

PPSSSH129- 41-45 President Avenue, Caringbah & 178 –
186 Willarong Road, Caringbah

MA22/0284

ASSESSMENT REPORT APPENDICES

Appendix	A	Draft Conditions of Consent
	B	Appeal LEC Judgement
	C	Water NSW Cover Letter Response
	D	Sydney Trains Response

DRAFT CONDITIONS OF CONSENT
Development Application No. MA22/0284
Modification of Approved DA19/0333

That Development Application No. DA19/0333 for demolition of existing structures, tree removal, construction of a shop top housing development containing a supermarket, liquor store, specialty stores, 120 residential apartments, undercroft and basement car parking, internal fitout and use of the supermarket and liquor store, advertising signs and signage zones, and associated civil infrastructure, public domain and landscape works at Lots 26, 27, 28 and 29 in DP 10066, Lot D DP 387699, Lot X DP 396618, and Lots A and B in DP 449572, 41-51 President Avenue and 178-186 Willarong Road, Caringbah be modified as follows:

Amend Conditions 1, 7, 8 and 12 as follows (deletion in ~~red and struck through~~, and additions in **blue text**:

1. Approved Plans and Documents

The development must be undertaken substantially in accordance with the BASIX certificate, details and specifications set out on the following approved plans:

Plan number	Reference	Prepared by	Date
Architectural Plans			
DA003 Rev K	Site Plan	nettletontribe	Prepared 09.09.20
DA004 Rev K	Demolition Plan	nettletontribe	Prepared 09.09.20
DA101 Rev L	Basement 2 Floor Plan	nettletontribe	Prepared 21.08.20
DA102 Rev L	Basement 1 Floor Plan	nettletontribe	Prepared 21.08.20
DA103 Rev L	Ground floor Plan	nettletontribe	Prepared 21.08.20
DA104 Rev M	Level 1 Floor Plan	nettletontribe	Prepared 31.08.20
DA105 Rev L	Level 2 Floor Plan	nettletontribe	Prepared 21.08.20
DA106 Rev L	Level 3 Floor Plan	nettletontribe	Prepared 21.08.20
DA107 Rev L	Level 4 Floor Plan	nettletontribe	Prepared 21.08.20
DA108 Rev L	Level 5 Floor Plan	nettletontribe	Prepared 21.08.20
DA109 Rev L	Level 6 Floor Plan	nettletontribe	Prepared 21.08.20
DA110 Rev L	Level 7 Floor Plan	nettletontribe	Prepared 21.08.20
DA114 Rev L	Roof Plan	nettletontribe	Prepared 21.08.20
DA116 Rev K	Level 1 Mezzanine	nettletontribe	Prepared 18.08.20
DA132 Rev K	Adaptable Unit Types - Sheet 01	nettletontribe	Prepared 10.09.20
DA133 Rev K	Adaptable Unit Types - Sheet 02	nettletontribe	Prepared 10.09.20
DA134 Rev K	Adaptable Unit Types - Sheet 03	nettletontribe	Prepared 10.09.20
DA201 Rev L	North Elevations	nettletontribe	Prepared 21.08.20
DA202 Rev L	East & West Elevations	nettletontribe	Prepared 09.09.20
DA203 Rev L	South Elevations	nettletontribe	Prepared 21.08.20
DA204 Rev M	Signage Elevations 1	nettletontribe	Prepared 31.08.20
DA301 Rev K	Section A & B	nettletontribe	Prepared 09.09.20

