

JRPP No:	2013SYE033
DA No:	DA13/0270
LGA:	Sutherland Shire
Proposed Development:	First Stage of Residential Development including Demolition of Existing Structures, Construction of a Two (2) Level Podium Containing Car Parking, Communal Facilities and Commercial/Retail Tenancies, Three (3) Residential Flat Buildings above Podium Level Containing 220 Dwellings, Provision of Infrastructure and Services Including Access Roads, Associated Landscaping and Public Domain Works
Site/Street Address:	Lot 20 DP 529644 - 461 Captain Cook Drive, Woollooware
Applicant:	Bluestone Capital Ventures No.1 Pty Ltd
Submissions:	16 Objections
Recommendation:	Deferral of Decision
Report By:	Kylie Rourke, Environmental Assessment Officer - Planner Sutherland Shire Council

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

This application is referred to the Joint Regional Planning Panel (JRPP) pursuant to Schedule 4A of the *Environmental Planning and Assessment Act 1979* (the Act) as the development has a capital investment of \$67,122,781, which exceeds the \$20,000,000 threshold.

1.2 Proposal

The proposal relates to the first stage of the residential master-planned estate of the approved Concept Plan for the mixed use development at the Cronulla Sharks site (MP10_0229). The development includes the demolition of an existing car park and playing fields and construction of three (3) x six (6), seven (7) and twelve (12) storey residential towers over a two storey podium containing car parking, commercial and communal facilities.

1.3 The Site

The site is located at 461 Captain Cook Drive, Woollooware, on the northern side of Captain Cook Drive. The site forms a part of the land within the approved Cronulla Sharks Concept Plan (MP10_0229).

1.4 The Issues

The main issues identified are as follows:

- Consistency with the terms of the concept approval, specifically in relation to satisfaction of Office of Environment and Heritage requirements and implementation of Ecologically Sustainable Design measures.
- Contamination.
- Adaptable housing.

- Pedestrian access to building F.
- Parking allocation and vehicular access.
- Landscape design and public domain works.

1.5 Conclusion

The proposed development does not demonstrate that the Office of Environment and Heritage requirements have been met in relation to the items listed in Condition 22 of the concept plan. On the assumption that this occurs, the application would be recommended for approval, subject to a deferred commencement condition requiring that a legible street access be provided from the Solander Field frontage to allow occupants direct access to the northern units of building F.

Should the proposal be deemed worthy of support, conditions of consent would also be recommended requiring a number of relatively minor amendments and modifications that would bring the proposed building closer to compliance with the Concept Plan requirements and Council's Development Control Plan. In particular, conditions would be recommended which require:

- Incorporation of best practice ESD measures, by implementation of photovoltaic cells to service communal areas within the constraints of the available roof area.
- Amendment to the landscape plan to improve the quality of communal areas and ensure appropriate plant species selection.
- Modifications to Central Road and the ground floor car park to provide suitable access and manoeuvrability.

2.0 DESCRIPTION OF PROPOSAL

The proposal is for the demolition of existing structures on the site and construction of three (3) residential towers over a shared two level podium. The scheme includes:

- Site preparation including demolition of the existing car park, single-storey clubhouse building and associated structures, as well as tree removal;
- Construction of a two storey podium containing 305 vehicular parking spaces, 528m² of commercial floor space to be used as six tenancies and an Estate Management Office, communal facilities including a pool, gym, change rooms, common room and courtyard;
- Construction of three (3) separate 6, 7 and 12 storey residential flat buildings above a podium level comprising 220 dwellings made up of 71x 1 bedroom, 122 x 2 bedroom and 27 x 3 bedroom apartments;
- Services and infrastructure on the site including the partial construction of the a new Central Road within the site and provision of 16 on-street parking spaces; and
- Landscaping and public domain works.

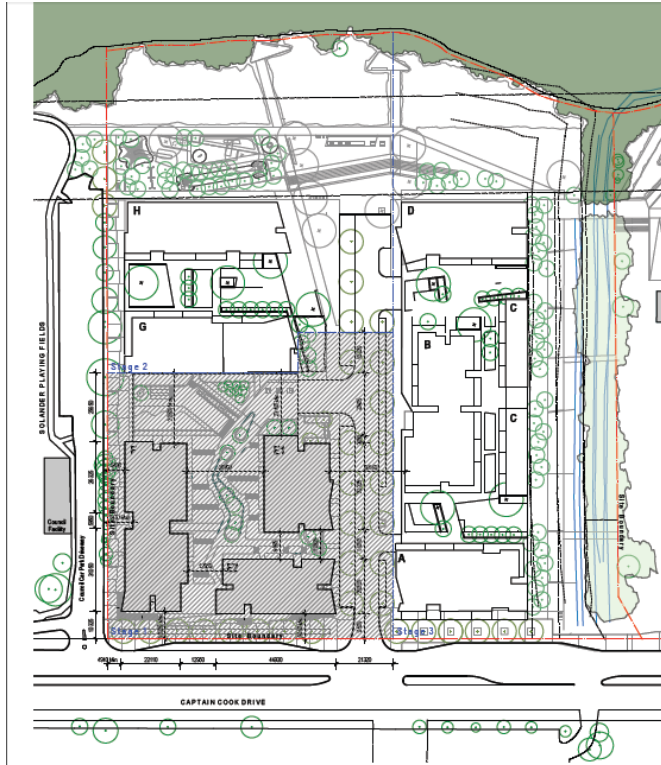


Figure 1: Site plan of Stage 1 of residential master-planned estate.



Figure 2: Indicative montage of the main street frontage of the proposed buildings at the corner of Captain Cook Drive & Solander fields (scheme has had minor amendments since submission).

3.0 SITE DESCRIPTION AND LOCALITY

The site is located at 461 Captain Cook Drive, Woollooware, on the northern side of Captain Cook Drive. The site is situated south of Woollooware Bay, east of Council playing fields (Solander Fields) and west of a tidal drainage channel then 'Shark Park', the home ground of the Cronulla Sutherland Sharks National Rugby League team. Directly to the south of the site is Woollooware Golf Course, and to the south-east is Woollooware High School.



Figure 3: Site's local context.

The site forms a part of the land covered by the Cronulla Sharks Concept Plan (MP10_0229). The overall Concept Plan site has a total area of 10.06 hectares and includes the football stadium, leagues club, and the club's on-ground car park for 532 cars.

The land subject to this application comprises about 25% of *stage 2* of the concept plan approval, referred to in MP10_0229 as the *residential master planned estate* (Lot 20 DP 529644) and is approximately 41,000m² in area. The site is occupied by two privately owned playing fields, a car parking area providing approximately 511 parking spaces, a small junior rugby league clubhouse building, and a water tank. The facilities are used for training by the Cronulla Sharks and by Caringbah Junior Rugby League Club.



Figure 4: Cronulla Sharks Concept Plan and site for stage 1 of the residential works (Source: Applicant's SEE)

Currently the site is accessed from Captain Cook Drive, with a secondary access through the car park associated with Solander Fields.

Directly adjoining the site to the north is the Woollooware Bay foreshore, which contains an environmentally sensitive area of international significance known as the Towra Point Aquatic Reserve and RAMSAR wetland. It is the largest wetland of its type in the Sydney Basin region and represents vegetation types that are now rare in the area. In August 2011, the boundary of the Towra Point Reserve was extended to include an area of shoreline to the south of the original extent of the wetlands.

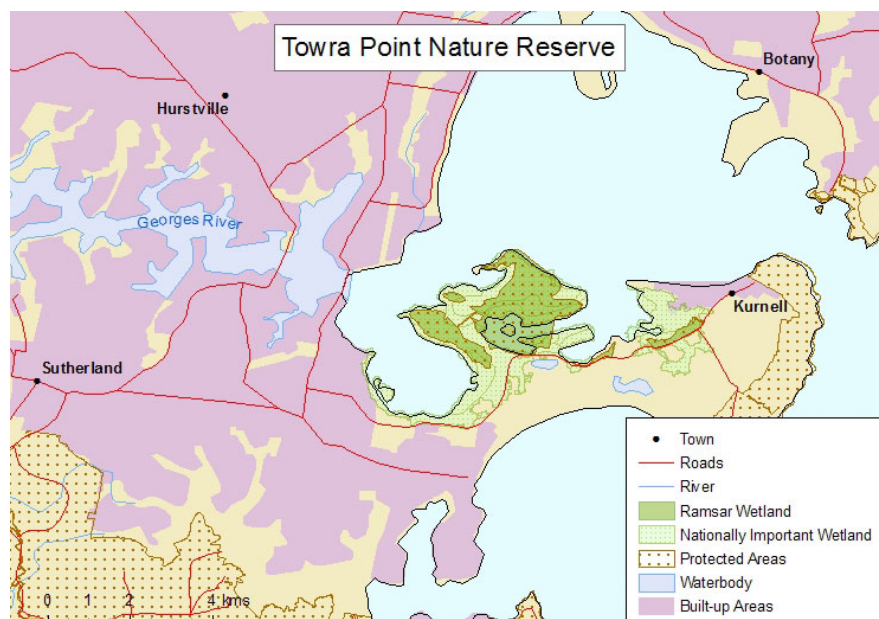


Figure 5: location of the RAMSAR site (source: Department of Sustainability, Environment, Water, Population and Communities)

Along the northern edge of the site is a 35m wide electricity easement, which contains one 132kV overhead power line. Support structures are located off site on Solander fields and adjacent to the Fitness First Complex.

The site is within a Greenweb support area and shares a boundary with the Greenweb core area. The land is serviced by Sutherland Shire Council's Recycled Water Scheme Infrastructure.

The site is a landmark site in the Sutherland Shire given its visibility, history, environmental significance and association with the Cronulla/Sutherland Rugby League Club.

4.0 BACKGROUND

A chronology of the development proposal is as follows:

- On 27 August 2012, the NSW Planning Assessment Commission (PAC) approved concept plan application (MP10_0229) for a retail centre and eight (8) residential apartment buildings, redevelopment of the existing club and upgrade to the Cronulla Sharks Football Stadium (the Masterplan) (Appendix A). The approval issued by the PAC incorporates specific terms of approval, required amendments and future environmental assessment requirements, in addition to the proponent's statement of commitments.
- Council made a submission regarding the concept proposal, which was considered at Special Environment and Planning Meeting on 30 April 2012 (EAP185-12) (Appendix B). A number of items of concern were raised including scale, height, density, foreshore setback, riparian zone, flooding, sea level rise and stormwater management.

