2015SYE108 - 11,11A,13 & 15 veno Street & 1-3/30 Rosberry Street, Heathcote

DA15/0936

ASSESSMENT REPORT APPENDICES

Appendix	A	Conditions of Consent
	B	Pre-Application Discussion (PAD) letter dated 12 May 2015
	C	Architectural Review Advisory Panel (ARAP) Report dated 17 September 2015
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APPENDIX "A"

DRAFT CONDITIONS OF DEVELOPMENT CONSENT
Development Application No. DANo9

1. Approved Plans and Documents

The development must be undertaken substantially in accordance with the details and specifications set out on the Plan / Drawings:

Plan number	*Reference*	*Prepared by*	*Date*
A005 Rev. B	Site Plan	Tony Owen	Prepared 29 October 2015
A090 Rev. B	Basement 2 Plan	Tony Owen	Prepared 29 October 2015
A091 Rev. B	Basement 1 Plan	Tony Owen	Prepared 29 October 2015
A100A Rev. B	Ground Floor Plan	Tony Owen	Prepared 29 October 2015
A100 Rev. B	Ground Floor Plan	Tony Owen	Prepared 29 October 2015
A101 Rev. B	Level 1 Floor Plan	Tony Owen	Prepared 29 October 2015
A102 Rev. B	Level 2 Floor Plan	Tony Owen	Prepared 29 October 2015
A103 Rev. B	Level 3 Floor Plan	Tony Owen	Prepared 29 October 2015
A110 Rev. B	Roof Plan	Tony Owen	Prepared 29 October 2015
A130 Rev. B	Adaptable Units 1	Tony Owen	Prepared 29 October 2015
A131 Rev. B	Adaptable Units 2	Tony Owen	Prepared 29 October 2015
A132 Rev. B	Adaptable Units 3	Tony Owen	Prepared 29 October 2015
A200 Rev. B	Building A South Elevation	Tony Owen	Prepared 29 October 2015
A201 Rev. B	Building A North Elevation	Tony Owen	Prepared 29 October 2015
A202 Rev. B	Building B South Elevation	Tony Owen	Prepared 29 October 2015
A203 Rev. B	Building B North Elevation	Tony Owen	Prepared 29 October 2015
A204 Rev. B	Building B + A West Elevation	Tony Owen	Prepared 29 October 2015
A205 Rev. B	Building B + A	Tony Owen	Prepared 29

	East Elevation		October 2015
A300 Rev. B	Section AA	Tony Owen	Prepared 29 October 2015
A301 Rev. B	Section BB	Tony Owen	Prepared 29 October 2015
A302 Rev. B	Section CC	Tony Owen	Prepared 29 October 2015
A404 Rev. B	Waste Management Plan	Tony Owen	Prepared 29 October 2015
A411 Rev. B	Construction Waste Management Plan	Tony Owen	Prepared 29 October 2015
D200 Rev. 2	Hydraulic Design Ground Water Stormwater Drainage Plan	Jones Nicholson Consulting Engineers	Prepared 30 October 2015
D100 Rev. 2	Hydraulic Design Basement 2 Stormwater Drainage Plan	Jones Nicholson Consulting Engineers	Prepared 30 October 2015
A110 Rev. B	Annotated Roof Plan	Tony Owen/Councils Landscape Architect	Prepared 29 October 2015
A400 Rev. B	Annotated Landscape Calculation Plan	Tony Owen/Councils Landscape Architect	Prepared 29 October 2015
001 Rev. C	Landscape Works Site Plan	Formed Gardens	Prepared 18 August 2015
002 Rev. C	Landscape Works Central Communal Space	Formed Gardens	Prepared 18 August 2015
003 Rev. C	Landscape Works Elevations/Details	Formed Gardens	Prepared 18 August 2015

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building or subdivision work.

i) A Construction Certificate.
ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.

iii) Notification of the commencement of building and/or subdivision works with a minimum of 2 days notice of such commencement.

Under section 109E(2) 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.

2. Design Changes Required

A. Before Construction

The following design changes must be implemented:

i) 'Building B' shall have an increased setback to the eastern side boundary of 6m.
ii) All windows on the eastern elevation of 'Building B' are to be floor to ceiling (with glazing up to 1200mm fristed or similarly treated for privacy) to improve solar access.
iii) The fire stairs and lift shaft located in the South-Western portion of 'Building A' should be 'flipped'. The lift shaft shall be at the east and the fire stairs on the western side in order to reduce any visibility of the lift overrun which exceeds Council's height limit, from the west.
(iv) The balustrade located on the rooftop communal open space shall be setback 1.5m from the western and southern edge of the roof of 'Building A'.
(v) Unit's G10 and G11 should be combined and reconfigured to be one 2 bedroom unit.

Details of these design changes must be included in documentation submitted with the application for a Construction Certificate.

3. Extinguish 'SEPP No. 5' restriction

A. Before Construction

The restriction on SP 63259 (No. 30 Rosebery Street) under SEPP No. 5 should be prior to obtained a Construction Certificate.

4. Public Place Environmental, Damage & Performance Security Bond

A. Before Construction

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 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.

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.

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.

Should any public property and / or the environment sustain damage as a result of the works associated with this consent, or if the 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 must be deducted from the bond.

The value of the bond is $20,000.00.
Note: Bond amount includes a non refundable administration fee which must be paid separately.

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

B. After Occupation

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

SECTION 94 CONTRIBUTIONS

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.

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.

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

A. Before Construction

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council's Contributions Plan - Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of $585,870.84 must be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 76 new residential apartments, with a concession for 5 existing allotments.

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

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

6. Community Facilities, Shire Wide 2003 Plan

A. Before Construction

A monetary contribution of $99,018.89 must be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 76 new residential apartments, with a concession for 5 existing allotments.

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

Payment must be made prior to the issue of the Construction Certificate

7. Approvals Required under Roads Act or Local Government Act

A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

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.

8. Design and Construction of Works in Road Reserve (Council Design)

A. Design

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end an application under the Roads Act shall be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate, for a road frontage design drawing and consent to undertake the required frontage works. This design will generally comply with the approved architectural design drawings, except where amended and/or addressing the following;

i) Establish the property alignment levels and crossing profiles,
ii) Construct a 9m wide vehicle crossing within Roseberry Street,
iii) Remove redundant driveway crossings and reinstate kerb & gutter
iv) Construct new kerb inlet pit and associated lintel within Roseberry Street

between the proposed driveway crossing and the existing crossing to No.26 Roseberry Street.

v) Construct new stormwater pipeline from proposed pit within Roseberry Street to existing Council pit (Id#2849) at the intersection with Strickland Street.
vi) Reconstruct road pavement where required
vii) Kerb & gutter/edge strip where required,
viii) Construct footpath pavement and associated pram ramps along the frontage of Veno Street from the intersection with Roseberry Street to the existing footpath pavement at the boundary between No.5 & No.7 Veno Street. The footpath pavement must be located directly adjacent to the kerb & gutter.
ix) Alter / install street signage where required,
x) Regrade, topsoil, turf and landscape the footpath verge to final design levels,
xi) Adjust public services infrastructure where required,
xii) Install three (3) street trees as indicated on the Landscape Calculation Plan (Revision B, dated 29/10/15), and
xiii) Ensure there are adequate transitions between newly constructed and existing infrastructure.

Evidence of the lodgement of this application must be provided to the PCA prior to the release of the Construction Certificate.

B. Before Construction

Prior to the release of the Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

C. Before Occupation

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

i) The supervising engineer must certify the road frontage works were constructed to their satisfaction and in accordance with the development consent and associated Roads Act consent.
ii) The supervising arborist, landscape designer or landscape architect must certify the street trees are the correct species and were installed in accordance with the development consent and associated Roads Act consent.

9. Site Management Plan

A. Before Commencement of Works including Demolition

An Environmental Site Management Plan must accompany the application for a Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:

i) safe access to and from the site during construction and demolition
ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting
iii) method of loading and unloading excavation machines, building materials
iv) how and where, construction materials, excavated and waste materials will be stored.
v) methods to prevent material being tracked off the site onto surrounding roadways
vi) erosion and sediment control measures

B. During Works

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

10. Supervising Engineer

A. Before Construction

The applicant must engage an Accredited Certifier in civil engineering works or a Charter Civil Engineer to supervise construction of any:
i) Road frontage works.
ii) Construction / installation of stormwater drainage.
iii) Rainwater harvesting & reuse.
iv) All other works that form part of a subdivision.

B. During Construction

The engineer must supervise the works as listed above to ensure compliance with:
i) All relevant conditions of development consent
ii) Any Consent issued under the Roads Act for this development

C. Before Occupation

The supervising engineer must certify the works required in “A” above were undertaken and completed in accordance with the requirements of this Development Consent and to their satisfaction.

11. Internal Driveway Profile

A. Before Construction

An Access Application must be made to Council to obtain footpath crossing and boundary alignment levels before commencing the final design of internal driveways, paths and car park area.

B. Design

The internal driveway profile must be designed to:

i) Provide adequate sight distance for the safety of pedestrians using the footpath area.
ii) Align with Council's issued footpath crossing levels.

iii) Provide a maximum grade of 5% for the first 3 metres inside the property boundary.
iv) Comply with AS2890.1(2004) in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
v) Comply with AS2890.2(2002) in relation to the design of vehicular access, parking and general manoeuvring for the ### vehicle.
vi) The maximum longitudinal grade of the driveway must not exceed 25%.

Certification by an appropriately qualified person to the effect that these design requirements have been met must accompany the application for a Construction Certificate.

12. Parking Areas and Access

A. Design

All vehicular access, parking and manoeuvrability including loading areas for the proposed development must be designed and constructed to comply with AS2890.1 - 2004.