DA302 Rev K	Section C	nettletontribe	Prepared 09.09.20
DA303 Rev K	Typical Façade Section	nettletontribe	Prepared 09.09.20
DA304 Rev K	Typical Façade Section	nettletontribe	Prepared 09.09.20
Landscape Plans			
LPS34 18 -104 Rev A Page 1	Hardscape / Site Plan	Conzept Landscape Architects	Prepared 14.09.20
LPS34 18 -104 Rev A Page 2	Landscape Plan - (Level 2)	Conzept Landscape Architects	Prepared 14.09.20
LPS34 18 -104 Rev A Page 3	Landscape Plan - (Level 6)	Conzept Landscape Architects	Prepared 11.09.20
LPS34 18 -104 Rev A Page 4	Specification & Detail	Conzept Landscape Architects	Prepared 11.09.20
Civil Drawings			
CI-000-01 Rev C	Cover Sheet	Stantec Engineers	
CI-070-01 Rev C	Erosion & Sediment Control Plan	Stantec Engineers	Prepared 10.09.20
CI-076-01 Rev B	Erosion & Sediment Control Details	Stantec Engineers	Prepared 10.09.20
CI-100-01 Rev C	Bulk Earthworks Plan	Stantec Engineers	Prepared 10.09.20
CI-060-01 Rev D	General Arrangement Plan	Stantec Engineers	Prepared 10.09.20
CI-520-01 Rev M	Stormwater Drainage Plan - Ground	Stantec Engineers	Prepared 10.09.20
CI-520-02 Rev C	Stormwater Drainage Plan - Basement Level 1	Stantec Engineers	Prepared 10.09.20
CI-526-01 Rev C	Stormwater Drainage Details - Sheet 01	Stantec Engineers	Prepared 10.09.20
CI-526-02 Rev E	Stormwater Drainage Details - Sheet 02	Stantec Engineers	Prepared 10.09.20
Construction Management Diagrams			
AR-01-0100 Rev B	Site Plan - CMP	CQ Studio	Prepared 15.05.23
AR-01-0101 Rev B	Section – Existing Stormwater	CQ Studio	Prepared 15.05.23

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

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

- a. A Construction Certificate.
- b. Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- c. Notification of the commencement of building works with a minimum of 2 days' notice of such commencement.

7. Trunk Drainage Construction

A. Design

- i) The alignment of Council's stormwater drainage infrastructure (pipelines that traverses No.41-45, 47 & 51 President Avenue and 186 Willarong Road) shall be accurately detailed on Construction Management Diagrams sheets AR-01-0100B & AR-01-0101B prepared by CQ Studio.

- ii) The works "exclusion zone" shall be increased in width to accommodate the outer diameter of the pipes + 1m beyond to outer eastern and western wall of the pipelines + the clearance between the pipelines + the associated 1 vertical to 2 horizontal batters.
- iii) A Registered Surveyor must certify the alignment of Council's pipelines and the required "exclusion zone" detailed on the required amended Construction Management Diagrams sheets AR-01-0100B & AR-01-0101B by CQ Studio, as being correct.

~~A.~~ B. Before Construction

Prior to the issue of any Construction Certificate for bulk excavation* or the built form approved by this Development Consent, the realigned trunk drainage pipeline within President Ave, subject property and Willarong Road must be fully operational and to the satisfaction of the Director, Shire Planning.

Despite the above, excavation and associated preliminary works to the extent detailed in Construction Management Diagrams sheets AR-01-0100B & AR-01-0101B by CQ Studio as amended to accord with Part A (above) is permitted prior to bulk excavation.

Note: *Bulk excavation is all works that exceed the depth and extent set out in the Construction Management Diagrams.

8. Trunk Drainage Design

A. Design

The stormwater drainage system must be designed in accordance with the approved stormwater drainage design drawing; Australian Standard AS3500.3:2015; Sutherland Shire Council Public Domain Technical Manual. Except where modified by the following:

- i) All pipes must be Concrete Reinforced Pipes from a reputable pipe manufacturer
- ii) The pipeline between pits PCUL_MH2 & PCL_MH5 must be constructed using jacking techniques or such alternative techniques as may be agreed with Council's Stormwater and Waterways Manager. Such techniques must not in any way jeopardise the retention of Tree 3.
- iii) A stormwater pipe long-section to be provided detailing pipe grades, levels and benching.