- The Stage 1 application for the retail/club component (MP10_0230) has been lodged with the Department of Planning and Infrastructure (the Department), and was at the final stages of assessment at the time of writing. Council did not object to the proposal, however, raised a number of issues including the adequacy of the riparian zone buffer, the lack of Water Saving Urban Design and Ecologically Sustainable Design commitments and frontage activation.
- The concept approval lists stage 2 of the development as a “*residential master-planned estate on the western car park and field area*” with up to 58,420m² of gross floor area, 883 parking spaces (excluding any new on-street parking) and approximately 600 apartments of one, two and three bedroom sizes. Eight building footprints, with height/envelope limits, over a two level above ground podium, a central north-south ‘boulevard’ and public cycleway/walkway adjacent to the mangroves were included. Sub-staging of the residential stage was not included, however, it is Council’s view that this was intended by the applicant and is inferred in some concept approval consent conditions.
- A pre-application discussion (PAD13/0010) was held on 26 February 2013 regarding the development. A full copy of the advice provided to the Applicant is contained within Appendix C of this report. Several important issues were raised by Council including ensuring the proposal was consistent with the masterplan approval and clearly demonstrating that the terms of the concept plan were satisfied. Car parking, stormwater, flooding, ESD, landscaping, pedestrian and cycle linkages, the sports field relocation, groundwater and contamination were also matters Council raised as important considerations in any future application.
- The proposal was considered initially as a pre-DA referral to Council’s Architectural Review Advisory Panel on 7 March 2013. The Panel recommended that the proposal could be improved in terms of its physical and social engagement with its context.
- The development application was submitted on 23 April 2013.
- The application was placed on exhibition with the last date for public submissions being 23 May 2013. Sixteen (16) submissions were received.
- The application was considered by Council’s Submissions Review Panel on 27 May 2013.
- An Information Session was held on 23 April 2013 and two people attended.
- Council officers met with the Applicant and their consultants on various occasions including 30 May, 5 June and 11 June 2013. Additional documentation was requested.
- The JRPP was briefed on the application on 5 June 2013.
- Amended plans and additional information were received on 3 June, 14 June and 18 June.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application, or after a request from Council, the applicant has provided adequate information to enable a thorough assessment of this application.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of Sutherland Shire Development Control Plan 2006 (SSDCP 2006). A total of 802 adjoining or affected owners were notified of the proposal and 16 submissions were received as a result. All submissions received by Council were in objection to the proposal.

Key issues raised (and the proportion of objections that mention each item) are listed below:

Issue No	Issue	Proportion of objections
1.	Impacts on the natural environment	75%
2.	Traffic and parking	93%
3.	Flooding	31%
4.	Loss of playing fields & timing of replacement fields	81%
5.	Contamination	81%
6.	Noise/amenity	62%
7.	Shuttle bus	62%
8.	Public domain and landscaping	62%
9.	Construction and operational impacts	50%
10.	Consistency with concept approval	6%
11.	Staging of development	13%
12.	Excess height	13%
13.	Developer should advise community of complaints procedure	6%
14.	EMF exposure	6%
15.	Community should be kept informed on field relocation	6%
16.	Insufficient community consultation	6%
17.	Question if land can legally can be developed	6%

A full list of the locations of those who made submissions, the dates of their letters and the issues raised is contained within Appendix D of this report.

The issues raised in the submissions are as follows:

6.1 Impacts on the Natural Environment

The public submissions raise concerns with the potential environmental impact of the proposal upon Woollooware Bay, in particular the adequacy of

the riparian zone and impacts on mangroves and migratory bird populations. The adequacy of the submitted environmental studies was also raised as a matter of concern.

The stage that is the subject of this application does not seek approval for any works within, or directly adjacent to the riparian zone, and is 80-100m from the foreshore. The adequacy of the riparian zone will need to be comprehensively addressed during the future stage 2 and 3 residential applications, and in the assessment for the retail/club component of the development.

The Department of Primary Industries (DPI) is the responsible authority for the protection of mangrove species, and was consulted as part of the concept plan approval assessment. The comments from DPI are further considered as part of the SEPP 62 consideration below.

The adequacy of the environmental studies and potential impacts on migratory bird populations are issues that have been raised in the comments received from the Office of Environment and Heritage (OEH) and, in Council's opinion, are issues that remain unresolved. This matter is considered in further detail in Section 9 ("Specialist Comments and External Referrals") and Section 10 ("Assessment") of this report.

6.2 Parking and Traffic Impacts & Shuttle Bus

The majority of objectors were concerned that the proposed development will generate additional traffic, increase demand for on street parking particularly on Sharks home game days, that the site is not adequately serviced by public transport, and the proposed shuttle bus service operation is uncertain.

The approval of the concept design, the conditions of approval that relate to parking, and the RMS requirements have, in essence, accepted the degree of parking and traffic impact that will result from the overall development.

Parking and traffic matters as they relate to the subject application are discussed in further detail below in the "Assessment" section of this report.

6.3 Flooding

Objections were raised in respect of the susceptibility of the site to flooding, and ensuring appropriate flood planning is undertaken. The protection of property and life from flood events is an important aspect of the application and specialist input from Council's Floodplain Engineer has been considered in the assessment of the proposal. The comments provided are discussed in further detail in Section 9 of this report.

6.4 Loss of Playing Fields & Timing of Replacement Fields

Objection was raised regarding the loss of the two sports fields currently existing on the site, and a sense of uncertainty on the timing and procedure for their replacement. The agreement with Cronulla High School as the field relocation site, being via an existing agreement with the Cronulla Water Polo

Club, was raised as a particular item of concern. This matter is discussed in further detail below in the “Assessment” section of this report.

Submissions also requested that the community be kept informed on the field relocation. Should the proposal be deemed worthy of support, a condition of consent would be recommended to ensure that information on the progress of the development is provided to the community via the Cronulla Leagues Club website.

6.5 Contamination

Ensuring the appropriate management of contaminated soils and runoff, given the history of the subject site, was raised as a matter of concern. The applicant prepared a Phase 2 Environmental Assessment and, as a result of the findings, prepared a Remediation Action Plan. The adequacy of these reports as they relate to the legislative frame work is discussed under the SEPP 55 assessment below.

6.6 Noise and Residential Amenity

Objection was raised to potential amenity impacts in general and specifically the impact on visual amenity when the proposal is viewed from Captain Cook Drive. Submissions raised concern that the development would also result in an increase in noise.

The degree of visual impact is largely attributed to the overall size of the development and the change in land use relative to the existing site condition. The development parameters relating to size and land use have largely been fixed by the concept plan approval. The exterior building form also has the potential to affect the perceived size and presentation of the development and Council's consideration of this element of the proposal is discussed in further detail in the “Assessment” section of this report.

A Review of *Noise, Light and Bird Strike Potential* has been prepared by Ecological Australia, and addresses the impacts of noise as a result of the development. This report has also been reviewed by the OEH. A Noise Impact Assessment has also been prepared and submitted by Acoustic Logic and has been reviewed by Council. The adequacy of these reports is discussed in further detail in Section 9 of this report.

6.7 Public Domain and Landscaping

The public submissions identified concern relating to the public domain and landscaped area treatment. The crux of the concerns relate to ensuring it is undertaken correctly and as per the necessary requirements. Similar to the built form, the public domain treatment has been set by the concept plan approval, which requires public domain works to be in accordance with the landscape concept plans and pedestrian and cycle linkages to be provided throughout the development. Specialist input from Council's Landscape Architect has been considered in the assessment of the proposal. This matter is discussed in further detail in the “Assessment” section of this report.

6.8 Construction and Operational Impacts

Noise, traffic and general disruption of the locality as a result of the construction activities has been raised as an item of concern in a number of submissions. The applicant provided a Construction Management Plan, prepared by Parkview Constructions, which indicates methods of reducing construction related impacts on the locality. Council would also recommend various conditions including the submission of more detailed construction traffic management procedures, maximum permitted hours for building and demolition works, noise control during construction and demolition and the requirement to provide toilet facilities during construction should the proposal be deemed to be worthy of support.

6.9 Consistency with Concept Approval

Objection to the variations to the approved building envelopes has been raised in the public submissions. This matter is discussed in detail in the "Assessment" section of this report.

6.10 Staging of Development

A number of objections raise concern with regard to the timing of each stage of the development. While the concept plan does not mandate the timing of each stage of the development, the timing of critical aspects, such as the sports field relocation and public domain works, is addressed in the concept approval and can be reinforced through the recommended conditions of the consent should the proposal proceed to an approval.

6.11 Excess Height

As discussed previously, the development parameters relating to size have largely been fixed by the concept plan consent, which sets specific building envelopes including the maximum height of the buildings.

6.12 Complaints Procedure

Submissions received by Council requested that the developer advise the community of a procedure to handle complaints as the development proceeds. Should the proposal be deemed to be worthy of support, a condition would be recommended to ensure a complaints procedure is established, and a point of contact for the construction works be provided to address this concern. The condition would require that these details to be communicated through the Cronulla Leagues Club website.

6.13 EMF Exposure

Objectors raised concern regarding the health risks from the exposure to EMF. Consideration of EMF exposure is provided in the "Assessment" section of this report.

6.14 Insufficient Community Consultation

The development application was notified by letter, in the Local newspaper, and on Council's website in accordance with the notification procedure identified in Chapter 12 of Sutherland Shire Development Control Plan 2006. In accordance with Council's Policy, an Information Session was also held, with two people attending.

6.15 Question If Land Can Legally Be Developed

One submission questions whether the land can legally be developed given the historical background of Council selling the site to the Sharks for the purpose of sports fields/open space. A thorough search of Council's records has been undertaken and no caveats or restrictions on the land title are present. The granting of the concept approval would also suggest that no restriction on the land has been identified by the PAC.

7.0 STATUTORY CONSIDERATIONS

Sutherland Shire Local Environmental Plan 2006 (LEP 2006) applies to the site. Under LEP 2006, the subject lot is zoned 15 - *Private Recreation*, with a small strip adjacent to the wetland to the north zoned 14 - *Public Open Space (Bushland)* and 13 - *Public Open Space*. The subject stage of the development is contained entirely within Zone 15 land.