The following specific requirements must be incorporated into the design:

All vehicular access, parking and manoeuvring areas including loading areas must be designed and constructed to comply with AS2890.1 - 2004.

The following specific requirements must be incorporated into the design:

i) All "one way" traffic aisles in the car parking area must be clearly identified by signposting and pavement marking.
ii) The ingress and egress crossing must be clearly identified by signage.
iii) The proposed loading and delivery area must be clearly defined with suitable signposting and pavement markings.
iv) The car park must be line marked to accommodate ### vehicles.
v) The internal driveway and car parking area must be paved using materials other than plain or exposed aggregate concrete.

B. Before Construction

Certification of the above must accompany the application for a Construction Certificate.

13. Basement Car Park Design

A. Design

The basement car park must be designed in accordance with AS 2890 and must incorporate the following:

i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position.
ii) Any garage must have a minimum width of 3m with a minimum door opening of 2.75m wide x 2.2m high clear of any necessary hinges, jambs or fixtures required for the operation of garage doors or any services within the

garage area.

iii) The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.
iv) Where a remote controlled garage door is fitted when fully opened it not encroach into the space envelope specified in figure 2.7 of AS2890.6:2009.
v) The adaptable residential parking spaces must comply with AS4299
vi) The adaptable visitor's parking spaces must comply with AS2980.6

B. Before Construction

Certification of the above must accompany the application for a Construction Certificate.

14. Drainage Design - Detailed Requirements

A. Design

The stormwater drainage system must be connected to Council's existing piped system and designed in accordance with the approved stormwater drainage design drawing, Australian Standard AS3500.3:2003 and the BASIX Certificate issued for this development.

The design must include;

i) A detailed drainage design supported by drainage calculations
ii) 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 with levels reduced to Australian Height Datum. Impacts on existing trees must be indicated on the plan.
iii) 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.
iv) Water from pathways and access drives shall be prevented from entering the road reserve as surface flow. This can be achieved by constructing a box drain at the boundary equipped with a 300mm wide grate and frame to collect the flow or directing the flow to a sag pit within the property.
v) 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.
vi) Where pipelines are located within the "tree protection zone" of significant vegetation to be retained, the lines shall be excavated by hand or by directional underboring techniques to reduce any adverse impact on the root zone of the trees.
vii) Install a rainwater tank with the minimum volume of 10m3

B. Before Construction

Certification issued by an appropriately accredited person to the effect that these design requirements have been met must accompany the application for a Construction Certificate.

C. Before Occupation

i) A Works-As-Executed drawing (WAED) of the stormwater drainage system shall be prepared by a Registered Surveyor. This drawing must detail the alignment of the pipelines, pits and rainwater tanks. An original or a colour copy shall be submitted to Sutherland Shire Council.

ii) The supervising engineer must certify the WAED of the stormwater drainage system that stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the development consent. Prior to the occupation or use of the building the Applicant/Owner shall submit to Council a copy of the aforementioned letter of certification.

D. Ongoing

The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse shall be maintained in good operating order at all times.

Note: Upon approval of the stormwater management designs a notation will be added to the 149 certificate in relation to any required detention facility or stormwater treatment device.

15. Noise Control During Construction and Demolition

To minimise the impact on the surrounding environment:

A. During Works

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

16. Damage to Adjoining Properties

A. Before Works

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineers Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

B. During Works

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

17. Public Utilities - Subdivision

This condition is imposed to facilitate the provision of services to the development and reduce conflicts between services and lot boundaries, buildings or associated facilities.

A. Before Construction

Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications and the like, and any necessary underground conduits are provided.

Note: Should these requirements result in any significant change to the approved design an application must be made to modify the consent under s.96 of the Environmental Planning and Assessment Act.

18. Allocation of Common Property

A. Ongoing

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

19. Approved Landscape Plan

A. Design Changes

The landscape works on the site must be carried out in accordance with the approved Landscape Plan except as amended by the following:

Itemise specific additional landscape details - must be prescriptive

i) The detailed design changes as shown in yellow on the Landscape Calculation Sheet (Revision B, dated 29/10/15) as well as the Roof Plan (Revision B 29/10/15).
ii) Tree Protection Zones (TPZ) must be shown on plan for all existing trees and/or natural site features to be retained and protected.
iii) The communal open space areas and all planter boxes on slab must be provided with a water-efficient irrigation system, connected to a pump and the rainwater/OSD tank, to enable effective landscape maintenance.
iv) The private open space of each dwelling must be provided with one tap with a removable water key, connected to a pump and the rainwater tank/OSD tank.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for a Construction Certificate.

Notes:
A Landscape Designer is a person eligible for membership of the Australian 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.

If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

B. Prior to Occupation/Occupation Certificate

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that all landscaping works and the deep soil percentage requirements have been carried out in accordance with 'A' above, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333 48 hours prior to the required inspection date. An inspection fee of $225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of $150 each.

C. Ongoing

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date.

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

Note: If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:

Sutherland Shire Council Nursery
345 The Boulevarde, Gymea
Ph: 02 9524 5672

20. Trees on Private Land

A. Tree Removal

The removal of the following trees is approved:

i) Trees identified in the Arboricultural Assessment Report prepared by Jacksons Nature Works, Annexure C: Tree Impact Plan and as listed below:

Tree No.	Tree Species (botanical and common name)	Location
3	*Melia azedarach* (White Cedar)	Refer to Annexure C of the Arboricultural Assessment Report prepared by Jacksons Nature Works
4	*Melia azedarach* (White Cedar)	"
5	*Howea fosteriana* (Kentia Palm)	"
6	*Howea fosteriana* (Kentia Palm)	"
7	*Archontopheonix cunninghamiana* (Bangalow Palm)	"

8	*Archontopheonix cunninghamiana* (Bangalow Palm)	"
9	*Pheonix canariensis* (Date Palm)	"
25	*Pittosporum undulatum* (Hairy Pittosporum)	"
30	*Erythrina sykessii* (Coral Tree)	"
37	*Acacia baileyana* (Cootamundra Wattle)	"
38	*Callistemon viminalis* (Weeping Bottlebrush)	"

ii) Trees growing within the 3 metres of the building footprint of the approved structures.
iii) Any declared noxious plant. The applicant is to ensure that all noxious plants are properly identified and controlled/removed.
iv) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.

All other vegetation that would require approval to be removed must be protected.

B. Design

i) Ten (10) trees are approved for removal as part of this consent. Where trees are proposed to be removed Sutherland Shire Council's Development Control Plan 2015 requires indigenous replacement canopy tree planting at a ratio of 4 to 1 on private land.
ii) 32 replacement trees are required to be planted.
iii) A minimum number of 32 indigenous trees must be planted on the site. The trees selected must be planted within 3m of the front or rear setback of the subject property and not within 3m of a building or proposed building or swimming pool.
iv) Trees must have a minimum container size of 5 litres

An amended Landscape Plan/Tree Location Plan showing the location of all replacement trees on the site and/or in the street must be provided prior to the release of the Construction Certificate.

C. Prior to Occupation/Occupation Certificate

The replacement tree planting must be completed in accordance with the approved Landscape Plan/Tree Location Plan. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that tree planting has been carried out in accordance with 'B' above, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333
48 hours prior to the required inspection date. An inspection fee of $225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of $150 each.

D. Ongoing

Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDCP 2015 Chapter 38). Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

Note: If you have difficulty sourcing suitable indigenous plants from other suppliers, plants grown from local provenance seed may be available from:

Sutherland Shire Council Nursery
345 The Boulevarde, Gymea
Ph: 02 9524 5672
Opening hours - Monday to Friday 7.00am-3.00pm (excluding public holidays)

21. Tree Retention and Protection

A. Before Works

Prior to the commencement of any demolition, excavation or construction works on site the applicant shall engage a suitably qualified and experienced Arborist to oversee the measures for the protection of existing trees as listed below.

Note: An Arborist is a person with a current membership of the National Arborist's Association of Australia at a grade of General Member, Affiliate Member or Life Member, or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

Prior to the commencement of any works, including demolition, the supervising Arborist must oversee the protection of the following tree/s as listed in the table below / as marked on the Landscape Calculation Sheet (Revision A, dated 14/08/15) to ensure the installation and adequacy of all tree protection measures.

Tree No.	Tree Species (botanical and common name)	Location
1	*Eucalyptus globoidea* (White Stringybark)	Refer to Landscape Calculation Sheet
19	*Banksias serrata* (Old Man Banksia)	"
20	*Banksias serrata* (Old Man Banksia)	"
21	*Banksias serrata* (Old Man Banksia)	"
22	*Banksias serrata* (Old Man Banksia)	"
23	*Angophora costata* (Sydney Red Gum)	"
24	*Banksias serrata* (Old Man Banksia)	"
26	*Acer palmatum* (Japanese Maple)	"
27	*Michela figo* (Port Wine Magnolia)	"
28	*Glochidion ferdinandi* (Cheese Tree)	"
29	Ceratopetalum gummiferum (NSW X-mas Bush)	"
31	*Castenospermum australe* (Blackbean)	"
32	*Pheonix reclinata* (Wile Date Palm)	"
33	*Pittosporum undulatum* (Hairy Pittosporum)	"

34	*Castenospermum australe* (Blackbean)	"
35	*Fraxinus spp.* (Ash)	"
36	*Melia azedarach* (White Cedar)	"
39	*Angophora costata* (Sydney Red Gum)	"
40	*Eucalyptus nicholii* (Narrow Leaved Peppermint)	"

The trees identified for retention must be protected by the following measures:

i) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed in accordance Arborist report Tree Protection Zones listed in Annexure A prepared by Jacksons Nature Works dated 12/08/15. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
ii) The tree protection zone within the protective fencing must 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.
iii) 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.
iv) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.

