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**PLN002-21      CONSIDERATION OF SUBMISSIONS TO THE EXHIBITION OF  
PLANNING PROPOSAL AND DEVELOPMENT CONTROL PLAN  
AMENDMENT FOR 138-144 CRONULLA STREET, CRONULLA**

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PLN002-21

**Attachments:** Appendix A [↓](#) and Appendix B (under separate cover) [⇒](#)

In accordance with section 375A, this matter requires a planning decision as it involves the exercise of a function of Council under the *Environmental Planning and Assessment Act 1979* relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act but does not relate to an order under Division 2A of Part 6 of that Act.

**EXECUTIVE SUMMARY**

- This report addresses the submissions received during the exhibition of the draft amendment to the Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) to increase the floor space ratio applying to the land at 138-144 Cronulla Street, Cronulla. This amendment is accompanied by an amendment to Sutherland Shire Development Control Plan 2015 (SSDCP2015) which is also addressed in this report.
- The amendment was publicly exhibited from 4 November 2020 to 6 January 2021. Forty-four submissions were received from the public and three submissions from State Agencies. The key issues raised by the community were: traffic and parking concerns; potential impacts on the adjacent fig tree; impact on the amenity of the park; potential adverse impacts from any future pub/licenced premises; possible future use for residential flats; and issues relating to the Planning Agreement.
- The Planning Proposal facilitates an increase in the intensity of the development, but it will not change currently permissible land uses or height. Many of the submissions relate to outcomes that would eventuate if the site was developed with a floor space ratio of 2:1 and 25 metres in accordance with the current controls. The key issue stemming from the additional floor space proposed is that it will intensify activity on site, potentially adding to traffic and parking demand.
- The Planning Proposal will facilitate a commercial building in the southern section of Cronulla Street which will help revitalise Cronulla Mall and increase local employment opportunities. Both these outcomes are consistent with the directions of the Community Strategic Plan and the Local Strategic Planning Statement.
- A more intensive development may exacerbate demand for parking in what is already a congested location. Offsetting this is the sites proximity to bus and rail links, the complimentary peak parking demand for hospitality and office functions, and the implications of providing a large car park which would exacerbate congestion in surrounding streets. On balance, it is considered that the Planning Proposal's strategic merit outweighs potential negative consequences and it is recommended that it be formally made.

**REPORT RECOMMENDATION**

THAT:

1. The report "Consideration of Submissions to the Exhibition of Planning Proposal and Development Control Plan Amendment for 138-144 Cronulla Street, Cronulla" be received and noted.
2. The draft Sutherland Shire Development Control Plan 2015 Amendment 7, be adopted with further amendments as detailed in Appendix A.
3. Council formally request Parliamentary Counsel prepare and make a legal instrument to implement the Planning Proposal as exhibited to amend Sutherland Shire Local Environmental Plan 2015.
4. On receipt of the opinion of the Parliamentary Counsels Office that the legal instrument can be made, pursuant to clause 400 of the Local Government (General) Regulations 2005, the Local Environmental Plan (LEP) Amendment, be executed under the Common Seal of the Council of the Sutherland Shire in the presence of the Mayor and Chief Executive Officer.

## PURPOSE

This report considers submissions received during the exhibition period of the Planning Proposal to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) and the associated amendment to Sutherland Shire Development Control Plan 2015 (SSDCP2015).

## BACKGROUND

The Planning Proposal for land at 138-144 Cronulla St, Cronulla (Lot 1-4 DP 18461) seeks to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015) to increase the floor space ratio applying to the land from 2:1 to 2.9:1. The drafting of the amendment limits the additional floor space so that is only available for a wholly commercial building. This equates to 1,281m<sup>2</sup> of additional commercial floor space.

On 19 May 2020, the Planning Proposal was referred to the Sutherland Shire Local Planning Panel. The panel was of the opinion the Planning Proposal has strategic merit as it facilitates a much needed commercial non –residential development for the Cronulla centre within close proximity of the train station.

On 15 June 2020 (PLN15-20), Council considered the strategic and site specific merits of the Planning Proposal and resolved to refer it to the Minister under Section 3.34 of the Environmental Planning and Assessment Act 1979 for Gateway Determination.

On 7 September 2020, Council received a positive Gateway Determination, which enables the public exhibition of the proposal. The terms of the Determination require a number of minor amendments to the documentation, including the concurrent exhibition of the associated SSDCP 2015 amendments.

On 12 October 2020 (PLN046-20), Council resolved for site specific built form controls in Sutherland Shire Council Development Control Plan 2015 for 138-144 Cronulla Street, Cronulla be exhibited concurrently with the Planning Proposal, consistent with the Gateway Determination.