The proposed development, being a development for the purpose of a *Mixed Use Premise*, is prohibited in the 15 - *Private Recreation Zone*.

Notwithstanding, Schedule 6A of the Environmental Planning and Assessment Act 1979 (EP&A Act) states that the provisions of any Environmental Planning Instrument do not have effect to the extent to which they are inconsistent with the terms of the approval of a Concept Plan. On this basis, the proposed land uses are permissible subject to the compliance with the Cronulla Sharks Concept Plan approval. Compliance with the concept approval is discussed in further detail in the "Assessment" section of this report.

The following Environmental Planning Instruments (EPI's), Development Control Plans (DCP's), Codes and Policies are relevant to this application:

- State Environmental Planning Policy (Major Development) 2005
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 62- Sustainable Infrastructure
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Residential Flat Design Code
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Sutherland Shire Local Environmental Plan 2006
- Draft Sutherland Shire Local Environmental Plan 2013
- Sutherland Shire Development Control Plan 2006

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls and a compliance checklist relative to these.

8.1 State Environmental Planning Policy (Major Development) 2005

As discussed in Section 4.0, on 27 August 2012, the Planning Assessment Commission (PAC), as delegate of the Minister for Planning and Infrastructure, approved a Concept Plan for the development.

Part 3A of the Act was repealed in May 2011 and as modified by Schedule 6A to the EP&A Act, continues to apply to transitional Part 3A projects. New State Significant Developments are now assessed under *State Environmental Planning Policy (State and Regional Development) 2011*. The subject DA is not a transitional Part 3A project and does not constitute State Significant Development. Consequently, the proposal is returned to Council for assessment.

Schedule 6A of the EP&A Act contains provisions for the assessment of applications for development to which Part 3A does not continue to apply. Under these provisions, development that is covered by a Concept Plan approved under Part 3A but is subject to assessment under Part 4:

- is taken to be development which may be carried out under Part 4, despite anything to the contrary in an environmental planning instrument;
- must be consistent with any development standard within the terms of the Concept Plan approval;
- must be generally consistent with the terms of approval for the Concept Plan;
- the provisions of any environmental planning instrument or development control plan do not have effect to the extent of any inconsistency with the approved Concept Plan.

These matters are considered in the “Assessment” section of this report.

8.2 State Environmental Planning Policy (Infrastructure) 2007

Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP) requires traffic generating developments to be referred to the Roads and Maritime Service (RMS). The RMS provided comments on the proposal, which are discussed in Section 9.1 of this report.

8.3 State Environmental Planning Policy No. 55- Remediation of Land

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55) requires a consent authority to consider whether the land is contaminated and, if so, whether the land will be remediated before the land is used for the intended purpose.

A Phase 2 Environmental Assessment has been undertaken, which states that the site will require the issues of methane gas, acid sulphate soils and asbestos to be addressed. A Remediation Action Plan (RAP) has been prepared on the basis of this information, suggesting that an On Site Capping

and Containment solution is the most appropriate strategy for the remediation of the site. Should the proposal proceed to an approval, a condition of consent would be recommended to ensure the implementation of the RAP throughout construction and a copy of the Site Audit Statement is forwarded to Council prior to the issue of the Construction Certificate.

With the implementation of such a condition of consent, Council is satisfied that the proposal would be acceptable with regard to the provisions of SEPP 55.

8.4 State Environmental Planning Policy No. 62 - Sustainable Aquaculture
State Environmental Planning Policy No. 62 - Sustainable Aquaculture (SEPP 62) requires a consent authority to consider whether the development may have an adverse effect on oyster aquaculture development or a priority aquaculture area. The central portions of Woollooware Bay contain priority oyster aquaculture areas.

In its assessment of the concept approval, the Department forwarded the application to the Department of Primary Industries (DPI) for comment. The DPI provided a number of recommendations relating to the riparian zone and mangroves, specifically regarding future works for the boardwalk and seawall. These requirements are reflected in Condition 21 of the Concept Approval.

The site for stage 1 of the residential precinct is not adjacent to the foreshore and does not propose to undertake any works within the 40m riparian zone buffer. The boardwalk and seawall works are proposed to be undertaken in conjunction with the retail development and stages 2 and 3 of the residential precinct development.

Council is of the view that the stage 1 residential development is unlikely to have an adverse effect on the aquaculture area and notice of the application to the Director-General of the Department of Primary Industries is not required.

8.5 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code (RFDC) seeks to improve the design quality of residential flat development through the application of a series of ten (10) design principles. An assessment against these principles is provided below.

Design Quality Principles	Assessment
Principle 1: Context	The proposal involves three (3) separate 8, 9 and 14 storey residential flat buildings including a two storey podium level comprising parking, retail tenancies and four ground level units. Although completely foreign in its current context, the proposal is in keeping with the desired future character established by the concept plan approval.
Principle 2: Scale	The proposal involves buildings up to 14 storeys. The scale of the buildings is considered appropriate when considered in the context of the provision of a new centre. It is also acknowledged that the proposed buildings are in keeping with the height and floor space ratio (FSR) parameters approved under the concept plan approval and are therefore consistent with the future character for the Woollooware Bay Town Centre.
Principle 3: Built Form	The proposed built form is in keeping with the concept plan and must therefore be considered consistent with the desired future character of the locality in terms of overall building bulk. The proposed built form has been designed to maximise solar access and ventilation.
Principle 4: Density	In general terms the site is large and under-utilised and with the completion of the other elements of the concept approval, will have good access to local shops, facilities and public transport. Regardless, the density of the scheme submitted is consistent with the density permitted by the concept plan, as articulated by maximum number of units and maximum FSR. The Department has resolved to treat the site as a 'dense urban area' and therefore a lower benchmark has been set in terms of solar access, which is discussed in further detail in the RFDC consideration below. With this caveat, the proposed density is deemed acceptable.
Principle 5: Resource, Energy & Water Efficiency	<p>The proposed development incorporates minimum BASIX requirements and other sustainability measures into its design, including:</p> <ul style="list-style-type: none"> • Most apartments designed to maximise solar access and cross-ventilation, but allowing for passive 'climate control' by way of external louvers where appropriate; • Roof water harvesting for reuse in irrigation. <p>Ecologically Sustainable Development requirements are also required by the concept plan conditions. Consistency with these requirements is discussed further in the "Assessment" section of this report.</p>
Principle 6: Landscape	Street tree planting is proposed along the Captain Cook Drive and Central Road frontages, and a communal landscaped area is proposed at the podium level. Despite the site's position in a Greenweb "support" area, the majority of species selected are exotics or natives

	<p>rather than indigenous.</p> <p>The podium level central court design does not enable canopy tree planting, provide pergolas and transition areas, and planting is out of scale with the proposed buildings. The space does not support activity other than walking, and the timing of the construction of the useable communal space on the northern podium is uncertain. As no other communal outdoor area provided, a quality communal space is critical for stage 1.</p> <p>A condition of consent is considered capable of addressing the items above to amend the Landscape Plan to provide a central turfed area, provide appropriate plant species and increase soil depths. With the adoption such a condition, the landscape design would provide a practical and usable space with social opportunities, whilst providing a high degree of amenity for future residents.</p>
Principle 7: Amenity	<p>The proposal satisfies the 'rules of thumb' contained in the Residential Flat Design Code in terms of residential amenity, including minimum areas, solar access and natural cross ventilation.</p> <p>A key section of the landscape in terms of residential amenity, the northern 'pool deck' area is not proposed to be constructed until a later stage of the development, resulting in uncertainty regarding the availability of communal space for stage 1 residents. Should the proposal be deemed to be worthy of support, a condition of consent is recommended to improve the quality of the central courtyard for communal use.</p>
Principle 8: Safety and Security	<p>The Proponent considered Crime Prevention Through Environmental Design (CPTED) Principles in the design of the project. The proposal provides increased activation and passive surveillance of the street and private open space areas on the site. Residential entry and lobby areas are to be secured and well lit.</p> <p>The provision of active shopfronts along Captain Cook Drive and ground floor units directly accessible from the Central Road will also contribute to safety and security around the site.</p>
Principle 9: Social Dimensions & Housing Affordability	<p>The proposal provides a mix of apartment types, which would encourage diversity in the future occupation of the development in terms of social mix.</p> <p>Affordable housing is not proposed as part of this development however, the mix of apartment types and the inclusion of adaptable apartments have merit.</p>
Principle 10: Aesthetics	<p>In general terms the building form, proportions and compositional strategies proposed for the development are of a good contemporary standard for buildings of this type.</p>

8.6 Residential Flat Design Code (RFDC) – Detailed Guidelines

The Residential Flat Design Code (RFDC) is akin to a DCP that complements SEPP 65. The Code gives more detailed guidelines in respect of the general design quality principles set out in the SEPP. The RFDC illustrates good practice, though is not a statutory instrument. Its controls are largely replicated in SSDCP 2006 and need not be mentioned twice (a full DCP compliance table is below).

The proposed apartments comply with the minimum internal and open space areas recommended in the RFDC. The Code's internal circulation, accessibility and adaptability requirements are also satisfied.

The proposal does not comply with the Code's solar access requirements for the proposed buildings (70% of apartments receiving 3hrs between 9am-3pm at midwinter), but would satisfy the 'dense urban areas' requirement of 2hrs midwinter sunlight. In the assessment of the concept, the Department resolved to treat the site as a 'dense urban area' despite the fact that there are no buildings on properties adjoining the site that cast a shadow onto the proposed units.

The Code recommends the following building separation distances in order to maximise privacy between residential flat buildings

Buildings between 5 to 8 storeys/up to 25m high:

- 18 metres is required between habitable rooms and balconies;
- 13 metres between habitable rooms/balconies and non-habitable rooms; and
- 9 metres between non-habitable rooms.

Buildings of 9 storeys or more/over 25m:

- 24 metres is required between habitable rooms and balconies;
- 18 metres between habitable rooms/balconies and non-habitable rooms; and
- 12 metres between non-habitable rooms.

There are some non-compliances with the above requirements for building separation. A minimum separation of 10m is provided between building E1 (14 storeys including podium) and building E2 (8 storeys including podium). The affected elevations contain bedrooms and balconies and as such a separation of 24m would ordinarily be required. The designer has addressed the non-compliance by orienting units in alternate directions and incorporating angled louvers into the façade treatments.