B. During Construction

i) The tree protection measures detailed in 'A' above must be maintained during construction.
ii) The supervising Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation;
iii) The supervising Arborist must strictly supervise that there is no disturbance or severing of roots greater than 30mm diameter and to cleanly cut those roots between 10-30mm in diameter.
iv) If the tree/s identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.

22. Car Wash Bays

To prevent contamination of the stormwater drainage system a car-wash bay must be provided on site:

A. Design

The wash-bay must be graded to an internal drainage point and connected to the sewer.

B. Before Construction

Details of the design satisfying 'A' above must accompany the application for a Construction Certificate.

C. Before Occupation

The Principal Certifying Authority must be satisfied that

i) 'A' above has been complied with and

ii) any discharge to the sewer from the premises is in accordance with the requirements of Sydney Water.

D. Ongoing

All car-wash, engine degreasing and steam cleaning must be conducted in the wash-bay detailed in 'A' above. Wastewater must be treated in accordance with the requirements of Sydney Water.

23. Garbage, Recycling and Green-waste Storage Area

To ensure the proper storage of waste from the premises:

A. Design

The garbage and recycling storage area must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

B. Before Construction

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

C. Before Occupation

The works must be completed prior to the issue of any Occupation Certificate.

D. Ongoing

All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

24. External Lighting - (Amenity)

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

A. Design

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

B. Ongoing

All lighting must be operated and maintained in accordance with the Standard above.

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

To minimise the noise impact on the surrounding environment:

A. Design

The unit must be designed and/or located so that noise generated does not cause an LAeq (15min) sound pressure level in excess of 5 dB(A) above the ambient background level when measured on or within any residential property.

B. Ongoing

i) The unit must be operated in accordance with 'A' above.
ii) Between the hours of 10.00pm and 8.00am on weekends and public holidays and 10.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.

26. Noise and Vibration Control - Residential Car Park

To minimise noise and vibration from use of the security door in the car park:

A. Design

The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads or otherwise installed to prevent vibration noise transmission through the concrete walls and / or columns.

B. Before Occupation

The Principal Certifying Authority must be satisfied that 'A' above has been complied with.

27. Car-Park Ventilation - Alternate System

To ensure adequate ventilation for the car park:

A. Design

The car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at anytime it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

B. Before Construction

Details of compliance with 'A' above must form part of the application for a Construction Certificate.

C. Before Occupation

Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.

D. Ongoing

The ventilation system must be operated and maintained in accordance with 'A' above.

28. Demolition Work

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

A. Before Commencement

If works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact the NSW Workcover Authority.

B. During Works

i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of $5 million. A copy of the Policy must be submitted to the Council prior to demolition.

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

a) Work Health and Safety Act 2011;
b) Work Health and Safety Regulation 2011;
c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;
d) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
e) Workcover NSW 'Working with Asbestos - Guide 2008';
f) Protection of the Environment Operations Act 1997; and
g) Protection of the Environment Operations (Waste) Regulation 2005.

Asbestos waste in any form must be disposed of at a waste facility licensed by the Department of Environment Climate Change & Water to accept asbestos waste.

Noise Control - Design of Plant and Equipment

To minimise the impact on the surrounding residents of all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

A. Design

All plant and equipment must be acoustically attenuated so that the noise emitted:
does not exceed an LAeq sound pressure level of 5dB above the ambient background noise level when measured

a) at the most effected point on or within any residential property boundary or
b) at the external edge of any sole occupancy unit balcony within the premises itself at any time the units operate.

and

- before 8am or after 10pm on any Saturday, Sunday or public holiday, or
- before 7am or after 10pm on any other day

cannot be heard within a habitable room in any sole occupancy unit* or other residential premises (regardless of whether any door or window to that room is open):

* As defined in the Building Code of Australia

Note: Noise measurement must be carried out in accordance with Australian Standard 1055.1.

B. Before Construction

Acoustic attenuation required to comply with 'A' above, must be prepared by a qualified acoustic engineer. These details must accompany the application for a Construction Certificate.

C. Before Occupation

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

D. Ongoing

All plant and equipment must be operated and maintained in accordance with 'A' above.

29. Dilapidation Report - Adjoining Properties

A. Before Works

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 or principal contractor must provide dilapidation reports on the adjacent buildings at No.s X & Y ### Street, including any basements and ancillary structures. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

30. Design Requirements for Adaptable Housing

A. Design

A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

31. Verification of Design for Construction - SEPP 65

A. Design

Design verification must be provided by a registered Architect pursuant to SEPP 65 stating that the design intent approved by the Development Consent has been maintained in the building / architectural plans submitted with the Construction Certificate. This must accompany the application for a Construction Certificate.

B. Before Occupation

Prior to the issue of the final Occupation Certificate design verification must be provided in accordance with SEPP 65.

32. Certification Requirement of Levels

A. During Construction

At the following stages of construction:

i) Prior to the pouring of each floor or roof slab,
ii) Upon completion of the roof frame.
iii) Prior to the pouring / installation of the swimming pool shell *(###*

A registered surveyor must provide the Principal Certifying Authority with Certification that the stage of structure complies with the development consent in respect of levels.

B. Before Occupation

The certification referred to above must form part of the application for an Occupation Certificate.

33. Sydney Water Tap in™ & Compliance Certificate

A. Before Construction

The plans approved as part of the Construction Certificate must be submitted to a Sydney Water Tap in™ to determine as to whether the development will affect Sydney Water's sewer and water mains, stormwater drains and / or easements, and if further requirements need to be met. Customers will receive an approval receipt. Please refer to the web site www.sydneywater.com.au.

B. Before Occupation / Prior to issue of Subdivision Certificate

A Compliance Certificate under s73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges.

Sydney Water Advice on Compliance Certificates:

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

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

34. Dial Before You Dig

A. Before Construction

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

35. Noise Control and Permitted Hours for Building and Demolition Work

A. During Works

To minimise the noise impact on the surrounding environment:

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

ii) All building and demolition work must 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 must be carried out on Sundays and Public Holidays.

36. Toilet Facilities

A. During Works

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

i) be a standard flushing toilet connected to a public sewer, or

ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or

iii) be a temporary chemical closet approved under the Local Government Act 1993

37. Street Numbering and Provision of Letter Box Facilities

A. Before Occupation

i) Street / unit / shop numbers must be clearly displayed.

ii) Suitable letterbox facilities must be provided in accordance with Australia Post specifications.

iii) The street address for both buildings will be 11 Veno Street. The unit numbers must be addressed in accordance with the approved architectural

plans

38. Car parking Areas

A. Ongoing

To ensure that the car parking area satisfies the demands of the development:

i) it must be made available on an unrestricted basis and free of charge at all times for employees' and visitors' vehicles
ii) any parking nominated as visitor parking or common property must be continually available as common property.

39. Car Parking Allocation

A. Before Subdivision

Car parking must be allocated to individual strata lots as part of their unit entitlement.

Visitor parking facilities and/or car wash bays must be designated as common property on any strata plan.

Parking must be allocated on the following basis:

- Residential dwellings: 117 spaces
- Residential visitors: 15 spaces
- Car wash bay(s): 3 spaces
- Loading/servicing: 1 space

B. Ongoing

The car-parking provided must only be used in conjunction with the dwellings and/or tenancies contained within the development and not for any other purpose.

40. Hours of Operation of Rooftop Terrace

A. Occupation

The rooftop terrace may only be occupied by residents between 6am and 9pm Sunday to Wednesday and between 6am and 10pm Thursday to Saturday. No amplified music is to occur.

41. Garbage Collection

A. Ongoing

A private garbage contractor must be engaged to carry out all garbage, recycling and green waste collections. The collection must take place within the loading bay located within subject property.

42. Basement Car Park Security Requirements

A. Design

The following design requirements must be satisfied:

i) Security shutters / roller door must be installed at the main entry to the basement car park levels. An intercom system must be installed for visitors

to gain entry.

ii) Storage rooms within the basement car park levels must be fitted with deadlocks.

iii) The basement car park levels must be painted white to reflect light (thereby improving security), appear larger and more spacious and reduce the number of lights required to illuminate the basement.

43. Security and Crime prevention

A. Design

i) Access control devices must be fitted to all doors and windows for each unit. All security and access control devices are to be installed to meet or exceed Australian Standards.

ii) All car parking spaces, pedestrian routes, communal areas and entry and exit points to dwellings must be adequately lit to meet Australian Standard 1158.3.1.

iii) Exterior fixtures and fitting must be made from robust and vandal resistant materials.

44. Undergrounding of Power Lines

B. Before Occupation

All power lines along the frontage of the site (Veno Street and Rosebery Street) must be placed underground and street lighting installed to the satisfaction of Ausgrid prior to the issue of any Occupation Certificate. A copy of certification from Ausgrid that the works have been completed to Ausgrid's satisfaction must accompany an application for any Occupation Certificate.

END OF CONDITIONS

APPENDIX "B"

Evan Phillips - 9710 0569
File Ref: PAD15/0043

12 May 2015

Globuild Pty Ltd
62 Austin Street
ILLAWONG NSW 2234

Dear Sir/Madam

Pre-Application Discussion No. PAD15/0043
Proposal: Demolition of the existing structures, excavation for basement carparks and construction of a 4 storey residential flat development
Property: 11, 13 & 15 Veno Street, Heathcote

Council refers to the pre-application meeting (PAD) held on 24 April 2015 regarding the above development proposal. Luke Murtas (Team Leader), Peter Brooker (Architect), Grant Rayner (Engineer) and Evan Phillips (Development Assessment Officer), attended the meeting on behalf of Council and George Daoud, Tony Owen (Architect), and Jeff Mead (Planning Consultant) attended on behalf of the applicant.