## DISCUSSION

Both the amendment to Sutherland Shire Local Environmental Plan 2015 and the amendment to Sutherland Shire Development Control Plan 2015 were publicly exhibited for 64 days from 4 November 2020 to 6 January 2021. A total of 44 submissions were received from the community.

### State Agency Submissions

The conditions of the Gateway determination required consultation with the public authorities listed in the table below in accordance with section 3.34(2)(d) of the Act. Their comments are summarised below:

Agency	Comment:
Transport for NSW	Raised no objection to the planning proposal, as it is unlikely to have a significant impact on TFNSW infrastructure and services.
Heritage NSW	<p>Cronulla Railway Station group is a State heritage item.</p> <p><i>"It is noted that, adjacent to the park, the top five storeys of the building's façade are proposed to be set back behind the podium in a stepped arrangement in order to reduce the bulk of the façade and minimise impacts on the park. Although the upper five stories, opposite Cronulla Railway Station are also proposed to be set back behind the podium, with the potential to dominate the low scale state heritage register (Item 1007)</i></p> <p><i>Council should consider taking a similar stepping approach to the façade of the building opposite the railway station to minimise the potential for impact on the SHR item"</i></p> <p>The building form put forward in the DCP amendment attempts to balance the development potential of the land with preserving the amenity of Monro Park. The building suggested by Heritage NSW would result in significant overshadowing on the central area of the park. This impact would be unacceptable.</p> <p>While the heritage context of the railway station would be enhanced by lower scale buildings, the site is zoned Commercial Core. Cronulla Street is very wide at this point and provides a suitable curtilage to the heritage item. On balance the draft DCP building form results in a superior public outcome to that suggested by NSW Heritage.</p>
Sydney Water	<p>Sydney Water made the following comments to assist in the planning the development's servicing needs:</p> <p><b>Water Servicing</b></p> <p>Potable water servicing should be available via a 250mm oPVC water main (laid in 2008) on Surf Lane.</p> <p><b>Wastewater Servicing</b></p> <p>Wastewater servicing should be available via a 150 VC wastewater main (laid in 1956) within the property boundary.</p> <p><b>Sydney Water Assets</b></p> <ul style="list-style-type: none"> <li>-The Tonkin Street Tunnel, a 1200 × 1800 gravity wastewater trunk main, bisects the site from the northern boundary to the eastern boundary.</li> <li>- The location of this critical wastewater trunk asset may constrain development over and adjacent to it within the site.</li> <li>-The proponent should engage a Water Servicing Coordinator and apply for a</li> </ul>

	Feasibility Application from Sydney Water to ascertain more detailed information regarding the extent of these impacts. “  The advice is related to specifics dealt with during the Development Application and therefore not relevant to the consideration of additional floor space.
Aus-Grid	No comment received.

**Community Submissions:**

Summaries of the issues raised in submissions are provided below, including the number of times the issue has been raised. The complete submissions are attached in Appendix B.

**Traffic, Parking & Congestion – 30 Submissions:****Summary of issue:**

Thirty submissions raised concern with the additional congestion around the site, claiming the proposal does not provide sufficient parking to cater for the needs of its users. Of particular concern was Surf Lane, having limited capacity to serve the needs of the development.

One submission identified an error in the traffic study as Surf Lane is one way northbound (not southbound), and the applicant has subsequently amended the study, concluding that this minor error does not change the traffic assessment.

Other issues included concern with the proposal not complying with the parking rates specified in DCP2015 and expressed frustration with the Traffic Report suggestion the proposal could rely on existing off street parking which is already at capacity. Questions were also raised as to whether the traffic study was done prior to the COVID-19 pandemic.

**Consideration of Issue:**

It is acknowledged that the southern section of Cronulla is particularly constrained in terms of road access, with poor traffic flows. It also experiences very high demand for parking at peak times, most notably summer weekends. The attraction of the coast and the congestion that results is a reality facing virtually all Sydney beaches. Peak period congestion is not something that can realistically be addressed, nor is it something that any one development is responsible for.

Vehicular access to the site is only practical via Surf Lane. While traffic and parking is generally a matter for consideration at development assessment stage, the increased intensity of development facilitated by the proposal will generate additional traffic and/or demand for additional parking spaces.

Providing a very large car park on this site would attract more vehicles into Surf Lane, which is narrow and can become congested at present. Significantly increasing the number of vehicles using Surf Lane would most likely further exacerbate congestion in the southern part of Cronulla centre. In this

instance the site is located at a railway station, a bus interchange and ultimately the Cronulla to Sutherland Active Transport link. As such there are significant non-car options open to workers and visitors generated by the development. This creates a strong case for reduced parking. If patrons know that they are unlikely to be able to park on site and understand the demand for parking in the vicinity, they will have to either park further away and walk, or take public transport.