The separation between building F (9 storeys including podium) and E2 (8 storeys including podium) is 13m. This elevation contains bedrooms and balconies and as such a separation of 24m would also apply. The placement of solid walls and elimination of facing windows have been provided in order to address privacy in this location.

The subject DA is consistent with the concept plan approval, which calls for a minimum of 9m a maximum of 24m to be provided between building E and F. As discussed in further detail below, during the detailed design, the applicant has separated building E into two separate buildings (E1 and E2). Despite the separation distance non-compliance identified above, this modification provides improved solar

access and natural ventilation into building E units when compared to the level of amenity that would be achieved if building E was constructed as a single element.

8.7 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (the BASIX SEPP) aims to establish a scheme to encourage sustainable residential development across New South Wales. The current sustainability targets of BASIX for residential flat buildings commenced on 1 July 2006 and require all new residential dwellings in NSW to meet targets of 20% reduction in energy use and a 40% reduction in potable water, as well as minimum performance levels for thermal comfort.

An Environmentally Sustainable Design Report has been prepared by ARUP, which indicates that each of the three residential buildings satisfy the minimum sustainability benchmarks for each building called for by BASIX.

8.8 Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

The Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. Appropriate stormwater management and water quality measures are proposed and there are minimal likely adverse impacts on existing coastal processes anticipated. Furthermore, the proposal is consistent with the provisions of the Concept Plan, which was assessed against GMREP2 before being approved.

Council is of the view that with the implementation of the recommended conditions of consent, the proposal would be consistent with the aims and objectives of the GMREP.

8.9 Sutherland Shire Local Environmental Plan 2006 (SSLEP 2006)

The table below details applicable controls within SSLEP 2006. As discussed above, the provisions of any environmental planning instrument or development control plan do not have effect to the extent of any inconsistency with the approved Concept Plan. Where the Concept Plan controls override an LEP control, a comment to this effect is included in the “proposed” column of the table.

Clause	Standard	Proposed	Complies?
11	Zone Objectives <i>(a) to identify areas of privately owned land for recreational purposes to meet local and regional community needs, such as bowling clubs, golf courses and tennis courts,</i>	The proposal is consistent with objective (c), providing a bulk and scale that supports the introduction of a new centre.	Yes

	<p><i>(b) to allow development that is of a scale and density that reflects the nature of the recreational use of the zone,</i></p> <p><i>(c) to allow buildings to be erected that are of a height, scale, density and nature compatible with the surrounding urban form and natural setting of the zone.</i></p>		
19	<p>Biodiversity - Wetlands</p> <p><i>(a) any potential that the proposed development has to fragment, pollute, disturb or diminish the values of wetlands,</i></p> <p><i>(b) the extent to which the proposed development will restore, protect or maintain ecological processes, natural systems and biodiversity within wetlands,</i></p> <p><i>(c) the extent to which the proposed development will incorporate best practice environmental design measures to maintain or improve the sustainability of wetlands,</i></p> <p><i>(d) the extent to which the proposed development will restore existing degraded wetlands or water sources to compensate for the loss or degradation of those wetlands or water sources,</i></p>	As discussed in further detail below, the OEH has raised concerns regarding the need for further assessment to be undertaken to accurately determine the potential impacts on adjacent sensitive habitats, including the wetland. Without the completion of this analysis, the impacts are unable to be quantified and Council does not have certainty that the provisions of clause 19 have been met.	Not yet confirmed.
20	Flood Planning- Flood risk to life, property and the environment to be	A Flood Assessment Report has been prepared by WMA	Yes

	minimised.	Water which includes detailed modelling of the existing and post-development flood conditions. Should the proposal be supported, Council is satisfied that, the recommended conditions would enable the flood risk to life and property associated with the use of land to be minimised.	
22 & 23	Environmental risk- Contaminated Land Management & Acid Sulfate Soil	As discussed in the SEPP 55 assessment above, a Remediation Action Plan has been prepared in response to the results of the Detailed Site Investigation. Council is satisfied that, with the imposition of a recommended condition regarding the preparation of a Site Audit Statement, the development would be carried out in a manner that minimises the risk to human health and the environment from contamination.	Yes
33	Building Height	No height, density or landscaped area controls are specified under the LEP. These requirements have been set in the concept plan approval.	N/A
35	Building Density		
36	Landscaped Area		
48 & 49	Urban design- general	Proposal demonstrates	Yes

	Urban design - residential buildings	a high quality design, with private open spaces of sufficient area and dimensions. See discussion under SEPP 65 assessment.	
53	Transport Accessibility, traffic impacts and car parking	Should the proposal be deemed to be worthy of support, Council is satisfied that, with the imposition of recommended conditions, the provisions of Clause 53 would be satisfied.	Yes

8.10 Draft Sutherland Shire Local Environmental Plan 2013

Draft Sutherland Shire Local Environmental Plan 2013 (DLEP2013) was placed on exhibition on 19 March 2013, and as such is a matter for consideration under S.79C(1)(a)(ii) of the EPA Act. Under DLEP2013 the site is located within zone B2 local centre and the proposed development is permissible with consent.

At this stage DLEP2013 has limited statutory weight in the assessment of applications; however the proposed development is generally consistent with the draft provisions.

Clause	Provision	Proposed	Complies?
Land use table	Objectives of B2 zone.	The proposal will provide residential dwellings and create an active and attractive public domain with a high quality urban design.	Yes
4.3	Maximum building height 50m	These requirements have been set in the concept plan approval.	N/A
4.4	Maximum floor space ratio 1.5:1		

8.11 Sutherland Shire Development Control Plan 2006 (SSDCP 2006)

The table below details applicable controls within SSDCP 2006. Where the Concept Plan overrides the DCP controls, a note is made in the table under the "proposed" column.

Clause	Standard	Proposed	Complies?
Sutherland Shire Development Control Plan 2006			
Chapter 3: Urban Design			
6	Landform- Natural ground level not to be unduly altered.	No basement proposed - excavation is limited to that required for footings.	Yes
7	Building and site layout to maximise natural ventilation and solar access	Units have been designed to maximise privacy, solar access and ventilation.	Yes
7	Dwellings to be designed to have organised, functional and high quality layouts. Ceiling heights min. 2.7m	Internal design has good layout, relationship to outdoor spaces is fluid. Min 2.7m	Yes
7	Balconies, communal and private open space. Min. 100m ² communal open space provided. Min 12m ² private open space to be provided/unit.	The central courtyard and indoor pool, gym and spa facilities are provided for the stage 1 application compliant with the minimum area required. Each unit has been provided with a POS consistent with the min. dimensions and RFDC requirements.	Yes
7	Waste storage area to be provided in convenient location.	Garbage holding area has been provided in ground floor parking level.	Yes
10	6m ³ space set aside exclusively for storage	6-10m ³ of storage provided in garage and within each unit.	Yes
11	Design the entry as a clearly identifiable element of the building in the streetscape. Clear, direct and safe pedestrian access must be provided from the street and	The northern units within building F, from level 2 and above do not have a direct and legible entry from the	Addressed by condition.

	onsite parking to any public entrance to a building.	street. See discussion in "Assessment" section below.	
12	Landscape must include 8m canopy trees. Water efficient irrigation system installed. External energy efficient lighting system to be provided for pedestrian access and driveways.	Should the proposal be supported, a condition of consent would be recommended to ensure the provisions of clause 12 are satisfied. See discussion in "Assessment" section below.	Addressed by condition.
13	Locate and orientate dwellings to maximise privacy between buildings and private open space.	Privacy has been maximised by providing screening, and offsetting windows, while working within the parameters of the concept plan.	Yes
14	Orientate living areas NW and NE	Living areas oriented north where practicable. The separation of building E has enabled a greater proportion of units to take advantage of northern aspect.	Yes
16	Continuous barrier free access incorporated into design.	An Access Review has been provided which indicates the development provides access in accordance with the BCA, DDA and AS1428.2. This is reinforced through a recommended condition.	Yes

17	30% of dwellings to be designed as adaptable housing (66 dwellings)	44 apartments provided (20%).	No - see discussion below.
18	Safety and Security	Proposal incorporates passive surveillance & security access control. CPTED review has been undertaken by NSW Police. Should the proposal be deemed to be worthy of support the NSW Police comments would be incorporated in the recommended conditions.	Yes
18.b.5	Swimming pools- safety barrier and signage.	Proposal is capable of compliance. Reinforced with condition of consent.	Yes
Chapter 7: Vehicular Access, Traffic, Parking and Bicycles			
1.b.5	Number of vehicular parking spaces	The minimum and maximum number of vehicle parking spaces has been set by the concept approval. The design of the parking area is discussed in further detail below.	Yes - subject to condition.
1.b.5	Developments with 10 or more dwellings require one designated carwash bay with minimum dimensions of 3m x 7.6m. Additional carwash bays are required in development in excess of 30 dwellings at a rate of 1 per 20 dwellings. 11 spaces required	4 spaces provided - dimensions inadequate.	No - see discussion in "Assessment" section.
5.b.2	Bicycle parking shall be provided at the rate of 1 per	50 spaces provided.	No – Redily

	5 dwelling units plus 1 visitor space per 10 units- a total of 66 spaces required.		addressed by condition.
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9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

9.1. Roads and Maritime Service (RMS)

RMS has provided comment specifically with regard to the requirements of Condition 9, Schedule 3 of the Concept Approval as they relate to the development. The advice received from the RMS indicates an agreement has been reached regarding the signalised intersection, vehicular access off Captain Cook Drive, and pedestrian pathways and fencing. Subject to obtaining a Works Authorisation Deed (WAD) and construction of pathways in accordance with Council and AUSTROADS requirements, the RMS did not raise any objection to the proposal. Should the proposal proceed to an approval, a condition of consent would be recommended to ensure the works are carried out as per the RMS requirements.

9.2. NSW Police

The NSW Police advised that the development will result in an increase in activity, both in and around the location. This will subsequently increase the risk of crime, along with increase in crime opportunities and potential offenders within the development and its surrounds. NSW Police have recommended treatment options for consideration in terms of improving Crime Prevention Through Environmental Design factors such as lighting, access control and way-finding.