The purpose of this letter is to provide a summary of the issues discussed at the meeting and provide information that will assist you should you proceed with preparing a development application (DA). Council cannot provide you with certainty on the determination of the proposal until a DA has been lodged and assessed.

The Site and Proposal:
The site comprises three (3) separate residential allotments located on the northern side of Veno Street and eastern side of Roseberry Street Heathcote. The site is an irregular “T” shaped consolidation of land with a combined site area of approximately 2307m². The site has frontage width of 55.35m, rear width of 20.11m, central depth of 60.96m, 28.5m depth to Roseberry Street (west) and 28.34m depth at the eastern most boundary. There is a slight fall to the rear (north) of the site and stormwater from the existing allotments is directed to Roseberry Street.

Development within close proximity to the site is characterised by low – medium density residential development. Single dwellings adjoin the site to the north, east (internal battleaxe allotment) and west (opposite on Roseberry Street). A three (3) unit villa complex directly adjoins the property to the north. Heathcote Primary School is located across Veno Street to the south and development further to the east of the site comprises of a plant nursery, modern mixed use development and a licensed hotel adjoining the Princes Highway.

The property is within Zone 9 – Local Centre under the provisions of Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006).

Three (3) separate design options have been submitted entailing the construction of a four (4) storey residential flat building (within 2 separate buildings) with basement level car parking. Building A (street fronting) is setback 3m from Roseberry Street and 6m from the mid-rear boundaries. Building B (internal) is setback 3m from side boundaries and 6m from the rear boundary. A central communal open space area is located within the 12m area of separation provided between the buildings.

Option 1: The design option achieves a Floor Space Ratio (FSR) of 1.78:1, accommodates 60 units in a mix of 1, 2 and 3 bedroom configurations, and is setback 7.5m from Veno Street.

Option 3: The design option achieves an FSR of 1.9:1, accommodates 68 units in a mix of 1 and 2 bedroom configurations, and is setback 4.0m - 7.5m from Veno Street.

Note: The pre-application letter relates to Options 1 & 3 where a nil eastern side setback is proposed where adjoining the access driveway of No.11A Veno Street.

Comments on the Proposal:
At the start of the meeting, the applicant was advised that is was Council's strongly held view that developing the land without incorporating No.11A Veno Street was an irrational way to approach the redevelopment of the land. Council staff advised that any detailed DA should incorporate No.11A Veno Street and mentioned that a DA which did not would be difficult to support. Nonetheless, advice on the plans as presented is provided below but should be read under this important qualification.

1. Draft Sutherland Shire Local Environmental Plan 2013 (DSSLEP2013) & Draft Development Control Plan 2014 (Draft DCP)

The property is proposed to be zoned B2 Local Centre under DSSLEP2013. The concept development schemes are based upon and reliant on the development standards proposed within DSSLEP2013, particularly the proposed height increase from three (3) storeys to 13m (approximately four (4) storeys). The site is proposed to retain the existing 2:1 Floor Space Ratio (FSR).

Following the consideration of over 1400 submissions from the community on the latest public exhibition, Council adopted a final version of DSSLEP2013 on 10 November 2014. The draft plan has now been forwarded to the State Government who are responsible for the finalisation process. Council officers met with the Department of Planning and Environment on 7 April 2015. The Department of Planning and Environment has indicated that the plan is expected to be made in May.

Whilst DSSLEP2013 has limited statutory weight, it remains a matter for consideration under S.79C(1)(a)(ii) of the EP&A Act, though with a limited degree of certainty or imminence at this time. Council is unable to give the standards in DSSLEP2013 determining weight at this time. Council's current position and advice to applicants is that development proposals with substantial reliance on the standards in DSSLEP2013 should not be lodged until the plan is in effect.

Further, the content of Draft Development Control Plan 2014 (Specifically Chapter 14 – B2 Local Centre – Heathcote) needs to be finalised and adopted in hand with DSSLEP2013 which will further direct the design of the proposal. Of particular relevance are the proposed changes in required setbacks for this form of development within Veno Street as further discussed.

For these reasons the scope of the Pre- Application Discussion advice and comments made, whilst having regard to the Draft provisions is limited in nature.

1. Zone Interface

The site is located on the western most edge of the Local Centre Zone and has an interface to low density environmental and multiple dwelling housing. The existing streetscape character and development immediately adjoining the site (including Roseberry Street) is characterised by single and double storey buildings in a landscaped setting. Development should be designed to achieve an appropriate transition to the edge of the centre and adjoining residential land uses. Whilst DSSLEP2013 is proposed to permit buildings to 13m, it is questionable whether the four (4) storey development in its full proposed form (a "street wall" typology) will respond to this interface and residential context. The height, bulk, scale and overall mass of the development will be significantly greater than any existing development within the Local Centre and immediate locality.

2. Amalgamation and lot Isolation

The development scheme utilises No.11 Veno Street which is a street fronting lot resultant from a previous dual occupancy development and front-rear land subdivision. Whilst no specific amalgamation requirement is identified for the land, the isolation of the internal lot (No.11A Veno Street) from the development scheme will inhibit the future orderly development of land within the zone and is unlikely to be supported by Council. Inclusion of No.11A into the development scheme will enable successful future amalgamation of No.s 7-9 Veno Street.

It is acknowledged that the inclusion of the single storey strata villa development upon No.30 Roseberry Street will be more difficult to achieve. The site is however isolated at the periphery of the Local Centre Zone. All attempts should be made to consolidate this lot into a larger development scheme. Should all reasonable attempts be exhausted, any future application should be accompanied by such evidence and should also demonstrate that No.30 Roseberry Street can be re-developed in isolation at a potential as anticipated in the zone.

Hypothetical modelling of future buildings on adjoining sites should be undertaken. This will also assist / inform planning and the design of buildings within the site (i.e. building height, massing, setbacks and separation including burden sharing).

3. Streetscape and Setbacks

Council's new Draft DCP for the Heathcote Local Centre requires this portion of Veno Street to provide a landscape setback of 7.5m in order to enhance the tree canopy and to support the endangered ecological community of Sydney Turpentine Ironbark Forest. The site is also identified as Environmentally Sensitive Land under DSSLEP2013. A key objective of this clause is to maintain Terrestrial Biodiversity by encouraging the conservation and recovery of native fauna and flora and their

habitats. The prescribed 7.5m setback will enable suitable deep soil area to be provided for tree plantings with sufficient room for on-going canopy growth. Should privatised courtyards be proposed within the sites frontage, specific regard for this landscape provision should be given.

The development controls in the Draft DCP will establish a desired character and form of development and full compliance should be pursued. Whilst there appears to be an argument for a minor relaxation of the street setback control given the alignment of an existing development at No.5 Veno Street and prominent corner aspect of the development site, Council is unable to advise whether variations to the Draft DCP would be supported before the final planning framework for the area is known and before a better-resolved scheme is presented.

The submitted Option 3 is provided with articulation in the form of increased street setbacks and a continuous linear façade design is avoided, which reduces the visual impact of the development resulting in a better streetscape presentation. Whilst it is noted that further architectural refinement of the elevation is required, articulation in the form of increased setbacks should only occur behind the7.5m building alignment.

A new residential flat building, without an active street frontage is required to be set back 4m from the street under the Draft DCP to provide appropriate residential amenity (3m setback to Roseberry Street indicated in Concept Plans). Changes in level, landscaping and building design should be employed to facilitate privacy for occupants. The development will require specific refinement in order to adequately address this secondary street frontage. It is noted that a development consent for No.15 Veno Street (DA12/0523) resulted in a three (3) storey building which successfully responded to the zone interface in terms of height, scale, setbacks and architectural design.

4. Massing of Built Form & Setbacks

The provisions of State Environmental Planning Policy No. 65 (SEPP65), Residential Flat Design Code (RFDC) and Council's DCP apply to the development. The development must be designed to achieve an appropriate transition to the edge of the centre and low density residential land uses. In light of this established context and relationship with single and double storey development, the massing of a detached four (4) storey square tower in the rear of the site is unlikely to be supported. Setbacks are required to be consistent with the above and the tapering of the development (height) towards the rear and western portions of the site is encouraged. Stepping of upper floors in a development is a method commonly deployed to visually reduce building mass, bulk and scale. The opportunity for the development to take advantage of the prominent corner aspect in terms of realising permitted building height in an expressed architectural form could be explored.

A nil setback is proposed to the eastern boundary. The inclusion of No.11A into the development scheme will enable a 4.97m setback to be maintained to the eastern side boundary. The Draft DCP refers to merit assessment in the calculation of side and rear setbacks where a site adjoins a residential zone. The provisions of SEPP65 and the RFDC are also used to inform the setback. A continuous street wall along Veno Street and blank wall end is discouraged and is unlikely to be supported. The eastern elevation wall treatment must have a high quality finish that makes a positive

contribution to the appearance of the centre as it may be exposed in the long term until adjoining lands are developed.

5. Other Urban Design & Amenity Matters

The residential flat building should achieve the design quality principles set out in SEPP65, RFDC and Council's DCP (e.g. unit sizes, private open space, drying facilities, storage). The site is benefitted by its orientation in that the majority of shadow cast will occur over the road reserve. A number of units are however orientated south and do not benefit from the dual or northern aspect. 70% of units in the development should receive a minimum 3 hours direct sunlight between 9am and 3pm in mid-winter.