The proposal was referred to Transport for NSW South Wales who concluded the proposal was unlikely to have significant impact on infrastructure and services.

A transport assessment report, prepared by Anson Group, compares likely trip generation rates of the increased commercial floor space, compared to a compliant commercial development under the current controls. This shows that the additional trips generated by the proposal are as follows:

- Twenty-Two additional trips during the AM peak
- Thirty-Two additional trips during the PM peak
- Forty additional trips on Saturdays.

The study's traffic analysis has been modelled on a mixed use building comprising office floor space and food and drink premises.

A Council survey in December 2019 found that Cronulla St, at Monro Park, caters for in excess of 11,000 movements (each way) per day. As such the additional trips generated by the increase in floor space are not considered significant in the context of the site and the local traffic environment. It should also be noted that the additional floor space facilitated by the Planning Proposal is for the lower traffic generating office floor space.

The peak period for food and drink premises generally occurs after 6PM when there is no demand from office uses. Hence there may be some parking efficiencies, reflecting differences in the timing of demand among uses on site. Regardless, the transport report assumes that there will be a shortfall of 61 parking spaces (when strictly applying the car parking requirements of Councils Development Control Plan). Council's current commercial car parking requirements are comparably high and are somewhat at odds with Council's integrated transport strategy. Providing more parking will generate greater traffic flows on roads that are already constrained at times. Council's integrated transport strategy encourages a mode shift to other forms of transport.

The proposed amendment to the LEP and Development Control Plans (DCP) do not give any future concession in terms of parking requirements for this site. The parking demands of a future proposal will be fully assessed at Development Application stage. Any future Development Application will ultimately be determined by the independent Local Planning Panel and parking and traffic will most likely be key issues for consideration. If the panel determines that a shortfall in parking is unacceptable, the panel has the authority to refuse the application.

**Objection to a Pub/Licensed Premises – 20 Submissions*****Summary of issue:***

Twenty submissions raised concern with the prospects of a pub being located within the proposed development - particularly that locating a pub adjacent to an alcohol free zone would detract from the amenity and enjoyment of Monro Park, and increase anti-social behaviour. Other concerns included noise and disruption/amenity impacts to surrounding residents.

***Consideration of Issue:***

The current B3 Commercial Core zoning permits food and drink premises with consent. This land use definition includes a restaurant or café, takeaway food and drink premises, a pub and a small bar. The Planning Proposal does not change the permissible uses on the site. As such this issue is not of relevance to the decision before Council.

Should a pub be proposed within any future development it will be subject to a separate development application, assessment, neighbour notification process and will most likely be determined by the independent Local Planning Panel.

**Too Many Eating and Drinking Establishments – 12 Submissions*****Summary of Issue:***

Twelve submissions raised concern with the saturation of food and drink premises throughout the Cronulla centre and the proposal is thought to overload the area with too many licensed premises. Also that the current 'village feel' of the independent shops and cafes along Beach Lane works cohesively with the park and will be lost.

***Consideration of Issue:***

Submissions take the view that Cronulla should have a variety of retail activity, rather than be focused on eating and drinking establishments. While Council has no control of the mix of uses in any centre, it is important to appreciate that the future of retail is changing dramatically. The move to online shopping has been hastened by the pandemic and centres the world over are facing a decline in high street retail.

Council's key priority is to ensure centres are vibrant and desirable places to live and visit. Food and drink premises remain a growing sector of the economy and help create vibrant places, particularly at night. Food and drink premises also tend to cluster and create "eat streets" which is what is happening in Cronulla. This is a trend most councils are seeking to actively support. Both the Community Strategic Plan and the Local Strategic Planning Statement support prosperous local economies and this Planning Proposal specifically contributes to this outcome by bringing an office workforce to Cronulla Street and enhancing the night time economy.

Please note that commercial competition among food and drink premises is not a matter for consideration under the Environmental Planning and Assessment Act.

**Over-Development – Six Submissions*****Summary of issue:***

Six submissions raised concern with the proposal contributing to the over-development of Cronulla.

***Consideration of issue:***

It is a reasonable expectation that land owners will seek to redevelop their land to achieve its development potential. Cronulla Street is zoned B3 Commercial Core and it is unrealistic to expect the site to remain as a two storey building. The proposal complies with the current SSLEP2015 height limit of 25m. The building envelope defined by the current Sutherland Shire Development Control Plan 2015 (SSDCP2015) assumed the site would be redeveloped for residential units. Unlike residential buildings, a commercial building can be built to boundaries and are generally 'fatter' than residential buildings. The Planning Proposal demonstrates that additional floor space can be accommodated in what would be normally be a setback to the northern boundary. In doing so, the Planning Proposal demonstrates that the impacts of the additional floor space are generally consistent with those that would result from a complying building.