Should the application be supported, a condition of consent would be recommended to address the above through requiring appropriate lighting, CCTV, and security access be installed to the development. Further, a deferred commencement condition would be recommended to provide a clear and legible pedestrian accessway to the northern units of building F.

9.3. NSW Office of Environment and Heritage (OEH)

Throughout the various stages of the concept scheme, including responses to the Department regarding the Test of Adequacy, draft Environmental Assessment (EA), Concept Application, the OEH indicated that further and more detailed assessments are necessary to determine likely impacts on the adjacent environmentally sensitive areas and habitats.

In its report, the PAC noted the special environmental significance of the site's surrounds and appear to have addressed the limitations of the previous surveys through the imposition of Condition 22 on the Concept Approval. Condition 22 is reproduced below:

Future applications shall demonstrate that Office of Environment and Heritage requirements have been met in relation to:

- (a) a Stormwater Management Plan (SMP) that details how all stormwater runoff will be collected and treated;*
- (b) a Noise Management Plan (NMP) that investigates the likely impacts of construction and ongoing operational noise on fauna using the adjacent estuarine areas as habitat;*
- (c) a Lighting Management Plan (LMP) that minimises the impacts of light spill on threatened fauna using the adjacent estuarine areas as roosting and foraging habitat;*
- (d) a Bird Management Plan (BMP) that investigates the potential for bird strike from reflective surfaces associated with the development and provides details of the construction materials and design methods that will be used to avoid or minimise the likelihood of bird strike;*
- (e) a flood study that details potential impacts on Towra Point Nature Reserve in the event of a flood and includes strategies for preventing impacts;*
- (f) a leachate management plan to ensure that no leachate from the landfill on the site is exported to the Towra Point Nature Reserve;*
- (g) an Acid Sulphate Soil Management Plan prepared by a suitably qualified person in accordance with the Acid Sulphate Soil Assessment Guidelines (Acid Sulphate Soil Management Advisory Committee, 1998);*
- and*
- (h) an assessment of Aboriginal heritage.*

Council's interpretation of Condition 22 is that items (a) through (h) must be addressed to the satisfaction of the OEH in order for this condition to be satisfied. The correspondence from the OEH, attached at Appendix E, does not confirm this has been achieved. The following items remain unresolved:

- The absence of baseline surveys for threatened/migratory birds in accordance with the Director General's Requirements.
- The absence of trapping for microbats in accordance with DEC's 2004 *draft Threatened Biodiversity Survey and Assessment Guidelines* is acknowledged and the presence of *Myotis adversus* has been assumed based on a probable recording during limited field surveys.

The OEH indicate that they do not agree to the inclusion of a consultative, approval or “sign-off” role, effectively resulting in the inability for Council to recommend a conditional approval to address the above matters.

Aside from uncertainties regarding the environmental impacts of the development, it is Council’s opinion that if the terms of Condition 22 have not, or cannot, be met, the consent cannot be legitimately issued. The JRPP’s preliminary feedback regarding this matter indicated they shared this opinion.

The issue is the subject of Condition 22 are considered to be important and fundamental matters that cannot be put off any longer. It is Council’s opinion that condition 22 has not been satisfied, and accordingly, the consent cannot be determined at this time.

9.4. Sydney Water

Sydney Water has reviewed the proposal and has provided the following comments for Council’s consideration:

- A Water Servicing Co-ordinator (WSC) should be engaged to obtain a Section 73 certificate and manage the servicing aspects of the development.
- A 200mm drinking water main is required to be constructed from the existing 375mm main on the corner of Kurnell Road and Hume Road.
- The current wastewater system has sufficient capacity to serve the development, however an extension to the system from the 225mm main in Captain Cook Drive is required.
- The developer must fund any adjustments needed to Sydney Water Infrastructure as part of the development.

Should the proposal be deemed to be worthy of support a condition of consent would be recommended to ensure the above requirements are addressed to the satisfaction of Sydney Water.

9.5. Architectural Review Advisory Panel (ARAP) & Urban Designer

The proposal has been reviewed twice by Council’s ARAP, prior to submission (as part of the pre-DA process) and once during the DA process. Copies of the ARAP’s reports are attached in Appendix F of this report. The proposal was also reviewed by Council’s Urban Designer.

In general terms, although the ARAP recognised architectural merit in the planning design of the proposed buildings the Panel raised issues of compliance with the PAC’s Terms of Approval and future environmental assessment requirements, as well as SEPP 65 and the Residential Flat Design Code (RFDC) requirements. These issues included lack of street activation on street frontages; lack of genuine public access to the site; connection to the foreshore due to the ramped “Boulevard” and podium car park; lack of climatic response of the building facades; homogeneous building expression; solar access; access to non-residential facilities; the ground and lower ground ‘green wall’; public domain treatment; environmentally

sustainable design and non-compliance with the approved envelopes.

The applicant provided the following further information and amendments in response to the ARAP comments:

- Modifications to the ground and lower ground level of the building to provide retail/commercial uses at the Captain Cook Drive frontage, communal pool/gym facilities at the Solander Fields frontage and direct pedestrian access to all ground floor units.
- Removal of the green wall at the western façade.
- Additional solar access diagrams and a SEPP 65 addendum report verifying solar access targets are able to be achieved.

As discussed in further detail below, the ramped Boulevard, podium level parking, building footprints and landscape design were approved as part of the Concept Plan approval. Although the ARAP has identified negative aspects of these elements of the design, Council is not in a position to request amendments to them. The remaining matters raised by ARAP are discussed in further detail below.

9.6. Engineering

Council's Engineer has undertaken an assessment of the application. No objection was raised to the proposal in principle, subject to relatively minor amendments to provide safe and efficient vehicular access to and from the site and minimal disruption of vehicles on Captain Cook Drive. The recommended amendments include:

- The deletion of the four (4) southernmost parking spaces on the eastern and western alignments of the Central Road. This amendment seeks to provide adequate turning areas for manoeuvring of garbage vehicles into Central Road from Captain Cook Drive, to provide sufficient width for left and right turning from the development onto Captain Cook Drive to cater for the anticipated peak demand, and minimise conflicts with future stages 2 and 3 of the concept development.
- The deletion of the two (2) adaptable unit parking spaces located at the southern end of the ground floor level car park, and relocation to the north to achieve manoeuvring requirements as required by AS2890.1
- Deletion of the four (4) car wash bay spaces to accommodate the parking that would be lost as a result of the adaptable space relocation. Car wash bays are deficient in size.

Should the proposal be supported, appropriate conditions relating to detailed drainage design would be recommended, together with conditions requiring the above amendments.

9.7. Building

The application has been reviewed by Council's Building Surveyor. No objection was raised to the proposal subject to the imposition of appropriate conditions.

9.8. Environmental Health

The application has been reviewed by Council's Environmental Health and Regulation Unit, which has raised no objection to the proposal subject to the implementation of appropriate conditions.

9.9. Sport and Recreation

Council's Sport and Recreation Division initially raised concern regarding the timing of the replacement playing field on the Cronulla High School Grounds, and the identification of contingency plans should the field construction be delayed.

The terms of the concept approval (Condition 29) require the sporting fields to be completed prior to commencing construction of the residential component. The existing fields will therefore be available to train on prior to the Cronulla High playing fields being completed. The applicant has indicated that the intention is to have the fields operational prior to the commencement of the 2014 Junior Rugby League season. However, should construction be delayed the applicant has identified a secondary option of having Cronulla Carlingbah move its home games and training, along with the Sharks part way through a competition season once the Cronulla High field is completed.

9.10. Landscaping

Council's Landscape Architect has undertaken an assessment of the application and has recommended a number of design changes to enable a greater level of amenity in the communal spaces, and provide consistency with Council's Greenweb strategy for Greenweb 'support' areas. The amendments include:

- The provision of indigenous plantings in accordance with Council's Greenweb strategy.
- Ensuring the future swimming pool receives a minimum level of solar access.
- The central courtyard being amended to provide a central turfed or paved area, a shelter, furniture and canopy trees
- Landscaped areas being provided with a water-efficient irrigation system connected to the rainwater tank.
- Gravel paving at the Solander Field frontage consistent with the Aborist report recommendations.

A condition of consent is capable of addressing the above requiring the landscape scheme to be modified to incorporate the above changes into the detailed landscape plan.

9.11. Environmental Science

The proposal was referred to Council's Environmental Science Unit for comment on the Green Travel Plan and Site Contamination. The following advice was provided:

- That a Green Travel Plan (GTP) was not submitted as part of the application. The applicant was requested to provide this document, however only a Travel Access Guide (TAG) was forwarded to Council. This matter is discussed in further detail in the “Assessment” section of this report.
- With regard to site contamination, a Phase 2 Environmental Assessment has been undertaken, in addition to a review of historical studies. A Remediation Action Plan (RAP) was prepared to address the findings of these assessments. The submitted RAP was reviewed and is considered to be satisfactory, subject to the imposition of a condition of consent requiring the submission of a Site Audit Statement prior to the issue of the Construction Certificate.

9.12. Community Services

The proposal was referred to Council's Community Services Unit for comment. No objection to the proposal was raised, subject to the imposition of conditions regarding the implementation of CPTED measures, the provision of 30% of dwellings as Adaptable Housing and the payment of developer contributions. The provision of adaptable housing is discussed in further detail in the “Assessment” section of this report. Should the proposal be deemed to be worthy of support, conditions of consent would be recommended where relevant to address the remaining items.

10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

10.1 Consistency With Concept Plans

The approved Concept Plan includes gross floor area (GFA), gross building area (GBA), building envelopes, maximum height, and maximum height (top of plant) for the development.

Gross Floor Area/Gross Building Area

The proposals compliance with the GBA and GFA requirements is provided below:

	Concept Plan requirement	Provided	Complies
Gross Building Area - residential precinct	104,419m ²	36, 897m ²	Yes
Gross Floor Area - residential precinct	58,420m ²	20,173m ²	Yes

The proposed buildings are within the density controls contained within Condition A3 of the concept approval. The proposal constitutes approximately 35% of the overall maximum GFA and GBA for the residential precinct, allowing a reasonable volume remaining for the two future stages of residential development.

Building Envelope & Height

Council notes that the proposal is largely compliant with the Concept Plan, however as a result of the detailed design modifications; minor variations are proposed that extend beyond the approved building envelope. An example of these variations is illustrated in Figure 6 below.