B. Before Construction of Trunk Drainage Pipeline

- i) Geotechnical investigation must be undertaken to ensure the suitability of the soil profile is suitable for pipe jacking between pits PCUL_MH2 & PCL_MH5.
- ii) Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in A. above must accompany the application for a Construction Certificate.
- iii) Approval from Council's Stormwater and Waterway Manager, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in A. above must accompany the application for a Construction Certificate.
- iv) The deed of agreement between Sutherland Shire Council and the applicant/owner/person entitled to act on the development consent must be executed.

C. ~~Before Construction Certificate~~ Prior to Bulk Excavation

Prior to ~~the issue of any Construction Certificate relating to the approved built form~~ any bulk excavation occurring on site:

- i) A Works-As-Executed drawing (WAED) of the stormwater trunk drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines and pits. An original or a colour copy must be submitted to Sutherland Shire Council.
- ii) The supervising engineer must certify the WAED of the stormwater trunk drainage system was constructed to their satisfaction and in accordance with the Development Consent, and Public Domain Technical Manual.
- iii) CCTV and associated condition report of the realigned stormwater trunk drainage system must be provided to Council's Stormwater and Waterway Manager for review and comment.
- iv) Approval from Council's Stormwater and Waterway Manager, to the effect that the stormwater trunk drainage system is to their satisfaction and satisfies the design requirements in "A" above must accompany the application for a Construction Certificate relating to the built form

Note: *Bulk excavation is all works that exceed the depth and extent set out in the Construction Management Diagrams.

D. Before Occupation Certificate

Prior to the issue of the Occupation Certificate for the entire development the following must be completed.

- i) CCTV and associated condition report of the realigned stormwater trunk drainage system must be provided to Councils Stormwater and Waterway Manager for review and comment.

Note: All CCTV and reporting must be completed in accordance with Water Services Association of Australia (WSAA) guidelines.

12. Section 7.11 Contributions - Section 7.11 Development Contribution Plan 2016 - Caringbah Centre Precinct

A. Before Construction

Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council Section 7.11 Development Contribution Plan 2016, a total monetary contribution of \$2,300,000.00 must be paid to Sutherland Shire Council toward the cost of regional and local public domain works contained in the Works Programme of the Development Contribution Plan.

This contribution has been assessed and calculated in accordance with the Development Contribution Plan on the basis of 120 proposed residential apartments with a concession for 5 existing allotments.

Infrastructure & Facilities

Local open space and public domain works
Regional open space

Contribution Required

\$1,702,944.00
\$597,056.00

The contribution will be indexed on 1 July in each year in accordance with the Consumer Price Index (All Groups Index) for Sydney.

The formula to index a contribution rate is:

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times \frac{\text{Current CPI}}{\text{Previous year's CPI}}$$

B. Contribution Timing

- ~~(1) The Section 7.11 monetary contribution that is required to be paid under Condition 12 of this Development Consent must be paid before the issue of the first Occupation Certificate in respect of any building to which this consent relates, except as provided by condition 88(2).~~
- ~~(2) If no Construction Certificate in respect of the erection of any building to which this consent relates has been issued on or before 25 September 2022, the Section 7.11 monetary contribution required under condition 12 must be paid before the issue of the first Construction Certificate after that date for any such building.~~

Payment shall be made in accordance with a Deed of Agreement and periodic payment plan, in accordance with Council requirements and the provisions of the Development Contributions Plan. The Deed of Agreement must be executed prior to the issue of any Construction Certificate for bulk earthworks or the built form. Full payment shall be made within 12 months of the date of issue of the construction certificate for bulk excavation works or prior to the issue of any occupation certificate, whichever comes first.