Commercial development of the site will have a positive benefits for the community. Providing more local employment opportunities will allow more residents to work closer to home and help revitalise Cronulla centre. The proposal is also likely to strengthen the night-time economy.

**The Gateway Determination Required the Inclusion of Map Extracts – One Submission*****Summary of issue:***

One submission noted the existing SSLEP2015 Floor Space Ratio maps and Height of Building were not included in Planning Proposal documentation.

***Consideration of issue:***

The Council prepared Planning Proposal, uploaded to the *Join the Conversation* website, initially omitted the contextual maps required by the Gateway Determination. The correct version was later made available and the exhibition was extended for an additional 28 days in order to allow the public to have full access to the required material.

**Error in the Application for Re-Zoning – Two Submissions*****Summary of issue:***

Two submissions raised concern with the re-zoning application not being completed correctly. The submissions state that the application form was not signed by the applicant and therefore could not be accepted.

***Consideration of issue:***

The Environmental and Assessment Act does not specify who must prepare the information needed for a Planning Proposal. In practice, the Planning Proposal document can be prepared by a council,



landowner or developer seeking to change the planning controls relating to a particular site. The application was valid. The Planning Proposal was granted Gateway approval by DPIE.

### **The Proposal does not Provide Accommodation and is therefore Prohibited – Two Submissions**

#### ***Summary of issue:***

Two submissions raised concern with the proposal not providing accommodation in conjunction with the hotel, arguing that it therefore was not consistent with the "hotel or motel accommodation" definition in SSLEP2015 and prohibited.

#### ***Consideration of Issue:***

This would appear to be a misunderstanding about the land use terms and definitions. 'Pub' and 'Food and Drink premises' are a defined use under the group term 'Commercial Premises' - which is a permissible use. The proposal is not required to provide accommodation. The Planning Proposal does not seek to alter permissible land uses as such this issue is not of relevance to Council's decision.

### **Loss of Safe Pathway/Impact on Public Safety/Passive Surveillance – 15 Submissions**

#### ***Summary of issue:***

Fifteen submissions raised concern about Beach Park Avenue becoming congested with intoxicated patrons as a result of a pub - subsequently affecting general passive surveillance and the ability for residents, families and visitors to walk safely to the beach.

#### ***Consideration of issue:***

The redevelopment allows outdoor dining to be moved onto private land effectively widening the pathway between the station and the beach. This will enhance Beach Lane improving the pedestrian experience for residents and visitors along the primary pedestrian route from the train station to Cronulla Beach.

The redevelopment of the site is more likely to result in a variety of food and drink premises looking onto the lane. A more successful night-time economy in Beach Lane will increase overall foot traffic in the locality, which will improve passive surveillance, particularly at night.

It cannot be assumed that all patrons will be intoxicated or incapable of contributing to passive surveillance. All licensed premises are required to operate in accordance with Responsible Service of Alcohol guidelines. Any future licensed premises will be subject to development assessment and typically a plan of management is a mandatory condition on operation.

**The Adverse Impacts of Overshadowing on Monro Park and the War Memorial – 17 Submissions*****Summary of issue:***

Seventeen submissions raised concern with the proposal overshadowing the war memorial and adverse impacts on the park which may compromise its amenity for users. It was stated that this park is currently very well used by residents and families, however the shadow will decrease activity significantly. Many submissions stated the park should not be over-shadowed at all. The community noted that the park contains a cenotaph which is extremely well respected and it would be disrespectful for it to be over-shadowed.

***Consideration of Issue:***

This site is located to the north of the Monro Park and any re-development of this site will cast shadows onto the park in some way. The longest shadows occur at the midwinter (the winter solstice at 21 June, as this is when the sun is lowest in the sky). Throughout the rest of the year, the shadows will be shorter.

The Planning Proposal models the shadow impacts associated with an indicative design at different times of the day. This has been checked by Council officers. The shadow analysis demonstrates that this proposal results in very similar levels of overshadowing to Monro Park in midwinter as would a compliant proposal. The additional floor space will only result in additional overshadowing very late afternoon (3pm), when shadows are marginally increased towards Surf Lane. The shadows do not extend to the war memorial, even in midwinter.