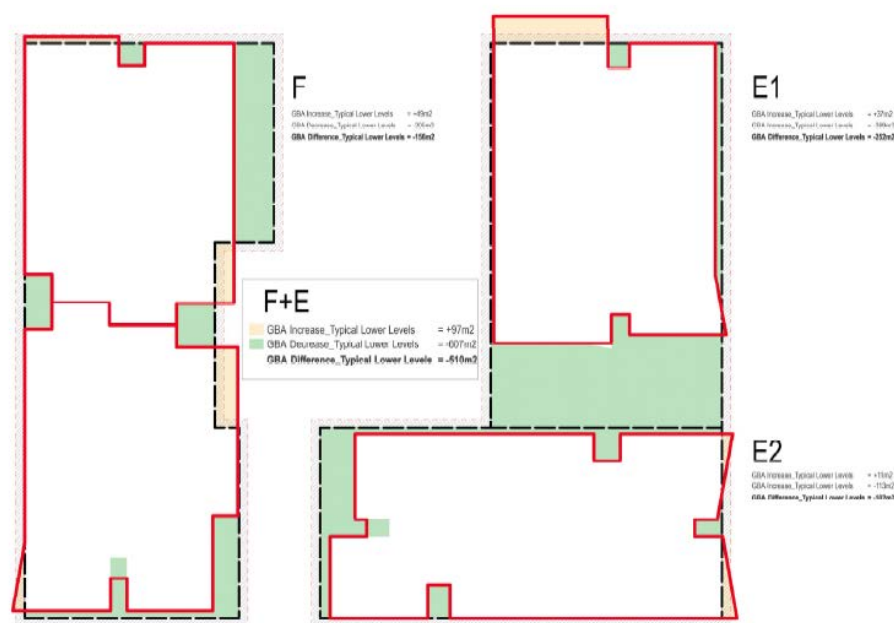


Figure 6 - Building floor plate variations

Both building F and building E2 are within the maximum height limits established in the Concept Plan. The majority of building E1 is below the maximum height limit (parapet) approved under the Concept Plan, except for a minor variation (2.5m) at the north-eastern corner of the building.



Figure 7- Building Height limit variation.

The proponent has justified the variations on the basis that they provide additional articulation to the building and the additional roof height on building E1 masks the plant located on the roof.

The applicant also proposes an alternative treatment of the northern portion of the podium level. This space was previously dedicated as a roadway, off street parking and associated landscaping under the concept scheme. During the detailed design phase, it was modified to provide a communal pool deck area.

The variations proposed are minor and are not considered to have a significant material impact. Despite the envelope protrusions, the proposed building volume is lower than the maximum building volume approved under the Concept Plan, as reflected in the maximum permitted GBA.

The separation of building E into two separate buildings has reduced the overall bulk of the building and improves internal unit amenity. The provision of the pool deck area (as part of stage 2) provides additional communal area and social opportunities to residents. The variations are considered to be minor and do not impact on the surrounding locality. Council raises no objections to the variations proposed.

10.2 Natural Environmental Impacts

Issues relating to natural environmental impacts and management were considered during the assessment of the Concept Plan. Future assessment requirements were included within the Concept Plan approval requiring additional details to be provided to ensure that the proposed development responds to flooding/stormwater management and does not negatively impact

upon the flora and fauna of Woollooware Bay. As discussed previously in this report, comments received from the OEH and the public raised issues with the development which are considered below.

10.2.1 Flora and Fauna

Concerns were raised by the OEH that surveys supporting the proposal were inadequate to accurately determine the potential impacts on adjacent sensitive habitats. It is Council's opinion that without the completion of this analysis to the satisfaction of the OEH, the impacts on the adjacent environmentally sensitive areas are unable to be quantified. Council does not have certainty that the provisions of Clause 22 of the Concept Plan, Clause 19 of the LEP, and the Heads of Consideration under the Act have been satisfied.

10.2.2 Stormwater Management & Flooding

A stormwater management system has been designed for the three stages of the residential master-planned estate. The applicant indicates the system will enable a 70% reduction in total suspended solids, 20% reduction in total phosphorus content, 35% reduction in total nitrogen content and a reduction in litter by the implementation of a gross pollutant trap. On-site detention has not been incorporated, given the position of the site in the lower portion of the catchment where localised flooding can result. Council does not raise concerns with the proposed stormwater design; however it is unclear from the submitted details how the system will be implemented given the development is only one element of the three stage development.

A Flood Assessment Report has also been prepared for the proposal. Pre- and post-development modelling has been undertaken and Council is generally satisfied with the report, however, as per the stormwater management design, the study has been undertaken on the assumption that the entire development will be constructed in a single stage.

Should the proposal be deemed to be worthy of support, conditions would be recommended to ensure that the drainage and stormwater treatment systems and flood mitigation measures are implemented to ensure stage 1 of the residential development is appropriately accommodated and protected.

10.2.3 Groundwater

The concept approval requires future applications to demonstrate that the development does not impact upon the health of the groundwater dependent ecosystems. Although in their contamination assessment, the applicant has addressed groundwater contamination, groundwater volume/level has not been addressed.

Groundwater volume can affect the freshwater/saltwater interface and impact on non-estuarine wetland and salt marsh communities. Despite Council's request, no study on of the effect the development may have on groundwater levels, such as a Hydrology report, has been undertaken. Such a study would assess pre- and post-development groundwater levels to determine if

groundwater dependent ecosystems will be affected and if active groundwater recharge is required to maintain existing groundwater levels.

The subject site is located on an area substantially covered by hard paved surface; therefore, the current volume of groundwater recharge on the subject site is likely to be negligible. Despite the absence of baseline data, it may be assumed that the construction of the proposed stage 1 development will maintain the current level of groundwater recharge. This matter will need to be assessed in further detail during the stage 2 and 3 residential works, given the location of these sites is partly on pervious (grassed) areas.

Council is satisfied that the proposed development for stage 1 is satisfactory with regard to the requirements of the concept plan and that it will not result in a significant effect on groundwater dependant ecosystems.

10.3 Residential Amenity

The concept plan requires that future applications for the residential precinct demonstrate a high standard of architectural design and compliance with the provisions of SEPP 65 and the RFDC. The proposal was considered at Council's ARAP, the comments from which were used by Council to assess the consistency with the SEPP 65 and RFDC requirements and the architectural considerations in the concept approval. As discussed previously, the proponent has made amendments and provided further information to address the issues raised by ARAP. Further discussion regarding key issues, specifically solar access, natural ventilation and wind effects are discussed in further detail below.

When considered in the context of the parameters established in the concept approval, the proposal is satisfactory with regard SEPP 65 and the RFDC.

10.3.1 Solar Access

The RFDC recommends that 70% of living rooms and private open space of apartments receive a minimum of 3 hours of direct sunlight between 9am and 3pm mid winter, reducing to 2 hours in dense urban areas.

It is Council's opinion that the minimum standard requiring 3 hours of solar access in winter should apply as the site is completely unconstrained by any existing development on all sides. The task for the designer is therefore only to plan the new buildings on the site to minimise the shadowing of each new building onto the others.

The Department's assessment of the concept approval accepted the residential component of the proposal as being within a 'dense urban area'. As such the RFDC recommendation of 2 hours of sun in winter for dense urban areas has been applied in the assessment of this application.

The applicant's SEPP 65 design verification indicates that solar access to 71% of units is being provided in accordance with the requirements of the RFDC (2 hours, between 9am and 3pm in mid winter) and this is accepted. Drawings have also been provided developing building forms for the future

residential stages to reduce over shadowing from future stages upon the stage 1 buildings. The schematic drawings demonstrate that on completion of stage 2 and 3 of the development, the minimum required level of solar access is capable of being achieved.

To ensure that the minimum level of solar access is maintained after the stage 2 and 3 residential buildings are constructed, solar access diagrams should be provided with future applications demonstrating that all stage 1 residential buildings maintain solar access compliant with the minimum standard called for by the RFDC. Future applications will be required to demonstrate compliance is maintained to proposed buildings in accordance with the RFDC.

10.3.2 Natural Ventilation

The RFDC recommends that 60% of apartments should be naturally cross ventilated. Based on the proposed building layouts, the development can provide 70% of apartments with natural cross ventilation.

10.3.3 Wind Effects

A wind report has been prepared in conjunction with the application. The report includes several recommendations to ensure acceptable wind conditions in the outdoor trafficable areas within and around the development including:

- Include evergreen trees, capable of growing to a height of 6m, along the pedestrian footpaths on the eastern, southern and western frontages of the site. The trees are recommended to have a densely foliating canopy in the range of 14m.
- For the level 1 communal courtyard area, include some strategically positioned evergreen shrubs (min. 1.5m in height) and trees (min 6m), solid balustrades and screens and a large canopy over the northern end.
- Retain solid balustrades (as proposed) on the perimeter of all private balcony areas.

Should the proposal be supported, a condition of consent would be recommended to ensure the recommendations of the wind report are adopted.

10.4 Sporting Fields

The two (2) western playing fields and the associated parking form part of the subject site and are currently used as training fields for the Cronulla Sharks, with the Leagues Club providing access to the fields and clubhouse for the Cronulla-Caringbah Sharks Junior Rugby League Football Club. As discussed above, concerns were raised by the public regarding the certainty and timing of the replacement of the fields.

In the approval of the concept scheme, the PAC embedded some certainty on the timing of the field replacement by the imposition of a condition of consent preventing construction of the residential component until such time as the relocated sports fields are completed. The approval also requires that the first

residential application (the subject application) demonstrate that a site has been identified and agreements reached regarding the replacement field.

By Deed dated 1 July 2010 the Department of Education and Communities (DEC) granted Cronulla Water Polo Club the exclusive right to develop a detailed proposal for the construction and operation of a Water Polo, Aquatic and Personal Development Health and Physical Education Centre of Excellence at the Cronulla High School. Evidence has been provided to Council confirming that the DEC raises no objection to co-sharing arrangements between the Water Polo Club and the applicant to enable the relocation of Cronulla Football Club training fields to Cronulla High School as part of the new facility.

A Memorandum of Understanding has also been forwarded to Council, confirming that the agreement between the Water Polo Club and the applicant has been somewhat formalised.