Note: Interest is payable at the current maximum interest on overdue rates and charges. This arrangement is subject to indexation which is charged on the 1st July each year on the balance outstanding at the time. All costs associated with this payment arrangement is to be borne by the developer/ consent holder, and any failure to meet any payment, in full, will result in the arrangement becoming void. This shall be reflected in the Deed of Agreement.



Land and Environment Court
New South Wales

Case Name:	Coles Group Property Developments Ltd v Sutherland Shire Council
Medium Neutral Citation:	[2020] NSWLEC 1458
Hearing Date(s):	Conciliation conference held on 19 and 21 August 2020
Date of Orders:	29 September 2020
Decision Date:	29 September 2020
Jurisdiction:	Class 1
Before:	Bish C
Decision:	Refer to orders at [34]
Catchwords:	DEVELOPMENT APPLICATION – mixed use development – amenity – flooding – traffic – liveable dwellings character and streetscape consistency – height and FSR standards non-compliance – cl 4.6 written variation requests – conciliation conference – agreement between the parties – orders
Legislation Cited:	Environmental Planning and Assessment Act 1979 Land and Environment Court Act 1979 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No 55—Remediation of Land State Environmental Planning Policy No 64—Advertising and Signage State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development Sutherland Shire Local Environmental Plan 2015
Texts Cited:	Apartment Design Guide Sutherland Shire Development Control Plan 2015
Category:	Principal judgment
Parties:	Coles Group Property Developments Ltd (Applicant) Sutherland Shire Council (Respondent)
Representation:	Counsel: J Chenevier (Solicitor) (Applicant) R McCulloch (Solicitor) (Respondent) Solicitors: Norton Rose Fullbright Australia Pikers & Verekers Lawyers

File Number(s): 2019/404403
Publication Restriction: No

JUDGMENT

- 1 **COMMISSIONER:** This is an appeal against the deemed refusal of Development Application (DA) 19/0333 by Sutherland Shire Council (hereafter the Council), which as amended, seeks the demolition of existing structures, tree removal and construction of a shop top housing development with parking, including a supermarket and other stores, a residential flat building for 120 apartments, relevant signage, associated civil infrastructure and landscaping on Lot B DP 449572, Lot X DP 396618, Lot D DP 387699, Lot A DP 449572 and Lot 26 to 29 DP 10068, also known as 41-47 and 51 President Avenue and 178-186 Willarong Road, Caringbah (hereafter the site).
- 2 This Class 1 appeal is made under s 8.7(1) of the *Environmental Planning and Assessment Act 1979* (EPA Act).
- 3 The Court agreed to a conciliation conference under s 34(1) of the *Land and Environment Court Act 1979* (LEC Act) between the parties, which was initially held onsite on 19 August 2020 and subsequently adjourned to allow the parties to finalise their agreement. I presided over the conciliation conference. There were no objectors whom spoke at this conciliation.
- 4 Prior to and in response to the conciliation conference, following expert discussion, the applicant sought to amend the supporting plans and documents to the DA, which includes the cl 4.6 written requests seeking variation of development standards and contamination assessment report. Leave is granted by the Court to amend the DA under appeal and rely on these amended documents and plans, which is unopposed by the respondent.
- 5 Based on these amended plans, together with the DA's supporting documents and agreed conditions of consent, the parties reached agreement as to the terms of a decision in the proceedings that would be acceptable to the Court. The parties agree that the issues raised by the objectors have been considered and resolved. The decision of the parties is to uphold the appeal and grant consent to DA 19/0333 with conditions.