Council's current policies promote a floor space mix with active ground floor commercial uses. The Draft DCP acknowledges the 'predominantly residential character' of this portion of Veno Street and does not strictly require an active or semi-active street frontage. The development should provide a variety of dwelling types (1, 2, & 3 Bedroom).

The orientation of the site gives rise to potential amenity impacts to adjoining residences in terms of privacy and overlooking. The building design must take into consideration the internal relationship of proposed buildings and the visual and acoustic privacy of adjoining properties. Internal privacy and amenity should inform the design, whereas the units, as designed exhibit minimal separation, more commonly seen in an urban centre.

A clearly identifiable entry from Veno Street should be provided. Consideration to the principle aims of Crime Prevention through Environmental Design (CPTED) must be given and paths and entry points must be secure, visible and designed to be clearly legible from the public way. Centralising a communal space (minimum area 100m² / 10m wide) between buildings enhances the opportunity for both active and passive surveillance.

The design will need to consider the relevant accessibility and adaptable housing requirements (Draft DCP proposes a minimum 30% of dwellings to be adaptable, and this requirement has a flow-on effect for car parking and basement access).

Given the proximity of the site to the main arterial road, an acoustic assessment is required to accompany any development application detailing the proposed noise attenuation measures and architectural treatment consistent with State Environmental Planning Policy (Infrastructure) 2007.

6. Architectural Review Advisory Panel

The site is challenging in that any built form must both reinforce the integrity of the Heathcote Local Centre but also provide a transition out towards the peripheral low-medium density residential context. It is strongly recommended that advice and refinement of the proposal having regard to SEPP65 and the RFDC (e.g. building separation, solar access, ventilation etc) be sought from ARAP at an earlier design stage. This should occur once DSSLEP 2013 is in effect and the full urban design parameters of the DCP are known.

7. Engineering Matters

Car parking areas are to be designed to comply with Council's prescribed parking rates and applicable Australian Standards (including bycylce, car wash bays etc). A basement car park should provide internal vertical access to all portions of the development. Suitable geo-technical investigation must also be undertaken demonstrating site suitability and supporting the extent of any basement excavation.

Vehicular access should be obtained from the secondary lowest order road (Roseberry Street). A detailed Traffic Report must be prepared which assesses the site suitability and intensity of the proposed development (i.e. frequency of vehicular movements) including the surrounding road and pedestrian routes, access point, parking provision, design of the parking area and garbage collection and deliveries. The report will need to demonstrate that the development will not result in any adverse traffic, safety or amenity impacts to the locality and to future residents.

Existing stormwater from the development sites is directed to Roseberry Street. A detailed stormwater drainage design undertaken by a qualified Civil Engineer must accompany any future application detailing the existing inter-lot drainage system including detention, connection location into Councils existing network, capacity of the existing drainage easement, WSUD principles and treatment devices in accordance with the applicable DCP and specifications.

The site is subject to the Greater Metropolitan Regional Environmental Plan No. 2 - Georges River Catchment. A detailed environmental site management plan should be prepared and the proposed development must be compliant with the aims, objectives and principles of the policy so as to ensure the environmental quality of the catchment is maintained.

Conclusion:

The concept development is reliant on the realisation of the height development standard proposed within DSSLEP2013. For these reasons, this pre development advice and consideration is generally limited and it is advised that no application be submitted for a development scheme based on these Draft development standards until the Draft plan is in effect. The content of Draft DCP also needs to be finalised and adopted which will further direct the design of the proposal.

The existing Heathcote Local Centre is characterised by predominantly two (2) storey developments and a recent approval has seen the realisation of a three (3) storey building as envisaged under the current Local Plan. The height, bulk, scale and overall mass of the concept is significantly greater than any existing development and will be by far the largest single development in the locality. The location of the site on the periphery of the zone must be considered along with the direct interface with the adjoining lower density residential development.

The successful amalgamation of lots into a development scheme is imperative to enable orderly development and opportunity for resolution of site planning and built form matters. The development will need to carefully consider the importance of the streetscape, landscape / setback requirements for the site, character of the locality, and the amenity of adjoining properties. It is often the case that the full utilisation of permitted built form within a site is difficult to realise due to such constraints and the

need to mitigate adverse impacts. As set out above, Council is unlikely to support a scheme which isolates No.11A Veno Street. At present, the design ignores this property altogether and the massing of the buildings at four (4) storeys against its driveway and side boundaries is an unacceptable outcome for a single storey dwelling.

Notwithstanding the above, Council would be supportive of a scheme which exhibits design excellence as the first major development to be commissioned under the new LEP within the Heathcote Local Centre. Coming to an accord with the Architectural panel is an essential step in demonstrating design excellence.

It is important to note that the information provided in this letter is based on the planning instruments applicable at the time of writing. You should make yourself aware of any subsequent changes to legislation or local planning controls before lodging your development application.

For detailed information about how to prepare and lodge a development application, please visit: www.sutherlandshire.nsw.gov.au/Building_Development/Development_Requirements.

This web page contains a "DA Guide" and an online tool called "Development Enquirer" which searches the applicable planning instruments for the planning controls relevant to your site and development.

Council's Development Enquiry Officers are also available to assist you with the lodgement requirements for your application (02 9710 0520).

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Evan Phillips (02 9710 0569) as this is Council's development assessment officer who will most likely be responsible for the assessment of your DA.

Yours faithfully

Mark Adamson
Manager – Projects and Development Assessment
for J W Rayner
General Manager

Architectural Review Advisory Panel

Proposal:
Demolition of existing dwellings and ancillary structures and construction of 80 residential apartments
Property:
11, 11A, 13 & 15 Veno Street HEATHCOTE NSW 2233
1-3/30 Rosebery Street HEATHCOTE NSW 2233
Applicant:
Globuild Pty Ltd
File Number:
DA15/0936

The following is the report of the Architectural Review Advisory Panel Meeting held on 17 September 2015 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

1. **"DA15/0936 – Demolition of Existing Structures and Construction of a Four (4) Storey Residential Flat Development Containing Eighty (80) Units and Basement Car Parking at 11, 11A, 13 & 15 Veno Street & 1-3/30 Rosebery Street, Heathcote – JRPP Application**

Council's David Jarvis, Luke Murtas, Charlotte Lowe, Francis Beasley and Stevie Medcalf outlined the proposal for the Panel, including providing details of Council's relevant codes and policies.

George Daoud and Tony Owen addressed the Panel regarding further development of the proposal and how they have addressed the issues raised by the Panel at the previous meeting.

Description of the Site and the Proposal:
This DA is for the demolition of existing structures and the construction of a four (4) level residential flat building containing eighty (80) units and two (2) levels of basement car parking.

The site is within Zone B2 - Local Centre (SSLEP 2015) and has a maximum FSR of 2:1 and a maximum allowable height of 13m. While the B2 Local Centre has no requirement for landscape area, the ADG has a communal open space requirement of 25%.

Key Controls:
Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)
Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015)

Applicant's Submission
The functions and responsibilities of the Panel were explained to the Applicant. The application is subject to State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (Amendment No. 3), June 2015 and the Apartment Design Guide, June 2015.

The Panel noted that that the proponent has attended a PAD meeting (PAD15/0053) and a previous ARAP meeting (ARAP15/0012). This development application will be assessed by Council and determined by the JRPP.

PRINCIPLE 1 – CONTEXT & NEIGHBOURHOOD CHARACTER

The site is located close to Heathcote's local centre. The southern boundary (Veno Street) is immediately opposite Heathcote Public School and close to the commercial area of Heathcote and Heathcote Station. The western boundary, Rosebery Street, is opposite a typical residential area of Heathcote. This corner site comprises 5 lots on the edge of the modest Local Centre. There are shops, some with residences above, further to the east in Veno Street, and detached housing to the W and N in Rosebery Street. The site falls from the SE corner down to the NW corner about 3m, and about 2m S to N. The site is adjacent to a change of zoning along Rosebery Street, from business centre to townhouses.

Environmentally, the site sits within a former forest of Sydney Turpentine and Ironbark forest (STIF), remnants of which are found on the southern side of Veno Street and along Rosebery Street. This is a protected forest type in Sutherland Shire. The area is pleasantly leafy and low-key, and there are remnants of endangered STIF on and adjacent to the site at the N boundary.

PRINCIPLE 2 – SCALE & BUILT FORM

The proposed 4 storey urban scale will be confronting in the context, so the reduction of impacts on adjoining properties should be prioritized and careful landscaping is needed to reduce the impact of the higher scale and bulk. The proposal is for two rows of similar buildings at minimum street and side setbacks and minimum separation. There is an ADG non-compliance at the rear since the change of zoning here requires a 9m setback, not 6m, to lessen the impact of scale and to allow for larger tree planting. The applicant should consider the following options to create a compliant rear setback, which the Panel considers mandatory:

- Reduce the rear (north) block to 3 storeys.
- Reduce the depth of the rear block by 2-3m to allow greater rear setback; this is liable to reduce building density.
- Create a boundary re-alignment of 2-3m to allow a complying 9m rear setback; the Panel acknowledges that this is a complex way to proceed, requiring property acquisition, a demonstration that amenable townhouses can be developed on a narrower site and a formal Council application that is liable to take some time.
- Reduce the front setback by moving the proposal closer to the street; this will require significant re-negotiation of already negotiated setback requirements and therefore may be a risky strategy.
- Introduce commercial tenancies along the street which can then justify a substantially reduced street setback.

The blocks are well planned with 2 lift cores per block to allow for dual aspect units, and direct circulation paths at ground level. The 3m E side setback is acceptable as windows proposed are highlights and screened (see 'Amenity' below) so they can be treated as 'non-habitable' rooms in terms of privacy. It is noted that currently E facing windows shown in plan do not correspond in location to those in elevation.