The submitted documents are deemed to be suitable in establishing that a site has been identified and agreements have been negotiated to provide a reasonable degree of certainty that the sports field relocation will proceed. Regardless, the terms of the concept approval provide additional certainty by preventing the subject development proceeding until the fields are completed.

10.5 Parking

The proposal includes 220 apartments and 528m² of commercial floor space. Parking is provided on site and within the verge of the new Boulevard to accommodate a total of 321 vehicles, the majority of which are allocated as resident spaces. The breakdown of spaces is provided in the below table:

Parking type	Required Under Concept Plan	Provided	Complies?
Residential	247	251	Yes
Visitor	44	43	No
Commercial	17	23	Yes
TOTAL	308	317	Yes

In addition, a loading dock for waste and recycling collection, four car wash bays and 50 bike parking spaces are provided.

Required amendments

As discussed in Section 9.6 of this report, four (4) on street visitor parking spaces are required to be removed to enable a wider road entry to be provided for heavy vehicle access. As a result, two (2) visitor spaces are removed from the above calculation (the remaining two are included in the stage 3 parking calculations). The total visitor parking is reduced to 41 spaces, and the total overall parking provided is reduced to 315 spaces.

The parking layout is also recommended to be modified to allow connectivity between the eastern access aisle to the central access aisle and improve vehicle circulation and maneuvering. To achieve this it is recommended that

the two (2) adaptable parking spaces located at the southern end of the ground floor level parking area be relocated.

The two (2) adaptable spaces are recommended to be relocated to the area north of their current position (directly adjacent to the support column) in place of four (4) residential parking spaces. To account for the loss of the four (4) residential parking spaces, the proposed car wash bays are recommended to be reallocated as residential parking spaces. These spaces are deficient in the minimum dimensions required for car wash bays in Council's DCP in any case.

Although 11 car wash bays are required based on Council's DCP generation rates, the car wash bays are not required under the concept approval. The proposal is capable of meeting the key objectives for Council's DCP controls for parking despite this non-compliance. Given the availability of commercial car wash facilities in the area and the trend of apartment residents using this service in favor of onsite car wash facilities, the omission of these facilities on site is considered acceptable.

Parking volume

Based on the rates provided in the concept plan, the proposal generates a total minimum requirement of 308 parking spaces. Despite the removal of the four (4) spaces as described above, the proposal achieves the minimum volume required by the concept plan. Condition A4 of the concept plan also provides 'maximum' rates for the development, with a total of 883 spaces permitted for the Residential Precinct. The proposal is well below the maximum permitted and constitutes 35% of the overall parking provision, which is a reasonable proportion of the overall precinct.

Visitor parking

As per clause B1 of the concept approval and detailed in the table above, the rate for visitor car parking spaces for development in the Residential Precinct is 1 space per five dwellings. With a total of 220 dwellings provided, 44 visitor spaces are required. Accounting for the reduction of two spaces discussed above, a total of 41 visitor spaces are provided. Given the site has the correct total volume of vehicle spaces; a reallocation of spaces would be a relatively simple amendment to enable compliance with the concept plan requirements. Should the proposal be deemed to be worthy of support, a condition of consent would be recommended to ensure parking is provided to this effect.

Bicycle Parking

Council's DCP requires bicycle parking to be provided at the rate of 1 per 5 dwelling units plus 1 visitor space per 10 units. A requirement for 66 bicycle parking spaces is generated by the development and 50 spaces are provided.

Accommodating the required volume of bicycle parking is an important element of the proposed development, given its location isolated from established public transport facilities and its position adjacent to the existing Council bicycle path. Should the proposal be deemed to be worthy of support,

a condition of consent would be recommended to ensure a minimum of 66 bicycle spaces is provided in the development.

10.6 Traffic

A single vehicular entrance point to the site is proposed off Captain Cook Drive via the Central Road and upgrade of the junction to a signalised intersection. This was considered in the Department's assessment on the Concept Plan, which the RMS gave in principle support of these works. RMS has confirmed acceptance of the proposed signalised intersection, subject to conditions. Should the proposal be deemed to be worthy of support, Council is satisfied, subject to recommended conditions, that the proponent has adequately addressed the concept plan approval.

A Traffic and Parking Impact Assessment has been prepared. The report indicates that the peak traffic demand for the residential development will be approximately 1.2 cars per minute. Considering the infrastructure upgrades proposed as part of the development and the connection to an existing arterial road, the surrounding road system is considered capable of catering for the additional traffic demand.

The traffic generation of the whole residential precinct was considered at the concept approval stage. Although impacts on the existing intersections, including additional delays, were acknowledged it was concluded that Captain Cook Drive had the capacity to carry the anticipated additional demand, subject to the upgrade at the junction of Woollooware Road and the new Central Road to signalised intersections.

10.7 Shuttle Bus

The operation of the shuttle bus is a key component of ensuring the site is accessible by means other than private transportation, given the isolation of the site from existing public transport services. The concept approval reflects this in the conditions of approval that require each future application to demonstrate necessary agreements have been reached in securing the provision of an ongoing and reliable service to the residential precinct.

In its assessment of the concept approval, the PAC indicated that a reasonable outcome to ensure certainty regarding the shuttle bus operation would be that the service be the responsibility of the Leagues Club. The PAC also recommended that at a minimum, the shuttle bus should service Woollooware Railway Station. Evidence has been provided demonstrating that an agreement has been reached with the Leagues Club, confirming the provision of a bus to this effect.

The submitted Traffic Assessment prepared by McLaren Traffic Engineering indicates bus routes to and from Woollooware, Caringbah and Cronulla Railway Stations and Town Centres are proposed to operate 7am to 9pm seven (7) days a week. Bus frequency is proposed ranging from once per hour (Saturday and Sunday and weekdays after 7pm) to once every half hour (Monday to Friday). The service between 9am and 4pm Monday to Friday is proposed to align with the train timetable.

Based on the provision of a 22 seat bus, a single bus is proposed to operate in conjunction with stage 1 of the residential development. On completion of the final stage of the residential precinct, the proponent anticipates two shuttle buses will be required to service the residential component.

The proposed alignment of the service with the train timetable, being only for those buses departing the site between 9am and 4pm weekdays, is not accepted. A service between these hours would not cater for commuters, who are likely to make up the bulk of people wishing to use the shuttle bus.

Many of the submissions received raised concern about the traffic and parking implications of the proposal, as well as the lack of public transport to the site. In order to contain the potentially high number of car trips generated by commuters and the subsequent contribution to traffic congestion, the bus service should be linked to the train timetable between 6am and 8pm weekdays.

The minimum bus service level as described above may be enforced as a condition of approval, to ensure an effective, reliable bus service that provides confidence for users, particularly commuters is provided.

10.8 Active Frontages

The approved Concept Plan requires future applications for the Residential Precinct to demonstrate that the frontages to Captain Cook Drive, the tidal creek adjacent to the grandstand, Solander Fields and the riparian zone are activated at ground level. The stage 1 buildings have no direct frontage to the riparian zone or the tidal creek and as such activation of these zones will be addressed during the stage 2 and 3 residential building applications.

The Concept Plan approval also requires all ground floor units are provided with individual and direct street access and sufficient articulation.

Council raised issues with the original design, given the Captain Cook frontage comprised entirely communal uses, none of which were available to the wider public to use. It was unlikely that the uses proposed would generate the high levels of activity, activation and interaction with the street that were foreshadowed in the concept approval.

In response to these issues the proponent amended the ground and lower ground floor plans as follows:

- Provision of six (6) commercial spaces with a frontage to Captain Cook Drive.
- Relocation of the communal pool and gym facilities to the Solander Field frontage.
- Connection of all ground floor units to the Central Road.

The approved Concept Plan scheme includes an elevated Central Road and two (2) levels of above ground parking for the subject building. The parking

location significantly reduces the potential to activate the frontages of the building to the street and the raised Central Road visually disconnects the development to the waterway.

As the PAC has given concept approval for the development, it is not appropriate for Council to object to these aspects of the scheme. It is however, Council's view that the development has achieved an acceptable level of connectivity to the surrounding public domain within the constraints of the Concept approval.

10.9 Pedestrian Access

The northern units within Building F, from level 2 and above, do not have legible and direct pedestrian access from the street, contrary to the requirements of Council's DCP 2006. To obtain pedestrian access from the street to the northern units from level 2 and above, of which there are 36 units in total, occupants are required to catch lift 1 to level 1, then traverse the length of the building to lift 2, where the remainder of the journey may be completed. A fire exit is provided at the Solander Field frontage; however this is not a formalised entry point and would ordinarily allow for emergency exit only.

This matter would be relatively easy to resolve by providing a legible street access from the Solander Field frontage to lift 2 and reconfiguring the pool and gym components accordingly. This amendment would also enable additional activation and surveillance of the Solander Fields frontage.

Should the proposal be deemed to be worthy of support, a deferred commencement condition may address this element of the design. With such amendment, the proposal is considered to be consistent with the entry requirements of SSDCP 2006.

10.10 Public Domain and Landscaping

Similar to the building form, the public domain has been set by the Concept Plan approval, which requires public domain treatments to be in accordance with the landscape concept plans and pedestrian and cycle linkages to be provided throughout the development. Street plantings are proposed at the Captain Cook Drive frontage and the Central Road. The existing trees on the Solander Field frontage are proposed to be retained and a gravel footpath proposed to enable the ongoing viability of the trees. On completion of the stage 2 works, the path will provide pedestrian connectivity to the foreshore.

As discussed in Section 9 above, various amendments are recommended to improve the quality of the central courtyard communal area and to bring the species selection in line with the requirements for sites located in a Greenweb 'support' areas. Development in Greenweb support areas should ensure the retention and restoration of areas of habitat and contribute to adjacent key areas of habitat (Greenweb 'core' areas) to ensure their long term sustainability. Given the adjacent Greenweb core area is also associated with an internationally significant wetland community; appropriate plant species selection is of critical importance.

Should the proposal be deemed to be worthy of support, with the implementation of the recommended amendments, Council is satisfied that the proposal is satisfactory with regard to the terms of the concept approval, and the objectives of Councils DCP requirements for landscaping and Greenweb sites.