- 6 Pursuant to s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision, if it is a decision that the Court could have made in the proper exercise of its functions. The parties' decision involves the Court exercising its function under s 4.16(1) of the EPA Act and being satisfied, pursuant to s 4.15(1) to grant consent to DA 19/0333 with conditions, as described in Annexure A.
- 7 The parties identified the jurisdictional prerequisites of particular relevance to the Court to be satisfied to grant consent in these proceedings, pursuant to the requirements of s 4.15 of the EPA Act, as consistency with the: State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX); State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure); State Environmental Planning Policy No 55—Remediation of Land (SEPP 55); State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65); State Environmental Planning Policy No 64—Advertising and Signage (SEPP 64); and Sutherland Shire Local Environmental Plan 2015 (SSLEP). In addition, the Sutherland Shire Development Control Plan 2015 (SSDCP) is of consideration to grant consent to the DA. The parties agree that they have undertaken and are satisfied with the relevant merit assessment.
- 8 In compliance with the requirements of SEPP 65, the DA is supported by amended plans and the conditions of consent, which address the relevant requirements for consideration. The proposed development provides appropriate design quality and has had regard to the requirements of SEPP 65 and the Apartment Design Guide (ADG). The parties agree that the requirements of the SEPP 65 are satisfied.
- 9 The parties agree that the requirements of SEPP 64 are addressed by the amended plans and documents that support the DA, together with the conditions of consent, which specifically addressed cl 3(1)(a) as contended.
- 10 The proposed development is required to comply with the provisions of the SEPP BASIX. A BASIX Certificate relevant to the proposed development is identified in the conditions of consent, in compliance with the SEPP BASIX provisions.

- 11 With regards to SEPP 55, the parties are satisfied that the proposed development complies with its requirements, and specifically with cl 7, which based on the contaminated site investigation, requires a Remedial Action Plan (RAP) which is provided relevant to the assessed risk, and described in the conditions of consent.
- 12 Due to the location of the site, the requirements of the SEPP Infrastructure are relevant for consideration. The parties agree that based on the amended documents that support the DA under appeal and conditions of consent, the contentions that specifically relate to cll 86, 101, 102 and 104 as contended are resolved.
- 13 The parties agree that the conditions provided by the relevant concurrence authorities as sought have been included in the conditions of consent in Annexure A.
- 14 The site is located within the B3 Commercial Core Zone, as described in the SSLEP. The proposed development is permissible in the zone. The parties agree that the relevant provisions of the SSLEP are addressed to their satisfaction by the supporting documents and amended plans to the DA under appeal. The parties agree that the objectives of the zone are satisfied and relevant contentions are resolved based on the plans and documents supporting the amended DA.
- 15 The proposed development does however exceed the numeric requirements of cl 4.3 (height standard) and cl 4.4 (floor space ratio, FSR) of the SSLEP. All other relevant numeric development standards are satisfied.
- 16 It is accepted by the parties that a cl 4.6 written request for variation of the height and FSR standards is required to be considered by the Court to grant consent to the DA, pursuant to cl 4.6 of the SSLEP.
- 17 The written request for (height) variation explains that the height of the proposed development exceeds the two relevant height standards that are applicable across the site, being 30m in the northern portion and 20m in the southern portion of the site, as specified in cl 4.3 of the SSLEP.

- 18 Further to this, the proposed development exceeds the FSR standard established at 2.5:1 in cl 4.4 of the SSLEP, that applies to the southwest corner of the site. The FSR that applies to the remainder and majority of the site, is established at 3:1 in cl 4.4 of the SSLEP, and is not contravened.
- 19 The cl 4.6 (height) written request explains that the exceedance in the height standards do not result in a development that is out of character with the local area and is not perceived adversely from the streetscape. The proposed development responds to the requirements for flood mitigation by raising the floor levels.
- 20 The cl 4.6 (FSR) written request explains that the exceedance in FSR is limited to the north-eastern portion of the site, where the FSR is lower than is applicable across the remainder of the site, and results in a building that appropriately addresses the streetscape and is in character with the remainder of the site and local area.
- 21 According to the written requests, there are no adverse impacts from visual bulk, view loss, solar access or privacy as a result of the non-compliance with the development standards for the proposed development. The proposed development is not inconsistent with the zone objectives or the relevant development standards. The portions of the non-compliant building forms are not readily discernible in the context of the site or are out of character.
- 22 The proposed development satisfies the objectives of the zone and the relevant development standards, for both height and FSR. As the proposed development is in character with the local area, results in no adverse amenity impacts and satisfies the relevant standard objectives, that compliance with the development standards would be both unreasonable and unnecessary.
- 23 The written requests consider that a variation of the height and FSR development standards, pursuant to cl 4.3 and 4.4, respectively of the SSLEP is therefore satisfied, and flexibility of the standards is justified.
- 24 Having reviewed the (cl 4.6) written requests, I agree that the written requests for variation of the height and FSR standards individually address the requirements of cl 4.6(3) of the SSLEP by describing sufficient environmental