PRINCIPLE 3 – DENSITY
Complies, however the communal open space does not provide adequate sunlight required by the ADG. If the roof area is utilized for communal open space, this issue will be addressed.

PRINCIPLE 4 – SUSTAINABILITY
Double-loaded floor planning at this orientation poses a challenge for complying solar access. The applicant has included the south-facing units on the top floor as compliant, through the use of skylights, but these do not provide solar access to private open spaces, so the proposal still does not meet the ADG 70% requirement. There are also more than 15% south-facing units.

The proposal should be re-planned with less south-facing units (e.g. by combining 2 x 1 bedroom units into a 3-bedroom unit, and on the top floor by repeating the SE unit of the south block in the north block for solar access to the balcony from the E), to meet this control. Rainwater harvesting and re-use for irrigation is recommended.

PRINCIPLE 5 – LANDSCAPE
The success of this proposal depends heavily on the amenity and appearance of the central courtyard. Currently, it appears too cluttered and constrained by the many 1:14 ramps and retaining walls – the E ramp in particular is complicated and should be similar to the W ramp. Can the east portion of the north building be raised so that there is less level difference in relation to the south building here?

Though a 3D image shows the central court as open to Rosebery Street, the plan and section show it closed off by a stair and wall. The Panel considers that the open option will benefit the Rosebery Street streetscape and will enhance permeability and surveillance.

The central open space between the two buildings needs to be augmented by roof gardens.

The Site Entry
This entry appears to offer a pleasant civic engagement with Rosebery Street in the perspective rendered as a photomontage however other photomontages and the landscape plan indicate extensive alienating fencing around the entire site. This is unfortunate. There are many ways to achieve privacy for private courtyards with inconspicuous fencing and planting. It is recommended that the walls and fences around the site entry be reduced to a single central feature stone wall indicating the name of the development and set back to screen the fire stairs. It would also be preferable to have one wider entry path on the western side, releasing the eastern path for shrub planting to screen G01

Central Open Space
The sun penetration into this space is limited. As the barbeque area is covered, the Panel suggests that it is relocated to the northern end of the central communal open space, thus enabling the Rosebery Street end of the central space to be lawn and trees with afternoon sun in the ‘deepish’ soil zone.

Northern Common Open Space
It is unfortunate that this sunny area is dominated by excessive ramps to accommodate some awkward level changes. The previous submission ran the ramp around the perimeter of this space. Could this not be reconsidered?

Species Selection
The site adjoins remnants of the endangered Sydney Turpentine Ironbark community. The Shire has strict controls about the species selection associated with this community. The trees must be 100% indigenous and the understorey 50% indigenous. This does not allow for the deciduous trees proposed or the featured palm grove.

PRINCIPLE 6 – AMENITY
The communal open space will not receive solar access in winter and does not meet its area requirements. Therefore, an accessible green roof on the south block is recommended.

Gates from private courtyards are needed to access the central court. The roof garden areas will add significantly to the amenity

The E boundary path needs to be connected to the cross-paths to allow the north block residents convenient access to the Veno Street shops. Notwithstanding the internal access to Veno Street from building A – which is supported by the Panel - , it seems that building B residents need to walk through the drying area to connect with Veno Street and shops beyond, otherwise they compromise the security of building A by passing through its lobby to get to Veno Street. Universal design principles clearly apply to paths.

It is not clear how the 2 garbage bins in each lobby will work, as they need to be taken into the lobby and then emptied into a chute. Is this liable to create conflicts?

PRINCIPLE 7 – SAFETY
Surveillance from units to the street and the central court needs to be improved by using permeable fencing, not the closed paling fencing shown.

If the stair and courtyard wall remain, they need to be associated with security gates since the central court would not then be under street surveillance.

Vertical fire separation as per BCA [note section CC] will need to be considered in progressing the design.

The proposal does not correspond with the ADG suggested 3100mm floor to floor height requirement.

PRINCIPLE 8 – HOUSING DIVERSITY & SOCIAL INTERACTION
There is a good mix of unit sizes, and planning is very efficient. However, adapted units do not meet the Adaptable Housing standard as there is less than 1540 deep circulation zone at the foot of the bed.

There is good potential for neighbourly social interaction at the Rosebery Street entry.

PRINCIPLE 9 – AESTHETICS

The interlocking box forms along with subtle façade projections and screening devices humanizes the scale of this development and creates visual interest. However, the Panel notes that the Sketch up model appears to differ from the plans and elevations in terms of façade modelling. The facades themselves are well composed and articulated, adding scale and variety to its formal presence with subtle changes to each elevation. In dealing with the current fire separation non compliance, careful consideration is required so as not to foul the applied recurring rectangular framing to the form.

Landscape aesthetics are not strong because of an overuse of walls and fences.

RECOMMENDATIONS/CONCLUSIONS:

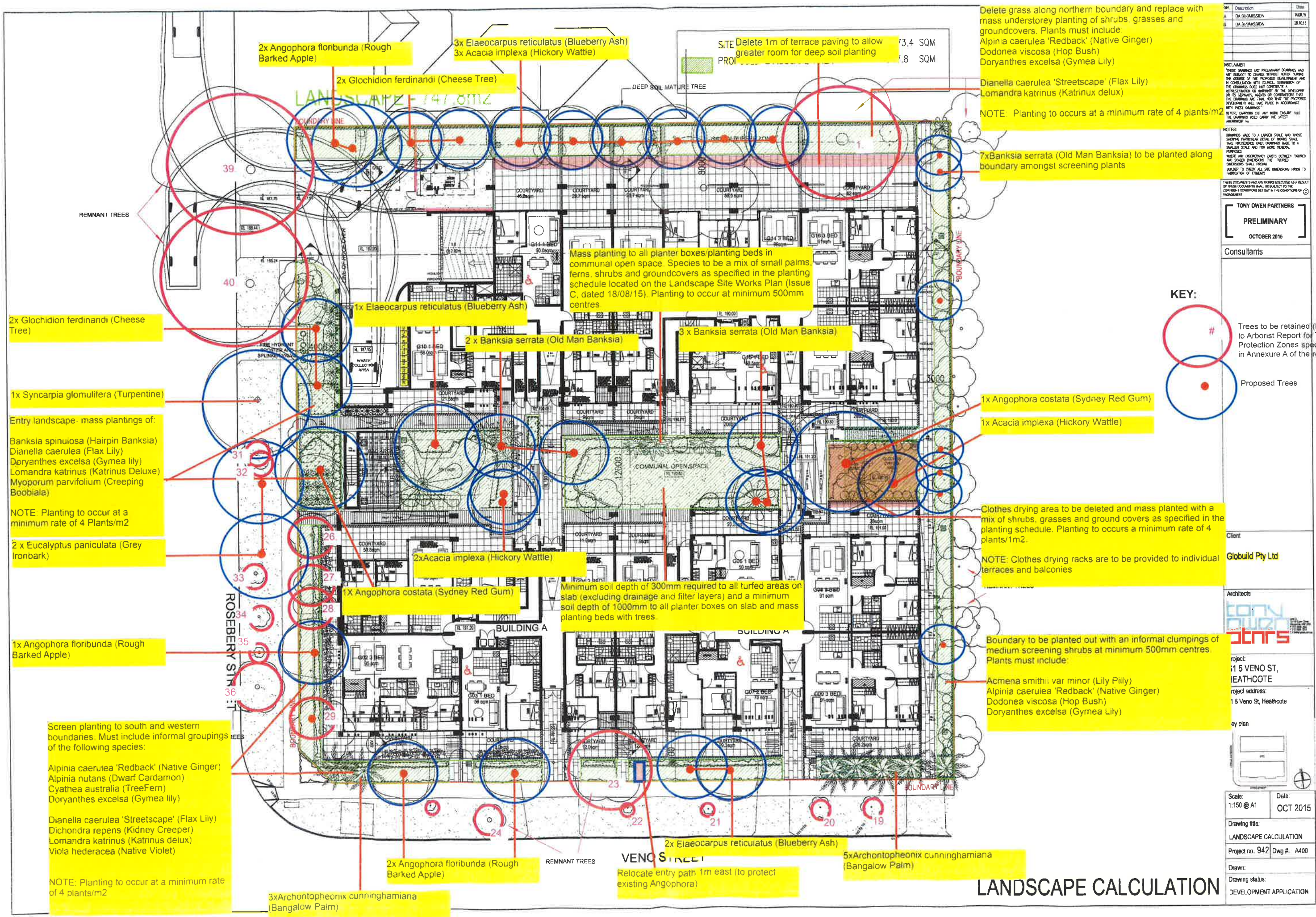
This proposal has the potential to be a quality precedent for denser developments in a suburban context. However, the ADG non-compliances to both internal and external spaces indicate that the proposal may be slightly too big for the site.