The SSDCP2015 built form plan, and the amended plan exhibited with this Planning Proposal, seek to balance redevelopment while maintaining solar access to the park. It directs overshadowing to the road and that part of the park already shaded by the fig trees. The recommended building form achieves a good balance between realising the development potential of the land and preserving the amenity and quality of the open space.

**Potential Conversion of Bonus Floor Space to Residential Units – 17 Submissions*****Summary of issues:***

Seventeen submissions detailed concern with the post-COVID business conditions and the changes to working habits since the application has been lodged. Concerns are raised that the applicant will have trouble getting tenants and then convert the additional floor space to residential and/or the development will remain vacant. One submission suggested the use of a positive covenant to be included in the DA conditions to ensure not used as residential at a later date.

***Consideration of Issue:***

The feasibility testing is ultimate a risk assessment made by the developer. The proposed additional floor space is only available to a 100% commercial building. Council must assess the Planning Proposal before it.

Should a commercial development ultimately be built and the landowner sought to convert the building to a residential flat building, development consent would be required. Residential flat buildings must meet the design requirements of *State Environmental Planning Policy 65; Design Quality Residential Flat Buildings*. This policy requires any residential flat building over three storeys to meet standards for privacy, amenity, solar access, cross ventilation and the like. This would be very difficult to achieve given that a “fatter” building with nil setback to the north is the most likely built form outcome.

### **Mapping of Building Height in the SSLEP2015 rather than Council’s DCP - One Submission**

#### ***Summary of issue:***

The built form map containing the distribution of Floor Space Ratio should be included in the Local Environmental Plan rather than Development Control Plan to give it more weight.

#### ***Consideration of issue:***

The SSLEP2015 sets a 25m maximum building height over the entire site. The DPIE *Standard Technical Requirements for Spatial Datasets and Maps* sets standards for the maps in planning instruments. Section 3.4 Standard LEP Spatial Rules, states that “*all vertices used in the construction of planning spatial data must align with the vertices of the underlying reference spatial data*”. Hence the height mapping aligns with the current cadastral lot boundaries. There are no vertices to align alternative mapped height. As such, correct procedure has been adopted.

### **The Proposal is a Spot Rezoning and does not consider the Wider Precinct – One Submission**

#### ***Summary of issue:***

The Submission refers to the SSLPP Minutes which encourages a review of the planning controls for the whole southern precinct of the Cronulla business centre. It suggests that too many of council resources have been applied this spot rezoning, and it does not have the same strategic merit as a precinct review.

#### ***Consideration of issue:***

Under the NSW planning framework land owners can seek to amend the provisions of Local Environmental Plans via a Planning Proposal. Council must determine the application before it. While the Local Planning Panel noted it that would be better if the proposal involved a broader precinct, it also agreed that there is considerable merit in this proposal as it will provide employment opportunities, particularly allowing more local residents to work closer to home and helping to revitalise Cronulla centre. These positive outcomes should not be delayed by a precinct wide review.

The subject site was identified for specific controls in SSDCP2015 as it is a key development site. As such the site was reviewed as part of a precinct plan. The Planning Proposal does not seek to increase height, and the additional floor space proposed can largely be confined within the building form derived through the precinct wide review.

## Adverse Impacts on the Fig-Tree – 18 Submissions

### **Summary of issue:**

Eighteen submissions raised concern that the development would damage the health of the fig tree in Monro Park and state that the tree should be maintained and not damaged. Specific concerns related to the overshadowing of the tree, the excavation of basement effecting the roots and its positive contribution to the heritage listed park.

### **Consideration of issue:**

There are two fig trees (*Ficus hilli*) in Monro Park located near the subject site. The canopy of the closest fig tree partly extends partially over the subject site. Monro Park is recognised as a local heritage item, and existing fig trees are contributory element of the park, however, the fig trees are not separately listed as items of heritage.

The retention and health of the trees are important to the amenity of the park and every effort should be made to minimise impacts upon them. Some pruning of the northernmost fig is required, even for a modest two storey building. The closest tree has been pruned in the past to reduce the overhang to the subject site.