planning grounds to justify the development standard exceedance, and that strict compliance would be both unreasonable and unnecessary for the proposed development on this site. Therefore, cl 4.6(4)(a)(i) of the SSLEP is satisfied to vary the height and FSR development standards, as requested.

- 25 The proposed development, as described to the Court, is consistent with the objectives of the zone (cl 2.3 for B3 commercial core zone), and the height (cl 4.3) and FSR (cl 4.4) standards, as established in the SSLEP.
- 26 The proposed non-compliances of the standards do not result in adverse impact to the residents of the proposed development, adjoining properties or the character of the local area. The proposed development is therefore in the public interest, satisfying cl 4.6(4)(a)(ii).
- 27 I accept the cl 4.6's written explanation that there is no significant consequence to State or Regional environmental planning matters as a result of varying the development standards in this instance. Therefore, variation of the height and FSR development standards is not inconsistent with cll 4.6(4)(b) or (5) of the EPA Act.
- 28 I am satisfied that the requirements of cl 4.6 of the SSLEP have been addressed and that a variation in the height and FSR standards, as established in cll 4.3 and 4.4, respectively, should be granted.
- 29 Based on the amended plans and supporting documents to the DA, the contentions that relate to the controls as specified in the SSDCP are achieved to the satisfaction of the parties. The parties agree that the amended plans address any potential amenity impacts, and streetscape/character compatibility that would warrant refusal of the DA.
- 30 The parties agree that the requirements of the SSDCP are complied with, based on the amended plans, supporting documents to the DA and conditions of consent. The proposed development was publicly notified in accordance with the SSDCP. During the initial notification period, six submissions were received by Council, which have been considered in the making of this agreement.
- 31 Based on the amended plans and supporting documents to the DA including (cl 4.6) written requests for variation of the height and FSR development

standards, the contentions as expressed in the Statement of Facts and Contentions are explained to the Court as resolved to the satisfaction of the parties.

- 32 I am satisfied that there are no jurisdictional impediments to this agreement and that DA 19/0333 should be granted, as it satisfies the requirements of s 4.15(1) of the EPA Act.
- 33 As the parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the proceedings in accordance with the parties' decision.
- 34 The Court orders that:
- (1) The Applicant is granted leave to amend the development application and rely on amended plans in Condition 1 at Annexure A.
 - (2) Pursuant to section 8.15(3) of the *Environmental Planning and Assessment Act 1979*, the Applicant is to pay those costs of the Respondent that were thrown away as a result of amending the application for development consent in the agreed sum of \$20,000 by 2 October 2020.
 - (3) The Applicant's cl 4.6 written request seeking to vary the height of buildings development standard under clause 4.3 of Sutherland Shire Local Environmental Plan 2015, in relation to the 30m height control applying to the northern part of the site is upheld.
 - (4) The Applicant's cl 4.6 written request seeking to vary the height of buildings development standard under clause 4.3 of Sutherland Shire Local Environmental Plan 2015, in relation to the 20m height control applying to the southern part of the site is upheld.
 - (5) The Applicant's cl 4.6 written request seeking to vary the floor space ratio development standard under clause 4.4 of Sutherland Shire Local Environmental Plan 2015, in relation to the 2.5:1 standard applying to the southwest corner of the site is upheld.
 - (6) The appeal is upheld.
 - (7) Development Application DA 19/0333 for demolition of existing structures; tree removal; construction of a shop top housing development containing a supermarket, liquor store, specialty stores, 120 residential apartments, undercroft and basement car parking; internal fitout and use of the supermarket and liquor store; advertising signs and signage zones; and associated civil infrastructure, public domain and landscape works at 41-47 and 51 President Avenue, and 178-186 Willarong Road, Caringbah NSW 2229, is approved subject to the conditions at Annexure A.

