="list-style-type: none"> - The modified Solander Field frontage in accordance with the revised architectural drawings. - As recommended by the Arborist report, prepared by Earthscape Horticultural Services (Appendix 4 - Impact Assessment Schedule) the proposed footpath and nature strip adjoining the kerb shall comprise gravel paving to protect the roots of the existing street trees. - The soil levels on the eastern side of Trees 85, 90, 91, 92, 93, 94, 95 and 96 shall be maintained and the roots protected by installing low retaining walls along the eastern edge of the Structural Root Zone (SRZ) (marked in yellow in Appendix 7 - Tree Protection Plan, Sheets 6 and 7 of the Arborist report). The footpath shall be diverted around the retaining walls in this section. in accordance with the recommendations of the Arborist Report prepared by Earthscape Horticultural Services dated March 2013. - Three new indigenous street trees shall be provided in the verge south of Tree 69 and another three shall be provided between Trees 87 and 89 as required by this consent. 	<p>The 'pool area' is proposed to be deleted as this area forms part of Stage 2 of the Residential Precinct, and approval for this element of the site is not yet sought.</p> <p>This condition is requested to be amended to ensure the maintenance of these trees in accordance with the specific recommendations prepared by Earthscape Horticultural Services and detailed in the Arborist Report. It is not considered that retaining walls will be required to ensure the maintenance of the subject trees.</p>
<p>iv) Tree planting within the central road 13 Ficus rubiginosa (Port Jackson Fig).</p>	<p>It is requested to delete this condition as the <i>Ficus rubiginosa</i> (Port Jackson Fig) is not in keeping with the envisaged character of the central boulevard. The proposed tree species in the submitted landscape plans (<i>Flindersia australis</i> - Crow's Ash) is more appropriate to the Central Boulevard as it is a native, medium sized tree capable of growing under the site conditions. This species has been selected following comments from the Sutherland Shire Council Architectural Review and Advisory Panel.</p> <p>The Port Jackson fig, whilst proposed elsewhere across the Residential Precinct has not been selected for the Central Boulevard due to the following factors:</p> <ul style="list-style-type: none"> ■ Size - The technical sub surface details of the Central Boulevard, whilst generous, do not support a tree of this size.

	<ul style="list-style-type: none"> ■ Potential damage to structure - Due to its vigorous root system planting this type of Fig in close proximity to a concrete slab (in this instance the car park slab) would not be desirable. ■ Form - The low/ medium crown and branch spread limits pedestrian/ vehicular movements within the central street.
24. Removal of Trees and Tree Protection	
A. Design	
<p>12 trees are approved for removal as part of this consent. In order to satisfy the replanting requirement, 48 replacement trees are required to offset this loss.</p> <p>The trees selected must be planted within the front or rear setback or podium level of the property and not within 3m of any building. The location of the replacement trees must be shown on a tree location plan that forms part of the Construction Certificate application.</p>	<p>This condition is requested to be deleted as it does not reflect the Concept Plan Approval namely in regards to the approved Landscaping scheme. The inclusion of an additional 48 trees on the site would dramatically change the character of the new development and result in a development inconsistent with the approved Concept Plan. The approved Landscape Concept Plan has considered the Residential Precinct on a site wide basis, whilst the subject condition has applied a rudimentary formula to this single stage of the Residential Precinct. Across the entire Concept Plan site, a significant number of trees and other vegetation will be provided. In particular, the majority of trees and vegetation is located in the foreshore zone which is the subject of future development applications.</p> <p>It is noted that the majority of trees which require removal have been classified as possessing moderate/low to very low retention value. These trees have been appropriately replaced with trees of significant value which reflect the approved Concept Plan.</p> <p>Following comments from Council and in order to comply with other conditions of this draft consent, additional trees have been included which will further supplement the removal of these trees.</p>
24. Remedial Works	
B. Design	
<p>The development must be modified as necessary to accommodate the requirements of the Remedial Action Plan (RAP) prepared by DLA Environmental and dated February 2013. The RAP is to address the Enviroview Pty Ltd letter dated 4 March 2013 that requires the submission of an amended Gas Management Plan following a resolution of the design construction methods. Any variations to the approved RAP must be approved by an Accredited Site Auditor and Sutherland Shire Council the PCA prior to being undertaken.</p>	<p>This condition is requested to be amended to reflect the use of a private certifying authority throughout the delivery of the development.</p>

~~29. Ecologically Sustainable Design Measures~~

~~A. Before Construction~~

~~The following ESD measures shall be incorporated into the design:~~

~~i. Implementation of energy monitoring systems to enable each household to track energy usage.~~

~~ii. Commitment to the use of appropriate and sustainable materials such as FSC Forestry Stewardship Council certified timber.~~

~~iii. Incorporation of Photovoltaic Cells to power services provided within the communal areas, to the maximum capacity permitted by the available roof areas.~~

~~Details shall be included with the Construction Certificate.~~

This condition is requested to be deleted as it is unreasonable, requiring ESD measures in excess of those approved and envisaged under the Concept Plan.

Council in their assessment report suggested that the "...(*BASIX*) measures are not considered to be 'best practice' ESD initiatives as was the Department's stated intention for this condition above."

It was committed by the proponent and approved by the Planning Assessment Commission as part of the Concept Plan to achieve certain ESD targets. Several of these targets involve achieving in excess of the mandatory BASIX requirements, which are the existing 'best practice' requirements for all residential development.

The Department of Planning and Infrastructure's (the Department) BASIX website states the following of BASIX:

"BASIX is one of the strongest sustainable planning measures to be undertaken in Australia.

*An ongoing comprehensive analysis of sustainable technology ensures that BASIX is contemporary and **reflects best practice in sustainable housing.**" (our emphasis)*

This statement illustrates that the Department do believe these measures are 'best practice' and the proposal therefore reflects their intention.

As BASIX reflects best practice in sustainable housing, and the proposal in its current form achieves in excess of BASIX targets (by up to 20%), it is evident that the proposal already excels beyond best practice as intending by the Concept Plan condition. It is not appropriate for a condition of consent to require voluntary measures be implemented in excess of 'best practice' measures adopted in all residential development across New South Wales.

36. EMF Mitigation Measures

A. Before Occupation

~~The recommendations of the Magsheld Products (Aust.) International Pty. Ltd. report dated 7 June 2012, provided in relation to the EMF mitigation measures comprising reversal of two outer phases of feeder 917, shall be implemented prior to the issue of any Occupation Certificate.~~

This recommendation from the Magsheld Products (Aust.) International Pty. Ltd. report dated 7 June 2012 has been embodied in the Concept Plan Approval in the form of Condition 26 which requires that "...EMF exposure to the northern most residential building envelopes is minimised taking into account a precautionary principle approach in

	<p><i>consultation with Ausgrid”.</i></p> <p>This condition correctly notes that the precautionary approach of reversing the phasing of the power lines applies to the northern most buildings, as the buildings on the southern end of the site (including the subject application) are sufficiently setback from the power lines. As such, this condition is required to be deleted as it is not relevant to this application.</p>
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