The applicant has provided an Arborist Report to document the potential impacts to the fig trees, including the extent of pruning that may be required. The Arborist Report states:

*“The proposed pruning has been calculated to be 3% of the Live Crown Ratio. The proposed pruning has taken into consideration the installation of scaffolding and at least 1m clearance from the proposed building.*

*The proposed pruning will achieve the aims of AS 4373 – 2007 Pruning of amenity trees: Section 6 i.e. 6.1 Growth habit will be maintained, 6.2 Amount removed is the minimum amount necessary, 6.3 Weight distribution will allow for natural distribution of foliage and weight along the branches & Crown distribution will be maintained.*

*The ground level assessment in the AAR/JNW 2020 concluded no development impacts to the roots / rootplate of Tree 1.”*

In response, Council commissioned an independent arborist, Arborviews, to provide advice on the potential impact on the two fig trees. In summary, the report states:

*“Ficus Microcarpa var hilli is a species that has reasonable tolerance to development related impacts. The subject fig tree has a life expectancy of greater than 40 years. The trees are of relative health, and excavation is unlikely to affect the tree. The two significant concerns include:*

*Pruning:*

*The main impact from the proposed development is the pruning necessary to achieve adequate clearance from the development. Whilst this is unavoidable where the tree overhangs the property boundary, it is estimated that between 10 and 15% of the tree crown will be removed. This will reduce the photosynthetic capacity of the tree and thus reduce the production of energy.*

*Overshadowing:*

*During the winter solstice some of Tree 1 foliage will be in shadow for most of the day. However, throughout the year the foliage will receive progressively more sunlight to the west and higher in the crown. By the September equinox, virtually none of the foliage will be overshadowed by the building all day, with most of the foliage being overshadowed for less than 50% of the day. This will result in a significant impact upon the health of the tree and its ability to produce energy*

*Hence, the combination of pruning and overshadowing will have a negative and permanent impact upon tree 1 life. The cumulative impact of pruning and overshadowing will result in a reduction of photosynthetic capacity and have a chronic impact.*

*Whilst it is extremely unlikely the tree will die immediately, it is reasonable to assume the health and vitality will be negatively impacted. It is estimated that Trees 1 life expectancy will be decreasing from greater than 40 years ULE to 15 to 40 years."*

The site is located within the commercial core of Cronulla Centre. The current building is single storey and is significantly under-developed. The site currently has a height limit of 25 metres and a floor space ratio of 2:1. The land owner has a reasonable expectation to redevelop to this density which would necessitate pruning of the fig tree where it is in close proximity to the site. The Planning Proposal does not exacerbate this impact to any significant degree.

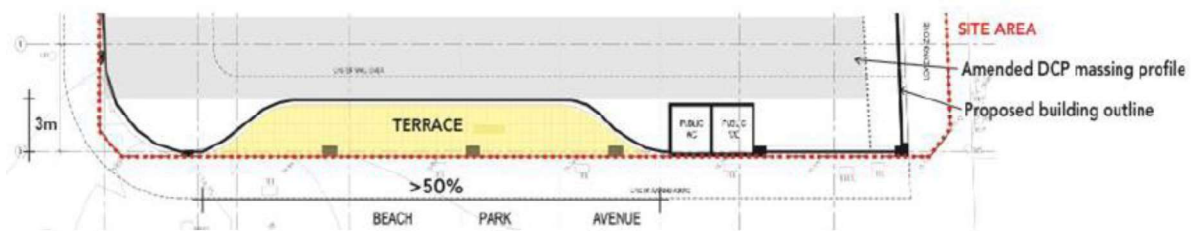
Some impacts from development are inevitable. However, figs are tolerant species and the additional floor space facilitated by this proposal is not anticipated to accelerate the decline of the trees any more than would a compliant proposal. The impact described by the consultant arborist is essentially the impact of development under the current LEP and DCP provisions. With the issues concerning the management of the tree now fully explored, the issue can be addressed in any future development application and be subject to a detailed management plan.

**DCP Built Form Amendment - One Submission**

One submission was received from the proponent and outlines support for the DCP amendment, however suggests a minor amendment to the mapped setback. It suggests that the hierarchy of streets was unrealistic and Beach Park Avenue is more suited for outdoor dining given its high level of

pedestrian movement. Therefore, it requests the Surf Lane setback to be amended to reflect a three metre setback, as this is consistent with the adjoining development to the north of the site.

Further to this, to reinforce the pedestrian activity of the corner and significance of its location, the design concept employs a sculpted feature wall (curved) at the corner of Cronulla Street and Beach Park Avenue. The intention of the design is not to build a nil setback design across the entirety of the front, but at certain points only. The terrace area is designed to provide for outdoor dining comprising over 50% of the front which is consistent with the desired 3metre setback. This is illustrated in the Figure below:



#### **Consideration of Issue:**

The submission from the proponent requests that the shared zone/setback to Surf Lane be amended to three metre instead of five metre. The setback aimed to provide for a shared zone to improve the safety of the lane for pedestrians and vehicles and to also make opportunities for outdoor dining to activate the lane. A slightly reduced setback of three metres is consistent with the adjoining development to the north and will still allow for safe servicing/back of house operations to occur, while also improving pedestrian safety. It will also allow for floor space to be distributed on the ground floor, helping to minimise overshadowing of the park.