.....
Sarah Bish

Commissioner of the Court

Annexure A (412043, pdf)

Plans (30214180, pdf)

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Contact: Jenny Campion
Phone: 0438 641 654
Email: jenny.campion@waternsw.com.au

Sutherland Shire Council
Locked Bag 17
SUTHERLAND NSW 1499

Our ref: S4551147680
Your ref: MA22/0284

Attn: David Sheehan
dsheehan@ssc.nsw.gov.au

23 February 2023

Dear Sir,

RE: Proposed Modification MA22/0284
41-45, 47, 51 President Avenue, 178-184, 186 Willarong Road, CARRINGBAH

I refer to your recent referral regarding proposed modification to an integrated development proposal for the abovementioned property.

WaterNSW has reviewed the information provided along with the proposed modification to conditions and consider that there are no changes to the dewatering aspect of the development.

As such WaterNSW has no objection to the modification and has determined that no changes to the General Terms of Approval (GTA) issued for the original integrated development application (DA19/0333) are required, and that these GTA remain current.

I have attached for your information a copy of the GTA issued previously.

Should you have any further questions, please do not hesitate to contact me via phone on 0438 641 654 or by email to jenny.campion@waternsw.com.au

Yours sincerely

A handwritten signature in dark ink, appearing to read "Jenny Campion", written over a light blue horizontal line.

Jenny Campion
Water Regulation Specialist
WaterNSW

General Manager
Sutherland Shire Council
Locked Bag 17
Sutherland NSW 1499

Attention: David Sheehan

24 February 2023

**STATE ENVIRONMENTAL PLANNING POLICY (TRANSPORT AND INFRASTRUCTURE) 2021
DEVELOPMENT APPLICATION – MA22/0284 (CNR-51533)
178-186 Willarong Road, 41-47 President Ave & 51 President Ave, Caringbah NSW 2229
“S4.56 - Modification to a development consent”**

Dear Sir/Madam,

I refer to Council’s referral requesting comments for the above development application in accordance with Section 2.98 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)*.

Council is advised that TfNSW (Sydney Trains), via Instruments of Delegation, has been delegated to act as the rail authority for the heavy rail corridor, including infrastructure, and to process the review for this development application.

As such, Sydney Trains advises that the proposed development has been assessed in accordance with the relevant Transport for NSW Assets Standard Authority standards and Sydney Trains requirements and confirm that Sydney Trains have no additional comments on the proposed development works associated with the above development application. Sydney Trains advises that all conditions and comments applied to the previous application (DA19/0333) are still applicable.

In the event that this proposed development is the subject of a Land and Environment Court appeal, Council is requested to notify TfNSW (Sydney Trains) should such an event occur.

Please contact TfNSW (Sydney Trains) Town Planning Management via email to DA_sydneytrains@transport.nsw.gov.au should you wish to discuss this matter. Finally, it is requested that when the proposed development’s Determination is issued by the Council, a copy of the Notice of Determination and conditions of consent are provided.

Sincerely,

Maddison Pooley
Town Planning Officer
Transport for NSW

OFFICIAL

Level 3 East, 36-46 George Street, Burwood NSW 2134
PO Box 459 Burwood NSW 1805

DA_sydneytrains@transport.nsw.gov.au
www.transport.nsw.gov.au/sydneytrains