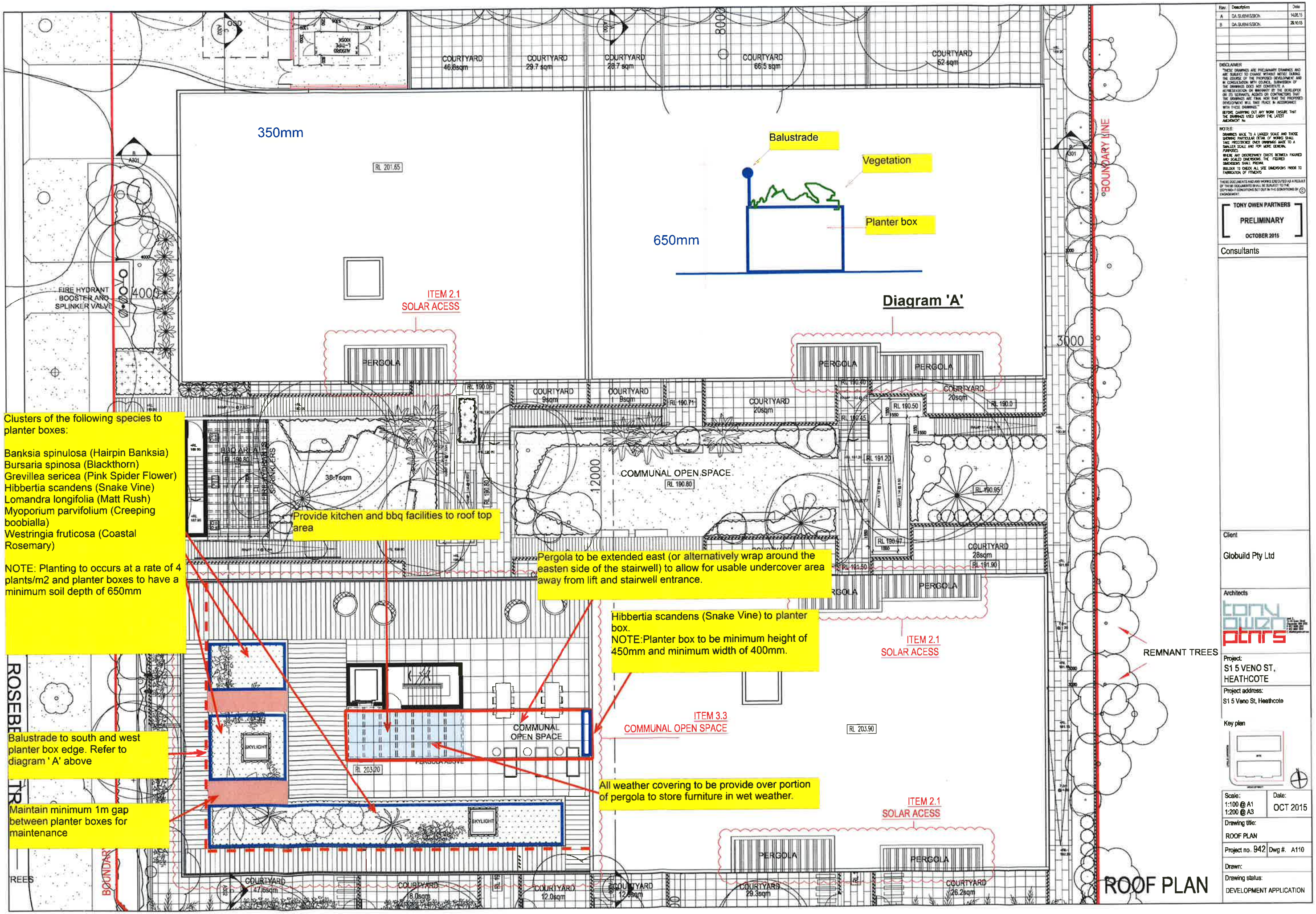
The applicant needs to co-ordinate the Sketch-up model with the other drawings, and to clearly show the landscaping in this model, to allow proper assessment.

The proposal also needs to demonstrate how the significant change of scale along Rosebery Street will be handled, incorporating appropriate landscape and to strengthen the quality of the central space, not just meet numerical compliance."

Brendan Randles
Acting ARAP Chairman

06 October 2015


2x Angophora floribunda (Rough Barked Apple)
2x Glochidion ferdinandi (Cheese Tree)
3x Elaeocarpus reticulatus (Blueberry Ash)
3x Acacia implexa (Hickory Wattle)
Delete 1m of terrace paving to allow greater room for deep soil planting
Delete grass along northern boundary and replace with mass understorey planting of shrubs, grasses and groundcovers. Plants must include:
Alpinia caerulea 'Redback' (Native Ginger)
Dodonea viscosa (Hop Bush)
Doryanthes excelsa (Gymea Lily)
Dianella caerulea 'Streetscape' (Flax Lily)
Lomandra katrinus (Katrinux delux)
NOTE: Planting to occurs at a minimum rate of 4 plants/m2
7xBanksia serrata (Old Man Banksia) to be planted along boundary amongst screening plants
DEEP SOIL MATURE TREE
LANDSCAPE - 747.8M2
SITE
PROP
73.4 SQM
7.8 SQM
BOUNDARY LINE
REMNANT TREES
Mass planting to all planter boxes/planting beds in communal open space. Species to be a mix of small palms, ferns, shrubs and groundcovers as specified in the planting schedule located on the Landscape Site Works Plan (Issue C, dated 18/08/15). Planting to occur at minimum 500mm centres.
1x Elaeocarpus reticulatus (Blueberry Ash)
2x Glochidion ferdinandi (Cheese Tree)
2 x Banksia serrata (Old Man Banksia)
3 x Banksia serrata (Old Man Banksia)
1x Syncarpia glomulifera (Turpentine)
1x Angophora costata (Sydney Red Gum)
1x Acacia implexa (Hickory Wattle)
Entry landscape- mass plantings of:
Banksia spinulosa (Hairpin Banksia)
Dianella caerulea (Flax Lily)
Doryanthes excelsa (Gymea lily)
Lomandra katrinus (Katrinus Deluxe)
Myoporum parvifolium (Creeping Boobiala)
NOTE: Planting to occur at a minimum rate of 4 Plants/m2
2 x Eucalyptus paniculata (Grey Ironbark)
2xAcacia implexa (Hickory Wattle)
1X Angophora costata (Sydney Red Gum)
Minimum soil depth of 300mm required to all turfed areas on slab (excluding drainage and filter layers) and a minimum soil depth of 1000mm to all planter boxes on slab and mass planting beds with trees.
Clothes drying area to be deleted and mass planted with a mix of shrubs, grasses and ground covers as specified in the planting schedule. Planting to occurs a minimum rate of 4 plants/1m2.
NOTE: Clothes drying racks are to be provided to individual terraces and balconies
1x Angophora floribunda (Rough Barked Apple)
Boundary to be planted out with an informal clumpings of medium screening shrubs at minimum 500mm centres. Plants must include:
Acmena smithii var minor (Lily Pilly)
Alpinia caerulea 'Redback' (Native Ginger)
Dodonea viscosa (Hop Bush)
Doryanthes excelsa (Gymea Lily)
Screen planting to south and western boundaries. Must include informal groupings of the following species:
Alpinia caerulea 'Redback' (Native Ginger)
Alpinia nutans (Dwarf Cardamon)
Cyathea australia (TreeFern)
Doryanthes excelsa (Gymea lily)
Dianella caerulea 'Streetscape' (Flax Lily)
Dichondra repens (Kidney Creeper)
Lomandra katrinus (Katrinus delux)
Viola hederacea (Native Violet)
NOTE: Planting to occur at a minimum rate of 4 plants/m2
2x Angophora floribunda (Rough Barked Apple)
3xArchontopheonix cunninghamiana (Bangalow Palm)
2x Elaeocarpus reticulatus (Blueberry Ash)
5xArchontopheonix cunninghamiana (Bangalow Palm)
Relocate entry path 1m east (to protect existing Angophora)
ROSEBERY ST
VENO STREET
BUILDING A
COMMUNAL OPEN SPACE
KEY:
Trees to be retained (Refer to Arborist Report for Tree Protection Zones specified in Annexure A of the report)
Proposed Trees
TONY OWEN PARTNERS
PRELIMINARY
OCTOBER 2015
Consultants
Client
Globuild Pty Ltd
Architects
Project:
15 VENO ST, HEATHCOTE
Project address:
15 Veno St, Heathcote
Key plan
Scale: 1:150 @ A1
Date: OCT 2015
Drawing title:
LANDSCAPE CALCULATION
Project no. 942
Dwg #. A400
Drawn:
Drawing status:
DEVELOPMENT APPLICATION
LANDSCAPE CALCULATION



Clusters of the following species to planter boxes:

Banksia spinulosa (Hairpin Banksia)
Bursaria spinosa (Blackthorn)
Grevillea sericea (Pink Spider Flower)
Hibbertia scandens (Snake Vine)
Lomandra longifolia (Matt Rush)
Myoporium parvifolium (Creeping boobialla)
Westringia fruticosa (Coastal Rosemary)

NOTE: Planting to occurs at a rate of 4 plants/m2 and planter boxes to have a minimum soil depth of 650mm

Rev	Description	Date
A	DA SUBMISSION	14.08.15
B	DA SUBMISSION	29.10.15

DISCLAIMER

"THESE DRAWINGS ARE PRELIMINARY DRAWINGS AND ARE SUBJECT TO CHANGE WITHOUT NOTICE DURING THE COURSE OF THE PROPOSED DEVELOPMENT AND IN CONSULTATION WITH COUNCIL. SUBMISSION OF THE DRAWINGS DOES NOT CONSTITUTE A REPRESENTATION OR WARRANTY BY THE DEVELOPER OR ITS SERVANTS, AGENTS OR CONTRACTORS THAT THE DRAWINGS ARE FINAL NOR THAT THE PROPOSED DEVELOPMENT WILL TAKE PLACE IN ACCORDANCE WITH THESE DRAWINGS."

BEFORE CARRYING OUT ANY WORK, ENSURE THAT THE DRAWINGS USED CARRY THE LATEST AMENDMENT No:

NOTES:

DRAWINGS MADE TO A LARGER SCALE AND THOSE SHOWING PARTICULAR DETAIL OF WORKS SHALL TAKE PRECEDENCE OVER DRAWINGS MADE TO A SMALLER SCALE AND FOR MORE GENERAL PURPOSES.