Reducing the shared zone to be consistent with adjacent sites is reasonable given the likely use of this area will be confined to vehicle driveways and back of house activities. The revised setback and design guidelines have been included in the DCP amendment. Accordingly it is recommended that the revised built form and controls be adopted at attached (Appendix A).

#### **Noise and Adverse Impacts from Licensed Premises, Terraces, etc. – Nine Submissions**

##### **Summary of Submissions:**

Nine Submissions raised concern that the two floors of food and drink premises will create additional noise at night affecting nearby residents on the east, south and west of the site.

##### **Consideration of Issues:**

The site is located within the commercial core of Cronulla. Food and drink premises are currently permissible. The Planning Proposal does not change the permissible land use for the site. The detailed design of the building will be subject to a separate development application and merit assessment. The management of noise will be considered through the assessment process.

**The Applicant's Contribution to Community Assets: Planning Agreement – 9 Submissions*****Summary of Issue:***

Nine submissions note the applicant's offer to contribute to the community, raising the question that if the development is approved, will toilets be provided for the public. Specifically, one submission noted the VPA should have been placed on exhibition at the same time as the planning proposal to ensure the community is informed of all aspects of the Planning Proposal.

***Consideration of Issue:***

The applicant has offered to enter into a Planning Agreement with Council for the provision of additional public benefits – specifically public toilets accessible from Beach Lane. The terms of the offer are still the subject of negotiation.

A Planning Agreement can accompany a Planning Proposal or Development Application. In this case the applicant has now amended the offer to link the Planning Agreement to the subsequent Development Application rather than the Planning Proposal. This will allow adequate time for Council to consider the terms of the offer. It does not jeopardise the potential public benefit that may stem from the offer because any Agreement would only come into effect once a subsequent Development Application is acted upon.

There is not a statutory requirement to concurrently exhibit the Planning Agreement. The Regulations require contemporaneous exhibition "if practicable". In this case the terms of the Agreement require joint agreement before exhibition can occur. Every effort will be made in order for it to be exhibited with the Development Application.

**The Development will Limit the Ability of the Adjoining Site to Redevelop – One Submission*****Summary of Issue:***

Concern is raised that building to the northern boundary will limit development potential of the adjoining site, particularly if glass/louvers are used.

***Consideration of Issue:***

The current building design is conceptual and will be subject to a Development Application. This detail is not relevant to the Planning Proposal. However, the design will be conditioned to comply with the Building Code of Australia through the DA process. This will ensure that redevelopment of the adjacent land is not compromised.

**Impact on Heritage Values - One Submission**

One submission was received from a community member who specifically objects to the proposal because it overwhelms the historic significance of Monro Park - stating the proposal will diminish the enjoyment by overshadowing this idyllic spot, and that it should respect the heritage values of the locality and the needs of current residents.



**Consideration of Submission:**

Feedback has been received from Heritage NSW (see above State Agency comments). The proposal was also referred to Council's Heritage Architect because of the proximity to items of environmental heritage, who has provided the following advice:

*"Currently, the conceptual design of the Planning Proposal does not support the request for change of floor space ratio and the end result is overdevelopment of a place characterised for its historical scale and a sense of "village".*

*The main issue is the extensive overshadowing that the proposed building lays over the Park and the Station during winter which is not acceptable. The overshadowing will be detrimental to the health of the vegetation, grass and trees, diminishing the amenity of the Park.*

*Therefore, the change of permissible FSR from 2:1 to 2.9:1 is not supported under heritage grounds because of the negative impacts onto the heritage significance of Monro Park and Cronulla Station and what these items represent to the community when using them."*

While the heritage context of Monro Park and the station buildings would be enhanced by lower scale buildings, the site is within the B3 Commercial Core zone. The site currently has a height limit of 25 metres and a floor space ratio of 2:1. The land owner has a reasonable expectation to redevelop to this density.

The Planning Proposal does not seek to increase height of development on this site and as it is located directly north of Monro Park, any re-development will cast shadow onto the park in some way. The shadow analysis demonstrates that this proposal results in similar levels of overshadowing to Monro Park in midwinter as a compliant proposal. The additional floor space will only result in additional overshadowing very late afternoon (3pm), when shadows are marginally increased to Surf Lane. This will not detrimentally affect the amenity of the park or its heritage value.

The building form put forward in the DCP amendment attempts to balance the development potential of the land with preserving the amenity of Monro Park. While siting the higher parts of the building on the western side of the site does result in greater overshadowing of the station buildings in the morning, this is a better public outcome than overshadowing Monro Park. Cronulla Street is very wide adjoining the station gives adequate separation between the heritage items and the site.