10.11 Adaptable Housing

Council's DCP requires 30% of all dwellings or 66 units to be specifically designed to be flexible and easily modified to become 'Adaptable Housing' (i.e. housing accessible to occupants and visitors who are or may become frail or have or develop a disability). The rationale behind this requirement is that the number of people in the Sutherland Shire over the age of 55 is above the Sydney average. The provision of adaptable housing units within a development can assist people to live in a dwelling that is suited to their level of ability for longer, which is more cost effective than relocating or retrofitting the building at a later date.

A total of 44 adaptable apartments/parking spaces are proposed, constituting 20% of the total units. The applicant has justified the 22 unit shortfall by identifying that in the context of the entire residential estate, a total of 120 units will be provided on the completion of stage 3 works, which is the size of a sizeable retirement village. In this respect Council accepts that the proposal is unique, in that the development is of a scale that generates the requirement for an unreasonably high volume of adaptable units.

Housing will be provided that is designed for easy access and mobility in accordance with the requirements of the Australian Adaptable Housing Standard (AS4299-195). With the addition of 44 units to the affordable housing stock, improved availability and housing choice will be provided to cater for the needs of the population so that more people are able to live independently.

In Council's opinion, the provision of 44 adaptable units meets the overriding intent of the DCP requirement for adaptable housing and the variation to the numerical control is acceptable.

10.12 Travel Access Guide/Green Travel Plan

Council's interpretation of Condition 10 of the concept approval is that the submission of both a TAG and GTP is required. As discussed above, although a Travel Access Guide (TAG) was submitted, a Green Travel Plan (GTP) was not submitted as part of the application. The applicant was requested to provide this document however to date it has not been submitted.

Should the proposal be deemed to be worthy of support, a condition of consent would be recommended to ensure that a GTP is prepared prior to the occupation of the development and that ongoing review of the document is undertaken.

10.13 Ecologically Sustainable Development (ESD)

The subject site is an area of undisputed environmental sensitivity, marked by its proximity to the areas identified as internationally significant RAMSAR wetland at Towra Point. The land is highly visible from Captain Cook Drive and is prominent within the local community given its association with the Cronulla/Sutherland Rugby League Club. The development is also a new town centre built largely on land that is unencumbered.

Given these factors, the proposal sets an important precedent for new development and implementation of best practice design principles should be expected. A design philosophy that recognises ESD is important in the current climate, given the shift to reduce household running costs and to generally live in a more sustainable manner. Retrofitting these elements post-construction is challenging and costly, whereas there is an opportunity here to incorporate them in the new development.

The Department's report on the concept plan design included the following comment on ESD:

It is recommended that a future assessment requirement be imposed to require future development applications to incorporate best practice ESD measures.

As a result, the following condition was implemented on the concept approval:

Future applications shall demonstrate the incorporation of ESD principles in the design, construction and ongoing operation phases of the development, including the selection of fabric and materials, water conservation and management initiatives, and energy efficiency and renewable energy initiatives.

The commitments under the Building Sustainability Index (BASIX) scheme that the applicant is reliant upon to address the concept plan requirements are minimum legislative requirements and in Council's opinion are not to the extent that Condition 11 calls for. These measures are not considered to be 'best practice' ESD initiatives as was the Department's stated intention for this condition above.

The proposal does not include any renewable energy initiatives, has made no firm commitment to the selection of appropriate and sustainable materials and does not utilise Council's recycled water scheme, which services the site. The unrestricted solar access and strong winds from the south could be fully utilised by wind and solar energy harnessing technologies.

Despite requests from Council at pre-DA and DA stage, the applicant has not incorporated any additional ESD measures. Given the constraints and opportunities of the site, the following is readily capable of being incorporated into the design:

- Implementation of energy monitoring systems to enable households to track and reduce energy usage.

- Selection of appropriate and sustainable materials such as FSC-Forestry Stewardship Council certified timber.
- Incorporation of photovoltaic cells to power communal areas, to the maximum extent possible on the proposed roof areas.

The implementation of the above measures could be addressed by a condition of consent. Commitment to these principles would enable some concerns previously raised by Council and the local community to be addressed regarding the environmental impacts of the development. It would also be in the public interest and give effect to the objects of the EP&A Act, particularly s5(a)(ii), which encourages ESD.

10.14 Contamination

The site's previous use as a Council tip reinforces the need to ensure that the site is suitable for its intended use and that impacts on the adjoining environment are mitigated. As the proposal does not include basement car parking areas, excavation is limited to that required for footings.

A Phase 2 Environmental Assessment has been undertaken which states that the site will require the issues of methane gas, acid sulphate soils and asbestos to be addressed. To address these items the applicant has provided a Remediation Action Plan, which indicates the following documentation is to be prepared and approved by a NSW EPA Accredited Site Auditor prior to construction on the site:

- Site Remediation Works Plan, including pollution control measures detailed in a Construction Environmental Management Plan, and
- A Methane Gas Management Plan, including the final design detail for the structure to confirm that an appropriate engineered barrier system to exclude gas migration into occupied area has been achieved.

The applicant has also provided a Site Audit Interim Advice determining that the site is capable of being made suitable for its intended use with the implementation of the RAP. The Site Auditor further states that the Gas Management Plan will be reviewed and agreed upon by the Site Auditor pending finalisation of specific design features and construction methods for the development in order for the Site Audit to be completed.

As the RAP is to be endorsed by an EPA Accredited Site Auditor, a level of certainty is provided that remediation of the site if necessary will be carried out in accordance with the relevant requirements to ensure that no negative impacts will occur on the adjoining environment.

In terms of satisfying Condition 20- *Contamination* of the concept approval, the proposal is satisfactory. A condition of consent would provide additional assurance that the RAP be implemented throughout construction, and a copy of the Site Audit Statement be provided to Council following site validation, prior to the issue of the Construction Certificate.

10.15 Transmission Lines

Double Circuit 132 kV overhead transmission lines traverse the northern portion of the Residential Masterplan site. The assessment of the concept scheme addresses EMF exposure to future occupants by the imposition of a condition of consent that requires future applications adopt the mitigation measures identified in the Magshield Products (AUST) International Pty Ltd report. Such measures include reversing the phase sequence of the 917 power line, which Ausgrid commented is capable of reducing EMF levels by half in the proposed development area.

Should the proposal be deemed to be worthy of support, a condition of consent would be recommended to reiterate the need for the mitigation measures recommended in the Magshield report.

11.0 SECTION 94 CONTRIBUTIONS

In accordance with Council's development contributions plans, the proposed development generated requirements for Section 94 contributions. The contribution requirement would be reflected in the recommended conditions of consent should the proposal be supported.

Council has commenced discussions with the applicant in relation to undertaking "works in kind" in lieu of monetary contributions. While Council is supportive of this arrangement, negotiations are only in preliminary stages. Should the proposal be deemed to be worthy of support, the terms of the recommended consent conditions would allow for a "works in kind" arrangement to be agreed after the consent is issued.

12.0 DECLARATION OF AFFILIATION

No gifts, donations or political affiliations were declared with the application.

13.0 CONCLUSION

The proposed development is for the first stage of residential development for the Woollooware Bay Town Centre, including demolition of existing structures, construction of a two (2) level podium containing car parking, communal facilities and commercial/retail tenancies, three (3) residential flat buildings above podium level containing 220 dwellings, provision of infrastructure and services including access roads, associated landscaping and public domain works at 461 Captain Cook Drive, Woollooware.

The subject land is located within Zone 15 - Private Recreation pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. The proposed development, being a mixed use building, is prohibited in the zone. The approval granted under the repealed Part 3A assessment process effectively overrides the zoning and makes the proposal permissible subject to compliance with the Cronulla Sharks Concept Plan approval.

The proposed development is largely compliant with the Concept Plan approval, however, it is Council's opinion that issues raised by the Office of

Environment and Heritage remain unresolved and the ESD measures proposed are not of the calibre called for by the concept approval.

The consequence of not satisfying the OEH requirements expressed in Condition 22 is a lack of certainty regarding the impact on the adjoining environmentally sensitive areas, which are of international significance. The PAC assessment of the concept scheme acknowledges the significance of this issue. It is Council's opinion that absolute certainty should be achieved regarding this element of the proposal. The OEH has indicated that it does not agree to any "sign-off" arrangements and therefore resolution of the matter by condition is not a feasible option.

Should the proposal be deemed to be worthy of support, a condition of consent would be recommended requiring the implementation of ESD measures to enable the satisfaction of the Concept Plan.

In response to public exhibition 16 submissions were received in objection to the proposal. Key issues arising from the submissions were impacts on the natural environment, traffic and parking, loss of playing fields, contamination, noise & amenity, shuttle bus operation, public domain and landscaping and construction and operational impacts.

With the exception of the OEH requirements, the matters raised in the objections and as a result of Council's detailed assessment may be dealt with by design changes or conditions of consent where appropriate and to the extent reasonable given that the building is largely compliant.

In particular, a deferred commencement condition requiring that a legible street access be provided from the Solander Field frontage to allow occupants direct access to the northern units of building F would be recommended. In addition, conditions requiring the allocation of parking consistent with the Concept Plan, the submission of a Site Audit Statement, amendments to Central Road and the ground floor parking area, and landscape design amendments would be recommended should the application be supported.

The suggested amendments are intended to achieve multiple benefits in terms of residential amenity, environmental quality, to provide safe and efficient access to the site and to minimise disruption to traffic flows.

The application has been assessed having regard to the terms of the Concept Plan approval, the Heads of Consideration under Section 79C (1) and Schedule 6A of the Environmental Planning and Assessment Act 1979, and the provisions of Sutherland Shire Local Environmental Plan 2006, Sutherland Shire Development Control 2006, and the relevant Codes and Policies.

Following detailed assessment it is considered that Development Application No. DA13/0270 cannot be determined at this time due to NSW Office of Environment & Heritage issues remaining unresolved, non-compliance with Condition 22 of the Concept Plan, and a consequent lack of certainty about the impacts of the development on the natural environment.

14.0 RECOMMENDATION

That Development Application No. DA13/0270 for Stage 1 of the Residential Masterplanned Estate at Lot 20 DP529644 (No. 461) Captain Cook Drive, Woollooware be deferred until such time as the Office of Environment and Heritage requirements have been met and Condition 22 of the Concept Plan Approval (MP10_0229) is satisfied.