WHERE ANY DISCREPANCY EXISTS BETWEEN FIGURED AND SCALED DIMENSIONS, THE FIGURED DIMENSIONS SHALL PREVAIL.

BUILDER TO CHECK ALL SITE DIMENSIONS PRIOR TO FABRICATION OF ITEMENTS

TONY OWEN PARTNERS

PRELIMINARY

OCTOBER 2015

Consultants

Client
Globuild Pty Ltd

Architects
tony owen ptnrs

Project:
S1 5 VENO ST,
HEATHCOTE

Project address:
S1 5 Veno St, Heathcote

Key plan

Scale:	Date:
1:100 @ A1 1:200 @ A3	OCT 2015

Drawing title:
ROOF PLAN

Project no. 942 | Dwg #. A110

Drawn:

Drawing status:
DEVELOPMENT APPLICATION

APPENDIX "D"

APPENDIX "E"

Our Ref: 0219/15lt1 5 November 2015

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

Attention : Ms Charlotte Lowe

Dear Charlotte,

CLAUSE 4.6 VARIATION – BUILDING HEIGHT (DA15/0936)
ROSEBERY STREET & VENO STREET, HEATHCOTE

We act on behalf of the owners of the subject property in relation to the development application proposed at the abovementioned property. In response to Council's additional information letter dated 14 October 2015, we provide below detailed justification for the proposed height non-compliance. Other matters raised in Council's letter are dealt with separately by others.

1. BUILDING HEIGHT

Clause 4.3 of Sutherland LEP 2015 relates to the height of buildings and prescribes a maximum building height of 13m in relation to the subject site. The proposed building has been designed to comply with the maximum permitted building height limit, however, results in isolated non-compliance relating to Building A for the lift overrun, fire stairs and pergola proposed over the rooftop communal open space. Proposed Building B and the remainder of Building A is fully compliant with the height limit. The maximum height measured to the lift overrun is 16m (as shown in Section CC of the amended architectural plan set).

It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 of the LEP so as to permit the proposed projection to an isolated part of the building above the 13m height limit.

The objectives and provisions of clause 4.6 are as follows:

> " *4.6 Exceptions to development standards*
> *(1) The objectives of this clause are as follows:*
> *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
> *(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
> *(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(5) In deciding whether to grant concurrence, the Director-General must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4."

(ca) clause 4.3 (2A), 4.4 (2A), (2B), (2C) or (2D).

The development standard imposed under clause 4.3(2) is not "expressly excluded" from the operation of clause 4.6.

This submission will address the requirements of subclauses 4.6(3) & (4). In this regard, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, for example, subclause 4.6(6).

Consistency with objectives of the particular standard

The objectives and relevant provisions of clause 4.3 are as follows, inter alia:

" (a) to ensure that the scale of buildings:

(i) is compatible with adjoining development, and

(ii) is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and

(iii) complements any natural landscape setting of the buildings,

(b) to allow reasonable daylight access to all buildings and the public domain,
(c) to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,
(d) to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,
(e) to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,
(f) to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the objectives of clause 4.3 are addressed in turn below:

Objective (a) is in relation to compatibility and consistency with area character and adjoining development. As indicated, the entire proposal complies with the applicable height limit and the proposal will generally appear in the streetscapes of Veno Street and Rosebery Street as a form that is compliant and envisaged by the planning controls. The area of non-compliance is setback towards the centre of Building and will not be visible from adjoining properties. Accordingly, it is considered that the proposed height breach will not result in a building form that is antipathetic to the character objectives of the height control. Compatibility with adjoining development is driven moreso by boundary setbacks, landscape treatments, materiality and the general massing of the building, all of which are considered acceptable. In addition, the proposed height non-compliance does not relate to parts of the building that contribute to calculable floor space.

Objective (b) is in relation to solar access. The areas of the proposed height breach will not result in any additional shadow on adjoining properties beyond that which is cast by the compliant parts of the building. Similarly, the public domain will not be additionally affected. Accordingly, this objectives is met.

Objective (c) is in relation to amenity impacts on adjoining properties. The location of the proposed roof terrace occupies the part of the roof that is separated by greatest distance to adjoining properties. There will be no view lines from the terrace into adjoining properties, there are no vies that will be affected, overshadowing is not increased beyond the compliant parts of the building and the non-compliant building element will in fact not be visible from adjoining properties. Accordingly, the proposal does not offend this objective.

Objective (d) is in relation to visual impact. As indicated, the area of non-compliance will not be visible from adjoining residential properties and will in no way dominate the building form when visible from limited vantage points in the public domain. The site is not visible from any waterways or public reserves.

Objective (e) is not relevant to the proposal.

Objective (f) is in relation to transition from commercial to retail zones. Whilst the subject site is at the boundary between two zones, the height breach relates to an isolated element of the roof which is the furthest removed part of the roof from the adjoining residential properties. Accordingly, the proposed area of height breach is not considered to have any negative implication for the transition of development to the adjoining residential zone.

Consistency with zones objectives

Clause 4.6(4) also requires consideration of the relevant zone objectives. The objectives of development in the B2 zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*
- *To create an attractive, vibrant and safe public domain that has both a high standard of urban design and public amenity that is designed to cater for the needs of all ages and abilities.*
- *To encourage housing suitable for the needs of an ageing population.*
- *To allow for residential dwellings while maintaining active land uses at street level.*
- *To provide a mix of compatible land uses and building forms that act as a transition to the surrounding residential neighbourhood.*

In response to the above zone objectives, as indicated in the submitted Statement of Environmental Effects, the proposal provides a land use that is suitable and encouraged within the locality and will integrate residential land uses in close proximity to existing and future business uses. The development has been designed for ease of pedestrian access and given the proximity to the core of the town centre and railway station, walking and public transport patronage is expected to be common.

The development will replace existing lower scale buildings with a contemporary apartment development that has been designed with regard to the desired future built form context of the site and will provide appropriate levels of amenity to future residents. The proposed development will result in an increase in the available housing stock in the locality by the provision of a high quality residential development that has been designed in response to the opportunities and constraints presented by the site. The subject site enjoys excellent access to commercial services, community facilities and public transport that provides access to a wide range of commercial centres.

Sufficient environmental planning grounds

The north facing communal rooftop terrace was highly recommended by Council's Architectural Review Advisory Panel. Council's letter dated 14 October states that a "rooftop garden should be provided on the southern building block to ensure the proposal complies with the ADG and provides residents with an amenable area. That is, the inclusion of the terrace in the development (with facilities and equitable access) represents an improved urban design outcome for the subject site. This means that there are sufficient environmental planning grounds to justify the variation of the height control, particularly given that:

- the development has been designed to minimise impacts on neighbouring properties and likely future adjoining properties;
- strict compliance with the building height standard would result in no material built form benefits;
- the proposed height non-compliance does not relate to parts of the building that contribute to calculable floor space;
- the proposed height variation will not be visually dominant from the street frontages of the site or adjoining properties; and
- the variation improves residential amenity in terms of providing two alternative common open space area with different characteristics and varied solar access properties at different times of the year to allow flexible use.
- The ADG promotes the inclusion of rooftop terraces in residential flat design.

Unreasonable or unnecessary in the circumstances of the case

Returning to Clause 4.6(3)(a), in *Wehbe V Pittwater Council (2007) NSW LEC 827* Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

> " *An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard."*

The judgement goes on to state that:

> *" The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."*

However, in *Four2Five v Ashfield Council* [2015] NSWLEC 90 the Land and Environment Court said that whether something was 'unreasonable or unnecessary' is now addressed specifically in clause 4.6(4)(a)(ii), with separate attention required to the question of whether compliance is unreasonable or unnecessary. Accordingly, while the objectives of the standard are achieved despite non-compliance with the standard, this request goes further. It seeks to demonstrate that requiring strict adherence to the standard would be 'unreasonable or unnecessary' for reasons that are additional to mere consistency with the development standard.

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

1. *…*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Additionally, in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 Court of Appeal said that a requirement may be unreasonable when 'the severity of the burden placed on the applicant is disproportionate to the consequences attributable to the proposed development' (at paragraph 15).

Having regard to all of the above, it is considered that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of this case as:

- The proposed height variation will not be visually dominant from any point on the street frontages or from adjoining properties.

- The lift overrun and fire stairs provide equitable access to the north facing communal rooftop terrace area, and the pergola provides some shading and landscape design interest for this space. The addition of the rooftop terrace was highly recommended by Council's Design Review Panel, notwithstanding the variation required to the height limit.

- The proposed development meets the objectives of the height control and strict compliance with the height control would undermine or thwart its objectives, or the zone's objectives (or both).

- The burden placed on future residents (by eliminating the rooftop terrace and/or equitable access to it) would be disproportionate to any consequences that may arise from the proposed non-compliance with the height control.

Given that compliance with the zone and development standard objectives is achieved, insistence on strict compliance with the building height standard is considered to be unreasonable and unnecessary in the circumstances. The proposal is compliant with the relevant objectives, will create negligible environmental impacts and will provide communal open space in a highly desirable, high amenity location. The proposal is therefore justified on environmental planning grounds. For the reasons above, the proposed building height variation is consistent with the requirements of Cause 4.6(3) of the LEP.

Conclusion

The development proposal will provide diverse and additional housing choice within superior amenity. This is achieved by well-planned and functional apartments with high solar and cross ventilation performance, and access to a variety of common open spaces.

Accordingly, for the reasons stated above, we respectfully request that Council permit variation to the building height development standard. We trust the information provided is adequate however, should you have any questions or wish to discuss the application, please do not hesitate to contact our office.

Yours faithfully,
Planning Ingenuity Pty Ltd

J. Mead

Jeff Mead
DIRECTOR