**RESOURCING STRATEGY IMPLICATIONS**

Management of Councils Local Environmental Plan (SSLEP2015) is conducted within the budget allocation of the Strategic Planning Unit.



## COMMUNITY ENGAGEMENT

The Planning Proposal was placed on exhibition for 64 days from 4 November to 6 January 2021. All land-owners in the immediate vicinity and previously interested parties were sent notification letters. The Planning Proposal and supporting documentation were available for viewing on Join the Conversation website and in the Council administration building. The website was visited a total of 536 times and 253 documents were downloaded from Join the Conversation. In response, 44 submissions from the public and three submissions were received from State Agencies.

## STRATEGIC ALIGNMENT

This report contributes to the delivery of Our Community Plan – Outcome 6 “A Liveable Place with A High Quality of Life”. It specifically delivers on managing new and existing development within a robust and effective framework.

Under section 3.33(3) of the Environmental and Assessment Act 1979, the key tests for the assessment of a planning proposal is strategic merit, and if it gives effect to the relevant district plan and local strategic planning statement. The below table provides an assessment to the most relevant priorities outlined in the South District Plan, Local Strategic Planning Statement and Community Strategic Plan.

PLANNING PRIORITY	COMMENT
<b>South District Plan</b> <b>Planning S3:</b> Providing services and social infrastructure to meet peoples changing needs <b>Planning Priority S9:</b> Growing investment, business opportunities and jobs in strategic centre Action 28: Provide access to jobs, goods and services in centres by: .... b. diversifying the range of activities in all centres ... <b>Action 32:</b> Review the current planning controls and create capacity to achieve the job targets for each of the district strategic centres	Cronulla Centre is changing as it becomes more densely developed. It is a good planning outcome for residents to be able to access a range of services and employment opportunities locally. Facilitating commercial office space in very close proximity to public transport also take advantage of investment infrastructure  While Cronulla is not a strategic centre, the criteria represents good planning outcomes for lower order centres too. The proposed investment will help revitalise the local area though improved public domain and the delivery of new land uses.
<b>Local Strategic Planning Statement:</b> <b>PP17: Grow Tourism:</b> Support opportunities to grow tourism and encourage more overnight visitors, extend visitor stays and invest in tourism assets to enhance visitor experiences.	The amendment will facilitate 2 floors of hospitality floor space, which will augment the tourism experience and support other tourism assets in Cronulla.

<p><b>PP11: Attractive and Distinctive Centre and Public Places:</b></p> <p>Create attractive and distinctive centres and public places that are welcoming, safe and distinctive and enjoyable for our residents and visitors.</p>	
<p><b>Sutherland Shire Community Strategic Plan</b></p> <p>Planning Priorities 5.1.2: Support our growing business community by reducing barriers to growth where possible.</p> <p>5.1.3 Promote our community as a place to visit, live, work and invest.</p> <p>5.1.1: Develop vibrant productive local centres.</p> <p>5.2.1: Enhance and promote opportunities to work locally.</p>	<p>The planning proposal will support the growth of business opportunities in Cronulla that is anticipated to provide approximately 130 jobs when operational and 81 during construction, supporting opportunities to work locally.</p> <p>The proposal will bring new vibrancy to Cronulla centre and improve it as a place to visit, live and work.</p>

## POLICY AND LEGISLATIVE REQUIREMENTS

The *Environmental Planning and Assessment Act and Regulation* sets out the legislative requirements for amending the SSLEP2015 and SSDCP2015.

## CONCLUSION

The exhibition of the Planning Proposal and DCP amendment has generated significant community interest. Having considered the issues raised in detail, it is apparent that many are focused on impacts that may result from uses within the development or which stem from redevelopment to a height of 25 metres. The potential impact of the development on the fig tree in Monro Park, whether part of the floor space is used for a licenced premises, and the relationship of a 25 metre building to the park, railway buildings and surrounding development are all inherent in the existing planning framework for the site.

The decision before Council is whether the LEP should be amended to grant a bonus 0.9:1 floor space if the development is wholly used for commercial premises, and whether the built form controls in the DCP should be amended to better accommodate the concept development accompanying the Planning Proposal. The two key planning issues this raises are whether the additional floor space and revised building form would have adverse consequences for the amenity of Monro Park, and whether increasing the intensity of development on this site is acceptable in terms of traffic and parking considerations.

The shadow impact analysis of the revised building from demonstrates that the impact of the proposed changes are very minor and confined to a small area of the park adjacent to Surf Lane at 3pm in mid-winter. This outcome is reasonable and will not erode the amenity of the park.